

**UNITED STATES COURT OF APPEALS FOR THE ELEVENTH  
CIRCUIT COURT**

MARIO JIMENEZ,  
Plaintiff,

v.

Case No.: 15-11861-CC

KAREN WIZEL,  
DEPARTMENT OF CHILDREN AND FAMILIES (DCF), and  
THEREZA HERNANDEZ/DCF Investigator, and  
MELYSSA LOPEZ/DCF Case Coordinator, and  
YVETTE B. REYES MILLER, Esq., and  
THE LEGAL DEFENSE FIRM OF SOUTH DADE, P.L., and  
ANA C. MORALES, Esq., and  
MARGARITA ARANGO MOORE, Esq. and  
REYES & ARANGO MOORE, P.L., and  
VANESSA L. ARCHER, and  
ARCHER PSYCHOLOGICAL SERVICES, P.A., and  
ANASTACIA GARCIA/Guardian Ad Litem, and  
LAW OFFICE OF ANASTASIA M GARCIA, P.A., and  
SABRINA SALOMON/Former attorney for Plaintiff.  
Defendants.

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CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing **INDEX TO THE APPENDIX**, by depositing the same in the United States mail, postage prepaid, and/or via e-mail has been duly served upon all parties whose names and addresses are listed below:

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DEPARTMENT OF  
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SABRINA SALOMON  
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\_\_\_\_\_/s/\_\_\_\_\_  
Mario Jimenez, M.D., Pro Se

**U.S. District Court  
Southern District of Florida (Miami)  
CIVIL DOCKET FOR CASE #: 1:15-cv-20821-UU**

Jimenez v. Wizel  
Assigned to: Judge Ursula Ungaro  
Case in other court: 11th Judicial Circuit, in and for  
Miami-Dade, FL, 11-21207-FC-04  
USCA, 15-11861-CC

Date Filed: 02/27/2015  
Date Terminated: 04/15/2015  
Jury Demand: Plaintiff  
Nature of Suit: 440 Civil Rights: Other  
Jurisdiction: Federal Question

Cause: 28:1441 Notice of Removal

**Plaintiff**

**Mario Jimenez**

represented by **Mario Jimenez**  
12901 SW 66th Terrace Drive  
Miami, FL 33183  
(305) 386-9988  
PRO SE

V.

**Defendant**

**Karen Wizel**

*Mother; and in re: the support and  
welfare of Mario Simon Jimenez-wizel  
and Karen Nicole Jimenez-wizel*

**Defendant**

**Department of Children and Families  
(DCF)**

**Defendant**

**Thereza Hernandez**

*DCF Investigator*

**Defendant**

**Melyssa Lopez**

*DCF Case Coordinator*

**Defendant**

**Yvette B. Reyes Miller, Esq.**

**Defendant**

**The Legal Defense Firm of South Dade,  
P.L.**

**Defendant**

**Ana C. Morales, Esq.**

**Defendant**

**Margarita Arango Moore, Esq.**

**Defendant**

**Reyes & Arango Moore, P.L.**

**Defendant**

**Vanessa L. Archer**

**Defendant**

**Archer Psychological Services, P.A.**

**Defendant**

**Anastacia Garcia**  
*Guardian Ad Litem*

**Defendant**

**Law Office of Anastasia M Garcia, P.A.**

**Defendant**

**Sabrina Salomon**  
*Former attorney for Plaintiff*

Date Filed	#	Docket Text
02/27/2015	<u>1</u>	Notice of Petition and Verified Petition For Warrant Of Removal (State Court Complaint) against Karen Wizel. Filing fees \$ 400.00, filed by Mario Jimenez. (Attachments: # <u>1</u> Civil Cover Sheet, # <u>2</u> Notice of Removal/State Court)(jas) (Entered: 02/27/2015)
02/27/2015	<u>2</u>	Judge Assignment to Judge Ursula Ungaro (jas) (Entered: 02/27/2015)
02/27/2015	<u>3</u>	Clerks Notice pursuant to 28 USC 636(c). Parties are hereby notified that the U.S. Magistrate Judge Alicia M. Otazo-Reyes is available to handle any or all proceedings in this case. If agreed, parties should complete and file the attached form. (jas) (Entered: 02/27/2015)
02/27/2015	<u>4</u>	MEMORANDUM in Support re <u>1</u> Notice of Petition and Verified Petition For Warrant Of Removal(State Court Complaint) by Mario Jimenez. (jas) (Entered: 02/27/2015)
02/27/2015	<u>5</u>	NOTICE OF APPEARANCE by Mario Jimenez (jas) (Entered: 02/27/2015)
02/27/2015	<u>6</u>	Clerks Notice to Filer. State Court Records not included. Filer is instructed to file a Notice (Other) with the State Court Records attached within 24 hours. (jas) (Entered: 02/27/2015)
02/27/2015	<u>7</u>	Clerks Notice of Receipt of Filing Fee received on 2/27/2015 in the amount of \$ 400.00, receipt number FLS100095771 (jas) (Entered: 02/27/2015)
03/03/2015	<u>8</u>	NOTICE OF FILING (STATE COURT COMPLAINT), filed by Mario Jimenez.(jas) Modified on 3/4/2015 (jas). (Entered: 03/03/2015)
03/12/2015	<u>9</u>	ORDER Dismissing Complaint re <u>1</u> Complaint. (Amended Complaint due by 3/27/2015.) Signed by Judge Ursula Ungaro on 3/12/2015. (jua) (Entered: 03/12/2015)
03/24/2015	<u>10</u>	MOTION for Extension of Time to Amend <u>1</u> Complaint by Mario Jimenez. Responses due by 4/10/2015 (jua) (Entered: 03/24/2015)
03/25/2015	<u>11</u>	ORDER denying <u>10</u> Motion for an Extension of Time to File an Amended Complaint. Signed by Judge Ursula Ungaro on 3/25/2015. (jua) (Entered: 03/25/2015)
03/30/2015	<u>12</u>	MOTION for Extension of Time to File Amended Complaint by Mario Jimenez. Responses due by 4/16/2015. (yar) (Entered: 03/30/2015)
03/30/2015	<u>13</u>	AMENDED Notice of Petition and Verified Petition For Warrant of Removal against Margarita Arango Moore, Esq., Vanessa L. Archer, Archer Psychological Services, P.A., Department of Children and Families (DCF), Anastacia Garcia, Thereza Hernandez, Law Office of Anastasia M Garcia, P.A., Melyssa Lopez, Ana C. Morales, Esq., Reyes & Arango Moore, P.L., Yvette B. Reyes Miller, Esq.,

		Sabrina Salomon, The Legal Defense Firm of South Dade, P.L., Karen Wizel, filed by Mario Jimenez. (Attachments: # <u>1</u> Exhibit, # <u>2</u> Exhibit)(yar) (Entered: 03/30/2015)
04/15/2015	<u>14</u>	ORDER OF DISMISSAL. Signed by Judge Ursula Ungaro on 4/15/2015. (jua)  <b>NOTICE: If there are sealed documents in this case, they may be unsealed after 1 year or as directed by Court Order, unless they have been designated to be permanently sealed. See Local Rule 5.4 and Administrative Order 2014-69.</b> (Entered: 04/15/2015)
04/27/2015	<u>15</u>	Notice of Appeal as to <u>14</u> Order Dismissing Case, by Mario Jimenez. Filing fee \$ 505.00 Receipt#: 99081. Within fourteen days of the filing date of a Notice of Appeal, the appellant must complete the Eleventh Circuit Transcript Order Form regardless of whether transcripts are being ordered [Pursuant to FRAP 10(b)]. For information go to our FLSD website under Transcript Information. (amb) (Entered: 04/27/2015)
04/27/2015		Transmission of Notice of Appeal, Order Under Appeal and Docket Sheet to US Court of Appeals re <u>15</u> Notice of Appeal, Notice has been electronically mailed. (amb) (Entered: 04/27/2015)
05/01/2015	<u>16</u>	Acknowledgment of Receipt of NOA from USCA re <u>15</u> Notice of Appeal, filed by Mario Jimenez. Date received by USCA: 4/27/2015. USCA Case Number: 15-11861-CC. (amb) (Entered: 05/01/2015)

FILED by PE D.C.  
**FEB 27 2015**  
STEVEN M. LARIMORE  
CLERK U. S. DIST. CT.  
S. D. of FLA. – MIAMI

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA**

Case No. 15-CV-85, &#1 b[ Ufc#FY0g ( \_\_\_\_\_ )

MARIO JIMENEZ, Plaintiff/Petitioner	)	In a petition for removal from the 11 <sup>th</sup> JUDICIAL CIRCUIT COURT OF MIAMI-DADE COUNTY, FLORIDA
v.	)	
KAREN WIZEL, Defendant/Respondent,	)	State court cause no.: 11-21207-FC-04
and, in re: the support and welfare of Mario Simon Jimenez-wizel and Karen Nicole Jimenez-wizel	)	Honorable Ariana Fajardo, Judge

**Notice of Petition and Verified Petition For Warrant Of Removal**

Comes now the Petitioner, MARIO JIMENEZ, and in direct support of this request for removal of the above-encaptioned state court cause into, and through, the various jurisdiction of this United States District Court provided under at least 28 USC § 1331, 28 USC § 1367, 28 USC 1441(b), 28 USC § 1441(c), 28 USC § 1441(e), 28 USC § 1443(1), 28 USC § 1443(2), and/or 28 USC § 1446, and on the federal questions involved, herein alleges, states, and provides the following:

JURISDICTION

1. This District Court of the United States has original, concurrent, and supplementary jurisdiction over this cause of action, pursuant to the authorities cited above, including, but not limited to the following, to-wit: 28 USC § 1331, 28 USC § 1367, 28 USC 1441(b), 28 USC § 1441(c), 28 USC § 1441(e), 28 USC § 1443(1), 28 USC § 1443(2), and/or 28 USC § 1446.

2. The District Court of the United States is an Article III court with authority to hear questions arising under the Constitution, Laws, and Treaties of the United States, including but

not limited to the Bill of Rights, the Ninth Amendment, the Eleventh Amendment, the original Thirteenth Amendment, the Fourteenth Amendment, the International Covenant on Civil and Political Rights, and the Universal Declaration of Human Rights, with Reservations. *See* the Article VI Supremacy Clause of the Constitution of the United States of America, as lawfully amended (*hereinafter* "U.S. Constitution").

#### RESERVATION OF RIGHTS DUE TO FRAUD

3. Petitioner hereby explicitly reserves his fundamental Right to amend this and all subsequent pleadings, should future events and/or discoveries prove that he has failed adequately to comprehend the full extent of the damages which he has suffered at the hands of the Respondent, the state court, and other involved parties, both named and unnamed, now and at all times in the future. *See* Rules 8, 15, and 18 of the Federal Rules of Civil Procedure.

#### RECORD OF STATE PROCEEDINGS

4. Petitioner is now proceeding on the basis of the presumption that the FLORIDA state court record will be made available to this Honorable Court upon Notice and Demand for Mandatory Judicial Notice, pursuant to Rules 201 and 902 of the Federal Rules of Evidence, the Full Faith and Credit Clause contained under Article IV of the U.S. Constitution, and 28 U.S.C. § 1449.

#### INCORPORATION OF PRIOR PLEADINGS

5. Petitioner hereby incorporates by reference all pleadings, papers, and effects heretofore filed or otherwise lodged within the state proceedings the same as if fully set forth herein. (H.I).

#### ALLEGATIONS

6. Petitioner specifically complains on matters which go to related federal questions, such as federal criminal jurisdiction within the several States of the Union, and the denial or the inability to enforce, in the courts of a State, one or more rights under any law providing for the equal rights of citizens of the United States, or of all persons within the jurisdiction thereof, to-wit:

7. Petitioner complains of various systematic and premeditated deprivations of fundamental Rights guaranteed by the U.S. Constitution, by the Constitution of the State of FLORIDA, as lawfully amended (*hereinafter* "FLORIDA Constitution"), and by federal law, and which deprivations are criminal violations of 18 U.S.C. §§ 241 and 242. *See also* 28 U.S.C. § 1652.

**8. The Court violated Petitioner's First Amendment right of free exercise of religion when it ordered that Petitioner was to have only supervised visitation and banned telephonic communications between Petitioner and minor children on the basis of Dr. Archer's Psychological Evaluation Report, which alluded to Petitioner's inability to parent the minor children due to Petitioner's religious practices and beliefs.**

9. A curtailment upon a parent's right to free exercise of religion constitutes an impermissible infringement on religious freedom. *Rogers v. Rogers*, 490 So. 2d 1017, 1019 (Fla. 1<sup>st</sup> DCA 1986). Although a trial court may consider religion as a factor in a custody determination, it may not condition award of custody upon the curtailment of the parent's religious activities or beliefs, as such a restriction would interfere with the parent's free exercise rights. *Briskin v. Briskin*, 660 So. 2d 1157, 1159 (4<sup>th</sup> DCA 1995).

10. Allowing a court to select one parent's religious beliefs and practices over the other's, in the absence of a clear showing of harm to the child, would constitute a violation of the First Amendment. *Mesa v. Mesa*, 652 So. 2d 456 (Fla. 4<sup>th</sup> DCA 1995). Hence, the trial court's child custody determination must be predicated on evidence of harm, as opposed to mere speculation

of harm to the child. *Mendez v. Mendez*, 527 So. 2d 820, 821 (Fla. 3d DCA 1987). “Harm to the child from conflicting religious instructions or practices...should not be simply assumed or surmised; it must be demonstrated in detail.” *Id.* Otherwise, interference with religious matters in child custody cases absent an affirmative showing of compelling reasons for such action is tantamount to a manifest abuse of discretion. *Id.*

11. In the instant case, on December 7, 2012, the Court ruled that Petitioner was to have only supervised visitation and that there was to be no telephonic communications between Petitioner and the minor children. In making its determination, the Court heavily relied on Dr. Archer’s Psychological Evaluation Report. In said report, Dr. Archer expressed apprehension as to Petitioner’s ability to parent the minor children as a result of Petitioner’s religious practices and beliefs. Dr. Archer concludes that Petitioner be allowed only supervised visitation, as she “remains extremely concerned about the emotional safety of the children if left unsupervised in his care” due to what she describes as Petitioner’s “fanatical”, “excessive”, and “intrusive” religious beliefs.

12. Except for mere speculation and “concern” for the children’s emotional safety, Dr. Archer’s report fails to demonstrate in detail just how Petitioner’s religious beliefs are psychologically harming the children. The report is devoid of any compelling evidence to show Petitioner’s religious beliefs are harming the children. Therefore, the Court’s December 7th Order is tantamount to a manifest abuse of discretion. As such, the Court violated Petitioner’s right to free exercise of religion, as established under the First Amendment, when it relied on Dr. Archer’s Report in making its determination that Petitioner was to have only supervised visitation and that telephonic communications between Petitioner and children were to be prohibited pending further order.

13. Moreover, the Court's strong reliance on Dr. Archer's Report and her almost exclusive reliance on Petitioner's religious beliefs as a factor for her recommendations contained therein, demonstrates that Petitioner's religious beliefs was not just one of several factors that the Court took into consideration when making its determination, but rather it was the only factor prompting the Court's decision to award Petitioner supervised visitation and prohibiting telephonic communications between Petitioner and children. By adopting and following Dr. Archer's recommendations, the Court espoused Dr. Archer's unsubstantiated concerns regarding Petitioner's religious beliefs and their deleterious effects on his ability to parent the minor children. Therefore, the Court's made its decision to award Petitioner only supervised visitation solely on the basis of Petitioner's religious beliefs. As such, the Court's action constitutes a direct curtailment of Petitioner's religious activities or beliefs.

14. What is more, the Court simply accepted Dr. Archer's reports as truth without affording Petitioner the opportunity to contest the allegations contained therein and the opportunity to provide evidence to the contrary. Unlike in Mendez, where at least the religious parent had an opportunity to cross-examine the testimony of expert witnesses, in this case Petitioner was deprived of the opportunity to cross-examine Dr. Archer and her views as to the detrimental effect of Petitioner's religious beliefs on his ability to parent the minor children. Notably, Petitioner had recently undergone another psychological evaluation by Dr. Michael DiTomasso to whom Petitioner was referred by Department of Children and Families (DCF). In his evaluation, Dr. DiTomasso offered a different opinion and recommendation regarding Petitioner's religious beliefs.

**15. The Court violated Petitioner's due process rights when it suspended Petitioner's timesharing and ordered supervised visitation without providing Petitioner with adequate**

**notice of the hearing and an opportunity to cross-examine the evidence presented against him.**

16. Florida courts have repeatedly held that it is a violation of a parent's due process rights for a court to temporarily modify child custody without providing the parent notice and opportunity to be heard. See Ryan v. Ryan, 784 So. 2d 1215, 121 7-18 (Fla. 2d DCA 2001); Wilson v. Roseberry, 669 So. 2d 1152, 1154 (Fla. 5<sup>th</sup> DCA 1996); Gielchinsky v. Gielchinsky, 662 So. 2d 732, 733 (Fla. 4<sup>th</sup> DCA 1995). Only under extraordinary circumstances may a court enter an order granting a motion for temporary custody of a child without providing notice to the opposing party. Loudermilk v. Loudermilk, 693 So. 2d 666, 667-8 (Fla. 2d DCA 1997). Such an order requires an emergency situation such as where a child is threatened with harm, or where the opposing party plans to improperly remove the child from the state. *Id.* at 668.

17. In the instant case, the Petitioner was not afforded due process of law. First, Petitioner was not given notice of the July 20th hearing where the court granted Respondent's Emergency Motion to Suspend Timesharing and ordered that he be allowed only supervised visitation with the minor children pending further order of the Court. Respondent had filed the Emergency Motion to Suspend Timesharing and that very same day the Court held a telephonic hearing to address Respondent's Motion without providing Petitioner adequate notice thereof. In fact, Petitioner received actual notice of the July 20<sup>th</sup> telephonic hearing only after answering the telephone and being addressed by the Judge who was already presiding over the hearing. Furthermore, in making its determination, the Court based its decision on hearsay evidence and did not provide Petitioner with the opportunity to cross-examine the evidence presented against him.

18. Specifically, the Court relied on the University of Miami Child Protection Team Report (“CPT Report”), which was presented at the hearing and attached to Respondent’s Motion. Hence, Petitioner did not have the opportunity to cross-examine the expert witness/es responsible for writing the CPT Report. The Court simply accepted and adopted the CPT report and the allegations contained therein as “truth” to the detriment of Petitioner and suspended Petitioner’s timesharing schedule without providing him with the opportunity to meaningfully present his case. Moreover, the Court was not advised of the fact that two DCF investigations had been previously investigated and closed with a finding of “no indicator” as to the allegations of abuse by Petitioner. The final DCF investigation, from which the CPT Report was issued and upon which the Court had relied in making its determination, was actually closed on July 20, 2012, the same day the telephonic hearing was held. The Court was not advised of this either. This denial of his due process rights in July, resulted in Petitioner and the minor children having no physical contact for the next five months.

19. Moreover, on December 7, 2012, the Court ordered that Petitioner shall continue supervised timesharing and that there shall be no telephonic communications between him and the minor children. Once again, the Court relied on mere allegations of pleadings and hearsay in making its determination. For instance, the Court’s decision was mainly based on Dr. Vanessa Archer’s Psychological Evaluation Report which expressed concerns as to Petitioner’s ability to parent the minor children due to what the psychologist characterized as Petitioner’s “fanatical”, “excessive”, and “intrusive” religious beliefs. However, Petitioner did not have the opportunity to cross-examine Dr. Archer and provide evidence to contradict her allegations. As such, Petitioner was deprived of his due process rights in both the July 20th telephonic hearing and the December 7<sup>th</sup> hearing.

20. Additionally, there was no emergency situation which would require the Court to bypass Petitioner's due process rights when ordering the modification of Petitioner's timesharing. Although Respondent raised allegations of abuse by the Petitioner towards the minor children, these allegations were proven time and again to be unfounded. In fact, the Department of Children and Families have twice investigated the abuse allegations and closed out the investigations with a finding of "no indicator". Even Dr. Archer's report acknowledges that Petitioner poses no risk of physical abuse and harm to the minor children.

21. In the instant case, on December 7, 2012, the Court ordered that Petitioner shall continue supervised visitation with the minor children and stressed that Petitioner was not to have any telephonic communication with the minor children. The Court's determination was primarily based on Dr. Archer's Psychological Evaluation Report wherein she describes Petitioner's religious views as "fanatical", "intrusive", and "excessive". Dr. Archer's report alleges that Petitioner's "repeated religious references are extremely scary for the children-and his inability to recognize this raises significant concerns with respect to his ability to provide an emotionally supportive and nurturing environment for the children." Dr. Archer apparently determines Petitioner's inability to parent the children solely on the basis of Petitioner's religious beliefs without providing a clear, affirmative showing of how Petitioner's religious beliefs are emotionally harming the minor children as alleged in the report.

**22. The Court erred by improperly modifying the terms of the foreign divorce decree and relitigating the issues that have already been litigated with full notice and opportunity to be heard in the foreign court, a court of competent jurisdiction.**

23. Florida courts are willing to recognize judgments of dissolution rendered in foreign countries under principles of comity or voluntary cooperation. See *Pawley v. Pawley*, 46So. 2d

464 (Fla. 1950). In order to be entitled to comity, the foreign judgment must incorporate the elements which would support it if it had been rendered in Florida. See Gonzalez v. Rivero, Melero, and Option One Mortgage Corp, 51 So. 3d 534 (Fla. App. 2010). For instance, the grounds relied upon for divorce must be sufficient under Florida law. Jurisdictional requirements pertaining to residency or domicile and basic due process and notice requirements must also be met. *Id.* at 535.

24. Moreover, in Gonzalez v. Rivero, et al., the Court found that to allow the relitigation of issues that have been fully litigated in a foreign court of competent jurisdiction where full notice and opportunity to be heard has been provided to both parties, would be to violate the principles of comity. In that case, one of the parties to the divorce attempted to invalidate the sale of jointly owned property located in Miami that had been authorized and approved by a Spanish court after proper notice and opportunity to be heard had been provided to both parties to the proceeding. The Court indicated that the party was now collaterally estopped from pursuing further litigation. *Id.* See also Al-fassi v. Al-fassi, 433 So. 2d 664 (3d DCA 1983) (foreign country court decree relating to child custody).

25. In Popper v. Popper, 595 So. 2d 100 (Flu. 5<sup>th</sup> DCA 1992), the Court held that a party was barred from collaterally attacking a foreign divorce decree. In that case, one of the parties was attacking a Mexican decree which had incorporated a separation agreement that provided for the support and custody of the parties' children. In making its determination, the Court reasoned that the party seeking to attack the foreign judgment had personally appeared before the Mexican court and acquiesced to the court's jurisdiction. *Id.* at 103. As such, he was barred from attacking the validity of the foreign decree.

26. Similarly, in *Pawley v. Puwley*, 46 So. 2d 464(Fla.), cert denied, 340 US. 866, 95 L. Ed, 632, 71 S. Ct 90 (1950), which involved a post-dissolution action for alimony, where the final judgment of dissolution was based on constructive service, the Court held that the party seeking to attack the foreign judgment was barred by laches and equitable estoppel from questioning the validity of the foreign divorce decree. *Id.* at 474. The Court reasoned that the party had chosen to ignore the foreign proceedings and to “sit by idly, silently and in an attitude of acquiescence...” and therefore was estopped from questioning the validity of the foreign divorce decree. *Id.* at 473-474.

27. The Court has also stressed the importance of finality of judgments in dissolution of marriage proceedings. For instance, in *Davis v. Dieujuste*, 496 So. 2d 806 (Fla. 1986), the Court held that “where a trial court has acquired jurisdiction to adjudicate the respective rights and obligations of the parties, a final judgment of dissolution settles all such matters as between the spouses evolving during the marriage, whether or not these matters were introduced in the dissolution proceeding, and acts as a bar to any action thereafter to determine such rights and obligations.” *Id.* at 5 12. Moreover, even if a Court were authorized to revisit issues that have been settled by a final judgment of dissolution of marriage, such as a custody determination, a modification of timesharing or parental responsibility in Florida requires a showing of a “substantial, material, and unanticipated change of circumstances.” See Fla. Stat. § 61.13 (3). See *Crittenden v Davis*, 89 So. 3d 1098 (4<sup>th</sup> DCA 2012).

28. In the instant case, there was a final judgment of dissolution of marriage granted by a Nicaraguan court, a court of competent jurisdiction. After a full hearing, where proper notice and opportunity to be heard was provided to both parties, the Nicaraguan court granted the divorce of the parties and ordered that they were to have equal timesharing of their minor children. As such,

the Mother is estopped from questioning the validity of a foreign decree, where she was present at the hearing, and submitted herself to the foreign court's jurisdiction. Mother should have made her allegations at the original proceedings in Nicaragua, of which she had full notice and opportunity to be heard. As a result, Mother is barred by laches and estoppel from attacking the validity of the foreign decree and modifying the timesharing arrangements duly entered by the Nicaraguan court.

29. Moreover, it is our position that the foreign judgment of divorce was implicitly recognized and granted comity by the Court, as evidenced by the Court issuing a Pick-Up Order in favor of Petitioner on August 23, 2011. Said Order stated that the minor children were to be placed in the physical custody of Petitioner in accordance with the stipulations of the Nicaraguan divorce decree.

30. Thereafter, on July 20, 2012, the Court granted Mother's Motion to Suspend Timesharing and suspends Petitioner's timesharing without there being a showing of a substantial change of circumstances that would warrant a modification of the timesharing schedule ordered by the Nicaraguan divorce decree. Instead of modifying the timesharing on the basis of the series of "emergency" motions that have been filed, a Supplemental Petition for modification of timesharing should have been filed in order for the Court to order a modification of timesharing in accordance with Fla. Stat. 61.13 where the parties would have also had an opportunity to present evidence.

31. Upon information and belief, the evidence would have shown that the majority of Mother's allegations originate from a time prior to the Nicaraguan divorce and as such she is estopped from relitigating the already decided custody issues from the foreign forum.

Federal question as regarding equal rights to care, custody, and control of minor children:

A) A parent's right to raise a child is a constitutionally protected liberty interest. This is well-established constitutional law. The U.S. Supreme Court long ago noted that a parent's right to "the companionship, care, custody, and management of his or her children" is an interest "far more precious" than any property right. *May v. Anderson*, 345 U.S. 528, 533, 97 L. Ed. 1221, 73 S.Ct. 840, 843 (1952). In *Lassiter v. Department of Social Services*, 452 U.S. 18, 27, 68 L. Ed. 2d 640, 120 S.Ct. 2153, 2159-60 (1981), the Court stressed that the parent-child relationship "is an important interest that 'undeniably warrants deference and absent a powerful countervailing interest protection.'" quoting *Stanley v. Illinois*, 405 U.S. 645, 651, 31 L. Ed 2d 551, 92 S.Ct. 1208 (1972).

B) A parent whose time with a child has been limited to only supervised visitations clearly has had his or her rights to raise that child severely restricted. In *Troxel v. Granville*, 527 U.S. 1069 (1999), Justice O'Connor, speaking for the Court stated, "The Fourteenth Amendment provides that no State shall 'deprive any person of life, liberty, or property, without due process of the law.' We have long recognized that the Amendment's Due Process Clause, like its Fifth Amendment counterpart, 'guarantees more than fair process.' The Clause includes a substantive component that 'provides heightened protection against governmental interference with certain fundamental rights and liberty interest' and 'the liberty interest of parents in the care, custody, and control of their children is perhaps the oldest of the fundamental liberty interest recognized by this Court.'" Logically, these forms of fundamental violations are inherently a federal question.

C) The compelling state interest in the best interest of the child can be achieved by less restrictive means than supervised visitations or sole custody for that matter. A quarter-century of research has demonstrated that joint physical custody is as good if not better than sole custody in

assuring the best interest of the child. As the Supreme Court found in *Reno v. Flores*, 507 U.S. 292, 301 (1993): “The best interest of the child,’ a venerable phrase familiar from divorce proceedings, is a proper and feasible criterion for making the decision as to which of two parents will be accorded custody. But it is not traditionally the sole criterion -- much less the sole constitutional criterion -- for other, less narrowly channeled judgments involving children, where their interest conflicts in varying degrees with the interest of others. Even if it were shown, for example, that a particular couple desirous of adopting a child would best provide for the child’s welfare, the child would nonetheless not be removed from the custody of its parents so long as they were providing for the child adequately.” Narrow tailoring is required when fundamental rights are involved. Thus, the state must show adverse impact upon the child before restricting a parent from the family dynamic or physical custody. It is apparent that the parent-child relationship of a married parent is protected by the equal protection and due process clauses of the Constitution. In 1978, the Supreme Court clearly indicated that only the relationships of those parents who from the time of conception of the child, never establish custody and who fail to support or visit their children are unprotected by the equal protection and due process clauses of the Constitution. *Quilloin v. Walcott*, 434 U.S. 246, 255 (1978). Clearly, divorced parents enjoy the same rights and obligations to their children as if still married. The state through its family law courts, can impair a parent-child relationship through issuance of a limited visitation order, however, it must make a determination that it has a compelling interest in doing so. Trial courts must, as a matter of constitutional law, fashion orders which will maximize the time children spend with each parent unless the court determines that there are compelling justifications for not maximizing time with each parent. Throughout this century, the Supreme Court also has held that the fundamental right to privacy protects citizens against unwarranted governmental

intrusion into such intimate family matters as procreation, child-rearing, marriage, and contraceptive choice. *Planned Parenthood of Southeastern Pennsylvania v. Casey*, 505 U.S. 833, 926-927 (1992).

D) Contrary to the state court's consistent disregard for the equal right of this Petitioner to care, custody, control, and management of his natural minor children, and its corresponding continuum of supervised visitations in favor of the Respondent, the federal Due Process and Equal Protection rights extend to both parents equally. In *Caban v. Mohammed*, 441 U.S. 380, (1979) the Supreme Court found that a biological father who had for two years, but no longer, lived with his children and their mother was denied equal protection of the law under a New York statute which permitted the mother, but not the father, to veto an adoption. In *Lehr v. Robinson*, 463 U.S. 248 (1983), the Supreme Court held that “[w]hen an unwed father demonstrates a full commitment to the responsibilities of parenthood by 'com[ing] forward to participate in the rearing of his child,' *Caban*, [citations omitted], his interest in personal contact with his child acquires substantial protection under the Due Process Clause.” (Id. at 261-262). To further underscore the need for courts to consider the constitutional protections which attach in family law matters, one need only look to recent civil rights decisions. In *Smith v. City of Fontana*, 818 f. 2d 1411 (9th Cir. 1987), the court of appeals held that in a civil rights action under 42 U.S.C. section 1983 where police had killed a detainee, the children had a cognizable liberty interest under the due process clause. The analysis of the court included a finding that “a parent has a constitutionally protected liberty interest in the companionship and society of his or her child.” Id. at 1418, citing *Kelson v. City of Springfield*, 767 F. 2d 651 (9th Cir. 1985). In *Smith* the court stated “We now hold that this constitutional interest in familial companionship and society logically extends to protect children from unwarranted state interference with their

relationships with their parents." Id. In essence, the Supreme Court has held that a fit parent may not be denied equal legal and physical custody of a minor child without a finding by clear and convincing evidence of parental unfitness and substantial harm to the child, when it ruled in *Santosky v. Kramer*, 455 U.S. 745, 753 (1982), that "[t]he fundamental liberty interest of natural parents in the care, custody, and management of their child is protected by the Fourteenth Amendment."

32. In the instant state proceedings, Petitioner has been continually deprived of the full right to equal care, custody, control, and management of the minor children, and the same approaching **three years**, without any requisite showing of past or potential harm – of any kind – upon the minor children, while, instead and contrarily, Respondent has been consistently documented in acts of minor to medium psychological abuse towards the children, long-ranging neglect of several important matters regarding the children, such as academic performance, and, a general haphazard disdain for the minor children's welfare, needs, and emotional stability... yet, the state court essentially coddles her behavior *against* the best interests of the children, and *even* has gone to certain extraordinary lengths to shelter and assist some of these egregious manifestations.

33. This petition for removal is strictly *not* about a typical domestic relations action versus what would be the expected reluctance of a federal court to exercise jurisdiction over the same; this cause inures to the very *essence* of the enactment and purpose of 28 USC §§ 1441 and 1443: to provide for a federal remedy when a person "is denied or cannot enforce in the courts of such State a right under any law providing for the equal rights of citizens of the United States, or of all persons within the jurisdiction thereof"

NOTICE OF SPECIAL PRO SE RIGHTS

34. Pro se pleadings are always to be construed liberally and expansively, affording them all opportunity in obtaining substance of justice, over technicality of form. *Maty v. Grasselli Chemical Co.*, 303 U.S. 197 (1938); *Picking v. Pennsylvania Railroad Co.*, 151 F.2d 240 (3rd Cir. 1945); *Jenkins v. McKeithen*, 395 U.S. 411, 421 (1959); *Haines v. Kerner*, 404 U.S. 519, 520-21, 92 S.Ct. 594, 596, 30 L.Ed.2d 652 (1972); *Cruz v. Beto*, 405 U.S. 319, 322, 92 S.Ct. 1079, 1081, 31 L.Ed.2d 263 (1972); *Puckett v. Cox*, 456 F. 2d 233 (6th Cir. 1972).

35. If the court can reasonably read the submissions, it should do so despite failure to cite proper legal authority, confusion of legal theories, poor syntax or sentence construction, or a litigant's unfamiliarity with particular rule requirements. *Boag v. MacDougall*, 454 U.S. 364, 102 S.Ct. 700, 70 L.Ed.2d 551 (1982); *Estelle v. Gamble*, 429 U.S. 97, 106, 97 S.Ct. 285, 50 L.Ed.2d 251 (1976) (quoting *Conley v. Gibson*, 355 U.S. 41, 45-46, 78 S.Ct. 99, 2 L.Ed.2d 80 (1957)); *Haines v. Kerner*, 404 U.S. 519, 92 S.Ct. 594, 30 L.Ed.2d 652 (1972); *McDowell v. Delaware State Police*, 88 F.3d 188, 189 (3rd Cir. 1996); *United States v. Day*, 969 F.2d 39, 42 (3rd Cir. 1992); *Then v. I.N.S.*, 58 F.Supp.2d 422, 429 (D.N.J. 1999); and, etc., along with numerous similar rulings.

36. When interpreting pro se papers, this Court is required to use its own common sense to determine what relief that party either desires, or is otherwise entitled to. *S.E.C. v. Elliott*, 953 F.2d 1560, 1582 (11th Cir. 1992). See also, *United States v. Miller*, 197 F.3d 644, 648 (3rd Cir. 1999) (court has a special obligation to construe pro se litigants' pleadings liberally); *Poling v. K. Hovnanian Enterprises*, 99 F.Supp.2d 502, 506-07 (D.N.J. 2000); and, etc.

37. Indeed, the courts will even go to particular pains to protect pro se litigants against consequences of technical errors if injustice would otherwise result. *U.S. v. Sanchez*, 88 F.3d 1243 (D.C.Cir. 1996). Moreover, "the court is under a duty to examine the complaint to

determine if the allegations provide for relief on ANY possible theory." (emphasis added) See, e.g., *Bonner v. Circuit Court of St. Louis*, 526 F.2d 1331, 1334 (8th Cir. 1975), *Bramlet v. Wilson*, 495 F.2d 714, 716 (8th Cir. 1974), *Thomas W. Garland, Inc. v. City of St. Louis*, 596 F.2d 784, 787 (8th Cir. 1979), *Bowers v. Hardwick*, 478 U.S. 186, 201-02, 106 S.Ct. 2841, 92 L.Ed.2d 140 (1986), *Brooks v. Blue Cross & Blue Shield of Fla., Inc.*, 116 F.3d 1364, 1369 (11th Cir. 1997), *O'Boyle v. Jiffy Lube International Inc.*, 866 F.2d 88 (3rd Cir. 1989), and etc., etc., etc.

#### NOTICE OF RELATED CASES

38. Petitioner also wishes respectfully to demand mandatory judicial notice, pursuant to Rule 201(d) of the Federal Rules of Evidence, and pursuant to the Full Faith and Credit Clause, of the following related cases supporting and documenting some of the above allegations, to wit:

a) JUVENILE DIVISION Case No.: D13-15193A-B (D003) (closed); DOMESTIC VIOLENCE DIVISION: Case No.: 12-17840-FC-04 (closed), Case No.: 12-17838-FC-04 (closed), Case No.: 11-10881-FC-04 (closed).

39. There is a sufficient pattern of judicial abuse to substantiate that Judge Ariana Fajardo's jurisdiction over the instant state action was most likely *void ab initio*, and even if not, that any attempt at continuing exercise over the state proceedings *is* void.

40. Petitioner has a federal question right, under the guarantees of 42 USC § 2000a, to full and equal lawful treatment in a state court of law, and according to the various protections under not only the Florida Constitution, but more importantly under those of the U.S. Constitution.

41. Petitioner has a federal question right, under the protections of the Civil Rights Act of 1964, 42 USC § 2000d, et seq., and as interpreted by the U.S. Supreme Court to *include* prohibitions against discrimination based on sex or gender, to now remove the instant state

proceedings, under 28 USC §§ 1441 and 1443, in order to be free from the denial of such equal civil rights and treatment established by the above allegations. *See also* 42 USC § 2000d-7.

42. Petitioner has a federal question right, under the protections of 42 USC §§ 3617 and 3631, which include prohibitions against discrimination based on sex or gender, to remove the instant state proceedings, under 28 USC §§ 1441 and 1443, in order to be free from the denial of such equal civil rights and treatment established by the above allegations. *See also* 42 USC § 2000d-7.

43. Petitioner has a further federal question right, under the protections of 42 USC § 5891, which include prohibitions against discrimination based on sex or gender regarding other matters and allegations expressed *supra*, to remove the instant state proceedings, under 28 USC §§ 1441 and 1443, in order to be free from the denial of such equal civil rights and treatment established by the above allegations. *See also* 42 USC §§ 5106a, 5106c, 10406, 10420, 10701, and etc.

44. Petitioner has a further federal question right not to be discriminated as articulated according to the above allegations, under the expressed public policy of the United States of America, by and through certain Acts of Congress strictly specifying the critical value of protecting children, youth, and family bonds, and the joint responsibilities of federal courts therein. *See* 42 USC §§ 12301, 12351, 12352, 12371, 12635, and etc.

45. Petitioner has a further federal question right to ensure that his minor children are free from experiencing abuse and/or neglect, due to unlawful sex or gender discrimination in awards of child custody, and to ensure that any involved state judicial systems meet or exceed their required corresponding duties under 42 USC §§ 13001, 13003, 13021, 13031, and etc.

46. Petitioner has a further federal question right, under 42 USC §14141, to be free from unlawful violations of civil rights committed by the parties involved in the state proceedings.

47. The above numerous and various rights will, in fact, be consistently violated if these proceedings were ever to be remanded back to said state court, and manifest injury would accrue upon not only this Petitioner, but also against the obvious best interests of his minor children.

NOTICE TO PARTIES

48. Petitioner now and hereby provides his formal Notice of the above to all interested parties, of record or otherwise, within and surrounding the above-encaptioned state court proceedings.

SUMMARY AND PRAYER

49. Petitioner reiterates that his request for removal to this Court is not just about a supported and reasonable *expectation* of the future manifest deprivation of his various civil rights within said state court, but also that such a deliberately unlawful pattern of the same is well established.

50. Without the immediate intervention, and the exercise of full jurisdiction and authority by this Honorable Court in removing said lower state proceedings, the Petitioner will be otherwise subjected to egregious denial and inability to enforce in said state court one or more rights under the laws providing for the equal rights of citizens of the United States, and will be likewise unlawfully forced to suffer manifest and irreparable injuries therein, without reasonable remedy.

**WHEREFORE**, the undersigned Petitioner, MARIO JIMENEZ, now prays for removal of the above-encaptioned state court proceedings into, and under, the jurisdiction of this United States District Court, with all speed, and for all other relief deemed just and proper in the premises.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Mario Jimenez', written over a horizontal line.

Mario Jimenez, M.D.  
Pro Se Petitioner

VERIFICATION

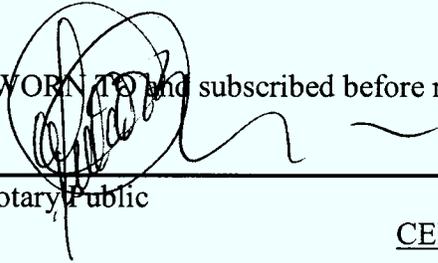
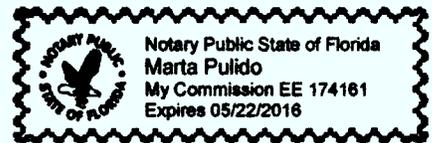
I hereby declare, verify, certify and state, pursuant to the penalties of perjury under the laws of the United States, and by the provisions of 28 USC § 1746, that all of the above and foregoing representations are true and correct to the best of my knowledge, information, and belief.

Executed at MIAMI, FLORIDA, this 27<sup>th</sup> day of February, 2015.



Mario Jimenez, M.D.  
Pro Se Petitioner

SWORN TO and subscribed before me this 27<sup>th</sup> day of February 2015.

  
\_\_\_\_\_  
Notary Public

CERTIFICATE OF SERVICE

I hereby certify that, on this 27<sup>th</sup> day of MONTH, 2015, a true and complete copy of the foregoing petition for removal, by depositing the same in the United States mail, postage prepaid, has been duly served upon all parties of record in the lower state proceedings, to-wit:

Attorney for Former Wife:  
Ana C. Morales, Esq.,  
Reyes Miller, P.L.  
901 Ponce de Leon Blvd., 10<sup>th</sup> Floor  
Coral Gables, Fl 33134

Guardian Ad Litem:  
Anastasia Garcia  
770 Ponce de Leon Blvd.  
Coral Gables, Fl 33134

and, that the same is being also filed this same date within the lower state trial court proceedings.



Mario Jimenez, M.D.  
Pro Se Petitioner

Mario Jimenez, M.D.  
12901 SW 66 Terrace Drive. Miami, Fl 33183  
(305) 386-9988, Marioaj01@yahoo.com

FILED by PE D.C.  
FEB 27 2015  
STEVEN M. LARIMORE  
CLERK U. S. DIST. CT.  
S. D. of FLA. - MIAMI

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

Case No. 15-CV-20821-Ungaro/Otazo-Reyes )

MARIO JIMENEZ,	)	In a petition for removal from the 11 <sup>th</sup>
Plaintiff/Petitioner	)	JUDICIAL CIRCUIT COURT OF
	)	MIAMI-DADE COUNTY, FLORIDA
v.	)	
	)	
KAREN WIZEL,	)	State court cause no.: 11-21207-FC-04
Defendant/Respondent,	)	
	)	
and, in re: the support and welfare of	)	
Mario Simon Jimenez-wizel	)	Honorable Ariana Fajardo, Judge
and Karen Nicole Jimenez-wizel	)	
_____ /	)	

**Memorandum In Support Of Petition For Removal**

Comes now the Petitioner, MARIO JIMENEZ, and in direct support of his petition for removal of the instant state proceedings, herein states and provides the following:

This Honorable Court *may*, at first impression, pause to question whether removal of these state proceedings is legally permissible, in light of a reasonable comparison to the venerable “domestic relations exception” that is sometimes raised in diversity actions, notwithstanding that there are, otherwise, obvious tort and constitutional grounds that *do* supply federal jurisdiction.

Fortunately, the answer *is* yes, and the source and support in that remedy is in the two key facts that combine to not only *permit* this particular type of removal action, but, in fact, even *uphold* removal of this type of cause under well-established Circuit and Supreme precedent.

First, the Petitioner is expressly *not* asking this Court, nor seeking in *any* way, to *issue* any divorce, alimony, or child custody decrees. This would be recognized as an improper intrusion against federalism and comity concerns for original state jurisdiction over what is considered

basic matters of family law. *Ankenbrandt v. Richards*, 504 U.S. 689 (1992). Had this removal action been brought under the guise of “appeal” to review strictly family matters already established under state law, abstention *may* have been more appropriate.

However, the choice of *Ankenbrandt*, along with its predecessors and progeny, absolutely **confirm** that the only correct course of action here is to uphold removal, and to also vindicate the undersigned’s rights and damages against the Respondent and her collateral parties.

In *Ankenbrandt*, the United States Supreme Court clearly explained: “*The Barber Court thus did not intend to strip the federal courts of authority to hear cases arising from the domestic relations of persons unless they seek the granting or modification of a divorce or alimony decree.*” (emphasis added). They further added, “*By concluding, as we do, that the domestic relations exception encompasses only cases involving the issuance of a divorce, alimony, or child custody decree, we necessarily find that the Court of Appeals erred by affirming the District Court’s invocation of this exception.*” (emphasis added). In *Ankenbrandt*, they also provided several other cases that should prove instructive to this Court, including: *Cole v. Cole*, 633 F. 2d 1083 (CA4 1980) (holding that the exception does not apply in tort suits stemming from custody and visitation disputes); *Drewes v. Ilnicki*, 863 F. 2d 469 (CA6 1988) (holding that the exception does not apply to a tort suit for intentional infliction of emotional distress); and, *Lloyd v. Loeffler*, 694 F. 2d 489 (CA7 1982) (holding that the exception does not apply to a tort claim for interference with the custody of a child).

Moreover, in *City Of Chicago v. Intern'l College Of Surgeons*, 522 U.S. 156 (1997), the Court held that “*A case containing claims that local... action violates federal law, but also containing state law claims for on-the-record review..., can be removed to federal district court.*” They also added that, “*Defendants generally may remove any civil action brought in a State court of which*

*the [federal] district courts... have original jurisdiction. 28 U.S.C. § 1441(a). The district courts' original jurisdiction encompasses cases arising under the Constitution, laws, or treaties of the United States, §1331, and an action satisfies this requirement when the plaintiff's well-pleaded complaint raises issues of federal law, Metropolitan Life Ins. Co. v. Taylor, 481 U.S. 58, 63."*

In Chicago, the Supreme Court again provided another listing of cases supporting the fact that the instant case can, should, and must be allowed removal, including: Franchise Tax Board, 463 U.S., at 13; see also *id.*, at 27-28 (case arises under federal law when federal law creates the cause of action or... the plaintiff's right to relief necessarily depends on resolution of a substantial question of federal law); Gully v. First Nat. Bank in Meridian, 299 U.S. 109, 112 (1936) (federal question exists when a right or immunity created by the Constitution or laws of the United States [is] an element, and an essential one, of the plaintiff's cause of action); Mine Workers v. Gibbs, 383 U.S. 715, 725 (1966); Hurn v. Oursler, 289 U.S. 238 (1933); Siler v. Louisville & Nashville R. Co., 213 U.S. 175 (1909); and, Carnegie Mellon Univ. v. Cohill, 484 U.S. 343, 350-351 (1988) (discussing pendent claims removed to federal court).

In Chicago, the Supreme Court again explained what enables removal in state cases that have been already ongoing: "*The whole point of supplemental jurisdiction is to allow the district courts to exercise pendent jurisdiction over claims as to which original jurisdiction is lacking.*"

In Wisconsin Dept. of Corrections v. Schacht, 524 U.S. 381 (1998), the United States Supreme Court reiterated the same principles: "*We have suggested that the presence of even one claim "arising under" federal law is sufficient to satisfy the requirement that the case be within the original jurisdiction of the district court for removal. See Chicago v. International College of Surgeons, 522 U.S. \_\_\_, \_\_\_ (1997) (slip op., at 7-9).*"; and they again provided **even more** cases instructive in the instant situation, including: Metropolitan Life Ins. Co. v. Taylor, 481 U.S. 58

(1987); Franchise Tax Bd. of Cal. v. Construction Laborers Vacation Trust for Southern Cal., 463 U.S. 1, 7-12 (1983); Phelps v. Oaks, 117 U.S. 236, 240-241 (1886); and, Kanouse v. Martin, 15 How. 198, 207-210 (1854).

The Seventh Circuit Court of Appeals has confirmed the above principles, by listing **even more cases** in Maris Friedlander, Aka Maris Freed, Et Al. v. Burton G. Friedlander, 98-1391 (CA7), that support removal in the instant matter, by stating: “*The only question is whether the domestic relations exception to the diversity jurisdiction bars the suit. That it does not is clear from our decision in Lloyd v. Loeffler, 694 F.2d 489 (7th Cir. 1982), which involved a suit for interference with custody, and from many subsequent decisions, such as McIntyre v. McIntyre, 771 F.2d 1316 (9th Cir. 1985); DeRuggiero v. Rodgers, 743 F.2d 1009, 1018-20 (3d Cir. 1984), and Stone v. Wall, 135 F.3d 1438 (11th Cir. 1998), all similar to Lloyd--and, better yet, from Raftery v. Scott, 756 F.2d 335, 337-38 (4th Cir. 1985), and Drewes v. Ilnicki, 863 F.2d 469 (6th Cir. 1988), both cases like this one of intentional infliction of emotional distress.”*

28 USC § 1443 provides for the vindication of rights, and for relief for any person “who is denied or cannot enforce in the courts of such State a right under any law providing for the equal civil rights of citizens of the United States, or of all persons within the jurisdiction thereof”

The second paragraph of 28 USC § 1446(b) provides **additional** events, other than original actions, wherein a defendant may remove a state court action into a federal district court.

Furthermore, the Petitioner again expressly clarifies to the Court that he is **not** seeking “the granting or modification of a divorce, alimony, or custody decree.” The Petitioner(s) is strictly removing the instant state court action into the jurisdiction of this federal court, for the express vindication of his civil and constitutional rights, as well as the reciprocal rights of his minor children, and for various damages of awards for general malfeasance and federal torts committed

by the Respondent and collateral parties to the instant state action, including, but not limited to: numerous violations of civil and constitutional rights; interference with visitation and custody of minor children; interference with strict parental rights; abuse and neglect thrust upon the minor children, and conspiracies to conceal and shelter the same; general fraud; child support fraud; refusals to obey mandatory requirements under conflicts of interest and other state laws; equal custody rights; sheltering of the Respondent's criminally violent attacks against this Petitioner; threats; intimidation; abuses of power; and other associated manifest injustices committed by the Respondent and certain collateral parties to the instant state action.

The exact details of the above torts, civil rights claims, associated actions, and petitions for various awards of damages and other relief, should not be expressly necessary for this Court to exercise its jurisdiction to now remove the instant state proceedings, but will be provided soon in full for the Court's convenience, and for further and proper notices to the Respondent and said collateral parties.

WHEREFORE, the undersigned Petitioner, MARIO JIMENEZ, now prays for removal of the above-encaptioned state court proceedings into, and under, the jurisdiction of this United States District Court, with all speed, for findings and confirmations of various violations against civil rights, constitutional rights, for various awards of damages against the Respondent and collateral parties for numerous constitutional torts and general malfeasance against both the undersigned and his minor children, and for all other relief deemed just and proper in the premises.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'M. Jimenez', is written over a horizontal line. The signature is stylized and somewhat illegible.

Mario Jimenez, M.D.  
Pro Se Petitioner

CERTIFICATE OF SERVICE

I hereby certify that, on this 27<sup>th</sup> day of MONTH, 2015, a true and complete copy of the foregoing petition for removal, by depositing the same in the United States mail, postage prepaid, has been duly served upon all parties of record in the lower state proceedings, to-wit:

Attorney for Former Wife:  
Ana C. Morales, Esq.,  
Reyes Miller, P.L.  
901 Ponce de Leon Blvd., 10<sup>th</sup> Floor  
Coral Gables, Fl 33134

Guardian Ad Litem:  
Anastasia Garcia  
770 Ponce de Leon Blvd.  
Coral Gables, Fl 33134

and, that the same is being also filed this same date within the lower state trial court proceedings.



\_\_\_\_\_  
Mario Jimenez, M.D.  
Pro Se Petitioner

Mario Jimenez, M.D.  
12901 SW 66 Terrace Drive. Miami, Fl 33183  
(305) 386-9988, Marioaj01@yahoo.com

My name is Mario Jiménez Jerez, a born-again Christian man, who for the Glory of God in Christ Jesus became a physician, an Electrical Engineer, an ex-Olympian, a man who volunteers his services for the protection of children, and families in well-known organizations such as leaders of peace, and in various local churches, who has served as President and Vice-president of various organizations in Miami, and as many here may testify, is a loved and well-regarded physician in our community.

If I had not lived it in my own flesh, I probably would have never believed what I am seeing unfolding in our Family courts (Family, Dependency, and Juvenile division courts) today. In my dealing with three judges, Mindy Glazer, Pedro Echarte, and Scott Bernstein of the 11<sup>th</sup> circuit court, I came to personally experience the bitter taste of a dysfunctional Family court, when my children were removed on June 20<sup>th</sup> of 2012 from my shared equal custody solely based on the fact that I had prayed with them the Spiritual Armor of God found in Ephesians 6, which mentions the spiritual battle we are currently living in. As a matter of fact, because of the present corruption, I have not even seen my children since October 26<sup>th</sup> of 2013. This experience showed me that unfortunately some Family Judges routinely ignore the rule of law, the constitution, due process, and common sense, and selectively enforce the law for their own interest or that of their friends calling it "the best interest of the children." All of this with an apparent complete immunity for them and others involved in the system.

I was also appalled to learn that the moment one walks into a Family court, one is immediately stripped away of his/her constitutional rights, such as the rights to freedom of religion, speech, self-incrimination, due process, jury trial, and equal protection, to name a few. It is a place where parents have fewer rights than known criminals in other courts, for if a criminal cannot afford an attorney, one is assigned to them; a place where the law provides more rights to protect one's property or debts than to protect one's children, our most valuable assets in this world. In all cases, parents are left at the whims of Judges who regularly have conflicts of interests, whose campaign funds or the certainty of not having someone run against them is owed to the same attorneys who come before them. Attorneys that as the Divorce Corp documentary showed, the moment a victim/client comes in, they immediately size him/her up to take at least 50% of their assets for their fees, and in many instances deliberately provoke and extend litigation to enrich themselves, leaving men and women, and entire families, in many cases, financially broke.

As taught by Dr. Lynn Carmichael, one of my heroes and founder of Family Medicine, from an integrative medicine perspective, I believe that the problems in our Family courts represent not only a judicial emergency, but a true health crisis of pandemic proportions. As my case exemplifies, the negative effects of our currently dysfunctional Family Courts routinely lead children and adults to suffer not only from serious mental issues such as major depression, anxiety, post traumatic stress disorder, and many others, but in a large enough number of unfortunate cases, can also lead to suicides, homicides, and a number of other serious crimes, not to mention, the enormous economic cost that it brings to our societies from broken homes and lives. This problem is best expressed by one of the founders of our present judicial system, Chief Justice John Marshall, who said "the greatest scourge an angry Heaven ever inflicted upon an ungrateful and a sinning people, was an ignorant, a corrupt, or a dependent Judiciary."

As my case also illustrates, there is a close connection between our dysfunctional Family courts, and the deaths of so many innocent children under the care of the Department of Children Families (DCF) and our courts (over 533 children in the last 6 years as per a Miami Herald report). In my case, the same psychologist who in my opinion was professionally liable for Nubia Barahona's death, Mrs.

Vanessa Archer, who after such terrible performance, without any logical explanation still continues to serve as an "expert" witness in our Family Courts, was the main person involved in the events that led to my children's psychological, physical and academic demise. When I tried to report her to the health department, I found out that these psychologists are legally protected and that the only way the health department could investigate would be if the judge would get the psychologist out of the case, something that I tried, just to have her and judges retaliate against me.

Despite all the pain and suffering this dysfunctional Family court has inflicted upon my children and my family, I consider it a blessing because it has allowed me the opportunity to use my problem solving skills, education, experience and various talents for the service of the children and families who are victims of this scourge. **So in my humble opinion, here are two of the main problems in family courts today: Lack of judicial accountability, and disregard of the rule of law.** To solve these problems, I propose seven measures:

- 1) Whether someone is running against them or not, circuit **Judges should appear for a merit retention confidence vote when their time for re-election comes up.** At this time, in many areas, close to 80% never even have to appear on the ballots because no other attorney challenges their position.
- 2) Family court room transparency and accessibility. Since Family courts are opened to the public, there should also be legislation and funds available to make sure that every court room has live streaming video that the public can readily access, and later readily retrieve from the internet as well.
- 3) Make sure all judges have competition for their positions by making it easier for younger attorneys to run, and actively find family-friendly attorneys to successfully run against anti-family incumbent judges. These young attorneys could receive extensive training in Family courts to ensure their proper performance in them.
- 4) Create judicial watchdog organizations to monitor and report judicial abuse. Information provided by these organizations will be instrumental in supporting family-friendly Judges.
- 5) Create national and state public official site/database to report/complain about judge's performance, with ability to search by judges, attorneys, Guardians Ad Litem (GALs), "professionals", and different issues. This will help us recognize trends and areas that need improvement.
- 6) Work to restore two constitutional protections stripped away by the Family courts:
  - a) **If a judge decides to strip someone's right to one's children, require a speedy jury trial.**
  - b) **If a judge finds someone guilty of Domestic Abuse, require immediate transfer to Criminal Court with a speedy jury trial as well.**
- 7) The use of root cause analysis to judicial errors, "A PROCESS FOR IDENTIFYING THE BASIC OR CAUSAL FACTORS THAT UNDERLIE VARIATION IN PERFORMANCE, INCLUDING THE OCCURRENCE OR POSSIBLE OCCURRENCE OF A SENTINEL EVENT." Sentinel Events are judicial error(s) that lead to injury, an unexpected occurrence involving death or serious physical or psychological injury, or the risk thereof. Mine is a typical sentinel event that exemplifies many of the errors currently being committed by the Family courts, and that I believe this committee could benefit from by performing a root cause analysis thereof.

At the same time, we should also work to improve deficiencies and problems in DCF. For instance, I have identified four main areas that need our attention:

**1) DCF investigators are overwhelmed** with the great number of false cases. Some unscrupulous people use DCF as a form of harassment tool. After 5 false DCF accusations, and losing an unborn children because of one of them, I know firsthand how easy it is for individuals to abuse the system and how these false accusations are costing Floridians millions of dollars of our tax money.

**Solution:** start cracking down on false DCF calls/accusations. These false accusations cause a huge burden on the system, and prevent DCF case workers from properly dedicating their time and efforts in true abuse cases.

**2) DCF workers are pressured from every side** to please a number of people who work with them (Family Court attorneys, judges, GALs, etc...). What DCF does or does not do creates business for these individuals, so in many case DCF workers have to please them in order to keep their jobs.

**Solution:** Create an independent commission of citizens to help overlook DCF's work (no attorneys or any other "professionals" with possible conflicts of interest accepted). I am an American Board Certified Family Physician, active in my community, father of 4 minor children, Sunday school teacher who deals with children on a daily basis, and I would gladly volunteer to be part of this commission. I also know of many other law-abiding professionals who would love to serve as well.

**3) I believe that most DCF investigators/workers are good hearted individuals who truly want to help the children**, who do not want to see any more children die and who are frustrated with what is going; **however, they do not have a way to voice their concerns without running the risk of being targeted and losing their jobs.**

**Solution:** create an internal DCF whistle-blowing (improvement) hot line to allow DCF investigators/workers an anonymous way to point anomalies they may have encountered. These calls should be fully investigated and presented to the independent commission of citizens overlooking DCF's work.

**4) Some unscrupulous attorneys and "professional" are abusing the children's suffering to enrich themselves.** These individuals believe that it is not what you know or what the truth is, but who they know, and how they can twist the truth that determines the outcomes in Family Court cases. Their behavior reminds me of the cronyism and corruption experienced in ~~some~~<sup>some</sup> third world countries. They are making billions off of the suffering of children and their parents.

**Solution:** crack down on attorneys and "professionals" who may be abusing the Family Court system. The DCF whistle-blowing hot line and the use of root cause analyses to identify sentinel events will help identify them.

After careful analysis of the "professionals" and attorneys involved, and the series of events that have transpired, I am strongly persuaded that we are possibly dealing with a very sophisticated form of organized crime. The definition of racketeering states that "the potential problem may be caused by the same party that offers to solve it, although that fact may be concealed, with the specific intent to engender continual patronage for this party." I would like to believe that these actions have been perpetuated without the explicit knowledge of the Judges involved, but this would have to be determined by this committee, Florida's Chief Justice, and possibly a Senate Judiciary Committee hearing. In any case, I believe that the actions of these three Judges clearly amount to violations of public trust, neglect of duty, and ethics.

To finish, I would like to thank you for your positive response in protecting the citizens, the children and the families of this most beautiful state. I praise God for the blessing of suffering for His name,

and for giving me the opportunity to be a light in the darkness of this world. May the Grace of God in Christ Jesus be always with you and your families, and with this most glorious nation, the U.S.A., one nation under God, indivisible, with liberty and justice for all.

Mario Jiménez Jerez, M.D., B.S.E.E.

Marioajoi@yahoo.com. Please see www.SayNoToPAS.com for details of all points expressed in this speech.

IN THE ELEVENTH JUDICIAL CIRCUIT  
COURT, IN AND FOR MIAMI-DADE  
COUNTY, FLORIDA

Case No.:

Division: FAMILY

MARIO ALBERTO JIMENEZ,

Petitioner/Father,

and

KAREN WIZEL,

Respondent/Mother.

2011-021207-FC-04  
Family Circuit: (Section, FC 29)

ORIGINAL  
FILED  
JUL - 7 2011  
HARVEY RUVIN

**NOTICE OF RECORDING FOREIGN JUDGMENT**

**TO:** KAREN WIZEL  
12709 S.W. 68<sup>th</sup> Lane  
Miami, FL 33183

**YOU ARE HEREBY NOTIFIED** that a foreign judgment entered in the above-styled cause and affidavit have been recorded by the undersigned clerk in the public records of Miami-Dade County, Florida.

The name and post office address of the judgment creditor in this state pursuant to affidavit is:

Mario Alberto Jimenez  
12901 S.W. 66<sup>th</sup> Terrace Drive  
Miami, Florida 33183

WITNESS my hand and the seal of this Court on JUL - 7 2011, 2011.

HARVEY RUVIN  
Clerk of said Court

By: JUDITH MARTIN

As Deputy Clerk

SEAL: CIRCUIT COURT

31 JUL -7 PM 2:03

LICENCIADA ALICIA BERROTERAN ACEVEDO,  
Unico de Catarina,



**"CERTIFICA":**

La Sentencia que se encuentra copiada en el Libro Copiador de Sentencia de lo Civil en Sentencia No. 17, Folio No. 55 y 56, Tomo No. VII, Año: 2010, que promueve la señora KAREN WIZEL ESCOBAR Acción de Divorcio Unilateral por Voluntad de una de las Partes en contra del Señor MARIO ALBERTO JIMENEZ JEREZ, el que Integra y Literalmente Dice: JUZGADO LOCAL UNICO DE CATARINA, RAMA CIVIL. VEINTISEIS DE MARZO DEL DOS MIL DIEZ.- LAS OCHO Y CINCO MINUTOS DE LA MAÑANA.- "VISTOS RESULTA": La señora KAREN WIZEL ESCOBAR mayor de edad, casada, ama de casa, Nacionalidad Guatemalteca con Pasaporte Guatemalteco No. 335648, contrajo Matrimonio el día Diecisiete de Octubre del Dos Mil Uno con el señor MARIO ALBERTO JIMENEZ JEREZ. Del Matrimonio Engendraron dos hijos de Nombres MARIO SIMON JIMENEZ WIZEL Y KAREN NICOLE JIMENEZ WIZEL de siete y cuatro años respectivamente. No hay bienes. La madre de los menores pide diez mil córdobas de Alimentos y la Tutela. Se le emplazo al Demandado señor MARIO JIMENEZ a su Domicilio de Managua quien Contesto y Excepciono y decidió que esta Autoridad era la competente para conocer del asunto. "CONSIDERANDO I": Ambas partes presentaron escritos discutiendo ambos tutela, alimentos, bienestar de los menores, el derecho a visitas, las consultas psicológicas y el estatus supuestamente legal o ilegal de la madre quien es Guatemalteca y el padre alega que la madre no tiene arraigo en el país. El padre de nacionalidad Nicaragüense alegando tener mejores condiciones en todos los aspectos para proveer mejor estatus de vida a los menores y la madre quien supuestamente tiene trabajo inestable no tiene estatus legal ni familiares en este país. "CONSIDERANDO II": Ambos padres tienen derecho de convivir y relacionarse con sus hijos por lo cual debe mantenerse la relación Madre-Padre-Hijos. Se establece que los hijos deben estudiar, su padre por tener según su dicho mejores posibilidades económicas se le ordena velar porque estos estudien y pague los mismos; relacionarse con los niños de lunes a viernes, relacionarse libremente con los niños. Se mantiene los alimentos provisionales como permanentes en la cantidad de tres mil córdobas netos. Siendo responsabilidad de ambos padres velar por todas las necesidades cincuenta por ciento y cincuenta por ciento en ropa, zapatos, medicinas consultas y cualquier otro gasto. El procurar estabilidad habitacional, familiar, emocional es responsabilidad de ambos padres se le establece al padre procurar habitación a los menores y su madre cerca de donde pueden estudiar, ser cuidados y que toda la familia acuda a atención psicológica para poder superar el trauma de separación y cualquier otro problema emocional que estén sufriendo deberán ser tratados por

especialistas para superarlos. "POR TANTO": En base a la Ley 38 Ley para la disolución del vínculo matrimonial por voluntad de una de las partes, la Suscrita Juez RESUELVE: I.- Declárese disuelto el vínculo matrimonial que une a los señores KAREN WIZEL ESCOBAR con el señor MARIO ALBERTO JIMENEZ JEREZ Matrimonio realizado el día Veintisiete de Octubre y se encuentra debidamente inscrito en el Registro del Estado Civil de las Personas de Managua, bajo Numero 0274, Tomo: XIII-0442; Folio 0274 del libro del extranjero que llevo en el año 2009.- II.- Se establece una pensión alimenticia para el padre de los menores MARIO ALBERTO JIMENEZ JEREZ la cantidad de TRES MIL CORDOBAS MENSUALES (CS 3,000.00) que se depositaran en el Ministerio de la Familia de Managua. III.- Se establece que conforme a la ley de la relación Madre Padre e Hijos que el padre se relaciona y tiene derecho de ver, visitar a sus hijos de lunes a viernes. La madre señora WIZEL deberá permitir y cumplir lo ordenado. IV.- La tutela de los menores se establece en iguales condiciones para ambos padres. V.- Se ordena al señor Registrador del Estado Civil de las Personas inscribir esta Sentencia al margen del libro correspondiente previo cumplase del Juzgado Local Civil de Managua. Cópiense, Notifíquese y Líbrase Certificación al interesado para su debida inscripción. F... ALICIA BERROTERAN A...JUEZ...F...JOSEFINA BOLAÑOS C...SRIA.- Es conforme con su Original con el que fue debidamente cotizada y a solicitud de Parte Interesada se Extiende la Presente CERTIFICACION, en Catarinas a los Cuatro Días del mes de Mayo del año Dos Mil Diez.

*Alicia Berroteran*  
 LIC. ALICIA BERROTERAN ACEVEDO



JUEZ LOCAL UNICO DE CATARINAS.

*gpluc*

UNIQUE LOCAL COURT FOR CATARINA

**"CERTIFIES":**

The Judgment is copied in the Registration Book for Judgments for Civil Matters in Judgment No.27, Folio No.55 and 56, Tome No.VII, Year 2010, which promotes Mrs. KAREN WIZEL ESCOBAR in free will Action of Unilateral Divorce of one of the parties against Mr. MARIO ALBERTO JIMENEZ JEREZ, which integrates and literally says: UNIQUE LOCAL COURT FOR CATARINA, CIVIL BRANCH. MARCH 26<sup>TH</sup> TWO THOUSAND TEN- AT THE EIGHTH HOUR AND FIVE MINUTES OF THE MORNING.- "WHEREAS, CONSIDERING:" Mrs. KAREN WIZEL ESCOBAR of legal age, married, house wife, with Guatemalan Nationality, with Guatemalan Passport No. a335648, married on October 17<sup>th</sup> two thousand and one with Mr. MARIO ALBERTO JIMENEZ JEREZ. While married had two children, named MARIO SIMON JIMENEZ WIZEL, seven years old and KAREN NICOLE JIMENEZ WIZEL, four years old respectively. There are no assets. The mother of the minors requested ten thousand Córdobas in child support and full custody of the children. "CONSIDERING I:" Both parents presented petitions for custody, child support, children's well-being, visitation rights, psychological consultations, and the supposedly legal or illegal status of the mother, and the father alleges that the mother does not have any roots in the country. "CONSIDERING II: " Both parents have the right to share and interact with their children so the relationship Mother-Father-Children must be maintained. It is established that the children should study, his father, as he himself affirmed, having better economic possibilities, is enjoined upon him to ensure these studies and pay for them; relate with the children from Monday to Friday, have unrestricted access to the children. Maintain the provisional child support as permanent in the amount of three thousand córdobas net. Being the responsibility of both parents to ensure for the children's entire needs fifty percent and fifty percent in clothes, shoes, medicines, consults and any other expenditure. To seek housing, family, and emotional stability is the responsibility of both parents. It is established for the father to procure housing for the minors and their mother near where they can study, be cared for and that the whole family attend psychological counseling to help them overcome the separation trauma and any other emotional problem that they are suffering, should be treated by specialists to overcome them. "THEREFORE:" on the basis of law 38, law for the dissolution of marriage by the will of one of the parties, the subscribed judge RESOLVES: I- Declares dissolved the marriage bond which unites Mrs. KAREN WIZEL ESCOBAR and Mr. MARIO ALBERTO JIMENEZ JEREZ. Marriage made the twenty-seventh day of October and duly registered in the Registry of the Civil Status of the people of Managua, under number 0274, tome: XIII-0442; Folio 0274 of the book for foreigners for the year 2009. - II. - Establishes child support to be paid by the father of the minors MARIO ALBERTO JIMENEZ JEREZ in the amount of three thousand Córdobas per month (C\$3.000.00) which will be deposited in the ministry of the family in Managua. III. - It is established that in accordance with the law for the Mother Father and Children relationship, that the father will relate and has the right to see, visit his children from Monday to Friday. The mother Mrs. WIZEL must allow and must comply with this order. IV. - The custody of the minors is shared equally for both parents. V. - It is ordered to the Registrar of the Civil Status of people to register this judgment to the margin of the corresponding book prior affirmation of the Civil Local Court of Managua. Copy and notify and provide free certification to the interested for its proper registration F...ALICIA BERROTERAN A...JUDGE...F...JOSEFINA BOLANOS C...SECRETARY.- It is in accordance with the original which was duly collated and at the request of an interested party extends this CERTIFICATION, in Catarina on the fourth day of the month of May in the year Two Thousand Ten.

Signature

ALICIA BERROTERAN ACEVEDO  
UNIQUE LOCAL COURT FOR CATARINA

IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT  
IN AND FOR MIAMI-DADE COUNTY, FLORIDA

Case No.: 2011-021207-FC-04

Division: FAMILY (ECHARTE, 29)

MARIO ALBERTO JIMENEZ,

Petitioner,

and

KAREN WIZEL,

Respondent

REQUEST FOR EMERGENCY TELEPHONIC HEARING

1. Motion for which hearing is being requested:

EMERGENCY MOTION TO SUSPEND TIMESHARING

Evidentiary (requires Testimony)  X  Non Evidentiary (legal argument only)      

2. Amount of time requested for both sides to complete presentation:

THIRTY (30) MINUTES

I certify that a copy of this motion has been sent to opposing counsel or party. I have conferred or will have conferred with the opposing counsel or pro se party, prior to hearing, in a good faith effort to resolve the matter(s) without a hearing and to determine the amount of time requested for the hearing

*Exhibit A*

*Page 1 of 6*

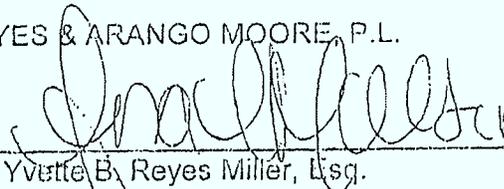
CERTIFICATE OF SERVICE

I certify that a copy of this Request for Emergency Telephonic Hearing was delivered by U.S. mail to Mario A. Jimenez at 12901 S.W. 66 Terrace Drive, Miami, FL 33183 on this 20<sup>th</sup> day of July, 2012.

Respectfully Submitted,

REYES & ARANGO MOORE, P.L.

By:

 (for the Firm)

Yvette B. Reyes Miller, Esq.

FL Bar No: 53510

6910 North Kendall Dr., Suite 200

Miami, FL 33156

Telephone: (305) 663-6565

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Email: [yreyes@ramlawus.com](mailto:yreyes@ramlawus.com)

Email: [amorales@ramlawus.com](mailto:amorales@ramlawus.com)

Email: [receptionist@ramlawus.com](mailto:receptionist@ramlawus.com)

Attorney for Respondent

IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT  
IN AND FOR MIAMI-DADE COUNTY, FLORIDA

Case No.: 2011-021207-FC-04  
Division: FAMILY (ECHARTE, 29)

MARIO ALBERTO JIMENEZ,

Petitioner,

and

KAREN WIZEL,

Respondent

\_\_\_\_\_ /

EMERGENCY MOTION TO SUSPEND TIMESHARING

Respondent, KAREN WIZEL, by and through the undersigned attorney, files this  
Emergency Motion to Suspend Timesharing and in support thereof states as follows:

1. A Final Judgment of Dissolution of Marriage was entered on March 26, 2010, in the Court of Catarina, Nicaragua. On July 7, 2011 the Father filed a Petition to Domesticicate Foreign Judgment.
2. There are two minor children subject to this action, to wit, M.S.J-W. born XX-XX-XX02 and K.N.J-W. born XX-XX-XX05. Both children were born in the United States.
3. On August 23, 2011 based on false pretenses and misrepresentations to the Court, the Father obtained a pick up Order allowing him to take custody of the minor children.
4. On October 6, 2011, based on the Mother's Emergency Motion for Re-Hearing on Father's Motion for Temporary Injunctions and Mother's

Exhibit A

Emergency Motion to Pick up Children, the Court, on a temporary basis ordered, the parties to have equal timesharing and shared parental responsibility.

5. There is a long history of violence between the parties, the Mother has evidence to show the domestic violence she suffered at the hands of the Father throughout their marriage and witnessed by the minor children.
6. Since the Father was granted timesharing with the minor children several alarming allegations have been made by the minor children against the Father and his new Wife.
7. The minor children have reported severe mental and emotional abuse imposed by the Father and the stepmother. The children have reported that the Father and Stepmother have hit them, thrown the son M.S.J-W., into a lake, continuously curse at them and threaten that they will be killed by "demonic" spirits.
8. The Department of Children and Families (DCF) has been involved with the parties on several occasions, first in April, 2011 and most recently in June 2012.
9. DCF is presently conducting an investigation, under Case No.: 2012-130103 and referred this case to the University of Miami Child Protection Team on 06/12/2012. The University of Miami Child Protection Team has conducted specialized interviews with the minor children and made their recommendations for the care of the minor children. A copy of the University of Miami Child Protection Team report is attached hereto as Exhibit A.

10. The University of Miami Child Protection Team has recommended that the Father be subjected to a full psychological evaluation and that timesharing be "only under closely supervised conditions and at the discretion of the children's treating therapist."
11. The minor children and the Mother have well founded fears for the safety and wellbeing of the minor children. The minor child, M.S.J-W., is so terrified by the actions of his Father that he has reported to sleep with a knife under his pillow.
12. A Motion for a full Custody and Psychological evaluation of the Father and Stepmother will be filed contemporaneously with this Motion.
13. The Mother is in the process of obtaining a Temporary Injunction against the Father on behalf of the minor children.
14. This matter is an emergency because the minor children are in danger while under the supervision of the Father and Stepmother and the Father is to have timesharing with the minor children today July 20, 2012. The Father's abuse may cause irreparable physical and emotional harm to the minor children.
15. The Father is unfit to provide for the wellbeing of the minor children.
16. It is in the best interests of the minor children if all timesharing is suspended until such time as a full psychological evaluation of the Father has been conducted and full custody evaluation has been completed and the Court can ensure the minor children's safety.
17. Respondent has incurred additional attorney's fees due to the necessity of

this action and the Petitioner/Father should be ordered to pay for same.

WHEREFORE, Petitioner respectfully requests that this Honorable Court:

- A. Enter an Order suspending all timesharing with the Father as requested herein until further order of the Court;
- B. Award Respondent reasonable attorney's fee and costs incurred due to the willful actions of Petitioner;
- C. Grant such other relief as the court deems just and proper.

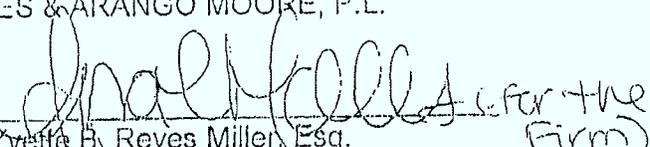
CERTIFICATE OF SERVICE

I certify that a copy of this document was delivered by mail to Mario A. Jimenez, 12901 S.W. 66 Terrace Drive, Miami, FL 33183, on this 20<sup>th</sup> day of July, 2012.

Respectfully Submitted,

REYES & ARANGO MOORE, P.L.

By:

 (for the Firm)  
Yvette B. Reyes Miller, Esq.

FL Bar No: 53510

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Email: [amorales@ramlawus.com](mailto:amorales@ramlawus.com)

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Attorney for Respondent

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Jun. 22. 2012 4:43PM

No. 0585 P. 2



UM Child Protection Team  
1150 NW 14 Street, Suite 212  
Miami, FL 33136  
305.243 7550 phone  
305.243 7548 fax

Child Name: Mario Wizel  
FSFN: 2012-130103  
Page 1 of 6

### Specialized Interview

**Child's Name:** Mario Wizel and Karen Wizel  
**DOB:** 08/20/02 09/06/05  
**Date of Report:** 06/12/12  
**FSFN:** 2012-130103  
**Referred by:** DCF CPI Teresa Hernandez

#### Reason for Referral:

On 06/12/12 DCF CPI Theresa Hernandez contacted CPT to refer this case. According to the allegations (FSFN#: 2012-130103), "Around two or three weeks ago, Mario was slapped and spanked by his father, his uncle and his grandfather. The father is the one that slapped him. The father slapped him in the face. Mario had a red mark on his face from being slapped. The grandfather spanks Karen on her bottom when she misbehaves; however, there are no known injuries to her. In October, the uncle tossed Mario in the lake. He did this because Mario took off an eye of a plastic cow and he tossed it into the lake. The uncle threw him into the lake to get the eye. Mario was crying because there was algae in the lake. The stepmother has called the children 'Malditos'." An additional report alleges, "On 06/05/2012, the father called Mario on the cell phone and said some demonic spirits would come and kill them today (06/05/2012) or tomorrow (06/06/2012)."

According to the CPI, the children were not observed with any injuries indicative of abuse. The family is going through custody issues. The CPI stated the children are "petrified" of the father because he hits them. Karen said that the stepmother curses at them. Mario said his father hit him in the face three times and he sustained a red mark to his face about a month ago. The children said that the father spanks them with his hand or whatever he can grab and hits them in the face. The father told Karen that the spirits are going to "kill" them all tomorrow. The CPI stated Karen was "hysterical." The CPI has not been able to interview the father because he's "busy" doing his residency at Baptist Hospital. This case was staffed with CPT Clinical Director Susan K. Dandes, PhD.

On 6/7/12 CPI contacted CPT with more information. CPI stated the family went to family court on August 24. The father filed a motion because he wanted custody of the children. The children spend one week with the father and another week with the mother. The father denied the allegations and told the CPI that he doesn't hit the children. He indicated he reads the bible to the children and explains to them the conflict between God and the devil. The stepmother denied cursing at the children. The CPI has concerns because Mario sleeps with a knife under his bed as he is afraid of the father. This case was re-staffed with

EXHIBIT B

RX DATE/TIME: Jul 16 12 01:11a  
 U/110/112 00:39 3052301300  
 odalys ferrer 301560 p.5  
 No. 0585 P. 3  
 Jun. 22. 2012 4:43PM

Child Name: Mario Wizel  
 FSFN: 2012-130103  
 Page 2 of 8

CPT Clinical Director Susan K. Dandes, PhD. The children ONLY are scheduled for a specialized interview at CPT South office on 6/8/12.

#### DCF History/Prior Reports:

This family has had prior history with the Department of Children and Families. There is a report dated on 04/06/11 (FSFN# 2011-078791). According to the allegations, the mother is in court now requesting an injunction against the father. The domestic violence took place on 09/17/09 when the parents separated. The father has been stalking the mother. There was a lot of psychological and sexual abuse towards the mother. This case was closed with no findings. There is a report dated on 08/25/11 (FSFN# 2011-190766). According to the allegations, the father has been beating the mother from 2003-2009. The father has been threatening to kill the mother. There are also concerns that the father is hitting Mario with a belt. This case was closed with no findings.

#### Specialized Interview with Mario Wizel (child):

Melyssa Lopez, Case Coordinator, conducted a specialized interview with the child, Mario, at the CPT South office on 06/08/12. The purpose of this interview was to further assess the physical abuse and mental injury allegations, family dynamics, and risk in the home. Mario is a 9-year-old Hispanic male who was brought to this appointment by DCF CPI Teresa Hernandez. Mario was also accompanied to this appointment by his sister, Karen. Mario reported that he resides with his mother, Ms. Karen Wizel, and his two siblings (Karen Wizel, 6, and Joshua, 9 months old). Mario reported that he and his sister attend Winston Park Elementary School. Mario reported that he is going into the 4<sup>th</sup> grade. Mario explained that his sister is going into the 1<sup>st</sup> grade. Mario reported that his mother and his father are no longer together. Mario reported that his father resides with his girlfriend, Georgina, and his baby sister (9 months old). Mario did not know the name of his baby sister. Mario reported that his mother works but did not know where she works. Mario reported that his father is a doctor and his father's girlfriend is unemployed at this time.

Mario reported that no one in his mother or father's home uses illegal drugs, drinks alcohol excessively or has a criminal record. When asked if he ever witnessed domestic violence between his parents, Mario said, "Yes, my dad. He has hit my mom. He pointed my mom with a gun. Stuff like that." When asked if anyone told him what to say at CPT, Mario replied, "Yesterday, my dad told me not to lie, but I'm not lying." When asked if he ever witnessed any marks on his mom, Mario replied, "Yes. I saw purple/green bruises, red hand prints on her body and bumps on her head, too." When asked if his mother ever called the police, Mario replied, "I think once." When asked what would cause the fighting between his parents in the past, Mario was not sure.

When asked how his father disciplines him, Mario said, "He hits me and puts me in time out." When asked how his father hits him, Mario said, "With his hand." When asked where his father hits him on his body, Mario said, "Everywhere." When asked if his

Exhibit B

1 of 6

Jul 16 12 01:12a

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p.6

P.006

Jan. 22. 2012 4:44PM

No. 0585 P. 4

Child Name: Mario Wizel  
FSFN: 2012-130103  
Page 3 of 6

father hits him on the face, Mario replied, "Yes." When asked if his father hits him with a belt, Mario replied, "Yes, but not anymore." When asked if he is afraid of his father, Mario reported that he was and said, "Because he is mean and bad. He hits us." When asked how his father disciplines his sister, Mario was not sure.

When asked if any of his relatives have ever mistreated him, Mario stated, "Once my uncle threw me in the river." When asked why, Mario reported, "My (paternal) grandparents have these cows (plastic) on the back house. The cows are very old and the eyes fell off. I didn't do it. He got mad at me and threw me in the river." When asked if his grandparents ever hit him, Mario said, "My grandpa, with a whip." When asked to describe the whip, Mario explained that the "whip" his grandfather hit him with is actually a belt. When asked where his grandfather hit him, Mario reported on his buttocks. When asked if he is afraid of his grandfather, Mario said, "All of my dad's relatives, besides my cousin." When asked why, Mario reported that they are mean to him. When asked how his father's girlfriend disciplines him and his sister, Mario said, "She screams at me bad words." When asked if the father's girlfriend hit the kids, Mario replied, "No." When asked what kinds of words his father's girlfriend calls the kids, Mario replied, "Son of a bitch and mother fucker." When asked if his father has ever threatened to kill him, Mario said, "Yes, he tells me that spirits are going to kill us." When asked why he thinks his father says this to him, Mario said, "To scare us."

When asked if he sleeps with a knife under his bed, Mario said, "Yes. I get it from the kitchen. I put it under the bed because I get scared." When asked if he is allowed to play with knives, Mario said, "No." When asked what he is afraid of, Mario reported he is afraid of the things his father says to him about the spirits.

#### Specialized Interview with Karen Wizel (child):

Melyssa Lopez, Case Coordinator, conducted a specialized interview with the child, Karen, at the CPT South office on 06/08/12. The purpose of this interview was to further assess the physical abuse and mental injury allegations, family dynamics, and risk in the home. Karen is a 6-year-old Hispanic female who was brought to this appointment by DCF CPI Teresa Hernandez. Karen was also accompanied to this appointment by her brother, Mario. Karen resides with her mother, Karen Wizel, and her two brothers (Mario Wizel, 9, and Joshua Jimenez, 9 months old). Karen reported that her father and her mother are no longer together and her father lives in another location with his paramour. Karen reported, "I'm with my mom for seven days and then I'm with my dad for seven days." When asked who lives in her father's home, Karen reported her father, Mr. Mario Jimenez, her father's girlfriend, Georgina, and baby sister (9 months old). Karen did not know the name of her baby sister. When asked if her parents are employed, Karen reported that her father is a doctor and her mother "helps people." When asked if her father's girlfriend works, Karen said, "No, because she has a lot of stuff to do in the house." Karen was not sure what school she attends but stated that she is going into the 1<sup>st</sup> grade.

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Jun. 22. 2012 4:44PM

No. 0585 P. 5

Child Name: Mario Wzcal  
FSFN: 2012-130103  
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When asked if she has ever witnessed her mom and dad hitting each other when they were together, Karen stated, "My dad did. He left my mom real red right here (pointing to her arm). He did it hard." When asked if she saw her father hit her mother, Karen said, "Yes, he hit her really hard with his hand. That was the only time I saw that. He also put a gun right here." Karen pointed to her forehead to point to the place the father aimed the gun at her mother. When asked if she witnessed the gun incident, Karen replied, "No, my brother sees (saw) it." When asked if she is afraid of her father, Karen reported, "Yes." When asked why she is afraid of her father, Karen reported, "One day he was talking on the phone and he was saying that the devil was going to kill everyone. Those bad angels will come kill us." When asked why her father said these things to her, Karen reported, "I don't know." When asked if she is afraid of her mom, Karen denied this.

When asked how her father disciplines them, Karen said, "He takes all our toys. He gets us in trouble. He hits my brother." When asked how her father hits her brother, Karen replied, "He throw him on the bed and pushed him. One day he pushed him and hurt him right here." Karen pointed to the back of her head. Karen reported that her father hits her brother with an open hand. When asked if she ever witnessed her father slapping her brother on the face, Karen said, "No, you're going to have to ask my brother about that." When asked if her father hits her, Karen replied, "He punished me hard." When asked how her father punishes her, Karen replied, "He puts me in my room. He puts us in the room for five or ten minutes." When asked how her father's girlfriend disciplines her and her brother, Karen replied, "She says bad words to us. One day she called us stupid. She called me a bitch and a piece of crap." Karen denied that her father's girlfriend has ever hit her or her brother. When asked how her mother disciplines her, Karen replied, "I don't do stuff wrong. She don't discipline me." When asked how her mother disciplines her brother, Karen reported that her mother does not discipline her or her brother.

When asked if any of her relatives ever hit her or her brother, Karen stated, "Yes, my grandpa. My grandpa grabbed me right here hard and made a red mark." When asked if her grandfather spanked her, Karen said, "Yes, to my brother and me." When asked what her grandfather hit her and her brother with, Karen replied, "A belt." When asked where her grandfather hit her and her brother, Karen said, "Butt and leg." When asked if she is afraid of her grandfather, Karen nodded her head yes and said, "Hits me very hard." When asked if she ever saw anyone throw her brother into a lake, Karen replied, "My tio (uncle) threw my brother in the lake. There were fishes and crocodiles and he threw him in." When asked why her tio (uncle) threw her brother in the lake, Karen said, "He threw him very long away to the river." When asked why, Karen said, "He thought my brother took the eyes from the goat off but he didn't. It was the air that took them away." When asked if her brother has a knife under his bed, Karen replied, "No, I've never seen that."

**Risk Factors:**

Exhibit B

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No. 0585 P. 6

Child Name: Maric Wziel  
 FSFN: 2012-130103  
 Page 5 of 8

Based on the specialized interviews of both children and the information provided to CPT by the DCF CPI, the identified risk factors are:

- Both kids reported that the father made threatening comments to them about spirits coming to kill them.
- Mario reported that his father hits him all over his body with his open hands and has targeted his face in the past.
- Both children reported that they are afraid of their father.
- Mario reported that his uncle threw him in the lake as a means of punishment for allegedly breaking something on his grandparents' porch.
- Both children reported witnessing domestic violence between their biological parents in the past.
- Both children reported that their father's girlfriend curses at them and calls them foul names.
- Mario reported that he sleeps with a knife under his bed because of the statements his father makes about the spirits coming to kill him.

#### Family Strengths:

Based on the specialized interviews of both children and the information provided to CPT by the DCF CPI, the identified family strengths are:

- The father is employed.
- The mother is employed.
- The children seem to have a healthy bond with one another.

#### Conclusions and Recommendations:

Mario reported that he sleeps with a knife under his bed due to the threatening comments his father makes about spirits coming to kill the kids. Mario reported that his father hits him all over his body with an open hand and has targeted his face in the past as a form of punishment. Mario reported that he is afraid of his father because he hits him and does not treat him nicely. Mario also reported that his paternal uncle did throw him in the lake as punishment because he thought he broke a plastic cow on his grandparent's porch. Mario also reported that his grandfather hits him with a belt when he does something wrong. Mario stated that he does not feel safe when he is in his father's care.

Karen reported that she is afraid of her father because he tells her that dark angels are going to kill her and her brother. Karen reported that her father hits her brother and that the father's girlfriend curses at the children when they do something wrong. Karen reported witnessing domestic violence between her parents in the past. Karen explained that her father hit her mother leaving a red mark on her. Karen reported that her grandfather also hits her with the belt and she does not feel safe when she is around him.

Exhibit B

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KX Date/Time  
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No. 0585 P. 7

Child Name: Mario Wtzel  
FSN: 2012-130103  
Page 6 of 6

CPT recommends that DCF should refer the children for intensive therapeutic intervention to process their abuse histories by their father, including the witnessing of domestic violence. Due to the children's expressed fear of their father, CPT recommends that visitation occur only under closely supervised conditions and at the discretion of the children's treating therapist. CPT further recommends that the father be court-ordered to undergo a full psychological evaluation to assess his personality functioning and treatment needs.

Prepared by:

  
Melyssa Lopez, Case Coordinator

Date:

06/22/12

IN THE CIRCUIT COURT OF THE 11<sup>TH</sup>  
JUDICIAL CIRCUIT COURT IN AND  
FOR MIAMI-DADE COUNTY, FLORIDA

MARIO ALBERTO JIMENEZ,

FAMILY DIVISION

Petitioner,

CASE NO.: 2011-21207 FC04

and

KAREN WIZEL,

Respondent.

**ORDER GRANTING EMERGENCY MOTION  
TO SUSPEND PETITIONER'S TIME SHARING**

THIS CAUSE came to be heard on July 20, 2012 on the Respondent's Emergency Motion to Suspend Father's Time Sharing, and the Court having conducted a telephonic hearing with the Petitioner, Mario Alberto Jimenez, and Respondent's attorney, Ana Morales, and the Court having heard from the Petitioner and the Respondent's attorney, having reviewed the pleadings and being otherwise fully advised in the premises, it is

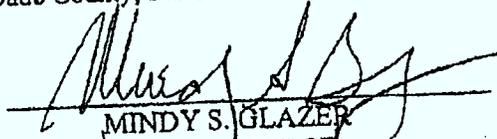
ORDERED AND ADJUDGED as follows:

1. The Emergency Motion to Suspend the Petitioner, Mario Alberto Jimenez's time sharing with the children is Granted.
2. This Court has reviewed a June 12, 2012 Child Protection Team report attached to the Motion, and has considered the recommendations contained therein.
3. The Petitioner Mario Alberto Jimenez's time sharing with the minor children, Mario Jimenez Wizel and Karen Jimenez Wizel is suspended until further court order.
4. The Petitioner, Mario Alberto Jimenez, shall have supervised therapeutic visitation with the children at the discretion of each child's treating therapist.

Exhibit C

5. This matter shall be set on an expedited basis before the Court.

DONE AND ORDERED in Miami-Dade County, Florida on July 20, 2012.

  
MINDY S. GLAZER  
CIRCUIT JUDGE

cc: Mario Alberto Jimenez  
Ana Morales, Esq.

Exhibit C

A person who knowingly or willfully makes public or discloses to any unauthorized person any confidential information contained in the central abuse hotline is subject to the penalty provisions of s. 39.205.

**INTAKE REPORT**

Intake Name Wizel, Karen		Intake Number 2012-130103-01		County Miami-Dade	
Date and Time Intake Received 06/04/2012 5:10 PM		Program Type Child Intake - Initial	Investigative Sub-Type In-Home	Provider Name N/A	
Worker Safety Concerns <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		Prior Involvement <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		Law Enforcement Notified <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Response Time 24 Hours	Name - Worker SAUNDERS, LINDA		Name - Supervisor COMPTON, CHRIS		

**I. Family Information**

Name - Family Wizel, Karen		Telephone Number - Home (786)339-0723	
Address - Street 1934 SE 17t St	Unit Designator	City Homestead	State FL
Primary Language:	Zip Code 330351959		
Directions to House Children's location/ mother's address/ Home address 12817 SW 252 st, Homestead, FL 33032.			

**A. Participants**

Name	ID Number	Role	Gender	DOB
Wizel, Karen	[REDACTED]	IN-PC	Female	10/25/1984
Est. Age	Ethnicity	Race		
27	Hispanic/Latino	White		
Name	ID Number	Role	Gender	DOB
Jimenez Wizel, Mario Simon	[REDACTED]	V	Male	08/20/2002
Est. Age	Ethnicity	Race		
9	Hispanic/Latino	White		
Name	ID Number	Role	Gender	DOB
Jimenez Wizel, Karen Nicole	[REDACTED]	CH	Female	09/06/2005
Est. Age	Ethnicity	Race		
6	Hispanic/Latino	White		
Name	ID Number	Role	Gender	DOB
Jimenez, Mario Alberto	[REDACTED]	AP-PC	Male	10/22/1969
Est. Age	Ethnicity	Race		
42	Hispanic/Latino	White		

AP = Alleged Perpetrator  
 CH = Child In Home  
 HM = Household Member  
 NM = Non-Household Member  
 PC = Parent/Caregiver  
 IN = Intake Name  
 SO = Significant Other  
 V = Victim  
 JS = Alleged Juvenile Sexual Offender  
 IC = Identified Child  
 RN = Referral Name / SC Referral Name

**B. Address and Phone Information**

Name	Type	Address	Telephone Number
Wizel, Karen	Primary Residence	1934 SE 17t St Homestead, FL 330351959	(786)339-0723
Jimenez Wizel, Mario Simon	Primary Residence		
Jimenez Wizel, Karen Nicole	Primary Residence	1934 SE 17t St Homestead, FL 330351959	(786)339-0723
Jimenez, Mario Alberto	Primary Residence	12901 SW 66th Terrace DR Miami, FL 331831315	(305)386-9988

Exhibit D

A person who knowingly or willfully makes public or discloses to any unauthorized person any confidential information contained in the central abuse hotline is subject to the penalty provisions of s. 39.205.

C. Relationships		
Subject	Relationship	Subject
Wizel, Karen	Mother	Jimenez Wizel, Mario Simon
Wizel, Karen	Mother	Jimenez Wizel, Karen Nicole
Jimenez, Mario Alberto	Father	Jimenez Wizel, Mario Simon
Jimenez, Mario Alberto	Father	Jimenez Wizel, Karen Nicole

D. Alleged Maltreatment		Maltreatment Code
Alleged Victim		Physical Injury
Jimenez Wizel, Mario Simon		

E. Location of Incident				
Address - Street	Apt.	City	State	Zip Code
Telephone Number - Home	Telephone Number - Work		Telephone Number - Cell	

**II. Narratives**

**A. Allegation Narrative**

Around two or three weeks ago, Mario was slapped and spanked by his father, his uncle and his grandfather. The father is the one that slapped him. The father slapped him in the face. Mario had a red mark on his face from being slapped. The grandfather spanks Karen on her bottom when she misbehaves however there are no known injuries to her.

In October, the uncle tossed Mario in the lake. He did this because Mario took off an eye of a plastic cow and he tossed it into the lake. The uncle threw him into the lake to get the eye. Mario was crying because there was algae in the lake. The stepmother has called the children Malditos.

**B. Narrative for Worker Safety Concerns**

**III. Agency Response**

**A. Probationary Worker Recommendation**

Decision	Date/Time Decision Made	Reason
Pending		
Explain		

**B. Worker/Supervisor Decision**

Decision	Date/Time Decision Made	Reason

Exhibit D

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score (3) as well. This is based on the two priors and the allegations of physical injury.

This family has two prior report for family violence and physical injury both closed no indicators. The interaction between the children and the mother was observed to appropriate and loving. The children were happy to be this week with their mother with the exclusion of the infant, whom the father in this case is not the biological father of the infant, Joshua. His father is in Nicaragua and has no involvement with the child nor mother as stated by the mother to CPI.

Updated for closure 7/18/2012

CPI provided a daycare/summer camp referral for the children while they are at the mother's home so that she can go to work her part time.

D. Criminal History Summary and Implications for Child Safety

The mother, Karen Wizel has no criminal record.

The father, Mario Alberto Jimenez has on hit in 9/11/1999 for curfew violation-closed WH ADJ/CTS

E Prior Reports and Service Records Implications for Child Safety

This family has two priors with the department, both closed no indicators.

2011-078791 for family violence and physical injury-A/P Mario Alberto Jimenez.

2011-190766 for family violence and physical injury-A/P Mario Alberto Jimenez.

V. Overall Safety Assessment

SDM completed, see file cabinet. The overall assessment is moderate based on the risk is (3) and the abuse score (3) as well. This is based on the two priors and the allegations of physical injury.

The father still has to be interviewed as all participants which were mentioned in the allegation narrative.

The children were seen and no bruises, welts, nor scratches noted on either child. The children Karen and Mario did disclose that they were scared of their father and of what he will do if CPI speaks to him. They appeared genuinely scared of the father and what he will do to them.

Note: Each child was interviewed separately in the school office. They disclosed that they have both in different occasions been hit, mainly Mario by the father and disclosed that he also got thrown in the lake behind his grandparent's home because he threw a plastic cow (appears to be a figurine) into the lake where his uncle Ivan came, picked him up and threw him in the lake to get the figurine. It was disclosed that once his father was told he slapped Mario in the face a few times. Both children also disclosed that the stepmother curses at them and speaks bad as to their mother as well.

In speaking to the mother she has disclosed her abusive relationship which she endured while living with the father in Nicaragua. She requested to the Embassy to come to the US and came with the children fleeing from the father's threats.

She stated that her infant's father who is in Nicaragua left the Country and went back to his homeland because of the threats this present father made and he was immature to stand his ground. This father is no longer in the lives of the mother nor infant child who was born on 8/24/2011. This date is significant to her because while in the hospital recuperating from giving birth to her son Joshua, the father of Karen and Mario motioned the court and took her children from her. He withdrew them from their school and placed them in a school closer to his home making it a hardship for her to take them to school and pick them up when it is her week to have the children.

CPI contacted the father by phone and explained that he has to be interviewed as a report came to the department. He was hesitant and stated that CPI should speak to the previous CPI as CPI might not know all the fact. CPI

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Exhibit D

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explained that she has read the priors and notes as well and that she will speak to the prior CPI but that he still needs to be interviewed. He stated he would call CPI as he is doing an intership as a doctor and is not available without speaking first to his superiors. CPI explained that this is understandable but that an interview is needed and that over the phone CPI can not give him the allegations. CPI mentioned that his family (wife and brother) need to be interviewed as well. He stated that the children attend Dr. Alicia Vidal-psychologist and that CPI can call her as well to get the facts as to what his ex-wife is trying to do.

CPI again brought the conversation to focus on the interview that needs to be done. He stated he would call CPI and advise.

In speaking to the mother during her interview and reading the priors Project SOS was assisting the mother and children and they were also receiving counseling through Miami Behavioral-Homestead.

Case will be staffed with Our Kids for services.

Up dated for closure 7/18/2012

The allegations were investigated and findings were that the children did say to be scared of their father and his family. They stated that they are hit and don't want to go to be with them, however no bruises, welts nor scratches noted on either child. CPI interviewed the mother and received documents of D/V while they were living in Nicaragua which CPI read throughly. A second report came to surface where the father had been texting the children saying that "God and the Deveil are in a contact battle and that the dark angels would come to kill them tonight nor tomorrow". This message/text was sent to the children by the father while they were staying the week at their mother's home. Note: the messgaes kept on coming in everynight a few minutes to 9:00pm time the children go to sleep. CPI interviewed the father as to this and he did not deny sending the message but stated he just wanted to teach the children of good and bad and was quoting bible scriptures. It is evident that there is a custody battle between both parents. The mother has stated to have come to this country with the assistance of the US Embassy (which she provided proof) so means to get away from the abusive relationship she endured while living with the father. They were divorced when she came here. The father sort the mother out, found where the children were living and motioned family court to give him an order which he then took the children out of the school they were attending, closeby to the mother's home and placed them in a school close to his home. This last making a hardship for the mother who lives on menial means, has a part time job and trying to make ends meet. The children up to now have stated their wish to live with their mother and attend the school they used to attend (Gateway K-8) where they were also receiving counseling through Homesteadh Behavioral. They are presently receiving counseling with Dr. Alicia Vidal- psychologist sort out by the father. Both homes have been visited and found to be ap[ropriate for the children. They have more toys and clothes at the mother's home than at the father's home this was visible to CPI. A referral to Dr. D'Tomasso was sent for the father to undergo a psychological evalution as recommended by CPT after CPT interviewed both children. DCF Legal is also awaiting such evaluation to establish how to proceed on this case as no physical abuse is noted. CPI will submit this case for closure today however will request to leave the shell open as we are pending the Flex Funds for Dr.D'Tomasso to do the evaluation on the father. As for the children they continue to go one week with the father and one week with the mother.

Note: Our Kids, Legal, and Supervisor as well as CPI are waiting the evaluation to see how to proceed.

VI. Summary/Findings Implications

The allegations were investigated and findings were that the children did say to be scared of their father and his family. They stated that they are hit and don't want to go to be with them, however no bruises, welts nor scratches noted on either child. CPI interviewed the mother and received documents of D/V while they were living in Nicaragua which CPI read throughly. A second report came to surface where the father had been texting the children saying that "God and the Deveil are in a contact battle and that the dark angels would come to kill them tonight nor tomorrow". This message/text was sent to the children by the father while they were staying the week at their mother's home. Note: the messgaes kept on coming in everynight a few minutes to 9:00pm time the children

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Exhibit D

4 of 5

go to sleep. CPI interviewed the father as to this and he did not deny sending the message but stated he just wanted to teach the children of good and bad and was quoting bible scriptures. It is evident that there is a custody battle between both parents. The mother has stated to have come to this country with the assistance of the US Embassy (which she provided proof) so means to get away from the abusive relationship she endured while living with the father. They were divorced when she came here. The father sort the mother out, found where the children were living and motioned family court to give him an order which he then took the children out of the school they were attending, closeby to the mother's home and placed them in a school close to his home. This last making a hardship for the mother who lives on menial means, has a part time job and trying to make ends meet. The children up to now have stated their wish to live with their mother and attend the school they used to attend (Gateway K-8) where they were also receiving counseling through Homesteadh Behavioral. They are presently receiving counseling with Dr.Alicia Vidal- psychologist sort out by the father. Both homes have been visited and found to be ap[propriate for the children. They have more toys and clothes at the mother's home than at the father's home this was visible to CPI. A referral to Dr. D'Tomasso was sent for the father to undergo a psychological evaluation as recommended by CPT after CPT interviewed both children. DCF Legal is also awaiting such evaluation to establish how to proceed on this case as no physical abuse is noted. CPI will submit this case for closure today however will request to leave the shell open as we are pending the Flex Funds for Dr.D'Tomasso to do the evaluation on the father. As for the children they continue to go one week with the father and one week with the mother.

**VII. Recommended Disposition**

CPI continues to staff case with legal, Rosemarie Rinaldi who needs to staff case with her superiors as to how to proceed and translate the Spanish documents received. Legal sufficiency is still pending based on the CPT report. The children continue to receive counseling with Dr. Alicia Vidal whom the father chose back in Aug.2011. CPI still awaiting updated process report from this psychologist. CPI submitted a request for the father to receive a psychological evaluation as recommended by CPT. The referral was sent to Dr.D'Tomasso, evaluation still pending. Case will be submitted for closure however the shell wil continue open pending evaluation as to the father with Dr.D'Tomasso and progress report from Dr.Vidal for the children.

**VIII. Signatures**

SIGNATURE -- Protective Investigator

Date Signed

SIGNATURE - Protective Investigator Supervisor

Date Signed

"A person who knowingly or willfully makes public or discloses to any unauthorized person any confidential information contained in the central abuse hotline is subject to the penalty provisions of s. 39.205."

STUDENT ID: MARIO S JIMENEZ-WITZEL  
 GR: 03 HR: 303  
 SCHOOL: WINSTON PARK K-8 CENTER 5961 PHONE: (305) 386-7622  
 MIAMI-DADE COUNTY PUBLIC SCHOOLS  
 REPORT CARD 2011/2012  
 AUG. 22, 2011 - JUNE 7, 2012  
 FINAL REPORT

COURSE TITLE AND TEACHER	1st Grading Period					2nd Grading Period					3rd Grading Period					4th Grading Period					FINAL GRADE					
	GRD	E	C	ABS	TD	CM	GRD	E	C	ABS	TD	CM	GRD	E	C	ABS	TD	CM	GRD	E		C	ABS	TD	CM	
Language Arts ESOL-Related Grade 3 English for Speakers of Other Languages																										
ESOL-Related Grade 3 English for Speakers of Other Languages																										
ESOL-Related Reading-Elementary ESOL-Related Mathematics - Grade Three ESOL-Related Science - Grade Three																										
ESOL-Related Social Studies Grade Three Art-Elementary Grade 3																										
ESOL-Related Art-Elementary Grade 3 Music																										
ESOL-Related Physical Education - Grade 3 Spanish for Spanish Speakers-Elementary Elementary Homeroom																										

- TEACHER COMMENTS (CM)
- 1 - Receiving bilingual instruction in this subject.
  - 2 - Recibe instruccion bilingua en esta asignatura.
  - 3 - Language Arts/Reading grade received within the ESOL grade. Level 1 only.
  - 4 - Calificacion de artes de idiomas/leer sera recibido en su calificacion de ESOL.
  - 5 - Requiere close supervision.
  - 6 - Requiere supervicion constante.
  - 7 - Falls to complete required assignments.
  - 8 - No termina los deberes que se le asignan.

ADDITIONAL COMMENTS  
 ESOL Level 1 students do NOT receive Language Arts and Reading grades.

STANDARDIZED TESTING

FCAT - GRADE 03 SCORE LEVEL  
 READING 207 3  
 MATHEMATICS 220 4  
 WRITING N/A N/A

(FCAT LEVELS RANGE FROM A LOW OF 1 TO A HIGH OF 4)

Exhibit G

Page 1 of 1

MIAMI-DADE COUNTY PUBLIC SCHOOLS

# CERTIFICATE of

# AWARD

This Certificate That

MARIO JIMENEZ-WIZEL

is awarded this Certificate for

STUDENT OF THE MONTH

Given at WINSTON PARK K-8 CENTER, this 28<sup>TH</sup> day of MARCH, 2012

  
Principal

  
Assistant Principal

Exhibit H

1 of 1

Subject: Psychological Evaluations  
From: jerry@adamslaw4men.com (jerry@adamslaw4men.com)  
To: yreyes@ramlawus.com;  
Cc: Jerry@AdamsLaw4Men.com;  
Date: Tuesday, August 7, 2012 3:36 PM

*The information contained in this e-mail message is intended only for the personal and confidential use of the recipient(s) named above. This message may be an attorney-client communication and as such is PRIVILEGED and CONFIDENTIAL. If the reader of this message is not the intended recipient or an agent responsible for delivering it to the intended recipient, this serves as notice to you that you have received this document in error and that any review, dissemination, distribution, or copying of this message is strictly prohibited. If you have received this communication in error, please delete the original message and any attachments, as well as all copies thereof, and notify us immediately via e-mail at Jerry@AdamsLaw4Men.com or by telephone at 305-400-1633, 954-353-5035 or 561-304-8359. This e-mail is not intended to: (a) provide legal advice to anyone who is not an existing client, (b) create an attorney-client relationship, or (c) to have my signature. Thank You.*

**Good afternoon Ms. Miller:**

**We would like to use Dr. Michael Ditomasso, PhD, 13834 S.W. 122nd Court, Miami, 33186, Telephone number (305) 256.4324, for the evaluations. Please have Karen make her appointment as soon as possible.**

**Thank you for your attention to this matter.**

**Regards,**

**Gerald Adams, J.D.  
For Your Protection,  
Gerald Adams & Associates, LLC**

305.400.1633  
954.353.5035  
561.304.8359

Exhibit J

1 of 1

JIMENEZ vs WIZEL

Case No: 2011-21217

Page 28 of 29

was going to come and kill her and her brother, and that they were going to go to Hell as a result. She denied any other times when the police had gone to her home.

When asked if she ever saw her parents hit each other, Karen expressed the belief that her father has hit her mother previously and that he also put a gun to her head. She was not clear, however, she was also present when these incident occurred, or if she only knew about them because someone had told her about it.

Karen denied that she has ever seen her father and stepmother physically hitting each other. She readily indicated that they do say bad words, but it was not clear if this was only in the context of them talking negatively about her mother, or if it was also during arguments. Finally, Karen denied ever witnessing any violence between her mother and Marcello.

#### CONCLUSIONS AND RECOMMENDATIONS:

Mr. Mario Jimenez and Ms. Karen Wizel were referred for psychological evaluations pursuant to a Court Order. Their children were also interviewed. It was requested that the evaluations address recommendations regarding their parenting abilities.

Based on the reviewed documentation, there is ample indication that Mr. Jimenez's inappropriate actions - and possibly abusive behaviors - are well documented to have transpired over the course of time dating back to 2003. The documented allegations are consistent over time, and appear to indicate that Mr. Jimenez had several incidents in which he was physically violent both towards Ms. Wizel and towards their son, Mario. Of particular concern is his own emails in which he justifies his actions and blames Ms. Wizel for repeatedly antagonizing him and causing him to lash out, and his more recent denials of these past actions.

With respect to his treatment of the children, the undersigned is not convinced that Mr. Jimenez's treatment of the children rises to the extent of physical abuse - although she also can not rule it out. What is apparent, however, is that his style of parenting - which clearly does include corporal punishment (and of particular concern may be being used by him with respect to his infant daughter) - is drastically different from that of the mother's where she does not use any physical means of disciplining the children.

That said, however, is the emotional harm that is of most concern to the undersigned. Mr. Jimenez's repeated religious references are extremely scary for the children - and his inability to recognize this raises significant concerns with respect to his ability to provide an emotionally supportive and nurturing environment for the children. The undersigned references, in particular, statements made by the children that reflect their fear given what the father has said to them in the past. In addition, the undersigned notes that the recorded

Exhibit K

1 of 2

JIMENEZ vs WIZEL

Case No: 2011-21217

Page 29 of 29

telephone conversations depict Mr. Jimenez continuing to make religious references over the children's protests to such an extent that no meaningful conversation was able to occur.

The undersigned notes that Mr. Jimenez's religious beliefs - which interestingly are not as pronounced in conversation that the undersigned has had with him - are excessive and intrusive, and likely do approach a fanatic level. Until he is able to recognize this, and the effect it has on his ability to parent his children, the undersigned remains extremely concerned about the emotional safety of the children if left unsupervised in his care. Towards this end, therapeutic supervision during his contact with the children is strongly suggested. It is further recommended that Mr. Jimenez participate in individual therapist - and that the therapist who supervises the visits maintain regular communication with the treating individual therapist. Psychological re-evaluation is strongly recommended prior to allowing Mr. Jimenez any unsupervised contact.

No concerns are raised with respect to Ms. Wizel's parenting abilities. She should, however, continue to participate in individual therapy for purposes of helping address her needs for attention and dependency.

Thank you for the opportunity to be of assistance. This report has been produced following psychological evaluation of the referred party and is intended only as a summary of those findings and recommendations of relevance to the current legal proceedings. Should the Court require additional information, please contact the undersigned.



Vanessa L. Areher, Ph.D.  
Clinical Psychologist  
License No. PY0005597

Copies distributed to: Ana Morales, Esq (Attorney for the Mother)  
Sabrina Salomon, Esq (Attorney for the Father)  
Mario Jimenez  
Karen Wizel  
Anastasia Garcia, Esq (Guardian ad Litem)

Exhibit K

2 of 2

### The Florida Bar Inquiry/Complaint Form

**PART ONE (See Page 1, PART ONE – Complainant Information.):**

Your Name: Mario Alberto Jimenez

Organization: \_\_\_\_\_

Address: 12901 SW 66 Terrace Drive

City, State, Zip Code: Miami, Fl 33183

Telephone: 786-253-8158

E-mail: marioaj01@yahoo.com

ACAP Reference No.: \_\_\_\_\_

Have you ever filed a complaint against a member of The Florida Bar: Yes  No

If yes, how many complaints have you filed? 2

Does this complaint pertain to a matter currently in litigation? Yes  No

**PART TWO (See Page 1, PART TWO – Attorney Information.):**

Attorney's Name: Sabrina Salomon

Address: 5827 Sheridan Street

City, State, Zip Code: Hollywood, Fl 33021

Telephone: 305-394-9663

**PART THREE (See Page 1, PART THREE – Facts/Allegations.): The specific thing or things I am complaining about are: (attach additional sheets as necessary)**

On December 7, 2012, while representing me in a Family Division case, # 2011-021207-FC-04, I believe that Mrs. Salomon provided me with false and misleading information that favored opposite counsel. Mrs. Salomon had initially planned to argue that the suit had been brought to harass and that "Respondent's attorney did not provide Affidavit of cost and budget so not prepared to discuss" (please see Mrs. Salomon's defense plan for that day, and e-mails I exchanged with her about our plan to appeal the order). However, on the day of the hearing, Mrs. Salomon recommended that I should agree on an order to pay for half of what opposite counsel was requesting since the judge would most likely force me to pay for the whole amount, but that once we had the opportunity to present our case, we could request to change the agreement, and I have witnesses to this fact. However, a week later, when I consulted with a different attorney about the case, I found out that agreed orders are basically impossible to change or appeal. When I told this to Mrs. Salomon, she confirmed it, and replied that she was sorry but she had made a mistake. A week after this, Mrs. Salomon called me to her office and told me that she would be withdrawing from the case because of a recent conflict of interest with a job she had accepted in a battered women's shelter associated with my ex-wife. At first, I believed that it was an honest error, but since then, I have requested her to rectify her mistake before the new judge in the case, and she had refused to do so. I am now facing jail time for my inability to pay for the agreed order, and because the new judge believes that I should have never agreed to pay if I was planning to appeal. Please, investigate and correct this inappropriate behavior.

**PART FOUR (See Page 1, PART FOUR – Witnesses.):** The witnesses in support of my allegations are: [see attached sheet].

**PART FIVE (See Page 1, PART FIVE – Signature.):** Under penalties of perjury, I declare that the foregoing facts are true, correct and complete.

Mario A. Jimenez

Print Name

Signature

A handwritten signature in black ink, appearing to read 'MAJ', is written over a horizontal line. The signature is somewhat stylized and includes a large loop.

August 18, 2013.

Date

The witnesses in support of my allegations are:

1. Giorgelina Rapizza  
13840 Kendall Lakes Drive  
Miami, Fl 33183  
305-910-7119

2. Mario Bruno Jimenez  
12901 SW 66 Terrace Drive  
Miami, Fl 33183  
786-366-3585

3. Leticia Jerez  
12901 SW 66 Terrace Drive  
Miami, Fl 33183  
786-355-7696

Exhibit L

Page 3 of 9

Talk about Client's religion in Opening Statement  
Do timeline of events

Motion for Temporary Relief

1. Shared parental responsibility

- Request re-instatement of shared parental responsibility (highlight kids grades slipping, etc..)
- 

Motion to Vacate Foreign Judgment/Modify Order

- As to Domesticated: reason in front of judge Scola...states nature of proceeding right on form
- Wife initial petitioner in foreign petition
- Wife represented by counsel
- Appealed decision and decision withheld on appeal

Motion for Temporary Attorney's Fees, Suit, Money and Costs

- Respondent's attorney did not provide Affidavit of cost and budget so not prepare to discuss
- Suit brought forth to harass

Move to strike the Psychologist report

- Make judge understand Mario's religious practice.
- Debunk finding in Psychological report
- Highlight bias – Point by point how takes as true wife's statements
- Freedom of Religion analogize with Orthodox Jews, Jehowa's Witness (harm to kids not to celebrate xmas, or birthday....)

Exhibit L

Page 4 of 9

IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT  
IN AND FOR MIAMI-DADE COUNTY, FLORIDA

FAMILY DIVISION

MARIO ALBERTO JIMENEZ,

CASE NO: 2011-021207-FC-04

*Petitioner/Father,*  
and

THE ORIGINAL FILED  
IN THE OFFICE OF THE CLERK

KAREN WIZEL,

AUG 28 2012

*Respondent/Mother,*  
\_\_\_\_\_ /

CIRCUIT & COUNTY COURTS  
MIAMI-DADE COUNTY FLORIDA

**RESPONSE IN OPPOSITION TO MOTION FOR  
TEMPORARY ATTORNEY'S FEES AND COSTS**

COMES NOW, The Petitioner/Father MARIO ALBERTO JIMENEZ, by and through undersigned counsel files this Response in Opposition to Respondent's Motion for Temporary Attorney's Fees and Costs, and in support thereof states the following:

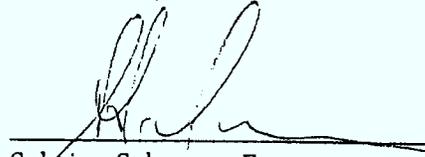
1. Respondent/Mother has filed various reports with the Department of Children and Family which were not substantiated.
2. Respondent/Mother filed a Petition for Injunction on behalf of the couples' minor children, which was denied at the ex-parte hearing on July 20, 2012 (Exhibit A). The allegations made by Respondent/Wife were not deem to show immediate and present danger under Florida law.
3. On the same day, Respondent/Mother filed an emergency motion to suspend time sharing to the father which is granted based on a report dated 06/12/2012 from the University of Miami Child Protection Team. However, report from the Department of Children and Family shows that on 07/18/2012 (two days before the emergency hearing) investigator closed the file (Exhibit B), pending psychological evaluation by Dr. DiTomassio. Petitioner/Husband completed evaluation on August 1<sup>st</sup>, 2012 (Exhibit C), which did not find him unfit to take care of his kids.
4. On August 6<sup>th</sup>, 2012 Honorable Judge Echarte ordered both parties to a psychological evaluation through Dr. Archer or another they could agree on (Exhibit D). On August 7, Petitioner/Husband's previous counsel contacted Respondent/Wife's counsel about using Dr. DiTomassio for the evaluation (Exhibit

E), but he did not hear back from them. On August 20<sup>th</sup>, undersigned counsel renewed the request to use the same doctor DCF had recommended for the evaluation but Respondent/Wife's counsel refused. Petitioner/Husband was ordered to get and pay for another psychological evaluation along with that of Respondent/Wife. This resulted in more delays and additional expenses.

WHEREFORE, Petitioner/Husband requests that this Motion be denied. Respondent/Wife is abusing the process in looking for different forums in which to alienate Petitioner/Father from his children and he should not be made to pay for her quest.

I HEREBY CERTIFY that a true and correct copy of the foregoing was mailed this 28<sup>th</sup> day of August 2012 to Ana Morales, Esq., 6910 North Kendall Drive, Second Floor, Miami FL 33156; and Anastasia M. Garcia, Esq., 770 Ponce De Leon Boulevard, Penthouse Suite, Coral Gables, FL 33145.

Respectfully Submitted.



Sabrina Salomon, Esq.  
Florida Bar No.: 690171  
175 SW 7th Street, Ste 1503  
Miami, FL 33130  
Tel: (305) 777-7063  
Fax: (305) 359-6758  
Email: info@ssalomonpa.com

7/22/13

Print

Subject: I am trying to understand

From: Mario Jimenez (marioaj01@yahoo.com)

To: info@ssalomonpa.com;

Bcc: Rapizzagiorgelina@yahoo.com; mjime81497@yahoo.com; maximo.jimenez@reintergroup.com;

Date: Friday, December 7, 2012 11:43 PM

Hi Sabrina,

I am trying to understand how come the judge read Dr. Archer's report in its entirety but this was not even part of the hearing? Why did not he take the GAL's opinion? Where was the GAL in all of this?

Please, request a copy of the report from Karen Sanchez.

Please, look for a way to contest the judge's decision based on religious freedom, and all the inconsistencies in Dr. Archer's report.

Thank you.

"Trust in the Lord with all your heart and lean not on your own understanding; in all your ways submit to Him, and He will direct your paths" (Proverbs 3:5-6).

"Rejoice in the Lord always. I will say it again: Rejoice! Let your gentleness be evident to all. The Lord is near. Do not be anxious about anything, but in every situation, by prayer and petition, with thanksgiving, present your requests to God. And the peace of God, which transcends all understanding, will guard your hearts and your minds in Christ Jesus" (Philippians 4:4-7).

Exhibit L

Page 7 of 9

7/22/13

Print

Subject: Re:

From: Mario Jimenez (marioaj01@yahoo.com)

To: info@ssalomonpa.com;

Bcc: joelbellopa@yahoo.com; jbello@bmrllawgroup.com;

Date: Wednesday, December 19, 2012 7:00 PM

Hi Sabrina,

I certainly disagree on the "TEMPORARY RELIEF RELATING TO TIME SHARING AND PARENTAL RESPONSIBILITY" order not only based on Dr. Archer picking what psychologist I will see (we already know that she can not be trusted one bit) but because the order was given without the proper hearing notice to give us the opportunity to present our case. Up to this point, Judge Echarte has not given us a chance to present our side of the story. How can he give an order without hearing our arguments/hearing from our witnesses? He basically read Dr. Archer's report, gave this order, and then forced us to pay for Karen's attorneys. You know very well that this is a complete injustice, and accepting this would be a crime not only against me but against my kids who have been crudely manipulated by their mom. I assure you one thing, God has given me the strength to persevere, and I will be triumphant. I will see you tomorrow noon, please take everything that we so far, including the recording of the conversation where my kids where prompted to say inappropriate things over the phone. Thank you.

Regards,

Mario

"Trust in the Lord with all your heart and lean not on your own understanding; in all your ways submit to Him, and He will direct your paths" (Proverbs 3:5-6).

"Rejoice in the Lord always. I will say it again: Rejoice! Let your gentleness be evident to all. The Lord is near. Do not be anxious about anything, but in every situation, by prayer and petition, with thanksgiving, present your requests to God. And the peace of God, which transcends all understanding, will guard your hearts and your minds in Christ Jesus" (Philippians 4:4-7).

---

From: "info@ssalomonpa.com" <info@ssalomonpa.com>  
 To: Mario Jimenez <marioaj01@yahoo.com>  
 Sent: Wednesday, December 19, 2012 2:03 PM  
 Subject:

Attached please find the propose order from opposing counsel. The one issue I find so far is that the order did not specify as requested that psychologist be in your insurance. Please review and let me know.

Thank you!

Sabrina Salomon

Exhibit L

Page 8 of 9

7/22/13

Print

Sabrina Salomon, P.A.  
5827 Sheridan Street  
Hollywood, FL 33021  
Ph: 305-394-9663  
Fx: 305-394-9563

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Exhibit L

Page 9 of 9

4/6/13

Print

**Subject:** Re: Hi Miss. Cintron

**From:** Mario Jimenez (marioaj01@yahoo.com)

**To:** bcintron@charterschoolatwaterstone.com;

**Cc:** rvaldes@charterschoolatwaterstone.com; smanjarrez@charterschoolatwaterstone.com; jessica@scanziani.com; Denise@scanziani.com;

**Date:** Thursday, March 7, 2013 8:15 PM

Thank you Mrs. Cintron. That was a great recap of our meeting. I really appreciate your and Ms. Manjarrez' effort to help my son.

Regards,

Mario Jimenez, M.D.

=====

**From:** Barbara Cintron <bcintron@charterschoolatwaterstone.com>  
**To:** Mario Jimenez <marioaj01@yahoo.com>  
**Cc:** Rebecca Valdes <rvaldes@charterschoolatwaterstone.com>; Sherrie Manjarrez <smanjarrez@charterschoolatwaterstone.com>; "jessica@scanziani.com" <jessica@scanziani.com>; Denise Martinez-scanziani <Denise@scanziani.com>  
**Sent:** Thursday, March 7, 2013 3:09 PM  
**Subject:** RE: Hi Miss. Cintron

Recap of March 7, 2013 meeting with Mr. Jimenez:

- 1.) Printout of Mario's grades were printed and discussed.
- 2.) His behavior, use of inappropriate language, and seat relocation in both classes.
- 3.) Issues with homework has improved with checking of agenda from both teachers and mom.
- 4.) Dad requested counseling from school; however, such services are not provided here. Mr. Jimenez was instructed to go to the main office for a list of local resources in the area.
  - a. Teachers agreed with Mr. Jimenez that given Mario's situation that he may benefit from counseling.
- 5.) Mr. Jimenez voiced his desire of all members of the family involved in the current situation should seek counseling.
- 6.) Mr. Jimenez briefed both Ms. Manjarres and Mrs. Cintron of Mario's strong resentment to the paternal family due to ideas put into Mario's head.
- 7.) Mr. Jimenez also informed the teachers a bit of his battle with mom for shared custody.
- 8.) Mr. Jimenez told the teachers that there was a year which he had Mario. During that year Mario improved academically, behaviorally, and that Mario became student of the month.
- 9.) Mr. Jimenez requested to continue updating him about Mario's academics and behavior.

**From:** Mario Jimenez [mailto:marioaj01@yahoo.com]  
**Sent:** Thursday, March 07, 2013 1:30 PM  
**To:** Barbara Cintron

Exhibit M

Page 1 of 4

4/6/13

Print

**Cc:** Rebecca Valdes; Sherrie Manjarrez; jessica@scanziani.com; Denise Martinez-scanziani

**Subject:** Re: Hi Miss. Cintron

Thank you Ms. Manjarrez and Mrs. Cintron,

It was a pleasure talking to both of you this morning. I totally agree with you that Mario needs counseling. I used to take him to counseling on a weekly basis and his behavior and grades reflected his improvement.

Unfortunately, unless I am able to recover at least shared custody of the kids, I am unable to ensure that this will take place. Not only that, since his anger comes from false ideas he has about me and my side of the family, I believe that it is important that the counseling happens with us included as well.

I would greatly appreciate your comments and suggestions on this matter. Thank you very much for your time and attention.

Regards,

Mario Jimenez, M.D.

**From:** Mario Jimenez <[marioal01@yahoo.com](mailto:marioal01@yahoo.com)>  
**To:** Barbara Cintron <[bcintron@charterschoolatwaterstone.com](mailto:bcintron@charterschoolatwaterstone.com)>  
**Cc:** Rebecca Valdes <[rvaldes@charterschoolatwaterstone.com](mailto:rvaldes@charterschoolatwaterstone.com)>; Sherrie Manjarrez <[smanjarrez@charterschoolatwaterstone.com](mailto:smanjarrez@charterschoolatwaterstone.com)>  
**Sent:** Tuesday, February 12, 2013 7:46 PM  
**Subject:** Re: Hi Miss. Cintron

Thank you Ms. Manjarres and Mrs. Cintron,

As you mentioned, Mario scored 75% in his reading winter assessment demonstrating that he is at proficient mastery level and that he should be performing much better on his assignments. This was achieved in great part with the effort of his grandparents, my new wife and me because we believe in the importance of education and that our kids have great potential to serve in this life. After their mother took them from me for two years against a judge's order in Nicaragua, I was finally able to get shared custody of him and his sister for a year, we worked very hard with his teachers and school counselor at his previous school, and he went from failing third grade, to being named student of the month, and an A and B student.

After my son was separated from his extended family and myself, his academic performance and conduct in all social settings have deteriorated dramatically. My whole family and I fear for his mental well-being and development, especially after it was proven without a shadow of a doubt how well he was doing during the year that he and his sister returned to a shared custody arrangement. As a doctor, I have had the opportunity to speak with psychologists about this topic, and they have manifested their concerns that this might very well be a direct consequence of the parental alienation he has been forced to experience, a manifestation of a syndrome known in the medical field as Parental Alienation Syndrome (PAS). Please, see here for more details:  
<http://www.parentalalienation.org/articles/parental-alienation-defined.html>

My family and I are currently working within the legal system to help bring these facts to light to make

Exhibit M

2 of 4

4/6/13

Print

sure we act in the best interest of our children and stop the parental alienation they have been forced to sustain. I would love to have the opportunity to meet with both of you and go over a plan to help my son through this very difficult time. In the mean time, if there is anything within my limits that I can do to assist the children, please do not hesitate to let me know. I would also like to ask if the children can see the school counselor to help them cope with the ordeal they are currently facing.

I would like to thank you in advance for your time and attention to this matter.

Best regards,

Mario Jimenez, M.D.

"Trust in the Lord with all your heart and lean not on your own understanding; in all your ways submit to Him, and He will direct your paths" (Proverbs 3:5-6).

"Rejoice in the Lord always. I will say it again: Rejoice! Let your gentleness be evident to all. The Lord is near. Do not be anxious about anything, but in every situation, by prayer and petition, with thanksgiving, present your requests to God. And the peace of God, which transcends all understanding, will guard your hearts and your minds in Christ Jesus" (Philippians 4:4-7).

---

**From:** Barbara Cintron <[bcintron@charterschoolatwaterstone.com](mailto:bcintron@charterschoolatwaterstone.com)>  
**To:** M. Jimenez <[marioaj01@yahoo.com](mailto:marioaj01@yahoo.com)>  
**Cc:** Rebecca Valdes <[rvaldes@charterschoolatwaterstone.com](mailto:rvaldes@charterschoolatwaterstone.com)>; Sherie Manjarrez <[smanjarrez@charterschoolatwaterstone.com](mailto:smanjarrez@charterschoolatwaterstone.com)>  
**Sent:** Monday, February 4, 2013 3:42 PM  
**Subject:** RE: Hi Miss. Cintron

Thank you for contacting us regarding Mario's grades, I can see your concerns. Mario scored a 75% in his reading winter assessment - this demonstrates that he is at proficient mastery level and it also tells me that Mario could be performing much better on his assignments. However, Mario's behavior is not only concerning, but most importantly has negatively impacted his grades. In both classes, Mario needs constant redirection, work is not completed with 100% effort, and he lacks participation. The times Mario does participate it mostly is when he is called on. During that time he is most of the time clueless as to what to say because he was not paying attention. Also, Mario has often been excluded from being part of a group or carrying conversations with other peers because he constantly either uses profane language or inappropriate comments that a child his age should not say.

Again, Mario has great potential and is well rounded in all academic areas; however, what was mentioned above is definitely hindering his academic success.

Thank you again and please feel free to contact us with any further questions,

Ms. Manjarres and Mrs. Cintron

-----Original Message-----

From: M. Jimenez [<mailto:sender@cdline.net>]

Exhibit M

3 of 4

## Justice For Nubia, Victor and My Children

As I have been able to personally experience, we have a very serious problem with our Family Court system, which as the panel that investigated the death of Nubia Barahona noted (Exhibit B): *"In Florida we talk about a "system," but we are far from a real "system." We would be much closer to a genuine system if the operating principle in the case of every child in the child welfare system was this: We will insist that every piece of relevant information to a child's life and future is available in one, constantly updated place where everyone responsible for that child's well-being could see that information, discuss it, assess it. And we will apply critical thinking and common sense — always. None of this happened here. For these and other reasons, Nubia died. Horribly."*

In a "genuine system," we would learn from our mistakes, but unfortunately this has not been the case. As my personal experience shows, the "system" does not seem to have learned from its mistakes. For instance, the courts continue to rely on and "enthrall" "professionals" such as the one in the Nubia Barahona case, namely psychologist Vanessa Archer, who as the Nubia panel pointed: **"[her] omissions made Dr. Archer's report, at best, incomplete, and should have brought into serious question the reliability of her recommendation[s],"** pointing very clearly as to the validity of her "professional" reports. For instance in my case, the system relied solely on her unprofessional and completely biased opinion to take away shared custody of my children, causing my oldest son to go from being a great student and be thriving in life (Exhibit C), to being diagnosed with Major Depression and Post Traumatic Stress Disorder (Exhibit D) almost a year after our forced separation; all of this based exclusively on the incompetent opinion of Mrs. Archer. To further make my point, the Nubia panel goes on and says: *"it seems to us, **case managers and child protective investigators seemed often – and it turns out – wrongly enthralled by the psychological report [Mrs. Archer's report]. The report, as Dr. Walter Lambert so clearly testified, was patently incorrect. [The] conclusion that change in foster parents would destroy them [was] absurd."***

*"...relying on professionals [Mrs. Archer being on top] who were either unaware of all the research in trauma-sensitive transitions or not making an effective analysis of the information available because, among other things, professionals were not listening to, or taking into account seriously enough, what the children were saying."* In my case, Mrs. Archer went as far as hiding information from the courts. Instead of reporting to the Judge pertinent information, such as the fact that my son had denied what I had been accused of, went ahead and requested to stop phone communication with my children because my son was contradicting what she had written in her report.

As it is apparent by the Nubia panel, it seems to be customary by Mrs. Archer to ignore critical information: *"The court-ordered psychological evaluation of Nubia and Victor performed on Feb. 12, 2008 by Dr. Vanessa Archer recommending adoption of Nubia and Victor by the Barahonas to be "clearly in their best interest" and "to proceed with no further delay" — **failed to consider critical information presented by the children's principal and school professionals about potential signs of abuse and neglect by the Barahonas. That omission made Dr. Archer's report, at best, incomplete, and should have brought into serious question the reliability of her recommendation of adoption. Several professionals,...[as in my case] the judge, were, or should have been, aware of that significant omission, and yet apparently failed to take any steps to rectify that critical flaw in her report."***

While in my case, several teachers have noticed the deterioration of my children's behavior, as exemplified by e-mails from four different of my son's teachers (Exhibit E), **but Mrs. Archer chose**

to ignore them, and actually provided false information in her reports; in the Nubia case, Mrs. Archer also chose to ignore the evidence, and actually provided false information as well: *"In September 2007, a School Multidisciplinary Treatment Team found that Victor was demonstrating poor academic progress and would be repeating first grade; yet, in a report to the court on Feb. 22, 2008, Dr. Archer says, "while both children are in special educational classes, they are excelling academically."* Information which was clearly false, and readily available to her, as stated in the panel's report: *"Information about the children's academic performance is readily available online from the Miami-Dade Public School System."*

Furthermore, as it is apparently customary by Mrs. Archer, her "professional" skills are highly questionable as noted by the same panel: *"It should be noted that the panel was provided an administrative law judge's opinion in another case in which Dr. Archer's "acquisition of her entire factual basis for her testimony commenced 10 minutes prior to entering the hearing room. At that time, she reviewed medical notes, consulted with [department counsel] and met with the child and the foster mother, briefly." The Administrative Law Judge on that case referred to this as a "drive-by diagnosis."*

The panel goes on to say about Mrs. Archer's professionalism the following: *"The delay of more than five months to perform the psychological evaluation ordered by Judge Valerie Manno-Schurr appears inexcusable in light of the fact that it was compelled by the very serious concerns raised by the principal and teacher at the children's schools about the safety of Nubia and Victor in their foster home. In total, about 11 months lapsed..."*

As the evidence presented by the Nubia panel clearly shows, Mrs. Archer should have been reprimanded for her lack of professionalism and poor performance protecting the children of our state, but instead, was promoted to hear cases such as mine. Despite my strongest opposition to not have Mrs. Archer for a second psychological evaluation, my petition to have a more competent and unbiased psychologist was denied. The result, as expected from someone I had reported to the board of psychology for incompetence (Exhibit H), was that she retaliated with vengeance in clearly biased and unprofessional statements to belittle my faith, accomplishments, and character (Exhibits F, and G): *"Mr. Jimenez has not demonstrated much creativity...[has] rigid thought pattern[s]...[his] perseverative thought processes and dogmatic behavior patterns would also explain his religious obsessions, and his repeated and continued attempts to convince others that he has been falsely accused."*

As my case clearly shows, not making Mrs. Archer accountable for her poor professionalism and performance has prevented her from learning the lessons that she should have learned from the Nubia Barahona case. This egregious mistake has caused even more havoc and destruction to innocent lives as seen with my children in my case. However, I am confident that by me bringing these facts to the light, any future mistakes will be prevented.

# The Nubia Report

## **The Investigative Panel's Findings and Recommendations**

**Panel: David Lawrence Jr., Roberto Martinez, Esq., Dr. James Sewell**



**Presented to:  
David E. Wilkins, Secretary  
Department of Children and Families**

**March 10, 2011**

Exhibit B

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## Preface

The image of Nubia - golden hair and smile framed by pony tails, sitting up straight and facing the future - is with us forever. Hers is the very picture of life and childhood in bloom - green eyes and good heart eager for what life might bring.

Nubia never had the life she wanted, the life she deserved. Her life was short. Not even 11 years. Full of horror, ending in horror. Her final screams and cries cannot leave us, should not leave us.

We do not want to call her "Nubia Barahona" because she didn't deserve to have that last name. So we will not. Just "Nubia."

All children begin with innocence. No child deserves to have innocence taken. Nubia's was ripped away. That makes us weep. And angry.

When terrible things happen, we are obliged as people to learn lessons - and apply those lessons. Shame on us - all of us in Florida - if we cannot learn from this so other children have a far less chance to have such horrors visited upon them.

The courts will decide the fate of those charged criminally in this case. The rest of us - you, us, all of us -- have much else to do. We three citizens of Florida went through more than 15 hours of testimony and several thousand pages of documents, and see so clearly this:

The red flag of caution and warning was raised many times: By teachers and principals, by a Guardian Ad Litem (GAL) and her attorney, by a nurse, by a psychologist, by Nubia's "family" stonewalling the search for fundamental information.

But nobody seemingly put it all together.

We do not seek to condemn all the people of the Department of Children and Families (DCF) nor all the people of Our Kids (the community-based care oversight group and its subcontractor agencies). We are sure that many of them are good and caring and skillful professionals who work to preserve to keep families together when they should be together, and work hard to do right by each and every child. We also know that some of them are substantially undercompensated for what is frequently the toughest sort of challenges. But none of us should be permitted to use those sorts of things as an "excuse," or say, or think, "mistakes happen." Though surely they do, mistakes must be seen as inexcusable when they involve human life, most especially the lives of the most vulnerable.

In Florida we talk about a "system," but we are far from a real "system." We would be much closer to a genuine system if the operating principle in the case of every child in the child welfare system was this: We will insist that every piece of relevant information to a child's life and future is available in one, constantly updated place where everyone

responsible for that child's well-being could see that information, discuss it, assess it. And we will apply critical thinking and common sense -- always. None of this happened here. For these and other reasons, Nubia died. Horribly.

We do not seek a bigger bureaucracy. Over the years process upon process, bureaucracy upon bureaucracy, have been added to the workload of case managers and child protective investigators and others who work in the field of child welfare. Indeed, steps should be taken to minimize "process" and "bureaucracy," substituting such with making sure we have employed and trained and advanced and compensated fairly the best, most skilled, most caring professionals - and then demanded from each not only those skills, but a great heart and real common sense. Speaking to common sense and effective listening, who within the system worked effectively to hear what Nubia and Victor were trying to say? That sort of listening requires healthy skepticism on everyone's part - the protective investigator, the case manager, the Guardian Ad Litem, Children's Legal Services, the court, the therapists. Remember that so much about the narrative was woven and manipulated by Mrs. Barahona. Moreover, it seems to us, case managers and child protective investigators seemed often - and it turns out - wrongly enthralled by the psychological report. The report, as Dr. Walter Lambert so clearly testified, was patently incorrect. In fact, children have considerable resilience at the age of these children to go through planned and trauma-sensitive transitions. Thus, a conclusion that a change in foster parents would destroy them is absurd.

Report Prepared by Vanessa Archer

What we heard makes clear that everyone seemed to be relying on professionals who were either unaware of all the research in trauma-sensitive transitions or not making an effective analysis of the information available because, among other things, professionals were not listening to, or taking into account seriously enough, what the children were saying. In Nubia's case this included well-documented depression and fear that something terrible was going to happen to her. (And it did.) As parents we know if we had heard this about our own children, we would have searched - immediately and relentlessly - for the roots of this fear and depression and wouldn't have accepted a simple referral to a therapist as an answer anywhere near complete.

Unlike previous blue-ribbon panels following the deaths of Rilya Wilson and Gabriel Myers - upon which two of us have served - we have sought, at the direction of the new secretary of DCF, recommendations arrived at more quickly so they can be implemented as immediately as practicable. We give you, then, recommendations along two paths:

- One: Recommendations that can be addressed and applied within the next 90 days.
- Two: Recommendations that will require exploration, take longer and may well involve legislative and gubernatorial action and leadership.

In the name of Nubia, and all the children of our state, we thank you for the privilege of service.

David Lawrence Jr.                      Roberto Martínez                      Dr. James Sewell

## Introduction

On Feb. 14, 2011, 10-year-old Victor Barahona and his adoptive father, Jorge Barahona, were discovered next to their family vehicle on the side of Interstate 95 in Palm Beach County. Responding law enforcement personnel determined both Victor and his father were in dire need of emergency medical assistance; officials also detected toxic fumes emanating from the vehicle. Both father and son were suffering from what appeared to be chemical burns to their bodies. After Victor and his father were hospitalized, the body of Victor's twin sister, Nubia, was discovered in the trunk of the vehicle.

On Feb. 15, the Miami-Dade Police Department notified DCF that the father had confessed to causing Nubia's death, reporting that he and the mother allowed the child to starve to death. The father told police he also had planned to kill his adopted son and commit suicide, but had failed to follow through successfully. Both parents have been charged with first degree murder.

The Barahonas' other two adopted children were taken into protective custody and placed in a therapeutic foster home.

At the time of Nubia's death, the department had an open investigation on the family due to allegations of bizarre punishment and physical injury.

## Independent Investigative Panel

As a result of the issues in this case, on Feb. 21, DCF Secretary David E. Wilkins established an independent investigative panel to examine this case and other issues involving the Barahona family. Specifically, the charge to the panel was two-fold:

- First, to determine what went "wrong" and what went "right," and make recommendations that can be achieved within the next 90 days;
- Second, to identify other issues and practices that the department and its contract providers must review in depth over the coming months and which ultimately may involve changes in law or policy, as well as in child welfare practices.

Secretary Wilkins asked three individuals to serve as members of this panel:

- David Lawrence, Jr., president of The Early Childhood Initiative Foundation and chair of The Children's Movement of Florida.
- Roberto Martínez, Esq., former U.S. Attorney for the Southern District of Florida and currently a member of the State Board of Education.
- James D. Sewell, Ph. D., retired Assistant Commissioner of the Florida Department of Law Enforcement.

In preparing its findings and developing its recommendations, the panel held five public meetings at the Rohde State Office Building in Miami:

- Feb. 25
- March 1
- March 3
- March 7
- March 10

The panel heard presentations and testimony from 24 individuals who were invited or requested the opportunity to speak; a number of these appeared several times before the panel.

In addition to these presentations, members of the panel reviewed myriad materials, including studies, reports, previous investigations, statutes, operating procedures and model policies related to the Barahona case. At the written request of State Attorney Michael F. McAuliffe, and so as not to jeopardize the active criminal investigation, the panel focused its review on material and information received prior to the onset of the criminal investigation that began Feb. 14. Copies of all material provided and PowerPoint presentations made to the panel are maintained on the website created to ensure the transparency of this process ([www.dcf.state.fl.us/](http://www.dcf.state.fl.us/)).

### Findings

- (1) The court-ordered psychological evaluation of Nubia and Victor performed on Feb. 12, 2008 by Dr. Vanessa Archer recommending adoption of Nubia and Victor by the Barahonas to be "clearly in their best interest" and "to proceed with no further delay" --- failed to consider critical information presented by the children's principal and school professionals about potential signs of abuse and neglect by the Barahonas. That omission made Dr. Archer's report, at best, incomplete, and should have brought into serious question the reliability of her recommendation of adoption. Several professionals, including the Our Kids' case manager, the GAL, and the Children's Legal Services attorney, as well as the judge, were, or should have been, aware of that significant omission, and yet apparently failed to take any steps to rectify that critical flaw in her report.
- (2) There appears to have been no centralized system to ensure that critical information (e.g., the schools' concerns, the children's academic troubles, and the reasons for the court-ordered evaluation) was disseminated to and examined by the psychologist, or that participants informed about the particulars of the case (e.g., the case manager, the DCF attorney, the GAL and the GAL attorney) followed through in reviewing the evaluation. In September 2007, a School Multidisciplinary Treatment Team found that Victor was demonstrating poor academic progress and would be repeating first grade; yet, in a report to the court on Feb. 22, 2008, Dr. Archer says, "while both children are in special educational classes, they are excelling academically." Information about the children's academic performance is readily available online from the Miami-Dade Public School System and could

have been accessible by the psychologist if she had been authorized to use the children's parent portal. It should be noted that the panel was provided an administrative law judge's opinion in another case in which Dr. Archer's "acquisition of her entire factual basis for her testimony commenced 10 minutes prior to entering the hearing room. At that time, she reviewed medical notes, consulted with [department counsel] and met with the child and the foster mother, briefly." The Administrative Law Judge on that case referred to this as a "drive-by diagnosis."

- (3) The delay of more than five months to perform the psychological evaluation ordered by Judge Valerie Manno-Schurr appears inexcusable in light of the fact that it was compelled by the very serious concerns raised by the principal and teacher at the children's schools about the safety of Nubia and Victor in their foster home. In total, about 11 months lapsed between the date the GAL attorney and the Abuse Hotline received the concerns from Nubia's school on March 20, 2007 and the date Dr. Archer's report was filed with the court on Feb. 22, 2008.
- (4) While this case was complex there were throughout a number of visible, but neither comprehensively nor effectively handled, red flags that should have resulted in further review. Throughout the life of the case, the GAL, school personnel, and a nurse practitioner raised concerns that should have required intense and coordinated follow-up. The troubling nature of these flags, were largely ignored. Behavioral concerns and difficulties in school performance also should have generated a more integrated response in which the concerns of all parties could have been considered and reconciled.
- (5) This case spanned a number of years and a large number of reports. Significantly, much of the documentation was incomplete or inadequate, and it was difficult for this panel, as well as staff concerned with quality assurance, to reconstruct what actually occurred, who was or should have been involved, and the results of any action taken. This is at best sloppy note-taking.
- (6) Process can give a false sense of complacency to those involved in the system. Simply checking off a box on a standardized form, observing children during a brief visit, or conducting a pro forma evaluation without considering all the issues that impact a child do not eliminate the need for reasoned judgment. Critical thinking, common sense and a sense of urgency were lacking at points throughout the life of this case.
- (7) As we have seen in other cases in the past, no one accepted the role of "system integrator" with responsibility to ensure that each individual involved shared and had access to all pertinent case-related information, including allegations of abuse. That point person needs to be the case manager who ensures that all of the information is blended into a useable format. As in other cases, the Our Kids case manager, GAL, GAL attorney, DCF Children's Legal Services attorney, and psychologist each had specific responsibilities. But no

single person came to the fore and said, "I am responsible." We cannot let that happen again.

- (8) The school system served as an independent barometer of issues occurring in the lives of Nubia and Victor, and both kindergarten and elementary school personnel were willing to be involved in raising the issues in an appropriate forum, including testifying in court hearings. These school personnel deserve to be commended for their diligence as caring professionals. After the end of the 2009-2010 school year, the Barahonas chose to home school the children, taking away most of their visibility to outside eyes and increasing the danger that abuse and neglect would go unrecognized. This was further compounded by the lack of formal requirements relating to the monitoring of students being home schooled.
- (9) DCF and Our Kids discussed with the panel a number of new practices that have been implemented since these children were first put into foster care and that should reduce some of the concerns we saw in this case. The model of Structured Decision Making (SDM), used in Miami-Dade County by both child protective investigators and case managers, appears to offer an organized approach to assessing safety, risks, potential future harm, and the needs of the family but only if correctly and consistently applied and takes into account all known facts and circumstances. Enhanced use of technology could reduce some of the paperwork burden of the investigators and case managers and ensure better and more real-time communication among the elements of the child welfare system. But technology should never substitute for the exercise of critical thinking, sound judgment and common sense. Technology should be used to augment and enhance those skills.
- (10) While Our Kids has discussed expanded post-adoption services now available in Miami-Dade County, the panel cannot emphasize more strongly the necessity to ensure that adoptive parents understand the resources that are available. That alone may not suffice. Appropriate follow-up by the case management agency must support the use of such services to meet the family's unique needs.
- (11) Early in this case, the biological father suggested that a family placement with his sister and brother-in-law was more appropriate than with foster parents. Delays in using the Interstate Compact on Placement of Children to accomplish this and the opinion by Dr. Archer that removal from the Barahona family would be detrimental to the children resulted in this not being considered a viable option.
- (12) Throughout the case, there is evidence that the Barahonas did not ensure the mental and medical health of these children. On several occasions in the file, Victor's dental needs are noted, and, as early as December 2004, a nurse practitioner noted concerns about both Nubia missing appointments and the failure of the foster mother to accompany her to appointments she did keep. On Aug. 8, 2008, the Foster Care Review Panel expressed concerns that

Nubia had not received therapy, noted that this panel had recommended such therapy at a previous meeting, and that an earlier evaluation had found Nubia to be depressed, thinking about killing herself, and afraid that terrible things might happen to her. The case record for Nubia provided to the panel by Our Kids contains scant documentation about health care services received.

- (13) The panel is extremely concerned about the accountability of DCF child protective investigators for their on-the-job performance. Data provided to the panel indicated that of 58 investigators evaluated during the last annual performance appraisal period, five had less than satisfactory performance evaluations (three of whom were supervised by a supervisor on a corrective action plan for poor performance). One of these was placed upon a performance improvement plan; one was transferred to another unit; one demonstrated improvement and is being re-appraised; and two had no action taken. The child protective investigator responding to one of the abuse reports of Feb. 10 was one of the employees who had received a less than satisfactory annual rating. (Currently, three CPI supervisors also are on corrective action plans for job performance.)
- (14) We appreciate the openness of discussions by the majority of those who appeared before the panel. Honesty, candor and transparency are critical to the continued improvement of our child welfare system. However, we must note that the presentation by Delores Dunn, the CEO of the Center for Family and Child Enrichment (CFCE), the case management organization contracted by Our Kids for Nubia and other foster children, was unsatisfactory. In her prepared comments, she repeatedly failed to demonstrate a grasp of the basic facts surrounding the work of her case managers. Her "stage handling" by Fran Allegra, CEO of Our Kids, Inc. and Alan Mishael, Counsel retained by CFCE created suspicions as to what, if anything, they were trying to hide, with both of them answering for her or whispering in her ear while the panel was posing questions. None of this contributed to the candid discussion we expected; instead, it resembled the "circling of the wagons" seen in some past reviews of cases occurring within Florida's child welfare system.
- (15) On June 9, 2010, the Abuse Hotline received a call from Nubia's school detailing comprehensive allegations of explicit neglect, including that Nubia's hunger was "uncontrollable, that she had an unpleasant body odor, and that she was very thin, nervous, and losing hair." The report was assessed as a "special conditions" referral, indicating that it did not constitute an allegation of abuse, abandonment, or neglect, but still required a response by DCF to assess the need for services. That report was closed on June 24 with no services recommended. The parents apparently were offered services, but said they were already receiving what they needed. Based on our review of the entire series of cases involving Nubia, the panel finds that the allegations should have been treated as a case involving abuse or neglect and that Our Kids should have been involved in identifying and providing post-adoption services. This was the last call to the Abuse Hotline from the school system. The children were removed by the Barahonas from the school system for the

2010-2011 school year and presumably "home schooled."

- (16) The response to a Feb. 10, 2011 call and two subsequent calls to the Abuse Hotline concerning abuse of Nubia by the Barahonas was replete with errors and poor practices and stands out as a model of fatal ineptitude. Abuse Hotline personnel initially classified the call as needing a response by investigators within 24 hours, when it should have mandated an immediate response and a referral to law enforcement; another call received on Feb. 12 also was misclassified as needing a response within 24 hours response when it, too, should have required the immediate attention of an investigator. Three calls received within 48 hours about the Barahonas were considered wrongly - - and stupidly -- as three distinct events, and the investigative responses were not coordinated from the onset. The SDM instrument developed after the initial on-site review of the Barahona home was completed incorrectly and did not take into account the absence of Nubia or Victor or their potential danger; consequently, the investigator found no concerns for the safety of the other children in the home. An initial supervisory review completed late on Feb. 12 was conducted by a supervisor, did not take into account all the facts of the case, and failed to identify investigative deficiencies or add a sense of urgency to the activities of the child protective investigator. At no time prior to Feb. 14 was law enforcement advised of these abuse allegations or DCF's inability to locate the children.
- (17) The panel is concerned about efforts to recruit, train, reward and retain child protective investigators. The starting salary for a DCF child protective investigator in Miami-Dade County is \$34,689. Comparable salaries are in the \$40,000 range for Broward CPs, located under the Broward County Sheriff's Office, and Miami- Dade case managers working for Our Kids. In short, many top performers leave this stressful job and are paid more money in the process. Thirty-nine investigators have been hired since July 2010, with 10 of these still in training and not yet with a caseload. An additional eight vacancies currently exist, and three more are anticipated in the near future.
- (18) Foster Care Review, a not-for-profit organization, supports the Juvenile Court in monitoring the safety, well-being and permanency of children living in the child welfare system in Miami-Dade County. Its volunteers serve on citizen review panels that conduct legally required judicial reviews of 13-15% of foster children in out-of-home care. Nubia's case was presented to a citizen review panel on eight separate occasions over the last three years she was in the foster care system, prior to her adoption by the Barahonas. We were impressed with the Foster Care Review potential and would hope it would be expanded and used in many more cases.
- (19) In 1993, the Legislature authorized the then Department of Health and Rehabilitative Services to enter into agreements with sheriffs' offices or police departments to assume the lead role in conducting criminal investigation of child maltreatment, as well as other aspects of child protective investigations. In 1997, the Manatee County Sheriff's Office was the first to assume

contracted responsibility for child protection investigations. Since then, seven county sheriff's offices have assumed responsibility for child abuse investigations in their jurisdiction. According to a 2010 report by the Office of Program Policy Analysis and Government Accountability (OPPAGA), the costs for a sheriff's office generally exceed DCF costs for child protective investigations. But there are significant benefits, including enhanced resources, additional equipment (including vehicles and technology), enhanced entry-level training, better training consistent with law enforcement needs, standardized uniforms, better office space, better salaries, and greater assistance and cooperation with law enforcement. (This same OPPAGA report found no meaningful differences between sheriffs' offices and DCF in short-term outcomes for children as measured by subsequent maltreatment within three to six months when an investigator did not originally substantiate maltreatment, nor were there significant differences in the rate of substantiation of allegations of maltreatment between the two bodies.)

- (20) Much of the necessary information raising red flags and identifying the service needs of the Barahonas was present in documents contained within the system. A serious deficiency, however, was the failure of individuals involved in the case to talk with each other rather than relying on inadequate information technology. Many of the communications problems that can be identified in this and other cases can be overcome by prompt and coordinated interpersonal interaction among those involved in the care of the child. We emphasize: There is no substitute for critical thinking and common sense.

### **Short-term Recommendations (Within 60-90 Days)**

#### **Quality of Case Managers**

Case managers are central to the well-being of the children in the system. It is critically important that they be qualified, well trained, well supervised and fairly compensated. DCF immediately should undertake a comprehensive review of the quality of the work performed by the CFCE and its case managers, including the quality of the oversight of CFCE provided by Our Kids. The defensive presentation by CFCE, with its denial of mistakes, even with the benefit of a hindsight review, throws into question the level of its professional standards and its ability to monitor the quality of its professionals.

#### **Psychologists**

1. DCF should commence an immediate review of the work and qualifications of the psychologists used by the court system. This review should be performed by a panel of psychologists independent of the Miami-Dade children welfare system and should include recommendations to improve the quality of the professionals and of the system.
2. Children's Legal Services should work with the chief judge and appropriate dependency judges to enhance information on court orders for psychological

evaluation of foster children, providing greater and better direction to the psychologist.

3. What's needed are clearly articulated expectations for any psychological evaluation as well as clear criteria for reviewing the performance of any contracted psychologist or other expert called on to evaluate children on behalf of the court.
4. Children's Legal Services should work with the chief judge and appropriate dependency judges to explore the need for and use of a "wheel" system to select and assign psychologists for evaluations.

### **Abuse Hotline**

1. DCF should modify the Abuse Hotline procedures to give a greater weight and immediacy to calls from a school district employee.
2. DCF should review the definition and use of "special conditions" referrals.
3. DCF should modify the Abuse Hotline procedures to give greater weight to calls from community-based care agencies and their contracted providers.
4. DCF should take steps through both training and quality control to ensure that intakes from the Abuse Hotline are correctly identified as an immediate response or within-24-hours response.
5. DCF should work with law enforcement to ensure an appropriate joint response when children are not located quickly.
6. Through training, enhanced technology, process improvement and quality control, every effort must be made to insist that all new information is linked to existing cases in a simple and readily accessible fashion.
7. DCF should ensure that "mandatory reporters" in each community are exposed to web-based training available through the DCF to sharpen their awareness and reporting skills for abuse and neglect calls.

### **Information Sharing and Services Integration**

1. DCF should work with the school system and Department of Education to devise an efficient alert system, with appropriate follow-up inspections, for at risk children removed from the school system and placed in "home schooling."
2. DCF, working in partnership with its community-based care lead agencies, should emphasize and mandate the role of the case manager as the "systems integrator" on cases to which he/she is assigned, articulating the leadership role of this position in assembling and supporting the right team to deal effectively with the needs of the child. This includes ensuring the safety, permanency and well-being of each child, providing educational support, full medical and dental services, all needed mental health and therapy services, and necessary child development care and services.
3. Our Kids should work with the Miami-Dade School District to ensure that school personnel are integrated into any team meetings that focus on the needs of a child in foster care.
4. DCF should immediately update its Memorandum of Understanding with law enforcement to ensure an appropriate joint response when children are not located in a timely manner and to ensure that law enforcement is notified

immediately when the statutory requirement for immediate notification of abuse and neglect reports is met.

5. Children's Legal Services should work with Our Kids and the assigned judge to ensure that the citizens' review panel recommendations are fully heard and heeded.
6. DCF should meet with the Chief Justice of the Florida Supreme Court to review the assignment and rotation of dependency judges so that each serves for at least 2-3 years on that bench.

### Training

1. DCF, working in partnership with its community-based care partners and child welfare experts, should revise the current approach to professional development of investigators, case managers and licensure staff, including pre-service and in-service training and the use of technology. This should include both much deeper specialty training for CPIs in the science and practice of child protective investigation as well as training of CPI and case management supervisors.
2. DCF should review and strengthen the training provided to child protective investigator supervisors.

### Technology

1. Our Kids should work with the Miami-Dade School District to develop an interface between the district's system, integrating school-related indicators with those used within the child welfare system.
2. DCF should develop the capability to technologically link existing adoptees within the Abuse Hotline information system when notifying the community-based care agency that services are needed after an abuse or neglect report.
3. DCF should make sure it has the technology to ensure Guardian ad Litem and courts are automatically notified of abuse reports on children in foster care and to encourage them to use Florida Safe Families Network.
4. DCF and Our Kids should work with the Miami-Dade School District to make sure that the case manager has direct technological access to student records for children in foster care.
5. Our Kids should add abuse reports regardless of findings to the existing Child Facesheet within its information system.
6. Our Kids immediately should begin full use of the department's automated child welfare case record as required by federal and state law. This includes fully completing the educational, medical, mental health and other key components of the automated child welfare case record.
7. When an abuse report is received on a child in foster care, DCF immediately should convene a team of all key agencies and involved professionals.

## Long-term Recommendations

### Personnel Management

1. DCF should examine the recruitment, selection and retention of CPs, including classification, pay scale, need for competitive area differential, and career development and develop recommendations by May 1.
2. DCF should examine the salary scales within the community-based care agencies and their contracted providers. There is surely a major disparity in compensation and questions of equity when one sees how much less DCF professionals make vis-à-vis those in the community-based care system.
3. DCF should ensure that performance reviews of child protective investigators, caseworkers and supervisors are completed annually and that most importantly individuals on performance improvement plans are held accountable and dealt with in a consistent, timely manner.

### Training

1. DCF, working with its community-based care lead agencies, should ensure on-going training of child welfare personnel in trauma-informed care, including how to make trauma-sensitive transitions when it might be best to remove children from their birth family homes, or foster or adoptive homes.
2. Our Kids should work with the Miami-Dade School District to provide joint training of child welfare workers and foster/adoptive parents.
3. Children's Legal Services should take the lead in coordinating training in substantive and litigation skills, including cross-training with Guardian ad Litem and the Office of Regional Counsel.

### Service Delivery

1. Our Kids, working with the Miami-Dade School District, should ensure that educational plans are developed for all children in care.
2. DCF should take the necessary legislative and/or administrative steps to ensure that foster children who have been adopted and are being home schooled are seen on a regular basis by case management personnel.
3. DCF, working with its community-based care lead agencies, should ensure that adequate post-adoption services are available throughout the state, and consideration should be given to requiring such services for the first two years when families adopt children with special needs.

### Technology

1. DCF, working with its community-based care partners, should develop an electronic medical passport for each child in foster care and link this to the FSFN data base.

### Other Thoughts

1. The incoming Secretary should undertake a review of the quality of the services performed by Our Kids and its subcontractors. Our Kids of Miami-Dade/Monroe receives about \$100 million per year from DCF to perform contracted services. This investigation has raised concerns about the quality of some services delivered by Our Kids and its subcontractors.
2. Children's Legal Services and the chief judge should review practices in the appointment of private lawyers to represent dependent children to ensure that the Rules of Professional Responsibility are fulfilled.

### List of Documents Reviewed

The following documents were reviewed by the panel. The complete set of documents is available on the DCF website:

1. Detailed Timeline of Barahona Case Events
2. Transcript from Evidentiary Court Hearing on November 28, 2007
3. Transcript from Evidentiary Court Hearing on February 22, 2008
4. Department of Administrative Hearing - Recommended Order for Case 20061129, C.S. v. DCF
5. Home Schooling Facts, Laws and Questions
6. Written Statement to the Investigative Review Panel by Delores Dunn, CEO of the Center for Family and Child Enrichment
7. Transcript of Oral Statement to the Investigative Review Panel by Delores Dunn, CEO of the Center for Family and Child Enrichment
8. Recommendations for Children's Legal Services to the Investigative Review Panel by Mary Cagle, Director of Children's Legal Services
9. IRS 990 Form for Our Kids, Inc.
10. IRS 990 Form for the Center for Family and Child Enrichment
11. Our Kids, Inc. Budget
12. Psychological Reports
13. Judicial Review Reports and Court Orders
14. Protective Investigation and Case Management Records

page 4

JIMENEZ, MARIO

2/13/2013

ID: 3005025935

DOB: 8/20/2002

Complete Evaluation: Continued

**Alt. Patient ID:**

- Athetoid (slow, irregular complex, serpentine)
- Do not include tremor (repetitive, regular, rhythmic)

None

- 6. Lower including legs, knees, ankles, toes
- (lateral knee movement, foot tapping, heel dropping, foot squirming, inversion & eversion of foot)

None

**Trunk Movements:**

- 7. Neck, shldr, hips (rocking, squirming, pelvic mvmts)

None

**Global Judgement:**

- 8. Severity of abnormal movements

None

- 9. Incapacitation due to abnormal movements

None

- 10. Patient's awareness of abnormal movements

None

**Dental Status:**

- 11. Current problems with teeth &/or dentures?

None

- 12. Does patient usually wear dentures?

No

**DIAGNOSES:** The following Diagnoses are based on currently available information and may change as additional information becomes available.

Axis I: Post Traumatic Stress Disorder, 309.81 (Active)  
 R/O Major Depressive Disorder, Recurrent, Severe w/o Psychotic Features , 296.33 (Active)  
 R/O Attention Deficit Hyperactivity Disorder, Combined Type, 314.01 (Active)

Axis II: Deferred Diagnosis 799.99

**Axis III: MEDICAL HISTORY:**

*Adverse Drug Reactions:*

There is no known history of adverse drug reactions.

*Allergies :*

There are no known allergies.

*Past Surgical History:* Past surgical history is entirely negative.

*Cardiac:* There is no family history of early death due to cardiac arrhythmia or conduction defect or other related cardiac issues.

**Axis IV:**

**FAMILY HISTORY:**

- Housing
- Economic
- Educational

Axis V: 55

**INSTRUCTIONS / RECOMMENDATIONS / PLAN:**

Patient was educated about risks, side effects, adverse reactions, benefits of current psychotropic medications. Alternative treatment options, including no treatment, were discussed.

Exhibit D

May 5, 2014

Dear Sir or Madam:

It is a pleasure to serve as a character reference for Dr. Mario Jimenez. I have known Mario for a little over a year as he joined the small group Bible study which I facilitate. His character and commitment to serve others in his community meet and exceed (in my opinion) any expectations there may be for an exemplary citizen.

My observations of Mario is that generosity and humility are innate traits of his character which he has displayed to the group. Mario has shown great compassion, great listening skills, and understanding of the members of the group. Due to his professional and personal experiences, Mario has a special compassion and understanding of the needs and concerns of the other men in the group. One of the reasons I believe Mario excels in these traits is his understanding of God's love modeled through Jesus and the expectation he has for himself to follow Jesus' example. Even though Mario is a very intelligent and accomplished physician, with great ideas and plans on how to help society and individuals, he shows humility and genuine concern for others above himself.

It is a delight to have Mario participate in the study group. His contributions always bring excellent insight and practical application. He is energetic, has a good sense of humor, and he thoroughly enjoys participating with the group. He expresses loyalty to the group and promotes a sense of unity that is appreciated by all. I see that Mario is a trust worthy individual that has an altruistic interest in his community near and at large.

If you have any questions, or if I can provide you with additional information, please feel free to contact me.

Sincerely,



Hugo Jimenez,  
Small Group Bible Study Facilitator  
jimenezh@yahoo.com

To whom it may concern:

May 4, 2014

Mario Jimenez, whom I have gotten to know and become good friends with over the past couple of years, has requested that I write a character reference letter for him. During these two years I have spoken with Mario on numerous occasions.

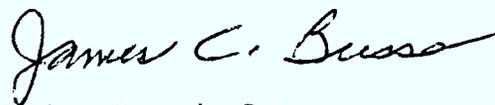
Most of our interactions have taken place through a men's Bible study group which has been meeting weekly and sometimes bi weekly in my home. These meetings, sponsored through the church we both attend, Calvary Chapel Kendall, are designed to help men to better understand the teachings/principles of the Christian faith and hence offer encouragement to others in the group to live those teaching/principles out in our everyday lives. The format of the groups is designed to offer extensive dialog among group participants. It has allowed each of us to get to know each other on a more than superficial level as we share the ups and downs in our lives.

With that being said, I have I have to say that I have been impressed with Mario's Commitment to being an active participant in the community and his desire to be a positive influence on it. He has been involved actively in at least to community organizations that I know of and is a volunteer in the children's ministry at the church. I have also been impressed with Mario as a medical doctor in family practice. On occasion he has shared with me the ins and outs of the medical practice and I have been impressed with his passion for his patients to not only have physical healing but also to live lifestyles that promote good physical and emotional health! With the aforementioned being said, probably the thing I have been most impressive with, since I have come to know Mario, is the love that he expresses for his children. He often speaks of his love for them and his desire for them to grow to be healthy, happy, morally, contributing members of society.

In closing, I can only say that Mario is a man of integrity who lives a life based on a sound commitment to his faith, his family and the community. Values that in my humble opinion are sorely lacking in our society today. If you should have any questions, please feel free to call me anytime at: 305-491-3476.

Sincerely,

James C. Busse



Guidance Counselor, Ret.

South Dade Senior High School

Miami Dade County Public Schools

Danger Alvarez  
805 East 19th Street  
Hialeah, FL 33013

July 26, 2012

To Whom It May Concern:

It has come to my attention that false and malicious accusations have been made against Mario Alberto Jimenez to the Department of Children and Family (DCF) and that as a consequence of these false reports, Mario has lost time sharing with his kids Mario Simon Jimenez-Wizel and Karen Nicole Jimenez-Wizel. I am writing this letter to serve as a testimony to Mario's character and love for his children. We believe that an injustice has been committed by taking away his children.

I first met Mario in 1992 while attending Florida International University. We studied Electrical Engineering together. Since that time, we have been great friends. Mario is the type of person that I would trust with my kids and I know less than a handful of people like that. Mario has always been a very trustworthy, caring, and naturally exceptional human being with a God-given love for others.

Mario has always been a very loving family man and a wonderful father. A few years ago, when Mario went through a period of 2 years without having seen his kids, the sense of anguish in his spirit was evident. It was a very difficult period for my friend, and one he didn't deserve.

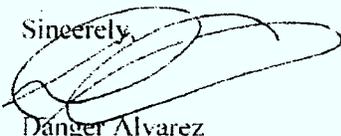
Since Mario gained joint custody of Simon and Karen relatively recent, our families have met on various occasions and our kids have played together. On every occasion, Mario has always been very loving and caring with his son and daughter. The entire family has always been very happy.

Mario is and always will be a role model to his children and a wonderful father. He has brought a degree of stability to their lives that only an exceptional father is able to bring. I believe Karen and Simon are truly blessed to have a father like Mario and one day, when they are older, will look back and say, "Wow! There goes my father, who I love dearly and has shown me love like no other!"

Please feel free to reach me at 786-344-2290.

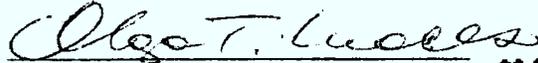
We can be reached at 786-210-1152.

Sincerely,



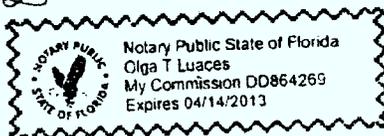
Danger Alvarez

Subscribed and sworn to before me this 26th day of July, 2012.



Notary Public - State of Florida  
Olga T. Luaces

My Commission Expires:



(x) Provided FL driver license #A416-160-71-409 as an I.D.

**Kennesaw, GA**

**July 27, 2012**

**To Whom It May Concern:**

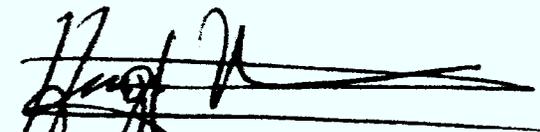
**It has come to my attention that my dear friend Mario Jimenez has lost sharing custody of his two children due to accusations levied against him to the Department of Children and Family, centered on his character.**

**I am writing this letter to serve as a testament to his good character, integrity and upmost respect and love for the family, most of all his children.**

**I have known Mario since I was a junior in high school, and due to life's circumstances he and his family offered their home when I had not place to go. So I got to know Mario at a very close and personal level and can attest that he is a person of great integrity and character and his family means the world to him, especially his children.**

**I am saddened that Mario is being put through this ordeal and would be delighted to offer more details as to the true nature of his character.**

**Sincerely,**



**Hugo B. Alamirano  
Principal Engineer**

**2581 Marleigh Farm Rd, NW**

**Kennesaw, GA 30152**

**678-595-8625**

Reply Forward

112 ITE Results

Printed on: 12/21/2012 10:49 AM  
From: Shelby A  
Date: Friday, December 21, 2012 10:49 AM  
Family Physician Residents  
Phil, Salvario, Deirdre, Michel, Corina, Denise Marie, Lasear, Jocelyn, Paul, Jose, Senta, Andrea, Schwartz, Robert, Terese, Perry

Program & National Averages:

- Congrats to our PGY3s and PGY1s whose class average beat the national mean for their PGY level!
- PGY2 class almost best national average with a significant improvement from last year.

Highest scores:

- 1<sup>st</sup> place @ 570 to Mario Jimenez!
- 2<sup>nd</sup> place tie @ 510 - Vega, Walton, and Tocco
- 3<sup>rd</sup> place @ 500 to Rafiqah

**We can do all things in Christ who is our strength!**

You may view your score by logging in [www.theabim.org](http://www.theabim.org), or just call or email me.

Program minimum recommendations:

- PGY3 = 440
- PGY2 = 420
- PGY1 = 350

	2012	2011	2010
<b>PGY3</b>			
Program Mean	497	470	391
National Mean	454	427	379
<b>PGY2</b>			
Program Mean	429	356	
National Mean	432	386	
<b>PGY1</b>			
Program Mean	470		

**For the Glory of God in**

**Christ Jesus:**

**Best score in Medical Residency**

**Exam, among top in the USA**

*Some Accomplishments*

# Florida International University



For the Glory of God in Christ  
Jesus:

On recommendation of the Faculty and by virtue of the authority vested in it by the  
Florida Board of Regents hereby confers upon

**Cum Laude graduate in  
Electrical Engineering**

**Mario Alberto Jimenez**

the degree of

**Bachelor of Science in Electrical Engineering**

College of Engineering and Design

Cum Laude

We can do all things in  
Christ who is our strength!

In Testimony Whereof, the signatures of the University's officers are hereto affixed in Miami, Florida,

August 18, 1993

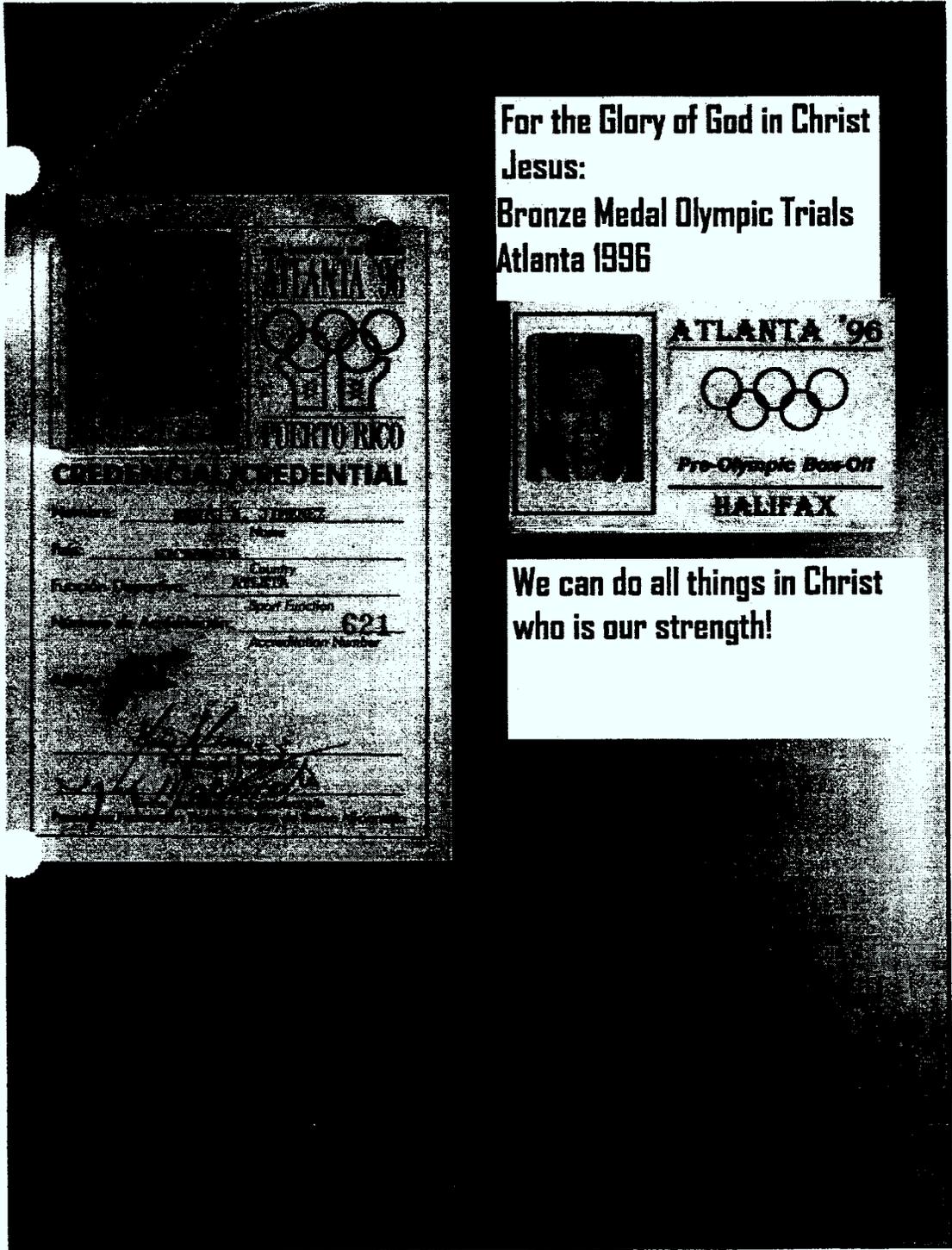
*Herb P. Conarty*  
Chairman, Board of Regents

*Lester O'Brien*  
Governor

*[Signature]*  
President of the University

*Charles B. Reed*  
Chancellor, State University System

*[Signature]*  
Dean



For the Glory of God in Christ  
Jesus:  
Bronze Medal Olympic Trials  
Atlanta 1996



We can do all things in Christ  
who is our strength!

ATLANTA '96  
OLYMPIC TRIALS  
PUERTO RICO

**CREDENTIAL CREDENTIAL**

Name: JOSE J. TORRES  
Title: OWNER

Age: 40  
Country: PUERTO RICO

Event: SPORTS  
Sport: SPORTS

Number of Accreditation: 621  
Accreditation Number: 621

*[Signature]*



### HEALTHCARE PRACTITIONER COMPLAINT FORM

#### COMPLAINANT/REPORTER

Your Name: Jimenez Mario A  
Last First M.I.

Address: [REDACTED]  
Street Address Apartment/Unit #  
Miami FL 33183  
City State ZIP Code

Home Telephone: [REDACTED] Work Telephone: ( [REDACTED] ) [REDACTED] Best Time to Call: \_\_\_\_\_

#### SUBJECT OF COMPLAINT/REPORT

#### HEALTHCARE PRACTITIONER INFORMATION

Provider's Name: Vanessa Archer L  
Last First M.I.

Practice Address: 1390 South Dixie Highway 2109  
Street Address Apartment/Unit #  
Coral Gables FL 33146  
City State ZIP Code

Home Telephone: ( ) Work Telephone: (305) 6691113

Profession: Clinical Psychologist (i.e. doctor, dentist, nurse, etc.)

License Number: PY0005597 (if known)

#### PATIENT INFORMATION

(Complete this section if Patient is not the same as Complainant/Reporter)

Name of Patient: \_\_\_\_\_  
Last First M.I.

Address: \_\_\_\_\_  
Street Address Apartment/Unit #  
\_\_\_\_\_  
City State ZIP Code

Home Telephone: ( ) Work Telephone: ( )

#### YOUR RELATIONSHIP TO PATIENT

X Self  Parent  Son/Daughter  Spouse  Brother/Sister  Friend  Other Practitioner

\*\*\* Legal Guardian/provide court documents  Other \_\_\_\_\_

#### NATURE OF COMPLAINT/REPORT

(Please check all that apply.)

- X Quality of care  Inappropriate prescribing  Excessive test or treatment
- X Misdiagnosis of condition  Sexual contact with patient  Failure to release patient records
- Substance abuse  Insurance fraud  Impairment/medical condition
- Advertising violation  Misfilled prescription  Patient abandonment/neglect

Unlicensed

X Problem other than listed above: Trampling of my Religious freedom to keep me apart from my kids. Practicing below minimum standards or negligence.

Have you attempted to contact the practitioner concerning your complaint?  Yes Date: \_\_\_\_\_ X No

Would you be willing to testify if this matter goes to a formal hearing? X Yes  No

If the incident involved criminal conduct, you should contact your local law enforcement authority. Have you contacted your local law enforcement authority?  Yes X No

If yes, state the name of the person or office that you contacted. \_\_\_\_\_ When did you make this contact? \_\_\_\_\_ Please give case number if available. \_\_\_\_\_

\*\*\*NOTE: If other than patient or parent of a minor patient, please provide documentation indicating appointment of Legal Authority/Guardianship or Personal Representative.

**PLEASE LIST ANY PRIOR AND/OR SUBSEQUENT TREATING PRACTITIONERS RELATIVE TO YOUR COMPLAINT.**

Full Name:	Address:	Telephone Number:
<u>Michael J. Ditomasso</u>	_____	<u>305-256-4324</u>
		<input checked="" type="checkbox"/> Prior Treating <input type="checkbox"/> Subsequent Treating
Full Name:	Address:	Telephone Number:
_____	_____	_____
		<input type="checkbox"/> Prior Treating <input type="checkbox"/> Subsequent Treating
Full Name:	Address:	Telephone Number:
_____	_____	_____
		<input type="checkbox"/> Prior Treating <input type="checkbox"/> Subsequent Treating

**WITNESSES (PLEASE GIVE FULL NAME, ADDRESS AND TELEPHONE NUMBER)**

Full Name:	Address:	Telephone Number:
_____	_____	_____
Full Name:	Address:	Telephone Number:
_____	_____	_____
Full Name:	Address:	Telephone Number:
_____	_____	_____

Please give full details of your complaint/report: include facts, details, dates, locations, etc. Please attach copies of medical records, correspondence, contracts, and any other documents that will help support your complaint. (attach additional sheets if necessary).

I have attached copies of medical records, correspondence, contracts, and any other documents that will help support your complaint.

Dr. Archer was selected by an attorney friend of hers to perform psychological evaluations for a custody case. She then gave a totally biased opinion in favor of her attorney friend's client, failing to comment in her conclusions on the clearly unresponsive-to-treatment psychiatric issues of the other party, and using misleading and easily falsifiable evidence (such as emails) among a great number of other poor practices, leading to the trampling of my religious freedoms by expressing that my "religious beliefs are excessive and intrusive, and likely do approach a fanatic level," contributing to the lost of my unsupervised contact with my kids. She also failed to contact witnesses such as my church deacon that could have helped in the case. I believe that this report represents "practicing below minimum standards or negligence," and as Bob Martinez, former U.S. attorney for Southern Florida pointed in Nubia and Victor Barahona's case, her report is, "at best, incomplete and should bring into question the reliability of her recommendations."

**WHAT WOULD SATISFY YOUR COMPLAINT?**

I would like this board to perform a detailed review of Dr. Archer's professional practices in this case, including her failure to mention the psychiatric findings of the other party in her conclusions, and to take appropriate measures to prevent any further mishandling of cases in the future.

Florida Statutes 837.06, False Official Statements: Whoever knowingly makes a false statement in writing with the intent to mislead a public servant in the performance of his official duty shall be guilty of a misdemeanor of the second degree.

Signature: \_\_\_\_\_ Date: 10/29/12  
(Required to file/complaint)



Please mail this form to:  
Florida Department of Health  
Consumer Services Unit  
4052 Bald Cypress Way, Bin C-75  
Tallahassee, Florida 32399-3275

Rick Scott  
Governor



John H. Armstrong, MD, FACS  
Surgeon General & Secretary

November 5, 2012

Mr. Mario Alberto Jimenez

Re:  
Respondent: Vanessa Leigh Archer

Dear Mr. Jimenez:

The Consumer Services Unit receives and reviews all complaints against healthcare practitioners to determine if a possible violation of the law has occurred. If it is determined that a possible violation has occurred, the complaint is investigated and referred to our attorneys for review. This letter acknowledges review of your complaint by the Consumer Services Unit.

Section 61.122, Florida Statutes, states that prior to filing a legal action against a court-appointed psychologist who has acted in good faith in conducting a child custody evaluation, a parent must first petition the judge who presided over the child custody proceeding to appoint another psychologist. You must comply with this statute before the Department can investigate the complaint you have filed against this psychologist. This review has determined that this complaint is premature. Thus, no further action can be taken unless you can provide documentation that the requirements of Section 61.122, F.S. have been met.

Thank you for bringing this matter to our attention. Please be assured protecting the safety and well being of our citizens is a top priority.

The mission of the Department of Health is to protect, promote and improve the health of all people in Florida through integrated state, county, and community efforts. If you have any questions, please call the Consumer Services Unit at (850) 245-4339. In addition, if you have any concerns or suggestions about our complaint process, please fill out our *Customer Concerns or Suggestions* form at [www.floridashealth.com/mqa/survey.html](http://www.floridashealth.com/mqa/survey.html).

Sincerely,

A handwritten signature in black ink, appearing to read "Antoinette F. Carter".

Antoinette F. Carter  
Investigation Specialist II

/lw

IN THE CIRCUIT COURT OF THE  
11TH JUDICIAL CIRCUIT IN AND  
FOR MIAMI-DADE COUNTY,  
FLORIDA

IN THE INTERESTS OF:  
M. J.-W.  
DOB: 08/20/2002  
K. J.-W.  
DOB: 09/06/2005  
Minor Children/

JUVENILE DIVISION  
D13-15193A-B (D048)

ORIGINAL  
FILED  
MAY 08 2013  
HARVEY ROVIN  
CLERK CIRCUIT COURT  
MIAMI CO FLA

AMENDED VERIFIED PETITION FOR DEPENDENCY

COMES NOW, the Petitioner, MARIO JIMENEZ, by and through the undersigned counsel, and files this Amended Verified Petition for Dependency pursuant to Section 39.501, Florida Statutes and Fla. R. Juv. P.8.310(a), and petitions this court to adjudicate the above-named child to be dependent within the meaning and intent of section 39.01, Florida Statutes, and the Florida Rules of Juvenile Procedure. As grounds therefore, Petitioner alleges the following:

1. This court has jurisdiction over the minor children:

<u>Name</u>	<u>Birthdate</u>	<u>Gender</u>	<u>Person who has custody</u>
M.J.W.	08/20/2002	Male	Mother
K.J.W.	09/06/2005	Female	Mother

2. The natural mother of the minor children is Karen Wizel, whose address is 12817 SW 252 Street, Apt 304, Homestead, FL 33032.

3. The legal father of the minor children is Mario Jimenez who was married to the Mother at the time of birth and conception of the child and whose address is 5700 SW 127 Avenue, Apt 1316, Miami, FL 33183.

Exhibit 0

Page 1 of 14

4. The UCCJEA Affidavit was filed with the Court on April 14, 2009 and is incorporated by reference.

5. Mediation has not been offered.

6. The Amended Verified Petition for Dependency is upon the following:

7. The children are dependent within the meaning and intent of Chapter 39.01 (14) Florida Statutes, in that the mother has abused the minor children. The acts constituting the abuse include the following:

8. The Mother, KAREN WIZEL abused the minor children, as defined in Florida Statute 39.01(44), in that the Mother has become mentally unstable and has psychologically harmed the minor children through the following actions: 1) repeatedly filing false reports of abuse against the Father, MARIO JIMENEZ; 2) brainwashing and coaching the children into believing the false allegations of abuse by Father towards them; 3) and deliberately obstructing the Father-children relationship by curtailing visitations, minimizing telephonic and email contact, and insinuating that timesharing with Father is harmful for the children.

9. Mother's actions have not only psychologically injured the minor children, but have also resulted in the manifestation of Parental Alienation Syndrome in the minor children.

**Count 1**

**A. Mother's Actions Constituting Abuse**

*(i) Mother's Repeated False Reports of Abuse against Father*

10. The Mother has been repeatedly making unfounded allegations that the Father has physically abused the Mother and the minor children, particularly the minor child, M.J.W.

11. The Mother has been accusing the Father of abuse since 2008, when both parties lived in Nicaragua with their children.

Exhibit O

Page 2 of 14

12. In Nicaragua, the Mother brought several complaints against the Father accusing him of violence towards her and the children. These matters were investigated by the court in Nicaragua.

13. The parties were given joint custody and Father had liberal visitation with the children.

14. However, Mother absconded with the children, beginning her campaign to separate the children from their Father.

15. Soon after, Father left Nicaragua for Miami to pursue his medical residency training.

16. Mother, despite all allegations of abuse by Father, left her country and out of all the cities in the world, moved to Miami, where Father resides.

17. To date, the Mother continues to accuse the Father of physical and psychological abuse against her and the minor children, in an apparent attempt to relitigate matters already addressed by the Nicaraguan court.

18. Mother came to Miami with the children where, upon information and belief, she filed three DCF abuse reports against the Father.

19. Specifically, Mother referred to an alleged, yet nonexistent and unproven history of abuse that Father had purportedly instigated against her and M.J.W.

20. The first two investigations by the Department of Children and Families (DCF) have been closed with a designation of "No Indicators."

21. The Child Protection Team (CPT) also investigated the third DCF report filed by the Mother and it ultimately closed the investigation with a designation of "Not Substantiated" with respect to the allegations of physical abuse but "verified" for the allegations of mental injury.

22. Notably, this "verification" of mental injury came after several attempts by Mother to have the children tell investigative authorities that Father had abused them.

23. Upon information and belief, Mother succeeded in coaching the children to the extent where ultimately the minor children came to believe that Father was abusive towards them, instilling in them fear and animosity towards their Father.

24. However, these investigations demonstrate that there have been no findings that the Father has physically abused the children, as claimed by Mother.

25. Although there is evidence of substantial psychological injury, particularly with the youngest child, M.J.W., such has been caused by Mother's actions, not by abuse on the part of Father, as alleged by Mother.

26. Even in Nicaragua, law enforcement officials investigated the Mother's complaints and determined that they were unfounded, ultimately closing the case.

27. Despite numerous investigations by various officials in both Nicaragua and Miami, the Mother continued to go to different individuals or organizations with her allegations.

28. Mother's history of making false accusations and resorting to different legal and investigative authorities to perpetrate fraud is extensive.

29. In fact, evidence will show that Mother approached Father's sister-in-law to assist her in bringing a false claim of abuse against sister-in-law's husband. Specifically, Mother advised her as to the methods and means by which to initiate and prove the fraudulent claim, including the use of body makeup and photographs to demonstrate nonexistent physical abuse.

30. Additionally, evidence in the form of sworn testimony by the parties' nanny while they lived in Nicaragua, will also show that the Mother is the abusive parent and not the Father as has been so vehemently claimed by Mother.

30. The present case is just one more example of Mother's fraudulent schemes.

Exhibit 0

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31. In her unrelenting pursuit of fraudulently accusing Father of abuse, Mother has psychologically injured the minor children and effectively disrupted the Father-children relationship resulting in the manifestation of Parental Alienation Syndrome.

*(ii) Mother's Brainwashing and Coaching the Minor Children against Father*

32. Mother's actions in brainwashing and coaching the minor children in her attempt to indict Father, have psychologically harmed the minor children and led to a "verification" of allegations of mental injury in the CPT report.

33. As part of a vicious campaign to sever the Father-children relationship, Mother has successfully brainwashed and coached the children into believing Father is abusive towards them.

34. Over the period of almost a year, the children were exclusively under Mother's care and had no contact whatsoever with Father since the Mother had kept the children hidden away from the Father.

35. Over a period of many months, Mother was able to coach and brainwash the minor children against the Father.

36. Ultimately, the minor children could not help but share the Mother's false allegations of abuse, especially in light of the fact that the children were approximately three and six years of age at the time therefore particularly susceptible to Mother's manipulations.

37. As such, the minor children have not only come to believe that Father is abusive towards them, but have also repeated Mother's false claims of abuse to the authorities.

38. In fact, the children have even accused Father and his current partner of "burning" their infant child. This allegation was investigated by the authorities and proven unfounded.

39. Additionally, the minor children have grown increasingly and inexplicably fearful and resentful of Father.

Exhibit 0

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40. As expected, this situation has seriously deteriorated the mental health of the minor children, particularly the youngest child, M.J.W.

41. The minor children exhibit a number of psychological issues, particularly M.J.W., whose psychological evaluations have diagnosed him with an adjustment disorder, combined with depression and anxiety, as well as multiple behavioral issues including aggression and inability to interact with peers at school.

42. Plus, by coaching and brainwashing the minor children against Father, Mother has effectively alienated the minor children from Father.

43. This constitutes a form of mental abuse that needs to be addressed; Mother's actions in teaching the minor children to hate and fear their Father constitute child abuse, even if not in its usual form.

44. As such, the only remedy is to remove the minor children from Mother's care and such an abusive environment.

*(iii) Mother's Deliberate Obstruction of Father-Children Relationship*

45. Over the past few years, Mother has prevented the children from visiting Father and has made every effort to sabotage the relationship between the Father and his children.

46. In Nicaragua, the mother absconded with the children and kept them hidden from the Father, even before the parties divorced.

47. After their divorce, Mother violated the terms of the foreign divorce decree by denying the Father his visitation rights.

48. Moreover, in her unrelenting attempt to impede the Father-children relationship, Mother has continued making false allegations of abuse by Father, even after the parties divorced and even after Father moved away to Miami.

Exhibit O

Page 6 of 14

49. In fact, Mother followed Father to Miami, where she continued filing false reports of abuse against them, all of which have been uncorroborated after multiple investigations.

50. Additionally, Mother has engaged in brainwashing and coaching of her minor children in order to antagonize the children and alienate them from the Father, further straining the relationship between them.

51. Mother's incessant efforts have culminated in the suspension of Father's timesharing rights.

52. As of July 2012, pursuant to a motion with unsubstantiated claims submitted by the Mother's attorney here in Miami, Father's contact with the children was suspended. The basis was a DCF report that was ultimately closed.

53. The Court ordered that the Father be allowed only supervised visitation and that daily telephonic contact with the children was to be recorded. This was done after the Court reviewed the psychological report prepared by Dr. Vanessa Archer, the court-appointed psychologist, and without providing Father the benefit of an evidentiary hearing and opportunity to cross-examine Dr. Archer.

54. As such, Mother has accomplished her objectives of disrupting the Father-children relationship and antagonizing the children against their own Father.

55. In the process, Mother has psychologically injured the children and prompted the manifestation of Parental Alienation Syndrome.

56. In sum, Mother's conduct establishes a number of factors for imminent risk of harm including: repeated false allegations of abuse; developmental and psychological stifling of the children by Mother; venue shopping and manipulation of reporters, investigative, and therapeutic professionals; coaching and brainwashing of the minor children; and sabotaging contact with the children's Father. Through the aforementioned actions, Mother harmed the

Exhibit O

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minor children as defined in Florida Statutes 39.01(32) and/or caused the children's physical, mental or emotional health to be significantly impaired.

57. Due to the concerns already expressed, as well as Mother's manipulation of the child abuse investigative process and her history of abuse, Father seeks court intervention to determine the stability of the children under the Mother's care.

58. As such, Father is not pursuing this action as a means to engage in forum shopping, but rather because he has legitimate concerns regarding his children's safety and psychological health while under the care of their Mother.

59. Father is pursuing an action for which he has a statutory right and an arguable basis in law or fact. Therefore, the fact that the case was transferred to another court should not be grounds for dismissing an otherwise meritorious claim for which there is substantial factual support.

#### **B. Psychological Harm and Parental Alienation Syndrome**

60. Mother's actions, as discussed above, threaten harm and place the children at risk or prospective risk of harm to the children as defined in Florida Statutes 39.01(32) cause and likely to cause the children's mental or emotional health to be significantly impaired or to be in danger of being significantly impaired.

61. Mother's conduct, through her actions, has psychologically injured the children, especially M.J.W.

62. To date, the child has had four psychological evaluations, with the first two psychological evaluations taking place in Nicaragua and the latter two in Miami.

63. The first psychological evaluation dated May of 2008 originated as a result of Mother's allegations that Father was sexually abusing the minor child. After being examined by both a

Exhibit 0

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psychologist and forensic physician, it was established that, although the minor child exhibited minor symptoms of anxiety, there was no physical evidence of sexual abuse.

64. The second psychological evaluation dated in June of 2009, established that M.J.W. presented an episode of anxiety and considerable psychological damage, which could potentially lead to rapid and significant psychological erosion.

65. The psychological report also stressed that the child's emotional needs were not being met, and that this could interfere with the child's psychological growth and development.

66. The third psychological assessment, which takes place after numerous treatment sessions in Miami from August of 2011 through May of 2012, diagnosed the child with an adjustment disorder, combined with depression and anxiety.

67. Additionally, the evaluation reports that M.J.W. exhibits defiant and aggressive behavior in school towards teachers and his classmates.

68. The child is unable to interact with teachers and classmates in an appropriate manner and does not complete his homework. Notably, this has been the situation while mother has had exclusive de facto custody of the child.

69. However, the therapist for M.J.W. while he was under Father's care and away from Mother's influence, Dr. Alicia Vidal-Zas, discloses in her clinical notes that during that period of time M.J.W.'s behavior improved significantly; his aggression at school subsided considerably, and his academic performance improved, even obtaining an Honor Roll diploma in school.

70. Additionally, while under close contact with Father, the Father-children relationship drastically improved. In fact, during a psychological session, M.J.W. expressed how he was no

longer afraid of Father, now that he did not reside with Mother. M.J.W. also denied Father being abusive towards him.

71. Nevertheless, once contact with Father was suspended by the Court based on a hearsay report by Dr. Archer, M.J.W.'s mental health began to rapidly deteriorate; the last psychiatric evaluation, dated February 2013, indicated that the minor child exhibits a myriad of symptoms including, but not limited to: anxiety, depressive disorder, Post Traumatic Stress Disorder, difficulty sleeping, feelings of intense fear and helplessness, Attention Deficit Hyperactivity Disorder, as well as behavioral issues, such as anger and aggression.

72. Notably, this has been while under Mother's exclusive custody and with severely limited and supervised contact with Father.

73. Psychological studies have proven that children exhibit a number of negative behaviors as a response to the effects of parental alienation which has occurred in this case.

74. Parental alienation has been defined to be a set of strategies that parents use to undermine and interfere with the relationship that a child has with another parent.

75. These strategies include but are not limited to bad-mouthing the other parent, limiting contact with that parent, forcing children to reject the other parent, creating the impression that the other parent is dangerous, forcing the child to choose and belittling and limiting contact with the extended family for the targeted parent.

76. All of the above have been present in this case; through her actions, Mother has caused a rift in the Father-children relationship by limiting Father's visitation with the minor children and

Exhibit 0

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by coaching the children to believe that the Father is dangerous and abusive towards them. The alienation has progressed to include not only Father, but also Father's extended family.

77. Psychological research has proven that exposing children to such alienation represents a form of emotional abuse.

78. Children who suffer from Parental Alienation Syndrome have been shown to develop the concept that one parent is that loving parent, while the other is the hated parent who has done "evil" or "wickedness" not only towards the alienating parent but towards the child.

79. Additionally, studies have proven that all good memories have been destroyed and there has been brainwashing in order to make the child fearful of the alienated parent.<sup>1</sup>

80. Therefore, the child loses support from not only the parent but also the grandparents and extended family of that alienated parent.

81. The paternal grandfather and grandmother have great concerns regarding the children's psychological well-being. The parental grandfather has reported to be currently scared of being around the children due to the false allegations that the mother might employ in the children's mind and therefore possibly falsely incriminating him. Grandfather has serious concerns regarding the deterioration of the relationship with the children.<sup>2</sup>

82. Undoubtedly, there are psychological effects that occur in children that are suffering this syndrome such as: anger, loss or lack of impulse control in conduct, developing fears and phobias, sleep disorders, poor peer relationship and educational problems.

<sup>1</sup> Ludwig. F. Lowenstein, Ph.D, Problems suffered by children due to the effects of Parental Alienation Syndrome, (Justice of the Peace, Vol. 166 No. 24, 2002) PG 464-466.

<sup>2</sup> Amy J. L. Baker, Ph.D, Parental Alienation is Emotional Abuse of Children, (Psychology Today) 2011

83. All of the major symptoms are exhibited by M.J.W. Prior psychological evaluation and his teacher's reports confirm that the child exhibits these symptoms.<sup>3</sup>

84. The child exhibits anger issues and poor peer relationships, as evident by his negative interaction with his peers.

85. Reports have shown that M.J.W. has used profane words around his peer members and has been in several altercations with his peers.

86. The youngest child has shown symptoms associated with sleep disturbances to the extent that the child has been reported to have slept with a knife underneath his bed.

87. Additionally, the minor child exhibits anxious behaviors and has continuously communicated to the father his resentment for allegedly abandoning the family.

88. Notably, typical symptoms or behaviors related to children who have experienced what Mother alleged M.J.W. experienced are trauma-specific dreams, running away from home, dissociation, derealization, depersonalization and preoccupation with the trauma, none of which are exhibited by the minor child.

89. Moreover, the mother's extensive history of false reports of abuse against the father evidences a pattern of attention seeking behavior and dependency which demonstrates a lack of care for the children's emotional and psychological health and wellbeing.

90. Through her actions, Mother has harmed the children's relationship with his father and significantly impaired the child's emotional and psychological health, as detailed above.

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<sup>3</sup> Ludwig, F. Lowenstein, Ph.D, Problems suffered by children due to the effects of Parental Alienation Syndrome, (Justice of the Peace, Vol. 166 No. 24, 2002) PG.464-466.

91. Mother has caused and/is likely to continue to cause the children's physical, mental, or emotional health to be significantly impaired, as defined in Florida Statutes 39.01 (32).

Under Chapter 39, Florida Statutes, the clerk of the court is required to issue a summons to the following parents or custodians:

The natural mother of the minor children, Karen Wizel, whose address is 12817 SW 252 Street, Apt 304, Homestead, FL 33032. The legal father of the minor children, Mario Jimenez, whose address is 5700 SW 127 Avenue, Apt 1316, Miami, FL 33183.

WHEREFORE, the Petitioner asks that process may issue in due course to bring the above-named parties before the court to be dealt with according to the law and to adjudicate the above-named minor children to be dependent.

This Petition is filed in good faith.

Date this 1<sup>st</sup> day of May, 2013.

PETITIONER, MARIO JIMENEZ

By: \_\_\_\_\_

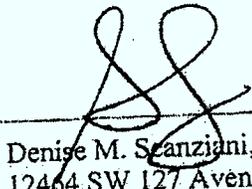
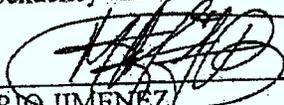
  
Denise M. Scanziani, Esq.  
12464 SW 127 Avenue  
Miami, FL 33186

Exhibit 0

Page 13 of 14

**VERIFICATION**

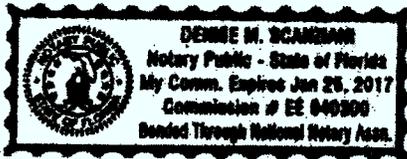
I, MARIO JIMENEZ, do hereby solemnly swear that I have carefully read each and every statement contained in this my Amended Petition for Dependency and that each and every statement contained herein is true and correct.

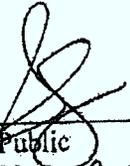
  
\_\_\_\_\_  
MARIO JIMENEZ

State of Florida  
County of Miami-Dade

The forgoing instrument was acknowledged before me this 1<sup>st</sup> day of May 2013, MARIO JIMENEZ, who [ ] is personally known or [ ] has produced a driver's license as identification.

[Notary Seal ]



  
\_\_\_\_\_  
Notary Public  
Printed Name: Denise M. Scanziani  
My Commission Expires: 1/26/2017

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of this document was e-mailed and personally served to the person listed below on May 1<sup>st</sup>, 2013: Ana Morales, Esq., 6910 North Kendall Drive, Second Floor, Miami, FL 33156, [amorales@reyesmiller.com](mailto:amorales@reyesmiller.com) and Anastasia Garcia, Esq. Guardian Ad Litem for the parties, 770 Ponce De Leon Blvd., Coral Gables, FL.

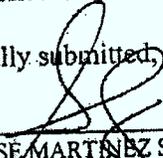
Respectfully submitted,  
  
By: \_\_\_\_\_  
DENISE MARTINEZ SCANZIANI, Esq.  
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Exhibit 0

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IN RE THE MATTER OF:  
MARIO ALBERTO JIMENEZ,

Petitioner/Father,  
and

KAREN WIZEL,

Respondent/Mother.

IN THE CIRCUIT COURT OF THE  
ELEVENTH JUDICIAL CIRCUIT, IN AND  
FOR MIAMI-DADE COUNTY, FLORIDA

FAMILY DIVISION

CASE NO. 2011-21207 FC 29

**ORDER ON MOTHER'S EMERGENCY MOTION FOR RE-HEARING ON FATHER'S  
MOTION FOR TEMPORARY INJUNCTIONS AND MOTHER'S  
EMERGENCY MOTION TO PICK UP CHILDREN**

**THIS MATTER** was heard by the court on October 6, 2011. After considering argument of counsel, it is hereby ORDERED as follows:

1. This is an action to domesticate a foreign judgment.
2. There are two minor children subject to this proceeding, MARIO SIMON JIMENEZ-WIZEL, born on August 22, 2002, and KAREN NICOLE JIMENEZ-WIZEL, born on September 6, 2005.
3. On May 4, 2010, an Order or Final Judgment on Divorce was entered in the Court of Catarina, Nicaragua, Central America in Case No. 27, Folio 55 and 56, Tome No. VII, Year 2010, g
4. On July 7, 2011, the Father filed his Petition to Domesticate Foreign Judgment. The final judgment awarded the parties equal shared custody and the Father was awarded time with the children from Monday to Friday to be responsible for their education.
5. On August 23, 2011, this Court granted the Father's Emergency Motion for Temporary Injunction to Prevent Removal of Minor Children and/or Denial of Passport Service. The Mother was ordered to turn in the children's passports immediately to counsel for the Father until further notice of the Court, and neither party was allowed to remove the children from the state of Florida.
6. The court entered a pick up order on August 23, 2011 which allowed the Father to take custody of the minor children.

"Exhibit R"

Page 1 of 3

7. The Mother claims she was in labor on August 23, 2011 and delivered her child on August 24, 2011, thus making it impossible for her to attend the August 23<sup>rd</sup> hearing.

8. The Mother claims that the children are in a dangerous situation living with the Father, who fled Nicaragua in May of 2010 to escape two pending criminal charges of Domestic Violence against the Mother and their minor son, Mario.

9. The Mother claims that the Father misrepresented the Final Judgment of the Nicaraguan Court to this Court, as the Final Judgment stated that both parents had joint parental responsibility and that the Father had the right to visit the children Monday through Friday. Due to the pending criminal charges against the Father, however, this right to visitation was subsequently barred.

10. On May 18, 2011, the Mother and minor children entered into The Lodge Victim Response Outreach Program, a certified Domestic Violence Center, which purchased for her and the children plane tickets in order to leave Guatemala. She is still receiving help from the program.

11. The Mother claims that she is so petrified of her abusive ex-husband that she cannot even visit the children, or let them meet their new baby brother. She is terrified for her children, and distraught that the Father continues to call the Mother on a daily basis asking her to stop and visit the children, but when she responds that she cannot, he tells the children that their Mother does not want to see them anymore.

12. The Mother claims it is in the best interests of the minor children for this Court to vacate the Temporary Injunction issued on August 23, 2011, and restore custody of the minor children to the Mother.

13. The children have been living with the Father since August 24, 2011 when the Pick up Order was executed. The children are now attending Winston Park Elementary School.

14. On a temporary basis, the children shall continue to attend Winston Park Elementary School and the parties shall have equal time sharing from end of school on Friday until the beginning of school on the following Friday. The Mother's time sharing will commence on Friday October 7, 2011 at the end of school. The Father shall immediately list the Mother as a person authorized to pick up the children from school and authorized to obtain information about the children from the school.

15. Each parent shall ensure that the children attend therapy on Thursdays at 3:30. The Father shall immediately provide the Mother with the name, address and phone number of the therapist.

16. Neither party may remove the children from the State of Florida pending further order of the court.

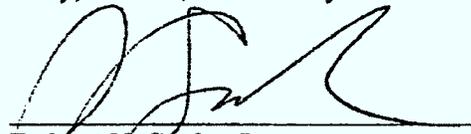
17. A copy of this order shall be served on the appropriate federal authorities.

18. The Mother will share time on Thanksgiving 2011 until Friday morning at 9:00 and the Father shall pick up the children from the Mother's home at that time for his week of time sharing.

19. During Christmas 2011, the Father will share time from December 23, 2011 until December 25, 2011 at noon and from December 26 at noon until December 30, 2011 at noon. The Mother will share time from December 25, 2011 at noon until December 26, 2011 at noon and from December 30, 2011 until January 6, 2011.

20. Each party shall be entitled to daily telephonic communication with the children for no more than 15 minutes while the children are with the other party. The parties shall exchange cell phone numbers prior to leaving the courthouse. All communications directly between the parties shall be by text message only and both parties shall save all text messages to and from each other for court evidence.

**DONE AND ORDERED** in Miami-Dade County, Florida, this 6th day of October, 2011.

  
Robert N. Scola, Jr.  
Circuit Court Judge

Copies furnished to:  
Gerald Adams, Esq.  
Kenia Bravo, Esq.

STATE OF FLORIDA, COUNTY OF DADE  
I HEREBY CERTIFY that the foregoing is a true and correct copy of the original on file in this office. *Oct 12 2011*  
HARVEY RUVIN, Clerk of Circuit and County Courts  
Deputy Clerk *[Signature]*



"Exhibit R"

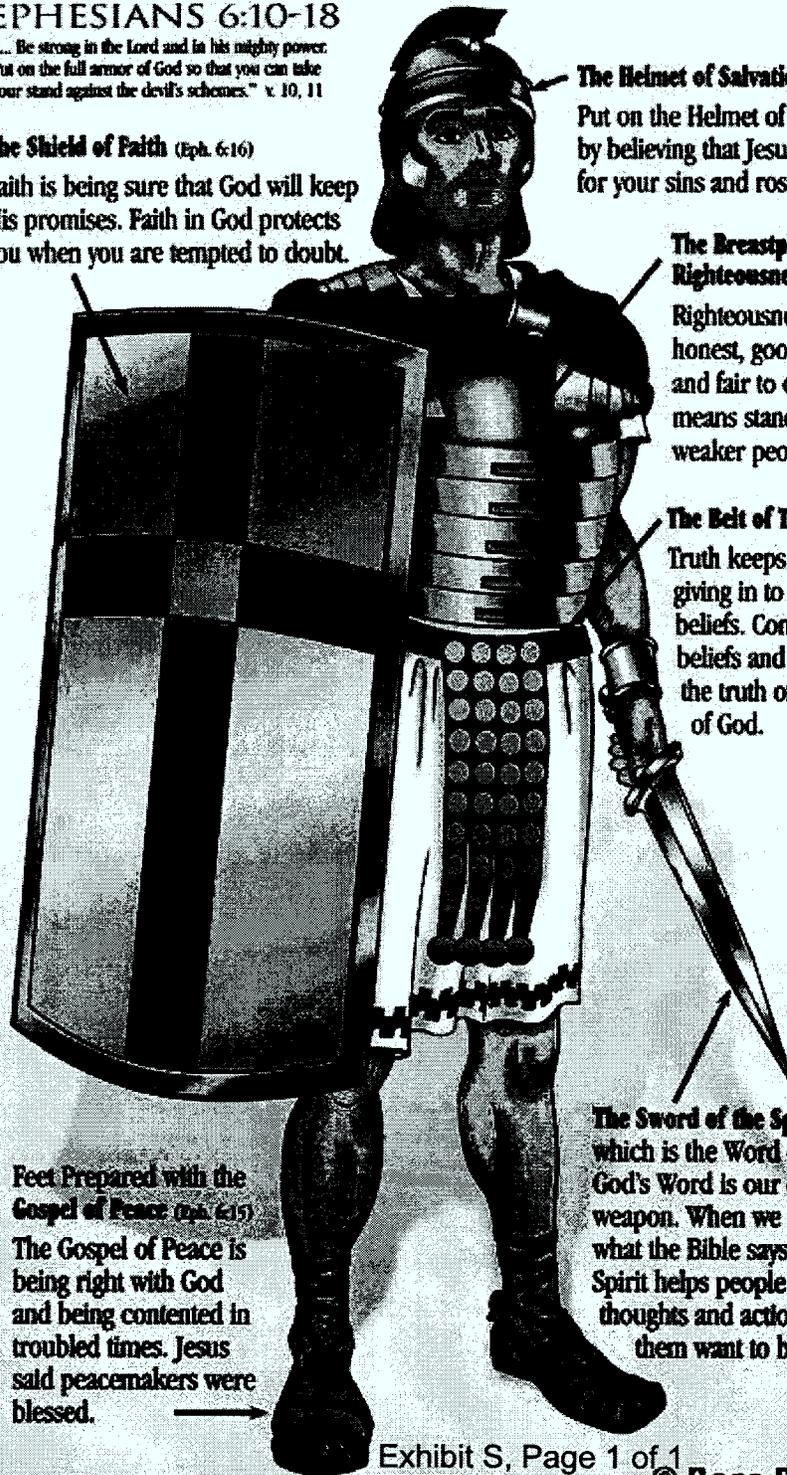
# THE ARMOR OF GOD

## EPHESIANS 6:10-18

"... Be strong in the Lord and in his mighty power. Put on the full armor of God so that you can take your stand against the devil's schemes." v. 10, 11

### The Shield of Faith (Eph. 6:16)

Faith is being sure that God will keep His promises. Faith in God protects you when you are tempted to doubt.



### The Helmet of Salvation (Eph. 6:17)

Put on the Helmet of Salvation by believing that Jesus Christ died for your sins and rose again.

### The Breastplate of Righteousness (Eph. 6:14)

Righteousness is being honest, good, humble, and fair to others. It means standing up for weaker people.

### The Belt of Truth (Eph. 6:14)

Truth keeps us from giving in to the world's beliefs. Compare your beliefs and actions to the truth of the Word of God.

### The Sword of the Spirit (Eph. 6:17)

which is the Word of God. God's Word is our offensive weapon. When we tell others what the Bible says, the Holy Spirit helps people see their bad thoughts and actions, and makes them want to be forgiven.

### Feet Prepared with the Gospel of Peace (Eph. 6:15)

The Gospel of Peace is being right with God and being contented in troubled times. Jesus said peacemakers were blessed.

14. Petitioner has suffered or has reasonable cause to fear imminent domestic violence because Respondent has (briefly describe the incidents of violence or threats of violence, including when and where it occurred):

The respondent is the petitioner's father. The petitioner is a minor and her mother is filing on her behalf. The petitioner's parents are divorced and they share custody of the petitioner and her brother. The petitioner's mother alleges the following event(s) occurred as described below:

On June 6, 2012, when the petitioner's mother came home from work the petitioner told her the respondent called her and said, "The devil is going to kill everyone. Those bad angels will come kill us and something bad is going to happen". The petitioner told her mother she was very afraid. The petitioner's mother called the police and they responded. The police spoke to the petitioner and took her statement. A report was filed, PD#120606213969. The petitioner's mother was advised to file a restraining order. DCF was contacted and came to the house the next day to speak to the petitioner's mother and the kids.

The petitioner's mother fears for the petitioner's life and safety and that of the petitioner's brother. The petitioner's mother alleges the petitioner tells her she is afraid something bad is going to happen to her and her family. The petitioner's mother adds the respondent is verbally and psychologically abusive towards the petitioner and she is seeking the courts intervention and protection to keep the respondent away from the petitioner and her brother. COC/sdjcds

[ N/A ]

*KW*  
Please indicate here if you are attaching additional pages to continue these facts.

Exhibit T, Page 1 of 1

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA**

CASE NO. 1:15-cv-20821-UU

MARIO JIMENEZ,

Plaintiff,

v.

KAREN WIZEL,

Defendant.

\_\_\_\_\_ /

**ORDER**

THIS CAUSE is before the Court *sua sponte* upon review of Plaintiff's *pro se* Complaint.

(D.E. 1.)

THE COURT has considered the Complaint and the pertinent portions of the record, and is otherwise fully advised of the premises.

On February 27, 2015, Plaintiff Mario Jimenez ("Jimenez") removed this action from the Circuit Court for the Eleventh Judicial Circuit in and for Miami-Dade County, Florida and claims that this Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 1367, 1441(b), 1441(c), 1441(e), 1443(1), 1443(2) and/or 1446. In his Complaint, Plaintiff alleges violations of his First Amendment and Due Process rights but has not clearly alleged what law entitles him to bring a private right of action to assert those rights. Plaintiff cites to several provisions under Title 42 of the United States Code, which relates to the public health and welfare, but none of the sections cited by Plaintiff relate to the allegations asserted in his Complaint. For example, Plaintiff cites to 42 U.S.C. §§ 2000a

(prohibits discrimination or segregation in places of public accommodation), 2000d (prohibits exclusion from participation in, denial of benefits of, and discrimination under federally assisted programs on account of race, color, or national origin), 5891 (prohibits sex discrimination), 5106a (relates to grants to states for child abuse or neglect prevention and treatment programs), 5106c (relates to grants to states for programs focused on the investigation and prosecution of child abuse and neglect cases), 10406 (relates to grants to states for family violence prevention and services), 10420 (relates to grants to states to support families in the justice system), and 10701 (relates to definitions used in relation to the State Justice Institute) as well as several other sections of Title 42. These sections cannot provide a basis for Plaintiff's claims and therefore, Plaintiff has failed to allege what law entitles him to bring a private right of action to assert the constitutional violations cited in his Complaint.

Although it was not specifically cited in the Complaint, construing his *pro se* filings liberally, Plaintiff appears to be seeking relief pursuant to 42 U.S.C. § 1983. However, to state a claim pursuant to 42 U.S.C. § 1983, Plaintiff must allege that a person acting under color of state law deprived him of a federal right. *West v. Atkins*, 487 U.S. 42, 48 (1988) (citing *Parratt v. Taylor*, 451 U.S. 527, 535 (1981); *Flagg Bros., Inc. v. Brooks*, 436 U.S. 149, 155 (1978)). “The Supreme Court has defined ‘acting under color of law’ as acting with power possessed by virtue of the defendant’s employment with the state.” *Edwards v. Wallace Cmty. Coll.*, 49 F.3d 1517, 1522-23 (11th Cir. 1995) (citation omitted). The Defendant in this action is Karen Wizel and based on the allegations in the Complaint, she is the mother of Plaintiff’s children, not a state actor. As a result, Plaintiff cannot bring a claim under Section 1983 against Defendant Wizel and therefore, this action must be dismissed.

Additionally, most of the allegations in the Complaint relate to actions taken by judges in the Family Division of the Circuit Court for the Eleventh Judicial Circuit in and for Miami-Dade County, Florida. Judges are entitled to absolute immunity for all actions taken in their judicial capacity, except where they act in the “clear absence of all jurisdiction.” *Bolin v. Story*, 225 F.3d 1234, 1239 (11th Cir. 2000) (quoting *Stump v. Sparkman*, 435 U.S. 349, 356–57 (1978)). In fact, absolute judicial immunity “applies even when the judge’s acts are in error, malicious, or were in excess of his or her jurisdiction.” *Id.* Therefore, any claims alleged against a judge relating to actions taken in a judicial capacity are precluded by the doctrine of judicial immunity.

Based on the Court’s findings above, the Complaint is dismissed, but Plaintiff is granted leave to file an amended complaint on or before March 27, 2015 to correct the errors described above, if possible. Accordingly, it is hereby

ORDERED AND ADJUDGED that the Complaint (D.E. 1) is DISMISSED. It is further

ORDERED AND ADJUDGED that Plaintiff may file an amended complaint on or before March 27, 2015 curing all the deficiencies noted above as well as any other defects. If Plaintiff fails to file a compliant amended complaint by March 27, 2015, this case will be dismissed and closed without further notice.

DONE AND ORDERED in Chambers at Miami, Florida, this 12th day of March, 2015.



---

URSULA UNGARO  
UNITED STATES DISTRICT JUDGE

copies provided:  
Mario Jimenez, *pro se*

FILED by PG D.C.

MAR 24 2015

STEVEN M. LARIMORE  
CLERK U. S. DIST. CT.  
S. D. of FLA. - MIAMI

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

Case No. 15-cv-20821-UU– Civ (Honorable Ursula Ungaro)

MARIO JIMENEZ,  
Plaintiff

v.

KAREN WIZEL.  
Defendant(s)

and, in re: the support and welfare of  
Mario Simon Jimenez-wizel  
and Karen Nicole Jimenez-wizel

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**MOTION FOR EXTENSION OF TIME TO FILE AMENDED COMPLAINT**

Comes now the Plaintiff, MARIO JIMENEZ, and respectfully moves this court for a time extension of 60 days, pursuant to Fed. R. Civ. P. 6 (b)(1), to file an amended complaint curing all deficiencies as well as other defects noted in original complaint filed on February 27, 2015. As grounds for this motion, Plaintiff states:

1. Plaintiff is Pro Se and does not have the legal knowledge and/or expertise to effectively cure the deficiencies and other defects noted in the original complaint in the time initially allotted to amend it, and to ensure that his constitutional and federal rights are properly preserved.

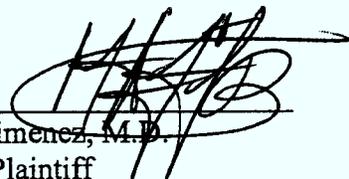
2. Plaintiff is seeking legal representation to properly present his case to this court, but since this is a very complex case with at least a four year history in state court, and Plaintiff does not have the financial means to hire just any firm, Plaintiff estimates that he would need at least 30 days to find a legal firm/attorney that would be willing to represent him under his current

financial constraints, and another 30 days to bring the firm/attorney up to speed and prepare a properly amended complaint.

3. Plaintiff represents and certifies that this motion is being sought in good faith and not for the purpose of interposing undue delay.

**WHEREFORE**, the undersigned Plaintiff, MARIO JIMENEZ, now prays for a time extension of 60 days to file an amended complaint curing all deficiencies as well as other defects noted in original complaint filed on February 27, 2015, and grant any and all other relief deemed just and proper in the premises.

Respectfully submitted,

  
\_\_\_\_\_  
Mario Jimenez, M.D.  
Pro Se Plaintiff

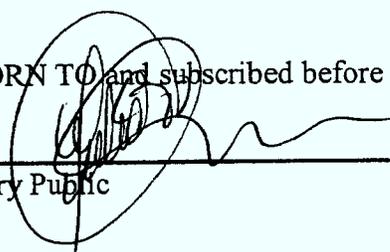
VERIFICATION

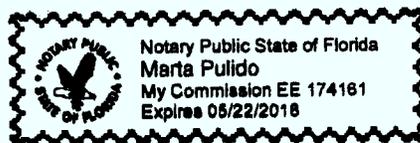
I hereby declare, verify, certify and state, pursuant to the penalties of perjury under the laws of the United States, and by the provisions of 28 USC § 1746, that all of the above and foregoing representations are true and correct to the best of my knowledge, information, and belief.

Executed at MIAMI, FLORIDA, this 23 day of March, 2015.

  
\_\_\_\_\_  
Mario Jimenez, M.D.  
Pro Se Plaintiff

SWORN TO and subscribed before me this 23 day of March 2015.

  
\_\_\_\_\_  
Notary Public

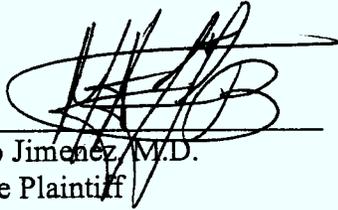


CERTIFICATE OF SERVICE

I hereby certify that, on this 24 day of March, 2015, a true and complete copy of the foregoing amended petition for removal, by depositing the same via e-mail, has been duly served upon all parties of record in the lower state proceedings, and all defendants, to-wit:

Attorney for Former Wife:	Guardian Ad Litem:
Ana C. Morales, Esq.,	Anastasia Garcia
901 Ponce de Leon Blvd., 10 <sup>th</sup>	770 Ponce de Leon Blvd.
Floor. Coral Gables, Fl 33134	Coral Gables, Fl 33134

and, that the same is being also filed this same date within the lower state trial court proceedings.

  
\_\_\_\_\_  
Mario Jimenez, M.D.  
Pro Se Plaintiff

Mario Jimenez, M.D.  
12901 SW 66 Terrace Drive. Miami, Fl 33183  
(305) 386-9988, Marioaj01@yahoo.com

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA**

CASE NO. 1:15-cv-20821-UU

MARIO JIMENEZ,

Plaintiff,

v.

KAREN WIZEL,

Defendant.

\_\_\_\_\_ /

**ORDER**

THIS CAUSE is before the Court on Plaintiff's Motion for an Extension of Time to File an Amended Complaint. D.E. 10.

THE COURT has considered the Motion and the pertinent portions of the record, and is otherwise fully advised in the premises.

On March 12, 2015, the Court dismissed Plaintiff's Complaint and ordered him to file an amended complaint on or before March 27, 2015 to correct the errors described in the Order, if possible. D.E. 9. Plaintiff now moves for a 60 day extension to file an amended complaint so that he may obtain counsel to represent him in this matter. However, "[a] civil litigant . . . has no absolute constitutional right to the appointment of counsel [unless there are] exceptional circumstances, such as where the facts and legal issues are so novel or complex as to require the assistance of a trained practitioner." *Dean v. Barber*, 951 F.2d 1210, 1216 (11th Cir. 1992) (internal quotation marks and citation omitted). Here, the facts and legal issues raised in Plaintiff's *pro se* Complaint are not novel or

complex.

Pursuant to Federal Rule of Civil Procedure 6(b), the court for *good cause* shown may in its discretion grant an extension of time if the request is made prior to the expiration of the period originally prescribed. Plaintiff's desire to obtain counsel does not amount to good cause for an extension and therefore, his Motion will be denied. Accordingly, it is

ORDERED AND ADJUDGED that the Motion, D.E. 10, is DENIED. Plaintiff is reminded that failure to file an amended complaint by March 27, 2015 will result in closure of this case without further notice.

DONE AND ORDERED in Chambers at Miami, Florida, this 25th day of March, 2015.

  
\_\_\_\_\_  
URSULA UNGARO  
UNITED STATES DISTRICT JUDGE

copies provided:  
Mario Jimenez, *pro se*

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA**

Case No. 15-cv-20821-UU– Civ (Honorable Ursula Ungaro)

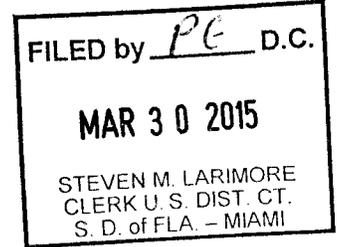
MARIO JIMENEZ,  
Plaintiff/Petitioner/Father

v.

KAREN WIZEL/Mother,  
DEPARTMENT OF CHILDREN AND FAMILIES (DCF), and  
THEREZA HERNANDEZ/DCF Investigator, and  
MELYSSA LOPEZ/DCF Case Coordinator, and  
YVETTE B. REYES MILLER, Esq., and  
THE LEGAL DEFENSE FIRM OF SOUTH DADE, P.L., and  
ANA C. MORALES, Esq., and  
MARGARITA ARANGO MOORE, Esq. and  
REYES & ARANGO MOORE, P.L., and  
VANESSA L. ARCHER, and  
ARCHER PSYCHOLOGICAL SERVICES, P.A., and  
ANASTACIA GARCIA/Guardian Ad Litem, and  
LAW OFFICE OF ANASTASIA M GARCIA, P.A., and  
SABRINA SALOMON/Former attorney for Plaintiff.  
Defendant(s)/Respondent(s),

and, in re: the support and welfare of  
Mario Simon Jimenez-wizel  
and Karen Nicole Jimenez-wizel

\_\_\_\_\_ /



**Amended Notice of Petition and Verified Petition For Warrant Of  
Removal**

Comes now the Plaintiff, MARIO JIMENEZ, and in direct support of this request for removal of the above-encaptioned state court cause into, and through, the jurisdiction of this United States District Court provided under at least 28 USC § 1331, 28 USC § 1367, 28 USC 1441(b), 28 USC § 1441(c), 28 USC § 1441(e), 28 USC § 1443(1), 28 USC § 1443(2), and/or 28 USC § 1446, and on the federal questions involved, herein alleges, states, and provides the following:

JURISDICTION

1. This District Court of the United States has jurisdiction over this cause of action, pursuant to the authorities cited above, including, but not limited to the following, to-wit: 28 USC § 1331, 28 USC § 1367, 28 USC 1441(b), 28 USC § 1441(c), 28 USC § 1441(e), 28 USC § 1443(1), 28 USC § 1443(2), and/or 28 USC § 1446, is an Article III court with authority to hear questions arising under the Constitution, Laws, and Treaties of the United States, including but not limited to the Bill of Rights, the First, Fourth, Fifth, Ninth Amendment, the Eleventh Amendment, the original Thirteenth Amendment, the Fourteenth Amendment, the International Covenant on Civil and Political Rights, and the Universal Declaration of Human Rights, with Reservations. *See* the Article VI Supremacy Clause of the Constitution of the United States of America, as lawfully amended (*hereinafter* "U.S. Constitution").

2. Both the Parent and parent child relationship are constitutionally protected. *Achumba v. Neustein*, 793 So. 2d 1013 - Fla: Dist. Court of Appeals, 5th Dist. 2001. *DEPT. OF HEALTH & REHAB. SERVICES v. Privette*, 617 So. 2d 305 - Fla: Supreme Court 1993. *RHB v. JBW*, 826 So. 2d 346 - Fla: Dist. Court of Appeals, 2nd Dist. 2002, *Troxel v. Granville*, 530 US 57 - Supreme Court 2000.

3. Plaintiff's has a liberty interests in directing the upbringing and education of children under his control. *Feist v. Lemieux-Feist*, 793 NW 2d 57 – SD: Supreme Court 2010. “The Troxel plurality, in affirming the Washington Supreme Court, recognized that parents have an interest in the care, custody, and control of their children. *Id.* at 65, 120 S.Ct. at 2060 (citing *Meyer v. Nebraska*, 262 U.S. 390, 399, 401, 43 S.Ct. 625, 67 L.Ed. 1042 (1923) (holding that the liberty interest protected by the Due Process Clause includes a parent’s right to “establish a home and bring up children” and to “control the education of their own [children].”); *Pierce v. Soc. of Sisters*, 268 U.S. 510, 534-35, 45 S.Ct. 571, 69 L.Ed. 1070 (1925) (recognizing parents’ liberty

interests to “direct the upbringing and education of children under their control.”); Prince v. Massachusetts, 321 U.S. 158, 64 S.Ct. 438, 88 L.Ed. 645 (1944) (“It is cardinal with us that the custody, care, and nurture of the child reside first in the parents, whose primary function and freedom include preparation for obligations the State can neither supply nor hinder.”). Troxel also recognized that the relationship between “parent and child is constitutionally protected” under the Fourteenth Amendment Due Process Clause. *Id.* at 66, 120 S.Ct. at 2060 (citing Quilloin v. Walcott, 434 U.S. 246, 255, 98 S.Ct. 549, 54 L.Ed.2d 511 (1978)). A majority of the Court recognized parents’ fundamental right to direct the upbringing of their children. See *id.* at 66, 120 S.Ct. at 2060; *Id.* at 77, 120 S.Ct. at 2066 (Souter, J., concurring); *Id.* at 80, 120 S.Ct. at 2068 (Thomas, J., concurring); *Id.* at 86, 120 S.Ct. at 2071 (Stevens, J., dissenting).”

4. Federal Rule CR 60b.

5. The due process violations give appropriate grounds for relief as the court has done in the following cases: A judgment is void if it is not consistent with Due Process of law. Orner v Shala, 30 F.3d 1307, 1308 (1994); V.T.A, Inc V Airco, INC, 597 F.2d 220, 221 (1979). A judgment reached without due process of law is without jurisdiction and thus void. Bass v. Hoagland, 172 F.2d 205, 209 (1949). Any motion for relief from a void judgment is timely regardless of when it is filed. V.T.A, inc. v Airco, Inc. supra @224 (footnote no. 9). If a judgment is void, it is a nullity from the outset and any Civ. R 60(B) motion is therefore filed within a reasonable amount of time. Orner v. Shalala, supra @1308. If voidness of judgment is found then relief from judgment is also not discretionary and any order based upon that judgment is also void. V.T.A., Inc V. Airco, Inc., 221; Venable v. Haislip, 721 F.2d 297, 298 (1983). Santosky v. Kramer, 455 U.S. 745, 102 S.Ct. 1388, 71 L.Ed.2d 599 (1982), DEPT. OF HEALTH

& REHAB. SERVICES v. Privette, 617 So. 2d 305 - Fla: Supreme Court 1993 Parental Rights, Achumba v. Neustein, 793 So. 2d 1013 - Fla: Dist. Court of Appeals, 5th Dist. 2001.

6. Plaintiff is seeking relief pursuant to 42 U.S.C. § 1983, and states that some of the Defendants acting under color of state law deprived and violated his First Amendment, Due Process rights, and other federal rights. West v. Atkins, 487 U.S. 42,48 (1988) (citing Parratt v. Taylor, 451 U.S. 527, 535 (1981); Flagg Bros., Inc. v. Brooks, 436 U.S. 149, 155 (1978)). “The Supreme Court has defined ‘acting under color of law’ as acting with power possessed by virtue of the defendant’s employment with the state.” Edwards v. Wallace Czoty. Coll., 49 F.3d 1517, 1522-23 (11th Cir. 1995) (citation omitted).

7. Plaintiff is further seeking relief against private parties, pursuant to state action doctrine exception of “entanglement,” a form of “abuse of process,” which is “the use of legal process by illegal, malicious, or perverted means, Soldal v. Cook County, where “the Supreme Court found that the private owner of a mobile home park was acting under color of state law when he acted with sheriff’s deputies to seize an individual’s property...The Court found that this conduct constituted state action in violation of the Fourth Amendment because there was not a lawful eviction order or other judicial authorization.”

8. Plaintiff is a Christian, a class of citizen not only protected under the United States Constitution but also protected under 42 U.S. Code § 1985, and is therefore also seeking relief against private parties that did not necessarily operate under color of state law pursuant to sections (2) and (3) of the same. Griffin v. Breckenridge 403 U.S. 88 (1971). Conspiracy to interfere with civil rights: “(2)...if two or more persons conspire for the purpose of impeding, hindering, obstructing, or defeating, in any manner, the due course of justice in any State or Territory, with intent to deny to any citizen the equal protection of the laws, or to injure him or

his property for lawfully enforcing, or attempting to enforce, the right of any person, or class of persons, to the equal protection of the laws...(3)...if one or more persons engaged therein do, or cause to be done, any act in furtherance of the object of such conspiracy, whereby another is injured in his person or property, or deprived of having and exercising any right or privilege of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages occasioned by such injury or deprivation, against any one or more of the conspirators."

#### RESERVATION OF RIGHTS DUE TO FRAUD

9. Plaintiff hereby explicitly reserves his fundamental Right to amend this and all subsequent pleadings, should future events and/or discoveries prove that he has failed adequately to comprehend the full extent of the damages which he has suffered at the hands of the Respondent, the state court, and other involved parties, both named and unnamed, now and at all times in the future. *See* Rules 8, 15, and 18 of the Federal Rules of Civil Procedure.

#### RECORD OF STATE PROCEEDINGS

10. Plaintiff is now proceeding on the basis of the presumption that the FLORIDA state court record will be made available to this Honorable Court upon Notice and Demand for Mandatory Judicial Notice, pursuant to Rules 201 and 902 of the Federal Rules of Evidence, the Full Faith and Credit Clause contained under Article IV of the U.S. Constitution, and 28 U.S.C. § 1449.

#### INCORPORATION OF PRIOR PLEADINGS

11. Plaintiff hereby incorporates by reference all pleadings, papers, and effects heretofore filed or otherwise lodged within the state proceedings the same as if fully set forth herein. (H.I).

#### FACTS AND ARGUMENTS OF THE CASE

12. A Foreign Final Order describing 50/50 shared Parenting Time was entered and recorded on July 7, 2011 (Exhibit BB).

13. Respondent / Mother and attorneys filed Request for Emergency Telephonic Hearing on July 20, 2012 (Exhibit A).

14. Plaintiff specifically complains on matters which go to related federal questions, such as federal criminal jurisdiction within the several States of the Union, and the denial or the inability to enforce, in the courts of a State, one or more rights under any law providing for the equal rights of citizens of the United States, or of all persons within the jurisdiction thereof, to-wit: Plaintiff complains of various systematic and premeditated deprivations of fundamental Rights guaranteed by the U.S. Constitution, by the Constitution of the State of FLORIDA, as lawfully amended (*hereinafter* "FLORIDA Constitution"), and by federal law.

15. On July 20th, 2012, Mrs. Reyes in conjunction with Mrs. Morales while working under the REYES & ARANGO MOORE, P.L. firm (which Mrs. Reyes represented under the legal entity of THE LEGAL DEFENSE FIRM OF SOUTH DADE, P.L., and whose firm Mrs. MOORE also represented), with the help and on behalf of Mrs. Wizel, conspired to violate Plaintiff's civil rights, 42 U.S. Code § 1985, by knowingly, willfully, negligently, and in bad faith misrepresenting information, engaging in Fraud Upon the Court, by providing inaccurate and misleading documentation to obtain an emergency hearing (Exhibit A) with Honorable Judge Mindy Glazer on Mother's motion to suspend time sharing with minor children. Nix v. Whiteside, 475 US 157 - Supreme Court 1986, Hazel-Atlas Co. v. Hartford Co., 322 US 238 - Supreme Court 1944.

16. In violation of due process, Plaintiff did not receive proper notice of the hearing since the motion, notice of emergency hearing and notice of telephonic hearing were all sent to an address different than his at that time (Exhibit A), and which were filed the same day the minor children were improperly removed from Father's shared equal custody, not giving an opportunity to

Father to properly defend against this unwarranted attack, triggering due process relief per defective Notice in Rule 60b. PEYSINA v. DEUTSCHE BANK NATIONAL TRUST COMPANY, Fla: Dist. Court of Appeals, 3rd Dist. 2013. Orner v. Shalala, 30 F. 3d 1307 - Court of Appeals, 10th Circuit 1994.

17. Mrs. Reyes and Mrs. Morales conspired to violate Plaintiff's civil rights after going to the Department of Children and Families' (DCF) offices and not being able to obtain copies of a report of a then still opened and ongoing DCF investigation, went ahead and presented an illegally obtained and outdated copy of a University of Miami Child Protection Team (UM CPT) report dated June 12th, 2012 (Exhibit B).

18. DCF via its agents, Mrs. Lopez and Mrs. Hernandez, under the color of law conspired to violate Plaintiff's civil rights in violation of 42 U.S.C. § 1983, and 42 U.S. Code § 1985. West v. Atkins, 487 U.S. 42,48 (1988) (citing Parratt v. Taylor, 451 U.S. 527, 535 (1981); Flagg Bros., Inc. v. Brooks, 436 U.S. 149, 155 (1978)). Griffin v. Breckenridge 403 U.S. 88 (1971).

19. Mrs. Lopez, working as a DCF Case Coordinator for UM Child Protection Team, in conjunction with Mrs. Hernandez, DCF Investigator, and Mrs. Wizel, conspired to violate Plaintiff's civil rights by conducting a secret UM CPT interview of the minor children without Plaintiff's consent or providing any notice, and then proceeded to give a copy of such report to Mother's attorneys depriving Plaintiff of the opportunity to question and clarify the erroneous conclusions that such report contained, such as asserting that "DCF should refer the children to intensive therapeutic intervention (page 6, Exhibit B)," when they were already receiving such intervention (Exhibit E) without any signs of the allegations made in the erroneous report, in violation of due process also triggering relief per unreliable, child hearsay in Idaho v. Wright, 497 US 805 - Supreme Court 1990 and Whorton v. Bockting, 127 S. Ct. 1173 - Supreme Court

2007. Also in violation of 42 U.S.C. § 1983, and 42 U.S. Code § 1985. West v. Atkins, 487 U.S. 42,48 (1988) (citing Parratt v. Taylor, 451 U.S. 527, 535 (1981); Flagg Bros., Inc. v. Brooks, 436 U.S. 149, 155 (1978)). Griffin v. Breckenridge 403 U.S. 88 (1971).

20. Mrs. Wizel conspired to interfere with Plaintiff's civil rights and acted in concert with government officials, one of the deciding factors used in entanglement, and thus Mrs. Wizel can be held responsible for the requirement to comply with Plaintiff's constitutional rights. Although in general, an individual such as a parent is not responsible to respect one's constitutional rights, there are exceptions to the state action doctrine such as in the instance case of "entanglement," a form of "abuse of process," which is "the use of legal process by illegal, malicious, or perverted means, Soldal v. Cook County, and in violation of 42 U.S. Code § 1985 when private parties conspire to violate the civil right of a class of citizen, in this case, Plaintiff's Christianity, and the practice of praying with his children, Griffin v. Breckenridge 403 U.S. 88 (1971).

21. The CPT report was outdated, unreliable per standards in Whorton v. Bockting, and contained erroneous information that the final DCF report later identified as so, but which was purposely and negligently provided as being true to obtain the emergency hearing and subsequent order (Exhibit C).

22. Based on the allegations outlined in the CPT report, DCF started an investigation and subsequently closed their file (Exhibit D). The DCF report outlined their investigation and on July 18th, 2013, two days prior to the emergency hearing, the investigation officer stated: "As for the children, they continue to go one week with the Father and one week with the Mother."

23. DCF, after meeting with the different parties involved, visiting with the children and visiting the homes of each parent, did not find the children's safety at risk. In the same report, the investigator notes the risk level at (3) due to the prior two reports filed and found to be

without grounds (2011-078791-01, 2011-1907766-01). The prior two reports were filed by the Mother, and both were closed by DCF as “no indicator” after investigation.

24. In addition, Mother made a fourth false DCF accusation (2012-130113-12) on June 6, 2012 at 2:12 a.m., the same day and around the same time that Mother called police to interview 6 year-old daughter, alleging that Father had told minor: “The devil is going to kill everyone. Those bad angels will come kill us and something bad is going to happen” (Exhibit T).

25. Nonetheless, Mrs. Reyes and Mrs. Morales, conspired to violate Plaintiff’s civil rights, 42 U.S. Code § 1985 and purposely misled the court, employing Fraud upon the court while relying on child hearsay due process violations in Whorton v. Bockting, Smith v. State, 931 So. 2d 790 - Fla: Supreme Court 2006 and Nix v. Whiteside, 475 US 157 - Supreme Court 1986, in paragraph 14 of their initial emergency motion stating that “the minor children are in danger while under the supervision of the Father and Stepmother,” something totally contrary to DCF’s findings.

26. Mrs. Reyes and Mrs. Morales conspired to violate Plaintiff’s civil rights, 42 U.S. Code § 1985, knowing that the DCF report would not be in their client’s favor, knowingly, willfully, negligently, and in bad faith provided the CPT report to violate Father’s constitutional rights and separate him from his minor children, triggering relief per Troxel v. Granville.

27. Mrs. Reyes and Mrs. Morales conspired to violate Plaintiff’s civil rights, 42 U.S. Code § 1985, and knew that the CPT report had erroneously assumed that the kids were not attending intensive therapeutic intervention, when in fact they were both attending psychological therapies on a weekly basis under the supervision of a licensed Clinical Psychologist, Dr. Alicia Vidal-Zas, secondary to the two years of separation the kids had suffered when their Mother decided to abscond with them in Nicaragua in disobedience of a divorce decree given in that country

(Exhibit BB), verifying the geographic parental alienation – a verified form of child abuse; further, the same violations are criminalized in Brazil and Mexico.

28. Dr. Vidal-Zas, on June 20, 2012, prepared a summary of treatment sessions of the children (Exhibit E) and on July 23rd, 2012 wrote a letter (Exhibit F) that noted the progress that the children had during the time they were under her care, and that there was no evidence of imminent danger to the children under the Father's care, further verifying the failure of the reliability requirement in Whorton v. Bockting.

29. Further failures of the hearsay reliability requirements in Whorton v. Bockting, are verficiations of Dr. Vidal-Zas's report which are not hearsay, the children were excelling in school, especially the oldest son, whose grades were mostly A and B's (Exhibit G), and who had recently been named STUDENT OF THE MONTH (Exhibit H), one of the proudest moment's in the Father and son's lives.

30. It was not until Mother falsely accused Father of Domestic Violence against her and children by accusing Father of trying to scare the children when praying with them (Exhibit S) and called Police in the middle of the night (Exhibit T) that children began to falsely accuse Father and Father's family as attested in the CPT report performed on 6/12/12 (Exhibit B), employing unreliable due process violations of child hearsay in Whorton v. Bockting.

31. On 8/16/12, attorneys continued violations of Petitioner's 1st and 14th amendment constitutionally protected Parental Rights, due process in Troxel v. Granville, conspired to violate Plaintiff's civil rights, 42 U.S. Code § 1985, by harassing and bullying Father by filing and obtaining another fraudulent emergency motion with the sole purposes of self-profit and to transfer children to a different school through perjury to the courts, stating that the Mother had no free access to the children's records, which is inconceivable, triggering grounds for due

process relief in Hazel-Atlas Co. v. Hartford Co., 322 US 238 - Supreme Court 1944, Nix v. Whiteside, 475 US 157 - Supreme Court 1986, Smith v. State, 931 So. 2d 790 - Fla: Supreme Court 2006. This further alienated children from Father, and selfishly removed them from all their school friends and teachers, something that probably also contributed to the son's poor performance in new school, per Troxel v. Granville.

32. Mrs. Reyes and Mrs. Morales conspired to violate Plaintiff's civil rights, 42 U.S. Code § 1985, by continuing their deceptive modus operandi by preventing Father through subversion of due process requirement of a full evidentiary hearing in Santosky v. Kramer, 455 US 745 - Supreme Court 1982, to present evidence of the independent psychological report paid for and performed by DCF under the supervision of a neutral psychologist, Dr. Michael DiTomasso, (Exhibit I), finding the Father had no psychological reasons for the heavy handed First and fourteenth amendment state sanctioned, constitutionally repugnant Parental Alienation per Troxel v. Granville, through violations of child hearsay and failing reliability standards in Whorton v. Bockting, when reliable evidence demonstrated his children were in a stable, safe, secure environment of the Plaintiff who is a Medical Doctor and engineer, not in any kind of danger under his care.

33. Respondents perpetuate frivolous, vexatious litigation violating due process, designed to harass, annoy and run excess fees; the case is ripe for relief in SPOLTER v. SUNTRUST BANK, Court of Appeals, 11th Circuit 2010.

34. The former judge in the case, Honorable Judge Pedro Echarte, refused to hear this evidence under the color of law when DCF performed the psychological evaluation one day before he had given his order in court. DCF had been trying for weeks before the judge's order to obtain the funds to conduct this psychological evaluation; a simple continuance and an orderly

pretrial conference would have enhanced due process, judicial economy, ultimately benefitting the parent –children relationship in Troxel v. Granville. Lovett v. Clark, Middle Dist. Ga 2011.

35. Respondents conspired to violate Plaintiff's civil rights, 42 U.S. Code § 1985, and also engaged in frivolous, vexatious litigation in SPOLTER v. SUNTRUST BANK through needless opposition to the neutral report of Dr. DiTomasso. Father and children were then abusively subjected to needless delay when he was subsequently forced to pay for another psychological evaluation with a psychologist attorneys had recommended, and who his attorney at that time, Mr. Gerald Adams, had opposed due to conflict of interest and incompetence (Exhibit J), psychologist Vanessa L. Archer:

36. Mrs. Archer was the same psychologist who evaluated the well-known Nubia Barahona case, negligently ignoring evidence that resulted in the death of Nubian Barahona; and as such, Plaintiff was seriously concerned about her professional competence. Please see official DCF reports, (Exhibit W).

37. Mrs. Archer conspired with Mother, and her attorneys to violate Plaintiff's civil rights, 42 U.S. Code § 1985, and as in the Barahona case, Mrs. Archer prejudiced evidence toward the attorneys who had recommended her, while ignoring the children's therapy reports, son's excellent academic performance while with Father, the deteriorating academic performance in the new school, and additional evidence that would have prevented the weighty damage to the Parent – Child relationship incurred from Respondents malfeasance contrary to Troxel v. Granville.

38. Mrs. Archer's evaluation, as in a case that led to Nubias Barahona's death and her siblings' torture, see <http://www.nbcmiami.com/news/local/Barahona-Twins-File-Lawsuit-Against-State-Contractors-140226593.html>, was based on unprofessional practices such as ex

parte communication with Judge (Exhibit X), false and misleading information and contained serious omissions that led to Father's removal of shared equal custody, and the subsequent physical, psychological and academic demise of minor son.

39. In both cases, as the "The Nubia Report" indicated "omission[s] made [by] Dr. Archer's report, [were] at best, incomplete" and unreliable, failing the "rational basis" test, her recommendations lacked basis in fact or law. Dr. Archer's "at best, incomplete" psychological opinions in other cases, led another judge, in the same report, to describe Dr. Archer's testimony value as junk by making the analogy of her testimony as comparable to toxic fast food obtained in a drive-by restaurant (Exhibit W).

40. In further violation of Petitioner's First and Fourteenth Amendment constitutionally protected liberty interests in *Troxel v. Granville*, Dr. Archer's prejudiced evaluation (Exhibit K) negated DCF's findings violating "best evidence rule", and recommended that Father have supervised visitations with his kids prejudicing through religious bigotry, and based on Mother's child hearsay reversed in *Whorton v. Bockting*, and brainwashing modus operandi of the Respondents purposing to destroy the Father Child relationship, the Father's First Amendment Christian beliefs therefore, Father's *Troxel v. Granville* "religious beliefs [were] excessive and intrusive, and likely approach[ed] a fanatic level," without basis in fact, law, reason or due process; then enshrined into law violating *Troxel v. Granville*.

41. Similarly to the Barahona case, Mrs. Archer, instead of reporting to the Judge pertinent information, such as the fact that son had denied what Plaintiff had been accused of in recordings Mrs. Archer had reviewed, please listen to excerpt here: <https://youtu.be/oFlgcp3Gkg0> (full record of recordings already entered in state court docket, and available for review upon request

to state court), went ahead and requested to stop phone communication with children (Exhibit X) because son was contradicting what Mrs. Archer had written in her report.

42. Conspiring to violate Plaintiff's civil rights, 42 U.S. Code § 1985, and in an effort to further deceive the courts, show bias against Plaintiff and violate his due process right, Dr. Archer made a false DCF accusation (2012-223661-01, five false phone accusations in total) against Plaintiff and his family alleging that Plaintiff was burning his one year daughter's legs with an iron (Exhibit Z). The trauma of this false DCF call led to the miscarriage of a 2 months child Plaintiff's new partner and mother of one year old daughter was carrying.

43. Since Dr. Archer's defective report came back, the son's behavior demonstrated the damage qualifying as PTSD from legal abuse as a treatable, billable symptom in the DSM V. Experts in Brazil and Mexico widely recognize this modus operandi as child abuse and I concur. The child's grades and mental health deteriorated, diagnosed with Major Depression, and Post Traumatic Stress Disorder (PTSD), subsequently after six months, all the Legal Abuse and Parental Alienation abuse resulting when Father had near zero contact with his minor children except for a few inconsistent supervised visitations since December of 2012, leaving the children confused and troubled by the inconsistency, not by any action or allegation toward the Petitioner.

44. Without the benefit of an evidentiary hearing and the opportunity to cross-examine Dr. Archer's one-sided evaluation, Judge Echarte gave further orders that negatively affected Father's ability to defend them. Any deprivation of a life, liberty or property constitutionally protected liberty interests requires due process. *Paul v. Davis, 424 US 693* - Supreme Court 1976.

45. After inappropriately reading inadmissible hearsay evidence from Dr. Archer's evaluation, Judge Echarte furiously told Father that he needed to reach an agreement to pay for his ex-wife

attorneys' fees, or that he would force him to do so. Fourth Amendment unreasonable seizure forbids Petitioner required paying attorney fees where due process and violations of constitutionally protected liberty interests have occurred. Bane v Bane, 775 So. 2d 938;2000 Fla. FL SCT 2000.

46. Further Fourth Amendment seizure violations occurred when due process ineffective assistance of counsel occurred pursuant to Strickland v. Washington, 466 US 668 - Supreme Court 1984: Father's attorney at that time, Sabrina Salomon, told Father that he "should agree to pay half of his ex's attorneys fees, or that he would be forced to pay the whole amount since the judge was very angry with him while due process violations have occurred against Petitioner Dr. Jimenez." Bane v Bane, 775 So. 2d 938;2000 Fla. FL SCT 2000.

47. Upon Plaintiff's refusal to agree to pay since this would have prevented him from properly defending his children, his then attorney, replied that the Plaintiff should not worry, since "once they had the opportunity to present their case, they could change the agreement."

48. Later on, Father found out from different legal counsel that agreed orders can not be modified or appealed, and when Father asked his attorney if this was true, she confessed her mistake.

49. Conspiring with opposite counsel to violate Plaintiff's civil rights, 42 U.S. Code § 1985, a few days later, Mrs. Salomon called Father to her office to let him know that she had a conflict of interest, that she had been offered and had accepted a job in a batter women's shelter, and that this prevented her from continuing in his case; here attorney Salomon violated Rules of Ethics by lying to Petitioner resulting in egregious violations of constitutionally protected liberty interests. The case is ripe for relief per Rule 1.540, Nix v. Whiteside, 475 US 157 - Supreme Court 1986,

Stephenson v. Stephenson, 52 So.2d 684, 686 (Fla. 1951), Smith v. State, 931 So. 2d 790 - Fla: Supreme Court 2006.

50. Father requested former attorney to confess her mistake to the courts, but she did not respond to his requests. Subsequently, Father filed a formal complaint with the Florida Bar with supporting evidence as to Mrs. Salomon's actions in this case (Exhibit L), which is still pending.

51. Father believes that Mrs. Reyes and Mrs. Morales' inaccuracies, misrepresentations, and repeated contrived emergencies are not based on fact or law; yet, are litigated under the color of law, not the First and Fourteenth Amendment protections for the Petitioner and child in Troxel v. Granville. These actions are child abuse cloaked under Parental Alienation and legal abuse cloaked under the color of law; Respondents modus operandi represent a form of illegal enterprise for profit, which is based on vexatious litigation (applies to attorneys SPOLTER v. SUNTRUST BANK, Court of Appeals, 11th Circuit 2010); "legal" bullying, intimidation and harassment of their victims, and that as such, it is by definition a form of racketeering. Hazel-Atlas Co. v. Hartford Co., 322 US 238 - Supreme Court 1944, Hazel-Atlas Co. v. Hartford Co., 322 US 238 - Supreme Court 1944, Nix v. Whiteside, 475 US 157 - Supreme Court 1986.

52. This malfeasance by Mrs. Reyes and Mrs. Morales have led to psychological damages qualifying as PTSD deriving from legal abuse pursuant to the DSM V – a billable medical condition, to Father's minor children, most severely to his 12 year old son, who almost a year later of his unwanted alienation and with only very limited supervised visitations with Father, nearly failed subsequent grades leading to his teachers being very concerned for son's deteriorating behavior and grades (Exhibit M).

53. Around the same time, son was diagnosed with Major Depression, Post Traumatic Stress Disorder (PTSD), and ADHD (Exhibit N), and was requiring psychotropic medication, Mother

unilaterally discontinued intensive psychological therapeutic treatments against recommendations by CPT report and Dr. Vidal-Zas. Only a sociopathic parent would deprive their child of much needed treatment.

54. After forced separation – Parental Alienation designed by the Respondents, then enshrined into law and isolated from Father, the son went from being an A/B student, dramatically improving his FCAT scores, and being named student of the month while reunited with Father to nearly falling subsequent school years, and developing the above mentioned medical conditions as PTSD from legal abuse under the DSM V.

55. Respondents malfeasant actions led to Father filing a verified petition for dependency (Exhibit O), which he voluntarily dismissed without prejudice in the hope of getting a re-evaluation with a neutral psychologist to prove that he posed no danger to his children by exercising his First and Fourteenth Amendment Freedom of Religion, Parental Rights in Troxel v. Granville when he prayed with them, as was previously found by DCF's appointed psychologist, Dr. DiTomaso.

56. Because of Mrs. Archer's unprofessional behavior, Father filed complain with the Florida Health Department and received response that before being able to proceed with the investigation, Father would need to request "the judge who presided over the child custody proceeding to appoint another psychologist" (Exhibit Y).

57. Despite Father's strong objection, knowing that Father had reported Mrs. Archer to Health Department, and that Father believed that Mrs. Archer would not be impartial in a new re-evaluation, on October 18, 2013, Judge Scott Bernstein ordered a re-evaluation with Mrs. Archer.

58. In Father's re-evaluation, Mrs. Archer continued to show unprofessional behavior, violated Plaintiff's 1<sup>st</sup> amendment rights, showed bias against Father, and proceeded to try to engender continual patronage from Father, at \$1,800 dollars per psychological evaluation, recommending that Father "should undergo re-evaluation in six months for purposes of assessing if his time-sharing should be expanded, or if a more permanent time-sharing agreement should be reached (Exhibit AA)."

59. Father believes that Mrs. Archer's unprofessional practices amount to a sophisticated form of racketeering where by definition "the potential problem may be caused by the same party that offers to solve it, although that fact may be concealed, with the specific intent to engender continual patronage for this party."

60. Father has also reported Mrs. Archer's unprofessional behavior and other anomalies in this case to Honorable Chief Justice, Bertila Soto, Honorable Florida Chief Justice, Jorge Labarga, and to the Florida Supreme Court Committee on Future of Florida Courts (please see [www.SayNoToPAS.com](http://www.SayNoToPAS.com) for details).

61. Defendants' unprofessional and unethical conducts have intentionally and negligently inflicted mental distress to Father and his children, and have caused severe mental injuries to his son. Furthermore, their intentional misrepresentation of the truth, and repeated contrived emergency motions represent a form of harassment against Father. This racketeering under the color of law survives the standard of a.) *Negligent Infliction of Emotional Distress* and b.) *False Imprisonment* to the child given his verified emotional and academic decompensation in *Mistretta v. Volusia County Dept. of Corrections, 61 F. Supp. 2d 1255* - Dist. Court, MD Florida 1999 and c.) PTSD from *Legal Abuse Syndrome* in the DSM V as a medically treatable symptom of the American Psychological Association.

62. Mrs. Reyes and Mrs. Morales' inaccuracies and misrepresentations have caused injuries to Father's children, most specifically to his son, who may have to suffer of Major Depression and PTSD symptoms for the rest of his life due to do the illegal actions of these attorneys.

63. As per evidence presented above, Father poses no danger to minor children. However, Father's relationship with children continued to be hindered and was relegated to supervised visitations from December 2012 to October 2013, as attested by visitation notes (Exhibit P).

64. Father believes that forcing him to pay to see his children under supervision for the sole reason of praying of with them is not only a violation of his First and Fourteenth Amendment constitutional rights in Troxel v. Granville, but that this amounts to asking for a ransom for his children, and he does not negotiate with kidnappers, similar to *False Imprisonment* in Mistretta v. Volusia County Dept. of Corrections, 61 F. Supp. 2d 1255 - Dist. Court, MD Florida 1999.

65. Mother has failed to ensure children's psychological therapies on a consistent basis (Exhibit Q) since ordered by the court, something that further harmed minor children, and their relationship with Father also verifying *Negligent Infliction of Emotional Distress* in Mistretta v. Volusia.

66. Most recently, Mother fired son's therapist, Mr. Gregorio Brown (305-968-5338), after he had offered to visit children at Father's home when reunification had started, which he believed should happened as soon as possible to avoid any further psychological harm to minor children, especially to son.

67. Conspiring to violate Plaintiff's civil rights, 42 U.S. Code § 1985, opposite counsel requested Guardian Ad Litem (GAL), Mrs. Anastasia M. Garcia, to be appointed to the case.

68. Mrs. Garcia conspired to violate Plaintiff's civil rights, 42 U.S. Code § 1985, by consistently ignoring the evidence in the case, which led to minor children deterioration.

69. On numerous and repeated occasions Father requested Mrs. Anastasia M. Garcia to intercede on behalf of minor children, as is her duty of GAL, but she failed to do so to this day. Mistretta Ibid.

70. On December 14<sup>th</sup>, 2014, in light of son's psychological and physical deteriorating condition, Father once again reached out to GAL stating: "Unless you have found verifiable evidence that I pose some kind of danger to the children, it is your duty as the GAL, to make a report and allow the children to have a relationship with their father." Furthermore, Father quoted in his e-mail a portion of Chapter 39 of Florida Statutes that required the GAL to proceed as Father was requesting, and which in violation of due process, the GAL had continually violated (Exhibit U).

71. On December 18<sup>th</sup>, 2014, Mrs. Garcia further conspiring to violate Plaintiff's civil rights, 42 U.S. Code § 1985, upset and in retaliation to Father's e-mail filed a biased and unlawful motion for payment of fees from Father only, in violation of prior court order requiring both parents to pay her fees.

72. On top of the above mentioned failures, the Mrs. Garcia failed to comply with numerous requirements established by Florida Law and by GAL organizations such as the FLORIDA GUARDIAN AD LITEM PROGRAM.

73. For instance, the GAL has not visited and/or monitored the children on a regular basis, negligently allowing the worsening of minor children's psychological and physical conditions; has participated in Father's religious discrimination by not allowing contact with children solely based on Father's religious views; and has engaged in ex parte communication with the judge showing clear bias against father as the motion filed by her shows (Exhibit U).

#### ADDITIONAL ALLEGATIONS

**74. The Court violated Plaintiff's First Amendment right of free exercise of religion when it ordered that Plaintiff was to have only supervised visitation and banned telephonic communications between Plaintiff and minor children on the basis of Dr. Archer's Psychological Evaluation Report, which alluded to Plaintiff's inability to parent the minor children due to Plaintiff's religious practices and beliefs.**

75. A curtailment upon a parent's right to free exercise of religion constitutes an impermissible infringement on religious freedom. *Troxel v. Granville*, *Rogers v. Rogers*, 490 So. 2d 1017, 1019 (Fla. 1<sup>st</sup> DCA 1986). Although a trial court may consider religion as a factor in a custody determination, it may not condition award of custody upon the curtailment of the parent's religious activities or beliefs, as such a restriction would interfere with the parent's free exercise rights. *Briskin v. Briskin*, 660 So. 2d 1157, 1159 (4<sup>th</sup> DCA 1995).

76. Furthermore, Plaintiff is not only free to teach his own religious practices to his children, but he is also an expert in raising his own children, his children have a right to be raised and nurtured by him until the state proves parental unfitness, which in this case, never did. *Brokaw v. Mercer County*, (2000), U.S. Court of Appeals, 7th Circuit, "Parents and children have a well-elaborated constitutional right to live together without governmental interference...Equally fundamental is the substantive due process right of a child to be raised and nurtured by his parents...Until the state proves parental unfitness, the child and his parents share a vital interest in preventing erroneous termination of the natural relationship...We recognize that the forced separation of parent from child, even for a short time, represents a serious infringement upon both the parents' and child's rights...Thus, substantive due process provides the appropriate vehicle for evaluating the constitutionality of the nearly four-month government-forced separation of C.A. from his parents...The due process clause of the Fourteenth Amendment

prohibits the government from interfering in the familial relationship unless the government adheres to the requirements of procedural and substantive due process...The Supreme Court has long recognized as a component of substantive due process the right to familial relations...("Parents and children have a well-elaborated constitutional right to live together without governmental interference."); ... ("We recognize the constitutionally protected liberty interests that parents have in the custody, care and management of their children.")... The Due Process Clause "includes a substantive component that provides heightened protection against government interference with certain fundamental rights and liberty interests."...These decisions recognize that the right of a man and woman to marry, and to bear and raise their children is the most fundamental of all rights — the foundation of not just this country, but of all civilization...Equally fundamental is the substantive due process right of a child to be raised and nurtured by his parents....("We recognize that the forced separation of parent from child, even for a short time, represents a serious infringement upon both the parents' and child's rights.") ... ("a child's right to family integrity is concomitant to that of a parent"). Thus, substantive due process provides the appropriate vehicle for evaluating the constitutionality of the nearly four-month government-forced separation of C.A. from his parents. ... ("[I]t is evident that there was interference with plaintiffs' rights of familial association because L.B. was physically removed from her home and from her parents for a period of almost 18 hours, which included an overnight stay in a pre-arranged shelter home... ("The due process clause of the Fourteenth Amendment prohibits the government from interfering in the familial relationship unless the government adheres to the requirements of procedural and substantive due process."))"

77. This was also a violation of Plaintiff's liberty interests in directing the upbringing and education of children under his control. *Feist v. Lemieux-Feist*, 793 NW 2d 57.

78. Allowing a court to select one parent's religious beliefs and practices over the other's, in the absence of a clear showing of harm to the child, would constitute a violation of the First Amendment, Troxel v. Granville, Mesa v. Mesa, 652 So. 2d 456 (Fla. 4th DCA 1995). Hence, the trial court's child custody determination must be predicated on evidence of harm, as opposed to mere speculation of harm to the child. Mendez v. Mendez, 527 So. 2d 820, 821 (Fla. 3d DCA 1987). "Harm to the child from conflicting religious instructions or practices...should not be simply assumed or surmised; it must be demonstrated in detail." *Id.* Otherwise, interference with religious matters in child custody cases absent an affirmative showing of compelling reasons for such action is tantamount to a manifest abuse of discretion. *Id.* The Respondents have not met the burden of proof which is on them.

79. In the instant case, on December 7, 2012, the Court ruled that Petitioner was to have only supervised visitation and that there was to be no telephonic communications between Petitioner and the minor children. In making its determination, the Court heavily relied on Dr. Archer's Psychological Evaluation Report. In said report, Dr. Archer expressed apprehension as to Petitioner's ability to parent the minor children as a result of Petitioner's religious practices and beliefs. Dr. Archer concludes based on subjective opinion – not on standards in Troxel v. Granville nor demonstrated verified harm to the child, that Petitioner be allowed only supervised visitation, as she "remains extremely concerned about the emotional safety of the children if left unsupervised in his care" due to what she describes as Petitioner's "fanatical", "excessive", and "intrusive" religious beliefs.

80. Here the children are subjected to Parental Alienation, Emotional Distress and *Negligent Infliction of Emotional Distress* in Mistretta v. Volusia not based on fact, law or constitutionally protected liberty interests in Troxel v. Granville, nor have Respondents demonstrated evidence

required to survive the burden of proof which is on them, not the Plaintiff to prove that he is a fit parent. This error is not trivial since the Respondents' malfeasance has resulted in profound psychological, emotional damage and academic decompensation in the children.

81. SCOTUS has very clearly stated that a natural parent and their child constitutes a natural family. However, under the color of law, Defendants conspired in a form of "entanglement" to break up the natural family based on nothing more than the court's opinion of best interest, intruding impermissibly on "the private realm of family life which the state cannot enter." *Smith v. Organization of Foster Families*, 431 U.S. 816, 862-63 (1977) (Justice Stewart concurring), cited with approval in *Quilloin v. Walcott*, 434 U.S. 246, 255 (1978). "If a State were to attempt to force the breakup of a natural family, over the objections of the parents and their children, without some showing of unfitness and for the sole reason that to do so was thought to be in the children's best interest, I should have little doubt that the State would have intruded impermissibly on 'the private realm of family life which the state cannot enter.'"

82. Except for mere speculation and "concern" for the children's emotional safety, Dr. Archer's report fails to demonstrate evidence of just how Petitioner's religious beliefs are psychologically harming the children. The report lacks evidence showing how Petitioner's religious beliefs, which provide instruction to the child for Truth, Justice and Integrity are harming the children. The Court's December 7th Order is void of any resemblance to First and Fourteenth Amendment inalienable protections for Parental rights in *Troxel v. Granville*; rather, prejudices the Parent Child relationship toward verified, egregious damage, not based on fact, law or constitutional muster. Thus, Respondents violated Petitioner's right to free exercise of religion, as established under the First Amendment and Fourteenth Amendment Parental Rights in *Troxel v. Granville*, when it relied on Dr. Archer's Report in making its determination that

Petitioner was to have only supervised visitation and that telephonic communications between Petitioner and children were to be prohibited pending further order.

83. Moreover, the Respondents' reliance on Dr. Archer's Report and exclusive reliance on Petitioner's religious beliefs as the only factor for their recommendations contained therein, demonstrates that Petitioner's religious beliefs when making their determination, was the only factor prompting the Respondents modus operandi to destroy the Parent Child relationship in Troxel v. Granville. As such, the Court's action constitutes a direct violation of Petitioner's First and Fourteenth Amendment constitutionally protected liberty interest of Parental Rights where their modus operandi to destroy the Parent Child relationship was not based on fact, law or respect for inalienable Parental Rights in Troxel v Granville but subjective opinion, hostile toward the Petitioner's religion.

84. The Court disallowed the due process of a full evidentiary hearing in First, Fourth, Fifth and Fourteenth Amendments. Petitioner was deprived of the sixth amendment constitutional guarantees in Whorton v. Bockting to cross-examine Dr. Archer and her views as to the detrimental effect of Petitioner's religious beliefs, on his ability to parent the minor children as well as demonstration of the children's social, psychological and academic ability in the environment of having their home split by divorce. Notably, Petitioner had recently undergone another psychological evaluation by Dr. Michael DiTomasso to whom Petitioner was referred by Department of Children and Families (DCF). In his evaluation, Dr. DiTomasso offered a contrary opinion and recommendation regarding Petitioner's parenting ability religious beliefs; however, the burden of proof lies on the Respondents, not the Petitioner.

**85. The Court violated Petitioner's due process rights when it suspended Petitioner's timesharing and ordered supervised visitation without providing Petitioner with adequate**

**notice of the hearing and an opportunity to cross-examine the evidence in a full evidentiary hearing presented against him. The order lacks due process and is null and void from the onset.**

86. The due process violations give appropriate grounds for relief as the court has done in the following cases: A judgment is void if it is not consistent with Due Process of law. Orner v Shala, 30 F.3d 1307, 1308 (1994); V.T.A., Inc V Airco, INC, 597 F.2d 220, 221 (1979). A judgment reached without due process of law is without jurisdiction and thus void. Bass v. Hoagland, 172 F.2d 205, 209 (1949). Any motion for relief from a void judgment is timely regardless of when it is filed. V.T.A., inc. v Airco, Inc. supra @224 (footnote no. 9). If a judgment is void, it is a nullity from the outset and any Civ. R 60(B) motion is therefore filed within a reasonable amount of time. Orner v. Shalala, supra @1308. If voidness of judgment is found then relief from judgment is also not discretionary and any order based upon that judgment is also void. V.T.A., Inc V. Airco, Inc., 221; Venable v. Haislip, 721 F.2d 297, 298 (1983).

87. SCOTUS and Florida courts have repeatedly held that it is a violation of a parent's due process rights for a court to temporarily modify child custody without providing the parent notice and opportunity to be heard. See Ryan v. Ryan, 784 So. 2d 1215, 121 7-18 (Fla. 2d DCA 2001); Wilson v. Roseberry, 669 So. 2d 1152, 1154 (Fla. 5<sup>th</sup> DCA 1996); Gielchinsky v. Gielchinsky, 662 So. 2d 732, 733 (Fla. 4<sup>th</sup> DCA 1995). Only under extraordinary circumstances may a court enter an order granting a motion for temporary custody of a child without providing notice to the opposing party. Loudermilk v. Loudermilk, 693 So. 2d 666, 667-8 (Fla. 2d DCA 1997). Such an order requires an emergency situation such as where a child is threatened with harm, or where the opposing party plans to improperly remove the child from the state. *Id.* at 668.

88. In the instant case, the Petitioner was not afforded due process. First, Petitioner was not given notice of the July 20th hearing where the court granted Respondent's Emergency Motion to Suspend Timesharing and ordered that he be allowed only supervised visitation with the minor children pending further order of the Court. Respondent had filed the Emergency Motion to Suspend Timesharing and that very same day the Court held a telephonic hearing to address Respondent's Motion without providing Petitioner adequate notice thereof. In fact, Petitioner received actual notice of the July 20<sup>th</sup> telephonic hearing only after answering the telephone and being addressed by the Judge who was already presiding over the hearing. Furthermore, in making its determination, the Court based its decision on hearsay evidence failing standards of burden of proof and did not provide Petitioner with the opportunity to cross-examine the evidence presented against him in the required full evidentiary hearing. Here, no emergency existed.

89. Specifically, the Court relied on the University of Miami Child Protection Team Report ("CPT Report"), which was presented at the hearing and attached to Respondent's Motion. Hence, Petitioner did not have the opportunity to cross-examine the expert witness/es responsible for writing the CPT Report. The Court simply accepted and adopted the CPT report and the child hearsay allegations contained therein, violating *Whorton v. Bockting*, as "truth" to the detriment of Petitioner, and then suspended Petitioner's Parental Rights in *Troxel v. Granville* without providing him with the opportunity to meaningfully present his case. Moreover, the Court was not advised of the fact that two frivolous DCF investigations had been previously investigated and closed with a finding of "no indicator" as to the allegations of abuse by Petitioner. Neither was the court advised of the final DCF investigation, from which the CPT Report was issued and upon which the Court had relied in making its determination, was actually closed on July 20,

2012, the same day the telephonic hearing was held. This denial of his due process rights in July, resulted in Petitioner and the minor children having no contact for the next five months, and supervised visitations until October 26, 2013, last day that Petitioner had any contact with minor children after being forced to pay a second evaluation with fraudulent and conspiring psychologist, Vanessa Archer, who requested repeated patronage with her in the form of re-evaluations every six months (Exhibit AA).

90. Moreover, on December 7, 2012, the Court ordered that Petitioner shall continue supervised timesharing and that there shall be no telephonic communications between him and the minor children. Once again, the Court relied on mere hearsay allegations in pleadings violating *Whorton v. Bockting* in making its determination to violate Petitioner's Parental Rights in *Troxel v. Granville*. The Court's decision was based on Dr. Vanessa Archer's Psychological Evaluation Report which expressed subjective opinion lacking evidence as to Petitioner's ability to parent the minor children due to what the psychologist personal opinion characterized as Petitioner's "fanatical", "excessive", and "intrusive" religious beliefs. Respondents' neither allowed required due process of a full evidentiary hearing, nor cross-examination of Dr. Archer, nor allowed evidence to contradict her allegations. As such, Petitioner was deprived of his due process and Parental rights in both the July 20th telephonic hearing and the December 7<sup>th</sup> hearing.

91. Additionally, there was no emergency situation which would require the Court to bypass Petitioner's due process rights when ordering the modification of Petitioner's timesharing. Although Respondent raised allegations of abuse by the Petitioner towards the minor children, these allegations were proven time and again to be unfounded. In fact, the Department of Children and Families had twice investigated the abuse allegations and closed out the

investigations with a finding of “no indicator”. Additionally, Dr. Archer’s report acknowledges that Petitioner poses no risk of physical abuse or harm to the minor children.

**92. Res Judicata and Due Process. The Court erred by improperly modifying the terms of the foreign divorce decree and relitigating the issues that have already been litigated with full notice and opportunity to be heard in the foreign court, a court of competent jurisdiction without the required showing of a change of circumstances.**

93. Florida courts are willing to recognize judgments of dissolution rendered in foreign countries under principles of comity or voluntary cooperation. See *Pawley v. Pawley*, 46So. 2d 464 (Fla. 1950). In order to be entitled to comity, the foreign judgment must incorporate the elements which would support it if it had been rendered in Florida. See *Gonzalez v. Rivero, Melero, and Option One Mortgage Corp*, 51 So. 3d 534 (Fla. App. 2010). For instance, the grounds relied upon for divorce must be sufficient under Florida law. Jurisdictional requirements pertaining to residency or domicile and basic due process and notice requirements must also be met. *Id.* at 535.

94. Moreover, Res Judicata in *Gonzalez v. Rivero, et al.*, the Court found that to allow the relitigation of issues that have been fully litigated in a foreign court of competent jurisdiction where full notice and opportunity to be heard has been provided to both parties, violates the principles of comity. In that case, one of the parties to the divorce attempted to invalidate the sale of jointly owned property located in Miami that had been authorized and approved by a Spanish court after proper notice and opportunity to be heard had been provided to both parties to the proceeding. The Court indicated that the party was now collaterally estopped from pursuing further litigation. *Id.* See also *Al-fassi v. Al-fassi*, 433 So. 2d 664 (3d DCA 1983) (foreign country court decree relating to child custody).

95. In Popper v. Popper, 595 So. 2d 100 (Fla. 5<sup>th</sup> DCA 1992), the Court held that a party was barred from collaterally attacking a foreign divorce decree. In that case, one of the parties was attacking a Mexican decree which had incorporated a separation agreement that provided for the support and custody of the parties' children. In making its determination, the Court reasoned that the party seeking to attack the foreign judgment had personally appeared before the Mexican court and acquiesced to the court's jurisdiction. *Id.* at 103. As such, he was barred from attacking the validity of the foreign decree.

96. Similarly, in Pawley v. Pwley, 46 So. 2d 464(Fla.), *cert denied*, 340 US. 866, 95 L. Ed, 632, 71 S. Ct 90 (1950), which involved a post-dissolution action for alimony, where the final judgment of dissolution was based on constructive service, the Court held that the party seeking to attack the foreign judgment was barred by laches and equitable estoppel from questioning the validity of the foreign divorce decree. *Id.* at 474. The Court reasoned that the party had chosen to ignore the foreign proceedings and to "sit by idly, silently and in an attitude of acquiescence..." and therefore was estopped from questioning the validity of the foreign divorce decree. *Id.* at 473-474.

97. The Court has also stressed the importance of finality of judgments in dissolution of marriage proceedings. For instance, in Davis v. Dieujuste, 496 So. 2d 806 (Fla. 1986), the Court held that "where a trial court has acquired jurisdiction to adjudicate the respective rights and obligations of the parties, a final judgment of dissolution settles all such matters as between the spouses evolving during the marriage, whether or not these matters were introduced in the dissolution proceeding, and acts as a bar to any action thereafter to determine such rights and obligations." *Id.* at 5 12. Moreover, even if a Court were authorized to revisit issues that have been settled by a final judgment of dissolution of marriage, such as a custody determination, a

modification of timesharing or parental responsibility in Florida requires a showing of a “substantial, material, and unanticipated change of circumstances.” See Fla. Stat. § 61.13 (3). See Crittenden v Davis, 89 So. 3d 1098 (4<sup>th</sup> DCA 2012).

98. In the instant case, there was a final judgment of dissolution of marriage granted by a Nicaraguan court, a court of competent jurisdiction. After a full hearing, where proper notice and opportunity to be heard was provided to both parties, the Nicaraguan court granted the divorce of the parties and ordered that they were to have equal timesharing of their minor children. As such, the Mother is estopped from questioning the validity of a foreign decree, where she was present at the hearing, and submitted herself to the foreign court’s jurisdiction. Mother should have made her allegations at the original proceedings in Nicaragua, of which she had full notice and opportunity to be heard. As a result, Mother is barred by laches and estoppel from attacking the validity of the foreign decree and modifying the timesharing arrangements duly entered by the Nicaraguan court.

99. Moreover, it is our position that the foreign judgment of divorce was implicitly recognized and granted comity by the Court, as evidenced by the Court issuing a Pick-Up Order in favor of Plaintiff on August 23, 2011. Said Order stated that the minor children were to be placed in the physical custody of Plaintiff in accordance with the stipulations of the Nicaraguan divorce decree.

100. Thereafter, on July 20, 2012, the Court granted Mother’s Motion to Suspend Timesharing and suspends Petitioner’s timesharing without there being a showing of a substantial change of circumstances that would warrant a modification of the timesharing schedule ordered by the Nicaraguan divorce decree. Instead of modifying the timesharing on the basis of the series of the contrived “emergency” motions that have been filed in bad faith, a Supplemental Petition for

modification of timesharing should have been filed in order for the Court to order a modification of timesharing in accordance with Fla. Stat. 61.13 where the parties would have also had an opportunity to present evidence.

101. Upon information and belief, the evidence would have shown that the majority of Mother's allegations originate from a time prior to the Nicaraguan divorce and as such she is estopped from relitigating the already decided custody issues from the foreign forum.

Federal question as regarding equal rights to care, custody, and control of minor children:

A) A parent's right to raise a child is a constitutionally protected liberty interest in *Troxel v. Granville*. This is a well-established First and Fourteenth Amendment Parental Right in *Troxel* as a constitutionally protected liberty interest. The U.S. Supreme Court long ago noted that a parent's right to "the companionship, care, custody, and management of his or her children" is an interest "far more precious" than any property right. *May v. Anderson*, 345 U.S. 528, 533, 97 L. Ed. 1221, 73 S.Ct. 840, 843 (1952). In *Lassiter v. Department of Social Services*, 452 U.S. 18, 27, 68 L. Ed. 2d 640, 120 S.Ct. 2153, 2159-60 (1981), the Court stressed that the parent-child relationship "is an important interest that 'undeniably warrants deference and absent a powerful countervailing interest protection.'" quoting *Stanley v. Illinois*, 405 U.S. 645, 651, 31 L. Ed 2d 551, 92 S.Ct. 1208 (1972).

B) A parent whose time with a child has been limited to only supervised visitations clearly has had his or her rights to raise that child severely restricted. In *Troxel v. Granville*, 527 U.S. 1069 (1999), Justice O'Connor, speaking for the Court stated, "The Fourteenth Amendment provides that no State shall 'deprive any person of life, liberty, or property, without due process of the law.' We have long recognized that the Amendment's Due Process Clause, like its Fifth Amendment counterpart, 'guarantees more than fair process.' The Clause includes a substantive

component that 'provides heightened protection against governmental interference with certain fundamental rights and liberty interest' and "the liberty interest of parents in the care, custody, and control of their children is perhaps the oldest of the fundamental liberty interest recognized by this Court." Logically, these forms of fundamental violations are inherently a federal question.

C) The compelling state interest in the best interest of the child can be achieved by less restrictive means than supervised visitations or sole custody for that matter. A quarter-century of research has demonstrated that joint physical custody is as good if not better than sole custody in assuring the best interest of the child. As the Supreme Court found in Reno v. Flores, 507 U.S. 292, 301 (1993): "The best interest of the child,' a phrase criterion for making the decision as to which of two parents will be accorded custody; yet, widely abused under the color of law through "judicial discretion as demonstrated here by the Respondents who violated Petitioner's Parental Rights under the color of "best interest". Narrow tailoring is required when constitutionally protected liberty interests based rights are involved. The state must show adverse impact upon the child before restricting a parent's inalienable parental rights in Troxel. The parent-child relationship of a married parent is protected by the equal protection and due process clauses of the Constitution. In 1978, the Supreme Court clearly indicated that only the relationships of those parents who from the time of conception of the child, never establish custody and who fail to support or visit their children are unprotected by the equal protection and due process clauses of the Constitution. Quilloin v. Walcott, 434 U.S. 246, 255 (1978). Clearly, divorced parents enjoy the same rights and obligations to their children as if still married. The state through its family law courts, can impair a parent-child relationship through issuance of a limited visitation order, however, it must make a determination that it has a compelling interest

in doing so. Trial courts must, as a matter of constitutional law, fashion orders which will maximize the time children spend with each parent unless the court determines that there are compelling justifications for not maximizing time with each parent. Throughout this century, the Supreme Court also has held that the fundamental right to privacy protects citizens against unwarranted governmental intrusion into such intimate family matters as procreation, child-rearing, marriage, and contraceptive choice. Planned Parenthood of Southeastern Pennsylvania v. Casey, 505 U.S. 833, 926-927 (1992).

D) Contrary to the state court's repeated disregard for the equal right of this Plaintiff to care, custody, control, and management of his natural minor children, and its corresponding continuum of supervised visitations in favor of the Respondent, the federal Due Process and Equal Protection rights extend to both parents equally. In Caban v. Mohammed, 441 U.S. 380, (1979) the Supreme Court found that a biological father who had for two years, but no longer, lived with his children and their mother was denied equal protection of the law under a New York statute which permitted the mother, but not the father, to veto an adoption. In Lehr v. Robison, 463 U.S. 248 (1983), the Supreme Court held that "[w]hen an unwed father demonstrates a full commitment to the responsibilities of parenthood by 'com[ing] forward to participate in the rearing of his child,' Caban, [citations omitted], his interest in personal contact with his child acquires substantial protection under the Due Process Clause." (Id. at 261-262). To further underscore the need for courts to consider the constitutional protections which attach in family law matters, one need only look to recent civil rights decisions. In Smith v. City of Fontana, 818 f. 2d 1411 (9th Cir. 1987), the court of appeals held that in a civil rights action under 42 U.S.C. section 1983 where police had killed a detainee, the children had a cognizable liberty interest under the due process clause. The analysis of the court included a finding that "a

parent has a constitutionally protected liberty interest in the companionship and society of his or her child.” Id. at 1418, citing Kelson v. City of Springfield, 767 F. 2d 651 (9th Cir. 1985). In Smith the court stated "We now hold that this constitutional interest in familial companionship and society logically extends to protect children from unwarranted state interference with their relationships with their parents." Id. In essence, the Supreme Court has held that a fit parent may not be denied equal legal and physical custody of a minor child without a finding by clear and convincing evidence of parental unfitness and substantial harm to the child, when it ruled in Santosky v. Kramer, 455 U.S. 745, 753 (1982), that “[t]he fundamental liberty interest of natural parents in the care, custody, and management of their child is protected by the Fourteenth Amendment.”

102. In the instant state proceedings, Petitioner has been continually deprived of the full right to equal care, custody, control, and management of the minor children, and the same approaching **three years**, without any requisite showing of past or potential harm – of any kind – upon the minor children, while, instead and contrarily, Respondent has been consistently documented in acts of minor to medium psychological abuse towards the children, long-ranging neglect of several important matters regarding the children, such as academic performance, removal of children from therapists, and, a general haphazard disdain for the minor children’s welfare, needs, and emotional stability... yet, the state court essentially coddles Respondents’ complicit behavior *against* and under color of the best interests of the children, and has gone to extraordinary lengths to clandestinely perpetrate these egregious manifestations of contrived emergencies conspiring to violate due process resulting in constitutionally repugnant First and Fourteenth Amendment Parental Alienation per SCOTUS in Troxel v. Granville.

103. This petition for removal is strictly *not* about a typical domestic relations action versus what would be the expected reluctance of a federal court to exercise jurisdiction over the same; this cause inures to the very *essence* of the enactment and purpose of 28 USC §§ 1441 and 1443: to provide for a federal remedy when a person “is denied or cannot enforce in the courts of such State a right under any law providing for the equal rights of citizens of the United States, or of all persons within the jurisdiction thereof”

#### NOTICE OF PRO SE RIGHTS

104. Pro se pleadings are always to be construed liberally and expansively, affording them all opportunity in obtaining substance of justice, over technicality of form. *Maty v. Grasselli Chemical Co.*, 303 U.S. 197 (1938); *Picking v. Pennsylvania Railroad Co.*, 151 F.2d 240 (3rd Cir. 1945); *Jenkins v. McKeithen*, 395 U.S. 411, 421 (1959); *Haines v. Kerner*, 404 U.S. 519, 520-21, 92 S.Ct. 594, 596, 30 L.Ed.2d 652 (1972); *Cruz v. Beto*, 405 U.S. 319, 322, 92 S.Ct. 1079, 1081, 31 L.Ed.2d 263 (1972); *Puckett v. Cox*, 456 F. 2d 233 (6th Cir. 1972).

105. If the court can reasonably read the submissions, it should do so despite failure to cite proper legal authority, confusion of legal theories, poor syntax or sentence construction, or a litigant's unfamiliarity with particular rule requirements. *Boag v. MacDougall*, 454 U.S. 364, 102 S.Ct. 700, 70 L.Ed.2d 551 (1982); *Estelle v. Gamble*, 429 U.S. 97, 106, 97 S.Ct. 285, 50 L.Ed.2d 251 (1976) (quoting *Conley v. Gibson*, 355 U.S. 41, 45-46, 78 S.Ct. 99, 2 L.Ed.2d 80 (1957)); *Haines v. Kerner*, 404 U.S. 519, 92 S.Ct. 594, 30 L.Ed.2d 652 (1972); *McDowell v. Delaware State Police*, 88 F.3d 188, 189 (3rd Cir. 1996); *United States v. Day*, 969 F.2d 39, 42 (3rd Cir. 1992); *Then v. I.N.S.*, 58 F.Supp.2d 422, 429 (D.N.J. 1999); and, etc., along with numerous similar rulings.

106. When interpreting pro se papers, this Court is required to use its own common sense to determine what relief that party either desires, or is otherwise entitled to. S.E.C. v. Elliott, 953 F.2d 1560, 1582 (11th Cir. 1992). See also, United States v. Miller, 197 F.3d 644, 648 (3rd Cir. 1999) (court has a special obligation to construe pro se litigants' pleadings liberally); Poling v. K. Hovnanian Enterprises, 99 F.Supp.2d 502, 506-07 (D.N.J. 2000); and, etc.

107. Indeed, the courts will even go to particular pains to protect pro se litigants against consequences of technical errors if injustice would otherwise result. U.S. v. Sanchez, 88 F.3d 1243 (D.C.Cir. 1996). Moreover, "the court is under a duty to examine the complaint to determine if the allegations provide for relief on ANY possible theory." (emphasis added) See, e.g., Bonner v. Circuit Court of St. Louis, 526 F.2d 1331, 1334 (8th Cir. 1975), Bramlet v. Wilson, 495 F.2d 714, 716 (8th Cir. 1974), Thomas W. Garland, Inc. v. City of St. Louis, 596 F.2d 784, 787 (8th Cir. 1979), Bowers v. Hardwick, 478 U.S. 186, 201-02, 106 S.Ct. 2841, 92 L.Ed.2d 140 (1986), Brooks v. Blue Cross & Blue Shield of Fla., Inc., 116 F.3d 1364, 1369 (11th Cir. 1997), O'Boyle v. Jiffy Lube International Inc., 866 F.2d 88 (3rd Cir. 1989).

#### NOTICE OF RELATED CASES

108. Plaintiff also wishes respectfully to demand mandatory judicial notice, pursuant to Rule 201(d) of the Federal Rules of Evidence, and pursuant to the Full Faith and Credit Clause, of the following related cases supporting and documenting some of the above allegations, to wit:

- a) JUVENILE DIVISION Case No.: D13-15193A-B (D003) (closed); DOMESTIC VIOLENCE DIVISION: Case No.: 12-17840-FC-04 (closed), Case No.: 12-17838-FC-04 (closed), Case No.: 11-10881-FC-04 (closed).

109. There is a sufficient pattern of judicial abuse to substantiate that Judge Ariana Fajardo's jurisdiction over the instant state action was most likely *void ab initio*, and even if not, that any attempt at continuing exercise over the state proceedings *is* void.

110. Plaintiff has a federal question right to full and equal lawful treatment in a state court of law, and according to the various protections under not only the Florida Constitution, but more importantly under those of the U.S. Constitution and federal law.

111. Plaintiff has a federal question right for the protection of both the Parent, and parent child relationship to remove the instant state proceedings, under 28 USC §§ 1441 and 1443, in order to be free from the denial of such equal civil rights and treatment established by the above allegations. *Achumba v. Neustein*, 793 So. 2d 1013 - Fla: Dist. Court of Appeals, 5th Dist. 2001. *DEPT. OF HEALTH & REHAB. SERVICES v. Privette*, 617 So. 2d 305 - Fla: Supreme Court 1993. *RHB v. JBW*, 826 So. 2d 346 - Fla: Dist. Court of Appeals, 2nd Dist. 2002, *Troxel v. Granville*, 530 US 57 - Supreme Court 2000.

112. Plaintiff has a federal question right to the liberty interests in directing the upbringing and education of children under his control, *Feist v. Lemieux-Feist*, 793 NW 2d 57 – SD: Supreme Court 2010, to remove the instant state proceedings, under 28 USC §§ 1441 and 1443, in order to be free from the denial of such equal civil rights and treatment established by the above allegations.

113. Plaintiff has a federal question right of due process violations to remove the instant state proceedings, under 28 USC §§ 1441 and 1443, in order to be free from the denial of such equal civil rights and treatment established by the above allegations, and giving appropriate grounds for relief as the court has done in the following cases: A judgment is void if it is not consistent with Due Process of law. *Orner v Shala*, 30 F.3d 1307, 1308 (1994); *V.T.A, Inc V Airco, INC*,

597 F.2d 220, 221 (1979). A judgment reached without due process of law is without jurisdiction and thus void. Bass v. Hoagland, 172 F.2d 205, 209 (1949). Any motion for relief from a void judgment is timely regardless of when it is filed. V.T.A., inc. v Airco, Inc. supra @224 (footnote no. 9). If a judgment is void, it is a nullity from the outset and any Civ. R 60(B) motion is therefore filed within a reasonable amount of time. Orner v. Shalala, supra @1308. If voidness of judgment is found then relief from judgment is also not discretionary and any order based upon that judgment is also void. V.T.A., Inc V. Airco, Inc., 221; Venable v. Haislip, 721 F.2d 297, 298 (1983). Santosky v. Kramer, 455 U.S. 745, 102 S.Ct. 1388, 71 L.Ed.2d 599 (1982), DEPT. OF HEALTH & REHAB. SERVICES v. Privette, 617 So. 2d 305 - Fla: Supreme Court 1993 Parental Rights, Achumba v. Neustein, 793 So. 2d 1013 - Fla: Dist. Court of Appeals, 5th Dist. 2001.

114. Plaintiff has a federal question right pursuant to 42 U.S.C. § 1983 to remove the instant state proceedings, under 28 USC §§ 1441 and 1443, in order to be free from the denial of such equal civil rights and treatment established by the above allegations, where Defendants acting under color of state law deprived and violated Plaintiff's First Amendment, Due Process rights, and other federal rights. West v. Atkins, 487 U.S. 42,48 (1988) (citing Parratt v. Taylor, 451 U.S. 527, 535 (1981); Flagg Bros., Inc. v. Brooks, 436 U.S. 149, 155 (1978)). "The Supreme Court has defined 'acting under color of law' as acting with power possessed by virtue of the defendant's employment with the state." Edwards v. Wallace Cnztv. Coll., 49 F.3d 1517, 1522-23 (11th Cir. 1995) (citation omitted).

115. Plaintiff has a federal question right against a private party, pursuant to the state action doctrine exception of "entanglement," a form of "abuse of process," which is "the use of legal process by illegal, malicious, or perverted means, Soldal v. Cook County, to remove the instant

state proceedings, under 28 USC §§ 1441 and 1443, in order to be free from the denial of such equal civil rights and treatment established by the above allegations.

116.Plaintiff has a federal question right pursuant to 42 U.S. Code § 1985 to remove the instant state proceedings, under 28 USC §§ 1441 and 1443, in order to be free from the denial of such equal civil rights and treatment established by the above allegations.

117.Petitioner has a federal question right, under the protections of the Civil Rights Act of 1964, et seq., and as interpreted by the U.S. Supreme Court to *include* prohibitions against discrimination based on sex or gender, to now remove the instant state proceedings, under 28 USC §§ 1441 and 1443, in order to be free from the denial of such equal civil rights and treatment established by the above allegations.

118.Plaintiff has a federal question right, under the protections of 42 USC §§ 3617 and 3631, which include prohibitions against discrimination based on sex or gender, to remove the instant state proceedings, under 28 USC §§ 1441 and 1443, in order to be free from the denial of such equal civil rights and treatment established by the above allegations.

119.Petitioner has a further federal question right, under the protections of 42 USC § 5891, which include prohibitions against discrimination based on sex or gender regarding other matters and allegations expressed *supra*, to remove the instant state proceedings, under 28 USC §§ 1441 and 1443, in order to be free from the denial of such equal civil rights and treatment established by the above allegations.

120.Plaintiff has a further federal question right not to be discriminated as articulated according to the above allegations, under the expressed public policy of the United States of America, by and through certain Acts of Congress strictly specifying the critical value of

protecting children, youth, and family bonds, and the joint responsibilities of federal courts therein. *See* 42 USC §§ 12301, 12351, 12352, 12371, 12635.

121.Plaintiff has a further federal question right to ensure that his minor children are free from experiencing abuse and/or neglect, due to unlawful sex or gender discrimination in awards of child custody, and to ensure that any involved state judicial systems meet or exceed their required corresponding duties under 42 USC §§ 13001, 13003, 13021, 13031.

122.Plaintiff has a further federal question right, under 42 USC §14141, to be free from unlawful violations of civil rights committed by the parties involved in the state proceedings.

123.The above numerous and various rights will, in fact, be consistently violated if these proceedings were ever to be remanded back to said state court, and manifest injury would accrue upon not only this Plaintiff, but also against the obvious best interests of his minor children.

#### NOTICE TO PARTIES

124.Plaintiff now and hereby provides his formal Notice of the above to all interested parties, of record or otherwise, within and surrounding the above-encaptioned state court proceedings.

#### SUMMARY AND PRAYER

125.Plaintiff reiterates that his request for removal to this Court is not just about a supported and reasonable *expectation* of the future manifest deprivation of his various civil rights within said state court, but also that such a deliberately unlawful pattern of the same is well established.

126.Without the immediate intervention, and the exercise of full jurisdiction and authority by this Honorable Court in removing said lower state proceedings, the Plaintiff and his minor children will be otherwise subjected to egregious denial and inability to enforce in said state court one or more rights under the laws providing for the equal rights of citizens of the United

States, and will be likewise unlawfully forced to suffer manifest and irreparable injuries therein, without reasonable remedy.

**WHEREFORE**, the undersigned Plaintiff, MARIO JIMENEZ, requests a Jury Trial and now prays for all orders void of due process in state court be vacated, and for the removal of the above-encaptioned state court proceedings into, and under, the jurisdiction of this United States District Court, with all speed, ordering to reinstate the order granted by Honorable Judge Robert N. Scola on October 6, 2011 (Exhibit R) which restored Father's 50/50 timesharing with the minor children in accordance with the divorce decree of the Nicaraguan Court, and which was the order in effect prior to the inappropriately filed emergency motion of July 20, 2012; to order Defendants to pay all plaintiff's attorneys fees and costs associated and derived from Defendant's negligent filing of the misleading CPT report; and to order the payment of \$10,000,000.00 (ten million dollars) in compensatory and punitive damages to be shared by Defendants for the life-long negative physical, and psychological consequences that Defendants' actions have caused to plaintiff's children and family, especially to his oldest son, and grant any and all other relief deemed just and proper in the premises.

Respectfully submitted,

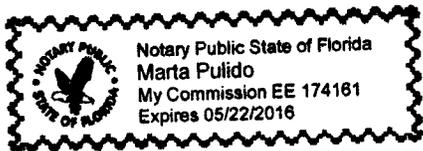


Mario Jimenez, M.D.  
Pro Se Plaintiff

VERIFICATION

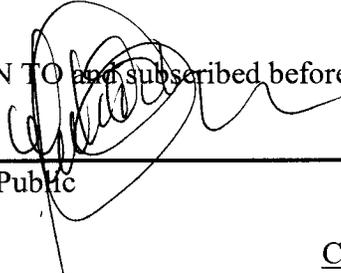
I hereby declare, verify, certify and state, pursuant to the penalties of perjury under the laws of the United States, and by the provisions of 28 USC § 1746, that all of the above and foregoing representations are true and correct to the best of my knowledge, information, and belief.

Executed at MIAMI, FLORIDA, this 28 day of March, 2015.



  
Mario Jimenez/M.D.  
Pro Se Plaintiff

SWORN TO and subscribed before me this 28 day of March 2015.

  
\_\_\_\_\_  
Notary Public

CERTIFICATE OF SERVICE

I hereby certify that, on this 28 day of March, 2015, a true and complete copy of the foregoing amended petition for removal, by depositing the same in the United States mail, postage prepaid, has been duly served upon all parties of record in the lower state proceedings, and all defendants, to-wit:

Attorney for Former Wife:  
Ana C. Morales, Esq.,  
901 Ponce de Leon Blvd., 10<sup>th</sup>  
Floor. Coral Gables, Fl 33134

Guardian Ad Litem:  
Anastasia Garcia  
2100 Ponce de Leon  
Boulevard, Suite 980  
Coral Gables, Fl 33134  
pleadings@anastasiaw.com

MELYSSA LOPEZ, Case  
Coordinator/ UM Child  
Protection Team.  
1150 NW 14 street, Suite 212  
Miami, Fl 33136

REYES , YVETTE B/THE  
LEGAL DEFENSE FIRM OF  
SOUTH DADE, P.L.  
901 Ponce de Leon Blvd., 10<sup>th</sup>  
Floor. Coral Gables, Fl 33134

MOORE, MARGARITA  
A/MARGARITA ARANGO  
MOORE, PA  
5511 SW 65 CT  
MIAMI, FL 33155

ARCHER, VANESSA/  
ARCHER PSYCHOLOGICAL  
SERVICES, P.A.  
1390 SOUTH DIXIE  
HIGHWAY, SUITE 2109  
CORAL GABLES, FL 33146

DEPARTMENT OF  
CHILDREN AND FAMILIES  
THEREZA HERNANDEZ,  
Southern Region Circuit 11  
Regional Counsel's Office  
401 N.W. 2nd Avenue, Suite  
N-1014. Miami, Fl 33128.

SABRINA SALOMON  
5827 Sheridan Street  
Hollywood, Fl 33021

and, that the same is being also filed this same date within the lower state trial court proceedings.

A handwritten signature in black ink, appearing to read 'Mario Jimenez', is written over a horizontal line.

Mario Jimenez, M.D.  
Pro Se Plaintiff

Mario Jimenez, M.D.  
12901 SW 66 Terrace Drive. Miami, Fl 33183  
(305) 386-9988, Marioaj01@yahoo.com

**From:** Anastasia M. Garcia <agarcia821@aol.com>  
**To:** marioaj01@yahoo.com; Cintia@anastasiaw.com; frankpumarejo@gmail.com; amorales@reyesmillier.com  
**Cc:** aalfano998@aol.com; compliance@lawalfano.com; aalfano@lawalfano.com; amorales@reyesmillier.com  
**Sent:** Thursday, December 18, 2014 11:02 AM  
**Subject:** Re: Case No.: 11-21207-FC-04, FAMILY DIVISION.

Mr Jimenez, please allow me to take the opportunity to respond to this email and your other email. First of all, I think there is some confusion regarding my role as a Guardian. I am not the advocate for your children. Apparently you referred to Chapter 39 in your prior email, but this is not a dependency case and I am not a Guardian with the Guardian program as you understand it. This is a family case and I am appointed pursuant to Chapter 61. I do not have the duties that you outlined in your previous email.

As to the therapist, I spoke with the Mother about this issue and she is very disturbed by certain actions of the therapist. I told her that I would discuss these things with Mr. Brown to try to resolve the problem. In any event, I indicated that I did not believe that therapy should be terminated without a Court Order and that if she saw it fit, she needed to file a Motion as only the Court can determine the whether therapy continues with this therapist or another therapist.

I hope the matter gets resolved, that therapy continues until either of you bring this to the attention of the Court.

It is inappropriate for Mr. Brown to be offering any opinions as he is not an expert or evaluator and his communications with the child should be privileged, so I am somewhat concerned about that. But, I will address this with him separately.

I am under no duty to file a report until 20 days prior the final hearing. I suggest that you or the mother get final hearing date as soon as possible.

I had asked you to schedule a phone conference with my office so that you can update me on some things and you indicated your attorney would contact me with the update. With all due respect, I don't need to hear from your attorney, I need a phone conference with you. And, as I reviewed the Court docket, it appears that your attorney has not filed a notice of appearance. I know he is copied on this email, so I need confirmation from him as to whether he is representing you or not,

Finally, both you and the mother have failed to pay my Guardian fee, I will be filing a motion regarding the same. If either of you wish to schedule a payment plan with my office, please call Yenny as she will be more than happy to assist you.

Anastasia M. Garcia, Esq.  
The Law Office of Anastasia M. Garcia, P.A.  
770 Ponce De Leon Blvd.  
Penthouse Suite  
Coral Gables, Florida, 33134  
Phone: (305) 461-5885  
Fax: (305) 461-3670  
E-mail: [agarcia821@aol.com](mailto:agarcia821@aol.com)

-----Original Message-----

**From:** Mario Jimenez <marioaj01@yahoo.com>  
**To:** Anastasia Garcia <agarcia821@aol.com>; Cintia Cini <Cintia@anastasiaw.com>  
**Cc:** Attorney Alexander Alfano <aalfano998@aol.com>; LawAlfano Compliance Alexander Broatch <compliance@lawalfano.com>; aalfano <aalfano@lawalfano.com>; Gregorio Brown <gbrown@icfhinc.org>  
**Sent:** Wed, Dec 17, 2014 5:02 pm  
**Subject:** Re: Case No.: 11-21207-FC-04, FAMILY DIVISION.

Hi Mrs. Garcia,

I am very concerned with information I just received from Dr. Brown in regards to my ex wife unilaterally deciding to discontinue his services. I believe that this will not be in the best interest of my son who has shown great improvement since he has been receiving therapy with Dr. Brown. I believe that this decision was done in retaliation to Dr. Brown's opinion that it is in the best interest of the children to reunite with the father. Dr. Brown has established a great report with my son and I believe that it will be extremely detrimental to my son's mental health to allow the mother to unilaterally

alienate my son from the bond he has formed with Dr. Brown, whom I believe greatly cares for my son. I would like you to please step in and protect my son from further alienation. I would greatly appreciate your attention to this matter. Thank you.

Regards,

Mario A. Jimenez Jerez, M.D.

---

**From:** Mario Jimenez <[marioaj01@yahoo.com](mailto:marioaj01@yahoo.com)>  
**To:** Anastasia Garcia <[agarcia821@aol.com](mailto:agarcia821@aol.com)>; Cintia Cini <[Cintia@anastasiaw.com](mailto:Cintia@anastasiaw.com)>  
**Cc:** "[persistentdisability@gmail.com](mailto:persistentdisability@gmail.com)" <[persistentdisability@gmail.com](mailto:persistentdisability@gmail.com)>; Attorney Alexander Alfano <[aalfano998@aol.com](mailto:aalfano998@aol.com)>; LawAlfano Compliance Alexander Broatch <[compliance@lawalfano.com](mailto:compliance@lawalfano.com)>; "[aalfano@lawalfano.com](mailto:aalfano@lawalfano.com)" <[aalfano@lawalfano.com](mailto:aalfano@lawalfano.com)>  
**Sent:** Wednesday, December 17, 2014 12:42 PM  
**Subject:** Re: Case No.: 11-21207-FC-04, FAMILY DIVISION.

Hi Mrs. Garcia,

Please see attached new motion to strike. I am looking forward to your prompt response to my previous e-mail. Thanks.

Regards,

Mario A. Jimenez Jerez, M.D.

---

**From:** Mario Jimenez <[marioaj01@yahoo.com](mailto:marioaj01@yahoo.com)>  
**To:** Anastasia Garcia <[agarcia821@aol.com](mailto:agarcia821@aol.com)>; Cintia Cini <[Cintia@anastasiaw.com](mailto:Cintia@anastasiaw.com)>  
**Cc:** "[persistentdisability@gmail.com](mailto:persistentdisability@gmail.com)" <[persistentdisability@gmail.com](mailto:persistentdisability@gmail.com)>; Attorney Alexander Alfano <[aalfano998@aol.com](mailto:aalfano998@aol.com)>; LawAlfano Compliance Alexander Broatch <[compliance@lawalfano.com](mailto:compliance@lawalfano.com)>; "[aalfano@lawalfano.com](mailto:aalfano@lawalfano.com)" <[aalfano@lawalfano.com](mailto:aalfano@lawalfano.com)>; "[Casework\\_Rubio@rubio.senate.gov](mailto:Casework_Rubio@rubio.senate.gov)" <[Casework\\_Rubio@rubio.senate.gov](mailto:Casework_Rubio@rubio.senate.gov)>; "[flores.anitere.web@flsenate.gov](mailto:flores.anitere.web@flsenate.gov)" <[flores.anitere.web@flsenate.gov](mailto:flores.anitere.web@flsenate.gov)>; "[garcia.rene.web@flsenate.gov](mailto:garcia.rene.web@flsenate.gov)" <[garcia.rene.web@flsenate.gov](mailto:garcia.rene.web@flsenate.gov)>; "[support@carloscurbelo.com](mailto:support@carloscurbelo.com)" <[support@carloscurbelo.com](mailto:support@carloscurbelo.com)>; "[Rick.Scott@eog.myflorida.com](mailto:Rick.Scott@eog.myflorida.com)" <[Rick.Scott@eog.myflorida.com](mailto:Rick.Scott@eog.myflorida.com)>; "[attorney.general@myfloridalegal.com](mailto:attorney.general@myfloridalegal.com)" <[attorney.general@myfloridalegal.com](mailto:attorney.general@myfloridalegal.com)>; Divorce Corp Outreach <[Outreach@divorcecorp.com](mailto:Outreach@divorcecorp.com)>; Divorce Corp conference2014 <[conference2014@divorcecorp.com](mailto:conference2014@divorcecorp.com)>; "[foxreport@foxnews.com](mailto:foxreport@foxnews.com)" <[foxreport@foxnews.com](mailto:foxreport@foxnews.com)>; "[friends@foxnews.com](mailto:friends@foxnews.com)" <[friends@foxnews.com](mailto:friends@foxnews.com)>  
**Sent:** Sunday, December 14, 2014 10:12 PM  
**Subject:** Re: Case No.: 11-21207-FC-04, FAMILY DIVISION.

Dear Mrs. Anastasia Garcia,

I understand that you've already spoken with Dr. Gregorio Brown (Cell: 305-968-5338). As per my conversation with him, it is his medical opinion that the children need to be reunited with me as soon as possible. As you may have been advised, the children need the involvement of their father, not just limited supervised visitations. To facilitate this, Dr. Brown has even offered to come to our home as he does to the mother's to ensure that the children are re-adapting to their father's home appropriately.

Unless you have found verifiable evidence that I pose some kind of danger to the children, it is your duty as the GAL, to make a report and allow the children to have a relationship with their father. This will be the third consecutive Christmas the children spend without their father. The children have been separated from me because I prayed with them, but let me remind you that DCF has conducted an independent investigation (5 in total since 2011) which cleared me of any wrong doing, and that the kids were receiving weekly therapies and were excelling in school while in my shared custody. Also, after their forced separation, my son has developed Major Depression and PTSD, which were certainly not present while enjoying the presence of their father. It is also important to note that the recommendation to use you as the GAL, as well as to use the psychologist, Vanessa Archer, upon which opinion this whole case is based upon, has come from opposing counsel, Ana C. Morales, and Yvette B. Reyes. Furthermore, I was strongly opposed to Mrs. Archer's appointment to this case, not only for how it has affected my children, but because, in my opinion, her lack of professionalism has contributed to one of the most horrible crimes in Florida history, the death and torture of Nubia Barahona: <http://centerforchildwelfare2.fmhi.usf.edu/kb/bppub/NubiasStory.pdf>

As per Florida Law, "It is the GAL who performs the roles of information gatherer, advocate and monitor on assigned dependency cases. The GAL visits the child a minimum of once every month and keeps the child informed of court proceedings. Using information gathered through child visitations, review of relevant records and interviewing persons involved in the child's life, the GAL submits best interest recommendations to the Court, both in person and through a written report in accordance with Chapter 39, Florida Statutes." Please, see: <http://www.guardianadlitem6.org/PDF/Standards%20of%20Operation-%20July%202012%20FINAL.pdf>

Let me advise you that I have contacted the offices of the Governor, Attorney General, and several of my local officials, as well as several media outlets so they may investigate the constitutional rights violations perpetrated against myself and my children and of all of the anomalies that have transpired in this case. Let me assure you that justice for my children is coming, and it is coming soon. It's only a matter of time. However, "When I despair, I remember that all through history the way of truth and love have always won. There have been tyrants and murderers, and for a time, they can seem invincible, but in the end, they always fall. Think of it—always." — Mahatma Gandhi.

I look forward to seeing a complete written report from your office. A report that I can present to the court in an upcoming emergency hearing. Time is of the essence. Thanks in advance for your cooperation on this matter.

Regards,

Mario A. Jimenez Jerez, M.D.

**From:** Mario Jimenez <[marioaj01@yahoo.com](mailto:marioaj01@yahoo.com)>  
**To:** Anastasia Garcia <[agarcia821@aol.com](mailto:agarcia821@aol.com)>; Cintia Cini <[Cintia@anastasiaw.com](mailto:Cintia@anastasiaw.com)>  
**Cc:** "persistentdisability@gmail.com" <[persistentdisability@gmail.com](mailto:persistentdisability@gmail.com)>; Attorney Alexander Alfano <[aalfano998@aol.com](mailto:aalfano998@aol.com)>; LawAlfano Compliance Alexander Broatch <[compliance@lawalfano.com](mailto:compliance@lawalfano.com)>; "aalfano@lawalfano.com" <[aalfano@lawalfano.com](mailto:aalfano@lawalfano.com)>  
**Sent:** Friday, November 21, 2014 12:01 PM  
**Subject:** Re: Emergency Petition. Please, answer ASAP.

Thanks for your reply Mrs. Garcia. I have temporary counsel, Mr. Alexander Alfano. He will be contacting you to give you an update. Blessings.

Regards,

Mario A. Jimenez Jerez, M.D.  
The Grace of the Lord Jesus be with all.

"but he said to me, "My grace is sufficient for you, for my power is made perfect in weakness." I will all the more gladly boast of my weaknesses, that the power of Christ may rest upon me. For the sake of Christ, then, I am content with weaknesses, insults, hardships, persecutions, and calamities; for when I am weak, then I am strong." (2 Corinthians 12:9-11).

"Y El me ha dicho: Te basta mi gracia, pues mi poder se perfecciona en la debilidad. Por tanto, muy gustosamente me gloriaré más bien en mis debilidades, para que el poder de Cristo more en mí. Por eso me complazco en las debilidades, en insultos, en privaciones, en persecuciones y en angustias por amor a Cristo; porque cuando soy débil, entonces soy fuerte" (2 Corintios 12:9-10).

---

**From:** Anastasia Garcia <[agarcia821@aol.com](mailto:agarcia821@aol.com)>  
**To:** Mario Jimenez <[marioaj01@yahoo.com](mailto:marioaj01@yahoo.com)>; Cintia Cini <[Cintia@anastasiaw.com](mailto:Cintia@anastasiaw.com)>  
**Cc:** "persistentdisability@gmail.com" <[persistentdisability@gmail.com](mailto:persistentdisability@gmail.com)>  
**Sent:** Friday, November 21, 2014 11:31 AM  
**Subject:** Re: Emergency Petition. Please, answer ASAP.

I will reach out to the therapist. Please contact Cintia from my office to schedule an appointment as I need an update on many issues

Thanks

Sent from my iPad

On Nov 19, 2014, at 4:57 PM, Mario Jimenez <[marioaj01@yahoo.com](mailto:marioaj01@yahoo.com)> wrote:

Dear Mrs. Garcia,

I would greatly appreciate you contact my Son's therapist, Dr. Gregorio Brown at 305-968-5338. He and I believe that the separation from my kids, now for almost three years, has been detrimental to their psychological well-being. At least four of their teachers have contacted me very concerned with my son's academic performance and poor behavior since he was separated from my shared custody. Please, see attached exhibits I have filed about this.

I would like to advise you that I have contacted several reporters, and they are very interested in this case. They will be possibly contacting you soon for an interview.

They are very interested in finding out why my religious beliefs have been used to prevent me to freely see my kids now for almost 3 years?

Why the kids who were doing well in school, and were in weekly therapeutic sessions and showed no signs of any type of physical or psychological abuse while under my shared custody, almost a year later, my son was diagnosed with Major Depression and PTSD, with subsequent deterioration of his grades and behavior?

Why in almost in 3 years since the case, the GAL has not provided a single report to the judge?

Why will a GAL oppose immediate reunification with the children when a father is a well-respected member of the community, with no criminal record, but instead has a long history of service to his community as letters of references and character I have attached with the exhibits show?

How can a doctor who specializes in kids as part of his medical training in Family Medicine, who is a Sunday school teacher, be deprived from having unrestricted contact with his children?

Finally, this past Monday, after a year of me insisting to go for mediation, the other party refused to allow me to see my kids every other weekend until the end of the school year, and have Dr. Brown to come to my house on the weekends I have them to have therapy with my son as he usually does at the mother's home, with subsequent full reunification with my kids during the new school year. I am filing an emergency motion making this request, so having your input is essential. Please, make your opinion in writing as soon as possible. Thanks in advance for your help

Regards,

Mario A. Jimenez Jerez, M.D.

The Grace of the Lord Jesus be with all.

"but he said to me, "My grace is sufficient for you, for my power is made perfect in weakness." I will all the more gladly boast of my weaknesses, that the power of Christ may rest upon me. For the sake of Christ, then, I am content with weaknesses, insults, hardships, persecutions, and calamities; for when I am weak, then I am strong." (2 Corinthians 12:9-11).

<Emergency Petition with Summary of Independent Psychological Evaluation by DCF.pdf>

<Emergency Petition with Summary of Independent Psychological Evaluation by DCF.pdf>

Filing # 21788132 Electronically Filed 12/18/2014 04:42:38 PM

IN THE CIRCUIT COURT OF THE 11<sup>TH</sup> JUDICIAL CIRCUIT  
IN AND FOR MIAMI DADE COUNTY, FLORIDA

IN RE: THE MATTER OF:  
**MARIO ALBERTO JIMENEZ**  
Petitioner.

FAMILY DIVISION  
CASE NO. 2011-21207-FC-04

v.

**KAREN WIZEL,**  
Respondent,

**GUARDIAN AD LITEM'S MOTION FOR PAYMENT OF FEES FROM FATHER**

The undersigned Guardian Ad Litem ANASTASIA M. GARCIA, ESQ., hereby files this instant motion, and in support thereof states as follows:

1. On August 1<sup>st</sup>, 2012 the Court appointed ANASTASIA M. GARCIA, ESQ. to serve as Guardian Ad Litem of the parties' minor children, M.J.W., born on 2002 and K.N.J., born on 2005.
2. Both parties were ordered to pay for the Guardian Ad Litem fees.
3. The Guardian letter and instructions stated that both parties were responsible for making a \$2,000.00 retainer payment initially and that once exhausted, a second payment
4. The Father has paid of \$850.00 and the Mother has paid \$100.00 towards the initial retainer.
5. The Father and Mother have failed to pay the Guardian's fees.
6. At this time there is an unpaid balance of \$5,700.00 in Guardian fees. Which the Father is responsible for \$2,000.00 and Mother is responsible for \$3,700.00
7. Although the office of the undersigned has attempted to collect a payment towards the outstanding balance due, the Father and Mother has not made a good faith effort towards payment of the fees incurred for services rendered.

8. Based on the foregoing, the undersigned seeks the Court to enter an order requiring the Father to pay his portion of the balance owed.

**WHEREFORE**, the Guardian Ad Litem prays that the Court enter an Order for an award of Guardian's outstanding fees and a retainer from each party and any other relief this Court deems just and proper.

**CERTIFICATE OF SERVICE**

I **HEREBY CERTIFY** that a true and correct copy of the foregoing was emailed to Ana C. Morales, Esq. Attorney for the Mother, [amorales@reyesmiller.com](mailto:amorales@reyesmiller.com) and Maria Jimenez, [marioaj01@yahoo.com](mailto:marioaj01@yahoo.com) on this \_\_\_\_ day of December, 2014.

*Respectfully Submitted,*

**The Law Office of Anastasia M. Garcia, P.A.**  
770 Ponce De Leon Boulevard  
PH Suite  
Coral Gables, Florida 33134  
Tel: (305) 461-5885  
Fax: (305) 461-3670  
E-mail: [Yenny@anastasiaw.com](mailto:Yenny@anastasiaw.com)

By: \_\_\_\_\_

*FM* **Frank Pumarejo-Martin, Esq.**  
F.B.N. 54527

**Subject:** False DCF accusations levied another life

**From:** Mario Jimenez(marioaj01@yahoo.com)

**To:** vanessa\_miller@dcf.state.fl.us; lauren\_brown@dcf.state.fl.us;

**Cc:** glenn\_broch@dcf.state.fl.us; javier\_ley-soto@dcf.state.fl.us; frances\_faccidomo@dcf.state.fl.us; esther\_jacobo@dcf.state.fl.us; sonia\_de\_escobar@dcf.state.fl.us; lauren\_fuentes@dcf.state.fl.us; info@ssalomonpa.com; info@sabrinasalomonpa.com; agarcia821@aol.com; miami.shrink@gmail.com; yreyes@ramlawus.com; drmichael1950@gmail.com; drerrin@mdpd.com; mfirmi@aol.com; david\_wilkins@dcf.state.fl.us;

**Date:** Thursday, October 18, 2012 10:28 PM

Dear Mrs. Miller and Mrs. Brown,

I would like to update you on case# 2012223661. The false DCF accusations levied against me and **my** partner have led to the lost of another life, a type of violent crime in and of itself. First highly publicized crime was Nubia Barahona's, a victim of a failing system, not able to differentiate between false and true accusations in great part because it does not have the leadership and/or will to crack down on the innumerable number of false DCF accusations that have caused such a huge backlog of cases, but that paradoxically has reported a 50% decline in the official number of suspected false reports. As DCF's 2011 Annual Report to the Legislature points "child protection staff question whether the 'juice is worth the squeeze'", as the excuse to actively crack down and as the downtrend seen in the last few years in reported cases of false DCF reports.

Unfortunately, this time, an 8-week baby in her mother's womb was yet another victim of this failing system. Of course for atheists, left-wing radicals, and many God and truth-distorting individuals, this was not a life, but just tissue, so we should pay no mind. And for the rest of us who believe in the sanctity of life, well we are just too religious to take seriously; wait a minute, they say: why do not we just take their living kids away to teach them a lesson, and shut them up, just like some are trying to do in **my** case.

I believe that God sometimes allows bad things in our lives because He wants to make us aware of the injustices and crimes around us, and He expects us to become His hands in trying to solve them. This is what has made America such a great nation: God loving man and woman such as George Washington, Abraham Lincoln, Frances Willard, Susan B. Anthony, Martin Luther King, Rosa Parks, and many others who on the face of injustices have not turned their backs on them, but felt God's calling to bring these injustices to an end. And in other countries around the world, the same can be said. For instance, it is man like **my** very own ancestor, Máximo Jerez, one of the founders of democracy in **my** native country Nicaragua, and whose first name our unborn child was carrying, who have changed the world for the better. They all believed that we are here as pilgrims for a moment in time, but that their work and suffering, when aligned to God's plan, would bring great benefits to future generations. I believe that this is **my** calling as well. I will make sure that the life of **my** unborn child, Máximo Victorio Jimenez-rapizza, was not in vain.

As for the person(s) involved directly or indirectly in the death of our unborn child, I pray that this

**Exhibit Z, Page 1 of 3**

sin may not be counted against them, but that instead, they may repent and return to God, so that their sins may be wiped away, in order that times of refreshing may come from the presence of the Lord, Jesus Christ in their lives. AMEN.

Regards,

Mario Jimenez Jerez, MD.

"Blessed are you when others revile you and persecute you and utter all kinds of evil against you falsely on my account.<sup>12</sup> Rejoice and be glad, for your reward is great in heaven, for so they persecuted the prophets who were before you." Matthew 5: 11-12.

"Woe unto them that call evil good, and good evil; that put darkness for light, and light for darkness; that put bitter for sweet, and sweet for bitter!<sup>21</sup> Woe unto them that are wise in their own eyes, and prudent in their own sight!<sup>22</sup> Woe unto them that are mighty to drink wine, and men of strength to mingle strong drink;<sup>23</sup> that justify the wicked for a bribe, and take away the righteousness of the righteous from him!<sup>24</sup> Therefore as the tongue of fire devoureth the stubble, and as the dry grass sinketh down in the flame, so their root shall be as rottenness, and their blossom shall go up as dust; because they have rejected the law of Jehovah of hosts, and despised the word of the Holy One of Israel." Isaiah 5: 20-24.

**From:** Mario Jimenez <marioaj01@yahoo.com>  
**To:** "vanessa\_miller@dcf.state.fl.us" <vanessa\_miller@dcf.state.fl.us>  
**Cc:** "glenn\_broch@dcf.state.fl.us" <glenn\_broch@dcf.state.fl.us>; "javier\_ley-soto@dcf.state.fl.us" <javier\_ley-soto@dcf.state.fl.us>; "frances\_faccidomo@dcf.state.fl.us" <frances\_faccidomo@dcf.state.fl.us>; "esther\_jacobo@dcf.state.fl.us" <esther\_jacobo@dcf.state.fl.us>; Sonia De Escobar <sonia\_de\_escobar@dcf.state.fl.us>; Lauren DCF-Program Administrator <lauren\_fuentes@dcf.state.fl.us>; Attorney Sabrina2 <info@ssalomonpa.com>; Attorney Sabrina Salomon <info@sabrinasalomonpa.com>; Anastasia Garcia <agarcia821@aol.com>; Dr. Vanessa Archer <miami.shrink@gmail.com>  
**Sent:** Tuesday, October 2, 2012 8:16 PM  
**Subject:** Another false DCF report. How much longer does it have to go before your department investigates these repeated false accusations

Dear Mrs. Miller,

As per our conversation over the phone tonight, you are by now aware of the new false DCF report filed against my partner/wife, Giorgelina Rapizza, and I, now alleging physical abuse against our 13 month daughter. As you and everyone I am copying in this e-mail knows, I am in the middle of a time-sharing dispute to restore what I had lost for 2 years when my ex-wife, Karen Wizek, had absconded with my children, Mario Simon and Karen Nicole Jimenez-wizek, in Nicaragua. After being back with my kids for a year, my ex's false accusations caused my lost of time-sharing, and has caused tremendous **pain and suffering** to my family and me.

My questions to you and the rest of your department is: how much longer does it have to go before your department investigates these repeated false accusations? It is very clear that the only person with an interest to make these accusations is my ex, and not only that, she is in fact the only one apart from your department, the attorneys involved, and close family that knows where I live, since I intentionally did not register my address publicly to precisely avoid what is happening now.

Karen Wizek has gone too far this time. My wife is now 6 weeks pregnant with our 2nd child, and these false

allegations have caused her severe abdominal pain and cramps causing a **threatened abortion**. If your department does not take immediate action to investigate if Karen Wizer is in any way involved in these false allegations, your department will be in conspiracy with her and it would have blood in its hands, and I assure you that I will take this to the highest authorities and the public arena to make sure that the life of our yet unborn child is not lost in vain. I would greatly appreciate an answer to this e-mail as soon as you receive it. Thank you very much.

Regards,

Mario Jimenez, MD.

JIMENEZ vs WIZEL  
Case No: 2011-21217

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**CONCLUSIONS AND RECOMMENDATIONS:**

Mr. Mario Jimenez was referred for a psychological re-evaluation pursuant to a Court Order. He is presently seeking to have unsupervised contact with his two children.

Results of the current evaluation raise several concerns. There is some suggestion that the children are not being appropriately supported in the attempts to foster a relationship between themselves and Mr. Jimenez. Various statements that they made to the undersigned are consistent with some alienation occurring. For instance, Nicole's repeated expressed fear of her father appears excessive given the amount of time that has transpired since she last had unsupervised contact with her father. In addition, her stated reasons for her fear to not appear to justify the described extent of fear.

That said, the undersigned notes that Mr. Jimenez has done very little to improve his relationship with the children. While the undersigned is sensitive to his reported financial limitations, it is noted that he could be choosing to spend his time with the children in places that are not as costly as Chuck E Cheese or Dennys, such as the beach or a park, with the saved money being used to pay for an additional visit. In addition, his inconsistency in seeing the children is of significant concern given that there are times when he sees the children every other week, and then other times when he does not see them for almost six weeks at a time. The undersigned is aware that the Court shares this concern, and that an Order has been recently entered mandating a more consistent scheduled.

The undersigned also shares the Court's concerns that Mr. Jimenez has not demonstrated much creativity in his selection of where the visits occur. In apparent response to the Court's expressed concern on this matter and reported suggestion of taking the children to the zoo, Mr. Jimenez did in fact take the children to the zoo. He has since made plans to take them to the zoo again for the next visit. This rigid thought pattern is apparently evident in other areas. For example, Mr. Jimenez reportedly brings the same game case to every visit. Likewise, such perseverative thought processes and dogmatic behavior patterns would also explain his religious obsessions, and his repeated and continued attempts to convince others that he has been falsely accused.

Furthermore, the undersigned notes that Mr. Jimenez is not a good historian - especially when it pertains to details. The fact that he does not know his wife's date of birth, nor could he identify the children's teachers is of some concern - especially in light of the fact that he is a medical physician.

Finally, the undersigned is extremely concerned by Mr. Jimenez's apparent lack of interest in having all four of his children develop a bond with one another. His behavior in this regard is clearly abnormal, and his explanation of it is almost illogical. Other observations further support the possibility that Mr. Jimenez has trouble forming emotional bonds with

JIMENEZ vs WIZEL

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other people. He presents with some schizotypal and/or schizoid features.

Based on the above, the following recommendations are suggested:

The undersigned believes that Mr. Jimenez should commence having unsupervised contact with his children. It is stressed, however, that this recommendation does not in any way suggest that the undersigned believes that Mr. Jimenez is capable of assuming full parental responsibilities for his children. Rather, the concern is that his financial limitations have interfered to some extent with his ability to maintain his bond with his children. As such, the unsupervised contact should be limited to no more than two hours once a week - with the understanding that the previously ordered therapeutically supervised time-sharing will continue to occur every other week. This unsupervised time-sharing should occur on the same day each and every week. Extended family members should participate on occasion.

Mr. Jimenez's current wife and two children need to start participating in the visits. Their participation, however, should initially be limited to just the therapeutically supervised visits - and ideally these visits should take place in the home environment given Mr. Jimenez's stated concerns that he and his wife do not believe in exposing their infant to the outside world unnecessarily.

Mr. Jimenez needs to continue to participate in the therapy sessions with Dr. Alvarez. Dr. Alvarez should be provided with the notes from the therapeutic visits. In addition, it is strongly suggested that therapy focus more on the current issues which are interfering with Mr. Jimenez's ability to be an effective parent as opposed to discussing whether or not the children have been alienated by the mother.

Mr. Jimenez should be afforded additional unsupervised time-sharing for the Christmas holidays.

Mr. Jimenez should undergo re-evaluation in six months for purposes of assessing if his time-sharing should be expanded, or if a more permanent time-sharing agreement should be reached.

Thank you for the opportunity to be of assistance.

  
Vanessa L. Archer, Ph.D.  
Clinical Psychologist  
License No. PY0005597

Copies distributed to: Anastasia Garcia, Esq (Guardian ad Litem)  
Melissa Dacuhna, Esq  
Ana Morales, Esq

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA**

CASE NO. 1:15-cv-20821-UU

MARIO JIMENEZ,

Plaintiff,

v.

KAREN WIZEL *et al.*,

Defendants.

\_\_\_\_\_ /

**ORDER OF DISMISSAL**

THIS CAUSE is before the Court based upon a *sua sponte* review of Plaintiff's *pro se* Amended Complaint. (D.E. 13.)

THE COURT has considered the Amended Complaint and the pertinent portions of the record, and is otherwise fully advised in the premises.

On February 27, 2015, Plaintiff Mario Jimenez ("Jimenez") filed this action alleging violations of his First Amendment and Fourth Amendment rights but did not clearly allege what law entitles him to bring a private right of action to assert those rights. On March 12, 2015, the Court dismissed the Complaint but granted leave to file an Amended Complaint by March 27, 2015. Jimenez did not file an Amended Complaint by March 27, 2015 but did file his Amended Complaint on March 30, 2015 along with a Motion for an Extension of Time to file an Amended Complaint. D.E. 12 & 13.

Jimenez states in his Amended Complaint that he is attempting to remove a state court action pending in the Family Division of the Circuit Court for the Eleventh Judicial Circuit in

and for Miami-Dade County, Florida. As a threshold matter, the state court action cannot be removed pursuant to 28 U.S.C. § 1441 as the custody of Jimenez's minor children is not a matter over which this Court has original jurisdiction. Neither does this case implicate 28 U.S.C. § 1443, which requires a showing "that the state court action will involve either the denial or non-enforcement of rights arising 'under any law providing for equal civil rights of citizens of United States' or an act or refusal to perform any act 'under color of authority derived from any law providing for equal rights.'" *Nuccio v. Heyd*, 299 F. Supp. 939, 940 (E.D. La. 1969). Section "1443 applies only to rights that are granted in terms of equality and not the whole gamut of constitutional rights," *State of Georgia v. Rachel*, 384 U.S. 780, 792 (1966), and therefore, Jimenez's failure to allege any rights related to equality prohibits this case from being removed to federal court. However, because Jimenez has asserted claims under 42 U.S.C. § 1983 and 42 U.S.C. §§ 1985(2)-(3), the Court has federal question jurisdiction over his claims pursuant to 28 U.S.C. § 1331.

#### I. 42 U.S.C. § 1983 Claims

In his Amended Complaint, Jimenez seeks relief pursuant to 42 U.S.C. § 1983 and alleges that Defendants violated his First Amendment rights, Due Process rights, and other federal rights, which are not identified in his Amended Complaint. To state a claim pursuant to 42 U.S.C. § 1983, Plaintiff must allege that a person acting under color of state law deprived him of a federal right. *West v. Atkins*, 487 U.S. 42, 48 (1988) (citing *Parratt v. Taylor*, 451 U.S. 527, 535 (1981); *Flagg Bros., Inc. v. Brooks*, 436 U.S. 149, 155 (1978)). "The Supreme Court has defined 'acting under color of law' as acting with power possessed by virtue of the defendant's employment with the state." *Edwards v. Wallace Cmty. Coll.*, 49 F.3d 1517, 1522-23 (11th Cir.

1995) (citation omitted). The Court finds that Jimenez cannot maintain Section 1983 claims against Karen Wizel, Yvette B. Reyes Miller, The Legal Defense Firm of South Dade, Ana C. Morales, Margarita Arango Moore, Reyes & Arango Moore, P.L., Vanessa Archer, Archer Psychological Services, P.A., Anastacia Garcia, Law Office of Anastasia M. Garcia, P.A., and Sabrina Salomon because Jimenez has not alleged that these named Defendants are state actors.

Furthermore, Jimenez's argument that he may hold these private parties liable for constitutional violations is without merit. "Only in rare circumstances can a private party be viewed as a state actor for section 1983 purposes." *Business Realty Inv. Co. v. Insituform Tech., Inc.*, 564 F. App'x 954, 956 (11th Cir. 2014) (quoting *Rayburn ex rel. Rayburn v. Hogue*, 241 F.3d 1341, 1347 (11th Cir. 2001)) (internal quotation marks omitted). And "[a] private party does not become a state actor simply because it contracts with the government." *Id.* The Eleventh Circuit has set forth three separate tests for determining when a private entity is acting as a state actor: "(1) the 'State compulsion test,' where the state has coerced the action alleged to violate the Constitution; (2) the 'public function test,' where the private actor is performing a public function that was traditionally the exclusive prerogative of the State; (3) the 'nexus/joint action test,' where the State has so far insinuated itself into a position of interdependence with the private parties that it was a joint participant in the enterprise." *Id.* Because Jimenez has not attempted to satisfy any of these tests by including allegations in his Amended Complaint in support thereof, his Section 1983 claims against all private parties must be dismissed.

Next, the Court finds that Jimenez's Section 1983 claim against the Department of Children and Families must be dismissed. The Department of Children and Families must be dismissed because respondeat superior does not apply in Section 1983 claims and Jimenez's only

allegation regarding DCF is that it is liable due to the actions taken by Theresa Hernandez and Melyssa Lopez.

Jimenez's Section 1983 claims against Defendants Theresa Hernandez and Melyssa Lopez must also be dismissed because Jimenez has not sufficiently alleged how they violated his First and Fourteenth Amendment rights or any other right secured by the Constitution or a federal statute. With respect to the First Amendment, Jimenez has not identified which right secured by the First Amendment was violated by Theresa Hernandez or Melyssa Lopez. He refers generally to "parental rights" throughout the Amended Complaint and has made references to his religion. However, "parental rights" are not protected by the First Amendment and Jimenez has not articulated how Defendant Hernandez's and Defendant Lopez's actions burdened his religious rights.

With respect to the Fourteenth Amendment, Jimenez invokes the Due Process Clause. "Due Process requires that persons deprived of a right must be afforded notice and an opportunity to be heard." *First Assembly of God of Naples, Fla., Inc. v. Collier Cnty.*, 20 F.3d 419, 422 (11th Cir. 1994). A procedural due process claim has three elements: (1) a deprivation of a constitutionally-protected liberty or property interest; (2) state action; and (3) constitutionally-inadequate process. *Grayden v. Rhodes*, 345 F.3d 1225, 1232 (11th Cir. 2003) (citing *Cryder v. Oxendine*, 24 F.3d 175, 177 (11th Cir. 1994)). Jimenez alleges that Defendants Hernandez and Lopez gave a copy of a report to Defendant Wizel's attorneys thus "depriving Plaintiff of the opportunity to question and clarify the erroneous conclusions that such report contained." (Compl. ¶ 19.) Jimenez has failed to allege how this action deprived him of a constitutionally-protected liberty or property interest and therefore, his claims against Defendants

Hernandez and Lopez must be dismissed.

II. 42 U.S.C. §§ 1985(2)-(3) Claims

Jimenez seeks relief pursuant to 42 U.S.C. §§ 1985(2)-(3) and alleges that the Defendants conspired to interfere with his civil rights. Section 1985(2) provides a cause of action for obstruction of justice where “two or more persons conspire for the purpose of impeding, hindering, obstructing, or defeating, in any manner, the due course of justice in any State or Territory, with intent to deny to any citizen the equal protection of the laws.” In order to state a claim under Section 1985(2), Plaintiff “must plead a private conspiracy with a racial or otherwise class-based invidiously discriminatory motivation.” *Lyon v. Ashurst*, No. 08-16778, 2009 WL 3725364, at \*2 (11th Cir. Nov. 9, 2009). Aside from alleging that he is a Christian, Jimenez has not alleged any facts to support an inference that the claimed conspiracy was motivated by class-based animus. As a result, his claims pursuant to Section 1985(2) must be dismissed.

Similarly, Jimenez has failed to allege any facts to support his claims under Section 1985(3). In order to state a claim pursuant to 42 U.S.C. § 1985(3), Plaintiff must allege “(1) a conspiracy; (2) for the purpose of depriving, either directly or indirectly, any person or class of persons of the equal protection of the laws, or of equal privileges and immunities under the laws; and (3) an act in furtherance of the conspiracy; (4) whereby a person is either injured in his person or property or deprived of any right or privilege of a citizen of the United States.” *Park v. City of Atlanta*, 120 F.3d 1157, 1161 (11th Cir. 1997). Moreover, to prove a private conspiracy, Plaintiff must show “(1) that some racial, or perhaps otherwise class-based, invidiously discriminatory animus [lay] behind the conspirators’ actions, and (2) that the conspiracy aimed at

[interfering] with rights that are protected against private as well as official encroachment.” *Id.* (quoting *Bray v. Alexandria Women’s Health Clinic*, 506 U.S. 263, 267-78 (1993)). Aside from his bare assertion that he is a Christian, Jimenez’s Amended Complaint contains no factual allegations that class-based animus was the motivating factor behind the alleged conspirators’ actions.

### III. Other Allegations Referenced in the Amended Complaint

Lastly, although a judge has not been named as a defendant in this action, most of the allegations in the Complaint relate to actions taken by judges in the Family Division of the Circuit Court for the Eleventh Judicial Circuit in and for Miami-Dade County, Florida. Judges are entitled to absolute immunity for all actions taken in their judicial capacity, except where they act in the “clear absence of all jurisdiction.” *Bolin v. Story*, 225 F.3d 1234, 1239 (11th Cir. 2000) (quoting *Stump v. Sparkman*, 435 U.S. 349, 356–57 (1978)). In fact, absolute judicial immunity “applies even when the judge’s acts are in error, malicious, or were in excess of his or her jurisdiction.” *Id.* Therefore, any claims alleged against a judge relating to actions taken in a judicial capacity are precluded by the doctrine of judicial immunity.

Based on the Court’s findings above, the Amended Complaint must be dismissed.

Accordingly, it is hereby

ORDERED AND ADJUDGED that the Amended Complaint (D.E. 13) is DISMISSED .

It is further

ORDERED AND ADJUDGED that for administrative purposes this action is hereby CLOSED and all pending motions are DENIED AS MOOT.

DONE AND ORDERED in Chambers at Miami, Florida, this 15TH day of April, 2015.

  
\_\_\_\_\_  
URSULA UNGARO  
UNITED STATES DISTRICT JUDGE

copies provided:  
Mario Jimenez, *pro se*

**From:** Mario Jimenez <marioaj01@yahoo.com>  
**To:** Ana Morales <amorales@reyesmiller.com>  
**Cc:** "kwies1@hotmail.com" <kwies1@hotmail.com>; Anastasia M. Garcia <agarcia821@aim.com>; Yvette Reyes <yreyes@reyesmiller.com>; Paralegal <paralegal@reyesmiller.com>; Karen Wizel <mariosnicolek@hotmail.com>; Mercedes Christian <mochristian@earthlink.net>; Krystle Reyna <kreyna@jud11.flcourts.org>; Patty Agosto <pattyagosto@hotmail.com>; Dina Ace <dinapri11@yahoo.com>; GARCIA. RENE. WEB <garcia.rene.web@fsenate.gov>; Rene Garcia <garcia.rene@myfloridahouse.com>; FLORES. ANITERE. WEB <fiores.anitere.web@fsenate.gov>; "Anitere.Flores@myfloridahouse.gov" <anitere.flores@myfloridahouse.gov>; Governor Rick Scott <rick.scott@eog.myflorida.com>  
**Sent:** Sunday, May 24, 2015 8:15 PM  
**Subject:** Re: WIZEL v. JIMENEZ-RE: Summer Camp/Braces de Karen Nicole

Mrs. Morales, et al.

Your client did not contact Mrs. Mercedes Christian to set up the supervised visitation as I had requested. This e-mail stands and serves as the third and final notice to cease and desist from encouraging your client to disobey a judges' order for supervised visitations, and for trying to severely limit access to my children by limiting them to the unnatural environment of a court house, when Mrs. Christian, through her foundation has offered to provide these supervised visits for free.

As I said before, Mrs. Christian is a well-known and loved children's and women's right activist in close contact with the Florida Governor, and other political figures, so your client's refusal to use her services is total nonsense. So, unless your client has a legitimate reason to believe that 90 year-old Mercedes Christian and her organization is not well-suited to supervise the visits with my children, I demand that your client makes the necessary arrangements to conduct these visits immediately. Refusal to do so, will force me to file a motion for contempt against you and your client in federal court.

Thanks in advance for your attention to this matter.

Regards,

Mario A. Jimenez Jerez, M.D.

---

**From:** Mario Jimenez <marioaj01@yahoo.com>  
**To:** Ana Morales <amorales@reyesmiller.com>  
**Cc:** "kwies1@hotmail.com" <kwies1@hotmail.com>; Anastasia M. Garcia <agarcia821@aim.com>; Yvette Reyes <yreyes@reyesmiller.com>; Paralegal <paralegal@reyesmiller.com>; Karen Wizel <mariosnicolek@hotmail.com>; Mercedes Christian <mochristian@earthlink.net>; Krystle Reyna <kreyna@jud11.flcourts.org>; Patty Agosto <pattyagosto@hotmail.com>; Dina Ace <dinapri11@yahoo.com>; GARCIA. RENE. WEB <garcia.rene.web@fsenate.gov>; Rene Garcia <garcia.rene@myfloridahouse.com>; FLORES. ANITERE. WEB <fiores.anitere.web@fsenate.gov>; "Anitere.Flores@myfloridahouse.gov" <anitere.flores@myfloridahouse.gov>; Governor Rick Scott <rick.scott@eog.myflorida.com>  
**Sent:** Monday, May 18, 2015 11:00 PM  
**Subject:** Re: WIZEL v. JIMENEZ-RE: Summer Camp/Braces de Karen Nicole

Mrs. Morales, et al.

My previous e-mail was not a threat but a fact of what will happen when the truth comes out in federal appeal court. I already filed for damages against you, your firm and all those involved in this fraud. The longer you keep me away from my children, and try to hide your mistakes, the worst it will be for you and your firm, especially when you and your client continue to use the children as some form of punish me without regards of the psychological damage it is causing my children. Let me reassure you of something to you and your client: this is no punishment to me; I actually consider it a blessing to be persecuted for professing to be a Christian, for being falsely accused of scaring my children for praying for them.

Nonetheless, your actions were shameless and criminal in nature, and you are delusional if you think that you will get away with it. You and your friends committed fraud upon the courts when you illegally obtained the CPT report, and filed the purported emergency motion as you and your firm did in my and other cases in clearly established violation of case law, as in BARREIRO V. BARREIRO, 377 SO. 2D 999 - FLA: DIST. COURT OF APPEALS, 3RD DIST. 1979, and the Florida and US constitution. Your and your client's actions were disgusting, and solely motivated by greed. You did not care one bit about the well-being of the children with horrendous consequences especially for my son.

Now, you and your client continue to act selfishly refusing to have supervised visitations with an organizations that does this freely, and that would allow me to take the children to many different attractions on a regular basis; instead, without any other reason than your client's irrational personal preference, you try to limit the visits to the severely restricted environment of the court house, something totally unacceptable to say the least.

As I said before, my previous e-mail stands and serves as a second notice to cease and desist from encouraging your client to disobey a judges' order for supervised visitations, and for trying to severely limit access to my children by limiting them to the unnatural environment of a court house. Let me inform you that Mrs. Mercedes is a well-known and loved children's and women's right activist in close contact with the Florida Governor, and other political figures, so your client's refusal to use her services is total nonsense. So, unless your client has a legitimate reason to believe that 90 year-old Mercedes Christian and her organization is not suited to supervise the visits with my children, I demand that your client makes the necessary arrangements to conduct these visits through Mrs. Christian for next Sunday, May 24th, 2015.

Thanks in advance for your attention to this matter.

Regards,

Mario A. Jimenez Jerez, M.D.

---

**From:** Ana Morales <amorales@reyesmiller.com>  
**To:** Mario Jimenez <marioaj01@yahoo.com>  
**Cc:** "kwies1@hotmail.com" <kwies1@hotmail.com>; Anastasia M. Garcia <agarcia821@aim.com>; Yvette Reyes <yreyes@reyesmiller.com>; Paralegal <paralegal@reyesmiller.com>;

Karen Wizel <mariosnicolek@hotmail.com>; Karen Wizel <wizelk@hotmail.com>  
**Sent:** Monday, May 18, 2015 6:42 PM  
**Subject:** RE: WIZEL v. JIMENEZ-RE: Summer Camp/Braces de Karen Nicole

Mr. Jimenez,

At the time the Order by Judge Bernstein was entered, the supervised visitation was being conducted by Mrs. Sanchez. A therapist, I will remind you, that YOU chose at the recommendation of Dr. Archer and I believe the Guardian. Accordingly, the intention of the Order was that the visits continue in the same fashion as they had. In the same way that you are not comfortable with the continued use of Ms. Sanchez, my client is not comfortable with the use of Leaders of Peace foundation. As such, there is NO requirement that she agree or concede to your "demand" for a new supervisor, who has no knowledge of this case or familiarity with your children. My client did not reach out to them to request supervised visits as you incorrectly stated in your email from Friday. The fact that they have been sent by you and on your behalf continue to harass my client regarding this issue is unacceptable. As previously mentioned, my client does not object to your supervised visits. If you do not wish to have them with Ms. Sanchez, you can have them at the Court house, I believe there is no charge at the Court house either.

Secondly, I will caution you against threatening me or the firm, and I will especially caution you against the slanderous nature of your comments. As I will not hesitate to take legal action against you. Ms. Sanchez, is neither an associate or acquaintance of mine or the firms. Your false statements, coupled with your skewed interpretation of the law have only delayed this process. Please keep in mind, that it is your threats, erratic behavior and delusions that have created this situation. Our focus has always been on the best interest of your children. As we expressed to Judge Bernstein in October 2013, there is a mutual interest in taking the necessary steps to move towards unsupervised timesharing. The history of this case, will show that the steps for you to have unsupervised visits have been carefully explained to you by the Court. You however, have chosen to disregard the Court orders. Shortly after our hearing in October, 2013, you on your own accord chose to voluntarily terminate the supervised visits. You cannot waltz back in after over a year and begin making demands.

As soon as the appeal has been finalized we can bring this matter before the Court.

**Best Regards,**

**Ana C. Morales, Esq.**

#### **Creative Solutions for the Modern Family**

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---

**From:** Mario Jimenez [mailto:marioaj01@yahoo.com]

**Sent:** Monday, May 18, 2015 1:30 PM

**To:** Ana Morales

**Cc:** 'kwies1@hotmail.com'; Anastasia M. Garcia; Yvette Reyes; Paralegal; Krystle Reyna; Mercedes Christian; Patty Agosto; Dina Ace; Karen Wizel; Karen Wizel; mochristian@earthlink.net; pattyagosto@hotmail.com; dinapri11@yahoo.com

**Subject:** Re: WIZEL v. JIMENEZ-RE: Summer Camp/Braces de Karen Nicole

Dear Mrs. Morales, and Mrs. Reyes,

This is the second notice to cease and desist from encouraging your client from disobeying a judges' order for supervised visitations by wrongly interpreting that this order required a specific therapist by name, Mrs. Sanchez, who requires payment, when there is another viable option that would do it for free, namely Mercedes Christian and others from Leaders of Peace foundation.

Your continued insistence that I pay an associate or acquaintance of yours for services that I could get for free is tantamount to extortion, which fits perfectly with your illegal behavior and purported emergency motion that illegally deprived me of 50/50 custody of my children. Let me reassure that I will not rest until you and

all involved in this scam are brought to justice, and that every day that passes where you encourage your client's illegal behavior denying me access to my children with some bogus interpretation of a clear judicial order, and in violation of Florida and US constitution will represent thousands of dollars in damages to you and all those involved. I really hope that you change your mind and start working towards the best interest of the minor children involved.

To Mrs. Garcia: I hope that you finally step in and act in the best interest of the children. Remember that this correspondence will be shared with the federal appeals court, and that you will have to give an answer for your lack of action this matter.

Thank you very much for your prompt attention to this matter.

Regards,

Mario A. Jimenez Jerez, M.D.

---

**From:** Mario Jimenez <[marioaj01@yahoo.com](mailto:marioaj01@yahoo.com)>  
**To:** Ana Morales <[amorales@reyesmiller.com](mailto:amorales@reyesmiller.com)>  
**Cc:** "kwies1@hotmail.com" <[kwies1@hotmail.com](mailto:kwies1@hotmail.com)>; Anastasia M. Garcia <[agarcia821@aim.com](mailto:agarcia821@aim.com)>; Yvette Reyes <[yreyes@reyesmiller.com](mailto:yreyes@reyesmiller.com)>; Paralegal <[paralegal@reyesmiller.com](mailto:paralegal@reyesmiller.com)>; Krystle Reyna <[kreyna@jud11.flcourts.org](mailto:kreyna@jud11.flcourts.org)>; Mercedes Christian <[mochristian@earthlink.net](mailto:mochristian@earthlink.net)>; Patty Agosto <[pattyagosto@hotmail.com](mailto:pattyagosto@hotmail.com)>; Dina Ace <[dinapi11@yahoo.com](mailto:dinapi11@yahoo.com)>; Karen Wizel <[mariosnicolek@hotmail.com](mailto:mariosnicolek@hotmail.com)>  
**Sent:** Friday, May 15, 2015 5:40 PM  
**Subject:** Re: WIZEL v. JIMENEZ-RE: Summer Camp/Braces de Karen Nicole

Mrs. Morales, and Mrs. Garcia,

I do not feel comfortable conducting supervised visits with Mrs. Sanchez for the reasons I explained in my federal removal. I am sending you a copy of the actual order of supervised visitation. It does not specify a specific supervisor. Not only that, Mrs. Sanchez charges fees that at this time I am not able to afford, and/or if I could afford, I would prefer to use to take care of my children.

Mrs. Mercedes, and leaders of peace offer supervised visitations for free, so I do not understand why you or your client would refuse to use their services. Your client knows the foundation well for she was in contact with them even before she met you. So, unless Mrs. Sanchez would like to conduct these visits for free, I demand that you contact Leaders of Peace Foundation to set up these supervised visitations immediately.

Let me advise you that if you do set up a supervised visitation immediately, this e-mail will be used to show to the federal appeals court evidence of you and your client preventing me access to my children, in further violation of Florida law, and my children's constitutionally protected rights.

Furthermore, the one that initiated contact about this topic was your client. I pay my child support as ordered, the least your client could do is reciprocate by obeying the order for supervised visitations, and not force me to pay for them. I certainly prefer to use the money to help with summer camp than to have to pay someone to see my children. If your client agrees to supervised visits with Leaders of Peace Foundation, I would certainly not hesitate to use the money I save to help with summer camp payments. I hope you client chooses what is best for our children.

Thanks in advance for your attention to this matter.

Regards,

Mario A. Jimenez Jerez, M.D.

The Grace of the Lord Jesus be with you.

---

**From:** Ana Morales <[amorales@reyesmiller.com](mailto:amorales@reyesmiller.com)>  
**To:** "marioaj01@yahoo.com" <[marioaj01@yahoo.com](mailto:marioaj01@yahoo.com)>  
**Cc:** "kwies1@hotmail.com" <[kwies1@hotmail.com](mailto:kwies1@hotmail.com)>; Anastasia M. Garcia <[agarcia821@aim.com](mailto:agarcia821@aim.com)>; Yvette Reyes <[yreyes@reyesmiller.com](mailto:yreyes@reyesmiller.com)>; Paralegal <[paralegal@reyesmiller.com](mailto:paralegal@reyesmiller.com)>  
**Sent:** Friday, May 15, 2015 2:21 PM  
**Subject:** WIZEL v. JIMENEZ-RE: Summer Camp/Braces de Karen Nicole

Dear Mr. Jimenez,

I am writing in regards to your demand to change the supervisor for the Court ordered supervised visits between you and your children. Please be advised that our interpretation of the Order, based on the history of this case, is that the supervised visits are to be conducted by Karen Sanchez. Ms. Sanchez had been conducting the visits, until you voluntarily chose to stop them over a year ago. She is familiar with you and your children and is the appropriate person to resume the visits. Unfortunately, given your decision to appeal the decision of the Federal Court, we cannot have this matter decided by the Judge. My client has no problem with you resuming the supervised visits with Karen Sanchez, alternatively, if you would like you can have the supervised visits at the Courthouse. Please advise how you would like to proceed.

Additionally, please let this serve as a formal request that you cease and desist contacting my client regarding this issue. Moreover, this shall also serve as a request that anyone on your behalf, including Ms. Mercedes or anyone from Leaders of Peace Foundation, also stop contacting my client in regards to this issue. My client has already explained to you and them that she does not feel comfortable and does not agree with them supervising the visits.

As for the braces and summer camp for the minor children, please advise if you will be contributing to these expenses or if I am to understand from your email below, that you will not contribute unless my client agrees to supervised visits with Leaders of Peace Foundation.

At this point, we would also suggest the use of Our Family Court Wizard for communication between you and Ms. Wizel. You can find additional information for Our Family Court Wizard here: <https://www.ourfamilywizard.com/> Please advise if you are amenable to this.

Thank you for your attention to this matter.

**Best Regards,**

**Ana C. Morales, Esq.**

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Coral Gables, Florida 33134  
Telephone: 305.663.6565

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5301 N. Federal Highway, Suite 350  
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**Facsimile:** 305.513.5876

**Website:** [www.reyesmiller.com](http://www.reyesmiller.com)

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---

Date: Thu, 14 May 2015 05:00:20 +0000

From: [marioaj01@yahoo.com](mailto:marioaj01@yahoo.com)

To: [mariosnicolek@hotmail.com](mailto:mariosnicolek@hotmail.com)

CC: [agarcia821@aim.com](mailto:agarcia821@aim.com); [mochristian@earthlink.net](mailto:mochristian@earthlink.net); [pattyagosto@hotmail.com](mailto:pattyagosto@hotmail.com); [dinapri11@yahoo.com](mailto:dinapri11@yahoo.com); [kreyna@jud11.flcourts.org](mailto:kreyna@jud11.flcourts.org); [kreyna@jud11.flcourts.org](mailto:kreyna@jud11.flcourts.org)

Subject: Re: Summer Camp/Braces de Karen Nicole

Karen,

For the record, this will be at least the third time that I request that you comply with the judges' order of supervised visitations, and that I have clarified that this order does not specify a particular supervisor, so Leaders of Peace Foundation who performs these supervised visits on a daily basis is perfectly capable of supervising them.

These e-mails and the people I am copying are witnesses to your repeated denials to obey the Judge's order. Just because the case is under appeal in federal court, it does give you the right to ignore it. Please call Mercedes to set up a visit every Sunday if possible. This Sunday would be a great day to start. After you start obeying the order, we can start discussing any other issues.

A como te he repetido previamente, la fundacion de liderez de paz que Mercedes dirige se ha ofrecido ha supervisar las visitas con nuestros hijos. Si esperas algo, creo que primero tienes que cumplir con la orden del juez que ordeno las visitas supervisadas.

La orden a como tu abogada te puede explicar, pide por un minimo de 3 horas semanales, y no indica una persona o compania especifica para conducir las visitas supervisadas. Mercedes conduce este tipo de visitas supervisadas a diario. Tu misma conoces la fundacion porque inicialmente fuistes a buscar apoyo con ellos, asi que no entiendo porque reusas que ellos conduzcan estas visitas con nustrs hijos.

Quisiera preguntarte a ti y a tu abogada porque reusan permitir que la fundacion supervise esta visitas?

Una ves mas, estoy habierto a lo que propones. Por favor ponte en contacto con fundacion de liderez de paz, Mercedes, 786-262-5627, o con Patty al 305-510-6559. Creo que algo muy positivo puede venir de esta apertura para nuestros hijos. Que tengas buen dia.

---

**From:** karen wizel <[mariosnicolek@hotmail.com](mailto:mariosnicolek@hotmail.com)>

**To:** Mario Jimenez <[marioaj01@yahoo.com](mailto:marioaj01@yahoo.com)>

**CC:** "[agarcia821@aim.com](mailto:agarcia821@aim.com)" <[agarcia821@aim.com](mailto:agarcia821@aim.com)>

**Sent:** Wednesday, May 13, 2015 11:56 AM

**Subject:** RE: Summer Camp/Braces de Karen Nicole

Mario,

Me parece perfecto que despues de tanto tiempo estes dispuesto a colaborar, nesecito saber cuando crees que puedas mandar el cheque o el dinero a la oficina de Ana, asi puedo hacer la cita lo mas ante possible para ver al dentista, y nesecito lo hagas lo mas pronto possible ya que el summer camp es de espacio limitado.  
gracias

---

Date: Tue, 12 May 2015 23:27:58 +0000  
From: [marioaj01@yahoo.com](mailto:marioaj01@yahoo.com)  
To: [mariosnicolek@hotmail.com](mailto:mariosnicolek@hotmail.com)  
CC: [pattyagosto@hotmail.com](mailto:pattyagosto@hotmail.com); [mochristian@earthlink.net](mailto:mochristian@earthlink.net); [dinapri11@yahoo.com](mailto:dinapri11@yahoo.com)  
Subject: Re: Summer Camp/Braces de Karen Nicole

Karen,

Estoy habierto a lo que propones. Por favor ponte en contacto con fundacion de liderez de paz, Mercedes, 786-262-5627, o con Patty al 305-510-6559. Creo que algo muy positivo puede venir de esta apertura para nuestros hijos. Que tengas buen dia.

Regards,

Mario A. Jimenez Jerez, M.D.  
The Grace of the Lord Jesus be with you.

"Y El me ha dicho: Te basta mi gracia, pues mi poder se perfecciona en la debilidad. Por tanto, muy gustosamente me gloriaré más bien en mis debilidades, para que el poder de Cristo more en mí. Por eso me complazco en las debilidades, en insultos, en privaciones, en persecuciones y en angustias por amor a Cristo; porque cuando soy débil, entonces soy fuerte" (2 Corintios 12:9-10).

---

**From:** karen wizek <[mariosnicolek@hotmail.com](mailto:mariosnicolek@hotmail.com)>  
**To:** "[marioaj01@yahoo.com](mailto:marioaj01@yahoo.com)" <[marioaj01@yahoo.com](mailto:marioaj01@yahoo.com)>  
**Sent:** Monday, May 11, 2015 2:02 PM  
**Subject:** Summer Camp/Braces de Karen Nicole

Mario buenas tardes, te escribo este email para recordarte que hace un tiempo atras te he estado pidiendo ayuda economica con el tratamiento dental de los ninos, Karen Nicole nesecita ponerse braces, en uno de los correos anteriores te envie la informacion tanto de procedimiento como de costo, no he tenido respuesta de eso, tambien queiro dejarte saber que el verano ya esta acercandose y he preguntado en varios lugares cuanto es el precio para el campamento de verano y es de \$95 por semana por el primer nino y \$90 por el Segundo, nesecito me ayudes economicamente con esto ya que lamentablemente yo no puedo seguir cubriendo todo este gasto.  
agradezco tu pronta respuesta. gracias

**IN THE CIRCUIT COURT OF THE 11<sup>TH</sup> JUDICIAL CIRCUIT IN AND FOR MIAMI-  
DADE COUNTY, FLORIDA**

IN RE: THE MATTER OF

FAMILY DIVISION

CASE NO: 11-21207 FC 48

MARIO JIMENEZ

Petitioner/Father,

And

KAREN WIZEL

Respondent/Mother.

UNIFIED FAMILY COURT (48)

And

IN THE INTERESTS OF:

JUVENILE DIVISION

M. J.-W.

D13-15193A-B (D048)

DOB: 08/20/2002

K. J.-W.

DOB: 09/06/2005

Minor Children/  
\_\_\_\_\_ /

**ORDER ON HEARING HELD ON OCTOBER 18, 2013**

THIS CAUSE came to be heard before the Court on October 18, 2013 in a Dependency Hearing. The parties with their respective counsel were present. The Court having reviewed the file, having considered argument of counsel and being otherwise fully advised in the premises hereby ORDERS and ADJUDGES as follows:

1. The Petitioner/Father, Mario Jimenez, has voluntarily dismissed the Dependency case without prejudice.
2. The Court was made aware by Counsel for the parties of the parties' mutual interest in taking the necessary steps to move towards the goal of unsupervised timesharing between the Petitioner/Father and the minor children and to accomplish same the Court ordered

that a Psychological Re-evaluation be conducted prior to any unsupervised timesharing taking place.

3. Additionally, the Court found that since Dr. Archer had previously been appointed by this Court to conduct a psychological evaluation of the parties, the Petitioner/Father, Mario Jimenez, was referred to Dr. Vanessa Archer for a Psychological Re-evaluation, despite Petitioner's counsel and Petitioner's objection to using same, to which the Court stated that if Petitioner/Father has any objections to the Psychological Re-evaluation report to address same with the Court.
4. The Court was also made aware that the Petitioner/Father has begun individual therapy with a licensed psychologist, to wit: Dr. Manuel Alvarez.
5. The Guardian Ad Litem reported progress in the supervised visitations between the Petitioner/Father and the minor children, as reported by Karen Sanchez, who supervised visits between the Petitioner/Father and the minor children from approximately December 2013 thru September 2013 and who also recommended that the supervised visits become more consistent and last longer.
6. The Court acknowledged the Petitioner/Father's, the Respondent/Mother's and the Court's common desire to achieve a healthy relationship between the parties and the minor children, accordingly the Court recommended:
  - a. That the Petitioner/Father exercises supervised timesharing with the minor children every other weekend, with preference given to every weekend, if possible.
  - b. That the Petitioner/Father schedules supervised timesharing in advance, if possible.

c. That the Petitioner/Father exercises supervised timesharing with the minor children for longer periods of time, between 2 to 4 hours, if possible, and suggested locations such as: the Miami zoo, Parrott Jungle, the Aquarium etc., with the Respondent/Mother required to drive the minor children to the locations where supervised timesharing is to take place; otherwise the Court shall be notified.

7. The Court recommended that after a Psychological Re-evaluation with Dr. Archer and subject to the conclusion and recommendations contained therein, counsel for the parties may submit an agreed order to the Court where the parties stipulate that unsupervised timesharing between the Father and minor children shall commence, the terms of which shall also be stipulated by the parties in said order.

8. The Court referred the case to Family mediation, which is currently scheduled for November 8, 2013 at 10:00 A.M.

DONE AND ORDERED nunc pro tunc to October 18, 2013 in Miami-Dade County, Florida on this 26 day of <sup>Nov.</sup>~~October~~, 2013.



Circuit Judge

Scott M. Bernstein  
Circuit Court Judge

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IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT  
IN AND FOR MIAMI-DADE COUNTY, FLORIDA

Case No.: 2011-021207-FC-04  
Division: FAMILY (ECHARTE, 29)

MARIO ALBERTO JIMENEZ,

Petitioner,

and

KAREN WIZEL,

Respondent

\_\_\_\_\_ /

**ORDER ON TEMPORARY RELIEF RELATING TO TIMESHARING  
AND PARENTAL RESPONSIBILITY**

**THIS CAUSE** came to be heard before the Court on December 7, 2012, on a hearing on the Respondent's Motion for Temporary Relief. The parties, with their respective counsel, were present. The Court having reviewed the file, having considered argument of counsel, and the Testimony of the Father, MARIO ALBERTO JIMENEZ, being otherwise fully advised in the premises, this Court hereby

**FINDS, ORDERS AND ADJUDGES:**

1. Dr. Vanessa Archer was previously appointed by this Court to conduct a psychological evaluation of the parties to address their ability to parent.
2. After reviewing the report on the psychological evaluations and the recommendations of Dr. Vanessa Archer this Court finds that it is in the best interests of the children that the Father shall only have supervised timesharing with the minor children until further order of the Court.
3. The Court was made aware by Counsel for the parties that supervised timesharing has begun and is being supervised by Karen Sanchez, who was selected by the Father upon the recommendation of Dr. Archer and the Guardian Ad Litem. Accordingly, the court orders that therapeutic

supervised timesharing continue with a therapist or other similarly trained professional recommended by the Guardian Ad Litem Am and Dr. Archer, who can intervene should any issues arise between the Father and children.

4. Additionally, the Father shall immediately begin individual therapy with a therapist recommended by Dr. Archer and covered by the Father's current insurance . The therapist who conducts the Father's therapy shall maintain regular communication with the therapist who conducts the supervised timesharing.
5. A psychological re-evaluation must be conducted prior to any unsupervised timesharing between the Father and minor children taking place.
6. It is also in the best interests of the children, that no telephonic communication between the Father and minor children be permitted, until further order of the Court. Therefore, all communication between the Father and the Mother, shall be limited to communications about the children by email and text messages, only.
7. This court finds that any inappropriate communications by the Father shall serve as the grounds for Contempt.

**DONE AND ORDERED** nun pro tunc to December 7, 2012 in MIAMI-DADE County, Florida on this 22 day of January, 2013.

\_\_\_\_\_  
Circuit Judge

**PEDRO ECHARTE, JR.**  
**CIRCUIT COURT JUDGE**

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