

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

\_\_\_\_\_ /

**MOTION TO VACATE FOREIGN JUDGMENT**  
**OR IN THE ALTERNATIVE TO MODIFY FOREIGN JUDGMENT**

Petitioner/Mother, KAREN WIZEL, by and through the undersigned attorney, files this Motion Vacate Final Judgment or in the Alternative, To Modify Final Judgment pursuant to Fla. R. Civ. P. 1.540 and Florida Family Rule of Procedure 12.540 and any applicable Florida Statute, and in support thereof states as follows:

1. The order sought to be vacated or in the alternative, modified, is entitled "Judgment" which was recorded on July 7, 2011. A copy of which is attached hereto as Exhibit A.

2. The parties have two minor children subject to this action, to wit:

**Name:** K.N.J.W.

**Birth Date:** XX-XX-XX05

**Name:** M.S.J.W.

**Birth Date:** XX-XX-XX02

3. On July 7, 2011 the Petitioner/Father filed a Petition to Domestic Foreign Judgment, requesting the domestication of the Final Judgment of Dissolution of Marriage

entered by a Court in Catarina, Nicaragua, Central America. An Order granting the Petitioner/Father's Petition to Domesticate Foreign Judgment was never entered, but the Court has proceeded in this case based on the translated and recorded version of the Foreign Judgment submitted by the Petitioner/Father as if in fact it had been Domesticated by the Court. The Father's Petition to Domesticate Foreign Judgment was also never formally served upon the Mother with a Summons giving the Mother an opportunity to respond as is legally and procedurally required.

4. The undersigned believes that the Final Judgment should be vacated because it violates the public policy of the state of Florida as it makes a determination of Parental Responsibility and timesharing without taking into account the best interest of the child standard and does not make an adequate support determination based on the need and ability of the parties.

5. Moreover, the Final Judgment as recorded by the Petitioner/Father should be vacated altogether and this court should conduct a de novo review of all issues, on the grounds that the Respondent, Former Wife, was under duress at the time the Final Judgment on Dissolution of Marriage was entered. Having been a victim of domestic violence inflicted by the Petitioner/Former Husband and witnessed by the minor children, Former Wife was concerned for her safety and that of her minor children, but lacked the financial resources to adequately prepare for and litigate the matter before the Nicaraguan Court. Furthermore, the Mother's right to due process was violated when she was not given notice of the alleged trial for the dissolution of marriage.

6. Additionally, since the entry of the Order, there has been a substantial, material, and unanticipated change in circumstances, which at a minimum requires that the

Final Judgment be modified. The grounds for Vacating the Final Judgment or in the alternative modifying it are as follows:

A. There is a long history of abuse and domestic violence inflicted by the Petitioner/Father, to both the Respondent/Former Wife and the minor children.

B. Given the Father's history of abuse, shared parental responsibility and equal timesharing would be detrimental. The minor children are terrified of the Petitioner/Father and his family, due to their unstable, aggressive and hostile behavior. In addition to making allegations of abuse against the Father, the minor children have made allegations against the Father's new wife and other Family members

C. The Petitioner/Former Husband is and has always been in a superior financial position. The Petitioner/Former Husband is a licensed Medical Doctor while the Respondent/Former Wife was a stay at home Mother throughout the marriage and is now employed with a gross monthly income of \$480.00. Given the great disparity in incomes the Foreign Judgment should have made an award of spousal support.

7. The Respondent/Mother has employed Reyes & Arango Moore, P.L. to represent her in this action and has agreed to pay a reasonable attorney's fee, cost and suit money for this representation. Respondent/Mother is unable to pay such fees, whereas the Petitioner/Father is more than able and should be required to pay all of the Respondent/Mother's attorney's fees and costs.

8. Both parties are over the age of eighteen years and neither is, nor has been within the period of thirty days immediately prior to the filing of this Motion, a member of the armed forces of the United States.

WHEREFORE, KAREN WIZEL, respectfully requests this Honorable Court conduct a de novo review of all issues contained therein and to grant such other relief as just and necessary consistent with the relief requested herein.

**CERTIFICATE OF SERVICE**

I certify that a copy of this document was delivered by hand in open court to Gerald Adams, Esq., 401 E Las Olas Blvd Ste 130-196, Fort Lauderdale, Florida 33301, MyAttorney2@FloridaFamilyLawClinic.com on this 1<sup>st</sup> day of August, 2012.

Respectfully submitted,

REYES & ARANGO MOORE, P.L.

By: 

(For the Firm)

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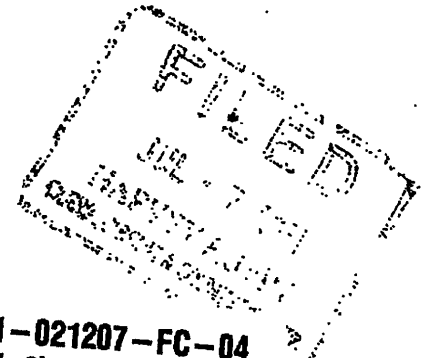
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### DOCUMENT COVER PAGE

For those documents not providing the required space on the first page, this cover page must be attached.

It must describe the document in sufficient detail to prohibit its transference to another document.

An additional recording fee for this page must be remitted.



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

Description of Document:

Judgment

KAREN WIZEL ESCOBAR

MARIO ALBERTO JIMENEZ JEREZ

Property Description:  
(If Applicable)

As more fully described in above described document.

**F.S. 695.26 Requirements for recording instruments affecting real property—  
(Relevant excerpts of statute)**

(1) No instrument by which the title to real property or any interest therein is conveyed, assigned, encumbered, or otherwise disposed of shall be recorded by the clerk of the circuit court unless:

(e) A 3-inch by 3-inch space at the top right-hand corner on the first page and a 1-inch by 3-inch space at the top right-hand corner on each subsequent page are reserved for use by the clerk of the court..

Exhibit A

Unique to 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

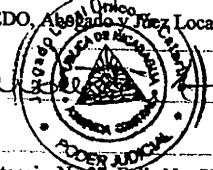
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LICENCIADA ALICIA BERROTERAN ACEVEDO, Abogado y Juez Local

Único de Catarina,

**"CERTIFICA":**



La Sentencia que se encuentra copiada en el Libro Copiador de Sentencia de lo Civil en Sentencia No. 27, 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. a335648, 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 benes. 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 niños 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 (C\$ 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 cúmplase del Juzgado Local Civil de Managua. Cópiese, Notifíquese y Librese 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 cotejada y a solicitud de Parte Interesada se Extiende la Presente CERTIFICACION, en Catarina a los Cuatro Días del mes de Mayo del año Dos Mil Diez-

  
LIC. ALICIA BERROTERAN ACEVEDO.

JUEZ LOCAL UNICO DE CATARINA.



