

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

**IN RE: MATTER OF:**

MARIO JIMENEZ  
Petitioner/Father,

and

KAREN WIZEL  
Respondent/Mother.

**FAMILY DIVISION**

Case No.: 11-21207-FC-04

**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)

**PREPARED WITH THE  
ASSISTANCE OF COUNSEL**

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**EMERGENCY PETITION FOR IMMEDIATE UNSUPERVISED VISITATION**

COMES NOW, the Petitioner/Father, MARIO JIMENEZ, *pro se*, and files this *Emergency Petition for Immediate Unsupervised Visitation*, pursuant to Fla. Stat. § 61.13(2)(c) and (3), and petitions this court to permit the father to have unsupervised with his minor children, MARIO SIMON JIMENEZ-WIZEL (M.J.W.) and KAREN NICOLE JIMENEZ-WIZEL (K.J.W.). As grounds therefore, Petitioner/Father alleges the following:

1. This Court has jurisdiction over the minor children:

<b>Name</b>	<b>DOB</b>	<b>Gender</b>	<b>Person who has custody</b>
M.J.W. (8042)	08/20/2002	Male	Mother
K.J.W. (9490)	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 children and whose address is 5700 SW 127 Avenue, Apt. 1316, Miami, FL 33183
4. The parties to this action were granted a final judgment of dissolution of marriage on March 26, 2010.
5. Paragraphs 2-7 of the *Order On Temporary Relief Relation To Timesharing And Parental Responsibility* dated on January 22<sup>nd</sup>, 2013, set forth the present parental responsibilities, visitation, and Parenting/Time-Sharing Plan.
6. A completed *Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA)* Affidavit, Florida Supreme Court Approved Family Law Form 12.902(d), was filed with the Court on April 14<sup>th</sup>, 2009.
7. The Petitioner/Father has not visited or had any contact with his children since October 26<sup>th</sup>, 2013.
8. On January 22<sup>nd</sup>, 2013 the Court ordered supervised visitation between the minor children and the Petitioner/Father.
9. The Petitioner/Father complied with the Court's order from December 12<sup>th</sup>, 2012 through October 26<sup>th</sup>, 2013.

#### **FUNDAMENTAL RIGHT TO PARENTING**

10. 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)

11. It is imperative for the wellbeing of the children that the Petitioner/Father be allowed time with children as intended by the law and natural law.

### **MODIFICATION OF PARENTING PLAN AND TIMESHARING SCHEDULE**

12. As per Florida Statute § 61.13(2)(c) and (3), the modification of a parenting plan and timesharing schedule requires a showing of a "substantial, material, and unanticipated change of circumstances."

13. The substantial change test applies to modification of all custody agreements or decrees. Under the Wade 2-part test, the moving party must show both that (1) the circumstances have substantially and materially changed since the custody determination and (2) the child's best interests justify the change. *Wade v. Hirschman*, 903 So.2d 928 (Fla. Sup. 2005).

14. The Petitioner/Father believes that the emotional problem in the two minor children is a substantial change in circumstances.

15. The Mother's behavior is of concern and it is damaging to the children. The Petitioner/Father believes that the Mother has been alienating her children from him and has influenced the minor children to become distant towards their father.

16. The Petitioner/Father would provide better access to the children, and believes that it is in the best interests of the children that he be allowed unsupervised visitation. Thus, the children will no longer feel uncomfortable with supervised visits as they can freely see and contact their father when they desire.

17. The Petitioner/Father wishes to seek immediate medical attention for the minor son, M.J.W., who has recently gone through psychological and medical conditions such as matters dealing with the nervous system.

18. M.J.W. has gone through physical, behavioral, and psychological conditions that have required and will continue to require medical and professional attention in recent days.
19. The minor daughter, K.J.W., is also experiencing substantial emotional difficulties.
20. This modification is in the best interests of the children because they are in immediate need of the father's involvement in their daily lives. Both children require their father's daily input such as no other person is able to provide.
21. Due to the children's estrangement from their father it will be necessary that time lost be redeemed by encouraging and fostering a healthy parent and child relationship.

#### **UNSUPERVISED VISITATION**

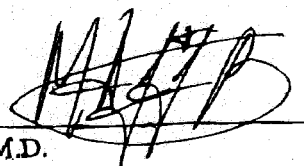
22. The Petitioner/Father asks the Court to modify the supervised visitation to an unsupervised timesharing plan with the minor children.
23. On October 6, 2011 the Honorable Judge Robert N. Scola restored the Father's 50/50 timesharing with the minor children in accordance with the divorce decree of the Nicaraguan Court. Father requests that Judge SCOLA's October 6<sup>th</sup>, 2011 order be given its due weight and effect permitting the Father to have unsupervised timesharing with minor children every other weekend from Friday afternoon to Sunday nights for the next six (6) months as a way to facilitate the reconnection of the minor children with the Father.
24. At the end of this six-month period, the Father should be permitted to make up the time he has lost with his minor children by having the children under his care for the rest of the 2014-2015 school year, with the Mother having timesharing with minor children every other weekend from Friday afternoon to Sunday nights.

25. For the 2015-2016 school year, a school located midway between both parents should be identified, allowing the parties to have equal time sharing from end of school day on Friday until the beginning of the school day on the following Friday.
26. Modifying to an unsupervised time sharing plan is to the best interest of the children.
27. Both parties shall be listed as authorized persons to pick up the children from school and each shall be authorized to obtain information about the children about the children from their school.
28. Both parties should be permitted to freely contact their children by phone and not be subject to unreasonable or arbitrary restrictions.
29. Petitioner/Father is **not** requesting a modification of child support, consistent with the modification of the Parenting Plan/Time-Sharing schedule.
30. If not previously filed in this case, a completed Notice of Social Security Number, Florida Supreme Court Approved Family Law Form 12.902(j), will be filed with this petition.

**I understand that I am swearing or affirming under oath to the truthfulness of the claims made in this petition and that the punishment for knowingly making a false statement includes fines and/or imprisonment.**

Certificate of Service

I hereby certify that a true and correct copy of the foregoing was mailed electronically to the Respondent, KAREN WIZEL, at MARIOSNICOLEK@HOTMAIL.COM, this 21 day August, 2014.



MARIO JIMENEZ, M.D.

Pro Se Petitioner

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