

**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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Coordinator/ UM Child
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DEPARTMENT OF
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SABRINA SALOMON
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_____/s/_____
Mario Jimenez, M.D., Pro Se

AOR,APPEAL,CLOSED

**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) 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. (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. – MIAMIUNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDACase No. 15-CV-20821-Ungaro/Reyes ()

MARIO JIMENEZ,	)	In a petition for removal from the 11 th
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)	

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. 1st 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 (4th 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. 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.*

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 DiTomaso to whom Petitioner was referred by Department of Children and Families (DCF). In his evaluation, Dr. DiTomaso 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. 5th DCA 1996); Gielchinsky v. Gielchinsky, 662 So. 2d 732, 733 (Fla. 4th 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 20th 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 7th 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. 5th 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 (4th 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,

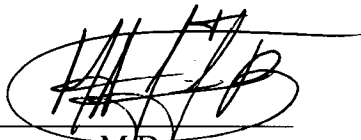
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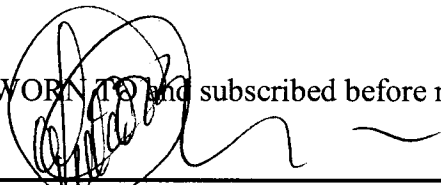
Mario Jimenez, M.D.
Pro Se Petitioner

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.

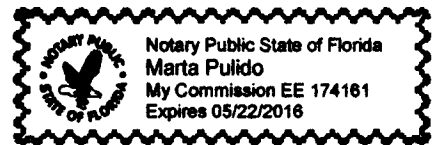
Executed at MIAMI, FLORIDA, this 27th day of February, 2015.


Mario Jimenez, M.D.
Pro Se Petitioner



Notary Public

SWORN TO and subscribed before me this 27th day of February 2015.



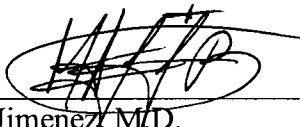
CERTIFICATE OF SERVICE

I hereby certify that, on this 27th 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., 10th 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. – MIAMIUNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDACase No. 15-CV-20821-Ungaro/Otazo-Reyes)

MARIO JIMENEZ,	)	In a petition for removal from the 11 th
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.

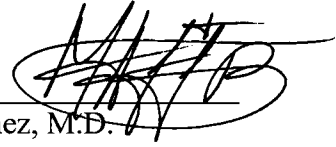
Furthermore, the Petitioner again expressly clarifies to the Court that he is **not** seeking “the granting or modification of a divorce, alimony, or custody decree.” The Petitioner(s) is strictly removing the instant state court action into the jurisdiction of this federal court, for the express vindication 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 'Mario Jimenez', is written over a horizontal line. The signature is stylized with a large, loopy 'M' and 'J'.

Mario Jimenez, M.D.
Pro Se Petitioner

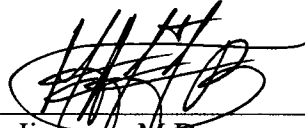
CERTIFICATE OF SERVICE

I hereby certify that, on this 27th 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., 10th 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.

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

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 11th circuit court, I came to personally experience the bitter taste of a dysfunctional Family court, when my children were removed on June 20th 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 26th 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~~ ^{some} 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. 68th 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. 66th 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

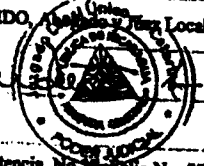
As Deputy Clerk

SEAL: CIRCUIT COURT

JUL -7 PM 2:03

LICENCIADA ALICIA BERROTERAN ACEVEDO

Unico de Catarina,

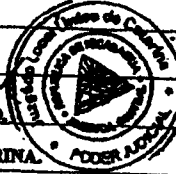
"CERTIFICA":

La Sentencia que se encuentra copiada en el Libro Copiador de Sentencia de lo Civil en Sentencia No. 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. 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 amigo 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 (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 cumplase del Juzgado Local Civil de Managua. Cópiase, 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.

Alicia Berroteran
LIC. ALICIA BERROTERAN ACEVEDO

JUEZ LOCAL UNICO DE CATARINA



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 26TH 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 17th 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 20th day of July, 2012.

Respectfully Submitted,

REYES & ARANGO MOORE, P.L.

By: [Signature]

Yvette B. Reyes Miller, Esq.

FL Bar No: 53510

6910 North Kendall Dr., Suite 200

Miami, FL 33156

Telephone: (305) 663-6565

Facsimile: (305) 663-6540

Email: yreyes@ramlawus.com

Email: amorales@ramlawus.com

Email: 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

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.

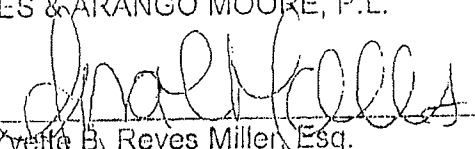
CERTIFICATE OF SERVICE

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 20th day of July, 2012.

Respectfully Submitted,

REYES & ARANGO MOORE, P.L.

By:


Yvette B. Reyes Miller, Esq.

FL Bar No: 53510

6910 North Kendall Dr., Suite 200

Miami, FL 33156

Telephone: (305) 663-6565

Facsimile: (305) 663-6540

Email: yreyes@ramlawus.com

Email: amorales@ramlawus.com

Email: receptionist@ramlawus.com

Attorney for Respondent

Jul 16 12 01:11a

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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 Wize
FSFN: 2012-130103
Page 1 of 6

Specialized Interview

Child's Name: Mario Wize and Karen Wize
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

KA DATE/TIME
Jul 16 12 01:11a

07/16/2012 00:59 3052301560
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301560

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P.005

Jun. 22. 2012 4:43PM

No. 0585. P. 3

Child Name: Mario Wize
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 Wize (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 Wize, and his two siblings (Karen Wize, 8, 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 4th grade. Mario explained that his sister is going into the 1st 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

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Jul 16 12 01:12a

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p.6

P.006

Jun. 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 1st grade.

Exhibit B

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Jun. 22. 2012 4:44PM

No. 0585 P. 5

Child Name: Mario Wital
 FSN: 2012-130103
 Page 4 of 8

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:

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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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Jun. 22. 2012 4:44PM

No. 0585 P. 7

Child Name: Mario Wizef
FSFN: 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

Exhibit B

6 of 6

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

MARIO ALBERTO JIMENEZ,

Petitioner,

and

KAREN WIZEL,

Respondent.

FAMILY DIVISION

CASE NO.: 2011-21207 FC04

**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

2 of 2

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	Zip Code 330351959
Primary Language:		Interpreter Needed: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
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			Telephone Number
Name Wizel, Karen	Type Primary Residence	Address 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

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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		Apt.	City	State	Zip Code
Address - Street					
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 spansks 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 Wize 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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Investigative Summary

Page 3 of 5

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 internship 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

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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: MARIO S JIMENEZ-MIZEL
 STUDENT ID: 0614731 GR: 03 HR: 303
 SCHOOL: WINSTON PARK K-8 CENTER 5961 PHONE: (305) 386-7622

MIAMI-DADE COUNTY PUBLIC SCHOOLS
 REPORT CARD 2011/2012

FINAL REPORT
 AUG. 22, 2011 - JUNE 7, 2012

SCHOOL: WINSTON PARK K-8 CENTER		5961		PHONE: (305) 586-7622																					
COURSE TITLE AND TEACHER		1st Grading Period					2nd Grading Period					3rd Grading Period					4th Grading Period					FINAL GRADE			
OFFICIAL ATTENDANCE DAYS EXCUSED ABSENT DAYS UNEXCUSED ABSENT TIMES TARDY		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				00			B			00			B			00			C			01		
English for Speakers of Other Languages	ESOL-Related				01			ESOL LEVEL 1			00			ESOL LEVEL 1			02	03		ESOL LEVEL 1			01		
ESOL-Related	ESOL-Related																								
Mathematics - Grade Three	ESOL-Related																								
Science	Grade Three, ESOL-Related																								
Social Studies	Grade Three																								
ESOL-Related	ESOL-Related																								
Art-Elementary	Grade 3																								
Music																									
Physical Education - Grade 3																									
Spanish for Spanish Speakers-Elementary																									
Elementary Homeroom																									

TEACHER COMMENTS (CM)

- 1 - Receiving bilingual instruction in this subject.
- 1 - Recibe instruccion bilingue en esta asignatura.
- 2 - Language Arts/Reading grade received within the ESOL grade. Level 1 only.
- 2 - Calificacion de artes de idiomas/leer sera recibido en su calificacion de ESOL.
- 8 - Requiere close supervision.
- 8 - Requiere supervicion constante.
- 4 - Fails to complete required assignments.
- 4 - 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

DCT A-0425

NEXT GRADE LEVEL IS 04
 ACADEMICALLY PROMOTED TO THE NEXT GRADE LEVEL
 AS OF: 06/07/12

MIAMI-DADE COUNTY PUBLIC SCHOOLS

CERTIFICATE of

AWARD

This Certifies That

MARIO JIMENEZ-WIZEL

is awarded this Certificate for

STUDENT OF THE MONTH

Given at WINSTON PARK K-8 CENTER, this 28TH 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

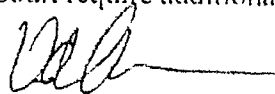
Page 29 of 29

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. Archer, 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.

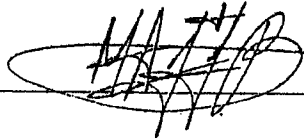
PART FOUR (See Page 1, PART FOUR – Witnesses.): The witnesses in support of my allegations are: [see attached sheet].

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 stylized and somewhat illegible.

August 18, 2013.

Date

Exhibit L

Page 2 of 9

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 deemed 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 1st, 2012 (Exhibit C), which did not find him unfit to take care of his kids.
4. On August 6th, 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

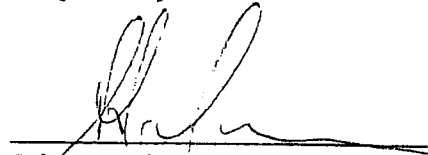
Page 1 of 2

E), but he did not hear back from them. On August 20th, 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 28th 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; maximojimenez@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@bmrlawgroup.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 were 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>
To: Barbara Cintron <bcintron@charterschoolatwaterstone.com>
Cc: Rebecca Valdes <rvaldes@charterschoolatwaterstone.com>; Sherrie Manjarrez <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>
To: M. Jimenez <marioaj01@yahoo.com>
Cc: Rebecca Valdes <rvaldes@charterschoolatwaterstone.com>; Sherie Manjarrez <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



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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/).

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 CPIs, 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

Exhibit B

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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 CPIs, 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

AK. 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

Page 1 of 1

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.

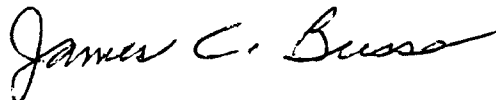
Most of our interactions have taken place through a men's Bible study group which has been meeting weekly and sometimes bi weekly in my home. These meetings, sponsored through the church we both attend, Calvary Chapel Kendall, are designed to help men to better understand the teachings/principles of 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!"

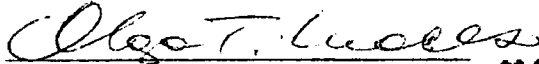
Please feel free to reach me at 786-344-2290.

We can be reached at 786-210-1152.

Sincerely,

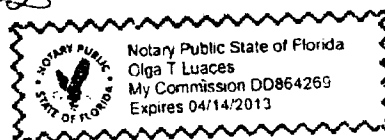

Danger Alvarez

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.

Exhibit F

Page 3 of 12

Kennesaw, GA

July 27, 2012

To Whom It May Concern:

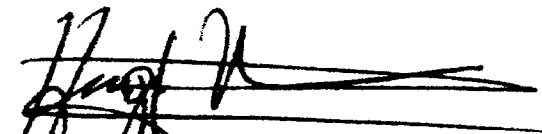
It has come to my attention that my dear friend Mario Jimenez has lost sharing custody of his two children due to accusations levied against him to the Department of Children and Family, centered on his character.

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