

APPENDICES

- Appendix 1: *Petition for Return of Minor Child* with exhibits giving rise to rights of custody
- Appendix 2: Declaration Establishing the Habitual Residence of the Child(ren)
- Appendix 3: *Petition for Warrant in Lieu of Writ of Habeas Corpus*
- Appendix 4: Notice of Petition Under Hague Convention also known as *Notice of Hearing*
- Appendix 5: *Notice of Stay of Custody Proceedings*
- Appendix 6: proposed *Order Directing Return of Minor Child*
- Appendix 7: proposed *Order for Issuance of Warrant in Lieu of Writ of Habeas Corpus*
- Appendix 8: proposed *Warrant in Lieu of Writ of Habeas Corpus*
- Appendix 9: *Motion For Attorney Fees and Costs Pursuant to 42 U.S.C. 11601, et seq. and 42 U.S.C. 11607(b)(3), and Certain Ancillary Relief*
- Appendix 10: Complaint

APPENDIX 1

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8 Attorney for Petitioner

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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

JANE DOE,

Petitioner,

vs.

JOHN DOE,

Respondent.

CV-S-02- ____ - ____ - ____

PETITION FOR RETURN OF CHILD TO PETITIONER

This petition is brought pursuant to the Hague Convention on the Civil Aspects of International Child Abduction, done at the Hague on October 25, 1980 (“Convention”) and its implementing legislation, the International Child Abduction Remedies Act (“ICARA”), 42 U.S.C. §§ 11601-11610. The Convention went into effect on July 1, 1988.

The objects of the Convention are:

Article 1(a): To secure the prompt return of children wrongfully removed to or retained in any Contracting State; and

Article 1(b): To ensure that rights of custody and of access under the law of one Contracting State are effectively respected in the other Contracting States.

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JURISDICTION

This court has jurisdiction pursuant to 42 U.S.C. § 11603.

STATUS OF PETITIONER AND CHILD

Petitioner has a right of custody of the child within the meaning of Articles Three and Five of the Convention in that she is the natural mother of the child.

The Petitioner at the time of the wrongful removal was actually exercising custody within the meaning of Articles Three and Five of the Convention, as described in [NAME OF NATIONAL CHILD CUSTODY LAW & COUNTRY], attached as Exhibit 1.

The Petitioner, at the time of the application to the Central Authority of COUNTRY was located in that country, where she remains.

The child was born on _____, and will be sixteen years of age on _____ some _____ years after the date of this application.

The child was a habitual resident in COUNTRY within the meaning of Article Three of the Convention immediately before the removal of the child from the COUNTRY by Respondent. *See Declaration Under Uniform Child Custody Jurisdiction Act, (DUUCCJA) filed contemporaneously with this Petition.*

REMOVAL OF CHILD BY RESPONDENT

On _____, Respondent wrongfully removed the child from COUNTRY within the meaning of Article Three of the Convention and continues to wrongfully retain the child in the United States despite efforts on the part of Petitioner to have the child returned.

The child is presently in the State of Nevada, County of Clark.

The Respondent, at the time of application to the Central Authority of COUNTRY, was habitually resident of COUNTRY.

[alternatively: Retention of Child by Respondent]

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CUSTODY PROCEEDINGS IN COUNTRY

The status of custody proceedings in COUNTRY are set forth in the DUUCCJA. That Country has [DETAILS; ie issued an order...etc], which order is attached as Exhibit 2.

The courts of this state are requested to stay any other proceedings concerning the custody of the child as required by Article 16 of the Convention.

PROVISIONAL REMEDIES (42 U.S.C. § 11604)

Petitioner, for reasons set forth in the Petition for Warrant in Lieu of Habeas Corpus, believes that Respondent, upon being informed of these proceedings, will further abduct and secrete the child. Petitioner therefore requests that this court, upon review of the Attached Petition for Warrant in Lieu of Habeas Corpus, at once issue the Warrant in Lieu of Habeas Corpus requiring any and all law enforcement officials of the State of Nevada to take the child into immediate custody and place the child in Child Haven, or into the custody of the minor’s mother, JANE DOE, until a determination is made under this petition or until further order of this Court.

RELIEF REQUESTED

Petitioner requests that the child is to be returned to Petitioner, for the express purpose of permitting the return of the child with Petitioner to COUNTRY pending further custody proceedings to be conducted in that country. Until that can be physically accomplished, the child should remain at Child Haven. Fees should be assessed as set out below.

NOTICE OF HEARING

Pursuant to 42 U.S.C. § 11603(c), Respondent should be given notice under NRS 125A.010, *et seq.* (UCCJEA), and NRS 125.005 *et seq.*, once the child has been secured to a safe facility, of the proceedings under the Petition for return of the child to COUNTRY.

1 **ATTORNEY’S FEES AND COSTS**

2 Pursuant to Article 26 of the Convention, and 42 U.S.C. § 11607, counsel for Petitioner
3 should be granted an award of fees and costs incurred by Petitioner as a result of the wrongful
4 removal of the child by Respondent. Authority to grant an award to Petitioner for her attorney’s fees,
5 costs, and necessary expenses is provided in both the Convention and ICARA.

6 **1. The Convention on the Civil Aspects of International Child Abduction, Done at**
7 **the Hague on 25 October 1980.**

8 The Convention’s Article 26 provides, in relevant part:

9 Upon ordering the return of a child or issuing an order concerning rights of access under this
10 Convention, the judicial or administrative authorities may, where appropriate, direct the
11 person who removed or retained the child, or who prevented the exercise of rights of access,
12 to pay necessary expenses incurred by or on behalf of the applicant, including travel
13 expenses, any costs incurred or payments made for locating the child, the costs of legal
14 representation of the applicant, and those of returning the child.

15 Thus, the Convention envisions the person who wrongfully removed a child be required to
16 bear the costs of the child’s return, and provides the deciding courts with the ability to place the
17 burden on the Respondent. While the Convention uses permissive language, ICARA goes a step
18 further, making the award mandatory in the absence of express findings otherwise.

19 **2. International Child Abduction Remedies Act**

20 Section 11607(b)(3) of ICARA *mandates* any court ordering the return of a child under the
21 Convention to award fees and costs to the petitioner:

22 Any court ordering the return of a child pursuant to an action brought under section 4 *shall*
23 order the respondent to pay necessary expenses incurred by or on behalf of the petitioner,
24 including court costs, legal fees, foster home or other care during the course of proceedings
25 in the action, and transportation costs related to the return of the child, unless the respondent
26 establishes that such order would be clearly inappropriate.

27 (Emphasis added.) *See also Feder v. Evans-Feder*, 63 F.3d 217, 226 (3d Cir. 1995).

28 Thus, the Convention states that a court *may* make an award when appropriate, and ICARA
compels the court to make an award to the petitioner, unless the respondent can demonstrate the
“inappropriateness” of such an award.

1 **3. Purpose of the Award and Types of Fees and Costs that May be Awarded**

2 The purpose behind the award is twofold: to place the parties in the condition in which they
3 were prior to the wrongful removal (or retention), and to provide deterrence against future similar
4 conduct by the wrongdoing party. *See* Text & Legal Analysis, 51 Fed. Reg. 10494, 10511 (1986);
5 *Roszkowski v. Roszkowska*, 274 N.J. Super. 620, 644 A.2d 1150, 1160 (1993) (provisions of ICARA
6 relating to fees referred to as a “sanction”).

7 The types of fees and costs that have been awarded include fees for counsel in both the place
8 from which the children were taken, and the place they were taken to, where the recovery action is
9 heard, travel expenses and living expenses while in the requested state, and court costs. There are
10 no guidelines set forth in either the Convention or the ICARA as to the “appropriateness” of an
11 award of fees, and most courts have routinely made or authorized awards of the fees and costs
12 actually incurred, without any substantial discussion regarding the manner in which the awards
13 should be calculated. *See Wanninger v. Wanninger*, 850 F. Supp. 78, 83 (D. Mass 1994); *Caro v.*
14 *Sher*, 296 N.J. Super. 594, 687 A.2d 354, 362 (1996).

15 Attached as Exhibit 2 is Petitioner’s billing statement as of date of the filing this Petition.
16 A more current billing statement will be provided to the court at the time of the hearing, along with
17 a list of Petitioner’s expenses incurred for her to be present at the hearing.

18 DATED this ____ day of _____, 200_.

19
20 LAW OFFICE OF MARSHAL S. WILLICK, P.C.

21
22 _____
MARSHAL S. WILLICK, ESQ.
Nevada Bar No. 002515
23 ROBERT CERCEO, ESQ.
Nevada Bar No. 005247
24 3551 E. Bonanza Road, Suite 101
Las Vegas, Nevada 89110-2198
25 (702) 438-4100
Attorneys for Petitioner
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VERIFICATION BY ATTORNEY

STATE OF NEVADA)
 : ss.
COUNTY OF CLARK)

Robert Cerceo, Esq., first being duly sworn, deposes and says:

That I am an attorney licensed to practice law in the State of Nevada, and the United States District Court -- District of Nevada, I am employed by the LAW OFFICE OF MARSHAL S. WILLICK, P. C. and am one of the Nevada attorneys representing Ms. JANE DOE, the Petitioner in this action; pursuant to NRS 15.010 this verification is being made on behalf of Petitioner because she is absent from the State of Nevada, County of Clark; I have read the above Petition and know the contents thereof as true, except as to the matters that are stated therein on my information and belief, and as to those matters, I believe them to be true. I declare under penalties of perjury under the laws of the State of Nevada that the foregoing is true and correct.

ROBERT CERCEO, ESQ.

SIGNED and **SWORN** to before me this
_____ day of _____, 200__.

NOTARY PUBLIC in and for said
County and State

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APPENDIX 2

1 LAW OFFICE OF MARSHAL S. WILLICK, P.C.
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6 (702) 438-4100 (phone)
7 (702) 438-5311 (facsimile)
8 Attorney for Petitioner

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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

JANE DOE,

Petitioner,

vs.

JOHN DOE,

Respondent.

CV-S-02- ____ - ____ - ()

**DECLARATION UNDER
UNIFORM CHILD CUSTODY JURISDICTION ACT
NRS 125A**

1. There is one (1) child of the parties subject to this proceeding. The name, place of birth, birth date and sex of the child, the present address, periods of residence and places where the child has lived within the last five (5) years, and the name, present address and relationship to the child of each person with whom the child has lived during the time are:

Child's Name:

Place of Birth:

Birth date: Sex:

Period of Residence:

Address:

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Person Child Lived With:

Relationship:

Address:

2. I have participated as a party, witness, or in any other capacity in any other litigation or custody proceeding in this or any other state concerning custody of a child involved in this proceeding.

3. I do not have information of any custody proceeding pending in a court of this or any other state concerning a child involved in this proceeding other than that set out in Item 2 above.

4. I do not know of any person not a party to this proceeding who has physical custody or claims to have custody or visitation rights with respect to any child subject to this proceeding.

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VERIFICATION BY ATTORNEY

STATE OF NEVADA)
 : ss.
COUNTY OF CLARK)

Robert Cerceo, Esq., first being duly sworn, deposes and says:

That I am an attorney licensed to practice law in the State of Nevada, and the United States District Court -- District of Nevada, I am employed by the LAW OFFICE OF MARSHAL S. WILLICK, P. C. and am one of the Nevada attorneys representing Ms. JANE DOE, the Petitioner in this action; pursuant to NRS 15.010 this verification is being made on behalf of Petitioner because she is absent from the State of Nevada, County of Clark; I have read the above Petition and know the contents thereof as true, except as to the matters that are stated therein on my information and belief, and as to those matters, I believe them to be true. I declare under penalties of perjury under the laws of the State of Nevada that the foregoing is true and correct.

ROBERT CERCEO, ESQ.

SIGNED and **SWORN** to before me this
_____ day of _____, 200__.

NOTARY PUBLIC in and for said
County and State

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APPENDIX 3

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5 Las Vegas, NV 89110-2198
6 (702) 438-4100 (phone)
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8 Attorney for Petitioner

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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

JANE DOE,

Petitioner,

vs.

JOHN DOE,

Respondent.

CV-S-02- ____ - ____ - ()

**PETITION FOR WARRANT
IN LIEU OF A WRIT OF HABEAS CORPUS**
The Convention on the Civil Aspects of International Child Abduction,
done at the Hague on 25 Oct 1980
International Child Abduction Remedies Act, 42 U.S.C., 11604
NRS 125A.120

ALLEGATIONS OF PETITIONER

Petitioner is a person as defined by 42 U.S.C. §11602(5) who has a right of custody of CHILD born on _____, for whom this petition has been filed. Such right of custody has been breached within the meaning of Article 3 of *The Convention on the Civil Aspects of International Child Abduction, done at the Hague on 25 Oct 1980* (Convention).

CHILD is being illegally held in custody, confinement, or restraint by JOHN DOE at ADDRESS, Las Vegas, Nevada 891XX, USA.

1 The parents were married on _____, and cohabited until _____,
2 when the Respondent and child left _____.

3 On _____, the Respondent wrongfully removed the child within
4 the meaning of Article 3 of the Convention and has since failed to return the child to the Petitioner.

5 [DETAILS].

6 The petitioner is duly concerned for the welfare of CHILD since the Respondent [DETAILS]

7 [POSSIBLE WORDING:] It is possible that CHILD is in danger. Additionally, since
8 Respondent has been in hiding in Las Vegas, it is also possible that he will attempt to flee from the
9 authorities and hide in another location.

10 Petitioner believes that the child will be removed from the jurisdiction of the court or will
11 suffer some irreparable injury unless a warrant is issued. It is therefore necessary for the child to be
12 taken into immediate custody by the court to prevent any harm coming to the child and to prevent
13 Respondent from fleeing further.

14 **OTHER APPLICATIONS**

15 A PETITION for the return of the child has been filed contemporaneously with this Petition
16 for Warrant in Lieu of Writ of Habeas Corpus. No other applications for a writ of habeas corpus or
17 a warrant in lieu of writ has been made by Petitioner or on behalf of the child in regard to the said
18 restraint or injury.

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RELIEF REQUESTED

The petitioner prays that a Warrant in Lieu of Writ of Habeas Corpus be issued, directing any police officer in the State of Nevada, or any federal officer, to bring the Respondents and the child immediately before this Court.

DATED this ____ day of _____, 200__.

LAW OFFICE OF MARSHAL S. WILLYCK, P.C.

MARSHAL S. WILLYCK, ESQ.
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ROBERT CERCEO, ESQ.
Nevada Bar No. 005247
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(702) 438-4100
Attorneys for Petitioner

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VERIFICATION BY ATTORNEY

STATE OF NEVADA)
 : ss.
COUNTY OF CLARK)

Robert Cerceo, Esq., first being duly sworn, deposes and says:

That I am an attorney licensed to practice law in the State of Nevada, and the United States District Court -- District of Nevada, I am employed by the LAW OFFICE OF MARSHAL S. WILLICK, P. C. and am one of the Nevada attorneys representing Ms. JANE DOE, the Petitioner in this action; pursuant to NRS 15.010 this verification is being made on behalf of Petitioner because she is absent from the State of Nevada, County of Clark; I have read the above Petition and know the contents thereof as true, except as to the matters that are stated therein on my information and belief, and as to those matters, I believe them to be true. I declare under penalties of perjury under the laws of the State of Nevada that the foregoing is true and correct.

ROBERT CERCEO, ESQ.

SIGNED and **SWORN** to before me this
_____ day of _____, 200__.

NOTARY PUBLIC in and for said
County and State

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APPENDIX 4

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8 Attorney for Petitioner

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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

JANE DOE,

Petitioner,

vs.

JOHN DOE,

Respondent.

CV-S-01- ____ - ____ - ____

NOTICE OF PETITION UNDER HAGUE CONVENTION

The Convention on the Civil Aspects of International Child Abduction,
done at the Hague on 25 Oct 1980

International Child Abduction Remedies Act, 42 U.S.C. 11601 et seq

TO: JOHN DOE, Respondent.

YOU AND EACH OF YOU please take notice that a *Petition for Return of Child* has been filed with the United States District Court. A hearing is scheduled at the Lloyd D. George United States Courthouse, United States District Court, 333 Las Vegas Blvd. South, Las Vegas, Nevada, in Court Room 6- __, before the Honorable Judge _____, on the ____ day of _____, **200** __, at the hour of ____ o'clock __ .m.

You are ordered to appear personally with CHILD at the aforesaid hearing. Failure to appear personally, with or without CHILD may result in a decision adverse to you.

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ORDER

_____ is hereby **Ordered To Appear** with CHILD at the above time and place.

DATED this _____ day of _____, 200__.

UNITED STATES DISTRICT JUDGE

Respectfully Submitted by:

LAW OFFICE OF MARSHAL S. WILLICK, P.C.

MARSHAL S. WILLICK, ESQ.
Nevada Bar No. 002515
3551 E. Bonanza Road, Suite 101
Las Vegas, Nevada 89110-2198
(702) 438-4100
Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that service of the foregoing *Notice of Petition Under Hague Convention* pursuant to NRCP 11 was made on the _____ day of _____, 200__, by Hand Delivery of a true copy of the same, to the following addresses:

JOHN DOE
ADDRESS

An employee with THE LAW OFFICE OF MARSHAL S. WILLICK, P.C.

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APPENDIX 5

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4 3551 E. Bonanza Road, Suite 101
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8 Attorney for Petitioner

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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

JANE DOE,

Petitioner,

vs.

JOHN DOE,

Respondent.

CV-S-02- ____ - ____ - ____

NOTICE OF STAY

The Convention on the Civil Aspects of International Child Abduction,
done at the Hague on 25 Oct 1980
International Child Abduction Remedies Act, 42 U.S.C. 11601et seq.

NOTICE OF STAY OF EIGHTH JUDICIAL DISTRICT COURT OF NEVADA ACTION

Pursuant to Article 16 of The Convention on the Civil Aspects of International Child Abduction, done at the Hague on 25 October 1980 [Convention], you are hereby notified that a Petition for Return of Child will be filed in the appropriate court in Clark County, Nevada, on or before _____, 200__.

Pursuant to Article 16 of the Convention, all actions before the Eighth Judicial District Court of Nevada concerning the merits of the rights of custody of the parties are, as a matter of International Law, stayed pending the determination of the aforesaid Federal action.

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The complete text of Article 16 is as follows:

After receiving notice of a wrongful removal or retention of a child in the sense of Article 3, the judicial or administrative authorities of the Contracting State to which the child has been removed or in which it has been retained shall not decide on the merits of rights of custody until it has been determined that the child is not to be returned under this Convention or unless an application under this Convention is not lodged within a reasonable time following receipt of the notice.

DATED this _____ day of _____, 200_.

Respectfully submitted by:

LAW OFFICE OF MARSHAL S. WILLYCK, P.C.

MARSHAL S. WILLYCK, ESQ.
Nevada Bar No. 002515
ROBERT CERCEO, ESQ.
Nevada Bar No. 005247
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Attorneys for Petitioner

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APPENDIX 6

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8 Attorney for Petitioner

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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

JANE DOE,

Petitioner,

vs.

JOHN DOE,

Respondent.

CV-S-02- ____ - ____ - ____

ORDER DIRECTING RETURN OF MINOR

The Convention on the Civil Aspects of International Child Abduction,
done at the Hague on 25 Oct 1980
International Child Abduction Remedies Act, 42 U.S.C. § 11601et seq.

ORDER FOR RETURN OF CHILD

The court orders, pursuant to the provisions of the Convention on the Civil Aspects of International Child Abduction, done at the Hague on 25 Oct 1980 and/or the **International Child Abduction Remedies Act**, 42 U.S.C. § 11601et seq., that the minor, NAME OF CHILD, born ____, be returned in the company of his mother to COUNTRY, and that said return be reported to the appropriate Central Authority.

1 By virtue of this order, **JANE DOE** has the exclusive right to the physical and legal custody
2 of the child during the period of time required to return the above-named minor to COUNTRY, the
3 country of the minor's habitual residence.

4 This order is not a determination of the merits of any custody issues within the meaning of
5 Article 19 of the Convention, and pursuant to Article 16 of the Convention no judicial or
6 administrative authorities in the United States should decide on the merits of any rights of custody.

7 The order of this court is made under the authority of 42 U.S.C. § 11603(a), conferring
8 original and concurrent jurisdiction on state and federal district courts of the United States.

9 **THEREFORE, TO ANY PEACE OFFICER IN THE STATE OF NEVADA,
10 OR TO ANY FEDERAL OFFICER:**

11 You are hereby commanded to enforce the instant order allowing JANE DOE to
12 remove the above-named minor from the United States of America, and to allow
13 JANE DOE to accompany him to COUNTRY, giving said JANE DOE the right,
14 without interference, to have said child in her lawful custody for the purposes
15 described herein.

16 This order is effective the date below written, and shall continue in force and effect until
17 modified or canceled by a court of competent jurisdiction in COUNTRY.

18 Dated this _____ day of _____, 200_.

19 _____
20 **UNITED STATES DISTRICT JUDGE**

21 Respectfully Submitted by:

22 LAW OFFICE OF MARSHAL S. WILLICK, P.C.

23 _____
24 MARSHAL S. WILLICK, ESQ.

25 Nevada Bar No. 002515

26 ROBERT CERCEO, ESQ.

27 Nevada Bar No. 005247

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Las Vegas, Nevada 89110-2198

(702) 438-4100

Attorneys for Petitioner

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APPENDIX 7

1 LAW OFFICE OF MARSHAL S. WILLICK, P.C.
2 MARSHAL S. WILLICK, ESQ.
3 Nevada Bar No. 002515
4 3551 E. Bonanza Road, Suite 101
5 Las Vegas, NV 89110-2198
6 (702) 438-4100 (phone)
7 (702) 438-5311 (facsimile)
8 Attorney for Petitioner

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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

JANE DOE,

Petitioner,

vs.

JOHN DOE,

Respondent.

CV-S-01- ____ - ____ - ____

**ORDER FOR ISSUANCE OF WARRANT
IN LIEU OF WRIT OF HABEAS CORPUS**

The Convention on the Civil Aspects of International Child Abduction,
done at the Hague on 25 Oct 1980 Article 7(b)
International Child Abduction Remedies Act, 42 U.S.C. 11604
NRS 125A

ORDER FOR ISSUANCE OF WARRANT IN LIEU OF WRIT OF HABEAS CORPUS.

Upon filing and reading of the PETITION FOR RETURN OF CHILD PURSUANT TO THE CONVENTION and the **International Child Abduction Remedies Act** and Petitioner's PETITION FOR A WARRANT IN LIEU OF WRIT OF HABEAS CORPUS, it appears that NAME OF CHILD, a person under the age of sixteen (16) years, is illegally held in custody, confinement, or restraint by JOHN DOE at ADDRESS, Las Vegas, Nevada 891XX, County of Clark, and from which it appears that a Warrant should issue in lieu of Writ of Habeas Corpus.

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IT IS ORDERED that a Warrant of Arrest issue out of and under the Seal of the U.S. District Court, District of Nevada, directed to the U.S. Marshal or any of his/her deputies and any peace officer within the State of Nevada commanding him to do any one or all of the following, indicated by the court's initial:

Take into protective custody NAME OF CHILD before the Honorable _____ in the courtroom of Department _____ at the Federal Courthouse, at 333 Las Vegas Boulevard South, Las Vegas, Nevada, or if court is not in session and no other Judge is available, deliver NAME OF CHILD into the custody of Child Haven.

Court's Initial: _____

Serve a copy of the documents Serve a copy of the documents listed in Exhibit 1.2.2 [attach list of appropriate documents, such as custody orders, etc.] on JOHN DOE and prepare the appropriate proof of service thereof.

Court's Initial: _____

Take into protective custody and deliver NAME OF CHILD and release CHILD to Child Haven where he/she shall remain in custody until a hearing is scheduled, said hearing to be done promptly.

Court's Initial: _____

Take into protective custody NAME OF CHILD, and release CHILD to Petitioner. Petitioner is ordered to immediately calendar a hearing in the courtroom of Department _____ at the Federal Courthouse, at 333 Las Vegas Boulevard South, Las Vegas, Nevada, pending further order of the court.

Court's Initial: _____

Petitioner shall post a bond of _____ with the court.

Court's Initial: _____

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AUTHORITY TO SEARCH PREMISES

This order gives the U.S. Marshal or any of his/her deputies and any peace officer within the State of Nevada the authority to use any and all force to enter and search the premises of JOHN DOE at ADDRESS, Las Vegas, Nevada 891XX, or any other place where CHILD is reasonably believed to be present, for the purpose of determining whether CHILD is present.

Court's Initial: _____

ORDER

The above is hereby ORDERED including all items set forth in the above paragraphs that are initialed by the court.

DATED THIS _____ day of _____, 200_.

UNITED STATES DISTRICT JUDGE

Respectfully submitted by:
LAW OFFICE OF MARSHAL S. WILLYCK, P.C.

MARSHAL S. WILLYCK, ESQ.
Nevada Bar No. 002515
ROBERT CERCEO, ESQ.
Nevada Bar No. 005247
3551 E. Bonanza Road, Suite 101
Las Vegas, Nevada 89110-2198
(702) 438-4100
Attorneys for Petitioner

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APPENDIX 8

1 LAW OFFICE OF MARSHAL S. WILLICK, P.C.
2 MARSHAL S. WILLICK, ESQ.
3 Nevada Bar No. 002515
4 3551 E. Bonanza Road, Suite 101
5 Las Vegas, NV 89110-2198
6 (702) 438-4100 (phone)
7 (702) 438-5311 (facsimile)
8 Attorney for Petitioner

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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

JANE DOE,

Petitioner,

vs.

JOHN DOE,

Respondent.

CV-S-02- ____ - ____ - ____

WARRANT IN LIEU OF WRIT OF HABEAS CORPUS

The Convention on the Civil Aspects of International Child Abduction,
done at the Hague on 25 Oct 1980 Article 7(b)

International Child Abduction Remedies Act, 42 U.S.C. 11604

NRS 125A

THE PEOPLE OF THE STATE OF NEVADA TO:

The U.S. Marshal or any of his/her deputies and any PEACE OFFICER within the State of Nevada

ORDER OF THE COURT

It appearing to the Court, from the filing of a petition for a Warrant in Lieu of Writ of Habeas Corpus, that NAME OF CHILD, a person under the age of sixteen (16) years, is illegally held in custody, confinement, or restraint by JOHN DOE at ADDRESS, Las Vegas, Nevada 891XX, USA,

1 and there is reason to believe CHILD will be carried out of the jurisdiction or suffer some irreparable
2 injury;

3 **YOU ARE COMMANDED TO:**

4 Take into protective custody NAME OF CHILD before the Honorable
5 _____ in the courtroom of Department ___ at the Federal Courthouse,
6 at 333 Las Vegas Boulevard South, Las Vegas, Nevada, or if court is not in session
7 and no other Judge is available, deliver NAME OF CHILD into the custody of Child
8 Haven, located at 601 N. Pecos Road (at Bonanza), Las Vegas, Nevada 89110.

9 Court's Initial: _____

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11 Take into protective custody and deliver NAME OF CHILD and release CHILD to
12 Child Haven where he shall remain in custody until a hearing is scheduled, said
13 hearing to be done promptly.

14 Court's Initial: _____

15

16 Take into protective custody NAME OF CHILD, and release CHILD to Petitioner.
17 Petitioner is ordered to immediately calendar a hearing in the courtroom of
18 Department _____ at the Federal Courthouse, at 333 Las Vegas Boulevard South, Las
19 Vegas, Nevada, pending further order of the court.

20 Court's Initial: _____

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22 Serve a copy of the documents listed in Exhibit ___ on JOHN DOE and prepare the
23 appropriate proof of service thereof.

24 Court's Initial: _____

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AUTHORITY TO SEARCH PREMISES

This Order gives the U.S. Marshal or any of his/her deputies and any peace officer within the State of Nevada the authority to use any and all force to enter and search the premises at ADDRESS, Las Vegas, Nevada 891XX, or any other place where NAME OF CHILD is reasonably believed to be present, for the purpose of determining whether CHILD is present.

ISSUANCE BY CLERK

_____ Federal Clerk, United States District Court, District of Nevada.

DATED this ____ day of _____, 200_.

By Deputy

Respectfully Submitted By:
LAW OFFICE OF MARSHAL S. WILLYCK, P.C.

MARSHAL S. WILLYCK, ESQ.
Nevada Bar No. 002515
ROBERT CERCEO, ESQ.
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Attorneys for Petitioner

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APPENDIX 9

MOT
LAW OFFICE OF MARSHAL S. WILLICK, P.C.
MARSHAL S. WILLICK, ESQ.
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Las Vegas, NV 89110-2198
(702) 438-4100
Attorney for Defendant

**DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA**

ROBERT DOE,
Plaintiff,

vs.

JANE DOE,
Defendant.

CASE NO: D123123
DEPT. NO: I

DATE OF HEARING:
TIME OF HEARING:

**MOTION FOR ATTORNEY FEES AND COSTS
PURSUANT TO 42 U.S.C. 11601, et seq. and 42 U.S.C. 11607(b)(3),
AND CERTAIN ANCILLARY RELIEF**

During extensive litigation (including Robert's unsuccessful petition for certiorari to the United States Supreme Court), Jane was forced to expend many thousands of dollars and still owes many more thousands more in her effort to retrieve her wrongfully removed children. Jane is *entitled* to reimbursement by Robert pursuant to 42 U.S.C. §11601, et seq. and 42 U.S.C. §11607(b)(3), as the prevailing party in the Hague Petition. This Motion requests an award of all such fees and costs, and various other relief ancillary thereto.

1 **NOTICE OF MOTION**

2 TO: ROBERT DOE, Plaintiff; and

3 TO: P. JONES, ESQ., his attorney.

4 YOU AND EACH OF YOU will please take notice that the foregoing Motion will be heard
5 in Clark County Family Courthouse, 601 North Pecos (at Bonanza), Las Vegas, Nevada 89110, on
6 the ____ day of _____, 2003, at the hour of _____ o'clock __.M. or as soon thereafter as
7 counsel can be heard in Department I.

8 LAW OFFICE OF MARSHAL S. WILLICK, P.C.,

9
10
11 MARSHAL S. WILLICK, ESQ.
12 Nevada Bar No. 002515
13 3551 E. Bonanza Road, Suite 101
14 Las Vegas, Nevada 89110
15 Attorneys for Defendant

14 **POINTS AND AUTHORITIES**

15 **I. FACTS**

16 As this Department was not involved in the earlier round of lower court proceedings, a brief
17 overview of the history of this case is in order.¹ The parties met in Denmark while Robert was
18 fulfilling his mission for the Mormon church. At Robert's request, Jane followed him to the United
19 States, and the parties married on June __, 1990, in Salt Lake City, Utah. The parties settled in
20 Idaho, where both their children were born: L Doe, born May __, 1991; and K Doe, born February
21 __, 1995.

22 After Robert graduated from college, he obtained employment in Michigan, and the entire
23 family moved to Michigan for a year. He was then transferred to London, England, and in August,
24 1997, the family relocated to London.

25
26 _____
27 ¹ A more detailed account of these parties' history is contained in the decision by the Nevada Supreme
28 Court, *Doe v. Doe*, (cite omitted).

1 The marriage broke down while in London, and the parties decided to divorce. However,
2 since they had been residents of London for less than a year, the required British waiting period was
3 not satisfied, and the London courts lacked jurisdiction to grant a divorce. After researching the
4 matter, and after being informed his mother was moving to Nevada, Robert decided to file for
5 divorce in Nevada. Robert changed his billing address on a few bills to his mother's Nevada address
6 and contacted a Nevada attorney. He informed Jane that these acts constituted a change in his
7 residency to Nevada.

8 Fearing that Robert would make good his threat to abscond with the children to the United
9 States, Jane petitioned the London court to restrain Robert from leaving the country. The London
10 court held Robert's passport (and those of the children and Jane) from June 8, 1998, to July 9, 1998.
11 Immediately after the London court released the passports,² both parties signed a very complicated,
12 convoluted marital property and parenting agreement, that had been drafted almost completely
13 according to Robert's wishes.

14 Per the British Court order, Jane and the children moved to Denmark. Robert briefly visited
15 the United States, and made his way to Las Vegas. On or about July __, Robert applied for a Nevada
16 Driver's License and registered to vote in Nevada. Robert signed a *Complaint for Divorce* the same
17 day, falsely claiming to have lived in Las Vegas for the prior six weeks. The *Complaint* was actually
18 filed by Robert's attorney on August __, 1998, by which time Robert had returned to London.

19 The parties' *Decree of Divorce* was entered on August __, 1998 – while Robert was residing
20 in London, and Jane and the children were living in Denmark.

21 The children remained in Denmark with Jane, visiting occasionally with Robert in London
22 or Denmark. In November, 1999, Jane informed Robert of her plans to marry – at which time Robert
23 immediately demanded Jane and the children “honor the agreement” and relocate to the United
24 States. Jane then consulted a Denmark attorney, who reviewed the parties' underlying documents.

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² Robert got his passport, and Jane was given hers and the children's – along with permission to relocate the
children from London.

1 Hearing the history, that attorney noticed (and Jane first learned) that Robert had not fulfilled the
2 residency requirements for a divorce in Nevada. The attorney advised Jane that the Nevada divorce
3 might not be valid, and that the Denmark courts should review the parties' "agreement."

4 Jane began proceedings in Denmark, requesting the Denmark courts review the parties'
5 agreements as to the custody of the children. Robert participated in the mandatory mediation
6 sessions prior to the litigation, but had his Denmark attorney file for an extension of time to file his
7 answering pleadings.

8 The delay was in bad faith. During that delay, Robert hired Nevada counsel to file a Motion
9 to compel Jane to "return" the children to Nevada, alleging that they were from this State, and were
10 being wrongfully retained while visiting in Denmark.³ Robert's *Motion* was filed on February __,
11 2000, but not served on Jane *in Denmark* within the required time, or in adequate time before the
12 hearing.⁴

13 Although Jane's foreign country attorney attempted to file a response to Robert's Motion,
14 by fax in the very short time she had, the pleading was believed to be an ex-parte communication,
15 and was not filed before the hearing.⁵ The hearing was held on March __ before Judge S, who
16 attempted to confirm her jurisdiction to enter an order relating to the children. Both Robert and his
17 attorney falsely assured the Court that Robert and the children were Nevada residents and that the
18 Court had jurisdiction to enter orders concerning the children's custody.

19 The *Order* granting Robert's *Motion* was entered April __, 2000, but it was never
20 domesticated in Denmark, or even served on Jane. On May __, during a visitation with the children
21 in Robert's hotel, Robert separated the children from Jane's presence, kept Jane occupied for
22

23 ³ At that time, the children had not lived within the United States for over 2½ years, and *never* lived in
Nevada.

25 ⁴ EDCR 2.20 requires all motions to be served not less than 21 days before a hearing is set.

26 ⁵ Jane's filing attempted to inform the Court of its lack of jurisdiction over herself and the children, but the
Court never read the pleading. The pleading was belatedly filed by the Clerk's Office on April 4, 2000 (after being
held for weeks), but by then the Court had made its decision.

1 approximately 45 minutes, and then left. Jane then discovered the children were missing, and that
2 Robert had left an envelope at the hotel's front desk which contained the *Order* from Department
3 G of this Court.⁶

4 Despite efforts by law enforcement, Robert managed to spirit the children out of Denmark
5 and into the United States with assistance from various friends and relatives. Jane immediately
6 applied for the children's return through the Convention on the Civil Aspects of International Child
7 Abduction, Done at the Hague on 25 October 1980, International Child Abduction Remedies Act,
8 42 U.S.C. 11601, et seq. ("the Convention"). Denmark forwarded the application to the United
9 States' Central Authority on May __, 2000. The National Center for Missing and Abducted
10 Children, which acts for the Central Authority in the United States, contacted the undersigned and
11 requested we represent Jane in the Nevada Court as there was already ongoing litigation here
12 (Robert's fraudulent divorce and fraudulent motion filings).

13 Jane's *Motion for Immediate Return of Internationally Abducted Children* was filed on
14 September __, 2000. In a preliminary hearing on September __, the Court signed a pick-up order
15 for the children's "return" to Las Vegas; but before it could be effectuated, Robert voluntarily
16 brought the children to Las Vegas and placed them in Child Haven as ordered. The evidentiary
17 hearing on the matter was held on October _ and __, and additional briefs were supplied to the Court
18 concerning the Hague Petition and jurisdictional questions.

19 The Court (Judge S) declined to make any determination under the Hague Convention in its
20 October 25, 2000, *Order*. Instead, the Court acknowledged that it had no jurisdiction to enter
21 custody decisions, released the children into their father's custody, and directed the courts of
22 Denmark and Oklahoma to decide which court should determine custody as between the parents.
23 Jane both appealed the district court's decision and filed an *Emergency Petition for Writ of*
24 *Mandamus* and *Writ of Prohibition* on November __, 2000.

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27 ⁶ This was Robert's attempt to lend "legal" credibility to his removal of the children from Denmark.

1 The Nevada Supreme Court finally entered its decision on the *Writ* on April __, 2002,
2 granting Jane's *Petition for Writ of Mandamus or Prohibition*, and directing this Court on remand
3 to order the children returned to Jane. The *Order Pursuant to the Writ of Mandamus* was filed in
4 open court on April __, 2002. The Nevada *Order* was honored by the Oklahoma courts, and the
5 children were released to Jane who returned them to Denmark, where they remain.

6 Robert continued his efforts to thwart the Nevada Supreme Court's decision by filing an
7 appeal in the Oklahoma courts (which was eventually denied), trying to intercept the children while
8 en route to Denmark (unsuccessfully), and then filing a Petition for Certiorari in the United States
9 Supreme Court, which was denied on March __, 2003. After the Oklahoma courts honored this
10 Court's order and returned the children to Jane, Robert abandoned any pretense of following orders
11 from the courts of that state. He has refused to obey the orders even after his appeals were denied,
12 and is in open defiance of the Oklahoma orders (entered under their general litigation rules) to
13 partially reimburse Jane for her fees and costs expended in the Oklahoma actions. After that fee
14 award, Robert's continuing appeals have caused Jane to continue incurring fees and costs in
15 Oklahoma.

16 Jane funded the first phases of litigation with financial aid from the Denmark government
17 and by borrowing money from various friends and relatives. All such funds ran out long ago, and
18 she still owes over \$67,000 to this firm and many thousands more to her attorneys in Oklahoma, in
19 addition to the money she has been forced to spend in travel and miscellaneous expenses.⁷

20 No determination has ever been made on Nevada fees in this case, or anywhere under the
21 Hague Convention and the federal law implementing it, the International Child Abduction Remedies
22 Act ("ICARA"). Under those laws, Robert is to be held responsible for **all** of Jane's expenditures.
23 Jane requests this Court make the required order now.

24 *****

26 ⁷ Please see the attached exhibits: billing statements from Jane's various legal counsel, and lists of expenses
27 incurred as a result of the litigation. This is discussed in greater detail below.

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II. ARGUMENT

Authority to grant an award to Jane for her attorney’s fees, costs, and necessary expenses is provided in both the Convention and ICARA.

A. The Convention on the Civil Aspects of International Child Abduction, Done at the Hague on 25 October 1980.

The Convention’s Article 26 provides, in relevant part:

Upon ordering the return of a child or issuing an order concerning rights of access under this Convention, the judicial or administrative authorities may, where appropriate, direct the person who removed or retained the child, or who prevented the exercise of rights of access, to pay necessary expenses incurred by or on behalf of the applicant, including travel expenses, any costs incurred or payments made for locating the child, the costs of legal representation of the applicant, and those of returning the child.

Thus, the Convention envisions the person who wrongfully removed a child be required to bear the costs of the child’s return, and provided the deciding courts with the ability to place the burden on the respondent. While the Convention uses permissive language, ICARA goes a step further.

B. International Child Abduction Remedies Act

Section 11607(b)(3) of ICARA *requires* any court ordering the return of a child under the Convention to award fees and costs to the petitioner. It states:

Any court ordering the return of a child pursuant to an action brought under section 4 *shall* order the respondent to pay necessary expenses incurred by or on behalf of the petitioner, including court costs, legal fees, foster home or other care during the course of proceedings in the action, and transportation costs related to the return of the child, unless the respondent establishes that such order would be clearly inappropriate.

(Emphasis added.) *See also Feder v. Evans-Feder*, 63 F.3d 217, 226 (3d Cir. 1995).

1 Thus, the Convention states that a court *may* make an award when appropriate, and ICARA
2 *compels* the court to make an award to the petitioner, unless the respondent can demonstrate the
3 “inappropriateness” of such an award.
4

5 **C. Purpose of the Award and Types of Fees and Costs that May be Awarded**

6 The purpose behind the award is twofold: to place the parties in the condition in which they
7 were prior to the wrongful removal (or retention), and to provide deterrence against future similar
8 conduct by the wrongdoing party. *See* Text & Legal Analysis, 51 Fed. Reg. 10494, 10511 (1986);
9 *Roszkowski v. Roszkowska*, 274 N.J. Super. 620, 644 A.2d 1150, 1160 (1993) (provisions of ICARA
10 relating to fees referred to as a “sanction”).

11 The types of fees and costs that have been awarded include fees for counsel in both the place
12 from which the children were taken, and the place they were taken to, where the recovery action is
13 heard (in this case, there are *three* jurisdictions involved – Nevada, Denmark, and (the other U.S.
14 State) – and at least seven separate courts among those jurisdictions), travel expenses and living
15 expenses while in the requested state, and court costs. There are no guidelines set forth in either the
16 Convention or the ICARA as to the “appropriateness” of an award of fees, and most courts have
17 routinely made or authorized awards of the fees and costs actually incurred, without any substantial
18 discussion regarding the manner in which the awards should be calculated. *See Wanninger v.*
19 *Wanninger*, 850 F. Supp. 78, 83 (D. Mass 1994); *Caro v. Sher*, 296 N.J. Super. 594, 687 A.2d 354,
20 362 (1996).

21 In this case, the costs and fees have been vastly magnified by Robert’s litigiousness, ready
22 willingness to abuse court processes, and pathetically self-righteous defiance.

23 For example, Robert refuses to comply with any part of any court order with which he does
24 not agree – he has paid zero of the fees awarded to Jane, urged the courts of Oklahoma to disregard
25 the orders entered by this Court, and even attempted to intercept the children while they were being
26 returned to Denmark. But he is perfectly willing to continue filing frivolous pleadings, going so far
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1 as to seek certiorari in the United States Supreme Court and, most recently, filing a spurious
2 “counterclaim” in federal court for “conspiracy” between this law office and our client (which has
3 since been dismissed by the federal court). Robert has also asked the federal district court to
4 disregard the holdings of the Nevada Supreme Court, and the orders of this Court, which the federal
5 court has indicated it will not do.

6 A comparison illustrates the degree to which Robert’s misbehavior has exacerbated costs.
7 As detailed below, his actions have cost well over \$150,000.00 in fees and costs in actions spanning
8 several states and two countries. This office, as the Nevada contact for the National Center for
9 Missing and Exploited Children, handles similar matters on a regular basis, and has completed
10 several of them at a *total* cost of \$6,000.00 to \$7,000.00. This motion is designed to ensure that the
11 wrongdoer pays the costs he has caused.

12
13 **D. Relationship to These Proceedings of Oklahoma Orders**

14 When the Oklahoma trial court honored this Court’s order and returned the children to Jane
15 and to Denmark, it asked Jane for her costs, fees, and other expenses in the action there. She was
16 unprepared for the question, and provided estimates, telling the trial judge that she was doing so.⁸
17 The Oklahoma court nevertheless entered a judgment pursuant to her estimates, awarding her
18 \$25,060.00 in travel expenses, \$20,359.00 in attorney’s fees, and \$81.00 in court costs, for a total
19 of \$45,500.00. *See* Exhibit F (the Oklahoma Order).

20 Subsequently, a more complete audit of her Oklahoma-related attorney’s fees and court
21 costs, and total travel expenses, revealed that as of the date of the trial court’s inquiry (now a year
22 ago), Jane *actually* had: \$14,576.20 in travel expenses (airfare, lodging, rental cars, and gas);
23 \$5,735.48 in related expenses (groceries, entertainment, phone, clothing for the children, shipping);
24 \$27,338.79 in attorney’s fees (for Mike G., Esq., through April, 2002), and \$81.00 in court costs,

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26

27 ⁸ As explained above, many of Jane’s expenses were incurred in Kroners – and Jane had not at that time
28 translated those sums into U.S. dollars.

1 with a total of \$47,731.47. *See* Exhibits B and D. Costs and fees have continued to accrue in
2 Oklahoma since that time; incurred expenses since April, 2002, are addressed in the following
3 section of this *Motion*.

4 The question presented here is how to deal with the relatively small, but known discrepancy
5 between the sums reduced to judgment and the actual sums incurred, with a view toward the doctrine
6 of full faith and credit. As the Nevada Supreme Court and the United States Supreme Court have
7 recognized, this was the appropriate Court to render the Hague Convention ruling. Thus, this is the
8 Court that should enter the award required by ICARA, and the fees incurred Oklahoma should be
9 part of the order entered by this Court, one way or another as part of the “court costs and legal fees
10 [incurred] during the course of proceedings in the action.”

11 More precisely, our judgment should include any costs or fees incurred in Oklahoma for
12 three reasons: (1) this Court should enter an order under ICARA for all sums incurred in the Hague
13 proceedings, wherever incurred; (2) to avoid any possibility of conflicting or competing judgments;
14 and (3) to simplify collection proceedings once we eventually run Robert to ground.

15 We are perfectly willing to have this Court either recognize and incorporate the existing
16 Oklahoma judgment in making its award, or to enter a corrected order, stating in the record that we
17 have done so and that only a single collection will be sought in any collection proceeding.⁹

18 If the Court elects to honor the Oklahoma judgment as written, then the total sum that we
19 are asking to have reduced to judgment is \$50,050.00 as of April 17, 2003.¹⁰ If the Court elects to
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21 ⁹ We note again that Robert has ignored the Oklahoma orders, and paid zero of the sums he has been
ordered to pay. In fact, he fled (the other U.S. State) entirely, and is now believed to be hiding out in Iowa, using a
post office box as his address in court filings. While Robert is perfectly willing to use, misuse, and abuse the legal
system in pursuit of his goals when convenient, he has entirely refused to abide by the terms of any court order with
which he does not agree. If his defiance of the existing court orders continues to the time this matter is heard, we ask
that the Court disregard any defense he may try to interpose, and grant judgment in accordance with the fugitive
disentitlement doctrine. *See Guerin v. Guerin*, 116 Nev. 210, 993 P.2d 1256 (2000) (party cannot simultaneously
remain in contemptuous disregard of existing court orders, and seek relief from the courts).

25 ¹⁰ The Oklahoma judgment, on its own terms, calls for three sums reduced to judgment therein to accrue
interest at 10% per annum, compounded annually: \$20,359.00 (attorney’s fees and expenses), \$25,060.00 (travel
expenses), and \$81.00 (court costs). The math is therefore simple: as of April 17, 2003, the total owed per that
judgment is $(\$20,359.00 + \$2,035.90) + (\$25,060.00 + \$2,506.00) + (\$81.00 + \$8.10)$ for a total of \$50,050.00.

1 use the corrected numbers, then the total we ask be reduced to judgment is \$52,504.62, as of April
2 17, 2003.¹¹ In either case, we ask that it be expressly made collectible by all lawful means, noting
3 that it incorporates and includes sums reduced to judgment in Oklahoma to ensure that there is no
4 double collection.

5
6 **E. Actual Costs and Expenses**

7 Since the time that (other U.S. State-only) fees and costs sums were reduced to judgment
8 in Oklahoma, there have been additional sums incurred in the ongoing actions there filed by Robert
9 while he evades the existing orders against him. The order from this Court should expressly include
10 the additional bill from attorney Mike Gr., Esq. since May 1, 2002, of \$4,704.74 and from attorney
11 Heather L, Esq. of \$14,246.36. The total of attorney's fees bills from Oklahoma, since the prior
12 sums were reduced to judgment, and through March, 2003, is \$18,951.10, which should be reduced
13 to judgment at this time.

14 To make the record here complete, Jane has provided attorney bills from: the LAW OFFICE
15 OF MARSHAL S. WILLICK, P.C., for the District Court and Nevada Supreme Court¹² (\$96,862.81), and
16

17
18 More simply put, $\$45,500.00 + \$4,550.00 = \$50,050.00$. While it reduces the sum of interest accruing somewhat,
19 Jane is willing to roll all of these sums into the requested Nevada judgment, for ease and simplicity of calculation
20 and collection.

21 ¹¹ Pursuant to the same math as set out in the preceding note, $\$47,731.47 + \$4,773.15 = \$52,504.62$.

22 ¹² In Nevada, attorney's fees are not considered part of the common law, but are creatures of statute, so that
23 fees are not compensable unless there is some specific statutory basis for such an award. *See, e.g., Von Ehrensmann*
24 *v. Lee*, 98 Nev. 335, 647 P.2d 377 (1982). However, fees are recoverable where called for by statute, or when
25 attorney's fees may be considered as an item of damage. *Clark County School District v. Rolling Plains*
26 *Construction, Inc.*, 117 Nev. ___, 16 P.3d 1079 (Adv. Op. No. 10, Feb. 5, 2001); *American Fed. Musicians v.*
27 *Reynolds Riverside*, 86 Nev. 695, 699, 475 P.2d 220, 222 (1970). It is for that reason that, generally, fees on appeal
28 are not recoverable in district court. *See Korbel v. Korbel*, 101 Nev. 140, 696 P.2d 993 (1985). However, all such
29 fees are recoverable in *this* case because of the specific statutory authorization granted by ICARA, which would
30 supersede any common law limitation in any event as a matter of federal pre-emption, the subject matter of
31 international treaties being by nature a federal function. As a general procedural matter, the Nevada Supreme Court
32 has clarified that a district court can award fees in a post-judgment motion in a divorce case. *See Love v. Love*, 114
33 Nev. 572, 959 P.2d 523 (1998); *Leeming v. Leeming*, 87 Nev. 530, 490 P.2d 342 (1971). In this case, some
34 \$44,773.74 of the total fees and costs incurred with this firm (\$37,846.00 in fees, and \$6,327.74 in costs) were
35 incurred during the appellate proceedings.

1 the United States Supreme Court costs (\$19,869.28), Exhibit A; MIKE G., P. C. (\$32,043.53), Exhibit
2 B; and the LAW OFFICES OF HEATHER L. (\$14,246.36), Exhibit C. Jane also incurred litigation costs
3 in Denmark, totaling approximately \$11,000.00 U.S. dollars, for which recovery of \$3,000.00 is
4 sought.¹³

5 Exhibit D details the \$20,311.68 in costs incurred by Jane for which she was able to provide
6 documentation.¹⁴ Jane has provided copies of receipts for expenses incurred during the court
7 hearings and child visitations in Las Vegas and Oklahoma, for:

- 8 1. Airfare (including tax and/or insurance), \$8,158.39.
- 9 2. Transfers to airports and miscellaneous travel fees, \$59.20.
- 10 3. Rental cars, \$6,081.22.
- 11 4. Gas for the rental cars, \$127.81 (she has misplaced some of the receipts for
12 gas, and those amounts have *not* been included here).
- 13 5. Lodging, \$149.58.
- 14 6. Clothing and toiletries for the children, totaling \$669.10. (During visitations
15 with the children, Jane was compelled to provide necessities for the children, as they were sent to
16 her for visitations with only the clothes on their backs.)
- 17 7. Entertaining the children, totaling \$418.91. (Jane, in an attempt to keep costs
18 down, stayed mainly with other church members. To avoid being burdensome to her hosts, Jane
19 took the children out to various entertainments, such as movies and theme parks.)
- 20 8. Groceries and dining, totaling \$2,532.13 (again, only the amounts for which
21 Jane has receipts have been included).

22
23

24 ¹³ Jane applied for, and was granted, limited government assistance for her legal costs in Denmark. The
25 government has paid about 75% of her bill, leaving her responsible for about \$3,000.00 U.S. dollars. Jane
does not receive periodic statements from her ___ attorney, Elisabeth H., but is attempting to get a fee and costs
summary from the attorney for submission to this Court.

26 ¹⁴ Some of the bills were incurred in the U.S. and are in U.S. dollars, those that were incurred in Denmark's
27 money system were converted using the Universal Currency Converter website, with the market rate on March 25,
2003. Exhibit E. Obviously, the rate fluctuates from day to day.

1 Jane has also provided receipts for her telephone bills incurred both by keeping in
2 communication with her children, and in calls to her Nevada and Oklahoma attorneys, totaling
3 \$1,144.10 (Jane also incurred a cellular bill of approximately \$300.00, which was too difficult to
4 break down, but the documentation can be provided if the Court desires to have it); and shipment
5 and postage costs to both her children and her attorneys, totaling \$671.24.

6 In other words, we ask the Court at this time to reduce to judgment the following:

7 \$18,951.10 in additional bills from Oklahoma counsel since the prior judgment.

8 \$96,862.81 in our fees and costs in this Court and the Nevada Supreme Court.

9 \$19,869.28 in our fees and costs in the United States Supreme Court.

10 \$3,000.00 in fees Jane incurred in litigation costs in Denmark.

11 These fees and costs total \$138,683.19 (the \$20,311.68 for expenses beyond her attorney fees and
12 court costs is included in the Oklahoma Order).

13 To this sum should be added the corrected sum from the earlier Oklahoma proceedings,
14 brought forward to April 17, 2003, of \$52,504.62, for a total judgment of \$191,187.81. If the Court
15 elects not to correct the Oklahoma judgment, but to honor it as written, then the additional sum from
16 that judgment is \$50,050.00, and the total judgment would be \$188,733.19.

17 One sum or the other should be reduced to judgment, collectible by all lawful means, and
18 note that it incorporates and includes sums reduced to judgment in Oklahoma to ensure that there
19 is no double collection.
20

21 **F. Request for Order Releasing Information**

22 Our investigation and discovery has continued. Recently, we were informed that the
23 passports Robert used in perpetrating his kidnap of the children were obtained by him illegally in a
24 foreign country, based on a fraudulent application. Confirmation, for the purpose of a potential
25 further claim for statutory and other damages, requires a court order for release of non-redacted
26 information from the U.S. State Department. A proposed order is attached as Exhibit G.
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III. CONCLUSION

It has already been determined that Robert wrongfully removed the Doe children from their habitual residence, and then vigorously resisted, through both subterfuge and the vigorous (actually, excessive) court filings anywhere he thought he might gain a foothold, Jane’s efforts to have the children returned through the Convention. Jane had to litigate this matter in (the other U.S. State) and Denmark, as well as Nevada, which resulted in substantial delay and greatly escalated Jane’s fees and costs. An order compensating Jane is mandated by federal law.

Therefore, Jane respectfully requests this Court order Robert to pay her \$191,187.81 (or \$188,733.19, if the Court elects not to correct the Oklahoma judgment) in attorney’s fees and costs, and additional expenses incurred,¹⁵ plus interest until paid in full.

Additionally, Jane asks the Court to sign the separate order permitting non-redacted information to be released, so that the truth can be known as to Robert’s further fraud in procuring the passports he used in his perpetration of the kidnap.

DATED this ___ day of April, 2003.

Respectfully submitted by:
LAW OFFICE OF MARSHAL S. WILLYCK, P.C.

MARSHAL S. WILLYCK, ESQ.
Nevada Bar No. 002515
3551 E. Bonanza Road, Suite 101
Las Vegas, Nevada 89110-2198
(702) 438-4100
Attorneys for the Defendant

¹⁵ There is an additional attorney’s bill from Ms. Elisabeth H. in Denmark, from whom we have not yet been able to procure the billing statements. These statements will be supplemented to the Court when they are received.

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AFFIDAVIT OF ATTORNEY

STATE OF NEVADA)
) ss:
COUNTY OF CLARK)

Marshal S. Willick, Esq., first being duly sworn, deposes and says:

I am an attorney licensed to practice law in the State of Nevada, and the United States District Court -- District of Nevada, and am one of the Nevada attorneys for Ms. Jane Doe, the Defendant in the above matter. Pursuant to NRS 15.010 this affidavit is being made on behalf of Jane because she is absent from the State of Nevada, County of Clark.

We have attached a redacted copy of Jane's billing statement, along with bills from both her counsel in Oklahoma (the Denmark counsel's bill will be supplemented), and a list of costs incurred during the course of this litigation. We are in possession of the receipts; if the Court requires any further documentation, we will be happy to provide it.

I have read the preceding filing and know the contents thereof as true, except as to the matters that are stated therein on my information and belief, and as to those matters, I believe them to be true. I declare under penalties of perjury under the laws of the State of Nevada that the foregoing is true and correct.

MARSHAL S. WILLICK, ESQ.

SIGNED and **SWORN** to before me this
_____ day of April, 2003.

NOTARY PUBLIC in and for said
County and State

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EXHIBITS

- A. Redacted billing statement for Jane from the LAW OFFICE OF MARSHAL S. WILLICK, P.C.
- B. Redacted billing statement for Mike G., Esq. of Oklahoma.
- C. Billing statement for Heather L., Esq. of Oklahoma.
- D. List of associated expenses incurred by Jane.
- E. Universal Currency Converter – printout from Website.
- F. Oklahoma Order granting Jane fees.
- G. Proposed Order to Release Non Redacted Information.

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APPENDIX 10

1 LAW OFFICE OF MARSHAL S. WILLICK, P.C.
2 MARSHAL S. WILLICK, ESQ.
3 Nevada Bar No. 002515
4 3551 E. Bonanza Road, Suite 101
5 Las Vegas, NV 89110-2198
6 (702) 438-4100, Facsimile (702) 438-5311
7 Attorneys for Plaintiffs

8 **UNITED STATES DISTRICT COURT**
9 **DISTRICT OF NEVADA**

10 JANE DOE,
11 individually and as Guardian of
12 L DOE and K DOE, minor children,

CASE NO: 123123

13 Plaintiffs,

14 vs.

15 ROBERT DOE,
16 GEORGE DOE,
17 MARY SMITH,
18 ATTORNEY X,
19 ATTORNEY Y,
20 LAW FIRM Z
21 JOHN DOES INDIVIDUALLY, 1 THROUGH 50,
22 and
23 DOE CORPORATIONS, 1 THROUGH 50,

**COMPLAINT
AND
DEMAND FOR JURY TRIAL**

24 Defendants.

25 Plaintiffs complain of the defendants, and each of them, and for causes of action alleges and
26 says that:

27 JURISDICTION AND VENUE

28 1. This action arises under the Convention on the Civil Aspects of International Child
Abduction, done at the Hague on October 25, 1980, and its implementing legislation, the
International Child Abduction Remedies Act ("ICARA"), 42 U.S.C. §§ 11601-11610, the
Racketeering Influenced and Corrupt Organizations Act, 18 U.S.C. § 1961, and by reason of federal

1 question and diversity jurisdiction pursuant to 28 U.S.C. §§ 1331 & 1332 on the basis of the claims
2 made below.

3 2. This action is brought seeking redress for Intentional Interference with Custodial
4 Rights, Intentional Fraud upon the Court, Child Abduction, Wrongful Concealment, False
5 Imprisonment, Civil Conspiracy, Intentional Infliction of Emotional Distress, Abuse of Process,
6 Negligence, Violation of Rico, Negligent Conduct by the Misrepresentation of Material Facts,
7 Malpractice, Punitive Damages, and Special Damages. This Court has jurisdiction and venue is
8 proper pursuant to 28 U.S.C. §§ 1332 & 1391.

9 3. A substantial part of the events or omissions giving rise to the claims set forth herein
10 occurred within the District of Nevada, and venue within the District of Nevada is proper under 28
11 U.S.C. § 1391.

12 4. Plaintiff is the biological mother and guardian of the subject minors, and at all times
13 material herein had a right to, and was actually exercising, custody of the minor children within the
14 meaning of Articles Three and Five of the Convention on the Civil Aspects of International Child
15 Abduction, done at Hague on October 25, 1980 (“Convention”). At all times material herein, the
16 minor children were habitual residents of the Country of Denmark within the meaning of Article
17 Three of the Convention, immediately before their removal from the Country of Denmark by one
18 or more of the Defendants. Plaintiff is a citizen of the Country of Denmark, and the Defendants are
19 citizens of the U. S. States of Oklahoma, Idaho, and the Country of Denmark. The matter in
20 controversy exceeds, exclusive of interest and costs, the sum specified in 28 U.S.C. § 1332.

21
22 PARTIES

23 Plaintiffs –

- 24 (a) Jane Doe
25 (b) L Doe, DOB May __, 1991
26 (c) K Doe, DOB February __, 1995
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Defendants –

- (a) Robert Doe
- (b) George Doe
- (c) Mary Smith
- (d) Attorney X
- (e) Attorney Y
- (f) Law Firm Z
- (g) John Does Individually 1 through 50
- (h) Doe Corporations, 1 through 50

FIRST CLAIM FOR RELIEF – Intentional Interference with Child Custody

5. Plaintiffs incorporate and reallege each of the preceding paragraphs as though fully set forth at this point.

6. Plaintiff Jane Doe (“Jane”) and Defendant Robert Doe (“Robert”) were married in 1990 in the state of Utah.

7. Plaintiffs L Doe, DOB May __, 1991 and K Doe, DOB February __, 1995, (collectively, “the children”) are the natural children of Jane and Robert Doe, were born in the United States, and hold joint U.S. and Denmark citizenship.

8. Jane and Robert Doe separated while living in England in 1998, after Jane received a British Court Order specifically granting her custody of the children, possession of the children’s passports, and permission to relocate with them to Denmark.

9. Jane and the children traveled to Denmark on July 13, 1998, and remained there together for nearly two years, until May 2000.

10. On July 14, 1998, Robert Doe signed a verified complaint for divorce.

11. Robert Doe’s divorce paperwork was prepared for him by, in conjunction with, or under the supervision of, attorney Attorney X of Las Vegas, Nevada.

1 12. Robert Doe's divorce paperwork was filed in the Eighth Judicial District Court in
2 Clark County, Nevada, on August __, 1998.

3 13. Robert Doe's complaint alleged that he, the plaintiff, was a resident of Nevada and
4 that he had been physically present in Nevada for more than six weeks prior to the filing of the
5 complaint and that he had the intention of making Nevada his home for an indefinite period of time.

6 14. In fact, Robert Doe was only in Las Vegas for a period of days, and he departed Las
7 Vegas on July 22, 1998, and returned to London, England. Robert Doe has never been a resident of
8 the State of Nevada.

9 15. The district court in Clark County, without a hearing, entered a decree of divorce on
10 August __, 1998.

11 16. In late 1999, Jane commenced legal proceedings in Denmark to allow her to remain
12 with the children in Denmark. Robert Doe participated in Denmark's proceedings.

13 17. In February 2000, Robert Doe filed a motion in the district court in Clark County,
14 seeking physical custody of the children, a finding that Jane was in contempt of the court and an
15 order for the immediate production of the children.

16 18. That motion included a false claim asserting Nevada residence of the children,
17 specifically, that Jane had refused to "move the children *back* to Nevada."

18 19. Robert Doe's motion was prepared for him by, in conjunction with, or under the
19 supervision of, attorney Attorney Y of Las Vegas, Nevada.

20 20. Attorney Attorney Y communicated with Robert Doe's foreign counsel on at least one
21 occasion.

22 21. At the hearing before Judge S at which his motion was heard, on or about March __,
23 2000, Robert Doe falsely represented to the court that the children had lived in Nevada "all their
24 lives."

25 22. At the same hearing, Attorney Attorney Y falsely represented to the court that the
26 children had "lived in Las Vegas prior to leaving for Denmark," and that the children had been

1 “removed” from their “home” in Las Vegas for a “visit” to Denmark, but that Jane had refused to
2 “return” to Las Vegas.

3 23. The asserted “facts” by Robert Doe and attorney Attorney Y at the hearing were false.

4 24. On March __, 2000, based on the false representations of fact, Judge S granted Robert
5 Doe’s motion, granting him custody of the children and holding Jane in contempt. The formal court
6 order so stating was filed on April __, 2000.

7 25. At all times relevant hereto, attorney Attorney Y was a partner in and employee of
8 the law firm of Law Firm Z

9 26. In May 2000, Robert Doe met Jane, her fiancé, KP, and the children at a hotel in City,
10 Denmark. After dining, the adults and the children went to Robert Doe's hotel suite because Robert
11 Doe said he wanted to give one minor child a birthday gift. Once inside the suite, Robert Doe took
12 the children into an adjoining room to give them a “surprise,” leaving Jane waiting out of view of
13 the children.

14 27. Without Jane’s knowledge, Robert Doe kidnaped both children, removing them from
15 the hotel suite through a different doorway than the one he had entered with Jane, and removing the
16 children from the hotel, to a waiting car, and out of Denmark.

17 28. Robert Doe transported the children internationally and across state lines within the
18 United States to a residence in State in U.S. owned by one or more of the Defendants.

19 29. Robert Doe was directly or indirectly assisted in his kidnaping of the children and his
20 intentional interference with Jane’s custodial rights by Defendants George Doe, Mary Smith,
21 attorneys Attorney X and Attorney Y, the law firm of Law Firm Z, John Does Individually 1 through
22 50, and Doe Corporations, 1 through 50.

23 30. On April 11, 2002, the Nevada Supreme Court issued its *Opinion in Doe v. Doe* (cite
24 omitted), in which the court found that Robert Doe was never a resident of the State of Nevada, and
25 had falsely so claimed in both his original divorce paperwork and his later motion seeking custody
26 of the children. The court also found that the children have never lived in Nevada, and that the lower

1 court never had subject matter or personal jurisdiction to enter any kind of order relating to child
2 custody. The court found that the children are habitual residents of Denmark, that Robert Doe
3 wrongfully removed them from Denmark, and that Robert Doe took custody of the children under
4 an invalid order. The Nevada Supreme Court issued a writ of mandamus compelling the district
5 court to vacate those portions of its decree relating to custody and visitation and to order the
6 children's return to Denmark.

7 31. On April __, 2002, the Nevada district court issued its order pursuant to the Writ of
8 Mandamus, stating in part that “all provisions of the *Decree of Divorce* filed August __, 1998,
9 bearing on custody and visitation of the children at issue, or incorporating the custody and visitation
10 terms of the parties’ “agreement” dated July __, 1998, are hereby void and unenforceable, and have
11 been vacated. All aspects of the *Orders* entered April __, 2000, and October __, 2000, are invalid
12 and void in their entirety.”

13 32. Defendants intentionally interfered with Jane’s custodial rights, by wrongfully,
14 fraudulently, and maliciously abducting the minor children from the Country of Denmark and
15 transporting them to the United States, and as a result of such interference, Jane suffered damages.

16 33. Defendants’ interference with Jane’s custodial rights continued until April __, 2002,
17 when the children were returned to Jane’s custody pursuant to U.S. State court order giving full faith
18 and credit to the Nevada order filed on April __, 2002.

19 34. Defendants’ actions are the actual and proximate cause of Plaintiffs’ damages.

20 35. By reason of Defendants’ intentional interference with Jane’s custodial rights, Jane
21 and the children suffered financial damages in excess of \$75,000 and emotional and physical
22 damages.

23
24 SECOND CLAIM FOR RELIEF – Violation of International Treaty

25 36. Plaintiffs incorporate and reallege each of the preceding paragraphs as though fully
26 set forth at this point.

1 48. Defendant Attorney Y violated the Rules of Professional Responsibility and the Rules
2 of Civil Procedure by affixing his name to documents containing false assertions of fact, and in
3 making false representations of fact at a court hearing.

4 49. The preparation of documents, affixing of the attorney's name, filing of those
5 documents, and making of false representations were in furtherance of an attorney-client relationship
6 between Robert Doe and Defendants Attorney Y and the law firm of Law Firm Z, constituted a
7 failure to perform the attorney's duty, and was a proximate cause of the damages suffered by
8 Plaintiffs.

9 50. As a result of the negligent or intentional presentation of false information to a court
10 by Defendants Attorney Y and the law firm of Law Firm Z, Jane and the children suffered financial
11 damages in excess of \$75,000 and emotional and physical damages.

12
13 FIFTH CLAIM FOR RELIEF– Intentional Fraud Upon the Court

14 51. Plaintiffs incorporate and reallege each of the preceding paragraphs as though fully
15 set forth at this point.

16 52. Defendants' intentional and fraudulent acts upon the court constituted an abuse of
17 process with the goal of intentionally harming Plaintiffs.

18 53. Defendants Robert Doe and Attorney X intentionally committed fraud upon the
19 Eighth Judicial District Court in and for the County of Clark, State of Nevada by filing, or causing
20 to be filed, the "Complaint for Divorce," affidavits, and supporting and related documents specified
21 above containing false material facts and information in the matter of *Doe v. Doe* , and as a result
22 of those intentional fraudulent acts, Jane and the children suffered financial damages in excess of
23 \$75,000 and emotional and physical damages.

24 54. Defendants Robert Doe, Attorney Y, and the law firm of Law Firm Z, intentionally
25 committed fraud upon the Eighth Judicial District Court in and for the County of Clark, State of
26 Nevada by filing, or causing to be filed, the motion entitled "*Plaintiff's Motion for an Order*

1 *Directing Defendant to Appear and Show Cause [etc.]*” and supporting and related documents, and
2 supporting and related documents specified above containing false material facts and information
3 in the matter of *Doe v. Doe* , and making false allegations of fact at the resulting hearing in support
4 of that motion, and as a result of those intentional fraudulent acts, Jane and the children suffered
5 financial damages in excess of \$75,000 and emotional and physical damages.

6
7 SIXTH CLAIM FOR RELIEF – Intentional Infliction of Emotional Distress

8 55. Plaintiffs incorporate and reallege each of the preceding paragraphs as though fully
9 set forth at this point.

10 56. The actions by Defendants Robert Doe, George Doe, Mary Smith, Attorney Y, Law
11 Firm Z, and other unknown parties, acting alone or in concert, of forcefully removing the said minor
12 children from Jane’s care and custody, were extreme and outrageous conduct.

13 57. Said actions by said Defendants were either intended to or were in reckless disregard
14 for causing emotional distress on the part of the Plaintiffs, and were the actual and proximate cause
15 of infliction of emotional distress upon Plaintiffs, causing Jane to suffer from symptoms of nausea,
16 diarrhea, ulcer-like stomach pain, sleeplessness, and weight loss requiring both medical and
17 psychological treatments, and Kaia to suffer symptoms including nightmares and an unreasonable
18 fear of being again forcefully removed from her mother, resulting in the need for ongoing
19 psychological treatments.

20 58. As a result of that intentional infliction of emotional distress, Jane and the children
21 suffered financial damages in excess of \$75,000 and emotional and physical damages.

22
23 SEVENTH CLAIM FOR RELIEF – Negligent Infliction of Emotional Distress

24 59. Plaintiffs incorporate and reallege each of the preceding paragraphs as though fully
25 set forth at this point.

1 60. To whatever extent the proof is not sufficient to establish that the actions by
2 Defendants Robert Doe, George Doe, Mary Smith, Attorney Y, Law Firm Z, and other unknown
3 parties, acting alone or in concert, of filing fraudulent court documents, providing false information
4 to the courts, planning, and physically and financially assisting in forcefully removing the said minor
5 children from Jane's care and custody, abducting the children from the hotel room in which Jane was
6 present, and keeping the children from Jane and from attending public school for approximately two
7 years, were not intentional under law, then to that extent all such acts negligently caused the
8 infliction of emotional distress causing Jane to suffer from symptoms of nausea, diarrhea, ulcer-like
9 stomach pain, sleeplessness, and weight loss requiring both medical and psychological treatments,
10 and Kaia to suffer symptoms including nightmares and an unreasonable fear of being again forcefully
11 removed from her mother, resulting in the need for ongoing psychological treatments.

12 61. As a result of that negligent infliction of emotional distress, Jane and the children
13 suffered financial damages in excess of \$75,000 and emotional and physical damages.
14

15 EIGHTH CLAIM FOR RELIEF – Child Abduction

16 62. Plaintiffs incorporate and reallege each of the preceding paragraphs as though fully
17 set forth at this point.

18 63. Defendants Robert Doe, George Doe, Mary Smith, and other unknown individuals
19 willfully seized, confined, inveigled, enticed, decoyed, abducted, concealed, kidnapped or carried
20 away the children by removing them from the custody and care of their mother, from City, Denmark
21 to the United States with the intent to hold and detain them.

22 64. Defendants Attorney Y and Dempsey, Roberts, & Smith, LTD., by filing fraudulent
23 court documents in order to assist in the perpetration of the kidnaping, aided and abetted the
24 commission of the child abductions.

25 65. Defendants, and each of them, by reason of the acts specified above, have committed,
26 or aided and abetted the commission of child abduction, by which they should each be found jointly
27

1 and severally liable to Jane and the children for financial damages in excess of \$75,000 and
2 emotional and physical damages.

3
4 NINTH CLAIM FOR RELIEF – Wrongful Concealment

5 66. Plaintiffs incorporate and reallege each of the preceding paragraphs as though fully
6 set forth at this point.

7 67. By agreement of the parties, Jane was to have primary physical custody of the
8 children until the children reached the age of ten.

9 68. Defendants Robert Doe, Attorney Y, Law Firm Z, George Doe, Mary Smith, knew
10 or should have known that Jane had custody of the minor children.

11 69. Defendants Robert Doe, George Doe, Mary Smith, and other unknown individuals
12 knew or should have known of the location of the children after they were kidnaped, but neither
13 reported their knowledge to the authorities nor responded to Jane's requests for information and
14 assistance in locating the children.

15 70. Robert Doe, having a limited right to access to or custody of the children, in breach
16 of the parties' agreement, willfully concealed the whereabouts of the children from Jane, who had
17 legal and physical custody of the children, with the intent to deprive Jane of the parent and child
18 relationship.

19 71. Defendants George Doe, Mary Smith, and other unknown individuals aided and
20 abetted the wrongful concealment by providing assistance in the planning, physical removal,
21 transportation, concealment, or lodging of Robert Doe or the children after the kidnaping, or by
22 providing financial assistance for those acts, or by not contacting a law enforcement agency or an
23 agency which provides child welfare services to report the abduction of the children, or by not
24 providing to Jane with information regarding the children's location upon her requests.

25 72. Defendants, and each of them, by reason of the acts specified above, have committed,
26 or aided and abetted the commission of wrongful concealment of the children, by which they should

1 each be found jointly and severally liable to Jane and the children for financial damages in excess
2 of \$75,000 and physical damages.

3
4 TENTH CLAIM FOR RELIEF – False Imprisonment

5 73. Plaintiffs incorporate and reallege each of the preceding paragraphs as though fully
6 set forth at this point.

7 74. Defendants Robert Doe, George Doe, Mary Smith, and other unknown defendants,
8 by acts and/or omissions specified in this Complaint, intentionally violated the children’s personal
9 liberty by confining, detaining, aiding, or abetting of the confining and detaining of the children
10 without sufficient legal authority or actual or implied consent by the children or Jane.

11 75. Defendants, and each of them, by reason of the acts and/or omissions specified above,
12 have committed, or aided and abetted the commission of, false imprisonment of the children, by
13 which they should each be found jointly and severally liable to Jane and the children for financial
14 damages in excess of \$75,000 and emotional and physical damages.

15
16 ELEVENTH CLAIM FOR RELIEF – Civil Conspiracy

17 76. Plaintiffs incorporate and reallege each of the preceding paragraphs as though fully
18 set forth at this point.

19 77. Defendants, and each of them, acted in a concerted effort by:

20 A. Defendants Robert Doe and Attorney X, knew or should have known that the
21 State of Nevada did not have personal jurisdiction or subject matter jurisdiction of the original
22 divorce or child custody action, and planned with and assisted Robert Doe in committing a fraud
23 against the court.

24 B. Defendants Robert Doe, Attorney Y, and Law Firm Z, knew or should have
25 known that the State of Nevada did not have personal jurisdiction or subject matter jurisdiction over
26 the issue of child custody, and planned and assisted in committing a fraud against the court, thus
27

1 assisting in the kidnapping of the children and/or the concealment of the children from their lawful
2 physical custodian.

3 C. All remaining named and unknown Defendants, formed and agreed upon a
4 scheme by which to abduct the children from Denmark, abuse the process of the courts, and interfere
5 with the custodial rights of Jane.

6 78. Defendants, and each of them, by the specific acts recounted above, engaged in
7 concerted action intended to accomplish the unlawful purpose of removal of the children from Jane's
8 custody, because of which conspiracy they should each be found jointly and severally liable to Jane
9 and the children for financial damages in excess of \$75,000 and emotional and physical damages.

10
11 TWELFTH CLAIM FOR RELIEF – Aiding and Abetting

12 79. Plaintiffs incorporate and reallege each of the preceding paragraphs as though fully
13 set forth at this point.

14 80. Defendants, and each of them, intentionally assisted in the commission and
15 furtherance of committing a fraud against the court, of child abduction, of falsely imprisoning the
16 children, wrongfully concealing the children from the custodial parent, violating an international
17 treaty, committing a civil conspiracy, and abusing the process of the court, by assisting in the filing
18 of fraudulent court documents, assisting in the planning of the abduction of the children, assisting
19 in the physical abduction of the children before, during and after the kidnap, and/or financially
20 assisting the abduction of the children.

21 81. Defendants, and each of them, by reason of the acts specified above, aided and abetted
22 the commission of the tortious wrongs committed against Jane and the children by way of providing
23 advice, aid and comfort, false testimony, financial and other support, or living quarters at such places
24 as the children were wrongfully kept away from Jane, by which they should each be found jointly
25 and severally liable to Jane and the children for financial damages in excess of \$75,000 and
26 emotional and physical damages.

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THIRTEENTH CLAIM FOR RELIEF – Abuse of Process

82. Plaintiffs incorporate and reallege each of the preceding paragraphs as though fully set forth at this point.

83. Defendants Robert Doe, Attorney X, James Attorney Y, and Law Firm Z, George Doe, and Mary Smith, schemed, prepared false documents, made false representations to the courts and the Plaintiffs, and acted to frustrate Plaintiffs’ rightful due process for the purpose of obtaining an order granting physical custody of the children to aid Robert Doe in the crossing of international borders and depriving Plaintiffs of one another’s company.

84. The actions by Defendants were not for the purpose of legitimately resolving a legal dispute, but sought to misuse the legal process of the courts to obtain relief to which they knew or should have known that they were not entitled, because of a failure of jurisdiction or otherwise.

85. Defendants, and each of them, by reason of the acts specified above, have committed, or aided and abetted the commission of abuse of process, by which they should each be found jointly and severally liable to Jane and the children for financial damages in excess of \$75,000 and emotional and physical damages.

FOURTEENTH CLAIM FOR RELIEF – FEDERAL RICO

86. Plaintiffs incorporate and reallege each of the preceding paragraphs as though fully set forth at this point.

87. Defendants Robert Doe, George Doe, Mary Smith, and other unknown defendants, have committed, conspired or aided and abetted the commission of kidnapping the children, by way of the specific acts detailed above, and by misusing passports to wrongfully transport the children from Denmark to the United States (Title 18 § 1544), making a false statement in order to obtain replacement passports for the children (Title 18 § 1542), using false information in order to obtain passports as a form of identification cards for the children (Title 18 § 1028), and obstructing justice by not notifying Jane or authorities of the location of the children (Title 18 § 1503) with the same

1 or similar pattern, intents, results, accomplices, victim, or methods of commission, and/or actions
2 otherwise interrelated by distinguishing characteristics and not isolated incidents, which would
3 constitute crimes related to a pattern of racketeering activity including at least two racketeering acts,
4 and therefore are liable for violation of the Racketeering Influenced and Corrupt Organizations Act,
5 18 U.S.C. § 1961.

6 88. As a result of the racketeering activities described above, Jane and the children
7 suffered financial damages in excess of \$75,000 and emotional and physical damages, for which all
8 enumerated Defendants should be found jointly and severally liable.

9
10 FIFTEENTH CLAIM FOR RELIEF – Negligence

11 89. Plaintiffs incorporate and reallege each of the preceding paragraphs as though fully
12 set forth at this point.

13 90. Defendants Robert Doe, George Doe, Mary Smith, and other unknown defendants
14 had a duty not to violate the law, give false testimony to the courts, abuse process, abduct the
15 children, conceal the children, and withhold the children from Jane’s custody.

16 91. Defendants Attorney X, Attorney Y, and Law Firm Z, had a duty to conduct a
17 reasonable investigation into the facts and law surrounding Robert Doe’s claims to ascertain if the
18 claim or suit he requested would be properly brought, prior to making such filings.

19 92. Defendants, and each of them, breached these duties.

20 93. Defendants’ breach of those duties were the actual and the proximate cause of
21 Plaintiffs’ damages.

22 94. Defendants, and each of them, by reason of the acts specified above, committed, or
23 aided and abetted the commission of the tort of negligence per se, by reason of which they should
24 each be found jointly and severally liable to Jane and the children for financial damages in excess
25 of \$75,000 and emotional and physical damages.

1 101. As a direct and proximate result of Defendants' wrongful acts, Jane has been caused
2 to retain the services of attorneys at multiple locations to prosecute claims for the recovery of the
3 children, and she is entitled to recovery of all attorney's fees not actually recovered as part and parcel
4 of the earlier actions.

5 102. As a direct and proximate result of Defendants' wrongful acts, Jane has been caused
6 to retain the services of an attorney to prosecute this action, by reason of which she is entitled to
7 recover her reasonable attorney's fees and costs.

8 103. For the damages and injuries suffered, Jane and the children are entitled to punitive
9 damages, attorney's fees in trial and appellate courts, and reasonable costs of litigation incurred.

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PRAYER

WHEREFORE, plaintiff respectfully prays the Court grant the following relief:

1. For general damages in excess of \$75,000.
2. For special damages in an amount in excess of \$75,000.
3. For punitive damages in excess of \$75,000.
4. For Attorney's Fees and costs incurred herein.
5. For prejudgment interest on sums awarded.
6. For any and all other relief deemed just and proper by the Court.

Plaintiff demands trial by jury.

DATED this _____ day of February, 2003.

LAW OFFICE OF MARSHAL S. WILLICK, P.C.

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