

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES
STEPHAN SCHUERMANN

— PETITIONER
(Your Name)

VS.

JUBILIE ANQUI

— RESPONDENT(S)

MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS*

The petitioner asks leave to file the attached petition for a writ of certiorari without prepayment of costs and to proceed *in forma pauperis*.

Please check the appropriate boxes:

Petitioner has previously been granted leave to proceed *in forma pauperis* in the following court(s): **UNITED STATES DISTRICT COURT**

NORTHERN DISTRICT OF FLORIDA PENSACOLA DIVISION

Petitioner has **not** previously been granted leave to proceed *in forma pauperis* in any other court.

Petitioner's affidavit or declaration in support of this motion is attached hereto.

Petitioner's affidavit or declaration is **not** attached because the court below appointed counsel in the current proceeding, and:

The appointment was made under the following provision of law: **28 U.S.C. 1915 (a) (1)** _____, or

a copy of the order of appointment is appended.


(Signature)

**AFFIDAVIT OR DECLARATION
IN SUPPORT OF MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS***

I, STEPHAN SCHUERMANN,

am the petitioner in the above-entitled case. In support of my motion to proceed *in forma pauperis*, I state that because of my poverty I am unable to pay the costs of this case or to give security therefor; and I believe I am entitled to redress.

1. For both you and your spouse estimate the average amount of money received from each of the following sources during the past 12 months. Adjust any amount that was received weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate. Use gross amounts, that is, amounts before any deductions for taxes or otherwise.

Income source	Average monthly amount during the past 12 months		Amount expected next month	
	You	Spouse	You	Spouse
Employment	\$ <u>1,600</u>	\$ _____	\$ <u>1,600</u>	\$ _____
Self-employment	\$ _____	\$ _____	\$ _____	\$ _____
Income from real property (such as rental income)	\$ <u>0</u>	\$ _____	\$ <u>0</u>	\$ _____
Interest and dividends	\$ <u>0</u>	\$ _____	\$ <u>0</u>	\$ _____
Gifts	\$ <u>0</u>	\$ _____	\$ <u>0</u>	\$ _____
Alimony	\$ <u>0</u>	\$ _____	\$ <u>0</u>	\$ _____
Child Support <small>CHILD HAS BEEN KIDNAPPED FOR 3.5 YEARS</small>	\$ <u>0</u>	\$ _____	\$ <u>0</u>	\$ _____
Retirement (such as social security, pensions, annuities, insurance)	\$ <u>0</u>	\$ _____	\$ <u>0</u>	\$ _____
Disability (such as social security, insurance payments)	\$ <u>0</u>	\$ _____	\$ <u>0</u>	\$ _____
Unemployment payments	\$ <u>0</u>	\$ _____	\$ <u>0</u>	\$ _____
Public-assistance (such as welfare)	\$ <u>0</u>	\$ _____	\$ <u>0</u>	\$ _____
Other (specify): _____	\$ <u>0</u>	\$ _____	\$ <u>0</u>	\$ _____
Total monthly income:	\$ <u>1,600</u>	\$ _____	\$ <u>1,600</u>	\$ _____

2. List your employment history for the past two years, most recent first. (Gross monthly pay is before taxes or other deductions.)

Employer	Address	Dates of Employment	Gross monthly pay
HELGA SCHURMANN	GERMANY	APRIL 2015 TO PRESENT	1,600
			\$
			\$
			\$

3. List your spouse's employment history for the past two years, most recent employer first. (Gross monthly pay is before taxes or other deductions.)

Employer	Address	Dates of Employment	Gross monthly pay
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UNKNOWN - SEPARATED FROM EX SPOUSE FOR MORE THAN 3.5 YEARS, DIVORCED IN 2016 FROM EX SPOUSE - DO NOT KNOW EX SPOUSE'S EMPLOYMENT HISTORY

4. How much cash do you and your spouse have? \$ 0
 Below, state any money you or your spouse have in bank accounts or in any other financial institution.

Type of account (e.g., checking or savings)	Amount you have	Amount your spouse has
	\$ <u>0</u>	\$ <u> </u>
	\$ <u> </u>	\$ <u> </u>
	\$ <u> </u>	\$ <u> </u>

5. List the assets, and their values, which you own or your spouse owns. Do not list clothing and ordinary household furnishings.

UNKNOWN - SEPARATED FROM MY EX WIFE FOR MORE THAN 3.5 YEARS, AND DIVORCED in 2016 FROM EX SPOUSE. DO NOT KNOW IF EX SPOUSE HAS A HOME AND THE HOME VALUE OR ANY OTHER ASSETS

Motor Vehicle #1
 Year, make & model I have no other motor vehicles
 Value

Motor Vehicle #2
 Year, make & model I have no other motor vehicles
 Value

Other assets I have no other assets
 Description
 Value

ANY QUESTION REGARDING INCOME OR ASSETS TO MY EX-SPOUSE IS UNKNOWN - I SEPARATED FROM MY EX WIFE FOR MORE THAN 3.5 YEARS, AND DIVORCED in 2016 FROM EX SPOUSE. DO NOT KNOW IF EX SPOUSE HAS A HOME AND THE HOME VALUE OR ANY OTHER ASSETS OR INCOME. I DO KNOW THAT SHE KIDNAPPED & CONCEALED MY SON SINCE AUG. 2014

6. State every person, business, or organization owing you or your spouse money, and the amount owed.

Person owing you or your spouse money	Amount owed to you	Amount owed to your spouse
0	\$ 0	\$ _____
_____	\$ _____	\$ _____
_____	\$ _____	\$ _____

7. State the persons who rely on you or your spouse for support. For minor children, list initials instead of names (e.g. "J.S." instead of "John Smith").

Name	Relationship	Age
D.S.S.	WRONGFULLY RETAINED CHILD	10
_____	JUBILIE ANQUI HAS CONCELAD MY SON SINCE AUG. 2014	_____
_____	_____	_____

8. Estimate the average monthly expenses of you and your family. Show separately the amounts paid by your spouse. Adjust any payments that are made weekly, biweekly, quarterly, or annually to show the monthly rate.

	You	Your spouse
LIVING RENT FREE IN MY MOTHERS HOUSE		
Rent or home-mortgage payment (include lot rented for mobile home)	\$ 0	\$ _____
Are real estate taxes included? <input type="checkbox"/> Yes <input type="checkbox"/> No		
Is property insurance included? <input type="checkbox"/> Yes <input type="checkbox"/> No		
Utilities (electricity, heating fuel, water, sewer, and telephone)	\$ 0	\$ _____
Home maintenance (repairs and upkeep)	\$ 0	\$ _____
Food	\$ 0	\$ _____
Clothing	\$ 0	\$ _____
Laundry and dry-cleaning	\$ 0	\$ _____
Medical and dental expenses	\$ 0	\$ _____

	You	Your spouse
Transportation (not including motor vehicle payments)	\$ 0	\$ _____
Recreation, entertainment, newspapers, magazines, etc.	\$ 0	\$ _____
Insurance (not deducted from wages or included in mortgage payments)		
Homeowner's or renter's	\$ 0	\$ _____
Life	\$ 0	\$ _____
Health	\$ 0	\$ _____
Motor Vehicle	\$ 0	\$ _____
Other: _____	\$ 0	\$ _____
Taxes (not deducted from wages or included in mortgage payments)		
(specify): _____	\$ 0	\$ _____
Installment payments		
Motor Vehicle	\$ 0	\$ _____
Credit card(s)	\$ 0	\$ _____
Department store(s)	\$ 0	\$ _____
Other: _____	\$ 0	\$ _____
Alimony, maintenance, and support paid to others	\$ 0	\$ _____
Regular expenses for operation of business, profession, or farm (attach detailed statement)	\$ 0	\$ _____
Other (specify): LEGAL FEES TO FIGHT FOR THE RETURN OF MY CHILD	\$ 1,000	\$ _____
Total monthly expenses:	\$ 1,000	\$ _____

9. Do you expect any major changes to your monthly income or expenses or in your assets or liabilities during the next 12 months?

Yes No If yes, describe on an attached sheet.

10. Have you paid – or will you be paying – an attorney any money for services in connection with this case, including the completion of this form? Yes No

If yes, how much? \$1,000

If yes, state the attorney's name, address, and telephone number:

INTERNATIONAL CRIMINAL COURT AGAINST CHILD KIDNAPPING

Schenkkade 50 * The Hague - 2595 AR * The Netherlands

Tel. No: +31-70-800-2093 (Reception)

11. Have you paid—or will you be paying—anyone other than an attorney (such as a paralegal or a typist) any money for services in connection with this case, including the completion of this form?

Yes No

If yes, how much? _____

If yes, state the person's name, address, and telephone number:

12. Provide any other information that will help explain why you cannot pay the costs of this case.

My child has been wrongfully retained by his illegal immigrant mother, Jubilie Anqui and Jonathan Link Tedrick since August 2014. I have spent every penny I earn on legal fees to get my child returned to me. The lawlessness and abuse of power I have experienced from the lower courts is outright criminal custodial interference as I have full custody rights to my child who is an illegal immigrant in the USA.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: 9th July, 2018


(Signature)

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
PENSACOLA DIVISION

STEPHAN SCHURMANN,

Petitioner,

v.

CASE NO. 3:15cv224-MCR/CJK

JUBILIE ANQUI,

Respondent.

ORDER

Pending before the Court is Petitioner's Verified Motion to Proceed *In Forma Pauperis* (doc. 4) in this case seeking the return of a child pursuant to filed pursuant to The Convention on the Civil Aspects of International Child Abduction, October 25, 1980 ("Hague Convention" or "Convention") and the International Child Abduction Remedies Act ("ICARA"). See 22 U.S.C. § 9001, et seq. (formerly numbered as 42 U.S.C. § 11601, et seq.). Having fully reviewed the verified motion, the Court finds that Petitioner's income and limited resources warrant granting the motion. See 28 U.S.C. § 1915(a)(1).

Accordingly, the Verified Motion to Proceed *In Forma Pauperis* (doc. 4) is GRANTED. Petitioner shall be permitted to proceed *in forma pauperis* in this action and all prepayment of fees and the costs of this proceeding are waived.

DONE AND ORDERED on this 19th day of May, 2015.

M. Casey Rodgers

M. CASEY RODGERS
CHIEF UNITED STATES DISTRICT JUDGE

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
PENSACOLA DIVISION

STEPHAN SCHURMANN,

Petitioner,

v.

CASE NO. 3:15cv224-MCR/CJK

JUBILIE ANQUI,

Respondent.

ORDER

Pending before the Court is the Verified Petition for the Return of Minor Child Pursuant to International Treaty and Federal Statute (doc. 1) filed by Petitioner Stephan Schurmann, a resident of Spain, alleging that his minor child is being wrongfully retained in Destin, Florida, and seeking return of the child to Spain.¹ Petitioner requests the Court to direct the United States Marshal to serve Respondent with notice of the cause of action and issue a show cause order requiring Respondent to show cause why the child should not be returned to Spain, set an early final hearing on the Verified Petition, and, following the hearing, order the child's return and direct Respondent to pay Petitioner's costs and legal expenses. Petitioner has also filed an Emergency Motion for Ex Parte Temporary Restraining Order (doc. 3), seeking to prohibit Respondent from removing the child from this jurisdiction for the duration of these proceedings, requiring Respondent to appear with the child for an immediate hearing, and ordering the Respondent to surrender the child's passport to the Court for the duration of the proceedings.²

¹ The Court has jurisdiction over this case pursuant to 22 U.S.C. § 9003(a) (jurisdiction of federal courts under the Hague Convention) and 28 U.S.C. § 1331 (federal question jurisdiction).

² Petitioner also requested that the case be sealed pending service on Respondent, which the Court granted.

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Background

The Verified Petition alleges the following. Petitioner and Respondent were married in Costa Rica on March 18, 2007. Petitioner is a German citizen and legal resident of Spain. Respondent is a citizen of the Philippines and legal resident of Spain. Their child, D.S.S. was born in 2008 in Marbella, Spain, and is a German citizen. It is alleged that Spain has been the child's habitual place of residence since his birth. In 2010, the family came to the United States on a Temporary E-2 Investor Visa. The parents continued to maintain the child's habitual place of residence as Spain and intended to move back to Spain after their Visa expired. The couple lived together as a family in the United States until Respondent absconded with the child in August 2014, moving in with her boyfriend while Petitioner was away on a business trip. According to Petitioner, Respondent kept the child's location a secret from Petitioner until December 2014, when she moved back to Florida. At that time, Respondent announced that she intended not to return to Spain and informed Petitioner he would never see the child again. Respondent was served with divorce papers on December 19, 2014. He returned to Spain without D.S.S. after overstaying his Visa, and Respondent remained in Destin, Florida, with D.S.S.

Petitioner states he objected to Respondent keeping the child in the United States and did not acquiesce. He alleges that Respondent's retention of the child in the United States breaches his custody rights under the laws of Spain, and that on April 13, 2015, he sought assistance from the Ministry of Justice in Madrid, Spain, to secure D.S.S.'s return. Petitioner's Verified Complaint was filed in this Court on May 18, 2015. According to Petitioner, there is a strong likelihood that Respondent will attempt to flee the jurisdiction in the absence of protective measures to secure the child's presence in this jurisdiction because Respondent has filed papers in the Florida divorce proceedings seeking to relocate the child to Utah, and has previously concealed the child's location from him.

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Discussion

The Verified Petition is filed pursuant to The Convention on the Civil Aspects of International Child Abduction, October 25, 1980³ ("Hague Convention" or "Convention") and the International Child Abduction Remedies Act ("ICARA"). See 22 U.S.C. § 9001, *et seq.* (formerly numbered as 42 U.S.C. § 11601, *et seq.*). The Convention came into effect in the United States of America and also in Spain on July 1, 1988.⁴ The Hague Convention establishes dual goals of (a) securing the prompt return of children wrongfully removed to or retained in any Contracting State, and (b) ensuring that rights of custody and access of Contracting States are respected in other Contracting States. Convention, art. 1; *Lops v. Lops*, 140 F.3d 927, 935 (11th Cir. 1998). The Hague Convention sets a goal of six weeks from the date of filing for the determination of the merits of a wrongful removal or wrongful retention case. Convention, art. 11. The Eleventh Circuit has approved expeditious treatment of petitions filed pursuant to the Convention and ICARA. See *Lops*, 140 F.3d at 943-44. Article 3 of the Convention provides that "the removal of a child is wrongful where it violates the custody rights of another person that were actually being exercised at the time of the removal or retention or would have been exercised but for the removal or retention." *Lops*, 140 F.3d at 935. A child wrongfully removed must be returned "forthwith" unless the Respondent establishes one of the Convention's affirmative defenses. See *Baran v. Beaty*, 526 F.3d 1340, 1344 (11th Cir. 2008). "A court considering an ICARA petition has jurisdiction to decide the merits only of the wrongful removal claim, not of any underlying custody dispute." *Lops*, 140 F.3d at 936.

On consideration of the Verified Petition, the Court finds that an Order to Show Cause should issue, directing the United States Marshal to serve Respondent and directing Respondent to appear with the child and show cause why the petition should not be granted and the child returned to Spain. Respondent has fourteen days from the date of

³ T.I.A.S. No. 11,670 at 1, 19 I.L.M. 1501 (1986).

⁴ See Hague Abduction Convention Country List.
Text available at: http://travel.state.gov/abduction/resources/congressreport/congressreport_1487.html

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service of this Order to file an Answer, and a hearing on the Verified Petition will be held on Tuesday, June 9, 2015.

Additionally, Petitioner requests a Temporary Restraining Order as a protective measure. The Court is empowered by the Hague Convention and ICARA to take appropriate "provisional measures" "to prevent prejudice to interested parties," Convention, art. 7(b), and to prevent the child's further removal or concealment before the final disposition of the petition," 22 U.S.C. § 9004 (formerly cited as 42 U.S.C. § 11604). It has been noted that federal courts across the country have used this authority for "provisional measures" such as ordering a parent not to remove the child from the jurisdiction and ordering the surrender of the passports of the respondent and child during the pendency of the proceedings. *See Alcala v. Hernandez*, No. 4:14-CV-4176-RBH, 2014 WL 5506739 (D.S.C. Oct. 30, 2014) (citing cases, including *Porter v. Gonzalez*, No. 09-0753, 2009 WL 1809851 (M.D. Fla. June 24, 2009); *Jenkins v. Jenkins*, No. 08-0037, 2008 WL 483312 (S.D. Ohio Feb. 19, 2008), aff'd 569 F.3d 549 (6th Cir. 2009)); *see also Mendoza v. Silva*, 987 F. Supp. 2d 883, 888 (N.D. Iowa 2013) (noting a temporary restraining order had been issued to prohibit removal of children from the jurisdiction pending final disposition and to surrender the children's passports).

The Federal Rules of Civil Procedure provide that an *ex parte* temporary restraining order (TRO) may issue only if (1) "specific facts in an affidavit or a verified complaint clearly show that immediate and irreparable injury, loss, or damage will result to the movant before the adverse party can be heard in opposition" and (2) "the movant's attorney certifies in writing any efforts made to give notice and the reasons why it should not be required." Fed. R. Civ. P. 65(b). The Eleventh Circuit has articulated the following elements that must be demonstrated in order to obtain a TRO:

- (1) a substantial likelihood of success on the merits;
- (2) irreparable harm to the moving party if the TRO is not issued;
- (3) the threatened injury must outweigh the harm that the TRO would cause to the nonmoving party; and
- (4) the TRO must not be adverse to the public interest.

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See *Parker v. State Bd. of Pardons and Paroles*, 275 F.3d 1032, 1034-35 (11th Cir. 2001); *Ingrim v. Ault*, 50 F.3d 898, 900 (11th Cir. 1995).

On review of the Verified Petition and the certification of Petitioner's counsel, the Court finds that a Temporary Restraining Order should issue as a protective measure to ensure that the child is not removed from the jurisdiction. First, the Verified Petition presents a *prima facie* case of child abduction under the Hague Convention and shows a substantial likelihood of success on the merits. The Convention provides that retention of a child in a country that is not the child's habitual residence is "wrongful where it violates the custody rights of another person that were actually being exercised at the time of the removal or retention or would have been exercised but for the removal or retention." *Lops*, 140 F.3d at 935. The allegations of the Verified Complaint show that Petitioner has custody rights of the child, that the child's habitual residence is Spain, that Petitioner was exercising his custody rights until the wrongful retention, and that Petitioner's custody rights have been breached by Respondent's continued retention of the child in Florida without Petitioner's consent.

Second, the Verified Complaint shows that Petitioner may suffer irreparable harm if the TRO is not entered. There is alleged a strong likelihood that Respondent might flee the jurisdiction because she has requested court permission in the dissolution proceedings to take the child to Utah, and Respondent has previously absconded with the child without informing Petitioner of the child's location for four months. It is also alleged that Respondent told Petitioner he would never see his son again.

Third, the Court finds that the threatened harm to Petitioner if the TRO is not issued and Respondent flees the jurisdiction with the child outweighs any risk of injury to Respondent. Ordering the protective measures requested would simply maintain the status quo, causing little if any injury to the Respondent, who resides in Florida and is alleged to have begun dissolution proceedings in Florida. Finally, the TRO would not be adverse to the public interest but instead would promote the policies of the Hague Convention and ICARA, which authorize the Court to enter protective measures.

Counsel for Petitioner has certified that no efforts have been made to give notice

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to Respondent because of the allegations supporting a strong likelihood that, if the interim TRO is not issued, she might flee the jurisdiction when served with the Petition and conceal the child's whereabouts.

Accordingly, on consideration of the Verified Petition, the Convention, and ICARA, it is ORDERED:

1. The United States Marshal is directed to serve Respondent Jubilee Anqui at the address of 320 Vinings Way Boulevard, Apt. 10-202, Destin, Florida, 32541, with a copy of the Verified Petition (doc. 1) and this Order.
2. Within fourteen (14) days of service of this Order, Respondent shall file with this Court and serve on counsel for Petitioner a written response to the Verified Petition.
3. The parties shall appear before this Court on **Tuesday, June 9, 2015, at 8:30 a.m. Central Time** at the United States District Court for the Northern District of Florida, Pensacola Division, Arnow Building, 100 North Palafox Street, Pensacola, Florida, for an evidentiary hearing on the merits of the Verified Petition, at which time Respondent shall show cause why the Verified Petition should not be granted. The Respondent may appear with or without counsel.
4. Petitioner's Emergency Request for a Temporary Restraining Order (doc. 3) is **GRANTED**.

TEMPORARY RESTRAINING ORDER

1. Based on the findings set forth above and the demonstrated concern that Respondent might conceal the child D.S.S. if a Temporary Restraining Order is not issued, Respondent Jubilee Anqui is hereby restrained from removing the minor child, D.S.S., or causing the minor child to be removed from the jurisdiction of this Court pending the expiration of this Temporary Restraining Order in fourteen (14) days from the date of this Order or the final disposition of the above-referenced Verified Petition, if a preliminary injunction is thereafter issued extending the prohibition.

2. Respondent is also directed to appear with the child's passport and any other travel papers on **Thursday, May 28, at 2:00 p.m. Central Time** at the United States District Court for the Northern District of Florida, Pensacola Division, Arnow Building, 100

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North Palafox Street, Pensacola, Florida, for a hearing on this Temporary Restraining Order and to show cause why a preliminary injunction should not be issued requiring her to remain in this jurisdiction during the pendency of this litigation and not remove or conceal the child and to surrender the child's passport and travel papers to the Court pending the conclusion of these proceedings.

3. The Court finds that it is not necessary for Petitioner to provide security in this instance because there is no risk of monetary damages resulting from the prohibition contained herein.

DONE AND ORDERED on this 19th day of May, 2015 at 12:30 p.m.

M. Casey Rodgers
M. CASEY RODGERS
CHIEF UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF FLORIDA

Case No. _____

STEPHAN SCHURMANN,
Petitioner, v. JUBILIE ANQUI,
/

Respondent. _____

PETITIONER'S VERIFIED MOTION TO PROCEED IN FORMA PAUPERIS

Petitioner, by and through undersigned counsel, moves this Court for an order permitting Petitioner to proceed *in forma pauperis*, and in support hereof states:

1. Petitioner has filed a petition in this Court pursuant to the Hague Convention on the Civil Aspects of International Child Abduction.
2. Currently, Petitioner is unemployed in Spain.
3. Petitioner's monthly income is \$1,625.
4. Currently, Petitioner has no source of income, but is living on money borrowed from friends.
5. Petitioner's necessary monthly living expenses (such as water, rent and gas) total approximately USD \$1,200 per month.
6. Accordingly, Petitioner's income, less necessary monthly living expenses, is approximately \$425.
7. Due to his limited financial resources, Petitioner is virtually incapable of paying the court costs associated with this action.
8. Additionally, Petitioner has no savings accounts, investment accounts, or other financial resources from which he can obtain money in order to fund this litigation as he lost all his funds during his temporary stay in USA under his E-2 Investor Visa.

9. Petitioner's undersigned counsel is representing Petitioner on a pro bono basis as Petitioner is also unable to afford legal representation.

WHEREFORE, Petitioner moves that this Court enter an order permitting him to proceed *in forma pauperis* and waiving all pre-payment of fees, expenses or costs in this proceeding.

Declaration Under Penalty of Perjury Pursuant to 28 U.S.C. § 1746(1)

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on this 15 day of May 2015.



STEPHAN SCHURMANN

Respectfully submitted,

Daniel E. Nordby, Esq.
Florida Bar No. 14588

Maxine M. Long, Esq.
Florida Bar No. 286842

Rachel H. LeBlanc, Esq.
Florida Bar No. 0021815

Lauren K. Fernandez, Esq.
Florida Bar No. 58570

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