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[1] See Appendix O.
[2] See Appendices O, Q, R and S.

# APPENDIX A

## SUPREME COURT
## STATE OF CONNECTICUT

PSC-18-0441
MARGARITA O.
v. FERNANDO I.

## ORDER ON PETITION FOR CERTIFICATION TO APPEAL

The defendant's petition for certification to appeal from the Appellate Court, 189 Conn. App. 448 (AC 42118), is denied.
*Fernando I.*, self-represented, in support of the petition.

Decided May 22, 2019.

By the Court,

/s/ Cory M. Daige
Assistant Clerk – Appellate

Notice Sent: May 22, 2019
Petition Filed: April 29, 2019
Clerk, Superior Court, FST-FA18-4031046-S
Hon. Anthony D. Truglia Jr.
Clerk, Appellate Court
Reporter of Judicial Decisions
Staff Attorneys' Office
Counsel of Record

## APPENDIX B

## APPELLATE COURT
## STATE OF CONNECTICUT

MARGARITA O. v. FERNANDO G. IRAZU
(AC 41455)
Lavine, Alvord and Elgo, Js.

Argued January 22—officially released February 12, 2019

Defendant's appeal from the Superior Court in the judicial district of Stamford-Norwalk, *Heller, J.; Genuario, J.; Truglia, J.**

Per Curiam. The judgments are affirmed.

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* Post-denial of the Petition for Certification by the Supreme Court of the State of Connecticut and this party's *Petition for Writ of Certiorari* before the Court dated 4/15/2019 (Docket No. 18-1376), the Appellate Court reversed its decision as to AC 42118 *(Truglia, J)* and rendered a new judgment dated 4/23/2019.

# APPENDIX C

## APPELLATE COURT
## STATE OF CONNECTICUT

MARGARITA O. v. FERNANDO I.
(AC 42118)

Lavine, Alvord and Elgo, Js.

*Syllabus*

The defendant appealed to this court from the judgment of the trial court granting the application for relief from abuse filed by the plaintiff, his former wife, pursuant to statute (§ 46b-15), and issuing a restraining order against him. The trial court also issued an additional order of protection that required the defendant to stay 100 yards away from the plaintiff, except "when both children are present." Held:

1. The trial court did not abuse its discretion in granting the plaintiff's application for relief from abuse and issuing a restraining order against the defendant, as there was sufficient evidence to support a finding that the defendant had subjected the plaintiff to a pattern of threatening; in light of the lengthy, repetitive and hostile nature of the defendant's communications with the plaintiff, which included three e-mails and two text messages, and the trial court's ability to supplement the written exhibits with its observation of the demeanor of the parties at the hearing on the application, that court reasonably could have concluded that the defendant's written threatening communications constituted a pattern of

threatening.

2. The trial court's additional order of protection requiring the defendant to stay 100 yards away from the plaintiff except "when both children are present" was clearly erroneous; the order was ambiguous and there was no evidence in the record to support it, as the record revealed that the plaintiff did not request that the restraining order extend to the parties' children, she did not testify at the hearing that she felt as though she was in physical danger except in the presence of both children, and when the court explained that the order did not apply to certain circumstances with "the minor child or when you are also in the presence of the minor child," with no mention of an additional child being present, the plaintiff did not object or express any concern.

Argued January 22—officially released April 23, 2019

*Procedural History*

Application for relief from abuse, brought to the Superior Court in the judicial district of Stamford-Norwalk, where the court, *Truglia, J.*, granted the application and issued a restraining order and a certain additional order of protection, and the defendant appealed to this court. Reversed in part; further proceedings.

*Fernando I.*, self-represented, the appellant (defendant).

*Kevin F. Collins*, for the appellee (plaintiff).

*Opinion*

ALVORD, J. The self-represented defendant,

Fernando I., appeals from the judgment of the trial court granting the application of the plaintiff, Margarita O., for relief from abuse and issuing a restraining order pursuant to General Statutes § 46b-15. The defendant claims that the court erroneously (1) determined that he had subjected the plaintiff to a recent pattern of threatening, and (2) ordered the defendant to stay 100 yards away from the plaintiff except "when both children are present."[1] We conclude that there was no evidence to support the court's order requiring the defendant to "stay 100 yards away from the [plaintiff]" with an exception "for the 100 yard stay away when both children are present." Accordingly, we reverse in part the judgment of the court as to the "stay 100 yards away" order and remand the case for a new hearing with respect to any order of protection, if proven necessary by the plaintiff, in situations where the defendant seeks interaction with his children and the plaintiff is present. We otherwise affirm the judgment of the trial court.

The following facts and procedural history are relevant to our analysis of the defendant's claims. On August 29, 2018, the plaintiff, in a self-represented capacity, filed an ex parte application for relief from abuse, seeking immediate relief against her former spouse, the defendant.[2] In her application, the plaintiff averred under oath that the defendant had "consistently sent [her] very distressing communications for the past years but in the last few months and weeks (particularly the last [forty-eight] hours) his aggressive electronic communication has been mounting to the point that [she was] very concerned about [her] physical safety." In addition, the plaintiff stated that "[she is] a single woman, [she] work[s] in [New York City] and many nights [she]

come[s] back late from work and feel[s] that [she is] exposed [to] potential harm from [the defendant]" and that "[t]he [defendant] has his residence in [New York City] but spends almost every day in Greenwich," which is the town where she resides. The court, Sommer, J., denied the plaintiff's application and scheduled a hearing for September 12, 2018, in accordance with § 46b-15 (b).

The parties appeared for the hearing before the court, Truglia, J., on September 12, 2018. At the hearing, the court heard testimony from both parties.[3] The plaintiff testified in relevant part: "[The defendant] keeps on blaming me for everything that is going on in his life; whether he loses a job, whether he cannot get a job, his life has been destroyed by me. And the reason I'm asking for this order now is because he's more agitated. I think the situation has deteriorated for him quite a bit. He doesn't have a job. He doesn't have any money. Still he blames me for everything that is happening to [him]. . . . In the course of [thirty-six] or [forty-eight] hours, I received three different communications, very disturbing, from him in which some of them he clearly said, you know, like there are implied threats in those communications." The plaintiff also testified that, nine years earlier, the defendant had been arrested twice, "[once] for domestic abuse and [once] for death threats . . . ."[4] The defendant did not dispute the fact of the arrests. The plaintiff explained that she requested relief under § 46b-15 on the basis of a pattern of threatening by the defendant and stated that she believed that she was in physical danger.

The defendant testified in relevant part: "I've been [in the Superior Court] [ten] years, and I lost everything in my life here. . . . [B]ut the good part of it is that her

claims were considered false, insufficient, unsubstantiated and rejected by the civil court in the divorce trial, by the criminal court twice, by the Department of Children and Families from the state of Connecticut. I was accused of abuse against my own children. So, I was accused of being mentally insane. I had to undergo ten evaluations with independent psychiatrists and psychologists. One was appointed by the court. They all expressed on the record that I'm not a violent man. I never had any history of violence in my life. . . . Furthermore, it was proven . . . and I have all the records. Unfortunately it's [ten] years and maybe a snippet could be portrayed as something lethal, but is, again, false. . . . [T]he plaintiff has a history of deceit, fraud, entrapment, [and] provocations that it goes for years."[5]

In addition to the foregoing testimony, the plaintiff submitted several exhibits, including copies of text messages and e-mails that the defendant had sent her. The text messages and one of the e-mails had been written in Spanish. The plaintiff, therefore, in addition to providing copies of the original communications, submitted as an exhibit during the hearing a certified translation of these communications.

First, on March 29, 2018, the defendant had sent the plaintiff an e-mail, written in English, which stated in relevant part: "I had your associates in [G]reenwich all over me, from firefighters, police officers, public employees . . . . So I refrained myself from confronting the scene, the last thing I wanted was to make a different sort of scene in front of our kids' doctor . . . . But [I'm] telling you for you to think before you and your attorney speak, what our kids should have experienced and must experience is their parents

together, in front of them, telling them the very same message, absolutely in sync, with love, clarity and support, and this has not happened because of you, and it's still not happening because of you. You have prevented this from happening for almost [ten] years, against the law, common sense and their [well-being]. . . . And the reason for that to be the case, as I see it, it's that you don't understand that our relationship only exists due to them, as a result of them, because of them. If they were not in this world, after what you've done in my life until now, I wouldn't even know anything about you, whether you exist or not . . . your conduct is irresolute, without changing tracks in anything, without firing the unethical lawyer only you decided to retain, without giving back to me, reimbursing me, what you must in the name of decency and justice . . . . You don't get it. This is inconceivable to me, the fact you don't even understand what sort of man I am. You do what I tell you, and you have a positive response from me. Period. Why? Because what I tell you is no other thing than what you should have done and should do under the law and what's right in itself. And so happens that it is me saying it. Is there some feminist and related belief against it? Stupidities about control and inconveniences. They can go and dominate themselves . . . we've got [ten] years of this already. There's a law to be obeyed, giving me control over what I must control for being a father (natural law and rights), an outstanding father as you said, and a loving one per the opinion of the court. Yet, one who has lost any and all authority because of you, my parental rights have been curtailed and undermined by you, in detriment of our kids . . . ."

On April 27, 2018, the defendant sent the plaintiff another e-mail. The certified translation reads in

relevant part: "On Monday I met with a group of friends to pray, etc., and before I had prayed to God, and I was thinking about what your attorney said: 'you lose . . .', after accusing me of being a Nazi, crazy and an abuser . . . . I have God, and the fact that you have cheated me, robbed me, and swindled me in that way and with that type of people, as well as everything that that brought with it in my life for many years already, it is what it is.

"The fact that you have destroyed my life by accusing me of being an abuser and crazy, the inherited good name that your own children bear already stained forever, their father vilified by riffraff of all types, etc., and my own family harmed to an unthinkable extreme . . . . Lack of intelligence and pure evil. . . .

"You lack a minimum conscience to understand that decent people don't do what you did and have been doing, they don't hire attorneys and a certain type of them at that—especially, when it was not necessary, it never was . . . nor do they similarly use the police, firemen, schools and ideologized social structures (in a society fragmented by hate due of concepts of race, social class, origin, religion, and questions of identity) in order to harass and destroy the life of the father of their children. Only someone morally and spiritually sick can do such a thing. It's already been almost ten years of this craziness, exclusively carried on by you, even though several groups have done their part due to their respective motivations. You have decided not to change your course, staying firm in the error, the ignominy and the cheating . . . and as if this were not enough, counter to your legal representations and commitments.

"The only thing I asked for from the beginning was co-parenting, even after you refused to buy my part of the house and consent to that, and it is specifically what you have refused even until today. And we have all lost so much, but especially on the human level our children, who have not seen their parents greet each other and interact civilly in almost ten years already due to your own decision . . . all their infancy, to the point that it no longer has relevance . . . while at times, for moments and reciprocally you became tired of stupidities like little smiles and that sort of thing in churches and public sites . . . something frankly lunatic. You robbed your children of the opportunity to grow up with two parents, separated but acting civilly toward each other, as ordered by the law according to your own legal representatives.

"What were you expecting? Smiles, welcoming and nothing happened here . . . the subject for me has always been our children, not my relationship with you after everything I lived through. And I find it incomprehensible that you don't understand it. My entire investment of love, time, effort, professional decisions, deprivations of all types and resources provided for our children, you have destroyed. You have robbed and defrauded me. Of course, it is important that such injustices cannot remain unpunished. But the curious thing of everything is that someone could think that they could destroy me and dominate me through my relationship with you, something sincerely demented and an exclusive recipe for tragedy. In this sense, I thanked you and I thank God for the good sense that you have given me.

"It has not been nor is it easy for me, but my greatest success is being happy in spite of this craziness.

Contemplating the possibility of my death many years ago, I understood that the only one who loses here, if I allow this to affect me, is me and those who love me. This would be losing and allowing the bad things to mortify me. I chose to be happy, and although I am very tired and exhausted (deeply exhausted), I am a happy person. The uncertainness of not knowing where I will live tomorrow, in what country, not having a relationship with my daughters and not living with my children as much as I would wish . . . losing contact with them over time . . . having doubts, or if I'm out of work and a roof to live or die under, I don't lose sleep. In one way or another, justice will come, in this life or in the next one. Contemplating eternity, our temporary stay here on earth is ephemeral . . . and we are almost [fifty] years old. Statistically speaking we have less time left than we have lived. . . .

"On the other hand, for the professional that I am, beyond the destruction of my career. And in your case, you only decided to be it seriously—support through the subject of identity policies, which makes me happy for my children—after destroying my life, professional and in general, not when we were married and the family needed it more than ever. You didn't do more than complain that you had to work part-time, and weren't worth anything at home or as a mother. . . . Finally, a very serious mistake, for which I have paid with interest in this world. And what have you gained? Destroying the father of your children, robbing him, and a job that you hate. Not even a mentally retarded person acts that way. As I said, injustices will be paid for. And I hope that you can do it for yourself in time, because otherwise your debt will be eternal before God."

On August 28, 2018, the defendant sent the plaintiff a series of text messages. With respect to the first message, the certified translation reads in relevant part: "Sometimes I wonder how it is possible that a person goes up to receive the Host after what you have been doing and continue doing. For me it's incomprehensible. You have no conscience, that has been the big problem. . . . I don't have a job, I have to assume debts to live (if I can) and probably I have to do with nothing after your thefts, fraud, social, judicial, and litigious persecutions—litigations that I will continue until justice is done, until I die if necessary. On the other hand, if you knew the garbage that I have had to live with of harassment and the like by the groups connected to your riffraff lawyer, whom I told you that you have to get rid of in order to do things right, so even someone like you would be surprised. You must think that that short time is all it takes, that time heals and stupidities like that. It's been almost [ten] years, since I made you a roadmap of what you would have to do or not do justly, what is right and is correct among good people. That is the only thing that matters. And now the only thing that helps is to return to me what is mine with interest, that you make right all the harm you have done in the proper way, and return to me my relationship with my daughters, in addition to being sorry and asking for forgiveness. You, as you have wrongly taught our daughters, do not know how to ask for forgiveness, something transcendental in life to be a good person, which also means amending the harm caused. I cannot get over my astonishment on seeing you walk to the altar and receive the body of Christ. And you have been doing it for over [ten] years. For me it's something incredible."

In a subsequent text message, the defendant stated in

relevant part: "If you don't intend to do what's right, we'll continue in the courts—in one way or another, for my children, I will have justice. And if I have to go, I won't hesitate, I'll go. . . . It seems to me that you and those who advise you don't manage to understand the type of man with which you are dealing with and the consequences of what has been done here."

That same day, the defendant also sent the plaintiff an e-mail, which stated in relevant part: "Despite the fact I am currently forced to leave the country (as things stand right now) because of you and your lawyer, since I have no employment and savings (only debts, after living paycheck to paycheck) as a result of what you've been doing to me for years, it seems surreal to me. Why don't you do coparenting with me, knowing with full certainty that this is the only path and way for us to have any contact whatsoever in life? Instead, you keep violating the law and generating deep frustration and negativity in me. You tell me post facto of the issues that arise in our children due to your lack of coparenting . . . . It's not only that you can't see it, but you don't seem to comprehend the everlasting irreparable damage in our relationship for it, beyond the defamation, slander and libel that completely destroyed my life because of criminal charges and outrageous allegations of all sorts against me before the police/judiciary and elsewhere. You destroyed my life . . . and severely hurt your own children as well. My power, authority and control as a father over my children have always been reasonable and loving, but you have taken them away from me against court orders and due to the misdeeds uncovered before the judiciary. If you wanted for me to hate you, let me tell you that [you] have done all the right things for that to be the case. Time does not heal anything, it only

aggravates things. You need to do what's right. But you don't hear what I say, much less understand the impact of what you do."

At the conclusion of the hearing, the court orally rendered its decision.[6] The court told the defendant: "Sir, I am very sympathetic to your situation. I can see that things have been very difficult. It's been a long, high conflict divorce situation." The court stated that the plaintiff had "carried her burden of proof that she has been subjected to a recent pattern of threats. I think some of the language here does imply . . . does carry implied threats that could be unsettling." When the defendant asked which statement was considered a threat, the court explained: "Plaintiff's Exhibit 2; as I said, injustices will be paid for. Destroying . . . and what you have gained? Destroying the father of your children, robbing [him], and a job that you hate. Not even a mentally retarded person acts that way. As I said, injustices will be paid for."[7] Thereafter, the court explained the various limitations[8] on the rights and priv- ileges of the defendant that were part of its restraining order, which, by its terms, expires on September 12, 2019. In addition, the court ordered the defendant to stay 100 yards away from the plaintiff, except when "both children are present." This appeal followed. Additional facts and procedural history will be set forth as necessary.

**I**

The defendant first claims that the trial court erroneously determined that he had subjected the plaintiff to a pattern of threatening. Specifically, he argues that the court erroneously "deemed one single out of context opinion, unsettling or not per third-party

views, as an implied threat," and "found no valid allegation of physical abuse, stalking and/or a direct threat of any kind as a result of the plaintiff's spurious application for relief from abuse. Therefore, there is no possibility of arguing a pattern of threats under applicable law." We disagree.

We begin by setting forth the standard of review and legal principles that guide our analysis of the defendant's claim. "[T]he standard of review in family matters is well settled. An appellate court will not disturb a trial court's orders in domestic relations cases unless the court has abused its discretion or it is found that it could not reasonably conclude as it did, based on the facts presented." (Footnote omitted; internal quotation marks omitted.) *Princess Q. H. v. Robert H.*, 150 Conn. App. 105, 111–12, 89 A.3d 896 (2014). "It is within the province of the trial court to find facts and draw proper inferences from the evidence presented. . . . In determining whether a trial court has abused its broad discretion in domestic relations matters, we allow every reasonable presumption in favor of the correctness of its action." (Internal quotation marks omitted.) *Powell- Ferri v. Ferri*, 326 Conn. 457, 464, 165 A.3d 1124 (2017).

"In pursuit of its fact-finding function, [i]t is within the province of the trial court . . . to weigh the evidence presented and determine the credibility and effect to be given the evidence. . . . Credibility must be assessed . . . not by reading the cold printed record, but by observing firsthand the witness' conduct, demeanor and attitude. . . . An appellate court must defer to the trier of fact's assessment of credibility because [i]t is the [fact finder] . . . [who has] an opportunity to observe the demeanor of the witnesses and the parties; thus

[the fact finder] is best able to judge the credibility of the witnesses and to draw necessary inferences therefrom." (Internal quotation marks omit- ted.) *Brown v. Brown*, 132 Conn. App. 30, 40, 31 A.3d 55 (2011). "Appellate review of a trial court's findings of fact is governed by the clearly erroneous standard of review. . . . A finding of fact is clearly erroneous when there is no evidence in the record to support it . . . or when although there is evidence to support it, the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been committed. . . . Our deferential standard of review, however, does not extend to the court's interpretation of and application of the law to the facts. It is axiomatic that a matter of law is entitled to plenary review on appeal." (Citation omitted; internal quotation marks omitted.) *Princess Q. H. v. Robert H.,* supra, 150 Conn. App. 112.

Section 46b-15 (a), which governs this case, provides in relevant part: "Any family or household member as defined in section 46b-38a,[9] who has been subjected to . . . a pattern of threatening, including, but not limited to, a pattern of threatening, as described in section 53a- 62, by another family or household member may make an application to the Superior Court for relief under this section. . . ." (Footnote added.)

To the extent that the defendant argues that the court erred because its conclusion was based on a single statement, namely, his statement that "injustices will be paid for," we are unpersuaded. Although the court responded to the defendant's question with just one example from the evidence in support of its conclusion,[10] the court had before it several written threatening communications that the defendant had

sent to the plaintiff, including three e-mails and two text messages.

The defendant also argues that his statements were taken "out of context" and that he had been referring to justice within the legal system and within the context of his religious beliefs. Specifically, he argues that he was "manifesting his longing for justice within the legal system for himself and his children."[11] In addition, he argues that he was referring to "[his] belief in eternal justice, as long as such e-mail was sent after a weekly Christian gathering of men where each of the participants provides his life testimony, and all pray together for themselves and their families in the context of eternal life and justice before the Creator."

We repeat the well established linchpin of our role on appeal: "[W]e do not retry the facts or evaluate the credibility of witnesses." (Internal quotation marks omitted.) *Krystyna W. v. Janusz W.,* 127 Conn. App. 586, 591, 14 A.3d 483 (2011). Moreover, as our Supreme Court has repeatedly noted, "trial courts have a distinct advantage over an appellate court in dealing with domestic relations, where all of the surrounding circumstances and the appearance and attitude of the parties are so significant." (Internal quotation marks omitted.) *Brody v. Brody*, 315 Conn. 300, 306, 105 A.3d 887 (2015); see also *Princess Q. H. v. Robert H.*, supra, 150 Conn App. 116.

In *Princess Q. H. v. Robert H.*, supra, 150 Conn. App. 116, this court viewed the trial court's decision in light of the surrounding circumstances and context of all the evidence presented to the trial court. This court determined that the plaintiff was entitled to a restraining order pursuant to § 46b-15, on the ground

of stalking, when the defendant, her former spouse, drove past her house two times.[12] Id., 116–17. The trial court in *Princess Q. H.*, like the trial court in the present case, "heard ample evidence about the parties' stormy relationship and the fact that the plaintiff and the defendant were adverse parties in a civil action at the time of [the conduct giving rise to relief pursuant to § 46b- 15]."[13] Id., 116.

This court concluded: "In light of the evidence and the surrounding circumstances, we conclude that the court did not abuse its discretion in concluding in the context of all of the evidence presented to it that the defendant's conduct in driving past her home, turning around, and immediately driving past her home a second time constituted an act of stalking. The [trial] court found after consideration of the evidence that shortly before the plaintiff sought relief under § 46b-15, the defendant acted in a manner that constituted stalking as that term is commonly defined and applied. The defendant did not testify as to any contrary explanation for his presence near her home. In light of the foregoing, the court's decision does not contain unsupported findings or reflect a misapplication of the law." Id., 116–17.

In the present case, although the defendant did, in his communications to the plaintiff, refer back to the parties' legal proceedings and his religious beliefs, the defendant also expressed, untethered, his negative feelings, of hatred and anger, toward the plaintiff.[14] More- over, he repeatedly emphasized, at length, how he felt that the plaintiff had "completely destroyed his life" and was to blame for the hardships he was facing.[15] Thus, in light of the lengthy, repetitive and hostile nature of the defendant's communications, and

the trial court's ability to supplement the written exhibits with its observation of the demeanor of the parties at the hearing,[16] the trial court reasonably could have concluded that the defendant's written threatening communications constituted a pattern of threatening.

Because the record establishes that there was sufficient evidence to support a finding that the defendant subjected the plaintiff to a pattern of threatening, we conclude that the court did not abuse its discretion in granting the plaintiff's application for relief from abuse and issuing a restraining order against the defendant.

**II**

The defendant also claims that the court erroneously ordered him to stay 100 yards way from the plaintiff except "when both children are present." The defendant, in essence, claims that the effect of the court's order on his desire to have a relationship with his children is to burden unreasonably that relationship in that *both children*[17] have to be present with the plaintiff in order for the exception to apply. Specifically, he argues that "the terms of his restraining order do not allow [him] to attend school events if 'both children' are not present jointly with the plaintiff, namely: curriculum night—standard for children not to be there, sports and school sponsored events, high school graduation, concerts, church, and others. The only exception to the restraining order applies when 'both children are present'—both U.S. students. It is also unclear whether [he] can pick up one, both or none of his children from their home." In other words, if only one, but not both, of his children

are with, or within 100 yards of, the plaintiff, he may not have contact with that child. We conclude that there is nothing in the record to support the court's additional order of protection as modified by the exception requiring the presence of both children.

The record reveals the following additional facts and procedural history. The parties have three children together. At the time that the restraining order was imposed, on September 12, 2018, one of the parties' children attended college in Spain, and two of the children attended high school and lived with the plaintiff. At the hearing, the defendant explained that, although the plaintiff was not requesting that the restraining order extend to the parties' children, a court order to stay 100 yards away from the plaintiff would affect his ability to see his children: "I could not kiss my children if I happened to be in church. I cannot pick up, still, my children from my own house . . . . I cannot attend my son's high school graduation if she's there. I cannot attend the high school barbecue if she's there." The court responded: "I can always make an exception for that." The court, at the conclusion of the hearing, explained its additional orders of protection that it was going to impose as a result of the restraining order: "The [defendant] is to stay at least 100 yards away from [the plaintiff] at all time[s], however an exception is to be made when the parties are in the presence of both children. So, in other words, the order does not apply [for] pickup and drop-off for the minor child or when you are also in the presence of the minor child, say at a family gathering or church or something like that." In its written additional orders of protection, the court provided that the defendant must stay 100 yards away from the plaintiff, except when "both children are present."

As previously stated, "[i]n determining whether a trial court has abused its broad discretion in domestic relations matters, we allow every reasonable presumption in favor of the correctness of its action. . . . Appellate review of a trial court's findings of fact is governed by the clearly erroneous standard of review. . . . A finding of fact is clearly erroneous when there is no evidence in the record to support it . . . or when although there is evidence to support it, the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been committed." (Internal quotation marks omitted.) *Princess Q. H. v. Robert H.,* supra, 150 Conn. App. 111–12.

First, we find ambiguity in the court's additional order of protection. Furthermore, we discern no evidence, set forth in the plaintiff's application or provided at the hearing on September 12, 2018, to support such an order, as modified by the exception requiring the presence of both children. The plaintiff did not request that her restraining order extend to the parties' children. Moreover, she did not testify that she felt as though she was in physical danger except in the presence of "both children." At the hearing, when the court explained that "the order does not apply [for] pickup and drop off for the minor child or when you are also in the presence of the minor child," with no mention of an additional child being present, the plaintiff did not object or express any concern. Accordingly, the court's order requiring the defendant to stay 100 yards away from the plaintiff, and providing an exception only when "both children" are present, has no evidentiary basis.

The judgment is reversed only as to the order requiring the defendant to stay 100 yards away from the plaintiff

with an exception when both children are present, and the case is remanded for a new hearing with respect to any order of protection, if proven necessary by the plaintiff, in situations where the defendant seeks interaction with his children and the plaintiff is present. The judgment is affirmed in all other respects.

In this opinion the other judges concurred.

* In accordance with our policy of protecting the privacy interests of the victims of family violence, we decline to identify the applicant or others through whom the applicant's identity may be ascertained. See General Statutes § 54-86e.

1 The defendant also claims that the trial court "should have exercised judicial restrain[t]" and that the restraining order infringes on his parental rights, his right to freedom of speech, and his right to freedom of religion. We decline to review these claims, however, because they are inadequately briefed. See *Tonghini v. Tonghini*, 152 Conn. App. 231, 239, 98 A.3d 93 (2014) ("It is well settled that [w]e are not required to review claims that are inadequately briefed. . . . We consistently have held that [a]nalysis, rather than mere abstract assertion, is required in order to avoid abandoning an issue by failure to brief the issue properly. . . . [F]or this court judiciously and efficiently to consider claims of error raised on appeal . . . the parties must clearly and fully set forth their arguments in their briefs. We do not reverse the judgment of a trial court on the basis of challenges to its rulings that have not been adequately briefed. . . . [A]ssignments of error which are merely mentioned but not briefed beyond a statement of the claim will be deemed abandoned and will not be reviewed by this court." [Internal quotation marks omitted.]).

The defendant additionally claims that the trial court erred by ignoring "the plaintiff's [pattern of] advancing civil claims illegally" and violating his right to due process. Those claims, however, are not supported by the record. See footnotes 3, 5, and 7 of this opinion.

2 The parties had been divorced since September, 2010. They have three children together, one of whom is a minor.

3 On appeal, the defendant claims that, with respect to this hearing, the trial court violated his right to due process. Specifically, he argues that (1) "[he] was not allowed to ponder the veracity, accuracy and completeness of the exhibits admitted by

the . . . court, which gave no consideration to the context, timing of the allegation, history of the case, fraud, deceit, false allegations, defamation, and falsehoods of all sorts by the plaintiff," (2) "[he] could not submit any evidence to make his case . . . or to question the [plaintiff] under oath," (3) "[j]udgment was rendered from the bench without proper analysis of [his] timely provided prehearing memorandum," and (4) "[he] was not allowed to review and compare [the plaintiff's] Spanish-English translation . . . and did not even receive copies of the exhibits." The defendant's contentions, however, are not supported by the record.

First, the court specifically asked the defendant whether he had any evidentiary objection to the documents submitted by the plaintiff. The defendant objected on the grounds that the exhibits were selective and that the contents were not relevant. The court responded that the exhibits were relevant and that he would have an opportunity to supplement the copies of the communications provided by the plaintiff. Moreover, the defendant did not, at any point in time, attempt to submit any evidence, nor did he seek to question the plaintiff under oath. The court, therefore, did not deprive him of an opportunity to do so. In addition, with respect to the defendant's prehearing memorandum, the record reflects that the trial court reviewed this document before rendering its decision. Finally, the record reflects that the defendant did receive copies of the exhibits and was afforded the opportunity to view the certified translation. See footnote 7 of this opinion.

4 The defendant refers to these incidents as "past false allegations," "false criminal charges" and "illegal arrests," and states that he had been arrested for strangulation, or attempted murder, but the charges "never came to fruition after various witnesses interviewed by the police at the time of [his] arrest corroborated that there never was any violence or threats of any sort from [him] toward the plaintiff."

5 On appeal, the defendant claims that the court erred by ignoring "the plaintiff's [pattern of] advancing civil claims illegally . . . ." There is, however, nothing in the record to support this claim.

At the beginning of the hearing, the defendant provided the court with a copy of his thirty-five page prehearing memorandum, with attached exhibits. The defendant explained that the exhibits included copies of sworn testimony of the parties from previous proceedings and that the memorandum was intended to provide the court with "the full picture of why this is happening right now; what is the timing, the context, and the falsehood behind it."

Moreover, at the hearing, the defendant testified, at length, about what he characterizes as the plaintiff's "modus operandi of advancing civil claims through extortion in the way of false criminal charges and overall defamation . . . ."

Nothing in the record supports the defendant's assertion that the court ignored his testimony or failed to consider his prehearing memorandum. See footnote 3 of this opinion. Rather, at the conclusion of the hearing, the court stated that it had "listened very carefully to the testimony of both parties in this case," and "carefully reviewed the prehearing memorandum submitted by the defendant."

6 The record does not reflect that the trial court created a signed memorandum of decision in compliance with Practice Book § 64-1 (a) or that the defendant took measures to perfect the record in accordance with Practice Book § 64-1 (b). The defective record does not hamper our ability to review the issues presented on appeal because we are able adequately to ascertain the basis of the court's decision from the trial transcript of the court's oral decision. See Princess Q. H. v. Robert H., 150 Conn. App. 105, 109 n.2, 89 A.3d 896 (2014).

7 The defendant challenges the accuracy of the translation with respect to his single statement "injusticias se pagan" which had been translated into English as "injustices will be paid for." The defendant argues, on appeal, that the correct translation is "injustices are paid." (Emphasis altered.) He argues that because "there is no future tense in it," it supports his contention that he made the statement in the context of his religious beliefs.

The defendant argues that "[he] was not allowed to review and compare [the plaintiff's] Spanish-English translation . . . and did not even receive copies of the exhibits," which violated his right to due process. The record, however, reflects that, at the hearing, the defendant was given a copy of the certified translation and provided with the opportunity to review the plaintiff's exhibits.

Moreover, to the extent that the defendant argues that he did not receive advance notice of the plaintiff's certified translation, he does not cite any legal authority that entitles him to such notice nor does he explain how the lack of such prehearing notice amounted to a deprivation of due process. Therefore, we decline to review such a claim. See footnote 1 of this opinion.

8 As the terms and conditions of protection, the court ordered that the defendant must (1) surrender or transfer all firearms and ammunition, (2) not assault, threaten, abuse, harass, follow, interfere with, or stalk [the

plaintiff], and (3) stay away from the home of [the plaintiff] and wherever [the plaintiff] shall reside.

9 General Statutes § 46b-38a (2) defines a "[f]amily or household member" to include "[s]pouses or former spouses."

10 As previously stated, the defendant, at the hearing, asked the court which of his statements constituted a threat, at which point the court stated: "Plaintiff's Exhibit 2; as I said, injustices will be paid for. Destroying . . . and what you have gained? Destroying the father of your children, robbing [him], and a job that you hate. Not even a mentally retarded person acts that way. As I said, injustices will be paid for."

11 At the hearing before the trial court, the defendant testified in relevant part: "[I]n other communications simultaneously at the same time that you don't have, what I said is that I'm looking for justice within the legal system. There is no threat of any nature whatsoever."

12 The trial court had granted the plaintiff relief based, in part, on a pattern of threatening, but, on appeal, this court did not reach the issue of whether the defendant's conduct constituted a pattern of threatening under § 46b-15.

13 Specifically, in her application, the plaintiff averred under oath that "the defendant had contacted her on the telephone on several occasions in 2012; that over the past several weeks, she had received prank calls from an unknown caller; that the defendant put his hands around her neck 'at one time'; that, when she was married to the defendant, he once told her that 'he can protect himself if he had to'; and that she was fearful that the defendant would try to hurt her or her daughter." *Princess Q. H. v. Robert H.*, supra, 150 Conn. App. 107. The trial court recognized that "[t]his is not a case where [the plaintiff] is telling me about a physical threat, or physical pain or physical injury . . . ." (Internal quotation marks omitted.) Id., 110.

14 For example, as previously stated, he told the plaintiff: "If you wanted for me to hate you, let me tell you that [you] have done all the right things for that to be the case. Time does not heal anything, it only aggravates things." In addition, he told her that she was "generating deep frustration and negativity in [him.]" He also told the plaintiff that "[her] conduct is irresolute," that she had a "[l]ack of intelligence and [was] pure evil," that "[she] lack[s] a minimum conscience to understand that decent people don't do what [she] did," and implied that she was "morally and spiritually sick."

15 In addition to stating, several times, that the plaintiff had

destroyed his life, the defendant also told the plaintiff that he "had lost any and all authority because of [her]," that she had "cheated [him], robbed [him], and swindled [him]," "defrauded [him]," and had destroyed his career. Moreover, the defendant blamed the plaintiff for his being "forced to leave the country," which he describes, on appeal, as "self-deportation."

At the hearing before the trial court, the defendant's testimony, in a similar fashion, focused on what he viewed to be the plaintiff's "history of deceit, fraud, entrapment, [and] provocations." On appeal, the defendant likewise dedicated a significant portion of his brief to summarizing, what he views to be, the plaintiff's "threats, abuse, deceit, concealment, fraud, and other misdeeds . . . which also include perjury [and] false documentation," as well as the plaintiff's "ulterior motives," and "defamation."

16 At the hearing, the defendant acknowledged that he may have sounded "frustrated or emotional."

17 Although the parties have three children together, their oldest daughter attends college in Spain. Accordingly, the court's order, referring to "both children," presumably refers to the two children who live in the United States with the plaintiff.

# APPENDIX D

## SUPERIOR DISTRICT COURT OF STAMFORD/NORWALK STATE OF CONNECTICUT

**STATE OF CONNECTICUT**
**SUPERIOR COURT**

**ORDER OF PROTECTION**
JD-CL 099 Rev. 10-16
C.G.S. §§ 29-28, 29-32, 29-33, 29-36i, 29-36k, 46b-15, 46b-16a, 46b-38c(d)(e), 46b-38nn, 53a-28(f), 53a-36, 53a-42, 53a-217, 53a-217c, 53a-223, 54-1k, 54-86e, 18 U.S.C. §§ 922(g)(9), 2265 P.A. 16-34

Restraining Order – After Hearing [Order Type]
Family [Case Type]
Stamford J.D. [Superior Court location]
FST-FA18-4031046-S [Case number]

**Protected Person**

OLIVA SAINZ de AJA, Margarita [Last name/First name]
7/30/1969 [Date of birth]
F [Sex]
White [Race]
10 Indian Pass, Greenwich, CT, 06830 [Home address]
10 Indian Pass, Greenwich, CT, 06830 [Mailing address]
452 Fifth Avenue, New York, NY, 10018 [Work address]

**Respondent** *(Defendant)*

IRAZU, Fernando G. [Last name/First name/Middle]
**Respondent Identifiers**

7/8/1968 [Date of birth]
M [Sex]
White [Race]
6.02 [Height]
2035708318 [Phone]
Bearded, dirty blond [Distinguishing features/other identifiers]
X Intimate cohabitant [Relationship to protected person
*(Present or former)*]
222 East 75th Street 6C, New York, NY 10021 [Address]

---

**Terms and Conditions of Protection**

You, the Repondent, must follow all the orders and conditions checked or indicated by "X" below:

X Surrender or transfer all firearms and ammunition.
X Do not assault, threaten, abuse, harass, follow, interfere with , or stalk the protected person. (CT01)
X Stay away from the home of the protected person and wherever the protected person shall reside. (CT03)

Additional terms and conditions are on the following pages:

General Restraining Order Notifications (Family) – JD-CL-104.; Additional Orders of Protection, JD-CL-100.
9/12/2019 [Expiration date *(if applicable)*]

X The court had jurisdiction over the parties and the subject matter, and the respondent was provided with reasonable notice and opportunity to be heard. This order shall be enforced, even without registration, by the courts of any state, the District of Columbia, any US Territory, and may be enforced by Tribal lands (18 U.S.C §. 2265). Crossing state, territorial, or tribal boundaries to violate this order may result in federal imprisonment (18 U.S.C § 2262).
X State law provides penalties for unlawful possession of firearms, ammunition, or electronic defense weapon (Connecticut General Statutes § 53a-217(a)(4) and 53a-217c(a)(5)). Federal law also providespenalties for possessing, transporting, shipping, or receiving any firearm or ammunition while subject to a qualifying protection order and under the circumstances specified in 18 U.S.C § 922(g)(8).

By the Court TRUGLIA [Name of Judge]

/s/ Kelly Obrien, AC [Signed *(Judge/Assistant Clerk)*]
9/12/2018 [Date signed]

**STATE OF CONNECTICUT**
**SUPERIOR COURT**

**ADDITIONAL ORDERS OF PROTECTION**
JD-CL 100 Rev. 10-14
C.G.S. §§ 29-28, 29-32, 29-33, 29-36i, 29-36k, 46b-38c(d)(e), 46b-38nn, 53a-36, 53a-42, 53a-217, 53a-217c, 53a-223, 54-1k, 18 U.S.C. §§ 922(g)(9), 2265
P.A. 14-217 §§ 186-190

Restraining Order – After Hearing [Order Type]
Family [Case Type]
Stamford J.D. [Superior Court location]
FST-FA18-4031046-S [Case number]

**Protected Person**

OLIVA SAINZ de AJA, Margarita [Last name/First name]

**Respondent** *(Defendant)*

IRAZU, Fernando G. [Last name/First name/Middle]

**Respondent Identifiers**

7/8/1968 [Date of birth] M [Sex] White [Race]

You, the Respondent, must follow all the orders and conditions checked or indicated by "X" below:

X Stay 100 yards away from the protected person. (CT16)
X Other: There is an exception for the 100 yard stay away when both children are present.

## APPENDIX E

**SUPERIOR DISTRICT COURT**
**OF STAMFORD/NORWALK**
**STATE OF CONNECTICUT**

**AFFIDAVIT – RELIEF**
**FROM ABUSE***
JD-FM-138 Rev. 10-14
C.G.S. §§ 46b-15, 52-231a, P.B. § 25-57

---

Name of Applicant (Your name)
OLIVA SAINZ DE AJA, MARGARITA

Name of Respondent (Person you want a restraining order against)
IRAZU, FERNANDO G.

---

**Statement of Conditions From Which You Seek Relief**

I, the person signing below, duly depose and say that I am the Applicant in the matter and state as follows: *(Explain for each incident: (1) what happened, (2) when it happened, (3) where it happened, and (4) who was there when it happened.)*

……

*I respectfully request the Court to grant the relief requested in 1 (page 2 of 2 of the Application for Relief)*

---

*This sworn affidavit relates to the *ex parte* application for relief from abuse which was denied on 8/29/2018 (FST-FA-18-4031046-S; *Sommer, J),* granted on 9/12/2018 *(Truglia, J)*, and quoted in the ruling of the Appellate Court under review (AC 42118).

*for the following incidents and reasons…….*
*The Respondent has consistently sent me very distressing communications for the past years but in the last few months and weeks (particularly the last 48 hours) his aggressive electronic communication has been mounting to the point that I am very concerned about my physical safety. The Respondent has a past violent history for which he was arrested for domestic abuse charges and death threats, years ago. He has also shown signs of mental issues, with an acute sense of paranoia. The Respondent has not been able to hold a steady job since our divorce 9 years ago. For all of these reasons, I have not been alone with him under any circumstances after our divorce……..*
*His electronic communication is always hostile and accusatory and blames me for all his problems, including that he cannot keep a job or the "prosecution" he is subject to by Greenwich Police, firefighters or even the Church. A few months ago, as a consequence of the escalation of this aggressiveness, I contacted the Greenwich police department and they advised to contact domestic abuse services at YWCA, which I did, and a therapist there suggested a few safety procedures to follow. I am a s single woman, I work in NYC and many nights I come back late from work and feel that I am exposed from potential harm from my ex-husband. The last few communications from the Respondent include sentences such as: "Despite that I am currently forced to leave the country (as things stand right now) because of you and your lawyer, since I have no employment and savings (only debts, after living paycheck by paycheck) as a result of what you have been doing to me for years, it seems surreal to me"; "If you wanted me to hate you, let me tell you that you have done all the right things for that to be the case"; "You*

*destroyed my life"; "It's been nearly 10 years since I marked a road map for what you had to do and not to do …. The only thing that would help now is that you return all that is mine… in addition to repent yourself and ask for forgiveness." (this last sentence as translated from Spanish and only highlighting relevant text). The Respondent has his residence in NYC but spends almost every day in Greenwich. Because the Respondent has stated that he hates me, his progressive mental issues, his notorious mounting frustration with me, lack of a job, and implicit (and not so implicit) threats in [these] communications, I respectfully ask the Court for protection as I feel I am in danger of physical harm……...*

**Statement Concerning Temporary Custody of Children**

X I am not asking for temporary custody of any minor child or minor children in this matter.

---

I certify that the statements above are true to the best of my knowledge and believe.

Signature /s/ Margarita Oliva Sainz de Aja
Print name of person signing MARGARITA OLIVA SAINZ DE AJA
Subscribed and sworn before me (Assistant Clerk, Commissioner of Superior Court, Notary Public)
/s/ [Illegible] Date signed 8/29/2018

# APPENDIX F

## SUPERIOR DISTRICT COURT
## OF STAMFORD/NORWALK
## STATE OF CONNECTICUT

## EXCERPTS FROM OFFICIAL TRANSCRIPTS, FST-FA-18-4031046-S, HEARING OF 9/12/2018 BEFORE HONORABLE ANTHONY TRUGLIA, JUDGE

**Topics: Issue of recent pattern of threats versus implied threat in Spanish; Plaintiff's lack of credibility and past events; Defendant's allegation of abusive pattern; inability to ponder veracity, accuracy, and completeness of exhibits; no copies of evidence provided, only post-hearing via clerk's office; ruling from the bench.**

"THE COURT: Under oath, when did he send this text? MS. OLIVA: So one of them was sent I believe on August 28th. THE COURT: 2018? MS. OLIVA: Yes. THE COURT: Okay. MS. OLIVA: …. basically, the common line here, you have destroyed my life, you have to pay for it. And this is just very, very disturbing and concerning, Your Honor. THE COURT: He said you have to pay for it. MS. OLIVA: Well, he doesn't say that specifically, but yeah, in some cases ----- [… ] …THE COURT: … So I do see texts or the emails and I certainly see how a person might feel that there is an implied threat here; as I said, comma, injustices will be paid for. MR. IRAZU: I don't see the translation reflects most likely accurately the Spanish version. So I most likely -- it could be the case that they're playing with the words to --because in other communications

simultaneously,* at the same time that you don't have, what I said is that I'm looking for justice within the legal system. There's no threat of any nature whatsoever…[…]…So what I'm trying to say is that the plaintiff has a history of deceit, fraud, entrapment, provocations that it goes to years. THE COURT: Perhaps she does, sir, but I also have in front of me communications from you, which are very recent, in which I could find, if I were her, unsettling… […]….THE COURT: ….the issue directly before the Court right now, which is whether there has been a recent pattern of threatening by you with respect to her. I agree with you that there have been no direct

---

* In the Appellate Court's ruling of 4/23//2019 three written exchanges addmited by *Judge Truglia* are detailed. They are dated 3/29/2018, 4/27/2018, and, four months later, 8/28/2019, the day before the Responded filed her *ex parte* petition for relief from abuse. On 8/26/2018 the parties saw each other in the presence of their children at church in Greenwich –the Petitioner greeted his children before her–, without anything out of the ordinary. Please note such exhibit relates to an email sent after a weekly Christian gathering of men where all participants provide their respective life testimony and pray for themselves and their families in the context of eternal life and justice before the Creator. In the *Appendices to the Defendant-Appellant's Brief* before the Appellate Court, AC 42118, the complete written exchange could be appreciated (not provided by the Plaintiff to the district court), in which this party also requests from the Plaintiff not to defame him any longer, as well as emails from the Plaintiff in anticipation of her *ex parte* petition, even during such same day of 8/29/2018, about unilateral parenting against court orders and others with the mere goal generate inflammatory responses. In particular, after such request was denied on 8/29/2019 (something unknown to the Defendant until he was summoned to the 9/12/2018 hearing on 9/5/2018), and including exchanges with his own son as a result of his mother cancelling plans or making alternative arrangements for this party not to see him after driving for an hour from New York City to Greenwich during Labor Day weekend in 2018.

threats, but I do find that the applicant has carried the burden of proof that she has been subjected to a recent pattern of threats. I think some of the language here does imply -- does carry implied threats that could be unsettling. And -- MR. IRAZU: Could you tell me which one? … Because I don't see any threats here. THE COURT: Plaintiff's Exhibit 2; as I said, injustices will be paid for …. As I said, injustices will be paid for. MR. IRAZU: What – she didn't provide the copies of them so I don't know exactly --- MS. OLIVA: Your Honor, that's exactly the two emails he doesn't have a copy of because I didn't. I gave him the translations of the ones, but those ones was originally in English so he didn't have the copy of it, but you have it…. THE COURT: … The Court finds that the applicant has carried her burden of proof that she has been subjected to a pattern of threatening by the respondent. The Court makes the following orders. The respondent will not assault, threaten, abuse, harass, follow, interfere with, or stalk the protected person and the respondent will stay away from the applicant's home and wherever she may reside. The respondent is to stay 100 yards away from the applicant at all time …. MR. IRAZU: Could I get copies of the exhibits so I can --- THE COURT: Absolutely, sir. Absolutely. MR. IRAZU: That's appreciated...", Hearing before Judge Truglia, p. 7, lines 1-15, 17-19, p. 13, lines 13-24, p. 16, lines 14-20, p. 25, lines 8-22, 27, p. 26, lines 1-4, p. 28, lines 2-16, p. 30, lines 1-12.

**<u>Topic</u>: Longing for justice within the legal system, no threats; Defendant's court-related neuropsychological studies: sane individual, peaceful, non-violent, no record of violence.**

"MR. IRAZU: So what I'm saying -- if saying that I'm pursuing justice within the legal system is considered a threat, I wonder [about] criminal threats of me paying, I have plenty of emails from her and this is the way she's supposedly making me pay; defaming me and the Court taking as, in principle, I assume, true facts that are false. Because [it's been] already proven before the Court that I'm a sane man, that I'm a nonviolent, peaceful man, that I pose no threat to anybody, and that I haven't threatened anybody. So in order to say that someone has threatened, there has to be something concrete.", Hearing before Judge Truglia, p. 26, lines 8-19.

**<u>Topic</u>: Judgment post-consideration of Greenwich-related illegalities; district court's inquiry about Plaintiff's neighbor [Mr. Peter Tesei, First Selectman of Greenwich] and Defendant's presence in Greenwich.**

"MR. IRAZU: …. And I also -- I'd like to point out what would [not] be in [a] sane mind after going through two criminal cases, after the spurious allegations of threats, telling me that I would be threatening her again to have something of this sort and that I would be putting my life in the hands of people who abused me, persecuted me, followed me around town as if I were a peril to the community, and for years. I honestly can't see any peril, Judge. THE COURT: Sir, you live in New York right now, right? MR. IRAZU: I do. THE COURT: So there's no reason for you to come to Connecticut other than to see your children, correct? MR. IRAZU: With this [case]. I do have friends in Greenwich. THE COURT: Okay. MR. IRAZU: Okay. THE COURT: Do they live across the street from your wife --- ex-wife? MR. IRAZU: Say again? THE

COURT: Do they live across the street from your ex-wife [where Mr. and Mrs. Peter Tesei reside]? MR. IRAZU: No.", Hearing before Judge Truglia, p. 27, lines 4-27, p. 28, line 1.

**<u>Topic</u>: No copies of evidence provided, only post-hearing at clerk's office; objections and further claims as to evidence admitted by district court; outstanding civil issues before the legal system.**

"THE COURT: … As I said, injustices will be paid for. MR. IRAZU: What – she didn't provide copies of them so I don't know exactly ---- MS. OLIVA: Your Honor, that's exactly the two emails he doesn't have a copy of because I didn't …", Hearing before Judge Truglia, p. 25, lines 25-27, p. 26, lines 1-4.

"THE COURT: -- do you have an evidentiary objection to admissibility of those documents into evidence so the Court can see them. MR. IRAZU: Yes. I think the way it was portrayed, it is inadmissible in the sense that it its irrelevant because there is no implied threat if it were not for the twisting appreciation of what's happening here, number one. And, number two, the exchanges are not complete in the sense that if you take this out of context of some communication that we've had over the last several weeks, it is impossible to fully comprehend and appreciate what this whole thing is about. … […] … THE COURT: But if your only objection is relevance or lack of completeness, I'm going to overrule that objection because I think they are relevant. …[…] … THE COURT: So I'm going to overrule the objection. They're full exhibits. … […] … Do you have copies for Mr. Irazu of these exhibits? MS. OLIVA: Sorry, no I don't. THE COURT: Do you not? MS. OLIVA: I'm more than happy -- oh, I have one of

the translations if he needs one, but --- [not the illegible original used to concoct such translation]", Hearing before Judge Truglia, p. 10, lines 2-14, p. 11, lines 5-8, 14-15, p. 12, lines 24-27, p. 13, lines 1-2.

"MR. IRAZU: ….And, needless to say within this pattern of falsehoods --- and I haven't actually seen the translation [Spanish versus English], which I can tell you right now most likely has been concocted to reflect that to you. I don't have a copy for me to tell you, but I certainly object the veracity of the translation if that's the case because I cannot recall in any way or fashion whatsoever having told her specifically right now in this context when they made offers in the past to pay me. So when you talk about paying, you are certainly talking about settling an outstanding civil issue.", Hearing before Judge Truglia, p. 26, lines 20-27, p. 27, lines 1-3.

**<u>Topic</u>: Risk of criminal charges, applicable standard; co-parenting obligations to dialogue and confer; illegal background of the case; abuse of process and illegitimate advancement of civil claims.**

"THE COURT: Okay. Now, sir, you don't' have to fear the police as long as you abide by this order. By if you do violate the order, I'm advising you it is a class – potentially a class D felony. MR. IRAZU: That's my fear. THE COURT: I know. So it's very simple. Don't contact her. MR. IRAZU: But I have to. If I'm -- if she contacts me …", Hearing before Judge Truglia. p. 28, lines 26-27, p. 29, lines 1-7.

"MR. IRAZU: So -- and she's still actually working out or [building] up simultaneously in different fronts, with the help of different people, to be able to come up

with civil restraining order, which, if this is the standard to grant it, I don't know what will be the standard taken to consider that restraining order broken. And who will be the person to determine if there is a crime as a result of that, the Greenwich Police Department who arrested me twice illegally and with police brutality? --- Who --- and everything was discovered for what it was. So this is the entire background of the case … THE COURT: I understand that. Okay. I promised you that I would read your brief and I'm going to do that right now.", Hearing before Judge Truglia, p. 19, lines 26-27, p. 20, lines 1-16.

**<u>Topic</u>: Defamation and entrapment; court-related neuropsychological studies: sane individual, non-violent, peaceful, no record of violence; pattern of abuse of process, falsehoods, and deceit, as well as of illegitimate advancement of civil claims; *status quo* of contempt to court regarding co-parenting; infringement on parental rights.**

"MR. IRAZU: …. And if we talk about history, I want to be really honest with you. I've been here 10 years and I lost everything in my life here. And -- but the good part of it is that her claims were considered false, insufficient, unsubstantiated and rejected by the civil court in the divorce trial, by the criminal court twice, and by the *Department of Children and Families* of the State of Connecticut. I was accused of abuse against my own children. So I was accused of being mentally insane. I had to undergo ten evaluations with independent psychiatrists and psychologists. One was appointed by the Court. They all expressed on the record that I'm not a violent man, I never had any

history of violence in my life. And they also said that I was not a peril to either my wife at the time, to my children, nor not anybody in society. I never had any incident of any nature whatsoever in 10 years. Furthermore, it was proven --- and I have all the record. Unfortunately its 10 years and maybe a snippet could be portrayed as something lethal, but is, again, false. That the other party had issued numerous threats against [me]; criminal, but more importantly, to advance civil claims by resorting to a strategy that has worked very well for her within the Court and outside the Court, which is using the criminal angle, now with a civil restraining order, to, in this case, prevent me at a critical stance from exercising my parental rights and defending my patrimony, the remaining whatever I have left right now --- … […] … And then, furthermore, what I'm trying to portray -- not portray, but certainly convey to you before you rule, is that there is a pattern, a proven pattern, of threats to use the legal system for improper purposes. We have 10 years of this situation and this is a core claim I'm making. I don't know if you are aware -- obviously not – in ten years that she filed a divorce claim, fraudulent, in Spain last year, trying to duplicate almost half a million dollars that she had received here. She represented in Spain -- this is exhibits admitted by the Court -- false documentation.. She claimed that we got married in Spain when we got married in the United State. And she set our residence and domiciles in Spain to activate Spanish jurisdiction against U.S. jurisdiction, U.S laws, and U.S. judgments. I got to learn this a year later because I [was] declared in contempt of court by the Spanish court for not answering summons I had never seen or received. We'd litigated here, these things. There are

exhibits before the Court. So what I'm trying to say is that the plaintiff has a history of deceit, fraud, entrapment, provocations that it goes for years. THE COURT: Perhaps she does, sir, but I also have in front of me communications from you, which are very recent, in which I could find, if I were her unsettling. MR. IRAZU: How about the communications that I'd received from her precisely trying to -- because it was proven on the record -- not in my case, in her case -- assault, criminal threats, and these same threats of using the legal system to preclude the free mobility and the exercising of my rights to advance civil claims. This is the core claim that I'm making -- and I have evidence of that … [ …] …. So as a result, the core issue here is that she's been violating these court orders for a long time. And what she's trying to do, by obviating this, in my view, false and illegitimate order is not to comply or purge, retroactively, saying that there's been a pattern of this for many years as the defense for contempt to court, number one. And, also, to take as valid a risk that is not there because there is no risk historically of physical harm. There's never been one. And the civil restraining order that she got last time was also false. And the purpose for that was to get a stipulation by which she could [retain] exclusive residence over the house. So she used that as a chip to bargain that because a day prior to that I got financial information proving her misdeeds from the house. This is on the record. I have on the record threats of extending [a] criminal process by her and her counsel. THE COURT: But, sir, that was long time ago. What I'm talking --- MR. IRAZU: What I'm trying to say is that nothing has changed now as long time ago. See, there was no criminal -- no physical danger or peril for her of any kind then; there is none here, either. THE

COURT: Okay. MR. IRAZU: And there is a pattern of falsehood, fraud, deceit, concealment --- ... […] … So this angle of me being mentally insane, of me being violent, of me being a risk where there is no risk of anything. We have 10 years of tragedies that I endured and we only saw each other, I believe, face to face in proximity, with the exception of court appearances that were obviously quite numerous, only four times that I can recall. And also, when they had a chance to make their case in multiple hearings, they never said anything, anything about threats, about a risk of physical harm. So my view of the [current] case, that if you're going to restrict someone's freedom somehow at this juncture under those allegations, they have to be truthful. And I proved before the Court that there is, on the other hand, a patter of deceit from the other side. And a pattern of a nonviolent and innocent man, who has been behaving within the parameters of the law, who has done everything possible for his family. And I just want what's best for my children.' Hearing before Judge Truglia, p. 13, lines 25-27, p. 14, lines 1-27, p. 15, line 1-2, 18-27, p. 16, lines 1-27, p. 17, lines 1-3, p. 18, lines 9-27, p. 19, lines 1-10, p. 23, lines 6-26.

**<u>Topic</u>: Plaintiff's lack of recollection as to on-going proceedings before Appellate Court; outstanding litigation regarding minor children and financial issues.**

"THE COURT: Ma'am, are there post-judgment proceedings regarding your children going on right now? MR. IRAZU: Yes. THE COURT: I'm talking to her, Sir. MR. IRAZU: Oh, my apologies. MS. OLIVA: Your Honor, I think -- in in his app --- I mean in his original file his claims and appeal, there are some points regarding the children. It's more about him

complaining that I'm not co-parenting with him and I'm not following the standards of co-parenting. I don't think there's anything that I can recall in connection with visitations or rights of the children. Because two of our children are already over 18 and we have a minor of 15-year-old. THE COURT: Okay. MS. OLIVA: So in theory, the only in common here would be the minor. But I don't think, as far as I recall --- I may have forgotten, but I don't think there is anything specific in those proceedings and those appeals related to -- something specific related to the kids. THE COURT: Okay. MS. OLIVA: That's my recollection. THE COURT: The memorandum of decision of Judge Heller, March 2nd, 2018, I don't have the text of that in front of me. That concerns property division? MR. IRAZU: To some extent, yes. THE COURT: Okay. Does it concern the children? MR. IRAZU: Yes, in the sense that I requested custody of the minor children. At the time there were two and now time has obviously, you know, expired [with] the case of two children that are of legal age. And also is in question the residence of the house and I ask for an equitable adjustment because I paid for the location of my children in the United States. And my daughter was sent to Spain and I fear that could happen with my son next year. So these issues, my three kids are American. It is very likely she will probably try to relocate to Spain. It's been a threat and it's been planned via a process in Spain with custody orders from Spain over minor children in violation of *Chafin*, which is a precedent from the Supreme Court, unanimous.", Hearing before Judge Truglia, p. 21, lines 12-27, p. 22, lines 1-27, p. 23, lines 1-5.

**<u>Topic</u>: Curtailment of Defendant's fundamental rights; inclusion of an exception to children of the couple without party request.**

"THE COURT: …. The respondent is to stay at least 100 yards away from the applicant at all time, however an exception is to be made when the parties are in the presence of both children. So, in other words, the order does not apply where pick up and drop off for the minor child or when you are also in the presence of the minor child, say at a family gathering or church or something like that. Okay? Sir, this order remains in effect for one year, which is September 12th --- 2019? THE CLERK: Yes.", Hearing before Judge Truglia, p. 28, lines 10-24.

<u>*Note*</u>: the aforesaid written exception reads as follows: *"There is an exception for the 100 yard stay away when both children are present." Please see Appendix D.*

**<u>Topic</u>: Defendant's pre-hearing memorandum; exhibits, evidence and witness testimonies; judgment from the bench; *Judge Heller's* ruling on Plaintiff's hateful, disrespectful and intemperate sayings toward Defendant.**

"MR. IRAZU: I don't know -- I don't know if you received it, but I flied a pre-hearing memorandum for this occasion … addressing all the issues and my position about it … So I don't know if it was handed to you. THE COURT: I do not have it at the moment. MR. IRAZU: I think I have a copy. THE COURT: Okay. All right. Have you seen this pre-hearing memorandum, ma'am? MS. OLIVA: I have, Your Honor, yes. Okay. Good. Okay. THE COURT: Okay. Okay. The court has just received a pre-hearing memorandum, which appears to 35 pages long, plus

exhibits. MR. IRAZU: The exhibits are the petition from the plaintiff and also some sworn testimonies that we had over the years before the Court. So the idea is to give you a full background of the case for you to have in your hands all the elements to make a decision. I don't know if you are aware, but the entire case is under the Appellate Court right now. Multiple --- THE COURT: I am not aware of, sir. MR. IRAZU: Multiple issues that are, you know, pending of review by the Appellate Court. And we might have, if the Appellate Court so decides, an oral argument. Or the other way around if the Appellate Court [ ] decides to rule on the merits of the case as it is right now. So just to give you further background.", Hearing before Judge Truglia, p. 2, lines 1-27, p. 3, lines 1-11.

"MR. IRAZU: Yes. The first comment that I'd like to make, probably for me to be able to plead my case, is for you to fully read my memorandum that I submitted to the Court two days ago so you can have the full picture of why this is happening right now; what is the timing, the context, and the falsehood behind it in the sense that there's never been any threats, there's never been --- any risk about it.", Hearing before Judge Truglia, p. 9, lines 11-20.

"MR. IRAZU: Let me tell you a little bit of the simultaneous communications because you seem to be ready to rule in that direction, although I would appreciate, if you're so kind, to read my memorandum. THE COURT: Well, sir, it's a 35 pages long plus exhibits. MR. IRAZU: No, exhibits is just the -- the affidavit filed by the other party and, actually, sworn testimonies of people, who already testified before the Court, saying that there has never been any threat, that there's never been any -- any violence, and that

the only reason for this to happen in the end at this juncture is for me not to be able to exercise my parental rights. Because under court orders we are mandated to dialogue and confer. THE COURT: To do what? […] MR. IRAZU: To confer. THE COURT: To confer.", Hearing before Judge Truglia p. 17, lines 16-27, p. 18, lines 1-8.

"MR. IRAZU: --- what I could do also to provide you [with] is, for instance, we had a hearing before Judge Heller. Then she sent me an email saying that a marshal had to be summoned by the judge for the protection of [all people present]. That never happened … There is nothing of such sort in the transcripts. So what I'm trying to say is that the defamation and the set up, it goes beyond perplexion to me. And obviously there is a [concrete] risk in this context that I faced before and I don't want to face again. THE COURT: I'm sure you don't. MR. IRAZU: Because I don't deserve it.", Hearing before Judge Truglia, p. 20, lines 19-27, p. 21, lines 1-5.

"MR. IRAZU: … And I can tell you right now that it is frustrating to me that it was also incorporated and justified by Judge Heller, despite me not having received the relief that I thought was just, Judge Heller said -- not only frustration, she said it is appropriate to be outraged. And she also said, in terms of communication, that the plaintiff's way of communicating to me is disrespectful and intemperate. So it's very easy to cry wolf when you're trying to. And that's the underlying problem that we are facing here. This has been validated by witnesses before the Court. They said that there were no allegations of violence, there were not threats of any kind, people who interacted as liaison between the two of us for many,

many years. And what I can tell you when I said that my personal situation – personal situation at this present time is harsh, it was significantly harsher before. I was taken to the brink, I thought about my life. And this strategy being deployed on both sides of the Atlantic, I wouldn't --- most likely I could have a criminal case in Spain without me knowing about it. I could have someone fighting for a restraining order in Spain without me knowing about it because it happened before. So I apologize if I sound frustrated or emotional, but this is not --- we're not talking about minor things here. And if I express my frustration based on my values -- and it is nothing more than that – we have 10 years to prove for that.", Hearing before Judge Truglia, p. 23, line 27, p. 24, lines 1-27, p. 25, lines 1-2.

# APPENDIX G

## APPELLATE COURT
## STATE OF CONNECTICUT

AC 41455 (including AC 41598) /
AC 42118 ) APPELLATE COURT

MARGARITA O. ) STATE OF CONNECTICUT
V.
FERNANDO GABRIEL IRAZU ) January 18, 2019

**MOTION FOR RECONSIDERATION *EN BANC****

Fernando G. Irazu, *Pro Se* (the "Defendant-Appellant" or "Defendant"), in the above-referenced matters related to Margarita O. (the "Plaintiff-Appellee" or "Plaintiff") and pursuant to *Practice Book* Sec. 66-2 (d) and 71-5, respectfully files this timely *Motion for Reconsideration En Banc* regarding his *Amended Request for Relief* of 12/19/2018 per order of the Court of 1/9/2019, all in light of the Court's final judgment post-oral arguments next 1/22/2019.

### I. BRIEF HISTORY OF THE SUBSTANTIVE CASE

This is a father's rights case within family proceedings arising from the parties' divorce at the Superior District Court of Stamford last 9/2/2010. The parties have three (3) children fruit of their union: xxxx DOB 11/4/1998 (of legal age), xxxx DOB 7/31/2000 (of legal age), and xxxx DOB 5/26/2003 (of sixteen (16)

* The Appellant's motion was denied on 1/22/2019, the very same day oral arguments took place before the Appellate Court on AC41455 (AC41598) and AC42118.

years old in four (4) months time). Due to litigation ignited by the other side on 12/15/2015 and the resulting *Stipulation* of 6/10/2016 *(Tindill, J)* (all children were minor at the time), this instance is reached as a result of timely appealed rulings during 2018 in connection with the prior and ancillary from *Heller, J.* (motion for contempt to court and order post-judgment modification against the Plaintiff, alleging fraud, and including a timely motion to open; last 3/2/2018 and 5/14/2018; AC 41455), *Genuario J.* (motion for disqualification *[Heller J]* and to attest federal jurisdiction; last 4/24/2018; AC 41598), as well as *Truglia J.* (civil restraining order against the Defendant; last 9/12/2018; AC 42118). Attorney Kevin Collins has represented the Plaintiff-Appellee in all proceedings since 2010. The Defendant-Appellant has acted as a *pro se* father since 2009 –including most of the divorce process as well as pre-trial and trial. The Plaintiff misstated the aforesaid in a preposterous yet false and malicious formal fashion:

> "…. the Defendant attempts to raise issues and appeal a stipulation entered on or before June 10, 2016 thus far exceeding the 20 days limitation to appeal an issue by two and a half years.", *Plaintiff's Opposition to the Defendant's Amended Request for Relief*, page, 5, Attorney Kevin Collins.

## II. SUMMARY FACTS AS TO PROCEDURAL HISTORY AND RECORD

In line with the above-quoted lines, the Plaintiff-Appellee has purposely and maliciously misstated the procedural history and records of this overall case in

her own briefs and other filings, as if this party had ignited a long-lasting litigation of a decade when in fact he has never sued anybody in his entire life in any court, either local or federal, at the domestic or international levels. This overall abusive, vexatious, unethical and destructive litigation is the exclusive result of the other party's reproachable behavior.

The other party falsely claimed the Defendant pursued the appeal of the orders of marital dissolution *(Malone, J)* and *Memorandum of Decision (Harrigan, J)* of 9/2/2009 as follows:

> "Within five days thereafter, the Defendant/Appellant, Fernando Irazu, filed a document which he entitled a Petition for Certification which was ultimately denied by the Court *(Malone, J)* on November 19, 2010." , *Plaintiff's Opposition to the Defendant's Amended Request for Relief*, page, 1, Attorney Kevin Collins.

As highlighted in prior filings, the Defendant never pursued such an appeal, he rather filed a *Petition for Clarifications* (# 151) under applicable normative, which was in fact denied by the lower court *(Malone, J)* (please see *Appendix I*). The Defendant did not need the consent of the lower court to appeal its ruling of marital dissolution; he in fact consented to it, complied with all of its financial orders in excess, and requested a clarification of his own rights.

At this instance, in 11/2010 the lower court *(Malone J)* decided: **(i)** not to clarify any orders; **(ii)** to unexplainably sequester $27,000 from the Defendant

without his knowledge while he was "self-deported" in Argentina, and after him complying will all financial orders in the divorce decree in excess; **(iii)** to personally appoint Attorney Kevin Collins as trustee of those sequestered funds (not as a contentious party counsel, the role he immediately assumed); and **(iv)** to change the ownership of the Plaintiff's $1,000,000 life insurance policy (not the one of the Defendant, thus once more displaying an unequal treatment of the parties) in favor of her.[1]

Such petition for clarifications was filed following the shared religious beliefs of both parties, as also acknowledged on the record before the lower court by the Plaintiff-Appellee, which is an issue of relevance in connection with many aspects of this overall case, needless to say the civil restraining order *(Truglia J)* under appeal before the Court per AC 42118.

> "MR. IRAZU: Does your husband have firm religious commitments? MS. O.: I don't know what your position is at the moment. MR. IRAZU: Over the last decade, has your husband displayed very firm religious commitments. MS. O.: Yes, you have; and they were all shared by me." *Divorce Trial before late Judge Harrigan*, 6/10/2010, page 58, lines 18-22.

On 7-8/2011, the Defendant was erroneously declared in contempt to court *(Wenzel, J)* for non-existent debts and under literal threats of incarceration. Subsequently, the officiating magistrate

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1 *Appendix to the Defendant-Appellant's Brief* (AC 41455), IVc., Order # 153 [A 104-108].

honorably advised him on the record to appeal his own ruling as follows:

> "THE COURT: I must tell you that that relates to the motion to contempt. That is something that again, right or wrong, I made a decision. And if that's not a good decision, then you have your right to appeal ... […] ... Well, if at any time you think that any decision I make is wrong, you have the right to appeal. And if I do make a bad decision, an incorrect decision, I want that to be fixed as much as anyone else. So please, feel free if you need to take an appeal, you should do so. I don't take any offense at that. Many people, many lawyers do it here. I get used to it. Okay?", BY THE COURT s/. *Wenzel, William, J*, 2/17/2012.[2]

The other party misleadingly stated:

> "Subsequently, the Defendant/Appellant filed an Appeal to the Appellate Court on February 24, 2012 and the Appellate Court affirmed the trial court's decisions.", *Plaintiff's Opposition to the Defendant's Amended Request for Relief*, page, 1, Attorney Kevin Collins.

The Defendant followed *Judge Wenzel's* recommendation as to his own ruling of contempt (AC 34364), but the Court confirmed the ruling he mistakenly entered into. More than a year later, this party did not and could have not appealed the orders of marital dissolution and *Memorandum of Dissolution* of 9/2/2010, irrespective of what might have been

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2 Exhibit QQ [*Petition for Writ of Certiorari* before the US Supreme Court, Appendix D], *Hearings of 7/11-13/2017 before Judge Heller*.

affirmed or not regarding a specific and erroneous ruling of contempt to court, and the illegal mechanism of attempting to deprive this party of his hard-earned patrimony of a lifetime in time. The other party misleadingly stated:

> "Not having found satisfaction with the Appellate process in the Connecticut judicial system [following the recommendation of *Judge Wenzel* to appeal his own judgment of contempt], the Defendant/Appellant took his family court-related grievances to the Federal level, also without success. On February 12, 2013, the Defendant/Appellant filed a Writ of Certiorari with the US Supreme Court to which the Plaintiff waived her right to respond. The Petition was denied on April 13, 2013.", *Plaintiff's Opposition to the Defendant's Amended Request for Relief*, page, 1, Attorney Kevin Collins.

The Defendant never sued or litigated in "federal court" as also falsely claimed by the other party in prior briefs and filings, he rather followed the recommendation of personnel from the Court's law clerk office to overturn the lower court's ruling of contempt that *Judge Wenzel* had specifically advised him to pursue. This appeal ended up in such *Petition for Writ of Certiorari* (the certification before the Connecticut legal system operated within the same day for that to be the case), which was also admitted as evidence by *Judge Heller* during the hearings of 7/11-13/2107.[3]

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[3] Id. 2.

On 12/19/2018 the Defendant filed an *Amended Request for Relief*, which was denied by the Court on 1/9/2019. In connection with such request, the Plaintiff-Appellee erroneously stated:

> "The Appellee's 'Amended Request for Relief'", filed without permission to amend his original relief, stunningly misunderstands the function of the Appellate Court. His filing views the Appellate Court as a super trial court which will enter relief for issues not properly before it and relief this Court simply cannot produce due to mootness, failure to appeal timely, and jurisdictional concerns.", *Plaintiff's Opposition to the Defendant's Amended Request for Relief*, page, 4, Attorney Kevin Collins.

As opposed to such misleading, false and mistaken statement, please note that from a procedural standpoint this filing does not actually "amend, modify or alter" the relief properly sought before the trial court and the Court itself, as a result of timely appealed rulings via now three consolidated cases for oral argument by the Court next 1/22/2019, which was succinctly referenced in each of the respective briefs, appendices and filings under the concept of a directed judgment by the Court and not a new trial.[4] Such request for relief rather condenses in one single document for the benefit of the Court all relief duly sought by this party from the lower court, which was denied and/or ignored in final rulings timely

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4 *Defendant Appellant's briefs and reply-briefs* per AC 41455, AC 41598, AC 42118, as well as specific relief sought at the trial court level and the Court itself properly referenced in *Appendix III: Request for Relief*, a, b and c. (AC 41455) [A 34-45; 46-66; 67-85].

appealed before the Court in 2018 through three distinct though inevitably interconnected cases: AC 41455, AC 41598, and AC 42118. It is nonetheless true that some of such initial relief contained items seeking the sole physical custody of minor children who are by now of legal age, sole residence over the family home, as well as specific budgets related to their living expenses and ancillary which are therefore inapplicable at the present time for the mere passing of time, including the fact the Defendant is being prompted to relocate to Argentina because of the targeted destruction of his professional life and financial health. In this regard, the relief has in fact been updated to reflect three combined cases before the Court as well as such significant change of circumstances and the passing of time in the lives of three children due to unethical delays before the legal system; not the substantive measures at stake related to contempt to court, fraud, legal and equitable financial remedies and adjustments, insurance policy modifications, injunctions, lifting of a civil restraining order, legal fees, restitution of funds, as well as sanctions for unethical conduct and ancillary.

Under a *de novo* or plenary standard of review the Court owes no deference to rulings from the lower court, and per applicable normative it possesses all necessary jurisdiction and competence to grant any and all relief sought by this party. There is no evolving trial before the Court, rather the judicial task at hand of proper review and scrutiny of facts, evidence and applicable law. Any reference to the contrary from the other side is ludicrous and lacks any legal grounds. With due respect before the Court, in light of the outrageous recurrent falsehoods from the other side,

the Defendant is left to wonder what is left to entertain of their claims and filings.

The Defendant relies on all filings on record; rulings from the lower court; correspondence to and from the lower court as well as party counsel; evidence admitted and rejected by the lower court, which was submitted to the Court; testimonial evidence and representations from party counsel submitted to the Court through official transcripts and specific quotes in the Defendant's briefs and appendices; rulings and words from officiating magistrates submitted to the Court through official transcripts and specific quotes in the Defendant's briefs and appendices; as well as all proper filings and evidence submitted to the Court itself, in particular:

**(i)** *Memorandum of Marital Dissolution* of 9/2/2010 (#150).
**(ii)** Defendant's *Petition for Clarifications* of 9/7/2010 (#151) [not a petition for certification to appeal].
**(iii)** *Order # 153* of 11/5/2010 *from Malone, J* (#153).
**(iv)** Defendant's *Child Support Obligations Trust* of 5/7/1214 (#202-3).
**(v)** Plaintiff's *Motions for Contempt and Order* of 12/15/2015 (#204).
**(vi)** *Stipulation* of 6/10/2016 (#210).
**(vii)** Defendant's *Amended Motion for Contempt and Order – Post Judgment Modification* of 6/19/2017 (#231).
**(viii)** Plaintiff's *Motion for Order* (Abuse of process) of 4/5/2017 (#214); and Defendant's *Motion for Order* (Response to Abuse of Process) of 4/6/2017 (#215).

**(ix)** Formal written exchanges among Mr. Jeffrey Diamond, Case-Flow Coordinator, Attorney Kevin Collins and the Defendant displaying unethical delays and practices.
**(x)** Plaintiff's *Financial Affidavits* [including a fraudulent one handed to the Defendant before the Stipulation of 6/10/2016 as if it had been filed with the court], as well as *subpoenas* to the Plaintiff [to deliver documentation; partially fulfilled] (#232) and various witnesses.
**(xi)** Defendant's *Motion to Open and Order – Post Judgment Modification* of 10/5/2017 (#247).
**(xii)** Hearings of 7/11-13/2017 and 1/26/2018 before *Judge Heller*: all documentary evidence submitted to and admitted by the lower court –including letter to the court attaching public certified translations of admitted Spanish evidence–, as well as witness and party testimonies. Almost 40 exhibits surrendered to the Court, which were properly detailed by the Defendant in his briefs, reply briefs, appendices, and filings before the Court below.
**(xiii)** Defendant's *Post-Hearing Brief* and *Appendices [official transcripts]* (#243, #244, #248).
**(xiv)** Plaintiff's *Post-Hearing Brief* (#250).
**(xv)** Defendant's *Post-Hearing Reply-Brief* (#251/2).
**(xvi)** Defendant's *Pre-Custody Hearing Memorandum* of 12/28/2017 (#260 –excluded from case detail).
**(xvii)** Defendant's *Motion to Disqualify [Judge Heller] and to Attest Federal Jurisdiction* 3/12/2018 (# 262).
**(xviii)** Defendant's *Motion to Transfer to Supreme Court from Appellate Court* of 5/5/2018 with *Appendix* filed before the Court.
**(xix)** Official transcripts submitted to the Court: hearings of 6/10/16 (*Tindill, J*); 2/28/17 (*Heller, J*); 6/16/17 *(Colin, J)*; 6/19/17 (*Colin, J*); 7/11/17 (*Heller, J*);

7/13/17(*Heller, J*); 9/18/17 (*Heller, J*); 11/27/17 (*Heller,J*); 1/16/18 (*Heller,J*); 4/3/18 (*Genuario,J*); 9/12/18 (*Truglia,J*).

**(xx)** Defendant's *Brief* of 7/13/2018 and *Reply Brief* of 8/22/2018, including *Appendix*, filed before the Court (AC 41455 / 41598).

**(xxi)** Defendant's *Motion for Permission to File Separate Brief* of 7/15/2018 and *Exhibits* filed before the Court (detailing issues, law and evidence, as well as brief per AC 41598: *Motion to Disqualify and to Attest Federal Jurisdiction*).

**(xxii)** Defendant's *Motion to Consolidate and Order – AC 42118* of 9/24/2018 and *Appendix* filed before the Court.

**(xxiii)** Defendant's *Brief* of 10/2/2018 and *Appendix* [cross-references with *Appendix* per (xxii) above] *and Reply Brief* of 12/13/2018 filed before the Court (AC 42118).

**(xxiv)** Defendant's *Letter to the Office of the Law Clerk* of 11/8/2018 regarding Assignment of Cases for Oral Argument and Change of Circumstances duly filed before the Court (AC 41455 / 41598 / 42118).

The following exhibits were admitted by *Judge Heller* last 7/11-13/2017 and 1/24/2018:

**(i) 2014 BUDGET BY PLAINTIFF SUBJECT TO ATTORNEY COLLINS' APPROVAL**. Child-Support and College Related Expenses Budget dated 3/18/2014, exclusively produced by Ms. Margarita O. and shared with Mr. Julio Ojea Quintana and Mr. Fernando G. Irazu **(Exhibit A).**

**(ii) 2014 DEBT-RESTRUCRUTING DOCUMENTATION**. Documentation pertaining to

the Debt-restructuring Process carried out by Mr. Julio Ojea Quintana on behalf of Mr. Fernando G. Irazu in 2014 –also with the participation of Mr. Gabriel Bisio–, which culminated in various settlements with creditors, and with the corresponding documentation sent first to Mr. Julio Ojea Quintana and later to Mr. Fernando G. Irazu, all included in his 2014 Tax Return before the IRS **(Exhibit B).**

**(iii) NULLITY OF FRAUDULENT SPANISH DIVORCE PROCEEDINGS**. Judgment of Nullity issued by the District Court of Granada No. 3 on June 29, 2017 **(Exhibit C).**

**(iv) FRAUDULENT SPANISH DIVORCE CLAIM AND EXHIBITS BY THE PLAINTIFF**. Contentious Divorce Claim of the Plaintiff admitted by the District Court of Granada No 3 on June 17, 2016 **(Exhibit D).**

**(v) SPANISH POWER OF ATTORNEY INDICATING THE PLAINTIFF IS DIVORCED**. Power of Attorney granted by Ms. Margarita O. to the Spanish Attorney Emilio Viciana Tito on 7/24/2014 **(Exhibit E).**

**(vi) FRAUD AND CONCEALMENT OF US MAIL: ENVELOPE – SPANISH CONTEMPT TO COURT ORDER**. Envelope from the District Court of Granada No. 3 to Mr. Fernando Irazu Zubillaga, addressed at 10 Indian Pass, Greenwich, CT, 06830 (New York), USA **(Exhibit F).**

**(vii) SPANISH CONTEMPT TO COURT ORDER AGAINST THE DEFENDANT**. Order from the District Court of Granada No. 3 dated May 24, 2017 – sent via the envelope per Exhibit F–, declaring Mr. Fernando Irazu Zubillaga in contempt to court for not answering summons he had never seen or received in Spain, calling a Prosecutor into the process, and

setting a trial date with witnesses for June 29, 2017 **(Exhibit G).**

**(viii) FRAUDULENT SPANISH CERTIFICATE OF APPEARANCES**. Certificate from the District Court of Granada No. 3 indicating the domiciles of both parties in Spain for purposes of service of process, at the same domicile located at Camino Bajo de Huetor N 84 P2, Granada, Spain **(Exhibit N).**

**(ix) REQUEST FOR EXEQUATUR AND NULLITY OF SPANISH PROCEEDINGS**. *"Exequatur of Foreign Divorce Judgment, Nullity of Divorce Judgment per Motion to Dismiss, and Fines for Malicious and Temerarious Conduct*" –including appendix with US marriage certificate, US divorce decree and ancillary– filed before the District Court of Granada No. 3 by Fernando G. Irazu on June 10, 2017 [**Exhibit H**, marked for identification, not admitted as a full exhibit].

**(x) COURTESY COPY OF COURT SUBPOENA.** Courtesy copy of Subpoena dated 12/14/2016, served on 12/15/2017 and with proof of service on 12/16/2016, in connection with the hearing scheduled for 2/6/2017 **(Exhibit I)**.

**(xi) DISBODIENCE TO COURT ORDER: TEXT MESSAGE ABOUT COURT SUBPOENA INVOLVING ATTORNEY KEVIN COLLINS**. Text message exchange dated 2/5/2016 between Ms. Margarita O. and Mr. Fernando G. Irazu about the hearing scheduled for 2/6/2017 (**Exhibit J**, marked for identification, not admitted as a full exhibit).

**(xii) SOPHISTICATED US AND SPANISH ATTORNEY: BAKER MCKENZIE ANNOUNCEMENT**. Announcement from Baker McKenzie LLP dated 1/19/2017, informing that Ms. Margarita O. joined the Firm, including her

credentials, professional focus, and clientele **(Exhibit K).**

**(xiii) LACK OF CO-PARENTING: PLAINTIFF'S UNILATERAL SPANISH COLLEGE ENROLLMENT OF MINOR CHILD IN SPAIN**. Post-Stipulation of 6/10/2016, enrollment package of Ms. xxxx Irazu Oliva to IE University in Spain dated 7/9/2016, as well as contract executed by Ms. Margarita O. **(Exhibit L).**

**(xiv) LACK OF CO-PARENTING: TEX MESSAGE INDICATING REFUSAL TO DIALOGUE.** Post-Stipulation of 6/10/2016, text message from Ms. Margarita O. dated 6/7/2017 regarding her refusal to talk to Mr. Fernando G. Irazu **(Exhibit M).**

**(xv) COURT ORDER: MODIFICATION OF INSURANCE POLICY OWNERSHIP, SEQUESTRATION OF $27,000, APPOINTMENT OF KEVIN COLLINS AS TRUSTEE**. Court order # 152 from 11/22/2010 modifying Provision 5 of the Memorandum in connection with the insurance policy of Ms. Margarita O., as well as 2/22/2011 appointing Attorney Collins as Trustee of the Court **(Exhibit O).**

**(xvi) INSURANCE POLICIES FRAUD–REVOCABLE TRUST AGREEMET.** Insurance policies of Ms. Margarita O. and Mr. Fernando G. Irazu, as well as *"Revocable Trust Agreement"* established by Ms. Margarita O. on 2/11/2015 **(Exhibit P).**

**(xvii) PLAINTIFF'S THREATS OF REFORMATORY AND DISCIPLINING OF THE PARTIES' SON**. Email exchange dated 11/2/2014 between Ms. Margarita O. and Mr. Fernando G. Irazu about their son xxxx (xxxx) Irazu regarding Ms. Oliva's punishment of him with a potential reformatory

school, among other deprivations in his life **(Exhibit Q).**

**(xviii) LACK OF CO-PARENTING: PLAINTIFF'S REFUSAL TO DISCUSS HEALTH, SPINE INJURY OF THE PARTIES' SON.** Email exchange dated 7/10/2017 between Ms. Margarita O. and Mr. Fernando G. Irazu about their son xxxx's spine injury **(Exhibit R).**

**(xix) LACK OF CO-PARENTING: PLAINTIFF'S UNILATERAL APPOINTMENT OF THERAPIST**. Email exchange dated 2/27/2017 between Ms. Margarita O. and Mr. Fernando G. Irazu about her appointment of a therapist for the couple's son xxxx **(Exhibit S).**

**(xx) LACK OF CO-PARENTNG: DEFENDANT'S ACADEMIC INQUIRY AT THE SCHOOL OF THE PARTIES' SON**. Email dated 2/28/2017 from Mr. Fernando G. Irazu to officers of Brunswick School inquiring about his own son xxxx due to lack of co-parenting **(Exhibit T).**

**(xxi) LACK OF CO-PARENTING: PLAINTIFF'S DISCIPLINING OF THE PARTIES' SON WITH NOT GOING TO A MANDATED ROWING SCHOOL CAMP DESPITE REQUEST FROM COACH, AND THREATS OF FURTHER LITIGATION TO APPROPRIATE DEFENDANT'S PATRIMONY** Email exchange dated 3/8/2016 between Ms. Margarita O. and Mr. Fernando G. Irazu involving lack co-parenting **(Exhibit U).**

**(xxii) LACK OF CO-PARENTING: PLAINTIFF'S REFUSAL FOR THE PARTIES' SON TO TRAVEL TO ARGENTINA TO SEE HIS GRANDMOTHER AND COORDINATION OF ACTIVITES DURING CHRISTMAS TIME TO ANCHOR CHILDREN IN CONNECTICUT WITH P HER.** Email exchange

dated 12/13/2016 between Ms. Margarita O. and Mr. Fernando G. Irazu involving lack co-parenting **(Exhibit V).**

**(xxiii) LACK OF CO-PARENTING: DEFENDANT'S REQUEST FOR COOPERATION TO ACQUIRE ARGENTINEAN NATIONALITY AND PASSPORTS [AMONG MANY OVER THE YEARS]**. Email dated 1/5/2015 between Mr. Fernando G. Irazu and Ms. Margarita O. about the Argentinean nationality and passports of the couple's children (**Exhibit W,** double via DD).

**(xxiv) ILLEGITIMATE REAL ESTATE LIEN**. Judgment lien dated 5/17/2013 against Mr. Fernando G. Irazu by Ms. Margarita O. on the family property located at 10 Indian Pass, Greenwich, CT, 06830, recorded on the Land Records of the Town of Greenwich **(Exhibit X**).

**(xxv) PERJURY BEFORE JUDGE HELLER TO OBTAIN FAVORABLE RULING**. Excerpts of the testimony from Ms. Margarita O. before Honorable Donna Heller, Judge, last 2/28/2017 (**Exhibit CC).**

**(xxvi) PETITION FOR WRIT OF CERTIORARI BEFORE THE US SUPREME COURT: OVERALL CASE BACKFGROUND 2009-2013.** Writ of Certiorari before the Supreme Court of Justice of the United States dated on 2/13/2013 by Mr. Fernando G. Irazu (**Exhibit QQ**).

**(xxvii) LACK OF CO-PARENTING: UNAUTHORIZED TRIP OF THE PLAINTIFF WITH OLDEST DAUGHTER, HIGHLIGHTING SHE WILL TAKE A GAP-YEAR AS OPPOSED TO GO TO COLLEGE, ONLY FOR HER TO LATER UNILATERALLY ENROL THE MINOR CHILD FOR COLLEGE IN SPAIN.** Email dated 2/22/2016

between Mr. Fernando G. Irazu and Ms. Margarita O. about lack of co-parenting **(Exhibit KK).**

**(xxviii) LACK OF CO-PARENTING: PLAINTIFF'S REFUSAL TO SUPPORT PARTIES' CHILDREN AND ANCILLARY**. Email dated 2/28/2016 between Mr. Fernando G. Irazu and Ms. Margarita O. about lack of co-parenting **(Exhibit LL).**

**(xxix) LACK OF CO-PARENTING: DEFENDANT'S REQUEST FOR CO-PARENTNG 1 DAY AFTER STIPULATION OF 6/10/2016**. Email dated 6/11/2016 between Mr. Fernando G. Irazu and Ms. Margarita O. requesting co-parenting post Stipulation dated 6/10/2016 **(Exhibit EE)**.

**(xxx) LACK OF CO-PARENTING: DEFENDANT'S REQUEST FOR CO-PARENTING 16 DAYS AFTER STIPULATION OF 6/10/2016.** Email dated 6/26/2016 between Mr. Fernando G. Irazu and Ms. Margarita O. requesting co-parenting post Stipulation dated 6/10/2016 **(Exhibit FF).**

**(xxxi) LACK OF CO-PARENTING: PLAINTIFF'S REFUSAL TO COORDINATE SUMMER ACTIVITIES OF YOUNGEST DAUGHTER**. Email dated 7/6/2016 between Mr. Fernando G. Irazu and Ms. Margarita O. about lack of co-parenting **(Exhibit MM).**

**(xxxii) LACK OF CO-PARENTING: ACADEMIC FAILURES DUE TO LACK OF COPARENTING AND REFUSAL TO ENGAGE IN COPARENTING-.** Email dated 8/5/2016 between Mr. Fernando G. Irazu and Ms. Margarita O. about lack of co-parenting (**Exhibit HH**, double via II).

**(xxxiii) LACK OF CO-PARENTING: DEFENDANT'S FRUSTRATION DUE TO IGNORED REQUESTS FOR COPARENTING**

**AND INSULTS FROM THE PLAINTIFF**. Email exchange dated 9/8/2016 between Mr. Fernando G. Irazu to Ms. Margarita O. about lack of co-parenting (**Exhibit AA**).

**(xxxiv) LACK OF CO-PARENTING: COACHES'S INVITATION TO ROWING CAMP [FIRST HEARING BEFORE JUDGE HELLER ON 2/28/2017].** Email exchange dated 2/19/2017 between Mr. Fernando G. Irazu to Ms. Margarita O. about their son xxxx's invitation to a selective rowing camp in Florida and lack of co-parenting (**Exhibit JJ**).

**(xxxv) RELOCATION TO SPAIN: FACEBOOK EXCHANGE**. Exchanges about Ms. Margarita O.'s potential relocation to Spain with someone by the name of Sonia Torres (marked for identification and not admitted as full exhibit).

**(xxxvi) NEUROPSYCHOLOGICAL STUDIES**: 2009-2010 neuropsychological studies at the local and international level of Mr. Fernando Irazu, including a court-appointed therapist (neither admitted for identification nor as full exhibits).

**(xxxvii) HAGUE CONVENTION AND GUIDELINES FROM US DEPARTMENT OF STATE** (submitted to the Trial Court at the Hearings).

**(xxxviii) LACK OF CO-PARENTING: REFUSAL TO SURRENDER CUSTODY OF MINOR CHILDREN DURING 2017 CHRISTMAS SEASON (Exhibit A, hearing 1/26/2018).**

**(xxxix) LACK OF CO-PARENTING: REFUSAL TO COMPLY WITH COLLEGE-RELATED EXPENSES OBLIGATION PER PROVISION 10 OF THE STIPULATION OF 6/10/2016 (Exhibit B, hearing 1/26/2018).**

## III. LEGAL GROUNDS

This motion for reconsideration *en banc* is requested as a matter of due process for the Defendant's basic relief sought before the lower court and the Court itself to be considered in the latter's final judgment; *Practice Book*, Sec. 66-2 (d). *"Motions which are not dispositive of the appeal may be ruled upon by one or more members of the court subject to review by a full panel upon a motion for reconsideration pursuant to Section 71-5."* The Defendant also relies on his legal obligation to truthfully perfect the record before the Court prior to its final judgment (*Practice Book,* Sec. 61-10 (a)), as well as all professional duties pertaining to candor and veracity before the legal system. [5]

## IV. REQUEST

**DUE TO THE FOREGOING**, the Defendant-Appellant respectfully requests the Court to consider and grant the relief sought in each of the points per his *Amended Request for Relief* of 12/20/2018 (please see *Appendix II*)* at its final directed judgment.

DATED at New York, New York, January 18, 2019.

/s/ Fernando G. IRAZU
By _____

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5 *Practice Book*, Rules of Professional Conduct, Rule 4.4. Respect for Rights of Third Persons; Rule 3.3. Candor toward the Tribunal; Rule 4.1. Truthfulness in Statements to Others; Rule 3.4. Fairness to Opposing Party and Counsel; Rule 3.5. Impartiality and Decorum; Rule 4.3. Dealing with Unrepresented Person; and ancillary.

Fernando G. IRAZU, *Pro Se*
Defendant-Appellant
Billinghurst 1656, 2A
Buenos Aires, 1425
ARGENTINA
fgirazu@gmail.com

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***** ***Amended Request of Relief*** *per Appendix II* due to a significant change of circumstances and the fact two of the minor children have become of legal age, among others.

**"AS A RESULT OF THE FOREGOING**, the Defendant respectfully requests the Court to reverse the decisions of the lower court under appeal, and to grant the following legal and equitable relief:

**1. AC 41455.** *Contempt to Court, Domestic and International Fraud, Partial Nullity of Court Stipulation of 6/10/2016, Insurance Policy Fraud, Illegitimate Lien. Abusive, Vexatious, and Fraudulent Lawsuit. Unethical Conduct. Legal Fees and Ancillary. Legal Disbarment. (Heller, J).*

**(i)** ***Contempt to Court with Fraudulent Intent.*** To declare the Plaintiff-Appellee in contempt to court for violation of all court orders, in particular those of parenting and financial kind, which includes the pursuit of a fraudulent and concealed contentious divorce process in Spain against US judgments, orders, laws and jurisdiction, as well as the fraudulent change of beneficiaries in the parties' life insurance policies.

**(ii)** ***Court Stipulation as well as Legal and Equitable Remedies.*** To declare the Stipulation of 6/10/2016 partially null, and to grant the following legal and equitable remedies as an addendum in order to keep it in full force and effect:

"The following Orders of the Court modify and supersede the aforesaid terms of the Stipulation of 6/10/2016 *(Tindill, J.)*:

***Child Support, College-Related, Financial and***

***Patrimonial Obligations***. All child- support, college-related, real estate taxes, insurance policy premiums and/or any other financial and patrimonial obligations by the Defendant-Appellant are deemed entirely fulfilled.

***Post-Secondary Education***. The post-secondary education of the parties' children is exclusively assumed by and paid for the Plaintiff-Appellee, which shall take place in the US and/or UK. The Defendant-Appellant is excused of any such payments, and no modification to this order can ever be pursued. The Defendant-Appellant has honorably represented that he will support his children based on his overall financial means, and it is expected for him to do so under such commitment without any legal recourse from the Plaintiff-Appellee.

***Jointly Owned Real Estate.*** The obligations in connection with the jointly owned real estate at 10 Indian Pass, Greenwich, CT, 06830, remain in place pursuant to the terms of the *Memorandum of Decision* of 9/2/2010. When such property is sold at market value per those terms, the Defendant-Appellant shall receive the proceeds equivalent to his 50% stake free and clear from any interest, claims and/or deductions by the Plaintiff-Appellee and/or her counsels.

***Defendant-Appellant's Life Insurance Policy***. The Defendant-Appellant's life insurance policy with Northwestern Mutual on his life is hereby placed under his own name, and it will be converted from term life to whole or universal life at his option, with a retirement benefit of $1,000,000 exclusively funded by the Plaintiff-Appellant, if he were to live beyond 2026. The Plaintiff-Appellant shall take all necessary steps and execute all required documentation, make all due payments, and as a whole maintain such policy in effect during the required time period."

**(iii)** ***Foreign Legal Actions***. To impose a cease and desist order as well as a permanent injunction for the Plaintiff-Appellee not to pursue legal actions in foreign jurisdictions against US jurisdiction, laws, judgments and orders.

**(iv)** ***Real Estate Lien***. To order the Plaintiff-Appellee to lift the lien placed on the above-mentioned real estate property against the Defendant-Appellant.

**(v)** ***Restitution of Funds from Attorney Kevin Collins.*** To order Attorney Kevin Collins the restitution of $27,000 to the Defendant-Appellant.

**(vi)** ***Vexatious, Abusive, Fraudulent, and Unethical Actions.*** To order the legal proceedings initiated and conducted by the other party vexatious, abusive and unethical, albeit any concerns related to criminal fraud, perjury, criminal custodial interference, conspiracy to commit custodial interference, and other reproachable conduct.

**(vii)** ***Legal Fees and Ancillary***. To award legal fees and commensurate compensation for the damages inflicted on the Defendant-Appellant during this long endured ordeal.

**(viii)** ***Disbarment from the Legal Profession.*** To recommend commencement proceedings for the disbarment of Attorney Kevin Collins.

**2. AC 41598 (consolidated *sua sponte* by the Court into AC 41455).** *Disqualification of Judge Heller. Biases and Unequal Treatment Towards the Defendant-Appellant. Unethical Conduct. Transfer to Federal Venue. Legal Fees. (Genuario, J*).

**(ix)** ***Disqualification***. To order the disqualification of Honorable Donna Heller, Judge, from any case pertaining to the parties herein.

**(x)** ***Venue***. To order the transfer of further legal proceedings to federal venue, if any.

**(xi)** ***Legal Fees and Ancillary.*** Idem (vi), (vii) and (viii) above.

**3. AC 42118.** *Civil Restraining Order. Biases and Unequal Treatment Towards the Defendant-Appellant. Unethical Conduct. Legal Fees. (Truglia, J).*

**(xii)** ***Civil Restraining Order***. To lift the civil restraining order entered into by the lower court against the Defendant-Appellant.

**(xiii)** ***Foreign Legal Actions***. Idem (iii).

**(xiv)** ***Legal Fees and Ancillary***. Idem (x) and (xi).

DATED at New York, New York, December 19, 2018.

/s/ Fernando G. Irazu
Fernando G. IRAZU, *Pro Se*
Defendant-Appellant
222 East 75th Street, 6C
New York, NY 10021
(203) 570-8318
fgirazu@gmail.com"

## CERTIFICATION PURSUANT TO SEC. 62-7

I hereby certify the following pursuant to Sec. 62-7, Rules of Appellate Procedure:

(i) A copy of the aforesaid motion has been electronically delivered to:

Margarita O.
Plaintiff-Appellee

Kevin F. COLLINS
Counsel of Record for the Plaintiff-Appellee
1150 Summer Street
Stamford, CT 06905
kevin.f.collins@kfclegal.com
(203) 327-5400

(ii) The document has been redacted or does not contain any names or other personal identifying information that is prohibited from disclosure by rule, statute, court order or case law.

(iii) The document complies with all applicable rules of appellate procedure.

DATED at New York City, New York, January 18, 2019.

/s/ Fernando G. IRAZU
By _____
Fernando G. IRAZU, *Pro Se*
Defendant-Appellant
Billinghurst 1656, 2A
Buenos Aires, 1425
ARGENTINA
fgirazu@gmail.com

## APPENDIX H

**GREENWICH PUBLIC SCHOOLS**
**Greenwich, CT**
**OFFICE OF PUPIL PERSONNEL SERVICES**
**Summary – PPT/IET Meeting**

Date: **5/13/2019**
Dear Parent(s)/Guardian(s)/Student:

Thank you for attending the recent Planning and Placement (PPT/Individualized Education Plan (IEP) Team meeting held on 05/08/2019 regarding **xxxx Irazu**.

Enclosed you will find:
**X** Written Prior Notice

Should you have any questions regarding your child's program, please feel free to contact Pat Rosen at the following telephone number: 203-863-8854.

Respectfully,

Christina Shaw
**Interim House Administrator**
Planning and Placement Team Member

**Student: Irazu, xxxx**
**DOB: xx/xx/xx mm/dd/yy**
**District: Greenwich High School**
**Meeting Date: 05/08/2019 mm/dd/yy**

## PLANNING AND PLACEMENT TEAM (PPT) COVER PAGE

Current Enrolled School: Greenwich High School
Age: 15 Current Grade: 10 H.S. Credits: 8.38
Grade Next Yr: 11 Gender: Female
Current Home School: Greenwich High School
School Next Year: Greenwich High School
Home School Next Year: Greenwich High School
SASID#: 6185671372
If your school district does not have its own high school, is the student attending the designated high school? x NA
Student Address: xxxxxxxxx, Greenwich, CT 06830
Student Instructional Lang: x English
Parent/Guardian (Name): Margarita Oliva Sainz de Aja(Mother) Home Dominant Lang: x Other (Specify)
Parent/Guardian (Address): x Same
Student Phone Number: xxx xxx-xxxx
Parent Home Phone: xxx xxx-xxxx
Misc. Phone: xxx xxx-xxxx

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**Reason for Meeting:** x Review Referral x Plan Eval/Reval

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**The next Projected PPT meeting date is: _____**

- Eligible as a student in need of Special Education (The child is evaluated as having a

disability, and needs special education and related services) x No

- Is this an Amendment to a current IEP using Form ED 634 x No

---

**Team Member Present (required)**

Admin/Designee: Shaw, Christina
Spec. Edu. Teacher: Rosen, Patricia
Parent/Guardian: Sainz de Aja, Margarita Oliva
School Psych: Holzel, Ashley
Student's Re. Ed. Teacher: Harriman, Sean

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**Student: Irazu, xxxx**
**DOB: xx/xx/xx mm/dd/yy**
**District: Greenwich High School**
**Meeting Date: 05/08/2019 mm/dd/yy**

**LIST OF PPT RECOMMENDATIONS**

Introductions were made and the purpose of the meeting stated: to review a referral to special education and consider/plan an evaluation. Ms. Sainz de Aja was given a hard copy of procedural safeguards and transition bill of rights and her rights were explained. The student was not present at the meeting. Mr. Harriman shared that xxxx is an active student who is sweet and smart. She struggles with work completion and he would like to see her finish her sophomore research paper. Ms. Mayo reviewed xxxx' grades; she is struggling in all classes except

French. Ms. Sainz de Aja gave the team an update of her daughter's health and explained that currently ***her daughter was placed at St. Vincent's hospital for care by her doctor. She explained her daughter is suffering from anxiety and depression***.* Her concern was how to help her daughter finish out the school year in good standing and what could be done to help her daughter for the next school year. Ms. Sainz de Aja does not see that the 504 accommodations are working the way they should. Xxxx cannot focus and does not seem to be taking advantage of her accommodations. Mr. Harriman suggested that we should have a meeting with all the teachers to review the 504 and also discuss next steps for xxxx. Ms. Sainz de Aja added that she is most concerned about math where xxxx feels she cannot catch up on her own. The team agreed to the following plan for xxxx:

-Ms. Holzel will be in contact with xxxx' doctors to get their input on any interventions and accommodations.
-Xxxx will continue with Humanities Learning Center to work on her research paper.
-A meeting will be called with her teachers to find out what is the necessary work that xxxx must complete to finish the year in good standing.
-Xxxx will be placed in STARS to help her catch up.
-Xxxx will be given extensions on work completions, and may be exempted from work where appropriate.
-Xxxx will work with her counselor on creating a final exam schedule that will reduce stress.

After hearing from the doctors, a decision will be made about whether to call another PPT meeting at the end

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* Bold and italics added.

of this year, or at the beginning of next year. Ms. Sainz de Aja also inquired about the LINKS program to see if this could help her daughter. Ms. Shaw agreed to find out more about his program. Ms. Shaw summarized the meeting and all were in agreement. The meeting then ended.

# APPENDIX I

## Brunswick School

**COURAGE – HONOR – TRUTH**

**THOMAS W. PHILIP**
*Headmaster*

May 2019

Xxxx Irazu
10 Indian Pass
Greenwich, CT 06830

Dear Xxxx:

Congratulations on being awarded the BPA prize at graduation!* We share in the pride you and your family must have in this achievement, as well as all you have accomplished during your high school years at Brunswick.

We would like you to have a copy of the citation which was read during the ceremony. In addition, your name will be engraved on the Mahogany Board in the Headmaster's wing as a testament to all your hard work and dedication.

* Brunswick Parents' Association Prize, on graduation ceremony of 5/22/2019. This prize is awarded to the senior who has attended Brunswick for at least three years and whose improvement in scholarship and development of fine character make him worthy of citation.

On behalf of the School and the faculty, we wish you much success and happiness at St. Andrews next fall. Have a wonderful and restful summer, Xxxx …. you deserve it!

Sincerely,

/s/ [illegible]

203.625.5810 direct | 203.625.5889 *fax* | tphilip@brunswick.org
100 Maher Avenue, Greenwich, CT 06830 | BrunswickSchool.org

## APPENDIX J

**SUPERIOR DISTRICT COURT**
**OF STAMFORD/NORWALK**
**STATE OF CONNECTICUT**

| | | |
|---|---|---|
| CRO90165772S -- CRO90168728S | ) | SUPERIOR COURT |
| STATE OF CONNECTICUT | ) | J.D. OF STAMFORD/ |
| V. | | NORWALK |
| | ) | AT STAMFORD |
| FERNANDO GABRIEL IRAZU | | |
| | ) | January 13, 2012. |

**MOTION FOR RETURN AND DESTRUCTION OF FINGERPRINTS, ARREST CARD, PHOTOGRAPHS, PHYSICAL DESCRIPTION, ELECTRONIC RECORDS AND ANCILLARY DOCUMENTATION**

Fernando Gabriel IRAZU, self-represented, on the above-referenced matters, which were dismissed, unsubstantiated and positively resolved without trial, hereby files on due time this MOTION FOR RETURN AND DESTRUCTION in order for the Greenwich Police Department as well as all applicable State and Federal agencies to return and de- stroy any fingerprints, arrest cards, photographs, physical description, electronic records as well as any ancillary documentation and/or information related to them (cf. Sec. 29-15, General Statutes of Connecticut).

As required by law, this Motion does not pertain to any plea arrangement, trial and/or sentence before the Superior Court of Stamford or otherwise, rather an overall situation triggered within and for the occasion

of a lengthy and protracted marital dissolution process. Thus, the petitioner respectfully moves this Court within such frame.

During the trial pursued by the other party in the marital dissolution process, the opinion of the Court, on the criminal actions unduly initiated against the petitioner, was heard via the sayings of the late Honorable Judge Dennis F. Harrigan:

> **"THE COURT**: The charges, whatever they were, have all been expunged. The file has been sealed. The arrest record of your arrest should be expunged also. I don't know whether you have to move – file a motion for that, but – . . . . **MR. IRAZU**: Thank You, Your Honor.", *Official Transcripts in re Oliva Sainz de Aja, Margarita v. Irazu, Fernando Gabriel, FST-FA-09-4017497-S, Superior Court, Judicial District of Stamford/Norwalk, at Stamford, Connecticut, June 4, 2010, Trial Before Honorable Judge Dennis F. Harrigan, Judge, 93.*

As to the petitioner, he is a devoted and committed father and no criminal record of any kind in his entire life, as well as a former investment banker and a non-practicing attorney who might be required from time to time to produce fingerprints and statements under oath before various federal and/or state agencies, among other situations corroborating under oath that he has in fact no criminal record whatsoever related to this ignominy.

Such overall marital dissolution process, within this very same context, has profoundly damaged the petitioner's professional career, hurt his own and extended family, as well as at the time seriously

impacted his wellbeing.

DATED at Stamford, Connecticut, on January 13, 2012.

[Granted 1-30-12 (Comeford, J) /s/ [Illegible] Clerk]

## APPENDIX K

**DEPARTMENT OF CHILDREN AND FAMILIES**
**STATE OF CONNECTICUT**
*Making a Difference for Children, Families and Communities*

| | |
|---|---|
| [seal] | [seal] |
| Susan I. Hamilton, M.S.W., J.D. | M. Jodi Rell |
| Commissioner | Governor |

February 20, 2009

Dear Mr. Irazu,

This letter is to inform you that the Department of Children and Families has completed the investigation that was reported on 1/8/09. The allegations of physical neglect **will not** be substantiated against you. This is based on interviews with you, your family, and services connected to you.

As this time your case will be **closed as of the date above**, with the following expectations:

**Ensure that you will provide adequate supervision, care, and attention to your children xxxx, xxxx and xxxx Irazu.**

**Ensure that you will not expose your children to any domestic violence.**

**For you and children's mother follow up with individual and marriage counseling services.**

Should you have any questions or concerns regarding the outcome of this matter, please feel free to contact me.

Respectfully,

/s/ Ethel Moore

_____

Ethel Moore
Social Worker – Investigations
Department of Children and Families
401 Shippan Avenue
Stamford, CT 06902
(203) 965-0114

**NOTIFICATION OF INVESTIGATION RESULTS (UNSUBSTANTIATED)**

Date: 2/20/2009
Name: Mr. Fernando Irazu
Address: 10 Indian Pass, Greenwich, CT 06830
Re.: Investigation of Report(s) dated: 1/8/09
LINK NUMBER: 254514

Dear Mr. Irazu,

The mission of the Department of Children and Families (DCF) is to protect children, improve child and family well-being, and to support and preserve families. An important part of this mission is investigating reports of alleged abuse or neglect of children in our communities. DCF recently investigated reported allegation(s) that you abused or neglected a child or children. The purpose of this letter is to inform you of the decision made regarding that investigation.

DCF has concluded that:

X Abuse or neglect has not been substantiated as a result of this investigation.

Respectfully,

/s/ Ethel Moore

_____
Ethel Moore
Social Worker-Investigations

## APPENDIX L

**STATE OF CONNECTICUT**
**DEPARTMENT OF EMERGENCY SERVICES**
**AND PUBLIC PROTECTION**
**DIVISION OF STATE POLICE**
**BUREAU OF IDENTIFICATION**

[seals]

Wednesday, July 10, 2013

FERNANDO IRAZU
1340 WASHINGTON BLVD
STAMFORD CT 06902

**NO RECORD FOUND**

**Re.: Criminal History Record Request**

Please be advised that a search of the files of the Connecticut State Police Bureau of Identification (SPBI) for a criminal history record on subject:

IRAZU, FERNANDO GABRIEL (07/08/1968)

has resulted in no record found. This search was based on the information provided.

pkk
REF#: 157331-68101

Phone: (860) 685-8480 Fax: (860) 685-8361
1111 Country Club Road
Middletown, CT 06457-2389

## APPENDIX M

**SUPERIOR DISTRICT COURT**
**OF STAMFORD/ NORWALK**
**STATE OF CONNECTICUT**

| | | |
|---|---|---|
| D.N. FST-FA-09-4017497S | ) | SUPERIOR COURT |
| OLIVA, MARGARITA | ) | J.D.S.N. |
| VS. | ) | AT STAMFORD |
| IRAZU, FERNANDO | ) | October 20, 2009 |

**STIPULATION***

The parties stipulate and agree that the Plaintiff shall have exclusive possession of the premises at 10 Indian Pass, Greenwich, Connecticut, pendente lite.

The Defendant shall be permitted to pick up the parties children for his parenting time at the front door of said premises, but shall not enter the premises.

| THE PLAINTIFF | THE DEFENDANT |
|---|---|
| /s/ Signature | /s/ Signature |
| MARGARITA OLIVA SAINZ DE AJA | FERNANDO IRAZU |

* This Stipulation replaced an *ex parte* restraining order of 10/6/2009 (FST-FA-09-4017500-S; *Schofield, J)* in exchange for the Petitioner's access to his children. Please note the Respondent triggered the marital dissolution process on 10/1/2009.

/s/ Signature
NANCY RAMER
HER ATTORNEY

/s/ Signature
ROBERT A. SKOVGAARD
HIS ATTORNEY

SO ORDERED BY THE COURT

/s/ Schofield
JUDGE / ~~CLERK~~

Filed in Court
Date 10/29/09
Clerk /s/ [illegible]

## APPENDIX N

***DELIVERY BY HAND***

June 1, 2009

Lt. Richard 'Ricky' Cochran
Greenwich Police Department
101 Field Point Road
Greenwich, CT 06830

c.c.: Honorable Judge John Malone
Nancy Dolinsky, State Prosecutor
Stephanie Ewoodzie, Family Services
Joseph Colarusso, Attorney at Law

Dear Lt. Cochran:

I am writing to you because last January 15 I was arrested by your personnel pursuant to an arrest warrant directly processed and requested by your police unit on domestic abuse charges, which were secretively presented by my wife Margarita Oliva Sainz de Aja the prior January 8, and apparently thoroughly investigated by you, all based on one-side claimed marital incident from December 26 of last year.

Per the attached official documentation, those charges were in fact dismissed on the merits by Judge John Malone last April 7, considering in particular to that effect the personal and written request of my same wife Margarita Oliva Sainz de Aja. Please find attached the nature and tenure of the missive submitted by her last April 2, as well as some pictures of me after your

orchestrated arrest –despite my peaceful response and attitude, duly attested in your own police report– in front of my 69 year old diabetic mother –an old-fashion lady, who almost fainted during this unjust ordeal– and my younger brother. Moreover, please find attached the decision of the Department of Children and Families, which also got indirectly involved in this process through such twisted narrative (Annex A).

Both of my immediate relatives –mentioned as witnesses in your police report– were especially brought to Greenwich from the Pampas, as in a horrific blind and forceful date, to watch this despicable spectacle. In this regard, please find attached copies of their sworn statements –among with a few others–, properly translated into English pursuant to the Apostille procedure under the Hague Convention, of which the United States of America is a signatory party (Annex B).

Clearly, the purpose of this letter is to let you know that I am doing the best I can to keep our family intact, and my wife is also doing her part. However, your one-sided participation in the events described above does raise serious concerns on my part as to what might happen in the future, even taken into account our truthful on-going loving efforts. In simple words, your advice, behavior and overall performance have been extremely destructive and biased against the best interest of our family –marital couple, me in particular, and our children. Please see attached documentation corroborating our efforts in this regard (Annex C).

Without engaging in any unnecessary dispute at this stage, it is important for you to know that, way before

the date any presumable incidents were communicated to you, my wife had had displayed a "separation attitude." It is imperative to highlight that those allegations were completely uncorroborated by you at all, as much as the status of our marital relationship at the time, which could have helped for you to better understand the overall frame and angle in this sequence of events. In the corroborating area under a criminal investigation, please find attached a sworn statement by our in-house nanny for more than five years, who was only interviewed by your personnel during the course of my arrest last January 15.

Furthermore, I would like you to carefully read my wife's own statements in the aforesaid personal letter as to my own personae –as father and husband– as well as my professional disassociation from my last employer HSBC, due to the on-going global financial crisis, in full opposition to your police report. In addition, attached you will my formal professional record filed with all relevant regulatory and supervisory authorities by HSBC itself and all of my prior employers in the financial industry since 1997 – easily and freely available through the Internet (Annex D).

In connection with some of the structural traits reflecting on such exclusive "separation attitude" carried out by my wife, it should be noted her specific request early last year for me to agree that the real estate deed of our own house in Greenwich should be registered under her sole and exclusive name, as well as for me to buy under the same premises an apartment for her putative aunt in Spain. Although I did not agree to any of such unreasonable requests, she

did manage to quickly transfer $200,000 in cash last January 9 from one of our joint bank accounts to a secret bank account under he sole name and title –money, as a matter of sheer fact, entirely earned by me. After a difficult to endure process, this money was finally transferred back to our same marital account last March 27. Please find attached the pertinent documentation on this maneuver (Annex E).

As a result of the multiple above, it is my current intention to put you and the whole Greenwich Police Department on legal notice of this picturing situation, since I do not want to face again an undeserved, one-sided and biased criminal process against me, in which your unit could be recurrently used as the means to ignite it. In this policing context, it is prudent and worthwhile remembering that prejudices, biases and willful mischief, when not gross professional misconduct, are severely penalized by our judicial system as such. My personal integrity, as father, husband and professional, is extensively corroborated by several personal and professional sources in the attached documentation.

Indeed, it is impossible for me to believe that the word of one single person –irrespective of the acting performance on display, and whether it had been communicated to multiple third-parties or not following certain script–, coupled with some tainted professional behavior, could suffice with total impunity to destroy the lives of innocent and decent citizens through our legal system. Therefore, it seems mandatory for you and your entire department to understand the tenor of this restraining legal caveat.

If my wife and I were to finally face further marital hurdles, it is transcendent for you to know that I am committed to face such a process in an intimate manner –resorting to our spiritual directors and confessors as a third-party source for guidance and strength–, always thinking about, and putting ahead of ourselves, the best interest of our children –the most profound motivation in my marital life–, with the attentive respect that has characterized not only my overall personality but also my marital relationship as a whole.

Moreover, it is my understanding that my legal counsel during this entire ordeal has already communicated to you and other various agencies the decision of the pertinent Court mandating the destruction and/or elimination of any personal records (fingerprints, pictures, reports, etc.) from your police system and ancillary sources.* As you would understand, either legal or financial employment in certain fields does require full police background check, and this unjust stain could severely impair my ability to provide for my family as I should, regardless of the uncapped damage already done on my reputation and family name –both publicly via the outrageous police report published in the local newspaper as well as via multiple private means. On this matter, I would also especially appreciate the full cooperation of the Greenwich Police Department.

Finally, and without any desires to increase the dramatic tone of this letter, I am compelled to inform

---

*Please see Appendix J, K, and L. The Petitioner's record was fully expunged due to his *pro se* efforts on 1/30/2012, not before, as he was led to believe.

you that last May 10/11 I was suddenly hospitalized in Greenwich Hospital due to the suffering all of the symptoms concerning a grave cardiac unrest. I am currently undergoing all necessary tests to determine what measures should be taken, if any, though still conducting my life with ordinary sporting ease (Annex F).

In any case, I must highlight that I would like to be able to continue expressing my healthy will in person for years to come, thus making express reserve of any legal rights held by me in this entire ignominy, instead of having to plan one in advance due to some unending harassing and extortive measures in my marital life that could lethally force my heart to a full sudden permanent stop, with or without the intervention of the Greenwich Police Department.

Any doubts as to the content of this letter, as well as the entire Greenwich Police Department's unlikely further potential involvement in our personal marital situation, I would very much appreciate for you to freely contact me first at 1 203 570-8318.** It seems evident now that it would be not only in m best interest, but, due to the aforesaid and all documentation attached, in yours as well. I formally request this letter and the attached documentation to be kept on strict confidential terms and I thank you in

---

** The Greenwich Police Department illegally arrested the Petitioner once more on 11/9/2009. These charges were also unsubstantiated and discarded, as well as expunged from the Petitioner's record per immediate above. On 10/1/2009 the Respondent triggered divorce proceedings and on 9/2/2010 judgment was rendered after a divorce trial without jury *(Malone, J; Harrigan, J).*

advance for your consideration thereof. A failure to do so can only aggravate the suffering, damage and uncertainties generated by the way this process has been carried out from your public side.

Sincerely yours,

/s/ Fernando Irazu
Fernando Irazu

*Enclosures*

## APPENDIX O

**SUPERIOR DISTRICT COURT**
**OF STAMFORD/NORWALK**
**STATE OF CONNECTICUT**

**JDNO NOTICE**
**FST-FA-09-4017497-S OLIVA SAINZ DE AJA, M v. IRAZU, FERNANDO GABRI**

Notice Issued: **04/25/2019**

**Court Address:**
CLERK, SUPERIOR COURT
JUDICIAL DISTRICT OF STAMFORD-NORWALK
123 HOYT STREET
STAMFORD, CT 06905
**Website:** www.jud.ct.gov

**Notice Content:**
Notice Issued: **04/25/2019**
Docket Number: **FST-FA-09-4017497-S**
Case Caption: **OLIVA SAINZ DE AJA, M v. IRAZU, FERNANDO GABRI**
Notice Sequence #: **1**

JDNO NOTICE
ORDER REGARDING:
04/05/2017 214.00 MOTION FOR ORDER POST-JUDGMENT

The foregoing, having been considered by the Court, is hereby:
ORDER: **DENIED**

After a hearing on the plaintiff's motion, and after careful review of the history of the pleadings in this case, the court does not find good cause to grant the motion.

The court agrees with the plaintiff that many of the defendant's motions and other submissions are not in proper form, and should be revised or stricken on that basis alone.

Apart from form, however, the court does not find that the defendant has engaged in a protracted pattern of filing numerous intentionally vexatious, frivolous or repetitive motions.

The motion is denied.

By the Court,
Hon. Truglia, A.
T. Vera, TAC

# APPENDIX P

## SUPERIOR DISTRICT COURT
## OF STAMFORD/ NORWALK
## STATE OF CONNECTICUT

| | | |
|---|---|---|
| D.N. FST-FA-09-4017497S | : | SUPERIOR COURT |
| MARGARITA OLIVA SAINZ DE AJA | : | J.D. OF STAMFORD/NORWALK |
| v. | : | AT STAMFORD |
| FERNANDO GABRIEL IRAZU | : | MARCH 20, 2019 |

**PLAINTIFF'S MOTION FOR FEES/SANCTIONS RESULTING FROM DEFENDANT'S VEXATIOUS LITIGATION, POST-JUDGMENT**

The Plaintiff in the above-captioned action hereby moves this Court for reimbursement of legal fees and costs resulting from Defendant's vexatious and spurious motions, appeals, and legal maneuvers for the following reasons:

1. The Defendant has filed numerous motions and appeals relative to post-judgment proceedings, all of which have been summarily denied. Further, the Defendant has often failed or refused to abide by mandated Connecticut Practice Book procedures causing Plaintiff to expend unnecessary legal fees. Nonetheless, the Plaintiff has been caused to expend substantial amounts to defend such

proceedings which have had no merit whatsoever.

2. The Defendant filed a Motion for Contempt (#231.00) against the Plaintiff which resulted in a two day hearing which was ultimately DENIED by the Court (Heller, J). (See MOD dated March 2, 2018; # 261.00).
3. Subsequently the Defendant, predictably dissatisfied with the aforesaid result, filed a Motion to Disqualify Judge Heller, the defense of which required Plaintiff to expend more funds. Said motion was denied by the administrative judge for the Judicial District of Stamford/Norwalk (Genuario, J.).
4. Further, the Defendant filed an Appeal of the denial of his aforementioned Motion for Contempt; the failed Motion to Disqualify and the granting of a Restraining Order pursuant to C.G.S. § 46b-15 entered by the Court (Truglia, J.).
5. The foregoing Appeals, though consolidated for judicial economy, required Plaintiff to once again expend substantial funds for legal fees to her detriment and to the detriment of her family.
6. It bears consideration that Defendant is self-represented and incurs no legal fees in his vexatious pursuits. Indeed, the apparently unemployed Defendant has endless time to draft rambling, non-linear, tangential screeds which cannot go unaddressed by Plaintiff despite their baseless legal efficacy.
7. A review of the court filings by Defendant reveal his resort to baseless claims and motions. Additionally, it should be noted

that Defendant's history includes filing an Appeal in this matter with the U.S. Supreme Court several years ago which Defendant now almost certainly views as an avenue as the result of the recent denial of a Petition for Certification by the Connecticut Supreme Court.

WHEREFORE, it is respectfully requested that the Defendant be ordered to reimburse Plaintiff for her legal fees and costs expended by necessity to his aforementioned baseless and spectacularly unsuccessful Motions and Appeals. It is further requested that any award which results herefrom shall constitute a lien on Defendant's rights for distribution of a portion of the equity of the sale of the marital residence as set forth in the Separation Agreement and subsequent Modification thereof, both of which are court-ordered.

THE PLAINTIFF,
MARGARITA OLIVA SAINZ DE AJA
/s/ Kevin F. Collins
BY _____
Kevin F. Collins, Esq.
Law Offices of Kevin F. Collins
1150 Summer Street
Stamford, CT 06905
Tel.: (203) 327-5400
Fax: (203) 327-5466
Juris No.: 300089

**SUPERIOR DISTRICT COURT**
**OF STAMFORD/ NORWALK**
**STATE OF CONNECTICUT**

| | | |
|---|---|---|
| D.N. FST-FA-09-4017497S | : | SUPERIOR COURT |
| MARGARITA OLIVA SAINZ DE AJA | : | J.D. OF STAMFORD/NORWALK |
| v. | : | AT STAMFORD |
| FERNANDO GABRIEL IRAZU | : | MARCH 15, 2019 |

**SUPPLEMENT TO PLAINTIFF'S MOTION FOR ORDER, POST-JUDGMENT DATED APRIL 4, 2017 (#214)**

The Plaintiff, Margarita Oliva Sainz de Aja, through her undersigned counsel, hereby submits the following in further support of her Motion for Order (#214.00):

1. The aforesaid Motion dated April 4, 2017 seeks relief pursuant to Strobel v. Strobel, 92 Conn. App. 662 (2005) thereby barring the Defendant from filing or pursuing any motions in the Connecticut judicial system without prior Court approval.

2. On July 11, 2017, and July 12, 2017, a hearing was held before the Court (Heller, J.). Ostensibly, the hearing concerned Defendant's Motion for Contempt (#231.00) which was denied. However, the Plaintiff's Motion for a "Strobel" order was not heard at that time. Nonetheless, the Court was aware of said Plaintiff's Motion (#214.00) and directed as follows:

> The Plaintiff has called the court's attention to her motion for order, post-judgment (#214.00), filed on April 5, 2017, in which she seeks an order directing that all future motions filed by the defendant subject to a "leave to file" protocol before getting allowed to proceed on the merits. The court acknowledges the concerns raised by the plaintiff but declines to address them without affording the defendant an opportunity to respond.
>
> Accordingly, the court on its own motion directs that the parties appear on a date certain so that the court may consider whether to impose sanctions pursuant to Practice Book §1-25 for the defendant's conduct on this matter, including filing memoranda that exceed the page limits set forth in the Practice Book withour leave of court. The hearing shall be scheduled by Family Caseflow.

3. As a result of the aforementioned Court decision entered March 2, 2018 (#261.00) the Defendant filed a Motion to Disqualify Judge Heller (#262.00) and an appeal to the Connecticut Appellate Court (#264.00).

4. The Motion to Disqualify resulted in a hearing before the Administrative Judge for the Stamford/Norwalk Judicial District (Genuario, J.) which further resulted in Denial of Defendant's Motion to Disqualify (#262.01).

5. Nonetheless, Defendant pursued multiple Appeals as to the aforesaid decisions of Judge Heller and Genuario, respectively, as well as an Appeal of an additional Order of the Court (Truglia, J.) which was entered pursuant to a petition filed by Plaintiff pursuant go CGS §46b-15.

6. Within three weeks of a combined oral argument on the Defendant's Appeals, the Appellate Court affirmed all of the trial decisions which were the subjects of Defendant's consolidated Appeals (#276.00).

7. Predictably, the Defendant filed a petition for Certification with the Connecticut Supreme Court which was "DENIED" on March 13, 2019.

8. The Defendant has now exhausted his rights of Appeal in the Connecticut Judicial system and there is no legal impediment to Plaintiff's pursuing her Motion for a "Strobel" Order. Accordingly, the Plaintiff's Motion for such relief should be scheduled before the Court at the Court's earliest convenience per the Orders contained relative thereto as aforementioned in the Memorandum of Decision (#261.00) as stated more fully hereinbefore.

WHEREFORE, it is respectfully requested that:

1. The Court set a date for a hearing on Plaintiff's Motion for Order (#214.00) at the Court's earliest convenience;

2. That the Defendant be stopped from filing any Motions with this or any other Connecticut state Court until Plaintiff's aforestated Motion is heard and decided;

3. The Court enter any further orders that is deems just and proper in the interest of justice.

THE PLAINTIFF
MARGARITA OLIVA SAINZ DE AJA
/s/ Kevin F. Collins
By: _____
Kevin F. Collins, Esq.
Law Offices of Kevin F. Collins
1150 Summer Street
Stamford, CT 06905
Tel.: (203) 327-5400
Fax: (203) 327-5466
Juris No.: 300089

## APPENDIX Q

## JUZGADO DE PRIMERA INSTANCIA No. 3 GRANADA, SPAIN

[Langalo seal]
Langalo Inc.
131 Essex Street, 2nd Floor
New York, NY 10002
tel. 646 867 1988|fax 212 677 5847
contact@langalo.com| www.langalo.com

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**EXEQUATUR OF FOREIGN DIVORCE JUDGMENT, NULLITY OF DIVORCE JUDGMENT PER MOTION TO DISMISS, AND FINES FOR MALICIOUS AND TEMERARIOUS CONDUCT***

**TO THE DISTRICT COURT OF GRANADA No. 3**

Complejo Judicial La Caleta
Avenida del Sur Numero 1, Cuarta Planta
NIG: 1808742C20160015376
Proceedings: Family. Contentious Divorce: 758/2016
Matter: Divorce
From: Mrs. Margarita OLIVA SAINZ de AJA
Court Clerk: Silvia MAS LUZON
Counsel: Emilio VICIANA TITOS
Against: Mr. Fernando Gabriel IRAZU ZUBILLAGA

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* Exhibit H (marked for identification and later discarded), *Hearings of 7/11/13/2017 before Judge Heller*, AC 41455 (AC 41598), Appellate Court, State of Connecticut.

Mr. Fernando Gabriel IRAZU ZUBILLAGA, *pro se*, domiciled at 222 East 75th Street, Apt. 6C, New York, New York, USA, telephone +1 203 570-8318 and email: fgirazu@gmail.com, on June 9, 2017, docket "*Mrs. Margarita OLIVA SAINZ de AJA v. Mr. Fernando Gabriel IRAZU ZUBILLAGA*" *supra*, pursued before this Court, appears himself before you, and according to law, **CLAIMS**:

**1**. That this party was not properly notified of the divorce complaint filed by the plaintiff –in fact, he does not have a copy of it–, in violation of article 770 of the Civil Procedure Act and the applicable normative from the Hague Convention of October 5, 1961, for serving legal process within the international law terrain between Spain and USA.

**2**. That this party incidentally found out last June 6, 2017, via correspondence handed in by his minor daughter xxxxx IRAZU, that the Court on May 24, 2017, declared him in contempt to court and summoned both parties to the opening hearing of this trial next June 29, 2017, at 11 am.

## FACTS

**FIRST**. The domicile of 10 Indian Pass, Greenwich, State of Connecticut, 06830, USA, belongs to the plaintiff as her residence since 1997, and on an exclusive basis since 2009, according to the divorce judgment issued on September 2, 2010, by the Superior District Court of Stamford/Norwalk, State of Connecticut, USA. The defendant is co-owner of such property but does not reside in it, all of it obviously known by the plaintiff in this action as exclusive resident in such address. –see annexes *infra*.

**SECOND.** None of the parties are residents of Spain, and the plaintiff resides in the US since 1995, in the State of Connecticut since 1997, holds US citizenship, and works in the city of New York, New York, USA. –see annexes *infra.*

**THIRD**. Based on the correspondence from the Court, the plaintiff surreptitiously established this party's domicile in a fictitious way in Spain and in her own domicile in the State of Connecticut, preventing in such a manner this party from timely knowing of these proceedings. –see annexes *infra.*

**FOURTH**. The plaintiff knows the true domicile of this party, as well as his prior one, according to records in the divorce proceedings carried out in the State of Connecticut, USA –see annexes *infra.*

**FIFTH**. On October 6, 1995, the parties got married in the city of New York, State of New York, USA, which was registered in the Consulate of Spain in such city on October 17, 1995, and fruit of such marriage three children were born in USA: xxxxx, 4/11/98, xxxxx xxxxx, 31/7/00, and xxxxx, 26/5/03, all of them born and raised in US territory and of US citizenship. –see annexes *infra.*

**SIXTH**. On October 1, 2009, the plaintiff initiated the marital dissolution proceedings before the Superior District Court of Stamford/Norwalk, State of Connecticut, USA, and on September 2, 2010 such court issued a divorce judgment, which is definitive and final after having been notified to both parties and without appeal on it by any of them. – see annexes *infra***.**

**SEVENTH**. The Court lacks jurisdiction and competence to rule on these proceedings, if it were not for the process of an e*xequatur* of foreign judgment, the nullity via motion to dismiss of the plaintiff's divorce claim, as well as the fines against her due to her malicious and temerarious conduct under the very same Spanish law. –see *infra*.

## LEGAL ARGUMENTS

**LACK OF JURISDICTION IN LOCAL DIVORCE PROCESS**. Pursuant to what set forth in Article 117.3 of the Spanish Constitution, Articles 2.1, 9.2 and 22.3 of LO 6/1985 of July 1, Organic Law of the Judicial Power, the Spanish Courts and Tribunals shall not be competent to entertain divorce matters when both Spouses do not have habitual residence in Spain at the time of the claim.

**LACK OF COMPETENCE IN LOCAL DIVORCE PROCESS**. Pursuant to Normative Additional Three of law 30/81, from July 7, the District Court of this city is not competent to rule on these divorce proceedings, since the spouses reside in foreign jurisdiction, and they never had in this city their last domicile of an already dissolved marriage.

**LACK OF PERSONAL JURISDICTION**. Mrs. Margarita OLIVA SAINZ de AJA has no personal subject-matter jurisdiction to file the aforesaid divorce claim because she is not a spouse of the plaintiff anymore due to *res iudicata*, as attested by firm divorced judgment of September 2, 2009, issued by a competent judge under the jurisdiction of the Superior District Court of Stamford/Norwalk, State of Connecticut, USA, following the action that such party voluntarily had initiated in this very same jurisdiction

and competence (art. 416 y s.s., Law of Civil Procedure).

**EXEQUATUR PROCEEDING OF FOREIGN DIVORCE JUDGMENT**. The defendant herein requests, with valid personal subject-matter jurisdiction, the acknowledgment via e*xequatur* of the aforesaid judgment dated September 2, 2010, issued by courts of the State of Connecticut, as a result of a divorce claim previously filed by the plaintiff, which benefits both parties. Such judgment was issued pursuant to law, through the intervention of the court system, and based on proper jurisdiction and competence of the officiating courts as well as the intervening parties; it was duly notified to both; it is firm and final; it is not opposed to local and/international public policy; and it is not incompatible with a prior or subsequent one (Arts. 81, 86, 89, 97 and s.s., Civil Code; Art. 96 and s.s., Civil Registry Law; Arts. 22, 323.2, 144, and s.s, Civil Procedure Act).

**FINES FOR TEMERARIOUS AND MALICIOUS CONDUCT**. Through this judicial process the plaintiff not only intends to deceit the Court about the defendant's domicile, for him not to be able to exercise his due process rights timely, but at the same time omits to mention the existence of prior, firm and final judgment with the presumable goal of generating after almost seven years a judgment under Spanish jurisdiction presumably in conflict with the pre-existent one in the US (Art. 247, Civil Procedure Act).

**CORE OF THE SUBJECT MATTER**. It is presumed the plaintiff wishes to relocate from the US to Spain in a near future; two of the couple's children are still

minor; the plaintiff has assets in Spain that would be subject to marital distribution; and as a result she would like a new divorce judgment in conflict with the one requested by her and obtained under US jurisdiction almost seven years ago; now fraudulently excluding the procedural participation of this party under Spanish jurisdiction.

**ANNEXES**

**ANNEX I**. "Certificate of No Appeal" dated June 8, 2017, in connection with the divorce judgment *in re "Margarita OLIVA SAINZ de AJA v. Fernando Gabriel IRAZU"* before the Superior District Court of Stamford/Norwalk, State of Connecticut, USA, certifying that such a judgment is final, which has not been interrupted, modified and/or declared null, and at the same time that it is not subject to any appeal. Moreover, attached find the summary orders of the marital dissolution judgment, the Parenting Plan proposed by the plaintiff (Margarita OLIVA SAINZ de AJA), and the Memorandum of Decision (the Judgment of Marital Dissolution in itself) dated September 2, 2010. All of the preceding documentation has been duly legalized and subject to the Apostille of the Hague convention of October 5, 1961. Private translation under oath and duly notarized of such judgment is also attached.

It is attested in this judicial judgment that from 1997 the plaintiff resides at 10 Indian Pass, Greenwich, State of Connecticut, USA, and on an exclusive basis from 2009 until the present date.

**ANNEX II.** Marriage Certificate of Fernando Gabriel IRAZU and Margarita OLIVA SAINZ de AJA dated October 6, 1995, issued by the City of New York, State

of New York, USA, duly legalized and subject to the Apostille pursuant to the Hague Convention of October 5,1961.

**ANNEX III**. Case detail *in re* OLIVA SAINZ de AJA, Margarita v. IRAZU, Fernando Gabriel, D.N. FST FA 09-4017497, before Superior Judicial District of Stamford/Norwalk, State of Connecticut, USA, certifying her current domicile before the Court, which due to the aforesaid judicial judgment cannot and it is not the one claimed by the plaintiff up to the present date.

**ANNEX IV.** Copy of the Court's resolution dated May 24, 2017, sent by mail to this party to the domicile of the plaintiff at 10 Indian Pass, Greenwich, State of Connecticut, USA.

As a result of the foregoing, I, **PLEAD THIS COURT** that

**(i)** having submitted this filing together with the attached documentation, proceeds to admit them, and have this party duly impersonated in the domicile already stated according to law;

**(ii)** considers the proper proceeding of an *exequatur* of a foreign divorce judgment duly filed and with legal force in Spain, and as a result orders its inscription in the local Civil Registry (arts. 42, 43 and s.s. of the Civil Registry Law);

**(iii)** dismisses as null *ipso facto et iure* the surreptitious divorce claim filed by the plaintiff due to this motion to dismiss

because of lack of jurisdiction and competence, as well as lack of personal subject-matter jurisdiction in light of the facts and legal arguments herein described; and

**(iv)** fines the plaintiff with legal fees and court-related expenses as well as the maximum applicable fine for her malicious and temerarious conduct under Spanish jurisdiction.

For justice to be in the place and date already established.

/s/

_____

Mr. Fernando Gabriel IRAZU ZUBILLAGA

Subscribed before me [illegible signature] Notary Public. My commission expires 4-30-18.

- End of Translation -

Pursuant to U.S. Federal Regulations (59 FR 1900 Jan. 13, 1994, # 3.33) regarding translation of documents, I [illegible] do hereby certify on behalf of Langalo Inc. that we are competent to translate this document, and that this translation is true and accurate to the best of our knowledge and belief. No inference or determination regarding the validity of the source document or its content is made.

Signature: s/ [illegible]
Date: 7/31/2017

/s/ Kathy Rosado

KATHY ROSADO
NOTARY PUBLIC – STATE OF NEW YORK
NO. 01RC6142270
QUALIFIED IN BRONX COUNTY
MY COMISSION EXPIRES MAR 13, 2018
7/31/2017

## APPENDIX R

## JUZGADO DE PRIMERA INSTANCIA No. 3 GRANADA, SPAIN

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contact@langalo.com | www.langalo.com

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Seal of the Kingdom of Spain. Administration of Justice.

**Proceedings N. 758D/16**

**ORDER. No. 295/17***

In the city of Granada, on the twenty-eight days of June of two thousand seventeen. Informed; and

**FACTS**

**FIRST**. On behalf of DONA MARGARITA SAIZ AJA, represented by Barrister Mrs. Mas Luzon, a Divorce claim was filed against DON FERNANDO GABRIEL AZAZU ZUBILLAGA.

**SECOND**. By decree of June 17, 2016 the claim was admitted, ruling, as mandated by Art. 753 of the LCP, to summon the State Prosecutor and the defendant to

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* Exhibit C, *Hearings of 7/11/13/2017 before Judge Heller*, AC 41455 (AC 41598), Appellate Court, State of Connecticut.

appear before the Court and to answer it within the period of twenty days.

**SECOND**. Submitted by the defendant a divorce judgment dated September 2, 2010 from the Superior District Court of Stamford/Norwalk, State of Connecticut, USA; by resolution of June 16, 2016 the plaintiff and the State Prosecutor were given five days for allegations; with the outcome on the record.

## LEGAL REASONING

**FIRST**. As determined by art. 240.2 of the Organic Law of the Judicial Power and 225 and subsequent of the Law of Civil Procedure, although the general rule is that nullity under the law, in any case, and the defects of form in the procedural acts carrying the absence of the necessary requirements to achieve their goal or to determine an effective defenselessness, shall be argued through the means established by law against the respective order and other means granted by procedural laws, notwithstanding, the Judge or Court can, ex parte or by request of a party before rendering final judgment to put an end to the process and always when purging is not appropriate, declare, prior hearing of the parties, the nullity of the entire proceedings or some part in particular.

Pursuant to articles 225 and subsequent of the Law of Civil Procedure, as well as articles 238 and subsequent of the Organic Law of the Judicial Power establishing that:

The procedural acts shall be null per law in the following cases:

1. When they are produced by or before the Court lacking jurisdiction or competence, objective or functional.

2. When they are done under violence or intimidation.

3. When the essential procedural rules are obviated, always when, for such a reasons, defenselessness could have been produced.

4. When they are done without the participation of an attorney, in the cases the law commands it as obligatory.

5. When resolutions take place without the mandated intervention of the Law Clerk.

6. When through diligences or decrees matters are resolved that, according to law, must be resolved by judgment, orders and mandates.

7. In all of the other cases established by this law.

Article 226. How to proceed in case of intimidation or violence:

1. The Courts' proceedings that would have been produced by intimidation or violence, as soon as they see themselves free from it, shall declare null all that has been done and promote a case against the guilty ones, putting the State Attorney on notice of the facts.

2. The acts from parties or people participating in the process shall also be declared null if it is proven that they were produced under intimidation or violence.

The nullity of these acts shall carry the one of all of the other ones related to, or that could have been seen.

**SECOND**. The problem arises from the efficacy that the resolution of September 2, 2010 issued by the Superior District Court of Stamford/Norwalk, State of Connecticut, USA, could have in Spain; the acknowledgment of such judgment in our country requires to seek the *exequatur* proceeding, which can be recognized; so a party cannot seek from the Spanish Courts to admit a new divorce claim knowing that she was divorced via a firm judgment, a process also initiated at her request; it is thus coming to apply *"sensu contrario"* ** article 85 of the CC in the sense that it is not possible to dissolve an inexistent marriage.

**DECISORY PART**

Due to the foregoing, I

**DECIDE**: 1. Declare nullity from the Decree dated June 17, 2016, and, mandating to leave without effect such order, it is ordered to LEAVE TO FILE these proceedings.

Against this resolution an APPEAL is available before the State Audience of Granada (art. 458 LCP). The appeal shall be made via written brief filed with this Court within the period of TWENTY working DAYS from the following day of the notification, shall express the allegations upon which the challenge is based, and at the same time quote the appealed judgment and the pronouncements being challenged.

For the appeal to be admitted a deposit of 50 Euros must be made, to be deposited in the account of this Court No. 1724, signaling in the Observations of the

** Reverse interpretation.

filing document that it refers to an appeal pursuant to code 02 and the sort of appeal, according to what is established in the OL 1/2009 of November 3, provided the exceptions of exclusion foreseen by numeral 5 of the fifteenth additional rule of such normative or beneficiaries of free legal assistance.

So it is ordered, mandated and signed by Honorable Mrs. Dona MARIA DEL CARMEN SILES ORTEGA, Magistrate-Judge of the District Court No. 3 of this City and Judicial District.

*"In connection with data of personal nature, about its confidentiality and prohibition to be transmitted or communicated by any means or proceeding, it shall be treated exclusively for the proper goals of the Administration of Justice (ex Organic Law 15/99, from December 13, about protection of data of personal nature)."*

Signed by Maria del Carmen Siles Ortega 29/06/2017 10:08:40. Victoria Santos Ortuno 29/06/2017 10:30:10.

- End of Translation -

Pursuant to U.S. Federal Regulations (59 FR 1900 Jan. 13, 1994, # 3.33) regarding translation of documents, I [illegible] do hereby certify on behalf of Langalo Inc. that we are competent to translate this document, and that this translation is true and accurate to the best of our knowledge and belief. No inference or determination regarding the validity of the source document or its content is made.

Signature: s/ [illegible]
Date: 7/31/2017

/s/ Kathy Rosado
KATHY ROSADO
NOTARY PUBLIC – STATE OF NEW YORK
NO. 01RC6142270
QUALIFIED IN BRONX COUNTY
MY COMISSION EXPIRES MAR 13, 2018
7/31/2017

## APPENDIX S

## JUZGADO DE PRIMERA INSTANCIA No. 3 GRANADA, SPAIN

## TO THE SUPERIOR DISTRICT COURT OF GRANADA No. 3*

Silvia Mas Luzón, Barrister of the Courts, on behalf of Margarita Oliva Sainz de Aja, as verified on record *in re* CONTENTIOUS DIVORCIO 758/2016, I appear and SAY:

As a matter of law this party is interested in obtaining certified copies of documentary evidence in these proceedings per the other side's filing of June 16, 2010, in order to comply with, as described in such filing, the *exequatur* of those judicial rulings.

As a result of the aforementioned,

I PLEAD: for the present filing to be admitted and the acknowledgment herein to be included in the record, and as a result for the aforesaid certified copies to be issued.

To be Justice, in Granada, July 26, 2018.

| | |
|---|---|
| NAME | Digitally signed by NAME |
| MAS | MAS LUZON SILVIA |
| LUZON | NIF 24213561N |
| SILVIA – NIF | Date: 2018.07.26 9:30 |
| 24213561N | 9:30:53 |

* Translated from Spanish to English by the Petitioner.

# APPENDIX T

## JUZGADO DE PRIMERA INSTANCIA No. 3 GRANADA, SPAIN

[Seal of the Kingdom of Spain]
Administration of Justice

## SUPERIOR DISTRICT COURT OF GRANADA No. 3*

COMPLEJO JUDICIAL LA CALETA
AVDA. DEL SUR NUM. 1, 4th FLOOR
GRANADA
Tel. : Fax:
Email
NIG: 1808742120180022764
Proceedings: *Exequatur*: 1022/2018 Case: AA
Matter: Compliance
From: Mrs. Margarita OLIVA SAINZ de AJA
Court Clerk: Silvia MAS LUZON
Counsel: Emilio VICIANA TITOS
Against: Mr. Fernando Gabriel IRAZU ZUBILLAGA
Court Clerk:
Counsel:

**ORDER ABOUT INSTITUTING PROCEEDINGS**

**COURT ISSUING ORDER**: SUPERIOR DISTRCIT COURT OF GRANADA No. 3
**MATTER RESOLVED**: Above-referenced.
**PERSON SUBJECT TO ORDER:** FERNANDO GABRIEL IRAZU ZUBILLAGA as Defendant.

---

* Translated from Spanish to English by the Petitioner.

Domicile: BILLINGHURST POSTAL CODE 1425
1656 2A BUENOS AIRES (ARGENTINA) Argentina
**OBJECT OF THE ORDER**: To appear in the aforementioned trial to answer in writing the pleadings, in which he is designated as Defendant. Attached copy of the demand, the annexed documents, and the order admitting it.
**COURT IN WHICH MUST APPEAR:** The premises of this Court.
**TERM TO APPEAR: TWENTY WORKING DAYS** from the day following this order.

**LEGAL WARNINGS**

If he does not appear, he will be declared in contempt to court, and after notifying this ruling not any other will take place but the judgment concluding these proceedings (articles 496 and 497 of Law 1/2000, of Civil Proceedings –LEC).

The appearence before trial must be made through Barrister, with the assistance of Counsel (article 750 of LEC).

Any changes of domicile during the course of this process must be communicated to the Court (article 155.5, first paragraph, LEC).

In Granada, May 7, 2019.

LAW CLERK OF ADMINISTRATION OF JUSTICE.

*"In connection with data of personal nature, about its confidentiality and prohibition to be transmitted or communicated by any means or proceeding, it shall be treated exclusively for the proper goals of the Administration of Justice (ex Organic Law 15/99, from December 13, about protection of data of personal nature)."*

/s/ VICTORIA SANTOS ORTUNO 05/07/2019 11:19:05 2 PAGES

# APPENDIX U

## CONSTITUTIONAL AND STATUTORY PROVISIONS

***First Amendment, US Constitution.***

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

***Second Amendment, US Constitution.***

A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

***Fourth Amendment, US Constitution.***

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

***Fifth Amendment, US Constitution.***

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall

any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

***Sixth Amendment, US Constitution.***

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.

***Eight Amendment, US Constitution.***

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

***Ninth Amendment, US Constitution.***

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

***Tenth Amendment, US Constitution.***

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

***Fourteenth Amendment, Section 1 and 5, US Constitution.***

1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

***Article I, Section 8, Clause 3, US Constitution.***

The Congress shall have power … To regulate commerce with foreign Nations, and among the several States, and with the Indian Tribes.

***Article IV, Sections 1 and 2, US Constitution.***

1. Full Faith and Credit shall be given in each State to the public Acts, Records, and judicial Proceedings of every other State. And the Congress may by general Laws prescribe the Manner in which such Acts, Records and Proceedings shall be proved, and the Effect thereof.

2. The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States.

**18 U.S. Code § 2265.** ***Full faith and credit given to protection orders.***

**(a) FULL FAITH AND CREDIT.—**

Any protection order issued that is consistent with subsection (b) of this section by the court of one State, Indian tribe, or territory (the issuing State, Indian tribe, or territory) shall be accorded full faith and credit by the court of another State, Indian tribe, or territory (the enforcing State, Indian tribe, or territory) and enforced by the court and law enforcement personnel of the other State, Indian tribal government or Territory as if it were the order of the enforcing State, or tribe.

**(b) PROTECTION ORDER.—**

A protection order issued by a State, tribal, or territorial court is consistent with this subsection if—

**(1)** such court has jurisdiction over the parties and matter under the law of such State, Indian tribe, or territory; and

**(2)** reasonable notice and opportunity to be heard is given to the person against whom the order is sought sufficient to protect that person's right to due process. In the case of ex parte orders, notice and opportunity to be heard must be provided within the time required by State, tribal, or territorial law, and in any event within a reasonable time after the order is issued, sufficient to protect the respondent's due process rights.

**(c) CROSS OR COUNTER PETITION.—**

A protection order issued by a State, tribal, or territorial court against one who has petitioned, filed a complaint, or otherwise filed a written pleading for protection against abuse by a spouse or intimate partner is not entitled to full faith and credit if—

**(1)** no cross or counter petition, complaint, or other written pleading was filed seeking such a protection order; or

**(2)** a cross or counter petition has been filed and the court did not make specific findings that each party was entitled to such an order.

**(d) NOTIFICATION AND REGISTRATION.**

**(1) NOTIFICATION.—** A State, Indian tribe, or territory according full faith and credit to an order by a court of another State, Indian tribe, or territory shall not notify or require notification of the party against whom a protection order has been issued that the protection order has been registered or filed in that enforcing State, tribal, or territorial jurisdiction unless requested to do so by the party protected under such order.

**(2) NO PRIOR REGISTRATION OR FILING AS PREREQUISITE FOR ENFORCEMENT.—** Any protection order that is otherwise consistent with this section shall be accorded full faith and credit, notwithstanding failure to comply with any requirement that the order be registered or filed in the enforcing State, tribal, or territorial jurisdiction.

**(3) LIMITS ON PUBLICATION OF REGISTRATION INFORMATION.—** A State, Indian tribe, or territory shall not make available publicly on the Internet any information regarding the registration, filing of a petition for, or issuance of a protective order, restraining order or injunction, restraining order, or injunction in either the issuing or enforcing State, tribal or territorial jurisdiction, if such publication would be likely to publicly reveal the identity or location of the party protected under such order. A State, Indian tribe, or territory may share court-generated and law enforcement-generated information contained in secure, governmental registries for protection order enforcement purposes.

**(e) TRIBAL COURT JURISDICTION.—**

For purposes of this section, a court of an Indian tribe shall have full civil jurisdiction to issue and enforce protection orders involving any person, including the authority to enforce any orders through civil contempt proceedings, to exclude violators from Indian land, and to use other appropriate mechanisms, in matters arising anywhere in the Indian country of the Indian tribe (as defined in section 1151) or otherwise within the authority of the Indian tribe.

**18 U.S. Code § 2262.** ***Interstate violation of protection order.***

**(a) OFFENSES.—**

**(1) TRAVEL OR CONDUCT OF OFFENDER.—** A person who travels in interstate or foreign commerce, or enters or leaves Indian country or is present within the special maritime and territorial jurisdiction of the United States, with the intent to engage in conduct that violates the portion of a protection order that prohibits or provides protection against violence, threats, or harassment against, contact or communication with, or physical proximity to, another person or the pet, service, animal, emotional support animal, or horse of that person, or that would violate such a portion of a protection order in the jurisdiction in which the order was issued, and subsequently engages in such conduct, shall be punished as provided in subsection (b).

**(2) CAUSING TRAVEL OF VICTIM.—** A person who causes another person to travel in interstate or foreign commerce or to enter or leave Indian country by force, coercion, duress, or fraud, and in the course of, as a result of, or to facilitate such conduct or travel engages in conduct that violates the portion of a protection order that prohibits or provides protection against violence, threats, or harassment against, contact or communication with, or physical proximity to, another person or the pet, service animal, emotional support animal, or horse of that person, or that would violate such a portion of a protection order in the jurisdiction in which the order was issued, shall be punished as provided in subsection (b).

**(b) PENALTIES.—** A person who violates this section shall be fined under this title, imprisoned—

**(1)** for life or any term of years, if death of the victim results;

**(2)** for not more than 20 years if permanent disfigurement or life threatening bodily injury to the victim results;

**(3)** for not more than 10 years, if serious bodily injury to the victim results or if the offender uses a dangerous weapon during the offense;

**(4)** as provided for the applicable conduct under chapter 109A if the offense would constitute an offense under chapter 109A (without regard to whether the offense was committed in the special maritime and territorial jurisdiction of the United States or in a Federal prison); and

**(5)** for not more than 5 years, in any other case, including any case in which the offense is committed against a pet, service animal, emotional support animal, or horse, or both fined and imprisoned.

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**Rule 65, Federal Rules of Civil Procedure.** ***Injunctions and Restraining Orders.***

(a) PRELIMINARY INJUNCTION.

(1) *Notice.* The court may issue a preliminary injunction only on notice to the adverse party.

(2) *Consolidating the Hearing with the Trial on the Merits.* Before or after beginning the hearing on a motion for a preliminary injunction, the court may advance the trial on the merits and consolidate it with the hearing. Even when consolidation is not ordered, evidence that is received on the motion and that would be admissible at trial becomes part of the trial record and need not be repeated at trial. But the court must preserve any party's right to a jury trial.

(b) TEMPORARY RESTRAINING ORDER.

(1) *Issuing Without Notice.* The court may issue a temporary restraining order without written or oral notice to the adverse party or its attorney only if:

(A) 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

(B) the movant's attorney certifies in writing any efforts made to give notice and the reasons why it should not be required.

(2) *Contents; Expiration.* Every temporary restraining order issued without notice must state the date and hour it was issued; describe the injury and state why it is irreparable; state why the order was issued without notice; and be promptly filed in the clerk's office and entered in the record. The order expires at the time after entry—not to exceed 14 days—that the court sets, unless before that time the court, for good cause, extends it for a like period or the adverse party consents to a longer extension. The

reasons for an extension must be entered in the record.

(3) *Expediting the Preliminary - Injunction Hearing*. If the order is issued without notice, the motion for a preliminary injunction must be set for hearing at the earliest possible time, taking precedence over all other matters except hearings on older matters of the same character. At the hearing, the party who obtained the order must proceed with the motion; if the party does not, the court must dissolve the order.

(4) *Motion to Dissolve*. On 2 days' notice to the party who obtained the order without notice—or on shorter notice set by the court—the adverse party may appear and move to dissolve or modify the order. The court must then hear and decide the motion as promptly as justice requires.

(c) SECURITY. The court may issue a preliminary injunction or a temporary restraining order only if the movant gives security in an amount that the court considers proper to pay the costs and damages sustained by any party found to have been wrongfully enjoined or restrained. The United States, its officers, and its agencies are not required to give security.

(d) CONTENTS AND SCOPE OF EVERY INJUNCTION AND RESTRAINING ORDER.

(1) *Contents*. Every order granting an injunction and every restraining order must:

(A) state the reasons why it issued;

(B) state its terms specifically; and

(C) describe in reasonable detail—and not by referring to the complaint or other document—the act or acts restrained or required.

(2) *Persons Bound*. The order binds only the following who receive actual notice of it by personal service or otherwise:

(A) the parties;

(B) the parties' officers, agents, servants, employees, and attorneys; and

(C) other persons who are in active concert or participation with anyone described in Rule 65(d)(2)(A) or (B).

(e) OTHER LAWS NOT MODIFIED. These rules do not modify the following:

(1) any federal statute relating to temporary restraining orders or preliminary injunctions in actions affecting employer and employee;

(2) 28 U.S.C. §2361, which relates to preliminary injunctions in actions of interpleader or in the nature of interpleader; or

(3) 28 U.S.C. §2284, which relates to actions that must be heard and decided by a three-judge district court.

(f) COPYRIGHT IMPOUNDMENT. This rule applies to copyright-impoundment proceedings.

**Rule 37 of Federal Rules of Civil Procedure.** ***Failure to Make Disclosures or to Cooperate in Discovery; Sanctions.***

(a) MOTION FOR AN ORDER COMPELLING DISCLOSURE OR DISCOVERY.

(1) *In General.* On notice to other parties and all affected persons, a party may move for an order compelling disclosure or discovery. The motion must include a certification that the movant has in good faith conferred or attempted to confer with the person or party failing to make disclosure or discovery in an effort to obtain it without court action.

(2) *Appropriate Court.* A motion for an order to a party must be made in the court where the action is pending. A motion for an order to a nonparty must be made in the court where the discovery is or will be taken.

(3) *Specific Motions.*

(A) *To Compel Disclosure.* If a party fails to make a disclosure required by Rule 26(a), any other party may move to compel disclosure and for appropriate sanctions.

(B) *To Compel a Discovery Response.* A party seeking discovery may move for an order compelling an answer, designation, production, or inspection. This motion may be made if:

(i) a deponent fails to answer a question asked under Rule 30 or 31;

(ii) a corporation or other entity fails to make a designation under Rule 30(b)(6) or 31(a)(4);

(iii) a party fails to answer an interrogatory submitted under Rule 33; or

(iv) a party fails to produce documents or fails to respond that inspection will be permitted—or fails to permit inspection—as requested under Rule 34.

(C) *Related to a Deposition.* When taking an oral deposition, the party asking a question may complete or adjourn the examination before moving for an order.

(4) *Evasive or Incomplete Disclosure, Answer, or Response.* For purposes of this subdivision (a), an evasive or incomplete disclosure, answer, or response must be treated as a failure to disclose, answer, or respond.

(5) *Payment of Expenses; Protective Orders.*

(A) *If the Motion Is Granted (or Disclosure or Discovery Is Provided After Filing).* If the motion is granted—or if the disclosure or requested discovery is provided after the motion was filed—the court must, after giving an opportunity to be heard, require the party or deponent whose conduct necessitated the motion, the party or attorney advising that conduct, or both to pay the movant's reasonable expenses incurred in making the motion, including attorney's fees. But the court must not order this payment if:

(i) the movant filed the motion before attempting in good faith to obtain the disclosure or discovery without court action;

(ii) the opposing party's nondisclosure, response, or objection was substantially justified; or

(iii) other circumstances make an award of expenses unjust.

(B) *If the Motion Is Denied.* If the motion is denied, the court may issue any protective order authorized under Rule 26(c) and must, after giving an opportunity to be heard, require the movant, the attorney filing the motion, or both to pay the party or deponent who opposed the motion its reasonable expenses incurred in opposing the motion, including attorney's fees. But the court must not order this payment if the motion was substantially justified or other circumstances make an award of expenses unjust.

(C) *If the Motion Is Granted in Part and Denied in Part.* If the motion is granted in part and denied in part, the court may issue any protective order authorized under Rule 26(c) and may, after giving an opportunity to be heard, apportion the reasonable expenses for the motion.

(b) FAILURE TO COMPLY WITH A COURT ORDER.

(1) *Sanctions Sought in the District Where the Deposition Is Taken.* If the court where the discovery is taken orders a deponent to be sworn or to answer a question and the deponent fails to obey, the failure may be treated as contempt of court. If a deposition-

related motion is transferred to the court where the action is pending, and that court orders a deponent to be sworn or to answer a question and the deponent fails to obey, the failure may be treated as contempt of either the court where the discovery is taken or the court where the action is pending.

(2) *Sanctions Sought in the District Where the Action Is Pending.*

(A) *For Not Obeying a Discovery Order.* If a party or a party's officer, director, or managing agent—or a witness designated under Rule 30(b)(6) or 31(a)(4)—fails to obey an order to provide or permit discovery, including an order under Rule 26(f), 35, or 37(a), the court where the action is pending may issue further just orders. They may include the following:

(i) directing that the matters embraced in the order or other designated facts be taken as established for purposes of the action, as the prevailing party claims;

(ii) prohibiting the disobedient party from supporting or opposing designated claims or defenses, or from introducing designated matters in evidence;

(iii) striking pleadings in whole or in part;

(iv) staying further proceedings until the order is obeyed;

(v) dismissing the action or proceeding in whole or in part;

(vi) rendering a default judgment against the disobedient party; or

(vii) treating as contempt of court the failure to obey any order except an order to submit to a physical or mental examination.

(B) *For Not Producing a Person for Examination*. If a party fails to comply with an order under Rule 35(a) requiring it to produce another person for examination, the court may issue any of the orders listed in Rule 37(b)(2)(A)(i)—(vi), unless the disobedient party shows that it cannot produce the other person.

(C) *Payment of Expenses*. Instead of or in addition to the orders above, the court must order the disobedient party, the attorney advising that party, or both to pay the reasonable expenses, including attorney's fees, caused by the failure, unless the failure was substantially justified or other circumstances make an award of expenses unjust.

(c) FAILURE TO DISCLOSE, TO SUPPLEMENT AN EARLIER RESPONSE, OR TO ADMIT.

(1) *Failure to Disclose or Supplement*. If a party fails to provide information or identify a witness as required by Rule 26(a) or (e), the party is not allowed to use that information or witness to supply evidence on a motion, at a hearing, or at a trial, unless the failure was substantially justified or is harmless. In addition to or instead of this sanction, the court, on motion and after giving an opportunity to be heard:

(A) may order payment of the reasonable expenses, including attorney's fees, caused by the failure;

(B) may inform the jury of the party's failure; and

(C) may impose other appropriate sanctions, including any of the orders listed in Rule 37(b)(2)(A)(i)—(vi).

(2) *Failure to Admit.* If a party fails to admit what is requested under Rule 36 and if the requesting party later proves a document to be genuine or the matter true, the requesting party may move that the party who failed to admit pay the reasonable expenses, including attorney's fees, incurred in making that proof. The court must so order unless:

(A) the request was held objectionable under Rule 36(a);

(B) the admission sought was of no substantial importance;

(C) the party failing to admit had a reasonable ground to believe that it might prevail on the matter; or

(D) there was other good reason for the failure to admit.

(d) PARTY'S FAILURE TO ATTEND ITS OWN DEPOSITION, SERVE ANSWERS TO INTERROGATORIES, OR RESPOND TO A REQUEST FOR INSPECTION.

(1) *In General.*

(A) *Motion; Grounds for Sanctions.* The court where the action is pending may, on motion, order sanctions if:

(i) a party or a party's officer, director, or managing agent—or a person designated under Rule 30(b)(6) or 31(a)(4)—fails, after being served with proper notice, to appear for that person's deposition; or

(ii) a party, after being properly served with interrogatories under Rule 33 or a request for inspection under Rule 44, fails to serve its answers, objections, or written response.

(B) *Certification.* A motion for sanctions for failing to answer or respond must include a certification that the movant has in good faith conferred or attempted to confer with the party failing to act in an effort to obtain the answer or response without court action.

(2) *Unacceptable Excuse for Failing to Act.* A failure described in Rule 37(d)(1)(A) is not excused on the ground that the discovery sought was objectionable, unless the party failing to act has a pending motion for a protective order under Rule 26(c).

(3) *Types of Sanctions.* Sanctions may include any of the orders listed in Rule 37(b)(2)(A)(i)—(vi). Instead of or in addition to these sanctions, the court must require the party failing to act, the attorney advising that party, or both to pay the reasonable expenses, including attorney's fees, caused by the

failure, unless the failure was substantially justified or other circumstances make an award of expenses unjust.

(e) FAILURE TO PRESERVE ELECTRONICALLY STORED INFORMATION. If electronically stored information that should have been preserved in the anticipation or conduct of litigation is lost because a party failed to take reasonable steps to preserve it, and it cannot be restored or replaced through additional discovery, the court:

(1) upon finding prejudice to another party from loss of the information, may order measures no greater than necessary to cure the prejudice; or

(2) only upon finding that the party acted with the intent to deprive another party of the information's use in the litigation may:

(A) presume that the lost information was unfavorable to the party;

(B) instruct the jury that it may or must presume the information was unfavorable to the party; or

(C) dismiss the action or enter a default judgment.

(f) FAILURE TO PARTICIPATE IN FRAMING A DISCOVERY PLAN. If a party or its attorney fails to participate in good faith in developing and submitting a proposed discovery plan as required by Rule 26(f), the court may, after giving an opportunity to be heard, require that party or attorney to pay to any other party the reasonable expenses, including attorney's fees, caused by the failure.

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**28 U.S. Code § 1927.** ***Counsel's liability for excessive costs.***

Any attorney or other person admitted to conduct cases in any court of the United States or any Territory thereof who so multiplies the proceedings in any case unreasonably and vexatiously may be required by the court to satisfy personally the excess costs, expenses, and attorneys' fees reasonably incurred because of such conduct.

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**Connecticut General Statutes 46b-15.** ***Relief from physical abuse, stalking or pattern of threatening by family or household member.***

(a) Any family or household member, as defined in section 46b-38a, who has been subjected to a continuous threat of present physical pain or physical injury, stalking or a pattern of threatening, including, but not limited to, a pattern of threatening, as described in section 53a-62, by another family or household member may make an application to the Superior Court for relief under this section. The court shall provide any person who applies for relief under this section with the information set forth in section 46b-15b.

(b) The application form shall allow the applicant, at the applicant's option, to indicate whether the

respondent holds a permit to carry a pistol or revolver, an eligibility certificate for a pistol or revolver, a long gun eligibility certificate or an ammunition certificate or possesses one or more firearms or ammunition. The application shall be accompanied by an affidavit made under oath which includes a brief statement of the conditions from which relief is sought. Upon receipt of the application the court shall order that a hearing on the application be held not later than fourteen days from the date of the order except that, if the application indicates that the respondent holds a permit to carry a pistol or revolver, an eligibility certificate for a pistol or revolver, a long gun eligibility certificate or an ammunition certificate or possesses one or more firearms or ammunition, and the court orders an ex parte order, the court shall order that a hearing be held on the application not later than seven days from the date on which the ex parte order is issued. The court, in its discretion, may make such orders as it deems appropriate for the protection of the applicant and such dependent children or other persons as the court sees fit. In making such orders ex parte, the court, in its discretion, may consider relevant court records if the records are available to the public from a clerk of the Superior Court or on the Judicial Branch's Internet web site. In addition, at the time of the hearing, the court, in its discretion, may also consider a report prepared by the family services unit of the Judicial Branch that may include, as available: Any existing or prior orders of protection obtained from the protection order registry; information on any pending criminal case or past criminal case in which the respondent was convicted of a violent crime; any outstanding arrest warrant for the respondent; and the respondent's level of risk based on a risk assessment tool utilized by the

Court Support Services Division. The report may also include information pertaining to any pending or disposed family matters case involving the applicant and respondent. Any report provided by the Court Support Services Division to the court shall also be provided to the applicant and respondent. Such orders may include temporary child custody or visitation rights, and such relief may include, but is not limited to, an order enjoining the respondent from (1) imposing any restraint upon the person or liberty of the applicant; (2) threatening, harassing, assaulting, molesting, sexually assaulting or attacking the applicant; or (3) entering the family dwelling or the dwelling of the applicant. Such order may include provisions necessary to protect any animal owned or kept by the applicant including, but not limited to, an order enjoining the respondent from injuring or threatening to injure such animal. If an applicant alleges an immediate and present physical danger to the applicant, the court may issue an ex parte order granting such relief as it deems appropriate. If a postponement of a hearing on the application is requested by either party and granted, the ex parte order shall not be continued except upon agreement of the parties or by order of the court for good cause shown. If a hearing on the application is scheduled or an ex parte order is granted and the court is closed on the scheduled hearing date, the hearing shall be held on the next day the court is open and any such ex parte order shall remain in effect until the date of such hearing. If the applicant is under eighteen years of age, a parent, guardian or responsible adult who brings the application as next friend of the applicant may not speak on the applicant's behalf at such hearing unless there is good cause shown as to why the applicant is

unable to speak on his or her own behalf, except that nothing in this subsection shall preclude such parent, guardian or responsible adult from testifying as a witness at such hearing. As used in this subsection, "violent crime" includes: (A) An incident resulting in physical harm, bodily injury or assault; (B) an act of threatened violence that constitutes fear of imminent physical harm, bodily injury or assault, including, but not limited to, stalking or a pattern of threatening; (C) verbal abuse or argument if there is a present danger and likelihood that physical violence will occur; and (D) cruelty to animals as set forth in section 53-247.

(c) If the court issues an ex parte order pursuant to subsection (b) of this section and service has not been made on the respondent in conformance with subsection (h) of this section, upon request of the applicant, the court shall, based on the information contained in the original application, extend any ex parte order for an additional period not to exceed fourteen days from the originally scheduled hearing date. The clerk shall prepare a new order of hearing and notice containing the new hearing date, which shall be served upon the respondent in accordance with the provisions of subsection (h) of this section.

(d) Any ex parte restraining order entered under subsection (b) of this section in which the applicant and respondent are spouses, or persons who have a dependent child or children in common and who live together, may include, if no order exists, and if necessary to maintain the safety and basic needs of the applicant or the dependent child or children in common of the applicant and respondent, in addition to any orders authorized under subsection (b) of this section, any of the following: (1) An order prohibiting the

respondent from (A) taking any action that could result in the termination of any necessary utility services or necessary services related to the family dwelling or the dwelling of the applicant, (B) taking any action that could result in the cancellation, change of coverage or change of beneficiary of any health, automobile or homeowners insurance policy to the detriment of the applicant or the dependent child or children in common of the applicant and respondent, or (C) transferring, encumbering, concealing or disposing of specified property owned or leased by the applicant; or (2) an order providing the applicant with temporary possession of an automobile, checkbook, documentation of health, automobile or homeowners insurance, a document needed for purposes of proving identity, a key or other necessary specified personal effects.

(e) At the hearing on any application under this section, if the court grants relief pursuant to subsection (b) of this section and the applicant and respondent are spouses, or persons who have a dependent child or children in common and who live together, and if necessary to maintain the safety and basic needs of the applicant or the dependent child or children in common of the applicant and respondent, any orders entered by the court may include, in addition to the orders authorized under subsection (b) of this section, any of the following: (1) An order prohibiting the respondent from (A) taking any action that could result in the termination of any necessary utility services or services related to the family dwelling or the dwelling of the applicant, (B) taking any action that could result in the cancellation, change of coverage or change of beneficiary of any health, automobile or homeowners insurance policy to the detriment of the applicant or

the dependent child or children in common of the applicant and respondent, or (C) transferring, encumbering, concealing or disposing of specified property owned or leased by the applicant; (2) an order providing the applicant with temporary possession of an automobile, checkbook, documentation of health, automobile or homeowners insurance, a document needed for purposes of proving identity, a key or other necessary specified personal effects; or (3) an order that the respondent: (A) Make rent or mortgage payments on the family dwelling or the dwelling of the applicant and the dependent child or children in common of the applicant and respondent, (B) maintain utility services or other necessary services related to the family dwelling or the dwelling of the applicant and the dependent child or children in common of the applicant and respondent, (C) maintain all existing health, automobile or homeowners insurance coverage without change in coverage or beneficiary designation, or (D) provide financial support for the benefit of any dependent child or children in common of the applicant and the respondent, provided the respondent has a legal duty to support such child or children and the ability to pay. The court shall not enter any order of financial support without sufficient evidence as to the ability to pay, including, but not limited to, financial affidavits. If at the hearing no order is entered under this subsection or subsection (d) of this section, no such order may be entered thereafter pursuant to this section. Any order entered pursuant to this subsection shall not be subject to modification and shall expire one hundred twenty days after the date of issuance or upon issuance of a superseding order, whichever occurs first. Any amounts not paid or collected under this subsection or subsection (d) of this section may be

preserved and collectible in an action for dissolution of marriage, custody, paternity or support.

(f) Every order of the court made in accordance with this section shall contain the following language: (1) "This order may be extended by the court beyond one year. In accordance with section 53a-107 of the Connecticut general statutes, entering or remaining in a building or any other premises in violation of this order constitutes criminal trespass in the first degree. This is a criminal offense punishable by a term of imprisonment of not more than one year, a fine of not more than two thousand dollars or both."; and (2) "In accordance with section 53a-223b of the Connecticut general statutes, any violation of subparagraph (A) or (B) of subdivision (2) of subsection (a) of section 53a-223b constitutes criminal violation of a restraining order which is punishable by a term of imprisonment of not more than five years, a fine of not more than five thousand dollars, or both. Additionally, any violation of subparagraph (C) or (D) of subdivision (2) of subsection (a) of section 53a-223b constitutes criminal violation of a restraining order which is punishable by a term of imprisonment of not more than ten years, a fine of not more than ten thousand dollars, or both.".

(g) No order of the court shall exceed one year, except that an order may be extended by the court upon motion of the applicant for such additional time as the court deems necessary. If the respondent has not appeared upon the initial application, service of a motion to extend an order may be made by first-class mail directed to the respondent at the respondent's last-known address.

(h) (1) The applicant shall cause notice of the hearing pursuant to subsection (b) of this section and a copy of the application and the applicant's affidavit and of any ex parte order issued pursuant to subsection (b) of this section to be served on the respondent not less than three days before the hearing. The cost of such service shall be paid for by the Judicial Branch.

(2) When (A) an application indicates that a respondent holds a permit to carry a pistol or revolver, an eligibility certificate for a pistol or revolver, a long gun eligibility certificate or an ammunition certificate or possesses one or more firearms or ammunition, and (B) the court has issued an ex parte order pursuant to this section, the proper officer responsible for executing service shall, whenever possible, provide in-hand service and, prior to serving such order, shall (i) provide notice to the law enforcement agency for the town in which the respondent will be served concerning when and where the service will take place, and (ii) send, or cause to be sent by facsimile or other means, a copy of the application, the applicant's affidavit, the ex parte order and the notice of hearing to such law enforcement agency, and (iii) request that a police officer from the law enforcement agency for the town in which the respondent will be served be present when service is executed by the proper officer. Upon receiving a request from a proper officer under the provisions of this subdivision, the law enforcement agency for the town in which the respondent will be served may designate a police officer to be present when service is executed by the proper officer.

(3) Upon the granting of an ex parte order, the clerk of the court shall provide two copies of the order to the applicant. Upon the granting of an order after notice

and hearing, the clerk of the court shall provide two copies of the order to the applicant and a copy to the respondent. Every order of the court made in accordance with this section after notice and hearing shall be accompanied by a notification that is consistent with the full faith and credit provisions set forth in 18 USC 2265(a), as amended from time to time. Immediately after making service on the respondent, the proper officer shall (A) send or cause to be sent, by facsimile or other means, a copy of the application, or the information contained in such application, stating the date and time the respondent was served, to the law enforcement agency or agencies for the town in which the applicant resides, the town in which the applicant is employed and the town in which the respondent resides, and (B) as soon as possible, but not later than two hours after the time that service is executed, input into the Judicial Branch's Internet-based service tracking system the date, time and method of service. If, prior to the date of the scheduled hearing, service has not been executed, the proper officer shall input into such service tracking system that service was unsuccessful. The clerk of the court shall send, by facsimile or other means, a copy of any ex parte order and of any order after notice and hearing, or the information contained in any such order, to the law enforcement agency or agencies for the town in which the applicant resides, the town in which the applicant is employed and the town in which the respondent resides, within forty-eight hours of the issuance of such order. If the victim, or victim's minor child protected by such order, is enrolled in a public or private elementary or secondary school, including a technical education and career school, or an institution of higher education, as defined in section 10a-55, the

clerk of the court shall, upon the request of the victim, send, by facsimile or other means, a copy of such ex parte order or of any order after notice and hearing, or the information contained in any such order, to such school or institution of higher education, the president of any institution of higher education at which the victim, or victim's minor child protected by such order, is enrolled and the special police force established pursuant to section 10a-156b, if any, at the institution of higher education at which the victim, or victim's minor child protected by such order, is enrolled, if the victim provides the clerk with the name and address of such school or institution of higher education.

(i) A caretaker who is providing shelter in his or her residence to a person sixty years or older shall not be enjoined from the full use and enjoyment of his or her home and property. The Superior Court may make any other appropriate order under the provisions of this section.

(j) When a motion for contempt is filed for violation of a restraining order, there shall be an expedited hearing. Such hearing shall be held within five court days of service of the motion on the respondent, provided service on the respondent is made not less than twenty-four hours before the hearing. If the court finds the respondent in contempt for violation of an order, the court may impose such sanctions as the court deems appropriate.

(k) An action under this section shall not preclude the applicant from seeking any other civil or criminal relief.

(l) For purposes of this section, "police officer" means a state police officer or a sworn member of a municipal

police department and "law enforcement agency" means the Division of State Police within the Department of Emergency Services and Public Protection or any municipal police department.

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**Connecticut General Statutes, § 45a-717, (a) through (k).** ***Termination of parental rights. Conduct of hearing. Investigation and report. Grounds for termination.***

(a) At the hearing held on any petition for the termination of parental rights filed in the Court of Probate under section 45a-715, or filed in the Superior Court under section 17a-112, or transferred to the Superior Court from the Court of Probate under section 45a-715, any party to whom notice was given shall have the right to appear and be heard with respect to the petition. If a parent who is consenting to the termination of such parent's parental rights appears at the hearing on the petition for termination of parental rights, the court shall explain to the parent the meaning and consequences of termination of parental rights. Nothing in this subsection shall be construed to require the appearance of a consenting parent at the hearing regarding the termination of such parent's parental rights except as otherwise provided by court order.

(b) If a respondent parent appears without counsel, the court shall inform such respondent parent of his or her right to counsel and upon request, if he or she is unable to pay for counsel, shall appoint counsel to represent

such respondent parent. No respondent parent may waive counsel unless the court has first explained the nature and meaning of a petition for the termination of parental rights. Unless the appointment of counsel is required under section 46b-136, the court may appoint counsel to represent or appear on behalf of any child in a hearing held under this section to speak on behalf of the best interests of the child. If the respondent parent is unable to pay for his or her own counsel or if the child or the parent or guardian of the child is unable to pay for the child's counsel, in the case of a Superior Court matter, the reasonable compensation of counsel appointed for the respondent parent or the child shall be established by, and paid from funds appropriated to, the Judicial Department and, in the case of a Probate Court matter, the reasonable compensation of counsel appointed for the respondent parent or the child shall be established by, and paid from funds appropriated to, the Judicial Department, however, in the case of a Probate Court matter, if funds have not been included in the budget of the Judicial Department for such purposes, such compensation shall be established by the Probate Court Administrator and paid from the Probate Court Administration Fund.

(c) The court shall, if a claim for paternity has been filed in accordance with section 46b-172a, continue the hearing under the provisions of this section until the claim for paternity is adjudicated, provided the court may combine the hearing on the claim for paternity with the hearing on the termination of parental rights petition.

(d) Upon finding at the hearing or at any time during the pendency of the petition that reasonable cause exists to warrant an examination, the court, on its own

motion or on motion by any party, may order the child to be examined at a suitable place by a physician, psychiatrist or licensed clinical psychologist appointed by the court. The court may also order examination of a parent or custodian whose competency or ability to care for a child before the court is at issue. The expenses of any examination if ordered by the court on its own motion shall be paid for by the petitioner or, if ordered on motion by a party, shall be paid for by the party moving for such an examination unless such party or petitioner is unable to pay such expenses in which case, they shall be paid for by funds appropriated to the Judicial Department, however, in the case of a Probate Court matter, if funds have not been included in the budget of the Judicial Department for such purposes, such expenses shall be established by the Probate Court Administrator and paid from the Probate Court Administration Fund. The court may consider the results of the examinations in ruling on the merits of the petition.

(e) (1) The court may, and in any contested case shall, request the Commissioner of Children and Families or any child-placing agency licensed by the commissioner to make an investigation and written report to it, within ninety days from the receipt of such request. The report shall indicate the physical, mental and emotional status of the child and shall contain such facts as may be relevant to the court's determination of whether the proposed termination of parental rights will be in the best interests of the child, including the physical, mental, social and financial condition of the biological parents, and any other factors which the commissioner or such child-placing agency finds relevant to the court's determination of whether the proposed termination will be in the best interests of the

child. (2) If such a report has been requested, upon the expiration of such ninety-day period or upon receipt of the report, whichever is earlier, the court shall set a day for a hearing not more than thirty days thereafter. The court shall give reasonable notice of such adjourned hearing to all parties to the first hearing, including the child, if over fourteen years of age, and to such other persons as the court shall deem appropriate. (3) The report shall be admissible in evidence, subject to the right of any interested party to require that the person making it appear as a witness, if available, and subject himself to examination.

(f) At the adjourned hearing or at the initial hearing where no investigation and report has been requested, the court may approve a petition for termination of parental rights based on consent filed pursuant to this section terminating the parental rights and may appoint a guardian of the person of the child, or if the petitioner requests, the court may appoint a statutory parent, if it finds, upon clear and convincing evidence that (1) the termination is in the best interest of the child and (2) such parent has voluntarily and knowingly consented to termination of the parent's parental rights with respect to such child. If the court denies a petition for termination of parental rights based on consent, it may refer the matter to an agency to assess the needs of the child, the care the child is receiving and the plan of the parent for the child. Consent for the termination of the parental right of one parent does not diminish the parental rights of the other parent of the child nor does it relieve the other parent of the duty to support the child.

(g) At the adjourned hearing or at the initial hearing where no investigation and report has been requested,

the court may approve a petition terminating the parental rights and may appoint a guardian of the person of the child, or, if the petitioner requests, the court may appoint a statutory parent, if it finds, upon clear and convincing evidence, that (1) the termination is in the best interest of the child, and (2) (A) the child has been abandoned by the parent in the sense that the parent has failed to maintain a reasonable degree of interest, concern or responsibility as to the welfare of the child; (B) the child has been denied, by reason of an act or acts of parental commission or omission, including, but not limited to, sexual molestation and exploitation, severe physical abuse or a pattern of abuse, the care, guidance or control necessary for the child's physical, educational, moral or emotional well-being. Nonaccidental or inadequately explained serious physical injury to a child shall constitute prima facie evidence of acts of parental commission or omission sufficient for the termination of parental rights; (C) there is no ongoing parent-child relationship which is defined as the relationship that ordinarily develops as a result of a parent having met on a continuing, day-to-day basis the physical, emotional, moral and educational needs of the child and to allow further time for the establishment or reestablishment of the parent-child relationship would be detrimental to the best interests of the child; (D) a child of the parent (i) was found by the Superior Court or the Probate Court to have been neglected, abused or uncared for, as those terms are defined in section 46b-120, in a prior proceeding, or (ii) is found to be neglected, abused or uncared for and has been in the custody of the commissioner for at least fifteen months and such parent has been provided specific steps to take to facilitate the return of the child to the parent

pursuant to section 46b-129 and has failed to achieve such degree of personal rehabilitation as would encourage the belief that within a reasonable time, considering the age and needs of the child, such parent could assume a responsible position in the life of the child; (E) a child of the parent, who is under the age of seven years is found to be neglected, abused or uncared for, and the parent has failed, is unable or is unwilling to achieve such degree of personal rehabilitation as would encourage the belief that within a reasonable amount of time, considering the age and needs of the child, such parent could assume a responsible position in the life of the child and such parent's parental rights of another child were previously terminated pursuant to a petition filed by the Commissioner of Children and Families; (F) the parent has killed through deliberate, nonaccidental act another child of the parent or has requested, commanded, importuned, attempted, conspired or solicited such killing or has committed an assault, through deliberate, nonaccidental act that resulted in serious bodily injury of another child of the parent; (G) except as provided in subsection (h) of this section, the parent committed an act that constitutes sexual assault as described in section 53a-70, 53a-70a, 53a-70c, 53a-71, 53a-72a, 53a-72b or 53a-73a or compelling a spouse or cohabitor to engage in sexual intercourse by the use of force or by the threat of the use of force as described in section 53a-70b, if such act resulted in the conception of the child; or (H) the parent was finally adjudged guilty of sexual assault under section 53a-70, 53a-70a, 53a-70c, 53a-71, 53a-72a, 53a-72b or 53a-73a or of compelling a spouse or cohabitor to engage in sexual intercourse by the use of force or by the threat of the use of force under section 53a-70b, if such act resulted in the conception of the child.

(h) If the petition alleges an act described in subparagraph (G) of subdivision (2) of subsection (g) of this section that resulted in the conception of the child as a basis for termination of parental rights and the court determines that the respondent parent was finally adjudged not guilty of such act of sexual assault under section 53a-70, 53a-70a, 53a-70c, 53a-71, 53a-72a, 53a-72b or 53a-73 or of compelling a spouse or cohabitor to engage in sexual intercourse by the use of force or by the threat of the use of force under section 53a-70b, the court shall transfer the case to the Superior Court and the clerk of the Probate Court shall transmit to the clerk of the Superior Court to which the case was transferred, the original files and papers in the case. The Superior Court, upon hearing after notice as provided in this section and section 45a-716, may grant the petition as provided in this section.

(i) Except in the case where termination is based on consent, in determining whether to terminate parental rights under this section, the court shall consider and shall make written findings regarding: (1) The timeliness, nature and extent of services offered, provided and made available to the parent and the child by a child-placing agency to facilitate the reunion of the child with the parent; (2) the terms of any applicable court order entered into and agreed upon by any individual or child-placing agency and the parent, and the extent to which all parties have fulfilled their obligations under such order; (3) the feelings and emotional ties of the child with respect to the child's parents, any guardian of the child's person and any person who has exercised physical care, custody or control of the child for at least one year and with whom the child has developed significant emotional ties; (4) the age of the child; (5) the efforts the parent has made

to adjust such parent's circumstances, conduct or conditions to make it in the best interest of the child to return the child to the parent's home in the foreseeable future, including, but not limited to, (A) the extent to which the parent has maintained contact with the child as part of an effort to reunite the child with the parent, provided the court may give weight to incidental visitations, communications or contributions and (B) the maintenance of regular contact or communication with the guardian or other custodian of the child; and (6) the extent to which a parent has been prevented from maintaining a meaningful relationship with the child by the unreasonable act or conduct of the other parent of the child, or the unreasonable act of any other person or by the economic circumstances of the parent.

(j) If the parental rights of only one parent are terminated, the remaining parent shall be sole parent and, unless otherwise provided by law, guardian of the person.

(k) In the case where termination of parental rights is granted, the guardian of the person or statutory parent shall report to the court within thirty days of the date judgment is entered on a case plan, as defined by the federal Adoption and Safe Families Act of 1997, as amended from time to time, for the child. At least every three months thereafter, such guardian or statutory parent shall make a report to the court on the implementation of the plan. The court may convene a hearing upon the filing of a report and shall convene a hearing for the purpose of reviewing the plan no more than twelve months from the date judgment is entered or from the date of the last permanency hearing held pursuant to subsection (k) of section 46b-129 if the

child or youth is in the care and custody of the Commissioner of Children and Families, whichever is earlier, and at least once a year thereafter until such time as any proposed adoption plan has become finalized. If the Commissioner of Children and Families is the statutory parent for the child, at such a hearing the court shall determine whether the department has made reasonable efforts to achieve the permanency plan. In the case where termination of parental rights is granted, the guardian of the person or statutory parent shall obtain the approval of the court prior to placing the child or youth for adoption outside the state. Before ordering or approving such placement, the court shall make findings concerning compliance with the provisions of section 17a-175. Such findings shall include, but not be limited to: (1) A finding that the state has received notice in writing from the receiving state, in accordance with subsection (d) of Article III of section 17a-175, indicating that the proposed placement does not appear contrary to the interests of the child, (2) the court has reviewed such notice, (3) whether or not an interstate compact study or other home study has been completed by the receiving state, and (4) if such a study has been completed, whether the conclusions reached by the receiving state as a result of such study support the placement.

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