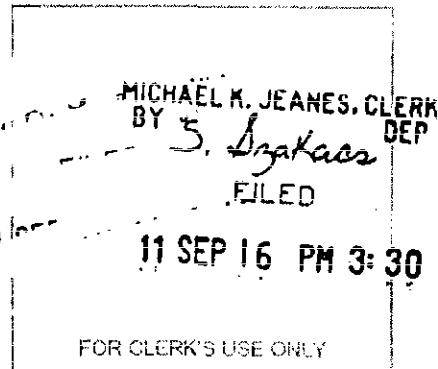


Person Filing: Gillespie, Shields & Durrant  
Address: 7319 W. 16th St. Suite 100  
City, State, Zip Code: Phoenix AZ 85020  
Daytime/Evening Telephone: 602-870-9706  
ATLAS Number (if applicable): \_\_\_\_\_  
Attorney Bar Number (if applicable): David L. Goldfeder  
Representing ☐ Self, Without a Lawyer or #023230  
Attorney for ☒ Petitioner or ☐ Respondent



**SUPERIOR COURT OF ARIZONA  
IN MARICOPA COUNTY**

Case Number: FC2011-093719

Desirée Capuano  
Name of Petitioner

Emergency  
**MOTION FOR PRE-DECREE  
TEMPORARY ORDER WITHOUT NOTICE  
FOR CHILD CUSTODY**

Richard Riess  
Name of Respondent

☒ Other: ~~Domestic Violence~~ Emergency

**I MAKE THE FOLLOWING STATEMENTS TO THE COURT UNDER OATH OR  
AFFIRMATION:**

1. MY NAME IS: Desirée Capuano  
(Name of Person asking for Emergency Order)

2. REASONS WHY I NEED THIS ORDER. Explain in detail the emergency facts which now exist, and what *irreparable injury* (serious or life-threatening injury or damage that cannot be prevented or undone) to you or the minor child(ren) that might occur without this Order (Use additional paper if necessary).

On 9-26-11, court date is set before Judge Hanna to determine divorce and custody matters in a continuation of a case that is being domesticated from California to Arizona. The father has been incarcerated since 2007.

☒ Check here if continued on attached page(s).

3. PEOPLE INVOLVED. This Motion concerns the following people:

Name of Mother: Desirée Capuano  
Name of Father: Richard Riess  
Name of Other Person: \_\_\_\_\_  
Name of Other Person: \_\_\_\_\_  
Name(s) of Children: G [REDACTED] Riess

**4. REQUIRED INFORMATION: NOTICE OR REASONS WHY NOTICE NOT ATTEMPTED.**

Actual Notice regarding a request that affects another party's rights concerning his or her minor children is normally required. Check the box to indicate whether you gave or attempted to give notice to any other parties or their attorneys.

☐ I GAVE or ATTEMPTED TO GIVE NOTICE TO THE OTHER PARTY AS FOLLOWS:

Explain when, how, and to whom you attempted to give notice.

\_\_\_\_\_  
 \_\_\_\_\_

☐ Check here if continued on attached page(s).

OR,

☒ I DID NOT ATTEMPT TO GIVE NOTICE BECAUSE:

If you checked this box you **MUST** explain what injury, loss or damage you or the minor child(ren) would suffer if you gave the other party advance notice of this Motion.

He lives in California

\_\_\_\_\_

☐ Check here if continued on attached page(s).

**5. TEMPORARY ORDERS WITH NOTICE.**

☒ I filed or I will file a "**Motion for Pre-Decree Temporary Orders with Notice**" in the Superior Court of Arizona in Maricopa County on this date: 8-24-11, and I have attached a copy to the Judicial Officer's copy and to the other party's copy of this Motion.

Or ☐ I have NOT filed a "**Motion for Temporary Orders with Notice**" and I understand that:

- temporary orders **without** notice expire in a matter of days, and
- if no temporary orders **with** notice have been issued by the Court before these orders expire, no court order will be in effect.

**Note:** You **cannot** file this "**Motion for Temporary Orders Without Notice**" unless you or the other party has already filed one of the following petitions:

**6. DIVORCE, LEGAL SEPARATION, ANNULMENT, CUSTODY OR OTHER PETITION:**

A. I or the other party filed in the Superior Court in Maricopa County a (check one box)

- ☒ "**Petition for Divorce, or Legal Separation, or Annulment**"  
☐ "**Petition for Paternity, and Custody**"  
☐ "**Petition for Custody/Parenting Time/Child Support**" (where paternity and/or support already established)

B. Date Petition was filed: 8-24-11

**7. INFORMATION ABOUT OTHER EMERGENCY CASES INVOLVING THE SAME PARTIES OR CHILDREN:** Check the boxes that apply and write in the information requested (next page).

Case No. \_\_\_\_\_

☒ **Current emergency cases:** To the best of my knowledge, there are no pending proceedings for emergency orders about these children in any other court. (If this is *not* a true statement, this Court may not be able to enter an Order and you may want to consult a lawyer for advice.)

☐ **Past emergency cases:** Either or both parties have filed for emergency court orders in the past. (If so, complete the following information. Use additional paper if necessary.)

**Names of Parties:** \_\_\_\_\_

**Date of Order, Judgment, Dismissal:** \_\_\_\_\_ **Case No.** \_\_\_\_\_

**Location of court** (city and state): \_\_\_\_\_

**Explain Type of Case:** (Juvenile, Criminal, Order of Protection, etc.) \_\_\_\_\_

**Explain what order or judgment said, or basis for dismissal:** \_\_\_\_\_

**8. ALL OTHER COURT CASES INVOLVING EITHER OR BOTH OF THE PARTIES:** Describe all other court cases that involve either or both of the parties, whether pending or not, including criminal cases. Complete all the information for each court order (use extra paper if necessary).

**Names of Parties:** Deziree Capucno Richard Riess

**Date of Order, Judgment, Dismissal:** 2-21-02 **Case No.** 4D042145

**Location of court** (city and state): Torrance, California

**Type of Case:** (Juvenile, Criminal, Order of Protection, etc.) Divorce

**Explain what order or judgment said, or basis for dismissal:** Awarded joint

legal and physical custody of common minor child.

**Status of Case Now:**

☐ **Final Order Entered; Case is Over.** Date Order/Judgment signed: \_\_\_\_\_

☐ **Hearing Date Set On** (date): \_\_\_\_\_ **at** (time): \_\_\_\_\_

**Location/address:** \_\_\_\_\_

☒ **Other** (explain in detail): matter dismissed due to inactive on court calendar, file in archives.

Case No. \_\_\_\_\_

9. **ANY OTHER GOVERNMENT AGENCY INVOLVEMENT WITH EITHER OR BOTH THESE PARTIES, OR THESE CHILDREN:** State whether there have been or are any complaints with or investigations by any government agency, including Child Protective Services, involving the parties or the minor child(ren). If so, explain the agency, date, type of case, and status of case.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

☐ Check here if continued on attached page(s).

10. **CRIMES OF ANY PARTY:** Explain here if any party involved with this case has been charged with committing a **dangerous crime** including child molestation or domestic violence:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

☐ Check here if continued on attached page(s).

**I MAKE THE FOLLOWING REQUESTS TO THE COURT:**

1. For a **"Temporary Order Without Notice"** as follows: Check the boxes that apply:

☒ Awarding me Temporary Custody of the minor child(ren) until a full court hearing.

☐ Other (explain): \_\_\_\_\_

2. For a court hearing when the parties can testify about the facts related to this **"Motion for a Temporary Order Without Notice"** and any **"Motion for Temporary Orders,"** so that the judge can decide whether to continue or modify the terms of the Emergency Order.

3. For any other order that is in the best interests of the minor children named above.

**OATH OR AFFIRMATION AND VERIFICATION**

I swear or affirm that the information on this document is true and correct under penalty of perjury.

Brian Cymer  
Signature

9-16-11  
Date

Sworn to or Affirmed before me this: \_\_\_\_\_ by \_\_\_\_\_  
(date) Printed Name

My Commission Expires: SEP 16 2011  
Deputy Clerk or Notary Public S. Szakacs

**S. SZAKACS**  
**DEPUTY CLERK**

was released 2 weeks ago, is not a citizen of this country and is threatening to take his son prior to the 26th court date. He is threatening to come this weekend (9-17, 9-18). I believe that if the father takes the child, neither one will appear for the court date and the father will disappear with our child again and I will not see my son.

Father has been incarcerated for the past 4 years, being detained at the Dept of Corrections in Elou, AZ. Father was just released on Sept. 7th, 2011 and has moved back to California where he was served on Sept. 14, 2011 with the Ex Parte petition for Temporary Orders ~~and~~ filed with the court on Aug. 24, 2011 and order to appear.

Although there is a hearing set for Sept. 26, 2011, Mother is requesting she be awarded temporary sole custody of the minor child based on father's requesting visitation with

②

with his son on Sunday Sept. 18, stating that pursuant to the California Order, he is entitled to two weeks of parenting time.

Even though the Preliminary Injunction in place prevents father from removing the child from the state of Arizona, mother is fearful that if she allows visitation to occur, Father will ~~abandon~~ abscond the child as he has a history of doing so.

Mother is requesting she be awarded sole custody and Father's parenting time be suspended until the hearing scheduled for the 26th of September, 2001 and/or further order of the court.