

Richard Riess  
406 ½ E. Lincoln St.  
Carson, CA 90745  
310-518-0104  
Pro Per

MICHAEL K. JEANES, CLERK  
BY *[Signature]* DEP.  
FILED

11 NOV -9 PM 3:22

**IN THE SUPERIOR COURT OF THE STATE OF ARIZONA  
IN AND FOR THE COUNTY OF MARICOPA**

RICHARD RIESS,  
Petitioner,

vs.

DESIREE TOMLIN RIESS,  
Respondent.

Case No. FC 2011-093719

RESPONSE TO NOTICE OF NON-  
COMPLIANCE AND ACCELERATED  
REQUEST FOR TELEPHONIC CONFERENCE

ASSIGNED TO THE HONORABLE JOHN  
HANNAH

Petitioner, pro se, respectfully submits his response to Respondent's Notice of Non-Compliance and Accelerated Request for Telephonic Conference.

1. At the hearing on September 26, 2011 Petitioner stated that he had filed papers with the court in California regarding the custody of Gabriel. In fact, on September 21, 2011 Petitioner had filed a request for an ex parte hearing in the proceeding which was filed on December 21, 2001 and which was still pending as of September 26, 2011 (see Ex. 1). Petitioner did not claim, on September 26, 2011, that he had filed a new proceeding in the California court but, rather, that he *intended* to file a new proceeding within the next few days. Respondent's counsel requested the court prohibit Petitioner from doing so and the court responded that Petitioner was free to file any such proceedings in the California court.
2. As of October 6, 2011 Petitioner had forwarded a copy of all documents he had filed with the California court since September 26, 2011. Petitioner asserts the only documents filed by him in

the California Court between those dates are the Summons and Petition for Custody of Support of Minor Children (filed September 29, 2011), and the Order to Show Cause (filed October 4, 2011). Both of which were timely provided to Respondent and Respondent's counsel.

3. Respondent's counsel is incorrect in paragraph 3. On October 7, 2011 counsel received two sets of documents filed by Petitioner in the California court. First, a conformed copy of the Summons, and the Petition for Custody and Support of Minor Children (and supporting documents), which was filed on September 29, 2011. Second, a conformed copy of the Order to Show Cause (and supporting documents) which were filed on October 4, 2011. Petitioner's declaration that Respondent had filed an ex parte petition which was denied was based on information provided to Petitioner by Respondent at that time and on the information available on the Superior Court of Arizona's web site (see Ex. 2, Order of Protection entry filed 9/16/11). The information was true and correct to the best of Petitioner's knowledge at the time the declaration was made. Petitioner cannot respond to the other "mistruths" or "inaccurate details" alluded to in Respondent's notice because they are not listed with any specificity.
4. Respondent's counsel is incorrect in stating that Petitioner was not truthful and mislead the court (paragraph 4). As stated above (paragraph 1, herein) Petitioner *had* already filed documents with the California Court (in case YD042145) and further intended to commence new proceedings (case TD035397) which he did on September 29, 2011. Moreover, Petitioner does not concede that Arizona has jurisdiction over matters pertaining to the custody of Gabriel, because
  - a. Respondent commenced this proceeding while the same matter was pending before the Superior Court of California. A.R.S. § 25-1036 specifically precludes the commencement of custody proceedings if, at the time of such commencement, "a proceeding concerning the custody of the child has been commenced in a court of another state...". At the time

Respondent commenced this proceeding (August 11, 2011) a proceeding concerning the custody of Gabriel was already pending before the Superior Court of California. Statutory law required that the proceeding in California (YD042145) be disposed of **PRIOR** to commencement of the instant matter.

- b. Gabriel had not been residing in Arizona for at least six months as is required by the UCCJEA (A.R.S. § 25-1031).
- c. Gabriel is only in Arizona as a result of Respondent's gross misconduct and lack of concern for his well-being, by taking him out of his home state of California without providing any notice to Petitioner either before or after taking him (see A.R.S. § 25-1038). It should be noted that Respondent also did not provide Gabriel any notice prior to taking him out of his home and forcing him to start a new life in Arizona.

Petitioner is unclear what Respondent means by "...based on Respondent having domesticated this matter." It is Petitioner's understanding that only judgments and orders can be "domesticated" (for the purpose of enforcement in other jurisdictions), and that a pending matter, such as is the case here, would have to be transferred from the Superior Court of California to the Superior Court of Arizona. It is further Petitioner's understanding that in order to transfer a pending case to another state a request must be made, in the form of a motion, to the court before which the case is pending. No such motion was ever submitted to the Superior Court of California in case number YD042145 (see Ex. 3). Therefore, this matter was not transferred from California to Arizona as Respondent steadfastly claims.

- 5. Counsel is incorrect in paragraph 5. Pursuant to standard procedures in the Los Angeles Superior Court ex parte hearings are held the same day the request for such hearing is submitted. As of October 7, 2011 Petitioner had not yet submitted the request for the ex parte hearing and for that

reason the hearing had not been “scheduled” as claimed by Respondent. Petitioner stated, in his email to Respondent, that the hearing *would be held* on October 11, 2011 (see Ex. 4) because he intended to submit the request and hold the hearing on that day. Petitioner did not provide Respondent a copy of the ex parte documents filed because at that time he had not filed any such documents. After speaking with Respondent on October 9, 2011 Petitioner offered to postpone the ex parte hearing until October 18, 2011 to provide Respondent a reasonable opportunity to attend the hearing (see Ex. 5).

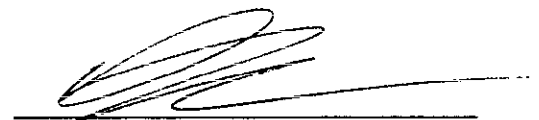
6. Respondent’s statement in paragraph 6, regarding contacting the California court and being “told there was a hearing scheduled for October 18, 2011” is a physical impossibility. Because ex parte requests are filed with the court the day of the hearing, there is absolutely no way the California court could have known, prior to 8:30 am on October 18, 2011, that Petitioner would be requesting a hearing at that time. Moreover, with respect to Respondent requesting a copy of the ex parte documents, she forwarded that request to Petitioner on October 14, 2011 (two business days prior to the hearing) at 3:00 pm. As Petitioner stated in his response to Respondent’s email it would not have been possible for her to receive them by mail in that short duration (see Ex. 6). Respondent’s statement that Petitioner “refused” to provide her a copy of the ex parte documents is also false. Petitioner did not refuse to provide the requested documents and, in fact, did so at the earliest reasonable opportunity.
7. Petitioner admits to having made the statement Respondent quotes in paragraph 7. Respondent is incorrect, though, in his allegation that “Once again, Petitioner was not truthful as when he filed the ex parte documents and when the hearing was.” The request for the ex parte hearing was filed with the Superior Court of California on October 18, 2011, (see Ex. 7) exactly as Petitioner has

consistently informed Respondent's counsel. Petitioner cannot fathom how counsel has inferred that Petitioner has not been truthful.

8. Petitioner respectfully contends that Respondent's statements in paragraph 8 are misguided. Petitioner provided Respondent more than seven day's notice of the ex parte hearing and on October 18, 2011 Respondent attended the hearing telephonically. At that time the Court rescheduled the ex parte/temporary orders hearing for November 8, 2011 and informed the parties that it would confer with the Court in Arizona to discuss and determine which Court shall have jurisdiction in this matter (as provided by Cal. Fam. Code § 3410; A.R.S. § 25-1010). Petitioner contends that Respondent knew of the hearing on October 18, 2011 because he notified her directly (see Ex. 5), not because she contacted the court and found out on her own as she appears to be implying.
9. Petitioner declares that he mailed a copy of the ex parte documents to Respondent at the earliest opportunity after having filed them with the court – specifically, a copy was mailed on October 19, 2011. Moreover, Petitioner spoke to Respondent directly via telephone on October 26, 2011 at approximately 7:20 pm, while writing this document and Respondent admitted that she did receive her copy of the documents on October 21 or 22, 2011. Respondent further stated that she forwards all legal correspondence she receives from Petitioner to her attorney, Mr. Goldfarb, and that she had already forwarded the documents in question to Mr. Goldfarb. Respondent's notice was filed with the court on October 25, 2011 – three days after she had received her copy of the ex parte documents. Respondent is correct that the parties are ordered to attend mediation in Torrance, CA on November 4, 2011.
10. Petitioner again disputes Respondent's allegations that Petitioner has failed to comply with any of the Court's orders and respectfully requests the Court deny Respondent's requests.

11. Petitioner requests the Court take notice that Respondent composed and filed her Notice of Non-Compliance immediately upon receiving an email from Petitioner expressing his concern his concern about Respondent's continued illegal recording and monitoring his telephone calls (Cal. Pen. Code § 632) with Gabriel, even after the Court order that she not do so; and her ongoing false statements to both the Arizona and California Courts (see Ex. 8). Petitioner believes Respondent has filed her Notice in bad faith and requests the Court impose appropriate sanctions against Respondent and her counsel for their deliberate abuse of the Court's time and resources.

Respectfully submitted this 26<sup>th</sup> day of October, 2011.

  
Richard Riess

**Certificate of Service**


Original mailed to:

1. Clerk  
Superior Court of Arizona  
222 E. Javelina Ave.  
Mesa, AZ 85210

One copy mailed to:

2. David Goldfarb (attorney for Respondent)  
Gillespie, Shields & Durrant  
7319 N. 16th St, Suite 100  
Phoenix, AZ 85020

Dated: 10-27-11

  
\_\_\_\_\_  
Richard Riess

---

## **Exhibit 1**



NAME, ADDRESS AND TELEPHONE NUMBER OF ATTORNEY OR PARTY WITHOUT ATTORNEY: Richard Riess 406 1/2 E. Lincoln St. Carson, CA 90745		STATE BAR NUMBER	<p><i>Reserved for Clerk's File Stamp</i></p> <p><b>CONFORMED COPY</b> OF ORIGINAL FILED Los Angeles Superior court</p> <p>SEP 21 2011</p> <p>John A. Clarke, Executive Officer/Clerk By E. Hill, Deputy</p>
ATTORNEY FOR (NAME): Richard Riess			
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES</b>			
COURT HOUSE ADDRESS: 825 Maple Ave., Torrance, CA 90503			
PETITIONER / PLAINTIFF: Richard Riess			
RESPONDENT / DEFENDANT: Desiree Tomlin Riess			
CHILD'S NAME: (If more than one child, please attach list) Gabriel Riess	CHILD'S DATE OF BIRTH: 09-27-2011 JAO	CASE NUMBER: YD042145	
DECLARATION OF EX PARTE NOTICE (Temporary Restraining Order)			RELATED CASES (IF ANY):

I, Richard Riess, declare that:  
(PRINT NAME)

**1) I informed the other party in this action that I would be seeking a temporary ~~restraining~~ order as follows:**

Person informed: Desiree Tomlin Riess Date and time informed: 09-18-2011

How informed: ☒ By telephone to the party  
☐ By telephone to the attorney  
☐ By personally informing:  
☒ Other: by email to the party

I informed the person listed above that I would be seeking a temporary ~~restraining~~ order in Dept. J of the Superior Court located at 825 Maple Ave, Torrance, CA 90503 on September 21, 2011 at 8:30 a.m.


**2) I told him/her the orders requested included, but were not limited to the following:**

- ☐ That he/she not annoy, attack, molest, strike, batter, harass, assault, contact or disturb the peace of Petitioner/Respondent.
- ☐ That he/she stay 100 yards away from Petitioner/Respondent and Petitioner's/Respondent's home.
- ☐ That he/she be ordered to immediately move out of Petitioner's/Respondent's house.
- ☒ That Petitioner/Respondent have custody of the minor children.
- ☐ That he/she have no visitation with the children pending hearing.
- ☒ Other: The she immediately return child to California and to Petitioner's care.

**3) I informed the Petitioner/Respondent that he/she should appear at the above time and place if he/she wished to be heard by the court.**

I declare the foregoing is true and correct under penalty of perjury under the laws of the State of California.

Date: 9-20-11

  
Signature of Declarant

NAME, ADDRESS AND TELEPHONE NUMBER OF ATTORNEY OR PARTY WITHOUT ATTORNEY: Richard Riess 406 1/2 E. Lincoln St. Carson, CA 90745		STATE BAR NUMBER	Reserved for Clerk's File Stamp
ATTORNEY FOR (NAME): Richard Riess			
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES</b>			
COURT HOUSE ADDRESS: 825 Maple Ave., Torrance, CA 90503			
PETITIONER / PLAINTIFF: Richard Riess			
RESPONDENT / DEFENDANT: Desiree Tomlin Riess			
CHILD'S NAME: Gabriel Riess	CHILD'S DATE OF BIRTH: 09-27-2011 <i>2000</i>	CASE NUMBER: YD042145	
DECLARATION RE: NOTICE OF EX PARTE REQUEST (NO NOTICE GIVEN) (Temporary Restraining Order)			RELATED CASES (IF ANY):

I, Richard Riess, declare that:  
(PRINT NAME)

1) I did not give notice to the other party in this action because:

- ☐ I was afraid that the violence would reoccur when I gave notice that I was asking for these orders.
- ☐ I was afraid that the other party would take the children out of the area before the order could be granted and served.
- ☐ I believe that giving notice would make the orders useless because the other party would:

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

2) I attempted and was unable to inform \_\_\_\_\_ or his/her attorney \_\_\_\_\_  
that I would be seeking a temporary restraining order. My attempts included \_\_\_\_\_

\_\_\_\_\_

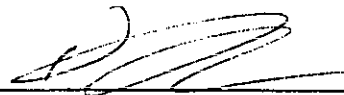
3) Other reason:

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

I declare that the above is true and correct, and that I executed this declaration at Torrance, California

9-20-11

DATE



SIGNATURE OF DECLARANT:

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): <b>Richard Riess</b> <b>406 1/2 E. Lincoln St.</b> <b>Carson, CA 90745</b>  TELEPHONE NO.: <b>310-518-0104</b> FAX NO. (Optional): E-MAIL ADDRESS (Optional): <b>richardriess@gmail.com</b> ATTORNEY FOR (Name): <b>Richard Riess</b>	FOR COURT USE ONLY			
SUPERIOR COURT OF CALIFORNIA, COUNTY OF <b>Los Angeles</b>  STREET ADDRESS: <b>825 Maple Ave.</b> MAILING ADDRESS: <b>825 Maple Ave.</b> CITY AND ZIP CODE: <b>Torrance, CA 90503</b> BRANCH NAME: <b>Southwest District</b>				
PETITIONER/PLAINTIFF: <b>Richard Riess</b> RESPONDENT/DEFENDANT: <b>Desiree Tomlin Riess</b>				
<table style="width: 100%;"> <tr> <td style="width: 33%;"> <b>ORDER TO SHOW CAUSE</b>  <input checked="" type="checkbox"/> <b>Child Custody</b>  <input type="checkbox"/> <b>Child Support</b>  <input type="checkbox"/> <b>Attorney Fees and Costs</b> </td> <td style="width: 33%;"> <input checked="" type="checkbox"/> <b>MODIFICATION</b>  <input type="checkbox"/> <b>Visitation</b>  <input type="checkbox"/> <b>Spousal Support</b> </td> <td style="width: 33%;"> <input type="checkbox"/> <b>Injunctive Order</b>  <input checked="" type="checkbox"/> <b>Other (specify):</b>  <b>Ex Parte</b> </td> </tr> </table>	<b>ORDER TO SHOW CAUSE</b> <input checked="" type="checkbox"/> <b>Child Custody</b> <input type="checkbox"/> <b>Child Support</b> <input type="checkbox"/> <b>Attorney Fees and Costs</b>	<input checked="" type="checkbox"/> <b>MODIFICATION</b> <input type="checkbox"/> <b>Visitation</b> <input type="checkbox"/> <b>Spousal Support</b>	<input type="checkbox"/> <b>Injunctive Order</b> <input checked="" type="checkbox"/> <b>Other (specify):</b> <b>Ex Parte</b>	CASE NUMBER:  <b>YD042145</b>
<b>ORDER TO SHOW CAUSE</b> <input checked="" type="checkbox"/> <b>Child Custody</b> <input type="checkbox"/> <b>Child Support</b> <input type="checkbox"/> <b>Attorney Fees and Costs</b>	<input checked="" type="checkbox"/> <b>MODIFICATION</b> <input type="checkbox"/> <b>Visitation</b> <input type="checkbox"/> <b>Spousal Support</b>	<input type="checkbox"/> <b>Injunctive Order</b> <input checked="" type="checkbox"/> <b>Other (specify):</b> <b>Ex Parte</b>		

1. TO (name): **Desiree Tomlin Riess (aka Desiree Capuano)**
2. YOU ARE ORDERED TO APPEAR IN THIS COURT AS FOLLOWS TO GIVE ANY LEGAL REASON WHY THE RELIEF SOUGHT IN THE ATTACHED APPLICATION SHOULD NOT BE GRANTED. If child custody or visitation is an issue in this proceeding, Family Code section 3170 requires mediation before or concurrently with the hearing listed below.

a. Date:	Time:	Dept.:	Room:
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b. The address of the court is ☒ same as noted above ☐ other (specify):

c. ☒ The parties are ordered to attend custody mediation services as follows: **11-4-11, 10AM Room 450**

3. THE COURT FURTHER ORDERS that a completed *Application for Order and Supporting Declaration* (form FL-310), a **blank Responsive Declaration** (form FL-320), and the following documents be served with this order:

- a. (1) ☐ Completed *Income and Expense Declaration* (form FL-150) and a **blank Income and Expense Declaration**
- (2) ☐ Completed *Financial Statement (Simplified)* (form FL-155) and a **blank Financial Statement (Simplified)**
- (3) ☐ Completed *Property Declaration* (form FL-160) and a **blank Property Declaration**
- (4) ☐ Points and authorities
- (5) ☐ Other (specify):
- b. ☐ Time for ☐ service ☐ hearing is shortened. Service must be on or before (date):  
Any responsive declaration must be served on or before (date):
- c. ☒ You are ordered to comply with the temporary orders attached.
- d. ☐ Other (specify):

Date:

JUDICIAL OFFICER

**NOTICE:** If you have children from this relationship, the court is required to order payment of child support based on the incomes of both parents. The amount of child support can be large. It normally continues until the child is 18. You should supply the court with information about your finances. Otherwise, the child support order will be based on the information supplied by the other parent.

You do not have to pay any fee to file declarations in response to this order to show cause (including a completed *Income and Expense Declaration* (form FL-150) or *Financial Statement (Simplified)* (form FL-155) that will show your finances). In the absence of an order shortening time, the original of the responsive declaration must be filed with the court and a copy served on the other party at least nine court days before the hearing date. Add five calendar days if you serve by mail within California. (See Code of Civil Procedure 1005 for other situations.) To determine court and calendar days, go to [www.courtinfo.ca.gov/selfhelp/courtcalendars/](http://www.courtinfo.ca.gov/selfhelp/courtcalendars/).



#### Requests for Accommodations

Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the proceeding. Contact the clerk's office or go to [www.courtinfo.ca.gov/forms](http://www.courtinfo.ca.gov/forms) for *Request for Accommodations by Persons With Disabilities and Response* (Form MC-410). (Civil Code, § 54.8.)

Page 1 of 1

## **Exhibit 2**

**The Judicial Branch of Arizona, Maricopa County****Family Court Case Information - Case History****Case Information**

<b>Case Number:</b>	FC2011-093719	<b>Judge:</b>	Hannah, John
<b>File Date:</b>	8/11/2011	<b>Location:</b>	Southeast
<b>Case Type:</b>	Family Court With Children		

**Party Information**

Party Name	Relationship	Sex	Attorney
Richard Riess	Petitioner	Male	Pro Per
Desiree Tomlin Riess	Respondent	Female	David Goldfarb
Tomothy Nelson	Best Interests Attorney	Male	Timothy Nelson

**Case Documents**

Filing Date	Description	Docket Date	Filing Party
10/11/2011	RES - Response	10/13/2011	
<b>NOTE: TO MOTION TO DISMISS</b>			
10/4/2011	005 - ME: Hearing	10/4/2011	
10/4/2011	089 - ME: Trial Setting	10/4/2011	
9/26/2011	REQ - Request	9/28/2011	Petitioner
<b>NOTE: PETITIONERS / FOR TELEPHONIC APPEARANCE</b>			
9/23/2011	AFS - Affidavit Of Service	9/27/2011	
<b>NOTE: SERVED 09/14/2011</b>			
9/22/2011	RTM - Returned Mail	9/26/2011	
9/21/2011	MTD - Motion To Dismiss	9/23/2011	Petitioner
9/19/2011	MCO - Motion To Continue	9/21/2011	Petitioner
9/16/2011	PPR - Praecipe For Order Protection	9/19/2011	
9/16/2011	POP - Petition/Order Of Protection	9/20/2011	Respondent
9/16/2011	OPR - Order Of Protection	9/20/2011	
<b>NOTE: DENIED</b>			
9/16/2011	ORD - Order	9/21/2011	
<b>NOTE: TEMPORARY / WITHOUT NOTICE FOR CHILD CUSTODY</b>			
9/16/2011	MTO - Motion for Temporary Orders	9/22/2011	
<b>NOTE: EMERGENCY/PRE-DECREE/WITHOUT NOTICE FOR CHILD CUSTODY</b>			
9/7/2011	056 - ME: Hearing Set	9/7/2011	
9/7/2011	230 - ME: Couns Appointed For Child	9/7/2011	

8/25/2011	ORA - Order To Appear	8/26/2011	
<b>NOTE: FOR EXPEDITED PRE-DECREE TEMPORARY ORDERS HEARING</b>			
8/24/2011	PTO - Petition Temp Orders	8/30/2011	
<b>NOTE: EMERGENCY EX PARTE/RE CUSTODY</b>			
8/24/2011	NCH - Notice To Convert Health Ins	8/25/2011	Petitioner
8/24/2011	ONA - Ord & Notice Attend Parent Inf	8/25/2011	
8/24/2011	PIN - Preliminary Injunction	8/25/2011	
8/24/2011	SUM - Summons	8/25/2011	
8/24/2011	CVD - Conversion to Dissolution	8/25/2011	
8/24/2011	SDS - Sensitive Data Sheet - Restricted Access	8/25/2011	
8/11/2011	COM - Complaint	8/12/2011	
8/11/2011	NAR - Notice Of Appearance	8/12/2011	
8/11/2011	NFJ - Notice of Filing Foreign Judgment	8/12/2011	
8/11/2011	NOF - Notice Of Filing	8/12/2011	
<b>NOTE: CERTIFIED COPY OF JUDGMENT</b>			
8/11/2011	SDS - Sensitive Data Sheet - Restricted Access	8/12/2011	
8/11/2011	ORD - Order	8/12/2011	
<b>NOTE: FINDINGS AND ORDER AFTER HEARING</b>			

**Case Calendar**

Date	Time	Event
9/26/2011	14:30	Temporary Orders
11/16/2011	13:30	Temporary Orders
12/2/2011	13:30	Temporary Orders
3/15/2012	13:30	Trial/Evidentiary Hearing

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## **Exhibit 3**

**Los Angeles Superior Court**

LA Court **ONLINE** | Appellate | Civil | Criminal | **Family Law** | Juvenile | Mental Health | Probate | Small Claims | Traffic

Home | Juror Services | About the Court | Locations | Search

You Are in: Home > Family Law > Online Services > Case Summary > Search Results



- General Information
- Online Services
- General Orders
- Get Help
- Family Law Forms
- Family Law Fees
- Family Law Locations
- Court Rules

## Case Summary

PRINT

**Case Number:** YD042145  
**RICHARD RIESS VS. DESIREE TOMLIN RIESS**

**Filing Date:** 12/21/2001  
**Case Type:** Dissolution of Marriage (General Jurisdiction)  
**Status:** Dismissed - Other 09/30/2011

**Future Hearings**

None

### Documents Filed | Proceeding Information

#### Parties

LAW OFFICES OF MARITA NOGUEIRAS - Attorney for Respondent  
 MARTIN FRANCES L. - FORMER Attorney for Petitioner  
 RIESS DESIREE TOMLIN - Respondent  
 RIESS RICHARD - Petitioner in Pro Per  
 RIESS RICHARD - Petitioner

### Case Information | Party Information | Proceeding Information

Documents Filed (Filing dates listed in descending order)

09/21/2011 Request- Waive Court Fees  
 09/21/2011 Order-Court Fee Waiver  
 09/21/2011 Declaration  
 09/21/2011 Declaration-Re Notice- Given  
 09/14/2011 Substitution of Attorney  
 03/15/2002 Notice (OF NON-AVAILABILITY OF COUNSEL )  
 Filed by Respondent  
 02/21/2002 Findings & Award-Cert Copy  
 Filed by Petitioner  
 02/01/2002 Proof of Service  
 Filed by Petitioner  
 01/30/2002 Proof of Service  
 Filed by Respondent  
 01/28/2002 Miscellaneous (SUPPLEMENTAL EXHIBITS 1, 2 AND 3 )  
 Filed by Respondent  
 01/25/2002 Miscellaneous (SUPPLEMENTAL EXHIBITS ON BEHALF OF RESPONDENT, DESIREE TOMLIN: T, U , V, W, X AND Y )  
 Filed by Respondent  
 01/18/2002 Declaration-Property Instructions



Filed by Respondent

01/16/2002 Declaration-income & Expense

Filed by Respondent

01/16/2002 Declaration (OF RESPONDENT DESIREE TOMLIN )

Filed by Respondent

01/16/2002 Responsive Decl-OSC/MOTION

Filed by Respondent

01/16/2002 Proof of Service

Filed by Respondent

01/16/2002 Declaration-Uniform Custody Minor

Filed by Respondent

01/16/2002 Response

Filed by Respondent

01/16/2002 Journal Converted from DOS

12/21/2001 Declaration-Uniform Custody Minor

Filed by Petitioner

12/21/2001 Summons

Filed by Petitioner

12/21/2001 Petition (FOR DISSOLUTION OF MARRIAGE )

Filed by Petitioner

12/21/2001 Journal Converted from DOS

12/21/2001 Order-Show Cause

Filed by Petitioner

[Case Information](#) | [Party Information](#) | [Documents Filed](#)

Proceedings Held (Proceeding dates listed in descending order)

09/30/2011 at 08:30 AM in Department SWJ, Veasey, Glenda, Presiding

OSC-Dissmissal - **Granted**

09/21/2011 at 08:30 AM in Department SWJ, Veasey, Glenda, Presiding

Ex Parte - OSC - **Denied**

02/06/2002 at 08:30 AM in Department SWJ, Veasey, Glenda, Presiding

OSC-Custody, Visit, CSup, SSup (PERMISSION TO TAKE MINOR TO ARIZONA FOR CHRISTMAS) - **Completed**

[Case Information](#) | [Party Information](#) | [Documents Filed](#) | [Proceeding Information](#)

[Community Outreach](#)   [Volunteers, Interns & Externs](#)   [Employment](#)

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## **Exhibit 4**

**From:** Richard Riess <richardriess@gmail.com>  
**Subject:** **Ex parte hearing next week**  
**Date:** October 7, 2011 4:30:03 PM PDT  
**To:** Desiree Capuano <desiree.capuano@apollogrp.com>, David Goldfarb  
<dgoldfarb@gillaw.com>

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Desiree:

Under California law I am required to attempt to provide you, Desiree, at least 24 hour's notice of an ex parte hearing. This serves as that notice. In addition, I just notified you verbally, over the telephone. This message then fulfills the requirement of the 24 hour notice.

You are hereby notified that an ex parte hearing will be held on Tuesday, October 11, 2011 at 8:30 AM, in the Compton Courthouse located at 200 W. Compton Blvd, Compton, CA. This hearing pertains to California case number TD035397, Richard Riess v. Desiree Capuano.

I respectfully request your attendance as I would much prefer to provide you the opportunity to be able to present your case before the court at that time. Also, I request that Gabriel attend as well, as I believe the court would like to hear from him.

If you are not able to make it at this time please let me know and I will make it for another day that better suits your schedule.

I thank you for your time.

Sincerely,  
Richard

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## **Exhibit 5**

**From:** Richard Riess <richardriess@gmail.com>  
**Subject:** **Ex parte hearing**  
**Date:** October 9, 2011 3:43:00 PM PDT  
**To:** Desiree Capuano <desiree.capuano@apollogrp.com>, David Goldfarb  
<dgoldfarb@gillaw.com>

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Desiree:

As we just discussed on the telephone I am going to postpone the ex parte hearing that I notified you about on October 8, 2011 until October 18, 2011 to provide you more time to make arrangements to appear and to prepare. All of the other details of the hearing remain the same: it will be at the Compton Courthouse located at 200 W. Compton Blvd in Compton, CA on the 9th floor.

If this will not work for you please let me know at your earliest opportunity. Also, please note, this message and the telephone call we just completed serve as the required 24 hour notice.

And, finally, again, I request that you and Gabriel appear for the hearing so the court may be able to hear from the both of you. Otherwise, the court may proceed in your absence and that is not my preference.

Thank you,  
Richard

---

## **Exhibit 6**

From: Richard Riess <richardriess@gmail.com>  
Subject: **Re: Ex parte hearing next week**  
Date: October 14, 2011 3:37:51 PM PDT  
To: Capuano Desiree <desiree.capuano@gmail.com>  
Cc: Goldfarb David <dgoldfarb@gillaw.com>

Desiree:

You are correct that the hearing will be on Tuesday, October 18, 2011 at 8:30am in the Compton Courthouse, Dept. M. The court is located at 200 W. Compton Bl, in Compton, CA.

I am not required to provide you a copy of the ex parte paperwork prior to the hearing. I will bring an extra copy for you on Tuesday, for your convenience. Had you requested this sooner I could have gotten you a copy in time but I would not be able to get it to you before the hearing now anyway.

Thanks,  
Richard

P.S. Eloy Detention Center (EDC) is used to house people in immigration proceedings - not just illegals. Most of the people there are green card holders. Also, it is not Department of Corrections - DOC is for people who have been convicted and are serving a prison sentence. EDC is for administrative detention - not criminal. I have never been to the DOC. I have only been detained as a pretrial detainee or an administrative detainee.

On Oct 14, 2011, at 2:58 PM, Desiree Capuano wrote:

Richard,

Can you please send me a copy of the ex-parte paperwork so I can prepare for it? Am I correct in assuming that Tuesday, October 18th is the new date?

On Tue, Oct 11, 2011 at 6:49 PM, Richard Riess <richardriess@gmail.com> wrote:

Begin forwarded message:

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**From:** Richard Riess <richardriess@gmail.com>  
**Date:** October 10, 2011 12:37:21 PM PDT  
**To:** David Goldfarb <dgoldfarb@gillaw.com>  
**Cc:** Desiree Capuano <desiree.capuano@apollogrp.com>, Selena Hinton <shinton@gillaw.com>  
**Subject:** Re: Ex parte hearing next week

David:

I will print and have the attached document signed by the party that mailed the documents and fax you the signed copy later today or tomorrow. I trust this form meets your requirements.

Now, may you please inform me of which court rule, statute or case requires that I provide notice of hearings to an attorney that is not representing any of the parties in the matter? I am not aware of any such requirement. And Judge Hannah only ordered me to provide you a copy of "anything that is filed by Petitioner in the California Court". Therefore, I am required to provide you a copy of any request for a hearing which I file, however, ex parte hearings are held on the same day the request is filed so it would be physically impossible for me to provide you a copy prior to the hearing. Also, Judge Hannah did not impose any requirement that I provide you a copy within any specific period of time after filing with the court. I take this to mean that as long as I provide you a copy concurrently with the notice I provide Desiree that is sufficient. At this time I have not yet filed the request for the ex parte hearing because I will do so at 8:00am on October 18, 2011 and the hearing will be held that morning. Also, I am required to file the FAM-018 - Declaration of Ex Parte Notice at the same time that I request the hearing. In that notice I will declare that I notified Desiree on October 9, 2011 by telephone and email. I believe I have fulfilled all of my notification requirements.

Again, I thank you for your time.

Richard

On 10/10/11 11:55 AM, David Goldfarb wrote:

Richard, please send me an acceptance of service and I will have her sign it. This is what I have asked for. Further, you must provide me written notices from the Court as to hearings, which you have not done.

**David L. Goldfarb**  
Associate Attorney  
Gillespie, Shields & Associates, P.A.  
7319 N 16th Street, Suite 100  
Phoenix, AZ 85020  
(602) 870-9700 Phone  
(602) 870-9783 Fax

"Your Family's Law Firm"

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From: Richard Riess [<mailto:richardriess@gmail.com>]



Sent: Monday, October 10, 2011 11:54 AM  
To: David Goldfarb  
Cc: Desiree Capuano; Selena Hinton  
Subject: Re: Ex parte hearing next week

David:

Fine. Send them back to me and I'll hire a process server. This is exactly the reason I said on the telephone that I believe it would be easier for everyone if I just hired a process server. To which you told me it wasn't necessary and to save my money. I told you on the phone that the Superior Court of California requires completion of the FL-330 and FL-115. And, the entire telephone call was not 20 minutes.

Another point: you do not need to hire a process server to serve her. Any person over the age of 18, who is not a party to the case may serve her. There is no requirement that he be a licensed process server.

Richard

On 10/10/11 11:47 AM, David Goldfarb wrote:

Facilitate service means that I would have her sign and notarize an acceptance of service. I can not do so as I told you. I also told you I would not hire a process server to serve her. I explained for close to 20 minutes on a call, that I would be happy to have her sign an acceptance of service, to please check your documents. You have given me documents for a process server, to which I told you not to.

**David L. Goldfarb**  
Associate Attorney  
Gillespie, Shields & Associates, P.A.  
7319 N 16th Street, Suite 100  
Phoenix, AZ 85020  
(602) 870-9700 Phone  
(602) 870-9783 Fax

"Your Family's Law Firm"

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From: Richard Riess [<mailto:richardriess@gmail.com>]  
Sent: Monday, October 10, 2011 11:42 AM  
To: David Goldfarb  
Cc: Desiree Capuano; Selena Hinton  
Subject: Re: Ex parte hearing next week

David:

I, too, am Jewish and observe Yom Kippur. Contrary to your assertion, however, I had absolutely no way of knowing you would be out of the office or even that you observe Yom Kippur, or are Jewish.

I sent you a copy of those emails as a courtesy because Desiree asked me to. I am not required to include you in any correspondence regarding the California proceedings other than to send you a copy of any documents filed with the court - and that only because the court in Arizona, not the court in California, ordered me to do so. With respect to notice for ex parte hearings in California I am only required to attempt to provide 24 hours notice (California Rules of Court, Rule 3.1203). Friday at 4:30pm to Tuesday at 8:30am sufficiently meets that requirement. You may also notice I spoke to Desiree on Sunday and arranged to hold off on the hearing until Tuesday, October 18, 2011. That provides her more than a week's notice which is far greater than I am required to do. Further, you are not representing her in the California case and, therefore, I am not required to provide you any notice of any hearings in that case.

With respect to your melodrama about me being held accountable and my actions not being tolerated: you can save the theatrics for those parties with less experience dealing with attorneys. I have done nothing inappropriate and have not violated any rules of court. Again, I am not required to provide you any notice in the California case and have done so only as a courtesy to Desiree. Also, it is my understanding that since you are not a member of the California Bar you may not advise Desiree on matters pertaining to the California case so I am not clear on why she would want me to include you anyway.

*And, regarding the documents I sent you: perhaps you can provide me a clear explanation of what the phrase "facilitate service" means to you, so there is no further misunderstandings? As I requested in the letter I included with the documents - if you, or some other party associated with you, will be unable to complete the FL-330 and the FL-115 then please return the documents to me and I will hire a process server or have someone else hand her the documents then fill out the forms.*

I thank you for your response and I look forward to receiving your response to the motion to dismiss which is due tomorrow.

Sincerely,  
Richard

On 10/10/11 10:56 AM, David Goldfarb wrote:

~~4:30 on a Friday afternoon, a Jewish Holiday as you well know, to which you also knew I would be out of the office, is not sufficient notice. You will be held accountable for this. Richard. Your actions in this regard will not be tolerated.~~

Additionally, you have sent me the wrong documents to serve her with. I told you that if you sent me an acceptance of service, then I would be more than happy to sign it. You have sent me proof of service as if I am serving her. I am here to facilitate service, I can not serve her, as I have repeatedly told you.

**David L. Goldfarb**

Associate Attorney  
Gillespie, Shields & Associates, P.A.  
7319 N 16th Street, Suite 100  
Phoenix, AZ 85020  
(602) 870-9700 Phone  
(602) 870-9783 Fax

"Your Family's Law Firm"

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From: Richard Riess [<mailto:richardriess@gmail.com>]  
Sent: Friday, October 07, 2011 4:30 PM  
To: Desiree Capuano; David Goldfarb  
Subject: Ex parte hearing next week

Desiree:

Under California law I am required to attempt to provide you, Desiree, at least 24 hour's notice of an ex parte hearing. This serves as that notice. In addition, I just notified you verbally, over the telephone. This message then fulfills the requirement of the 24 hour notice.

You are hereby notified that an ex parte hearing will be held on Tuesday, October 11, 2011 at 8:30 AM, in the Compton Courthouse located at 200 W. Compton Blvd, Compton, CA. This hearing pertains to California case number TD035397, Richard Riess v. Desiree Capuano.

I respectfully request your attendance as I would much prefer to provide you the opportunity to be able to present your case before the court at that time. Also, I request that Gabriel attend as well, as I believe the court would like to hear from him.

If you are not able to make it at this time please let me know and I will make it for another day that better suits your schedule.

I thank you for your time.

---

Sincerely,  
Richard

---

## **Exhibit 7**

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): <b>Richard Riess</b> 406 1/2 E. Lincoln St. Carson, CA 90745		<b>RECEIVED</b> <b>OCT 18 2011</b> SOUTH CENTRAL DISTRICT OFFICE AND COURT STAFF
TELEPHONE NO.: 310-518-0104	FAX NO. (Optional):	
E-MAIL ADDRESS (Optional): richardriess@gmail.com		
ATTORNEY FOR (Name): Richard Riess		
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Los Angeles		
STREET ADDRESS: 200 W. Compton Blvd.		
MAILING ADDRESS: 200 W. Compton Blvd.		
CITY AND ZIP CODE: Compton, CA 90220		
BRANCH NAME: South Central District		
PETITIONER/PLAINTIFF: Richard Riess		
RESPONDENT/DEFENDANT: Desiree Capuano		
<b>ORDER TO SHOW CAUSE</b> <input checked="" type="checkbox"/> Child Custody <input type="checkbox"/> Child Support <input type="checkbox"/> Attorney Fees and Costs		CASE NUMBER: TD035397
<input type="checkbox"/> MODIFICATION <input checked="" type="checkbox"/> Visitation <input type="checkbox"/> Spousal Support		<i>Ex Parte</i> <input type="checkbox"/> Injunctive Order <input checked="" type="checkbox"/> Other (specify): Determine jurisdiction

1. TO (name): Desiree Capuano
2. YOU ARE ORDERED TO APPEAR IN THIS COURT AS FOLLOWS TO GIVE ANY LEGAL REASON WHY THE RELIEF SOUGHT IN THE ATTACHED APPLICATION SHOULD NOT BE GRANTED. If child custody or visitation is an issue in this proceeding, Family Code section 3170 requires mediation before or concurrently with the hearing listed below.

a. Date: **18 OCT 2011** Time: **8 AM** ☒ Dept.: **M** ☒ Room: **1211**

b. The address of the court is ☐ same as noted above ☐ other (specify):

c. ☒ The parties are ordered to attend custody mediation services as follows: **11/4/11, 10 AM, 825 Maple Ave, Torrance, CA**

3. THE COURT FURTHER ORDERS that a completed Application for Order and Supporting Declaration (form FL-310), a blank Responsive Declaration (form FL-320), and the following documents be served with this order:

- a. (1) ☐ Completed Income and Expense Declaration (form FL-150) and a blank Income and Expense Declaration  
 (2) ☐ Completed Financial Statement (Simplified) (form FL-155) and a blank Financial Statement (Simplified)  
 (3) ☐ Completed Property Declaration (form FL-160) and a blank Property Declaration  
 (4) ☐ Points and authorities  
 (5) ☐ Other (specify):

b. ☐ Time for ☐ service ☐ hearing is shortened. Service must be on or before (date):

Any responsive declaration must be served on or before (date):

c. ☐ You are ordered to comply with the temporary orders attached.

d. ☐ Other (specify):

Date:

JUDICIAL OFFICER

**NOTICE: If you have children from this relationship, the court is required to order payment of child support based on the incomes of both parents. The amount of child support can be large. It normally continues until the child is 18. You should supply the court with information about your finances. Otherwise, the child support order will be based on the information supplied by the other parent.**

**You do not have to pay any fee to file declarations in response to this order to show cause (including a completed income and Expense Declaration (form FL-150) or Financial Statement (Simplified) (form FL-155) that will show your finances). In the absence of an order shortening time, the original of the responsive declaration must be filed with the court and a copy served on the other party at least nine court days before the hearing date. Add five calendar days if you serve by mail within California. (See Code of Civil Procedure 1005 for other situations.) To determine court and calendar days, go to [www.courtinfo.ca.gov/seifheip/courtcalendars/](http://www.courtinfo.ca.gov/seifheip/courtcalendars/).**



#### Requests for Accommodations

Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the proceeding. Contact the clerk's office or go to [www.courtinfo.ca.gov/forms](http://www.courtinfo.ca.gov/forms) for Request for Accommodations by Persons With Disabilities and Response (Form MC-410). (Civil Code, § 54.8.)

PETITIONER/PLAINTIFF: Richard Riess	CASE NUMBER:
RESPONDENT/DEFENDANT: Desiree Capuano	TD035397

**APPLICATION FOR ORDER AND SUPPORTING DECLARATION**  
—THIS IS NOT AN ORDER—

☒ Petitioner ☐ Respondent ☐ Claimant requests the following orders:

1. ☒ CHILD CUSTODY ☒ To be ordered pending the hearing
- a. Child's name and age b. Legal custody to (name of person who makes decisions about health, education, etc.) c. Physical custody to (name of person with whom child will live.)
- Gabriel Riess Richard Riess Richard Riess

- d. ☐ Modify existing order  
(1) filed on (date):  
(2) ordering (specify):

- e. ☒ As requested in form ☐ FL-311 ☒ FL-312 ☐ FL-341(C) ☐ FL-341(D) ☐ FL-341(E)

2. ☒ CHILD VISITATION ☒ To be ordered pending the hearing

- a. As requested in: (1) ☐ Attachment 2a (2) ☒ Form FL-311 (3) ☐ Other (specify):

- b. ☐ Modify existing order  
(1) filed on (date):  
(2) ordering (specify):

- c. ☐ One or more domestic violence restraining/protective orders are now in effect. (Attach a copy of the orders if you have one.) The orders are from the following court or courts (specify county and state):

- |  |  |
|--|--|
| (1) <input type="checkbox"/> Criminal: County/state:<br>Case No. (if known): | (3) <input type="checkbox"/> Juvenile: County/state:<br>Case No. (if known): |
| (2) <input type="checkbox"/> Family: County/state:<br>Case No. (if known):   | (4) <input type="checkbox"/> Other: County/state:<br>Case No. (if known):    |

3. ☐ CHILD SUPPORT (An earnings assignment order may be issued.)

- a. Child's name and age b. Monthly amount requested (if not by guideline)  
\$

- c. ☐ Modify existing order  
(1) filed on (date):  
(2) ordering (specify):

4. ☐ SPOUSAL OR PARTNER SUPPORT (An earnings assignment order may be issued.)

- |  |   |
|--|---|
| a. <input type="checkbox"/> Amount requested (monthly): \$ | c. <input type="checkbox"/> Modify existing order |
| b. <input type="checkbox"/> Terminate existing order       | (1) filed on (date):                              |
| (1) filed on (date):                                       | (2) ordering (specify):                           |
| (2) ordering (specify):                                    |   |

**NOTE: To obtain domestic violence restraining orders, you must use the forms *Request for Order (Domestic Violence Prevention)* (form DV-100), *Temporary Restraining Order (Domestic Violence Prevention)* (form DV-110), and *Notice of Court Hearing (Domestic Violence Prevention)* (form DV-109).**

PETITIONER/PLAINTIFF: <b>Richard Riess</b>	CASE NUMBER:
RESPONDENT/DEFENDANT: <b>Desiree Capuano</b>	<b>TD035397</b>

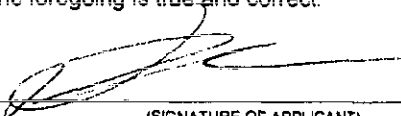
5. ☐ ATTORNEY FEES AND COSTS a. ☐ Fees: \$ b. ☐ Costs: \$
6. ☐ PROPERTY RESTRAINT ☐ To be ordered pending the hearing
- a. The ☐ petitioner ☐ respondent ☐ claimant is restrained from transferring, encumbering, hypothecating, concealing, or in any way disposing of any property, real or personal, whether community, quasi-community, or separate, except in the usual course of business or for the necessities of life.
- ☐ The applicant will be notified at least five business days before any proposed extraordinary expenditures, and an accounting of such will be made to the court.
- b. ☐ Both parties are restrained and enjoined from cashing, borrowing against, canceling, transferring, disposing of, or changing the beneficiaries of any insurance or other coverage, including life, health, automobile, and disability, held for the benefit of the parties or their minor children.
- c. ☐ Neither party may incur any debts or liabilities for which the other may be held responsible, other than in the ordinary course of business or for the necessities of life.
7. ☐ PROPERTY CONTROL ☐ To be ordered pending the hearing
- a. ☐ The petitioner ☐ respondent is given the exclusive temporary use, possession, and control of the following property that we own or are buying (specify):
- b. ☐ The petitioner ☐ respondent is ordered to make the following payments on liens and encumbrances coming due while the order is in effect:
- | <u>Debt</u> | <u>Amount of payment</u> | <u>Pay to</u> |
|-------------|--------------------------|---------------|
|             |                          |               |
8. ☒ OTHER RELIEF (specify):
- I request the Court communicate with the Arizona Superior Court to assert subject matter jurisdiction based on California being the Child's home state.
9. ☐ I request that time for service of the Order to Show Cause and accompanying papers be shortened so that these documents may be served no less than (specify number): \_\_\_\_\_ days before the time set for the hearing. I need to have the order shortening time because of the facts specified in item 10 or the attached declaration.
10. ☒ FACTS IN SUPPORT of relief requested and change of circumstances for any modification are (specify):
- ☒ Contained in the attached declaration. (You may use Attached Declaration (form MC-031) for this purpose).

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

Date: 10-17-11

Richard Riess

(TYPE OR PRINT NAME)

  
(SIGNATURE OF APPLICANT)

PETITIONER / PLAINTIFF: Richard Riess

CASE NUMBER:

RESPONDENT / DEFENDANT: Desiree Capuano

TD035397

## REQUEST FOR CHILD ABDUCTION PREVENTION ORDERS

Attachment to ☐ Petition ☐ Response ☒ Application for Order and Supporting Declaration ☐ Responsive Declaration  
☐ Other (specify):

1. Your name: Richard Riess

2. Do you think the other parent might take the children without your permission to

- a. ☐ another county in California? ☐ Yes ☐ No If "Yes," what county? (specify):  
 b. ☒ another state? ☒ Yes ☐ No If "Yes," what state? (specify): Arizona  
 c. ☐ a foreign country? ☐ Yes ☐ No If "Yes," what country? (specify):  
 If "Yes," is the other parent a citizen of that country? ☐ Yes ☐ No  
 If "Yes," does the other parent have family or emotional ties to that country? ☐ Yes ☐ No  
 Explain:

3. Why do you think the other parent might take the children without your permission?

The other parent (check all that apply):

- a. ☒ has violated—or threatened to violate—a custody or visitation order in the past.  
 Explain: Respondent has twice taken Child to another state without notifying Petitioner or the Court.  
 She has recently taken Child to Arizona, filed for ex parte emergency custody and an order of protection there and refuses to allow Petitioner visits or to return Child to California.
- b. ☒ does not have strong ties to California.  
 Explain any work, financial, social, or family situation that makes it easy for the other parent to leave California.  
 Respondent does not have any ties to California and lives permanently in Arizona.
- c. ☒ has recently done things that make it easy for him or her to take the children away without permission. He or she has (check all that apply)  
☐ quit his or her job. ☐ sold his or her home.  
☐ closed a bank account. ☐ ended a lease.  
☐ sold or gotten rid of assets. ☐ hidden or destroyed documents.  
☐ applied for a passport, birth certificate, or school or medical records.  
☒ Other (specify): In August Respondent took Child to Arizona while Petitioner was out of town.  
 She immediately filed for custody in Arizona although California is Child's home state and she has been absent from Child's life for the last nine years.
- d. ☒ has a history of (check all that apply)  
☐ domestic violence.  
☐ child abuse.  
☒ not cooperating with me in parenting.  
☒ taking the children without my permission.  
 Explain: In 2002 Respondent took Child to Florida and in 2011 Respondent took Child to Arizona, both times without notifying Petitioner or the Court. She continues to hold Child in Arizona and refuses to return him to California or to allow Petitioner to visit him.
- e. ☐ has a criminal record. Explain:



PETITIONER / PLAINTIFF: Richard Riess	CASE NUMBER:
RESPONDENT / DEFENDANT: Desiree Capuano	TD035397

**I REQUEST THE FOLLOWING ORDERS:**

4. ☐ **Supervised Visitation**

I ask the court to order supervised visitation.

Terms of visitation are attached (check one): ☐ form FL-341(A) ☐ as follows:

5. ☐ **Post a Bond**

I ask the court to order the other parent to post a bond for \$ \_\_\_\_\_. If the other parent takes the children without my permission, I can use this money to bring the children back.

6. ☐ **Do Not Move Without My Permission or Court Order**

I ask the court to order the other parent NOT to move with the children, without my written permission or a court order.

7. ☒ **No Travel Without My Permission or Court Order**

I ask the court to order the other parent NOT to travel with the children outside (check all that apply)

☒ this county ☐ the United States

☒ California ☐ other (specify):

without my written permission or a court order.

8. ☒ **Notify Other State of Travel Restrictions**

I ask the court to order the other parent to register this order in the state of Arizona before the children can travel to that state for visits.

9. ☐ **Turn In and Do Not Apply for Passports or Other Vital Documents**

I ask the court to order the other parent to turn in and NOT apply for passports or other documents (such as visas or birth certificates) that can be used for travel.

10. ☒ **Provide Itinerary and Other Travel Documents**

If the other parent is allowed to travel with the children, I ask the court to order the other parent to give me before leaving

☒ the children's travel itinerary.

☒ copies of round-trip airline tickets.

☒ addresses and telephone numbers where the children can be reached.

☐ an open airline ticket for me in case the children are not returned.

☐ other (specify):

11. ☐ **Notify Foreign Embassy or Consulate of Passport Restrictions**

I ask the court to order the other parent to notify the embassy or consulate of \_\_\_\_\_ of this order and to provide the court with proof of that notification within \_\_\_\_\_ calendar days.

12. ☐ **Foreign Custody and Visitation Order**

I ask the court to order the other parent to get a custody and visitation order in a foreign country equal to the most recent U.S. order before the children can travel to that country for visits. I understand that foreign orders may be changed or enforced depending on the laws of that country.

13. ☒ **Other (specify):**

I request the Court order Respondent to immediately return Child to California and to Petitioner's custody and care.

I declare under penalty of perjury under the laws of the State of California that the information on this form is true and correct.

Date: 10-17-11

  
SIGN HERE

PETITIONER/PLAINTIFF: Richard Riess	CASE NUMBER:
RESPONDENT/DEFENDANT: Desiree Capuano	TD035397

## CHILD CUSTODY AND VISITATION APPLICATION ATTACHMENT

- TO ☒ Petition, Response, Application for Order or Responsive Declaration ☐ Other (specify):  
☒ To be ordered now and effective until the hearing

1. ☒ **Custody.** Custody of the minor children of the parties is requested as follows:

<u>Child's Name</u>	<u>Date of Birth</u>	<u>Legal Custody to</u> (person who makes decisions about health, education, etc.)	<u>Physical Custody to</u> (person with whom the child lives)
Gabriel Riess	09/27/2000	Richard Riess	Richard Riess

2. ☒ **Visitation.**

- a. ☒ Reasonable right of visitation to the party without physical custody (not appropriate in cases involving domestic violence)  
b. ☐ See the attached \_\_\_\_\_-page document dated (specify date):  
c. ☒ The parties will go to mediation at (specify location): Torrance Courthouse  
d. ☐ No visitation  
e. ☐ Visitation for the ☐ petitioner ☐ respondent will be as follows:

- (1) ☐ **Weekends starting (date):**

(The first weekend of the month is the first weekend with a Saturday.)

☐ 1st ☐ 2nd ☐ 3rd ☐ 4th ☐ 5th weekend of the month

from \_\_\_\_\_ at \_\_\_\_\_ ☐ a.m. ☐ p.m.  
(day of week) (time)

to \_\_\_\_\_ at \_\_\_\_\_ ☐ a.m. ☐ p.m.  
(day of week) (time)

(a) ☐ The parents will alternate the fifth weekends, with the ☐ petitioner ☐ respondent having the initial fifth weekend, which starts (date):

(b) ☐ The petitioner will have fifth weekends in ☐ odd ☐ even months.

- (2) ☐ **Alternate weekends starting (date):**

The ☐ petitioner ☐ respondent will have the children with him or her during the period

from \_\_\_\_\_ at \_\_\_\_\_ ☐ a.m. ☐ p.m.  
(day of week) (time)

to \_\_\_\_\_ at \_\_\_\_\_ ☐ a.m. ☐ p.m.  
(day of week) (time)

- (3) ☐ **Weekdays starting (date):**

The ☐ petitioner ☐ respondent will have the children with him or her during the period

from \_\_\_\_\_ at \_\_\_\_\_ ☐ a.m. ☐ p.m.  
(day of week) (time)

to \_\_\_\_\_ at \_\_\_\_\_ ☐ a.m. ☐ p.m.  
(day of week) (time)

- (4) ☐ **Other (specify days and times as well as any additional restrictions):**

☐ See Attachment 2e(4).

PETITIONER: Richard Riess	CASE NUMBER:
RESPONDENT: Desiree Capuano	TD035397

3. ☐ **Supervised visitation.**  
 I request that (name): have supervised visitation with the minor children according to the schedule set out on page 1 and that the visits be supervised by (name): who is a ☐ professional ☐ nonprofessional supervisor. The supervisor's phone number is (specify):

I request that the costs of supervision be paid as follows: petitioner: percent; respondent: percent.

If item 3 is checked, you must attach a declaration that shows why unsupervised visitation would be bad for your children. The judge is required to consider supervised visitation if one parent is alleging domestic violence and is protected by a restraining order.

4. ☐ **Transportation for visitation and place of exchange.**
- ☐ Transportation to the visits will be provided by (name):
  - ☐ Transportation from the visits will be provided by (name):
  - ☐ Drop-off of the children will be at (address):
  - ☐ Pick-up of the children will be at (address):
  - ☐ The children will be driven only by a licensed and insured driver. The car or truck must have legal child restraint devices.
  - ☐ During the exchanges, the parent driving the children will wait in the car and the other parent will wait in his or her home while the children go between the car and the home.
  - ☐ Other (specify):

5. ☒ **Travel with children.** The ☐ petitioner ☒ respondent ☐ other (name): must have written permission from the other parent or a court order to take the children out of
- ☒ the state of California.
  - ☐ the following counties (specify):
  - ☐ other places (specify):

6. ☒ **Child abduction prevention.** There is a risk that one of the parents will take the children out of California without the other parent's permission. I request the orders set out on attached form FL-312.

7. ☐ **Children's holiday schedule.** I request the holiday and visitation schedule set out on the attached ☐ form FL-341(C) ☐ other (specify):

8. ☐ **Additional custody provisions.** I request the additional orders regarding custody set out on the attached ☐ form FL-341(D) ☐ other (specify):

9. ☐ **Joint legal custody provisions.** I request joint legal custody and want the additional orders set out on the attached ☐ form FL-341(E) ☐ other (specify):

10. ☒ **Other.** I request the following additional orders (specify):

Respondent immediately return Child to his home state of California and to Petitioner's custody and care.

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## **Exhibit 8**

**From:** Richard Riess <richardriess@gmail.com>  
**Subject:** **Re: FW:**  
**Date:** October 24, 2011 1:34:50 PM PDT  
**To:** Selena Hinton <shinton@gillaw.com>  
**Cc:** Goldfarb David <dgoldfarb@gillaw.com>, Capuano Desiree <desiree.capuano@gmail.com>

Selena:

Thank you for forwarding me a copy of your disclosure letter. I have, in particular, some concerns regarding items 16 - 18.

Desiree has stated repeatedly - and I believe once in court on September 26, 2011 - that she has only recorded one telephone call between me and Gabriel. On September 26 Judge Hannah ordered her to stop monitoring my conversations with Gabriel. However, I see in your letter that you intend to possibly submit audio recordings and corresponding transcripts of three telephone conversations. One of which occurred AFTER Judge Hannah directed her to desist.

Furthermore, on September 17, 2011 I sent Desiree an email informing her that it was illegal under both Arizona (ARS 13-3005) and California (CPC 632) law to record and/or monitor a person's conversations without their consent. Arizona requires the consent of at least one party and California requires the consent of all parties. Neither I, nor Gabriel, consented to being recorded or monitored. Moreover, the calls were made from California and I, the victim of the offense, was in California at the time so California has jurisdiction and the consent of all parties was required.

In my previous email to her I included the relevant statutes so she cannot claim that she was not aware that it was illegal.

I find her disregard for the laws of California and Arizona and for the Court's orders disturbing and I must insist that you advise her to take these matters more seriously. Allow me to recap:

- In February 2002 the court ordered her NOT to drive cross country with Gabriel, then she immediately did exactly that;
- In August 2011 she lied to the Arizona Court by declaring that there was no pending case in California;
- On September 26, 2011 she lied to the Arizona Court by stating that she only recorded one telephone call and was no longer doing so;
- On September 26, 2011 (and thereafter) she disregarded the Arizona Court's order to stop monitoring my conversations with Gabriel and continued to do so;
- On October 18, 2011 she lied to the California Court by stating that in 2002 the court allowed her to take a day to think over whether she wanted to live in Arizona or Florida and that she informed the court she would reside in Florida;
- On October 18, 2011 she lied to the California Court by stating that she had informed the Arizona Court that the California case was pending at the time the Arizona case commenced.

But, with respect to her recording and monitoring of my calls with Gabriel, both I and Gabriel are very troubled by this and Gabriel is afraid to speak candidly with me on the telephone because he fears that she will listen to the conversation and chastise him for what he might say. I believe, thus far, I have been more than lenient on this matter. I have informed her that I did not intend to seek criminal prosecution if she discontinued the practice and she stated she would stop but your letter makes it obvious that was another lie. It is my intention at this time to contact the District Attorney's office to file a complaint and request prosecution. I have reason to believe that she is still recording my calls and I will not tolerate this any longer.

I request that you immediately provide me a copy of the audio recordings and transcripts referenced in your letter, as well as a copy of all other recordings Desiree has made of any of my conversations with Gabriel wherein any party to the call was in California at the time of the call. I also notify you that due to my intention to seek criminal, and possibly civil, prosecution any such recordings are considered evidence and must not be destroyed or tampered with.

I thank you for your time and I look forward to receiving your reply and the requested materials.

Sincerely,  
Richard Riess

On Oct 21, 2011, at 4:59 PM, Selena Hinton wrote:

Selena Hinton  
Paralegal  
Gillespie, Shields & Durrant  
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"Your Family's Law Firm

<Riess ltr.pdf>