

COPY

OCT 25 2011



MICHAEL K. JEANES, CLU
N. DELACRUZ
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Attorneys for Respondent

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

RICHARD RIESS,

Petitioner,

v.

DESIREE TOMLIN RIESS
nka DESIREE CAPUANO,

Respondent.

No. FC 2011-093719

NOTICE OF NON-COMPLIANCE AND
ACCELERATED REQUEST FOR
TELEPHONIC CONFERENCE

ASSIGNED TO THE HONORABLE
JOHN HANNAH

Respondent, DESIREE CAPUANO, through her counsel undersigned, hereby gives notice to the Court of Petitioner's failure to comply with the Court's Orders entered on September 26, 2011, as follows:

1. On September 26, 2011, during the Temporary Orders Hearing, Petitioner informed the Court he had filed documents with the California Court pertaining to the custody of the minor child, Gabriel. The Court ordered "**anything that is filed by the Petitioner in the California Court shall be copied to Respondent's counsel.**"

2. On October 6, 2011, undersigned counsel sent a letter to Petitioner requesting that he forward a copy of all documents he had filed with the California Court pursuant to the Court's Orders. See Exhibit "A" attached hereto.

3. On October 7, 2011, undersigned counsel received the documents from Petitioner, which he had just filed on October 4, 2011. See Exhibit "B" attached hereto. Interestingly, Petitioner was not

1 truthful in his "Declaration" and stated that Respondent had filed an *ex parte* emergency custody petition in
2 the Arizona Courts which was **denied**. Petitioner failed to mention that Respondent had been granted
3 temporary sole custody. Petitioner's Declaration contained several mistruths and inaccurate details.

4
5 4. Petitioner was not truthful and misled the Court in having stated that he had already filed
6 documents with the California Court and did so, after the Hearing held on September 26, 2011, having full
7 knowledge that Arizona had jurisdiction based on Respondent having domesticated this matter.

8
9 5. On October 7, 2011, Petitioner sent an email to Respondent informing her that an *ex parte*
10 hearing was scheduled for October 11, 2011 at 8:30 a.m. in Compton, California. See Exhibit "C" attached
11 hereto. Petitioner did not provide a copy of the *ex parte* documents he filed.

12
13 6. Respondent contacted the California Court and was told there was a hearing scheduled for
14 October 18th and requested Petitioner provide her a copy of the documents filed. Petitioner confirmed that
15 the hearing was now scheduled for October 18, 2011, not October 11th, as previously stated, and refused to
16 provide her with a copy of the documents. See Exhibit "D" attached hereto.

17
18 7. On October 20, 2011, undersigned counsel's office requested a copy of the *ex parte*
19 documents from Petitioner to which he responded:

20 **"Judge Hannah directed me to send your office a copy of all**
21 **documents I file in the California court pertaining to the custody**
22 **of Gabriel. However, I was not ordered to send your office a**
23 **copy of any such documents prior to filing them. I filed the *ex***
24 ***parte* request on Tuesday, October 18, 2011."**

25 See Exhibit "E" attached hereto. Once again, Petitioner was not truthful as when he filed the *ex parte*
26 documents and when the hearing was.

27
28 8. Respondent once again contacted the California Court and was informed that there is a
hearing currently scheduled for November 8, 2011 and that the California Judge was going to contact the
Arizona Judge prior to the hearing to discuss the issue.

1 9. Respondent has still not received any *ex parte* documents from Petitioner and it is unclear
2 as what and exactly when Petitioner has filed them. Further, the Order to Show Cause Respondent was
3 served with states the parties are to attend custody mediation on November 4, 2011 @ 10 a.m. in Torrance,
4 California and a hearing is scheduled for March 22, 2012, @ 8 a.m. in Compton, California.

5 10. Based on the foregoing, and Petitioner's failure to comply with the Court's Orders, entered
6 on September 26, 2011, Respondent requests that the Court set an *accelerated* telephonic conference to
7 address the Uniform Child Custody Jurisdiction and Enforcement Act "UCCJEA" issues involving the
8 California Court.

9 **RESPECTFULLY SUBMITTED** this 24 day of October, 2011.

10 **GILLESPIE SHIELDS & DURRANT**

11 
12 **DAVID L. GOLDFARB, ESQ.**
ATTORNEY FOR RESPONDENT

13 **COPY** of the foregoing delivered this
14 24 day of October, 2011, to:

15 The Honorable John Hannah
16 Maricopa County Superior Court

17 **COPY** of the foregoing mailed this
18 same day to:

19 Richard Riess
20 406 1/2 E. Lincoln Street
21 Carson, California 90745
Petitioner

22 By 
23
24
25
26
27
28

Exhibit “A”

GILLESPIE, SHIELDS & DURRANT

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** Certified Family Law Specialist*

www.gillaw.com

October 6, 2011

Richard Riess
406 ½ E. Lincoln Street
Carson, California 90745

Re: Capuano v. Riess

Dear Richard:

Per your request, enclosed is a copy of the following documents:

- 1) Emergency Motion for Pre-Decree Temporary Order Without Notice for Child Custody
- 2) Temporary Order Without Notice for Child Custody
- 3) Petition for Order of Protection

I still have not received a copy of the documents you filed with the California Court pursuant to the Court's orders dated September 26, 2011. Upon receipt of this letter, please provide me with same.

Thank you for your anticipated cooperation in this matter.

Very truly yours,

GILLESPIE SHIELDS & DURRANT


David L. Goldfarb, Esq.
Attorney for the Firm

Enclosures: as stated
cc: Desiree Capuano

Exhibit “B”

Richard Riess
406 1/2 E. Lincoln St.
Carson, CA 90745

10/10/2011
TO: D&G
SF

October 5, 2011

Attn: David Goldfarb
Gillespie, Shields & Durrant
7319 N. 16th St.
Phoenix, AZ 85020

Re: Richard Riess v. Desiree Tomlin Riess, FC2011-093719;
documents to be served on Desiree in the California case

Dear David:

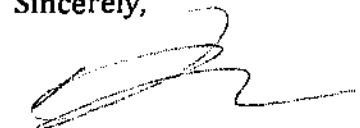
Please find, enclosed, the documents that I must serve on Desiree in the custody case filed here in California. I request that you please "facilitate service" of those documents on Desiree as you stated in open court you would do for all documents I file in the California case which I send you. If you will be unable to do so please let me know at your earliest opportunity so that I may make alternate arrangements.

There are two sets of documents enclosed: 1) the summons, and 2) the request for OSC. For each set there is an attached Proof of Service which the person who executes service is required to complete and sign then return to me. I am required to file those Proofs of Service with the Court once service is complete. Please let me know if you will be unable to sign the enclosed forms (FL-115 and FL-330) and I will make other arrangements. If I do not receive the Proof of Service forms back by October 19, 2011 then I shall assume you were unable to provide Desiree the documents and/or complete the forms and I will proceed with alternate arrangements.

I have filled in what I could on the Proof of Service forms for you. I request that you please complete sections 4 and 6 of form FL-330 (Proof of Personal Service) then sign and date it. And for the form FL-115 (Proof of Service of Summons) I request you complete sections 2, 3(a) and 5 (name, address and telephone number), then date and sign it.

I thank you for your time and assistance in this matter. Please let me know if you have any questions or concerns.

Sincerely,



Richard Riess

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):

Richard Riess
406 1/2 E. Lincoln St.
Carson, CA 90745

TELEPHONE NO.: 310-518-0104

FAX NO. (Optional):

E-MAIL ADDRESS (Optional): richardriess@gmail.com

ATTORNEY FOR (Name): Richard Riess

FOR COURT USE ONLY

ORIGINAL FILED
OCT 04 2011
LOS ANGELES
SUPERIOR COURT

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

CASE NUMBER:

TD035397

ORDER TO SHOW CAUSE☒ Child Custody☐ Child Support☐ Attorney Fees and Costs☐ MODIFICATION☒ Visitation☐ Spousal Support☐ Injunctive Order☐ Other (specify):

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: MAR 22 2012 Time: 8:00am ☒ Dept.: M ☒ Room: 1211b. 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 10:30am, 525 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:

OCT 4 2011

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/.

**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 for Request for Accommodations by Persons With Disabilities and Response (Form MC-410). (Civil Code, § 54.8.)

Page 1 of 1

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> <i>(person who makes decisions about health, education, etc.)</i>	<u>Physical Custody to</u> <i>(person with whom the child lives)</i>
Gabriel Riess	9/27/00	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):
- 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 RESPONDENT: Desiree Capuano	CASE NUMBER: 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.**

- a. ☐ Transportation to the visits will be provided by (name): _____
- b. ☐ Transportation from the visits will be provided by (name): _____
- c. ☐ Drop-off of the children will be at (address): _____
- d. ☐ Pick-up of the children will be at (address): _____
- e. ☐ The children will be driven only by a licensed and insured driver. The car or truck must have legal child restraint devices.
- f. ☐ 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.
- g. ☐ 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

- a. ☒ the state of California.
- b. ☐ the following counties (specify): _____
- c. ☐ 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): _____

PETITIONER/PLAINTIFF: **Richard Riess**

CASE NUMBER

TD035397

RESPONDENT/DEFENDANT: Desiree Capuano

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) ☐ Criminal: County/state:
Case No. (if known):
- (2) ☐ Family: County/state:
Case No. (if known):
- (3) ☐ Juvenile: County/state:
Case No. (if known):
- (4) ☐ Other: County/state:
Case No. (if known):

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

- a. Child's name and age

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

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

- a. Amount requested (*monthly*): \$
- b. Terminate existing order
(1) filed on (*date*):
(2) ordering (*specify*):
- c. Modify existing order
(1) filed on (*date*):
(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: Richard Riess	CASE NUMBER:
RESPONDENT/DEFENDANT: Desiree Capuano	TD035397

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 court in Arizona to make a final determination on the question of the Court's jurisdiction over this matter.
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: **October 4, 2011**

Richard Riess

(TYPE OR PRINT NAME)



(SIGNATURE OF APPLICANT)

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

DECLARATION

(This form must be attached to another form or court paper before it can be filed in court.)

I seek an order directing Respondent to immediately return Gabriel to his home state of California and to my care and custody. Respondent has been absent from Gabriel's life from February 2002 until March 2011 and has had no contact with me or Gabriel during that time. Gabriel has been residing in California, exclusively, since July 2007. Respondent currently resides in Arizona. On August 7, 2011, while I was out of town, Respondent took Gabriel from his home in Carson, California, against Gabriel's will and without my knowledge or consent, and took Gabriel to Arizona where Respondent immediately filed an ex parte emergency custody petition in the Superior Court of Arizona (case no FC2011-093719). The petition was denied by the Arizona court, however, Respondent has commenced a new custody proceeding in Arizona. Respondent has also attempted to obtain an ex parte order of protection against me, in the Arizona Court, barring me from having any direct visitation with Gabriel.

I first commenced custody proceedings for Gabriel on December 21, 2001 (case no. YD042145). I was initially granted emergency custody of Gabriel because Respondent had taken Gabriel to Phoenix, AZ then left him in Phoenix with her mother while she moved back to Florida - leaving no forwarding information. A temporary custody hearing was held on February 6, 2002 and attended by both parties. At that time the Court issued an order granting each party equal custody of Gabriel, with each party to have physical custody in two week increments. Respondent took custody of Gabriel on that day as directed by the Court. The Court prohibited Respondent from driving cross country with Gabriel and Respondent stated she would immediately move back to Phoenix, AZ with her mother. Respondent then immediately drove cross country with Gabriel, to Florida. Two weeks later I flew to Florida to pick up Gabriel from Respondent. Thereafter, Respondent made no further attempts to pick up Gabriel for her periods of custody.

In May or June 2002 Respondent married another man (Michael Capuano) in Florida while still married to me. In September 2002 Respondent became pregnant with her new husband. At that time Respondent changed her address and telephone number and did not notify me or her attorney of her new whereabouts. From that point neither I nor Gabriel received any further contact from Respondent - except for one telephone call in May 2007.

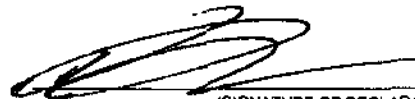
(continued on next page)

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

Date: October 4, 2011

Richard Riess

(TYPE OR PRINT NAME)



(SIGNATURE OF DECLARANT)

☐ Attorney for ☐ Plaintiff ☒ Petitioner ☐ Defendant
☐ Respondent ☐ Other (Specify):

PLAINTIFF/PETITIONER: Richard Riess
 DEFENDANT/RESPONDENT: Desiree Capuano

CASE NUMBER:
 TD035397

DECLARATION

(This form must be attached to another form or court paper before it can be filed in court.)

(continued from previous page)

Respondent made no attempts to establish contact or to have a relationship with Gabriel. During the period of time from 2002 until the present mine and Gabriel's contact information has been available on the Internet.

During the nine years that Respondent was absent from Gabriel's life I, with the help of a friend, Liz Munoz, cared for and raised Gabriel without any assistance from, or contact with Respondent.

Due to Respondent's disappearance in September 2002 Petitioner decided to put the matter of Gabriel's custody on hold to allow Respondent a fair and reasonable opportunity to participate.

In January 2011 I located Respondent through an investigator retained by me. I then established contact with Respondent so that Gabriel may have the opportunity to meet and possibly to know his mother. In June 2011 Respondent, who then and now, lives in Phoenix, AZ made two trips to Los Angeles to visit Gabriel for the weekend. Those were the only times Gabriel has ever met Respondent or been in Respondent's presence. On August 7, 2011 while I was out of town on a legal matter, Respondent came to Los Angeles and took Gabriel, against his will and without my knowledge or consent, to Arizona. Respondent then immediately filed an ex parte petition for emergency custody in the Superior Court of Arizona. The petition was denied by the Court in Arizona. Nonetheless, Respondent has commenced new custody proceedings in Arizona (although California was, and is, Gabriel's home state under the UCCJEA) and has refused to return Gabriel to me or to his home state of California. The Arizona Court also issued an order prohibiting the removal of Gabriel from the State of Arizona pending the outcome of that proceeding. Respondent did not inform me that she had filed an ex parte petition or that she had commenced new proceedings in Arizona until September 11, 2011. On September 14, 2011 I informed Respondent I was considering going to Phoenix to visit Gabriel on September 18, 2011. Respondent then sought an order of protection, ex parte, in the Arizona Court, barring me from

(continued on next page)

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

Date: October 4, 2011

Richard Riess

(TYPE OR PRINT NAME)



(SIGNATURE OF DECLARANT)

☐ Attorney for ☐ Plaintiff ☒ Petitioner ☐ Defendant
☐ Respondent ☐ Other (Specify):

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

DECLARATION

(This form must be attached to another form or court paper before it can be filed in court.)

(continued from previous page)

visiting Gabriel pending the outcome of that proceeding. The request for the order of protection was denied but the Arizona Court did issue a temporary order requiring Court approval before I can visit Gabriel.

Since August 7, 2011 I have made numerous attempts to resolve the matter amicably and in the best interest of Gabriel such that Gabriel may maintain a relationship with both parents, should he choose to do so, but I have been unable to reach such a resolution with Respondent. Respondent continues to hold Gabriel, against his will, in Arizona. I have been in contact with Gabriel over the last six weeks and Gabriel steadfastly expresses his wish to return to California and to my care.

Respondent has had no involvement in Gabriel's life since 2002 and has made no contribution to his development or well-being. Gabriel has not had the time to develop a significant bond or trust with Respondent prior to Respondent taking him, without notice, to Arizona. Gabriel has been in my care and custody since his birth. He has always known me as his father and someone he has been able to trust and to rely on.

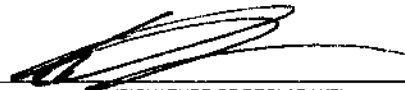
I don't believe Respondent has any concern for Gabriel's well-being or best interest because the last two months (since he was taken to Arizona) have been incredibly disturbing and traumatic for him, and he has repeatedly stated his desire to return to California.

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

Date: September 4, 2011

Richard Riess

(TYPE OR PRINT NAME)



(SIGNATURE OF DECLARANT)

☐ Attorney for ☐ Plaintiff ☒ Petitioner ☐ Defendant
☐ Respondent ☐ Other (Specify):

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Richard Riess 406 1/2 E. Lincoln St. Carson, CA 90745		FOR COURT USE ONLY <div style="font-size: 24pt; transform: rotate(-15deg); opacity: 0.5;">ORIGINAL FILED</div> <div style="font-size: 18pt; transform: rotate(-15deg);">OCT 04 2011</div> <div style="font-size: 18pt; transform: rotate(-15deg);">LOS ANGELES</div> <div style="font-size: 18pt; transform: rotate(-15deg);">SUPERIOR COURT</div>
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: Richard Riess RESPONDENT: Desiree Capuano OTHER PARTY:		
GUARDIANSHIP OF (Name): Minor		CASE NUMBER: <div style="text-align: center; font-size: 1.2em;">TD035397</div>
DECLARATION UNDER UNIFORM CHILD CUSTODY JURISDICTION AND ENFORCEMENT ACT (UCCJEA)		

1. I am a party to this proceeding to determine custody of a child.
2. ☐ My present address and the present address of each child residing with me is confidential under Family Code section 3429 as I have indicated in item 3.
3. There are (specify number): 1 minor children who are subject to this proceeding, as follows:
(Insert the information requested below. The residence information must be given for the last FIVE years.)

a. Child's name Gabriel Riess		Place of birth Phoenix, AZ		Date of birth 09/27/2000		Sex M	
Period of residence 8/11 to present	Address 20100 N 78 Pl, #1080 Scottsdale, AZ 85226 <input type="checkbox"/> Confidential	Person child lived with (name and complete current address) Desiree Capuano, 20100 N 78 Pl, #1080 <input type="checkbox"/> Confidential Scottsdale, AZ 85226		Relationship Mother			
01/03 to 08/11	Child's residence (City, State) 406 1/2 E. Lincoln St. Carson, CA 90745	Person child lived with (name and complete current address) Richard Riess, 406 1/2 E. Lincoln St Carson, CA 90745		Relationship Father			
to	Child's residence (City, State)	Person child lived with (name and complete current address)					
to	Child's residence (City, State)	Person child lived with (name and complete current address)					

b. Child's name		Place of birth		Date of birth		Sex	
<input type="checkbox"/> Residence information is the same as given above for child a. (If NOT the same, provide the information below.)							
Period of residence to present	Address <input type="checkbox"/> Confidential	Person child lived with (name and complete current address) <input type="checkbox"/> Confidential		Relationship			
to	Child's residence (City, State)	Person child lived with (name and complete current address)					
to	Child's residence (City, State)	Person child lived with (name and complete current address)					
to	Child's residence (City, State)	Person child lived with (name and complete current address)					

- c. ☐ Additional residence information for a child listed in item a or b is continued on attachment 3c.
- d. ☐ Additional children are listed on form FL-105(A)/GC-120(A). (Provide all requested information for additional children.)

Page 1 of 2

SHORT TITLE:

Richard Riess v. Desiree Capuano

CASE NUMBER:

TD035397

4. Do you have information about, or have you participated as a party or as a witness or in some other capacity in, another court case or custody or visitation proceeding, in California or elsewhere, concerning a child subject to this proceeding?

☒ Yes ☐ No (If yes, attach a copy of the orders (if you have one) and provide the following information):

Proceeding	Case number	Court (name, state, location)	Court order or judgment (date)	Name of each child	Your connection to the case	Case status
a. <input checked="" type="checkbox"/> Family	YD042145	Superior Court, Torrance, CA	NA	Gabriel Riess	Petitioner	Dismissed
b. <input type="checkbox"/> Guardianship						
c. <input checked="" type="checkbox"/> Other	2011093719	Superior Court, Phoenix, AZ	NA	Gabriel Riess	Respondent	Pending

Proceeding	Case Number	Court (name, state, location)
d. <input type="checkbox"/> Juvenile Delinquency/ Juvenile Dependency		
e. <input type="checkbox"/> Adoption		

5. ☐ One or more domestic violence restraining/protective orders are now in effect. (Attach a copy of the orders if you have one and provide the following information):

Court	County	State	Case number (if known)	Orders expire (date)
a. <input type="checkbox"/> Criminal				
b. <input type="checkbox"/> Family				
c. <input type="checkbox"/> Juvenile Delinquency/ Juvenile Dependency				
d. <input type="checkbox"/> Other				

6. Do you know of any person who is not a party to this proceeding who has physical custody or claims to have custody of or visitation rights with any child in this case? ☐ Yes ☐ No (If yes, provide the following information):

<p>a. Name and address of person</p> <p><input type="checkbox"/> Has physical custody <input type="checkbox"/> Claims custody rights <input type="checkbox"/> Claims visitation rights</p> <p>Name of each child</p>	<p>b. Name and address of person</p> <p><input type="checkbox"/> Has physical custody <input type="checkbox"/> Claims custody rights <input type="checkbox"/> Claims visitation rights</p> <p>Name of each child</p>	<p>c. Name and address of person</p> <p><input type="checkbox"/> Has physical custody <input type="checkbox"/> Claims custody rights <input type="checkbox"/> Claims visitation rights</p> <p>Name of each child</p>
--	--	--

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

Date: October 4, 2011

Richard Riess

(TYPE OR PRINT NAME)



(SIGNATURE OF DECLARANT)

7. ☐ Number of pages attached: _____

NOTICE TO DECLARANT: You have a continuing duty to inform this court if you obtain any information about a custody proceeding in a California court or any other court concerning a child subject to this proceeding.

Exhibit “C”

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 “D”

----- Forwarded message -----

From: **Richard Riess** <richardriess@gmail.com>
Date: Fri, Oct 14, 2011 at 3:37 PM
Subject: Re: Ex parte hearing next week
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:

10/14/2011

Exhibit “E”

Selena Hinton

From: Richard Riess [richardriess@gmail.com]
Sent: Thursday, October 20, 2011 8:15 PM
To: Selena Hinton
Cc: David Goldfarb; Capuano Desiree
Subject: Re: Capuano, Desiree - Mail

Selena:

Thank you for informing me of the status of the Notice of Acknowledgment.

Judge Hannah directed me to send your office a copy of all documents I file in the California court pertaining to the custody of Gabriel. However, I was not ordered to send your office a copy of any such documents prior to filing them. I filed the ex parte request on Tuesday, October 18, 2011. I mailed a copy of the documents on Wednesday. Therefore, it stands to reason that you would not have received them yet.

Sincerely,
Richard

On Oct 20, 2011, at 11:58 AM, Selena Hinton wrote:

> We received the Notice and Acknowledgment signed by Desiree. I will
> forward to you in today's mail.
>
> We still have not received a copy of your "ex parte" motion you filed.
> As you know, you were ordered to provide copies to our office of all
> documents you filed with the California Courts.
>
>
>
> Selena Hinton
> Paralegal
> Gillespie, Shields & Durrant
> 7319 N 16th Street, Suite 100
> Phoenix, AZ 85020
> (602) 870-9700 Phone
> (602) 870-9783 Fax
>
> "Your Family's Law Firm"
>
>
>
> <Capuano, Desiree - Notice and Acknowledgement of Receipt dated
> 10.14.11.pdf>