

CONFIDENTIAL FAX TRANSMISSION

December 1, 1999

To: Dale Parrish & Tish Schaefer
Company: Edward Dale Parish, PC
Tel: (303) 820-3440
Fax: (303) 820-3449
From: Harmon Wilfred

Regarding: Conflict Issues / Evidence

Number of Pages (Including Cover Page) 5

Dear Dale & Tish,

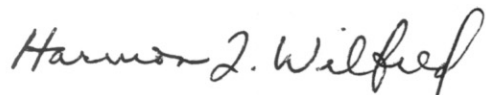
The existing conflict involving John Ciccolella's law firm is based upon Mr. Ciccolella's receipt of confidential information on my case by fax and telephone conversation in order to consider the possibility of legal representation. This information was shared in February of 1997. I have now discovered new information that I think may be helpful in proving the conflict. Attached is a copy of the cover page of the Permanent Orders for the Sandra divorce case that was issued on June 27, 1990. This was one of a number of documents I faxed to Mr. Ciccolella's office, for his consideration in representing me as legal council in February of 1997. Also attached is a copy of Mr. Ciccolella's Motion on behalf of my ex-wife Dearnna for an Ex-Parte Order for Temporary Custody entered on October 15, 1997. The following is a time line leading up to this filing:

- 1) Dearnna was served with the divorce and the children removed from her custody because of child abuse on October 10, 1997.
- 2) Dearnna's mother flew back to Colorado to "look for and hire an attorney on Dearnna's behalf" on or about the 14th of October, 1997. Dearnna's mother is from Denver, Colorado with little or no familiarity with attorneys in Colorado Springs.
- 3) John Ciccolella, an attorney from Colorado Springs, was supposedly located, interviewed and hired; and did produce the attached Ex-parte Motion for Temporary Custody and filed same on October 15, 1997, approximately 24 to 48 hours after Dearnna's mother left Arizona for Denver, Colorado to "locate" and hire an attorney in Colorado Springs.
- 4) Information taken directly from the Permanent Orders document (one of the documents that was previously sent to Mr. Ciccolella's attention with my representation in mind) was utilised to justify the approval of the motion filed by Mr. Ciccolella in his representation of Dearnna Garcia Wilfred, on October 15, 1997 to the extent that specific information and direct quotes were taken out of context and used to influence the Judge in that hearing.

A case in point is underlined in paragraph 3 of the Permanent Orders cover page attached. These exact words are quoted as written in paragraph 13 of Mr. Ciccolella's Ex-Parte Motion. The attached Permanent Orders from the Sandra Case given to Mr. Ciccolella in February of 1997 was obviously utilised by Mr. Ciccolella in preparing the Ex-parte order entered on October 15, 1997

How did Mr. Ciccolella obtain such information to prepare this order in such an extraordinarily short period of time without utilising the documents and information sent to his attention by me earlier in the year? A good question to ask, I would think.

Sincerely,



Harmon L. Wilfred

CC: Lance Sears

ISSUED JUNE 27, 1990

PERMANENT ORDERS

In re the Marriage of:

SANDRA A. WILFRED,

Petitioner,

and

HARMON L. WILFRED,

Respondent.

This matter was heard by the Court with respect to Permanent Orders on June, 5th, 6th and 7th, 1990, by the Honorable Joyce S. Steinhardt. The Petitioner, Sandra A. Wilfred, appearing in person, by and through her attorney of record, Elaine G. Edinburg of Elaine G. Edinburg, P.C., the Respondent, Harmon L. Wilfred, appearing in person, pro se. The Court, having heard the statements of counsel and testimony of the Petitioner and various witnesses, makes the following findings and Orders:

1. Decree of Dissolution: The parties were married on August 8, 1982 and separated on February 28, 1989. A Temporary Restraining Order was entered against Respondent on March 3, 1989. The Court finds that the marriage is irretrievably broken. A Decree of Dissolution of Marriage is entered. The Petitioner's maiden name is restored to her to wit: Sandra A. Allen.
2. Custody: One child was adopted by the parties to wit: Tyler Jonathan Wilfred, date of birth: December 30, 1987. The Court finds that the Petitioner has been primarily responsible for the care of the minor child and the minor child has done well with her. The Court grants Sole Custody of Tyler Jonathan Wilfred to the Petitioner.
- X 3. Visitation: The Respondent was granted visitation with the minor child under a supervised setting. Mr. David Campbell, the supervisor of visitation chosen by Respondent who supervised most visitations, testified in great detail to his many experiences in observing the Respondent and Respondent's interactions with the minor child. Mr. Campbell expressed his serious concerns regarding Respondent's apparent identity confusions, lack of a sense of accountability, tendency to be vindictive, and his poor understanding of cause and effect in his relationship with the minor child. The Court is very concerned about the mental health of Respondent. The Court finds that from a laymen's perspective, the minor child's emotional and physical development could very well be impaired with contact with

DISTRICT COURT , EL PASO COUNTY, STATE OF COLORADO

Case No. 97 DR 3393

Division No. X

MOTION FOR *EX PARTE* ORDER FOR RETURN OF CHILDREN TO THE STATE OF COLORADO AND MOTION FOR TEMPORARY CUSTODY

In re the Marriage of:

HARMON WILFRED,

and

DEARNA WILFRED,

FILED IN

OCT 15 1997

DIV 3

Petitioner,

Respondent.

The Respondent, DEARNA WILFRED, by and through her attorneys, THE LAW OFFICES OF JOHN B. CICCOLELLA, P.C., respectfully moves this Court to enter its order granting *ex parte* temporary custody of the minor children to the Respondent.

AS GROUNDS THEREFORE, the respondent states and alleges as follows:

1. On October 2, 1997, the Petitioner signed before a notary public in Los Angeles, California a Petition for Dissolution of Marriage.
2. On October 10, 1997, the Respondent traveled to Scottsdale, Arizona with the minor children, at the Petitioner's request, to meet for "fun trip" for everyone.
3. Upon arrival at the hotel Petitioner advised Respondent to bathe and relax and he would take the children to eat and pick up some items they would need in the hotel room.
4. Petitioner then left the hotel with the minor children and met with his counsel, Seymour E. Wheelock, at another hotel where the minor children were interviewed by Petitioner's counsel, Seymour E. Wheelock, and his wife, Janene Kelly, a purported M.S.W.
5. Upon Petitioner's arrival at counsel's hotel room, Petitioner's counsel advised a Process Server to serve respondent with Petition for Dissolution of Marriage.
6. Petitioner never returned to hotel room with the minor children and Petitioner's counsel has acknowledged minor children are with the Petitioner and planning to exit the Country on Friday, October 17, 1997, possibly for Canada.
7. Petitioner lists his address on affidavit as Toronto, Canada.

DW-00

8. Respondent's counsel has since learned that Petitioner is planning to leave Scottsdale, Arizona for Canada on October 16, 1997, with the minor children and with the knowledge of Petitioner's counsel, Seymour E. Wheelock.
9. Petitioner currently has a bench warrant issued in the State of Colorado for failure to appear at a Rule 69 hearing.
10. Petitioner has another minor child, Tyler Wilfred, age 9, who is in the sole custody of his mother, Sandra Allen.
11. On June 27, 1990, Judge Joyce Steinhardt, Arapaho County District Judge ordered that the respondent in 89 DR 477, Harmon L. Wilfred, have no contact with the minor child, Tyler Wilfred, until Respondent undergo a complete psychiatric examination.
12. To date Harmon L. Wilfred, Petitioner, has had no contact with minor child Tyler Wilfred, nor has he paid any child support for minor child in the amount of \$1,000/month.
- X 13. It is believed that Petitioner's mental health is still a concern and he continues to exhibit identity confusions, lacks a sense of accountability, be vindictive and poses poor understanding of cause and effect in relationship to his minor children.
14. The minor children's emotional and physical well-being are at risk if the minor children who have been in the primary care of the Respondent are not immediately returned to her custody.
15. Without the ex parte order of this court returning the minor children to Respondent, the parental snatching with its conspirators, may have caused irreparably harm to the children, physically and emotionally.

WHEREFORE, the Respondent, DEARNA WILFRED, prays that this Court will enter its order returning the minor children to the State of Colorado and for temporary custody to be granted to the Respondent, DEARNA WILFRED.

1 DISTRICT COURT, EL PASO COUNTY, COLORADO

2 Case No. 97DR3393, Division 3

3 -----

4 REPORTER'S TRANSCRIPT

5 -----

6 HARMON LYNN WILFRED,

7 Petitioner,

8 and

9 GARCIA WILFRED,

10 Respondent.

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13 The Hearing in this matter was held on the
14 17th day of October, 1997, before the HONORABLE
15 THOMAS KANE, Judge of the District Court.

16 This transcript is proceedings.

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22 APPEARANCES:

23 FOR THE PETITIONER: Seymour Wheelock

24 FOR THE DEFENDANT: Jeffrey Weston

25

October 17, 1997

1 P R O C E E D I N G S .

2 THE COURT: 97DR3393, In Re: The Marriage
3 of Wilfred and Garcia Wilfred. May I have entry of
4 appearance, please.

5 MR. WESTON: Jeffrey Weston, on behalf of
6 the Respondent, Your Honor.

7 MR. WHEELOCK: Seymour Wheelock, on behalf
8 of the Plaintiff.

9 THE COURT: Good afternoon. This matter
10 is before the Court this afternoon on an accelerated
11 basis, a motion was presented on behalf of the
12 Respondent several days ago requesting emergent ex
13 parte relief asking the Court to enter an order
14 returning the children to the physical custody of
15 the Respondent, am I correct? I need to be sure.

16 MR. WESTON: That's correct.

17 THE COURT: And prior to entering that
18 order, a conference was held by telephone,
19 Mr. Wheelock participated by telephone, and an order
20 awarding temporary custody to the Respondent was
21 entered but stayed until close of business today,
22 and then the anticipation was that there would be a
23 hearing, a contested hearing at this time in this
24 Court with regard to the issues presented in the
25 emergent motion.

1 How do the attorneys wish to proceed? I
2 know
3 Mr. Wheelock is here, but I have been advised in the
4 hallway that his client is not present.

5 How do you wish to proceed, Mr. Weston?

6 MR. WESTON: We would like a bench warrant
7 for dad. We are presenting this to you, Your Honor,
8 a simple case of parental snatching, taking the
9 child. It's a plan that's been carefully
10 orchestrated over the last couple weeks and dad
11 going down to Arizona for the sole purpose of
12 serving divorce papers and taking the children from
13 her.

14 We would like the children here brought in
15 front of you before any determination is made, but
16 eventually, and even now we're asking for the
17 children to be brought back to mother's care. She's
18 been the primary care giver for the last four
19 months, and to be quite honest, there is no reason
20 why she shouldn't continue to be so.

21 THE COURT: How old are the children?

22 MR. WESTON: The daughter just turned six
23 yesterday, and the son, Isaac, is three, and I think
24 he turns four in December.

25 THE COURT: All right. Thank you.

1 Mr. Wheelock, do you know where your
2 client is?

3 MR. WHEELLOCK: Judge, I do not know where
4 my client is. I informed him of this hearing date
5 and time. He contacted one of my witnesses, who is
6 present today, and said that he would be here. This
7 contact took place right around 9:00 this morning.
8 We all met at noon, and he knew of the time of that
9 meeting. My only thought is that he did not know
10 exactly where to be and somehow is miss-connected,
11 and I can't tell you where he is, and only that I
12 will tell you that I will bring him before the Court
13 after he had gotten lost.

14 THE COURT: I'll also note for the parties
15 here present and for the attorneys, of course, that
16 I was advised several days ago at the time of the
17 emergent ex parte motion at the time of receiving
18 that and having telephone conference that included
19 Mr. Wheelock that there was a bench warrant that had
20 issued out of the District Court in Arapahoe County,
21 and I have been shown by security officers here in
22 the courthouse that in fact there is a warrant and
23 that there is a significant amount, at least at
24 issue, according to the information they have, in
25 the Arapahoe County case. The reason I recite that

1 now is I'll need to set a bail amount if I issue a
2 bench warrant. I am going to issue a bench warrant,
3 and, accordingly, I need to have the attorney's
4 address on the issue of what bail should be set.
5 Mr. Weston.

6 MR. WESTON: It's our understanding right
7 now that about \$700,000 is due in the other case,
8 and I think that's in the records that are presented
9 to the Court, it's about \$200,000 in child support
10 and maintenance, and about a half million in
11 property settlement.

12 I don't know what would be appropriate, to
13 be quite honest, to bring this man here. He already
14 has a bench warrant out for him. I don't know what
15 it's going to take. We would ask at this time, I
16 don't know if it's appropriate to do it now, but I'm
17 going to ask -- we would ask that dad's Passport,
18 along with the Passport of the two children, be
19 tendered to the District Court at the soonest
20 convenience, and we would ask that the custody order
21 that's already been granted be continued as well.

22 THE COURT: Mr. Wheelock, do you take a
23 position on the amount of bail?

24 MR. WHEELLOCK: The amount is actually
25 \$83,000 in child support, and the difference between

1 that and \$519,000 in maintenance. The bench warrant
2 was issued for failure to appear at a Rule 69
3 hearing. I was in touch with Liz Feazalare, who is
4 the DA in Arapahoe County, regularly. The problem
5 was her man was in Canada working on this business
6 deal that still hasn't -- it hasn't reached
7 fruition, although I understand it's virtually
8 closed.

9 I was going to be able to take him to
10 Arapahoe County to attend the Rule 69 hearing, but
11 it's a Rule 69 hearing and not a failure or any kind
12 of a contempt, so I would say that bail for a Rule
13 69 hearing shouldn't be very high.

14 As far as the children being returned to
15 the mother, I still think, and I have evidence in
16 court today, that the children were being
17 mistreated, neglected, and I have direct evidence by
18 the nanny who was present in the home for six
19 months, and also a gentleman who lived in the home
20 for about two months, both of whom concur on the
21 nature of the care given to the children.

22 My wife is here, who also saw the children
23 after they were removed from their mother, and heard
24 their statements about how they felt to not be with
25 her and the kind of things that had gone on when

1 they were with her, and so if only for the record, I
2 want to state that I think that the children are at
3 an emotional risk should they be returned to the
4 mother.

5 THE COURT: Well, it's noted for the
6 record. It's, however, of concern to me that your
7 client has not appeared, and there is no explanation
8 for his non-appearance, and I share the concern
9 recited by the other side that this could be a child
10 snatching of sorts, and I'm troubled by that given
11 the circumstances of the case.

12 I'm, frankly, considering no bond, so that
13 it will simply be required that he be brought before
14 me before he is eligible to be bonded out. I can
15 set a bond at that time, but I do want him brought
16 before me. I have concerns about the kids. I
17 understand the issues are contested, but I have
18 concerns about these children, and, accordingly,
19 that will be my order.

20 I am going to issue a bench warrant for
21 the arrest of Harmon L. Wilfred. I am going to
22 recite that there will be no bond set until he
23 appears in front of me, and at that time I'll set a
24 bond for him. So as soon as he is apprehended,
25 I'll, of course, be having my staff advise your

1 offices so you can appear forthwith. I don't expect
2 him to be in jail without bond for long, but I do
3 want him brought before me so that some of these
4 concerns that I have about the well being of these
5 children can be addressed, and their whereabouts.

6 MR. WHEELOCK: Judge, does this bench
7 warrant supersede the one from Arapahoe County so if
8 he is taken into custody, he will stay here until
9 this Court is through with him?

10 THE COURT: I don't know. I don't know
11 the answer to that, frankly. It's something that I
12 probably, if he is arrested here or arrested in
13 Arapahoe County, I frankly expect to speak to the
14 Judge in Arapahoe County, I'd be happy to do that,
15 so that there is some coordination of effort, but I
16 don't know the answer as to priority.

17 I do think the issues here are
18 compelling. We have two children and we don't know
19 where they are, how they're doing, and the
20 circumstances of their being in their father's
21 custody, physical custody, are at least questionable
22 based upon what I've seen in the motion which was
23 filed ex parte.

24 I'll also grant Mr. Weston's request, if
25 his Passport can be located and if the Passport of

1 the children can be located, I'll order it turned in
2 to the District Court. I'll also grant Mr. Weston's
3 request that the existing temporary custody order,
4 and, as I recall, I entered an order of temporary
5 legal and physical custody to the mother and stayed
6 the effects of that order until close of business
7 today, am I correct?

8 MR. WESTON: That's correct, Your Honor.

9 THE COURT: And I will lift that, state
10 provisions, I'm no longer going to have that stay in
11 place, so temporary legal and physical custody is
12 awarded to the mother for purposes of that
13 enforcement.

14 MR. CICOLELLA: Judge, its Mr. Weston's
15 motion, but if I could jump in real quick. It would
16 be helpful if we can include within the order that
17 local -- local law enforcement from sister states
18 and Federal law enforcement is requested to render
19 assistance in the return of the children, you can't
20 order that they do that, but it often carries weight
21 if the Court has said the assistance is requested,
22 and then it leaves it up to them, usually that
23 almost carries the weight of an order, but I don't
24 think you can order other states to do it in the
25 Federal government, but they usually give it some

1 pretty good weight.

2 THE COURT: Any objection to that,
3 Mr. Wheelock?

4 MR. WHEELLOCK: Yes, I object. I think the
5 law enforcement circumstances can be left alone, but
6 I object.

7 THE COURT: I'm going to overrule your
8 objection. I think it's appropriate to at least
9 request that assistance. I don't have jurisdiction
10 to order out-of-state law enforcement to do much of
11 anything, but I do want the compelling nature of my
12 worries to be communicated, so I'll request their
13 assistance.

14 All right. I'll be contacting you if
15 there is an arrest, I'll be advising immediately
16 because I'll want him brought here quickly so either
17 a bail can be set, or other arrangements can be
18 made, because I do acknowledge it is unusual to not
19 set a bond.

20 MR. WESTON: Mom's just indicated to me
21 that Mr. Kollin Finn is present in the courtroom,
22 and he was entrusted with the children's Passports
23 at one time. We would ask that if he still has
24 them, that he would also be included in that order.

25 MR. FINN: I can speak to that, Your

1 Honor, if I can.

2 THE COURT: State your name.

3 MR. FINN: My name is Kollin Finn,
4 K-o-l-l-i-n F-i-n-n, as in Huckleberry. They were
5 Federal Expressed, those Passports, to Harmon, I
6 don't remember the exact date, but I have since
7 received a billing, so it was at least a couple
8 weeks ago. I sent it to him -- sent them to him
9 while he was doing business in California.

10 THE COURT: So they were Federal
11 Expressed, the Passports for both children, and for
12 Mr. Wilfred were Federal Expressed?

13 MR. FINN: I believe -- the only two I
14 sent were the Passports of Isaac and Danielle.

15 THE COURT: The children's?

16 MR. FINN: Correct.

17 THE COURT: Do you know where
18 Mr. Wilfred's Passport is by chance?

19 MR. FINN: I believe he has it in his
20 possession.

21 THE COURT: You never were entrusted with
22 it?

23 MR. FINN: No.

24 THE COURT: Do you still have the address
25 in California where they were sent?

1 MR. FINN: I sent it, I believe, to some
2 sort of a Federal Express address, and I can check
3 on that and get that to Seymour if you would like.

4 THE COURT: If you would please do that,
5 and I am going to order Mr. Wheelock to provide that
6 information to Mr. Weston so that information is
7 known. It may be there's some searching that needs
8 to be done.

9 MR. FINN: Okay.

10 THE COURT: All right. Mr. Weston.

11 MR. WESTON: I don't mean to keep you any
12 longer than we have to. Does Mr. Finn have mom's
13 Passport still?

14 MR. FINN: Yes, that is somewhere in our
15 office on file.

16 MR. WESTON: Can you return that to us
17 within the next couple days?

18 MR. FINN: Yes, I can deliver that to John
19 Cicolella's office.

20 THE COURT: All right.

21 MR. WESTON: Also, we would ask does
22 Seymour -- Mr. Wheelock, excuse me -- have the
23 Toronto address for his client?

24 THE COURT: Mr. Wheelock.

25 MR. WHEELOCK: I only have a phone number.

1 THE COURT: I'll require that you provide,
2 at least for tracing purposes, I need a search to
3 take place. I am ordering, if these children have
4 been snatched, and if they're headed for Canada, I
5 think the search needs to take place. I count on
6 officers of court not to communicate with one
7 another's clients but for tracing purposes, if
8 that's what we have, that's what we'll work with.

9 Anything further?

10 MR. WESTON: We would ask the right to
11 claim attorney's fees be reserved at this time.

12 THE COURT: It is reserved.

13 MR. WESTON: And I don't know if it's
14 appropriate at this time, but we would ask for a
15 hearing for child support, or is that something we
16 should request out of Division X?

17 THE COURT: Well, I had frankly thought
18 before I came to be aware that Mr. Wilfred had not
19 appeared this afternoon, that I would manage the
20 temporary orders. My procedural inclination this
21 afternoon was to require a fairly limited hearing
22 today as to whether or not the children should be
23 returned to their mother, whether the status quo
24 should be returned or not, and then to have you all
25 set separately a temporary orders hearing, but since

1 I would have taken some proof this afternoon as to
2 the circumstances of the children not being with
3 their mother, that then I would do the temporary
4 orders. It seemed to me that was the best way to
5 accommodate judicial economy, also your own economy
6 so you wouldn't have to repeat evidence between here
7 and Division X.

8 The train has changed somewhat in that we
9 aren't having a hearing today, but I have issued a
10 bench warrant, and I do hope to have Mr. Wilfred
11 brought before me, and, accordingly, I'll have you
12 set that here. I'll hear it in a separate hearing,
13 but set that here.

14 MR. WESTON: We would also reserve the
15 right from this point forward to ask for support.
16 Obviously, it's not the main concern right now, but
17 we would like to at least establish the date.

18 THE COURT: You have reserved that right
19 to ask for support.

20 MR. WESTON: Thank you.

21 THE COURT: Mr. Wheelock?

22 MR. WHEELOCK: No thank you, sir.

23 THE COURT: Thank you, sir, for your
24 appearance and addressing the Court.

25 Mr. Weston, if you will prepare the

1 appropriate orders.

2 MR. WESTON: We will, Your Honor.

3 THE COURT: Court's in recess.

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REPORTER'S CERTIFICATE

The above and foregoing is a true and complete transcription of my stenotype notes taken in my capacity as Official Floater Court Reporter of District Court, El Paso County, Colorado, at the times and place above set forth.

DATED this 10th day of January, 2000.

Penny Zucker

Penny Zucker, R.P.R.

DISTRICT COURT, COUNTY OF EL PASO, STATE OF COLORADO

Case No. 97DR3393

Division X

TRANSCRIPT OF PROCEEDINGS

HARMON LYNN WILFRED

Petitioner

and

DERNA GARCIA WILFRED

Respondent

This matter came on for final orders hearing on April 27, 1998, before Magistrate Jann Dubois, Division X. This is a transcript of that hearing.

APPEARANCES:

FOR THE PETITIONER: SEYMOUR WHELOCK (BY TELEPHONE)

FOR THE RESPONDENT: JEFFREY WESTON

27 APRIL 98
TRANSCRIPT

1 THE COURT: The divorce itself and
2 then bifurcate everything else out for final orders in
3 front of Judge Hall?

4 MR. WHEELOCK: Yes.

5 THE COURT: Okay. Thank you. Mr.
6 Weston, you may proceed.

7 MR. WESTON: We are only bifurcating
8 custody, just so there is an understanding.

9 THE COURT: So what are we doing on
10 all of the contested issues?

11 MR. WESTON: Well, Judge, there are no
12 contested issues. By his non-appearance, Judge Hall
13 ruled that it's a non-contested issue because he
14 voluntarily chose not to appear. He's not waiving
15 extradition from Canada, so it goes on our client's
16 testimony with regard (inaudible).

17 THE COURT: Is that your understanding
18 Mr. Wheelock?

19 MR. WHEELOCK: I believe that's what
20 Judge Hall did.

21 THE COURT: All right. Now I'm with
22 you. You may proceed.

23 MR. WESTON: Thank you Your Honor. We
24 call Derna Wilfred to the stand.

25 THE COURT: Ma'am, if you could please
26 stand in front of me and be sworn.

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DERNA WILFRED

called as a witness in the above-captioned matter,
having been duly sworn, testified as follows:

DIRECT EXAMINATION

Q: Initially, I guess we can start with the
financial affidavit. I have a copy for Mr. Wheelock,
but obviously that's not going to happen today. Mrs.
Wilfred, can you please state your name and spell your
last name for the record?

A: Derna Garcia Wilfred, W-i-l-f-r-e-d.

Q: And you are the Respondent in this matter?

A: Yes.

Q: And you are currently married to Harmon
Wilfred?

A: Yes.

Q: And where is Mr. Wilfred right now?

A: He is sitting in a Canadian jail waiting to
be extradited. He has been fighting extradition for
over 10 weeks.

Q: And you were served in this matter in
Arizona, is that correct?

A: Yes, on the 10th of October.

Q: Is your marriage irretrievably broken?

A: Yes.

Q: Would any amount of counseling rectify this
matter, or assist in putting it back together?

1 A: No.

2 Q: And it's been ninety days since the
3.. dissolution of marriage was filed, is that correct?

4 A: Yes.

5 Q: Are you now pregnant?

6 A: No.

7 Q: And are you working at this time?

8 A: No.

9 Q: Are you currently receiving welfare?

10 A: Yes.

11 Q: And you have been receiving that for about
12 three weeks now, is that correct?

13 A: yes.

14 Q: And you are actually receiving it down here,
15 but you are in the process of transferring it up to
16 Denver County?

17 A: Yes.

18 Q: And where do you live right now?

19 A: 7260 South Washington Way, Littleton,
20 Colorado 80122.

21 Q: Now what are you receiving (inaudible) each
22 month?

23 A: I would say approximately -- I get about
24 \$350 in food stamps and \$350 cash allowance for housing.

25 Q: Do you have any other source of income?

26 A: No.

1 Q: Are your parents helping you out a little
2 bit?

3 A: No. They spent an awful lot to get me to
4 Canada to get my children back. That was a very big
5 expense that they didn't have at the time, but everybody
6 sacrificed so that we could get the children back. The
7 attorney expenses, hotel and traveling, we are talking
8 about thousands of dollars here.

9 Q: Well we are going to get into that in just
10 one minute. Do you know what Mr. Wilfred has the
11 capability of earning?

12 A: Over \$20,000 a month.

13 Q: And what is his line of work?

14 A: International finance. His profession is a
15 real estate broker.

16 Q: And he has had some success at that hasn't
17 he?

18 A: He has owned properties and shopping centers
19 in Denver. He has managed properties in shopping
20 centers.

21 Q: And just so we could run some confirmation
22 (inaudible), Mr. Wilfred has been divorced previously
23 hasn't he?

24 A: Yes he has.

25 Q: And his last wife was Sandra (inaudible), is
26 that correct?

1 A: Yes.

2 MR. WESTON: I am going to tender to
3 the Court at this time Respondent's exhibit 1. If I may
4 approach the witness?

5 THE COURT: You may.

6 Q: Could you turn to paragraph 9 in that
7 document, and could you tell me what this document is?
8 Mrs. Wilfred.

9 A: I'm sorry, I was reading it.

10 Q: That's all right. Can you tell me what this
11 document is?

12 A: This is what he is capable of making and
13 paying child support monthly.

14 Q: But this is the permanent orders from his
15 third marriage, is that correct?

16 A: Yes.

17 Q: And these were entered up in Arapahoe
18 County, is that correct?

19 A: Yes.

20 Q: And in paragraph 9, that indicates that Mr.
21 Wilfred -- that the Court found that Mr. Wilfred has the
22 capability of earning over \$10,000 a month, is that
23 correct?

24 A: Yes.

25 Q: And this occurred in 1990?

26 A: Yes. And I married him in '90.

1 Q: Okay. Now has Mr. Wilfred had any injuries
2 since that time that prevent him from working?

3 A: No.

4 Q: Okay. Has he ever sought mental health
5 counseling since that time, where there is something
6 psychologically preventing him from working?

7 A: No.

8 Q: Okay. So he still has the capability of
9 earning this amount, is that correct?

10 A: Yes.

11 Q: And are you asking the Court find that he
12 can earn this amount to both calculate child support and
13 spousal maintenance?

14 MR. WHEELLOCK: I am going to have to
15 object to this at this point in time.

16 MR. WESTON: I don't think Mr.
17 Wheelock has the ability to object, Your Honor.

18 MR. WHEELLOCK: I am objecting.

19 THE COURT: What is your basis for
20 objection Mr. Wheelock?

21 MR. WHEELLOCK: That's irrelevant to
22 this proceeding because that happened in a different
23 jurisdiction at a different time in real estate. He was
24 in Denver at the time when the county was booming. We
25 are talking about Colorado Springs in 1998. It's
26 totally irrelevant to these proceedings.

1 THE COURT: Well Mr. Wheelock, as I
2 read Judge Hall's order, you don't have standing to
3 object. He has said that there are uncontested issues
4 regarding the status of the marriage, and all other
5 issues collateral to the marriage except for custody.
6 So I don't know if that was discussed with Judge Hall at
7 the status conference.

8 MR. WHEELOCK: My objection to reset
9 this hearing (inaudible) that everything was at issue.
10 I said that there wasn't any agreement on anything. The
11 Judge, however, indicated that (inaudible) that I
12 couldn't object (inaudible). It just seems to me that
13 this is going (inaudible) to try to establish something
14 to benefit their client. That's all. Inaudible record
15 for that.

16 THE COURT: So noted for the record,
17 but your objection is overruled. You may proceed.

18 MR. WESTON: Thank you Your Honor. I
19 am going to tender to the Court a worksheet guideline.

20 THE COURT: Thank you Mr. Weston.

21 MR. WHEELOCK: I can't hear.

22 THE COURT: Nothing is being said
23 right now.

24 MR. WESTON: Just one moment Your
25 Honor.

26 THE COURT: We have a lull in the

1 conversation.

2 MR. WHEELLOCK: Thank you.

3 Q: Based on what Mr. Wheelock just represented
4 (inaudible) question to establish our position, you were
5 personally aware that Mr. Wilfred was earning about
6 \$20,000 a month, correct?

7 A: Yes.

8 Q: And this was at the beginning of your
9 marriage?

10 A: In 1990.

11 Q: That was like eight years ago, is that
12 correct?

13 A: Yes.

14 Q: And as you testified there was nothing
15 preventing him from increasing that amount, is that
16 correct?

17 A: Yes.

18 Q: You are asking the Court today to enter a
19 child support based on his income of \$10,000 a month,
20 and your income at minimum wage, is that correct?

21 A: Yes.

22 Q: And you would be able to support the
23 children on the amount that the child support guideline
24 is showing, which is \$1,560 per month? Would that be
25 enough to support the childrens' needs (inaudible) level
26 that they are accustomed to?

1 A: That would pay for our rent. When I was
2 married to him, our rent was \$1,500 a month.

3 Q: But that will help subsidize -- This will
4 pay for their needs, correct?

5 A: Yes.

6 Q: Now you have needs additional to that, is
7 that correct?

8 A: Yes.

9 Q: Can you tell me very briefly what level of
10 income that you are accustom to living at in this
11 marriage? What kind of house did you live in?

12 A: If you would have it appraised, over
13 \$350,000 when we lived in a house in Denver.

14 Q: But you sold that house and you moved down
15 here?

16 A: No. What happened was because he didn't
17 want to pay child support or maintenance to his previous
18 wife, we were evicted from our house when I was seven
19 months pregnant because he refused to pay her any
20 support. He felt if he went out and got a job that they
21 would attack his income.

22 Q: So he has been self-employed since that
23 time?

24 A: Yes.

25 Q: What is the rent on your home down here?

26 A: \$1,500 a month.

1 Q: And did you have a vehicle at the time?

2 A: He was renting a car.

3 Q: And do you know roughly how much that was
4 pre month?

5 A: He was paying \$300 a week on it.

6 Q: Okay. Now when you filled out your
7 financial affidavit we put in anticipatory needs in
8 here, correct?

9 A: Yes.

10 Q: You don't actually have all of these
11 expenses at this time, is that correct?

12 A: Right now I have no car. I am staying with
13 my parents until I have some form of income because I
14 cannot afford to be on my own.

15 Q: Okay. Just for clarification purposes you
16 are not actually paying these expenses at this time, is
17 that correct?

18 A: Correct.

19 Q: But you believe that these are reasonable
20 expenses for what you are accustomed to living at during
21 the marriage?

22 A: Yes.

23 Q: Okay. And (inaudible) couple of them, when
24 you put down for health insurance of \$350 a month, did
25 you have health insurance while you were married?

26 A: No.

1 Q: You didn't?

2 A: Once for two months, and then he quit paying
3 on it.

4 Q: But you have the means to cover all of the
5 health needs for the family, correct, based on Mr.
6 Wilfred's income?

7 A: Yes.

8 Q: And you also put down here food for you and
9 the two children of \$560 per month, is that correct?

10 A: Yes.

11 Q: Are you requesting that spousal maintenance
12 be awarded at this time?

13 A: Yes. I have been unemployed for over seven
14 years. When I married him, I quit my job. He wanted me
15 to be a housewife. So I have been out of the work force
16 for over seven years.

17 Q: And what did you do at that time?

18 A: I was a computer operator. I did data entry
19 and accounts payable and receivable at (inaudible) in
20 Denver.

21 Q: How much were you earning roughly an hour?

22 A: About \$8.50.

23 Q: So you have needs on top of the childrens'
24 needs in order to support yourself in the upcoming
25 months?

26 A: Yes.

25 ~~deal that is going to be completed, is that correct?~~

26 A: Yes.

1 MR. WESTON: I am going to tender to
2 the Court Respondent's exhibit 2, which are actually
3 five documents that are basically the same document.

4 THE COURT: Thank you counsel.

5 Q: First of all, would you please identify that
6 document? Let's start with that.

7 A: It's an agreement that he's had people sign
8 that if they would invest -- for every thousand that
9 they would invest he would pay them \$10,000 back.

10 Q: Okay. And where was the money that he was
11 going to pay them back coming from?

12 A: This deal, the Mitsubishi deal.

13 Q: Do you see the first -- I think it's the top
14 paper I gave to you where it is signed by Norma Womack
15 (phonetic)?

16 A: Yes.

17 Q: All right. Could you read that first
18 sentence please?

19 A: The agreement as made on the 21st of January
20 1997, between (inaudible) International Funding as
21 seller Norma Womack (phonetic). I can't read it very
22 well. Hereinafter regarded to investor as purchasers
23 that this portion of fee to be paid to the AIF
24 (inaudible), the transaction known as the Mitsubishi
25 note sale.

26 Q: So is it your understanding that he was

1 borrowing money from Mrs. Womack (phonetic), and paying
2 her back once the Mitsubishi bond deal was closed?

3 A: Yes.

4 Q: Who is the AIF? That's (inaudible)
5 International Funding?

6 A: I think so.

7 Q: Okay. That's what you just read, is that
8 correct?

9 A: He was always changing the name of his
10 company.

11 Q: Who owned (inaudible)?

12 A: Harmon Wilfred.

13 Q: Is he the sole owner of (inaudible)
14 International Funding?

15 A: Yes.

16 Q: Now there is an (inaudible) International
17 real estate company as well, isn't there?

18 A: Harmon and a gentleman by the name of Cullen
19 (phonetic) (inaudible).

20 Q: Owned that one?

21 A: Yes.

22 Q: But Harmon was the sole owner of (inaudible)
23 International?

24 A: Yes. Most of the companies like even the
25 people that he approached in Canada, he came up with
26 contracts saying that he refused to fund them not unless

1 they were willing to sign over fifty-one percent
2 controlling interest of their company to him.

3 Q: Okay. So what Harmon was portraying to his
4 investors is that a Mitsubishi bond deal was going to be
5 closed, and he was going to pay them back in the future
6 a certain amount on top of whatever they loaned him, is
7 that correct?

8 A: Yes.

9 Q: And the amount that he was supposed to
10 receive in fees from this bond deal is twenty million
11 dollars?

12 A: Yes.

13 Q: I am going to give you one last document
14 here, and it is marked Respondent's exhibit C.

15 MR. WESTON: May I approach?

16 THE COURT: Thank you counsel.

17 Q: Can you identify that document?

18 A: Bay State Trust (phonetic).

19 Q: And what is that document? What is it?

20 A: It's a pay order.

21 Q: And who is it to be paid to?

22 A: To Harmon Wilfred for twenty million
23 dollars.

24 Q: And it was actually to the (inaudible)
25 International funding, is that correct?

26 A: Yes.

1 Q: And what is that date on that?

2 A: April 28, 1997.

3 Q: So as of only a year ago he is still

4 expecting to be paid on these amounts?

5 A: Yoc.

6 Q: Are you asking that once he receives his fee
7 that you be awarded a portion of that amount as marital
8 property?

9 A: Yes.

10 Q: And are you asking that an award of half of
11 the amount be awarded to you?

12 A: Yes. *

13 THE COURT: Counsel, you are talking
14 about anything incurred in time up until today's date,
15 not from this point forward, correct? Because if I
16 enter the final decree today, I am anticipating that we
17 would have to have a cut-off point in time rather
18 indefinitely into the future. There might be additional
19 work that is done subsequent to today's date. I'm not
20 certain -- From what I have heard thus far, I'm not
21 certain that the entire project has already been
22 completed, and if he has performed all he needs to to
23 gain this sum of money or not.

24 MR. WESTON: We can (inaudible)
25 testimony on that that he has been telling people all
26 along that the deal is to be closed as of two years ago.

1 So I'm sure there is probably -- There may be work that
2 needs to be done from this point forward, but the deal
3 has already been consummated.

4 THE COURT: Let me ask another
5 question. Does that contemplate then that pursuant to
6 the previous exhibit the agreement that he has entered
7 into with various investors contemplates them receiving
8 a certain return, and then above and beyond that that he
9 would make a profit, I'm assuming, and that your are not
10 seeing the entire twenty million he is receiving as
11 profit?

12 MR. WESTON: Well what he has done is
13 he has both used marital assets and funds from these
14 people to pay for his venture of closing this deal. So
15 really a lot of his expenses have already been take care
16 of, both on marital funds and from these funds.

17 THE COURT: But the investors have not
18 been paid yet, correct?

19 MR. WESTON: We don't know. We know
20 that there was a deal. We know what needs to be paid,
21 but we don't know what is still outstanding.

22 THE COURT: Are you requesting -- Let
23 me just bottom line it then. Are you requesting that
24 she get ten million or only one-half of whatever is left
25 over after the investors are paid their portion?

26 MR. WESTON: What we are asking for is

1 ten million minus whatever expenses Mr. Wilfred can show
2 from this point forward. That's what we are asking for.

3 THE COURT: Including what the
4 investors return would be or not? I would think so.

5 MR. WESTON: I would think, yea. Yes.

6 THE COURT: Okay. I just want to be
7 clear. Thank you.

8 THE WITNESS: Wouldn't he have to pay
9 for the investors out of his half, out of what he
10 receives?

11 MR. WESTON: Well, no. Part of what
12 the Judge is saying is that for self-employed people
13 (inaudible) earn profits are always absent reasonable
14 and necessary business expenses. But what we are asking
15 the Court is that the ten million dollars be awarded
16 minus whatever Mr. Wilfred can show for reasonable and
17 necessary business expenses. I'm sorry, this was a
18 little confusing. I thought (inaudible) but here we
19 are.

20 THE COURT: I'm new to it. You
21 probably have explained it (inaudible) to other Judges.

22 Q: Now finally, you have incurred attorney's
23 fees?

24 A: Yes.

25 Q: And you have incurred attorney's fees both
26 to myself and to another attorney in Canada, is that

1 correct?

2 A: Yes.

3 Q: And have you had a chance to review the
4 attorney billings that we sent to you since you have
5 retained us?

6 A: Yes. I don't have a copy of it with me
7 right now.

8 Q: Let's start with the canadian attorney.
9 What was his name?

10 A: Mr. Roberson (phonetic).

11 Q: Bob Roberson (phonetic)?

12 A: Yes, Bob Roberson (phonetic).

13 Q: And how much did you have to pay for his
14 fees?

15 A: For the retainer and then afterwards we have
16 to pay more.

17 Q: What did you have to pay for the retainer?

18 A: \$1,500.

19 Q: And what were his fees beyond the retainer?

20 A: Over \$300 more.

21 Q: And what services did Mr. Roberson
22 (phonetic) provide to you?

23 A: He had to go through the Canadian Courts to
24 prove that I had full custody of the children and that
25 the children were mine, and that they were illegally
26 taken out of the country, of the United States, and that

1 Mr. Wilfred was a fugitive of the United States.

2 Q: So he helped you gain custody through the
3 Canadian Courts of your children?

4 A: Yes. And then he had to go to the Mounties
5 and all the officials in Canada, the missing registry in
6 Canada, the childrens' -- There are several different
7 agencies regarding children (inaudible).

8 Q: Do you believe his fees were reasonable?

9 A: Yes.

10 Q: And the only reason you had to obtain his
11 services is because Mr. Wilfred took the children in
12 October?

13 A: Yes.

14 Q: And shortly after Mr. Wilfred took the
15 children in October, you received a Court order for full
16 custody, is that correct?

17 A: Yes.

18 Q: Now you have also incurred fees from our
19 office, is that correct?

20 A: Yes.

21 MR. WESTON: If I may approach
22 both you and the witness. This is Respondent's exhibit
23 4.

24 Q: Is that a copy of our billing statement
25 since October?

26 A: Yes.

1 Q: And we were able to total these amounts up
2 prior to this hearing today, is that correct?

3 A: Yes.

4 Q: And the amounts on there are \$15,853, is
5 that correct?

6 A: Yes.

7 Q: Now are you asking the Court that Mr.
8 Wilfred be responsible for these fees?

9 A: Yes. The majority of all this cost was that
10 my attorneys were calling different agencies, FBI, long
11 distance phone calls to Canada, calling people
12 throughout the United States trying to track any lead on
13 my children. All the cost basically was finding my
14 children.

15 Q: Okay. So this doesn't even deal with a lot
16 of the divorce -- I mean there is amounts in here that
17 deal with divorce, but most of this is for the return of
18 your children?

19 A: Yes.

20 Q: And the return was based on Mr. Wilfred's
21 taking the children?

22 A: Yes.

23 Q: And do you believe that our fees have been
24 reasonable to this point?

25 A: Yes.

26 Q: And the final question is are you asking the

1 Court to find -- Excuse me, hold on one second.

2 MR. WESTON: I always forget this
3 part. I would ask that each of these exhibits be
4 entered into the record Your Honor.

5 THE COURT: Mr. Wheelock, I'm
6 assuming you have no objection.

7 MR. WHEELOCK: That is correct.

8 (Whereupon Respondent's exhibits 1 through 3 were
9 admitted into evidence.

10 MR. WESTON: I think there was a
11 fourth as well.

12 THE COURT: Oh, I'm sorry, 1
13 through 4.

14 Q: Finally, you had a few possessions in your
15 care as well, marital possessions, that you still have?
16 You have to answer yes or no since this is being
17 recorded.

18 A: Yes.

19 Q: And you were able to obtain a few things
20 from the prior order of this Court awarding that the
21 marital property be awarded to you, correct?

22 A: Yes.

23 Q: And are you asking the Court award
24 everything in your possession to you?

25 A: Yes.

26 THE COURT: Counsel, is that with

1 respect to the prior order that I issued, and then the
2 writ of assistance?

3 MR. WESTON: That was what I was
4 thinking Your Honor.

5 Q: I think you had a few other personal effects
6 on top of that, correct?

7 A: Yes.

8 Q: But a lot of the furniture-that you had in --
9 your old home was rented?

10 A: Yes.

11 Q: So there wasn't a lot that we took from the
12 home once the lease ran out?

13 A: Yes.

14 Q: And why did you have so few possessions in
15 the marital home?

16 A: We had a lovely house when we first started
17 when we were in Denver. Through the years he started
18 selling everything from computers to furniture to live
19 off because he did not want to pay any child support.
20 He figured if he was self-employed and he could say that
21 he had a loss he wouldn't have to pay any child support
22 even though he would come monthly and pay our expenses
23 and give me anywhere from \$5,000 to \$500 spending money.
24 He had money coming in from some place.

25 Q: And the final question I have to ask you is
26 you are asking the Court enter the decree of dissolution

1 at this time subject to the final orders for custody in
2 Judge Hall's division later on this year?

3 A: Yes.

4 MR. WESTON: I have no further
5 questions Your Honor.

6 THE COURT: Ma'am, are you
7 seeking restoration of your maiden name?

8 THE WITNESS: No. Because of my
9 children and the school I think it's best that I keep
10 the same name.

11 THE COURT: Mr. Wheelock, do you
12 have any questions for the witness?

13 MR. WHEELLOCK: No I don't.

14 THE COURT: Ma'am, thank you for
15 your testimony. You may be seated. Any additional
16 witnesses or evidence Mr. Weston?

17 MR. WESTON: I think we've give
18 everything you need to see Your Honor.

19 THE COURT: Mr. Wheelock, do you
20 have any witnesses?

21 MR. WHEELLOCK: No.

22 THE COURT: Okay. Counsel, I
23 have re-computed the support to include the spousal
24 maintenance request that you had also set forth on the
25 record. The Court finds that this matter comes before
26 the Court for the entry of a decree of dissolution of

1 marriage. The Court finds that it has jurisdiction over
2 the subject matter and over the parties. That the
3 Respondent is a resident of the state of Colorado, and
4 was for at least ninety days prior to the filing of this
5 action, and at least ninety days has passed since
6 service upon the Respondent. The Court will find that
7 two children were born as issue of this marriage. That
8 the Respondent is not pregnant. With respect to the
9 marriage, the Court will find the marriage irretrievably
10 broken. Pursuant to Judge Hall's order, this Court will
11 defer the issue of permanent custody until such time as
12 that matter is set for hearing. The status conference
13 that is currently in the Court's possession reflects
14 that matter is scheduled for September 14, 1998, at 1:30
15 p.m. in front of the Honorable Richard Hall, Division 2.
16 I'm not certain what the length of time is that has been
17 allotted for that hearing.

18 MR. WESTON: We have the
19 afternoon Judge.

20 THE COURT: Thank you. Regarding
21 the issue of child support and spousal maintenance, the
22 Court has considered the evidence and testimony
23 presented. With respect to Petitioner's income, the
24 Court has considered the uncontroverted testimony of the
25 Respondent with respect to the earning capability of the
26 Petitioner. The Court further takes judicial notice of

1 the order as issued by the Arapahoe County Court
2 pursuant to case number 89DR477, wherein the Court made
3 a determination (inaudible) finding that the Petitioner
4 Respondent in that proceeding had the earning capacity
5 of approximately \$10,000 per month. Respondent, per her
6 own testimony, stated to the Court that the Petitioner
7 during their course of marriage earned in excess of said
8 sum. That he has no physical disabilities or
9 limitations that would prevent him from earning those
10 amounts. The Court further finds that the Respondent
11 lacks sufficient property, including marital property
12 apportioned to her to be able to meet her reasonable
13 needs. The Court has reviewed her financial affidavit,
14 and finds that this is an appropriate case for spousal
15 maintenance. The Court finds that it is appropriate to
16 enter spousal maintenance in the amount of \$3,000 per
17 month for the period requested, three years. That
18 amount is modifiable within the three year tenure.
19 Given that figure and imputing \$10,000 per month to the
20 Petitioner, child support shall be ordered pursuant to
21 the guidelines in the amount of \$1,092 per month.
22 Counsel, did your client wish for those payments to be
23 made directly to her through the registry?

24 MR. WESTON: As she is currently
25 receiving welfare, I think they need to be made through
26 the registry fund.

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THE COURT: Thank you.

MR. WESTON: But because she is transferring her case up to Arapahoe County, we may not have an FSR number (inaudible).

THE COURT: The Court will order payments through the FSR and an income assignment is ordered. Regarding medical expenses for the minor children, the Court will order that those be paid by the parties in proportion to their incomes, with the Petitioner father paying sixty-four percent and the Respondent mother paying thirty-six percent. Counsel, what about the dependency exemption for tax purposes?

MR. WESTON: We would ask pursuant to statute that dad can have them two out of three years, but until he starts paying, it should be awarded to mom.

THE COURT: The Court will order that the parties alternate the dependency exemption. That the Petitioner be entitled to claim the children for two out of every three years, provided he is current in his support payments. With respect to personal property, the Court will order that the Respondent maintain as her sole and separate property those items that are currently in her respective possession. No real estate owned jointly?

MR. WESTON: No Your Honor.

1 THE COURT: Any motor vehicles
2 that are jointly titled?
3 MR. WESTON: No Your Honor.
4 THE COURT: And do we have any
5 marital debts that need to be apportioned at this point?
6 MRS. WILFRED: There are two
7 bills that he never paid.
8 MR. WESTON: Inaudible credit
9 cards?
10 MRS. WILFRED: Yes. Credit
11 cards. Things on Mastercharge and American Express.
12 THE COURT: Are those still being
13 used by the parties?
14 MRS. WILFRED: They were canceled
15 years ago.
16 THE COURT: Do you know what the
17 outstanding balances are on those accounts?
18 MRS. WILFRED: I would say over
19 \$50,000.
20 THE COURT: And neither party has
21 declared bankruptcy?
22 MR. WESTON: Not at this time
23 Your Honor.
24 THE COURT: Do you want to
25 address those? I haven't had any evidence presented to
26 me. So we can either address them today or we can

1 reserve that for further proceedings in front of Judge
2 Hall.

3 MR. WESTON: Why don't we reserve
4 that issue for Judge Hall.

5 THE COURT: I'll issue an order
6 that each party be individually responsible for the
7 debts they have incurred since separation with the
8 exception of the attorney's fees that I will get to.

9 MR. WESTON: And that was --
10 Separation was in October of '97 just so we have that on
11 record. But part of the problem is we don't know -- I
12 think Mr. Wilfred took care of most of the parties
13 finances. We have no idea exactly what the finances
14 are.

15 THE COURT: I am going to reserve
16 marital debt, but I think you need to bring that to
17 Judge Hall's attention because he may not have
18 sufficient time allotted to address that at your
19 permanent orders hearing.

20 MR. WESTON: We will Your Honor.

21 THE COURT: With the
22 understanding that each would be responsible for his or
23 her debts incurred since date of separation. With
24 respect to the issue of attorney's fees, the Court has
25 considered Respondent's exhibit 4 detailing the costs
26 incurred by the Respondent for retaining an attorney in

1 Canada and also retaining local counsel. The Court
2 finds that in light of the circumstances surrounding the
3 removal of the children and the fees that were incurred
4 and expenses incurred to bring said children back to the
5 United States to their mother's care, that those fees
6 are reasonable. The Court will order that the
7 Petitioner be responsible for the attorney's fees
8 incurred as itemized in Respondent's exhibit 4, and also
9 the Canadian attorney's fees.

10 MR. WESTON: We would ask, Your
11 Honor, before I forget to do this, that these attorney's
12 fees (inaudible) in the nature of support.

13 THE COURT: And non-
14 dischargeable?

15 MR. WESTON: That's correct.

16 THE COURT: The Court will order
17 that the fees be determined in the nature of support and
18 non-dischargeable in bankruptcy. Do we have a total
19 amount?

20 MR. WESTON: It was \$15,853 and
21 \$1,800. So it should be \$17,653.

22 THE COURT: \$17,653 in attorney's
23 fees and the Court will enter a decree. This marriage
24 is hereby dissolved. Anything additional Mr. Weston?

25 MR. WESTON: Nothing Your Honor.

26 THE COURT: Mr. Wheelock,

1 anything additional?

2 MR. WHEELOCK: No Your Honor.

3 THE COURT: Did you hear the
4 Court's statement with respect to marital debt since we
5 didn't have any information from your client regarding
6 those marital debts? I am reserving that issue for
7 Judge Hall's determination, and that each party would be
8 individually responsible for debts incurred since
9 separation.

10 MR. WHEELOCK: Yes I heard that.

11 THE COURT: With the exception of
12 the attorney fee issue.

13 MR. WHEELOCK: Yes.

14 THE COURT: Anything additional
15 from either counsel?

16 MR. WESTON: Nothing Your Honor.

17 THE COURT: Mr. Weston, if you
18 could please draft up a decree and final orders in that
19 regard, and make certain that it is forwarded to Mr.
20 Wheelock for his signature.

21 MR. WESTON: I will have it to
22 him within ten days.

23 THE COURT: Mr. Wheelock, do we
24 have a current address for you, mailing address?

25 MR. WHEELOCK: 411 South Cascade.

26 THE COURT: 80903.

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MR. WHEELLOCK: Yes.

THE COURT: Thank you. With
that, Mr. Wheelock, I am going to end the phone call and
move on to my next divorce.

MR. WHEELLOCK: Thank you Judge.

THE COURT: Thank you.

(Court adjourned)

* * *

DISTRICT COURT, COUNTY OF EL PASO, STATE OF COLORADO

Case No. 97DR3393

Division X

TRANSCRIBER'S CERTIFICATE

IN RE THE MARRIAGE OF:

HARMON LYNN WILFRED

Petitioner

and

DERNA GARCIA WILFRED

Respondent

STATE OF COLORADO)
) SS
COUNTY OF EL PASO)

I certify that I transcribed this record from the
tape-recording of Division X which was heard on April
27, 1998.

I further certify that pages 2 through 35,
inclusive, constitute a complete and accurate transcript
of the tape-recorded Division X hearing based upon the
audio facilities of these tapes and my ability to
understand them. Dated this 8 day of November,
1999.

By: Jill Hellem
JILL HELLEM
DIVISION 3 CLERK

CONFIDENTIAL FAX TRANSMISSION

February 28, 2000

To: **Dale Parrish** **CC: Lance Sears**

Company: Edward Dale Parish, PC

Tel: (303) 820-3440

Fax: (303) 820-3449

From: Harmon L. Wilfred

Regarding: **Ciccolella's Perjury in Court**

Number of Pages (Including Cover Page) 2

Dear Dale,

After review of the Court transcript for the custody hearing on September 14, 1998, we feel compelled to relay the following incidences of lies and deceptive statements tantamount to perjury on behalf of John Ciccolella:

Page 2, line 16: "Well, he was in jail. He did bond out. There was a \$400,000 cash property bond that was posted, \$300,000 in property and \$100,000 in cash.".... Page 4, line 12:.... "He posted his bond"....

Fact: There was no property or cash presented for bond. There was three surety bonds signed for a total of \$300,000. I did not then nor do I now have the capacity to post my own bond.

Page 3, line 24: "That in addition to the *kidnapping* of the children he was *charged with fraud* arising out of a scheme to negotiate a Mitsubishi Bond deal, which we were unaware of at the time."

Fact: I was never, nor have I ever been charged with kidnapping or fraud.

Page 4, line 12: "He posted his bond, and we have received information that since he posted the bond, he has not been seen since, and I also presume that means he also hasn't checked in with the check in process."

Fact: I was released on bail with terms to reside at 215 Douglas Street, Stratford, Ontario, Canada, and to check in with the Stratford Police Station two times per week, on Tuesdays and Fridays. I would be happy to provide the check in record to show that I have never missed reporting in on schedule.

Page 7, line 3: THE COURT: *Somehow* we have a copy of the divorce proceedings in Arapahoe County involving the husbands prior wife.

line 13: MR. CICOLELLA: (Speaking of the copy of the divorce proceedings referred to above by the Judge)... "and I don't know who got the record"...

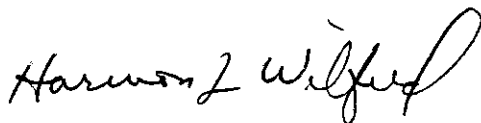
line 23: ..."I don't remember who ordered it Judge. I just can't remember how it got there".

Fact: I sent copies of the above referenced divorce proceedings to Mr. Ciccolella's attention by his request in February of 1997 for his consideration in providing council on my behalf for this same case. It's no wonder he has conveniently forgotten where he received the information. Conflict?

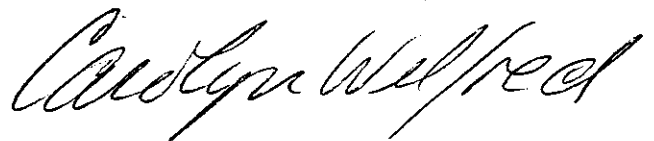
The above statements and representations were given by John Ciccolella to the Court in this hearing in order to convince the Court to give permanent custody to my ex-wife Dearnna. I believe Mr. Ciccolella deliberately misled the Court in order to win this proceeding. There can be no other explanation.

Thank you for considering this information as we proceed to disqualify Mr. Ciccolella from the case. As it has been mentioned that Mr. Ciccolella was also involved in authoring the original criminal charges against me as well as conjuring up the ridiculous formula for child support and maintenance, We would also like to reserve the opportunity in some future time to file a complaint at the Colorado Supreme Court as well as for damages in State Court proceedings.

Sincerely,



Harmon L. Wilfred



Carolyn R. Wilfred

3038203449

Dec. 20 1999 11:04PM P1

PHONE NO. : 3038203449

FROM : PARRISH, P.C.

EDWARD DALE PARRISH, P. C.
ATTORNEYS AND COUNSELORS AT LAW

WORLD TRADE CENTER BUILDING
1675 BROADWAY, SUITE 1100
DENVER, COLORADO 80202
E-MAIL: PARRISHPC@AOL.COM
WEBSITE: PARRISHPC.COM

TELEPHONE (303) 820-3440
FACSIMILE (303) 820-3449

EDWARD DALE PARRISH
MARIA THERESA SCHAEFER

FACSIMILE TRANSMISSION SHEET

DATE: December 20, 1999

TO: Harmon Wilfred

FAX NO: 519-275-2943

FROM: _____

FAX NO: EDWARD DALE PARRISH, P.C.

RE: (303) 820-3449

Re: People v. Wilfred, El Paso County District Court, 97 DR 3393, Div. 2

Re: Marriage of Wilfred
 ORIGINAL WILL _____ WILL NOT* X FOLLOW
 *CONSIDER THIS FACSIMILE TRANSMISSION YOUR ORIGINAL COPY

 The information contained in this facsimile is attorney-client privileged and confidential, intended only for use by the individual named above. If the reader of this message is not the intended recipient, or the employee or agent responsible to deliver it to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone and destroy this facsimile.

 WE ARE SENDING YOU A 20 PAGE FACSIMILE, INCLUDING THIS COVER PAGE. IF YOU DO NOT RECEIVE ALL THE PAGES OR ENCOUNTER DIFFICULTIES WITH THIS TRANSMISSION, PLEASE CALL OUR OFFICE IMMEDIATELY. THANK YOU.

*Transcript of hearing
 Custody
 Sept 14 1998.*

1 DISTRICT COURT, COUNTY OF EL PASO, STATE OF COLORADO
 2 CASE NO. 97DR3393 DIVISION 2

3 -----
 4 REPORTER'S TRANSCRIPT
 5 -----

6 In re the Marriage of:
 7 HARMON WILFRED
 8 Petitioner,
 9 and
 10 DEARNA WILFRED
 11 Respondent.

12 -----

13 The Hearing in this case commenced on this 14th day
 14 of September, 1998, before the HONORABLE RICHARD V.
 15 HALL, Judge of the District Court.

16
 17 This is a transcript of: The proceedings

18
 19 APPEARANCES:
 20 For the Petitioner: non-appearance
 21 For the Respondent: John Ciccolella

22
 23
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JONNA L. OLSON
 Certified Shorthand Reporter

1 THE COURT: In re the marriage of Wilfred.

2 Good morning, Mr. Ciccolella.

3 MR. CICCOLELLA: Yes, sir. John Ciccolella. I
4 represent Mrs. Wilfred, who is present and seated in the
5 front row of the gallery.

6 The matter comes on for final orders
7 concerning custody.

8 Mr. Harmon Wilfred is not here. I don't know
9 how far you want me to go into the custody issue, or
10 what, so you tell me, Judge, how far you want me to go
11 in the testimony.

12 THE COURT: Well, I understand that Mr. Wilfred is
13 in jail in Canada. He is there because he got arrested
14 for, in effect, kidnapping the children, so right away
15 that sort of indicates his responsibility as a parent.

16 MR. CICCOLELLA: Well, he was in jail. He did bond
17 out. There was a \$400,000 cash/property bond that was
18 posted, \$300,000 in property and \$100,000 in cash.

19 It is my understanding in speaking with Mrs.
20 Wilfred, since posting the bond Mr. Wilfred has not been
21 here, and the police are staking out the children's
22 school on a daily basis. They, at least, have some fear
23 he may be attempting to return.

24 So one of the things I would be asking for is
25 a permanent restraining order. I don't know that we

JONNA L. OLSON
Certified Shorthand Reporter

1 would be able to serve it, but, at least, I would have
2 it in case we can, against him and his subjects with
3 interfering with Mrs. Wilfred and her children.

4 We would be asking for sole legal and physical
5 custody and no contact with Mr. Wilfred for, subject to
6 further proceedings.

7 So I am prepared to give you as little or as
8 much testimony as you think you need.

9 THE COURT: And the offer of proof, if you were
10 going to have a custody hearing, what sort of evidence
11 would you put on?

12 MR. CICCOLELLA: At the custody hearing, first and
13 foremost, I would elicit testimony from Mr. Wilfred that
14 the children are secure in her home. That they are
15 currently receiving psychotherapy, along with her.
16 That the children are afraid of their father, and they
17 are afraid of the woman that he was with, and that they
18 are afraid of being removed from their mother.

19 That she would testify that the father tricked
20 her to leave the state with the intention of kidnapping
21 the children, and upon her arrival in the State of
22 Arizona did so, and that the children and Mr. Wilfred
23 were gone for an extended period of time.

24 That in addition to the kidnapping of the
25 children he was charged with fraud arising out of a

JONNA L. OLSON
Certified Shorthand Reporter

1 scheme to negotiate a Mitsubishi Bond deal, which we
2 were unaware of at the time. When it came down we
3 notified the FBI Securities and Exchange Commission,
4 Comptroller of Currency, and our Governmental agencies,
5 none of whom seemed to be interested in Mr. Wilfred's
6 affairs, but we now find out the Securities and Exchange
7 Commission, in fact, filed an action against Mr.
8 Wilfred's cohort although he is named on a June of 1998
9 Securities Fraud involving the Mitsubishi Bond.

10 I should say he bonded out. He was ordered
11 to be extradited from Canada to the United States.

12 He currently is appealing that. He posted
13 his bond, and we have received information that since he,
14 posted the bond he has not been seen since, and I also
15 presume that means he also hasn't checked in with the
16 check in process!

17 As a result of that the police have been to
18 school every day, at least when school gets out, to make
19 sure the children were returned to Mrs. Wilfred, as well
20 as catching Mr. Wilfred.

21 That, all in all, it would be in the best
22 interest of the children to be in Mrs. Wilfred's care.
23 She has received threats, some of them overt, from some
24 of his associates, particularly indicating that if we
25 were to go forward with the case there would be body

JONNA L. OLSON
Certified Shorthand Reporter

1 bag, and we would ask for a permanent restraining order
2 against Mr. Wilfred from having any contact with her and
3 or directing associates to have any contact with her or
4 the children.

5 THE COURT: All right.

6 The Court also notes in this case that certain
7 affidavits were filed on behalf of Mrs. Wilfred, one
8 from Jennifer Hagemeyer-Robles. The Court has one from
9 Philip Freytag also generally describing their
10 observations that, in their opinion, the mother is a
11 good mother, the children relate well to her, she takes
12 good care of them.

13 The Court assumes all of that was offered in
14 response to the suggestion made by the husband's former
15 attorney that there had been a pattern of abuse by the
16 mother, and that that somehow meant something.

17 The Court notes that none of that has been
18 pursued by the husband, personally, or through his
19 attorney, so there is evidence that suggests that the
20 mother is a good mother. People who know her say so.

21 The Court accepts everything offered by the
22 wife's attorney. So the Court will issue an order
23 giving custody of the children to the mother with an
24 order saying that there be no parenting time of any sort
25 until the husband appears, personally, before the Court

JONNA L. OLSON
Certified Shorthand Reporter

1 and a suitable evaluation can be conducted, and security
2 can be imposed, and surety can be posted by the husband
3 to ensure that he will, in fact, return the children if
4 they are even given to him.

5 In that order that is to include any agents
6 or representatives of the husband. That this order may
7 be given to the Principals of the schools the children
8 attend, and any other location where the children might
9 temporarily be out of the physical control of their
10 mother.

11 That the order specifically recite that any
12 violation of this order will constitute a felony charge
13 under violation of the custody statute, and the
14 statutory number might be included in the order, and
15 anything else you would like in the order?

16 MR. CICCOLELLA: Just, I am going to ask her,
17 Judge.

18 Judge, I think that covers it. I think we
19 are covered, Judge.

20 THE COURT: And is there anything else from the
21 final orders, like division or property?

22 MR. CICCOLELLA: I think we have covered all that
23 at the prior hearing, all the debts and property was
24 previously decided by order.

25 THE COURT: Fine.

JONNA L. OLSON
Certified Shorthand Reporter

1 Then the Court has a question for you?

2 MR. CICCOLELLA: Yes, sir?

3 THE COURT: Somehow we have a copy of the divorce
4 proceedings in ~~Arapahoe County~~ involving the husband's
5 prior wife.

6 MR. CICCOLELLA: Right now I am speculating,
7 because I wasn't prepared to address that, but there was
8 an issue as to whether or not Mr. Wilfred should receive
9 psychological counseling before he had any contact with
10 the prior children, and we raised the psychological
11 fitness. It looked like he was ~~representing himself~~,
12 and that ~~case was along time ago~~, and that ~~psychological~~
13 ~~fitness was no longer applicable~~, and I don't know who
14 got the record, but I know we were talking about those
15 issues in relation to the children, and what order were
16 out there.

17 A Bench Warrant has already issued from
18 Arapahoe County for failure to follow that Court's order
19 prior to the kidnapping here.

20 THE COURT: Well, I could see having a few of the
21 orders from that case in this file for me to take
22 judicial notice of, but I don't need the whole thing.

23 MR. CICCOLELLA: I understand. I don't remember
24 who ordered it, Judge. I just can't remember how it got
25 there.

JONNA L. OLSON
Certified Shorthand Reporter

1 THE COURT: Well, then you put in the order that we
2 have discussed this, and neither one of us can see any
3 particular necessity or reason for having all of these
4 papers, and this Court is authorizing the Clerk to
5 excise this from the file, and I won't throw them away,
6 but I don't want them cluttering up the file, and making
7 it thick.

8 MR. CICCOLELLA: Can I make a suggestion, that if
9 you are required to keep them, I will place them in my
10 files, and then if the Court has need of them they are
11 there, and I will just provide them with any
12 correspondence.

13 THE COURT: Fine. That would be good.

14 MR. CICCOLELLA: And if there are any particular
15 forms you would like out of here, we can certainly make
16 copies of them for the file.

17 THE COURT: I can't think of any right now, to be
18 honest.

19 All right. You prepare a suitable order and I
20 will even give you this file now.

21 MR. CICCOLELLA: Yes.

22 THE COURT: Because I don't want it any more.

23 All right.

24 Thank you, very much.

25 MR. CICCOLELLA: Thank you, Judge.

JONNA L. OLSON
Certified Shorthand Reporter

(End of proceedings)

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JONNA L. OLSON
Certified Shorthand Reporter

Certified Shorthand Reporter

DISTRICT COURT, EL PASO COUNTY, STATE OF COLORADO

Civil Action No. 97 DR 3393, Division 2

AMENDED MOTION TO DISQUALIFY LAW OFFICES OF JOHN CICCOLELLA

In re the Marriage of:

HARMON LYNN WILFRED,

Petitioner,

and

DEARNA GARCIA WILFRED,

Respondent.

The Petitioner, Harmon Wilfred, by and through specially appearing counsel for purposes of this motion, SEARS & SWANSON, P.C., hereby moves this Honorable Court to disqualify the law offices of John Ciccolella. As grounds, Petitioner states as follows:

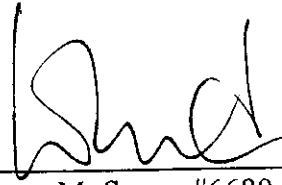
1. On January 6, 2000, Petitioner filed an original Motion to Disqualify The Law Office of John Ciccolella. (Said motion is attached hereto and incorporated herein as Exhibit A.)
2. On or about January 14, 2000, the Law Offices of John Ciccolella moved to withdraw.
3. On January 18, 2000, Petitioner moved to withdraw his motion to disqualify as moot due to the filing of the motion to withdraw by Ciccolella.
4. However, the Law Offices of John Ciccolella continues to represent the Respondent in this matter and, therefore, it is necessary to re-file this motion for a ruling.
5. Additionally, it is important to correct one inaccuracy as set forth in the original motion. At Paragraph 2, undersigned states that Petitioner "went to" the Law Offices of John Ciccolella in person originally when, in fact, that initial contact was by phone and not in person.

WHEREFORE, it is respectfully requested of this Honorable Court to enter an order disqualifying the law office of John Ciccolella as a result of his conflict of interest as set forth in the original motion and amendment as set forth herein.

DATED this 10th day of February, 2000.

Respectfully submitted,

SEARS & SWANSON, P.C.



Lance M. Sears, #6680
2 North Cascade Avenue, Suite 1250
Colorado Springs, CO 80903
(719) 471-1984
(719) 577-4356 FAX

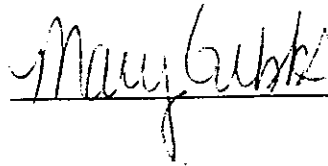
Attorneys for Petitioner

CERTIFICATE OF MAILING

I hereby certify that on this 10th day of February, 2000, I did mail a true and correct copy of the foregoing AMENDED MOTION TO DISQUALIFY LAW OFFICES OF JOHN CICCOLELLA by placing it in the United States Mail, postage prepaid, properly addressed to:

Jeffrey A. Weston, Esq.
The Law Offices of John B. Ciccolella, PC
405 South Cascade Avenue, Suite 205
Colorado Springs, CO 80903

Edward Dale Parrish, Esq.
1675 Broadway, #1100
Denver, CO 80202



DISTRICT COURT, EL PASO COUNTY, STATE OF COLORADO

Civil Action No. 97 DR 3393, Division 2

MOTION TO DISQUALIFY LAW OFFICE OF JOHN CICCOLELLA

In re the Marriage of:

HARMON LYNN WILFRED,

and

DEARNA GARCIA WILFRED,

FILED IN THE DISTRICT COURT OF EL PASO COUNTY, COLORADO

JAN 06 2000

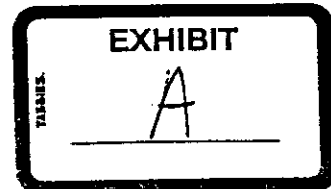
LEE V. COLE, JR. CLERK OF COURT

Petitioner,

Respondent.

The Petitioner, Harmon Wilfred, by and through specially appearing counsel for purposes of this motion, SEARS & SWANSON, P.C., hereby moves this Honorable Court to disqualify the law office of John Ciccolella from representing the Respondent. As grounds, Petitioner states as follows:

1. During the first part of February, 1997, the Petitioner, Harmon Wilfred, was referred to John Ciccolella as a potential lawyer to represent him in this action.
2. During the second week of February, 1997, Petitioner, Harmon Wilfred, went to the law offices of John Ciccolella and was interviewed by Mr. Ciccolella and an agent for John Ciccolella, Janet Gould.
3. During that conversation, Petitioner provided confidential and material information to John Ciccolella's agent in order to educate Mr. Ciccolella as to the issues outstanding and specifics involving the parties involved.
4. The information provided was, and is, highly relevant material, and confidential information that goes to the heart of the issues that are still pending before the Court, child custody and support.
5. Pursuant to Colorado Rule of Professional Conduct 1.7(a) and (b) and Rule 1.9 (a) and (b), it is submitted that a conflict of interest exists to disqualify the Law Firm of John Ciccolella.



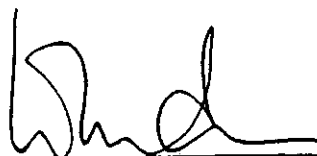
6. As a factual predicate to this motion, and basis for the disqualification pursuant to Rules 1.7 and 1.9, the undersigned submits the following affidavits of Harmon Wilfred (Exhibit A) and Collin M. Finn (Exhibit B).

WHEREFORE, it is respectfully requested of this Honorable Court to enter an order disqualifying the law office of John Ciccolella as a result of the conflict of interest that exists in this matter, as John Ciccolella's office interviewed the Petitioner and obtained confidential and material information from the Petitioner **on the very matter that is the subject of the motions pending before this Court.**

DATED this 6th day of January, 2000.

Respectfully submitted,

SEARS & SWANSON, P.C.



Lance M. Sears, #6680
2 North Cascade Avenue, Suite 1250
Colorado Springs, CO 80903
(719) 471-1984
(719) 577-4356 FAX

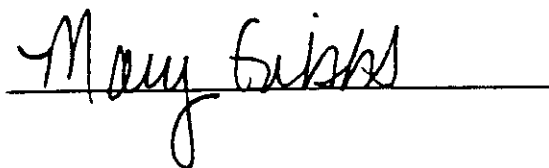
Attorneys for Petitioner

CERTIFICATE OF MAILING

I hereby certify that on this 6th day of January, 2000, I did mail a true and correct copy of the foregoing MOTION TO DISQUALIFY LAW OFFICE OF JOHN CICCOLELLA by placing it in the United States Mail, postage prepaid, properly addressed to:

Jeffrey A. Weston, Esq.
The Law Offices of John B. Ciccolella, PC
405 South Cascade Avenue, Suite 205
Colorado Springs, CO 80903

Edward Dale Parrish, Esq.
1675 Broadway, #1100
Denver, CO 80202




AFFIDAVIT OF HARMON L. WILFRED

This is the sworn affidavit of Harmon L. Wilfred, age 50, with respect to my legal consultations with the law offices of John B. Ciccolella, P.C. during the second week of February, 1997. I had two conversations with Mr. Ciccolella's office. The first conversation included Mr. Ciccolella and his Paralegal name Janet. The second conversation was exclusively with Janet. In these consultations we discussed in considerable detail my custody case and divorce judgement involving my ex-wife, Sandra Wilfred, as well as the difficulties with my then current marriage with Dearna Wilfred involving her abusive behaviour towards our two children. After our initial conversation, Mr. Ciccolella recommended that I provide his Paralegal with further details regarding both the previous and current family issues, and upon his review, he would have Janet contact me with his proposal for legal representation. The conversations included consultation with regard to family law, including but not limited to divorce, custody, property and civil rights issues involving the judgement in my then previous marriage with Sandra Wilfred.

During these conversations I also requested an evaluation of the case for strength of position as well as projected legal expenses. I received a call back from the Paralegal informing me that Mr. Ciccolella had reviewed the information and agreed to take the case upon his receiving a retainer of \$5,000. I informed her that I did not have the \$5,000.

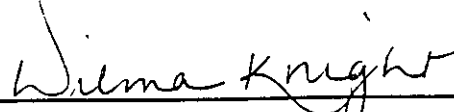
I was recommended to Mr. Ciccolella by my business associate, Collin Finn, and his girlfriend Kathryn Large. Kathryn had previously utilised his services for obtaining custody of her daughter. Mr. Finn was present during at least one of my conversations with Mr. Ciccolella's office and I reported the content of all conversations to both Mr. Finn and Ms. Large as they occurred, including Mr. Ciccolella's offer to represent me. As they were directly aware of Dearna's abusive behaviour towards our two children, they were both quite disappointed when they found out that Mr. Ciccolella would not compromise on his retainer.

Further Affiant sayeth naught.



Harmon L. Wilfred

Subscribed and sworn to before me this 24th day of September, 1999 by Harmon L. Wilfred in the City of Stratford, Province of Ontario, Canada





WILMA ROSEMARIE KNIGHT, a Commissioner, etc.,
County of Perth, for the Government of Ontario,
Ministry of the Attorney General.
Expires September 29, 2001.

AFFIDAVIT OF COLLIN M. FINN

This is the sworn affidavit of Collin M. Finn, age 50, with respect to my witness to and discussions with Harmon L. Wilfred regarding Mr. Wilfred's legal consultations with the law offices of John B. Ciccolella, P.C., during the second week of February, 1997.

Mr. Wilfred has been a business associate of mine through our common interests and activities in the real estate business since 1993. During the first part of February, 1997, my girlfriend, Kathryn Large and I recommended the law offices of John Ciccolella to Mr. Wilfred to help him with his personal difficulties involving the custody of his son in his previous marriage as well as his current difficulties in his existing marriage. Kathryn had previously utilized Mr. Ciccolella's services for obtaining custody of her daughter.

I was present with Mr. Wilfred during the first conversation with Mr. Ciccolella's office, which included Mr. Ciccolella and his paralegal named Janet. I overheard Mr. Wilfred discuss his previous custody case and divorce judgment involving his ex-wife, Sandra Wilfred as well as his difficulties with his then current marriage with Dearna Wilfred with respect to her abusive behavior toward their two children. During this conversation, Mr. Ciccolella recommended that Mr. Wilfred provide his paralegal, Janet, with detailed information, and upon his review, he would have Janet contact Mr. Wilfred with his proposal for legal representation. During this initial conversation, Mr. Wilfred received advice regarding his previous marriage with Sandra Wilfred, as well as advice on his current situation involving the abuse of his children and possible divorce action involving Dearna Wilfred.

Within a couple of days after Mr. Wilfred's initial consultation referenced above, Mr. Wilfred reported back to me that after a second conversation with Mr. Ciccolella's paralegal, she had called back to inform him that the case information had been reviewed with Mr. Ciccolella and that he was willing to proceed with a retainer required of \$5,000. Mr. Wilfred told me that he did not have the \$5,000 and, therefore, could not satisfy this requirement.

Out of concern for Mr. Wilfred's children, I continued to follow the situation until he hired an attorney named Seymour Wheelock.

Further Affiant sayeth naught.

Date: 11/8/99


Collin M. Finn

EXHIBIT

B

STATE OF Colorado)
) ss.
COUNTY OF El Paso)

Subscribed and sworn to before me this 8th day of October, 1999,
by Collin M. Finn.

Mary El Bishk
Notary Public

My commission expires: 10-24-03

DISTRICT COURT , EL PASO COUNTY, STATE OF COLORADO

Case No. 97 DR 3393

Division No. 3 FILED IN THE DISTRICT AND
COUNTY COURTS OF
EL PASO COUNTY, COLORADO

EX PARTE ORDER FOR TEMPORARY AWARD OF PROPERTY

NOV 04 1997

LEE V. COLE, JR.
CLERK

In re the Marriage of:

HARMON WILFRED,

Petitioner,

and

DEARNA WILFRED,

Respondent.

FILED IN
NOV 4 1997
DIV 3

THIS MATTER having come on before the court upon the written motion of the Respondent for an *ex parte* order granting to her a temporary award of property, and the court having reviewed the file, considered the motion and otherwise being fully informed finds and orders as follows:

FINDINGS:

1. On October 9, 1997, the Petitioner caused to be filed the above entitled dissolution of marriage action.
2. Pursuant to *C.R.S. § 14-10-107* a mandatory injunction became automatically effective basically prohibiting both parties from transferring and concealing property, from removing the minor children of the parties from the state, and from harassing the other party.
3. Subsequent to the filing of the action the Petitioner caused the minor children to be removed from the state and now holds the children at whereabouts unknown.
4. This action of child abduction was with apparent forethought and apparently done with the intent to avoid this court's jurisdiction over the children.
5. Prior to that action, in an action pending in Arapahoe County, the Petitioner has concealed his assets and refused to pay child support, spousal maintenance, and property awarded to a former wife. There is currently active against him a bench warrant for his arrest for those actions out of the Arapahoe County District Court.
6. Subsequent to the filing of this action the Respondent became aware that the Petitioner placed certain unknown property into a storage unit located at Nationwide Self Storage, 5353 E. County Line Rd., Littleton, CO 80126. This property was placed in the storage unit during the marriage. It appears to the court that the property in the storage unit is either marital

property or may be subject to a marital claim.

7. In order to secure the property as marital property, this court should enter an order granting to the Respondent the right to have temporary possession of the property in the storage unit rented by the Petitioner.
8. The Respondent should be allowed to inventory the property, and transfer said property to another location in order to preserve it. None of the property should be sold, encumbered or transferred to a third party without prior court approval.
9. The entry of this order should be done *ex parte* to avoid the Petitioner and his agents from removing the property before Respondent has had an opportunity to secure the property.
10. If prior notice is required then there is grave risk that the property will be removed and concealed from the Respondent.

WHEREFORE, THE COURT ORDERS:

1. The Respondent be and hereby is granted temporary possession of the property held in a storage locker at Nationwide Self Storage, 5353 E. County Line Rd., Littleton, CO 80126 in the name of Harmon Wilfred without prior notice to the Petitioner and his agents.
2. The Respondent be and hereby is allowed to inventory the property, and transfer said property to another location in order to preserve it. None of the property may be sold, encumbered or transferred to a third party without prior court approval.
3. After the property has been secured the Respondent shall cause a copy of this order and the motion requesting relief to be delivered to counsel for the Petitioner.

DONE IN CHAMBERS this 4 day of NOVEMBER, 1997.

BY THE COURT:


District Court Judge

A HEARING TO DISSOLVE OR MODIFY
THIS ORDER CAN BE SET ON TWO DAYS
NOTICE TO THE OPPOSING PARTY