



1 State of Ohio ex rel.
2 Chance Catudal,
3 2783 Martin Road # 353
4 Dublin, Ohio 43017,

5
6 Relator,

7 vs.

8 Case # 12-1795

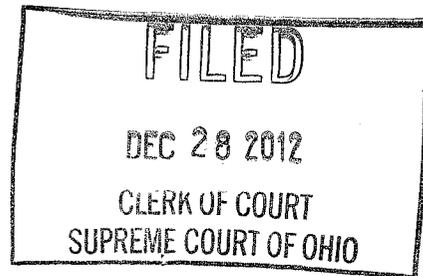
9 Judge Kim A. Browne,
10 373 South High Street
11 6th Floor, Courtroom 66,
12 Columbus, Ohio 43215,

13
14 and

15 Original Action in Mandamus

16 Franklin County Common Pleas Court,
17 Domestic Relations Division,
18 373 South High Street
19 Columbus, Ohio 43215,

20
21 Respondents.
22
23



24 **NOTICE AS TO THE EVIDENTIARY VALUE**
25 **OF THE OCTOBER 9, 2012 TRANSCRIPT**
26 **ATTACHED HERETO AS VERIFIED EXHIBIT X**
27

28
29 Relator begs the Court to recall that Respondents stated on Page 4,
30 Paragraph 2 of their *Motion to Dismiss* that, "Relator erroneously states that the
31 matter was continued until July 16, 2012."
32

33 Relator is currently working on an appeal brief for *Catudal v. Catudal, Case*
34 *# 12-AP-991* and encountered further clarification of the hearing date in question.
35

36 The Court should note that Bryan Bowen, Supreme Court # 0069158
37 ("Bowen") stated on *Page 7, Lines 21 – 22*, "There was an initial hearing on,
38 Your Honor, if I may, on July 9th." Bowen followed that with, "she continued it a
39 week, Your Honor, to July 16th." See *Page 8, Lines 3 – 4*. (Emphasis added.)
40

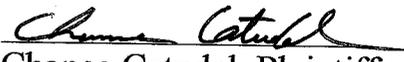
IN THE SUPREME COURT OF OHIO

1 Judge Katherine Lias ("Lias") stated on Page 9, Lines 22 – 23 and on Page
2 10, Lines 1 – 2, "Okay. And are -- do you agree that we are waiting a decision
3 from --" " -- Judge Browne on the -- -- the ECO?" Bowen stated on Page 10, Line
4 3, "Yes, Your Honor." Lias stated on Page 10, Line 4, "Do you agree with that?"
5 Dirken D. Winkler, Supreme Court # 0068826, stated on Page 10, Line 5, "Yes,
6 Your Honor."
7

8 Relator is due the hearing that was continued to July 16, 2012. In the
9 alternative, Relator is due a judgment.
10

11 WHEREFORE, Relator prays for the Court to incorporate this information
12 into any decision that it renders. Relator prays for any other such relief that the
13 interests of justice may require.
14

15
16 Respectfully submitted,
17

18 
19 Chance Catudal, Plaintiff
20 2783 Martin Road # 353
21 Dublin, Ohio 43017
22 ccatudal@ymail.com
23

24
25
26 **I. AFFIDAVIT OF VERIFICATION**
27

28 Relator has attached an Affidavit of Verification hereto.
29

30
31
32 **II. CERTIFICATE OF SERVICE**
33

34 Relator hereby certifies that a true and accurate copy of the foregoing was
35 served upon all parties or their counsel via Regular Mail or in person on the 28th
36 day of December, 2012.
37

38 
39 Chance Catudal, Relator
40

*

IN THE SUPREME COURT OF OHIO

1 State of Ohio ex rel. :
2 Chance Catudal, :
3 2783 Martin Road # 353 :
4 Dublin, Ohio 43017, :
5 :
6 Relator, :
7 vs. :
8 : Case # 12-1795
9 Judge Kim A. Browne, :
10 373 South High Street :
11 6th Floor, Courtroom 66, :
12 Columbus, Ohio 43215, :
13 :
14 and : Original Action in Mandamus
15 :
16 Franklin County Common Pleas Court, :
17 Domestic Relations Division, :
18 373 South High Street :
19 Columbus, Ohio 43215, :
20 :
21 Respondents. :
22 :
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24 :
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26 :

VERIFICATION OF EXHIBIT X

27 STATE OF OHIO
28 COUNTY OF FRANKLIN, ss:

29
30 BEFORE ME, the undersigned Notary, personally came and appeared
31 Chance Catudal, who, after being duly sworn, deposes and says as follows:
32

- 33 1. I, Chance Catudal, hereby certify that Exhibit X is an Original copy of
34 the Transcript of Proceedings that were held in Case # 10-DR-4934
35 on October 9, 2012 before Judge Katherine Lias. Exhibit X is thirty-
36 four (34) pages.
37 2. Exhibit X has been duly filed with the Franklin County Domestic
38 Relations Court, as well as the 10th District Court of Appeals. See
39 Catudal v. Catudal, Case # 12-AP-951 and Case # 12-AP-991.
40

IN THE SUPREME COURT OF OHIO

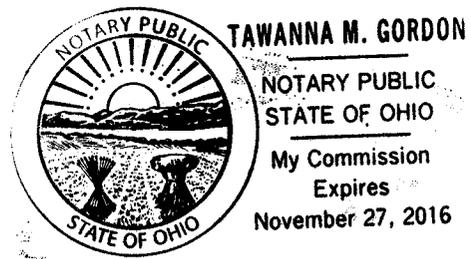
The undersigned further deposes and states that the above is true and correct to the best of his knowledge and that a photocopy of this affidavit shall have the same effect(s) as the original.

FURTHER AFFIANT SAYETH NAUGHT.

Chance Catudal
Chance Catudal, Affiant

Sworn to before me and subscribed in my presence this 28th day of December 2012.

Tawanna M. Gordon
Notary Public



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1 IN THE COURT OF COMMON PLEAS, FRANKLIN COUNTY, OHIO

2 DIVISION OF DOMESTIC RELATIONS

3 JUVENILE BRANCH

4 - - -

5 IN THE MATTER OF:

6 CHANCE CATUDAL, PLAINTIFF : CASE: 10DR-4934

7 VS.

8 ANNA C. CATUDAL, DEFENDANT :

9 - - -

10 TRANSCRIPT OF PROCEEDINGS

11 BEFORE THE HONORABLE JUDGE KATHERINE LIAS,

12 ON OCTOBER 9, 2012

13 - - -

14 APPEARANCES BY:

15 BRYAN BOWEN, ATTORNEY AT LAW, ON BEHALF OF THE
16 DEFENDANT, ANNA CATUDAL.

17 DIRKEN WINKLER, ATTORNEY AT LAW, AS GUARDIAN AD
18 LITEM ON BEHALF OF THE MINOR CHILD.

19 JANET A. GRUBB, ATTORNEY AT LAW, ON BEHALF OF
20 JOSEPH THOMAS CATUDAL.

21 OTHER APPEARANCES:

22 CHANCE CATUDAL, PRO SE

23 - - -

24 FTR

25 COURT OF DOMESTIC RELATIONS

COLUMBUS, OHIO 43215

FRANKLIN COUNTY

1 JUDGE LIAS: This is the case of Chance
 2 Catudal versus Anna C. Catudal, 10DR-12-4934. It
 3 appears that before the Court are Plaintiff's Motion
 4 for Relief from Judgment Entry Decree of Divorce
 5 filed September 24, 2003 - - - 12 and Plaintiff's
 6 Motion for Judgment on the Pleadings filed September
 7 24th, 2012. Mr. Catudal, you are representing
 8 yourself?
 9

10 CHANCE CATUDAL: Yes, ma'am.

11 JUDGE LIAS: All right. And - - - are you
 12 sure you want to do that?

13 CHANCE CATUDAL: Been stuck doing it now
 14 for two years.

15 JUDGE LIAS: Okay. And would you make
 16 your - - - other people make your appearances for
 17 the record and tell who you represent then?
 18

19 ATTORNEY BOWEN: Your Honor, Bryan Bowen
 20 on behalf of Anna Catudal.

21 ATTORNEY WINKLER: Your Honor, Dirken D.
 22 Winkler, Guardian Ad Litem for Haley Catudal.

23 ATTORNEY GRUBB: Your Honor, I'm Janet A.
 24 Grubb, 0017522, I have entered represented Joseph
 25

FTR

1 Thomas Catudal who is Anna Catudal's natural father
2 and who received a subpoena instructing him to
3 produce an extensive list of documents and other
4 items. I'm here because there are so many motions
5 and court dates in this case that I wanted to make
6 sure that my Motion to Quash was not set for today.
7 So, I'm - - - I'm just tending the herd here and
8 probably -
9

10 JUDGE LIAS: Okay. But you don't - - -
11 your Motion to Quash, is that set before a
12 magistrate?

13 ATTORNEY GRUBB: I believe it -

14 JUDGE LIAS: Is that dealing with the eq -
15 - - the change of custody or whatever he's trying to
16 change?
17

18 ATTORNEY GRUBB: It's all within the
19 context -

20 JUDGE LIAS: Post decree?

21 ATTORNEY GRUBB: - of that case. I
22 believe it is set before Magistrate Sieloff on
23 November 1st but because of e-filing and the dates
24 that are issued, there is - - - there was a little
25

1 confusion in our minds, so I am just here to - - -
2 to make -

3 JUDGE LIAS: Okay.

4 ATTORNEY GRUBB: - to make sure that I've
5 covered the basis.

6 JUDGE LIAS: I see. Okay. So, the Motion
7 for Judgment on a Pleadings, which pleading are you
8 asking for Judgment?
9

10 CHANCE CATUDAL: It was an ex-parte - - -
11 a request rather for an ex-parte order on or about
12 July the 9th. Judge Browne indicated that we were to
13 exchange information, told us to come back. The
14 information that I was given was fraudulent. She
15 indicated to me that the Magistrate needed to handle
16 the actual information that I received, but I have
17 been asking now for Judgment to receive some type of
18 documentation from that hearing indicating what we
19 were ordered to do now for three months; still
20 haven't received it.
21

22 JUDGE LIAS: Did you get a - - - from
23 Judge Browne, a continuance -

24 CHANCE CATUDAL: No.
25

1 JUDGE LIAS: - of the motion?

2 CHANCE CATUDAL: No, she indicated that it
3 was done and dealt with and she indicated to me the
4 - - - on the 16th, if I'm not mistaken, that I would
5 receive her Judgment in the mail and, once again,
6 three months later, still haven't received the
7 Judgment.

8 JUDGE LIAS: So, you are waiting for Judge
9 Browne's Judgment on the ECO hearing?
10

11 CHANCE CATUDAL: A request for an
12 emergency ex-parte order, yes. The information that
13 she demanded that I receive was contact information
14 from my daughter's babysitter. I can prove now with
15 evidence, were they to be, you know, submitted to
16 the Court as evidence, that the information that I
17 was provided with was fraudulent. The defendant
18 moved without filing a relocation notice and now,
19 after I have found out all of this, got twenty-two
20 counts of Contempt on her and in trying to modify
21 custody, she's now requesting a stay which she
22 already waived during the divorce trial.
23

24 JUDGE LIAS: Okay. So, let me make it
25

1 perf - - - I want to get this perfectly clear, what
2 you expect from this Court is - - - when you say a
3 Motion for Judgment on a Pleadings is you want Judge
4 Browne's decision on -

5 CHANCE CATUDAL: For my -

6 JUDGE LIAS: - the -

7 CHANCE CATUDAL: - first emergency ex-
8 parte -

9 JUDGE LIAS: - first emergency ex-parte
10 order?

11 CHANCE CATUDAL: - order request. Yes.

12 JUDGE LIAS: And you are waiting for that?

13 CHANCE CATUDAL: Three months.

14 JUDGE LIAS: Okay. And, Susan, do you
15 know if that's with you?

16 ATTORNEY BURNSIDE KELLY: I - - - I - - -
17 I'll have to check.

18 JUDGE LIAS: You do not?

19 ATTORNEY BURNSIDE KELLY: I - - - I do
20 not.

21 JUDGE LIAS: Okay.

22 ATTORNEY BURNSIDE KELLY: I'm not familiar
23
24
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1 with that.

2 CHANCE CATUDAL: In regards to the issues
3 that -

4 JUDGE LIAS: And when was that first
5 heard, that - - - the ex - - - do you know, the ex-
6 parte -

7 CHANCE CATUDAL: July the 9th, if I'm not
8 mistaken.

9 JUDGE LIAS: Let me see if I can find - -
10 - I see it was continued on September 6th - - - Judge
11 Browne's decision - - - oh the Magistrate continued
12 it waiting on Judge Browne's decision.

13 CHANCE CATUDAL: Yeah, that was in regards
14 to Chris Heckert trying to get additional fees.

15 JUDGE LIAS: So, tell me again the date,
16 July -

17 CHANCE CATUDAL: Yeah, let me look at my
18 calendar.

19 ATTORNEY BOWEN: There was an initial
20 hearing, Your Honor, if I may, on July 9th.

21 JUDGE LIAS: The ECO, July 9th?

22 ATTORNEY BOWEN: And then July 6 - - - it

1 was continued -

2 CHANCE CATUDAL: There we go.

3 ATTORNEY BOWEN: - she continued it a
4 week, Your Honor, to July 16th.

5 JUDGE LIAS: Is there more than -

6 CHANCE CATUDAL: Does that say -

7 JUDGE LIAS: - one file -

8 CHANCE CATUDAL: - on July -

9 JUDGE LIAS: - for this? No - - - it's
10 just - - - you haven't pulled it.
11

12 ATTORNEY BURNSIDE KELLY: I'm sure there's
13 more than one file. Part of the -

14 CHANCE CATUDAL: Yeah, there's several.

15 ATTORNEY BURNSIDE KELLY: - if I recall,
16 there was a - - - an appeal taken during part of
17 that time.
18

19 CHANCE CATUDAL: An appeal was - - - yeah,
20 appeal was taken -

21 ATTORNEY BURNSIDE KELLY: Taken and then -

22 CHANCE CATUDAL: - it pulled the files, I
23 withdrew (sic) the appeal and then I had to walk
24 the files down -
25

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1 ATTORNEY BURNSIDE KELLY: Okay -

2 CHANCE CATUDAL: - with an escort back
3 down to the Clerk's Office.

4 ATTORNEY BURNSIDE KELLY: Okay. Okay.

5 CHANCE CATUDAL: And it's - - - it's
6 getting rather large. It's not Schottenstein's size
7 yet, but it's getting there.

8 JUDGE LIAS: So for that you want Judge
9 Browne's decision?
10

11 CHANCE CATUDAL: Yeah, because the
12 decision is - - - is rather urgent with regard to
13 her demanding that we exchange information, which I
14 have the transcript of the hearing -

15 JUDGE LIAS: Okay.

16 CHANCE CATUDAL: - that's - - - that's
17 what she did, but I don't -
18

19 JUDGE LIAS: Okay.

20 CHANCE CATUDAL: - have an order to
21 enforce the information that I was given.

22 JUDGE LIAS: Okay. And are - - - do you
23 agree that we are waiting a decision from -

24 ATTORNEY BOWEN: Yes.
25

1 JUDGE LIAS: - Judge Browne on the - - -
2 the ECO?

3 ATTORNEY BOWEN: Yes, Your Honor.

4 JUDGE LIAS: Do you agree with that?

5 ATTORNEY WINKLER: Yes, Your Honor.

6 JUDGE LIAS: Okay.

7 ATTORNEY BOWEN: She -

8 JUDGE LIAS: Ms. - - - Ms. Grubb, do you -
9 - - do you know about that or - - - or you're not
10 concerned about that?
11

12 ATTORNEY GRUBB: I - - - I'm really not,
13 Your Honor.

14 JUDGE LIAS: Okay.

15 CHANCE CATUDAL: No, she's dealing with
16 discovery stuff.

17 JUDGE LIAS: Okay. Very good. All right,
18 so, let me take that under advisement then and - - -
19 and see what I can do to get that - - - to move that
20 along. Now, the other motion you have -
21

22 CHANCE CATUDAL: Yeah, the other stuff
23 about the -

24 JUDGE LIAS: - is for relief from -
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CHANCE CATUDAL: - from the Judgment,

yeah.

JUDGE LIAS: - Judgment.

CHANCE CATUDAL: That is stuff that Judge Browne can specifically deal with and it's not urgent to what's going on here and now, so if we could just continue that, I think that would be easier for everybody?

JUDGE LIAS: Well, I think what I'm going to do is give this to - - - take a look at this -

CHANCE CATUDAL: Okay.

JUDGE LIAS: - and - - - to see if this warrants an evidentiary hearing.

CHANCE CATUDAL: Okay.

JUDGE LIAS: That's usually what is done with Rule 60B motions.

CHANCE CATUDAL: Right.

JUDGE LIAS: First there's a review by the Court to see if there are any facts which may warrant relief -

CHANCE CATUDAL: Right.

JUDGE LIAS: - and then if the Court finds

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1 that, then they'll set it for hearing.

2 CHANCE CATUDAL: Absolutely.

3 JUDGE LIAS: So, that's what I will do
4 with this, okay?

5 CHANCE CATUDAL: Awesome.

6 JUDGE LIAS: I'll take that under
7 advisement.

8 CHANCE CATUDAL: The - - - the third thing
9 on there -

10 JUDGE LIAS: Did you have anything - - -
11 you have everything you -

12 CHANCE CATUDAL: There were three things -

13 JUDGE LIAS: - you want to tell in - - -
14 that's in the file?

15 CHANCE CATUDAL: Well, a - - - a big part
16 of it -

17 JUDGE LIAS: Well, you can't do an
18 evidentiary -

19 CHANCE CATUDAL: Yeah, I know -

20 JUDGE LIAS: - hearing, I'm sorry, I
21 misled you here.

22 CHANCE CATUDAL: - I know, I'm not going
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1 to - - - yeah, I'm not going to start -

2 JUDGE LIAS: But you - - - I see that you
3 don't have any affidavits or anything, you just have
4 what you think is -

5 CHANCE CATUDAL: Yeah, just enough to
6 decide whether or not an evidentiary hearing is
7 necessary.

8 JUDGE LIAS: Okay.

9 CHANCE CATUDAL: And then from that point,
10 then I'll provide whatever - - - whatever else would
11 be needed.
12

13 JUDGE LIAS: Okay.

14 CHANCE CATUDAL: But the third thing that
15 was filed that doesn't have a name on it that's
16 supposed to be heard today, if I'm not mistaken,
17 would be my Motion to Strike their motion for a
18 stay.
19

20 JUDGE LIAS: And you just filed that?

21 CHANCE CATUDAL: I filed it, what, a week
22 ago, give or take and it was going to get mushed
23 (sic) in, obviously -

24 JUDGE LIAS: Uh-huh (affirmative)
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1 response).

2 CHANCE CATUDAL: - on this hearing date or
3 whenever the appropriate hearing date is. I'm not
4 one hundred percent clear if that was supposed to
5 happen today or not.

6 JUDGE LIAS: Okay.

7 CHANCE CATUDAL: Like she indicated, there
8 are several court dates coming up this month and
9 there's a, you know, kind of a mess with this whole
10 e-file thing.
11

12 JUDGE LIAS: We're all just learning about
13 e-filing, so that's the way it's going. So let me
14 see if I can pull this up on - - - I can't seem to
15 pull this up on Case Information Online. I got the
16 Clerk's type of Case Information Online and - - -
17 which doesn't let you look at anything.
18

19 ATTORNEY WINKLER: Would you like me to
20 log in, Your Honor?

21 JUDGE LIAS: Pardon?

22 ATTORNEY WINKLER: Would you like me to
23 use my log in to get in?

24 JUDGE LIAS: No.
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BAILIFF: What are you trying to find -

JUDGE LIAS: Their motions that they
filed.

BAILIFF: I can get the -

ATTORNEY WINKLER: It's a -

JUDGE LIAS: There are two.

ATTORNEY WINKLER: - a request for stay -

JUDGE LIAS: A request for stay and -

BAILIFF: Okay.

JUDGE LIAS: - his response. Never mind,
I have a copy of his Motion to Strike the motion for

-

CHANCE CATUDAL: I listed the Federal Law

-

JUDGE LIAS: Wait until the other attorney
comes back.

CHANCE CATUDAL: I listed - - - oh, go
ahead.

JUDGE LIAS: Hold on. Just let me get his
motion. Did you get - - - did you get service of
his motion?

ATTORNEY BOWEN: Just now, Your Honor.

1 JUDGE LIAS: Are you prepared to deal with
2 this today?

3 ATTORNEY BOWEN: I - - - I think we can.

4 JUDGE LIAS: Okay. And you're ready to
5 deal with his motion today?

6 CHANCE CATUDAL: Absolutely.

7 JUDGE LIAS: Okay.

8 BAILIFF: Your Honor, do you still need
9 copies of the motion?
10

11 JUDGE LIAS: Yeah.

12 BAILIFF: All right.

13 ATTORNEY GRUBB: Your Honor, if I could
14 interject during the break of action here? I
15 reviewed the file and it appears to me as though my
16 Motion to Quash is set before Magistrate Sieloff on
17 November 1st. I'd like to withdraw from being here
18 this morning and be -
19

20 JUDGE LIAS: You certainly may.

21 ATTORNEY GRUBB: - subject to be recalled
22 if there is something that is found that I need to
23 be here for, otherwise -
24

25 JUDGE LIAS: It's just my making a

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1 decision whether I'm going to grant the stay or
2 grant -

3 ATTORNEY GRUBB: Okay.

4 JUDGE LIAS: - his motion or -

5 ATTORNEY GRUBB: I don't think I need to -

6 JUDGE LIAS: - or neither.

7 ATTORNEY GRUBB: - expend my client's fees
8 for - - - for that.

9 JUDGE LIAS: Okay. Thank you.

10 ATTORNEY GRUBB: It's - - - I'm right
11 across the freeway, if I need to run back I can. If
12 permission is granted, I'm going to -

13 JUDGE LIAS: You didn't need her client as
14 a witness or anything did you?

15 ATTORNEY BOWEN: No, Your Honor.

16 CHANCE CATUDAL: No.

17 ATTORNEY GRUBB: He's out of state anyway,
18 so - - - okay -

19 JUDGE LIAS: Okay.

20 ATTORNEY GRUBB: Thank you.

21 BAILIFF: When those come up, I'll give
22 them to you.

1 ATTORNEY BOWEN: Okay. Your Honor, this
2 is the motion. The bailiff is currently calling up
3 for their exhibits.

4 JUDGE LIAS: All right. So - - - and this
5 was filed October 5th -

6 ATTORNEY BOWEN: Correct.

7 JUDGE LIAS: - it looks like? All right.
8 So you're - - - let's deal with your Motion to
9 Strike. What - - - I thought why should I strike
10 it, which means, you know, kind of remove it from
11 the file -

12 CHANCE CATUDAL: I understand.

13 JUDGE LIAS: - what - - - what reason do
14 you have?

15 CHANCE CATUDAL: Because during the
16 divorce the Judge gave her the opportunity to take
17 leave under this act and she waived it. What's
18 before -

19 JUDGE LIAS: So do you think that's
20 forever?

21 CHANCE CATUDAL: I don't think it's
22 forever but what I do think is that the actions that
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1 are before the Court now of which twenty-two counts
2 are contempt for violation, half of which are for
3 the Judgment Entry Decree of Divorce, so you can
4 file -

5 JUDGE LIAS: Don't spin my wh - - - don't
6 spin wheels for me.

7 CHANCE CATUDAL: Okay. You can violate a
8 Judgment and then request stay to be held
9 accountable for it?

10 JUDGE LIAS: Has - - - yeah - - - yeah,
11 you can.

12 CHANCE CATUDAL: Well I disagree -

13 JUDGE LIAS: It's not that you're going -
14 - - not going to be held accountable, it - - - all -
15 - - a stay is requesting that we can't do it right
16 now because my military duty precludes me.
17

18 CHANCE CATUDAL: Right.

19 JUDGE LIAS: It doesn't say you get away
20 with anything -

21 CHANCE CATUDAL: I understand.

22 JUDGE LIAS: - it says we - - - we take a
23 break until you can -
24

25

CHANCE CATUDAL: The -

JUDGE LIAS: - do this - - - participate
in this motion.

CHANCE CATUDAL: - the Federal Law that
they used to request this stay, specifically states
that if proceedings have already started, that you
can't use this act to request a stay.

JUDGE LIAS: And that doesn't make any
sense to me whatsoever, sir.

CHANCE CATUDAL: It -

JUDGE LIAS: Because if you didn't have a
proceeding why would you be requesting anything?

CHANCE CATUDAL: Because they didn't -

JUDGE LIAS: That doesn't make any sense.

CHANCE CATUDAL: - because they didn't
look at the law. I quoted - - - I quoted -

JUDGE LIAS: And maybe you looked and were
blind.

CHANCE CATUDAL: I looked at both -

JUDGE LIAS: Okay. Any other reason? Any

-

CHANCE CATUDAL: - I looked at both

FTR

1 sections of the law.

2 JUDGE LIAS: - any other reason?

3 CHANCE CATUDAL: Yeah, number one, the - -
4 - the law that they're trying to use to ask for a
5 stay indicates that under this act, any application
6 is required and made to a Court in which proceedings
7 have not commenced. Furthermore, venue for this has
8 already been established. She waived right to make
9 this request during the divorce trial and she's
10 participated in post decree proceedings in regards
11 to these contempts, discovery, etc cetera. And now
12 that she has violated the Judge's order to provide
13 me with information and I can prove without a shadow
14 of doubt that the information that I was provided
15 with was fraudulent, now she's requesting a stay.

17 JUDGE LIAS: Okay. And is - - - is that
18 it now?
19

20 CHANCE CATUDAL: That's - - - yeah.

21 JUDGE LIAS: Okay.

22 CHANCE CATUDAL: Everything that I had to
23 say about is in my motion.

24 JUDGE LIAS: I understand that you are
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1 grieved with what she's done and I understand you're
2 thinking that well, because she's participated once,
3 that totally waives, but, you know, the military - -
4 - I mean, he's still got to prove his motion, okay?
5 All - - - all that we're dealing with right now is
6 do you have enough to strike - - - take it out of
7 the file. I think you don't; I'm overruling that
8 motion. But now let's hear your motion. Why should
9 I stay this? And - - - and keeping in mind what
10 he's already said that she's participated in the
11 proceedings. Has she actually been here for any
12 hearings?
13

14 ATTORNEY BOWEN: She has.

15 JUDGE LIAS: She has?

16 ATTORNEY BOWEN: Yes, Your Honor.

17 JUDGE LIAS: And when - - - when she
18 participated in these hearings, and she was here,
19 was she still stationed in - - - or - - - in
20 wherever she's stationed now? Where is it?
21

22 ATTORNEY BOWEN: Your Honor, her current -

23 CHANCE CATUDAL: Fort Huachuca.

24 ATTORNEY BOWEN: - her current duty
25

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1 station has changed since she previously appeared.

2 JUDGE LIAS: When she participated where
3 was she stationed?

4 ATTORNEY BOWEN: She was stationed at Fort
5 Huachuca, Arizona.

6 JUDGE LIAS: And where is she now?

7 ATTORNEY BOWEN: She is still -

8 CHANCE CATUDAL: Fort Huachuca.

9 ATTORNEY BOWEN: - physically -

10 JUDGE LIAS: Stop talking -

11 CHANCE CATUDAL: Okay.

12 JUDGE LIAS: - now.

13
14 ATTORNEY BOWEN: Your Honor, she is still
15 physically at Fort Huachuca, however, she has been
16 entered into a different duty. The Army is now
17 sending her through their - - - that training
18 program which is called Green to Gold Program that
19 requires her to attend col - - - basically go to
20 college. Her classes are at the University of
21 Arizona, some in Tucson and some at their southern
22 campus which is in Sierra Vista, Arizona, which is
23 the town in which Fort Huachuca is located.
24
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1 JUDGE LIAS: For how long?

2 ATTORNEY BOWEN: The - - - she is going to
3 be there - - - this is her third - - - I understand
4 they have given her for credit for two previous
5 years of college, so she has two years left, this
6 year and then next year.

7 JUDGE LIAS: So how does that prevent her
8 for coming - - - from coming, you know, on leave?
9 Does she still get leave?
10

11 ATTORNEY BOWEN: Your Honor, we - - - one
12 of the exhibits that we filed is an affidavit from
13 her Commanding Officer - - - Kim is attempting to
14 pull that up right now - - - an affidavit from her
15 Commanding Officer in comportment with the
16 requirements of 50 U.S.C. App 522 -
17

18 JUDGE LIAS: Do you have the affidavit for
19 me in this hearing that I'm holding now?

20 ATTORNEY BOWEN: This is - - - Your Honor,
21 there's a two prong requirement for relief under 50
22 U.S.C. 522, which is a request for stay. One of
23 them is a communication from the soldier, which was
24 provided as one attachment to the motion and it's
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COURT OF DOMESTIC RELATIONS

COLUMBUS, OHIO 43215

FRANKLIN COUNTY

1 what I've just provided to the Court that has to
2 state that the soldier is currently on active duty
3 and that her military duties prevent her from
4 attending.

5 JUDGE LIAS: Uh-huh (affirmative
6 response).

7 ATTORNEY BOWEN: Then there's a
8 communication from the soldier's Commanding Officer,
9 that's the second prong of the test and that has to
10 state that the soldier is on active duty, that her
11 current military duties preclude her from attending
12 and that no military leave will be granted for the
13 purposes of attending this Court.

14 JUDGE LIAS: She's asking for stay for
15 ninety days, basically?

16 ATTORNEY BOWEN: Correct, at least until
17 the end of her semester.

18 JUDGE LIAS: And - - - but she - - - after
19 that she will get leave and then she can
20 participate?
21

22 ATTORNEY BOWEN: After that she can at
23 least potentially get leave. The SCRA provides that
24
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1 the soldier can after that initial ninety days apply
2 for another stay, however, the initial stay, which
3 is what we're here on, if the U.S.C. indicates that
4 the Court shall grant, after that, it indicates that
5 the Court may grant additional extensions. So at
6 this point we anticipate -

7 JUDGE LIAS: Have you - - - have you seen
8 this?

9 CHANCE CATUDAL: I have. The -

10 JUDGE LIAS: Have you seen this one too?

11 CHANCE CATUDAL: I have. I -

12 JUDGE LIAS: Hold on. Not your turn yet.
13 Just a moment. Go ahead.

14 ATTORNEY BOWEN: Your Honor, the - - - the
15 communication with the Commanding Officer has to
16 indicate that the soldier is on active duty, that
17 the Commander is the Commanding Officer, that the
18 soldier's duties preclude the soldier from attending
19 and that no military leave will be granted for
20 attending these proceedings. So she can apply for
21 military leave without the stay but obviously the
22 Commanding Officer is not going to grant that.
23
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1 JUDGE LIAS: Okay.

2 ATTORNEY BOWEN: And we would argue that
3 those satisfy the - - - the tests set out in - - -
4 in 50 U.S.C. App 522.

5 JUDGE LIAS: Okay. You may respond.

6 CHANCE CATUDAL: 50 U.S.C. App 102C
7 indicates that this -

8 JUDGE LIAS: Do you have a copy of that,
9 please?
10

11 CHANCE CATUDAL: It's in the motion.

12 JUDGE LIAS: The copy of the actual
13 statue?

14 CHANCE CATUDAL: No, I copy and pasted it
15 into the - - - into the motion. I figure since
16 they're quoting from the same Federal Statue in the
17 same fashion that I am that it's okay for me to
18 quote one as well.
19

20 JUDGE LIAS: Okay.

21 CHANCE CATUDAL: 50 U.S.C. App 102C
22 indicates that you can, under that act, apply for a
23 stay in which no proceedings have already been
24 commenced with respect to the matter. The subject
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1 matter for this has already been commenced. She has
2 already waived her right to ask for a stay, and once
3 again venue has already been established. She
4 waived her right to do this. She's participated in
5 post decree filings. She's come to hearings. She's
6 responded to discovery, etc cetera. She indicated
7 to the Magistrate that she doesn't have any school
8 two days out of the week. When he indicated the
9 University of Arizona that meant online, that's not
10 her going to school every single day, that's
11 something she can do in the evening after Court.
12 What she's trying to do right now is get relief from
13 twenty-two counts of contempt, my Motion to Modify
14 Custody, and violating Judge Browne's order to
15 provide me with information.
16

17 JUDGE LIAS: Okay. Okay. Respond to his
18 quoting that section of the statue.
19

20 ATTORNEY BOWEN: Your Honor, what that
21 specific section of the statue says is when under
22 this act any application is required to be made to a
23 Court in which no proceeding has already been
24 commenced with respect to the matter. Such
25

1 application may be made to any Court which would
2 otherwise have jurisdiction over the matter. That
3 is specifically for situations in which no action
4 has been commenced. Obviously in this case an
5 action has been commenced.

6 JUDGE LIAS: Uh-huh (affirmative
7 response).

8 ATTORNEY BOWEN: The act specifically
9 provides for the staying of an action once it has
10 been commenced and that's the relief that we are
11 seeking.
12

13 JUDGE LIAS: Uh-huh (affirmative
14 response). And they are seeking temporary relief,
15 it's not like it's gone on -

16 CHANCE CATUDAL: According to Federal Law,
17 once they are granted a stay on -

18 JUDGE LIAS: - for years.

19 CHANCE CATUDAL: - this one time, then
20 they can do it over and over and over again.
21

22 JUDGE LIAS: Well, they'd have to prove it
23 though. I mean, it's not just a matter of course.
24 It - - - you know, I'd want to know that she's going
25

1 to Iraq or Afghanistan or someplace -

2 CHANCE CATUDAL: She was injured -

3 JUDGE LIAS: - where she can't -

4 CHANCE CATUDAL: - so she's not - - - yeah

5 -

6 JUDGE LIAS: - you know -

7 CHANCE CATUDAL: - she's not going to go
8 overseas.

9 JUDGE LIAS: I - - - this is not going to
10 last forever but I think he's right on the law and
11 so I am going to grant the ninety day -

12 CHANCE CATUDAL: Can I get a Judgment -

13 JUDGE LIAS: - minimum stay -

14 CHANCE CATUDAL: - today so that I can
15 appeal?

16 JUDGE LIAS: I'm sorry, may I finish,
17 please?

18 CHANCE CATUDAL: I apologize.

19 JUDGE LIAS: I'm going to grant the Motion
20 for -

21 ATTORNEY BOWEN: Thank you, Your Honor.

22 JUDGE LIAS: - a Stay under the Soldier
23
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1 and Sailor's Relief Act for ninety days and that
2 means you can apply for a continuance of what is
3 pending. And - - - but, you know, I - - - I think
4 that this does need to be moved and - - - and he
5 indicates this - - - her Commanding Officer
6 indicates that she most probably will be granted
7 leave after December 17th, 2012.

8 CHANCE CATUDAL: That would just - - - her
9 father is a retired Colonel. That would just -

10 JUDGE LIAS: You know what?

11 CHANCE CATUDAL: Yeah, it's for her not to
12 be held accountable.

13 ATTORNEY BOWEN: Thank you, Your Honor.

14 JUDGE LIAS: I'm sorry, you know, that you
15 feel that way but I think I've made the right
16 decision under the law. I will need an entry from
17 you -
18

19 ATTORNEY BOWEN: I will submit it -
20

21 JUDGE LIAS: - on both motions, my
22 overruling his Motion to Strike and my granting your
23 motion.

24 ATTORNEY BOWEN: I will e-file those this
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1 afternoon.

2 JUDGE LIAS: Okay. Thank you very much.

3 ATTORNEY BOWEN: Thank you, Your Honor.

4 JUDGE LIAS: Did you want to say
5 something?

6 ATTORNEY WINKLER: No, Your Honor, I just
7 thought - - - I'm just observing.

8 JUDGE LIAS: You - - - I figured you would
9 have spoken up if you - - - if you had a -

10 ATTORNEY WINKLER: Well, you know me, if I
11 had -

12 JUDGE LIAS: - particular -

13 ATTORNEY WINKLER: - if something would
14 have been (inaudible) you know I would have said
15 something.
16

17 JUDGE LIAS: Okay.

18 CHANCE CATUDAL: You don't think that -

19 JUDGE LIAS: Thank you.

20 CHANCE CATUDAL: - her violating the -

21 JUDGE LIAS: Please step -

22 CHANCE CATUDAL: - decree of divorce was
23 (inaudible)?
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JUDGE LIAS: - back now. Please step back

now.

ATTORNEY WINKLER: Thank you, Your Honor.

JUDGE LIAS: Thank you.

- - -

CERTIFICATE

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I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND ACCURATE TRANSCRIPT OF THE PROCEEDINGS IN THIS MATTER ON OCTOBER 9, 2012, EXCEPT FOR CERTAIN INAUDIBLE PORTIONS, WHICH I TRANSCRIBED FROM THE OFFICIAL COURT RECORDING SYSTEM; AND, SAID TRANSCRIPT HAS BEEN DULY COMPARED WITH THE OFFICIAL COURT RECORDING SYSTEM.

Sarah G. Gibson 080
SARAH GIBSON,
OFFICIAL COURT STENOGRAPHER

Suzanne M. Harmon
SUZANNE M. HARMON, (HARM)
OFFICIAL COURT TRANSCRIPTIONIST

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