



**MARY GATELY BODLEY**  
Attorney at Law

RECEIVED  
02 JAN -6 AM 8:54

Telephone (410) 828-1654

The Susquehanna Building  
29 West Susquehanna Avenue  
Suite 600  
Towson, Maryland 21204

CIRCUIT CLERK  
BALTIMORE CITY  
PATERNITY  
Facsimile (410) 583-7611

mbodley@towsonlawyer.com  
December 2, 2002

Ms. Francinia E. Arrington  
321 Radnor Road  
Baltimore, MD 21212

**Re: Arrington v. Rodriguez, Case number: PD70119070**

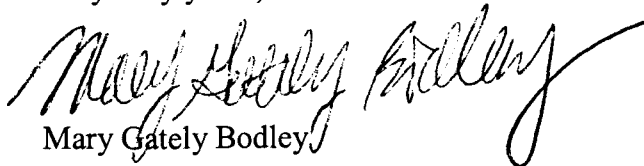
Dear Ms. Arrington:

As you know, I am the attorney representing Mr. Jose Rodriguez in the above-referenced case. I am enclosing another copy of Judge Miller's November 21, 2002 Order, granting Mr. Rodriguez' request for a paternity test, at his expense, to be scheduled within 14 days and completed within 30 days from the Order.

Judge's Miller's office has advised me that a court-approved lab where this testing can be done (involves a finger-stick only blood sample from you and your child) is RH Labs, 400 W. Franklin St., Baltimore, MD 21202, phone number: 410-225-9595, extension 3 for Shelly Corpez to schedule. Mr. Rodriguez has paid for the blood tests in advance. I have already contacted Ms. Corpez and initiated the scheduling of this testing.

Pursuant to the Order, please contact RH Labs directly and timely have the testing done for you and your child.

Very truly yours,

  
Mary Gately Bodley

cc: The Honorable John P. Miller  
Mr. Jose Rodriguez  
Ms. Shelly Corpez

FRANCINIA E. ARRINGTON  
321 Radnor Road  
Baltimore, MD 21212

Plaintiff

vs.

JOSE D. RODRIGUEZ  
660 Dumbarton Avenue  
Baltimore, MD 21218

Defendant

\* IN THE  
\* CIRCUIT COURT  
\* FOR  
\* BALTIMORE CITY

Case number: PD70119070

\* \* \* \* \*

**ORDER**

Having this 21 day of November, 2002 considered Defendant's Jose D. Rodriguez' Motion for Default Judgment, and any opposition, it is ORDERED that Defendant's Motion is GRANTED and that Defendant's Motion to Set Aside Declaration of Paternity and to Obtain Blood or Genetic Testing to Establish Paternity, is GRANTED. Pursuant to Maryland Rule 5-1029, Plaintiff, Defendant, and Nicole Rodriguez, date of birth, August 7, 1987, and child of Plaintiff, shall submit to blood or genetic tests to determine whether Defendant can be excluded as being the father of this child.

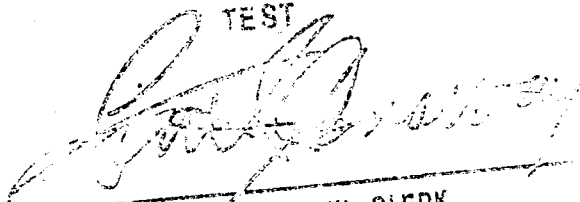
The blood or genetic tests shall be made in a laboratory selected by the court from a list of laboratories provided by the Administration. The provisions regarding the form of results, copy of laboratory report, laboratory report as evidence, and other provisions of Maryland Rule 5-1029 shall apply.

Defendant shall pay for the costs of this blood or genetic testing.

Defendant shall initiate the scheduling of this testing. This blood or genetic testing shall be scheduled within 14 days after this Order, with such testing to be conducted and completed within 30 days after the date of this Order.

**JOHN P. MILLER**  
**JUDGE**

**TRUE COPY**  
**TEST**

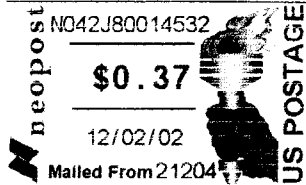
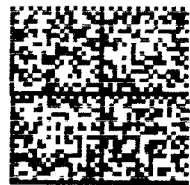


**FRANK M. CONAWAY, CLERK**



**MARY GATELY BODLEY**  
Attorney at Law

The Susquehanna Building  
29 West Susquehanna Avenue  
Suite 600  
Towson, Maryland 21204



The Honorable John P. Miller  
Courthouse East  
111 N. Calvert St.  
Baltimore, MD 21202

21202+1304 32



FRANCINIA E. ARRINGTON  
321 Radnor Road  
Baltimore, MD 21212

Plaintiff

vs.

JOSE D. RODRIGUEZ  
660 Dumbarton Avenue  
Baltimore, MD 21218

Defendant

\* IN THE  
\* CIRCUIT COURT  
\* FOR  
\* BALTIMORE CITY

Case number: PD70119070

\* \* \* \* \*

**ORDER**

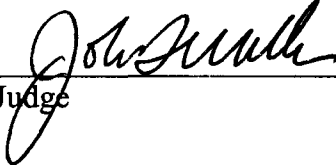
Having this 21 day of November, 2002 considered Defendant's Jose D.

Rodriguez' Motion for Default Judgment, and any opposition, it is ORDERED that Defendant's Motion is GRANTED and that Defendant's Motion to Set Aside Declaration of Paternity and to Obtain Blood or Genetic Testing to Establish Paternity, is GRANTED. Pursuant to Maryland Rule 5-1029, Plaintiff, Defendant, and Nicole Rodriguez, date of birth, August 7, 1987, and child of Plaintiff, shall submit to blood or genetic tests to determine whether Defendant can be excluded as being the father of this child.

The blood or genetic tests shall be made in a laboratory selected by the court from a list of laboratories provided by the Administration. The provisions regarding the form of results, copy of laboratory report, laboratory report as evidence, and other provisions of Maryland Rule 5-1029 shall apply.

Defendant shall pay for the costs of this blood or genetic testing.

Defendant shall initiate the scheduling of this testing. This blood or genetic testing shall be scheduled within 14 days after this Order, with such testing to be conducted and completed within 30 days after the date of this Order.

  
\_\_\_\_\_  
Judge

RECEIVED  
CIRCUIT COURT FOR  
BALTIMORE CITY  
02 AUG 12 AM 9:01  
CIVIL DIVISION

FRANCINIA E. ARRINGTON  
321 Radnor Road  
Baltimore, MD 21212

Plaintiff

vs.

JOSE D. RODRIGUEZ  
660 Dumbarton Avenue  
Baltimore, MD 21218

Defendant

\* IN THE  
\* CIRCUIT COURT  
\* FOR  
\* BALTIMORE CITY

Case number: PD70119070

\* \* \* \* \*

**MOTION FOR DEFAULT JUDGMENT**

Defendant, Jose D. Rodriguez, by his undersigned attorney, respectfully files this Motion for Default Judgment pursuant to Maryland Rule 2-613 and states as follows:

1. On October 24, 2002, Defendant filed a Motion to Set Aside Declaration of Paternity and to Obtain Blood or Genetic Testing To Establish Paternity and Request for Hearing. Since this was an open, but old case, counsel mailed a copy to Plaintiff, Francinia Arrington at her current address by first-class mail, postage pre-paid.
2. Subsequently, on November 2, 2001 the Civil Clerk/Paternity Division advised counsel that a filing fee must be paid for this Motion. The filing fee was promptly paid.
3. Thereafter the Clerk advised counsel that this pleading must be served on the Plaintiff.



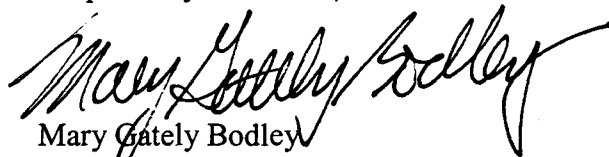
4. Due to Plaintiffs' evasion of service of process, on May 20, 2002 The Honorable Paul A. Smith granted Defendant Rodriguez' Motion for Alternative Service of Process Due to Evasion of Service. On May 22, 2002, counsel filed a Certificate of Service pursuant to Judge Smith's Order, certifying that the Motion to Set Aside Declaration of Paternity and to Obtain Blood or Genetic Testing to Establish Paternity and Request for Hearing was mailed by first-class mail, postage pre-paid to Plaintiff.

5. Plaintiff has never filed any responsive pleading. The time for Plaintiff to file a responsive pleading to this Motion has expired.

6. Therefore, Defendant Rodriguez respectfully requests that this Court enter a default judgment in his favor pursuant to Maryland Rule 2-613.

A proposed Order is attached.

Respectfully submitted,



Mary Gately Bodley  
29 W. Susquehanna Avenue  
Suite 600  
Towson, MD 21204  
410-828-1654

FRANCINIA E. ARRINGTON  
321 Radnor Road  
Baltimore, MD 21212

Plaintiff

vs.

JOSE D. RODRIGUEZ  
660 Dumbarton Avenue  
Baltimore, MD 21218

Defendant

\* IN THE  
\* CIRCUIT COURT  
\* FOR  
\* BALTIMORE CITY

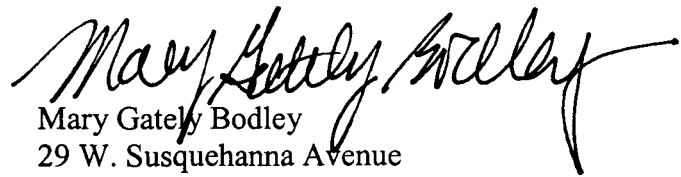
Case number: PD70119070

\* \* \* \* \*

### CERTIFICATE OF SERVICE

I certify, that on this 9<sup>th</sup> day of August, 2002, that a copy of Defendant's Motion for Default Judgment was mailed by first-class mail, postage prepaid to Plaintiff, Francinia E. Arrington at 321 Radnor Road, Baltimore MD 21212:

Respectfully submitted,



Mary Gately Bodley  
29 W. Susquehanna Avenue  
Suite 600  
Towson, MD 21204  
410-828-1654

FRANCINIA E. ARRINGTON  
321 Radnor Road  
Baltimore, MD 21212

Plaintiff

vs.

JOSE D. RODRIGUEZ  
660 Dumbarton Avenue  
Baltimore, MD 21218

Defendant

\* IN THE  
\* CIRCUIT COURT  
\* FOR  
\* BALTIMORE CITY

Case number: PD70119070

\* \* \* \* \*

**NON-MILITARY AFFIDAVIT IN SUPPORT OF MOTION  
FOR DEFAULT JUDGMENT**

Defendant, Jose Rodriguez, respectfully files this Non-Military Affidavit in support of his Motion for Default Judgment, and states that Francinia Arrington:

1. is not in the military service of the United States;
2. is not in the military service of any nation allied with the United States;
3. has not been ordered to report for induction under the Selective Training and Service Act; and
4. is not a member of the Enlisted Reserve Corps who has been ordered to report for military service.

I solemnly affirm under the penalties of perjury that the contents of the foregoing paper are true to the best of my knowledge, information, and belief.

9/21/02  
Date

*Joe Rodriguez*  
9/21/02  
Signature

FRANCINIA E. ARRINGTON  
321 Radnor Road  
Baltimore, MD 21212

Plaintiff

vs.

JOSE D. RODRIGUEZ  
660 Dumbarton Avenue  
Baltimore, MD 21218

Defendant

\* IN THE  
\* CIRCUIT COURT  
\* FOR  
\* BALTIMORE CITY

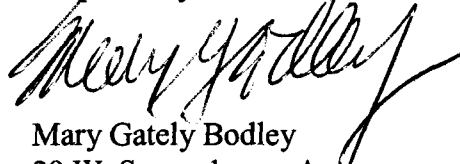
Case number: PD70119070

\* \* \* \* \*

### CERTIFICATE OF SERVICE

I certify, that on this 26<sup>th</sup> day of September, 2002, that a copy of Defendant's Non-Military Affidavit In Support of Motion for Default Judgment was mailed by first-class mail, postage prepaid to Plaintiff, Francinia E. Arrington at 321 Radnor Road, Baltimore MD 21212:

Respectfully submitted,



Mary Gately Bodley  
29 W. Susquehanna Avenue  
Suite 600  
Towson, MD 21204  
410-828-1654

*pull  
file*

RECEIVED

**MARY GATELY BODLEY**  
Attorney at Law

02 AUG 15 AM 11:51

Telephone (410) 828-1654

The Susquehanna Building  
29 West Susquehanna Avenue  
Suite 600  
Towson, Maryland 21204

CIRCUIT COURT  
BALTIMORE CITY  
PERNITY D. 15

Facsimile (410) 583-7611

mbodley@towsonlawyer.com

August 9, 2002

Civil Clerk  
Circuit Court for Baltimore City  
111 N. Calvert Street  
Baltimore, MD 21202

**Re: Arrington v. Rodriguez, Case number: PD70119070**

Dear Clerk:

Enclosed for filing is Defendant's Motion for Default Judgment.

Please return the enclosed copy to me with a date stamp for my files.

Thank you for your assistance.

Very truly yours,



Mary Gately Bodley

cc: Mr. Jose D. Rodriguez  
Mrs. Marina Rodriguez  
Ms. Francinia E. Arrington

RECEIVED

**MARY GATELY BODLEY**  
Attorney at Law

02 OCT -3 AM 8:15

Telephone (410) 828-1654

The Susquehanna Building  
29 West Susquehanna Avenue  
Suite 600  
Towson, Maryland 21204

Circuit Court Facsimile (410) 583-7611  
BALTIMORE CITY  
PATERNITY DIVISION

mbodley@towsonlawyer.com

September 25, 2002, 2002

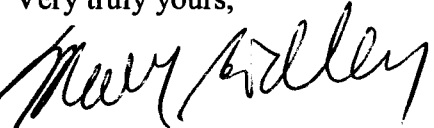
Civil Clerk  
Circuit Court for Baltimore City  
111 N. Calvert Street  
Baltimore, MD 21202

**Re: Arrington v. Rodriguez, Case number: PD70119070**

Dear Clerk:

Enclosed per the Clerk's request to me is a Non-Military Affidavit in Support of Motion for Default Judgment.

Thank you for your assistance.

Very truly yours,  
  
Mary Gately Bodley

cc: Mr. Jose D. Rodriguez  
Mrs. Marina Rodriguez  
Ms. Francinia E. Arrington

0  
0

RECEIVED

02 JUN 21 AM 11:58  
Telephone (410) 828-1654

CIRCUIT COURT FOR  
BALTIMORE CITY  
PATERNITY DIVISION

**MARY GATELY BODLEY**  
Attorney at Law

The Susquehanna Building  
29 West Susquehanna Avenue  
Suite 600  
Towson, Maryland 21204

mbodley@towsonlawyer.com

RECEIVED  
CIRCUIT COURT FOR  
BALTIMORE CITY

Facsimile (410) 583-7611  
02 JUN 21 AM 8:08

CIVIL DIVISION

June 19, 2002

Civil Clerk  
Circuit Court for Baltimore City  
111 N. Calvert Street  
Baltimore, MD 21202

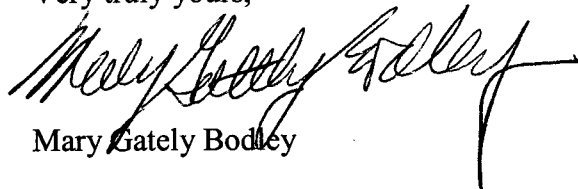
**Re: Arrington v. Rodriguez, Case number: PD70119070**

Dear Clerk:

Please advise me when my client, Jose Rodriguez' Motion to Set Aside Declaration of Paternity and to Obtain Blood or Genetic Testing to Establish Paternity, will be scheduled for the requested hearing.

Many thanks for your assistance.

Very truly yours,



Mary Gately Bodley

cc: Mr. Jose D. Rodriguez  
Mrs. Marina Rodriguez



FRANCINIA E. ARRINGTON

IN THE CIRCUIT COURT

RECEIVED

vs.

02 JUN 10 AM 10:12

FOR BALTIMORE CITY

JOSE D. RODRIGUEZ

CIRCUIT COURT BALTIMORE CITY  
02 JUN -7 PM 2:10

BALTIMORE CITY  
CIVIL DIVISION

CASE NO. PD70-119070

\* \* \* \* \*

AFFIDAVIT OF NON-EST

The undersigned hereby certifies as follows:

- 1. That I am a competent private person over the age of 18 years and am not a party to the above action.
- 2. That service of process was attempted on FRANCINIA E.

ARRINGTON


3. Service was unable to be effected because:

- bad address
- deceased
- unable to contact
- not known at given address
- no info available at MVA
- moved w/no forwarding address
- evaded service of process
- correct address
- other numerous attempts at service were made, messages were

left and contact was made when FRANCINIA E. ARRINGTON WAS HOME, BUT SHE REFUSED TO COME TO THE DOOR. Then, through her daughter, SHE LIED AND ASKED ME TO RETURN EVEN THOUGH SHE KNEW SHE WOULD NOT BE IN.

4. Please reissue at: \_\_\_\_\_

I do solemnly declare and affirm under the penalties of perjury that the matters and facts set forth herein are true to the best of my knowledge, information and belief.

  
STEVEN M. SILVER

PPS

Circuit Court for Baltimore C  
Frank M. Conaway, Clerk  
111 N. Calvert St. - Room 109  
Baltimore, Md. 21202

Private Process

WRIT OF SUMMONS

Case Number PD70-119070

STATE OF MARYLAND.

CITY OF BALTIMORE TO WIT:

TO: Francina Arington  
321 Radon Road  
Baltimore, Md. 21212

You are hereby summoned to file a written response by pleading or motion in this Court to the attached Complaint filed by Mary Bodley on behalf of Jose Rodriguez  
29 West Swopehanna Ave, Suite 600, Towson, Md. 21204  
(Name & Address)

within 30 days after service of this summons upon you.

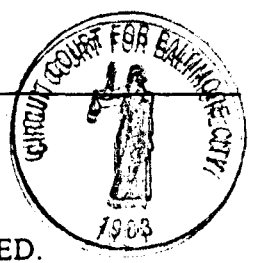
WITNESS the Honorable Chief Judge of the Eighth Judicial Circuit for Baltimore County, Maryland.

TRUE COPY TEST

Date Issued MAR 13 2002

Frank M. Conaway  
CLERK

FRANK M. CONAWAY, CLERK



TO THE PERSON SUMMONED:

1. PERSONAL ATTENDANCE IN COURT ON THE DAY NAMED IS NOT REQUIRED.
2. FAILURE TO FILE A RESPONSE WITHIN THE TIME ALLOWED MAY RESULT IN A JUDGMENT BY DEFAULT OR THE GRANTING OF THE RELIEF SOUGHT AGAINST YOU.

SHERIFF'S RETURN

Person Served _____	Time _____	Date <u>4</u> _____
Person Served _____	Time _____	Date _____
Non Est (Reason) _____		
Fee \$ _____	Sheriff _____	

NOTE:

1. This summons is effective for service only if served within 60 days after the date it is issued
2. Proof of service shall set out the name of the person served, date and the particular place and manner of service. If service is not made, please state the reasons.
3. Return of served or unserved process shall be made promptly and in accordance with Rule 2-126.
4. If this summons is served by private process, Process server shall file a seperate affidavit as required by Rule 2-126 (a).

02 MAY 24 AM 8:19  
CIRCUIT COURT  
BALTIMORE CITY

FRANCINIA E. ARRINGTON  
321 Radnor Road  
Baltimore, MD 21212

CIRCUIT COURT  
BALTIMORE CITY

Plaintiff

\* CIRCUIT COURT

\* FOR

vs.

\* BALTIMORE CITY

JOSE D. RODRIGUEZ  
660 Dumbarton Avenue  
Baltimore, MD 21218

\*

\*

Defendant

\*

Case number: PD70119070

\* \* \* \* \*

**CERTIFICATE OF SERVICE**

I certify, that on this 22<sup>nd</sup> day of May, 2002, that the following were mailed first-class, postage prepaid to Plaintiff, Francinia E. Arrington at 321 Radnor Road, Baltimore MD 21212:

1. Motion for Alternative Service of Process Due to Evasion of Service and Court Order.
2. Motion to Set Aside Declaration of Paternity and to Obtain Blood or Genetic Testing To Establish Paternity and Request for Hearing.

Respectfully submitted,

Mary Gately Bodley  
29 W. Susquehanna Avenue  
Suite 600  
Towson, MD 21204  
410-828-1654

RECEIVED  
02 MAY 24 PM 1:03  
CIRCUIT COURT  
BALTIMORE CITY  
PATERNITY DIVISION

**MARY GATELY BODLEY**  
Attorney at Law

Telephone (410) 828-1654

The Susquehanna Building  
29 West Susquehanna Avenue  
Suite 600  
Towson, Maryland 21204

Facsimile (410) 583-7611

[mbodley@towsonlawyer.com](mailto:mbodley@towsonlawyer.com)

May 22, 2002

Civil Clerk  
Circuit Court for Baltimore City  
111 N. Calvert Street  
Baltimore, MD 21202

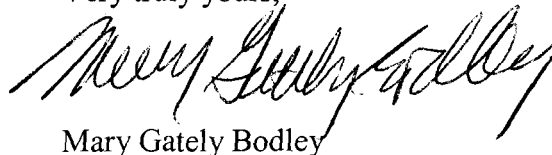
**Re: Arrington v. Rodriguez, Case number: PD70119070**

Dear Clerk:

Please file the enclosed Certificate of Service and schedule this matter for a hearing at the earliest possible date.

Many thanks for your assistance.

Very truly yours,



Mary Gately Bodley

cc: Mr. Jose D. Rodriguez  
Mrs. Marina Rodriguez  
Ms. Francinia Arrington

RECEIVED

02 MAY 13 AM 11:14

FRANCINIA E. ARRINGTON  
321 Radnor Road  
Baltimore, MD 21212

\* JUDGE JAMES  
BALTIMORE  
PATERNITY DIVISION

IN THE

\* CIRCUIT COURT

Plaintiff

\* FOR

vs.

\* BALTIMORE CITY

JOSE D. RODRIGUEZ  
660 Dumbarton Avenue  
Baltimore, MD 21218

\*

\*

Defendant

\*

Case number: PD70119070

\* \* \* \* \*

**MOTION FOR ALTERNATIVE SERVICE OF PROCESS DUE TO EVASION OF SERVICE**

Defendant, Jose D. Rodriguez, by his undersigned attorney, respectfully files this Motion for Alternative Service of Process pursuant to Maryland Rules 2-121 (b) – (d). In support, Defendant states as follows:

1. On October 24, 2002, Defendant filed a Motion to Set Aside Declaration of Paternity and to Obtain Blood or Genetic Testing To Establish Paternity and Request for Hearing. Since this was an open, but old case, counsel mailed a copy to Plaintiff, Francinia Arrington at her current address by first-class mail, postage prepaid. Significantly, this was never returned to counsel by the United States Post Office, and counsel thus assumed that it reached the Plaintiff.

2. Subsequently, on November 2, 2001 the Civil Clerk/Paternity Division advised counsel that a filing fee must be paid for this Motion. The filing fee was promptly paid.

3. Thereafter the Civil Clerk/Paternity Division advised counsel that this pleading must be served on the Plaintiff.

4. Consequently, counsel made attempts to have a private process server serve Plaintiff with this Motion. The Writ for Service of Process was issued twice by the Court as the private process server made numerous unsuccessful attempts at service.

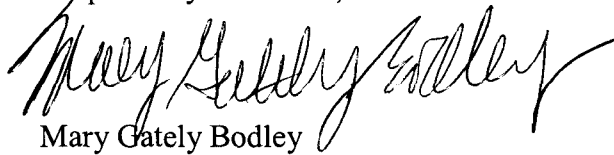
5. As indicated by the attached Affidavit of Steve Silver, Private Process Server, Plaintiff Arrington was a home when he made one of his numerous attempts at service, but she refused to answer the door or accept service. On other occasions, no one would answer the door when he arrived, though it was apparent that people were in the house. Mr. Silver also left his business card with an inhabitant of the house with instructions for the Plaintiff to contact him regarding service of court papers. Plaintiff never contacted him or cooperated.

6. In addition, counsel also sent this Motion by Certified Mail, Return Receipt Requested on March 18, 2002 to Plaintiff at her current address. This was returned to counsel as unclaimed (copies attached).

7. It is evident that Plaintiff is willfully evading service of process in this case. Defendant has made numerous "good faith efforts" at service pursuant to Maryland Rule 2-121 (c). Consequently, it would be appropriate to permit service of process by regular mail, first-class postage prepaid.

WHEREFORE, Defendant Jose D. Rodriguez respectfully requests that this Court grant his Motion for Alternative Service. A proposed Order is attached.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Mary Gately Bodley". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Mary Gately Bodley  
29 W. Susquehanna Avenue  
Suite 600  
Towson, MD 21204  
410-828-1654  
Attorney for Plaintiff

FRANCINIA E. ARRINGTON \* IN THE CIRCUIT COURT

vs. \* FOR BALTIMORE CITY

JOSE D. RODRIGUEZ \*  
CASE NO. PD70-119070

\* \* \* \* \*

AFFIDAVIT OF NON-EST

The undersigned hereby certifies as follows:

1. That I am a competent private person over the age of 18 years and am not a party to the above action.

2. That service of process was attempted on FRANCINIA E. ARRINGTON

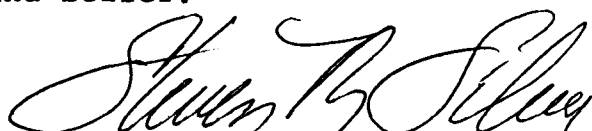
3. Service was unable to be effected because:

- bad address  deceased
- unable to contact  not known at given address
- no info available at MVA  moved w/no forwarding address
- evaded service of process  correct address

X other numerous attempts at service were made, messages were left and contact was made when FRANCINIA E. ARRINGTON WAS HOME, BUT SHE REFUSED TO COME TO THE DOOR. Then, through her daughter, SHE LIED AND ASKED ME TO RETURN EVEN THOUGH SHE KNEW SHE WOULD NOT BE IN.

4. Please reissue at: \_\_\_\_\_

I do solemnly declare and affirm under the penalties of perjury that the matters and facts set forth herein are true to the best of my knowledge, information and belief.

  
STEVEN M. SILVER PPS



FRANCINIA E. ARRINGTON

\*

IN THE CIRCUIT COURT

Plaintiff

\*

vs.

FOR BALTIMORE CITY

JOSE D. RODRIGUEZ

\*

Defendant

CASE NO. PD70-119070

\* \* \* \* \*

A F F I D A V I T


The undersigned hereby certifies as follows:

1. That I am a competent private person over the age of 18 years and am not a party to the above action.
2. That I attempted service of process upon FRANCINIA E. ARRINGTON at 321 Radnor Road Baltimore, Maryland 21212 however, service was to no avail.
  - a. On April 1, 2002 at 9:15 A.M. I went to the 321 Radnor Road address in Baltimore, Maryland 21212. I knocked on the door. There was no answer. I knocked again. Still, no response. I departed.
  - b. On April 6, 2002 at 11:30 A.M. I went to the 321 Radnor Road address in Baltimore, Maryland. I knocked on the door. There was no response. I knocked again. Still, no response. I put one of business cards in the doorjam and departed. As I was leaving, I decided to drive around back of the dwelling. The small yard had been recently cut as there were grass clippings around. There was a Cadillac car that was parked in the alley. I saw a black woman and asked her if she knew Francinia Arrington. She refused to comment. I departed.
  - c. On April 14, 2002 at 1:00 P.M. I returned to the 321 Radnor Road address. This time, I had called 411 - Directory Assistance to obtain a phone number for Ms. Arrington. I was told by the operator that the phone number was non-published. I **did get the operator to verify that the address was correct.** I knocked on the front door. No answer. I knocked again. Still, no response. I left another card in the doorjam and departed. No response to date.
  - d. On April 21, 2002 at 11:15 A.M. I returned to the 321 Radnor Road address. This time, I parked my car out of sight as not to be detected. I walked past an older BMW with Maryland license plates **GGN 992**. I walked up to the front door and knocked on it. No response. I knocked again. This time, much harder. Still, no response. As I turned to walk away, I heard the front door being opened up (much to my surprise). There was a young black female that stood partially behind the front door.

She asked if she could help me. I asked her if I woke her. The young girl responded affirmatively. I apologized for waking her and asked her if I had the Arrington residence. The girl responded, "Yes". I then asked if Francinia was home. The girl said, "Yes". I asked her to go and get Francinia. The young girl said that she, Francinia, was still asleep. I told the girl that I was sorry, but that I had a Baltimore City Circuit Court Summons for Francinia and she (the girl) needed to advise Francinia of that so that she (Francinia) could come to the door and receive it. The girl asked me to wait a moment. With that, the girl shut the front door. About 2-3 minutes had passed when the young girl reappeared at the front door. She said that Francinia refused to come to the door and that I should return at 1:30 P.M.. I gave my card to the young girl and told her that I would return at 1:30 P.M.. I also asked the girl to relay that same message to Francinia. The girl said that she would. I departed.

- e. On April 21, 2002 at 1:30 P.M. I retruned to the 321 Radnor Road address. The BMW was not infront of the dwelling. I knocked on the front door. There was no answer. I knocked again. Still, no reponse. I retutned to my car and drove around back of the dwelling. The BMW was not in the rear of the dwelling. I departed.
- f. On April 21, 2002 at 7:40 P.M. I returned to the 321 Radnor Road address. The grey BMW was parked in front of the dwelling in the same place as it had been when I first got an answer at the door at 11:15 A.M.. I walked up to the door. There were lights on inside of the house. I could hear noise (either a television or stereo) coming from inside of the house. I knocked on the door. There was no answer. I knocked again. This time, very loudly. Still, no one would respond to the knocking. I did hear that the noise that emanated from the house had stopped. I knocked again. Still, no response. I left another card in the doorjam and departed. As I was leaving, I walked over to BMW and wrote down the VIN #. It is: WBADK8308H9706854.

I do solemnly declare and affirm under the penalties of perjury that the matters and facts set forth herein are true to the best of my knowledge, information and belief.

  
STEVEN M. SILVER PPS  
P.O. BOX 5795  
BALTIMORE, MARYLAND 21282  
(410) 486-4617

FIRST CLASS FIRST CLASS FIRST CLASS FIRST CLASS

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:  
 Ms. Francinia E. Arrington  
 321 Radnor Road  
 Baltimore, Maryland 21212

2. Article Number (Copy from service label)

**COMPLETE THIS SECTION ON DELIVERY**

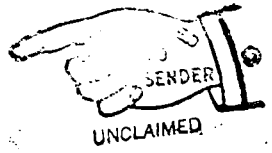
A. Received by (Please Print Clearly) B. Date of Delivery

C. Signature  
 X  Agent  Addressee

D. Is delivery address different from item 1?  Yes  
 If YES, enter delivery address below:  No

3. Service Type  
 Certified Mail  Express Mail  
 Registered Mail  Return Receipt for Merchandise  
 Insured Mail  Registered Mail  Registered Mail  
 4. Restricted Delivery? (Extra Fee)  Yes

MARY GATELY BODLEY  
 Attorney at Law  
 The Susquehanna Building  
 29 West Susquehanna Avenue  
 Suite 600  
 Towson, Maryland 21204



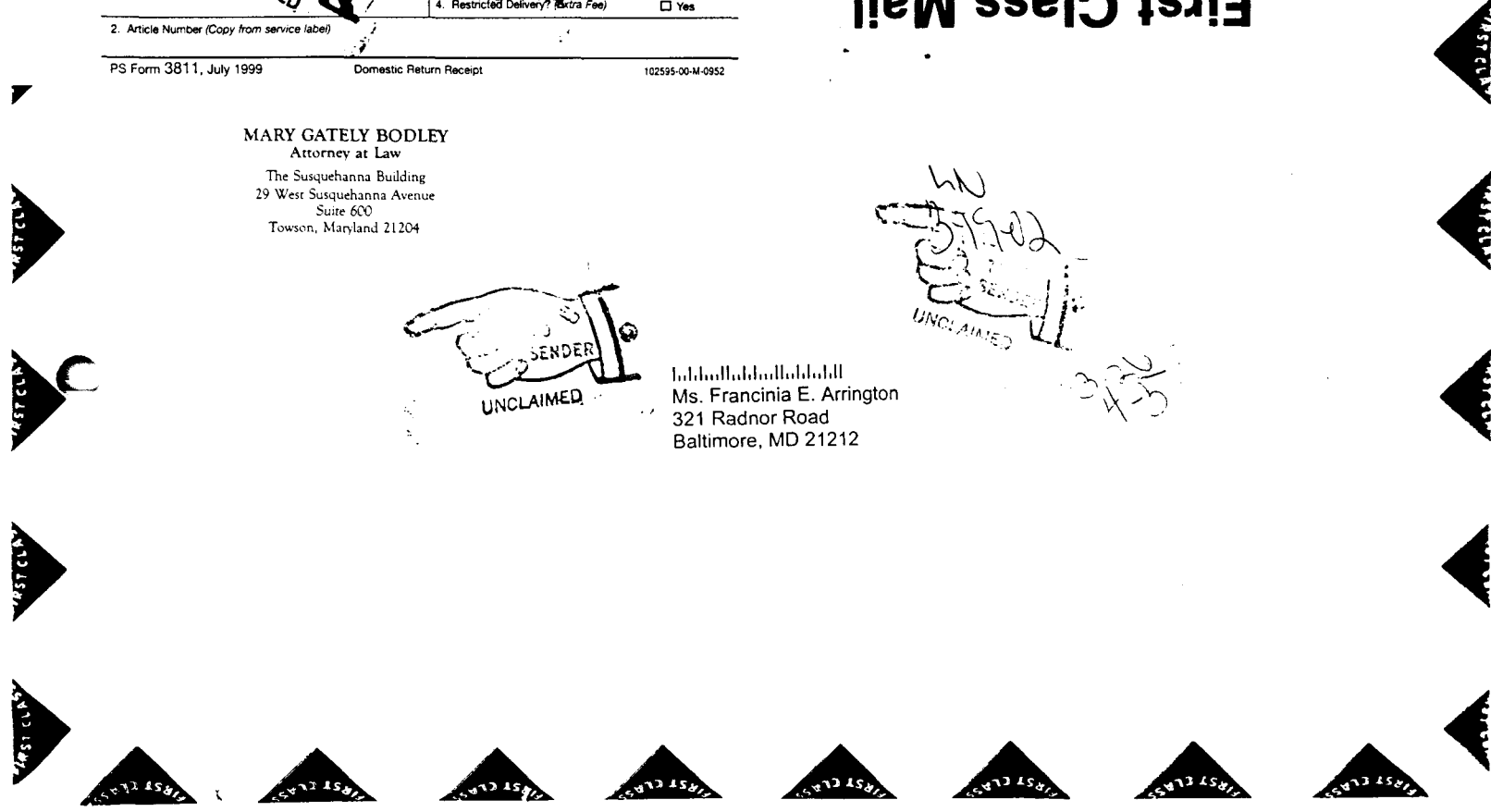
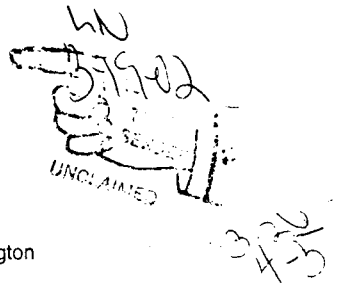
Ms. Francinia E. Arrington  
 321 Radnor Road  
 Baltimore, MD 21212

FIRST CLASS **CERTIFIED MAIL**



7099 3400 0012 2041 2390

**First Class Mail**  
**First Class Mail**



United States Postal Service

Today's Date

Sender's Name

### Sorry We Missed You! We'll Deliver for You

Item is at:

Available for Pick-up After

Post Office (See back)

Date:

Time:

**We will redeliver or you or your agent can pick up. See reverse.**

Letter

**For Delivery:** (Enter total number of items delivered by service type)

if checked, you or your agent must be present at time of delivery to sign for item

Large envelope, magazine, catalog, etc.

**For Notice Left:** (Check applicable item)

Article Number(s)

Parcel

Express Mail (We will attempt to deliver on the next delivery day unless you instruct the post office to hold it.)

Registered

709934000012 20412370

Restricted Delivery

Certified

Insured

Return Receipt for Merchandise

Perishable Item

Recorded Delivery

Delivery Confirmation

Signature Confirmation

Other:

Firm Bill

**Notice Left Section**

Customer Name and Address

Article Requiring Payment

Amount Due

Postage Due  COD  Customs \$

29

610

**Final Notice:** Article will be returned to sender on

Delivered By and Date

We will redeliver OR you or your agent can pick up your mail at the post office. (Bring this form and proper ID. If your agent will pick up, sign below in item 2, and enter agent's name here):

1.  a. Check all that apply in section 3;  
 b. Sign in section 2 below;  
 c. Leave this notice where the carrier can see it.

LOCH RAVEN BRANCH 21204/86  
808 GLEN EAGLES CT BALTIMORE MD  
HRS: M-F 8:00 AM - 5:00 PM  
HRS: SAT 8:00 AM - 2:00 PM  
TELEPHONE: 1-800-275-8777

2. Sign Here to Authorize Redelivery or to Authorize an Agent to Sign for You:

Delivery Section

3.  Redeliver (Enter day of week):

Signature

X

*M. Kelley*

(Allow at least two delivery days for redelivery, or call your post office to arrange delivery.)

Printed Name

- Leave item at my address

Delivery Address

(Specify where to leave. Examples: "porch", "side door". This option is not available if box is checked on the front requiring your signature at time of delivery.)

USPS



- Refused  Forward  Return

PS Form 3849, November 1999 (Reverse)

5220 1004 3764 5649

FRANCINIA E. ARRINGTON  
321 Radnor Road  
Baltimore, MD 21212

Plaintiff

vs.

JOSE D. RODRIGUEZ  
660 Dumbarton Avenue  
Baltimore, MD 21218

Defendant

\* IN THE  
\* CIRCUIT COURT  
\* FOR  
\* BALTIMORE CITY

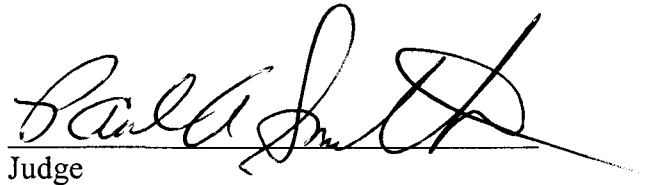
\*  
\*  
\*

Case number: PD70119070

\* \* \* \* \*

**ORDER**

Having this 20<sup>th</sup> day of May, 2002, considered Defendant Jose D. Rodriguez' Motion for Alternative Service of Process Due to Evasion of Service, it is ORDERED that the Motion is GRANTED, and that due to the good faith attempts at service on Plaintiff, service shall be deemed complete upon mailing of this pleading by first-class postage pre-paid mail to Plaintiff at her current address. Counsel shall file a certificate of this service with the Court.

  
\_\_\_\_\_  
Judge

RECEIVED

02 MAY 13 AM 11:14

Telephone (410) 828-1654

COURT  
BALTIMORE CITY  
PATERNITY DIVISION

**MARY GATELY BODLEY**

Attorney at Law

The Susquehanna Building  
29 West Susquehanna Avenue  
Suite 600  
Towson, Maryland 21204

[mbodley@towsonlawyer.com](mailto:mbodley@towsonlawyer.com)

Facsimile (410) 583-7611

May 10, 2002

Civil Clerk  
Circuit Court for Baltimore City  
111 N. Calvert Street  
Baltimore, MD 21202

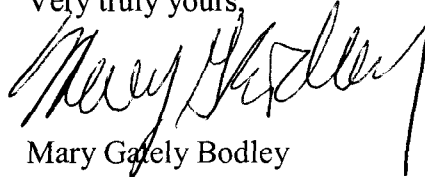
**Re: Arrington v. Rodriguez, Case number: PD70119070**

Dear Clerk:

Please file the enclosed Motion for Alternative Service of Process Due to Evasion of Service. Please note that this is a paternity case.

I have enclosed a duplicate copy and mailing envelope. Please send me a date stamped copy of this pleading. Thank you very much for your cooperation.

Very truly yours,



Mary Gately Bodley

cc: Mr. Jose D. Rodriguez  
Mrs. Marina Rodriguez

Circuit Court for Baltimore City  
Frank M. Conaway, Clerk  
111 N. Calvert St. - Room 109  
Baltimore, Md. 21202

WRIT OF SUMMONS

Case Number PD70-119070

STATE OF MARYLAND.

CITY OF BALTIMORE TO WIT:

TO: Francina Arington  
321 Radnor Road  
Baltimore, Md. 21212

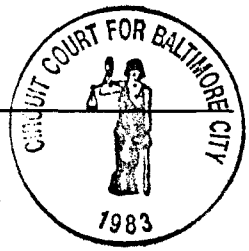
You are hereby summoned to file a written response by pleading or motion in this Court to the attached  
Complaint filed by Mary Bodley on behalf of Jose Rodriguez,  
29 West Susquehanna Ave, Suite 600, Towson, Md. 21204  
(Name & Address)

within 30 days after service of this summons upon you.

WITNESS the Honorable Chief Judge of the Eighth Judicial Circuit of Maryland.  
**TRUE COPY**  
TEST

Date Issued MAR 18 2002

[Signature]  
CLERK  
FRANK M. CONAWAY, CLERK



TO THE PERSON SUMMONED:

1. PERSONAL ATTENDANCE IN COURT ON THE DAY NAMED IS NOT REQUIRED.
2. FAILURE TO FILE A RESPONSE WITHIN THE TIME ALLOWED MAY RESULT IN A JUDGMENT BY DEFAULT OR THE GRANTING OF THE RELIEF SOUGHT AGAINST YOU.

SHERIFF'S RETURN

Person Served _____	Time _____	Date <u>4</u> _____
Person Served _____	Time _____	Date _____
Non Est (Reason) _____		
Fee \$ _____	Sheriff _____	

NOTE:

1. This summons is effective for service only if served within 60 days after the date it is issued
2. Proof of service shall set out the name of the person served, date and the particular place and manner of service. If service is not made, please state the reasons.
3. Return of served or unserved process shall be made promptly and in accordance with Rule 2-126.
4. If this summons is served by private process, Process server shall file a separate affidavit as required by Rule 2-126 (a).



**MARY GATELY BODLEY**  
Attorney at Law

Telephone (410) 828-1654

The Susquehanna Building  
29 West Susquehanna Avenue  
Suite 600  
Towson, Maryland 21204

mbodley@towsonlawyer.com

RECEIVED  
02 MAR -1 AM 11:03  
Facsimile (410) 583-7611  
CIRCUIT COURT  
BALTIMORE CITY  
PATERNITY DIVISION

February 25, 2002

Civil Clerk  
Circuit Court for Baltimore City  
111 N. Calvert Street  
Baltimore, MD 21202

**Re: Arrington v. Rodriguez, Case number: PD70119070**

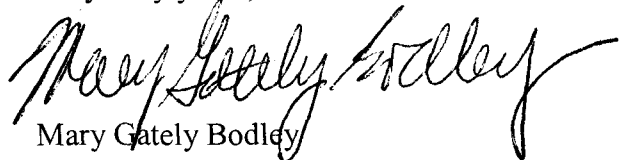
Dear Clerk:

Please renew the summons for Francinia E. Arrington, for enclosed the Motion to Set Aside Declaration of Paternity and to Obtain Blood or Genetic Testing.

**Please return this to me for private process and/or or certified mail restricted delivery. Is it possible to get two summons so that I can simultaneously try both types of service, since the private process server has been unsuccessful so far? Please advise. I have included two copies of the Motion.**

Thank you very much for your cooperation.

Very truly yours,

  
Mary Gately Bodley

cc: Mr. Jose D. Rodriguez  
Mrs. Marina Rodriguez

Circuit Court for Baltimore City  
Frank M. Conaway, Clerk  
111 N. Calvert St. - Room 107  
Baltimore, Md. 21202

*Private Process*

WRIT OF SUMMONS

Case Number PD 70-119070

STATE OF MARYLAND.

CITY OF BALTIMORE TO WIT:

TO: *Francinia Arrington*  
*321 Radnor Road*  
*Baltimore, Md. 21212*

You are hereby summoned to file a written response by pleading or motion in this Court to the attached

Complaint filed by *Mary Bodley on behalf of Jose Rodriguez*  
(Name & Address)  
*29 W. Susquehanna Ave, Suite 600, Penson, Md. 21204*

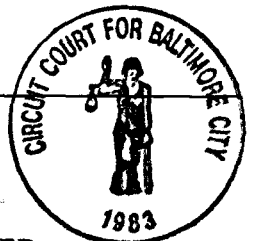
within *30* days after service of this summons upon you.

WITNESS the Honorable Chief Judge of the Eighth Judicial Circuit of Maryland.

**TRUE COPY**  
**TEST**

Date Issued NOV 16 2007

*[Signature]*  
FRANK M. CONAWAY, CLERK



TO THE PERSON SUMMONED:

1. PERSONAL ATTENDANCE IN COURT ON THE DAY NAMED IS NOT REQUIRED.
2. FAILURE TO FILE A RESPONSE WITHIN THE TIME ALLOWED MAY RESULT IN A JUDGMENT BY DEFAULT OR THE GRANTING OF THE RELIEF SOUGHT AGAINST YOU.

SHERIFF'S RETURN

Person Served _____	Time _____	Date _____
Person Served _____	Time _____	Date _____
Non Est (Reason) _____		
Fee \$ _____	Sheriff _____	

NOTE:

1. This summons is effective for service only if served within 60 days after the date it is issued
2. Proof of service shall set out the name of the person served, date and the particular place and manner of service. If service is not made, please state the reasons.
3. Return of served or unserved process shall be made promptly and in accordance with Rule 2-126.
4. If this summons is served by private process, Process server shall file a separate affidavit as required by Rule 2-126 (a).



**MARY GATELY BODLEY**

Attorney at Law

Telephone (410) 828-1654

The Susquehanna Building  
29 West Susquehanna Avenue  
Suite 600  
Towson, Maryland 21204

mbodley@towsonlawyer.com

RECEIVED  
01 OCT 24 PM 4:16  
Case File # 10-5867611

CIRCUIT COURT  
BALTIMORE CITY  
CIVIL DIVISION

RECEIVED  
OCT 24 PM 3:04  
FILING CLERK

October 24, 2001

109

Civil Clerk  
Circuit Court for Baltimore City  
111 N. Calvert Street  
Baltimore, MD 21202

**Re: Arrington v. Rodriguez, Case number: PD70119070**

**VIA HAND DELIVERY**

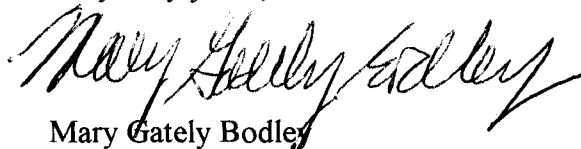
Dear Clerk:

Enclosed for filing in the above-referenced case is Defendant's Motion to Set Aside Declaration of Paternity and to Obtain Blood or Genetic Testing to Establish Paternity and Request for Hearing.

Would you please date stamp a copy of the enclosed Motion and return it to me in the envelope provided?

Thank you very much for your cooperation.

Very truly yours,



Mary Gately Bodley

cc: Mr. Jose D. Rodriguez  
Mrs. Marina Rodriguez  
Ms. Francinia E. Arrington

FRANCINIA E. ARRINGTON  
321 Radnor Road  
Baltimore, MD 21212

Plaintiff

vs.

JOSE D. RODRIGUEZ  
660 Dumbarton Avenue  
Baltimore, MD 21218

Defendant

IN THE  
CIRCUIT COURT  
FOR  
BALTIMORE CITY

**FILED**

OCT 24 2001

PATERNITY DIV.  
CIRCUIT COURT FOR  
BALTIMORE CITY

Case number: PD70119070

\* \* \* \* \*

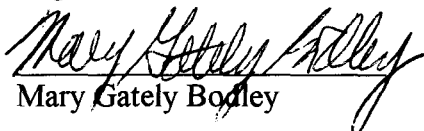
**MOTION TO SET ASIDE DECLARATION OF PATERNITY AND TO  
OBTAIN BLOOD OR GENETIC TESTING TO ESTABLISH  
PATERNITY AND REQUEST FOR HEARING**

Defendant, Jose D. Rodriguez, by his undersigned attorney, respectfully files this Motion to Set Aside Declaration of Paternity and to Obtain Blood or Genetic Testing to establish paternity, pursuant to Md. Fam. Law Ann. Code, Sections 5-1038 and 5-1029 (hereinafter Sections 5-1038 and 5-1039). In support, Defendant states as follows and relies on the attached Memorandum of Law:

1. Defendant is entitled to a paternity test to establish paternity.

**REQUEST FOR HEARING**

Defendant respectfully requests a hearing on this Motion.

  
Mary Gately Bodley

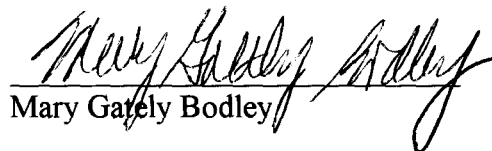
Respectfully submitted,



Mary Gately Bodley  
29 W. Susquehanna Avenue  
Suite 600  
Towson, MD 21204  
410-828-1654  
Attorney for Plaintiff

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of this Motion was mailed first-class, postage prepaid to Plaintiff Arrington on October 24, 2001, at 321 Radnor Road, Baltimore, Maryland 21212.

  
Mary Gately Bodley

FRANCINIA E. ARRINGTON  
321 Radnor Road  
Baltimore, MD 21212

Plaintiff

vs.

JOSE D. RODRIGUEZ  
660 Dumbarton Avenue  
Baltimore, MD 21218

Defendant

\* IN THE  
\* CIRCUIT COURT  
\* FOR  
\* BALTIMORE CITY

**FILED**

OCT 24 2001

PATERNITY DIV.  
CIRCUIT COURT FOR  
BALTIMORE CITY

Case number: PD70119070

\* \* \* \* \*

**MEMORANDUM IN SUPPORT OF MOTION TO SET  
ASIDE DECLARATION OF PATERNITY AND TO  
OBTAIN BLOOD OR GENETIC TESTING TO  
ESTABLISH PATERNITY**

Defendant, Jose D. Rodriguez, by his undersigned attorney, respectfully files this Motion to Set Aside Declaration of Paternity and to Obtain Blood or Genetic Testing to establish paternity, pursuant to Md. Fam. Law Ann. Code, Sections 5-1038 and 5-1029 (hereinafter Sections 5-1038 and 5-1039). In support, Defendant states as follows:

The issue in this case is whether Defendant is in fact the biological father of Nicole, a child born to Plaintiff on August 8, 1987. The parties were never married. Defendant has never seen or had any contact with the child. In earlier proceedings in this case Defendant requested blood or genetic testing to establish whether or not he is the father of the child. Though requested by the Defendant, no blood or genetic testing was ever permitted.

Defendant initially admitted, and later attempted to withdraw his admission of paternity in this case. His withdraw was based on a language/communication barrier and an inability to comprehend the paternity admission that he made.

In an unreported decision (copy attached as Exhibit A), the Court of Special Appeals in **Rodriguez v. Arrington**, No. 1690 (July 22, 1991), **cert denied** (1991). (Copy attached as Exhibit B), refused to set aside Defendant's declaration of paternity. Critically, however, the issue was whether the admission of paternity could be set aside under the "Revisory Power" of Maryland Rule 2-534. At the relevant time, Rule 2-534 provided:

**(a) Generally.** – On motion of any party filed within 30 days after entry of judgment, the court may exercise revisory power and control over the judgment and, if the action was tried before the court, may take any action it could have taken under Rule 2-534.

**(b) Fraud, Mistake, (I)rregularity.** – On motion of any party filed at any time, **the court may exercise revisory power and control over the judgment in case of fraud, mistake, or irregularity.**

The Court of Special Appeals in **Rodriguez** simply held that Defendant's alleged mistaken admission of paternity due to his language barrier when no interpreter was present, was not the kind of "fraud, mistake, or irregularity" contemplated by the narrow grounds set forth in Maryland Rule 2-534. **Rodrigeuz** at 11-12.

Subsequently, as a result of inequities to putative fathers, the Maryland General Assembly enacted Chapter 248, effective October 1, 1995. The statute provided (and still provides since it has not been amended):



5-1038. Finality; modification

(a) *Declaration of paternity final; modifications.* – (1)

Except as provided in paragraph (2) of this subsection, a Declaration of paternity in an order is final.

(2) (i) *A declaration of paternity may be modified or set aside:*

1. in the manner and to the extent that any order or decree of an equity court is subject to the revisory power of the court under any law, rule, or established principle of practice and procedure in equity; or

2. *if a blood or genetic test done in accordance with Section 5-1029 of this subtitle established the exclusion of the individual named as the father in the order.*

(ii) Notwithstanding subparagraph (i) of this paragraph, a declaration of paternity may not be modified or set aside if the individual named in the order acknowledged paternity knowing he was not the father.

(b) *Other orders subject to modification.* – Except for a declaration of paternity, the court may modify or set aside any order or part of an order under this subtitle as the court considers just and proper in light of the best interests of the child.

**Langston** at 405-406. **Langston** held that this statute applies retroactively, to cases involving paternity declarations prior to the 1995 effective date of the statute. **Id.** at 406.

**Langston** involved three separate paternity disputes. In each of those disputes, the alleged father who had been previously adjudged to be the biological father of a child in a prior paternity proceeding, sought to overturn the prior judgments finding paternity. At issue in two of the cases was whether the alleged father should have had the opportunity to have a paternity test. In the third, the lower court refused to set aside a determination of paternity after a blood test showed that the Defendant was not the father. Like this case, one of the alleged fathers tried to overturn previous paternity decisions entered

against him without the benefit of a paternity test. The circuit court refused to do so, on the grounds that there was no fraud, mistake, irregularity, or clerical error. **Id.** at 401.

In considering the obvious inequities in denying a putative father the right to a paternity test, the Court held that anyone who had a paternity declaration entered against him prior to October 1, 1995, without the benefit of blood or genetic testing, could by motion request such testing to determine paternity. The Court specially held that the use of the word “shall” in Section 5-1029 (Blood or genetic tests) makes it clear that in a proceeding to determine paternity, or a challenge to a prior paternity declaration, that a blood or genetic test is to be triggered automatically when requested by any party, including the putative father. **Id.** at 428. Section 5-1029 provides:

**(b) In general.** - On motion of the Administration **a party** to the proceeding, or on its own motion, **the court shall order** the mother, child, an alleged father to submit to blood or genetic tests to determine whether the alleged father can be excluded as being the father of the child.

(Emphasis added).

The Court of Appeals in **Langston** further held that “given the legislative history behind Chapter 248, that the Legislature intended for blood or genetic tests to be made available upon a motion, to any putative father seeking to challenge a paternity declaration previously entered against him in which such blood or genetic test evidence was not introduced. **Id.** at 428.

In summary, the Court of Appeals in **Langston** held that:

anyone who has had a paternity declaration entered against him prior to October 1, 1995, without blood and genetic testing, generally may initiate proceedings to modify or set aside that declaration under section 5-1038(a)(2)(i) 2 of the Family Law Article.

In those proceedings, the putative father may, by motion, request a blood or genetic test, pursuant to Section 5-1029, in order to confirm or deny paternity, which is admissible in evidence under the provisions of that statute. A determination of the best interests of the child in ordering the requested testing, or in the consideration of paternity, whether original or revised, is inappropriate.” **Id.** at 437.

**Langston’s** holding that there is an exception where a lower court rendered a final decision on the **merits** of the paternity issue prior to the effective date of October 1, 1995, does not apply here. **Id.** at 437. The Court of Special Appeals in **Arrington** only considered whether the Defendant could attempt to set aside his declaration of paternity based on the fraud, mistake, or irregularity provisions of Maryland Rule 2-535 (Revisory Power). It did not consider the merits of the paternity admission. As in **Langston**, Defendant is not seeking to re-litigate that issue. Instead, what he seeks is fair – to exercise his legislatively enacted right to a paternity test to establish whether or not he is the putative father. He should be given that opportunity.

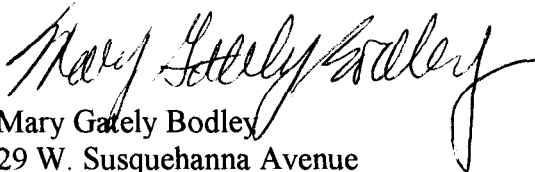
Defendant is under an Order to provide child support payments to this child.

Defendant would be prejudiced without having the opportunity to a blood test to legally determine whether he is the father of this child.

WHEREFORE, Defendant demands blood or genetic testing to determine whether he can be excluded as the biological father of this child, as such other and further relief as his cause may require.

A proposed Order is attached.

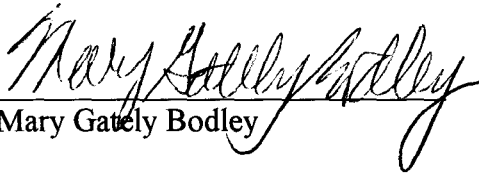
Respectfully submitted,



Mary Gately Bodley  
29 W. Susquehanna Avenue  
Suite 600  
Towson, MD 21204  
410-828-1654  
Attorney for Plaintiff

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of this Motion was mailed first-class, postage prepaid to Plaintiff Arrington on October 24, 2001, at 321 Radnor Road, Baltimore, Maryland 21212.

  
Mary Gately Bodley

FRANCINIA E. ARRINGTON  
321 Radnor Road  
Baltimore, MD 21212

Plaintiff

vs.

JOSE D. RODRIGUEZ  
660 Dumbarton Avenue  
Baltimore, MD 21218

Defendant

\* IN THE  
\* CIRCUIT COURT  
\* FOR  
\* BALTIMORE CITY

\*  
\*  
\*

Case number: PD70119070

\* \* \* \* \*

**ORDER**

Having this \_\_\_\_ day of \_\_\_\_\_, 2001, considered Defendant's Motion to Set Aside Declaration of Paternity and to Obtain Blood or Genetic Testing to Establish Paternity, and any opposition, it is ORDERED that Defendant's Motion is GRANTED. Pursuant to Maryland Rule 5-1029, Plaintiff, Defendant, and Nicole Rodriguez, date of birth, August 7, 1987, and child of Plaintiff, shall submit to blood or genetic tests to determine whether Defendant can be excluded as being the father of this child.

The blood or genetic tests shall be made in a laboratory selected by the court from a list of laboratories provided by the Administration. The provisions regarding the form of results, copy of laboratory report, laboratory report as evidence, and other provisions of Maryland Rule 5-1029 shall apply.

Defendant shall pay for the costs of this blood or genetic testing.

Defendant shall initiate the scheduling of this testing. This blood or genetic

testing shall be scheduled within 14 days after this Order, with such testing to be conducted and completed within 30 days after the date of this Order.

---

Judge

✓  
✓



UNREPORTED  
IN THE COURT OF SPECIAL APPEALS  
OF MARYLAND

No. 1690

September Term, 1990

TOSE DeJESUS RODRIGUEZ

FRANCINA E. ARRINGTON

Moylan,  
Bloom,  
Davis,

JJ.

PER CURIAM

Filed: July 22, 1991

EXHIBIT A

Jose DeJesus Rodriguez appeals from the decision of the Circuit Court of Baltimore City (Hollander, J.) finding that he entered into a consent paternity decree voluntarily, knowingly, and intelligently and that, as a result, the enrolled judgment based on the decree was not the result of mistake or irregularity.

Appellant presents three questions for our consideration, though not in this order:

1. Did the trial court err in denying appellant's motion to vacate the judgment?
2. Did the trial court err when it refused to order the State to comply with appellant's request for a blood test?
3. Did the trial court improperly restrict the cross-examination of the plaintiff?

While we do not believe the existence, vel non, of mistake or irregularity, as contemplated by Maryland Rule 2-535(b), in the instant appeal is a close question, an explication of the mistake or irregularity which will justify setting aside a judgment under the Rule is instructive in view of the frequency with which the Rule is invoked. We hold that, under the facts of this case, there is no mistake or irregularity, and hence the judgment must stand. For reasons to be set forth hereafter, we affirm the judgment of the lower court, as we find no merit in any of appellant's contentions.

#### Facts

Francina Evonne Arrington, appellee, in February 1989 filed a paternity petition in the Circuit Court for Baltimore City.



The petition alleged that Jose DeJesus Rodriguez, appellant, was the father of a minor child, Nicole Erica Rodriguez (Nicole), born to her on August 9, 1987.

In March of 1989, appellant received a letter directing him to report on March 31 to the Domestic Relations Division (DRD) of the Circuit Court of Baltimore City.<sup>1</sup> On the appointed date, appellant appeared, with his wife, as requested. At what has been referred to as a "settlement conference" conducted at DRD,<sup>2</sup> appellant signed a "Notification of Rights" (Notification) form. The Notification appears as Appendix I to this opinion. A review of the form reveals that appellant signed his name on both of the

<sup>1</sup>The letter requesting appellant's presence at DRD does not appear in the record.

<sup>2</sup>The meeting was held in accordance with Md. Fam. Law Code Ann. § 5-1016, which provides:

**§ 5-1016. Voluntary support agreement.**

(a) *Settlement proposals.* — (1) Before or after the filing of a complaint, the alleged father may propose a settlement concerning the child's support whether the alleged father admits or denies paternity.

(2) The proposed contribution may be in a lump sum, installments, or otherwise.

(b) *Conditions for settlement.* — A settlement agreement shall be prepared, executed, and submitted to the court for approval if:

(1) the complainant agrees to accept the settlement;

(2) the State's Attorney is satisfied that the amount and terms of the settlement are fair and reasonable;

(3) the complainant has been advised properly regarding the contents of the settlement; and

(4) the complainant is competent to accept the settlement.

(c) *Incorporation in order.* — If the court approves the settlement agreement, the terms of the agreement shall be incorporated in a court order.

(d) *Effect of order.* — A court order incorporating a settlement agreement is as enforceable as any order that is passed after a hearing.

available lines, thereby indicating simultaneously that he wanted an explanation of the form and that no explanation was required. According to the hearing examiner present at the meeting at DRD, appellant placed his initials next to his signature, which had been crossed out, on the line indicating an election to forego an explanation of the form. The initials and the line through the signature were intended to acknowledge that his signature was to be deleted. She said that this was standard procedure when a putative father signs both lines, thereby indicating some confusion regarding the form. In this case, the initials indicate that, although there may have been some initial confusion, appellant ultimately indicated he did not want the form explained to him. It is undisputed that no interpreter was provided for appellant's benefit at the DRD meeting. Communications were apparently conducted in English.

After appellant admitted paternity on March 31, a Consent Paternity Decree (Decree), signed by Judge Richard T. Rombro, was entered in the circuit court on April 6, 1989.<sup>3</sup> After failing to make the agreed-upon child support payments and receiving from the Child Support Enforcement Administration a notice dated November 20, 1989,<sup>4</sup> on December 20, 1989, appellant filed a

<sup>3</sup>The enrolled decree, inter alia, obligated appellant to pay child support through the Bureau of Support Enforcement in the amount of \$25.00 per week effective April 2, 1989, and \$50.00 per week as of June 5, 1989, until Nicole reaches the age of eighteen, dies, marries, or becomes self-supporting.

<sup>4</sup>The notice informed appellant that because of arrearages in his child support obligation, the Internal Revenue Service would withhold from his federal income tax refund, if any, the amount necessary to fulfill the

(Footnote Continued)

"Motion to Strike Consent Paternity Decree Order of March 31, 1989." In his motion, appellant alleged, inter alia, that he was not the father of Nicole; that "a valid blood test will prove that he is not the father of the child"; and that his consent was not "voluntarily, knowingly, and intelligently made in that Defendant has difficulty communicating in and understanding the English language." Appellee filed pro se an opposition to the motion to strike. Appellee, through the Office of the State's Attorney, also filed an "Answer to Motion to Set Aside Paternity Decree." Subsequently, a "Memorandum Against Motion to Set Aside an Enrolled Judgment" was filed by appellee. In the answer, appellee asserted that no interpreter was required at the DRD meeting because there was no indication one was needed. There was also a denial of paternity. In the memorandum, it was argued, inter alia, that the Decree was final; that the circuit court had no cause to exercise its revisory power over the judgment resulting from the agreement of the parties; and that appellant fully understood the rights to which he was entitled and intelligently waived them.

After a hearing on appellant's motion,<sup>5</sup> Judge Ellen L. Hollander, in a comprehensive Memorandum Opinion and Order, found that appellant waived the rights included in the Notification and that he entered into the Decree voluntarily, knowingly, and

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(Footnote Continued)

obligation. The total amount of arrearage on the date of the notice was \$500.00.

<sup>5</sup>The hearing was conducted on four occasions between May 24, 1990, and June 26, 1990.

intelligently. Consequently, according to Judge Hollander, the Decree was not enrolled as a result of mistake or irregularity. This appeal followed.

#### DISCUSSION

##### 1.

Appellant's first contention is that the trial court erred in not "vacating" the judgment entered upon the Decree when it was the result of mistake or irregularity.<sup>6</sup> According to this argument, the mistake or irregularity was the waiver by appellant of his right to contest his paternity, which waiver was not voluntarily, knowingly, and intelligently made.

Appellee counters that the judgment of the lower court must be affirmed because, as the lower court found, appellant failed below to show the requisite mistake or irregularity. In addition, appellee asserts that there was "overwhelming" evidence supporting the trial judge's finding that appellant's waiver was valid. Because there was no "mistake" or "irregularity," as those words have been defined under Maryland law, we need not fully address, as the circuit court did, whether appellant's waiver was valid. We explain.

By statute, the power of the circuit court in this case to revise the judgment entered by the circuit court as a result of the consent decree is strictly limited. Maryland Cts. & Jud. Proc. Code Ann. § 6-403 (1974, 1984 Repl. Vol.) provides:

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<sup>6</sup>There is no allegation of fraud in the case.

For a period of 30 days after the entry of judgment, or thereafter pursuant to a motion filed within that period, the court has revisory power and control over the judgment. After the expiration of that period the court has revisory power and control over the judgment in the case of fraud, mistake, irregularity, or failure of an employee of the court or the clerk's office to perform a duty required by statute or rule. [Emphasis added].

Similarly, Md. Rule 2-535 indicates in pertinent part:

**Rule 2-535. Revisory Power**

(a) Generally. - On motion of any party filed within 30 days after entry of judgment, the court may exercise revisory power and control over the judgment and, if the action was tried before the court, may take any action it could have taken under Rule 2-534.

(b) Fraud, Mistake, Irregularity. - On motion of any party filed at any time, the court may exercise revisory power and control over the judgment in case of fraud, mistake, or irregularity. [Emphasis added].

The "Committee note" to the Rule indicates under subsection (b) that "[t]his section is intended to be as comprehensive as Code, Courts Article § 6-408."

The Court of Appeals in Andresen v. Andresen, 317 Md. 380 (1989), in the context of Md. Rule 2-535, addressed the scope of the revisory power of Maryland's circuit courts. The Court said:

The law governing the power and control of the circuit court over an enrolled decree is firmly established. In the context of this case in which "newly

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<sup>7</sup> Maryland Rule 2-534, **Motion to Alter or Amend a Judgment -- Court Decision**, provides:

In an action decided by the court, on motion of any party filed within ten days after entry on judgment, the court may open the judgment to receive additional evidence, may amend its findings or its statement of reasons for the decision, may set forth additional findings or reasons, may enter new findings or new reasons, may amend the judgment, or may enter a new judgment. A motion to alter or amend a judgment may be joined with a motion for new trial.

discovered evidence" is not a concern, it is spelled out by rule -- Former Maryland Rules 625a and 631; by statute Maryland Code (1974, 1984 Repl. Vol.) § 6-408 of the Courts and Judicial Proceedings Article; and by judicial decision -- e.g. Maryland Lumber v. Savoy Constr. Co., 286 Md. 98 ... (1979); Hughes v. Beltway Homes, Inc., 276 Md. 382 ... (1975). Read together, the rules, the statute and our decisions boil down to a dictate that for a period of thirty days from the entry of a law or equity judgment a circuit court shall have "unrestricted discretion" to revise it. Maryland Lumber, 286 Md. at 102....Thereafter, a circuit court has revisory power and control over a judgment only in the case of fraud, mistake, irregularity or clerical error, provided that the person seeking the revision acts with ordinary diligence and in good faith upon a meritorious cause of action or defense. This dictate "embraces all the power the courts of this State have to revise and control enrolled judgments and decrees." Eliason v. Comm'r of Personnel, 230 Md. 56, 59 ... (1962). See also Meyer v. Gyro Transp. Systems, 263 Md. 518, 527 ... (1971). We have narrowly defined and strictly applied the terms fraud, mistake, irregularity, and clerical error, and have set out what constitutes ordinary diligence. See Hughes, supra, 276 Md. at

386-89 ... and cases therein cited,<sup>[8]</sup> Weitz v. MacKenzie, 273 Md. 628, 631 ... (1978).<sup>[9]</sup>

Id. at 388-89, citing Platt v. Platt, 102 Md. 9 (1934).

In Hamilos v. Hamilos, 52 Md. App. 488 (1982), aff'd 297 Md. 99 (1983),<sup>10</sup> this Court indicated also the parameters of the application of Md. Rule 625a, the predecessor of current Rule

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<sup>8</sup>In Hughes, the Court indicated that

[w]e have said that the term "mistake" as used in this rule [625 as predecessor of Md. Rule 2-535] is not applicable to an enrolled decree in a mechanics lien foreclosure case making reference to the wrong lot ...; to the mistaken belief of out-of-state counsel that the Maryland procedure relative to attachment was similar to that in his state, which belief brought about a judgment by default ...; to the negligence or mistake of the agents and counsel of a complaining party ...; to failure to attach a ledger card to an affidavit with a motion for summary judgment or the failure of counsel to file an appropriate pleading prior to the expiration of the time specified by rule ...; to a finding that a judgment by default was based upon vouchers, some of which were in the name of the defendant, some in the name of a corporation, and some in the name of another person ...; to a mistaken determination that summary judgment should be entered against a defendant ...; or to a failure by parties defendant to inform their attorneys of the defenses that they had....[Citations omitted].

<sup>9</sup>In Weitz, the Court said:

Under our cases, an irregularity which will permit a court to exercise revisory powers over an enrolled judgment has been consistently defined as the doing or not doing of that, in the conduct of a suit at law, which conformable to the practice of the court, ought or ought not to be done....As a consequence, irregularity, in the contemplation of the Rule, usually means irregularity of process or procedure ... and not an error, which in legal parlance, generally connotes a departure from truth or accuracy of which a defendant had notice and could have challenged....[Citations omitted].

<sup>10</sup>The case was consolidated for review by this Court with what became Johnston v. Johnston, 297 Md. 48 (1983).

2-535.<sup>11</sup> In Hamilos, Mrs. Hamilos filed in the circuit court a Bill of Complaint for Divorce A Mensa et Thoro. Subsequently, Mr. and Mrs. Hamilos executed a "Voluntary Separation and Property Settlement Agreement," which by express terms was to be incorporated into any divorce decree granted by the court. The parties were eventually divorced. Approximately seventeen months after the divorce decree was entered, Mrs. Hamilos filed a "Petition to Set Aside Divorce Decree and Voluntary Separation and Property Settlement Agreement and Addendum to Same." Mr. Hamilos responded with a demurrer, which was sustained by the court on the basis that Mrs. Hamilos failed to show compliance with Rule 625a. Mrs. Hamilos appealed the Chancellor's decision to this Court.

In her efforts to set aside the divorce decree and agreement, Mrs. Hamilos argued that at the time she signed the agreement "she was using alcohol in combination with prescribed drugs, and required hospitalization for an emotional disorder, and was not possessed of sufficient mental capacity to enter into said Agreement, or knowingly participate in the action for Divorce."

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<sup>11</sup>The Court of Appeals, in affirming the judgment of this Court, expressly adopted the reasoning of then Chief Judge Gilbert on the issues of "jurisdictional mistake" and irregularity, "a defect in process or proceeding," applicable in the present case. Hamilos, 297 Md. at 107. The Court, in addition to addressing the issue of whether the requirements of Rule 625(a) were fulfilled, determined that because the separation and property settlement agreement approved and incorporated but did not merge with the divorce decree it could not be collaterally attacked. Thus, according to the Court, the agreement remained a separate, enforceable contract as part of the decree.



In analyzing Mrs. Hamilos's contention under then Rule 625(a), Chief Judge Gilbert said for the Court:

Mrs. Hamilos has raised a number of contentions that she says show "fraud, mistake or irregularity." Among her allegations are: (1) she was influenced by a combination of alcohol and prescribed drugs; (2) she was hospitalized for emotional disorders and not possessed of mental capacity; (3) she was subject to coercion, fraud and duress by her then husband; (4) she was misled by expressions of love and promises of reconciliation ... [and] (5) that she was subjected to undue influence by her then husband....

....

As we read Mrs. Hamilos' averments with regard to her emotional disorder and other problems, the "mistake," if any, was her signing of the agreement. The word "mistake" as employed by Md. Rule 625a does not mean a unilateral error in judgment on the part of one of the parties. "Mistake," as we said in Bernstein v. Kapneck, 46 Md. App. 231 (1980), means a "jurisdictional mistake." [Citations omitted].

....

The "irregularity" that Mrs. Hamilos perceives in her husband's having been represented in the divorce action by a firm that had represented both the husband and wife in more tranquil times is not the "irregularity" to which Rule 625a is addressed. With respect to the rule, "irregularity" usually means a defect in process or procedure, neither of which is present in this matter. [Footnote omitted].

Id. at 496-98.

Although Hamilos is not directly on point, it is instructive in the case sub judice. The Court was concerned, in that case, with the necessity for finality of judgment in today's litigious society.<sup>12</sup> We believe that Andresen, supra is a more recent

<sup>12</sup>Chief Judge Gilbert, in citing Rule 625a, said that "[t]here must, particularly in today's highly litigious society, be some point in time when there is finality of judgment." Hamilos, 52 Md. App. at 496.

reflection of this continuing concern. Appellant, in his brief, essentially claims that he lacked sufficient mental competency or capacity to execute effectively the Notification because he did not possess the necessary English reading and comprehension skills. Even though Hamilos dealt with an emotional disorder, drugs, and alcohol rather than literacy, the reasoning is nonetheless applicable.

Appellant maintains that his failure to comprehend fully the substance of the Notification itself, and the further failure to explain orally the import thereof, constitutes the kind of mistake or irregularity cognizable under the rules, statutes, and case law providing the circuit court the framework for the exercise of its revisory power. It is transpicuous, under Hamilos, that this position is untenable. The "mistake" in this case, if any, appears to us to be a unilateral mistake in judgment which, in Hamilos, we found to be no mistake at all. As the record in this case reveals, there was no evidence of the "jurisdictional" mistake required for the proper exercise of the circuit court's revisory power. See Evans v. Evans, 75 Md. App. 364, 366-67 (1988). Moreover, there was no evidence of an "irregularity" in the sense of "doing or not doing that, in the conduct of a suit at law, which, conformable with the practice of the court ought or ought not to be done." See J.T. Masonry Co. v. Oxford Const., 74 Md. App. 598, 606-07 (1988). The irregularity repeatedly alleged by appellant was in the matter of the waiver of rights and this, as should be manifest, is not the irregularity

recognized by the appellate courts under the circumstances of this case.

Citing Hamilos, supra, and related cases, the trial court in this case found, inter alia, that there was no mistake or irregularity within the narrow meaning of those words. As a consequence, the court refused to strike the enrolled judgment. In so deciding, the court did not abuse its discretion; since it had no authority to strike out the judgment absent fraud, mistake, or irregularity, it had no discretion.

It is significant to note, however, that appellant argues strenuously on appeal, as he has throughout the course of these proceedings, that, because the waiver of rights was allegedly ineffective, he was denied constitutional due process. While we do not ignore or otherwise disregard the requirements of due process implicated in the present case, there is simply nothing which has occurred that amounts to a denial under Maryland law of any constitutional rights cognizable by the circuit court or this Court. Where a judgment has become enrolled, scrutiny will only be upon whether the enrollment was a result of fraud, mistake, or irregularity, as those words have been strictly construed by the appellate courts of this State.

## II.

Appellant contends that the trial court erred in refusing to

order that a blood test be conducted in the case.<sup>13</sup> At the hearing on the motion to strike, the court observed that it would advise appellee not to submit to a blood test: "I can understand their reasoning because they would be opening a Pandora's box if every case got an opportunity to be revisited after someone consents to paternity." The court, although it heard further argument on the issue, at no point expressly addressed the issue. The issue of the blood test was not directly addressed and decided by the court in its opinion. It is apparent, however, that the court effectively denied any motion regarding the propriety of or necessity for a blood test by application in the opinion of the law regarding enrolled judgments and constitutional waiver of rights. Our discussion in Part I herein effectively disposes of this issue on appeal. The finding of the court that there was no mistake or irregularity in the enrollment of the Decree was dispositive of this issue, as it was of the preceding one. We elaborate.

In Part I of this opinion, we endorsed the view that, under the applicable statutes, rule, and case law, finality of judgment is desired in our litigious society. This view is supported by

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<sup>13</sup> Maryland Fam. Law Code Ann. § 5-1021 provides:

§ 5-1021. Blood test.

(a) *State's Attorney's request.* — In connection with a pretrial inquiry under this subtitle, the State's Attorney may request any individual summoned to the pretrial inquiry to submit to a blood test.

(b) *Court order.* — If the individual refuses the State's Attorney's request to submit to a blood test, the State's Attorney may apply to the circuit court for an order that directs the individual to submit to the test.

Md. Fam. Law Code Ann. § 5-1038 (1984), which states that "[e]xcept in the manner and to the extent that any order or decree of an equity court is subject to the revisory power of the court under any law, rule, or established principle of practice and procedure in equity, a declaration of paternity in an order is final." Thus, a consent paternity decree is final so long as there is no legitimate reason for the circuit court to exercise its revisory power to alter or amend the order.

As we have indicated in Part I of this opinion, appellant failed to show a sound basis upon which the circuit court should have exercised its revisory power. The consent paternity decree survived as a final determination of the matter. As a consequence, the lower court did not err in effectively determining no blood test was necessary in the instant case.<sup>14</sup>

### III.

The following colloquy took place at the hearing on the motion to strike the enrolled judgment:

[Defense Counsel]: Have you been in Nonsupport Court before ... this?

<sup>14</sup>We acknowledge appellant's persistence, as evidenced by his Reply Brief, on the issue of the blood test. In this vein, appellant contends, citing Md. Fam. Law Code Ann. § 5-1029, that "[t]here is nothing in the statute which would suggest that the court does not have the same power either before or after the judgment is enrolled." Section 5-1029 provides, with regard to blood tests and in pertinent part, that "(a) In general. — On the motion of a party to the proceeding or on its own motion, the court shall order the mother, child, and alleged father to submit to blood tests to determine whether the alleged father can be excluded as being the father of the child." While what appellant says may be true, it may be seen that this proposition is directly at odds with § 5-1038 which, as we have indicated, states that in the absence of the proper exercise by the circuit court of its revisory power "a declaration of paternity in an order is final."

[The Witness]: In the Circuit Court?

[Defense Counsel]: Yes.

[The Witness]: No, I haven't been in Circuit Court.

[Assistant State's Attorney]: I object.

The Court: Grounds.

[Assistant State's Attorney]: It's not relevant to this case. I don't even know the answer myself. She could have fifty other children, it doesn't matter. As a matter-of-fact, that isn't the case at all. For the record. It just doesn't matter.

[Defense Counsel]: What isn't the case? Her knowledge of the system?

[Assistant State's Attorney]: That she has fifty other children.

The Court: No fifty other children. Mr. Nance, what is the purpose of the question?

[Defense Counsel]: It's getting to her understanding of the system and utilization of the system and the credibility of her testimony. I didn't ask her in terms of getting to Bureau of Support Enforcement to prove that she had two or three other kids. That isn't the point. The point is whether or not she knew what the system is and gets back to the credibility and truthfulness of this witness....

....

The Court: Well my own opinion at the moment is, frankly, this is not particularly relevant, Mr. Nance. Unless you want to focus on a particular time period.

[Defense Counsel]: Your Honor, I've asked my questions. The court is ruling against it. I'll move on.

Appellant urges that the lower court abused its discretion by "improperly restricting" the cross-examination of appellee regarding whether she had previous experience with the Bureau of Support Enforcement. Appellant indicates in his brief that "[t]he questions posed could have potentially established a

familiarity with the process of acquiring child support and to establish a motive for her testimony against Appellant." Appellee maintains that the evidence to be elicited by the questioning is irrelevant and was therefore properly ruled inadmissible. We agree.

The law is well established that "as a general rule ... a witness may be cross-examined on such matters and facts as are likely to affect his credibility, test his memory or knowledge, show his relation to the parties or cause, his bias, or the like." State v. Cox, 298 Md. 171, 178 (1983), quoting Kantor v. Ash, 215 Md. 285, 290 (1958). Cross-examination may also be used as a tool to ascertain whether a witness has a motivation for testifying. Waldron v. State, 62 Md. App. 686, 695 (1985), citing Davis v. Alaska, 415 U.S. 308, 94 S. Ct. 1105, 39 L. Ed. 2d 347 (1974); State v. Cox, supra; Johnson and Alters v. State, 30 Md. App. 512 (1976). The test for admissibility of evidence to show possible motivation to testify, however, is limited. In Waldron, 62 Md. App. at 699, the test was stated as "whether the question asked is directed at eliciting from a prosecution witness the fact that he may be under pressure to testify favorably for the State, as when he is under formal accusation, and/or incarceration awaiting trial."

The general exception to the rules of permissible cross-examination is equally well established: that cross-examination will not be permitted on matters that are immaterial or irrelevant to the issue being tried. State v. Cox, 298 Md. at 178; see Harris v. State, 237 Md. 299, 302 (1965). In

addition, the trial court in its discretion may disallow questions on cross-examination, and the exercise of discretion will not be disturbed on appeal in the absence of prejudice. Vitek v. State, 395 Md. 15, 20 (1982); Coleman v. State, 82 Md. App. 247, 252 (1990). In Coleman, we reiterated that "a trial judge retains [wide latitude] to impose limits on cross examination based on concerns about, among other things, harassment, prejudice, confusion of the issues, the witness' safety, or interrogation that is repetitive or only marginally relevant." Coleman, 82 Md. App. at 253, citing Brown v. State, 74 Md. App. 414, 419 (1988).

In the case sub judice, we perceive no abuse of discretion. Appellant asserts that there is a link between appellee's knowledge or use of the services of the Bureau of Support Enforcement in other possible cases and her credibility. The connection escapes us. Whether appellee had obtained the services of or had previous dealings with the Bureau of Support Enforcement in any other case was not marginally relevant to any fact at issue in this case. Any testimony regarding the Bureau was properly limited to the role the Bureau played in the instant case. The fact that appellee may have been familiar with the process of acquiring child support has no logical relevance to her credibility as a witness, nor any bearing on whether she was entitled under the facts of this case to support for Nicole. That appellee's possible familiarity with the process of obtaining child support payments through the Bureau may have motivated her to testify against appellant is, as appellee



describes it in her brief, an assertion which is "nonsensical." Moreover, the inquiry into motivation is not permissible under the circumstances in this case. See Johnson and Walters, supra, 30 Md. App. at 516. Because we hold that no prejudice was suffered by appellant, we will not disturb the lower court's exercise of discretion in ruling the proffered testimony inadmissible.

JUDGMENT AFFIRMED.

COSTS TO BE PAID BY APPELLANT.

3

IN THE CIRCUIT COURT FOR BALTIMORE CITY

FD 70-119070

DDO 2121-89.

NOTIFICATION OF RIGHTS

You are advised, that by admitting that you are the father of the child in this case you have stopped the Court process.

Be advised that if you weren't sure, or if you denied you were the child's father the Court process would have continued and you would have had the following rights:

- (1) The right to a lawyer, and if you could not afford a lawyer, to be referred to some other agency for possible legal representation.
- (2) The right to take a blood test to see if it excluded you, or included you, to a mathematical probability, as the father of the child, If you could not afford the cost of the blood test, to ask the City of Baltimore to advance the cost of the test.
- (3) The right to a trial in this case, whether a jury trial or trial before a Judge of the Circuit Court. Testimony would be taken and, the case would be decided by a preponderance of the evidence.
- (4) The right to bring witnesses who support you if you were to deny paternity and the right to cross-examine the Plaintiff (mother) in the Court, or any other witnesses she may have.

You are further advised that you have a duty to support this child until he or she reaches the age of eighteen (18) years, dies, or becomes emancipated.

X I received a copy of this Notification and do not want an explanation.

Jim Robinson 8/30/89  
DEFENDANT DATE

X I want to have this notification explained to me.

J.R.  
Jim Robinson 8/31/89  
DEFENDANT DATE

ApX. 1

JOSE' RODRIQUEZ

v.

FRANCINA E. ARRINGTON

\* In the  
\* Court of Appeals  
\* of Maryland  
\* Petition Docket No. 376  
\* September Term, 1991  
\* (No. 1690, Sept. Term  
1990, Court of Special Appeals)

## ORDER

Upon consideration of the petition for a writ of certiorari to the Court of Special Appeals and the answer filed thereto in the above entitled case, it is

ORDERED, by the Court of Appeals of Maryland, that the petition be, and it is hereby, denied as there has been no showing that review by certiorari is desirable and in the public interest.

/s/ ROBERT C. MURPHY  
Chief Judge

Date: December 10, 1991

FRANCINA ARRINGTON

STATE OF MARYLAND

FILED IN THE

V.

JUN 20 1990

CIRCUIT COURT

JOSE' RODRIGUEZ

\* FOR

CIRCUIT COURT FOR BALTIMORE CITY  
BALTIMORE CITY

*[Handwritten signature]*  
Movant

\* CASE NO.: PP 70-119070

\* \* \* \* \*

SUPPLEMENTAL MEMORANDUM IN SUPPORT OF  
MOTION TO VACATE ENROLLED JUDGMENT

Jose Rodriguez, hereinafter referred to as Movant has, pursuant to the Maryland Rules and Maryland Courts Article, made motion to this Honorable Court to vacate the Judgment in this case. The memorandum herein supplements the previous memorandum filed. The following is not intended to limit the scope of argument previously offered in this matter.

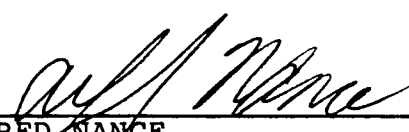
Movant submits that the evidence presented before the Court in this matter establishes that the procedure used by the Child Support Enforcement Administration violated Movant's right to Due Process of Law because those procedures failed to fairly appraise him of his fundamental right to notice.

Adequate and timely notice must precede all due process hearings. Boddie V. Connecticut 401 U.S. 371, 378 (1971). Due process must be reasonably calculated to give actual notice. Milliken V. Meyer, 311 U.S. 457, 463 (1940). For more English speaking persons, notice is a particular problem:

To the many people in our society who are unable to read English, legal notices sent in English do not inform them of the contents of the notification. The notice has failed in its purpose. The notion that this type of notice satisfies due process requirements

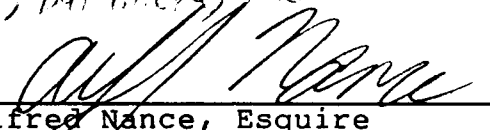
is a fiction which is permissible only if actual notice-notice in language which the recipient can understand -is not feasible. The societal interest in uniformity of language may be substantial, but basic constitutional rights cannot be abrogated merely to facilitate linguistic assimilation. "[C]ertain fundamental rights are guaranteed "to all, to those who speak other languages as well as to those born with English on the tongue. Perhaps it would be highly advantageous if all had ready understanding of our ordinary speech, but this cannot be coerced by methods which conflict with the Constitution - a desirable end cannot be promoted by prohibited means."

Note, El Derecho de Aviso: Due Process and Bilingual Notice  
83 Yale L.J. 385 (1973). Citation omitted (arguments adopted therein incorporated in this memorandum by reference thereto). The procedures used in this case fall far short to providing due process of law. Accordingly, the Judgment should be vacated.

  
ALFRED NANCE  
One East Lexington Street  
Suite 200  
Baltimore, Maryland 21202  
(301) 659-6907  
Attorney for Movant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 20 day of June, 1990, a copy of the foregoing Supplemental Memorandum in Support of Motion to Vacate Enrolled Judgment was hand-delivered, first class, postage prepaid to STATE'S ATTORNEYS OFFICE FOR BALTIMORE CITY, *Sondra H. Crane Assistant State's Attorney, Room 418 Mitchell Courthouse, 110 N. Calvert Street, Baltimore, Md. 21202*

  
Alfred Nance, Esquire

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## *El Derecho de Aviso: Due Process and Bilingual Notice*

To the many people in our society who are unable to read English, legal notices sent in English do not inform them of the contents of the notification.<sup>1</sup> The notice has failed in its purpose. The notion that this type of notice satisfies due process requirements is a fiction which is permissible only if actual notice—notice in a language which the recipient can understand—is not feasible. The societal interest in uniformity of language may be substantial,<sup>2</sup> but basic constitutional rights cannot be abrogated merely to facilitate linguistic assimilation. “[C]ertain fundamental rights” are guaranteed “to all, to those who speak other languages as well as to those born with English on the tongue. Perhaps it would be highly advantageous if all had ready understanding of our ordinary speech, but this cannot be coerced by methods which conflict with the Constitution—a desirable end cannot be promoted by prohibited means.”<sup>3</sup>

This Note will argue that, insofar as is administratively feasible, notices subject to due process requirements<sup>4</sup> must generally be written in a language that the recipient can read. This requirement will entail some increased costs. Mere increased cost, however, is not a sufficient reason for failing to render actual notice; rather the costs

1. For a discussion of the present practice of administrative agencies sending notices only in English and the difficulties that are created for the recipient who does not read English, see, e.g., *New Haven Register*, April 18, 1973, at 6, col. 1 (in the context of the welfare system); letter from Floyd L. Pierce, Regional Civil Rights Director, Department of Health, Education and Welfare, to Mr. Paul M. Allen, Director of Sonoma County Department of Social Service, at 2-4, summarizing field survey of welfare practices regarding non-English speaking clients in Sonoma County, California, to determine whether such practices violated Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d (1970), on file with the *Yale Law Journal* [hereinafter cited as Sonoma County HEW Study]; letter from John G. Bynoe, Regional Civil Rights Director for Region I, Department of Health, Education and Welfare, to Mr. Nicholas Norton, Commissioner of Connecticut State Welfare Department, August 31, 1973, at 7-8, summarizing extensive field survey of welfare practices regarding non-English speaking applicants and recipients in Connecticut, prepared for Judge Robert C. Zampano, U.S. District Court, District of Connecticut, on file with the *Yale Law Journal* [hereinafter cited as Connecticut HEW study]; State of Connecticut Welfare Department, Departmental Bull. No. 2795, Delivery of Departmental Services to Non-English Speaking Applicants and Recipients, September 5, 1973, at 1, on file with the *Yale Law Journal* [hereinafter cited as Connecticut Welfare Bulletin]. See note 34 *infra* for the essential findings of these studies.

2. See *Meyer v. Nebraska*, 262 U.S. 390, 412 (1923) (Holmes, J., dissenting); *Guerrero v. Carleson*, 9 Cal. 3d 808, 812, 512 P.2d 833, 835, 109 Cal. Rptr. 201, 203 (1973); *Castro v. California*, 2 Cal. 3d 223, 242, 466 P.2d 244, 258, 85 Cal. Rptr. 20, 34 (1970).

3. *Meyer v. Nebraska*, 262 U.S. 390, 401 (1923). See *Farrington v. Tokushige*, 11 F.2d 710, 714 (9th Cir. 1926), *aff'd*, 273 U.S. 284 (1927).

4. See p. 388 & note 16 *infra*.

EXHIBIT A

and administrative burdens imposed must be weighed against the importance of the individual's rights that are at stake.<sup>5</sup> When the costs involved in translating notices or in providing tag lines in the major languages are relatively minor and the individual rights involved are quite substantial, due process requires bilingual or tag line notice for the non-English reader.<sup>6</sup>

### I. The Scope of the Problem

Census data show that there are 7.9 million persons over the age of 10 who are unable to read or write English.<sup>7</sup> While no similar data are available for the population below age 10, testimony in connection with congressional consideration of the Bilingual Education Act<sup>8</sup> indicates that English illiteracy is widespread among schoolchildren from non-English speaking families.<sup>9</sup> It is thus apparent that the problem of English illiteracy, widespread among children, will not vanish in the near future.

Language disabilities frequently disadvantage persons facing legal difficulties. The Spanish speaking constituency of one neighborhood office of the New Haven Legal Assistance Association, for example, brought in more than twice as many legal problems as did the numerically larger English speaking clientele.<sup>10</sup> A great many of these

5. See p. 389 *infra*.

6. The discussion is concerned with those who are unable to read English, but are literate in another language. The case of the illiterate who is unable to read *any* language presents insurmountable problems for written notice which may be said to approximate impossibility. It is impossible to provide actual notice to an illiterate short of oral notice and this is often impractical. Oral notice is an unacceptable solution in many cases because it is not provable in court. Because of the impossibility of providing effective written notice to an illiterate, due process concepts of notice permit the fiction that notice in English is actual notice, placing the burden on the illiterate to have such notice read to him.

7. UNITED STATES BUREAU OF THE CENSUS, CURRENT POPULATION REPORT, SERIES P-20, NO. 221, CHARACTERISTICS OF THE POPULATION BY ETHNIC ORIGIN: NOVEMBER 1969, at 18 (1971) [hereinafter cited as CURRENT POPULATION REPORT].

8. 20 U.S.C. § 880b (1970).

9. Former Representative Jacob H. Gilbert of New York stated that 90,000 pupils in the New York City schools, including 70,000 Puerto Ricans, had insufficient skills in English to graduate from high school. 113 CONG. REC. 19932-33 (1967). In 1957, a Texas Education Agency survey showed that 80 percent of the non-English speaking students spent two years in the first grade, 113 CONG. REC. 29175-76 (1967), suggesting that many were illiterate in English before beginning school. Dr. Faye Bumpass, Professor of Spanish and Director of Dual Language Workshops, Texas Technological College, Lubbock, Texas, testified that there are at least 1,750,000 schoolchildren with Spanish surnames in the five southwestern states (Texas, New Mexico, Arizona, Colorado and California), many of whom have serious English linguistic handicaps. 113 CONG. REC. 13322 (1967). See NATIONAL EDUCATION ASSOCIATION, THE INVISIBLE MINORITY . . . PERO NO VENCIBLES, at IV (1966). In spite of the fact that these schoolchildren are required to attend schools with instruction in English, the problem of English illiteracy has not been eliminated.

10. Spanish speaking people, who comprised approximately one-third of the population in the geographical area of the Howard Avenue office of the New Haven Legal Assistance Association, nevertheless accounted for over two-thirds of the office's cases.

problems had their origin in the legal assistance office. These clients, ordinarily unable to read English, were often unaware of the nature of their legal problems. These problems have been resolved by a simple explanation in Spanish. Persons able to read English were able to read English notices without legal assistance, but those who were illiterate in English put the Spanish speaking

### II. Due Process Requirements

The fundamental requisites of due process are notice and hearing.<sup>13</sup> While the exact nature of the safeguards required at a hearing depends on the interests involved,<sup>14</sup> adequate notice

These clients came to Legal Assistance because of a fact which may indicate that notice is required. Cases on file at New Haven Legal Assistance Association, New Haven, Conn.

11. The following relatively typical case is used to serve to illustrate the point:

Ms. R's welfare benefits were terminated because of deficient information to the welfare department. Ms. R reads Spanish only and never understood the welfare rolls but, until the termination, she had been receiving the welfare benefits for a month in which she was denied welfare benefits.

In midwinter, Ms. A's gas was shut off because she was not paying her gas bills for two years but the welfare department, through the Legal Assistance Office, however, discovered the problem and she has been paying for her gas directly through the welfare department because her caseworker was unable to provide the welfare department with the necessary information. Lacking actual notice she had erroneously received the welfare benefits.

12. See notes 32 & 34 *infra*.

13. *Mullane v. Central Hanover Bank*, 339 U.S. 689 (1950).

14. The requirements of a due process hearing depend on the substance of the private interest affected. *See, e.g., Goldberg v. Kelly*, 397 U.S. 253 (1970). The form does not affect the substance of the interest. "within the meaning of a meaningful opportunity, 'within the meaning of a meaningful opportunity' being deprived of a significant property interest." *See Mullane v. Central Hanover Bank*, 339 U.S. 689 (1950). Regardless of the interest affected, the hearing provide an effective opportunity to be heard. *See Goldberg v. Kelly*, 397 U.S. 253 (1970). In a dispute, these safeguards have been held to be required. *See Bell v. Burson*, 402 U.S. 535 (1971). *See also* *Willner v. Committee on Character & Fitness*, 399 U.S. 53 (1971) (practice of law); *Greene v. McElroy*, 360 U.S. 473 (1959) (clearance); *Goldsmith v. Board of Tax Assessors*, 414 U.S. 171 (1973) (application of CPA petitioning to practice); *New York City Housing Authority v. Brown*, 399 U.S. 270 (1970); *Dixon v. Alabama State Bd. of Examiners*, 394 U.S. 440 (1969) (criminal cases, *see Pointer v. Texas*, 397 U.S. 403 (1970)); *In re Oliver*, 333 U.S. 257, 273 (1948) (cont

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problems had their origin in the language barrier. Non-English speaking clients, ordinarily unable to read notices in English, are often unaware of the nature of their legal problems, many of which could have been resolved by a simple but timely telephone conversation.<sup>11</sup> Persons able to read English could have settled the same problems without legal assistance, but the fact that all communications were in English put the Spanish speakers at a distinct disadvantage.<sup>12</sup>

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## II. Due Process Requirements

The fundamental requisites of due process are notice and hearing.<sup>13</sup> While the exact nature and extent of the due process safeguards required at a hearing may vary with the nature of the interests involved,<sup>14</sup> adequate and timely notice must precede all due

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These clients came to Legal Assistance long after their rights were adversely affected, a fact which may indicate that notice in English did not apprise them of the problem. Cases on file at New Haven Legal Assistance Association, 413 Howard Avenue, New Haven, Conn.

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11. The following relatively typical cases that arose at New Haven Legal Assistance serve to illustrate the point:

Ms. R's welfare benefits were terminated for alleged fraud (failure to disclose pertinent information to the welfare department). The communications sent to Ms. R informing her of her obligation to furnish the information were written in English. Ms. R reads Spanish only and never learned of the obligation. She was eventually reinstated on the welfare rolls but, unable to meet her rent obligations during the month in which she was denied welfare benefits, she was evicted from her apartment.

In midwinter, Ms. A's gas was shut off for nonpayment of her bill. She had been paying her gas bills for two years but had fallen behind in her payments. The Legal Assistance Office, however, discovered that the welfare department was supposed to have been paying for her gas directly to the gas company. She had never realized this because her caseworker was unable to communicate with her in Spanish and notification that the welfare department was paying for her gas had been sent in English. Lacking actual notice she had erroneously paid the utility company over \$200.

12. See notes 32 & 34 *infra*.

13. *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 313 (1950).

14. The requirements of a due process hearing are not inflexible, but depend on the substance of the private interest affected and the nature of the government function. See, e.g., *Goldberg v. Kelly*, 397 U.S. 254, 263 (1970). That a due process hearing is not fixed in form does not affect the basic requirement that an individual be given a meaningful opportunity, "within the limits of practicability," to be heard before being deprived of a significant property interest. *Boddie v. Connecticut*, 401 U.S. 371, 379 (1971), citing *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 313 (1950). Regardless of the interest affected, due process requires at a minimum that the hearing provide an effective opportunity to answer charges and confront and cross-examine witnesses. See *Goldberg v. Kelly*, *supra* at 267. When factual issues may be in dispute, these safeguards have been held to apply to administrative and regulatory actions, see *Bell v. Burson*, 402 U.S. 535, 539 (1971) (suspension of motor vehicle license for failure to post security for accident damages); *Goldberg v. Kelly*, *supra* at 267-70; *Willner v. Committee on Character & Fitness*, 373 U.S. 96, 105 (1963) (exclusion from practice of law); *Greene v. McElroy*, 360 U.S. 474, 492, 496-97 (1959) (denial of security clearance); *Goldsmith v. Board of Tax Appeals*, 270 U.S. 117, 123 (1926) (denial of application of CPA petitioning to practice before Board of Tax Appeals); *Escalera v. New York City Housing Authority*, 425 F.2d 853 (2d Cir.), *cert. denied*, 400 U.S. 853 (1970); *Dixon v. Alabama State Bd. of Educ.*, 294 F.2d 150 (5th Cir. 1961); as well as criminal cases, see *Pointer v. Texas*, 380 U.S. 400, 405 (1965) (robbery conviction); *In re Oliver*, 333 U.S. 257, 273 (1948) (contempt citation).

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trative feasibility, however, have always tempered the ideal of universal actual notice. Where actual notice is not possible or practical, the fiction of constructive notice imputes notice to the recipient as a matter of law. But a legal fiction such as constructive notice,<sup>21</sup> inasmuch as it departs from the norm of actual notice, can only be justified if actual notice is impossible or so burdensome as to be impractical.<sup>22</sup>

The right to actual notice cannot be abridged simply because less than actual notice is more easily or less expensively rendered in a given situation. The necessity for actual notice must be determined on the basis of a due process balancing test. Thus, in *Mullane v. Central Hanover Bank & Trust Co.*,<sup>23</sup> where notice by publication was found inadequate for trust beneficiaries whose mailing addresses were known, the Supreme Court acknowledged that a "construction of the Due Process Clause which would . . . [make legal notice impossible or impractical] . . . could not be justified."<sup>24</sup> Nevertheless, against the state's interest in ease of notification, said the Court, "we must balance the individual interest sought to be protected by the Fourteenth Amendment."<sup>25</sup> Constructive notice,

tion to inform the recipient of the precise questions raised about his continued eligibility); *Willner v. Committee on Character & Fitness*, 373 U.S. 96, 104-05 (1963) (in rejecting an applicant to the state Bar, the committee must give notice of the grounds for his rejection for failure to meet "good character" criterion); *Goldsmith v. Board of Tax Appeals*, 270 U.S. 117, 123 (1926) (denial of CPA's application to practice before the Board of Tax Appeals without notice of reasons for denial and a hearing violates due process); *Escalera v. New York City Housing Authority*, 425 F.2d 853, 862 (2d Cir.), cert. denied, 400 U.S. 853 (1970) (in termination of tenancy in public housing, notice must adequately inform tenant of nature of evidence against him—summary notice of undesirable conduct is insufficient); *Dixon v. Alabama State Bd. of Educ.*, 294 F.2d 150, 158 (5th Cir. 1961) (to expel student from state college or university for misconduct, due process requires notice containing specific charges and grounds for expulsion).

21. Constructive notice is neither notice nor knowledge, but a legal fiction by which the parties are treated as though they had actual notice or knowledge. See *Brown v. Otesa*, 80 N.W.2d 92, 98 (N.D. 1956); *Thompson v. Dairyland Mutual Ins. Co.*, 30 Wis. 2d 187, 192, 140 N.W.2d 200, 202-03 (1966); *Schoedel v. State Bank*, 245 Wis. 74, 13 N.W.2d 534 (1944). Courts have allowed constructive notice where actual notice is "not reasonably possible or practicable." *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 317 (1950).

22. See, e.g., *Standard Oil Co. v. New Jersey*, 341 U.S. 428, 432-34 (1951) (notice by publication in proceeding by New Jersey to escheat certain abandoned property is sufficient because it is impossible to locate the owner for service of actual notice); *Ballard v. Hunter*, 204 U.S. 241, 254 (1907) (state may require personal service for enforcement of liens for taxes and assessments on real estate for resident owners and allow service by publication for nonresident owners because personal service is not within the state's power where nonresidents are not within the state's borders); *Cunnius v. Reading School Dist.*, 198 U.S. 458, 477 (1905) (Pennsylvania statute providing for administration of property of persons absent and unheard of for seven or more years without giving them actual notice does not violate due process because actual notice is not possible).

23. 339 U.S. 306 (1950).

24. *Id.* at 313-14.

25. *Id.* at 314. Cf. *Goldberg v. Kelly*, 397 U.S. 254 (1970), where an additional financial burden on the government was an insufficient reason for failing to provide due process hearing before terminating welfare benefits. "The interest of the eligible



tice rejected by the California Supreme Court in *Guerrero v. Carleson*.<sup>30</sup> A group of Spanish speaking citizens petitioned the California Superior Court to enjoin the California state welfare department from reducing or terminating benefits to recipients who read only Spanish until the welfare department provided written notice of such proposed terminations and reductions in Spanish. The California Supreme Court affirmed the trial court's denial of the injunction, holding that due process does not require notice to be provided in Spanish in this case. Its holding was based, *inter alia*, upon a conclusion that the government may reasonably assume that the recipient will have the notice promptly translated; notice in English to the non-English speaker, said the court, can therefore be said to conform to the due process requirement that it be "reasonably calculated to inform the recipient."<sup>31</sup>

It is clear that a non-English reader will not be informed by a notice in English unless he is alerted to the need for translation of the notice and has it translated promptly. For a number of reasons a recipient who is illiterate in English may not in fact have his notice translated immediately. For example, a Spanish speaking recipient who has had all of his previous contact with the welfare department in Spanish will not expect notice in English and thus may not be alerted to the need for translation. In view of the volume of "junk mail," much of it on stationery deliberately made to look "official," which most persons receive continuously, the Spanish speaking recipient may understandably overlook a notice in English from, for instance, the welfare department. Such a recipient would have to obtain a translation of substantially all of his mail to avoid this possibility.

Moreover, the recipients may well be understandably reluctant to engage the help of others in such private matters. Indeed, the wel-

30. 9 Cal. 3d 808, 512 P.2d 833, 109 Cal. Rptr. 201 (1973).

31. We conclude that it is not unreasonable for the state to expect that persons such as those in plaintiffs' position will promptly arrange to have someone translate the contents of the notice here challenged. Accordingly, prior governmental preparation of that notice in Spanish is not a constitutional imperative under the due process clause.

*Id.* at 814, 512 P.2d at 837, 109 Cal. Rptr. at 205 (footnote omitted) (emphasis added). This rationale represents a marked departure from the test used by the lower court: "We deem it not unreasonable to require that a person receiving welfare payments assume the burden of informing himself concerning the content and meaning of an official notice." 103 Cal. Rptr. 552, 555 (Super. Ct. 1972) (emphasis added). The difference in the two rationales—assuming that non-English speaking persons will obtain translations as opposed to placing a burden of translation upon them—is an important shift in the constitutional standard. The discussion in the text emphasizes the factual questions involved in the translation of English notices since the standard enunciated by the California Supreme Court depends upon such facts.

fare department itself deems such matters confidential.<sup>32</sup> Thus the recipient may object to waiving his right to confidentiality by disclosing all of his communications from the department to a friend or relative who will serve as "translator." The right to confidentiality of communication thus raises serious questions about the propriety of expecting the recipient to have the notices translated by friends or relatives.

More basically, however, Spanish speaking welfare recipients do not in fact have the notices which are sent to them in English translated promptly.<sup>33</sup> Studies conducted by the Department of Health, Education and Welfare regarding welfare department practices as they affect Spanish speaking applicants and recipients in Sonoma County, California, and in Connecticut suggest that many do not obtain translation of English communications that are sent to them.<sup>34</sup> Given

32. Spanish-speaking clients are . . . told to come back with a child or neighbor who can translate, thereby deterring them from returning because of an understandable reluctance or refusal to have to disclose to children, neighbors and acquaintances private information which the Welfare Department, by its own criteria, rightfully regards as highly personal and confidential. . . . [T]he use by non-Spanish speaking social service workers of children or neighbors as translators creates a barrier to communication with the Spanish-speaking client who, like the English-speaking client, seeks and is entitled to privacy. Sonoma County HEW study, *supra* note 1, at 4-6. See Connecticut HEW study, *supra* note 1, at 6.

33. In *Guerrero v. Carleson*, 9 Cal. 3d 808, 513 P.2d 833, 109 Cal. Rptr. 201 (1973), Justice Tobriner in dissent correctly observed that an assumption by the court that recipients may have their notices translated "is a far cry from finding that the notices are 'reasonably certain to inform' a Spanish-speaking recipient . . . of the reasons for the reduction or termination of his benefits and of his right to a hearing." *Id.* at 821, 512 P.2d at 842, 109 Cal. Rptr. at 210 (Tobriner, J., dissenting) (emphasis in original), quoting *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 315 (1950).

34. While no available statistics bear directly on the question of how many non-English speaking recipients have notices in English translated, the HEW studies showed serious discrepancies in the treatment of welfare recipients unable to read English when compared with those who can. These discrepancies existed in all areas of application for and provision of benefits and services. The surveys conclude that eligible Spanish speakers were excluded, because of language problems, from assistance and denied services for which they were eligible as a matter of law. See Connecticut HEW study, *supra* note 1, at 7-8; Connecticut Welfare Bulletin, *supra* note 1, at 1; Sonoma County HEW study, *supra* note 1, at 2-4. Another significant finding is that a large percentage of all client problems for non-English speaking clients which gave rise to welfare fair hearings were due either to oral or written communication problems. Connecticut HEW study 7-8. Since Spanish speaking caseworkers or translators are often provided for Spanish speaking welfare recipients, it is reasonable to infer from these findings that the written notices in English which were sent to Spanish speaking clients were not translated promptly in many cases and that this resulted in denial of benefits, giving rise to the hearing. See text accompanying note 32 *supra* for suggested reasons for failure of translation.

Corroborating evidence for the conclusion that many Spanish speaking recipients did not have notices translated comes from the figures showing that very few (less than 10 percent) of the Spanish speaking recipients brought a friend or relative to act as interpreter at their fair hearings despite the fact that the welfare department did not provide an interpreter in these cases. Sonoma County HEW study 2-4. In a fair hearing the client has specifically applied for some action or benefit. It would seem that such a client, having shown a desire to gain the benefit and fully aware of what is at stake

this reality, whatever its reasons, sue the due process standard that the "right to apprise the recipient" of its decision was thus based in part upon.

The *Guerrero* court, however, re second rationale—that bilingual notice. The court reasoned that if bilingual the termination or reduction of welfare persons, it would also be required agencies with respect to the same have to be extended to members of members of which were illiterate staggering, said the court, that it v ment to a halt,<sup>36</sup> was beyond the m ment.

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35. 9 Cal. 3d at 815, 512 P.2d at 837-38, Sheffield, 325 F. Supp. 1341, 1342 (N.D. notice in Spanish of denial of unemployment Clara County, California, who read and w missed the petition, holding that the provi "The conduct of official business, including gress, the Courts and administrative agencie Ninth Circuit affirmed. 475 F.2d 738, 739 ( consider the possibility of distinguishing Sp guage groups in Santa Clara for purposes offered briefs supporting the distinction of these arguments should have been considere

36. 9 Cal. 3d at 816, 512 P.2d at 838, 109 Ca 37. See p. 389 *supra*.

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this reality, whatever its reasons, such notice cannot be said to meet the due process standard that the notice be "reasonably calculated to apprise the recipient" of its contents. The *Guerrero* court's decision was thus based in part upon an erroneous factual assumption.

The *Guerrero* court, however, rested its decision as well upon a second rationale—that bilingual notice is not administratively feasible. The court reasoned that if bilingual notice were required prior to the termination or reduction of welfare benefits to Spanish speaking persons, it would also be required prior to actions of other state agencies with respect to the same persons and, furthermore, would have to be extended to members of any other language group some members of which were illiterate in English.<sup>35</sup> Such a burden, so staggering, said the court, that it would virtually bring the government to a halt,<sup>36</sup> was beyond the mandate of the Fourteenth Amendment.

To be sure, feasibility has always been a limitation upon the application of due process notice requirements.<sup>37</sup> Feasibility, however, is not a talisman; it is rather an aspect of the traditional due process balancing test. In this respect the *Guerrero* court overestimated the administrative difficulties associated with providing bilingual notice to Spanish speaking persons. Moreover, its assumption that bilingual notice must in all cases be extended as well to other language groups demonstrates a misunderstanding of the rationale for extending it, in some cases, to Spanish speaking persons. The feasibility of providing bilingual notice to ethnic language groups not as large or geographically concentrated as Spanish speaking persons is a question which goes to the remedy to be afforded to the other groups rather than the constitutional necessity of bilingual notice to Spanish speaking (and other similarly situated) persons.

in the fair hearing, would be more likely to bring a friend to interpret than he or she would be to have a friend translate all official looking communications which are in English.

35. 9 Cal. 3d at 815, 512 P.2d at 837-38, 109 Cal. Rptr. at 205-06. See *Carmona v. Sheffield*, 325 F. Supp. 1341, 1342 (N.D. Cal. 1971), where the plaintiffs requested notice in Spanish of denial of unemployment benefits for recipients residing in Santa Clara County, California, who read and write only Spanish. The district court dismissed the petition, holding that the provision of such notice would be impossible. "The conduct of official business, including the proceedings and enactments of Congress, the Courts and administrative agencies, would become all but impossible." The Ninth Circuit affirmed. 475 F.2d 738, 739 (9th Cir. 1973). The trial court refused to consider the possibility of distinguishing Spanish speaking recipients from other language groups in Santa Clara for purposes of legal notices. Plaintiffs in the case had offered briefs supporting the distinction of Spanish from other languages in the area; these arguments should have been considered by the court at trial.

36. 9 Cal. 3d at 816, 512 P.2d at 838, 109 Cal. Rptr. at 206.

37. See p. 389 *supra*.

A. *Full Bilingual Notice*

Whether full bilingual notice to the members of an ethnic language group is necessary depends upon the outcome of a weighing of the costs to the state of providing such notice against the benefits bestowed by that notice upon individual members of the group.<sup>38</sup> For members of a linguistic group which comprises a substantial minority of the population of a given metropolitan area and has a relatively high rate of English illiteracy, those benefits would be substantial.

Nationwide statistics show that the problem of English illiteracy is substantially more serious for those who speak Spanish than for any other linguistic group.<sup>39</sup> These statistics suggest that Spanish speaking persons have greater need for bilingual notice than any other group nationwide.<sup>40</sup> Moreover, Spanish speaking people tend to live in ethnic concentrations in certain parts of the country.<sup>41</sup> Spanish speaking communities are often largely homogeneous, with newspapers and communication facilities in their own language,<sup>42</sup> insulated from the English speaking population and largely self-contained.<sup>43</sup>

It is thus not surprising that the rights of Spanish speaking per-

38. See p. 389 *supra*.

39. Of the 7,902,000 people over 10 years old in the United States who are unable to read English, 4,754,000 reported their ethnic origin to the Census. Over 28 percent (1,336,000) of those illiterate in English were of Spanish origin. The only other linguistic group with more than 250,000 English illiterates is the Italian group (479,000). CURRENT POPULATION REPORT, *supra* note 7, at 18.

40. While over 95 percent of each ethnic group except Italian (92.3 percent) can read English, only 80.2 percent of those of Spanish origin are able to read English. *Id.*

41. Of the 2,293,141 Spanish households in the United States, 81 percent (1,866,955) are located in the nine states of Arizona, California, Colorado, Florida, Illinois, New Jersey, New Mexico, New York, and Texas. UNITED STATES BUREAU OF THE CENSUS, CENSUS OF POPULATION: 1970, SUBJECT REPORTS, FINAL REPORT PC(2)-1C, PERSONS OF SPANISH ORIGIN 136-49 (1973) [hereinafter cited as PERSONS OF SPANISH ORIGIN]. Of the 9,072,602 persons of Spanish origin in the United States, 61 percent (5,561,922) live in the three states of California, Texas, and New York. Another 17 percent (2,388,774) live in the ten states of Pennsylvania, Ohio, Indiana, Illinois, Michigan, Florida, Colorado, New Mexico, Arizona, and New Jersey. *Id.* at 1.

42. See *Castro v. California*, 2 Cal. 3d 223, 238, 466 P.2d 244, 254-55, 85 Cal. Rptr. 20, 30-31 (1970).

43. See J. BURMA, SPANISH-SPEAKING GROUPS IN THE UNITED STATES 7-8, 88-90 (1954); N. GLAZER & D. MOYNIHAN, BEYOND THE MELTING POT 100, 300 (1963); O. LEWIS, A STUDY OF SLUM CULTURE 110-11, 139 (1968). Additional support for the proposition that persons of Spanish origin in the United States are isolated from the English speaking community and self-contained is found in the statistics showing the extent to which Spanish speakers, in comparison with other linguistic groups, have continued using Spanish as their language of communication. Of the 11,687,000 Americans who speak a language other than English in their homes, 4,600,000 speak Spanish. The only other group of which more than 500,000 do not speak English at home is the Italian group (658,000). CURRENT POPULATION REPORT, *supra* note 7, at 12. In Connecticut "a substantial percentage of all Spanish-surnamed persons throughout the state speak Spanish, not English, as their language of regular communication." Connecticut HEW study, *supra* note 1, at 3.

sons have been particularly affected by this notice.<sup>44</sup> Indeed, in recognition of the needs of Spanish speaking persons face, many states, particularly those with large Spanish speaking populations, have enacted legislation in connection with the operation of public utilities to provide bilingual services in Spanish.

Of course, language groups other than Spanish speaking constitute a small proportion of the population of any state. In some locales satisfy the criteria—compared to the local population and suffering from a high rate of English illiteracy—which suggest that the benefits to them as a consequence of the provision of bilingual notice may be the insular Chinese communities in California. They may equally claim that bilingual notice would be of benefits of substantial magnitude.<sup>46</sup>

Against these important benefits must be weighed the costs of rendering bilingual service. While the costs are not great with respect to language groups other than Spanish, they are at least with respect to language groups such as the Chinese above.

Before the notifier may reasonably be required to provide notice, of course, he must know the language of the person to be notified. If the person does not speak English and what other language, if any, he speaks. In most state agencies, plaintiffs in connection with public utility matters, this should not be a significant barrier to dealing with state agencies, e.g., in connection with a vehicle department, social security department, or related utility companies, initial contact may be made by application or interview. It would be reasonable to require the agency or utility company to a person who is unable to read and to record this information on a form. Even if the initial contact is by telephone, if the service to a utility company, it would be reasonable to require the utility to ask and record the name of the person requesting service can read. In the case of public utility matters there must be some written or oral

44. See pp. 386-87 *supra*.

45. See pp. 396-97 & notes 48-55 *infra*.

46. Of the 435,062 Chinese in the United States, 300,000 live in the San Francisco Bay area, and 77,099 live in the Los Angeles metropolitan areas with greater than 12,500 Chinese in Long Beach (41,500). PERSONS OF SPANISH ORIGIN, *supra* note 7, at 12.

47. See p. 393 *supra*.

sons have been particularly affected by the absence of bilingual notice.<sup>44</sup> Indeed, in recognition of the special problems which Spanish speaking persons face, many states, particularly those with substantial Spanish speaking populations, have begun to recognize an obligation in connection with the operations of administrative agencies to provide bilingual services in Spanish.<sup>45</sup>

Of course, language groups other than Spanish, while a relatively small proportion of the population nationally, may nevertheless in some locales satisfy the criteria—comprising a substantial minority of the local population and suffering from a relatively high rate of English illiteracy—which suggest that substantial benefits may flow to them as a consequence of the provision of bilingual notice. Thus, the insular Chinese communities in San Francisco and New York may equally claim that bilingual notice would engender for them benefits of substantial magnitude.<sup>46</sup>

Against these important benefits must be weighed the costs of rendering bilingual service. While the *Guerrero* court viewed these costs with great apprehension,<sup>47</sup> such concern seems unfounded, at least with respect to language groups meeting the criteria set out above.

Before the notifier may reasonably be required to provide bilingual notice, of course, he must know that the recipient does not read English and what other language, if any, the recipient does read. For most state agencies, plaintiffs in consumer credit actions, and utilities, this should not be a significant burden. Where individuals have dealings with state agencies, *e.g.*, the welfare department, motor vehicle department, social security department, and with state-regulated utility companies, initial contact is usually in the form of an application or interview. It would be no undue burden to require the agency or utility company to ask what language the applicant is able to read and to record this information on the initial intake form. Even if the initial contact is by telephone, *e.g.*, a request for service to a utility company, it would not be burdensome to require the utility to ask and record on file what language the person requesting service can read. In the case of consumer credit contracts, there must be some written or oral communication and negotiation.

44. See pp. 386-87 *supra*.

45. See pp. 396-97 & notes 48-55 *infra*.

46. Of the 435,062 Chinese in the United States, 88,402 live in the San Francisco-Oakland, California, area, and 77,099 live in New York City. The only other metropolitan areas with greater than 12,500 Chinese are Honolulu (48,897) and Los Angeles-Long Beach (41,500). PERSONS OF SPANISH ORIGIN, *supra* note 41, at X, 109.

47. See p. 393 *supra*.



It would not be a large burden to require the credit company to ask what language the applicant can read.

Since the language abilities of potential notice recipients are, at least in the above instances, easily ascertained, the inquiry shifts to a consideration of the actual burden which bilingual notice would impose. In fact, there is widespread and growing provision of notice and services in Spanish as well as English.<sup>48</sup> Thus, in some jurisdictions state agencies,<sup>49</sup> utility companies,<sup>50</sup> and plaintiffs in consumer credit actions<sup>51</sup> send bilingual notice. Similarly, government pamphlets,<sup>52</sup> examinations,<sup>53</sup> and forms<sup>54</sup> are beginning to appear in Spanish.<sup>55</sup> While such practices may not be dispositive of the

issue of feasibility of bilingual notice at least presumptive feasibility.<sup>56</sup>

With respect to a private, noninsti English speaking person, however, th balance may well be different. It is private litigant will be aware of the person he is suing or that, in any eve translate notices. Given these consider vate litigant may be sufficiently great from state agencies, utilities, and c credit.<sup>57</sup>

Thus, the *Guerrero* court's concern t is required for a variety of proceedin fore welfare agencies, would prove ar founded. That court was also concei in favor of the Spanish speaking litiga language—Chinese or Japanese, Russia —in which a non-English speaking re literate, regardless of how small that

Admittedly, if the force of the arg any language group of any size in wh could read notices in their native to might well be beyond reasonable lin

48. See *Guerrero v. Carleson*, 9 Cal. 3d 808, 810, 513 P.2d 833, 834, 109 Cal. Rptr. 201, 202 (1973) (stipulation by parties).

49. In Connecticut and New Jersey, welfare applications, notices, booklets, and most affidavits are prepared in both Spanish and English. See Comment, *New Jersey Translates Welfare Forms Into Spanish*, 6 CLEARINGHOUSE REV. 33 (1972); Agreement stipulated in suit seeking to require welfare department to provide bilingual caseworkers and notices, *Sanchez v. Norton*, Civil No. 15732, before Judge Robert C. Zampano, U.S. District Court, District of Connecticut, June 19, 1973.

50. In New Haven, Connecticut, for example, all bills, requests for meter readings, and termination notices are sent in Spanish and English by the Southern Connecticut Gas Company (copies on file with the *Yale Law Journal*).

51. The Appellate Division of the Supreme Court of New York, First and Second Judicial Departments, has decided, effective September 1, 1973, to require that all summonses in consumer credit actions be bilingual (Spanish and English). OFFICIAL COMPILATION OF CODES, RULES AND REGULATIONS OF THE STATE OF NEW YORK tit. 22, §§ 2900.2 (c), (f), (h), (i) (as amended 1973).

52. See CAL. UNEMPL. INS. CODE § 316 (1972) (informational pamphlets in Spanish and English).

Other state agencies have made similar accommodations to their non-English speaking populations. In New Haven, Connecticut, for example, the Manpower Area Planning Council has compiled a bilingual directory of federally financed job training programs in Spanish and English. See *New Haven Register*, Nov. 2, 1972, at 76, col. 4.

The Social Security Administration prints most informational pamphlets in Spanish in New York. All social security forms and notices are printed in Spanish for use in Puerto Rico, but these forms are not used in New York. Conversation with Carmen Quiniones, Staff Assistant, BHA Regional Office, Social Security Administration, New York, August 8, 1973. Duplicate sets of all social security documents are available in Spanish in New York. Conversation with Jerome Levy, Deputy Regional Attorney, New York office of HEW, August 3, 1973.

53. Motor vehicle driving examinations are given in Spanish and English in Connecticut. CONN. GEN. STAT. REV. § 14-36 (Supp. 1969).

54. Thus, the Connecticut Welfare Department has instituted a program of ascertaining an individual's ability to communicate in English at the time of his initial interview and utilizing bilingual forms (Spanish and English) for Spanish speaking clients who are unable to read English. See *Connecticut Welfare Bulletin*, *supra* note 1, at 1-3.

55. Indeed, some states go considerably further. Connecticut, for example, provides bilingual services at welfare fair hearings. Conversation with Carolyn Packard, Chief of Policy Development and Staff Services, Department of Welfare, November 13, 1973; motor vehicle hearings, Conversation with Mr. Carl Strauss, Ass't Dir. of Driver Licensing, Connecticut Dep't of Motor Vehicles, November 13, 1973; and unemployment compensation hearings, Conversation with Mr. Richard Ficks, Director of Public Information, Connecticut State Dep't of Labor, November 13, 1973.

In New York, all communications from the Department of Social Services to clients are sent in Spanish and English. Conversation with Bob Carroll, Deputy Administrator, Human Resources Administration, New York City, August 6, 1973. Interpreters are provided at hearings for Spanish speakers in New York by the Department of Social

Services. Conversation with Florence Aitchison, Department of Social Services, August 6, 1973. Chinese and Italian interpreters are also available at conversation with Shep Shapiro, Assistant Regional and Appeals, Social Security Administration. As provided for Spanish speakers in every civil court interpreters are used during interviews with clients. Conversation with Judge Edward Thompson, New York County, August 7, 1973. Interpreter stations for New York County for Spanish speaking populations. Conversation with the Board of Elections, August 2, 1973.

The provision of such bilingual services may be a constitutional issue. Senator John V. Tunney of California that would mandate translation personnel and other services for Spanish speaking residents with 50,000 or more residents whose primary language is Spanish. *N.Y. Times*, April 10, 1973, at 26, col. 1.

56. Moreover, the difficulty involved in translation is probably exaggerated by those who do not understand the language. *See* *Guerrero v. Carleson*, 9 Cal. 3d 223, 241 n.32, 466 P.2d 833 (1970) (the burden involved in the translation of notices in Spanish is probably less burdensome than that imposed by the state).

57. Perhaps the courts could make some attempt to tag line notice in five or six major languages. See *Guerrero v. Carleson*, 9 Cal. 3d 223, 241 n.32, 466 P.2d 833 (1970).

58. 9 Cal. 3d at 815, 512 P.2d at 837-38, 109 Cal. Rptr. at 205.

59. The resolution of this matter in *Guerrero v. Carleson* is probably less dispositive than the parties' needless stipulation that such broad relief is required. *See* *Guerrero v. Carleson*, 9 Cal. 3d at 837, 109 Cal. Rptr. at 205.

edit company to recipients are, at inquiry shifts to al notice would ovision of notice s, in some juris-laintiffs in con-urly, government ming to appear isopositive of the

issue of feasibility of bilingual notice, they seemingly demonstrate at least presumptive feasibility.<sup>56</sup>

With respect to a private, noninstitutional litigant suing a non-English speaking person, however, the outcome of a due process balance may well be different. It is certainly less likely that the private litigant will be aware of the language capabilities of the person he is suing or that, in any event, he will have the facility to translate notices. Given these considerations, the burden on the private litigant may be sufficiently great that he may be distinguished from state agencies, utilities, and companies extending consumer credit.<sup>57</sup>

Thus, the *Guerrero* court's concern that bilingual notice in Spanish, is required for a variety of proceedings other than merely those before welfare agencies, would prove an intolerable burden seems unfounded. That court was also concerned, however, that a decision in favor of the Spanish speaking litigants would apply "to any other language—Chinese or Japanese, Russian or Greek, Filipino or Samoan—in which a non-English speaking recipient . . . was known to be literate, regardless of how small that language group might be."<sup>58</sup>

Admittedly, if the force of the argument carried over as well to any language group of any size in which persons illiterate in English could read notices in their native tongue, the burden on the state might well be beyond reasonable limits.<sup>59</sup> The argument, however,

Services. Conversation with Florence Aitchison, Program Officer, New York City Department of Social Services, August 6, 1973. Chinese, Greek, Russian, German, Spanish, and Italian interpreters are also available at New York social security hearings. Conversation with Shep Shapiro, Assistant Regional Representative, Bureau of Hearings and Appeals, Social Security Administration, August 7, 1973. Similarly, interpreters are provided for Spanish speakers in every civil court in New York City and Spanish interpreters are used during interviews with clients in small claims courts in Harlem. Conversation with Judge Edward Thompson, Administrative Judge, Civil Court of New York County, August 7, 1973. Interpreters were supplied by the Board of Elections for New York County for Spanish speakers at the polls in areas with large Spanish speaking populations. Conversation with James Siket, Administrative Manager of the Board of Elections, August 2, 1973.

The provision of such bilingual services may soon become the subject of congressional action. Senator John V. Tunney of California is drafting a bilingual courts act that would mandate translation personnel and equipment in every Federal court district with 50,000 or more residents whose primary fluency is in some language other than English. *N.Y. Times*, April 10, 1973, at 26, col. 1.

56. Moreover, the difficulty involved in translating notices into another language is probably exaggerated by those who do not wish to do the translating. *Cf. Castro v. California*, 2 Cal. 3d 223, 241 n.32, 466 P.2d 244, 257 n.32, 85 Cal. Rptr. 20, 33 n.32 (1970) (the burden involved in the translation and distribution of electoral materials in Spanish is probably less burdensome than the administrative difficulties anticipated by the state).

57. Perhaps the courts could make some accommodation in such cases by requiring tag line notice in five or six major languages. *See* p. 399 *infra*.

58. 9 Cal. 3d at 815, 512 P.2d at 837-38, 109 Cal. Rptr. at 205-06.

59. The resolution of this matter in *Guerrero* was further complicated by plaintiffs' needless stipulation that such broad relief would be appropriate. *Id.* at 815, 512 P.2d at 837, 109 Cal. Rptr. at 205.

requires no such extension of relief. The due process rationale offered above is that members of a linguistic group comprising a substantial minority of the population of a given locale and suffering from a high rate of English illiteracy would significantly benefit from a requirement of bilingual notice, while the costs of such notice to the state, utilities, and certain institutional private litigants would not be unreasonable. For each language group in a given area, the balance of interests between the group and the parties required to render notice will be different; each case must be judged upon its own merits. Under this view providing bilingual notice to Spanish speaking recipients does not necessarily require similar treatment for any other particular language group.

What it does require is that a court, when called upon to decide the question of notice for a different language group, make factual inquiries with respect to the group's rate of English illiteracy, the extent to which it is isolated from the surrounding English speaking population, and its proportion of the locale's population. Many language groups may well comprise an important fraction of a locale's population but be well integrated into the English speaking culture and have an English illiteracy rate significantly lower than the Spanish group.<sup>60</sup> Recognizing a distinction between such a language group and the Spanish speaking group would be a rational exercise of judicial authority.

#### B. *Tag Line Notice*

Full bilingual notice is preferable to any shortened or tag line notice, of course, because only full bilingual notice can apprise the non-English reader of all of the contents required for due process notice. That full bilingual notice is constitutionally mandated for some language groups but not for others does not, however, end the discussion with respect to the due process notice rights of the other groups. The outcome of a due process balance, while less strongly in favor of bilingual notice to them than to more numerous and concentrated groups, may nevertheless require an alteration of notice procedures. In fact, providing some sort of notice which accommodates, at least in part, their lesser interests is not a totally intractable problem.

Where full bilingual notice is not feasible, a less burdensome form of notice which serves some of the same purposes as bilingual notice

60. See note 43 *supra*.

is tag line notice. A tag line, would be affixed to the other gal notice. Have it translated nation, civil suit . . . ." It w state to translate the tag lin guages and make sheets of te cies, utilities, and other pa non-English speaking persor line notice would be minim tice, would provide some deg

The tag line, of course, cipient in his own language it is clearly preferable to a the recipient totally unawa which may announce matter the recipient must depend to translate the notice in o tag line notice at least info

#### Conclusion

Due process notice must recipient of the proposed English reading persons fa them in English translated reasons, this failure to hav prising. Such notice accord culated to apprise the rec such notice nevertheless sa come of a weighing of th meaningful notice against by that more meaningful

Full bilingual notice to comprise a substantial part

61. The six non-English lingu tions are Spanish, Italian, Germai PORT, *supra* note 7, at 18.

62. There are 2,150,000 peopl ethnic origins are other than G This is probably an overestimate read a tag line in one of those languages are able to read at l

is tag line notice. A tag line, written in five or six major languages,<sup>61</sup> would be affixed to the otherwise all English notice: "This is a legal notice. Have it translated. Re: welfare termination, utility termination, civil suit . . ." It would be a relatively easy matter for the state to translate the tag line's few words into the five or six languages and make sheets of tag lines available to administrative agencies, utilities, and other parties which may become litigants with non-English speaking persons. The increased cost of providing tag line notice would be minimal and, when affixed to the English notice, would provide some degree of actual notice to almost everyone.<sup>62</sup> The tag line, of course, does not provide full notice to the recipient in his own language. It provides only notice of notice. But it is clearly preferable to a notice merely in English that may leave the recipient totally unaware that he has received a legal notice which may announce matters of serious consequences for him. While the recipient must depend upon someone, friends or a local agency, to translate the notice in order to be fully apprised of its contents, tag line notice at least informs him of the necessity of translation.

Conclusion

Due process notice must be reasonably calculated to apprise the recipient of the proposed action against him. In fact, many non-English reading persons fail to have legal notices which are sent to them in English translated and may suffer accordingly. For several reasons, this failure to have notices in English translated is not surprising. Such notice accordingly cannot be said to be reasonably calculated to apprise the recipient of the impending action. Whether such notice nevertheless satisfies due process depends upon the outcome of a weighing of the costs to the state of providing a more meaningful notice against the benefits bestowed upon the individual by that more meaningful notice.

Full bilingual notice to members of language ethnic groups which comprise a substantial part of the population of a locality and which

61. The six non-English linguistic groups with the largest English literacy populations are Spanish, Italian, German, Polish, Irish, and Russian. CURRENT POPULATION REPORTS, *supra* note 7, at 18.  
62. There are 2,150,000 people in the United States unable to read English whose ethnic origins are other than German, Italian, Polish, Irish, Spanish, or Russian. *Id.* This is probably an overestimate of the number of persons who would be unable to read a tag line in one of those six languages because many people who speak other languages are able to read at least one of the six major languages.

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FRANCINA ARRINGTON

Plaintiff

vs

JOSE RODRIGUEZ

Defendant

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\*  
 \* IN THE  
 \* CIRCUIT COURT  
 \* FOR  
 \* BALTIMORE CITY  
 \* CASE NUMBER: PD70-119070  
 \* DRD CASE NUMBER: 2121-89  
 \* SAO NUMBER: C 5/90

\* \* \* \* \*

**POST-TRIAL MEMORANDUM  
 AGAINST MOTION TO SET ASIDE  
 AN ENROLLED JUDGMENT**

Now comes the Plaintiff, Francina Arrington and the Bureau of Support Enforcement by her attorneys, Stuart O. Simms, State's Attorney for Baltimore City and Sondra H. Crain, Assistant State's Attorney for Baltimore City, and submits this Memorandum:

This case involves an enrolled paternity decree which is a final order pursuant to Family Law Article 5-1038(a). In order to set aside this decree, fraud, mistake, or irregularity must be proven. This was not accomplished by the Defendant. Thus, the Plaintiff requests the Motion be denied.

The Defendant alleges that he did not voluntarily enter into a Paternity Consent Decree, because he is non-English speaking and no interpreter was provided to enable him to understand the proceedings. He alleges that his understanding of the proceedings were insufficient to "establish a knowing and intelligent waiver of his right to a full adjudication of the actual question in this case." Memorandum in Support of Motion to Vacate Judgment. However, testimony in this case clearly shows that the Defendant does in fact understand and communicate in English and did so prior to March 31, 1990, on that date, and subsequent to it. Consequently, he voluntarily and intelligently waived any and all rights applicable.

First, the Defendant testified that he has lived in the United States for eighteen (18) years. After he responded to a question asked on the record in open court prior to the interpreter's translating it, he admitted to knowing many English words. The Plaintiff testified that she has personal knowledge that the Defendant speaks and understands English. She further testified that her relationship with the Defendant began in 1986 with a sharing of confidences in English. To corroborate the fact that the couple communicated in English, the Defendant admitted that he knew about the paternity case because Ms. Arrington told him about it. Ms. Arrington does not speak Spanish.

Other testimony which shows that the Defendant speaks and understands English includes the testimony of Nancy Alexander, a Bureau of Support Enforcement Agent, who had personal recollection of a telephone conversation with the Defendant in English. In this conversation, Mr. Rodriguez indicated that he was enrolled in the New York Tractor School, a school which conducts classes only in English. In addition, the Defendant made payments under the order and initially reported to the Bureau of Support Enforcement when he missed a payment in accordance with the procedures explained to him. The Defendant admitted that he instructed his wife to make the payments on his behalf.

Paul Merryman of the Motor Vehicle Administration testified that the Defendant passed with high scores several portions of the test to obtain a commercial driver's license in Maryland. The instructions for these tests were given to Mr. Rodriguez by Mr. Merryman in English. The tests and study manual are printed only in English. A perusal of these articles reveals that the ability to read and comprehend English would be a prerequisite to achieving a passing grade.

Although the underlying issue of paternity is not before the court, it behooves the Plaintiff to state that the testimony of a mother standing alone is sufficient to support a finding of paternity if she is credible.

Dorsey v English, 283 Md. 522, 390 A2d 1133 (1978). Ms. Arrington was a credible, consistent witness. On the other hand, the Defendant was simply not credible. We submit that his motivation in bringing this case was triggered when he received notification regarding the onset of a wage lien for support payments.

In his Memorandum, the Defendant cites D.H. Overmyer Co., Inc. of Ohio et al vs. Frick Co., 174 U.S. 406 and Fuentes v Shevin, 67 U.S. 407 to support this argument regarding the necessity of due process of law. In both these cases, hearings were not conducted prior to the seizure of property. In the instant case, a hearing as proscribed under Family Law Article 5-1016 was conducted. Testimony by John Selby, director of the Domestic Relations Division for the Circuit Court for Baltimore City, revealed that specific, rigid procedures are routinely followed with regard to these hearings. Alleged fathers are apprised of their rights both orally and in writing. Although such requests are not made often, interpreters for those speaking a foreign language can readily be obtained if necessary.

Jacqueline Blanton, the hearing examiner for the instant case, testified that she follows a specific routine in regard to informing alleged fathers of their rights and obtaining voluntary and intelligent waivers. She described herself as a "tape recorder", because of the same manner in which she advises each and every client of his rights. She added that questions could be asked following her litany. Ms. Blanton testified that her years experience in dealing with the public would enable her to determine if a client did not understand any part of the procedure.

Furthermore, Family Law Article 5-1013 requires that "any person who has knowledge of a party's legal disability shall advise the court of the disability." This applies particularly to counsel. However, in the absence of counsel, surely the Defendant himself would be under this obligation to inform



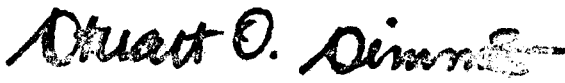
the court of his lack of understanding, both legally and as a matter of common sense. In the instant case, Mr. Rodriguez by his own testimony did nothing to indicate to Ms. Blanton any lack of understanding. He did not ask to speak to his wife who was "30 feet" away and who allegedly understands English better than he. He did nothing to cause the proceeding to stop. On the contrary, he provided Ms. Blanton with information regarding his address and Social Security number

If, arguendo, the Defendant did not understand the Domestic Relations Division proceedings, he was under an obligation to do something about it, and common sense tells us he would have done so. The Defendant is a mature fifty-one (51) year old man. If he did not understand something he certainly would know to question it. As stated, Family Law Article 5-1013 (c) requires a party with a legal disability to inform the court. Secondly, we compared the Consent Decree in the instant case to a contract, contract law is clear in this matter. If a person cannot read the language in which a contract is written, he has the same duty to procure a person to read it to him as the duty to read it himself before signing it. Failure to do so is negligence which will stop him from avoiding the contract avoiding the contract. 17 CJS Contracts 139 p. 885, 886.

In conclusion, he who seeks equity must do equity. He must come to the court with clean hands. This Defendant's request for relief was based on an untruth. This was revealed not only by the testimony of others, but by his own testimony as well.

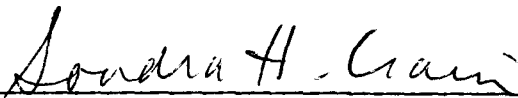
WHEREFORE, the Plaintiff respectfully requests this Honorable Court  
to:

- a. Dismiss the Motion to Set Aside an Enrolled Judgment.
- b. Order the Defendant to comply with the Decree.
- c. Fix arrearages and order payments thereof.
- d. Require that payments be made by wage lien.
- e. And for such other and further relief as the nature of its cause  
may require.

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STUART O. SIMMS  
State's Attorney  
for Baltimore City

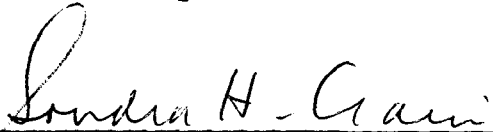
  

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SONDRA H. CRAIN  
Assistant State's Attorney  
Room 418 Mitchell Courthouse  
110 N. Calvert Street  
Baltimore, Maryland 21202  
396-5109

**CERTIFICATION OF MAILING**

I HEREBY CERTIFY that on this 22nd day of June, 1990, a copy of  
the foregoing Post-Trial Memorandum Against Motion to Set Aside an Enrolled  
Judgment was mailed, postage prepaid to: Alfred Nance, Esquire, 1 E. Lexington  
Street, Suite 209, Baltimore, Maryland 21202, attorney for the Defendant.

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SONDRA H. CRAIN  
Assistant State's Attorney

SHDI ACCOUNT NUMBER: 72324050 07/24/91 >BR

CY PERSONAL AND GENERAL INFO

PAYER: RODRIGUEZ JOSE D PAYEE: ARRINGTON FRANCINA E
660 DUMBARTON AVE 5201 READY AVENUE
BALTIMORE MD 21218 BALTIMORE MD 21212
SSN: 073524437 DOB: 12/28/35 SSN: 218560692
EMPLOYER: AFDC CASE: CATEGORY: 00
CHILDREN - BIRTH MM/YY, SEX GRANT AMT: 0 JURISDCTN:
08/87 F FIPS CODE: 24510
AGENT ID: H4
OPEN DT: 04/03/89 REVIEW DT: 06/05/89 CLOSE DT: 08/07/05

COURT DOCKET: 70-119070

CY CASE TRACKING INFO

PATERNITY ST: ESTABLISHED 04/28/89 SPECIAL PROJECT(S) ST DATE
LOCATION ST: LOCATED 04/28/89
OBLIGATION ST: ESTABLISHED 04/28/89
ENFORCEMENT ST: E ? 04/28/89
GENERAL ST: OPEN 04/28/89

WARRANT: NO
LTFN: NO

LAST DELINQUENCY REV DT: 08/26/89
LAST FPLS REFERRAL DT:
LAST FPLS RESPONSE DT:
1ST AGENCY COLLECTION DT:
AGENCY DELETE FLAG: DISPUTE FLAG:

COLLECTION AGENCY REFERRAL:
SELECTION CD:

ACCOUNT 72324050 FINANCIAL DATA

STATUS: ACTIVE, REGULAR CASE TYPE: PATERNITY (B) COURT OWED: 0.00
WARRANT: NO SPOUS SUPT: NO COURT PAID: 0.00
LTFN: NO AFDC CREDIT BALANCE: 0.00
ORDER: 50.00 WEEKLY AFDC TRIP: 0.00
ARREARS: 3375.00 AFDC TROP: 0.00
PD IN CY: 775.00 NAFDC TRIP: 0.00
NAFDC TROP: 0.00
REFUND: 0.00 TRIP APPEAL: NONE
TRUST: 0.00 NO TROP APPEAL: NONE
A V PROP: 0.00 SUBJECT TO TRIP/TROP PROCESS
EFT MEMBER STATUS: NON-PARTICIPANT

LAST PMT TRANSACT DT BEFORE CY: 12/90

NOTE: 8/31/89-1:50.00PW HERE

031 PAY TRANSACTIONS FOR CY ACCOUNT 72324050; PAYOR: RODRIGUEZ JOSE D

Table with columns: DT PD, CHK #, ENT DT, AMT PD, TYPE, DT PD, CHK #, ENT DT, AMT PD, TYPE. Contains 20 rows of payment transaction data.

END OF PAYMENT LISTING

Table with columns: TRAN, TERM, OP, DATE, HISTORY NOTE. Contains 5 rows of transaction history.

LY ACCOUNT 72324050 FINANCIAL DATA

STATUS: ACTIVE, REGULAR CASE TYPE: PATERNITY (B) COURT OWED: 0.00  
 WARRANT: NO SPOUS SUPT: NO COURT PAID: 0.00  
 LIEN: NO AFDC CREDIT BALANCE: 0.00  
 ORDER: 50.00 WEEKLY AFDC TRIP: 0.00  
 ARREARS: 2700.00- AFDC TROP: 0.00  
 PD IN LY: 775.00 NAFDC TRIP: 0.00  
 NAFDC TROP: 0.00  
 REFUND: 0.00 TRIP APPEAL: NONE  
 TRUST: 0.00 NO TROP APPEAL: NONE  
 ABAN PROP: 0.00 SUBJECT TO TRIP/TROP PROCESS  
 LAST PNT TRANSACT DT BEFORE LY: 12/89 EBT MEMBER STATUS: NON-PARTICIPANT  
 NOTE: 8/31/89-1:50.00PW HERE

0 PAY TRANSACTIONS FOR LY ACCOUNT 72324050; PAYOR: RODRIGUEZ JOSE D

DT PD	CHK #	ENT DT	AMT PD	TYPE	DT PD	CHK #	ENT DT	AMT PD	TYPE
01/03/90	351974	0102	25.00	P	01/22/90	368664	0119	25.00	P
01/24/90	371341	0123	25.00	P	01/31/90	377959	0130	25.00	P
02/07/90	383503	0206	25.00	P	02/14/90	389447	0213	25.00	P
02/27/90	397056	0226	25.00	P	03/06/90	404701	0305	25.00	P
03/09/90	409045	0308	25.00	P	03/14/90	412677	0313	25.00	P
03/27/90	422569	0326	25.00	P	04/02/90	426884	0330	25.00	P
04/09/90	431523	0406	25.00	P	04/16/90	454467	0412	25.00	P
04/26/90	441850	0425	25.00	P	05/22/90	466721	0521	25.00	P
05/31/90	473331	0530	25.00	P	06/07/90	481463	0606	25.00	P
09/26/90	579884	0925	25.00	P	10/02/90	584328	1001	25.00	P
10/10/90	590789	1009	25.00	P	10/17/90	597827	1016	25.00	P
10/24/90	604898	1023	25.00	P	11/02/90	612585	1101	25.00	P
11/13/90	618821	1110	25.00	P	11/19/90	622837	1116	25.00	P
11/27/90	629525	1126	25.00	P	11/30/90	632149	1129	25.00	P
12/12/90	642923	1211	25.00	P	12/17/90	646904	1216	25.00	P
12/26/90	654314	1224	25.00	P					

END OF PAYMENT LISTING

PS PAYOR ADDRESS UPDATED DURING CY BY TAX INTERCEPT FROM OFFICE OF COMPTROLLER

----- END OF DISPLAY FOR ACCOUNT 72324050 AS OF 07/24/91 AT 12:52:30

HARS WAGE HISTORY INQUIRY G01

SSN: 073 52 4437

YTD AMOUNT A/E USE NAME-CHECK

03019101 ATHENS AUTOMATIC ROLLS INC 7111 COMMERCIAL AVE  
 BAL TO MD 21206-0000 301-276-7254  
 882 862.46 JROD 883 396.05 JROD 884 651.52 JROD  
 891 52.12 JROD

NO MORE WAGE RECORDS FOR THIS SSN

TRANSACTION:

C

C

C

C

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0

1

2

3

4

DATE	DOCKET ENTRIES	NO.
6/20/90	Supplemental Memorandum in Support of Motion to Vacate Enrolled Judgment	12
6/27/90	Motion to Strike Enrolled Certiorari Denial held sub curia (Hollander, J.)	
8/27/90	Catchon for Contempt and Show Cause Order	13
8/31/90	Memorandum Opinion and Order of Court	14
9/28/90	Order of Appeal	15
10/09/90	Letter, dtd Oct. 5, 1990, to Clerk, Circuit Court for Balt. City, re. Stens. Test., jd.	16
10-19-90	Stens. Test., dtd. May 24, 1990, Pgs. 1-32, Court Reporter Kenneth Morris, jd.	17
10/22/90	Def agrees to pay \$2500 wk until case has been resolved	
11/05/90	Stens Test., dated June 1, 1990, pp 1-58, Court Reporter - Lisa K. Barkins, jd.	18
10/23/90	Order to Proceed without a Prehearing Conference, Court of Special Appeals, dtd. Oct. 22, 1990, 15/ Karwacki, J., jd.	17½
11-26-90	Stens. Test, dtd June 12, 1990, Court Reporter, Brenda Ironbridge, jd.	19
11-28-90	Stens. Test, dated June 26, 1990, Court Reporter, Christopher Metcalf, jd.	20
12-21-90	Original Papers forwarded to the Court of Special Appeals via Certified mail # P724023196 atty	21
	All future hearings - <del>to</del> to provide interpreter <del>to</del> Case postponed pending decision from Court of Appeals	

IN THE CIRCUIT COURT FOR BALTIMORE CITY

CATEGORY *Paternity*

CASE NO. *PD 70-1196 70* PAGE *1* of

PARTIES	ATTORNEY(S)
<i>Francina Cromie Arington</i>	<i>Andrea Caird</i>
<i>v. Jose Jesus Rodriguez</i>	<i>Alfred Vance</i>

DATE	DOCKET ENTRIES	NO.
<i>3/3/89</i>	<i>Paternity Petition</i>	<i>1</i>
<i>3/30/89</i>	<i>Consent Decree</i>	<i>2</i>
<i>"</i>	<i>Waiver of Rights</i>	<i>3</i>
<i>12/20/89</i>	<i>Motion to Strike Consent Decree</i>	<i>4</i>
<i>"</i>	<i>Summons issued (sd. 1/5/90)</i>	<i>5</i>
<i>1/24/90</i>	<i>Plf's Opposition to Motion to Strike</i>	<i>6</i>
<i>2/23/90</i>	<i>Request for Hearing</i>	<i>7</i>
<i>3/26/90</i>	<i>Answer to Motion to Set Aside Decree</i>	<i>8</i>
<i>4/27/90</i>	<i>SFO to set (Hollander, J)</i>	
<i>5/16/90</i>	<i>Subpoena</i>	<i>9</i>
<i>5/21/90</i>	<i>Memorandum Against Motion to Set Aside an Enrolled Judgment</i>	<i>10</i>
<i>5/24/90</i>	<i>Affidavit of Service</i>	<i>10A</i>
<i>"</i>	<i>Memorandum in Support of Motion to Vacate Judgment</i>	<i>10B</i>
<i>5/24/90</i>	<i>Hearing on Motion to Strike - PP 6/1/90 parties sd. (Hollander, J)</i>	
<i>6/1/90</i>	<i>Case to continue PP 6/12/90 (Hollander, J)</i>	
<i>6/20/90</i>	<i>Post-Trial Memorandum Against Motion to Set Aside an Enrolled Judgment</i>	<i>11</i>



DATE	DOCKET ENTRIES	NO.
6/20/90	Supplemental Memorandum in Support of Motion to Vacate Enrolled Judgment	12
6/27/90	Motion to Strike Enrolled Certainty Verdict held sub curia (Hollander, J.)	
8/27/90	Petition for Contempt and Show Cause Order	13
8/31/90	Memorandum Opinion and Order of Court	14
9/28/90	Order of Appeal	15
10/09/90	Letter, dtd Oct. 8, 1990, to Clerk, Circuit Court for Balt. City, re. Stens. Test., fd.	16
10-19-90	Stens. Test., dtd. May 24, 1990, Pgs. 1-32, Court Reporter Kenneth Morris, fd.	17
10/22/90	Def agrees to pay \$2500 wk until case has been resolved	
11/05/90	Stens Test., dated June 1, 1990, pp 1-58, Court Reporter - Lisa K. Barkins, fd.	18
10/23/90	Order To Proceed without a Prehearing Conference, Court of Special Appeals, dtd. Oct. 22, 1990, 15/ Karwacki, J., fd.	17½
11-26-90	Stens. Test., dtd June 12, 1990, Court Reporter, Brenda Ironbridge, fd.	19
11-28-90	Stens. Test., dated June 26, 1990, Court Reporter, Christopher Metcalf, fd.	20
12-21-90	Original papers forwarded to the Court of Special Appeals via Certified mail # P 724 023 196 atty	21
	All future hearings - <del>attys</del> to provide interpreter <del>attys</del> . Case postponed pending decision from Court of Appeals	

IN THE CIRCUIT COURT FOR BALTIMORE CITY

CATEGORY Paternity CASE NO. PD 70-119670 PAGE 1 of     

PARTIES	ATTORNEY(S)
Francina Cronne Corrington	Andrea Caird
v. Jose Jesus Rodriguez	Alfred Vance

DATE	DOCKET ENTRIES	NO.
3/3/89	Paternity Petition	1
3/30/89	Consent Decree	2
"	Waiver of Rights	3
12/20/89	Motion to Strike Consent Decree	4
"	Summons issued (sd. 1/5/90)	5
1/24/90	Plf's Opposition to Motion to Strike	6
2/23/90	Request for Hearing	7
3/26/90	Answer to Motion to Set Aside Decree	8
4/27/90	SAO to reset (Hollander, J)	
5/16/90	Subpoena	9
5/21/90	Memorandum Against Motion to Set Aside an Enrolled Judgment	10
5/24/90	Affidavit of Service	10A
"	Memorandum in Support of Motion to Vacate Judgment	10B
5/24/90	Hearing on Motion to Strike - PP 6/1/90 parties ad. (Hollander, J)	
6/1/90	Case to continue PP 6/12/90 (Hollander, J)	
6/20/90	Post-Trial Memorandum Against Motion to Set Aside an Enrolled Judgment	11

JOSE' RODRIGUEZ	*	IN THE
	*	
	*	
PLAINTIFF	*	CIRCUIT COURT
	*	
vs.	*	FOR
	*	
FRANCINA ARRINGTON	*	BALTIMORE CITY
	*	
DEFENDANT	*	Case No. 70/119070
	*	

\*\*\*\*\*

INDEX

Docket Entries,		
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Waiver of Rights, filed, (3)		3
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Certification, filed,		9
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Subpoena (3), filed, (9)	14 -	16
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Steno. Test., dated June 12, 1990, Court Reporter, Brenda Trowbridge, filed,(20)	114
Steno. Test., dated June 26, 1990, Court Reporter, Christopher Metcalf, filed, (21)	115

No. .... SEPTEMBER TERM, 19 .....  
(LEAVE BLANK)

# TRANSCRIPT OF RECORD

FROM THE

.....CIRCUIT COURT FOR BALTIMORE CITY.....

**Judge:** .....HONORABLE ELLEN L. HOLLANDER.....

IN THE CASE OF

.....JOSE' RODRIGUEZ.....

*Appellant*

V S.

.....FRANCINA E. ARRINGTON.....

*Appellee*

TO THE

COURT OF SPECIAL APPEALS

.....ALFRED NANCE, ESQUIRE.....

.....1 EAST LEXINGTON STREET, SUITE 200.....

.....BALTIMORE, MARYLAND 21202.....

.....(301) 659-6907.....

FOR APPELLANT

.....STUART SIMMS, STATE'S ATTORNEY OF MARYLAND.....

.....SANDRA CRAINE, ASSISTANT STATE'S ATTORNEY.....

.....CLARENCE M. MITCHELL, JR. COURTHOUSE WEST.....

.....CALVERT & FAYETTE STREETS.....

FOR APPELLEE

.....BALTIMORE, MARYLAND 21202.....

.....(301).....

**Filed** .....

(LEAVE BLANK)

JOSE' RODRIGUEZ

PLAINTIFF

VS.

FRANCINA ARRINGTON

DEFENDANT

NO. 70/119070

PAGE:

DOCKET:

**IN THE  
CIRCUIT COURT FOR  
BALTIMORE CITY**

Sandra E. Banks, Clerk

**CERTIFICATE BY CLERK OF THE COURT, TO TRANSCRIPT OF RECORD.**

State of Maryland, Baltimore City, Set.:

I, Sandra E. Banks, Clerk of the Circuit Court for Baltimore City, hereby certify that the foregoing is a true transcript, taken from the record and proceedings of the said Court, in the Therein entitled cause.

I further certify that all counsel of record, heretofore, have been notified to inspect the foregoing transcript of record, prior to its transmission, and that said counsel have had ample opportunity for such inspection.

In testimony whereof, I hereunto set my hand and affix the seal of the Circuit Court for Baltimore City aforesaid, on this day of 6th. day of December, 1990 .

**COSTS PAID IN THE CIRCUIT COURT FOR BALTIMORE CITY:**

Transcript of Record	\$ 50.00
Open Court Costs	<u>0.00</u>
Total Costs	\$ 50.00

SEAL OF  
THE COURT

Stenographic Testimony	-	\$722.50
Court Reporter(s)	Kenneth Norris, Brenda Trowbridge Christopher Metcalf & Lisa Bankins	

*Sandra E. Banks*  
Clerk of the Circuit Court for Baltimore City

copy

**Francina Evonne Arrington** Petitioner  
5201 Ready Ave. #12 Address

VS.

**Jose' DeJesus Rodriguez** Defendant  
660 Dumbarton Ave. #12 Address

IN THE  
CIRCUIT COURT  
FOR  
BALTIMORE CITY

Domestic Relations Division

Docket *70* Case No. *119070*  
DRD No. 2121-89

**PATERNITY PETITION**

To the Honorable, the Judge of Said Court:

MAR 3 1989

Your Petitioner respectfully shows

1. That **Francina Evonne Arrington** became pregnant on or about 19...  
that the child ~~was expected~~ **August 9 87** was born on ... and is known as **Nicole Erica Rodriguez**

2. That **Francina Evonne Arrington** was unmarried at the time the child was conceived, that the paternity of the child has not been determined by any Court, and that **Jose' DeJesus Rodriguez** is in fact the child's father.

3. That ... was a married woman at the time the child was conceived, but that she and her husband, ..., were then living separately and apart and not as husband and wife, and that ... is in fact the child's father.

4. That the child was delivered in **Sinai** Hospital in **Balto.** and is now in the care of **mother** at **5201 Ready Ave.** in the City of **Balto.**

WHEREFORE, your Petitioner requests this Court to pass an order

1. Declaring **Jose' DeJesus Rodriguez** to be the father of the child named herein.
2. Determining who shall have custody and guardianship of said child, the amount to be paid, toward the child's support and to whom it shall be paid.
3. For such other and further relief as the nature of this case may require.

Filed by

Petitioner *Francina Arrington*

Complainant's Solicitor

State's Attorney

Relationship to child **mother**

State of Maryland, City of Baltimore, Sct.

On **February 28th 89** 19..., The Petitioner herein personally appeared before me and made oath in due form of law that the facts stated in the Petition are true to the best of Petitioner's knowledge and belief.

*John E. Alouse*  
Clerk Circuit Court for Baltimore City, Notary

**Notice To Defendant**

This petition charges you with being the father of an illegitimate child. You may have this case tried before a jury, but unless you notify this court of your desire to have a jury trial, it will be set for trial before a Judge. You may be represented by an attorney and you may summon witnesses in your behalf. This is not a criminal charge.

Docket No. .... Case No. ....

DRD No. **2121-89** Filed .....

**Francina Evonne Arrington**  
..... Petitioner

**5201 Ready Ave. #12** Address  
.....

VS.

**Jose' DeJesus Rodriguez** Defendant

**660 Dumbarton Ave. #12** Address  
.....

---

CIRCUIT COURT  
FOR BALTIMORE CITY  
**PATERNITY PETITION**

---

I hereby authorize the filing of the  
within petition

.....  
State's Attorney  
for Baltimore City

---

I hereby waive my right to jury trial in  
this case

.....  
Defendant



**Reference Slip—THIS IS NOT A RECEIPT**

Date 12/17/90

Case No. 70/119070

Jose' Rodriguez

Francine Arrington **vs.** Check #  
2339

Rec. Mail To: Alfred Norveg Esq.  
1 E Lexington St.  
Balto. md. 21202

Clerk		
Bar Library		
Sheriff—City		
Sheriff—Counties		
Postage	6	00
<b>Total</b>	<b>6</b>	<b>00</b>

2:24PM 12/17/90 002#3491 A \*\*\*

#0701190

#0000070

MISC. \$6.00

\*\*TTL \$6.00

CHECK \$6.00

CHNG \$0.00

Reference Slip—THIS IS NOT A RECEIPT

Check # 2203

Date Sept. 28, '990 *S Ross*

Case No. PD 70-113070 2121-89

Arington

Rodriguez Vs.

Rec. Mail To: Alfred Nance  
E. Lexington St. Ste. 200  
Baltimore, MD 21202

Clerk		
Bar Library		
Sheriff—City		
Sheriff—Counties		
Record	50	00
Total	50	00

2:56PM09/28/90 002#4781 A \*\*\*  
#0701190  
#0000070  
COPIES \$50.00  
CHECK \$50.00

# Court of Appeals of Maryland

Annapolis, Maryland 21401

*Memorandum*

Clerk

The attached Order should be incorporated as part of the original record in the above entitled case.

ALEXANDER L. CUMMINGS  
Clerk

JOSE' RODRIQUEZ

v.

FRANCINA E. ARRINGTON

In the  
Court of Appeals  
of Maryland

FILED DEC 11 1991  
BD 70-119070

Petition Docket No. 376

September Term, 1991

(No. 1690, September Term, 19 90  
Court of Special Appeals)

**ORDER**

Upon consideration of the petition for a writ of certiorari to the Court of  
and the answer filed thereto,  
Special Appeals in the above entitled case, it is

ORDERED, by the Court of Appeals of Maryland, that the petition be, and  
it is hereby, denied as there has been no showing that review by certiorari is desirable  
and in the public interest.

\_\_\_\_\_/s/ Robert C. Murphy\_\_\_\_\_  
Chief Judge

Date: December 10, 1991

WILLIAM DONALD SCHAEFER

CAROLYN W. COLVIN

GOVERNOR

DEPARTMENT OF HUMAN  
RESOURCES

Secretary

Writer's No. 333-1088

Baltimore City Office of  
Child Support Enforcement  
100 North Eutaw Street  
Baltimore, Maryland 21201  
Date: 10/10/91

Deborah M. Williams

VS

Omar A. Daniel

DOCKET #: PD 70-119608

IBM #: 21058350

SSN #: 215-90-1285

AMOUNT OF DEDUCTION: \$38.00 weekly

Employer Dept of Employment and Economics Development  
Address 1100 N. Eutaw Street, Room #112  
Baltimore, Maryland 21201

Dear Sir:

Please be advised that the attached document is a Court Order issued by the Circuit Court for Baltimore City and which authorized the implementation of a Wage Lien against the Defendant's earnings pursuant to Family Law as prescribed by the Annotated Code of MD.

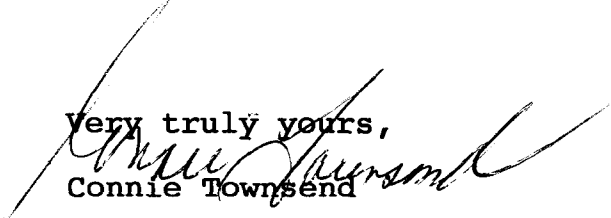
Note that the existing employer or any future employer upon whom a copy of this order is served, may not use the lien authorized by this Court as grounds for reprisal against, or the dismissal of said employee obligated to remit these payments.

Checks for payments in compliance should be made payable and addressed to the Baltimore City Office of Child Support Enforcement, P.O. Box 778, Baltimore, MD. 21203-0778.

Please indicate the above designated IBM Number for purposes for identification.

Your cooperation is appreciated.

Very truly yours,

  
Connie Townsend

AGENT

  
SUPERVISOR

CIRCUIT COURT OF BALTIMORE CITY  
SAUNDRA E. BANKS, CLERK  
110 N. CALVERT STREET - ROOM 441  
BALTIMORE, MARYLAND 21202

Deborah M. Williams

\_\_\_\_\_  
COMPLAINANT

DOCKET #: PD 70-119608

CASE #: \_\_\_\_\_

V.

Omar A. Daniel

\_\_\_\_\_  
DEFENDANT

DRD #: \_\_\_\_\_

BOSE ACCT #: 21058350

EARNINGS WITHHOLDING ORDER

SERVE ON: Dept of Employment and Economics Development  
1100 N. Eutaw Street, Room #112  
Baltimore, Maryland 21201

ATTENTION: PAYROLL DEPARTMENT

SHERIFF'S RETURN

COPY OF EARNINGS WITHHOLDING ORDER SERVED ON:

COMPANY: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

DATE: \_\_\_\_\_

TIME: \_\_\_\_\_

NON-EST: ( )

REASON: \_\_\_\_\_

DEPUTY: \_\_\_\_\_

SHERIFF: \_\_\_\_\_

FEE:

5

Deborah M. Williams  
\_\_\_\_\_  
1505 Regester Street  
\_\_\_\_\_  
Baltimore, Maryland 21213  
\_\_\_\_\_

Complainant

IN THE  
CIRCUIT COURT  
FOR BALTIMORE CITY

DKT. NO. PD 70-119608  
CASE NO. 21058350

Solicitor for Complainant:

Solicitor for Respondent:

VS

Omar A. Daniel  
\_\_\_\_\_  
1705 N. Rutland Avenue  
\_\_\_\_\_  
Baltimore, Maryland 21213  
\_\_\_\_\_

Respondent

**ORDER OF COURT FOR LIEN AGAINST EARNINGS AND/OR PERIODIC PAYMENTS AND BENEFITS.**

It having been determined that the defendant is more than thirty (30) days in arrears under an order for support dated May 15, 1989 it is this 9th day of January, 1991, by the **CIRCUIT COURT FOR BALTIMORE CITY:**

**ORDERED** that a lien in the amount of \$38.00 weekly be and it is hereby placed on the earnings and other from of periodic payments and Benefits due or to be due (Respondent) Omar A. Daniel, Social Security No. 215-90-1285, Badge No., Emp. ID No. (other identifying information): amount of said lien representing current support of \$38.00 weekly, plus \$ and

Dept of Employment and Economics Development  
1100 N. Eutaw Street, Room #112  
Baltimore, Maryland 21201

existing employer, person, and or entity of (Respondent), Omar A. Daniel, and any future employers, persons, and/or public entities of said (respondent) upon whom a copy of this order may be served, and (he), (she), (it) and/or (they) are hereby ordered and directed to deduct the aforesaid sum from the earnings and other form of periodic payments and benefits due to said defaulting party Omar A. Daniel and remit same to:

Baltimore City Office of  
Child Support Enforcement  
P.O. Box 778  
Baltimore, Maryland 21203-0778

for and on account of support payments due (complainant),  
Deborah M. Williams.

**AND IT IS FURTHER ORDERED**, that a copy of this order shall be served immediately by the Clerk of the Court upon the aforesaid employer, person and/or public entity, and, upon further direction or order of Court upon any future employer, person, and/or public entity of said (Respondent), Omar A. Daniel, by ordinary mail, postage prepaid, and, unless otherwise ordered by the Court, this lien shall have priority as against any attachment, execution, or assignment.

**AND IT IS FURTHER ORDERED**, that the said existing employer, and person and/or public entity above named, and any future employer, person, and/or public entity upon whom a copy of this Order may be served, be and (he) (she) (it) and/or (they) are hereby authorized to deduct from the earnings of said employee, Omar A. Daniel, the sum of Two Dollar (\$2.00) for each payment made by the employer, person, and/or public entity to the recipient designated by this Order of Court.

**AND IT IS FURTHER ORDERED**, that the (Complainant), Deborah M. Williams, the person herein for whom support has been ordered, shall give notice of any change in (his) (her) address within a reasonable time by return receipt mail to the Clerk of the Circuit Court For Baltimore City, the Baltimore City Office of Child Support Enforcement and to the employer, person, and/or public entity who is making periodic payments.

**AND IT IS FURTHER ORDERED**, that if the employer, person, and/or public entity, the Baltimore City Office of Child Support Enforcement, or other State or County Officer is unable to deliver payments under this Order for a three month period because the person for whom support has been ordered hereunder has failed to give the required notice of a change of address, then said employer, person, and/or public entity, the Baltimore City Office of Child Support Enforcement, or other State or County Officer may not make any further payments under this Order and shall return all undeliverable payments to the employee or defaulting party herein.




**AND IT IS FURTHER ORDERED,** that the existing employer, person, and/or public entity aforesaid, or any future employer, person, and/or public entity upon whom a copy of this Order is served may not use the lien authorized by this Court as grounds for reprisal against or the dismissal of said employee mentioned herein.

**AND IT IS FURTHER ORDERED,** that this earnings lien may be terminated upon application to the Court by the aforesaid employee and defaulting party, in accordance with the provisions of Article 16, Section 5-B of the Annotated Code of Maryland.

**AND IT IS FURTHER ORDERED,** that the (Respondent) shall be individually responsible for payments under this order until the wage lien goes into effect.

**AND IT IS FURTHER ORDERED,** that payment of Court Costs be and it is hereby waived.

  
JUDGE

**NOTICE TO CLERK: KINDLY MAIL COPIES OF THIS ORDER TO:**

Omar A. Daniel

Deborah M. Williams

Dept of Employment and Economics Development

Baltimore City Office of Child Support Enforcement

COURT DATE: 10/7/91

*Francina Arrington*

vs.

*Jose Rodriguez*

AFDC

IN THE  
CIRCUIT COURT

FOR

BALTIMORE CITY

PD # 70/119070

Sheriff's Return from

(BALTIMORE CITY) / COUNTY

PETITION FOR CONTEMPT and Order of Court dated August 8, 1991

19 91

PLEASE SERVE ON OR BEFORE September 28, 1991

Copy of PETITION

and Order of Court Served on and left with

\* *Jose Rodriguez*  
*660 - Sunbarton Ave.*  
*Balti, Md. 21218*

this 13th day of Aug, 1991

*John Anderson*

Sheriff of

*Balti City*  
*Dep. Shiruel*

Fee \$ 30.00

RECEIVED  
RECEIVED  
AUG 9 1 21 PM '91  
AUG 9 1 21 PM '91  
SHERIFF'S DEPT.  
SHERIFF'S DEPT.

RECEIVED  
AUG 9 1 21 PM '91  
SHERIFF'S DEPT.

*Intercept*

# CIRCUIT COURT FOR BALTIMORE CITY

CALVERT & FAYETTE STS.  
BALTIMORE, MD. 21202

CASE NO. Ro 70/119070  
STATE OF MARYLAND

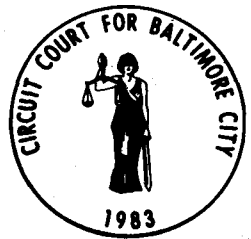
JOSE RODRIGUEZ VS RODRIGUEZ IN PART \_\_\_\_\_ ROOM \_\_\_\_\_ CLARENCE M. MITCHELL, JR. COURTHOUSE

IN PART \_\_\_\_\_ ROOM 329 COURT HOUSE EAST

WITNESS FOR STATE  DEFENSE  AT 9 A.M. ON Monday, October 4, 1991

RECEIVED BY \_\_\_\_\_ DATE \_\_\_\_\_

*FRANCINA ARRINGTON*  
*5201-READY Ave*  
*21212*



YOU ARE HEREBY SUMMONED TO APPEAR IN COURT DAILY UNTIL DULY DISCHARGED. FAILURE TO APPEAR ON TIME MAY CAUSE YOU TO BE CHARGED WITH CONTEMPT OF COURT OR A WARRANT TO BE ISSUED FOR YOUR ARREST.

BRING THIS SUMMONS WITH YOU TO COURT.  
BY ORDER OF COURT

*Sandra E. Banks*  
SAUNDRA E. BANKS  
CLERK, CIRCUIT COURT FOR BALTIMORE CITY

DATE ISSUED 8/8/91

DATE SERVICE WAS ATTEMPTED

SUMMONED WITNESS

LEFT WITH WIFE

LEFT WITH CHILD AGE \_\_\_\_\_

LEFT WITH NEIGHBOR NAME \_\_\_\_\_

LEFT UNDER DOOR

OTHER \_\_\_\_\_

**FOR BALTIMORE**

**& FAYETTE STS  
ORE, MD. STS**

ROOM 322 COURT HOUSE EAST

ON Monday October 11, 1991

YOU ARE HEREBY SUMMONED TO APPEAR IN COURT DAILY UNTIL DULY DISCHARGED. FAILURE TO APPEAR ON TIME MAY CAUSE YOU TO BE CHARGED WITH CONTEMPT OF COURT OR A WARRANT TO BE ISSUED FOR YOUR ARREST.

DATE \_\_\_\_\_

DATE OF SERVICE \_\_\_\_\_

TIME OF SERVICE \_\_\_\_\_

NAME OF DEPUTY & DIST. NO. \_\_\_\_\_

DATES SERVICE WAS ATTEMPTED \_\_\_\_\_

MOVED

MORTUUS EST

NO SUCH ADDRESS

NEED APT NUMBER

WIT UNKNOWN AT ADDRESS

VACANT HOUSE

ATTENDING SCHOOL WILL RETURN

DISMISSED - DATE \_\_\_\_\_

IN HOSPITAL NAME \_\_\_\_\_

LEFT EMPLOYMENT - DATE \_\_\_\_\_

ON MEDICAL LEAVE

OFFICER-UNKNOWN IN DEPT

RETIRED - DATE \_\_\_\_\_

RESIGNED - DATE \_\_\_\_\_

VACATION - WILL RETURN

OTHER \_\_\_\_\_

SHERIFF'S DEPT.

RECEIVED BY Aug 9 1 40 PM '91

RECEIVED

DATE ISSUED \_\_\_\_\_

CASE NO. 10/11/91

STATE OF MARYLAND

VS JOSE KODIAK

WITNESS FOR STATE DEFENSE

COURT DATE: 10/7/91

*Francina Arrington*

vs.

*Jose Rodriguez*

IN THE  
**CIRCUIT COURT**

FOR

BALTIMORE CITY

PD # 70/119070

AFDC

Sheriff's Return from

(BALTIMORE CITY) COUNTY

..... of

PETITION FOR CONTEMPT and Order of Court dated August 8, 1991

1991

PLEASE SERVE ON OR BEFORE September 28, 1991

Copy of ..... PETITION.....

and Order of Court Served on and left with

*Jose Rodriguez*  
*660 - Sunbarton Ave.*  
*Belt, Md. 21218*

this ..... day of ....., 19 .....

Sheriff of .....

Fee \$ .....

BUREAU OF SUPPORT ENFORCEMENT  
ON BEHALF OF:

IN THE CIRCUIT COURT

22

FRANCINA ARRINGTON  
5201 READY AVENUE  
BALTIMORE, MARYLAND 21212

FOR BALTIMORE CITY  
(Domestic Relations Division)

Plaintiff  
VS

Docket No. PD 70-19070

BOSE Acct. No. 72324050

JOSE RODRIQUEZ  
660 DUMBARTON AVENUE  
BALTIMORE, MARYLAND 21218  
Defendant

SHOW CAUSE CONTEMPT ORDER

The Bureau of Support Enforcement respectfully represents unto your Honor:

1. That on March 31, 1989, an order was passed in the above entitled case directing the defendant to pay \$25.00 per week support for one child, effective 4-3-89.

2. That said defendant has failed to make payments in accordance with this order, and is \$3,425.00 in arrears as of July 22, 1991.

3. To be increased to \$50.00 per week effective 6-5-89.

Court cost waived.

WHEREFORE, your petitioner prays that this Court pass an order directing the said defendant to appear in person and show cause why he should not be declared in contempt.

"I solemnly affirm under the penalties of perjury that the contents of the foregoing paper are true to the best of my knowledge, information, and belief." APPROVED:

Mm Rupert 7/24/91  
Support Enforcement Agent Date

[Signature]  
Support Enforcement Supervisor Date

ORDER

ORDERED, this 8<sup>th</sup> day of August, 1991, by the CIRCUIT COURT FOR BALTIMORE CITY.

That the defendant Jose Rodriguez appear in person on MONDAY the 7<sup>th</sup> of OCTOBER, 1991, in Room 329, Courthouse East, 111 N. Calvert Street at 9:00 A.M. and then and there show cause, if any, why he should not be punished for contempt of this court in not obeying the order for support passed herein on March 31, 1989 provided a copy of this order be served on the said defendant on or before the 28<sup>th</sup> day of September, 1991.

AND IT IS FURTHER ORDERED, that if the defendant fails to appear for said hearing, an arrest warrant or body attachment may be approved and issued for (his)(her) apprehension.

WR:t1

[Signature]  
JUDGE

BUREAU OF SUPPORT ENFORCEMENT  
ON BEHALF OF:

FRANCINA ARRINGTON

5201 READY AVENUE

BALTIMORE, MARYLAND 21212

Plaintiff

VS

JOSE RODRIQUEZ

660 DUMBARTON AVENUE

BALTIMORE, MARYLAND 21218

Defendant

\* IN THE CIRCUIT COURT  
\* FOR BALTIMORE CITY  
\* (Domestic Relations Division)  
\*  
\* Docket No. PD 70-119070  
\*  
\* BOSE Acct. No. 72324050  
\*  
\*  
\*  
\*

SHOW CAUSE CONTEMPT ORDER

The Bureau of Support Enforcement respectfully represents unto your Honor:

1. That on March 31, 1989, an order was passed in the above entitled case directing the defendant to pay \$25.00 per week support for one child, effective 4-3-89.
2. That said defendant has failed to make payments in accordance with this order, and is \$3,425.00 in arrears as of July 22, 1991.
3. to be increased to \$50.00 per week effective 6-5-89.

Court cost waived.

WHEREFORE, your petitioner prays that this Court pass an order directing the said defendant to appear in person and show cause why he should not be declared in contempt.

"I solemnly affirm under the penalties of perjury that the contents of the foregoing paper are true to the best of my knowledge, information, and belief." APPROVED:

Wm. Buford 8/21/91  
Support Enforcement Agent Date

[Signature]  
Support Enforcement Supervisor Date

ORDER

ORDERED, this 8th day of August, 1991, by the CIRCUIT COURT FOR BALTIMORE CITY.

That the defendant, Jose Rodriguez appear in person on Monday the 7th of October, 1991, in Room         , Courthouse East, 111 N. Calvert Street at 9:00 A.M. and then and there show cause, if any, why he should not be punished for contempt of this court in not obeying the order for support passed herein on March 31, 1989, provided a copy of this order be served on the said defendant on or before the 28th day of September, 1991.

AND IT IS FURTHER ORDERED, that if the defendant fails to appear for said hearing, an arrest warrant or body attachment may be approved and issued for (his)(her) apprehension.

WR:tl

\_\_\_\_\_  
JUDGE



FRANCINA ARRINGTON Petitioner :  
5201 READY AVENUE :  
BALTIMORE, MARYLAND 21212 Address :

IN THE  
CIRCUIT COURT (23)  
FOR  
BALTIMORE CITY

VS.

JOSE RODRIQUEZ Defendant :  
660 DUMBARTON AVENUE :  
BALTIMORE, MARYLAND 21218 Address :

Paternity Division.

Docket PD 70 Case No. 119070

DRD No. Filed

CONTEMPT OF COURT

Petition for Arrest Warrant

To the Honorable, the Judge of said Court:

Your Petitioner respectfully shows

1. That on March 31 19 89, an order was passed in the above entitled case directing Jose Rodriguez to pay \$ 25.00 per week toward the support of an illegitimate child born to Francina Arrington on August 8 19 87; and giving custody of said child to Francina Arrington

2. That the said Jose Rodriguez has failed to make payments in accordance with this order, and is \$ 3,425.00 in arrears as of July 22 19 91

3. To be increased to \$50.00 per week effective 6-5-89. Court cost waived.

WHEREFORE, your Petitioner prays that this Court issue its warrant for the immediate apprehension of the said Jose Rodriguez

I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THE FOREGOING DOCUMENT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

Filed by:

[Signature]  
SUPERVISOR  
BUREAU OF SUPPORT ENFORCEMENT

[Signature]

William Rupert Support Enforcement Agent

State of Maryland  
City of Baltimore, Sct.  
WR:tl

ON BEHALF OF Francina Arrington - PETITIONER

On ..... 19....., the Petitioner herein personally appeared before me and made oath in due form of law that the facts stated in the above petition are true to the best of Petitioner's knowledge and belief.

Sandra E. Banks, Clerk  
Circuit Court for Baltimore City

**CONTEMPT**

**STATE OF MARYLAND**

To the Sheriff of the Addressed Jurisdiction:

WHEREAS, Petition has been made before me, the Judge for the Circuit Court for Baltimore City, Paternity Division, on the oath of

WILLIAM RUPERT, SUPPORT ENFORCEMENT AGENT, BUREAU OF SUPPORT ENFORCEMENT

who charges that Jose Rodriquez is in contempt of this Court by failing to comply with an order passed herein on March 31 19 89 ,

- 1. directing him to make certain payments for the support of an illegitimate child born to Francina Arrington on Aug. 8 19 87 ,
- 2. giving custody to said child to Francina Arrington

Jose Rodriquez , serve him with the attached Petition,

AND BRING HIM BEFORE ME AT THE Court House \_\_\_\_\_, Room \_\_\_\_\_, in the City of Baltimore to be dealt with according to law. Hereof fail not and have you then and there this warrant.

Bond may be posted with the Clerk of Circuit Court for Baltimore City in the amount of \$ 500.00 in accordance with Art. 16, Sec. 66E (c).

If this Court is not in session when Defendant is apprehended, you are directed to take him before the District Court of Balto. City where bond may be posted, conditioned upon Defendant's appearance before the Circuit Court on a regular court day, as direct. If required bond is not posted, the District Court shall commit Defendant to custody of the Sheriff/or the Warden, of the Baltimore City Jail.

GIVEN UNDER MY HAND AND SEAL this \_\_\_\_\_ day of \_\_\_\_\_ in the year of our Lord nineteen hundred \_\_\_\_\_, in the Circuit Court for Baltimore City, Paternity Division.

Attest:

\_\_\_\_\_  
Judge (SEAL)

WR:tl

\_\_\_\_\_  
Saundra E. Banks, Clerk  
Circuit Court for Baltimore City

Mr. Sheriff:

Please serve the Defendant with the Petition which is attached to this Warrant.

Docket No PD 70 Case No 119070

DRD No \_\_\_\_\_ Filed \_\_\_\_\_  
BUREAU OF SUPPORT ENFORCEMENT ON BEHALF OF  
Petitioner

FRANCINA ARRINGTON  
5201 READY AVENUE  
BALTIMORE, MARYLAND 21212  
ADD: \_\_\_\_\_

vs.  
DEFENDANT

JOSE RODRIQUEZ  
660 DUMBARTON AVENUE  
BALTIMORE, MARYLAND 21218  
ADD: \_\_\_\_\_

CIRCUIT COURT FOR  
BALTIMORE CITY  
**WARRANT FOR ARREST**  
CONTEMPT OF COURT

Petition Served \_\_\_\_\_

Defendant Committed \_\_\_\_\_

Bond Posted \_\_\_\_\_

By \_\_\_\_\_

With District Court \_\_\_\_\_

With Clerk, Circuit Court \_\_\_\_\_

Trial Date \_\_\_\_\_

to say of \_\_\_\_\_ in the Circuit Court for Baltimore City before the Honorable

(SF-7)

1998

to say of \_\_\_\_\_ in the Circuit Court for Baltimore City before the Honorable

BUREAU OF SUPPORT ENFORCEMENT

DESCRIPTION OF WANTED PERSON

NAME Jose De Jesus Rodriquez ALIAS \_\_\_\_\_  
 LAST ADDRESSES 660 Dumbarton Avenue, Baltimore, Maryland 21218  
 BIRTHDATE 12/28/35 BIRTHPLACE Dominican Republic RACE hispanic SOCIAL SECURITY NO. 073-52-4437  
 HEIGHT - WEIGHT - EYES - HAIR - SKIN -  
 SCARS AND DEFORMITIES \_\_\_\_\_  
 COMPLAINANT Francina Arrington ADDRESS 5201 Ready Avenue 21212  
 RELATIVES (WITH ADDRESSES) \_\_\_\_\_

EMPLOYERS (WITH ADDRESSES) \_\_\_\_\_ REMARKS: \_\_\_\_\_

reported to be a student at the New England Tractor Trailer School in 5/90  
also reported a landlord with rental property at 660 Dumbarton Avenue 21212  
and 504 E. 36th Street 21218.

DATE: 7/24/91 SUPPORT ENFORCEMENT AGENT William Rupert  
*Mr. Rupert*

D-699.19 (8/80)

WR;t1

IN THE  
CIRCUIT COURT  
FOR  
BALTIMORE CITY

FRANCINA ARRINGTON Petitioner :  
5201 READY AVENUE :  
BALTIMORE, MARYLAND 21212 Address :

VS.

JOSE RODRIQUEZ Defendant :  
660 DUMBARTON AVENUE :  
BALTIMORE, MARYLAND 21218 Address :

Paternity Division.

Docket PD 70 Case No 119070  
DRD No. .... Filed .....

CONTEMPT OF COURT

Petition for Arrest Warrant

To the Honorable, the Judge of said Court:

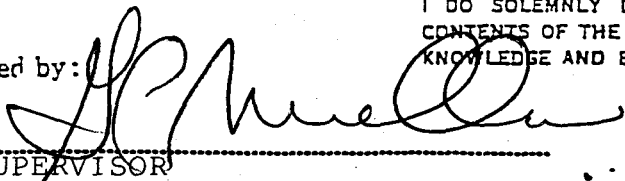
Your Petitioner respectfully shows

1. That on March 31 19 89, an order was passed in the above entitled case directing Jose Rodriguez to pay \$ 25.00 per week toward the support of an illegitimate child born to Francina Arrington on August 8 19 87; and giving custody of said child to Francina Arrington.
2. That the said Jose Rodriguez has failed to make payments in accordance with this order, and is \$ 3,425.00 in arrears as of July 22 19 91.
3. to be increased to \$50.00 per week effective 6-5-89. Court cost waived.

WHEREFORE, your Petitioner prays that this Court issue its warrant for the immediate apprehension of the said Jose Rodriguez

I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THE FOREGOING DOCUMENT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

Filed by:



SUPERVISOR  
BUREAU OF SUPPORT ENFORCEMENT



William Rupert Support Enforcement Agent

State of Maryland  
City of Baltimore, Sect.  
WR:tl

ON BEHALF OF Francina Arrington - PETITIONER

On ..... 19....., the Petitioner herein personally appeared before me and made oath in due form of law that the facts stated in the above petition are true to the best of Petitioner's knowledge and belief.

**CONTEMPT**

**STATE OF MARYLAND**

To the Sheriff of the Addressed Jurisdiction:

WHEREAS, Petition has been made before me, the Judge for the Circuit Court for Baltimore City, Paternity Division, on the oath of

WILLIAM RUPERT, SUPPORT ENFORCEMENT AGENT, BUREAU OF SUPPORT ENFORCEMENT

who charges that Jose Rodriquez is in contempt of this Court by failing to comply with an order passed herein on March 31 19 89

1. directing him to make certain payments for the support of an illegitimate child born to Francina Arrington on Aug. 8 19 87,

2. giving custody to said child to Francina Arrington

Jose Rodriquez, serve him with the attached Petition,

AND BRING HIM BEFORE ME AT THE Court House \_\_\_\_\_, Room \_\_\_\_\_, in the City of Baltimore to be dealt with according to law. Hereof fail not and have you then and there this warrant.

Bond may be posted with the Clerk of Circuit Court for Baltimore City in the amount of \$ 500.00 in accordance with Art. 16, Sec. 66E (c).

If this Court is not in session when Defendant is apprehended, you are directed to take him before the District Court of Balto. City where bond may be posted, conditioned upon Defendant's appearance before the Circuit Court on a regular court day, as direct. If required bond is not posted, the District Court shall commit Defendant to custody of the Sheriff/or the Warden, of the Baltimore City Jail.

GIVEN UNDER MY HAND AND SEAL this \_\_\_\_\_ day of \_\_\_\_\_ in the year of our Lord nineteen hundred \_\_\_\_\_, in the Circuit Court for Baltimore City, Paternity Division.

Attest:

\_\_\_\_\_  
Judge (SEAL)

WR:tl

\_\_\_\_\_  
Saundra E. Banks, Clerk  
Circuit Court for Baltimore City

Mr. Sheriff:

Please serve the Defendant with the Petition which is attached to this Warrant.

Docket No PD 70 Case No 119070

DRD No \_\_\_\_\_ Filed \_\_\_\_\_  
BUREAU OF SUPPORT ENFORCEMENT ON BEHALF OF  
Petitioner

FRANCINA ARRINGTON  
5201 READY AVENUE  
BALTIMORE, MARYLAND 21212  
ADD: \_\_\_\_\_

vs.  
DEFENDANT

JOSE RODRIQUEZ  
660 DUMBARTON AVENUE  
BALTIMORE, MARYLAND 21218  
ADD: \_\_\_\_\_

CIRCUIT COURT FOR  
BALTIMORE CITY

**WARRANT FOR ARREST  
CONTEMPT OF COURT**

Petition Served \_\_\_\_\_

Defendant Committed \_\_\_\_\_

Bond Posted \_\_\_\_\_

By \_\_\_\_\_

With District Court \_\_\_\_\_

With Clerk, Circuit Court \_\_\_\_\_

Trial Date \_\_\_\_\_

BUREAU OF SUPPORT ENFORCEMENT

DESCRIPTION OF WANTED PERSON

NAME Jose De Jesus Rodriquez ALIAS \_\_\_\_\_  
 LAST ADDRESSES 660 Dumbarton Avenue, Baltimore, Maryland 21218  
 BIRTHDATE 12/28/35 BIRTHPLACE Dominican Republic RACE hispanic SOCIAL SECURITY NO. 073-52-4437  
 HEIGHT - WEIGHT - EYES - HAIR - SKIN -  
 SCARS AND DEFORMITIES \_\_\_\_\_  
 COMPLAINANT Francina Arrington ADDRESS 5201 Ready Avenue 21212  
 RELATIVES (WITH ADDRESSES) \_\_\_\_\_

EMPLOYERS (WITH ADDRESSES) \_\_\_\_\_ REMARKS: \_\_\_\_\_

reported to be a student at the New England Tractor Trailer School in 5/90  
also reported a landlord with rental property at 660 Dumbarton Avenue 21212  
and 504 E. 36th Street 21218.

DATE: 7/24/91 SUPPORT ENFORCEMENT AGENT William Rupert *Wm. Rupert*

D-699.19 (8/80)  
 WR:tl



IN THE  
CIRCUIT COURT  
FOR  
BALTIMORE CITY

FRANCINA ARRINGTON Petitioner :  
5201 READY AVENUE :  
BALTIMORE, MARYLAND 21212 Address :

VS.

JOSE RODRIQUEZ Defendant :  
660 DUMBARTON AVENUE :  
BALTIMORE, MARYLAND 21218 Address :

Paternity Division.

Docket PD. 70 Case No. 119070  
DRD No. \_\_\_\_\_ Filed \_\_\_\_\_

CONTEMPT OF COURT

Petition for Arrest Warrant

To the Honorable, the Judge of said Court:

Your Petitioner respectfully shows

1. That on March 31 19 89, an order was passed in the above entitled case directing Jose Rodriguez to pay \$ 25.00 per week toward the support of an illegitimate child born to Francina Arrington on August 8 19 87; and giving custody of said child to Francina Arrington

2. That the said Jose Rodriguez has failed to make payments in accordance with this order, and is \$ 3,425.00 in arrears as of July 22 19 91

3. To be increased to \$50.00 per week effective 6-5-89. Court cost waived.

WHEREFORE, your Petitioner prays that this Court issue its warrant for the immediate apprehension of the said Jose Rodriguez

I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THE FOREGOING DOCUMENT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

Filed by:

*[Signature]*

*[Signature]*

SUPERVISOR  
BUREAU OF SUPPORT ENFORCEMENT

William Rupert Support Enforcement Agent

State of Maryland  
City of Baltimore, Sect.  
WR:tl

ON BEHALF OF Francina Arrington - PETITIONER

On \_\_\_\_\_ 19\_\_\_\_, the Petitioner herein personally appeared before me and made oath in due form of law that the facts stated in the above petition are true to the best of Petitioner's knowledge and belief.

**CONTEMPT**

**STATE OF MARYLAND**

To the Sheriff of the Addressed Jurisdiction:

WHEREAS, Petition has been made before me, the Judge for the Circuit Court for Baltimore City, Paternity Division, on the oath of

WILLIAM RUPERT, SUPPORT ENFORCEMENT AGENT, BUREAU OF SUPPORT ENFORCEMENT

who charges that Jose Rodriquez is in contempt of this Court by failing to comply with an order passed herein on March 31 19 89 ,

1. directing him to make certain payments for the support of an illegitimate child born to Francina Arrington on Aug. 8 19 87 ,

2. giving custody to said child to Francina Arrington

Jose Rodriquez, serve him with the attached Petition,

AND BRING HIM BEFORE ME AT THE Court House \_\_\_\_\_, Room \_\_\_\_\_, in the City of Baltimore to be dealt with according to law. Hereof fail not and have you then and there this warrant.

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If this Court is not in session when Defendant is apprehended, you are directed to take him before the District Court of Balto. City where bond may be posted, conditioned upon Defendant's appearance before the Circuit Court on a regular court day, as direct. If required bond is not posted, the District Court shall commit Defendant to custody of the Sheriff/or the Warden, of the Baltimore City Jail.

GIVEN UNDER MY HAND AND SEAL this \_\_\_\_\_ day of \_\_\_\_\_ in the year of our Lord nineteen hundred \_\_\_\_\_, in the Circuit Court for Baltimore City, Paternity Division.

Attest:

\_\_\_\_\_  
Judge (SEAL)

WR:tl

\_\_\_\_\_  
Saundra E. Banks, Clerk  
Circuit Court for Baltimore City

Mr. Sheriff:

Please serve the Defendant with the Petition which is attached to this Warrant.

Docket No PD 70 Case No 119070

DRD No \_\_\_\_\_ Filed \_\_\_\_\_  
BUREAU OF SUPPORT ENFORCEMENT ON BEHALF OF  
Petitioner

FRANCINA ARRINGTON  
5201 READY AVENUE  
BALTIMORE, MARYLAND 21212  
ADD: \_\_\_\_\_

vs.  
DEFENDANT

JOSE RODRIQUEZ  
660 DUMBARTON AVENUE  
BALTIMORE, MARYLAND 21218  
ADD: \_\_\_\_\_

---

---

CIRCUIT COURT FOR  
BALTIMORE CITY  
**WARRANT FOR ARREST**  
CONTEMPT OF COURT

---

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Petition Served \_\_\_\_\_

Defendant Committed \_\_\_\_\_

Bond Posted \_\_\_\_\_

By \_\_\_\_\_

With District Court \_\_\_\_\_

With Clerk, Circuit Court \_\_\_\_\_

Trial Date \_\_\_\_\_

FRANCINA ARRINGTON Petitioner :  
5201 READY AVENUE :  
BALTIMORE, MARYLAND 21212 Address :

IN THE  
CIRCUIT COURT  
FOR  
BALTIMORE CITY

VS.

JOSE RODRIQUEZ Defendant :  
660 DUMBARTON AVENUE :  
BALTIMORE, MARYLAND 21218 Address :

Paternity Division.

Docket PD 70 Case No 119070

DRD No. Filed

CONTEMPT OF COURT

Petition for Arrest Warrant

To the Honorable, the Judge of said Court:

Your Petitioner respectfully shows

1. That on March 31 19 89, an order was passed in the above entitled case directing Jose Rodriguez to pay \$ 25.00 per week toward the support of an illegitimate child born to Francina Arrington on August 8 19 87; and giving custody of said child to Francina Arrington

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I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THE FOREGOING DOCUMENT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

Filed by: [Signature]  
SUPERVISOR  
BUREAU OF SUPPORT ENFORCEMENT

[Signature]  
William Rupert Support Enforcement Agent

State of Maryland  
City of Baltimore, Sect.  
WR:tl

ON BEHALF OF Francina Arrington - PETITIONER

On                      19           , the Petitioner herein personally appeared before me and made oath in due form of law that the facts stated in the above petition are true to the best of Petitioner's knowledge and belief.

**CONTEMPT**

**STATE OF MARYLAND**

To the Sheriff of the Addressed Jurisdiction:

WHEREAS, Petition has been made before me, the Judge for the Circuit Court for Baltimore City, Paternity Division, on the oath of

WILLIAM RUPERT, SUPPORT ENFORCEMENT AGENT, BUREAU OF SUPPORT ENFORCEMENT

who charges that Jose Rodriquez is in contempt of this Court by failing to comply with an order passed herein on March 31 19 89

- 1. directing him to make certain payments for the support of an illegitimate child born to Francina Arrington on Aug. 8 1987,
- 2. giving custody to said child to Francina Arrington

Jose Rodriquez, serve him with the attached Petition,

AND BRING HIM BEFORE ME AT THE Court House \_\_\_\_\_, Room \_\_\_\_\_, in the City of Baltimore to be dealt with according to law. Hereof fail not and have you then and there this warrant.

Bond may be posted with the Clerk of Circuit Court for Baltimore City in the amount of \$ 500.00 in accordance with Art. 16, Sec. 66E (c).

If this Court is not in session when Defendant is apprehended, you are directed to take him before the District Court of Balto. City where bond may be posted, conditioned upon Defendant's appearance before the Circuit Court on a regular court day, as direct. If required bond is not posted, the District Court shall commit Defendant to custody of the Sheriff/or the Warden, of the Baltimore City Jail.

GIVEN UNDER MY HAND AND SEAL this \_\_\_\_\_ day of \_\_\_\_\_ in the year of our Lord nineteen hundred \_\_\_\_\_, in the Circuit Court for Baltimore City, Paternity Division.

Attest:

\_\_\_\_\_  
Judge (SEAL)

WR:tl

\_\_\_\_\_  
Saundra E. Banks, Clerk  
Circuit Court for Baltimore City

Mr. Sheriff:

Please serve the Defendant with the Petition which is attached to this Warrant.

Docket No PD 70 Case No 119070

DRD No \_\_\_\_\_ Filed \_\_\_\_\_  
BUREAU OF SUPPORT ENFORCEMENT ON BEHALF OF  
Petitioner

FRANCINA ARRINGTON  
5201 READY AVENUE  
BALTIMORE, MARYLAND 21212  
ADD: \_\_\_\_\_

vs.  
DEFENDANT

JOSE RODRIQUEZ  
660 DUMBARTON AVENUE  
BALTIMORE, MARYLAND 21218  
ADD: \_\_\_\_\_

CIRCUIT COURT FOR  
BALTIMORE CITY

**WARRANT FOR ARREST  
CONTEMPT OF COURT**

Petition Served \_\_\_\_\_

Defendant Committed \_\_\_\_\_

Bond Posted \_\_\_\_\_

By \_\_\_\_\_

With District Court \_\_\_\_\_

With Clerk, Circuit Court \_\_\_\_\_

Trial Date \_\_\_\_\_

Helic 4/W for court

BUREAU OF SUPPORT ENFORCEMENT

DESCRIPTION OF WANTED PERSON

NAME Jose Rodriguez ALIAS \_\_\_\_\_

LAST ADDRESSES 660 Dunbarton Ave. Balto., Md. 21218

BIRTHDATE 12/28/35 BIRTHPLACE Dominican Republic RACE Hispanic SOCIAL SECURITY NO. 073-252-4431

HEIGHT \_\_\_\_\_ WEIGHT \_\_\_\_\_ EYES \_\_\_\_\_ HAIR \_\_\_\_\_ SKIN \_\_\_\_\_

SCARS AND DEFORMITIES \_\_\_\_\_

COMPLAINANT Francina Arrington ADDRESS 3201 Brady Ave.

RELATIVES (With Addresses) \_\_\_\_\_ Balto., Md. 21212

EMPLOYERS (With Addresses) \_\_\_\_\_ REMARKS: \_\_\_\_\_

Reported to be a student  
at the New England  
instructor Walter School  
in May 1990

also reported to be  
a landlord with  
rental property at  
660 Dunbarton Ave. 21212  
and 504 E. 36th St. 21218

DATE: 7/24/91 SUPPORT ENFORCEMENT AGENT Mr. [Signature]

IN THE  
CIRCUIT COURT  
FOR  
BALTIMORE CITY

Francina Arrington Petitioner :  
9201 Beady Ave. Address :  
Balto., Md. 21212 :  
vs. :

Jose De Jesus Rodriguez Defendant :  
660 Fumbarton Ave. Address :  
Balto., Md. 21218 :

Paternity Division.  
Docket PD 70 Case No. 19070  
DRD No. .... Filed .....

CONTEMPT OF COURT

Petition for Arrest Warrant

*SK + Held  
AJW for  
cont*

To the Honorable, the Judge of said Court:

Your Petitioner respectfully shows

1. That on 3/31 19 89, an order was passed in the above entitled case directing Jose De Jesus Rodriguez to pay \$ 50.00 per week toward the support of an illegitimate child born to Francina Arrington on 8/8 19 87; and giving custody of said child to Francina Arrington

2. That the said Jose De Jesus Rodriguez has failed to make payments in accordance with this order, and is \$ 3425.00 in arrears as of 7/25 19 91

3. \_\_\_\_\_

WHEREFORE, your Petitioner prays that this Court issue its warrant for the immediate apprehension of the said Jose De Jesus Rodriguez

Filed by: \_\_\_\_\_

I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THE FOREGOING DOCUMENT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

*[Signature]*

State of Maryland  
City of Baltimore, Sct.

Support Enforcement Agent  
ON BEHALF OF Francina Arrington PETITIONER

On ..... 19....., the Petitioner herein personally appeared before me and made oath in due form of law that the facts stated in the above petition are true to the best of Petitioner's knowledge and belief.



BUREAU OF SUPPORT ENFORCEMENT  
ON BEHALF OF:

Francina Arrington  
5201 Ready Ave.  
Balto., Md. 21212  
Plaintiff

VS

Jose De Jesus Rodriguez  
660 Dumbarton Ave.  
Balto., Md. 21218  
Defendant

\* IN THE CIRCUIT COURT  
\* FOR BALTIMORE CITY  
\* (Domestic Relations Division)

\* Docket No. FD 70 119070  
\* BOSE Acct. No. 72324050  
\*  
\*  
\*  
\*

SHOW CAUSE CONTEMPT ORDER

The Bureau of Support Enforcement respectfully represents unto your Honor:

1. That on 3/31/91, 1991, an order was passed in the above entitled case directing the defendant to pay \$2000/mo support for 1 child.
2. That said defendant has failed to make payments in accordance with this order, and is \$ 3425.00 in arrears as of 7/22, 1991.
3. \_\_\_\_\_

WHEREFORE, your petitioner prays that this Court pass an order directing the said defendant to appear in person and show cause why he should not be declared in contempt.

"I solemnly affirm under the penalties of perjury that the contents of the foregoing paper are true to the best of my knowledge, information, and belief." APPROVED:

Wm. [Signature] 7/24/91  
Support Enforcement Agent Date

\_\_\_\_\_  
Support Enforcement Supervisor Date

ORDER

ORDERED, this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, by the CIRCUIT COURT FOR BALTIMORE CITY.

That the defendant Jose De Jesus Rodriguez appear in person on \_\_\_\_\_ the \_\_\_\_\_ of \_\_\_\_\_, 19\_\_\_\_, in Room \_\_\_\_\_. Courthouse East, 111 N. Calvert Street at 9:00 A.M. and then and there show cause, if any, why he should not be punished for contempt of this court in not obeying the order for support passed herein on \_\_\_\_\_, 19\_\_\_\_; provided a copy of this order be served on the said defendant on or before the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_.

AND IT IS FURTHER ORDERED, that if the defendant fails to appear for said hearing, an arrest warrant or body attachment may be approved and issued for (his)(her) apprehension.

\_\_\_\_\_  
JUDGE

*RAY*

**Subject:** Re: MSA SC 5458-82-152

**From:** Jennifer Hafner <jenh@mdsa.net>

**Date:** Wed, 17 Feb 2010 15:06:50 -0500

**To:** Doris Byrne <dorisb@mdsa.net>, Sheila Simms <sheilas@mdsa.net>, Ray Connor <rayc@mdsa.net>

**CC:** Edward Papenfuse <edp@msa.md.gov>

I have added the following case to this work order.

BALTIMORE CITY CIRCUIT COURT (Criminal Papers) State v. Johnson (or Johnson-Bey), 1987, Box 11 Case No. 28701917 [MSA T3372-853, CW/2/20/26]



Jennifer Hafner wrote:

Below are additional cases which need to be pulled and scanned for Judge Hollander's request.

\*MSA SC 5458-82-152\*

\*Dates:\* 2010/02/17

\*Description:\* Case numbers received from J. Hollander -

images	<u>137</u>	119070-1
images	○○○	" - 2
images	○○○	" - 3

BALTIMORE CITY CIRCUIT COURT (Paternity Papers) Arrington v. Rodriguez, 1989, Box 169 Case No. 119070 [MSA T3351-923, CW/16/31/25]

File should be named msa\_sc5458\_82\_152\_[full case number]-#### *→ 3 FILES*

BALTIMORE CITY CIRCUIT COURT (Civil Papers, Equity and Law) Rolnik v. Union Labor Life Ins. Co., 1987, Case No. 87313071

Case is split between 2 boxes:

Box 387 [MSA T2691-2026, HF/8/35/8]

Box 388 [MSA T2691-2027, HF/8/35/9]

File should be named msa\_sc5458\_82\_152\_[full case number]-####

BALTIMORE CITY CIRCUIT COURT (Civil Papers, Equity and Law) Shofer v. The Stuart Hack Co., Box 128 Case No. 88102069 [MSA T2691-2232, HF/11/30/3]

See also for "brick binders":

Box 527 [MSA T2691-2631, HF/11/38/18]

Box 528 [MSA T2691-2632, HF/11/38/19]

File should be named msa\_sc5458\_82\_152\_[full case number]-####

