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2<sup>nd</sup> Department Grievance Committee  
Renaissance Plaza 2400  
335 Adams Street  
Brooklyn, NY 11201

Honorable Ann Pfau, Chief Administrative Judge  
NYS Office of Court Administration  
25 Beaver Street  
New York, NY 10004

Honorable Joseph Luria, Family Court Administrator  
60 Lafayette Street, 11<sup>th</sup> Floor  
New York, NY 10013

Administrator Harriet Weinberger  
NYC Family Court 18-B Panel  
335 Adams Street Suite 2400  
Brooklyn, NY 11201

Committee on Judicial Conduct  
61 Broadway, 12<sup>th</sup> Floor  
New York, NY 10006

Dear Judges, Sir or Madam:

I am writing you today to complain about what I feel has been misconduct on the part of several members of the Bench and Bar. I have been the victim of several false complaints of child abuse, beginning May 1<sup>st</sup>, 2007. In connection therewith, the following members of the Bench and Bar have acted in a manner I believe inconsistent with their professional responsibilities, and I further believe that their actions not only constitute misconduct and abuses of discretion, but even rise to the level of criminal conduct in some cases. **Accordingly, I hereby request official permission to make recordings of all future proceedings.** References to some of the appropriate Disciplinary Rules of the Code of Professional Responsibility, (Part 1200,) and the Code of Judicial Conduct (as adopted by the NYSBA, which parallels NYCRR part 100,) are enclosed in square brackets[ ].

I also wish to complain about the court staff, who fill out

paperwork properly for other pro se parties all the time, but seemingly cannot do so properly, or sometimes even at all for me.

It is my further observation and opinion that there are rampant abuses in the Queens Family Court 18-B attorney program, their actions (and inaction,) in assigned cases and their assignment by the court.

Lastly, I wish to complain about the **Office of the Inspector General for Bias Matters division**, who on August 13<sup>th</sup>, told me that they will not get involved in the actions of a judge or court employees in connection with a court case, but rather were only concerned if a court employee had casually said something derogatory to me. If this is truly the case, I respectfully submit that their existence is a waste of our precious resources.

I will try to be brief herein, and I apologize for the length of this letter. I will forward some of my prior correspondence to you which contains pertinent information for your reference, and should be deemed incorporated by reference as if more fully set forth. **None of this prior correspondence has been acted upon by anyone in any material way to the best of my knowledge.**

On June 29<sup>th</sup>, 2007:

I appeared in Queens County Family Court and informed the clerk that my son had been taken from me, and that I wanted a hearing because I had been told many times by ACS that I had done nothing wrong, and because my children were placed in the custody of an unfit and mentally ill mother. Mr. McInerney told me that the judge was doing domestic violence cases that day, and that my case was not sufficiently important to get an audience with Judge McGowan. He told me I had to come back on Monday, July 2<sup>nd</sup>.

On July 2, 2007:

I arrived in Queens County Family Court and filed Petitions for Family Offense Violations against my wife and my sister, and for an Order of Temporary Custody of my children, and requested a hearing on the removal of my son from my custody. I appeared in court before **Judge Margaret McGowan** who immediately dismissed my Family Offense Petitions for failing to state a claim upon which relief may be granted. She did not allow me to speak much. I told her that I had been under investigation by ACS worker Elizabeth Rodriguez since the beginning of May, and had been told numerous times that I had done nothing wrong, and that the case was closed as unfounded. The judge then sarcastically asked me "Do you have that in writing?" I begged the judge to contact Mrs. Rodriguez, and provided her telephone number, at which time the court ordered an investigation. I then informed the judge that my children were being neglected by my wife who had illegally entered the country, and had a history of mental disorders for which she refused treatment and prescribed

medication. The judge then asked me how I knew that she neglected my children, and I told her that when they came to visit in April, I saw that my 7 year old daughter was severely under weight, and virtually unable to read or write, or speak in English. **Judge McGowan** then *screamed at me* for having not reported my wife to the authorities last April. The judge then appointed Deborah Garibaldi as 18-B Law Guardian for my children, and dismissed us from the courtroom. The court's removal of a child from a parent (based upon a statement that the petitioner cannot even make for lack of English ability,) without consulting sources of information readily at hand is unprofessional, irresponsible, and abusive of their discretion. Additionally, the court failed to comply with §116(f) of the Family Court Act. I was told that my petitions would be served upon my wife by the court. [CJC 2A

I spoke with ACS worker Elizabeth Rodriguez prior and subsequent to this occasion, and told her she had a professional responsibility to act in the best interest of the children. It is not in the best interest of the children to be taken from a good home and a parent who has done nothing wrong, nor to be denied visitation in my case, nor to fail to receive ordered health care. While she admittedly cannot control the courts, she has a professional responsibility to speak up when she sees the court take action contrary to the best interests of the children. She said it was not a problem of her causing, and she was not obliged to do anything about it. On July 17<sup>th</sup>, I wrote a letter to ACS Commissioner Mattingly (copy enclosed,) which resulted in some "buck passing," but no material action.

On July 20<sup>th</sup>, 2007:

I arrived at the Queens County Family Court, because on July 19<sup>th</sup>, I had received the official notification letter from NYS CFS stating that there was no credible evidence to support the charges in the complaint made with the Central Register on May 1<sup>st</sup>, 2007, and that the case was dismissed as unfounded. I now "had it in writing" as Judge McGowan requested, and filed with the court an OTSC and Petition for Modification of Order. The Papers were only half typed by the clerk's office, and had numerous errors and omissions. I appeared before **Referee Mildred Negron**, and requested my hearing. I tried to give her my letter from the State, and told her it was requested by Judge McGowan, but she refused to look at it. I pointed out the errors in my instant papers, she seemed to make them, and she adjourned the entire matter to August 1<sup>st</sup>. When the papers were given to me for service upon Ms. Zalaya, I saw that no changes were made to the defective originals. I called this to the clerk's attention, and after several more hours of delay, none of the corrections claimed to have been made by Referee Negron appeared in the court's copy, so clerk Kelly informed me that I had to serve them as they were.

On August 1<sup>st</sup>, 2007:

We appeared (Ms. Garibaldi arrives 3 ½ hours late without calling,) before **Judge Margaret McGowan** in the Queens County Family Court for return of process. She refused to look at the letter from NYS CFS stating that no credible evidence was found to support the charges made against me, which letter she had expressly requested of me. She was very confused by the multiple filings in the case. I pointed out that my wife had originally filed Petitions for Temporary Custody and Family Offense Violations, upon which Temporary Orders of Custody and Protection had been issued. I also informed her that there were Petitions for Custody and Family Offense Violations which I filed July 2<sup>nd</sup>, 2007, and pointed out that she had wrongfully dismissed my Family Offense Petition. (I explained that I have been working in courts and law offices for 20 years, and *knew* that my Family Offense Petition did not fail to state a claim. She asked me where it stated a claim and I pointed out several to her, at which time she granted my motion to restore my papers upon "a more complete reading." She had apparently only read the first page.) I further informed her of my OTSC and a Petition For Modification of Order which I filed July 20<sup>th</sup>. She asked if I had been served with my wife's Petitions, and found that I had not. She then asked if I served my previously filed papers upon Ms. Zalaya. I said that the court was to serve my papers filed July 2<sup>nd</sup>, and that I did not bother to serve my papers of July 20<sup>th</sup>, because they were improperly prepared and had many errors and omissions. Judge McGowan then made some of the necessary corrections to my papers of July 20<sup>th</sup>, and all parties conceded service of all papers. The case was adjourned to August 8<sup>th</sup>, and assigned to Judge Rhea Friedman in part 6.

On August 6<sup>th</sup>, I reported these events in greater detail to the Committee on Judicial Conduct, (copy enclosed.)

I asked Law Guardian Ms. Garibaldi whom she had spoken to with regard to determining what was in the best interest of the children, and she said that she had made a preliminary phone call to Dr. Benzaquen. My request to the court to remove Ms. Garibaldi as Law Guardian for her lack of action was ignored by the judge.

On August 8<sup>th</sup>, 2007

Ivette Zalaya, Esq., 18-B attorney for my wife, failed to come to the courthouse for the scheduled settlement conference and appearance before Judge Rhea Friedman, due to rain.

I saw my wife and children in the courthouse, my daughter told me that she wanted to have dinner with me and she wanted to speak with me on the phone. My wife stated to me that she did not want me to be isolated from the children, and that they could not call me because the cell phone that I provided for them ran out of

funds. I offered my wife money, which she refused. I gave my daughter \$40 to use for re activating the cell phone and calling me.

When we were called into the courtroom, my wife did not appear. I told the judge that I had seen her there earlier. *The attorney who appeared in place of Ms. Zalaya said that my wife had left the courthouse because she did not wish to appear without Ms. Zalaya.*

I told Judge Friedman that Judge McGowan asked for written confirmation that the case against me was unfounded, and I offered the court the letter I received from the State. The judge said that she had a copy, but that it was "merely a form letter," knowing fully well that such official letters are the only correspondence provided. Judge Friedman then asked me what the conclusion was with respect to the reports of child beating made to the State Central Register on June 26<sup>th</sup> and 28<sup>th</sup>. I pointed out that the judge well knew that it takes 60 days to close a case, and that time had not yet elapsed. All the while **Judge Friedman** had the COI and other independent information prepared subsequently to those complaints indicating the reports to be false. This action by Judge Friedman was deceptive, unfair and abusive of her discretion.

I respectfully pointed out to Judge Friedman that my rights to Due Process, which require a hearing that is meaningful in time and manner under the circumstances, pursuant to Matthews v. Eldridge, 424 US 319, had been violated insofar as I had still not had a hearing on the removal of my children. The judge sarcastically answered that she remembered Due Process from law school. I expressed my concern that my papers and statements had not been given the same consideration as those of my wife, and that my son was not receiving the medical treatment ordered May 4<sup>th</sup>, 2007. **Judge McGowan had no comment.**

**I further informed Judge Friedman that my wife was illegally in the country and collecting public assistance.** I informed the Judge that these actions against me were preemptive because my wife and daughter have lived in Mexico for the last seven years, that jurisdiction properly lies there, and that my wife was here to evade that jurisdiction because she knew I intended to secure a Court Order for custody of my daughter to live with me while attending school. I also informed the judge that she had a long history of mental disorders for which she refused treatment and prescribed medication, and that she had a history of neglecting the children's needs. The judge said she was unable to read the medical reports, even though the information was contained in the COI. I then provided the court and attorneys with the discharge orders from LIJ which clearly indicate that my son was to receive individual and family therapy and medication management, which

had not been complied with since his placement in my wife's custody by the court. **Judge Friedman took no action upon this,** other than to advise me not to call too many witnesses, because she was very busy. I do not believe that administrative convenience is a legitimate basis for the denial of my rights nor for her obvious failure to act in the best interests of my children. [CJC 2A, 3B1, 3B4, 3B6, 3B7]

I asked Judge Friedman to dismiss the Order of Protection because I have never been violent for so long as my wife has known me, and there was no rational basis for her claimed fear. Judge Friedman denied this dismissal because my wife was not present in the courtroom to confirm these facts, despite the fact that the COI also indicates no history of domestic violence, and contains my wife's statement that she has never seen me hit the children. I then asked the court to grant me visitation with my children. **18-B Law Guardian Deborah Garibaldi** objected to this, and stated that she likewise believed that my wife had left the building. Even though I told the judge that my wife had admitted to me that she told everyone that I had never hit the children, the judge denied me any visitation. I told the judge that I had been told by ACS caseworker Rodriguez on many occasions that I had done nothing wrong, but the judge said that Mrs. Rodriguez was not there to confirm this, so I could not have any visitation. (I asked if Mrs. Rodriguez' presence was requested since the same thing was told to me by Judge McGowan on August 1<sup>st</sup>, and was told that it was not.) I again requested a copy of the COI given to the court August 1<sup>st</sup>, which was denied, and the other attorneys were asked to submit their requests for redaction of material therefrom. I pointed out to the judge that this had already been requested of the attorneys by Judge McGowan during the appearance of August 1<sup>st</sup>, and should have already been done. I also objected to redaction of any material which would be considered by the court or parties under the confrontation clause of the Constitution, but the court disregarded my request and dismissed us from the courtroom. [DR 7-102, §1200.33a1, a7]

My departure from the courtroom was delayed for about a minute while I gathered up my materials and files. As I exited the courtroom, I observed Ms. Zalaya's stand-in attorney come out from the conference room immediately outside the courtroom, and I then observed my wife walk out of the conference room behind her. This was the same conference room where I had last seen my wife with the 18-B Law Guardian, **Ms. Garibaldi**. I immediately returned to the courtroom and reported that my wife had been hiding outside, but Judge Friedman had left the bench and the court officer threw me out of the courtroom. The other attorneys present in the courtroom were noticeably shocked. I have contacted Ms. Zalaya twice requesting identifying information for the stand-in attorney, (copy of written correspondence enclosed,) but have not received any response. This leads me to believe

that **Ms. Zalaya** had likely orchestrated this apparent **fraud upon the court**. I reported this to **Judge Friedman and Administrative Judge Stephen Bogacz** in writing on August 9<sup>th</sup> (*copy enclosed*.) As of this writing nothing has been done. [DR 7-102, §1200.33a1, a3, a5, a7; CJC 1, 2A, 3B3, 3B4]

On August 16<sup>th</sup>, 2007:

**Judge Rhea Friedman** did not allow me to make a scheduled appearance before her because she was too busy. **Ivette Zalaya**, (18-B attorney for my wife,) **Deborah Garibaldi**, (18-B law guardian for my children,) and I instead had to meet with her temporary law clerk, **Callie Kramer**. I requested that my wife be present for the scheduled settlement conference because Ms. Zalaya's actions were inconsistent with my wife's wishes which she expressed to me at the prior court date of August 8<sup>th</sup>. Ms. Zalaya refused, saying "I am her attorney, and I will speak for her." (It seems obvious that such behavior enables her to accumulate more hourly charges in the case taking unnecessary and unwarranted action.) I was finally provided with a partial copy of the Court Ordered Investigation (COI), with the children's statements and other material information redacted. [CJC 3B6a] I was told by Ms. Kramer that Judge Friedman had not yet reached a final decision on what information from the COI I would be provided with. (The sixth amendment is clear that I should be provided with all material which might possibly be considered by the court in my case and against which I might have to defend myself.) [CJC 2A]

I pointed out to Ms. Kramer that:

- 1) I had still not had any meaningful hearing upon the removal of my child from my home some eight weeks before; [CJC 3B6]
- 2) that I still had an Order of Protection against me despite the fact that I have never been violent, and that such Order was issued upon a statement that my wife is unable to make because she does not speak English;
- 3) that my own statements to the court in my papers filed July 2<sup>nd</sup> and July 20<sup>th</sup> had not been given the same consideration as my wife's hearsay statement; [CJC 3B4, 3B7]
- 4) that I was completely denied any visitation with my children;
- 5) that my rights to Due Process, Equal Protection of the Law and under the Confrontation Clause of the Constitution were being denied; [CJC 2A, 3B1] and
- 6) that I had filed an Order to Show Cause (OTSC) on July 20<sup>th</sup>, which was improperly prepared by court staff, then partially corrected in open Court by Judge McGowan on August 1<sup>st</sup>, (and for which attorneys Zalaya and Garibaldi acknowledged service that day,) and was made returnable August 8<sup>th</sup>, when nobody showed cause, and yet my relief sought was not granted. [CJC 3B7]

Ms. Kramer then consulted with the judge, who adjourned the case until October 25<sup>th</sup>, (some 17 weeks after the wrongful removal of

my child,) because the judge was too busy. In my opinion, this is an obvious dilatory tactic on the part of **Judge Friedman** to obtain "proper" jurisdiction over my wife and daughter, who have admittedly resided in Mexico for the last seven years. It is my further opinion that this constitutes a criminal violation of Title 8 USC §1324, since Judge Friedman is aware that my wife is illegally present in the USA. I believe that these actions likewise constitute misconduct and an abuse of Judge Friedman's discretion. [CJC 2A, 3B1, 3B6, 3B7]

The judge also converted my OTSC into a supplemental petition which would likewise be returnable on October 25<sup>th</sup>, because the court staff had "accidentally" put my relief requested in the Supporting Affidavit instead of the OTSC when preparing my documents. Ms. Kramer told me that I was free to file another OTSC if that was what I wanted.

I told **attorneys Zalaya** and **Garibaldi** that I wanted to see and speak to my children. They both stated that this was prohibited by the Temporary Order of protection, despite the fact that this is not the case, and they are fully aware of this. I am sure they are aware that this causes me to suffer severe emotional distress. I have written to Ms. Garibaldi, on August 13<sup>th</sup> providing contact information for persons with information pertaining to my wife, my children, and myself, our interrelationships, behavior, and fitness as parents, and again on August 22<sup>nd</sup>, to inquire as to what she has done in this case (copies enclosed.) Her written response to me (copy enclosed,) was that she essentially will do nothing, and that it is my fault because the valid authorizations I signed were not in the format she prefers. [DR 7-102, §1200.33a1]

I then returned to the Petition desk in the courthouse and asked to prepare a new OTSC as I was invited to do by Ms. Kramer. The clerk, **Mr. McInerney**, (who prepared my paperwork in defective fashion on July 20<sup>th</sup>,) gave me two Affidavit forms to fill out. I then prepared my supporting affidavit on one of the forms. On the other form, I filled out the relief I was requesting, crossed off the word "Affidavit," and wrote "Order to Show Cause" in its place. I filed these papers at 3:03 PM. Another clerk came out and told me that the Judge Friedman would not accept the papers because she had no time, and that the papers were defective in that the word "Affidavit" had been crossed out. I explained that I was trying to avoid the same problem which occurred with the last OTSC that they had prepared improperly for me. I then asked why my papers had not been typed and put into the proper form. I was told because the judge will not accept the papers unless I am willing to convert them into another supplemental petition to be returnable October 25<sup>th</sup>. I said that this was unacceptable, and that *the whole idea behind an OTSC was to get expedient relief.* I then showed the clerks the CPLR provision indicating an OTSC



can be returnable upon eight days notice, and said that this was what I wanted, and insisted that my papers be accepted. They then told me after another delay that Judge Friedman would give me an audience on them. I went into Judge Friedman's courtroom and waited. [CJC 3B7]

While waiting in the courtroom, I observed Judge Friedman preside over an ex-parte case where a woman and her elderly attorney with a white pony tail (18-B?) seeking an Order of Protection against her husband. The elderly attorney was unable to lay a proper foundation for photographs he wished to put into evidence. Judge Friedman then asked him if she could question the client. The Judge then proceeded to lay the foundation for the photo and admitted it into evidence. I feel the judge violated her ethical requirement of impartiality, particularly important in an ex-parte case, in order to accommodate the attorney's apparent incompetence. [CJC 3B4]

In a subsequent case before Judge Friedman, there was a man with four reports filed against him with the State Central Register for the sexual abuse of his three year old daughter. Two of the reports had been substantiated finding that he had showered with the girl and told her to touch his penis. He did not deny this. This man was granted visitation with his child in the absence of objection by the mother. I have not been granted any visitation despite the fact that I have been told by my ACS caseworker on numerous occasions that I have done nothing wrong, however Judge Friedman has not bothered to confirm this or ordered the caseworker to appear in court.

I was subsequently informed by the court officer that I should return to the first floor courtroom, where my case would be heard by **Referee Marilyn Moriber**. I went downstairs and waited until 7:15 PM when I was called to the courtroom. Ms. Moriber told me that she wanted to convert my OTSC to a supplemental petition to be returnable October 25<sup>th</sup>. I stated to her that I did not want that, and I wanted prompt decision of the issues as OTSC procedure provides for. She then said that I should have done so earlier in the day when opposing counsel Zalaya and Garibaldi were present. I told Ms. Moriber that at that time I did have a live OTSC, which was subsequently converted to a supplemental petition, and that I was invited to file another OTSC by Ms. Kramer. Referee Moriber then dismissed my OTSC, and refused to say why. I again feel that this was an abuse of discretion. [CJC 1, 2A, 3B4, 3B6, 3B7]

On August 21<sup>st</sup>, 2007:

I met with **Administrative Judge Stephen Bogacz's** court attorney, **Ms. Muskus**, to inquire about what action he had taken with regard to my complaint letter (copy enclosed,) sent to him by fax on August 9<sup>th</sup>. She acknowledged that he had received my letter, but

had not yet read it because he was too busy. I also informed her that the inducement of an illegal alien to remain in this country was a criminal offense under title 8 of the United States Code. [CJC 2A, 3B1, 3B7]

On August 23<sup>rd</sup>, 2007:

I attended the Queens Family Court to assist some longtime family friends (Borriello,) in a case unrelated to my own, where a false and meritless Family Offense Petition was filed seeking an Order of Protection. The worst of the false allegations was that Respondent said "Bye Bitch" to a third party. **Judge Margaret McGowan** recognized the Petition to fail to state a claim, yet nonetheless assigned 18-B counsel to both sides, who then requested a trial. The Judge began her selection of the next appearance date. I then advised the Respondent to tell her lawyer to move for a dismissal. Such motion was made, and granted by the Court. Both assigned attorneys were noticeably distressed, presumably at their loss of potentially billable hours working on an obviously meritless case. [CJC 3B7]

In conclusion, through the course of this nightmare, I have encountered nothing but unprofessional and irresponsible behavior on the part of judges, referees, attorneys and members of state and city agencies. This also includes the following persons, who have done nothing, and overwhelmingly do not even have the common courtesy to return telephone calls:

NYC ACS

Rebecca Martins, Claudette Bravo HoSang, Ms. Clark, Nelson Algarin, Sonia Michel, Taryen Davidson, Ms. Elder, Ms. Levine;

NYS CFS

Yvonne McNeil, Brenda Smalls, Linda C. Brown

Indeed, this paints a picture of the wholesale malfunctioning of government, its agencies and programs. This results in the waste of untold millions of dollars, the denial of the rights of innocent people, and in no way serves the claimed objective of the best interests of the children. **Investigative and disciplinary measures are believed to be in order, and are hereby requested.**

Respectfully submitted,

Ike Aruti, Esq.