

# THE STATE OF NEW HAMPSHIRE

MERRIMACK COUNTY, SS.

6<sup>TH</sup> CIRCUIT FAMILY DIVISION – HOOKSETT

*In The Matter Of:*

*Joshua F. Youssef and Bethany Youssef*

Docket No.: 05-M-955

## **AFFIDAVIT OF TRUTH OF JOSHUA F. YOUSSEF**

*to*

### **CORRECT FALSE STATEMENTS** **OF MARITAL MASTER NANCY J. GEIGER**

*in*

### **OCT. 14<sup>TH</sup>, 2011 RECUSAL ORDER**

NOW COMES Joshua F. Youssef, *In Propria Persona* ("Petitioner"), and hereby files this affidavit.

Petitioner brings the facts:

1. My name is Joshua F. Youssef. I am thirty-five years of age. I am of sound mind and competent to testify and state the following in correction of the false statements made by Marital Master Nancy J. Geiger (hereinafter, "MM") in the order that she authored dated Oct. 14<sup>th</sup>, 2011 which was signed by Judge Edwin Kelly.
2. In the Court's recusal order of Oct. 14<sup>th</sup>, 2011, the recommending MM made numerous commentary statements which are untrue and are unsupported by the evidence and thus, cannot be established as fact on the record. A judicial official making a statement on the record is not sufficient to establish fact. Statements must be supported by evidence.

3. I incorporate herein by reference, my Emergency Objection dated Aug. 29<sup>th</sup>, 2011, filed with this Court, as well as all motions, objections, replies, affidavits, and other pleadings filed in support of my position.
4. **At p.2, ¶ 2 (opening sentence) order states:**

*“This Marital Master issued an Order dated February 11, 2011 which was based in part on information from the Portsmouth Hospital, on the recommendation of the Guardian ad Litem, which included information from Luke’s counselor, Dr. Jackson, and on arguments made at the February 11, 2011 hearing.”*

The Feb. 11<sup>th</sup>, 2011 hearing was not properly noticed that my parental rights and responsibilities would be impacted as a result of the hearing. The hearing was improperly conducted as offers of proof, was not conducted as an evidentiary hearing and the foregoing statement of the MM is the *prima facie* proof that the Court relied on information that MM Nancy Geiger denied me the right to challenge – pursuant to my right to meet the witnesses against me face to face. Therefore it is only upon hearsay that the MM based her unlawful modification and abrogation of my parental rights and responsibilities and visitation with my son Luke. The Court unlawfully modified the July 2006 final parenting plan.

Furthermore, the representative(s) from the Portsmouth Hospital who authored the “information,” that the Court relied upon, as well as Dr. Jackson, were *both not present* in the courtroom for cross examination at the 2/11/11 hearing. The presiding MM failed to preserve the integrity of the Court by conducting an improper hearing and *then* made improper recommendations for orders that were unlawful for at least the reasons set forth in my Emergency Objection of Aug. 29<sup>th</sup>, 2011.

5. **At p.2, ¶ 2 (closing sentence) order states:**

*"...there was no Motion for Reconsideration filed relative to the February 11, 2011 Order involving parenting issues which he has later alleged violated his constitutional rights."*

I object to the depraved notion that my inalienable rights and due process of law (which the Court knowingly and willfully deprived me of on Feb. 11<sup>th</sup>, 2011) can somehow suddenly become "alienable" by the misconduct of the presiding MM and her collusion with other judicial officers, which I have copiously documented throughout the extensive record of this case.

6. Furthermore, rights secured by the Constitution are not time-barred and nor are they subject to "expiration." Deprivation thereof can be the subject of redress at any time.

Among those protected are the rights to notice-reasonably-calculated that the hearing subject matter was to modify a long-standing parenting plan, to present evidence and witnesses, to examine and cross-examine witnesses in a full evidentiary hearing, and to be afforded sufficient time so as not to be rushed to judgment, and to be provided equal time at trial. The non-existent evidence was the keystone to the underlying judgment made on Feb. 11<sup>th</sup>, 2011. The court denying me these rights undermines the unlawful order of Feb 11<sup>th</sup>, 2011. I have demanded all of my rights at all times, not waiving any of my rights at any time. I demand that this Court vacate the Feb. 11<sup>th</sup>. 2011 order.

7. **At p.2, ¶¶ 3, 4 of order:** The Court relies on the notion that the parties "agreed to the employment of a fourth therapist." I object to this construction on multiple grounds.

First, the elements of a contract have not been met. My withdrawal of the offer nullified any would-be "agreement," and absolutely no performance was ever made on this supposed "contract." The "agreement" was void before it was ever consummated.

The Court cannot compel me to enter a contract and may not hold my son ransom from

me against payment to anyone. Furthermore, after becoming aware that I was ill-advised by my incompetent attorneys, Christopher J. Poulin and Tracy McGraw, I promptly notified the Court of my objection to the fourth therapist and withdrew my offer to pay for such an arbiter. The Court has no authority to condition rights on arbitration, as the N.H. Legislature has not conferred such authority upon the Court.

8. After numerous months elapsed, the Court attempted at a resolution to the problem of visitation by ordering partial reunification. However, in acquiescence to Attorney Mosca's thinly veiled and incorrect legal argument, the Court quickly recanted the reunification by staying the order. As a result, this Court created a complex and messy web of litigation which ensued involving multiple continuances, hearing cancellations, and finally the subject "recusal order," which, though recusal is absolutely appropriate, attempts to somehow "blame" *me* for being the reason that I have not been reunified with my son. That is a farcical notion and I object to the same. This Court never had the authority to enter the order of Feb. 11<sup>th</sup>, 2011 in the first place. It is only by judicial misconduct, maladministration, and the abject negligence of the presiding MM and her signing judges that this debacle of family destruction and civil rights violations was created in the first place – by improper order of Feb. 11<sup>th</sup>, 2011. I take absolutely no responsibility for the mistakes made by the legal and judicial "professionals."
9. I hold the MM and her signing judges, as well as the GAL Tracy A. Bernson personally and professionally responsible. I am also well-apprised of the recent U.S. District Court opinion in Goldblatt v. Geiger, 2011 U.S. Dist. LEXIS 39295 (2011) and in consideration thereof the appropriate venue for redress of grievances against the misconduct of judicial officials is the N.H. General Court, Redress of Grievance Committee for public impeachment and removal of those named.

10. At p.4, ¶ 1 order states:

*“After considering this exchange at the end of the October 3, 2011 hearing, it is clear that because he was unhappy and dissatisfied with the legal representation he received from his prior attorneys, Joshua F. Youssef is aggressively trying to remove from office three circuit court judges and this Marital Master. But trying to impeach these judicial officers because of disputes with and dissatisfaction with his attorneys is unconscionable. Whatever this Marital Master does in this case will be questioned by Joshua F. Youssef and most likely added to his "case" against her.”*

I object to this statement as false and it is simply the MM implying as fact, the biased opinions of the biased MM who has recused herself – this is a self-fulfilling prophecy and a closed-circuit of bias. This statement by the recused MM is her attempt to insulate the named judicial officers from accountability, liability, impeachment, and removal.

It is a true statement that I am dissatisfied with the legal representation I received. However, it is a false statement that it is for that reason that I am *“aggressively trying to remove from office three circuit court judges and this Marital Master.”* My pursuit of impeachment and removal of the indicted judicial officers is only the result of the misconduct of those judicial officers who have colluded and conspired in perpetrating fraud upon me and to deprive me of my rights. Clearly the biased former MM Nancy J. Geiger recused herself out of fear of prosecution.

There is absolutely no link between Petitioner’s dissatisfaction with his former legal representation *and* his pursuit of impeachment and removal. Though suggested by MM Geiger in her order, **this is not a case of a “mad dad” who is simply dissatisfied with orders of the Court.**

This is, however, a case of a fit parent who was:

- i. Denied due process and equal protection of the law in tens, if not a hundred specific instances since Feb. 11<sup>th</sup>, 2011,
- ii. Falsely accused
- iii. Cleared of all false allegations
- iv. Never charged with abuse or neglect
- v. Never declared unfit
- vi. Stripped of parental rights and responsibilities without proper notice in an improperly conducted hearing by a marital master who knowingly and willingly relied upon the fraudulent hearsay testimony which she admitted as is reproduced in ¶4 above.

The record supports this enumerated list. This Court (specifically MM Nancy J. Geiger, Judge Brackett L. Scheffey, and Judge Edward M. Gordon) through its improper orders, judicial misconduct, and completely ignoring the law, has destroyed my family and neglected my son and *his own very rights*, by means of its maladministration, gross negligence, and ultimately, judicial child abuse. This long-standing pattern of abuse reeks of judicial collusion and conspiracy to deprive me of my rights.

11. **At p.4, ¶ 3 order states:**

*“His father engaged in behavior which caused anxiety for [REDACTED] and which has had a detrimental effect upon Luke’s wellbeing.”*

12. As the record reflects, and as the authoring MM fully knows, this statement is untrue and is unsupported by the evidence in the record. It was manufactured by the MM and the GAL. Where the fallacy specifically lives, is immediately after the word “*which*” in the MM’s scapegoat commentary reproduced above. There is no expert testimony that creates the “but for” causation between a six year old showering with his father and the alleged “anxiety.” In fact, on the contrary, [REDACTED] psychologist, Dr. Jackson testified that it is not inappropriate for a six year-old child to shower with his son.

13. No forensic psychological evaluation was ever recommended by the MM or ordered by the Court or conducted to determine if this absurd statement of the MM is even true.

**The MM must be accountable to the evidence – and there is no evidence to support her statements.**

14. [REDACTED] was indeed taken to the emergency room by his mother. This was a “silver bullet” set-up to manufacture “evidence” against me. Contrary to the parenting plan directive, Bethany did not notify me that Luke was in the emergency room, but instead notified the GAL, Tracy A. Bernson. Neither did Bernson notify me that my son was in the emergency room.

15. As the record reflects [REDACTED] was not treated for “anxiety” by the attending physician, and he received no subsequent medical treatment for “anxiety.” Based on the records in evidence, [REDACTED] received no medication for anxiety either.

16. However, even if [REDACTED] had received treatment for anxiety, **there is absolutely no expert testimony that forensically links the “anxiety” to the nebulous showering accusations that had not even occurred in at least the two months prior to the emergency room visit.** It is only by the hearsay that was proffered by the former GAL which was based on no actual concrete facts (as the record indicates), that MM Nancy J. Geiger relied upon when she effectively terminated my parental rights in her unlawful and abusive order (abusive not only of me, but abusive of Luke as well).

17. Marital Master Nancy J. Geiger has absolutely no facts established in the record upon which to rely when she states in her recommendation that [REDACTED]’s wellbeing was compromised. This is more judicial misconduct, established by the very author of the order herself.

18. It is clear from the extensive record of this case that [REDACTED] was stripped from **his father, a fit parent**, because “somebody” said that [REDACTED] was “anxious” about “something.” A child allegedly having anxiety is not legally sufficient grounds to effectively terminate the relationship between a parent and a child or even to remove a child from his fit parent. Furthermore, nobody knows if it is even true that he was anxious, and what the alleged “anxiety” was even about.

19. I wish to note and remind the Court that a GAL was appointed as a “neutral” fact-finder, not an expert on psychological conditions and any extra percipient testimony about psychological matters which was proffered by the GAL must be stricken. She is not qualified to make psychological determinations.

20. The “best interest” standard is a legal standard and must be supported by evidence.

No evidence exists.

21. It is glaringly obvious that the Court, *sub silentio*, deviated from the legal “best interest” standard, favoring a “psychological standard.” The Court’s determination is not even supported by a single qualified expert in the field of psychology.

22. Also I testify that the GAL Tracy A. Bernson never interviewed me or [REDACTED] while [REDACTED] was with me or in my care. She never observed the parent-child relationship between [REDACTED] and me – never. This is an obvious case of biased, lopsided fact-finding.

23. At p.4, ¶ 3 order states:

*“Unfortunately, Joshua Youssef is dissatisfied with the decisions made by this Marital Master. At the October 3, 2011 hearing, he acknowledged that he is trying to have this Marital Master and three Circuit Court Judges removed from office. He is doing so in large part because he disagrees with an Order which he, through his attorneys, demanded.” (Emphasis Added)*



The emphasized portion of this statement is yet another knowingly untrue statement made by the authoring MM Nancy Geiger. It is merely her conjecture that I am “*doing so in large part because he disagrees with an order...*” Again the “but for” causation has not been established and the MM has admitted to the record as evidence, and knowingly relied upon false information and has conspired with the signing judges to deprive me of my rights.

I testify to correct the record by stating that I am not taking any action, in any way as a direct result of dissatisfaction with decisions of the MM, even though her unlawful and revolting misconduct certainly *is* worthy of dissatisfaction.

To clarify: I pursue impeachment and removal for very simple reasons: MM Nancy J. Geiger and her signing judges have destroyed my family and my relationship with my son by:

- i. Possessing bias and prejudice against me and for failing to recuse themselves *sua sponte*,
- ii. Then, acting upon bias against me,
- iii. Denying me due process, equal protection, and numerous other rights in in tens, if not a hundred instances, contrary to well-established law,
- iv. Neglecting my son’s rights and issuing orders that abridge *his* own rights, and force him to endure psychological harm,
- v. Committing fraud and collusion to deprive me of my rights which led to the practicable denial of my rights,
- vi. Committing widespread judicial misconduct by knowingly and willingly ignoring:
  - a. Supreme Court Judicial Canons
  - b. Rules of the Family Division of the N.H. Circuit Court
  - c. Rules of civil procedure
  - d. Rules of evidence, even relaxed rules of evidence
  - e. New Hampshire Legislative statutes
  - f. *Stare decisis* of both the state and federal Supreme Courts
  - g. Maxims of equity
  - h. Well-settled principles of American Jurisprudence.
  - i. Ethical practices of clinical psychology

Simply put, those are some of my bases for seeking redress of grievance. Each one of these bases is provable by clear and convincing evidence by the extensive record of the instant case, the testimony of witnesses who were present at hearings, hearing transcripts, as well as the written narratives of this very MM Nancy J. Geiger and her signing judges. All of the violations I have endured, and continue to endure, as listed above were noticed to the court by me in a plentitude of pleadings and Court filings, and thus, the judicial officers whose signatures appear on the orders have been well-apprised for an extensive period of time in advance – but nevertheless, they still created unlawful orders and perpetrated fraud against me.

In spite of my repeatedly showing and proving to the Court that it has the authority to grant relief, the Court denied me relief over and over again, or simply left my pleading unaddressed. Thus, the abuse continues.

24. I intend to reference numerous documents from within my case file Hooksett 05-M-955 in future judicial and legislative proceedings, and as such, I expect that my court record, files, documents, hearing tapes & recordings, and all other evidence, etc. will be handled with the utmost care by the custodians and judicial officials, and that its integrity be duly preserved so as not to create any “sudden” or “accidental” record integrity “problems” such as documents turning up missing or damaged, or hearing tapes “suddenly” becoming inaudible or “accidentally” unavailable.

25. By way of reminder, N.H. House Resolution 7 (HR7) reads:

*“A RESOLUTION directing the house judiciary committee to investigate whether grounds exist to impeach marital master Phillip Cross and/or **any justice of the New Hampshire superior court.**” (Emphasis Added)*

26. This affidavit has been filed with the N.H. Circuit Court, 6<sup>th</sup> Circuit, Hooksett Family

Division under docket number 05-M-955, and copies have been provided to:

- **Bill Sponsor:** Rep. Robert Luther
- **House Redress Committee:** Hon. Rep. Paul Ingbretson, chairman, Hon. Rep. Robert Willette, vice chairman, Hon. Rep.'s Susan Emerson, Randall Brownrigg, Harry Hardwick, James Waddell, Jennifer Daler, Tony Soltani, Norma Champagne, George Lambert, Sandra Keans, Timothy Horrigan, Kevin Avard, Brian Chrichiello, Charles Moore, Patrick Garrity, Steven Lindsey
- **House Rules Committee:** Hon. Rep. William O'Brien, chairman & Speaker of the House of Representatives, Hon. Rep. Pamela Tucker, vice chairman, Hon. Rep.'s David Bettencourt, Kenneth Weyler, Mary Jane Wallner, Gene Chandler, Stephen Stepanek, Peter Silva, Terie Norelli
- **House Judiciary Committee:** Hon. Robert Rowe, chairman, Hon. Gregory Sorg, vice chairman, Kathleen Souza, Donald Andolina, Donald McClarren, Norman Tregenza, Lucy Weber, Joseph Hagan, J. Brandon Giuda, Brian Murphy, Janet Wall, Rick Watrous, Peter Silva, Paul LaCasse, Barry Palmer, Frances Potter
- **House Children and Family Law Committee:** Hon. Edward Moran, chairman, Hon. Edith Hogan, vice chairman, Hon. Rep.'s Julie Brown, Debra DeSimone, Connie Soucy, David Robbins, Patricia Lovejoy, Carolyn Gargas, Phyllis Katsakiores, Amy Perkins, Anne Grassie, Marjorie Potter, Patricia Dowling, Marie Sapienza, Jeffrey Oligny, Franklin Gould
- **HR7 Co-Sponsors:** Hon. Rep. Daniel Itse, Rep.'s Baldasaro, Seidel
- Counsel for Bethany J. Youssef, Edward C. Mosca
- Counsel for Intervenors, Carolyn Garvey

I, Joshua F. Youssef, being first sworn, hereby affirm that to my knowledge and belief up to and including the date and time of the signing of this affidavit, that the foregoing is true and accurate.

10/24/2011  
Date

Joshua F. Youssef

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(603)520-1400

NOTARY PUBLIC / JUSTICE OF THE PEACE



10/24/11  
Date

*Patricia S. Rhodes*

Notary Public / Justice of the Peace Signature