

**UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
Charlottesville Division**

ELIZABETH SINES, SETH WISPELWEY,  
MARISSA BLAIR, APRIL MUNIZ,  
MARCUS MARTIN, NATALIE ROMERO,  
CHELSEA ALVARADO, JOHN DOE, and  
THOMAS BAKER,

Plaintiffs,

v.

JASON KESSLER, RICHARD SPENCER,  
CHRISTOPHER CANTWELL, JAMES  
ALEX FIELDS, JR., VANGUARD  
AMERICA, ANDREW ANGLIN,  
MOONBASE HOLDINGS, LLC, ROBERT  
“AZZMADOR” RAY, NATHAN DAMIGO,  
ELLIOT KLINE a/k/a/ ELI MOSLEY,  
IDENTITY EVROPA, MATTHEW  
HEIMBACH, MATTHEW PARROTT a/k/a  
DAVID MATTHEW PARROTT,  
TRADITIONALIST WORKER PARTY,  
MICHAEL HILL, MICHAEL TUBBS,  
LEAGUE OF THE SOUTH, JEFF SCHOEP,  
NATIONAL SOCIALIST MOVEMENT,  
NATIONALIST FRONT, AUGUSTUS SOL  
INVICTUS, FRATERNAL ORDER OF THE  
ALT-KNIGHTS, MICHAEL “ENOCHE”  
PEINOVICH, LOYAL WHITE KNIGHTS OF  
THE KU KLUX KLAN, and EAST COAST  
KNIGHTS OF THE KU KLUX KLAN a/k/a  
EAST COAST KNIGHTS OF THE TRUE  
INVISIBLE EMPIRE,

Defendants.

**Civil Action No. 3:17-cv-00072-NKM**

**JURY TRIAL DEMANDED**

**PLAINTIFFS’ RESPONSE TO MOTION TO WITHDRAW AS ATTORNEY FOR  
DEFENDANT RICHARD B. SPENCER**

We are writing the Court to supplement the factual record with information we recently learned regarding the pending motion to withdraw filed by Defendant Richard Spencer's attorney, John DiNucci ("the Motion"). More specifically, as described further below, on May 19, 2020, several weeks before the June 11 hearing concerning the Motion in this case, a court in Montana held Mr. Spencer in contempt for his persistent refusal to pay tens of thousands of dollars of court-ordered fees he owes to the Guardian ad Litem (the "GAL") who represented his children in his recent divorce proceeding. Indeed, while Mr. Spencer expressed optimism to Your Honor on June 11 regarding his ability to satisfy his financial obligations to Mr. DiNucci by raising money, Mr. Spencer took a decidedly different tack during the May contempt hearing in Montana: "Well, indigent is indigent[.]" he told the Montana court. "I can't invent money of out thin air[.]" Ex. A., Partial Transcript of May 19, 2020 Hearing, DR-18-474C, Montana Eleventh Judicial District Court, Flathead County at 11-13, 8. Mr. Spencer's legal and financial situation stemming from the proceedings in Montana, as well as the inconsistent representations he made to that court, bear directly on the issues before the Court in connection with the Motion.

\* \* \*

As Your Honor is aware, Mr. DiNucci moved to withdraw from representing Mr. Spencer on May 15, 2020. (Doc. No. 727.) A hearing was held on the Motion on June 11, which centered largely on Mr. Spencer's ability to satisfy his legal obligations to Mr. DiNucci. At the hearing, Mr. DiNucci explained that Mr. Spencer owes him a "substantial sum of money." (Doc. No. 767 at 12-15, 5.) Mr. DiNucci stated that he told Mr. Spencer as early as January of this year that if Mr. Spencer was unable to fulfill his financial obligations, Mr. DiNucci would move to withdraw. (*Id.* at 9-12, 5.) Mr. Spencer told the Court that he understood the costs Mr. DiNucci would incur in preparing for and defending him at trial, and that he expected he would have a way to pay Mr. DiNucci soon. (*Id.* at 6-18, 10.) When the Court pressed Mr. Spencer about

whether he “actually ha[s] a viable plan to be able to pay Mr. DiNucci for the work he’s already performed,” Mr. Spencer said that he did. (*Id.* at 11-14, 15.) He said, “in terms of my ability to raise money, I don’t think that can be put into question.” (*Id.* at 16.) The Court agreed to take the Motion under advisement and asked Mr. DiNucci to advise the Court in one week whether he wants to withdraw the Motion. (*Id.* at 12-17, 18.)<sup>1</sup>

Subsequent to the June 11 hearing, Plaintiffs recently learned that Mr. DiNucci is not the only attorney owed substantial sums by Mr. Spencer. Mr. Spencer was recently held in contempt in Montana for his failure to pay court-ordered fees to the GAL who represented his children in his recent divorce proceeding. Mr. Spencer owes the GAL, Joyce Funda, more than \$60,000 for work that she finished in December 2019. Ex. B, Order to Show Cause, January 8, 2020, DR-18-474C at 9. After giving Mr. Spencer more than a year to pay his outstanding debt, Ms. Funda filed an Order to Show Cause why Mr. Spencer should not be held in contempt for his failure to pay her court-ordered fees (the “OSC”). In the OSC, Ms. Funda noted that the court that appointed Ms. Funda as GAL ordered Mr. Spencer to pay her fees. Ex. B at 8. In an affidavit in support of the OSC, Ms. Funda noted that she asked Mr. Spencer to pay her multiple times before filing the OSC, but that Mr. Spencer refused to pay his outstanding fees. Ex. B at 8-9. Ms. Funda noted that when she last discussed Mr. Spencer’s debt with him on the telephone, he told her that he would “never, ever” pay her. *Id.* at 10.

On May 19, 2020, the Montana court deciding Ms. Funda’s OSC (the “Montana Court”) held a hearing where Ms. Funda and Mr. Spencer appeared. Ex. A. During the hearing, Mr.

---

<sup>1</sup> Mr. DiNucci has advised the Court today that he does not wish to withdraw the Motion.

Spencer repeatedly represented, in no uncertain terms, that he has no ability to pay Ms. Funda. *See e.g.*, Ex. A at 11-13, 8 (“Well, indigent is indigent. I can’t invent money of out thin air”); Ex. A at 13-16, 9 (“Well, then what’s the point of filing a motion? I mean, I just – like if there’s no money to pay [Ms. Funda] . . . . So this is all rather academic”); Ex. A at 7-10, 6 (“I cannot afford a lawyer”). The Montana Court gave Mr. Spencer one month to purge the contempt by paying or developing a payment plan to pay his outstanding fees to Ms. Funda. Ex. A at 1-8, 4. The Montana Court further ordered that Mr. Spencer serve a 14-day jail sentence and pay a \$500 fine should he fail to purge himself of the contempt. *Id.* Mr. Spencer indicated that he would file a motion within fourteen days asserting that he is indigent. Ex. A at 22-25, 6; 1-10, 7; 23-25, 8; 1-3, 9. As far as Plaintiffs are aware, Mr. Spencer also has neither filed a motion in response to the OSC in the Montana Court nor purged himself of the contempt.

Plaintiffs believe Mr. Spencer’s significant outstanding debt to Ms. Funda, his repeated representations of indigency to the Montana Court, as well as the potential impending jail sentence are relevant to the issues before the Court on the Motion.

Date: June 18, 2020

Respectfully submitted,

/s/  
Robert T. Cahill (VSB 38562)  
COOLEY LLP  
11951 Freedom Drive, 14th Floor  
Reston, VA 20190-5656  
Telephone: (703) 456-8000  
Fax: (703) 456-8100  
rcahill@cooley.com

*Counsel for Plaintiffs*

Of Counsel:

Roberta A. Kaplan (*pro hac vice*)  
Julie E. Fink (*pro hac vice*)  
Gabrielle E. Tenzer (*pro hac vice*)  
Michael L. Bloch (*pro hac vice*)  
KAPLAN HECKER & FINK LLP  
350 Fifth Avenue, Suite 7110  
New York, NY 10118  
Telephone: (212) 763-0883  
rkaplan@kaplanhecker.com  
jfink@kaplanhecker.com  
gtenzer@kaplanhecker.com  
mbloch@kaplanhecker.com

Yotam Barkai (*pro hac vice*)  
BOIES SCHILLER FLEXNER LLP  
55 Hudson Yards  
New York, NY 10001  
Telephone: (212) 446-2300  
Fax: (212) 446-2350  
ybarkai@bsfllp.com

David E. Mills (*pro hac vice*)  
Joshua M. Siegel (VSB 73416)  
COOLEY LLP  
1299 Pennsylvania Avenue, NW  
Suite 700  
Washington, DC 20004  
Telephone: (202) 842-7800  
Fax: (202) 842-7899  
dmills@cooley.com  
jsiegel@cooley.com

Karen L. Dunn (*pro hac vice*)  
William A. Isaacson (*pro hac vice*)  
Jessica Phillips (*pro hac vice*)  
BOIES SCHILLER FLEXNER LLP  
1401 New York Ave, NW  
Washington, DC 20005  
Telephone: (202) 237-2727  
Fax: (202) 237-6131  
kdunn@bsfllp.com  
wisaacson@bsfllp.com  
jphillips@bsfllp.com

Alan Levine (*pro hac vice*)  
Philip Bowman (*pro hac vice*)  
COOLEY LLP  
1114 Avenue of the Americas, 46th Floor  
New York, NY 10036  
Telephone: (212) 479-6260  
Fax: (212) 479-6275  
alevine@cooley.com  
pbowman@cooley.com

J. Benjamin Rottenborn (VSB 84796)  
WOODS ROGERS PLC  
10 South Jefferson St., Suite 1400  
Roanoke, VA 24011  
Telephone: (540) 983-7600  
Fax: (540) 983-7711  
brottenborn@woodsrogers.com

*Counsel for Plaintiffs*

### CERTIFICATE OF SERVICE

I hereby certify that on June 18, 2020, I filed the foregoing with the Clerk of Court through the CM/ECF system, which will send a notice of electronic filing to:

Justin Saunders Gravatt  
David L. Hauck  
David L. Campbell  
Duane, Hauck, Davis & Gravatt, P.C.  
100 West Franklin Street, Suite 100  
Richmond, VA 23220  
jgravatt@dhdglaw.com  
dhauck@dhdglaw.com  
dcampbell@dhdglaw.com

*Counsel for Defendant James A. Fields, Jr.*

Elmer Woodard  
5661 US Hwy 29  
Blairs, VA 24527  
isuecrooks@comcast.net

James E. Kolenich  
Kolenich Law Office  
9435 Waterstone Blvd. #140  
Cincinnati, OH 45249  
jek318@gmail.com

*Counsel for Defendants Matthew Parrott,  
Traditionalist Worker Party, Jason Kessler,  
Nathan Damigo, and Identity Europa, Inc.  
(Identity Evropa)*

Bryan Jones  
106 W. South St., Suite 211  
Charlottesville, VA 22902  
bryan@bjoneslegal.com

*Counsel for Defendants Michael Hill,  
Michael Tubbs, and League of the South*

John A. DiNucci  
Law Office of John A. DiNucci  
8180 Greensboro Drive, Suite 1150  
McLean, VA 22102  
dinuccilaw@outlook.com

*Counsel for Defendant Richard Spencer*

William Edward ReBrook , IV  
The Rebrook Law Office  
6013 Clerkenwell Court  
Burke, VA 22015  
edward@rebrooklaw.com

*Counsel for Defendants Jeff Schoep, National  
Socialist Movement, and Nationalist Front*

I further hereby certify that on June 18, 2020, I also served the following non-ECF participants, via electronic mail, as follows:

Elliot Kline  
eli.f.mosley@gmail.com

Matthew Heimbach  
matthew.w.heimbach@gmail.com

Robert Ray  
azzmador@gmail.com

Christopher Cantwell  
christopher.cantwell@gmail.com

Vanguard America  
c/o Dillon Hopper  
dillon\_hopper@protonmail.com

/s/

Robert T. Cahill (VSB 38562)  
COOLEY LLP  
11951 Freedom Drive, 14th Floor  
Reston, VA 20190-5656  
Telephone: (703) 456-8000  
Fax: (703) 456-8100  
rcahill@cooley.com

*Counsel for Plaintiffs*

# EXHIBIT A



1 MONTANA ELEVENTH JUDICIAL DISTRICT COURT

2 FLATHEAD COUNTY

3 Cause No. DR-18-474 (C)

4 .....  
5

6 NINA KOUPRIIANOVA,

7 Petitioner,

8 and

9 RICHARD B. SPENCER,

10 Respondent.  
11

12 .....  
13

14 PARTIAL TRANSCRIPT OF PROCEEDINGS  
15 {Court's Ruling}

16  
17 Before the Honorable Heidi J. Ulbricht

18  
19 Tuesday, May 19, 2020

20  
21  
22 Flathead County Justice Center  
23 920 South Main • Kalispell, Montana 59901

24  
25 Reported by Nancy Skurvid, RPR  
Official Court Reporter

APPEARANCES

ON BEHALF OF PETITIONER:

AUTUMN THOMPSON, ESQ.  
Thompson & Steigerwalt, PLLC  
234 East Pine Street  
Missoula, Montana 59802

RESPONDENT RICHARD SPENCER  
Appeared Pro Se

JOYCE FUNDA, J.D.  
P.O. Box 156  
Rollins, Montana 59931  
Jfunda@joycefunda.com

1 PROCEEDINGS ~ 1:56 P.M.

2 THE COURT: You may have a seat.

3 (Court initiates JVN connection to  
4 Ms. Thompson.)

5 THE COURT: And Ms. Thompson, can  
6 you hear me all right?

7 MS. THOMPSON: I can.

8 THE COURT: All right. The  
9 Court, then, has had an opportunity to hear  
10 the initial arguments today and review the  
11 Register of Actions.

12 And so the Court, in Court Document  
13 No. 5, did issue an Order, pursuant to the  
14 stipulation of Nina and Richard, appointing  
15 Joyce Funda as GAL and that, pursuant to the  
16 stipulation, Richard did agree to be  
17 personally responsible for the GAL fees.

18 Richard has not filed a motion in  
19 this case challenging Joyce Funda's amount of  
20 her GAL fees, the allocation of the fees, or  
21 the reasonableness of the fees.

22 In Court Document 102, Joyce Funda  
23 did file an Affidavit in regards to the  
24 contempt, and it is undisputed that Richard  
25 has not paid Joyce Funda.

1           The Court will find Mr. Spencer in  
2     contempt. The contempt will be a \$500 fine  
3     and 14 days in jail.

4           Mr. Spencer can purge that contempt  
5     by entering into a payment plan with Joyce  
6     Funda on or before June 20th. And that  
7     payment plan, then, would establish a time  
8     certain and payment of certain fees.

9           If Mr. Spencer fails to do that, then  
10    the contempt -- the \$500 and 14 days would be  
11    enforced. And then Ms. Funda, in order to  
12    enforce the monetary amount, would need to sue  
13    individually for a civil judgment in this  
14    case.

15           Any clarification questions,  
16    Ms. Funda?

17           MS. FUNDA: No, Your Honor. I  
18    was doing legal research on my phone while you  
19    were in there, and it's not relevant at this  
20    point.

21           No, I have no questions.

22           THE COURT: Okay.

23           MS FUNDA: Well, I do. Who  
24    submits the order? Me, or do you issue your  
25    own order?

1 THE COURT: If you want a written  
2 order, other than the minute entry, you may  
3 submit one.

4 MS. FUNDA: I may do one.

5 THE COURT: Okay. And  
6 Mr. Spencer, did you have any clarifying  
7 questions?

8 MR. SPENCER: I'm not sure that  
9 my argument has ever been heard for why I am  
10 making these claims. I am not simply making a  
11 claim because I don't want to pay.

12 THE COURT: You've never filed a  
13 motion to the Court, nor did you respond to  
14 Ms. Funda's application.

15 MR. SPENCER: Well, I assumed  
16 that this was going to happen now. I mean, I  
17 am at a point where I can only defend myself  
18 because I cannot afford any of this, as I've  
19 said.

20 And I don't know how -- I don't know  
21 how the law could be more clear in the sense  
22 of the way in which the guardian ad litem is  
23 defined, except that if the responsible party  
24 is indigent, the cost must be waived.

25 What is ambiguous about that?

1 THE COURT: Today was the order  
2 to show cause on the application for contempt.  
3 And as I stated, you have not filed a response  
4 to that, so the Court is recognizing the  
5 Affidavit of Ms. Funda that was put into the  
6 record.

7 MR. SPENCER: I presumed that  
8 this is when we would discuss this matter. I  
9 mean, I cannot afford a lawyer. This is why  
10 I'm doing this.

11 THE COURT: And when you  
12 represent yourself, there's some leeway the  
13 Court offers, but you still are held to the  
14 same statutory and rules of civil procedure  
15 that an attorney is held to.

16 MR. SPENCER: I understand. But  
17 when someone represents themselves pro se,  
18 there is certainly leeway given to them.

19 My understanding was that this is  
20 where this matter would be dealt with. And I  
21 prepared my argument under that assumption.

22 And I still don't understand -- I  
23 mean, I guess I could write this down and send  
24 a motion if you would like, if you would grant  
25 me a, say, 14-day extension to make a motion

1 that I'm indigent and prove that with tax  
2 returns. I'd be more than happy to do that.

3 And I would humbly request that you  
4 do that.

5 THE COURT: The Court would wait  
6 to see the motion before it --

7 MR. SPENCER: Well, of course,  
8 I --

9 THE COURT: -- before I make a  
10 decision.

11 MR. SPENCER: I know at least  
12 that.

13 THE COURT: Okay. Thank you.

14 And Ms. Thompson, did you have any  
15 clarifying questions?

16 MS. THOMPSON: No, Your Honor.

17 THE COURT: Okay. Thank you.

18 MS. FUNDA: Your Honor, I just --  
19 my -- I did hand Mr. Spencer -- we had a  
20 conversation while you were in chambers. And  
21 I did hand Mr. Spencer a copy of the  
22 appropriate guardian ad litem statute.

23 I think he was referring to the  
24 dependent neglect one, which doesn't differ  
25 very much.

1           But the indigent phrase has to do  
2     with allocation -- the appointment by the  
3     Court at the beginning of the case and the  
4     allocation of the fees at the beginning of the  
5     case, not after the case when there is a bill.  
6     That's just not how the statute reads. And I  
7     think he may be unclear on that.

8           But nonetheless, we did have a  
9     conversation, and I don't know if it will lead  
10    to more, but --

11           MR. SPENCER: Well, indigent is  
12    indigent. I can't invent money out of thin  
13    air.

14           THE COURT: And the Court didn't  
15    make a finding on that. And partly,  
16    Mr. Spencer, when the Court asked you what  
17    statute --

18           MR. SPENCER: Uh-huh.

19           THE COURT: -- you didn't have  
20    that statute before you today.

21           MR. SPENCER: You know, I'm not a  
22    lawyer, Your Honor. I mean, I wish I had a  
23    lawyer. But -- have you granted my request  
24    that I can send a motion in 14 days?

25           THE COURT: You need to submit a



1 motion, and then the Court will determine  
2 whether or not it will entertain it.

3 MR. SPENCER: I see. Okay.

4 THE COURT: But at this point  
5 it's hypothetical. You don't have a statute  
6 or what's contained -- the legal basis for  
7 that motion.

8 MS. FUNDA: And, Your Honor, I  
9 assume that any motions that Mr. Spencer may  
10 file do not affect the order that you granted  
11 today?

12 THE COURT: Correct.

13 MR. SPENCER: Well, then what's  
14 the point of filing a motion? I mean, I  
15 just -- like if there's no money to pay  
16 her.... So this is all rather academic.

17 THE COURT: All right. Thank  
18 you. Court's adjourned.

19 (Proceedings concluded at 2:04 p.m.)  
20  
21  
22  
23  
24  
25

REPORTER'S CERTIFICATE

STATE OF MONTANA )

: ss

County of Flathead )

I, Nancy Skurvid, RPR, Official Court Reporter, residing in Kalispell, Montana, do hereby certify:

That I was duly authorized to and did create a verbatim record of the proceedings in the above-entitled cause.

I further certify that the foregoing pages of this transcript represent a true and accurate transcription of my original stenographic notes.

IN WITNESS WHEREOF, I have hereunto set my hand this 10th day of June, 2020.

/s/ Nancy Skurvid  
Nancy Skurvid, RPR  
Official Court Reporter

# EXHIBIT B

Heidi J. Ulbricht  
District Judge, Dept. No. 3  
Flathead County Justice Center  
920 South Main  
Kalispell MT 59901

IN THE DISTRICT COURT OF THE ELEVENTH JUDICIAL DISTRICT OF  
THE STATE OF MONTANA IN AND FOR THE COUNTY OF FLATHEAD

---

In Re the Marriage of

NINA KOUPRIANOVA,

Cause No. DR-18-474 C

Petitioner,

Judge Heidi J. Ulbricht

and

**ORDER TO SHOW CAUSE**

RICHARD B. SPENCER,

Respondent.

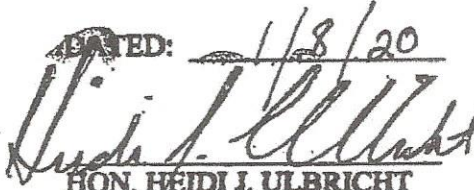
---

**THIS MATTER** is before the Court on the Guardian ad Litem's Motion for Contempt; Brief in Support and for Order to Show Cause, supported by the Affidavit of Joyce Funda, J.D., Guardian ad Litem, and it appearing to the Court that Respondent may be in contempt of the Court's Order of Appointment of Guardian ad Litem dated October 26, 2018,

**IT IS HEREBY ORDERED** that the Respondent shall appear before this Court at 1:30 a.m./p.m. on the 12<sup>th</sup> day of February, <sup>2020</sup>~~2019~~, then and there to

show cause, if any he may have, why he should not be found in contempt of court and sanctioned therefor, as requested by the Guardian ad Litem, Joyce Funda, J.D.

IT IS FURTHER ORDERED that a copy of this Order to Show Cause, together with a copy of the motion, shall be served upon Respondent not less than five days prior to said hearing.

DATED: 1/8/20  
  
HON. HEIDI J. ULBRICHT  
DISTRICT COURT JUDGE

Copy: Joyce Funda, J.D., *Pro Se*  
[jfunda@joycefunda.com](mailto:jfunda@joycefunda.com)  
Autumn Thompson, Attorney for Petitioner  
Eric D. Mills, Attorney for Defendant

Joyce Funda, J.D.  
Pro Se  
PO Box 156  
Rollins MT 59931  
[jfunda@joycefunda.com](mailto:jfunda@joycefunda.com)  
406.407.5156

IN THE DISTRICT COURT OF THE ELEVENTH JUDICIAL DISTRICT OF  
THE STATE OF MONTANA IN AND FOR THE COUNTY OF FLATHEAD

---

In Re the Marriage of

NINA KOUPRIANOVA,

Petitioner,

and

RICHARD B. SPENCER,

Respondent.

---

Cause No. DR-18-474 C

Judge Heidi J. Ulbricht

**MOTION FOR CONTEMPT AND  
ENFORCEMENT AND FOR  
ORDER TO SHOW CAUSE;  
BRIEF IN SUPPORT**

COMES NOW Joyce Funda, J.D., *pro se*, and moves the Court for its Order finding Respondent ("Richard") in contempt of court, and sanctioning him for said contempt, for his failure to comply with Court's Order Appointing Guardian ad Litem, dated October 26, 2018 and for a judgment against Richard in the amount of \$60,236.25 plus statutory interest from the date of entry of the judgment for his failure to pay the balance of the fees due Ms. Funda for her services as Guardian ad Litem.

---

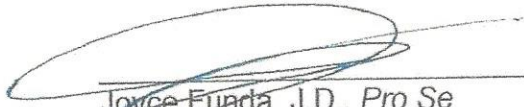
GAL Motion and Order to Show Cause for Contempt (DR-18-474 C)

Ms. Funda requests Richard be ordered to pay fees and costs necessarily incurred in bringing this matter before the Court.

Ms. Funda further requests that this Court set a time and date at which Richard be ordered to appear and show cause why she should not be granted the relief requested.

This motion is based upon the Court's Order of Appointment, dated October 26, 2019; Stipulation to Appointment Guardian ad Litem filed on October 26, 2019; Section 3-1-501, MCA; Affidavit of Joyce Funda, J.D. in Support of Motion for Contempt filed herewith, and the following Brief in support.

DATED this 18<sup>th</sup> day of December, 2019



Joyce Funda, J.D., Pro Se  
PO Box 156  
Rollins, MT 59901

#### BRIEF

##### **Facts**

On October 26, 2018, Kai Groenke, Esq., Attorney for Petitioner, and Eric D. Mills, Esq., Attorney for Respondent, negotiated, signed and filed with the Court a Stipulation to Appoint Guardian ad Litem.

On October 26, 2018, this Court granted an Order Appointing Guardian ad Litem



for the two minor children of the marriage of Petitioner ("Nina") and Respondent ("Richard"). Relevant to this Motion are the following paragraphs which tracked the Stipulation to Appoint Guardian ad Litem:

- "1. Respondent shall be solely and individually responsible for the fees, costs and charges of the GAL and shall be solely responsible for paying the GAL's initial retainer the amount of \$7,500.
2. Upon payment of said retainer, the parties are to contact the GAL to set up appointments. The hourly rate of the GAL shall be \$150. The GAL is authorized to bill the Respondent as the retainer is exhausted and services are rendered."

Richard paid the initial retainer in two parts: his attorney's firm check in the amount of \$3,500 and Richard's personal check in the amount of \$4,000. Additional payments were made by Richard against the ultimate bill: \$7,500, \$10,000, \$200 and \$800 for reimbursement of GAL expenses. Richard paid \$25,200 in interim fees. On Dec. 14, 2019, a final itemized invoice was submitted to Richard for payment which reflected a balance due in the amount of \$60,236.25.

A closing letter dated Dec. 14, 2019 was submitted to Richard along with the itemized statement, and copies of the Order and Stipulation dated October 26, 2018. An email was sent to Richard on Dec 18, 2019 requesting a time to discuss any comments or questions regarding the bill and payment arrangements. A text message was sent to Richard on Dec. 18, 2019 requesting a time for a phone conference.

Richard responded with text messages stating he would not be paying the balance as ordered by the Court.



### Argument

Section 3-1-501, MCA, defines the acts or omissions that are contempts, and distinguishes between civil and criminal contempt:

"(1) The following acts or omissions in respect to a court of justice or proceedings in a court of justice are contempts of the authority of the court..., (e) disobedience of any lawful judgment, order, or process of the court;"

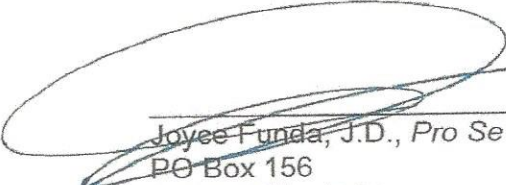
Ms. Funda seeks to have the court use its authority "to force the contemnor's compliance with a court order," that is, a civil contempt. She has, pursuant to Section 3-1-512, MCA provided an affidavit of the facts constituting the contempt.

Ms. Funda further seeks to have the court issue a money judgment in her favor in the amount of \$60,236.25 plus statutory interest from the date of the entry of the judgment.

It appearing that Richard has simply refused to pay the GAL's balance due, Ms. Funda should be granted a money judgment as previously detailed.

It appearing that Richard has blatantly and intentionally disobeyed a court order, he should appear before the court to show cause why he should not be sanctioned, pursuant to Section 3-1-520, MCA. The sanctions available to the Court include the payment of Ms. Funda's fees and expenses incurred in filing this motion, fines, and/or incarceration in the Flathead County jail.

Dated: December 18, 2019



Joyee Funda, J.D., Pro Se  
PO Box 156  
Rollins MT 59931

Joyce Funda, J.D.  
PO Box 156  
Rollins MT 59931  
[jfunda@joycefunda.com](mailto:jfunda@joycefunda.com)  
406.407.5156

IN THE DISTRICT COURT OF THE ELEVENTH JUDICIAL DISTRICT OF  
THE STATE OF MONTANA IN AND FOR THE COUNTY OF FLATHEAD

---

In Re the Marriage of

NINA KOUPRIANOVA,

Petitioner,

and

RICHARD B. SPENCER,

Respondent.

---

**Cause No. DR-18-474 C**

Judge Heidi J. Ulbricht

**AFFIDAVIT OF GAL IN  
SUPPORT OF MOTION AND  
ORDER TO SHOW CAUSE**

Joyce Funda, J.D., deposes and says:

1. I am the Guardian ad Litem in this matter.
2. The Court issued an Order of Appointment of Guardian ad Litem dated October 26, 2019 in which I was appointed as the GAL for the two minor children of this marriage.
3. On October 26, 2019, a Stipulation of Appointment of Guardian ad Litem signed by Kai Groenke, Attorney (at the time) for Petitioner and Eric D.

Mills, Attorney for the Respondent was filed with the Court. The language in the Stipulation was tracked in the Order of Appointment.

4. The Court ordered the Respondent ("Richard") to be solely and individually responsible for the payment of all GAL fees and expenses beyond the initial retainer of \$7500. The Court ordered the GAL hourly rate to be \$150 per hour.
5. From the beginning of the case in October 2018 through August 2019, Richard paid a total of \$25,200 in fees against a final balance plus \$800 for reimbursable expenses.
6. The case was scheduled for trial on Dec. 16-17, 2019. On Dec. 5, 2019, the parties, counsel and the GAL met at attorney [REDACTED] office for one last effort at settlement. After a long day ending at 7:30 p.m., the parties signed the final documents to settle the case. The GAL was very active in the mediation and worked with both parties and attorneys to assist with settlement.
7. The issue of the remaining fees was discussed among Richard, his attorney and the GAL. The GAL reminded Richard that he owed a substantial amount of fees, citing an estimate of \$33,500.00 beyond the \$25,200 already paid. The GAL told Richard and his attorney that a final itemized bill would be rendered as soon as possible. They were reminded that the GAL had to file her final report and conclude her bill.

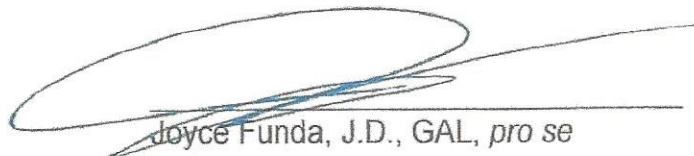
8. During that discussion, Richard stated that Petitioner ("Nina") should be made to be responsible for a portion of the GAL fees. Both Richard's attorney and the GAL told him that the Court order was clear and unequivocal. He was responsible for 100% of the fees.
9. As promised, on Dec. 14, 2019, the GAL sent her final itemized invoice via email to Richard and his attorney. The net balance due is \$60,236.25. The closing letter sent with the invoice invited comments and/or questions regarding any of the charges. A hard copy of the documents were sent via USPS to Richard at the home of his mother, Sherry Spencer.
10. On Dec. 18, 2019, the GAL send an email to Richard requesting proposed times for a call to discuss payment of the bill. Later on Dec. 18, 2019, the GAL send a text message requesting a call to discuss payment of bill.
11. Several hours later, Richard responded via text message stating he wanted to petition the court to allocate a portion of the fees to Nina. Richard stated I should do that as it would help me get paid. He stated he would not pay me anymore fees. Attached hereto and made a part hereof as Exhibit "A" are true copies of the text messages representing the statements made by Richard.
12. At the end of the afternoon, Richard called the GAL who took the call. Richard was very angry and stated repeatedly that Nina should pay a portion of the fees among other things.



13. I told him to contact his lawyer. I further told him I would be immediately filing a motion for contempt and enforcement. Richard stated that I would never, ever be paid by him.
14. No objection has been voiced with regard to my work, the individual charges or the time spent on specific tasks. Rather, the objection has been that it is "unfair" and "immoral" that Nina has not been ordered to pay a portion of the GAL fees.
14. Richard is clearly in contempt of this Court's order.
15. The GAL requests the Court to hold Richard in contempt and to impose sanctions as allowed by law.
16. The GAL requests a money judgment in her favor in the amount of \$60,236.25 plus interest as permitted by law, the costs of bringing this proceeding and expenses.

I, Joyce Funda, declare under penalty of perjury and under the laws of the state of Montana that the foregoing is true and correct.

Dated: Dec. 18, 2019



Joyce Funda, J.D., GAL, *pro se*



To: Richard Spencer

Please let me know a time this week to discuss payment of my invoice. I sent you an email today.

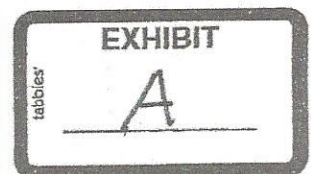
Today 10:50 AM

I'll petition the Court for the costs after the first mediation to be the responsibility of Nina.

You could help by making this demand yourself.

Otherwise, you shouldn't expect a payment from me.

Well, that answers my question. You know you are under strict court order to pay my fees. I



iMessage





are under strict court order to pay my fees. I have no responsibility to seek payment from Nina. I've heard Eric tell you that same thing. I'll file a motion for contempt and enforcement immediately with the Court, resulting in additional fees to you. Thank you for admitting you are intentionally violating a court order.

**Read 10:56 AM**





New iMessage

Cancel

To: Richard Spencer

Violating a Court Order

Good luck

But I have no ability to pay.

I engaged in the process  
in good faith. Nina clearly  
did not.

But apparently, I'm  
financially responsible for  
her actions.

It is absolutely immoral.

Secondly, I never would  
have possibly agreed to  
paying a GAL if it were  
going to bankrupt me. It's  
a ridiculous notion in  
itself.

You know all this.

