

FILED  
06 OCT 26 AM 11:55  
JULIE HAMLIN  
DISTRICT CLERK  
DALLAS CO., TEXAS  
DEPUTY

JANAY BENDER ROSENTHAL,  
Plaintiff

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IN THE DISTRICT COURT

V.

301st JUDICIAL DISTRICT

JAMIE ROSENTHAL,  
Defendant

DALLAS COUNTY, TEXAS

**MOTION FOR DEFAULT JUDGMENT**

COMES NOW, Plaintiff, JANAY BENDER ROSENTHAL, and files this, her Motion for Default Judgment. In support of this pleading, Plaintiff shows the following:

**I. Introduction**

1. Plaintiff filed the instant action on September 28, 2006.
2. Defendant was served with citation and a copy of Plaintiff's Petition in this cause on October 2, 2006. See **Exhibit A**, Affidavit of Service filed on October 3, 2006.
3. The instant action is based on fraud perpetrated by Defendant and his attorneys, SNYDER & SNYDER<sup>1</sup>, involving an undisclosed conflict of interest. The conflict of interest arose out of a relationship and one or more incidents involving Cheryl Snyder and Assoc. Judge Scott Beauchamp. Accordingly, Plaintiff seeks to vacate and set aside all rulings made by Judge Beauchamp and all other subsequent rulings in this case. Plaintiff seeks the return of her daughter, Addyson Rosenthal.

**II. Argument & Authorities**

4. Defendant's answer was due by 10 am on Monday, October 23, 2006. The deadline for defendant to file an answer has now passed. Defendant has failed and refused

<sup>1</sup> SNYDER & SNYDER, consisting of Cheryl Snyder and Diane Snyder, represented the Defendant in the underlying suit: *In the Interest of Addyson Rosenthal*, Cause No. DF-03-18320, in the 301<sup>st</sup> District Court, Dallas County, Texas. There is no indication that the firm represents Defendant herein, or that he has any current representation. However, attorney Diane Snyder is aware of this matter because the Defendant accepted service at her law office on October 2, 2006. See **Exhibit A**.

to file an answer (or any other pleading) in this action or to otherwise respond to Plaintiff's Original Petition for Bill of Review, despite the citation served on Defendant on October 2, 2006 at the law office of Diane Snyder, 8222 Douglas Ave., Suite 670, Dallas, Texas 75209. See **Exhibit A**.

5. Defendant's last known address is Defendant's place of residence: 15575 Lewis Place #2658 Addison, TX 75001. See **Exhibit B**, "Certificate of Last Known Address."

6. Defendant is not now, and never has been, a member of the United States military. See **Exhibit C**, "Servicemembers' Affidavit."

7. The citation and service return (proof of service) have been on file for at least 10 days, exclusive of the day of filing and today.

8. Plaintiff is entitled to default judgment on all claims (liability and damages) asserted in her Original Petition for Bill or Review.

9. Plaintiff attaches affidavits hereto to establish facts not apparent from the record and incorporates them by reference. See **Exhibit D**, Affidavit of Janay Bender Rosenthal.

10. Plaintiff has requested "an award of all attorneys' fees, costs of court and all other expenses paid by her or on her behalf" and attaches as **Exhibit E**, an affidavit proving attorney's fees, costs and expenses in this matter. See also **Exhibit D**.

### **III. Conclusion**

11. Plaintiff is entitled to a default judgment for the reasons asserted in this motion and the attached affidavits. For these reasons, Plaintiff asks this Court to sign a default judgment granting the relief requested herein.

#### IV. Prayer

12. Plaintiff prays for the relief set forth in her Original Petition for Bill of Review and Emergency Motion for Relief, as follows (numbered paragraphs are from Original Petition):

“19. Plaintiff prays that this Court instantly COMMAND and ORDER the trial court to VACATE and SET ASIDE the June 28, 2005 Order and all subsequent orders including the final “Order in the Suit to Modify Parent-Child Relationship” (the April 12, 2006 Order) denying Petitioner's access to her only child, Addyson.

20. Plaintiff further prays that the Court ORDER the immediate return of her child and an immediate restoration of her parental rights ...

21. ...Plaintiff prays that the Court VACATE and SET ASIDE the portion of the order requiring Petitioner to pay a \$50,000 cash bond in order to see her child, and the portion of the order prohibiting Petitioner from any and all access beyond phone conversations with her child. ...

24. ...May 8, 2006 Order ... be reversed and rendered null and void ... and that Plaintiff have and recover all attorneys' fees paid by her or on her behalf, costs of court and all other expenses ... that followed the June 28, 2005 Order.

25. Finally, Plaintiff prays for all other and further relief to which she may be entitled, whether at law or in equity.”

**Plaintiff further prays that this Motion for Default Judgment be in all things GRANTED.**

Respectfully submitted,

JUSTICE FOR CHILDREN  
2600 Southwest Freeway, Suite 806  
Houston, Texas 77098  
Tel. (713) 225-4357  
Fax (713) 225-2818

By:  \_\_\_\_\_

Thomas H. Burton, III

General Counsel

State Bar No. 24009927

**Attorney for JANAY BENDER ROSENTHAL,  
Plaintiff**

**AFFIDAVIT OF SERVICE**

State of TEXAS

County of Dallas

301st District Court

Case Number: DF-06-15902

Plaintiff:  
**JANAY ROSENTHAL BENDER**

vs.

Defendant:  
**JAMIE ROSENTHAL**

For:  
Janay Rosenthal Bend

Received by ALFARO PROCESS SERVICE on the 29th day of September, 2006 at 3:17 pm to be served on **JAMIE ROSENTHAL, 8222 DOUGLAS, SUITE 670, DALLAS, TEXAS 75209.**

I, **ISMAEL ALFARO**, being duly sworn, depose and say that on the **2nd day of October, 2006 at 9:35 am, I:**

**Individually Delivered** the within named person with a true copy of this **ORIGINAL PETITION FOR BILL OF REVIEW, EMERGENCY MOTION FOR RELIEF AND REQUEST FOR DISCLOSURE** with the date and hour endorsed thereon by me, pursuant to State Statutes.

I certify that I am over the age of 18, have no interest in the above action, and am a Certified Process Server, in good standing, in the judicial circuit in which the process was served.

FILED

2006 OCT -3 AM 9:39

MARGARET K. SWINDLE  
DISTRICT CLERK  
DALLAS CO., TEXAS  
DEPUTY

COPY

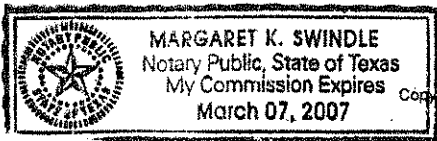
Subscribed and Sworn to before me on the 2nd day of October, 2006 by the affiant who is personally known to me.

*Margaret K. Swindle*  
NOTARY PUBLIC

*Ismael Alfaro*  
ISMAEL ALFARO  
SERVER SCH000000119

ALFARO PROCESS SERVICE  
9132 High Plain Ln.  
Dallas, TX 75249  
(214) 280-1351

Our Job Serial Number: 2006000236



"A"

**FORM NO. 353-3—CITATION  
THE STATE OF TEXAS**

ATTY

**CITATION**

To:

**JAMIE ROSENTHAL  
MAY BE SERVED AT HIS PLACE OF EMPLOYMENT, ACCOUNTABILITY INTERNATIONAL  
8111 LBJ FREEWAY, SUITE 1150, BOX 122, DALLAS, TEXAS 75251**

No. : DF-06-15902

GREETINGS:

You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10 o'clock a.m. of the Monday next following the expiration of twenty days after you were served this citation and ORIGINAL petition, a default judgment may be taken against you. Your answer should be addressed to the clerk of the **301st District Court** at 600 Commerce Street, Dallas, Texas 75202.

JANAY ROSENTHAL BENDER

vs.

JAMIE ROSENTHAL

ISSUED

on this the 28th day of September, 2006

Said Petitioner being JANAY ROSENTHAL BENDER

JIM HAMLIN  
Clerk District Courts,  
Dallas County, Texas

Filed in said Court on this the 28th day of September, 2006 against

JAMIE ROSENTHAL

For suit, said suit being numbered DF-06-15902, the nature of which demand is as follows:  
Suit On, **BILL OF REVIEW (FAMILY)** etc

By CARROLL JONES, Deputy

Attorney for Petitioner

**THOMAS H BURTON, III  
JUSTICE FOR CHILDREN  
2600 SOUTHWEST FREEWAY  
SUITE 806  
HOUSTON, TEXAS 77098  
713-225-4357 TELEPHONE  
713-225-2818 FAX**

as shown on said petition, a copy of which accompanies this citation. If this citation is not served, it shall be returned unexecuted.

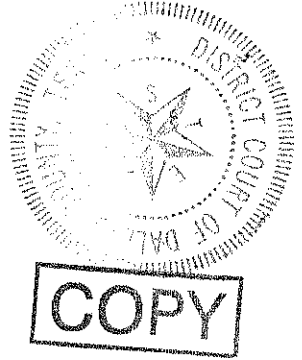
WITNESS: JIM HAMLIN, Clerk of the District Courts of Dallas, County Texas.

Given under my name and the Seal of said Court at office on this the 28th day of September, 2006

ATTEST: JIM HAMLIN

Clerk of the District Courts of Dallas, County, Texas

By CARROLL JONES, Deputy



66:6 AM 8 - 1009 CARROLL JONES

FILED

DALLAS COUNTY CLERK  
FEES PAID  
FEES NOT PAID

OFFICER'S RETURN

29

Came to hand on the SEPTENBER 29 day of SEPTEMBER, 20 06, at 3:17 o'clock P.M. Executed at 8222 DOUGLAS, SUITE 670, DALLAS, TX., within the County of DALLAS at 9:35 o'clock A.M. on the 02 day of OCTOBER, 20 06, by delivering to the within named JAMIE ROSENTHAL

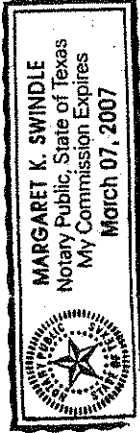
each, in person, a true copy of this Citation together with the accompanying copy of this pleading, having first endorsed on same date of delivery. The distance actually traveled by me in serving such process was \_\_\_\_\_ miles and my fees are as follows: To certify which witness my hand.

For serving Citation \$ \_\_\_\_\_ of ISMAEL ALFARO SCH 000 000 119 County TEXAS  
For mileage \$ \_\_\_\_\_ of DANAS County TEXAS  
For Notary \$ \_\_\_\_\_ By Jamie Rosenthal Deputy AUTHORIZED PERSON

Signed and sworn to by the said ISMAEL ALFARO before me this 02 day of OCTOBER, 2006, to certify which witness my hand and seal of office.

Margaret K. Swindle  
Notary Public DALLAS County TEXAS

**COPY**  
JIM HANLIN  
DISTRICT CLERK  
DALLAS CO., TEXAS  
DEPUTY  
2006 OCT -3 AM 9:39



FILED

NO. DF-06-15902

JANAY BENDER ROSENTHAL,  
Plaintiff

V.

JAMIE ROSENTHAL,  
Defendant

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IN THE DISTRICT COURT

301st JUDICIAL DISTRICT

DALLAS COUNTY, TEXAS

**CERTIFICATE OF LAST KNOWN ADDRESS**

Plaintiff, Janay Bender Rosenthal, certifies that **the last known address of Defendant Jamie Rosenthal is 15575 Lewis Place #2658 Addison, TX 75001.**

Respectfully submitted,

JUSTICE FOR CHILDREN  
2600 Southwest Freeway, Suite 806  
Houston, Texas 77098  
Tel. (713) 225-4357  
Fax (713) 225-2818

By: \_\_\_\_\_



Thomas H. Burton, III

General Counsel

State Bar No. 24009927

**Attorney for JANAY BENDER ROSENTHAL,  
Plaintiff**

" B "



JANAY BENDER ROSENTHAL,  
Plaintiff

V.

JAMIE ROSENTHAL,  
Defendant

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IN THE DISTRICT COURT

301st JUDICIAL DISTRICT

DALLAS COUNTY, TEXAS

STATE OF TEXAS §  
DALLAS COUNTY §

AFFIDAVIT of JANAY BENDER ROSENTHAL

Before me, the undersigned notary, on this day personally appeared JANAY BENDER ROSENTHAL, a person whose identity is known to me. After I administered an oath to her, upon her oath she said:

1. "My name is JANAY BENDER ROSENTHAL, I am over 18 years of age, of sound mind, and capable of making this affidavit. The facts stated in this affidavit are within my personal knowledge and are true and correct.

2. In the course of litigating Cause Number 03-18320, *In the Interest of Addyson Rosenthal, a Minor Child*, in the 301st District Court, between October 2003 and the present, I incurred in excess of \$125,000 in attorney's fees, costs of court, and expenses. These were monies expended by me and/or on my behalf. To the extent they were incurred on my behalf, I am obligated to repay these fees, costs and expenses.

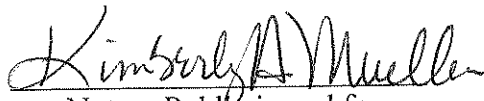
3. I have incurred over \$500 in court costs and expenses in the instant case.

I verify that the statements made in this affidavit are true and correct."

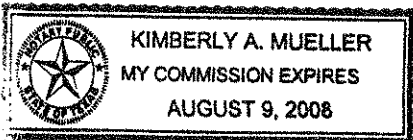
Further affiant sayeth naught.

  
JANAY BENDER ROSENTHAL

Sworn to and Subscribed before me by Janay Bender Rosenthal on October 26  
\_\_\_\_\_, 2006.

  
Notary Public in and for  
the State of Texas

My Commission Expires: 8/9/08



" D "

JANAY BENDER ROSENTHAL,  
Plaintiff

V.

JAMIE ROSENTHAL,  
Defendant

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IN THE DISTRICT COURT

301st JUDICIAL DISTRICT

DALLAS COUNTY, TEXAS

STATE OF TEXAS §  
DALLAS COUNTY §

AFFIDAVIT of THOMAS H. BURTON, III

Before me, the undersigned notary, on this day personally appeared THOMAS H. BURTON, III, a person whose identity is known to me. After I administered an oath to him, upon his oath he said:

1. "My name is THOMAS H. BURTON, III, I am over 18 years of age, of sound mind, and capable of making this affidavit. The facts stated in this affidavit are within my personal knowledge and are true and correct.

2. In the course of representing JANAY BENDER ROSENTHAL in Cause Number 03-18320, *In the Interest of Addyson Rosenthal, a Minor Child*, in the 301st District Court, between February 2006 and the present, I have incurred in excess of \$5,000 in costs of court and expenses.

3. I have incurred over \$500 in court costs and expenses in the instant case. All the expenses incurred in Cause No. 03-18320 and the instant case are reasonable and necessary.

I verify that the statements made in this affidavit are true and correct."

Further affiant sayeth naught.

*Tom Burton*

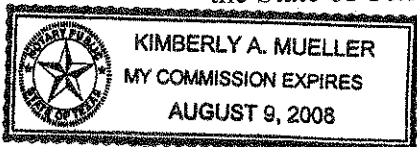
THOMAS H. BURTON, III

Sworn to and Subscribed before me by Thomas H. Burton, III on October 26  
\_\_\_\_\_, 2006.

*Kimberly A. Mueller*

Notary Public in and for  
the State of Texas

My Commission Expires: 8/9/08



"E"