

Ex-Parte Hearing

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OCT 13 2008

Deputy

SUPERIOR COURT OF CALIFORNIA

COUNTY OF SAN DIEGO

FAMILY LAW CENTRAL

Marriage of:

No. D472021

Petitioner: MICHELE LALLY

Respondent: CLIFFORD L. ROEPKE

**DECLARATION OF CLIFFORD L.
ROEPKE IN SUPPORT OF EX PARTE
APPLICATION**

I, CLIFFORD L. ROEPKE, declare as follows:

1. I am the Respondent on this matter. I have personal knowledge of the facts stated in the declaration, except those stated on information and belief, which facts I believe to be true. I am competent to testify to all of the facts stated herein, and if called upon by any court, I could and would so testify.
2. On October 2, 2008, at about 6:00 p.m., I was in the back room of my San Diego home folding laundry. My son, Oliver, came into the room and suggested that he go back to Mom's house that night, rather than going to school with me the following day, Friday. His rationale was that since he would be with mom the following week, and since he had school mass the next day, Friday, he could get changed at mom's, then return from school with her, keeping his mass outfit with her.
3. I told Oliver that I didn't particularly have an opinion one way or another, but I needed mom to

1 call me. His mother, Michele, had been calling Oliver's cell phone several times per day, and I
2 overheard Oliver speaking with his mother on the phone in the car, and again at least once while
3 we were at home. The current court order limits the phone calls to one per-day (paragraph 7, page
4 10 of Findings and Order After Hearing filed November 29, 2007) between Michele and Oliver,
5 since the sheer quantity of phone calls have been interfering with Oliver's time with me during
6 custody time. Most importantly, I knew that Oliver is not supposed to be used as a conduit for
7 communication between Michele and myself regarding parenting decisions (paragraph 2.b.xii,
8 pages 8 and 9 of Findings and Order After Hearing filed November 29, 2007).

9 4. Michele called several minutes later, and she asked whether she could pick up Oliver. I told her
10 that I saw no need to change the existing schedule, since I would be passing by the general area of
11 Oliver's school in the morning on my way to court. I also asked Michele why she was being so
12 committed to forcing an ex-parte hearing the following morning. Michele argued loudly and
13 emphatically that I was "harassing" her and her broker. The reality is that I had done nothing of the
14 sort. I had sent a fax to her on 9/29/08 (attached as **Exhibit 1**), along with a copy to her broker,
15 simply asking for copies of the listing agreement, sales offer, and other papers that I had signed
16 several days prior after the ex-parte hearing extension on 9/26/08, papers that Michele promised to
17 immediately provide copies of and had not yet provided. The fax that I sent on 9/29/08 was sent
18 through the regular Microsoft Windows Fax software; on 10/1/08, I still had no copies from
19 Michele, so I decided to resend the same request for copies through another computer that had
20 Winfax installed (attached with **Exhibit 1**). The Winfax software has a send log, showing a date
21 and time stamp for each fax sent. The Windows Fax software has no such time stamp, and I
22 thought that it was important to have an official send log, showing that I had requested copies of
23 critical sales paperwork in-writing for copies that were nearing a week late. I tried to convey this
24 fact to Michele, but she was adamant about her accusations that I was somehow "harassing" her
25 for simply requesting copies in-writing that she did not provide and copying her broker to keep a
26 paper trail.

27 5. The fact that Michele was really worked up about the ex-parte hearing scheduled for October 3,
28

2008, (attempting to restrain me from communicating with the listing broker, her boss) gave further cause for me to say "no" to Oliver going with her that night. I thought her behavior on the phone was pushy and aggressive, and I didn't think that this kind of negativity was good for Oliver. I had to raise my voice several times, and eventually went to my bedroom and shut the door to complete the phone call with Michele to keep Oliver from having to hear the conversation. Michele seemed hell-bent to go to court in the morning, being argumentative, and once more interruptive of Oliver's time with me as his custodial parent.

6. I went back downstairs. The first thing I did was to stop at our family room sofa and apologize to Oliver, and I explained that the exchange wouldn't happen that evening but rather the following day pursuant to the court order. I could tell that he was disappointed, since his mother obviously had conversations with him about coming over that night, and he was expecting to go with her. While downstairs, I folded the rest of the laundry, took my folded laundry back upstairs, put clothes away, and remade the bed with new sheets.

7. While I was finishing up in my bedroom, I heard the front door close. I went downstairs to see why Oliver would go outside, since it was about time for the TV to turn off and him to get started on homework while I made dinner. Downstairs, the TV was off, and Oliver's backpack was gone. That was not normal. I opened the front door and saw Oliver running up the drive with his backpack on. I went into the garage to get my shoes on, then went outside to see if I could find him. At the top of the drive, I saw Michele's car. As I approached the car I saw Oliver inside, Michele started to drive away. She drove off, then stopped. I started to walk towards the car, to communicate with her; she then pulled ahead. She then drove off. During all of this, she kept her windows rolled up, and I was not able to speak with her or Oliver at all. I just silently watched her play this little game of stop-and-go.

8. After Michele drove off with Oliver, I went back into the house. A couple of minutes later, I got a call from the Sheriff's office, saying that there was a 911 call regarding a minor. I told them that they were welcomed to come over. When the deputy arrived, I spoke with him for several minutes in the foyer, where he advised me about the call. According to their communication, the deputy

1 said that Oliver claimed that I was drinking and threatening him with violence. I told the deputy
2 straight away that this was a total fabrication and that I had nothing to drink at all and that this was
3 just another fabricated story instigated by Michele, much like the others she has made in the past
4 to use for her own advantage.

5 9. The deputy then was invited into my living room area and stayed with me for at least a half-hour
6 in the house, going over the event at length. Another deputy arrived during this conversation, and
7 he also took part in the conversation. I wanted to spend plenty of time with these officers to show
8 them that I was lucid, sober, and far from the violent abuser Michele (and Oliver) claimed. By the
9 time he left, the deputy advised me that Oliver claimed abuse at first, but on further investigation,
10 Oliver admitted that there really wasn't any. He gave me an incident number, and I followed up on
11 the next evening with a phone call, where he read off his brief statement, making it clear that the
12 allegations were not substantiated.

13 10. Around October 15, 2008, I contacted the Sheriff's Department and, pursuant to a subpoena,
14 obtained a copy of their report entitled *Background Event Chronology, Event Number*
15 *S6976667*. I added a copy of this report to this Declaration (attached hereto as **Exhibit 2**). It is
16 clear that the deputy saw this as a false allegation, since he completely cleared the incident and
17 ended the call.

18 11. After Michele left with Oliver, I sent her a fax (attached as **Exhibit 3**), making it clear that I
19 never approved for her to take Oliver, and that she needed to return him immediately. After the
20 deputy arrived the night of the incident, he advised me that I should let Oliver go with his
21 mother, simply because of the heightened tension. I agreed to let Michele take Oliver, but I
22 clarified to the deputy that this was all instigated by Michele and that I was only concerned with
23 my son's well-being.

24 12. The next morning, Michele showed at the ex-parte hearing with Oliver. She kept him from
25 school and brought him with her to the hearing. I could not believe my eyes. How irresponsible!
26 How damaging to our son! After the prior evening's events, she brought Oliver to court to
27 expose him the court's high-tension environment, again in violation of paragraph 2.b.xii, pages
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1 8 and 9 of Findings and Order After Hearing filed November 29, 2007.

2 13. During the following week, I went to the Bay Area to conduct business. I returned on Thursday,
3 October 9, 2008, preparing myself for another week of custody time with Oliver. As I was
4 getting ready to pick up Oliver from school on Friday morning, October 10, I received a phone
5 call from Michele at 11:45AM. During the short phone call, she stated that she had picked up
6 Oliver from school, and Oliver was currently with her. I made it very clear to Michele that she
7 was in violation of the court order by taking Oliver. She hung up on me mid sentence. I then
8 called the school to ask them why they didn't contact me about this matter, as Michele said
9 during the phone call that she took Oliver from school because he was apparently "afraid" of
10 me. The secretary at school said that she didn't know why I was not informed, but she did see
11 that Oliver was checked out of school at the administrator's office at 11:00AM, forty-five
12 minutes prior to Michele contacting me regarding her taking Oliver from school.

13 14. I immediately sent a text message to Michele's cell phone, so I would have written proof that I
14 disapproved of her taking Oliver. I did not see Oliver at all on Friday, October 10. The
15 following day, I received an email from Michele regarding the text message I had sent (attached
16 as **Exhibit 4**). Prior to this email, I had no idea what Michele's intentions were, other than she
17 showed up the prior Thursday at my home and conspired with Oliver to leave without my
18 permission and what limited claims she provided to the deputy, who relayed them to me. This
19 email that Michele sent would be funny if it weren't such a serious situation with her taking my
20 son and filling his mind with a fantastically outrageous trumped-up story. Her email message
21 she writes:

22 a. *"I picked up Oliver last Thurs. after being asked by him and double checking with you as he*
23 *had no mass uniform, as was the same last month, if it was ok to pick him up."*

24 I made it clear on the 10/2 evening phone call that I did not approve of her coming over to pick
25 up Oliver. Her written statement gives the false assumption that "double checking" with the
26 custodial parent is enough to make that a decision in itself, regardless of the custodial parent's
27 response to the "double checking." In this case the "double checking" provided a "no" response.
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1 Even though this was the case, Michele drove out from her home to take Oliver anyway.

2 b. *"oliver [sic] called 911 as you must have done something to scare him and was running down*
3 *the street with you chasing him with the phone to his ear when I arrived."*

4 The images of this statement are fantastic and unlikely at face value, regardless of the realities
5 behind the situation. Michele's statement says that she managed to drive fifteen miles from Del
6 Mar, travel highway 56, then follow all of the surface streets in order to get to my home in 4S
7 Ranch, twenty minutes later, at just the right moment-in-time to see Oliver running down the
8 street with his cell phone to his ear and me chasing after him. Impossible! The reality is that
9 Michele left her home with the intention of taking Oliver without my consent, and this is her
10 weak, unbelievable alibi.

11 c. *"I could hear you screaming on the phone when I called to let him know i was on my way. After*
12 *several messages to "hurry mom"*

13 This statement is equally incredulous. If I had received a phone call from Oliver, telling me
14 "Hurry Dad" while I heard screaming on the phone, I would be calling 911 within a
15 nanosecond. I would be on the phone with 911 for the entire trip until I saw my son safe in
16 protection of the police. Michele wants to deflect the reality that she was the instigator in this
17 situation. Also, if Oliver had called 911 while Michele was in-transit, the event would have had
18 a different time frame than the event chronology shows. Looking at the Background Event
19 Chronology, the 911 event was created at 7:26 PM. The unit rolled up on the scene shortly
20 afterwards at 7:31PM. Michele's story can't fit within this tight timeline of roughly five
21 minutes. According to Michele, within five minutes, Oliver would have had to call 911, explain
22 his situation, get the sheriff's cruisers rolling to Oliver's location, call mom to "hurry up", have
23 Michele arrive on the scene prior to the sheriff's deputy, include the incredible image of me
24 chasing Oliver down the street, manage to get Oliver into Michele's car, then meet up with the
25 sheriff's deputy on the street, just in time for me to vanish and somehow return to my home
26 without being seen by any cruisers in the area, ready for the deputy to interview me in a calm,
27 lucid state at my home. This crack-pot story of Michele's is her basis for taking Oliver from
28

1 school and keeping him for an entire week against my wishes as the custodial parent pursuant to
2 the current court order.

3 15. I received a letter from Oliver's school, Stella Maris Academy in La Jolla, California (attached
4 as **Exhibit 5**). This letter contained an *Agreement For Professional Counseling Services*
5 *Informed Consent* form. In her cover letter, Patricia Medeiros, MS, provided her phone number.
6 I called and left a message. The following day, she called me back, and I asked her why I was
7 sent the form. According to Patricia, Michele had solicited her services through the school. I
8 informed Patricia that we already had a court-appointed counselor, Dr. Christopher Miller, and
9 that Michele needed to take Oliver to him for any counseling services. Patricia was very
10 understanding, and she recognized that this was a situation with a great deal of history. In fact,
11 Michele has not been cooperative at all with Dr. Miller, and she has refused to see him with
12 Oliver, even though Dr. Miller has repeatedly asked her to do so. Michele solicited Patricia's
13 services to once again create a false reality that I am an abusive parent, that Oliver is afraid of
14 me and that the custody should change to Michele's favor. Michele is dissatisfied with Dr.
15 Miller because Dr. Miller doesn't fit Michele's desire of lessening my parenting time with
16 Oliver. I am informed and believe that Dr. Miller favors and supports my custody time with
17 Oliver.

18 16. Michele has created a very tension-filled situation with our son in the middle of it all. She has
19 created a wild story, then brought our son into the story, in order to advance her own selfish
20 motives. She has been regularly and continuously breaking her agreement to not call more than
21 once per-day. She has refused to see Dr Miller with Oliver. She will not cooperate with the
22 court-ordered exchanges and custody arrangement. She has involved CPS in her trumped-up
23 story/incident. She filed an OSC to change custody, based on this story/incident. Most recently,
24 she contacted minor's counsel, Terence Chucas, claiming that there is a "problem." Attached is
25 Mr. Chucas' response letter form October 15, 2008 (attached as **Exhibit 6**).

26 17. The Findings And Order After Hearing, filed November 29, 2007, paragraph 16 entitled
27 *Appointment of Minor's Counsel*, provides as follows:
28

1 If either party contacts minor's counsel with a problem, Respondent shall then pay to
2 minor's counsel the sum of one thousand five hundred dollars (\$1500) forthwith and
3 Petitioner shall then pay to minor's counsel the sum of five hundred dollars (\$500)
4 forthwith. The court reserves jurisdiction to reallocate these fees if either party believes
5 that the other unnecessarily contacted minor's counsel.

6 18. Mr. Chucas has scheduled a meeting for me and Michele in his office on Monday October 27,
7 2008. Mr. Chucas has indicated to me that his court-specified retainer of \$2,000 has to be paid
8 at the time of that conference before he can proceed. I believe that Michele may refuse to pay
9 her court-specified share of \$500 and in doing so will delay the resolution of this matter.

10 19. Since Michele has once again created false allegations of abuse, has instigated another incident
11 involving law enforcement, and has then contacted Mr. Chucas to initiate his services to modify
12 child custody based on her false claims, I believe that Michele should be responsible for paying
13 more than 25% of Mr. Chucas' fees which includes a \$2000 retainer.

14 20. If Michele is not able to pay her share, as ordered by the Court, of Mr. Chucas' fees, I am
15 willing to advance Michele's portion with the understanding that whatever initial retainer
16 amount, and any additional amounts based on the payment responsibility percentage, will be
17 reimbursed back to me from the sales proceeds of the house sale of 3693 Caminito Cielo Del
18 Mar, San Diego, CA, which is currently in escrow.

19 21. I request that the Court order Michele to abide by the current court order with regards to the child
20 sharing, turning Oliver over to me (school pickup) on Friday, October 24, 2008, at 12:30 p.m.
21 school dismissal; request minor's counsel to investigate and prepare a recommendation to the
22 Court for the hearing on Michele's Order to Show Cause scheduled for December 16, 2008; that
23 the Court determine Michele's responsibility for the fees of Mr. Chucas in terms of percentage;
24 that the Court make an order that whatever amount I pay to Mr. Chucas on behalf of Michele for

25 /////

26 /////

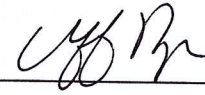
27 /////

28

1 his services be reimbursable to me through the sales escrow of the property at 3693 Caminito
2 Cielo Del Mar, San Diego, California.

3 I declare under penalty of perjury under the laws of the State of California that the foregoing is true
4 and correct.

5 Date: 10/22/08



Clifford L. Roepke, Respondent

Michele Lally
PO Box 95
La Jolla, CA 92038

Cliff Roepke
17035 Calle Trevino #1
San Diego, CA 92127
Fax: 650-607-7080

9/29/08

Michele,

I have not yet received any copies of the documents that I signed in court last week. Please fax them to me at the 650-697-7089 number or scan & email them to me. The fax is now fixed, so you can send any future faxes to there as well.

Also, I would like to have some sort of status on the sales process. Please give me an update via fax or email regarding the current status. Also, please let me know when the house goes into escrow and the contact information for the escrow company if or when the offer goes through.

Regards,

Cliff

Exi

WinFax copy

Exhibit 1

Background Event Chronology

Event Number: S6976667

<u>Date</u>	<u>Time</u>	<u>Term</u>	<u>Operator</u>	<u>Action</u>
10/02/08	19:26:37	911-5	107644	EVENT CREATED: [AREA] 4S [XST] TOWN SQ PK / CALLE SIMEON [RP NAME] OLIVER WALLY-13 YO [RP ADDRESS] CAMINO SAN THOMAS/TOWN SQ PK [SOURCE] AN/ALI [RP PHONE] (858) 952-4602 Dispatch Group: POWD Beat: 42P Priority: 4 Primary Unit: 42P1C Primary ID: 102244 Event: 415FA - DISTURBANCE, FAMILY [4] SUPP INFO CREATED: PERSO: Name: ROEPKE, CLIFF Race: W Sex: M Height: 506 Weight: 180 Hair: BLK Age: 40 Remarks: BLU SHIRT, TAN SHORTS COMMENT ADDED: WPH2 33.02346500 -117.111254 NOW.....RP VS. FATHER.....VERBAL ONLY.....FATHER IS HBD.....FATHER WAS CHASING RP.....RP IS NOW IN VEH WITH MOTHER UNK WEAPS/11550 415 OVER RP GOING WITH THE MOTHER FATHER WAS L/S ON TOWN SQ PKWY RP WILL 1023 AT CAMINO SAN THOMAS/TOWN SQ PK FOR DEPS RP DOES NOT KNOW EXACT ADDRESS BUT FATHER LIVES IN GIANNI COMPLEX.....RP CAN DIRECT WILL 1023 IN A WHI CHEVY BLAZER ** PER search completed at 10/02/08 19:26:37 COMMENT ADDED: ** LOI search completed at 10/02/08 19:26:38 [UNIT] 42P1C DP, 102244 [UNIT] 42P1C ER, 102244 [UNIT] 42P3C DP, 105849 [UNIT] 42P3C ER, 105849 COMMENT ADDED: . 10/02/08 19:26:37 if03 107644 10/02/08 19:26:38 if03 107644 10/02/08 19:27:07 rurd 105899 10/02/08 19:27:42 rurd 105899 10/02/08 19:27:45 rurd 105899 10/02/08 19:27:46 rurd 105899 10/02/08 19:27:57 rurd 105899 10/15/2008 1:07:22 PM

Event_Chronology

Page 1

Exhibit 2

Exhibit 2

Date	Time	Term	Operator	Action
10/02/08	19:28:03	ruud	105899	COMMENT ADDED: RP VEH DESCRIP WHEN POSS PLS
10/02/08	19:29:14	ruud	105899	COMMENT ADDED: 1022 LAST
10/02/08	19:31:12	ruud	105899	[UNIT] 42P1C ON, 102244
10/02/08	19:31:13	ruud	105899	[UNIT] 42P3C ON, 105849
10/02/08	19:31:33	ruud	105899	[UNIT] 42P1C CL, 102244
				[UNIT] 42P1C ON, 102244
				COMMENT ADDED: 42P1C Changed Location to:
				CAMINO SAN THOMAS/TOWN SQUARE PARK
10/02/08	19:31:34	if03	105899	COMMENT ADDED: ** LOI search completed at 10/02/08 19:31:34
10/02/08	19:31:42	ruud	105899	[UNIT] 42P3C DP, 105849
				[UNIT] 42P3C CO, Preempt, 105849
				COMMENT ADDED: Preempt
10/02/08	19:31:43	ruud	105899	[UNIT] 42P3C ON, 105849
10/02/08	19:37:21	ruud	105899	[UNIT] 42P1C UC, C4 - Alarm Timer Extended: 20, 102244
10/02/08	19:37:24	ruud	105899	COMMENT ADDED: C4 - Alarm Timer Extended: 20
				COMMENT ADDED: C4 - Alarm Timer Extended: 20, 105849
10/02/08	19:47:30	ruud	105899	[UNIT] 42P1C CL, 102244
				[UNIT] 42P1C ON, 102244
				COMMENT ADDED: 42P1C Changed Location to:
				17035 CALLE TREVINO 4S,1
10/02/08	19:47:31	if03	105899	COMMENT ADDED: ** LOI search completed at 10/02/08 19:47:31
10/02/08	19:56:44	tm7	0	[UNIT] 42P3C A, 105849
10/02/08	19:57:26	ruud	105899	[UNIT] 42P3C UC, Alarm Timer Extended: 0, 105849
				COMMENT ADDED: Alarm Timer Extended: 0
10/02/08	19:57:30	tm8	105743	[UNIT] 42P1C A, 102244
10/02/08	19:57:43	ruud	105899	[UNIT] 42P1C UC, Alarm Timer Extended: 0, 102244
				COMMENT ADDED: Alarm Timer Extended: 0
10/02/08	20:12:49	ruud	105899	[UNIT] 42P3C DP, 105849
				[UNIT] 42P3C CO, Preempt, 105849
				COMMENT ADDED: Preempt
10/02/08	20:12:50	ruud	105899	[UNIT] 42P3C ON, 105849
10/02/08	20:22:50	tm8	103743	[UNIT] 42P3C A, 105849
10/02/08	20:22:57	ruud	105899	[UNIT] 42P3C UC, Alarm Timer Extended: 0, 105849
				COMMENT ADDED: Alarm Timer Extended: 0
10/02/08	20:27:23	ruud	105899	[UNIT] 42P1C UC, C4 - Alarm Timer Extended: 0, 102244
				COMMENT ADDED: C4 - Alarm Timer Extended: 0
10/02/08	20:35:43	sr	105631	[UNIT] 42P3C AM, 105849
10/02/08	20:43:00	\$42P1C	102244	Dispatch Group: POWD Beat: 42P Priority: 4 Primary Unit: 42P1C Primary ID: 102244
10/15/2008	1:07:22 PM			Event Chronology

<u>Date</u>	<u>Time</u>	<u>Term</u>	<u>Operator</u>	<u>Action</u>
				Event: 415FA - DISTURBANCE, FAMILY [4] [UNIT] 42PIC AM , CONTACTED (DAD) CLIFFORD ROEPKE 07-10-63, (MOM) MICHELLE LALLY 09-09-61, (SON) OLIVER LALLY-ROEPKE 06-30-95 RE OLIVER WANTED TO BE W/MOM AGAINST DAD'S WISHES. SON LEFT DAD'S HOUSE W/O PERMISSION AND WENT W/MOM. NO 242/422 ACTIVITY. , 102244 [DISPO] ST COMMENT ADDED: CONTACTED (DAD) CLIFFORD ROEPKE 07-10-63, (MOM) MICHELLE LALLY 09-09-61, (SON) OLIVER LALLY-ROEPKE 06-30-95 RE OLIVER WANTED TO BE W/MOM AGAINST DAD'S WISHES. SON LEFT DAD'S HOUSE W/O PERMISSION AND WENT W/MOM. NO 242/422 ACTIVITY. ** Event S6976667 closed.

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Cliff Roepke 17035 Calle Trevino #1 San Diego CA 92127 TELEPHONE NO.: 650 697 7081 FAX NO. (Optional): 650 697 7089 E-MAIL ADDRESS (Optional): cliffro@signatureandsounds.com ATTORNEY FOR (Name):		SUBP-010 FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO HALL OF JUSTICE, 330 W. BROADWAY, SAN DIEGO, CA 92101-3827 MADGE BRADLEY BLDG., 1409 4TH AVE., SAN DIEGO, CA 92101-3105 KEARNY MESA BRANCH, 8950 CLAIREMONT MESA BLVD., SAN DIEGO, CA 92123-1187 FAMILY COURT, 1535 6TH AVE., SAN DIEGO, CA 92101-3284 NORTH COUNTY DIVISION, 325 S. MELROSE DR., VISTA, CA 92081-8843 EAST COUNTY DIVISION, 250 E. MAIN ST., EL CAJON, CA 92020-3941 RAMONA BRANCH, 1428 MONTECITO RD., RAMONA, CA 92066-5200 SOUTH COUNTY DIVISION, 500 3RD AVE., CHULA VISTA, CA 91910-5849		
PLAINTIFF/PETITIONER: Michele Lally DEFENDANT/RESPONDENT: Clifford Roepke		CASE NUMBER: D472021
DEPOSITION SUBPOENA FOR PRODUCTION OF BUSINESS RECORDS		

THE PEOPLE OF THE STATE OF CALIFORNIA, TO (name, address, and telephone number of deponent, if known):

1. YOU ARE ORDERED TO PRODUCE THE BUSINESS RECORDS described in item 3, as follows:

To (name of deposition officer): **Clifford Roepke**

On (date): **10-14-08**

Location (address): **17035 Calle Trevino #1 San Diego CA 92127**

At (time): **4:15 PM**

Do not release the requested records to the deposition officer prior to the date and time stated above.

- a. ☐ by delivering a true, legible, and durable copy of the business records described in item 3, enclosed in a sealed inner wrapper with the title and number of the action, name of witness, and date of subpoena clearly written on it. The inner wrapper shall then be enclosed in an outer envelope or wrapper, sealed, and mailed to the deposition officer at the address in item 1.
- b. ☒ by delivering a true, legible, and durable copy of the business records described in item 3 to the deposition officer at the witness's address, on receipt of payment in cash or by check of the reasonable costs of preparing the copy, as determined under Evidence Code section 1563(b).
- c. ☐ by making the original business records described in item 3 available for inspection at your business address by the attorney's representative and permitting copying at your business address under reasonable conditions during normal business hours.
2. The records are to be produced by the date and time shown in item 1 (but not sooner than 20 days after the issuance of the deposition subpoena, or 15 days after service, whichever date is later). Reasonable costs of locating records, making them available or copying them, and postage, if any, are recoverable as set forth in Evidence Code section 1563(b). The records shall be accompanied by an affidavit of the custodian or other qualified witness pursuant to Evidence Code section 1561.
3. The records to be produced are described as follows:

Notes From Call # 6976667 Mariano Tano, Deputy Sheriff 10/12/08

☐ Continued on Attachment 3.

4. IF YOU HAVE BEEN SERVED WITH THIS SUBPOENA AS A CUSTODIAN OF CONSUMER OR EMPLOYEE RECORDS UNDER CODE OF CIVIL PROCEDURE SECTION 1985.3 OR 1985.8 AND A MOTION TO QUASH OR AN OBJECTION HAS BEEN SERVED ON YOU, A COURT ORDER OR AGREEMENT OF THE PARTIES, WITNESSES, AND CONSUMER OR EMPLOYEE AFFECTED MUST BE OBTAINED BEFORE YOU ARE REQUIRED TO PRODUCE CONSUMER OR EMPLOYEE RECORDS.

DISOBEDIENCE OF THIS SUBPOENA MAY BE PUNISHED AS CONTEMPT BY THIS COURT. YOU WILL ALSO BE LIABLE FOR THE SUM OF FIVE HUNDRED DOLLARS AND ALL DAMAGES RESULTING FROM YOUR FAILURE TO OBEY.



Date issued:

Michael Roddy, Executive Officer

(TYPE OR PRINT NAME)

Michael Roddy
 (SIGNATURE OF PERSON ISSUING SUBPOENA)

CLERK OF THE SUPERIOR COURT

(Proof of service on reverse)

(TITLE)

Page 1 of 2

Form Adopted for Mandatory Use
 Judicial Council of California
 SUBP-010 (Rev. January 1, 2007)

DEPOSITION SUBPOENA FOR PRODUCTION
OF BUSINESS RECORDS

Code of Civil Procedure, §§ 2020.410-2020.440;
 Civil Code, § 15(a)(5);
 Government Code § 88097.1
 www.courtinfo.ca.gov

Traxm 10/15/08

FACSIMILE COVER PAGE

To : Michele Lally

From : User

Sent : 10/2/2008 at 7:38:14 PM

Pages : 1 (including Cover)

Subject :

Michele:

It is now 7:35 PM on Thursday. I called your cell phone and made it clear that I never told you in any way that it was okay to take Oliver this evening. I saw you arrive in your car and take him away.

You are in violation of the court order, and I don't want you to have any misunderstanding of where my opinion is on this matter. You need to bring him back, and you need to obey the order.

Cliff

Exhibit 3

Sight and Sounds

From: Sight and Sounds
Sent: Saturday, October 11, 2008 10:15 AM
To: michele lally
Subject: RE: info per texO
Importance: High

Michele:

You should know by now that Oliver is not empowered to make decisions like this—it is up to YOU to do the right thing.

YOU came by the house and picked him up

YOU kept him out of school and took him with you to court, involving him in a high-pressured environment he had no place being.

YOU took him from school on Friday.

It is up to YOU to bring him back.

Do the right thing, and stop perpetuating lies to hurt your son.

Cliff

From: michele lally [mailto:mlally90@yahoo.com]
Sent: Sat 10/11/2008 9:39 AM
To: Sight and Sounds
Subject: info per texO

Clifford,

No one made accusations that were "untrue". I in fact did not make any accusations. I picked up Oliver last Thurs. after being asked by him and double checking with you as he had no mass uniform, as was the same last month, if it was ok to pick him up.

oliver called 911 as you must have done something to scare him and was running down the street with you

chasing him with the phone to his ear when I arrived. This is very wrong. I could hear you screaming on the

phone when I called to let him know i was on my way. After several messages to "hurry mom"

You are not supposed to drink when Oliver is in your care, supplement to court order, as well as a good idea in general.

Perhaps you drank so much you do not even remember the evening? You have not so much as even tried to call

him to apologize for your behavior.

Oliver was visibly scared, the police came, Oliver talked to them, to me and i believe to you.

Oliver was too afraid to go to school Friday, stating you as the reason. WHY????

If you are angry with me that is one thing, but i don't need to take your abuse any longer, I can keep away, unfortunately

Oliver can not.

CPS was called, they went to Oliver's school, again, because of your actions. I made none of the calls

10/14/2008

Exhibit 4

and accused you
of nothing. I simply stated what happened when they contacted me. It is not a good feeling to know that
someone was so
concerned they called CPS about your child, especially the school.
I was advised by several professionals to pick Oliver up from school Friday if he was still afraid to go
with you, he was.
Perhaps you need to adjust your anger and drinking levels.
If you wish to call Oliver and see if he is comfortable going with you I have no objections, i do object to
sending a scared
child to you though in light of your recent actions. You have Oliver's private number 858.764.4463.
I will leave the decision to Oliver as he is old enough to decide, I will not force him to go if he is scared,
that is not
in his best interest and i have been advised against it by professional in this field of work.
Michele

No virus found in this incoming message.

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Version: 8.0.173 / Virus Database: 270.8.0/1719 - Release Date: 10/10/2008 4:08 PM

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Cliff Roepke
requested
AGREEMENT FOR PROFESSIONAL COUNSELING SERVICES
INFORMED CONSENT

Your child has ~~been referred to see~~ the counselor provided by Stella Maris Academy. There is no fee charge to you. Please read the following agreement and return it to the school office.

The counseling services will be provided by Patricia Medeiros, M.F.T. Patricia will provide assessments, brief counseling, when appropriate, and be available to speak with you with any recommendations. All counseling will be conducted on school grounds during Ms. Medeiros' scheduled hours with the school.

Confidentiality: Your child's and your communication in therapy cannot be revealed without your written permission. California Law does require, however, that any suspected child abuse or neglect be reported to authorities. Also, potential suicide or harm to others must be reported to insure the safety of every individual and may result in breach of confidentiality.

Your signature indicates that you understand and accept these conditions and are willing for your child to be seen in counseling by Patricia Medeiros, M.F.T.

Child's Name

Grade

Date

Parent or Guardian Signature

Relationship to Child

RELEASE OF INFORMATION

If you would like your child's teacher informed of a general description of the situation in order to help your child in class, please read and sign the following.

I authorize Patricia Medeiros, M.F.T. to engage in a mutual exchange of information regarding my child

_____ with the following Stella Maris Academy staff member.
(Child's Name)

Staff Member _____
(Teacher or Principal)

I do not want the information listed below discussed:

This release is in effect until (initial one)

_____ I notify you otherwise in writing. _____ or (Specify a Date).

_____ I do want a copy of this release for my records.

_____ I do not want a copy of this release.

Parent or Guardian Signature

Date

Exhibit 5

September, 2008

Dear Parents and Guardians of the Students at Stella Maris Academy,

I am excited to be the new school counselor at Stella Maris Academy this year and am looking forward to working with you, your children, the faculty and staff. I will be on campus most Monday's from 8:30am to 2:30pm.

Counseling is available as part of our school program and I will be available to meet with your children on an individual basis. Our desire is to help your child to have a successful school year. If you should want your child to visit with me, permission forms are in the office so that you can fill one out. Or, if you want to contact me directly, I will have permission forms for you to sign.

Please do not hesitate to call me or come by to meet me so that we may get to know one another. If you have any questions or concerns about the counseling program or about your child, please call me at the school or at my business office, (619) 596-0388. I am looking forward to meeting you.

Sincerely,

Patricia Medeiros, MS
Marriage & Family Therapist

TERENCE M. CHUCAS

Attorney at Law
1762 Columbia Street
San Diego, CA 92101
Tel: (619) 234-2266 Fax: (619) 234-2645

October 15, 2008

Michelle Lally
P.O. Box 95
La Jolla CA 92038

Jan F. Pouliot
4025 Camino Del Rio South, Suite 300
San Diego CA 92108

Clifford Roepke
17035 Calle Trevino, #1
San Diego CA 92127

Richard Renkin
2635 Camino Del Rio South, Suite 108
San Diego CA 92108

RE: *Lally v. Roepke*
Case No. D 472021

Dear Ms. Lally and Counsel:

On October 6, 2008 I received a voice mail from Ms. Lally in which she indicated that a problem existed. I was also contacted by Mr. Roepke on October 10, 2008. I returned both calls and left the same message which was that I would be out of town until October 15, 2008 and that procedurally I had to comply with the order of October 16, 2007.

The procedures set forth in the order of October 16, 2007 are clear. I am to receive written material from the parties concerning the problem, I am to interview Oliver, I am to meet with the parties in my office, I may make collateral contacts, and I am to write a recommendation to the Court. I am also to be paid the sum of \$500 by Ms. Lally and \$1,500 by Mr. Roepke prior to the start of my work.

I received pleadings from Ms. Lally. The pleadings are clear concerning what Ms. Lally is requesting and the reason for her requests. On the morning of October 15, 2008, Mr. Roepke contacted me. I told him that I had received pleadings from Ms. Lally. He had not received a copy of the pleadings so I faxed a copy to him. I anticipate that Mr. Roepke will respond to Ms. Lally's pleadings. Once I have received his response and have been paid, I am ready to start work on the matter. I will not start work unless I have been paid.

Sincerely,


TERENCE M. CHUCAS

TMC/cl

Exhibit 6

TERENCE M. CHUCAS

Attorney at Law
1762 Columbia Street
San Diego, CA 92101
Tel: (619) 234-2266 Fax: (619) 234-2645

October 15, 2008

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TMC/cl

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