

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

IN RE: THE MATTER OF:

JAN RATH,

Petitioner/Father,

and

VERONIKA MARCOSKI,

Respondent/Mother.

CASE NO.: 8:16-cv-02016-SDM-AEP

State Court Case No.: 16-006269-FD-17

**PETITIONER/FATHER'S AMENDED PETITION TO RECOGNIZE FOREIGN JUDGMENT
AND ORDER COMPLIANCE AND RETURN OF CHILD**

The Petitioner/Father, Jan Rath, by and through his undersigned attorneys, files this Amended Petition to Recognize Foreign Judgment and Order Compliance and Return of Child and in support thereof would state as follows:

1. The Court has jurisdiction over this matter by virtue of Florida Statutes, Chapter 61, 22 U.S.C.A. § 9003, The Convention on the Civil Aspects of International Abduction (the "Hague Convention") and The International Child Abduction remedies Act, 42 U.S.C. § 11601 *et seq* and related laws. Venue is proper in the Middle District because the child is located in the Middle District of Florida.

2. This is an action requesting this Honorable Court to recognize the Foreign Judgment lawfully entered by the Courts of the Czech Republic with respect to the minor child who is the subject of this action, order the Respondent/Mother to comply with same and return the minor child to his home country.

3. The Petitioner is the biological and legal father of the minor child, L.N.R., born in 2015 in Prague, Czech Republic. The Respondent/Mother is the biological and legal

mother of the said child and resided in the Czech Republic at the time of the child's birth. The Mother was not married at the time of the birth of the minor child.

4. The child was born in Prague, Czech Republic and is a citizen of the Czech Republic. The child, at the insistence of the Mother, has dual citizenship in the United States. The Mother procured this dual citizenship by misrepresentations and demands made by her to the Father, including her insistence during her pregnancy that she wanted the child to be a U.S. citizen and would travel to the United States to give birth in order to insure that.

5. Under the law of the Czech Republic, the Father has parental rights and responsibilities equal to those of the Mother.

6. At all times pertinent hereto, both the Father and the Mother, along with the minor child, resided in the Czech Republic. The Mother owns a home in the Czech Republic. The child was born in the Czech Republic and resided in the Czech Republic until the child was removed from the Czech Republic surreptitiously by the Mother on or about April 21, 2016. As a result, the Czech Republic is the home country and habitual residence of the minor child and has jurisdiction over the minor child.

7. After the birth of the minor child, the parties continued to reside together as a family in the Czech Republic until their eventual separation. After the parties separated, the Father continued to hold the child out as his son, exercise his parental rights to the child and, in all respects, act as the child's father. In addition, the Father financially supported the minor child.

8. After the parties' separation, they established an informal time sharing arrangement with respect to the minor child whereby the Father regularly spent time with the minor child several times each week, and exercised his rights of custody.

9. The parties also mutually agreed upon the amount of child support that the Father should pay for the minor child, which support was paid by the Father by wire to the Mother's account. Even after the Mother ceased communications with the Father and apparently left the Czech Republic, leaving no forwarding address, the Father continued to support the minor child by opening a bank account in the child's name at a Czech bank and depositing monies for the benefit of the child.

10. The Father last saw the minor child in the Czech Republic on or about April 10, 2016. The Father then departed for a business trip to the United Kingdom and only had telephone contact with the Mother and the minor child after that time.

11. After returning from his business trip on or about April 20, 2016, the Father called the Mother and sent text messages to her in order to facilitate time sharing with the child. The Mother did not answer the phone calls or respond to the Father's text messages.

12. Subsequently, the Father received an e-mail from the Mother's friend, who is a lawyer in the United States, notifying the Father that the child now "resides" in Redington Beach, Florida. A copy of this notification dated April 22, 2016 is attached as Exhibit "A" and incorporated herein by reference. At the time of the Mother's departure, although the Father had had frequent and liberal contact with the child, the Mother was aware that the Father intended to apply to the Court in the Czech Republic for a formal order establishing a time sharing arrangement.

13. In fact, the Father did apply to the Court in the Czech Republic for such an order and, on May 6, 2016, the Court in the Czech Republic entered an order that the Father was permitted to see the minor child every Tuesday from 1:00 p.m. to 5:00 p.m., every Thursday from 3:00 p.m. to 7:00 p.m. and every other Saturday. This Order further obligated the Mother to make the child available to the Father and to hand over the child at

the Father's home in Prague, Czech Republic. A copy of this Order is attached hereto as Exhibit "B" and incorporated herein by reference.

14. Upon becoming aware of the Mother's wrongful departure from the Czech Republic with the minor child, the Father informed the Office for International Legal Protection of Children. A copy of this notification is attached hereto as Composite Exhibit "C".

15. On or about April 28, 2016, the Mother filed a Petition to Determine Paternity and for Related Relief in the Circuit Court in and for Pinellas County, Florida. In the UCCJEA Affidavit filed with by the Mother with this Court, the Mother acknowledged that the child had resided in the Czech Republic from his birth until April 21, 2016, when she alleged that she relocated with the child to Pinellas County, Florida.

16. Apparently recognizing that the Florida Courts did not have jurisdiction over the minor child, absent some "emergent" situation, the Mother's Petition to Determine Paternity and for Related Relief alleged that the Florida Courts should assert "temporary emergency jurisdiction" in order to protect the child. The Mother further alleged that the Father physically abused her during her pregnancy and threatened to abduct the child and take the child away from her and her family. The Mother also alleged that the Father and his family have a "history of corruptive and criminal behavior..." There were no allegations by the Mother that the Father was physically abusive or presented a risk of harm or injury to the child.

17. The Father is a respected attorney in the Czech Republic and vehemently denies the untrue and inflammatory allegations made by the Mother against him and his family. Specifically, as the Mother well knows, the Father's family does not have a criminal history, which fact can be readily verified. In fact, contrary to the Mother's allegations in her

Petition that the Father intended to remove the child, the Mother has, herself, wrongfully removed the child from the Czech Republic and intentionally kept him from the Father.

18. The Mother's Petition to Determine Paternity and for Related Relief was voluntarily dismissed by the Mother on or about May 13, 2016. Coincidentally, the Mother dismissed this Petition filed in the Circuit Court in and for Pinellas County, Florida the day after the deadline given to the Mother by the US Central authority for child protection established by the Hague Treaty to provide a statement justifying the Mother's relocation to the United States. In fact, the deadline was on May 12, 2016 and the Mother did not respond.

19. The minor child is and always has been a resident of the Czech Republic. A copy of the birth certificate of the minor child as well as the Confirmation of the Central Authority of the Czech Republic concerning the laws applicable in cases under the Convention on the Civil Aspects of International Child Abduction is attached as Composite Exhibit "D".

20. The minor child is only in the United States (and has been for just over sixty days) as a result of the Mother's willful and wrongful actions in removing the child from his home jurisdiction contrary to applicable law.

21. This Honorable Court should assume limited jurisdiction over the minor child which is the subject of this litigation for the sole purpose of ordering the child's return to the Czech Republic pursuant to a valid Court order.

22. The Father does not submit to the jurisdiction of this Honorable Court other than for the limited purpose of returning the child. This Honorable Court and all courts in the state of Florida only have temporary emergency jurisdiction over this minor child pursuant to Fla. Stat. § 61.517 in the event that the Mother can allege and provide that the

child has been abandoned or that it is necessary for the Court to protect the child. The Mother has not and cannot do this.


23. It is clear that the Mother's surreptitious removal of the child from the Czech Republic was done for the sole purpose of attempting to gain sole control of the minor child, prohibiting the Father from establishing a relationship with the child and in order to disregard any orders of the Courts in the Czech Republic.

24. The Father has incurred expenses in connection with the requested return of the child, including, but not limited to, travel expenses, investigative expenses and legal fees. Pursuant to applicable law, the Mother should be required to reimburse the Father for such expenses.

25. In addition, the Father has engaged the undersigned counsel and is obligated to pay counsel a reasonable fee for services rendered in connection with this matter. The Mother's wrongful removal of the minor child from the Czech Republic in direct contravention of United States and international law has resulted in the Father incurring legal fees and costs in order to secure the return of the child. The Mother should be required to pay the cost of legal fees and costs incurred by the Father.

WHEREFORE, the Petitioner/Father, Jan Rath, by and through his undersigned counsel, prays that this Honorable Court will assume jurisdiction over this matter and the minor child for the sole purpose of recognizing the legitimate Order entered by the Courts in Czech Republic, for the entry of an Order returning the minor child forthwith to the Czech Republic, for an award of the costs incurred by the Father in connection with the return of the child, including, but not limited to, legal fees and for such other and further relief as may be deemed appropriate.

I UNDERSTAND that I am swearing under oath to the truthfulness of the claims made in the Petitioner/Former Husband's Petition to Establish Foreign Decree as Florida Judgment and that punishment for knowingly making a false statement includes fines and/or imprisonment.



JAN RATH

STATE OF FLORIDA
COUNTY OF PINELLAS

The foregoing instrument was acknowledged before me this 21st day of July, 2016, by JAN RATH, who is personally known to me or who has produced Czech Republic Passport as identification.



KELLY A. SHEEHAN
MY COMMISSION # FF 159030
EXPIRES: October 17, 2018
Bonded Thru Budget Notary Services



NOTARY PUBLIC
My commission expires: 10-17-18

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 21st day of July, 2016, I electronically filed the foregoing with the Clerk of court using the CM/ECF system, which will automatically send a copy to: Belinda Lazzara, Esq. (Blazzara@mslbo-law.com and jbenitez@mslbo-law.com), Meros, Smith, Lazzara, Brennan, Brennan & Oleny, P.A., P.O. Box 27, St. Petersburg, FL 33731; and Neil J. Salzman, Esq. (neilsaltzman@live.com) of P.O. Box 299, Bronx, NY 10471.



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