

NO. 2012-43174

IN THE INTEREST OF

**KING ZANE ALEXANDER
KUENSTLER**

A CHILD

§ **IN THE DISTRICT COURT**
§
§ **312TH JUDICIAL DISTRICT**
§
§
§ **HARRIS COUNTY, TEXAS**

NOTICE AND OPPORTUNITY TO DEFEND

Travis Raymond Kuenstler appeared in person before me today and stated under oath:

“My name is Travis Raymond of the Kuenstler family. I am above the age of eighteen years, and I am fully competent to make this affidavit. The facts stated in this affidavit are within my personal knowledge and are true and correct.

I am the Petitioner in this case.

In this notice, I will present a Statement of Facts which outline the events in which Hon. David Farr, Hon. Eileen Gaffney, and Ms. LeNetra Lary, have either knowingly or unknowingly, hindered, and/or obstructed, in manner which has violated professional codes of ethics and conduct, local, state, and/or federal statutes, and the due course of justice, which has either intentionally or inadvertently denied the child subject to this suit, and myself, equal protection of the laws, causing injury by way of denying both the child and myself, our Rights protected under the 5th and 14th Amendments of the Constitution, whereas “in determining whether such rights are denied, the Court is governed by the substance of things, and not by mere form.” (Simon v. Craft - 182 U.S. 427 (1901)).

The United States Supreme Court further stated that “when a state officer acts under a state law in a manner violative of the Federal Constitution, he comes into conflict with the superior authority of that Constitution and he is in that case stripped of his official or

representative character and is subjected in his person, to the consequences of his individual conduct. The State has no power to impart to him any immunity from responsibility to the supreme authority of the United States.” [Emphasis added] [In accordance with 42 USC § 1983.] See *Scheuer vs. Rhodes*, 416 U.S. 232, 94 S.Ct. 1683 (1974).

It is the duty of this Court to defend the Oath of Office, secure justice and uphold the duty and trust therein, as well as not impeding on my efforts to protect my son from Abuse and Neglect, that has been verified and entered into these proceedings by a un-biased third party, authorized by Harris County, and under direction of this Court.”

STATEMENT OF FACTS AND INJURIES

“During the hearing on August 12, 2013, Hon. David Farr asked me about the requested Interrogatories and Discovery, which I responded verbally WITH Objection, citing in summary, as being overly broad, unduly burdensome, repetitious, and asking questions that are either not relevant to the case, of public record, or already on record with the Court.

After the aforementioned Objection, Mr. Farr then disagreed with my Objection, instructed me to go through each question, one by one, and give a response of what portion was objectionable, or to respond ‘No Objection’. I had already given my objection for the unethical and prohibited Interrogatories, and felt that I was being pressured, intimidated, and coerced to give a contradictory response I would not otherwise give. Being under duress, I could not recall the specific codes, violations, and mandates by memory, and I felt obligated out of fear of potential negative consequences, to go along with his request that I answer each question with ‘No Objection’. Mr. Farr then gave me a deadline of 5:00pm on September 10, 2013, to respond to the Interrogatories and Discovery formally in writing. He also notified me that he would listen to the case in a temporary hearing, if I requested such a hearing.

I obliged the request by filing PETITIONER’S ANSWERS TO INTERROGATORIES on September 10, 2013, which included answers to the best of my knowledge, as well as full objections, to ‘Definitions’ as being outside the scope of the Texas Rules of Civil Procedure, as well as the Interrogatories and Discovery altogether, being in blatant violation of Rule 197, 195.1, 194.2(i), 192.3(h), as well as violating ethics of the Texas Lawyers Creed, Houston Bar Association Lawyers Mandate(IV(3)), and Tex.R.Civ.P. 215.3. This notice is the third account, to this Court, of the aforementioned violations.

The Court was notified of the breach in ethics and violations through the ‘Answers’ as well as through the MOTION FOR PROTECTIVE ORDER AND FOR SANCTIONS, which further supported these violations as asserted through the following case law:

‘A request for “all documents” is generally considered a fishing expedition into another party’s files which is prohibited. *In Re American Optical*, 988 S.W.2d 711, 713 (Tex 1998).

A request for all documents without limitation as to time, place, or subject matter is overbroad. *Texaco, Inc. v. Sanderson*, 898 S.W.2d 813, 815 (Tex 1995).

A request for all documents that supported allegations made in a case was determined to be overbroad and vague. *Loftin v. Martin*, 776 S.W.2d 145, 148 (Tex 1989).’

By these Interrogatories and Discovery requests, Ms. LeNetra Lary is also in violation of the TEXAS DISCIPLINARY RULES OF PROFESSIONAL CONDUCT, Rule 3.01(1)(2), ‘A lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein, unless the lawyer reasonably believes that there is a basis for doing so that is not frivolous’, Furthermore, abusing the legal procedures, and filing frivolous and knowingly false pleadings.

This Court has not fulfilled its obligations under the Texas Rules of Judicial Conduct, Canon 3: Performing the Duties of Judicial Office Impartially and Diligently, Section D. 'Disciplinary Responsibilities', as follows:

(2) "A judge who receives information clearly establishing that a lawyer has committed a violation of the Texas Disciplinary Rules of Professional Conduct should take appropriate action. A judge having knowledge that a lawyer has committed a violation of the Texas Disciplinary Rules of Professional Conduct that raises a substantial question as to the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects shall inform the Office of the General Counsel of the State Bar of Texas or take other appropriate action."

A MOTION FOR TEMPORARY RESTRAINING ORDERS AND TEMPORARY ORDERS was filed on September 10, 2013 as well, and the Respondent was notified through her attorney, LeNetra S. Lary, via certified mail. An Addendum was enclosed, highlighting the findings of the CONTESTED CUSTODY/ACCESS SOCIAL STUDY, which had previously been submitted to this Court by the Harris County Domestic Relations Office. A notification fax with Status Update had not yet been sent to the Office of the Attorney General, as the October 9th date for temporary hearing, given by the Assistant Court Clerk, was pending and had not yet been confirmed.

I made numerous calls to check on the status of the pending hearing date, without receiving a response. On September 19th I filed a Motion for Emergency Hearing asking the Court to immediately set a hearing date to examine the pleadings for the TRO and Temporary Orders. After inquiring about the status of the TRO & Temporary Hearing, the Associate Judge, Hon. Eileen Gaffney, informed me that it would be denied without an attached Affidavit. I

returned on September 20th, to file the required Affidavit, and was then told the request for TRO and Hearing was still denied, reasoning, to the best of my knowledge, that she [Associate Judge] would not hear an ex parte matter. This does not apply due to the fact that the TRO and Temporary Orders were properly serviced to Ms. LeNetra S. Lary, and the subject matter was the Social Study findings, an administrative matter submitted by the Harris County Domestic Relations Office, which are uncontested. See Texas Code of Judicial Conduct, Canon 3 (B)(8)(a) & (9).”

DEMAND AND REMEDIES

“I am demanding, in good faith, that these oversights and omissions outlined in this notice, be immediately corrected as allowed by the Federal Rules of Civil Procedure, Rule 60, and the Administrators of this Court act appropriately, lawfully, and in the best interest of the child, without further delay.”

Respectfully Submitted,

/s/ Travis Kuentler

Travis Raymond Kuentler, Affiant, Sui Juris

SIGNED under oath before me on _____.

Notary Public, State of Texas