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CAUSE NO. 2002-23498

IN THE INTEREST OF
AND
T,

CHILDREN

§ IN THE DISTRICT COURT
§
§ 311th JUDICIAL DISTRICT
§
§ HARRIS COUNTY, TEXAS

FILED

Chris Daniel
District Clerk

SEP 05 2013

MOTION FOR RECONSIDERATION AND REVISION

TO THE HONORABLE JUDGE OF SAID COURT:

Time: _____
Harris County, Texas
By _____
Deputy

Comes now, **TIM R. CRAMBLET, MOVANT**, who files this **"MOTION FOR RECONSIDERATION AND REVISION"** of an Order unintentionally and inadvertently signed by this Court which awarded attorney fees to the Amicus Attorney, Alicia K. Franklin, and respectfully would show the Court as follows:

I. Summary

At a hearing on June 7th, 2013, Movant's attorney, JOHN LOHMANN, III., was given by Alicia K. Franklin, a Motion requesting Attorney Fees and attached to said Motion was an Order setting a hearing on said Motion (see Exhibit "A" attached hereto and made a part hereof for all purposes). No date was set on the Order and Movant's attorney never received from Ms. Franklin, a date on which this Court would conduct a Hearing.

Movant's attorney has now learned that the Order granting Attorney Fees was signed by this Court on June 7th, by mistake or inadvertently, as shown on Exhibit "B" which is attached hereto and made a part hereof for all purposes.

Movant would show that he has paid to the Amicus Attorney as of this date, the sum of \$22,868.75 and that the Order signed by this Court ordered Movant to pay an additional Thirty-Five Thousand Dollars (\$35,000.00). Movant had and has continuously questioned the charges made by the Amicus, Alicia K. Franklin, and as of this date, such charges have not been explained. As an example, approximately 70% of all invoices state only the date and the word "communication".

Movant would show that a Amicus Attorney means an attorney appointed by the Court in a suit whose role is to provide legal services necessary to assist the Court in protecting a child's best interest rather than to provide legal services to the child. (Sec.107.001—Texas Family Code) The Amicus Attorney in this case spent most of her time acting as a "guardian/parent/protector" of the Children and advised the Children what they should or should not do. Said Amicus Attorney also spent a considerable amount of time which was billed to both parties in continuing to talk to Dr. Mellor-Crummey, who the Children and their mother, Bernice Klink, were seeing for therapy.

The Movant at the beginning of this case gave the Amicus Attorney numerous individuals with the request that Ms. Franklin investigate and talk to about issues relevant to this case and it was not until Movant filed a Motion to remove the children from their Mother's home that said Amicus Attorney called any of his family and that was to see if they would take the children in their care.

It is Movant's position that the Amicus Attorney's job is to investigate the facts of the case and assist the Judge, not to play friend, guardian or surrogate parent to the Children. The amount charged to both parties is exorbitant and unjustified and it is for this reason that Movant is requesting this Court to have the Amicus Attorney make no further collection of fees from Movant and in fact, remit back to Movant, a portion of the fees he has previously paid.

Movant would further show that no motion for additional attorney fees were heard or Ordered by this Court except the initial \$500.00 was ordered to be paid by each party. Then a year and a half later the Amicus Attorney files for additional attorney fees. Both parties have been billed monthly at an average of approximately \$2,500 per month.

Movant would also call to the Court's Attention that the Amicus Attorney took a position contrary to what Movant stated was the truth and at every hearing most if not all of the questions asked to Movant was to make him look like the "bad boy" and when questions were asked to Bernice Klink, they were of a nature that embraced her opinion and concurred with Mrs. Klink's opinions and suggestions. Movant does not recall Mrs. Klink being chastised as Ms. Franklin did to Movant. Her bias was apparent.

Movant would show that this is not an appointment of an Attorney-Ad- Litem who provides legal services to a person, including a child and who owes to the person the duties of undivided loyalty, confidentiality and competent representation. Movant's opinion is that the Amicus Attorney acted as an Attorney- Ad- Litem and not as an Amicus Attorney.

Movant requests this Court set a Hearing for this "Motion For Reconsideration and Revision" and have the Amicus Attorney explain in detail the basis for her charges and how those charges were related to the duties of an Amicus Attorney, who was appointed by this Court.


II. Prayer

WHEREFORE, PREMISES CONSIDERED, TIM CRAMBLET, Movant, respectfully requests that this Court grant this Motion and enter an *"Order Canceling and Voiding Out the Previous Order Awarding Attorney Fees To Be Paid To The Amicus Attorney By Movant"* and such other and further relief, at law or in equity, as asked for in this motion.

RESPECTFULLY SUBMITTED,

LOHMANN, GLAZER & IRWIN, L.L.P.

By


JOHN LOHMANN, III
State Bar No. 12503000
Attorney for Movant
5005 Riverway Drive, Suite 450
Houston, Texas 77056-2192
Office: 713-961-7999
Fax No. 713-963-9383

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of Movant, TIM R. CRAMBLET'S *"Motion For Reconsideration and Revision"* was served to the Amicus Attorney, Alicia K. Franklin, via facsimile (713) 965-4806 and to Amy C. Allen via facsimile (713) 986-7100, in accordance with the Texas Rules of Civil Procedure on this 4th day of September, 2013.


JOHN LOHMANN, III

CERTIFICATE OF CONFERENCE

I hereby certify that Movant has contacted the Amicus Attorney, Alicia K. Franklin, concerning her billing invoices on numerous occasions in an attempt to see what he was being billed for with no results and his attorney has also advised Bernice Klink's attorney, Amy C. Allen, that he was going to file this "Motion".



JOHN LOHMANN, III

Unofficial Copy Office of Chris Daniel District Clerk

www.pearsoned.com

A CHILDREN

HARRIS COUNTY, TEXAS

FILED
Chris Daniel
District Clerk
JUN 07 2013

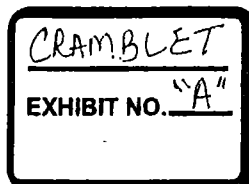
Harris County, Texas
Deputy

TO HONORABLE JUDGE OF SAID COURT:

COMES NOW, ALICIA K. FRANKLIN, Amicus Attorney appointed to represent the interest of **NATALIE CRAMBLET** and **OLIVIA CRAMBLET**, minor children, who respectfully moves the Court to set a hearing date of the purpose of providing additional security for costs in this matter. As grounds for such Motion, Movant, respectfully shows the following, to wit:

I.

On December 9, 2011, Movant was appointed Amicus Attorney for the above-named child by this Honorable Court. Additionally, within the Order Appointing Amicus Attorney, Petitioner and Respondent were each ordered to deposit the sum of \$500.00 in this Amicus Attorney's Trust account no later than December 16, 2011 (Please see the order attached hereto as Exhibit "A" and incorporated for all purposes herein). To date, Petitioner and Respondent have each made the respective initial deposits of \$500.00 and Petitioner and Respondent have made payments thereafter to the Amicus attorney. However, the Petitioner has paid in subsequent payments to the Amicus, \$19,999.79 more to the amicus than the Respondent has paid. The Amicus Attorney has incurred necessary and reasonable attorney's fees and expenses in the amount of \$49,076.86 that have not been paid by the parties that were incurred in protecting the best interest of the child and are as necessities for the children that should be taxed as child support against the parties.



II.

From and after the date of appointment, Movant has conferred with attorneys, conferred with the children subject to this suit, conferred with the parties, conferred with the witnesses with relevant knowledge, conferred with the children's therapist, conferred with the family therapist, conferred with the Court appointed supervisor of visitations between the father and the children, reviewed pleadings, evidence, and correspondence contained in the Court's file, attended hearings, and commenced and independent investigation into the background and circumstances relating to the minor child and parties hereto. Additionally, there are many complex underlying issues, including but not limited supervised visitations and allegations of sexual abuse. The amicus asserts that the initially ordered deposit is insufficient for the complexity of issues in this matter.

III.

Movant has spent considerable time and effort along with costs herein without adequate compensation; further, Movant has good reason to believe and does believe that this cause will require additional time by the Movant which will be necessary for Movant to participate in this final trial and to properly discharge her duties on behalf of the minor child. For all the foregoing reasons, Movant deems herself insecure in the payment of fees and costs advanced in connection with Movant discharging her duties herein although an order to deposit the sum of \$1,000.00 is in place, with each party responsible for half of said deposit.

IV.

Pursuant to the provisions of Section 106.002(a) and Section 107.015 of the Texas Family Code, attorney's fees may be taxed as costs and ordered paid directly to the Attorney. Further, Rule 143 of the Texas Rules of Civil Procedure provides that the parties seeking affirmative relief may be ruled to give security for costs at any time before final judgment, upon motion of any party interested in the costs accruing in such suit. Amicus has attempted to resolve this matter without the necessity of court intervention by sending monthly billing statements to the parties. In response, Petitioner, Bernice Klink has paid \$19,999.79 more to the amicus than

the Respondent has paid. The Amicus Attorney has incurred unpaid fees and expenses in the amount of \$49,076.86 as necessities for the best interest of the child as should be taxed as child support against the parties. The initial order from this Court made each party responsible for fifty-percent (50%) of the amicus fees. Accordingly, an Order of this Court ordering each party to pay fifty-percent (50%) of the total amicus fees and costs incurred to present would make the parties responsible for unpaid Amicus fees as follows:

Bernice Klink shall pay the Amicus in the sum of \$14,538.54.

Tim Cramblet shall pay the Amicus in the sum of \$34,538.33.

Movant requests a judgment in her own name against each party as stated above, to bear interest at the legal rate, and an Order from the Court ordering each party to pay the Amicus Attorney in the above referenced amounts by a date determined by the Court or in the alternative, to order the payment of the unpaid Amicus fees portioned amongst the parties as the Court deems appropriate by a date determined by the Court and judgments in the name of the Amicus against each party for said amounts, to bear interest at a legal rate, and shall be enforceable by Amicus attorney in her own name. The Movant requests that the Court order relief as the Court deems available and appropriate. The Movant request the Court to sign a wage withholding order to withhold \$500.00 a month from each party's wages for the amicus' fees until said fees and incurred interest are paid in full.

WHEREFORE, PREMISES CONSIDERED, Movant prays this Motion be set for hearing and that upon notice and hearing, the Court order the parties to make a deposit of funds with the Amicus Attorney as security herein and in the alternative, the Court issue a wage withholding order withholding said Amicus fees to be paid directly to the Movant in this matter.

Movant prays for all further relief, general or special, in law or equity, to which she may be entitled.

Respectfully submitted,

THE LAW OFFICES OF ALICIA K. FRANKLIN, P.C.
405 Main, Suite 401
Houston, TX 77002

Tel: (713) 223-0754
Fax: (713) 965-4806

By: 

ALICIA K. FRANKLIN
State Bar No. 24040930
Amicus Attorney for Children

NOTICE OF HEARING

The above and foregoing Amicus Attorney's Motion for Security for Costs is set for hearing on the _____ day of _____, 2013 at _____ in the 309th Judicial District Court of Harris County, Texas.

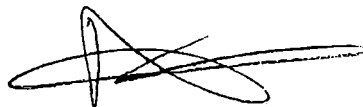
CLERK

CERTIFICATE OF SERVICE

I certify that a true copy of the above was served on each attorney of record or party in accordance with the Texas Rules of Civil Procedure on June 6th, 2013.

John Lohmann, III
Via Facsimile: (713) 963-9383

Amy Allen
Via Facsimile: (713) 986-7100



ALICIA K. FRANKLIN

7-1
NO. 2002-23498

IN THE DISTRICT COURT OF

IN THE MATTER OF
THE MARRIAGE OF

Bernice Khish

AND Jim Cramblit

AND IN THE INTEREST OF

Cramblit

MINOR CHILDREN

HARRIS COUNTY, TEXAS

FILED
Chris Daniel
District Clerk

DEC 09 2011

311TH JUDICIAL DISTRICT

By [Signature]
Deputy

ORDER APPOINTING AMICUS ATTORNEY

The Court finds that under Chapter 107 of the Texas Family Code an Amicus Attorney should be appointed to provide legal services to assist the Court in protecting the interest of the minor child(ren). The Court hereby appoints Alicia Franklin as Amicus Attorney.

24046930
The Court finds that the Texas Family Code Section 107.023(b)(2) mandates the ordering of a cost deposit by the parties for fees and expenses of the Amicus Attorney. It is ORDERED that each party to deposit the sum of \$ 500.00 with the Amicus Attorney's Trust Account no later than 5:00 p.m., seven (7) days following the signing of this Order. The Court reserves the right to order additional cost deposits prior to trial. Fees are Ordered paid directly to the Amicus Attorney.

The Court ORDERS that the Amicus Attorney shall have immediate access to all records relating to the child(ren) not otherwise privileged, confidential or protected by other rules of law, including records regarding social services, or medical or mental health evaluation or treatment of the child(ren), law enforcement records, school records and records of a probate or court proceeding. Any custodian of the child(ren) shall grant the Amicus Attorney immediate access to the child(ren).

The Amicus Attorney appointed herein has all of the rights and privileges as contained in Section 107 of the Texas Family Code. The Amicus Attorney shall only be required to attend court hearings where his or her presence is necessary to protect the best interest of the child(ren).

Signed on December 9, 2011.

[Signature]
JUDGE PRESIDING

Order is being sent to:

Amicus Attorney:

Fax No. 713-965-4806

Attorney for Petitioner:

Fax No. 713-986-7100

Attorney for Respondent:

Fax No. _____

RECORDER'S MEMORANDUM
This instrument is of poor quality
at the time of imaging

Set for 12/20/2011 @ 900am

ALICIA FRANKLIN

trc8000@yahoo.com
klinkja@yahoo.com

Bill Number: 1968

Date due: 7/02/2013

STATEMENT

CASE SUMMARY FOR Amicus		Previous balance
		41,126.86

Date	Description	Payments	Amount
5/09/13	Transfer from trust account		\$1,000.00
Total payments:			\$1,000.00

Date	Description	Charges	Amount
5/03/13	Communications.	0.5 hr	\$25.00
		AD \$50.00 /hr.	
5/03/13	Communication.	0.25 hr = \$12.50	
		AD \$50.00 /hr.	
5/06/13	Communication.	0.25 hr	12.50
		AD \$50.00 /hr.	
5/06/13	Communications.	2.25 hrs	675.00
		akf \$300.00 /hr.	
5/07/13	Communications.	0.5 hr	25.00
		AD \$50.00 /hr.	
5/07/13	Communication.	0.25 hr = \$43.75	
		TT \$175.00 /hr.	
5/08/13	Communication.	0.25 hr	12.50

	AD \$50.00 /hr.		
5/08/13 Communication.		0.25 hr = \$12.50	
	AD \$50.00 /hr.		
5/08/13 Communication.		0.25 hr	43.75
	TT \$175.00 /hr.		
5/08/13 Communication.		0.25 hr = \$75.00	
	akf \$300.00 /hr.		
5/09/13 Communication.		0.25 hr	12.50
	AD \$50.00 /hr.		
5/09/13 Prepared response.		1 hr	175.00
	TT \$175.00 /hr.		
5/09/13 Reviewed pleadings.		0.25 hr	75.00
	akf \$300.00 /hr.		
5/10/13 Communication.		0.25 hr = \$12.50	
	AD \$50.00 /hr.		
5/10/13 Prepared exhibits.		1 hr	50.00
	AD \$50.00 /hr.		
5/10/13 Reviewed exhibits.		0.25 hr	12.50
	AD \$50.00 /hr.		
5/10/13 Draft Order and Notice.		1.25 hrs	218.75
	TT \$175.00 /hr.		
5/10/13 Communications.		0.75 hr	225.00
	akf \$300.00 /hr.		
5/13/13 Copied exhibits.		0.5 hr	25.00
	AD \$50.00 /hr.		
5/13/13 Communication. Hearing. Reviewed reports and preparation.		2.5 hrs	750.00
	akf \$300.00 /hr.		
5/13/13 Hearing.		3 hrs	900.00
	akf \$300.00 /hr.		
5/14/13 Communication.		0.25 hr = \$12.50	
	AD \$50.00 /hr.		
5/15/13 Prepared for Hearing. Hearing. Communication.		5 hrs	1,500.00
	akf \$300.00 /hr.		
5/15/13 Communication.		0.25 hr	75.00
	akf \$300.00 /hr.		
5/20/13 Communication.		0.25 hr = \$12.50	
	AD \$50.00 /hr.		
5/20/13 Communications.		0.25 hr	75.00
	akf \$300.00 /hr.		
5/21/13 Communication..		0.5 hr	150.00
	akf \$300.00 /hr.		
5/22/13 Communication.		0.25 hr	12.50
	AD \$50.00 /hr.		
5/23/13 Communication.		0.25 hr = \$12.50	

	AD \$50.00 /hr.		
5/24/13 Communication.		0.25 hr = \$12.50	
	AD \$50.00 /hr.		
5/24/13 Communications.		2 hrs	600.00
	akf \$300.00 /hr.		
5/28/13 Communications.		0.5 hr	25.00
	AD \$50.00 /hr.		
5/28/13 Hearing.		4 hrs	1,200.00
	akf \$300.00 /hr.		
5/28/13 Communications.		0.75 hr	225.00
	akf \$300.00 /hr.		
5/30/13 Communication.		0.25 hr	12.50
	AD \$50.00 /hr.		
5/31/13 Communication.		0.25 hr	12.50
	AD \$50.00 /hr.		
5/31/13 Communications.		2 hrs	600.00
	akf \$300.00 /hr.		
6/03/13 Communication.		0.25 hr	12.50
	AD \$50.00 /hr.		
6/03/13 Communication.		1.5 hrs	450.00
	akf \$300.00 /hr.		
6/03/13 Rendition.		1 hr	300.00
	akf \$300.00 /hr.		
6/03/13 Communication.		0.25 hr	75.00
	akf \$300.00 /hr.		
6/04/13 Communication.		0.25 hr	12.50
	AD \$50.00 /hr.		
6/05/13 Session with girls.		1 hr	300.00
	akf \$300.00 /hr.		
6/06/13 Communication.		0.25 hr = \$12.50	
	AD \$50.00 /hr.		
6/06/13 Reviewed order.		0.25 hr	75.00
	akf \$300.00 /hr.		

Total charges:	\$8,950.00
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CASE SUMMARY	
Previous balance:	41,126.86
Total charges:	3,950.00
Total payments:	(41,000.00)
TOTAL DUE FOR THIS CASE:	49,076.86
You have amounts that are past due. Please pay.	

TRUST ACCOUNT

Previous balance: \$0.00

Trust Deposits		Amount
Date	Description	
5/09/13	Trust Deposit. Thank You! Bernice	\$1,000.00
Trust Withdrawals		Amount
Date	Description	
5/09/13	Trust Transfer	\$1,000.00
Trust Balance:		\$0.00

RECORDER'S MEMORANDUM
This instrument is of poor quality
at the time of imaging

IN THE DISTRICT COURT
311TH JUDICIAL DISTRICT
HARRIS COUNTY, TEXAS

FILED
Chris Daniel
District Clerk
JUN 07 2013

ORDER FOR SECURITY FOR COSTS FOR AMICUS ATTORNEY

The Court FINDS that Amicus Attorney, ALICIA K. FRANKLIN, has incurred necessary and reasonable attorney's fees and expenses in the amount of \$49,076.86 that have not been paid by the parties that were incurred in protecting the best interest of the child and are as necessities for the children that should be taxed as child support against the parties. The Court FURTHER FINDS that each party is responsible for fifty-percent (50%) of the total amicus fees incurred in this matter.

The Court further finds that after applying payments from the Petitioner and Respondent in this matter, Petitioner, BERNICE KLINK, is responsible for payment of unpaid Amicus fees in the sum of \$14,538.54. The Court FURTHER FINDS that the Amicus, Alicia K. Franklin shall be awarded an judgment, for which let execution issue, which shall bear interest at a legal rate, in her name against BERNICE KLINK in the amount of \$14,538.54, for which Alicia K. Franklin shall be entitled to enforce in her own name.

The Court further finds that after applying payments from the Petitioner and Respondent in this matter, Respondent, TIM CRAMBLET, is responsible for payment of unpaid Amicus fees in the sum of \$34,538.33. The Court FURTHER FINDS that the Amicus, Alicia K. Franklin shall be awarded an judgment, for which let execution issue, which shall bear interest at a legal rate, in her name against TIM CRAMBLET in the amount of \$34,538.33, for which Alicia K. Franklin shall be entitled to enforce in her own name.

IT IS ORDERED that the Petitioner, BERNICE KLINK shall pay the Amicus, Alicia K. Franklin the sum of \$14,538.54 on or before _____.M., on ____ day of ____, 2013, at The Law Offices of Alicia K. Franklin, 405 Main St., Ste. 401, Houston, Texas 77002.

IT IS ORDERED that the Respondent, TIM CRAMBLET shall pay the Amicus, Alicia K. Franklin the sum of \$34,538.33 on or before _____ M., on _____ day of _____, 2013, at The Law Offices of Alicia K. Franklin, 405 Main St., Ste. 401, Houston, Texas 77002.

The Court further issued a wage withholding order against the parties.

Signed this _____ day of _____, 2013.

JUDGE PRESIDING

APPROVED AS TO FORM:

ALICIA K. FRANKLIN
TBA No.: 24040930
405 Main Street, Suite 401
Houston, Texas 77002
(713) 223-0754 Tel
(713) 965-4806 Fax
Amicus Attorney for the Children

NO. 2002-23498

IN THE INTEREST OF

AND _____

A CHILDREN

IN THE DISTRICT COURT

311TH JUDICIAL DISTRICT

HARRIS COUNTY, TEXAS

ORDER FOR SECURITY FOR COSTS FOR AMICUS ATTORNEY

The Court FINDS that Amicus Attorney, ALICIA K. FRANKLIN, has incurred necessary and reasonable attorney's fees and expenses in the amount of \$49,076.86 that have not been paid by the parties that were incurred in protecting the best interest of the child and are as necessities for the children that should be taxed as child support against the parties. The Court FURTHER FINDS that each party is responsible for fifty-percent (50%) of the total amicus fees incurred in this matter.

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IT IS ORDERED that the Petitioner, BERNICE KLINK shall pay the Amicus, Alicia K. Franklin the sum of \$14,538.54 on or before 2:00 P.M., on 14 day of June, 2013, at The Law Offices of Alicia K. Franklin, 405 Main St., Ste. 401, Houston, Texas 77002.

CRAMBLET

EXHIBIT NO. "B"

RECORDER'S MEMORANDUM
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at the time of imaging


IT IS ORDERED that the Respondent, TIM CRAMBLET shall pay the Amicus, Alicia K. Franklin the sum of \$34,538.33 on or before 2:00 P.M., on 14 day of June, 2013, at The Law Offices of Alicia K. Franklin, 405 Main St., Ste. 401, Houston, Texas 77002.

The Court further issued a wage withholding order against the parties.

Signed this 7 day of June, 2013.


JUDGE PRESIDING

APPROVED AS TO FORM:


ALICIA K. FRANKLIN
TBA No.: 24040930
405 Main Street, Suite 401
Houston, Texas 77002
(713) 223-0754 Tel
(713) 965-4806 Fax
Amicus Attorney for the Children

Unofficial Copy of Office of Chris Daniel District Clerk

RECORDER'S MEMORANDUM
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at the time of imaging