

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

)	Civil Action No. 4:14-cv-04176-RBH
Fernando Contreras Alcalá,)	
)	
Petitioner,)	
)	
vs.)	<u>JOINT STIPULATION AS TO</u>
)	<u>FACTUAL AND PROCEDURAL</u>
)	<u>ISSUES FOR TRIAL</u>
Claudia García Hernández,)	
)	
Respondent.)	
_____)	

Petitioner Fernando Contreras Alcalá (“Petitioner”) and Respondent Claudia García Hernández (“Respondent”), by and through their respective undersigned counsel, jointly stipulate and agree as follows solely for the purpose of trial in this matter:

A. Factual Stipulations:

1. The children in this case were, up until the time of their removal from Mexico, habitual residents of Cosolapa, Oaxaca, Mexico, as that term is construed under the Hague Convention.
2. Petitioner is the father of the Children as set forth in the Children’s valid birth certificates attached to Petitioner’s Verified Petition.
3. Petitioner was exercising his parental custody rights as a father at the time Respondent removed them from Mexico.
4. Sometime in 2013, Respondent discussed the option of illegally immigrating into the United States with Petitioner. On June 17, 2013, Respondent removed the Children from their habitual residence without Petitioner’s consent or acquiescence.
5. Petitioner has sufficient rights of custody under Oaxacan and Mexican law as that term is used under the Hague Convention and the International Child Abduction Remedies Act.

No expert or lay testimony is necessary to establish that legal conclusion or the facts to support that determination of foreign law under Rule 44.1, Federal Rules of Civil Procedure.

6. Respondent entered the United States with the Children illegally. Respondent nor the Children had valid passports or visas at the time they entered the United States or at any time thereafter.

B. Procedural Stipulations:

7. The parties shall file a joint request or competing motions for examination of the children by the Court *in camera*, by an appointed guardian *ad litem*, by a state certified forensic interviewer, or by other method no later than **January 12, 2015**. This filing shall include the requested method and parameters of the interview, as well as a proposed schedule for submission of necessary documentation and the time for conducting the interview.

8. The parties will be prepared to proceed to trial by **February 23, 2015**. Absent compelling circumstances, the parties will not seek a continuance of this trial date. Provided, however, that a continuance may be necessary for the appropriate party to interview the children so long as each party has used reasonable efforts to schedule the interview prior to trial.

9. The parties have agreed on a general schedule for the exchange of documents, expert witness disclosures, filing of motions *in limine*, and other matters. Shortly after the Court determines the date for trial in this matter, the parties are prepared to submit a proposed scheduling order regarding these matters.

10. The parties consent to allow Petitioner and any witness residing outside of the jurisdiction to testify, as necessary, by remote means with the Court's approval. All reasonable efforts to procure testimony by video conference will be made first, with testimony by conference call permissive as a last resort so long as the parties are able to cross-examine the

witnesses in real-time. The parties agree to submit information to the Court regarding the procedural safeguards in place to ensure that the witness testifying by remote means are properly identified and is not under any undue influence during his or her testimony.

We so agree and stipulate:

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By:  _____

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January 5, 2015

We so agree and stipulate:

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