

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF VERMONT

JANET JENKINS, FOR HERSELF AND
AS NEXT FRIEND OF ISABELLA
MILLER-JENKINS, A/K/A ISABELLA
MILLER

Plaintiffs,

v.

KENNETH L. MILLER, LISA ANN
MILLER F/K/A LISA MILLER-
JENKINS, TIMOTHY D. MILLER,
ANDREW YODER, INDIVIDUALLY
AND AS AN AGENT FOR CHRISTIAN
AID MINISTRIES, INC., CHRISTIAN
AID MINISTRIES, INC., RESPONSE
UNLIMITED, INC., PHILIP
ZODHIATES, VICTORIA HYDEN,
F/K/A VICTORIA ZODHIATES
INDIVIDUALLY AND AS AN AGENT
FOR BOTH RESPONSE UNLIMITED,
INC., AND LIBERTY UNIVERSITY
AND ITS RELATED MINISTRY
THOMAS ROAD BAPTIST CHURCH,
INC., LIBERTY UNIVERSITY, AND ITS
RELATED MINISTRY THOMAS ROAD
BAPTIST CHURCH, INC., LINDA M.
WALL, INDIVIDUALLY AND AS
AGENT FOR THOMAS ROAD BAPTIST
CHURCH, INC., AND DOUGLAS
WRIGHT,

Defendants.

Civil Action
Docket No. 2:12-CV-00184-wks

**PLAINTIFFS' RESPONSE TO MOTION TO DISMISS BY CHRISTIAN AID
MINISTRIES**

Plaintiffs Janet Jenkins, for herself and as next friend of Isabella Miller-Jenkins,
a/k/a Isabella Miller, by and through their attorneys, Sarah Star, Esq., Attorney and
Counselor at Law, P.C. and Langrock Sperry & Wool, LLP, hereby oppose the Motion

by Christian Aid Ministries, Inc. (“CAM”) to Dismiss for Lack of Personal Jurisdiction and Failure to State a Claim.

I. THE AMENDED COMPLAINT STATES CLAIMS UPON WHICH RELIEF MAY BE GRANTED.

Under Rule 12(b)(6), the Court must accept as true all factual allegations, drawing all reasonable inferences in the plaintiff’s favor. *Ball v. Metallurgie Hoboken–Overpelt, S.A.*, 902 F.2d 194, 197 (2d Cir. 1990) (stating that the court assumes the truth of the plaintiff’s factual allegations for purposes of a Rule 12(b)(6) motion). Ultimately, “[t]o survive a motion to dismiss, a complaint must contain sufficient factual matter, accepted as true, to ‘state a claim to relief that is plausible on its face.’” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). “Determining whether a complaint states a plausible claim for relief [is] . . . a context-specific task that requires the reviewing court to draw on its judicial experience and common sense.” *Id.* at 679 (brackets added; citation omitted).

Plaintiffs incorporate by reference the arguments set forth in section IV of the Plaintiffs’ Response to the Motion to Dismiss for Lack of Personal Jurisdiction, Lack of Venue, and Failure to State a Claim on Behalf of Defendants Liberty University, Inc., et al. (ECF No. 74).

Apart from the issues raised by the Liberty Defendants, CAM argues that the actions of its employee Andrew Yoder in aiding Lisa Miller did not constitute (1) a conspiracy to kidnap or (2) a RICO conspiracy, and that even if his actions did constitute involvement in these two conspiracies, his actions were outside the scope of his employment with CAM. For the reasons set forth below, all of these arguments fail.

A. The Amended Complaint Adequately Alleges a Conspiracy to Kidnap Isabella by CAM and Yoder.

The facts alleged in the Amended Complaint in support of a conspiracy are far from vague or conclusory. While it is true that the Plaintiffs rely on some circumstantial evidence of the conspiracy, that evidence is fairly voluminous at this early stage of the case. Even in a criminal conspiracy, it is sufficient to “present some evidence from which it can reasonably be inferred that the person charged with conspiracy knew of the existence of the scheme alleged in the indictment and knowingly joined and participated in it.” *United States v. Gore*, 154 F.3d 34, 40 (2d Cir. 1998) (internal quotation marks omitted). “The agreement between the party charged and his co-conspirators is the gist of the crime of conspiracy,” and while “[s]uspicious circumstances . . . are not enough to sustain a conviction,” agreement may be inferred entirely from entirely circumstantial evidence. *United States v. Nusraty*, 867 F.2d 759, 763 (2d Cir. 1989).

Here, the Amended Complaint offers comprehensive allegations of CAM and Yoder’s participation in an unlawful agreement. Plaintiffs more than adequately allege a well-coordinated effort by all the Defendants to frustrate the lawful custody order of the Vermont Family Court. That activity, undertaken by numerous individuals over a period of time in support of a common unlawful purpose, is adequate evidence of a conspiracy among the defendants. Some of the activities alleged in the Amended Complaint, and in CAM’s Exhibit 1 to its Motion to Dismiss (ECF No. 63-1), which the Court may take judicial notice of, include:

- Andrew Yoder was working as CAM’s Managua, Nicaragua, Field Director in 2009 and 2010. (CAM Ex. 1, p. 5.)

- Yoder learned of Lisa Miller's travel to Nicaragua in a September 21, 2009 email, before she even arrived. (*Id.* at 7.)
- Yoder learned of Lisa Miller through an email that was sent to his work email address at CAM by Timothy Miller. (*Id.* at 8.)
- The September 21, 2009 email advised Yoder of Lisa Miller's custody battle and directed him to website where he could learn more about it. (*Id.* at 8-9.)
- Yoder later discussed the custody case with Co-Defendant Timothy Miller. (*Id.* at 10.)
- On September 22, 2009, after Yoder learned about Lisa Miller's custody battle, he received communication from Timothy Miller, in his capacity as CAM employee, seeking instruction for how to allow Lisa Miller to remain in Nicaragua and obtain residency. (*Id.* at 11.)
- Later, on October 26, 2009 Timothy Miller was in touch via email with Andrew Yoder's supervisor at CAM in Ohio about getting Lisa Miller residency in Nicaragua. (*Id.* at 12.)
- At no point did Yoder or CAM report the situation to the authorities. (Amended Complaint ¶ 53.)
- Yoder met Lisa Miller through Timothy Miller in Managua. (Amended Complaint ¶ 53.)
- Yoder knew that Lisa Miller was using a false name and was in disguise as a Mennonite. (CAM Ex. 1 at 12.)
- Yoder knew that Lisa and Isabella were living with Timothy Miller. (*Id.* at 25.)

- Yoder discussed Lisa Miller's custody case with her. (Amended Complaint ¶ 53.)
- Yoder told his employer, CAM, about Lisa Miller and CAM expressed sympathy with her actions. (Amended Complaint ¶ 53.)
- No one at CAM reported the situation to the authorities. (Amended Complaint ¶ 53.)
- In May 2010, knowing of the custody case, Andrew Yoder cashed a check that he received from Kenneth Miller's employer. (Amended Complaint ¶ 53.)
- Andrew Yoder knew he was not owed any money by Kenneth Miller's employer. (Amended Complaint ¶ 53.)
- Andrew Yoder transported the \$500 cash to Nicaragua, where he was going in his capacity as field director for CAM. (Amended Complaint ¶ 53.)
- Yoder gave the money to Timothy Miller, who Yoder knew was conspiring with Kenneth Miller to hide and support Lisa Miller among the Brotherhood so that she could continue her abduction of Isabella. (Amended Complaint ¶ 53, CAM Ex. 1, p. 26.)
- One reason that Yoder continued to help Lisa Miller was that CAM was sympathetic to her case. (CAM Ex. 1, p. 18.)

The above facts alleged in the Amended Complaint, and submitted by CAM Exhibit 1, show a conspiracy by Andrew Yoder, in his capacity as an agent and employee of CAM, to join and to participate in the conspiracy to abduct Isabella and keep her away from Janet Jenkins. CAM suggests, without citing any case law on point, that they could not have been part of a conspiracy because the most significant act in furtherance of the

conspiracy (removing Isabella from the United States) had already occurred when they became involved. Kidnapping and conspiracy to kidnap are continuing offenses.¹ The point at which CAM and Yoder joined the conspiracy is irrelevant, although the information in CAM's Exhibit 1 suggests that Yoder joined the conspiracy as early as September 21, 2009 when he first received a request for help from Timothy Miller, and before Lisa Miller was even in Nicaragua. (CAM Ex. 1, p .8.) The above cited allegations make it clear that CAM and Andrew Yoder as an agent of CAM knew of the existence of the scheme, and knowingly joined and participated in it.

B. Plaintiffs Have Sufficiently Pled the RICO Conspiracy against CAM and Yoder.

A claim for a civil violation of § 1962(d) is based on a conspiracy to violate RICO, specifically making it unlawful for any person to conspire to violate any of the provisions of 18 U.S.C. § 1962(a), (b), or (c). To establish the existence of a RICO conspiracy, a plaintiff must prove “the existence of an agreement to violate RICO's substantive provisions.” *United States v. Sessa*, 125 F.3d 68, 71 (2d Cir. 1997) (quoting *United States v. Benevento*, 836 F.2d 60, 73 (2d Cir. 1987)), *cert. denied sub nom., Scarpa v. United States*, 522 U.S. 1065 (1998).

The requirements for RICO's conspiracy charges under § 1962(d) are less demanding than proving substantive RICO claims. A “conspirator must intend to further an endeavor which, if completed, would satisfy all of the elements of a substantive criminal offense, but it suffices that he adopt the goal of furthering or facilitating the criminal endeavor.” *Salinas v. United States*, 522 U.S. 52, 65 (1997). A plaintiff need

¹ This Court has already recognized that the parental kidnapping of Isabella is a continuing offense in its decision on Kenneth Miller's motion to dismiss for lack of venue in his criminal case. *United States v. Miller*, 2012 WL 14353310 (D. Vt. 2012).

not allege that a defendant committed two predicate acts of racketeering himself, but the plaintiff must allege that a defendant agreed to the commission of two or more predicate acts by someone associated with the enterprise (in this case, Kenneth Miller). *Goren v. New Vision Int'l, Inc.* 156 F.3d 721(7th Cir. 1998). If conspirators have a plan which calls for some conspirators to perpetrate the crime and others to provide support, the supporters are as guilty as the perpetrators. *Salinas*, 522 U.S. 52 at 64. As the Court pointed out in *Salinas*, “Plainly a person may conspire for the commission of a crime by a third person.” *Id.* (citing *United States v. Holte*, 236 U. S. 140, 144 (1915)).

In its Motion to Dismiss, CAM erroneously argues that “to establish that CAM was part of a RICO conspiracy, Plaintiff would be required to allege and prove that CAM not only agreed to associate itself with a RICO enterprise, but that it agreed to commit two predicate acts in furtherance of a pattern of racketeering activity in connection with the enterprise” and that “Plaintiff’s Amended Complaint contains no allegations that CAM, or any of its employees or agents (including Andrew Yoder) entered into any such agreements.” First, even if this were the applicable standard, it is clearly alleged that CAM, through its agent Andrew Yoder, did enter into agreements to commit at least two predicate acts. Also, it is uncontested that Yoder is associated with the enterprise – the Brotherhood.

The first predicate act, as stated in section A, *supra*, is that Andrew Yoder agreed and conspired to kidnap Isabella Miller-Jenkins, and that he joined that conspiracy in advance of the September 25, 2009 visitation, with full knowledge of the Vermont Superior Court’s orders. Second, it is alleged that Yoder engaged in mail fraud by receiving the laundered money from Kenneth Miller, and cashing a check from Millmont

Greenhouses, knowing that he was not owed any money from Millmont for a fictitious coffee purchase (CAM Ex. 1, p. 25), and that Kenneth Miller, an employee at Millmont, and a fellow member of the Brotherhood was directly involved in the unlawful scheme to continue the abduction of Isabella Miller-Jenkins. (CAM Ex. 1, p. 25.) At all times Yoder was an employee of CAM, and was a member of the Nicaragua Brotherhood, attending Timothy Miller's church. (CAM Ex. 1, p. 6.)

Second, prior to the Supreme Court's decision in *Salinas v. United States*, 522 U.S. 52 (1997), the circuits were split as to whether the agreement to commit predicate acts must be an agreement on the part of the defendant personally to commit two predicate acts of racketeering activity. However, in *Salinas*, the Court ruled that this was not an essential element of the culpable agreement, and that conspirator must intend only to further the endeavor which, if completed, would satisfy all of the elements of the substantive offense. *Salinas*, 522 U.S. at 65.

While CAM attempts to minimize its involvement in this conspiracy, the facts alleged and submitted by CAM in Exhibit 1 clearly reveal that Yoder and CAM conspired with others for the commission of the substantive RICO offense, and took actions that demonstrate that they adopted the common goal of the RICO conspiracy.

C. CAM is Vicariously Liable for Andrew Yoder's Actions.

The Plaintiffs clearly allege in the Amended Complaint that Andrew Yoder was an agent and employee of CAM in relation to the claims set forth in the complaint (Amended Complaint ¶¶ 10, 62), that CAM is an organization that provides material aid to people around the world (Amended Complaint ¶ 11), and that Yoder provided material aid to Lisa Miller in Nicaragua while working for CAM (Amended Complaint ¶ 53).

As CAM points out, to establish vicarious liability pursuant to respondeat superior under Vermont Law, the employee must generally be acting within the scope of his employment. *See Brueckner v. Norwich Univ.*, 169 Vt. 118, 122-23 (1999). “To be within the scope of employment, conduct must be of the same general nature as, or incidental to, the authorized conduct.” *Brueckner*, 169 Vt. at 122-123 (citing Restatement (Second) of Agency § 229(1) (1958)). “Conduct of a servant is not within the scope of employment if it is different in kind from that authorized, far beyond the authorized time and space limits, or too little actuated by a purpose to serve the master.” *Id.* (citing Restatement (Second) of Agency § 228(2)).

Here, the facts alleged in the Amended Complaint and in CAM’s Exhibit 1 establish that Andrew Yoder’s conduct in aiding and abetting Lisa Miller was within the scope of his employment with CAM. It was Andrew Yoder’s job as Managua field director to provide material aid to people in need, including to people referred to CAM through Timothy Miller. (CAM Ex. 1, p. 6.) Here, Yoder was introduced to Lisa Miller by Timothy Miller, and Yoder did in fact provide aid to her. As alleged, he provided aid to her by bringing money to Nicaragua from Kenneth Miller that he believed was related to her support, and giving it to Timothy Miller, knowing that Lisa Miller and Isabella had been living with Timothy Miller. Hence, it was Yoder’s job to provide aid in Nicaragua for CAM, and he in fact provided aid in Nicaragua for Lisa Miller within the scope of his employment. CAM suggests that Yoder was acting outside the scope of his employment because he was on a vacation at the time that he received the money from Kenneth Miller (CAM Motion at p. 17). Although he may have received the money while on vacation, he then returned to his post in Nicaragua and completed the transfer of funds there. At

the time he completed the transaction by delivering the funds in Nicaragua, he knew the funds were from Millmont Greenhouses and he suspected that the money had to do with Lisa Miller.

The testimony submitted by CAM also suggests that Yoder, in his capacity as a CAM employee, helped Timothy Miller in his efforts to authenticate Lisa Miller's birth certificate. When asked why Timothy Miller would be contacting him about residency requirements, Yoder responded: "that was part of my job there at Christian Aid Ministries to help people get residencies. So he was just asking what are the requirements and how quickly can it be gotten." (CAM Ex. 1, p. 11). While Yoder did not offer testimony about what he did to help authenticate the birth certificate, his testimony suggests that he did help Miller with the "next step" in the process, which was to involve his supervisor Kim Eichorn at CAM in Ohio. (CAM Ex. 1, p.12). At this early stage, this is clearly sufficient.

CAM suggests that because it urged Yoder to take steps to protect CAM, that it cannot be held accountable for Yoder's continuing actions in aiding and abetting Lisa Miller while on CAM's watch. Under doctrine of respondeat superior, however, an employee's failure to follow employer's orders does not relieve the employer of liability for the employee's tortious conduct if the employee acted with apparent authority in furtherance of the employer's business. *See Breuckner*, 169 Vt. at 123-124 (fact that employer had adopted policies against the conduct that employees engaged in did not insulate employer from liability under respondeat superior); *see also Belanger v. Village Pub I, Inc.*, 26 Conn.App. 509, 603 A.2d 1173, 1179 (1992).

Here, Yoder was acting in furtherance of his employment with CAM when he provided material aid to Lisa Miller on the referral of Timothy Miller. Yoder testified that he continued to interact with Lisa Miller even after CAM instructed him to protect the organization because both he “and Christian Aid as well [were] sympathetic to her case.” (CAM Ex. 1, p. 19.)²

II. THE COURT HAS PERSONAL JURISDICTION OVER CAM.

On a motion to dismiss pursuant to Fed. R. Civ. P. 12(b)(2), plaintiff bears the burden of establishing the court’s jurisdiction over defendants. *Bank Brussels Lambert v. Fiddler Gonzalez & Rodriguez*, 171 F.3d 779, 784 (2d Cir. 1999). However, if a forum’s personal jurisdiction over a defendant is questioned before discovery has commenced, as it is here, the plaintiff only has to establish, *prima facie*, that personal jurisdiction is proper based on information in the complaint as well as supporting documentation in order to defeat the motion. *Ball v. Metallurgie Hoboken-Overpelt, S.A.*, 902 F.2d 194, 197 (2d Cir. 1990). This showing may rest solely on plaintiff’s own pleadings, affidavits and supporting materials. *Tom and Sally’s Homemade Chocolates, Inc. v. Gasworks, Inc.*, 977 F. Supp. 297, 300 (D.Vt. 1997). The court must assume all the factual allegations in the complaint are true, and resolve all doubts in plaintiff’s favor “notwithstanding a controverting presentation by the moving party.” *A.I. Trade Fin., Inc. v. Petra Bank*, 989 F.2d 76, 79-80 (2d Cir. 1993). Thus, at this early pre-discovery stage in the litigation, the Court must assume all factual allegations in the Amended Complaint

² While Yoder in his testimony does state that CAM wanted nothing to do with helping Lisa Miller as of November 2009, the evidence discovered to date suggests that CAM may have been assisting her for at least another five months. The charging affidavit of Timothy Miller for the crime of aiding and abetting Isabella’s kidnapping (attached as Plaintiffs’ Exh. A) cites an email from co-defendant Timothy Miller dated in March of 2010, in which Miller states: “Another big thing right now is CAM higher ups say she may not even go to CAM anymore for the protection of the organization”. These facts will be confirmed and fleshed out during discovery.

are true and only has to find that Plaintiffs have made a *prima facie* showing of jurisdiction over CAM.

A. Defendant CAM Has Sufficient Minimum Contacts With Vermont For This Court to Assert Jurisdiction.

Plaintiffs hereby incorporate section I(B) of the Liberty Response as it pertains to CAM.

1. The Court Has General Jurisdiction Over Christian Aid Ministries.

Defendant CAM's contacts with Vermont are sufficiently "continuous and systematic" to subject it to general jurisdiction in this forum. *Goodyear Dunlop Tires Operations, S.A. v. Brown*, 131 S. Ct. 2846, 2851 (2011). According to its website, CAM is a nonprofit organization with worldwide reach whose "primary purpose is to be a trustworthy and efficient channel for Amish, Mennonite, and other conservative Anabaptist groups and individuals to minister to physical and spiritual needs around the world." (Plaintiffs' Exh. B: www.christianaidministries.org). CAM solicits donations via its website, which can be accessed in Vermont at the above address, and by its own admission has in fact received donations from Vermont in the amount of approximately \$8,000 per year. (CAM Exhibit 2.) These activities constitute purposeful direction of activities toward the forum and subject CAM to general jurisdiction in Vermont. *See Sollinger v. Nasco Int'l, Inc.*, 655 F. Supp. 1385, 1388 (D.Vt. 1987) (sending catalogs to Vermont and entering into a transaction with a Vermont resident, even if transaction is not completed, constitutes purposeful direction of activities at resident of forum.)

Not only has CAM as an organization directed its missionary and fundraising activities toward Vermont, its agent, Andrew Yoder, travelled to Vermont twice to participate in proceedings related to Kenneth Miller. Other of CAM's agents and

employees also voluntarily travelled to Vermont to attend the court proceedings involving Kenneth Miller and while in Vermont, distributed CAM materials, specifically CD's, to Vermont residents. (Plaintiffs' Exh. C, Kenneth Miller Case Posting, p. 3).

These solicitations and targeted distribution of CAM materials are "continuous and systematic" activities from which the Court can assert general jurisdiction over CAM.

Goodyear Dunlop Tires Operations, S.A., 131 S. Ct. at 2851.

B. Intentional Acts by CAM, Through Its Agent Andrew Yoder, Directed At Vermont Are Sufficient To Establish Jurisdiction Under *Calder v. Jones*.

Plaintiffs allege in their Amended Complaint that Andrew Yoder, field director for CAM in Nicaragua, aided and abetted Isabella's ongoing kidnapping and that he participated in a RICO conspiracy to kidnap Isabella and conspired to violate Plaintiff's civil rights. (Amended Complaint ¶¶ 64, 72, 75.) At the time these activities occurred, Yoder was employed by CAM as the Managua field director (CAM Exhibit 1, p. 4) and was performing actions within the scope of his employment. The purpose of these actions was to intentionally harm Plaintiff Jenkins by continuing to deprive her of custody of her daughter, causing both emotional and financial damage, and depriving her of her right to equal protection under the law. CAM employee Andrew Yoder knew of Janet Jenkins' parental rights, told CAM of them, and aided and abetted Lisa Miller in evading the orders of the Vermont Superior Court. Specifically, CAM, through its agent Andrew Yoder³ assisted Timothy Miller in authenticating documents for Lisa Miller (CAM Exh. 1 at 10-11) and distributed funds to Timothy Miller in Nicaragua, when Yoder believed that the funds were for Lisa Miller to enable her to remain outside the United States with

³ Yoder's supervisor, Kim Eichorn, also an agent of CAM also appears to have assisted Timothy Miller with the authentication of documents for Lisa Miller. *See* CAM Exh. 1 at 10-11.

Isabella in violation of the orders of the Vermont Superior Court. (Amended Complaint ¶ 53.) These actions aided and abetted Isabella's kidnapping – which was an intentional tort directed at Plaintiff Jenkins, a Vermont resident. (Amended Complaint ¶ 53.)

When a plaintiff has alleged that a defendant has committed intentional torts, “minimum contacts” for purposes of jurisdiction exists “when a defendant has purposefully directed the harmful effects of his activities at the forum State” and the litigation results from alleged injuries that arise or relate to those activities. *LiButti v. United States*, 178 F.3d 114, 123 (2d Cir. 1999) (citing *Calder*, 465 U.S. at 789-90). This Court has found minimum contacts to exist where foreign defendants engaged in intentional and allegedly tortious actions expressly aimed at Vermont. *Stuart v. Federal Energy Systems, Inc.*, 596 F. Supp. 458, 462 (D.Vt. 1984) (minimum contacts exist in Vermont over employees of California corporation who committed fraud aimed at plaintiff in Vermont); *Real Good Toys, Inc. v. XL Machine Ltd.*, 163 F. Supp. 2d 421, 424-425 (2001) (minimum contacts exist where foreign defendants knowingly and willfully infringed on the copyright and trade dress of a Vermont corporation, while knowing that the “brunt of the injury” would be sustained in Vermont); *Audsley v. RBS Citizen, N.A.*, 2011 WL 1397312, *4 (D.Vt. April 11, 2011) (minimum contacts over foreign defendants found where foreign defendants committed intentional torts aimed at Vermont resident and her business with knowledge that brunt of harm would be felt in Vermont). Here, there is no doubt that the torts alleged by Plaintiffs, in which CAM agent Andrew Yoder is alleged to have participated, were intentional and calculated to injure Plaintiff Jenkins in Vermont by depriving her of her parental rights in Vermont. In aiding and abetting Isabella's kidnapping, Defendants CAM and Yoder knew that the

“brunt of the injury” would be sustained in Vermont where Plaintiff Jenkins resides and where the Vermont Superior Court ordered Plaintiff Jenkins to have parent-child contact with Isabella.

For the foregoing reasons, the intentional conduct of CAM’s agent and employee, known and intended to cause injury in Vermont, is sufficient to give the Court jurisdiction over CAM. *See Real Good Toys, Inc.*, 163 F. Supp. 2d at 424-425.

C. Asserting Jurisdiction Over CAM Complies With the Reasonableness Inquiry.

After determining that the exercise of jurisdiction over CAM is appropriate on the basis of Defendants’ contacts with Vermont, the Court must assess whether the exercise of jurisdiction would be reasonable and in keeping with “traditional notions of fair play and substantial justice.” *Mansfield Heliflight, Inc. v. Heli-One Canada Inc.*, 2012 WL 4479851, *9 (D. Vt. Sept. 28, 2012), (quoting *Int’l Shoe v. Washington*, 326 U.S. 310, 320 (1945)). Where the requirement of minimum contacts has been met, “only the unusual case” will not satisfy the reasonableness inquiry. *Id.* (citing *Am. Greetings Corp. v. Cohn*, 839 F.2d 1164, 1170 (6th Cir. 1988)); *Metropolitan Life Ins. Co. v. Robertson-Ceco Corp.*, 84 F.3d 560, 575 (2d Cir. 1996) (“dismissals resulting from the application of the reasonableness test should be few and far between”). In making the reasonableness assessment, the Court looks to the burden on the defendant, the forum State’s interest in adjudicating the dispute, the plaintiff’s interest in obtaining convenient and effective relief, the interstate judicial system’s interest in obtaining the most efficient resolution of controversies and the shared interest of several states in furthering fundamental substantive social policies. *Burger King Corp. v. Rudzewicz*, 471 U.S. 462, 477 (1985).

Applying these factors to CAM shows that exercising jurisdiction in Vermont will not violate traditional notions of fair play and substantial justice. In *Tom and Sally's Homemade Chocolates*, the Court found that fair play and substantial justice were not offended when “the burden of litigating in an out of state forum would be no more for the defendant than it would be for Tom and Sally’s [a Vermont Corporation] if the litigation were in [Defendant’s home state].” 977 F. Supp. at 301. Here, litigation in Ohio would be an equal burden on Plaintiff Jenkins as litigation in Vermont would be on CAM. Further, any burden on CAM is mitigated because “[w]hile there are always costs to defending a lawsuit, particularly in a foreign state, that burden is far less today than it once was due to advances in communications and transportation.” *Mansfield Heliflight*, 2012 WL 4479851 at *9 (quoting *Irving v. Revera*, 2011 WL 5329726, *4 (D. Vt. Nov. 4, 2011)). CAM’s ability to litigate in Vermont is demonstrated by the fact that they have already taken the step of retaining Vermont counsel. *See id.* at *9. Plaintiff Jenkins, on the other hand, is a resident of Vermont who is a self-employed day-care provider and works from home. Requiring her to bring this litigation in another forum would be overly burdensome and would effectively require her to close her business. *See Sollinger*, 655 F. Supp. at 1388 (Vermont craftsperson has interest in securing relief in a Vermont court).

With respect to Vermont’s interest in having the dispute litigated here, Janet Jenkins, a Vermont resident, alleges that she was injured by the intentional actions of the nonresident defendants. As this Court has held, Vermont “has an interest in providing a forum for its citizens who have been injured by the intentional acts of nonresidents.” *Audsley*, 2011 WL 1397312 at *5 (citing *McGee v. Intl. Life Ins. Co.*, 355 U.S. 220, 223

(1957)); *see also Retail Software Servs., Inc. v. Lashlee*, 854 F.2d 18, 24 (2d Cir. 1988).

In addition, Vermont has an interest in seeing orders of its own courts enforced. The Vermont Superior Court and Vermont Supreme Court have issued decisions regarding the custody of Isabella that are being consciously evaded by Defendant Lisa Miller with the assistance of CAM and its agent Andrew Yoder. Further, this Court is also where the criminal prosecutions of some of the individuals involved in the kidnapping of Isabella are pending, including Defendant Kenneth Miller. According to Defendant's Exhibit 2, Andrew Yoder has already managed to travel to Vermont twice to participate in those proceedings.

In assessing whether litigation in Vermont would ensure the efficient administration of justice, "courts generally consider where witnesses and evidence are likely to be located." *Metropolitan Life*, 84 F.3d at 574. Here, Plaintiff is a Vermont resident and her witnesses and evidence are located here. CAM's witnesses are likely in Nicaragua, although some may be in Ohio. Hence, this factor weighs in favor of Plaintiff.

Finally, the Court looks to the "common interests of the several states in promoting substantive social policies" to assess the reasonableness of the exercise of jurisdiction. *Metropolitan Life*, 84 F.3d at 575. Here, this factor weighs in favor of maintaining jurisdiction in Vermont as both Vermont and Virginia courts have repeatedly ruled since 2006 that Vermont has jurisdiction over the custody of Isabella. *See, e.g., Miller-Jenkins v. Miller-Jenkins*, 2006 Vt. 78, 912 A. 2d 951 (2006); *Miller-Jenkins v. Miller-Jenkins*, 49 Va. App. 88, 637 S.E.2d 330 (2006). This lawsuit arises in part from the Vermont custody order.

As these factors all weigh in favor of maintaining jurisdiction in Vermont, Plaintiffs have made a prima facie showing that maintaining this suit against CAM does not offend the traditional notions of fair play and substantial justice. *See Int'l Shoe*, 326 U.S. at 316. Accordingly, CAM's Motion to Dismiss pursuant to F.R.C.P. 12(b)(2) must be denied.

III. PERSONAL JURISDICTION OVER CAM IS PROPER UNDER RICO.

Even if personal jurisdiction were not established as to CAM under a traditional minimum contacts analysis, which it is, personal jurisdiction and venue would nonetheless be established pursuant to 18 U.S.C. § 1965, the Racketeer Influenced and Corrupt Organizations Act ("RICO").⁴

Because RICO is a broadly remedial statute, Congress has included within the statutory framework a provision for extending personal jurisdiction and venue over individuals and entities which might not otherwise be subject to suit in a district. First, pursuant to § 1965(a), a civil RICO action may be instituted "against any person . . . in the district court of the United States for any district in which such person resides, is found, has an agent, or transacts his affairs." The Second Circuit has equated this standard with the traditional minimum contacts analysis:

First, § 1965(a) grants personal jurisdiction over an initial defendant in a civil RICO case to the district court for the district in which that person resides, has an agent, or transacts his or her affairs. In other words, a civil RICO action can only be brought in a district court where personal jurisdiction based on minimum contact is established as to at least one defendant.

PT United Can Co. Ltd. v. Crown Cork & Seal Co., Inc., 138 F.3d 65, 71 (2d Cir. 1998).

It is § 1965(b) that gives the RICO jurisdiction statute its further power and reach, as § 1965(b) permits a single district to consolidate RICO litigation over numerous defendants in one district and one lawsuit. That subsection provides that in a civil RICO case when “the ends of justice require that other parties residing in any other district be brought before the court, the court may cause such parties to be summoned, and process for that purpose may be served in any judicial district of the United States[.]” 18 U.S.C. § 1965(b). The effect of this provision is that once the district has personal jurisdiction over any single defendant, it may also assert personal jurisdiction over every other defendant if required by the ends of justice.

Section 1965(b) provides for nationwide service and jurisdiction over “other parties” not residing in the district, who may be additional defendants of any kind This jurisdiction is not automatic but requires a showing that the “ends of justice” so require.

PT United Can Co., 138 F.3d at 71. Thus, “when a civil RICO action is brought in a district court where personal jurisdiction can be established over at least one defendant, summonses can be served nationwide on other defendants if required by the ends of justice.” *Corey v. Aztec Steel Building, Inc.*, 468 F.3d 1226, 1231 (10th Cir. 2006).

A. Personal Jurisdiction is Proper Over CAM Under 18 U.S.C. § 1965(b) Because There is Personal Jurisdiction in Vermont Over Numerous Other Individual Defendants.

Personal jurisdiction is available under § 1965(b) because several other defendants, in addition to CAM, are clearly subject to minimum contacts jurisdiction in Vermont, including Kenneth Miller, Timothy Miller, Lisa Miller, all of the Liberty Defendants, and Response Unlimited, Inc. If one of the defendants is subject to personal

⁴In the Second Circuit personal jurisdiction and venue are merged into a single inquiry under the RICO jurisdiction statute, 18 U.S.C. § 1965, *see City of New York v. Cyco.Net, Inc.*, 383 F. Supp. 2d 526,

jurisdiction in Vermont, then § 1965(b) permits the court to exercise personal jurisdiction over all “other parties.” See *PT United Can Co.*, 138 F.3d at 71; *Corey*, 468 F.3d at 1231.

B. The Ends of Justice Require Assertion of Personal Jurisdiction Over All Defendants in the District of Vermont.

The Second Circuit has not addressed the meaning of the “ends of justice” requirement in 18 U.S.C. § 1965(b), other than to note that “the statute does not specify what ‘the ends of justice’ are.” *PT United Can Co.*, 138 F.3d at 71 n.5 (district court’s interpretation of the phrase not challenged by the appellant); see also *Suarez Corp. Industries v. McGraw*, 71 F. Supp. 2d 769, 778 n.7 (N.D. Ohio 1999) (“The Second Circuit expressed no opinion on the issue, as it was not raised in that case.”).

The Tenth Circuit, however, has opined that the “ends of justice” requirement of § 1965(b) is a “flexible concept uniquely tailored to the facts of each case.” *Corey*, 468 F.3d at 1232. In a lengthy analysis of the statute, *Corey* held that the flexible standard was mandated in part by the “congressional directive to ‘liberally construe [RICO] to effectuate its remedial purposes.’” *Id.* (quoting H.R.Rep. No. 91–1549 (1970)).

Corey specifically rejected the restrictive “ends of justice” definition adopted by the Ninth Circuit in *Butcher’s Union Local No. 498, United Food and Commercial Workers v. SDS Inv., Inc.*, 788 F.2d 535 (9th Cir. 1986). In *Butcher’s Union*, the court held that the “ends of justice” inquiry is satisfied only if no other district court could exercise personal jurisdiction over all the defendants. *Id.* at 539. As *Corey* explained, the restrictive reading of “ends of justice” could mean that:

some RICO violations would go unpunished whenever organized criminals operate within the same locale and cause harm in a distant state. Insulating such a criminal enterprise from liability, when, for instance, the victim is unable to finance long-distance litigation, is not consistent with RICO's purpose.

468 F.3d at 1232. This concern is particularly apt in this case, where well-financed and organized conspirators acted out of state to frustrate the legitimate interests of a Vermont resident who lacks the resources to prosecute the case elsewhere.

Corey also referred to the antitrust legislation on which RICO is modeled, and noted that in that context, the United States Supreme Court has specifically “rejected the notion that a confluence of defendants within a single judicial district controls the ‘ends of justice’ analysis.” *Corey*, 468 F.3d at 1232 (citing *Standard Oil Co. of N.J. v. United States*, 221 U.S. 1, 46 (1911)).

Taken as a whole, the reasoning of the Tenth Circuit in *Corey* adopting a flexible and case-specific definition of § 1965(b)'s “ends of justice” requirement is persuasive and should be adopted here. *See also Rolls-Royce Corp. v. Heros, Inc.*, 576 F. Supp. 2d 765, 782 (N.D. Tex. 2008) (“The court agrees with the reasoning of *Corey* and declines to follow the Ninth Circuit’s restrictive interpretation of § 1965(b)” with respect to the “ends of justice.”).

Given the facts and circumstances of this case, the ends of justice require that jurisdiction be exercised over the Defendants in Vermont. Not only is Plaintiff Jenkins a Vermont resident and the victim in this case; in many ways, the State itself is an aggrieved party. Vermont’s laws and court orders have been egregiously and contemptuously violated through the defendants’ conspiracy, and the State has an interest in seeing justice done. Moreover, two co-conspirators have been prosecuted criminally in

the District of Vermont for their related acts, and one of them has been found guilty after trial. The Court thus has a continuing interest in the facts of the conspiracy.

Even if this court were to adopt the restrictive definition of “ends of justice” proposed by the Ninth Circuit in *Butcher’s Union*, that no other district has jurisdiction over all the defendants, Vermont would still properly exercise jurisdiction over CAM and Yoder in this case because Andrew Yoder and CAM are the only two Defendants with ties to Ohio, and lack contacts with Virginia, the venue that the Liberty Defendants have suggested is the proper district. In addition, no other Defendants have claimed any contacts with Ohio. Hence, even adopting the restrictive definition of the “ends of justice” this suit could not have been brought in any other district.

Moreover, to the extent that CAM, through its agent Yoder conspired with other Defendants in racketeering activities, that conspiracy supports Vermont jurisdiction more readily than it does any other district, as the conspiracy was directed toward Vermont.

IV. ALTERNATIVE MOTIONS FOR JURISDICTIONAL DISCOVERY AND LEAVE TO AMEND.

Plaintiffs hereby incorporate section IV of the Liberty Response in seeking, in the alternative, jurisdictional discovery and/or leave to amend under F.R.C.P. 15(a).

V. CONCLUSION

For the foregoing reasons, Plaintiffs respectfully request that the Court deny CAM’s Motion to Dismiss.

DATED at Middlebury, Vermont this 14th day of March, 2013.

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Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF VERMONT

JANET JENKINS, for herself and as next friend of
ISABELLA MILLER-JENKINS a/k/a ISABELLA
MILLER,

Plaintiffs,

v.

KENNETH L. MILLER, LISA ANN MILLER f/k/a
LISA MILLER-JENKINS, TIMOTHY D. MILLER,
ANDREW YODER, individually and as an agent for
CHRISTIAN AID MINISTRIES, INC., CHRISTIAN
AID MINISTRIES, INC., RESPONSE UNLIMITED,
INC., PHILIP ZODHIATES, individually and as an
agent for RESPONSE UNLIMITED, INC., VICTORIA
HYDEN, f/k/a VICTORIA ZODHIATES, individually
and as an agent for both RESPONSE UNLIMITED,
INC., and LIBERTY UNIVERSITY, INC. and its
related ministry THOMAS ROAD BAPTIST
CHURCH, INC., LINDA M. WALL, individually and
as agent for THOMAS ROAD BAPTIST CHURCH,
INC., and DOUGLAS WRIGHT,

Defendants.

Civil Action
Docket No. 2:12-cv-00184 WKS

CERTIFICATE OF SERVICE

I, Frank H. Langrock, Esq., attorney for Plaintiffs, Janet Jenkins, for herself and as next friend of Isabella Miller-Jenkins, a/k/a Isabella Miller, hereby certify that on March 14, 2013, I electronically filed with the Clerk of the Court Plaintiffs' Response to Motion to Dismiss By Christian Aid Ministries, Inc. using the CM/ECF electronic filing system. The CM/ECF system will provide service of such filing via Notice of Electronic Filing (NEF) to the following NEF parties:

Ritchie E. Berger, Esq.
Brooks G. McArthur, Esq.

Peggy J. Schmitz, Esq.
Steven J. Shrock, Esq.

Joshua M. Autry, Esq.
Robert G. Cain, Esq.
Robert G. Hemley, Esq.
Thomas E. McCormick, Esq.

Norman C. Williams, Esq.
Sophie E. Zdatny, Esq.
Sarah Star, Esq.

DATED AT Middlebury, Vermont this 14th day of March, 2013.

/s/ Frank H. Langrock, Esq._____

Frank H. Langrock, Esq.
Langrock Sperry & Wool, LLP
111 S. Pleasant St., PO Drawer 351
Middlebury, VT 05753

Attorneys for Plaintiffs

EXHIBIT A

AO 91 (Rev. 08/09) Criminal Complaint

U.S. DISTRICT COURT
DISTRICT OF VERMONT
FILED

UNITED STATES DISTRICT COURT 2011 APR -1 PM 3:28

for the
District of Vermont

BY [Signature]
DEPUTY CLERK

United States of America
v.

Case No. 2:11-mj-28-1

Timothy David Miller

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of 09/22/2009 to the present in the county of _____ in the
_____ District of Vermont, the defendant(s) violated:

Code Section
18 U.S.C. Sections 1204, 2

Offense Description
Aiding in the removing of a child from the United States, and retaining a child (who has been in the United States) outside of the United States with intent to obstruct the lawful exercise of parental rights.

This criminal complaint is based on these facts:

See attached affidavit.

Continued on the attached sheet.

[Signature]

Complainant's signature

Dana L. Kaegel, Special Agent FBI

Printed name and title

Sworn to before me and signed in my presence.

Date: 4/1/2011

[Signature]

Judge's signature

City and state: Burlington, Vermont

John M. Conroy, U.S. Magistrate Judge

Printed name and title

AFFIDAVIT

I, Dana L. Kaegel, being duly sworn, depose and state as follows:

A. Introduction and Agent Background

1. I am a Special Agent of the Federal Bureau of Investigation (FBI). I have been a Special Agent since October of 2008. I am currently assigned to the Burlington, Vermont Resident Agency.

2. The facts in this affidavit come from my personal observations, my training and experience, information obtained by other law enforcement officials and witnesses, and court documentation. This affidavit is intended to show merely that there is sufficient probable cause for the requested criminal complaint and arrest warrant and does not set forth all of my knowledge about this matter.

3. Based on my training and experience and the facts as set forth in this affidavit, there is probable cause to believe that Timothy David Miller has violated 18 U.S.C. §§ 1204, 2; aiding in international parental kidnapping of minor Isabella Ruth Miller-Jenkins (IMJ) by Lisa Miller and other unknown persons. This crime involved removing a child from the United States on or about September 22, 2009, and retaining a child who has been in the United States, outside of the United States from September 2009 to the present, with the intent to obstruct the lawful exercise of parental rights by Janet Jenkins. I have reason to believe that Timothy Miller violated 18 U.S.C. §§ 1204, 2 in that:

a. Timothy Miller had knowledge of the parental rights litigation in the United States involving Lisa Miller and regarding IMJ.

b. Timothy Miller provided assistance for Lisa Miller and IMJ's travel outside of the United States.

c. Timothy Miller provided a place of shelter to Lisa Miller and IMJ outside of the United States.

4. Much of the information provided in this affidavit and pursuant to this investigation has been derived from Search Warrants executed on various online accounts, such as e-mail and Facebook accounts. Search Warrants were obtained for electronic accounts to enable this investigation to remain covert to facilitate this investigation.

B. International Parental Kidnapping

5. On April 27, 2010, a Criminal Complaint and Arrest Warrant for Lisa Miller were issued. The United States Attorney's Office filed a motion to seal the complaint and warrant. On that same date, the United States District Court for the District of Vermont granted the government's motion and issued an order to seal the above documents.

6. The supporting affidavit for the Criminal Complaint and Arrest Warrant for Lisa Miller are attached and incorporated into this affidavit.

7. Pursuant to a Grand Jury subpoena, Mexicana Airlines provided that on September 22, 2009, Lisa A. Miller and IMJ departed Toronto, Ontario and arrived in Mexico City, Mexico on Mexicana Flight 887.

8. Pursuant to a Grand Jury subpoena, TACA Airlines provided that on September 22, 2009, Lisa Miller and IMJ departed Mexico City Juarez International Airport and arrived at El Salvador International Airport on TACA Flight 0231.

9. Pursuant to another Grand Jury subpoena, TACA Airlines provided that on September 23, 2009, Lisa Miller (E-Ticket Number 2027568006474) and Isabella Ruth Miller (E-Ticket Number 2027568006473) departed El Salvador International Airport and arrived at Augusto C. Sandino International Airport, Managua, Nicaragua on TACA Flight 0360.

10. An Immigrations and Customs Enforcement Special Agent has told me that United States border records, which document entries into the United States, do not indicate that Miller or IMJ have returned to the United States since September 22, 2009.

C. General Information Regarding Timothy Miller

11. The existence of a biological relationship between Timothy Miller and Lisa Miller has not been established.

12. On October 29, 2010 and February 1, 2011, Search Warrants were issued by the United States District Court of Vermont by the Honorable John M. Conroy, U.S. Magistrate Judge for the timjomiller@gmail.com e-mail account. SA Dana L. Kaegel executed the Search Warrants on October 29, 2010 and February 1, 2011, respectively.

13. The subscriber name on the timjomiller@gmail.com is Timo Miller. During the course of this investigation, Timothy Miller has been referred to as "Timo" by himself and others.

14. An e-mail dated on or about September 10, 2009 from the timjomiller@gmail.com is written in Spanish and contains the following content, "... Bueno, me llamo Timoteo David Miller pero casi todos me conocen por Timo... Actualmente tenemos cuatro hijos: Melvin David, 8; RuthAnna Marie, 6; LillyAnna Marie, 4; TatiAnna Marie, 22 meses..." A Level 2+ Rating Spanish speaking FBI Special Agent advised that the text above could be translated as the following, "Well, my name is Timoteo David Miller, however most know me as Timo.... We

currently have four children: Melvin David, 8; RuthAnna Marie, 6; LillyAnna Marie, 4; TatiAnna Marie, 22 months...."

15. An inquiry of U.S. database records provided that Timothy Miller holds a valid driver's license in the state of Tennessee. According to database records, Miller is a white male with brown eyes and brown hair and whose date of birth is October 15, 1976. Database records also provide that Timothy Miller's height is 5' 7" and his weight is 185 pounds. An e-mail dated January 8, 2011 from the timjomiller@gmail.com e-mail account contains an e-mail dated January 8, 2011 that provides, "... TIMOTHY DAVID MILLER, 15 OCT 1976[,] JOANNA MARIE MILLER, 29 DEC 1978[,] MELVIN DAVID MILLER, 22 DEC 2000[,] RUTH ANNA MARIE MILLER, 30 MAY 2003[,] LILLYANNA MARIE MILLER, 8 JUNE 2005[,] TATIANNA MARIE MILLER, 13 OCT 2007..." An inquiry of multiple database records indicate an address of 102978 Highway 70 N, Crossville, Tennessee 38571 as being associated with "Timothy David Miller" with a date of birth of October 15, 1976.

16. The timjomiller@gmail.com e-mail account contains photographs of what appear to be family photographs of Timothy Miller, his wife Joanna, and children.

17. An e-mail dated on or about November 21, 2008 from the timjomiller@gmail.com account contains the following text, "Greetings sent your way from Nicaragua. ... Since our move we have had people living with us or visiting. ... A little bit about us: This coming February 18 we will be celebrating our 9th anniversary. We met in Farmington, NM where I was director of Spanish correspondence and Joanna worked at the Gingerich Home (for elderly). I taught school in Waslala in '99 and then went back and we married in Michigan... In October of 2000 we moved to Waslala and were ordained to the ministry in December of 2001. We were given

responsibility of the Jicaral congregation, which we recently passed on to another, because of being sent to Managua...." A printout of the website <http://en.wikipedia.org/wiki/Waslala> on or about March 21, 2011 describes Waslala as "a municipality... of Nicaragua - it is... 161 miles from Managua...."

18. An Internet Protocol (IP) address for the login information for the timjomiller@gmail.com account is 200.62.70.81. According to the website associated with "IP2Location™", IP address 200.62.70.81 resolves to Managua, Nicaragua.

19. During the investigation, Vivophone account number 9865582 was identified as being associated with Timothy Miller. Information provided by Vivophone pursuant to a Grand Jury Subpoena regarding account 9865582 identified during the course of the investigation the account as registered to "Tim Miller" with an address of "Managua, Nicaragua."

20. A review of e-mails indicate that Timothy Miller associated with the Christian Aid Ministries (CAM) organization in Managua, Nicaragua.

21. On or about March 16, 2010, an e-mail from the "Timo & Joanna <timjomiller@gmail.com>" e-mail account was sent to what appear to be several e-mail accounts associated with the CAM organization. The e-mail contains, "Good morning, Bretheren.... Blessings on your day, Timo".

D. Timothy Miller's Knowledge of the Litigation in the United States involving Lisa Miller

22. On February 1, 2011, a Search Warrant was issued by the United States District Court of Vermont by the Honorable John M. Conroy, U.S. Magistrate Judge for the millersofwaslala@gmail.com e-mail account. SA Dana L. Kaegel executed the Search Warrant on February 1, 2011.

23. "Alvin & Edna Miller" are associated with the millersofwaslala@gmail.com e-mail account. An e-mail dated on or about August 13, 2009 from "'Alvin & Edna Miller' <millersofwaslala@gmail.com>" to "'Timo & Joanna' <timjomiller@gmail.com>", "Dear Ones, ... May the Lord be with you and protect you. ... Love and Prayers, MOM". An e-mail dated on or about December 14, 2009 from "'Timo & Joanna' <timjomiller@gmail.com>" to "'Alvin & Edna Miller' <millersofwaslala@gmail.com>" included the following content, "Dear Dad, Thank you. ... I love you very much, Timo".

24. The millersofwaslala@gmail.com e-mail account contained an e-mail dated approximately September 22, 2009, from "'Alvin & Edna Miller' <millersofwaslala@gmail.com>" to multiple e-mail accounts, one of which includes, "'Timo & Joanna' <timjomiller@gmail.com>". The content of the e-mail included, "... So what is this about Lisa Miller? Do you have any more information? Where will she be going? This sounds a little like Joy Coats how they ruled to give the Grandparents custody. People can be so unfeeling for the children included. I will be praying about this.... MOM". The subject line of the e-mail was "A Few Lines".

25. A reply e-mail from the "'Bilmer' <thescoto7@gmail.com>" account to the "'Alvin & Edna Miller' <millersofwaslala@gmail.com>" is dated on or about September 22, 2009 and contains the following subject line, "Re: A Few Lines". The content of the reply to the previous e-mail included, "What for Lisa Miller??? We haven't heard anything about it."

26. A subsequent reply e-mail from the "'Alvin & Edna Miller' <millersofwaslala@gmail.com>" account to "'Bilmer' <thescoto7@gmail.com>" account dated on or about September 22, 2009 contains the following text, "Google it. Lisa Miller child custody. She is getting picked up int he airport by Timo. Mim".

27. Another subsequent reply e-mail from the "'Bilmer' <thesco7@gmail.com>" account to "'Alvin & Edna Miller' <millersofwaslala@gmail.com>" account dated on or about September 22, 2009 contains the following text, "Is she bringing her daughter with her or is she escaping by herself? Is she planning on staying at Timos?????".

28. Another subsequent reply e-mail from the "'Alvin & Edna Miller' <millersofwaslala@gmail.com>" account to the "'Bilmer' <thesco7@gmail.com>" account dated on or about September 22, 2009 contains the following text, "Yes she is bringing her daughter with her, but we still don't know where she will stay. I think it kinda depends on the situation."

29. Another subsequent reply e-mail dated on or about September 22, 2009 containing the subject line text, "Re: A Few Lines" from "'Timo & Joanna' <timjomiller@gmail.com>". The e-mail appears to be a reply to the e-mail accounts contained within the e-mail from "'Alvin & Edna Miller' <millersofwaslala@gmail.com>" dated on or about September 22, 2009. The only content within the e-mail is, "Sorry, folks, the Lisa subject should currently not be a topic of discussion or emailing. It might soon, or it just might be more of a secret. Please advise folks about this. Pray. Definitely, pray. Thanks, Timo".

30. A subsequent reply e-mail dated on or about September 22, 2009 from the "'Sierra Madre Mission' <mexicomission@hughes.net>" to the "'Alvin & Edna Miller' <millersofwaslala@gmail.com>" contains the following text, "... What Lisa, and what does it mean? It will be kept top secret!!!... Don't tell Timo I asked!!".

31. A subsequent reply e-mail dated on or about September 22, 2009 from the "'Alvin & Edna Miller' <millersofwaslala@gmail.com>" to the "'Sierra Madre Mission' <mexicomission@hughes.net>" account contains the following text, "We don't know where she

will be going or what just that she is coming. I can send you the story from the internet tomorrow if you want it. Love you, Mim".

32. A subsequent reply e-mail dated on or about September 23, 2009 from the "'Sierra Madre Mission' <mexicomission@hughes.net>" account to the "'Alvin & Edna Miller' <millersofwaslala@gmail.com>" account contains the following text, "... Yes, do! Thanks, Leona".

33. An e-mail dated on or about September 23, 2009 from the "'Alvin & Edna Miller' <millersofwaslala@gmail.com>" account to the "'Adonay and Leona' <mexicomission@hughes.net>" account contains what appears to be a copy of the text from an article. The text of the e-mail includes, "Lisa's age is 40 Isabella's age is 6 (she turns 7 in April 2009). They reside in Bedford County, Va., but formerly resided in Frederick County, Va.... Lisa was joined in a civil union with Janet Jenkins (both women were Virginia residents) in December 2000 in Vermont during a brief vacation trip (civil unions had become legal in Vermont in July 2000).... She became pregnant and gave birth to Isabella in April 2002. Janet Jenkins did not adopt the child.... Lisa filed to dissolve the civil union in 2003, and moved with Isabella, who was then 17 months old, to the Winchester area of Virginia. She renounced her former lesbian life. Lisa returned to her Christian faith in 2003. She and Isabella attend Thomas Road Baptist Church in Lynchburg, Va.... Lisa is represented in her child custody/visitation legal dispute with Janet Jenkins by Liberty Counsel, with offices in Florida and Virginia. Their Web site is <http://www.lc.org>."

E. Timothy Miller's Assistance Provided in Lisa Miller's Travel

34. Records provided pursuant to a Grand Jury Subpoena from TACA Airlines regarding Lisa Ann Miller (E-Ticket Number 2027568006474) and Isabella Ruth Miller (E-Ticket Number 2027568006473) provided the following verbatim customer service notes including that, "... Timothy Miller called from Nicaragua: They have to leave Can. tomorrow and... Cant go thro U.S...." According to the records provided, the date of the communication of Timothy Miller with TACA Airlines appears to be on or about September 21, 2009.

35. Records provided by TACA Airlines pursuant to the same Grand Jury Subpoena provided e-mail account "timjomiller@gmail.com". This appears to be an e-mail account that was provided by Timothy Miller to TACA Airlines.

36. Records provided pursuant to a Grand Jury Subpoena from TACA Airlines regarding Lisa Ann Miller (E-Ticket Number 2027568006474) and Isabella Ruth Miller (E-Ticket Number 2027568006473) provided the following verbatim customer service notes including that, "itinerary was approved by Timothy... cardholder is Elaine R Cooper...". Later in the customer service notes, the address annotated for Elaine Cooper appears to be associated with 12124 Griffith Road, Brethren, Michigan 49616.

37. An inquiry of database records provide an address associated with "Elaine Ruth Cooper" to be 12124 Griffith Road, Brethren, Michigan 49619.

38. The records provided by TACA Airlines pursuant to the same Grand Jury Subpoena appear to indicate that the charges associated with Lisa Ann Miller and Isabella Ruth Miller are \$877.92 and \$816.92, respectively. The customer service notes include "1540", which appears to be the last four digits of the credit card that was provided for payment to TACA Airlines.

39. A review of e-mails within the timjomiller@gmail.com e-mail account indicate that Elaine Cooper is the adoptive mother of Joanna Miller.

40. Financial records pursuant to a Grand Jury Subpoena indicate that a National City credit card statement addressed to Elaine R. Cooper and Jesse J. Cooper lists a charge in the amount of \$1,694.84 with a transaction date of September 21, 2009. The charge identified contains "TACA" as a portion of the charge description. The last four digits of the credit card account are "1540".

41. Financial records pursuant to a Grand Jury Subpoena indicate that the same National City credit card had a charge with the transaction date of September 22, 2009 in the amount of \$60.00 for "Golden Rule Travel... KS".

42. Information provided by TACA Airlines pursuant to a Grand Jury Subpoena indicate that the itineraries for Lisa Ann Miller and Isabella Ruth Miller were sent to the lindarose@goldrule.net e-mail account on September 21, 2010.

43. A printout of the website <http://goldenruletravel.com> on approximately March 16, 2011 provides the following Introduction excerpt for "Golden Rule Travel", "We specialize in international adoption, humanitarian, and missionary travel. ... Most of our advertising comes by way of recommendations from satisfied clients. Large missionary and humanitarian organizations; churches; evangelism ministries, NGOs; adoption agencies, forums, and blogs; and adoptive parents highly recommend Golden Rule as the best choice for value and service."

44. A printout of the "Contact Us" page on http://goldenruletravel.com/contact_us.asp on approximately March 18, 2011 lists "Linda Rose Miller" as an Agent of the Hutchinson, Kansas Office.

45. A biological relationship between Linda Rose Miller and Lisa Miller has not been established.

46. Records provided by TACA Airlines pursuant to a Grand Jury subpoena indicate that the flights for Lisa Miller and IMJ were booked continuously through to Managua, Nicaragua.

47. The TACA Airlines records do not appear to show the purchase of return tickets for Lisa Ann Miller and Isabella Ruth Miller.

F. Use of Code Names as References to Lisa Miller and IMJ

48. The timjomiller@gmail.com e-mail account contains multiple references to "Sarah" and "Lydia". Based on the context of the e-mails, it is believed that "Sarah" is Lisa Miller and "Lydia" is IMJ.

49. The timjomiller@gmail.com account contained an e-mail to the "Carl & June <cajun@coqui.net>" e-mail account dated on or about December 13, 2009. The verbatim excerpts included, "... Sarah has worked for some time with counseling, mentoring, she's kept young people and children in her home who were with some real trama related problems, mental problems, schizophrenic, {as sher mother was}... She has taught from kindergarden to highschool and special edd for more then 20 years...."

50. On August 10, 2010, a Search Warrant was issued by the United States District Court of Vermont by the Honorable John M. Conroy, U.S. Magistrate Judge for the zeusdesfor@aol.com e-mail account. SA Dana L. Kaegel executed the Search Warrant on August 10, 2010. The zeusdesfor@aol.com email account is registered to Lisa Miller.

51. The zeuesdesfor@aol.com contained a folder labeled "JOBRESUMES". A subfolder within the "JOBRESUMES" folder contained two files of what appear to be a cover letter and resume for Lisa Miller. The contents of the cover letter include that Lisa Miller holds "... a

Master's degree of Special Education, K-12 cross- categorical and a Virginia Special education teacher certificate...." The cover letter contents includes that Lisa Miller has "... previous experience teaching middle school science...." and "... tutoring and teaching several high school science courses...."

52. A "Newsweek" article on the Internet titled, "Mrs. Kramer Vs. Mrs. Kramer" by Lorraine Ali, dated December 6, 2008, discussed the custody dispute between Lisa Miller and Janet Jenkins over IMJ. The article content included, "... [Miller] was left to live with her mother, whom Miller claims was a paranoid-schizophrenic...."

53. The timjomiller@gmail.com account contained an e-mail dated on or about March 1, 2010 from the timjomiller@gmail.com account to the cajun@coqui.net account. The e-mail's verbatim excerpts included, "... Another big thing right now is CAM higher ups say she may not even go to CAM any more for the protection of the organization. That's pretty sick. The isolation is driving her and little Lydia crazy. ... Please keep this e-mail to yourselves about Sarah and CAM...."

54. IMJ's date of birth is April 16, 2002.

55. The timjomiller@gmail.com account contained an e-mail to "Alvin and Edna Miller <millersofwaslala@gmail.com>" dated on or about March 25, 2010. The e-mail's verbatim excerpts included, "Mother Dear, ... We were planning to have a special birthday party for Lydia as her birthday is the 16th. ... The more children the better. Sarah every year has gotten a pinata for Lydia, so she has been planning on that... I feel dearly for these 2 dear people. And I can see it would mean a lot to them in this rough first year of there stay in Nica. I would love for Lydia's birthday to be very special and remembered long. She is going through a lot, and her future looms greatly in front of her right now...."

56. The timjomiller@gmail.com e-mail account contained an e-mail dated on or about Monday, April 12, 2010 to "Pablo Yoder <pabloeuni@gmail.com>" and "Alvin and Edna Miller <millersofwaslala@gmail.com>". The verbatim excerpts included, "... We are not sure yet if we will be coming into Waslala Thurs. evening or Friday morn. but we think the BD get together would be best Friday evening because I will need to make the cake and such.... We were thinking maybe just getting together for cake and ice cream and pinata and maybe singing. Lydia LOVES to sing. ... PS... She is grateful for this for her daughters sake...".

G. Christian Aid Ministries (CAM)

57. A printout of the website <http://www.christianaidministries.org/CAMhome.html> lists an address for Christian Aid Ministries as PO Box 360, Berlin, OH 44610.

58. The printout of the website <http://www.charitynavigator.org/> dated March 17, 2011 provides the following description, "Charity Navigator, America's premier independent charity evaluator, works to advance a more efficient and responsive philanthropic marketplace by evaluating the financial health of over 5,500 of America's largest charities."

59. The Charity Navigator website provides the following mission description for Christian Aid Ministries, "Christian Aid Ministries (CAM) was founded in 1981. Our primary purpose is to provide a trustworthy, efficient channel for Amish, Mennonite, and other conservative Anabaptist groups and individuals to minister to physical and spiritual needs around the world. Annually, CAM distributes approximately 15-20 million pounds of food, clothing, medicines, seeds, Bibles and other Christian literature. The main purpose of giving material aid is to encourage God's people and to help bring the Gospel to a lost and dying world. CAM has staff, bases and distribution networks in Romania, Moldova, Ukraine, Haiti, Nicaragua...".

H. Liberty University and its Relationship with Lisa Miller

60. Liberty University is located in Lynchburg, Virginia. An online news article dated March 6, 2011 by Brian Kelley is titled, "Census 2010: Liberty University fuels Lynchburg's growth".

61. The website <http://www.liberty.edu/aboutliberty/> contains a "Message from the Chancellor", Chancellor Jerry Falwell Jr.. The text on the March 18, 2011 printout of the webpage includes, "Liberty University is the largest and fastest growing Christian Evangelical university in the world. Founded in 1971 by my father, the late Dr. Jerry Falwell Sr., Liberty started with his vision to train young Champions for Christ...."

62. Rena M. Lindevaldsen represented Lisa Miller during the litigation of parental rights of IMJ.

63. Bank records show that Lisa Ann Miller received multiple payroll checks from the Lynchburg Christian Academy Payroll Account.

64. The "Faculty/Staff Directory" listed within the Liberty School of Law website lists "Rena M. Lindevaldsen" as an "Associate Professor of Law" and "Associate Director, Liberty Center for Law and Policy".

65. According to the printout of the website for Liberty Counsel, "Liberty Counsel™ is a nonprofit litigation, education and policy organization dedicated to advancing religious freedom, the sanctity of human life and the family. Established in 1989, Liberty Counsel is a nationwide organization with offices in Florida, Virginia, and Washington D.C., and hundreds of affiliate attorneys across the Nation. ... Liberty Counsel provides pro bono legal assistance in the areas of religious liberty, the sanctity of human life and the family. ... The Liberty Center for Law & Policy (LCLP) operates as one component of Liberty Counsel's training, education and public

policy program. With offices in Washington, D.C. and on the campus of Liberty University School of Law in Lynchburg, Virginia, the LCLP trains attorneys, law students, policymakers, legislators, clergy and world leaders in constitutional principles and government policies...."

I. General Information Regarding Philip Zodhiates

66. Sarah Star, an attorney who represents Janet Jenkins, has told me that she received a call on or about June 21, 2010. The caller provided the following information:

a. Philip Zodhiates is a wealthy man and a "Liberty Leader" who has a beach house in Nicaragua. Lisa Miller and Isabella Miller have been staying at the home of Zodhiates.

b. Victoria Hyden is the daughter of Zodhiates. Zodhiates asked Hyden to disseminate a request to get Lisa Miller supplies.

67. The "Faculty/Staff Directory" listed within the Liberty School of Law website lists "Victoria Hyden" as an "Administrative Assistant" within the "Admissions and Financial Aid" section.

68. A website printout dated July 7, 2010 from the Vacationrentals.com website lists Philip Zodhiates as the owner of a vacation rental in Nicaragua. The phone number listed on the webpage is 540-943-6721.

69. Database records indicate that phone number 540-943-6721 as being associated with "Response Unlimited." The address associated with the phone number is 284 Shalom Road, Waynesboro, VA 22980.

70. A link within the website for Response Unlimited contains the following text, "Dear Friend: Response Unlimited soon became the nation's best and most comprehensive source of mailing lists for conservative and Christian mailers and tele-marketers....Cordially, Philip Zodhiates".

71. Star has told me that she determined through Internet research that Zodhiates has six adopted children. Three of the children are from Nicaragua and three children are from Guatemala.

J. Shelter Provided to Lisa Miller by Timothy Miller

72. The timjomiller@gmail.com account contained an e-mail strand beginning on or about November 12, 2009 and concluding on or about November 13, 2009 between "Philip Zodhiates" and "John Collmus". The Subject line throughout the e-mail strand referenced "bag for Nicaragua".

a. An e-mail dated on or about November 12, 2009 from "Philip Zodhiates [<mailto:philipz@responseunlimited.com>]" to "John Collmus" was labeled as "High" within the Importance field. The e-mail's content included, "John: The bags for Nicaragua have not arrived yet, but one is on its way to our home as I write. I will send it with Josiah in the morning. If I find out the other is ready I will have to go to Lynchburg to pick it up tomorrow or have someone else get it Saturday. Would that work? Can you give me your home & cell numbers just in case. ... Thanks so much for doing this. They are just personal belongings of someone who recently moved to Managua doing missions work and a few things they can't buy there readily like peanut butter. So it is nothing you need to declare on the customs forms. Philip 540-943-6721 office...".

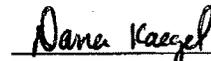
b. An e-mail dated on or about November 13, 2009 from the "John Collmus [<mailto:jcollmus@covenantsschool.org>]" to "Philip Zodhiates". The e-mail contains, "I have 2 in my room. Do you think they may open them up, break the tape, or is that not a problem. Who will my contact be? John H. Collmus".

c. "Philip Zodiates' <philipz@responseunlimited.com>" responds to "John Collmus' <jcollmus@covenantsschool.org>" in an e-mail dated on or about November 13, 2009. The e-mail contained, "... Yes they will probably examine the bags when you check in, but that is not a problem. I am not sure why they taped them (I did not pack them, one of the elders of the local church did here). Timo Miller will meet you at the airport and hold up a sign with your name. He is a pastor of an Amish-Mennonite church in Managua who is with Christian Aid Ministries (Ohio). ... The suitcases are for a lady that works with them there in Managua named Sarah. ... Thank you for taking these. Sarah will greatly appreciate it, I am sure...."

K. Conclusion

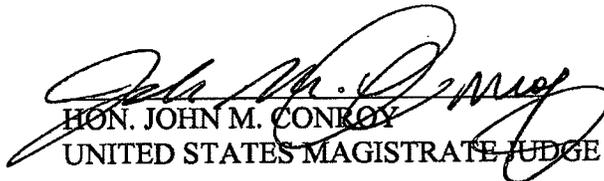
73. Based on the foregoing, I request that a Criminal Complaint be issued for Timothy Miller.

Respectfully submitted,



Dana Kaegel
Special Agent, Federal Bureau of
Investigation

Subscribed and sworn to before me
on April 15, 2011:



HON. JOHN M. CONROY
UNITED STATES MAGISTRATE JUDGE

AO 91 (Rev. 01/09) Criminal Complaint

U.S. DISTRICT COURT
DISTRICT OF VERMONT
FILED

UNITED STATES DISTRICT COURT

for the
District of Vermont

2010 APR 27 PM 3:42

United States of America)

v.)

Lisa Miller)

Defendant)

BY AZE
CLERK
DEPUTY CLERK

Case No. 2:10-mj-74-1

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date of 09/22/2009 to the present in the county of _____ in the _____ District of
Vermont, the defendant violated 18 U. S. C. § 1204, an offense described as follows:

removing a child from the United States, and retaining a child (who has been in the United States) outside the United States with intent to obstruct the lawful exercise of parental rights

This criminal complaint is based on these facts:

See Attached Affidavit

Continued on the attached sheet.

Dana Kaegel

Complainant's signature

Dana Kaegel, Special Agent, FBI

Printed name and title

Sworn to before me and signed in my presence.

Date: 04/27/2010

John M. Conroy
Judge's signature

City and state: Burlington, Vermont

John M. Conroy, U.S. Magistrate Judge

Printed name and title

AFFIDAVIT

I, Dana L. Kaegel, being duly sworn, depose and state as follows:

A. Background

1. I am a Special Agent of the Federal Bureau of Investigation (FBI). I have been a Special Agent since October of 2008. I am currently assigned to the Burlington, Vermont Resident Agency.

2. I have probable cause to believe that Lisa Miller, also known as Lisa Miller-Jenkins and Lisa A. McConchie, has violated 18 U.S.C. § 1204, by engaging in international parental kidnapping, by removing a child from the United States, on or about September 22, 2009, and retaining a child, who has been in the United States, outside the United States from September 2009 to the present, with intent to obstruct the lawful exercise of parental rights by Janet Jenkins. I make this affidavit in support of a criminal complaint and request for an arrest warrant charging Lisa Miller with violating of 18 U.S.C. § 1204.

3. The statements contained in this affidavit are based upon my investigation and include information provided by other law enforcement officials, court documentation, information provided by Janet Jenkins, and on my experience and training as a Special Agent of the FBI. Because this affidavit is being submitted for the limited purpose of supporting a complaint and obtaining an arrest warrant, I have not included each and every fact known to me concerning this investigation.

B. Relationship between Miller and Jenkins

4. Janet Jenkins has told me the following:

a. In or about December 1997, Janet Jenkins met and began a personal relationship with Lisa Miller, who at the time represented that she was a lesbian. Both women lived in Virginia at the time.

b. Prior to December 1997, Miller was married to Kurt McConchie, but Miller divorced him.

c. In or about February 1998, Jenkins and Miller became engaged. The two began researching state laws regarding parental protections for same-sex couples.

d. In or about April 1998, Miller moved into Jenkins' home in Virginia.

e. In December 2000, Miller and Jenkins traveled to Vermont and obtained a civil union pursuant to Vermont law.

f. In or about January 2001, Jenkins and Miller identified an alternative insemination specialist in Virginia for the purpose of pursuing a pregnancy of Miller. Jenkins paid approximately fifty thousand dollars to facilitate the alternative insemination that led to the birth of IMJ on April 16, 2002.

g. Jenkins and Miller planned to move to Vermont prior to IMJ's birth, but because of complications with Miller's pregnancy, Isabella Ruth Miller-Jenkins (IMJ) was born in Virginia.

5. On June 15, 2007, Rutland Vermont Family Court made the following findings of fact, as part of the litigation between Jenkins and Miller concerning custody of IMJ:

a. In August 2002, Miller and Jenkins moved to Fair Haven, Vermont, where they had purchased a home together.

b. During 2002 and 2003, Miller and Jenkins referred to each other as the mothers of IMJ and shared equally in the care of IMJ, except when Jenkins worked outside the home.

6. Jenkins has told me the following:

a. Miller became pregnant again through alternative insemination in May 2003, but had a miscarriage.

b. After the miscarriage, Miller's behavior changed.

c. In or about August 2003, Jenkins told Miller that she wanted a separation due to her concerns over Miller's behavior and refusal to seek help. Jenkins hoped that the separation would encourage Miller to seek help.

d. In September 2003, Miller and IMJ moved to Virginia. During that Fall, Jenkins traveled to Virginia regularly on weekends to visit IMJ.

C. Litigation Prior to 2007

7. Miller filed a complaint for dissolution of the civil union in Rutland Family Court in November 2003.

8. On June 17, 2004, the Rutland Family Court issued a temporary order regarding parental rights and responsibilities. This order awarded Lisa temporary legal and physical responsibility for IMJ and awarded Janet parent-child contact for two weekends in June, one weekend in July, and the third full week of each month, beginning in August 2004. The Family Court also ordered Lisa to permit Janet to have telephone contact with IMJ once daily.

9. On July 1, 2004, Miller filed a "Petition to Establish Parentage and for Declaratory Relief" in the Frederick County Virginia Circuit Court. Miller asserted that she had "sole custody" of IMJ, and asked the court to declare that she was the "sole parent of" IMJ.

10. In July 2004, the Rutland Family Court reaffirmed its "jurisdiction over this case including all parent-child contact issues," stated that it would not "defer to a different State that

would preclude the parties from a remedy,” and made clear that the temporary order for parent-child contact was to be followed. The Court added that “[f]ailure of the custodial parent to allow contact will result in an immediate hearing on the need to change custody.”

11. On September 2, 2004, the Rutland Family Court found Miller in contempt for willful refusal to comply with the temporary visitation order.

12. On September 9, 2004, the Virginia Circuit Court held that it had jurisdiction to determine parentage and parental rights of IMJ, and later ruled that Jenkins had no “claims of parentage or visitation rights over” IMJ.

13. On August 4, 2006, the Vermont Supreme Court affirmed the decision of the Rutland Family Court that it had jurisdiction over the child custody matter and that Jenkins had parent-child contact rights.

14. On November 28, 2006, the Court of Appeals of Virginia vacated the Virginia Circuit Court order denying parental rights to Jenkins, holding that the Virginia courts should defer to the jurisdiction of the Vermont courts.

D. Litigation 2007 through 2010

15. In April 2007, Miller and Jenkins were involved in a trial in Rutland Family Court concerning custody of IMJ. After the trial, the court granted parental rights to Miller and ordered visitation rights for Jenkins with IMJ.

16. In April 2007, the Virginia Court of Appeals reversed a decision by the Virginia Circuit Court declining to enforce the Vermont custody order. This decision was affirmed by the Supreme Court of Virginia on June 6, 2008.

17. During 2008, the Rutland Family Court issued a series of orders finding Miller in contempt for refusing to comply with its visitation orders.

18. At a hearing in Rutland Family Court in January 2009, the Court explicitly warned Miller that failure to comply with ordered visits could lead to a transfer in custody. Miller stated that she would comply with the ordered visits.

20. The Rutland Family Court ordered a contact visit for March 7 -14, 2009, which did not occur. The Rutland Family Court ordered a make-up visit in Vermont for April 9-13, 2009, which did not occur. The Rutland Family Court ordered a visit in Vermont for May 23-29, 2009, which did not occur. The Rutland Family Court ordered a visit in Virginia for June 6-8, 2009, which did not occur. The Rutland Family Court ordered a visit for July 10-August 8, 2009, which did not occur.

21. On August 21, 2009, the Rutland Family Court held a hearing on Jenkins' Motion to Modify Parental Rights and Responsibilities. Miller was not present for the hearing. The Court concluded on November 20, 2009, that Miller willfully interfered with Jenkins' visitation rights. Moreover, the Court ordered that Jenkins would have sole physical and legal custody of IMJ and that the custody transfer occur on January 1, 2010.

E. International Travel by Miller and IMJ

22. Intelligence Officer Melanie Granger, Canadian Border Services Agency has provided me the following information from Canadian Border Records and Mexican Authorities:

a. Miller and a second passenger crossed the Canadian border at the Rainbow Bridge between Buffalo, NY, and Canada on September 22, 2009 in a vehicle bearing New York license plate 20719TX.

b. It is likely that the second passenger's name was not entered into records because the second passenger was a minor.

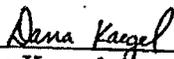
c. On September 22, 2009, Lisa A. Miller and Isabella Ruth Miller arrived in Mexico City, Mexico on Mexicana Flight 887.

23. I have conducted an inquiry of U.S. database records that provided New York license plate 20719TX as registered to Omnibus Taxi. The vehicle registered to the plate is a 2002 Chevrolet Impala.

24. FBI Intelligence Analyst Abigail Pope has told me that United States border records, which document entries into the United States, do not indicate that Miller or IMJ have returned to the United States since September 22, 2009.

25. At a hearing in Rutland Family Court in February 2010, a representative of Liberty Christian Academy testified that IMJ had not been a student there in the 2009 - 2010 school year and that the school had no information about her location. At the same hearing, a friend of Miller's testified that the last time she saw Miller was in early September 2009 and that she had no idea where Miller was.

Dated at Burlington, in the District of Vermont, this ~~27th~~ day of April, 2010.



Dana Kaegel
Special Agent, Federal Bureau of
Investigation

Sworn to and subscribed before me this 27th day of April, 2010.



JOHN M. CONROY
United States Magistrate Judge

EXHIBIT B

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Welcome to Christian Aid Ministries

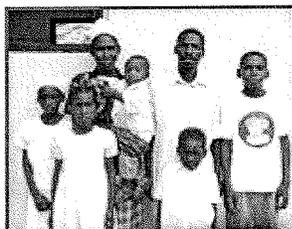
Christian Aid Ministries' primary purpose is to be a trustworthy and efficient channel for Amish, Mennonite, and other conservative Anabaptist groups and individuals to minister to physical and spiritual needs around the world.

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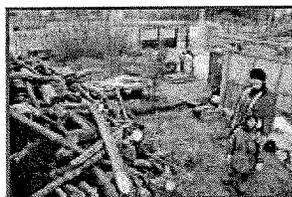
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[Haiti Church Member Highlight – Sainfilert Oltin](#) -- Brother Sainfilert has been a member of the La Source Mennonite Church since 2004. He and his family live in Nan Carre, a 45-minute walk from La Source. For eight years the ...**Thursday, January 31, 2013 at 01:00 PM**



[Warm-A-Family](#) -- Thank you, supporters, for providing the firewood pictured on the right through CAM's Warm-A-Family program! The church in Nikolayev, Ukraine, that sent us the photo included ...**Thursday, January 31, 2013 at 12:00 PM**

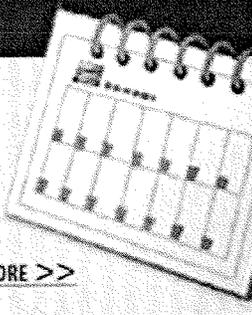


[From pain and discomfort...to a happy smile](#) -- Real Hope for Haiti is one medical outlet that receives donated products such as Herbalife from CAM. Recently this clinic reported the following: Guiverline Francois was admitted ...**Thursday, January 31, 2013 at 11:00 AM**

[Fractures, Surgeries, and other Unexpected Obstacles](#) -- In many poverty-stricken places in our world, an average family's income is just enough to buy the most basic necessities. When unexpected misfortune arises, such as a medical ...**Thursday, January 31, 2013 at 10:00 AM**



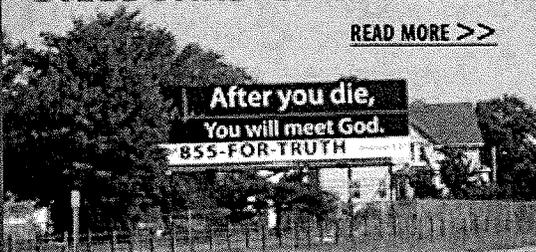
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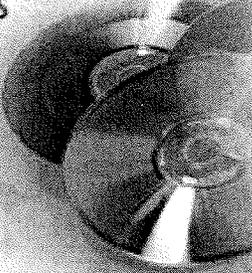
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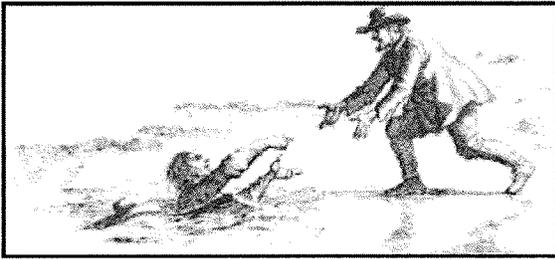
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Christian Aid Ministries, 2013

EXHIBIT C



MillerCase.org

- The Case
- What We Believe

- Updates
- Basis For Involvement
- Background
- How to Help
- About Ken
- About Dirk Willems

Trial Day Three

Published on Friday, 10 August 2012 20:48

8 / ^{10/2012}

The court opened this morning at 9:00 with approximately 70 people in attendance.

The judge discussed several issues with the attorneys before the jury came in. They involved the idea that

Vermont law and Virginia law are consistent with each other on this issue of parental rights. This ruling was made in a previous court session held in Virginia Supreme Court. The court discussed at length as to whether quality of character

can be brought into the defense. The court discussed the type of evidence that could be obtained from Janet Jenkins. The judge called the attorneys back to the fact that this case is not about a custody battle, but about aiding and abetting.

Jury entered at 9:30. The jury was cleared to continue with the case.

The prosecution called more witnesses to the stand. They included the following: the conclusion to Timo Miller's statements; testimony regarding Stellar One Bank and checks that were processed through that bank; Andrew Yoder, CAM field director 2007- 2011; email correspondence between Milmont Greenhouses and Philip Zodiates regarding hydrangea purchases for a wedding; a written statement by Duane Weaver; John Curtis, US Marshall; Janet Jenkins; a lady who helped design and maintain the website protectisabella.com; Doug Wright, pastor from Berryville, VA; Phil Koonz, BB&T Bank; Elaine Cooper; and finally, a US Postal inspector.

The judge made a statement that circumstances indicate knowledge that there may or may not have been illegal activity. He also discussed the issue of venue (where the trial should be held). A large part of the alleged criminal activity took place outside the US, so the trial should be held in the state in which the arrest was made. This concluded the prosecution's presentation of evidence.

The defense called two witnesses to discuss Bro. Ken's credibility and trustworthiness issues. They were Linda Rose Miller, and Ivan Beachy, Free Union, VA. They both gave good testimony to his integrity.

In yesterday's post we asked that Sister Linda Rose would not be questioned in regard to the case. That restriction is lifted, as she has finished her testimony. Thanks again so much for praying and supporting Bro. Ken to this point. Of course, we do not know how long the trial will continue, but Ken's attorney expects it to be finished by next Tuesday or Wednesday. Once again, we ask for you continued prayer support.

We failed to give an update on our evening activities on Wednesday and Thursday evening. On Wednesday evening we had an informal meeting at a nearby park overlooking Lake Champlain. We had a very refreshing time of singing, testimonies, and prayer. On Thursday we met a friend who used to be a part of a local Mennonite church. He asked us to sing in front of the town hall. He helped us to obtain the necessary permits. The group had a good evening of singing, passing out CAM CDs, and witnessing. A rain set in just as we were wrapping up the evening. This evening most of the folks headed for home.

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EXHIBIT D

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF VERMONT

JANET JENKINS, FOR HERSELF AND
AS NEXT FRIEND OF ISABELLA
MILLER-JENKINS, A/K/A ISABELLA
MILLER

Plaintiffs,

v.

KENNETH L. MILLER, LISA ANN
MILLER F/K/A LISA MILLER-
JENKINS, TIMOTHY D. MILLER,
ANDREW YODER, INDIVIDUALLY
AND AS AN AGENT FOR CHRISTIAN
AID MINISTRIES, INC., CHRISTIAN
AID MINISTRIES, INC., RESPONSE
UNLIMITED, INC., PHILIP
ZODHIATES, VICTORIA HYDEN,
F/K/A VICTORIA ZODHIATES
INDIVIDUALLY AND AS AN AGENT
FOR BOTH RESPONSE UNLIMITED,
INC., AND LIBERTY UNIVERSITY
AND ITS RELATED MINISTRY
THOMAS ROAD BAPTIST CHURCH,
INC., LIBERTY UNIVERSITY, AND ITS
RELATED MINISTRY THOMAS ROAD
BAPTIST CHURCH, INC., LINDA M.
WALL, INDIVIDUALLY AND AS
AGENT FOR THOMAS ROAD BAPTIST
CHURCH, INC., AND DOUGLAS
WRIGHT,

Defendants.

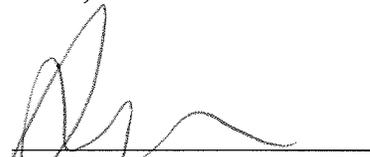
Civil Action
Docket No. 2:12-CV-00184-WKS

AFFIDAVIT OF SARAH R. STAR, ESQ., IN SUPPORT OF RESPONSE TO
MOTION TO DISMISS BY CHRISTIAN AID MINISTRIES

I, Sarah R. Star, Esq., being duly sworn, do hereby depose and say:

1. Plaintiffs' Exhibit A is a true and correct copy of the criminal complaint and charging affidavit in *United States v. Timothy D. Miller*, Case No. 2:11-mj-00028-jmc.
2. Plaintiffs' Exhibit B is a true and correct copy of www.christainaidministries.org, which I printed on February 22, 2013.
3. Plaintiffs' Exhibit C is a true and correct copy of an online posting on www.millercase.org/home/updates/40-trial-day-three.html, which I printed on November 30, 2012.

DATED at Middlebury, Vermont this 17th day of March, 2013.



Sarah R. Star, Esq.
Attorney for Plaintiffs

STATE OF VERMONT
ADDISON COUNTY, SS.

At Middlebury, Vermont this 13th day of March, 2013, personally appeared Sarah R. Star and she acknowledged that the information contained in the foregoing Affidavit is true and correct to the best of her knowledge and belief.

Before me, Use Field

Notary Public
Commission Expires: 2/10/15

593558