

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF VERMONT**

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JANET JENKINS, for herself and as  
next friend of ISABELLA MILLER-  
JENKINS, A/K/A ISABELLA  
MILLER,

Plaintiffs

v.

**Civil No. 2:12-cv-184-wks**

KENNETH L. MILLER, LISA ANN  
MILLER, F/K/A LISA MILLER-  
JENKINS, TIMOTHY D. MILLER,  
RESPONSE UNLIMITED, INC., for itself  
and as an agent of LIBERTY COUNSEL,  
LLC, PHILIP ZODHIATES, individually  
and as agent for RESPONSE UNLIMITED,  
INC., VICTORIA HYDEN, f/k/a  
VICTORIA ZODHIATES, individually  
and as agent for both RESPONSE  
UNLIMITED, INC., LINDA M. WALL,  
MATHEW D. STAVAR, individually and  
as agent for LIBERTY COUNSEL, LLC,  
RENA M. LINDEVALDSEN, individually  
and as agent for LIBERTY COUNSEL,  
LLC, and LIBERTY COUNSEL, LLC,

Defendants

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**DEFENDANT TIMOTHY D. MILLER’S ANSWER TO PLAINTIFFS’ REVISED  
SECOND AMENDED COMPLAINT AND DEMAND FOR TRIAL BY JURY**

NOW COMES Defendant, Timothy D. Miller (“Timo”), by and through his attorneys,  
Wadleigh, Starr & Peters, P.L.L.C., and hereby answers Plaintiffs’ Revised Second Amended  
Complaint and Demand for Trial by Jury as follows:

**JURISDICTION AND VENUE**

1. Denied, as applied to Timo. To the extent that the allegations in this paragraph do not state conclusions of law or apply to other defendants, to which no response is required, Timo incorporates by reference arguments made in pleadings associated with his previously filed Motion to Dismiss.

2. Denied, as applied to Timo. To the extent that the allegations in this paragraph do not state conclusions of law or apply to other defendants, to which no response is required, Timo incorporates by reference arguments made in pleadings associated with his previously filed Motion to Dismiss.

3. Denied, as applied to Timo. To the extent that the allegations in this paragraph do not state conclusions of law or apply to other defendants, to which no response is required, Timo incorporates by reference arguments made in his pleadings associated with his previously filed Motion to Dismiss. Timo specifically denies that there is diversity of citizenship between the plaintiffs and defendants.

4. Denied, as applied to Timo. To the extent that the allegations in this paragraph do not state conclusions of law or apply to other defendants, to which no response is required, Timo incorporates by references arguments made in pleadings associated with his previously filed Motion to Dismiss. By way of further answer, no events concerning or involving Timo arose in Vermont and Timo denies that Plaintiffs have stated a claim for, or are entitled to, relief under the cited statutes.

**PARTIES**

5. Timo denies that Janet Jenkins has standing to bring her individual claims. Timo is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in this paragraph and therefore denies those allegations.

6. Timo denies that Isabella Miller-Jenkins is a minor child. Timo denies that Janet Jenkins has authority or standing to maintain next-friend claims on behalf of Isabella and denies that this Court has jurisdiction over those claims. Timo is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in this paragraph, and therefore denies those allegations.

7. Timo is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and therefore denies the allegations.

8. Timo is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and therefore denies the allegations.

9. Timo admits that, at one point in time, he was a resident of Nicaragua and Tennessee, but denies that he currently resides in either Nicaragua or Tennessee. Timo denies that he has any ties to Vermont. By way of further answer, he learned of Vermont for the first time when he was brought to Vermont for a brief appearance, long after the facts underlying Plaintiffs' claims occurred. Timo denies that this Court has jurisdiction over him.

10. Timo is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and therefore denies the allegations.

11. Timo is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and therefore denies the allegations.

12. Timo is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and therefore denies the allegations.

13. Timo is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and therefore denies the allegations.

14. Timo is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and therefore denies the allegations.

15. Timo is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and therefore denies the allegations.

16. Timo is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and therefore denies the allegations.

17. Timo is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and therefore denies the allegations.

**COMMON ALLEGATIONS OF FACT**

18. Upon information and belief, Timo admits that Isabella was born in 2002 and that Isabella is Lisa Miller's daughter. Timo is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in this paragraph and therefore denies those allegations.

19. Timo is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and therefore denies the allegations. By way of further answer, Timo has no personal knowledge of the allegations in this paragraph, but is now vaguely aware of various matters relating to Lisa Miller, Isabella, and the custody orders, as they have been introduced to some extent in related court proceedings and in the news media.

20. Timo is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and therefore denies the allegations. By way of further answer, Timo has no personal knowledge of the allegations in this paragraph, but is now vaguely aware of various matters relating to Lisa Miller, Isabella, and the custody orders, as they have been introduced to some extent in related court proceedings and in the news media.

21. Timo is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and therefore denies the allegations.

22. Timo is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and therefore denies the allegations.

23. Timo is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and therefore denies the allegations.

24. Timo denies the allegations in this paragraph, as they apply to him. Timo is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in this paragraph and therefore denies those allegations.

25. Timo is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and therefore denies the allegations.

26. Timo is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and therefore denies the allegations.

27. Timo is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and therefore denies the allegations.

28. Timo is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and therefore denies the allegations.

29. Timo is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and therefore denies the allegations.

30. Timo is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and therefore denies the allegations.

31. Timo is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and therefore denies the allegations.

32. Timo is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and therefore denies the allegations. By way of further answer, Timo has no personal knowledge of the allegations in this paragraph, but is now vaguely aware of various matters relating to Lisa Miller, Isabella, and the custody orders, as they have been introduced to some extent in related court proceedings and in the news media.

33. Timo is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and therefore denies the allegations.

34. Timo denies that he had any part in devising, or contemporaneous knowledge of, the alleged “plan” referenced in this paragraph. Timo admits that he was arrested. Timo is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in this paragraph and therefore denies those allegations.

35. Timo is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and therefore denies the allegations.

36. Timo is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and therefore denies the allegations. By way of further answer, Timo has no personal, and had no contemporaneous, knowledge of the allegations in this paragraph, but is now vaguely aware of various matters relating to Lisa Miller and Isabella, as they have been introduced to some extent in related court proceedings and in the news media.

37. Timo is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and therefore denies the allegations.

38. Timo admits that he met Lisa Miller and Isabella in Nicaragua. Timo admits that he purchased plane tickets with his mother-in-law’s credit card, but denies doing so as part of any conspiracy, plan, or other effort to obstruct any law or court order, anticipatory or otherwise.

By way of further answer, he was asked by Kenneth Miller to purchase plane tickets for a mother and her child who desired to join the Beachy Amish-Mennonite community in Nicaragua. Timo had no contemporaneous knowledge of all of the circumstances relating to Janet Jenkins, the custody dispute, or alleged motive of Lisa Miller and Isabella joining the Beachy Amish-Mennonite community in Nicaragua. Timo admits that the cost of the plane tickets was reimbursed. Timo denies that any of his actions were taken to avoid any visitation order, or avoid any anticipated transfer of custody. Timo is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in this paragraph and therefore denies those allegations.

39. Timo admits that he knows Kenneth Miller to be a pastor and leader within the Beachy Amish-Mennonite community. Timo is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in this paragraph and therefore denies those allegations.

40. Timo admits that, starting in September 2009, Lisa Miller and Isabella lived openly near or among the Beachy Amish-Mennonite Community in Nicaragua. Timo is without knowledge or information sufficient to form a belief as to the truth of the allegations relating to Lisa Miller's communications with members of TRBC and therefore denies those allegations. Timo admits that Lisa Miller went by the name "Sarah" and Isabella was called "Lydia." Timo denies the remaining allegations in this paragraph.

41. Timo is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and therefore denies the allegations.

42. Timo is without knowledge or information as to the date of the "September 2009 visit" referenced in this paragraph, sufficient to form a belief as to the truth of the allegation that

Lisa Miller did not return Isabella for that visit, and therefore denies that allegation. By way of further answer, Timo has no personal, and had no contemporaneous, knowledge of the allegations in this paragraph, but is now vaguely aware of various matters relating to Lisa Miller, Isabella, and the custody orders, as they have been introduced to some extent in related court proceedings and in the news media. Timo is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in this paragraph and therefore denies those allegations.

43. Timo is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and therefore denies the allegations.

44. Timo is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and therefore denies the allegations.

45. Timo is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and therefore denies the allegations. By way of further answer, Timo did not pick up any bags.

46. Timo is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and therefore denies the allegations.

47. Timo is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and therefore denies the allegations. By way of further answer, Timo has no personal, and had no contemporaneous, knowledge of the allegations in this paragraph, but is now vaguely aware of various matters relating to Lisa Miller, Isabella, and the custody orders, as they have been introduced to some extent in related court proceedings and in the news media.

48. Timo is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and therefore denies the allegations. By way of further answer, Timo has spoken on the phone with Kenneth Miller, as he has with other leaders in Beachy Amish-Mennonite communities, but cannot verify the dates of any such communications.

49. Timo is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and therefore denies the allegations.

50. Timo is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and therefore denies the allegations.

51. Timo is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and therefore denies the allegations.

52. Timo is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and therefore denies the allegations.

53. Timo is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and therefore denies the allegations.

54. Timo is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and therefore denies the allegations.

55. Timo is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and therefore denies the allegations.

56. Timo is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and therefore denies the allegations.

57. Timo denies any allegations in this paragraph that suggest he knowingly assisted Lisa Miller in any unlawful or obstructive efforts. Timo denies that he acted unlawfully. Timo

admits that he was arrested and that his charges were dismissed. Timo denies that he failed to give truthful testimony. Timo admits that he was unable to return to the United States to testify in person at another's trial due to a family emergency and communicated such to the relevant United States authorities. Timo admits that he was deported illegally to the United States to stand trial. Timo is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in this paragraph and therefore denies those allegations.

58. Timo is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and therefore denies the allegations.

59. Timo admits that his charges were dismissed. Timo is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in this paragraph and therefore denies those allegations.

60. Timo is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and therefore denies the allegations.

61. Timo is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and therefore denies the allegations.

62. Timo is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and therefore denies the allegations.

63. Timo is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and therefore denies the allegations.

**COUNT ONE – INTENTIONAL TORT OF KIDNAPPING**

Timo incorporates by reference paragraphs 1-63 above.

64. To the extent that the allegations in this paragraph state conclusions of law or apply to other defendants, no response is required. To the extent a response is required, Timo lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this

paragraph and therefore denies the allegations. Timo further denies that Janet Jenkins has authority or standing to maintain next-friend claims on behalf of Isabella or her individual claims.

65. To the extent that the allegations in this paragraph state conclusions of law or apply to other defendants, no response is required. To the extent a response is required, Timo denies the allegations as they apply to him. To the extent a response is required as to other defendants, Timo lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and therefore denies the allegations. Timo further denies that Janet Jenkins has authority or standing to maintain next-friend claims on behalf of Isabella or her individual claims.

#### **COUNT TWO – CONSPIRACY TO VIOLATE CIVIL RIGHTS**

Timo incorporates by reference paragraphs 1-65 above

66. Denied as phrased. The statute's language speaks for itself.

67. To the extent that the allegations in this paragraph state conclusions of law or apply to other defendants, no response is required. To the extent a response is required, Timo denies the allegations as they apply to him. To the extent a response is required as to other defendants, Timo lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and therefore denies the allegations. Timo further denies that Janet Jenkins has authority or standing to maintain next-friend claims on behalf of Isabella or her individual claims.

#### **DAMAGES**

68. Timo lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and therefore denies the allegations. By way of further answer,

Timo denies any liability. Timo further denies that Janet Jenkins has standing to bring her individual claims.

69. Timo lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and therefore denies the allegations. By way of further answer, Timo denies any liability. Timo further denies that Janet Jenkins has standing to bring her individual claims.

70. Timo denies Plaintiffs' characterization of unspecified comments he may or may not have made at some unspecified time. Timo lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in this paragraph and therefore denies those allegations. By way of further answer, Timo denies any liability. Timo further denies that Janet Jenkins has authority or standing to maintain next-friend claims on behalf of Isabella.

71. Timo lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and therefore denies the allegations. By way of further answer, Timo denies any liability. Timo further denies that Janet Jenkins has authority or standing to maintain next-friend claims on behalf of Isabella.

72. This paragraph sets forth a prayer for relief, to which no response is required. To the extent a response is required, Timo denies liability. Timo further denies that Janet Jenkins has authority or standing to maintain next-friend claims on behalf of Isabella.

### **JURY DEMAND**

Although Timo admits that a jury trial has been requested, he denies that Janet Jenkins has authority or standing to maintain next-friend claims on behalf of Isabella and denies that Janet Jenkins has standing or sufficient evidence to reach a jury on her individual claims. If any claims or defenses are to be tried, Timo requests a jury trial on all issues so triable, by the maximum numbers of jurors permitted.

**PRAYER**

Although Timo admits that the Complaint states a prayer for relief, he denies that Janet Jenkins has authority or standing to maintain next-friend claims on behalf of Isabella and denies that Janet Jenkins has standing to bring her individual claims or is entitled to any relief.

**PRESERVATION OF RIGHTS**

Timo explicitly preserves, to the fullest extent possible, and does not, by filing this answer, waive, each of his State and Federal Constitutional rights, including the right against self-incrimination.

**AFFIRMATIVE DEFENSES**

1. This Court lacks subject matter jurisdiction over the asserted claims.
2. This Court lacks personal jurisdiction over Timo.
3. Venue is improper.
4. Service upon Timo was, and remains, ineffective.
5. Janet Jenkins lacks authority and standing to maintain next-friend claims on behalf of Isabella.
6. The next-friend claims made on behalf of Isabella must be dismissed, as Isabella has reached the age of majority and therefore, Jenkins has no ability to bring a claim on behalf of Isabella, who is no longer a minor. Isabella has not ratified the claims, nor sought to join or be substituted in this action.
7. There is a lack of diversity of citizenship which precludes this court from having jurisdiction over state claims.
8. Janet Jenkins lacks standing to bring her individual claims.
9. Plaintiffs fail to state any claim upon which relief may be granted.

10. Vermont law does not recognize a claim for custodial interference or intentional interference with parental rights.

11. A custodial parent cannot commit the act of custodial interference or intentional interference with parental rights, or any like tort, and therefore, Plaintiffs' conspiracy claims fail.

12. Plaintiffs' conspiracy claims fail because the act in furtherance of the conspiracy that Timo is alleged to have committed was not itself unlawful.

13. Plaintiffs' aiding and abetting claims fail because there is no underlying tortious conduct, Timo did not provide substantial assistance, and Timo did not engage in any independently tortious conduct.

14. Plaintiffs' claims are time barred by the applicable statutes of limitation.

15. Timo reserves the right to plead, to the extent applicable and justified by the facts of this case, the affirmative defenses of contributory negligence, estoppel, release, res judicata, collateral estoppel, laches, unclean hands, equitable estoppel, and waiver.

16. Timo owed no duty to Plaintiffs, did not breach any duty owed to Plaintiffs, and did not violate any right or privilege of Plaintiffs, and therefore is not liable in damages.

17. Timo's conduct is protected by the United States and Vermont Constitutions.

18. Timo's conduct is protected by 12 V.S.A. § 1041, *et seq.*, and he hereby asserts all substantive and procedural defenses available pursuant to that statute.

19. Plaintiffs' claims for punitive damages is barred by the United States and Vermont Constitutions and law.

20. Timo repeats and incorporates as affirmative defenses the arguments presented in his previously filed motion to dismiss and all associated pleadings, as well as his previously filed objection to Plaintiffs' motion for summary judgment.

21. Timo reserves the right to further supplement these preliminary affirmative defenses as discovery progresses.

WHEREFORE, Defendant, Timothy D. Miller, respectfully requests that this Honorable Court:

- A. DISMISS the Revised Second Amended Complaint against Timo, with prejudice;
- B. AWARD Timo reasonable costs and attorney's fees incurred in defending this action;
- and
- C. GRANT such other relief as may be just and necessary.

Dated at Manchester, New Hampshire this 4<sup>th</sup> day of May 2020.

Respectfully submitted,

Timothy D. Miller  
By his attorneys,

WADLEIGH, STARR & PETERS, P.L.L.C.

By        /S/ Michael J. Tierney  
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UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF VERMONT

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JANET JENKINS, for herself and as  
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MILLER,

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Civil No. 2:12-cv-184-wks

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VICTORIA ZODHIATES, individually  
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MATHEW D. STAVAR, individually and  
as agent for LIBERTY COUNSEL, LLC,  
RENA M. LINDEVALDSEN, individually  
and as agent for LIBERTY COUNSEL,  
LLC, and LIBERTY COUNSEL, LLC,

Defendants

\*\*\*\*\*

CERTIFICATE OF SERVICE

I, Michael J. Tierney, certify that on this date DEFENDANT TIMOTHY D. MILLER'S ANSWER TO PLAINTIFFS' REVISED SECOND AMENDED COMPLAINT AND DEMAND FOR TRIAL BY JURY was filed through the Court's CM/ECF filing system, and by virtue of this filing notice will be sent electronically to all counsel of record:

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