

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.

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. STAVER, individually and
as agent for LIBERTY COUNSEL, LLC,
RENA M. LINDEVALDSEN, individually
and as agent for LIBERTY COUNSEL,
LLC, and LIBERTY COUNSEL, LLC,

Defendants

**DEFENDANT TIMOTHY D. MILLER'S
MOTION TO DISQUALIFY PLAINTIFFS' COUNSEL**

1. The plaintiffs' claims in this case were brought on behalf of Janet Jenkins and Isabella Miller Jenkins a/k/a Isabella Miller. [hereinafter "Isabella"] See Doc. 223 (Revised Second Amended Complaint).
2. Isabella reached the age of majority on April 16, 2020. See Doc. 556, p. 2.

3. As recently as January 14, 2021, Plaintiffs' Counsel filed pleadings in this court asserting that they continue to represent Isabella in this case. See Doc. 632.2 (Declaration of Diego A. Soto stating "I am a Staff Attorney at the Southern Poverty Law Center and represent Plaintiffs Janet Jenkins and Isabella Miller-Jenkins in this case.")
4. On January 25, 2021, Isabella signed an affidavit stating that "All those lawyers who purport to represent me and my wishes are acting contrary to my wishes and desires and in a way to further a cause that is the exact opposite of what my desire and wishes as their client in fact are." See Affidavit of Isabella Miller, ¶ 15 at Exhibit A.
5. On January 26, 2021, Isabella signed a second affidavit clarifying that, with the exception of Vince Heuser, she was terminating "all attorneys, including but not limited to Sarah Starr, Scott McCoy, Tyler Clemons, Diego A. Soto, Frank H. Langrock, Jessica L Stone, Maya G. Rajaratnam and any attorneys working with them, discharged and withdrawn as my attorney and I further object to their representing any other person in this matter." Second Affidavit of Isabella Miller, ¶ 3 at Exhibit B.
6. Although Isabella requested that her attorneys not represent any other person in this matter, her attorneys have filed pleadings with this court purportedly solely on behalf of Janet Jenkins. See Doc. 635 filed on January 30, 2021.
7. Pursuant to Vermont Rule of Professional Conduct 1.9 (a),
 - (a) A lawyer who has formerly represented a client in a matter shall not thereafter represent another person in the same or a substantially related matter in which that person's interests are materially adverse to the interests of the former client unless the former client gives informed consent, confirmed in writing.

8. Therefore, Plaintiffs' Counsel can only continue representing Janet Jenkins if either Janet and Isabella's interests are not adverse or if Isabella "gives informed consent, confirmed in writing."¹
9. Isabella's January 25, 2021 Affidavit establishes that Isabella and Janet's interests are adverse. See Affidavit of Isabella Miller, ¶ 15 at Exhibit A. ("All those lawyers who purport to represent me and my wishes are acting contrary to my wishes and desires and in a way to further a cause that is the exact opposite of what my desire and wishes as their client in fact are.")
10. Plaintiffs' counsel are unable to obtain Isabella's "informed consent, confirmed in writing" to continue to represent Janet. Isabella has specifically demanded that they stop representing Janet. See Second Affidavit of Isabella Miller, ¶ 3 at Exhibit B.
11. Therefore, the Court must dismiss Isabella and disqualify her counsel from representing anyone else in this case.

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

- A. Dismiss Isabella Miller Jenkins as a party to this case;
 - B. Disqualify Plaintiffs' Counsel from representing Janet Jenkins or any other party in this case;
 - C. Stay the case for not more than 30 days to allow Janet Jenkins to obtain new counsel;
- and

¹ For the purpose of a Disqualification Motion, it does not matter whether Isabella has or has not conveyed confidential information. In the Second Circuit, a violation of Rule 1.9 alone is sufficient to support disqualification. See *Gov't of India v. Cook Indus., Inc.*, 569 F.2d 737 (2d Cir. 1978) ("To grant a disqualification motion, court does not require proof that attorney actually had access to or received privileged information while representing client in prior case."); see also *State v. Crepeault*, 167 Vt. 209, 216 (1997) ("Once a substantial relationship between the matters is found, 'the court need not inquire whether the attorney in fact received confidential information.'")

D. Such other relief as may be just and necessary.

Respectfully submitted,
Timothy D. Miller
By his attorneys,

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

Dated: February 1, 2021

By /S/ Michael J. Tierney
Michael J. Tierney – VT Bar No. 5275
95 Market Street
Manchester, NH 03101
(603) 669-4140
mtierney@wadleighlaw.com

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF VERMONT

JANET JENKINS, *et al.*,)
Plaintiffs)
v.)
KENNETH L. MILLER, *et al.*,)
Defendants.)

Docket No. 2:12-cv-184

AFFIDAVIT OF ISABELLA MILLER

COMES NOW, Affiant who is also a Plaintiff in the above-captioned action and offers this my sworn Affidavit:

1. My name is Isabella Miller, sometimes referred to as Isabella Jenkins Miller in this litigation.
2. I am at least 18 years of age.
3. I have personal knowledge of the facts asserted in this Affidavit.
4. I offer this Affidavit freely and voluntarily.
5. I am not under any disability or impediment that would interfere with my ability to freely and voluntarily offer this Affidavit.
6. In September 2009 I left the United States with my mother, Lisa Miller.
7. At that time I travelled to Nicaragua where we lived.
8. I was shown tremendous kindness by many people.
9. My life from September 2009 until the present has been happy, safe, healthy, and I have been well cared for.
10. I remain outside the United States of my own free will.
11. If (and when) I desire to return to the United States I will do so.
12. I am operating under no financial or other impediment to voluntarily returning to the United States should I choose to do so.
13. I have been made aware of litigation that has been brought in my name in the U.S. District Court in the state of Vermont (Case #2:12-CV-184).
14. That litigation has been prosecuted by many attorneys, among them several lawyers who are employed by the Southern Poverty Law Center (SPLC).

15. All the lawyers who purport to represent me and my wishes are acting contrary to my wishes and desires and in way to further a cause that is the exact opposite of what my desire and wishes as their client in fact are.
16. I want those people who claim to be my attorneys to cease their actions that are contrary to my wishes and desires.
17. I order and direct them to file all papers necessary to have me removed as a Plaintiff in this case.
18. Once I am dismissed from this action – whether through their effort, unilateral action of the Court, or the result of any filing from any party – I summarily and without equivocation fire, terminate, and discharge SPLC and all attorneys who have appeared ostensibly on my behalf in this litigation from taking any further action in my name.
19. I authorize any attorneys for the Defendants in this case to utilize this Affidavit in the best interest of your clients.
20. Contemporaneously with this Affidavit, I am also executing a full, unconditional, global, total Release for the benefit of each of the Defendants in this lawsuit together with my deepest appreciations for whatever they did or might have done or didn't do that has helped me to have a happy and safe life.

FURTHER THE AFFIANT SAYETH NAUGHT.

Isabella Miller
Isabella Miller
Date:

Sworn and subscribed before me this 25 day of January, 2021.

Notary

Peter Ritter
Consular Officer
COMMISSION:

Indefinite 22 USC Sec 110

REPUBLIC OF NICARAGUA
CITY OF MANAGUA
EMBASSY OF THE UNITED
STATES OF AMERICA



AUTÉNTICA DE FIRMAS

Ante mí **Harling Carmelo Bobadilla Treminio**, Abogado y Notario Público de la República de Nicaragua, debidamente autorizado por la Corte Suprema de Justicia para cartular en un quinquenio que expira el día veintitrés de agosto del dos mil veinticinco. **CERTIFICO Y DOY FE** que la firma que antecede fue puesta en mi presencia y es la que usa en su documento de identidad pasaporte de los Estados Unidos de América No. 720594835 , Documento que firma de su libre y espontánea voluntades. Documento que tuve a la vista, con el cual lo cotejé debidamente.-certifico y sello en la ciudad de Managua Nicaragua a las nueve y quince minutos de la mañana del día veintiséis de enero del dos mil veintiuno.=====


Harling Carmelo Bobadilla Treminio
Abogado y Notario Publico
Carnet C. S. J. 15212.







REPÚBLICA DE NICARAGUA
Corte Suprema de Justicia

HARLING CARMELO
BOBADILLA TREMINIO
Abogado y Notario Público
Cédula 001-160774-0078F
Carné No. 15212



[Signature]
Secretario



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.

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

CERTIFICATE OF SERVICE

I, Michael J. Tierney, certify that on this date Defendant Timothy D. Miller’s Motion to Disqualify Plaintiffs’ Counsel 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:

David C. Dinielli, Esq.
Diego A. Soto, Esq.
Southern Poverty Law Center
400 Washington Avenue
Montgomery, Alabama 36104
David.dinielli@splcenter.org
Diego.soto@splcenter.org

CMECFLGBT@splcenter.org
(334) 956-8200

Frank Langrock, Esq.
Langrock, Sperry & Wool, LLP
PO Drawer 351, 111 S. Pleasant Street
Middlebury, Vermont 05753
flangrock@langrock.com
(802) 388-6356

Sara R. Star, Esq.
Sarah Star, Esq., P.C.
PO Box 106
Middlebury, Vermont 05753
srs@sarahstarlaw.com
(802) 385-1023

J. Tyler Clemons, Esq.
SOUTHERN POVERTY LAW CENTER
201 St. Charles Avenue, Suite 2000
New Orleans, Louisiana 70170
Tyler.clemons@splcenter.org
(504) 526-1530

Brook G. McArthur, Esq.
Jarvis, McArthur & Williams, LLC
95 St. Paul Street, Suite 2E
PO Box 902
Burlington, Vermont 05402-0902
bmcarthur@jarvismcarthur.com
(802) 658-9411
Counsel for Defendant, Kenneth L. Miller

Norman C. Smith, Esq.
76 Lincoln Street
PO Box 24
Essex Junction, Vermont 05453
Nc.smith@myfairpoint.net
(802) 288-9088
Counsel for Defendant, Linda M. Wall

Anthony R. Duprey, Esq.
Neuse, Duprey & Putnam, PC
1 Cross Street
Middlebury, Vermont 05753-1455
anthony@ndp-law.com

(802) 388-7966

Counsel for Defendants, Liberty Counsel and Rena M. Lindevaldsen

Horatio G. Mihet, Esq.

Daniel J. Schmid, Esq.

Roger K. Gannam, Esq.

LIBERTY COUNSEL

PO Box 540774

Orlando, Florida 32854

hmihet@lc.org

dschmid@lc.org

rgannam@lc.org

(407) 875-1776

Counsel for Defendants, Liberty Counsel and Rena M. Lindevaldsen

Adam S. Hochschild, Esq.

Hochschild Law Firm, LLC

adam@hochschildlaw.com

Counsel for Linda Wall

Michael R. Hirsh

Hirsh & Heuser, LLC

mrhirsh@hirshandheuser.com

Counsel for Defendants Philip Zodiates, Victoria Hyden, and Response Unlimited, Inc.

/S/ Michael J. Tierney
Michael J. Tierney

C:\Users\mtierney\Desktop\Cert Service - Timothy Miller Motion to Disqualify Plaintiffs' Counsel.docx