



Connie Taylor, Clerk of Superior Court
Cobb County, Georgia

**IN THE SUPERIOR COURT OF COBB COUNTY
STATE OF GEORGIA**

JONATHAN RIVERA,)
)
Plaintiff,) CASE NO. 21-1-01795
)
)
v.)
)
GINA SCHARLE,)
)
Defendant.)
)

SECOND AFFIDAVIT OF JONATHAN SAMUEL RIVERA

Personally appeared before me, the undersigned officer duly authorized to administer oaths, JONATHAN RIVERA (“Plaintiff”), who, after having been sworn, deposes and states as follows:

1.

My name is JONATHAN RIVERA and I am a citizen of the United States and a resident of Georgia.

2.

I am over the age of eighteen (18) years of age and I am competent to testify to the facts in this affidavit. I am doing so freely and voluntarily and in the absence of any duress or legal impediment.

3.

I have read my *Affidavit Of Jonathan Samuel Rivera* attached hereto as **Exhibit A** and the facts stated in that affidavit are true and correct.

4.

I have personally only talked to the Guardian ad Litem in this case once, and that was by phone for about 45 minutes prior to April 15, 2021.

5.

I have read the allegations in the *Guardian’s Motion For Expedited Hearing To Modify*

Visitation and know that some of the facts stated therein are not true and correct. False allegations in the Guardian's motion include:

- (a) Paragraph 1: My daughter Giana Scharle is not 16 years old. She is 15 years old.
- (b) Paragraph 2: Gina and Giana did not reside with Christopher Curry until 2013.
 - a. In 2011-2012, Gina's boyfriend at that time, **Michael Lee**, lived with Gina and Giana at 635 Burbank Circle, Smyrna, GA 30080. I visited them there and met Mr. Michael Lee many times.
 - b. My father, Jose Rivera, helped pay Gina's rent periodically at least through June 2013.
 - c. For a period of about 3 months in 2018, Gina and Giana lived with me.
 - d. Giana and Gina's sister, Jacqueline Hilty, informed me that Gina and Giana lived with **Ronald (Ronnie) Todd** during the summer of 2019.
- (c) Paragraph 3 is partially true in that I entered into a Consent Temporary Order giving Mother primary physical custody and Mother gave me visitation. Paragraph 3 is inaccurate because, as stated above:
 - a. For a period of about 3 months in 2018, Gina and Giana lived with me.
 - b. Giana and Gina's sister, Jacqueline Hilty, informed me that Gina and Giana lived with **Ronald (Ronnie) Todd** during the summer of 2019.
- (d) Paragraph 4 is **false**. Mother and Mr. Curry terminated their relationship multiple times as shown above in (b)-(c). When Mother and Mr. Curry terminated their relationship in 2020, Giana resided with Jacqueline Hilty, Gina's sister and Giana's aunt.
- (e) Paragraph 8 is **false**. The Guardian did not complete her preliminary investigation. I believe she would have her facts correct in this motion if she did.
- (f) Paragraph 9 is **false**. The parties came before a hearing on **April 15, 2021** and not March 15. The Court never noted that the parties could come back on an expedited basis for a status conference or hearing. The Judge said only in case of an emergency.
- (g) Paragraph 10 is **false**. We never even completed one full rotation of the Court's order alleged in Paragraph 9. Since April 15, 2021. In fact, I have only had my visitation with my daughter for less than 24 hours, which was from late on May 6, 2021 and then she went to school the following morning on May 7, 2021. I have not seen my daughter since. I have never spoken to my daughter on the phone that Mr. Curry has provided

her, either through voice or text. My calls to my daughter go straight to voicemail and my texts are not returned. When she had the phone that I provided to her, we texted and communicated many times throughout the day.

- (h) Paragraph 13 is **false**. Giana was simply not at the pickup for my parents to pick her up at school. No contact was ever made between Giana and my parents. I contacted the Guardian through email and she told me that she could not give me legal advice. I could not believe that I told the Guardian that my daughter was missing and she simply said that she could not give me legal advice. Mr. Curry's attorney stated that "He was under the impression that the recommendations started today and he got her after school. He said that Giana was very opinionated that she did not want to visit elsewhere but wanted to stay with him." **How this is not disturbing to the Guardian or even Mr. Curry's attorney is beyond me.**
- (i) Paragraph 14 is **false**. Giana was simply not at the pickup for my parents to pick her up at school. No contact was ever made between Giana and my parents.
- (j) Paragraph 15 is **false**. There was no escalation of circumstances and the police simply told me that I can leave and that there was nothing they could do.
- (k) Paragraph 17 is **false**. My parents do not yell at Giana and of course the case came up once when Giana signed an affidavit at their house. But they know not to discuss this case. Giana does have her own bed at my house. Yes, it is my bed and I sleep on the couch. She gets the bed and bedroom all to herself when she is at my house.
- (l) Paragraph 21 is **false**. It is not in the best interest of my **15 year old daughter to live with a 42 year old unmarried and unrelated man.**

6.

The facts stated in this affidavit are true and correct.

Sworn to and subscribed before

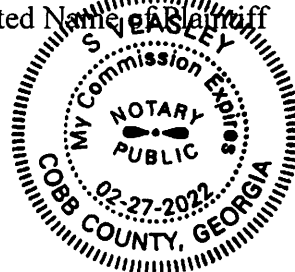
me this 8th day of June, 2021.

S. Weasley
NOTARY

My Commission Expires 2.27.2022

[Signature]
Signature of Plaintiff

Jonathan Samuel Rivera
Printed Name of Plaintiff



Prepared and Submitted by:

/s/ Matthew D. McMaster
Attorney for Plaintiff
GA Bar No. 218044

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Exhibit A



Connie Taylor, Clerk of Superior Court
Cobb County, Georgia

**IN THE SUPERIOR COURT OF COBB COUNTY
STATE OF GEORGIA**

CHRISTOPHER CURRY,)
)
Plaintiff,) CASE NO. 21-1-02536
)
)
v.)
)
JONATHAN RIVERA-CUEVA,)
Aka Jonathan Samuel Rivera, and)
GINA SCHARLE,)
)
Defendant.)

AFFIDAVIT OF JONATHAN SAMUEL RIVERA

Personally appeared before me, the undersigned officer duly authorized to administer oaths, JONATHAN SAMUEL RIVERA (“Defendant”), who, after having been sworn, deposes and states as follows:

1.

My name is JONATHAN SAMUEL RIVERA and I am a citizen of the United States and a resident of Georgia.

2.

I am over the age of eighteen (18) years of age and I am competent to testify to the facts in this affidavit. I am doing so freely and voluntarily and in the absence of any duress or legal impediment.

3.

I am currently the primary custodial parent and biological father of Giana Scharle, my daughter and minor child at issue in this matter, under an *Ex-Parte Order Granting Temporary Modification of Custody* entered by this Court on March 1, 2021. (**Exhibit 1**).

4.

I have been a part of Giana’s life and upbringing since she was born, with the exception of periods of months in recent years beginning in 2019 when Christopher Curry obstructed my ability

to exercise visitation with Giana.

5.

For the majority of the first eight years of Giana's life, I was spending 5-days per week watching her in the evenings while her biological Mother, Gina Scharle, was working. Mother worked during the evenings and I worked during the days so we split our time watching Giana accordingly.

6.

It was when Giana was 8 or 9 years old, around 2013, that I recall Gina and Giana moving in with Mr. Curry. As time went on Mr. Curry became more possessive of Gina and Giana and, in turn, more and more hostile toward me. I recall one instance in 2016 when I was exercising visitation with Giana at my home while Gina went on a short trip with her boss from work. Mr. Curry called me and said he was going to come get Giana from me. I told him absolutely not, and later that day I called Gina to tell her about Mr. Curry's intentions. Gina told me not to give Giana over to Mr. Curry and to wait until she came back from her trip. It was after that incident that Mr. Curry really began to behave hostile toward me.

7.

One example of the type of behavior Mr. Curry exemplified for the purpose of trying to chase me out of Giana's life occurred at Giana's school Christmas musical on December 12, 2019. There, Mr. Curry bumped into me with his shoulder at which point I asked Mr. Curry to not try and start something. Mr. Curry then asked me to step outside with him, I said no. I then left the school building with my family and Mr. Curry followed me outside. I called the police and Mr. Curry got more hostile and my father had to step in. I walked straight to my car to wait for the police. Mr. Curry then walked toward my vehicle at which time I was able to start video recording him with my phone and advised him that I had called the police. Mr. Curry then backed off. Mr. Curry later denied that his actions were intentional and that his shoulder bump was merely an "accident." A true and correct copy of that police report is attached hereto as **Exhibit 2**.

8.

Mr. Curry has refused to allow anyone from my family visit to with Giana while she has been in Mr. Curry's possession and has also denied Gina's family members the ability to visit with Giana as well.

9.

I am aware that Mr. Curry once broke Gina's nose when she made him upset. Since getting my daughter from Mr. Curry with the assistance of law enforcement pursuant to the *Ex-Parte Order Granting Temporary Modification of Custody* entered by this Court on March 1, 2021, I have further learned the following:

- a. Mr. Curry told my daughter Giana that her Mother and Father do not love her and that he was the only one who loved her. (**Exhibit 3**).
- b. Giana was depressed while living with Mr. Curry and would break down crying in school. (**Exhibit 3**).
- c. Giana skipped class on February 4 and February 9, 2021. (**Exhibit 3**).
- d. Giana was suspended from school for two days, February 11-12, 2021. (**Exhibit 3**).
- e. Giana was failing two classes. (**Exhibit 3**).
- f. In January of 2019, Mr. Curry smashed Gina's arm in a door and tried to choke her out. (**Exhibit 4**).
- g. In the summer of 2019, Gina and Giana lived with a different boyfriend of Gina's, Ronald Todd. (**Exhibit 3**).

10.

Since my daughter has been with me, she has been attending school regularly and has brought her grades up substantially. She is no longer failing any classes. (**Exhibit 5**). I love her and she appears happy.

11.

Despite Mr. Curry's best efforts to exclude me from Giana's life, I have and always will maintain a loving relationship with my beautiful daughter Giana. Attached hereto as **Exhibit 6**, are pictures of my daughter Giana taken while with me dating from 2010 to September 2020, which was about the time Gina shut off all communication with me. I have hundreds of similar pictures of my daughter Giana and I.

12.

Giana loves cheerleading and we, myself, my wife, and my parents, intend to ensure Giana will once again partake in regular cheerleading beginning in May of this year.

13.

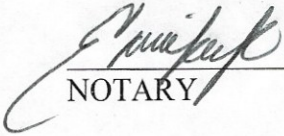
Mr. Curry is not Giana's biological father and is not a blood relative of hers. Giana does not want Mr. Curry to have custody of her, she does not want to live with him, and she does not want any visitation time with him. (Exhibit 3). Mr. Curry has physically abused Giana's Mother, he does not respect women and isolates and controls Giana thus preventing her from building and maintaining relationships with family members. Mr. Curry has no business raising my fifteen (15) year old daughter and under no circumstances should he be considered as a custodial parent or caregiver of Giana. (Exhibit 4).

14.

The facts stated in this affidavit are true and correct.

Sworn to and subscribed before

me this 15 day of April, 2021.


NOTARY

My Commission Expires 9/17/23

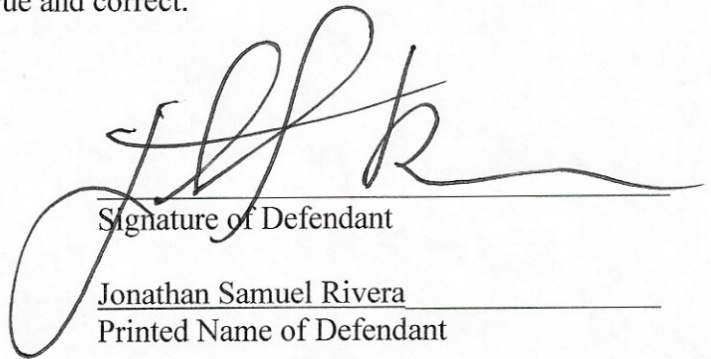

Signature of Defendant
Jonathan Samuel Rivera
Printed Name of Defendant



Exhibit 1

IN THE SUPERIOR COURT OF COBB COUNTY
STATE OF GEORGIA

ID# 2021-0025775-CV
FILED IN OFFICE
CLERK OF SUPERIOR COURT
COBB COUNTY, GEORGIA
15103024
Robert E. Flournoy III - 40
MAR 01, 2021 04:56 PM



Connie Taylor, Clerk of Superior Court
Cobb County, Georgia

JONATHAN RIVERA,)

Plaintiff,)

v.)

GINA SCHARLE,)

Defendant.)


CASE NO. 15-1-3024-40

EX-PARTE ORDER GRANTING TEMPORARY MODIFICATION OF CUSTODY

This matter came before the Court for a hearing pursuant to Uniform Superior Court Rule 6.7 on March 1, 2021 regarding Plaintiff's *Emergency Motion For Modification Of Custody And Motion For Contempt*, which was filed on February 23, 2021, with Plaintiff present and represented by counsel. Defendant, Gina Scharle, was not present. Having reviewed the motion and record, and having heard from Plaintiff's counsel, the Court hereby grants temporary primary custody to Plaintiff for the purpose of addressing the emergency circumstances. This Order supersedes all previous orders regarding Plaintiff-Father's and Defendant-Mother's custody and visitation rights over the minor child, until otherwise ordered at a later date by this Court or other court of proper jurisdiction. Pursuant to this Court's authority, the Court hereby orders that the Sheriff of Cobb County shall, by request of the Plaintiff-Father, escort Plaintiff-Father to the last known address of Defendant-Mother, and where the minor child presently resides, located at 5870 Edenfield Ct. NW, Acworth, GA 30101, to ensure that Plaintiff obtains possession and custody of the minor child, **Giana Scharle**.

The issue of contempt will be addressed at a later date and the Court declares that any permanent change of custody must be accomplished by filing a separate action in a court of proper jurisdiction.

SO ORDERED this 1st day of March 2021.



Judge, Superior Court of Cobb County

Prepared and presented by:

/s/ Matthew D. McMaster
Attorney for Plaintiff
GA Bar No. 218044

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12 Powder Springs St.
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mdmcmaster@mcmasterlegal.com

Exhibit 2

COBB SCHOOL DISTRICT-DPS - NIBRS INCIDENT REPORT

INTERNAL COPY
INITIAL REPORT

CASE NUMBER
2019-12-25625
CAD NUMBER

AGENCY ORI
GA0331300

Event

INCIDENT LOCATION 2891 Mars Hill Rd., Acworth		STATE GA	ZIP 30101	ZONE N	NORTH SIDE	Loc. Code DUR DURHAM MIDDLE
INCIDENT DATE 12/12/2019	TIME 19:40	TO DATE 12/12/2019	TIME 19:40	DAY OF THE WEEK (INCIDENT): THURSDAY		Description DURHAM
WEATHER CONDITIONS CLOUDY		DISCOVERED BY COMPLAINANT		CARGO THEFT INVOLVED? <input type="checkbox"/> Yes <input type="checkbox"/> No		

State/GCIC

OCA ACTION PERSON WARRANT VEHICLE ARTICLE BOAT GUN SECURITIES

Administration

EVIDENCE COLLECTED? <input type="checkbox"/>	PHOTOS TAKEN? <input type="checkbox"/>	FOLLOW UP - PATROL? <input type="checkbox"/>	CLEARANCE DATE 12/13/2019
PRINTS TAKEN? <input type="checkbox"/>	COMPLAINT UNFOUNDED? <input type="checkbox"/>	FOLLOW UP - DETECTIVES? <input type="checkbox"/>	CASE STATUS EXCEPT. CLEARED
BIO./DNA EVIDENCE? <input type="checkbox"/>	WILLING TO PROSECUTE? <input type="checkbox"/>	RESPONSE CODE <input type="checkbox"/>	TOTAL OFFENDERS <input type="text"/>
BODY CAMERA USE? <input type="checkbox"/>	IN CAR CAMERA USE? <input type="checkbox"/>	TASER USE? <input type="checkbox"/>	
REPORT DATE/TIME 12/13/2019 15:56	COMPSTAT <input type="checkbox"/>	REVIEWED BY <input type="text"/>	
REPORTING OFFICER 12098 TIMOTHY JENNINGS		REVIEWED DATE <input type="text"/>	
APPROVING OFFICER 16798 MIKE YOUNG		DIVISION ASSIGNED <input type="text"/>	
APPROVED DATE 12/16/2019		ASSIGNED DATE <input type="text"/>	
COMMANDING OFFICER 14768 MICHAEL WILSON		INVESTIGATOR ASSIGNED <input type="text"/>	
APPROVED DATE 03/04/2020		ASSIGNED DATE <input type="text"/>	

Offense # 1

OFFENSE STATUTE: 16-5-23.1	OFFENSE DESCRIPTION: BATTERY-MISD.	COUNTS: 1	OFFENSE STATUS: Completed
NIBRS OFFENSE CODE: 13B	OFFENSE DESCRIPTION: Simple Assault		
OFFENSE LOCATION: 53-School-Elementary/Secondary	HATE CRIME: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Bias Motivations: (1) 88-None (No Bias)	
Drug Related? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Drug Type: <input type="text"/>	(2)	(3)
Offender Suspected of Using: (Choose up to 3) <input type="checkbox"/> Alcohol <input type="checkbox"/> Drugs/Narcotics <input type="checkbox"/> Computer Equipment <input checked="" type="checkbox"/> Not Applicable		(4)	(5)
Gang Related? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Gang Name: <input type="text"/>	IF BURGLARY, METHOD OF ENTRY: (For Burglary Only) NUMBER OF PREMISES:	

WEAPON TYPE/FORCE USED: (Can list up to 3) (1) 40-PERSONAL WEAPONS (2) (3)	AUTOMATIC WEAPON: (Can only be YES if firearm) <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No	TYPE OF CRIMINAL ACTIVITY: (Can list up to 3) (1) (2) (3)
---	---	--

Drugs

Suspected Drug Type	Estimated Quantity	Type/ Measurement
Drug Types: A Crack Cocaine F Morphine K Other Hallucinogens P Other Drugs	B Cocaine (Except Crack) G Opium L Amphetamines/Methamphetamine U Unknown Drug Type	C Hashish H Other Narcotics M Other Stimulants D Heroin I Lsd N Barbiturates E Marijuana J Pcp O Other Depressants
Types of Drug Measurement: DU Dosage Unit FO Fluid Ounce GL Gallon GM Gram KG Kilogram LB Pound LT Liter ML Milliliter NP Number Of Plants OZ Ounce XX Not Reported		

COBB SCHOOL DISTRICT-DPS - NIBRS INCIDENT REPORT

CASE NUMBER
2019-12-25625
CAD NUMBER

INTERNAL COPY
INITIAL REPORT

AGENCY ORI
GA0331300

Person #1

COMPLAINANT
 VICTIM
 WITNESS
 OFFENDER
 PRIMARY AGGRESSOR
 DEAD/UNIDENTIFIED
 UNKNOWN
 RETURNED
 OTHER

NAME: RIVERA, JOHNATHAN HEIGHT: [] RACE: WHITE
 ADDRESS: 1643 GEORGIA AVE WEIGHT: [] ETHNICITY: HISPANIC OR LATINO
 CITY, ST, ZIP: MARIETTA, GA 30008 HAIR: [] SEX: MALE SSN: []
 HOME PHONE: [] CELL PHONE: 404-461-7847 EYES: [] DOB: 02/13/1982 AGE: 39
 EMAIL: [] RESIDENT STATUS: RESIDENT
 DRIVER'S LICENSE NUMBER: [] DRIVER'S LICENSE ISSUING STATE: []

RAPE VICTIM
 JUVENILE
 PUBLIC EMPLOYEE
 WANTED
 SUSPECT
 WARRANT
 ARRESTED
 MISSING
 SUICIDE
 VEHICLE PURSUIT

EMPLOYER/OCCUPATION

EMPLOYER: [] WORK/SCHOOL PHONE#: [] EXT.: []
 OCCUPATION: [] WORK/SCHOOL HOURS: [] TYPE: VISITOR
 SCHOOL: DURHAM MS STUDENT ID: []
 ADDRESS: [] CITY, ST, ZIP: []

VICTIM SEQUENCE #: 1

TYPE OF VICTIM: INDIVIDUAL

OFFENSE(S) AGAINST VICTIM - NIBRS CODE(S)

OFFENSE NUMBER 1
13B - SIMPLE ASSAULT

VICTIM CIRCUMSTANCES

AGGRAVATED ASSAULT/ HOMICIDE CIRCUMSTANCES (Up to 2 may be reported)	NEGLIGENT MANSLAUGHTER (Only 1 may be reported)	JUSTIFIABLE HOMICIDE	ADDITIONAL JUSTIFIABLE HOMICIDE CIRCUMSTANCES (1 is submitted if an item in 54C is selected)

INJURY TYPE(S) (List up to 5)

NONE

VICTIM TO OFFENDER RELATIONSHIP - The number(s) in the box(es) below refer to the offender sequence number(s)

OFFENDER 1
OK - VICTIM WAS OTHERWISE KNOWN

Person #2

COMPLAINANT
 VICTIM
 WITNESS
 OFFENDER
 PRIMARY AGGRESSOR
 DEAD/UNIDENTIFIED
 UNKNOWN
 RETURNED
 OTHER

NAME: CURRY, CHRISTOPHER HEIGHT: [] RACE: WHITE
 ADDRESS: 5870 EDENFIELD CT WEIGHT: [] ETHNICITY: NOT HISPANIC OR LATINO
 CITY, ST, ZIP: ACWORTH, GA 30101 HAIR: [] SEX: MALE SSN: []
 HOME PHONE: [] CELL PHONE: [] EYES: [] DOB: 04/07/1979 AGE: 41
 EMAIL: [] RESIDENT STATUS: RESIDENT
 DRIVER'S LICENSE NUMBER: 047977347 DRIVER'S LICENSE ISSUING STATE: GEORGIA

RAPE VICTIM
 JUVENILE
 PUBLIC EMPLOYEE
 WANTED
 SUSPECT
 WARRANT
 ARRESTED
 MISSING
 SUICIDE
 VEHICLE PURSUIT

EMPLOYER/OCCUPATION

EMPLOYER: [] WORK/SCHOOL PHONE#: [] EXT.: []
 OCCUPATION: [] WORK/SCHOOL HOURS: [] TYPE: VISITOR
 SCHOOL: DURHAM MS STUDENT ID: []
 ADDRESS: [] CITY, ST, ZIP: []

COBB SCHOOL DISTRICT-DPS - NIBRS INCIDENT REPORT

INTERNAL COPY
INITIAL REPORT

CASE NUMBER
2019-12-25625
CAD NUMBER

AGENCY ORI
GA0331300

Narrative

Type of Narrative	Reporting Officer	Statement Date	Statement Time
Narrative	12098 Timothy Jennings	12/13/2019	1615

On 12/12/19 at 1940 hours Officer Dulworth, Officer Cardone and I responded to Durham Middle School on a possible assault. The investigation begins.

Supplement

Reporting Officer	Statement Date	Statement Time
12098 Timothy Jennings	12/13/2019	1646

On 12/12/19 at 1940 hours Officer Dulworth, Officer Cardone and I responded to Durham Middle School on a possible assault. Upon our arrival I spoke with Mr. Johnathan Rivera. He advised he was at the school attending a musical event his daughter was involved in. He advised at one point during the performance his child's step-father, Christopher Curry bumped him with his shoulder. He advised he asked the subject not to start anything because he had his parents there. Mr. Rivera advised the subject later asked him to step outside with him. Mr. Rivera advised he does not want to press charges but only wants the incident documented because he is taking his ex-wife back to court on custody issues. I then spoke with Mr. Christopher Curry who had returned to the school upon our arrival. He advised he had accidentally bumped into Mr. Rivera. He advised Rivera made a big scene of it. I then ask him if he had asked Mr. Rivera to step outside and he advised he had not. I then explained to both parties any further incidents occurring at the school could result in Criminal Trespass procedures barring them from the property.

Closing Summary

Case Status	Status Details
Except. Cleared	

Exhibit 3

**IN THE SUPERIOR COURT OF COBB COUNTY
STATE OF GEORGIA**

CHRISTOPHER CURRY,)	
)	
Plaintiff,)	CASE NO. 21-1-02536
)	
v.)	
)	
JONATHAN RIVERA-CUEVA,)	
aka Jonathan Samuel Rivera, and)	
GINA SCHARLE,)	
)	
Defendants.)	

AFFIDAVIT OF CUSTODY ELECTION

Personally appeared before the undersigned attesting officer, duly authorized to administer oaths, the undersigned Affiant having been duly sworn on oath states as follows:

1.

My name is Giana Scharle and I am a citizen of the United States and a resident of Georgia.

2.

I am fifteen (15) years of age and my birth year is 2005.

3.

I am competent to testify to the facts in this affidavit.

4.

My parents are Gina Scharle and Jonathan Rivera aka Jonathan Rivera-Cueva.

5.

Custody of me was originally decided in this Court on June 9, 2015, Case No. 15-1-03024. In that prior proceeding my Mother was awarded primary physical custody and my Father was awarded visitation pursuant to the attached *Consent Temporary Order*. (**Exhibit A**). I have read and understand the Exhibit A attached hereto.

6.

Custody of me was modified pursuant to this Court's *Ex Parte Order Granting Temporary Modification Of Custody* entered on March 1, 2021. (**Exhibit B**). I have read and understand the Exhibit B attached hereto.

7.

From September 2020 until late December of 2020 I was living with my Aunt Jackie and her husband. Some time in November of 2020, Mr. Curry appeared at my cheerleading practice and tried to take me with him. My Aunt Jackie and her husband would not let him take me.

8.

In late December of 2020, my Mother brought me to eat lunch with Mr. Curry and left me in his custody. I then lived with Mr. Curry from late December of 2020 until March 3, 2021. During that time while living with Mr. Curry, the following took place:

- (a) Mr. Curry told me that my Mother and Father do not love me and that he was the only one who loved me.
- (b) I was depressed and would break down crying in school.
- (c) I skipped class on February 4 and February 9, 2021.
- (d) I was suspended from school for two days, February 11-12, 2021.
- (e) I was failing two classes.

9.

I am aware that Mr. Christopher Curry ("Mr. Curry") has recently filed a *Petition For Equitable Caregiver Status, Custody And/Or Visitation* in the above-styled case for the purpose of obtaining custody over me. Mr. Curry is not my biological father and is not a blood relative of mine. I do not want Mr. Curry to have custody of me, I do not want to live with him, and I do not want any visitation time with him.

10.

Mr. Curry is my Mother's ex-boyfriend with whom we have lived with periodically since I was 9 years old. Mr. Curry is not the only boyfriend I have lived with in the last 4 years. For three months in 2018 my Mother and I lived with my Father. In 2019 my Mother and I lived with her ex-boyfriend, Ronald Todd, and we lived with Ronald Todd during the summer of 2019 until they broke up.

11.

I have been living with my Father since March 3, 2021.

12.

I am not sure where my Mother is living as her living situation changes frequently. I am aware that my Mother was arrested for drugs in February of this year.

13.

I love my Mother dearly and I hope that she can find a stable home and that she stops using drugs so that someday I can live with her comfortably. But right now, I want to continue living with my Father and remain in his primary custodial care.

14.

My Father has not threatened me, encouraged me, or promised me anything to make this election.

Sworn to and subscribed before

me this 13th day of April, 2021.

Giana Scharle
Signature of Minor Child

Ashley Westbrook
NOTARY

Giana Scharle
Printed Name of Affiant

My Commission Expires 04/17/2023

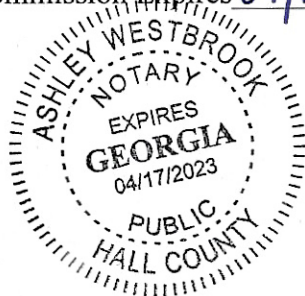


Exhibit A

FILED IN COURT
THIS June 9 2015.

REBECCA KEATON
CLERK SUPERIOR COURT
COBB COUNTY, GEORGIA

IN THE SUPERIOR COURT OF COBB COUNTY
STATE OF GEORGIA

Rebecca Keaton MK
Court Rule: www.cobbsuperiorcourtclerk.com
Rebecca Keaton
Clerk of Superior Court Cobb County

JONATHAN RIVERA,
Plaintiff / Father,

v.

GINA SCHARLE,
Defendant / Mother.

Civil Action File Number
15-1-3024-40

Consent Temporary Order

On June 9, 2015, the Parties appeared before this Court for a temporary hearing, and the Parties having settled the issues in this case on a temporary basis, the terms of the Parties' settlement are incorporated herein as follows:

1.

This case concerns the Parties' minor child **Giana Scharle**, a nine-year-old girl born in 2005 (the "Child").

2.

Mother shall have primary physical custody of the Child.

3.

Father shall have visitation with the Child as the Parties may mutually agree upon. If the Parties cannot agree, then at a minimum, Father shall have the following specified visitation rights regarding the Child:

- **Logistics.** Unless otherwise agreed, the Parties shall exchange custody of the Child at the Kroger grocery store located at 4150 Macland Road, Powder Springs, Georgia 30127.
- **Weekends.** Effective June 1, 2015, Father shall visit with the Child on the second and fourth weekends of each month from Friday at 6:00PM until Sunday at 6:00PM. (For purposes of this Order, the first weekend of a month begins on the first Friday of that month, the second weekend of a month begins on the second Friday of that month, and so on).

- **Summer 2015.** Father shall visit with the Child from June 19, 2015 at 6:00PM until June 26, 2015 at 6:00PM and from July 20, 2015 at 6:00PM until July 26, 2015 at 6:00PM. Father shall not have a fourth weekend visit in June 2015.

4.

By agreement of the Parties, Father shall pay Mother child support in the amount of \$337.00 per month. The first payment of \$337.00 shall be due on June 12, 2015; subsequent payments shall be due on the first day of each month thereafter until further Order of this Court.

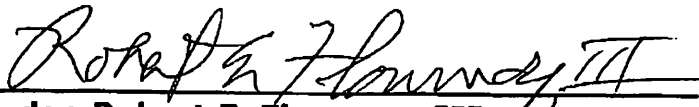
5.

Neither Party may use or be under the influence alcohol or illegal drugs while he or she has physical custody of the Child.

6.

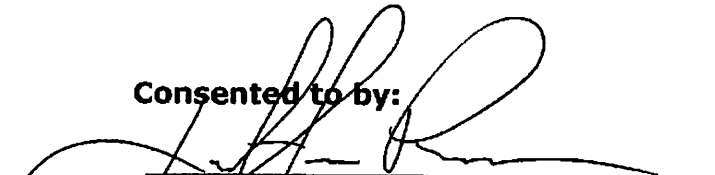
The Child currently participates in gymnastics and cheerleading. If the Child has a gymnastics or cheerleading activity scheduled to occur while Father has visitation with the Child, then Father shall take the Child to that activity.

SO ORDERED this day of June 9, 2015.

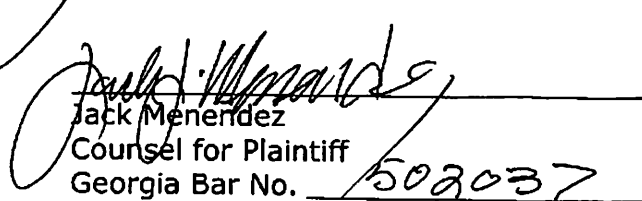


Judge Robert E. Flournoy, III

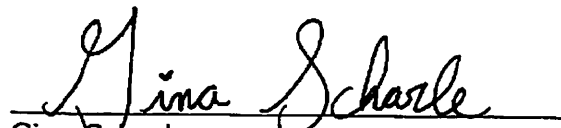
Consented to by:



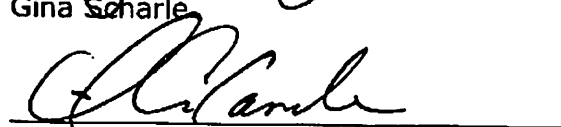
 Jonathan Rivera



 Jack Menendez
 Counsel for Plaintiff
 Georgia Bar No. 502037



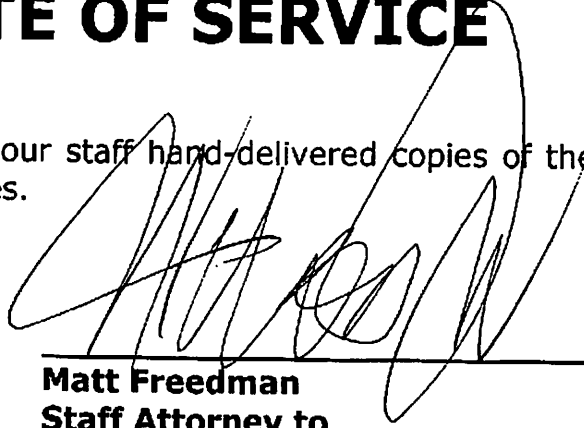
 Gina Scharle



 David Canale
 Counsel for Defendant
 Georgia Bar No. 107495

CERTIFICATE OF SERVICE

I certify that on **9 June 2015**, our staff hand-delivered copies of the foregoing document to the Parties.

A large, stylized handwritten signature in black ink, appearing to read 'Matt Freedman', is written over a horizontal line.

Matt Freedman
Staff Attorney to
Judge Robert E. Flournoy, III

Exhibit B

IN THE SUPERIOR COURT OF COBB COUNTY
STATE OF GEORGIA

ID# 2021-0025775-CV
FILED IN OFFICE
CLERK OF SUPERIOR COURT
COBB COUNTY, GEORGIA
15103024
Robert E. Flournoy III - 40
MAR 01, 2021 04:56 PM

JONATHAN RIVERA,)

Plaintiff,)

v.)

GINA SCHARLE,)

Defendant.)

CASE NO. 15-1-3024-40


Connie Taylor, Clerk of Superior Court
Cobb County, Georgia

EX-PARTE ORDER GRANTING TEMPORARY MODIFICATION OF CUSTODY

This matter came before the Court for a hearing pursuant to Uniform Superior Court Rule 6.7 on March 1, 2021 regarding Plaintiff's *Emergency Motion For Modification Of Custody And Motion For Contempt*, which was filed on February 23, 2021, with Plaintiff present and represented by counsel. Defendant, Gina Scharle, was not present. Having reviewed the motion and record, and having heard from Plaintiff's counsel, the Court hereby grants temporary primary custody to Plaintiff for the purpose of addressing the emergency circumstances. This Order supersedes all previous orders regarding Plaintiff-Father's and Defendant-Mother's custody and visitation rights over the minor child, until otherwise ordered at a later date by this Court or other court of proper jurisdiction. Pursuant to this Court's authority, the Court hereby orders that the Sheriff of Cobb County shall, by request of the Plaintiff-Father, escort Plaintiff-Father to the last known address of Defendant-Mother, and where the minor child presently resides, located at 5870 Edenfield Ct. NW, Acworth, GA 30101, to ensure that Plaintiff obtains possession and custody of the minor child, **Giana Scharle**.

The issue of contempt will be addressed at a later date and the Court declares that any permanent change of custody must be accomplished by filing a separate action in a court of proper jurisdiction.

SO ORDERED this 1st day of March 2021.



Judge, Superior Court of Cobb County

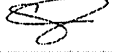
Prepared and presented by:

/s/ Matthew D. McMaster
Attorney for Plaintiff
GA Bar No. 218044

Matthew D. McMaster, LLC
12 Powder Springs St.
Suite 250
Marietta, GA 30064
Phone: (770) 362-6490
Fax: (800) 890-3981
mdmcmaster@mcmasterlegal.com

Exhibit 4

**IN THE SUPERIOR COURT OF COBB COUNTY
STATE OF GEORGIA**


Connie Taylor, Clerk of Superior Court
Cobb County, Georgia

JONATHAN RIVERA,)
)
Plaintiff,) CASE NO. 21-1-01795
)
)
v.)
)
GINA SCHARLE,)
)
Defendant.)
)

AFFIDAVIT OF JACQUELINE HILTY

Personally appeared before the undersigned attesting officer, duly authorized to administer oaths, the undersigned Affiant having been duly sworn on oath states as follows:

1.

My name is JACQUELINE HILTY and I am a citizen of the United States and a resident of Georgia.

2.

I am over the age of eighteen (18) years of age and I am competent to testify to the facts in this affidavit. I am doing so freely and voluntarily and in the absence of any duress or legal impediment.

3.

Gina Scharle is my sister and Giana Scharle is my niece.

4.

I have been a support for both Gina and Giana in times of need for the whole of Giana's life.

5.

I have historically maintained cordial relationships with both Christopher Curry and Jonathan Rivera. To date, I have a functioning, communicative and amicable relationship with Mr. Rivera. I no longer maintain a functioning, communicative and amicable relationship with Mr.

Curry because of his continuous actions that have caused emotional and physical harm to my sister Gina and have caused emotional harm to Giana and the rest of my family, including but not limited to the following:

- a. On **January 26, 2019**, Gina texted me stating that **“[Chris] broke my arm by smashing it in the door so I couldn’t leave! it was so bad! The kids were there”** and **“I need to leave him”**. (Exhibit A at Page 1).

- b. On **January 27, 2019**, Gina texted me stating that **“He choked me out again yesterday and told me he was going to kill me! This is all because I told him I thought it was best that we separate for a few hours! I told him I drank sangria & he flipped his sh[**]!”** She went on to further text that **“I’m all bruised up and look like sh[**]! And further that “he has Giana & I want to get her but I don’t want him to trap me in the house again! I’ll figure it out! . . . The kids were there and heard everything.”** (Exhibit A at Page 2). Gina then followed up with sending multiple pictures of her body parts that had bruises on them from Chris’s actions. (Exhibit A at Pages 3-6).

- c. Attached hereto are true and correct screenshots made from my cell phone of our full text conversations that took place between January 26, 2019 through January 27, 2019. (Exhibit A).

- d. On **February 4, 2019**, Gina texted me stating that **“I’m stuck at home Chris took all keys I’m about to go online and set up a rental car reservation”**. (Exhibit B).

- e. At the end of **October of 2020**, just before Halloween, Giana came to live with my husband and I. During that time we would take Giana to her cheerleading practice at the gym. On **October 30, 2020**, Gina texted me stating:

Has she had any contact with Chris? I’m really worried about her going to cheer especially with me being in the hospital I’m worried chris is going to go up there and upset her or hurt her feelings or who knows try to take her I want to be there so he won’t meds [sic] with her! Still months almost a year after I’ve been out of that relationship! (Exhibit C).

- f. While Giana was living with us, Christopher Curry (“Chris”) would email Giana and try

to communicate with her. Giana expressed that she did not want to speak to Chris. Gina printed at least some of these emails out at my house and I have kept them for my records, copies of which are attached hereto as **Exhibit D**.

- g. One day in **November of 2020**, Chris appeared at Giana's cheerleading practice unannounced. My husband and I were notified of this by the gym staff. Chris was fortunately not able to take Giana from the gym because Gina had removed his name from paperwork that would otherwise authorize him to take Giana from practice. After that date, my husband or myself made sure to be at all of Giana's cheerleading practices.
- h. One day in late **December of 2020**, Gina left my home with Giana and when Gina returned she did not have Giana with her. I later found out that Giana was living with Chris but Chris would not allow Giana to speak to me.

6.

I am aware that Mr. Christopher Curry has recently filed a *Petition For Equitable Caregiver Status, Custody And/Or Visitation* for the purpose of obtaining custody over Giana Scharle. Mr. Curry has physically abused my sister Gina, he does not respect women and isolates and controls Giana thus preventing her from building and maintaining relationships with family members. Mr. Curry has no business raising my fifteen (15) year old niece and under no circumstances should he be considered as a custodial parent or caregiver of Giana.

7.

The facts stated in this affidavit are true and correct.

Sworn to and subscribed before
me this 14 day of April, 2021.

Kimberly Bass

[Signature]
Signature of Affiant

Jaqueline Hilty
Printed Name of Affiant



Exhibit A

3:31

5G



Gina >

Jan 26, 2019, 11:46 PM

Why did Chris call u

I'm done

I think he broke my arm by smashing it in the door so I couldn't leave! it was so bad! The kids were there

I need to leave him

Jan 27, 2019, 12:50 PM

Hey

Did Chris call u yesterday

No tried calling you. Did u go to the hospital? Are you okay?

I did but ended up leaving! I knew it wasn't broken & I don't want any pain pills so I just left! Yesterday was crazy! I have to leave him!

I really need a vehicle! Jackie I swear on everything I love I have to leave

Mom said she can come get you after 3. Is gg there? You can always come to our house. You need to because this is just going to get worse and gg will end up thinking that's okay.



Text Message



3:31

5G

< 1

G

Gina >

will end up thinking that's okay.

Don't feel trapped bc we'll make sure you guys are okay

He choked me out again yesterday and told me he was going to kill me! This is all because I told him I thought it was best that we separate for a few hours! I told him I drank sangria & he flipped his shit!

I'm all bruised up and look like s[REDACTED]! I have the Xterra he has Giana & I want to get her but. I don't want him to trap me in the house again! I'll figure it out! I need a car & maybe we can stay with u Monday/Wed @ then mom!

The kids were there and heard everything!

Can u get her later

I don't know what happened but, if needed can u meet me on a little to get Gg

Call me can't go radio silent right now

I'm sending the police

He won't Answer or respond to texts



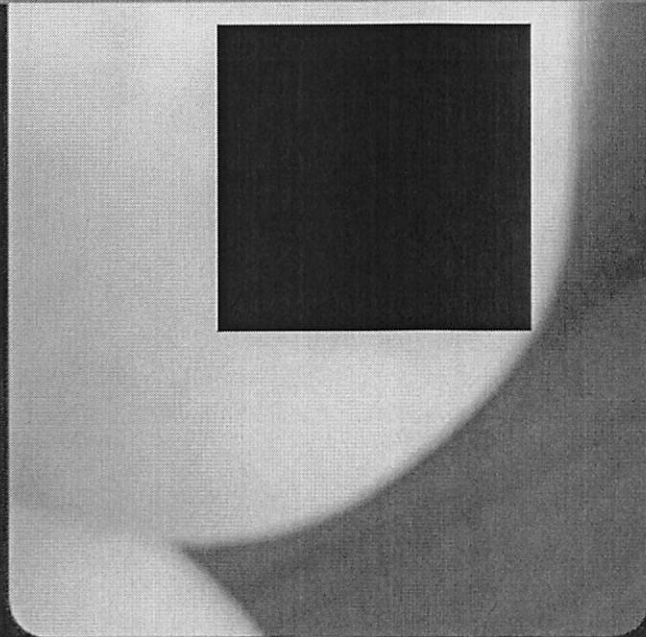
Text Message



4:27



Gina >



This is my boob

Omg how in the hell did he do that!

That's a mark on top of my nipple like a good 2 inches because he was fighting me for my phkbeyy

Okay so what is the wellness check for? To see if your arms broke?

Phone

Yo check on Gg

Huh?

Have you talked to Giana



Text Message



3:34

5G

< 1

G

Gina >

This is my boob

Omg how in the hell did he do that!

That's a mark on top of my nipple like a good 2 inches because he was fighting me for my phkbeyy

Okay so what is the wellness check for? To see if your arms broke?

Phone

Yo check on Gg

Huh?

Have you talked to Giana

No

What should I do

Go to the police department tell them what happened and that your daughter is there and your scared to go back by yourself and your scare for her.

R u by yourself? I'll go with you to the police



Text Message



3:31

5G



Gina >

I'm going to do a wellness check

I'm in Walgreens give me 10 minutes
and we will figure it out

Okay please call me when your done



Text Message





4:27



Gina >

Okay so what is the wellness check for? To see if your arms broke?

Phone

Yo check on Gg

Huh?

Have you talked to Giana

No

What should I do

Go to the police department tell them what happened and that your daughter is there and your scared to go back by yourself and your scare for her.

R u by yourself? I'll go with you to the police

Have you talked to mom?

What's going on call me

Jan 27, 2019, 6:08 PM

Giana said she's doing good and she's fine

My credit card is frozen & it's to All...



Text Message



4:27



Gina >

Have you talked to mom?

What's going on call me

Jan 27, 2019, 6:08 PM

Giana said she's doing good and she's fine

My credit card is frozen & it's teAlly pissing me off

I keep getting transferred

Where r u at now

Did he freeze it

Jan 28, 2019, 6:03 PM

Hey everything okay?

Feb 4, 2019, 12:47 PM

Hey what time are u and mom planning on getting together?!

Idk I have to call her

Her phone is off

It's not working call the house

I want to join you guys but I'm stuck at



Text Message



Exhibit B

4:26



Gina >

Jan 28, 2019, 6:03 PM

Hey everything okay?

Feb 4, 2019, 12:47 PM

Hey what time are u and mom planning on getting together?!

Idk I have to call her

Her phone is off

It's not working call the house

I want to join u guys but, I'm stuck at home Chris took all keys I'm about to go online and set up a rental car reservation

What is the house #

(678) 403-2307

That's stupid!!

Feb 5, 2019, 2:40 PM

Jackie Can u stop at moms when u get off I need to use a non metro cell phone to get my credit card unblocked and all of us have metros! I would soo greatly appreciate it



Text Message



4:27



Gina >

Her phone is on

It's not working call the house

I want to join u guys but, I'm stuck at home Chris took all keys I'm about to go online and set up a rental car reservation

What is the house #

(678) 403-2307

That's stupid!!

Feb 5, 2019, 2:40 PM

Jackie Can u stop at moms when u get off I need to use a non metro cell phone to get my credit card unblocked and all of us have metros! I would soo greatly appreciate it

Feb 5, 2019, 7:36 PM

Please come get us

I needed my credit card to get a rental car all day and mom gave me shit like why do u need a car today blah blah blah! I needed a car because I can't deal with her! Your there for 5 minutes and she expects u to do her damn laundry and all this s █!



Text Message



Exhibit C

4:24



Gina >

Omgosh seriously... Okay I'll tell Deena. That's sucks!

Has she had any contact with Chris? I'm really worried about her going to cheer especially with me being in the hospital I'm worried chris is going to go up there and upset her or hurt her feelings or who knows try to take her I want to be there so he won't med with her! I just hate to feel this way still months almost a year after I've been out of that relationship!

Omg I'm so glad you said that!! I feel the same way!!!! I blocked his number from calling me, he's not good for her at all. And he says terrible things to her. I think we should try to get her to cheer with East or north and get her away from him. Me and Andy will help

Hey call me real quick trying to decide what to do about cheer while Deena is here. She has to leave in ten min

Fri, Oct 30, 5:52 PM

Hey do you have boy clothes up there already?

Fri, Oct 30, 6:59 PM

A few on-site but right now he's not



Text Message



Exhibit D

From: Chris Curry cecurry32@yahoo.com
Subject:
Date: November 7, 2020 at 10:57 AM
To: gianascharle@yahoo.com

Giana,

I tried to speak to you tonight to let you know how hurt I've been by not being able to speak with you. I miss you so much. Your attitude towards me was Awful, I asked you about the birth control text for a reason. When that coach came out side & I said go to the car, I did that for a reason. there should of been nothing but yes sir, you became loud immature and said I'm not going anywhere with you, jumped in the air & ran inside the building slamming the door behind you as if this was some kind of game. This has created detrimental consequences & I will never be put in another situation where I can't go get my daughter who just ran off crying. I was looked at in so many ways tonight none of them where any good, I refuse to be hopeless because your not biological mine. I will not be apart of stingrays anymore, I can't after tonight. I asked you to go to the car to keep our family's business private. This coach said things tonight that only your mom, you & myself know. I love you Giana I'm sorry I've put you in this horrible situation. Please call me when you get this.

From: Chris Curry cecurry32@yahoo.com

Subject:

Date: November 9, 2020 at 6:03 PM

To: gianascharie@yahoo.com

Tell your mom I will pay her but I want you to be home & to go to school like you should be. If she does the same schedule as dallas then I will pay her + child support. But I have to have rights to you, this isn't fair. You are my daughter & I love you more than anything.

From: Chris Curry cecurry32@yahoo.com
Subject:
Date: November 7, 2020 at 3:05 PM
To: gianascharie@yahoo.com

We need to meet & talk today.

Exhibit 5



Giana N. Scharle
Grade:09
Harrison High School

5th Six Weeks (ending on 4/14/2021) ▼

1: H Biology Y (26.2120003)

Lani Miller
Room: 9303

70(70)
5th Six Week Grade Period



2: AP Human Geography Y (45.2770095)

Holly Reason
Room: 312

89(89)
5th Six Week Grade Period



3: Beginning Orchestra I Y (53.0561099)

Koji Mori
Room: ORCH

68(68)
5th Six Week Grade Period



4: Health and Personal Fitness Combined Y (36.0580099)

Olivia Petersen
Room: 403

86(86)
5th Six Week Grade Period



Exhibit 6















Dinner time

















My beautiful daughter





