

1 BUCHALTER NEMER
A Professional Corporation
2 MICHAEL W. CASPINO (SBN: 171906)
ROBERT M. DATO (SBN: 110408)
3 18400 Von Karman Avenue, Suite 800
Irvine, CA 92612
4 Telephone: (949) 760-1121
Fax: (949) 720-0182
5 Email: mcaspino@buchalter.com

6 THE CASSIDY LAW FIRM
HAROLD J. CASSIDY (NJ SBN 011831975)
7 750 Broad Street, Suite 3
Shrewsbury, NJ 07702
8 Telephone: (732) 747-3999
Email: hjc@haroldcassidy.com
9 *Pro Hac Vice* Pending

10 Attorneys for Respondent and Counter-Claimant
M. C., Individually and as Guardian
11 ad Litem of Babies A, B, and C

12
13 SUPERIOR COURT OF CALIFORNIA
14 FOR THE COUNTY OF LOS ANGELES

15 C. M.,

Petitioner,

16 vs.

17 M C.,

18 Respondent.

19 and

20 M. C. Individually and as Guardian ad
21 Litem of Baby A, Baby B, and Baby C,

22 Counterclaimants,

23 vs.

24 C. M.,

25 Counterclaim Defendant.

CASE NO. BF054159

**DECLARATION OF RESPONDENT-
COUNTERCLAIMANT MELISSA K.
COOK (M.C.) IN SUPPORT OF HER
PETITION FOR A WRIT OF
SUPERSEDEAS**

26
27 I, Melissa K. Cook, being of full age, deposes and declares:
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1 1. I am the Respondent-Counterclaimant in this case. I currently am forty-seven
2 years old and will turn forty-eight in three weeks. I became pregnant with triplets on August 17,
3 2015, as a result of a procedure performed pursuant to a surrogacy agreement I entered into with
4 the petitioner, C.M. I signed a surrogacy contract on May 31, 2015.
5

6 2. Ever since I filed a complaint in the Civil Court in California on January 4, 2016,
7 when the three babies I carried were approximately twenty-one weeks old post-conception, I have
8 been trying to obtain a hearing in the State Courts to determine what is in the best interests of the
9 three children.
10

11 3. That effort was made necessary because facts, and my understanding of the facts,
12 changed since the August 17th embryo transfers. I have related those facts in great detail in prior
13 court filings. In short, here is the summary of the facts which led me to seek an order giving me
14 the outright sole custody of one of the children and the scheduling of a best interests hearing for
15 the two other children:
16

17 (a) Despite the fact that C.M. wrote to me, before I signed the surrogacy
18 contract, stating that he was prepared to raise all three children, once he learned in mid-September
19 that all three embryos were viable, he wrote to me to say he is not capable of raising all three
20 children;
21

22 (b) Because he said he couldn't raise the children, he initially stated that he
23 may have to ask to abort all three children. He stated that he was out of money;
24

25 (c) C.M. stated that he is a fifty year old single man who is deaf. We recently
26 learned that he probably cannot speak. He wrote to me and told me that he lives in his parents'
27 home, that his parents are elderly, and that his mother is gravely ill and confined to bed and needs
28 nursing care in the home;

1 (d) I wrote to C.M. to tell him we had to do what is best for the children. I
2 agreed to help him, stating that I would care for all three children for the first couple of months
3 until he could figure out what he could do;

4 (e) C.M. repeatedly demanded that I abort one of the children because he
5 could not care for three children. He wrote stating that he would take only two. He kept
6 pressuring me and when I made it clear that the children were healthy and that I would not abort
7 any of them, he persisted in his demands. I offered to raise the child he did not want. He refused
8 and said that if I did not abort, he would give the child up for adoption;

9 (f) C.M.'s lawyer wrote to me and threatened to sue me for money damages if
10 I did not abort one of the children; and

11 (g) We now know that C.M.'s elderly father has stated that no babies can be
12 brought into the home where C.M. lives and where his sick mother is receiving care.

13 4. I set forth the details of these facts in my Verified Answer and Counterclaim in
14 this case, with specific references to written communications between C.M. and myself, with
15 precise dates of those communications. I am prepared to produce those writings when I am given
16 an opportunity to do so.

17 5. I consider the factual issues I raised and the legal issues we raised, including the
18 constitutional rights of the children, to be of a very serious nature. The lives and welfare of the
19 three children are at stake.

20 6. Despite all of my efforts to have a court review the facts and legal issues I have
21 brought to their attention, no State Court has even considered them to date.

22 7. Two days after my civil part case was filed, C.M.'s attorney filed the petition in
23 this case. The next day, on January 7, 2016, the Civil Court struck my complaint and directed
24

1 that my complaint should be filed in the Children's Court so that my case could be considered by
2 the same court entertaining C.M.'s petition.

3
4 8. On February 1, 2016, an Answer, Separate Defenses and a Counterclaim was filed
5 on behalf of the children and myself in this case. My attorney went to court to seek an ex parte
6 order allowing discovery and putting off the uncontested hearing on C.M.'s petition that the court
7 scheduled for February 9, 2016. The court scheduled my application for February 8, 2016. I
8 went to the Children's Court on February 8th to observe the proceedings.

9
10 9. On February 8, 2016, the court said that all of C.M.'s papers were in order and the
11 only thing the court needed was an affidavit from Lesa Slaughter, the attorney that C.M. paid to
12 represent me in connection with the surrogacy contract. That day, the court said that it would not
13 consider the Answer and Counterclaim filed on behalf of myself and the three children. The
14 children were about twenty-six weeks post-conception at that time. The judge said that she had
15 not seen the Answer and counterclaim and did not read it. She said, quite directly, that she would
16 not consider it.

17
18 10. On February 8, 2016, the Children's Court Judge also stated that she would go
19 forward with the uncontested hearing scheduled for the next day, February 9th, and that she would
20 allow only one witness to testify, Lesa Slaughter, Esq., so that C.M. could show the court that I
21 had legal counsel during the contract process. The judge said that she would not permit my
22 attorneys to introduce any evidence and would not allow them to call any witnesses on my behalf
23 and on behalf of the children.

24
25 11. It was clear that the Children's Court Judge did not know what facts were alleged
26 in my Answer and Counterclaim.

27
28 12. On Tuesday, February 9th, in response to something said by one of the attorneys
the court stated that "there is no requirement that there be any home inspection (of the 'intended

1 parent’)" and also said that "what happens to the children is of no concern of the court." The
2 welfare of the children has always been and continues to be my main concern.

3
4 13. The Children’s Court Judge refused to hear anything about the Answer and
5 Counterclaim filed on behalf of the children and myself, and treated the case as if it was
6 uncontested. The judge said that she was signing an order terminating my parental rights and
7 awarding sole parentage to C.M.

8
9 14. I did not testify at the hearing. At one point, the judge asked me if I signed the
10 surrogacy contract and whether I initialed the pages. I told her that I did. I didn’t know why that
11 was necessary because in my Answer and Counterclaim I already swore that I signed the contract.
12 Likewise in the Counterclaim, in paragraphs 45 to 48, I explained that Lesa Slaughter had
13 represented me.

14
15 15. I have not been given a copy of the court’s order of February 9, 2016. It was never
16 served on me although I believe it orders me to do certain things. My attorneys have requested a
17 copy of the order on numerous occasions from both the court and Mr. Walmsley. I understand
18 that a copy of the order was first given to my attorneys yesterday, February 23rd, at 5:00 PM after
19 they were forced to file the Notice of Appeal without first seeing the Order itself. I am also
20 forced to explain to the Appellate Court what happened in the Children’s Court because the court
21 and the court reporter have not given us a copy of the transcript of the court’s proceedings which
22 was ordered immediately after the February 9, 2016 proceedings.

23
24 16. My current circumstance now compels me to seek emergent help and relief from
25 the Court of Appeals.

26
27 17. As I am preparing this Declaration with the assistance of my attorneys, I am
28 confined to bed in a hospital. Shortly after midnight Sunday, in the early morning hours of
Monday, February 22nd, I was taken to the hospital and admitted. I started to have premature

1 contractions and was 2 cm dilated. The doctors put me on medication to stabilize me and prevent
2 further contractions. Despite the best efforts of the doctors, they had to perform an emergency
3 caesarean section late Monday night, February 22nd, probably between 11:00PM and midnight.
4

5 18. I was conscious during the delivery and I heard all three babies cry, but I was not
6 permitted to see the babies. I have not been permitted to see, hold, or nurse the babies. The
7 hospital personnel have told me that they are not allowed to tell me the babies' conditions, the
8 state of their health or even their birth weights. The three children and I have been completely
9 separated. I can't hold them or nurse them and I am being told that I cannot be told what happens
10 with them.

11 19. This may be the most dehumanizing experience I have ever had. I cannot help but
12 think it is dehumanizing for the children as well and I now seek relief from the Court of Appeals.
13

14 20. I understand that there is special security on my hospital floor where my room is
15 located and where the three babies are in a NICU unit. I infer that this is, in part, to prevent me
16 from seeing the babies.

17 21. I have asked my attorneys to seek immediate relief from the Court of Appeals to
18 preserve the status quo. My main goal is to protect and preserve the welfare of the children. The
19 facts show, and C.M. has admitted, that he cannot and will not care for the children. I will take
20 care of any one or all of them and, as the mother who carried them and with whom they have
21 bonded, I believe it is best for them that any child C.M. cannot care for should be placed in my
22 custody.
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24 22. I now ask the Court of Appeals to:

25 (a) stay the judgment of the Children's Court;
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1 (b) order C.M. and his attorneys to take all steps necessary for me to see the
2 three children while they are in the hospital and allow me to have access to their hospital records
3 so I know their medical situations;

4 (c) order C.M. to leave the three children in the hospital where they were
5 delivered until they can be discharged from hospital care all together;

6 (d) to direct C.M. to advise me if the condition of any one of the children
7 requires transfer to a different hospital in California, and to provide me with the information
8 about his whereabouts;

9 (e) issue an order directing that C.M. not remove the children from the State of
10 California until the Court of Appeals reviews my appeal on its merits, remands the case for a
11 hearing and give a substantive ruling on the merits of my Answer, Separate Defenses and
12 Counterclaim;

13 (f) order a temporary joint custody arrangement so both C.M. and I will have
14 equal time with the children until there is a final order on the Petition and Counterclaim;

15 (g) order expedited hearings; and

16 (h) order that, if in the medical judgment of the attending physicians, it is in
17 the children's best interests, that I be permitted to breast feed the babies, and/or provide breast
18 milk for their consumption.

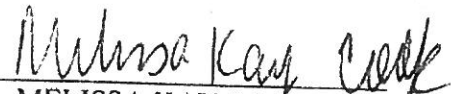
19 23. I certify that the facts which I set forth in the complaint filed in the Civil Court on
20 January 4, 2016, are true. It details the written admissions given to me by C.M. and his attorney.
21 I understand that the complaint is being made part of the record on this petition for a Writ of
22 *Supersedeas*.

23 24. I previously verified the truth of the facts contained in my Answer and
24 Counterclaim in this case. I reaffirm and recertify the accuracy of those facts.
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25. On February 2, 2016, I filed a complaint in the Federal District Court which recited it was brought pursuant to 42U.S.C. §1983 and asks that Court to decide the contested issues that case presented. On Friday, February 12, 2016, that Court appointed me Guardian *ad Litem* of Baby A, Baby B and Baby C. Those three children are parties to that suit and I am litigating their rights just as I tried to litigate the rights of the children in the State Court. I understand that a copy of that complaint is being made part of the record in this case in support of my Petition for the Writ. I certify that the facts set forth based upon my personal knowledge in that complaint are truthful and accurate. I can and will provide copies of all of the emails sent to me by C.M. and his attorney and Surrogacy International when I am given an opportunity.

I declare under penalty of perjury, under the laws of the State of California, that the above is true and correct. Executed in the County of Los Angeles, California on February 27, 2016.


MELISSA KAY COOK