

**U.S. District Court  
Southern District of Florida (Miami)  
CIVIL DOCKET FOR CASE #: 1:12-cv-24281-UU**

Valencia v. Reyes  
Assigned to: Judge Ursula Ungaro  
Referred to: Magistrate Judge Edwin G. Torres  
Cause: 42:11601 International Child Abduction Remedies Act

Date Filed: 12/04/2012  
Jury Demand: None  
Nature of Suit: 890 Other Statutory  
Actions  
Jurisdiction: Federal Question

**Plaintiff****Feliciano Ledezma Valencia**

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**ATTORNEY TO BE NOTICED**

V.

**Defendant****Yenisey Cagigas Reyes**

Date Filed	#	Docket Text
12/04/2012	<u>1</u>	VERIFIED PETITION for The Return of The Parties' Child Pursuant to International Treaty and Federal Statute against Yenisey Cagigas Reyes. Filing fee \$ 350.00 Receipt#: FLS 100049435, filed by Feliciano Ledezma Valencia. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C, # <u>4</u> Exhibit D, # <u>5</u> Exhibit E, # <u>6</u> Exhibit F, # <u>7</u> Exhibit G, # <u>8</u> Civil Cover Sheet)(nc) (Entered: 12/04/2012)
12/04/2012	<u>2</u>	Judge Assignment to Judge Ursula Ungaro and Magistrate Judge Edwin G. Torres (nc) (Entered: 12/04/2012)
12/04/2012	<u>3</u>	VERIFIED EMERGENCY MOTION for Ex Parte Temporary Restraining Order ( Responses due by 12/21/2012), and MOTION to Seal The File In This Case by Feliciano Ledezma Valencia. (Attachments: # <u>1</u> Sealed Tracking Form)(nc) (Entered: 12/04/2012)
12/04/2012	<u>4</u>	MEMORANDUM of Law In Support of <u>1</u> Verified Petition for The Return of The Parties' Child Pursuant to International Treaty and Federal Statute against Yenisey Cagigas Reyes by Feliciano Ledezma Valencia. (Attachments: # <u>1</u> Exhibit 1)(nc) (Entered: 12/04/2012)
12/04/2012	<u>5</u>	Clerks Notice of Receipt of Filing Fee for New Case received on 12/4/2012 in the amount of \$ 350.00, receipt number FLS 100049435 (nc) (Entered: 12/04/2012)
12/12/2012	<u>6</u>	ORDER REFERRING MOTION: <u>3</u> Verified Emergency Motion for Temporary Restraining Order, and Motion to Seal The File In This Case filed by Feliciano Ledezma Valencia Motions referred to Edwin G. Torres Signed by Judge Ursula Ungaro on 12/12/2012. (nc) (Entered: 12/12/2012)
01/03/2013	<u>7</u>	ORDER Granting <u>3</u> Verified Emergency Motion for Ex Parte Temporary Restraining Order; Granting <u>3</u> Motion to Seal The File In This Case( Show Cause Hearing set for 1/22/2013 02:00 PM in Miami Division before Magistrate Judge Edwin G. Torres.) Signed by Magistrate Judge Edwin G. Torres on 1/2/2013. (nc)

		(Entered: 01/03/2013)
01/03/2013	<u>8</u>	NOTICE of Compliance by Forwarding (3 certified copies) of <u>7</u> Order to U.S. Marshals Service (nc) (Entered: 01/03/2013)
01/03/2013	<u>9</u>	NOTICE of Appearance by Vivian Bauza on behalf of Feliciano Ledezma Valencia (Attachments: # <u>1</u> Sealed Tracking Form)(nc) (Entered: 01/04/2013)
01/15/2013	<u>10</u>	ACKNOWLEDGMENT OF RETURN OF SERVICE Served at 3631 S.W. 7th Street Miami, Florida <u>7</u> Order Granting <u>3</u> Verified Emergency Motion for Ex Parte Temporary Restraining Order; Granting <u>3</u> Motion to Seal The File In This Case( Show Cause Hearing set for 1/22/2013 02:00 PM in Miami Division before Magistrate Judge Edwin G. Torres.) Signed by Magistrate Judge Edwin G. Torres on 1/2/2013.. (nc) (Entered: 01/15/2013)
01/22/2013	<u>11</u>	ORDER Setting Final Evidentiary Hearing and Other Deadlines, and Order to Unseal Case ( Final Hearing on Verified Petition [D.E. 1] set for 3/15/2013 01:00 PM in Miami Division before Magistrate Judge Edwin G. Torres.) Signed by Magistrate Judge Edwin G. Torres on 1/22/2013. (aed) (Entered: 01/22/2013)
01/24/2013	<u>12</u>	CLERK'S NOTICE of Compliance by Unsealing Case pursuant to <u>11</u> Order. (nc) (Entered: 01/24/2013)

Sealed

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

FILED by JAL D.C.  
DEC 04 2012  
STEVEN M. LARIMORE  
CLERK U. S. DIST. CT.  
S. D. of FLA. - MIAMI

FELICIANO LEDEZMA VALENCIA,

Petitioner,

**12-24281**

v.

Case No. \_\_\_\_\_

**CIV-UNGARO**

YENISEY CAGIGAS REYES,

Respondent.

**/TORRES**

**VERIFIED PETITION FOR THE RETURN OF THE PARTIES' CHILD PURSUANT  
TO INTERNATIONAL TREATY AND FEDERAL STATUTE**

Petitioner, FELICIANO LEDEZMA VALENCIA, ("Petitioner"), by and through undersigned counsel and pursuant to International Treaty and 42 U.S.C. § 11601 *et seq.* states:

**Introduction**

1. This Petition is brought pursuant to the Hague Convention on the Civil Aspects of International Child Abduction<sup>1</sup>, done at The Hague on October 25, 1980 (the "Convention") and 42 U.S.C §11603(b), the International Child Abduction Remedies Act ("ICARA"). The United States of America assisted in drafting the Convention and became a signatory to the Convention in 1981. ICARA was created to deal with the sudden abduction of children and to allow a petitioner to assert his rights in exigent circumstances. *See Distler v. Distler*, 26 F. Supp. 2d 723, 727 (D.N.J. 1998). The objectives of the Convention are to (i) secure the prompt return of a child wrongfully removed or retained in any Contracting State, and (ii) ensure that rights of

<sup>1</sup> A true and correct copy of the Hague Convention is attached hereto as **Exhibit "A."**

custody and access under the laws of one Contracting State are effectively respected in other Contracting States.

2. Mexico and the United States are both signatories to the Convention and are, therefore, Contracting States.

3. Petitioner, a Mexican citizen, seeks the return of his minor son, M.L.C., to Mexico. YENISEY CAGIGAS REYES (“Respondent”) has been, and is currently, wrongfully retaining M.L.C. in the United States of America in violation of the Convention and ICARA. Moreover, since August 15, 2012, Respondent has been fleeing from judicial action and intervention.

4. Based on the facts as set forth below, there is a grave and substantial likelihood that Respondent will again attempt to abscond with M.L.C. and continue to violate international law, and further violate Petitioner’s custody rights with respect to M.L.C.

#### **Jurisdiction and Venue**

5. The Court has subject matter jurisdiction pursuant to 42 U.S.C. § 1103(a).

6. This Court has personal jurisdiction over Respondent because she is physically present within the district.

7. Venue is proper under 42 USC § 11603(b) because M.L.C. is currently located in Miami, Florida, at the address of 3631 SW 7<sup>th</sup> St., Miami, Florida 33135, which is within the jurisdiction of this Court.

#### **The Parties**

8. Petitioner is a Mexican citizen. His residence in Mexico is located at Carmen Serdan 38 San Jose, 4 Caminos, Puebla, Mexico.

9. Petitioner holds a valid Mexican passport and American visa to travel to the United States.

10. Respondent is a citizen of Cuba and a resident of Mexico, and holds valid passports under both nationalities. Petitioner does not know whether Respondent is a resident or citizen of the United States. According to information gathered from the Petitioner, Respondent has been located, and is currently residing in Miami, Florida, and M.L.C. is attending school at Glades Middle School in Miami, Florida.

### **General Allegations**

11. Petitioner and Respondent were married on November 23, 2001, in La Habana, Cuba, and on December 3, 2001, in Puebla, Mexico. The Respondent filed a Petition for Divorce in the Sixth District Court, Family Court Division of Puebla, Mexico, and the parties obtained a final divorce decree on August 11, 2009 (the "Divorce Decree"). A true and correct copy of the Divorce Decree is attached hereto as **Exhibit "B."**

12. Petitioner and Respondent have a son together, M.L.C., hereinafter referred to as the "Child." The Child was born on November 17, 2005, in Puebla, Mexico. A true and correct copy of M.L.C.'s redacted birth certificate is attached hereto as **Exhibit "C."**

13. From birth until on or about August 2009, the Child lived in the same household with both Petitioner and Respondent in Mexico.

14. Subsequent to August 2009, the Child lived with the Respondent because the final Divorce Decree for Petitioner and Respondent was entered. The Parties first filed a voluntary petition for divorce on March 26, 2009. Thereafter, and in conformance with Mexican law, the parties drafted an agreement as to all the terms and conditions of their divorce. These terms and conditions were memorialized on an agreement (the "Agreement"), created by the parties on

April 23, 2009. Thereafter on April 28, 2009, a mediator heard the reasons behind the voluntary request for divorce, and reviewed the Agreement. The mediator therein ratified the Agreement and filed a recommendation that the divorce be granted by the Court (the "Recommendation").

A true and correct copy of the Recommendation is attached hereto as **Exhibit "D."**

15. After the Recommendation, on May 28, 2009, a final divorce hearing was held in the Sixth District Court, Family Court Division of Puebla, Mexico, and an order was entered making the parties' Agreement enforceable by law (the "Order"). A true and correct copy of the Order is attached hereto as **Exhibit "E."**

16. Pursuant to the terms of the Order:

- a. The Child would be under the parental authority of both parents, and under the physical custody of the Respondent;
- b. The Petitioner has the right to visit the Child every Sunday from 9:00 a.m. to 9:00 p.m., by picking him up at Respondent's home in the residential area in Puebla, Mexico, referred to commonly as "Casas Geo";
- c. The Petitioner will have the right to spend Christmas with the Child, and the parties will share custody during the Child's vacation period; further,
- d. **The Parties agreed that the Child will not be leaving the national territory of Mexico without mutual consent of the parents to be approved and granted by the Secretary of Foreign Relations of Mexico.**

*See Exhibit "E"* (Emphasis added).

17. Petitioner visited the Child pursuant to his rights under the Order, purchased private health insurance for the Child, and paid – on a regular basis – for the Child's tuition at a private school, for his school supplies, clothing, medical expenses, and other necessities for the Child's health, education, and overall wellbeing. Further, pursuant to the Order the Petitioner was required to pay the weekly amount of \$400.00 Mexican pesos in child support for the Child, yet the Petitioner voluntarily paid three (3) times that weekly amount to guarantee that the Child

had everything he could possibly need. The tripled child support payments paid on a weekly basis by the Petitioner were evidenced by a document created and executed by the Respondent (the "Child Support Log"). A true and correct copy of the Child Support Log attached hereto as **Exhibit "F."**

18. During the parties' marriage, Petitioner and Respondent would fly with the Child to Cuba, to visit Respondent's family during the holiday season. After the divorce decree was entered the Respondent sought the Petitioner's permission to take the Child to Cuba during the holidays, on several occasions. Petitioner denied all such requests due to his fear that Respondent would not return to Mexico with the Child and retain the Child in Cuba.

19. On August 15, 2012, Petitioner received a call from Respondent informing him that she had brought the Child to Miami, Florida, and would not be returning the Child to Mexico.

20. Petitioner never agreed to the Respondent bringing the Child to Miami, Florida, or retaining him in Miami, Florida.

21. Petitioner has no knowledge how the Respondent legally brought the Child into the United States, since the Petitioner is in possession of the Child's original and only legal/valid Mexican passport and visa. Petitioner has reason to believe, and does believe, that the Child is either (a) in the United States illegally, or (b) Respondent applied for legal/valid immigration or travel documents to the United States for the Child behind Petitioner's back.

22. Immediately, the Petitioner sought information from family and friends, and sought help from the Mexican government regarding the whereabouts of the Respondent and the Child.

23. Thereafter, the Petitioner flew to Miami, Florida, in an attempt to expedite the process of locating and having the Child returned to Mexico, by seeking help from the Mexican Consulate in Miami, Florida.

24. The Mexican Consulate in Miami, Florida, advised the Petitioner to return to Mexico and maintain no contact with the Respondent if given the opportunity to do so. Petitioner was also informed that he had to seek the assistance of the State Department in Mexico. Following these instructions, the Petitioner returned to Mexico and immediately filed the Application pursuant to the Hague Convention with the Mexican Department of State on September 10, 2012. A true and correct copy of Petitioner's Hague Convention Application is attached hereto as **Exhibit "G."**

25. Petitioner never consented or acquiesced to the Child moving to Miami, Florida, let alone traveling to the United States. The Respondent removed the Child from Mexico without any prior notice to the Petitioner.

26. At the time the Respondent wrongfully removed and retained the Child, Petitioner was exercising his custody rights to the Child. Although the Petitioner and Respondent had divorced prior to Respondent traveling with the Child to Miami, Florida, Petitioner complied with all the terms of the Order including compliance with his visitation rights, payment for the Child's health insurance, school tuition, school supplies, clothing, medical expenses, and other necessities for the Child's health, education, and overall wellbeing. Further, Petitioner also complied with his child support obligations under the Order, and in fact tripled the amount of weekly child support payments. *See Exhibit "E"*.

27. Since Respondent's wrongful removal and retention of the Child, Petitioner has made numerous attempts to locate the Child and secure his return. Specifically, Petitioner

contacted the Mexican Consulate in Miami, Florida, and in fact traveled to Miami, Florida, in an attempt to expedite the process. When he was advised by representatives of the Mexican Consulate in Miami, Florida, that his efforts should be focused on the governmental authorities in Mexico, Petitioner traveled back to Mexico and immediately contacted the Mexican Department of State and the Department of Foreign Affairs. Petitioner also requested and successfully obtained an attorney in Mexico to be assigned to his case.

28. Petitioner further requested a telephone number and an address of the Respondent and the Child in the United States. The Respondent did not provide him with a telephone number, but after a month after her move to the United States with the Child she provided the Petitioner with the requested information. The Respondent explained that she was providing the Petitioner with the address, so he could travel to United States and visit the Child, as the Child constantly missed the Petitioner. However, the Respondent gave no indication to Petitioner that she would return the Child to Mexico.

29. Since August 15, 2012, when the Respondent traveled with the Child to the United States, through the date of filing this Petition, the Respondent has called the Petitioner a total of 4 or 5 times. During these telephone calls the Respondent had mainly requested money for the Child's expenses, and allowed the Petitioner only a few minutes to speak with the Child.

30. Prior to instituting this proceeding, the Petitioner has been reluctant to visit the Child in the United States or establish scheduled communication with his Child, as he was concerned that such actions may be interpreted as inconsistent with the process of returning the Child to Mexico.

31. Prior to the wrongful removal and retention of the Child, the Petitioner paid for the Child's enrollment in private school from September 2012 to June 2013. The enrollment

payment in the amount of more than \$16,500.00 Mexican pesos will allow the school to hold a place for the Child only for three (3) months after the commencement of the school year in September of 2012.

**COUNT I – Return of the Child Under the Hague Convention and ICARA**

32. Petitioner re-alleges the allegations contained in paragraphs 1-31 as if fully set forth herein.

33. Pursuant to the Convention, when a child has been wrongfully retained, the court in the Contracting State in which the petition is filed “shall order the return of the child forthwith” to the child’s state of habitual residence, subject to limited exceptions. *See* Convention, art. 1, 3, 4, 12-13, and 20.

34. In this case, Respondent’s removal and retention of M.L.C. in the United States is wrongful and in violation of the Convention and ICARA because (i) prior to the wrongful removal and retention, M.L.C. was a habitual resident of the Mexico; (ii) the removal and retention of M.L.C. in the United States is in breach of the Petitioner’s rights of custody to M.L.C. under Mexican law and the Order; (iii) the Petitioner was exercising his rights of custody to M.L.C. at the time of the wrongful removal; and (iv) M.L.C. is under 16 years of age. *See* Convention, arts. 3, 4.

35. Here, M.L.C. was born in Mexico; resided in Mexico his entire life; attended school in Mexico; has and interacted with, family in Mexico; and was registered in the Mexican healthcare system.

36. Petitioner has custody rights to M.L.C. under Mexican law and pursuant to the Convention. *See Exhibit “H.”* Further, the Petitioner has (i) parental authority over the Child, (ii) the right to visit the Child and share custody during the Child’s vacations period, and (iii) the

right to determine whether or not the Child will leave the national territory of Mexico at any given time. *See Exhibit "E."*

37. The Petitioner was exercising his custody rights at the time M.L.C. was wrongfully removed and retained in the United States. Pursuant to the Order, Petitioner enjoyed shared parental authority over the Child, and there is no Mexican court order terminating Petitioner's parental authority and visitation rights, or authorizing Respondent's removal and retention of the Child.

38. Prior to the Respondent's wrongful removal and retention of the Child, Petitioner provided for M.L.C.'s needs, spent time with him, made medical decisions for him, made travel decisions regarding M.L.C., and otherwise provided care and guidance for the Child.

39. M.L.C. was born on November 17, 2005. He is under the age of 16.

40. Based on the foregoing, Petitioner requests that pursuant to the Convention on the Civil Aspects of International Child Abduction, done at The Hague on October 25, 1980, and the International Child Abduction Remedies Act, 42 U.S.C. § 11601 *et seq.* the Court:

A. Set an early evidentiary hearing on this Petition and communicate that hearing date and time to the Respondent;

B. Enter a final order requiring Respondent to return M.L.C. to the Petitioner in Mexico forthwith;

C. Award Petitioner his costs, including attorney's fees, for the prosecution of this action pursuant to Article 26 of the Convention and 42 U.S.C. § 11607(b)(3); and

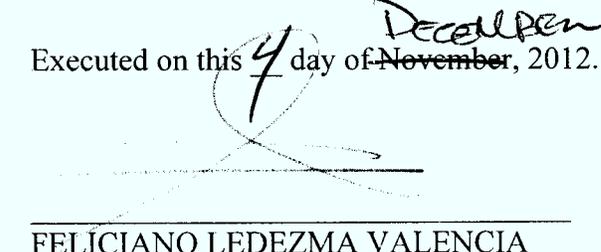
D. Grant such other and further relief as this Court deems appropriate under the circumstances.

Dated: December 4, 2012.

**Declaration Under Penalty of Perjury Pursuant to 28 U.S.C. § 1746(1)**

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on this <sup>Dec 4<sup>th</sup></sup> day of ~~November~~, 2012.

  
\_\_\_\_\_  
FELICIANO LEDEZMA VALENCIA

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Vivian Bauza". The signature is written in a cursive style with a horizontal line underneath it.

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**28. CONVENTION ON THE CIVIL ASPECTS OF INTERNATIONAL CHILD ABDUCTION<sup>1</sup>**

*(Concluded 25 October 1980)*

The States signatory to the present Convention,  
Firmly convinced that the interests of children are of paramount importance in matters relating to their custody,  
Desiring to protect children internationally from the harmful effects of their wrongful removal or retention and to establish procedures to ensure their prompt return to the State of their habitual residence, as well as to secure protection for rights of access,  
Have resolved to conclude a Convention to this effect, and have agreed upon the following provisions –

CHAPTER I – SCOPE OF THE CONVENTION

Article 1

The objects of the present Convention are –

- a) to secure the prompt return of children wrongfully removed to or retained in any Contracting State; and
- b) to ensure that rights of custody and of access under the law of one Contracting State are effectively respected in the other Contracting States.

Article 2

Contracting States shall take all appropriate measures to secure within their territories the implementation of the objects of the Convention. For this purpose they shall use the most expeditious procedures available.

Article 3

The removal or the retention of a child is to be considered wrongful where –

- a) it is in breach of rights of custody attributed to a person, an institution or any other body, either jointly or alone, under the law of the State in which the child was habitually resident immediately before the removal or retention; and
- b) at the time of removal or retention those rights were actually exercised, either jointly or alone, or would have been so exercised but for the removal or retention.

The rights of custody mentioned in sub-paragraph a) above, may arise in particular by operation of law or by reason of a judicial or administrative decision, or by reason of an agreement having legal effect under the law of that State.

<sup>1</sup> This Convention, including related materials, is accessible on the website of the Hague Conference on Private International Law ([www.hcch.net](http://www.hcch.net)), under "Conventions" or under the "Child Abduction Section". For the full history of the Convention, see Hague Conference on Private International Law, *Actes et documents de la Quatorzième session (1980)*, Tome III, *Child abduction* (ISBN 90 12 03616 X, 481 pp.).



#### Article 4

The Convention shall apply to any child who was habitually resident in a Contracting State immediately before any breach of custody or access rights. The Convention shall cease to apply when the child attains the age of 16 years.

#### Article 5

For the purposes of this Convention –

- a) "rights of custody" shall include rights relating to the care of the person of the child and, in particular, the right to determine the child's place of residence;
- b) "rights of access" shall include the right to take a child for a limited period of time to a place other than the child's habitual residence.

### CHAPTER II – CENTRAL AUTHORITIES

#### Article 6

A Contracting State shall designate a Central Authority to discharge the duties which are imposed by the Convention upon such authorities.

Federal States, States with more than one system of law or States having autonomous territorial organisations shall be free to appoint more than one Central Authority and to specify the territorial extent of their powers. Where a State has appointed more than one Central Authority, it shall designate the Central Authority to which applications may be addressed for transmission to the appropriate Central Authority within that State.

#### Article 7

Central Authorities shall co-operate with each other and promote co-operation amongst the competent authorities in their respective States to secure the prompt return of children and to achieve the other objects of this Convention.

In particular, either directly or through any intermediary, they shall take all appropriate measures –

- a) to discover the whereabouts of a child who has been wrongfully removed or retained;
- b) to prevent further harm to the child or prejudice to interested parties by taking or causing to be taken provisional measures;
- c) to secure the voluntary return of the child or to bring about an amicable resolution of the issues;
- d) to exchange, where desirable, information relating to the social background of the child;
- e) to provide information of a general character as to the law of their State in connection with the application of the Convention;
- f) to initiate or facilitate the institution of judicial or administrative proceedings with a view to obtaining the return of the child and, in a proper case, to make arrangements for organising or securing the effective exercise of rights of access;
- g) where the circumstances so require, to provide or facilitate the provision of legal aid and advice, including the participation of legal counsel and advisers;
- h) to provide such administrative arrangements as may be necessary and appropriate to secure the safe return of the child;
- i) to keep each other informed with respect to the operation of this Convention and, as far as possible, to eliminate any obstacles to its application.

### CHAPTER III – RETURN OF CHILDREN

#### Article 8

Any person, institution or other body claiming that a child has been removed or retained in breach of custody rights may apply either to the Central Authority of the child's habitual residence or to the Central Authority of any other Contracting State for assistance in securing the return of the child.

The application shall contain –

- a) information concerning the identity of the applicant, of the child and of the person alleged to have removed or retained the child;
- b) where available, the date of birth of the child;
- c) the grounds on which the applicant's claim for return of the child is based;
- d) all available information relating to the whereabouts of the child and the identity of the person with whom the child is presumed to be.

The application may be accompanied or supplemented by –

- e) an authenticated copy of any relevant decision or agreement;
- f) a certificate or an affidavit emanating from a Central Authority, or other competent authority of the State of the child's habitual residence, or from a qualified person, concerning the relevant law of that State;
- g) any other relevant document.

#### Article 9

If the Central Authority which receives an application referred to in Article 8 has reason to believe that the child is in another Contracting State, it shall directly and without delay transmit the application to the Central Authority of that Contracting State and inform the requesting Central Authority, or the applicant, as the case may be.

#### Article 10

The Central Authority of the State where the child is shall take or cause to be taken all appropriate measures in order to obtain the voluntary return of the child.

#### Article 11

The judicial or administrative authorities of Contracting States shall act expeditiously in proceedings for the return of children.

If the judicial or administrative authority concerned has not reached a decision within six weeks from the date of commencement of the proceedings, the applicant or the Central Authority of the requested State, on its own initiative or if asked by the Central Authority of the requesting State, shall have the right to request a statement of the reasons for the delay. If a reply is received by the Central Authority of the requested State, that Authority shall transmit the reply to the Central Authority of the requesting State, or to the applicant, as the case may be.

#### Article 12

Where a child has been wrongfully removed or retained in terms of Article 3 and, at the date of the commencement of the proceedings before the judicial or administrative authority of the Contracting State where the child is, a period of less than one year has elapsed from the date of the wrongful removal or retention, the authority concerned shall order the return of the child forthwith.

The judicial or administrative authority, even where the proceedings have been commenced after the expiration of the period of one year referred to in the preceding paragraph, shall also order the return of the child, unless it is demonstrated that the child is now settled in its new environment.

Where the judicial or administrative authority in the requested State has reason to believe that the child has been taken to another State, it may stay the proceedings or dismiss the application for the return of the child.

#### Article 13

Notwithstanding the provisions of the preceding Article, the judicial or administrative authority of the requested State is not bound to order the return of the child if the person, institution or other body which opposes its return establishes that –

- a) the person, institution or other body having the care of the person of the child was not actually exercising the custody rights at the time of removal or retention, or had consented to or subsequently acquiesced in the removal or retention; or

- b) there is a grave risk that his or her return would expose the child to physical or psychological harm or otherwise place the child in an intolerable situation.

The judicial or administrative authority may also refuse to order the return of the child if it finds that the child objects to being returned and has attained an age and degree of maturity at which it is appropriate to take account of its views.

In considering the circumstances referred to in this Article, the judicial and administrative authorities shall take into account the information relating to the social background of the child provided by the Central Authority or other competent authority of the child's habitual residence.

#### Article 14

In ascertaining whether there has been a wrongful removal or retention within the meaning of Article 3, the judicial or administrative authorities of the requested State may take notice directly of the law of, and of judicial or administrative decisions, formally recognised or not in the State of the habitual residence of the child, without recourse to the specific procedures for the proof of that law or for the recognition of foreign decisions which would otherwise be applicable.

#### Article 15

The judicial or administrative authorities of a Contracting State may, prior to the making of an order for the return of the child, request that the applicant obtain from the authorities of the State of the habitual residence of the child a decision or other determination that the removal or retention was wrongful within the meaning of Article 3 of the Convention, where such a decision or determination may be obtained in that State. The Central Authorities of the Contracting States shall so far as practicable assist applicants to obtain such a decision or determination.

#### Article 16

After receiving notice of a wrongful removal or retention of a child in the sense of Article 3, the judicial or administrative authorities of the Contracting State to which the child has been removed or in which it has been retained shall not decide on the merits of rights of custody until it has been determined that the child is not to be returned under this Convention or unless an application under this Convention is not lodged within a reasonable time following receipt of the notice.

#### Article 17

The sole fact that a decision relating to custody has been given in or is entitled to recognition in the requested State shall not be a ground for refusing to return a child under this Convention, but the judicial or administrative authorities of the requested State may take account of the reasons for that decision in applying this Convention.

#### Article 18

The provisions of this Chapter do not limit the power of a judicial or administrative authority to order the return of the child at any time.

#### Article 19

A decision under this Convention concerning the return of the child shall not be taken to be a determination on the merits of any custody issue.

#### Article 20

The return of the child under the provisions of Article 12 may be refused if this would not be permitted by the fundamental principles of the requested State relating to the protection of human rights and fundamental freedoms.

#### CHAPTER IV – RIGHTS OF ACCESS

#### Article 21

An application to make arrangements for organising or securing the effective exercise of rights of access may be presented to the Central Authorities of the Contracting States in the same way as an application for the return of a child.

The Central Authorities are bound by the obligations of co-operation which are set forth in Article 7 to promote the peaceful enjoyment of access rights and the fulfilment of any conditions to which the exercise of those rights may be subject. The Central Authorities shall take steps to remove, as far as possible, all obstacles to the exercise of such rights.

The Central Authorities, either directly or through intermediaries, may initiate or assist in the institution of proceedings with a view to organising or protecting these rights and securing respect for the conditions to which the exercise of these rights may be subject.

#### CHAPTER V – GENERAL PROVISIONS

#### Article 22

No security, bond or deposit, however described, shall be required to guarantee the payment of costs and expenses in the judicial or administrative proceedings falling within the scope of this Convention.

#### Article 23

No legalisation or similar formality may be required in the context of this Convention.

#### Article 24

Any application, communication or other document sent to the Central Authority of the requested State shall be in the original language, and shall be accompanied by a translation into the official language or one of the official languages of the requested State or, where that is not feasible, a translation into French or English.

However, a Contracting State may, by making a reservation in accordance with Article 42, object to the use of either French or English, but not both, in any application, communication or other document sent to its Central Authority.

#### Article 25

Nationals of the Contracting States and persons who are habitually resident within those States shall be entitled in matters concerned with the application of this Convention to legal aid and advice in any other Contracting State on the same conditions as if they themselves were nationals of and habitually resident in that State.

#### Article 26

Each Central Authority shall bear its own costs in applying this Convention. Central Authorities and other public services of Contracting States shall not impose any charges in relation to applications submitted under this Convention. In particular, they may not require any payment from the applicant towards the costs and expenses of the proceedings or, where applicable, those arising from the participation of legal counsel or advisers. However, they may require the payment of the expenses incurred or to be incurred in implementing the return of the child. However, a Contracting State may, by making a reservation in accordance with Article 42, declare that it shall not be bound to assume any costs referred to in the preceding paragraph resulting from the participation of legal counsel or advisers or from court proceedings, except insofar as those costs may be covered by its system of legal aid and advice. Upon ordering the return of a child or issuing an order concerning rights of access under this Convention, the judicial or administrative authorities may, where appropriate, direct the person who removed or retained the child, or who prevented the exercise of rights of access, to pay necessary expenses incurred by or on behalf of the applicant, including travel expenses, any costs incurred or payments made for locating the child, the costs of legal representation of the applicant, and those of returning the child.

#### Article 27

When it is manifest that the requirements of this Convention are not fulfilled or that the application is otherwise not well founded, a Central Authority is not bound to accept the application. In that case, the Central Authority shall forthwith inform the applicant or the Central Authority through which the application was submitted, as the case may be, of its reasons.

#### Article 28

A Central Authority may require that the application be accompanied by a written authorisation empowering it to act on behalf of the applicant, or to designate a representative so to act.

#### Article 29

This Convention shall not preclude any person, institution or body who claims that there has been a breach of custody or access rights within the meaning of Article 3 or 21 from applying directly to the judicial or administrative authorities of a Contracting State, whether or not under the provisions of this Convention.

#### Article 30

Any application submitted to the Central Authorities or directly to the judicial or administrative authorities of a Contracting State in accordance with the terms of this Convention, together with documents and any other information appended thereto or provided by a Central Authority, shall be admissible in the courts or administrative authorities of the Contracting States.

#### Article 31

In relation to a State which in matters of custody of children has two or more systems of law applicable in different territorial units –

- a) any reference to habitual residence in that State shall be construed as referring to habitual residence in a territorial unit of that State;
- b) any reference to the law of the State of habitual residence shall be construed as referring to the law of the territorial unit in that State where the child habitually resides.

Article 32

In relation to a State which in matters of custody of children has two or more systems of law applicable to different categories of persons, any reference to the law of that State shall be construed as referring to the legal system specified by the law of that State.

Article 33

A State within which different territorial units have their own rules of law in respect of custody of children shall not be bound to apply this Convention where a State with a unified system of law would not be bound to do so.

Article 34

This Convention shall take priority in matters within its scope over the *Convention of 5 October 1961 concerning the powers of authorities and the law applicable in respect of the protection of minors*, as between Parties to both Conventions. Otherwise the present Convention shall not restrict the application of an international instrument in force between the State of origin and the State addressed or other law of the State addressed for the purposes of obtaining the return of a child who has been wrongfully removed or retained or of organising access rights.

Article 35

This Convention shall apply as between Contracting States only to wrongful removals or retentions occurring after its entry into force in those States. Where a declaration has been made under Article 39 or 40, the reference in the preceding paragraph to a Contracting State shall be taken to refer to the territorial unit or units in relation to which this Convention applies.

Article 36

Nothing in this Convention shall prevent two or more Contracting States, in order to limit the restrictions to which the return of the child may be subject, from agreeing among themselves to derogate from any provisions of this Convention which may imply such a restriction.

CHAPTER VI – FINAL CLAUSES

Article 37

The Convention shall be open for signature by the States which were Members of the Hague Conference on Private International Law at the time of its Fourteenth Session. It shall be ratified, accepted or approved and the instruments of ratification, acceptance or approval shall be deposited with the Ministry of Foreign Affairs of the Kingdom of the Netherlands.

Article 38

Any other State may accede to the Convention. The instrument of accession shall be deposited with the Ministry of Foreign Affairs of the Kingdom of the Netherlands. The Convention shall enter into force for a State acceding to it on the first day of the third calendar month after the deposit of its instrument of accession.

The accession will have effect only as regards the relations between the acceding State and such Contracting States as will have declared their acceptance of the accession. Such a declaration will also have to be made by any Member State ratifying, accepting or approving the Convention after an accession. Such declaration shall be deposited at the Ministry of Foreign Affairs of the Kingdom of the Netherlands; this Ministry shall forward, through diplomatic channels, a certified copy to each of the Contracting States.

The Convention will enter into force as between the acceding State and the State that has declared its acceptance of the accession on the first day of the third calendar month after the deposit of the declaration of acceptance.

#### Article 39

Any State may, at the time of signature, ratification, acceptance, approval or accession, declare that the Convention shall extend to all the territories for the international relations of which it is responsible, or to one or more of them. Such a declaration shall take effect at the time the Convention enters into force for that State.

Such declaration, as well as any subsequent extension, shall be notified to the Ministry of Foreign Affairs of the Kingdom of the Netherlands.

#### Article 40

If a Contracting State has two or more territorial units in which different systems of law are applicable in relation to matters dealt with in this Convention, it may at the time of signature, ratification, acceptance, approval or accession declare that this Convention shall extend to all its territorial units or only to one or more of them and may modify this declaration by submitting another declaration at any time.

Any such declaration shall be notified to the Ministry of Foreign Affairs of the Kingdom of the Netherlands and shall state expressly the territorial units to which the Convention applies.

#### Article 41

Where a Contracting State has a system of government under which executive, judicial and legislative powers are distributed between central and other authorities within that State, its signature or ratification, acceptance or approval of, or accession to this Convention, or its making of any declaration in terms of Article 40 shall carry no implication as to the internal distribution of powers within that State.

#### Article 42

Any State may, not later than the time of ratification, acceptance, approval or accession, or at the time of making a declaration in terms of Article 39 or 40, make one or both of the reservations provided for in Article 24 and Article 26, third paragraph. No other reservation shall be permitted.

Any State may at any time withdraw a reservation it has made. The withdrawal shall be notified to the Ministry of Foreign Affairs of the Kingdom of the Netherlands.

The reservation shall cease to have effect on the first day of the third calendar month after the notification referred to in the preceding paragraph.

#### Article 43

The Convention shall enter into force on the first day of the third calendar month after the deposit of the third instrument of ratification, acceptance, approval or accession referred to in Articles 37 and 38.

Thereafter the Convention shall enter into force –

- (1) for each State ratifying, accepting, approving or acceding to it subsequently, on the first day of the third calendar month after the deposit of its instrument of ratification, acceptance, approval or accession;
- (2) for any territory or territorial unit to which the Convention has been extended in conformity with Article 39 or 40, on the first day of the third calendar month after the notification referred to in that Article.

#### Article 44

The Convention shall remain in force for five years from the date of its entry into force in accordance with the first paragraph of Article 43 even for States which subsequently have ratified, accepted, approved it or acceded to it.

If there has been no denunciation, it shall be renewed tacitly every five years.

Any denunciation shall be notified to the Ministry of Foreign Affairs of the Kingdom of the Netherlands at least six months before the expiry of the five year period. It may be limited to certain of the territories or territorial units to which the Convention applies.

The denunciation shall have effect only as regards the State which has notified it. The Convention shall remain in force for the other Contracting States.

#### Article 45

The Ministry of Foreign Affairs of the Kingdom of the Netherlands shall notify the States Members of the Conference, and the States which have acceded in accordance with Article 38, of the following –

- (1) the signatures and ratifications, acceptances and approvals referred to in Article 37;
- (2) the accessions referred to in Article 38;
- (3) the date on which the Convention enters into force in accordance with Article 43;
- (4) the extensions referred to in Article 39;
- (5) the declarations referred to in Articles 38 and 40;
- (6) the reservations referred to in Article 24 and Article 26, third paragraph, and the withdrawals referred to in Article 42;
- (7) the denunciations referred to in Article 44.

In witness whereof the undersigned, being duly authorised thereto, have signed this Convention.

Done at The Hague, on the 25th day of October, 1980, in the English and French languages, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Government of the Kingdom of the Netherlands, and of which a certified copy shall be sent, through diplomatic channels, to each of the States Members of the Hague Conference on Private International Law at the date of its Fourteenth Session.





### EXTRACTO DE NACIMIENTO



CRIP [REDACTED]

EN NOMBRE DEL ESTADO LIBRE Y SOBERANO DE PUEBLA Y COMO JUEZ DEL REGISTRO  
 DEL ESTADO CIVIL DE PUEBLA CERTIFICO: QUE EN EL LIBRO  
 NUMERO 0020 DE NACIMIENTOS DEL AÑO 2005, EXISTE ASENTADA EL ACTA NUMERO 03914  
 DE FECHA 24 DE NOVIEMBRE LEVANTADA, EN JUZGADO DEL REGISTRO DEL ESTADO CIVIL DE  
JUZGADO PRIMERO, PUEBLA, PUEBLA Y LA CUAL CONTIENE LOS SIGUIENTES DATOS:

#### DATOS DEL REGISTRADO

NOMBRE: [REDACTED]  
 HORA DE NACIMIENTO: 07:35:00  
 FECHA DE NACIMIENTO: 17 DE NOVIEMBRE DE 2005  
 LUGAR DE NACIMIENTO: PUEBLA PUEBLA PUEBLA  
 FUE PRESENTADO: VIVO  
 SEXO: MASCULINO  
 DECLARO: AMBOS

#### DATOS DE LOS PADRES

NOMBRE FELICIANO LEDEZMA VALENCIA NACIONALIDAD MEXICANA  
 NOMBRE YENISEY CAGIGAS REYES NACIONALIDAD CUBANA

NOMBRE DE LA PERSONA DISTINTA DE LOS PADRES QUE DECLARO EL NACIMIENTO  
 NACIONALIDAD

ESTA ACTA TIENE LAS SIGUIENTES ANOTACIONES:

MADRE: FORMA MIGRATORIA 3 NUMERO 1185968 CON FECHA DE VENCIMIENTO EL 22 DE MARZO DEL 2006.

DE CONFORMIDAD CON LO PRESCRITO EN LOS ARTICULOS 848 Y 849 DEL CODIGO CIVIL, SE EXPIDE LA  
 PRESENTE CERTIFICACION, EN EXTRACTO, EN PUEBLA  
 EL DIA 08 DE NOVIEMBRE DE 2012 JUZGADO PRIMERO

EL C. JUEZ DEL REGISTRO DEL ESTADO CIVIL  
 ELABORO: angelicam  
 COTEJO: angelicam

ABOG. OLGA GUADALUPE RODRIGUEZ SANCHEZ  
 NOMBRE FIRMA HEROICA PUEBLA DE ZARAGOZA

ORIGINAL

FOLIO DE SISTEMA:

496170

12635013

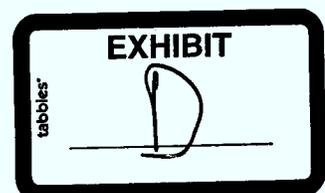
EXHIBIT

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STU  
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EN CIUDAD JUDICIAL SIGLO XXI, PUEBLA, LA  
SUSCRITA SECRETARIA **ISABEL LEOVA MÁRQUEZ  
RAMÍREZ**, DEL JUZGADO SEXTO DE LO FAMILIAR,  
ENCARGADO DE LOS EXPEDIENTES IMPARES, HACE  
CONSTAR Y CERTIFICA, \_\_\_\_\_

QUE LAS PRESENTES COPIAS CERTIFICADAS  
CORRESPONDEN AL EXPEDIENTE NÚMERO **375/2009**,  
RELATIVO AL **DIVORCIO VOLUNTARIO**, promovido  
**FELICIANO LEDESMA VALENCIA Y YENISEY CAGIGAS  
REYES**, OBRAN ENTRE OTRAS LAS SIGUIENTES. \_\_\_\_\_

PROCURADURIA GENERAL DEL ESTADO  
AGENCIA DEL MINISTERIO PUBLICO ADSCRITA AL JUZGADO SEXTO DE LO FAMILIAR

JUZGADO SEXTO DE LO FAMILIAR  
**RECIBIDO**  
28 ABR. 2009  
CIUDAD JUDICIAL

EXPEDIENTE NO.375/2009  
JUICIO: DIVORCIO  
VOLUNTARIO  
OF. 558

252

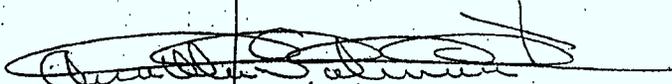
C. JUEZ SEXTO DE LO FAMILIAR  
P R E S E N T E:

LA SUSCRITA LICENCIADA ANA MARIA SALMORÁN IRIGOYEN AGENTE DEL MINISTERIO PUBLICO ADSCRITA AL JUZGADO SEXTO DE LO FAMILIAR, PROMOVIERO DENTRO DEL EXPEDIENTE AL RUBRO INDICADO, POR LOS CC. **FELICIANO LEDEZMA VALENCIA Y YENISEY CAGIGAS REYES**, ANTE USTED CON EL DEBIDO RESPETO COMPAREZCO Y EXPONGO:

VISTO EL CONTENIDO DE LA DILIGENCIA DE FECHA VEINTITRÉS DE ABRIL DEL DOS MIL NUEVE, Y EN ATENCIÓN A LA VISTA, LA SUSCRITA EXPRESA NO TENER OBJECCIÓN QUE Oponer A LA SOLICITUD DE DIVORCIO VOLUNTARIO Y RATIFICACIÓN DEL CONVENIO QUE EXHIBEN LOS PROMOVENTES **FELICIANO LEDEZMA VALENCIA Y YENISEY CAGIGAS REYES**.

LO ANTERIOR CON FUNDAMENTO EN LO DISPUESTO POR LOS ARTICULOS 292 DEL CÓDIGO CIVIL Y 677 FRACCIÓN II DEL CÓDIGO DE PROCEDIMIENTOS CIVILES PARA EL ESTADO.

**ATENTAMENTE**  
"SUFRAGIO EFECTIVO NO REELECCIÓN"  
H. PUEBLA DE Z. A 24 DE ABRIL DEL 2009  
LA C. AGENTE DEL MINISTERIO PUBLICO ADSCRITA AL JUZGADO SEXTO DE LO FAMILIAR

  
LIC. ANA MARIA SALMORÁN IRIGOYEN.

ESTADO DE PUEBLA  
SECRETARÍA DE JUSTICIA  
CIUDAD JUDICIAL

Judicial de Puebla, recepcionado en este juzgado en esa propia fecha, **FELICIANO LEDEZMA VALENCIA** y **YENISEY CAGIGAS REYES**, manifestaron en síntesis

LAS ANTERIORES CONSTANCIAS CONCUERDAN FIELMENTE CON SUS ORIGINALES A QUE ME REMITO Y SE EXPIDEN EN 40 FOJAS ÚTILES, EN CIUDAD JUDICIAL SIGLO XXI, PUEBLA, A CINCO DE SEPTIEMBRE DE DOS MIL DOCE, LO ANTERIOR CONFORME AL ARTÍCULO 42 DEL CÓDIGO DE PROCEDIMIENTOS CIVILES DEL ESTADO.

C. SECRETARIA

ABOG. ISABEL LEOVA MARQUEZ RAMIREZ



SECRETARÍA DE JUSTICIA  
PUEBLA

EXPEDIENTE NÚMERO 375/2009

JUZGADO SEXTO DE LO FAMILIAR DEL DISTRITO JUDICIAL DE PUEBLA.  
JUICIO: DIVORCIO VOLUNTARIO  
EXP. 375/2009  
ACTOR: FELICIANO LEDEZMA VALENCIA y YENISEY CAGIGAS REYES.  
SENTENCIA DEFINITIVA



JUZGADO SEXTO DE LO FAMILIAR DEL DISTRITO JUDICIAL DE PUEBLA. PUEBLA, PUE.

AL V. FELICIANO VALENCIA REYES  
EN EL EXPEDIENTE NUMERO 375/09 RELATIVO AL JUICIO Divorcio Voluntario PROMOVIDO POR Ustedes mismos EN CONTRA DE  
SE DICTO LA SIGUIENTE RESOLUCION

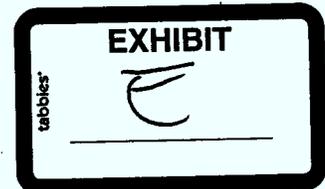
Ciudad Judicial, Puebla, a veintiocho de mayo del año dos mil nueve.

**VISTOS**, para resolver los autos del expediente número 375/2009, relativo al juicio de divorcio voluntario, promovido por **FELICIANO LEDEZMA VALENCIA y YENISEY CAGIGAS REYES**, teniendo ambas partes como abogados patronos a Isidoro Lima Ruiz y Enrique Sánchez Galicia, con domicilio para oír y recibir notificaciones personales, el que de autos consta, y;

**RESULTANDO:**

**PRIMERO.** Mediante escrito presentado el veintiséis de marzo del año dos mil nueve, ante la Oficialía de Partes Común de los Juzgados de lo Familiar del Distrito Judicial de Puebla, recepcionado en este juzgado en esa propia fecha, **FELICIANO LEDEZMA VALENCIA y YENISEY CAGIGAS REYES**, manifestaron en síntesis que se encuentran unidos en matrimonio, bajo el régimen de separación de bienes; señalando ambos cónyuges como domicilio particular el ubicado en calle Carmen Serdán número treinta y ocho, colonia San José Cuatro Caminos, de la ciudad de Puebla; que durante su matrimonio procrearon un hijo de nombre [REDACTED]

[REDACTED] quien actualmente cuenta con tres



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años de edad; que han consentido en divorciarse en los términos del convenio que a su solicitud se anexa, estableciendo en el mismo, las condiciones relativas a la guarda y custodia del menor, el modo de ejercitar las acciones inherentes al régimen de visita y correspondencia con el mismo, respecto del consorte al que no se le confió, la subvención de sus necesidades mediante una pensión alimenticia, así como la forma y periodicidad en que se incrementará la misma (fojas 5 a 6).

**SEGUNDO.** Por auto de veintisiete de marzo de dos mil nueve, previa declaración de competencia, se admitió a trámite la demanda en la vía y forma propuesta, quedando registrada bajo el número **375/2009**, y se tuvo a **FELICIANO LEDEZMA VALENCIA** y **YENISEY CAGIGAS REYES**, solicitando por mutuo consentimiento la disolución del vínculo matrimonial que los une y por exhibido el correspondiente convenio, señalándose día y hora para la celebración de la **audiencia de conciliación procesal**, en la cual el suscrito resolutor procuraría avenir a las partes, o en su caso, en la propia audiencia ratificaran su petición de divorcio voluntario por mutuo consentimiento establecida en el convenio de mérito (foja 10 y siguiente).

**TERCERO.** Mediante diverso proveído de catorce de abril de dos mil nueve, y toda vez que de las constancias de autos apareció que **YENISEY CAGIGAS REYES**, es de nacionalidad cubana, en consecuencia se previno a los interesados, para que presentarán la certificación expedida por la Secretaría de Gobernación a fin de

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acreditar la legal estancia en el país de la referida solicitante, así como el permiso correspondiente para realizar el trámite de divorcio (foja 13 y siguiente).

**CUARTO.** Mediante diligencia de veintitrés de abril de dos mil nueve, se tuvo a los solicitantes, exhibiendo el certificado de legal estancia en el país para trámites de divorcio a favor de **YENISEY CAGIGAS REYES**, expedido por la Secretaría de Gobernación, Delegación regional Puebla, asimismo, se tuvo a las partes ratificando en su totalidad el referido convenio, así como la modificación realizada al mismo, pactándose, entre otras cosas, la pensión alimenticia en favor de su menor hijo.

**QUINTO.** En consecuencia, una vez que la Agente del Ministerio Público adscrita desahogó la vista respectiva, mediante oficio número 558, de veinticuatro de abril de dos mil nueve, se citó a los promoventes para escuchar sentencia, la que se pronuncia en los siguientes términos.

**CONSIDERANDO:**

**I.- COMPETENCIA.-** Este tribunal es competente para conocer y fallar en primera instancia el presente juicio de divorcio voluntario, en términos de lo dispuesto por el artículo 108, fracción XIV del Código de Procedimientos Civiles vigente en nuestra Entidad Federativa, así como los diversos 33, fracción II y 40, fracción I de la Ley Orgánica del Poder Judicial del Estado de Puebla.

**II.- PERSONALIDAD.-** Se les reconoce a los ocursoantes para intervenir por su propio derecho dentro del presente procedimiento judicial, en términos de lo

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dispuesto por el numeral 103 de la ley procesal de la materia.

**III.- LEGITIMACIÓN.-** Se encuentra plenamente acreditada en autos dada la aptitud que les asiste a los solicitantes para hacer valer el derecho cuestionado en su calidad de titulares del mismo, tal como lo previene el arábigo 104 del ordenamiento adjetivo citado.

**IV.- CONTENIDO DE LA SENTENCIA.-** De conformidad con lo dispuesto por los dispositivos 442, 443, 445, 446, 449, y 450 del Código Civil vigente en el Estado de Puebla, los cónyuges que deseen divorciarse por mutuo consentimiento deberán ser mayores de edad, tener más de un año de casados, tener su domicilio conyugal en el lugar donde se promueve la separación, ocurriendo ante el Juez de lo Familiar de la localidad, acompañando el correspondiente convenio en el que se precise la situación de los hijos, la forma de visitarlos, de subvenir sus necesidades, la garantía para su aseguramiento, la forma y periodicidad en que se incrementarán las pensiones alimenticias que se hayan acordado, la manera de administrar los bienes de la sociedad conyugal durante el procedimiento, si los hubiere, liquidar dicha sociedad después de ejecutoriado el divorcio, así como la casa que servirá de habitación a los cónyuges; que se les cite a una junta de avenencia, en la cual se procure la reconciliación de los cónyuges, o bien ratifiquen su decisión contenida en el convenio de mérito, dando vista de ello a la Representante Social adscrita.

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**V.- PERTINENCIA DEL JUICIO DE DIVORCIO VOLUNTARIO.** En la especie, se estiman cubiertos los requisitos legales para proceder a declarar la disolución del vínculo matrimonial, objeto de este juicio de divorcio voluntario.



En efecto, los cónyuges **FELICIANO LEDEZMA VALENCIA** y **YENISEY CAGIGAS REYES**, acreditaron haber celebrado nupcias el tres de diciembre del dos mil uno, bajo el régimen de separación de bienes, ante la fe de el Juez Segundo del Registro del Estado Civil, con residencia en la ciudad de Puebla, tal y como consta en la copia certificada del acta de matrimonio número ochocientos cincuenta y cuatro, del libro cinco, folio 210458; misma que anexaron a su libello inicial, y que tiene pleno valor probatorio al tenor de lo dispuesto por los numerales 265, 266, 267, fracciones III y VI y 335 del Código de Procedimientos Civiles del Estado; que en el convenio los cónyuges, establecieron lo siguiente:

**"...CLÁUSULAS.- PRIMERA.-** Los contratantes "convienen que su menor hijo [REDACTED] [REDACTED] estará bajo la patria potestad de ambos "padres.- **SEGUNDA.-** Ambos contratantes conviene que "su menor hijo [REDACTED] "permanezca bajo la guarda y custodia exclusiva de su "señora madre: **YENISEY CAGIGAS REYES.-** **"TERCERA.-** Los contratantes conviene que el señor **"FELICIANO LEDEZMA VALENCIA** podrá visitar a su "menor hijo [REDACTED] Los días "Domingos de cada semana, pudiendo llevarlo fuera de "su domicilio, por lo que lo recogerá a las nueve de la

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"mañana en su domicilio ubicado en calle Carmen Serdán  
"número treinta y ocho colonia San José cuatro caminos  
"de esta Ciudad y lo reintegrara al mismo a las veintiún  
"horas de la noche.- **CUARTA.-** Los contratantes  
"convienen que la fiesta de navidad del día veinticuatro de  
"diciembre de cada año el menor [REDACTED]

[REDACTED] se quedara bajo el cuidado de el señor  
"**FELICIANO LEDEZMA VALENCIA**; y que en cuanto los  
"periodos de vacaciones escolares estos se dividirán por  
"mitad, entre el señor **FELICIANO LEDEZMA VALENCIA**  
"y el señor **YENISEY CAGIGAS REYES** previo acuerdo  
"de las partes.- **QUINTA.-** Los contratantes convienen

"que [REDACTED] no podrá salir del  
"territorio nacional sin el consentimiento de los padres  
"otorgado ante la secretaria de relaciones exteriores; y se  
"obligan a darse aviso recíprocamente de los cambios de  
"domicilio que efectúen.- **SEXTA.-** El señor **FELICIANO**  
"**LEDEZMA VALENCIA** A fin de subvenir las necesidades

"alimenticias de su menor hijo [REDACTED]  
[REDACTED] se obliga a otorgara (sic) semanalmente la  
"cantidad de \$350.00 (trescientos cincuenta pesos 00/100  
"m.n.), que entregará en forma personal a la señora  
"**YENISEY CAGIGAS REYES** en su domicilio ubicado en  
"calle Carmen Serdan número treinta y ocho colonia San  
"José Cuatro Caminos de esta Ciudad los días domingos  
"da(sic) cada semana, conviniendo ambas partes que  
"dicha cantidad se incrementara anualmente en igual  
"porcentaje que el salario mínimo de la zona a que  
"pertenece la ciudad de Puebla, Puebla; así como  
"también se obliga el señor **FELICIANO LEDEZMA**

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"VALENCIA a pagar a su menor hijo la escuela, los útiles  
"escolares y los gastos médicos a fin de contribuir a su  
"buena educación y salud, y para el caso de que el menor  
"se enferme se obliga la  
"señora **YENISEY CAGIGAS REYES** a informar en forma  
"inmediata al señor **FELICIANO LEDEZMA VALENCIA**  
"de tal circunstancia, para que pueda verle (sic) y le  
"brinde el cuidado que merece.- **SÉPTIMA.**- En virtud de  
"que el señor **FELICIANO LEDEZMA VALENCIA** se  
"compromete formalmente a cumplir lo establecido en el  
"presente convenio la señora **YENISEY CAGIGAS**  
"**REYES** está de acuerdo en que el señor **FELICIANO**  
"**LEDEZMA VALENCIA** no otorgue la garantía que  
"establece la fracción III del artículo 443 del Código Civil  
"para el Estado de Puebla, esto en virtud de que el señor  
"**FELICIANO LEDEZMA VALENCIA** siempre a cumplido  
"cabalmente con la obligación de proporcionar los  
"alimentos a su menor hijo.- **OCTAVA.**- los contratantes  
"convienen que el señor **FELICIANO LEDEZMA**  
"**VALENCIA** que tendrá como domicilio durante y  
"después de ejecutoriada la sentencia el ubicado en  
"callejón B de mina número tres colonia el Riego norte en  
"esta ciudad de Puebla, Puebla. Y la señora **YENISEY**  
"**CAGIGAS REYES** el ubicado en el domicilio ubicado en  
"calle Carmen Serdan número treinta y ocho colonia San  
"José cuatro caminos de esta Ciudad de Puebla, Puebla,  
"y se obligan a darse aviso de cualquier cambio de  
"domicilio que llegasen a realizar dentro de los primeros  
"cinco días de ocurrido este.- **NOVENA.**- Los contratantes  
"acuerdan proveerse de sus alimentos por contar con los

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"medios necesarios para su subsistencia.- DÉCIMA.- los  
"contratantes manifestamos que no se hace mención a  
"los bienes muebles en virtud de que estamos casados  
"bajo el régimen de separación de bienes, tal y como se  
"desprende del acta de matrimonio que se anexa a la  
"presente demanda.- DÉCIMA PRIMERA.- Los  
"contratantes de mutuo consentimiento convienen que el  
"menaje del hogar queda en beneficio de nuestra (sic)  
"menor hijo [REDACTED] y de  
"(sic)señora YENISEY CAGIGAS REYES en el domicilio  
"familiar.- DECIMA SEGUNDO.- Ambas partes declaran  
"que el presente convenio lo realizan de acuerdo a sus  
"instrucciones, y se someten a las leyes aplicables y  
"autoridades competentes de esta Ciudad de Puebla,  
"Puebla. Firmado al calce en señal de aceptación.- EL  
"RETARDO DE LA JUSTICIA, ES NEGAR LA JUSTICIA.-  
"Heroica Puebla de Zaragoza a veintitrés de Marzo de  
"dos mil nueve.- DOS FIRMAS ILEGIBLES."

Respecto del convenio en cuestión, cabe aclarar que  
en la propia audiencia de conciliación procesal las partes  
realizaron la modificación y adición lo siguiente:

"...SE MODIFICA LA CLÁUSULA SEXTA:  
"...SEXTA.- El señor FELICIANO LEDEZMA VALENCIA, a  
"fin de subvenir las necesidades de su menor hijo [REDACTED]  
[REDACTED] se obliga a otorgar semanalmente  
"la cantidad de CUATROCIENTOS PESOS SEMANALES,  
"que entregará en forma personal a la señora YENISEY  
"CAGIGAS REYES, en el domicilio señalado en el  
"convenio respectivo".