

IN THE FLORIDA SUPREME COURT
STATE OF FLORIDA

CASE NO. _____

4D21-3549

L.T. CASE NO. 2007DR008773 MB FC

ANGELA BENTRIM,

JEFFREY BENTRIM,

Petitioner,

And

Respondent.

PETITION FOR WRIT OF PROHIBITION
AND/OR ALTERNATIVELY WRIT OF MANDAMUS

JUDGE RENATHA FRANCIS

(Second Corrected)

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PREFACE

Counsel is filing a “Second Corrected” Petition changing the “font” to Bookman Old Style and correcting typographical errors and Case Law and Rule cites, including recently changed “Florida Rules of General Practice and Judicial Administration”. On June 24, 2022 Judge Francis entered another Order without proper service **and also**, the Fourth District Court **denied** Petitioner’s *Motion to Stay Mandate*.

EXPLANATION OF REFERENCES

PETITIONER Angela Bentrin is referred to as Petitioner, Mother, Ms. Bentrin, F/W or Former Wife.

RESPONDENT Jeffrey Bentrin is referred to as Mr. Bentrin, F/H, Father or Former Husband.

F/W COUNSEL is referred to “Ms. Downey” or “Attorney Downey”.

F/H COUNSEL is referred to “Mr. Lewis” or “Attorney Lewis”.

The Fourth District Court of Appeal may be referred to as “4DCA” or the “District Court”.

The SUPREME COURT APPENDIX may be referred to as (**BN.** _)

The APPENDIX for Case 4D21-3549 is referred to as (**A.** ___)

The APPENDIX for Case 4D21-1402 is referred to as (**App.**___)

The APPENDIX for Case 4D21-1303 is referred to as (**R.** ___)

Some APPENDIX ORDERS are followed by a Transcript ‘Excerpt’ as verification of the notations from the “CMC” hearing **July 22, 2021**.

Some APPENDIX Documents such as Orders have handwritten notes to assist the Court; on the top-right is the 15th Judicial Circuit Record **Docket Entry** number written and referred to as “**DE**” ___.

CASE MANAGEMENT HEARING (July 22, 2021) is referred to as “**CMC**”.

Excerpts of a July 22, 2021 CMC hearing follow Orders in Record.

The October 19, 2021 hearing Transcript is: (T. 10.19.21 pg. ___)

The December 6, 2021 hearing Transcript is: (T. 12.06.21 pg. ___)

The May 25, 2022 hearing Transcript is: (T. 5.25.22 pg. ___)

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STANDARD OF REVIEW

De novo review is proper for a question of law. *Engle v. Liggett Group, Inc.*, 945 So.2d 1246, 1259 (Fla. 2006) citing *D'Angelo v. Fitzmaurice*, 863 So.2d 311, 314 (Fla. 2003). Further on Prohibition this Court held: "The question of disqualification focuses on those matters from which a litigant may reasonably question a judge's impartiality rather than the judge's perception of his ability to act fairly and impartially. *Livingston v. State*, 441 So.2d 1083, 1086 (Fla.1983). Thus, "[a] determination must be made as to whether the facts alleged would place a reasonably prudent person in fear of not receiving a fair and impartial trial." *Id. at 1087*; § 38.10, F.S. (2021); Rule 2.330(c) and (e)(1), Fla. R. Gen. Prac. & Jud. Admin.

A trial judge's interpretation of Rules and Statutes is reviewed *de novo*. *Gosselin v. Gosselin*, 869 So.2d 667 (Fla. 4th DCA 2004); *Execu-Tech Bus. Sys., Inc. v. New Oji Paper Co.*, 752 So.2d 582 (Fla.2000); *Smith v. Smith*,902 So.2d 859, 861 (Fla. 1st DCA 2005) ("The standard of review regarding the trial court's construction of the rules is *de novo*.").

BASIS OF INVOKING JURISDICTION

Article V, section 3(b)(7) of the Florida Constitution provides the Supreme Court may issue writs of prohibition to courts and Article V, section 3(b)(8) of the Florida Constitution provides the Supreme Court may issue writs of mandamus to state officers. Fla. R. App. P. 9.030(a)(3). In Case 4D21-3549, the Fourth District Court of Appeal denied Ms. Bentrim's *Petition for Writ of Prohibition* seeking review of Circuit Court Orders Denying Recusal dated November 16, 2021 and November 18, 2021. Petitioner's May 31, 2022 *Motion to Stay Mandate* was filed and **denied June 24, 2022**. And currently, Petitioner's **May 25, 2022** "*Motion to Recuse Judge Francis*" served on the Circuit Court twice has not been ruled upon by Circuit Judge Francis.

A Writ of Mandamus is necessary where there is a "departure from essential requirements of law" and to "enforce a clear legal right to the performance of a clear legal duty". *De Groot v. Sheffield*, 95 So.2d 912, 916 (Fla. 1957) Judge Francis has a duty (1) *to properly serve Court Orders to a Pro Se Petitioner*, and (2) *to recuse from the Case as a "material witness" in Petitioner's defense*, and has ignored these duties, a recurring prejudice and grounds to recuse. As to the former,

the Judge refuses to mail Orders to Petitioner, a *Pro Se* “party” as required in Rules 2.516(b)(1), 2.516(b)(2) and 2.516(h) Fla. R. Gen. Prac. & Jud. Admin. and Rules 12.040(f) and 12.080(a)(1), Fla. Fam. L. R. P. and will continue to do so **absent Appellant instruction**, and Mandamus is needed. (T. 12.6.21, pg. 4)

And as to the latter being a “material witness”, Judge Francis’ *continuing* failure to comply with ‘Service Rules’ and not serving Petitioner Orders makes the Judge a “material witness” for Petitioner’s “contempt” defense. (BN: 60-63) Art. I, § 9, Fla. Const.; U.S. Const. amend. XIV. §1. Further, as a “material witness” Judge Francis must recuse **and she refuses**. See § 90.607(1), Fla. Stat. (“Competency of certain persons as witnesses”) (2021) and Rule 2.330(e)(2)D), Fla. R. Gen. Prac. & Jud. Admin. (Amended 2021) (“[T]he judge ... is likely to be a material witness ... in the proceeding.” Next, Judge Francis struck *Pro Se* Petitioner’s duly issued witness “Subpoena” served on her, by issuing an April 29, 2022 “Order Striking Subpoena” which is a refusal to be a witness and thus, constitutes an abuse of Judicial power and “a departure from the essential requirements of law.”

This is a case of first impression not heard in this jurisdiction.

STATEMENT OF THE PROCEEDINGS BELOW

On **March 21, 2021** the Fourth District Court denied Angela Bentrim's December 16, 2021 *Petition for Writ of Prohibition (third petition)* in Case 4D21-3549. (BN. 22) **The District Court is silent** on Judge Francis' "no service" of court orders to a *pro se* party, Ms. Bentrim, and the Judge's violations of Rules 2.516(b)(2) and 2.516(h) Fla. R. General Prac. & Jud. Admin. The Judge's failure to transmit her Orders "at the time of entry" to Ms. Bentrim violates F/W's Constitutional Right to due process, a miscarriage of justice. *Id.* The Judge also struck her own witness "Subpoena" on April 29, 2022.

Petitioner's April 4, 2022¹ *Motion for Rehearing En Banc and for Written Opinion* (hereinafter "Motion for Rehearing En Banc") **reports** a March 9, 2022 pivotal ruling by the Fourth District Court *reversing and vacating-in-part* Judge Francis' March 8, 2021 Order which prompted Ms. Bentrim's **first** *Petition for Writ of Prohibition* filed April

¹ After filing Petitioner's "Motion for Rehearing En Banc", Judge Francis **by Order** struck her own Witness "Subpoena" on April 29, 2022 as *predicted* in the motion: "*Can we expect that Judge Francis will likewise dishonor a Subpoena...*". (BN. 012, 027)

21, 2021. (Case 4D21-1402) Despite the March 9, 2022 *reversal*, the 4DCA's "**Merit Panel**" decided F/W's *Motion for Rehearing En Banc* would **not** be shared with the Court and *denied the motion*. (BN. 006)

Petitioner next filed a *Motion to Stay Entry of Mandate* on May 31, 2022 (**denied** 6.24.22) to bring this matter to the Supreme Court:

**Due to Ms. Bentrim's Financial Disadvantage
Counsel Appears in Family Court on a "Limited Appearance"**

In Family Court, parties are permitted to hire a part-time "limited" lawyer to assist them on a matter or appear at hearings. Rule 12.040, Fla. Fam. L. R. P. As a direct result of Judge Francis' refusal to enforce Orders of support, *Ms. Bentrim is financially disadvantaged*. (BN. 115) In Appellate Court, Counsel assists Ms. Bentrim as a volunteer of THE LEGAL AID SOCIETY OF PALM BEACH COUNTY that extended credit to Counsel for Pro Bono Services in their "Campaign for Equal Justice 2021-2022" serving the poor.

The **March 21, 2022** Fourth District's denial of Petitioner's Petition for Writ of Prohibition emboldened Judge Francis, on the next day **March 22, 2022** she *repeated* her improper service and knowingly emailed her "Order Setting Hearing" to a defunct email *formerly* used

by Petitioner. (BN.066-68) Mr. Bentrim's seven (7) contempt motions on **unserved** Orders were set May 25, 2022. (BN.17-21) Judge Francis **knows** that email is not in use and **not registered** on Eportal and that all emails *must be verified before use* per Rule 2.516(b)(1), Fla. R. Gen. Prac. & Jud. Admin. Admitted in her October 20, 2021 ORDER, that defunct email "**routinely bounces back**". (BN. 132)

When a party, here Ms. Bentrim, hires a part-time "Limited" lawyer, he or she is entitled to receive service of "all documents". See Rules 12.040(f), 12.080(a)(1) and (b) Fla.Fam.L.R.Pro. Family Rules allow hiring part-time Counsel "specifically limiting the attorney's appearance only to the particular proceeding or matter in which the attorney appears." Rule 12.040(a), Fla. Fam.L.R.P.. Counsel reports her "Limited Appearance" by filing a written Notice and orally at hearings. (BN. 046) (T. 5.25.22, pg. 11) Service of all documents must be made on "**the party**". Rules 12.040(f), Fla. Fam. L.R. P.

Florida Family Law Rules also require Judges to serve a Pro Se Party "**all Orders**". Rule 12.080(a)(1), Fla. Fam. L. R. P. provides:

"Service of pleadings and documents... of all family law actions, is set forth in Florida Rule of Judicial Administration 2.516, except that rule 2.516 also applies

to service on the party during the attorney's limited appearance as provided in rule 12.040(f) .. to include ... **orders...**". [Emphasis Added]

Id.. And see Rule 12.080(b), Fla. Fam. L. R. P. "Service and Preparation of Orders and Judgments" which requires;

"A copy of **all orders** or judgments involving family law matters, ... **must be transmitted by the court** or under its direction **to all parties at the time of entry of the order or judgment.**" [Emphasis Added]

Id. Judge Francis **knowingly** transmitted her April 29, 2022 "Order Striking Subpoena" [BN. 027] "VIA-E-SERVICE" to an obsolete email that she admits "*routinely bounces back*". (BN.132) And her "Order Specially Setting Hearing" certifies **no service**. (BN. 20)

In a September 3, 2021 mailed "Order" the trial judge 'directed' Petitioner to the "Clerk of the Court's Office" *to withdraw e-service*. (BN.112) The Clerk required Ms. Bentrim to prepare a handwritten 'Consent' and withdrawal was done **September 13, 2021**. (BN.129) However, *without a hearing*, on **September 21, 2021** Judge Francis entered an "ORDER Denying Former Wife's Notice of Cancellation of E-Service" **sent** "VIA E-SERVICE ONLY" (BN. 128) *with knowledge* F/W's email "*routinely bounces back*". (BN. 132)

Judge Francis states *absent Appellate instruction* (or Mandamus) *she will not change her service practice.* (T. 12.6.21, pg.4) Service of Orders is a Judge's **basic** duty. Rules 2.516(h) and Rule 2.516(b)(2), Fla. R. Gen. Prac. & Jud. Admin. and Rule 12.080 (a)(1) and Rule 12.080(b), Fla. Fam. L. R. P. **By withholding** "service" Judge Francis denied Ms. Bentrim '**a clear legal right**' and **abridged** the Legislative "Purpose" of Chapter 61 "*to mitigate the potential harm to the spouses and their children*". § 61.001(2)(c), Fla. Stat. Judge Francis has withheld service of 27 Orders listed in F/W "Summary". (BN. 60-63)

Judge Francis' continuing practice of entering Orders *without hearings, without evidence* and *withholding service* of Orders to a *Pro Se* Party is *a departure from the essential requirements of law.* Withholding service by a Judge entrusted with the 'performance of a clear legal duty' dishonors the Judicial System and Judges as a whole.

Two Prior Back to Back Prohibition Petitions Detail Bias

Since March 2021 Ms. Bentrim filed three *Petitions for Writ of Prohibition* against Judge Francis; Cases 4D21-1402; 4D21-2551 and 4D21-3549. The first *Petition for Writ of Prohibition* (Case 4D21-1402) cites biased rulings, *including the March 8, 2021 Order* (Judge

Francis' sanctions against Petitioner were *reversed* March 9, 2022).²

The second Petition Case 4D21-2551 filed *Pro Se* complains Judge Francis' entered Orders on August 19, 2021 and September 3, 2021 **without hearings**, denying Ms. Bentrim her Constitutional Right to a "Jury Trial", and made incorrect findings of "no legal basis for a demand for jury trial" citing B.J.Y. V. M.A., 617 So.2d 1061, 1064 (Fla. 1983). (BN.109-122) That Supreme Court case holds *the opposite* –a parent has a Constitutional right to a jury trial in Family Court. Id. Judge Francis misread the Case, twice? Art. 1, § 22, Fla. Const. Or, did the Court seek to take advantage of a Pro Se party?

The third *Petition for Writ of Prohibition* Case 4D21-3549 denied on **March 21, 2022** was followed by an April 4, 2022 *Motion for Rehearing En Banc* citing the **March 9, 2022 holding** reversing Judge Francis' March 8, 2021 Order and *vacating*³ sanctions against Ms.

² In Case 4D21-1303 Judge Francis' March 8, 2021 ORDER that singularly and unfairly sanctioned *only* Ms. Bentrim \$1200 was *reversed* March 9, 2022, one of several orders reported as "*bias*".

³ Judge Francis denied F/W *support enforcement* in her **March 8, 2021** ORDER *which was not vacated*. That ORDER omits favorable facts--that F/W proved *Mr. Bentrim willfully failed to pay support and owes \$37,000, he did NOT testify or meet his burden to overcome contempt*, yet, Judge Francis **granted** F/H's "oral motion" to Sanction Ms. Bentrim, a denial of

Bentrim. In 2021, that **March 8, 2021** sanction ORDER intensified Ms. Bentrim’s fear of bias by Judge Francis, included in her recusal motion for her *Petition for Prohibition*, **denied** on July 7, 2021. (Case 4D21-1402) GROSS, DAMOORGIAN and GERBER JJ. (BN. 165-168)

In F/W’s “*Motion for Rehearing En Banc*”, Petitioner argues the March 9, 2022 holding *reversing* the March 8, 2021 ORDER *bolsters* complaints of Judge Francis’ continuing, *non-stop bias*, violations of due process and disparate treatment. A trial court’s discretion may not be **“exercised in accordance with the whims or caprice of the judge nor in an inconsistent manner.”** *Canakaris v. Canakaris*, 382 So.2d 1197, 1203 (Fla. 1980). The 4DCA’s reversal vindicates Petitioner’s parental right to request her child’s therapy records:

“Former Wife could not have violated an order to keep the communications confidential as provided by the statute that ostensibly gives her, as a parent, rights to assert or waive the confidential privilege.”

(BN.165-168) *Bentrim v. Bentrim*, Case 4D21-1303, Fla. 4DCA March 9, 2022. *Id.* The holding exonerates Petitioner and supports her claim that Judge Francis’ disparate actions *warrant Prohibition*.

due process. *Fuchs v. Fuchs*, 840 So.2d 449 (Fla. 4th DCA 2003)

Also, Petitioner emphasized Judge Francis' continuing bias and her ongoing refusal to mail Petitioner Court Orders makes the Judge a contempt defense "witness". (BN.029) Further, Judge Francis held "**Ex parte hearings**" and entered *ex parte Orders*, bias and disparate treatment. (BN. 60-63) *Standing alone*, Judge Francis' "ex parte communication with a party presents a legally sufficient claim for disqualification, ...". *Chace v. Loisel*, 170 So.3d 802 (Fla. 5DCA 2014). Again, *reversal* of the March 8, 2021 Order on F/H's "oral motion" for sanctions granted *on the whim of the Judge* (Ms. Bentrin was *singularly* sanctioned for seeking records but F/H's withholding support was ignored) **is disparate treatment**. Canakaris @ 1203.

Judge Francis escalated her March 8th Order *transgression* and **again** granted Mr. Lewis' "oral" motion⁴ for sanctions at an *ex parte* Hearing and in her *ex parte* October 25, 2021 Order, adjudicated \$300 *punitive sanctions, making the Order criminal in nature*. (Appealed in Case 4D21-3299) This is extraordinary bias by a sitting Judge. These

⁴ Granting an "oral motion" for sanctions: "[A] violation of due process occurs when a court determines matters not noticed for hearing and not the subject of appropriate pleadings." *Mondello v. Torres*, 47 So.3d 389 (Fla. 4DCA 2010); See, e.g., *Kanter v. Kanter*, 850 So.2d 682, 685 (Fla. 4th DCA 2003).

Orders magnified Ms. Bentrim's fears. Fuchs, Id. (R. 192-197)

For almost two years, Petitioner was targeted by Judge Francis' as detailed in her Motions to Recuse, Affidavits and 4DCA Petitions. Cankaris @ 1203. In fact, in ¶ 2 of her March 23, 2021 "*Order Denying Motion to Recuse/Disqualify*" Judge Francis specifically took "issue" with F/W's challenge to the **March 8, 2021** Order, forbidden by Rule 2.330(h), Fla. R. Gen. Prac. & Jud. Admin. "[A]n order of denial shall not take issue with the motion." In Judge Francis' 4 page Order:

"2. Insofar as Petitioner's Motion relates to the Court's entry of Orders filed since March 1, 2021, and **particularly the Order entered on March 8, 2021** (D.E. # 1754), Petitioner's motion is deficient. The motion must allege some facts demonstrating "facts germane to the judge's undue bias, prejudice, or sympathy." *Rivera v. State*, 717 So.2d 477, 480-81 (Fla. 1998). Adverse rulings against a party do not create legally sufficient grounds. *Id.* at 481. The motion does not contain any claims substantiating "bias, prejudice or sympathy" against Petitioner or in favor of the former husband; at best it demonstrates Petitioner's disagreements with the Orders. [Emphasis Added]

(BN. 078, ¶ 2) Judge Francis looked beyond the legal sufficiency.

"When a judge has looked beyond the mere legal sufficiency of a suggestion of prejudice and attempted to refute the charges of partiality, he has then exceeded the proper scope of his inquiry and

on that basis alone established grounds for his disqualification." Mackenzie v. Super Kids Bargain Store, 565 So.2d 1332, 1339 (Fla. 1990) The Order disputes Petitioner's claim and **improperly** "passes on the truth of the facts alleged" in that her rulings (in the *now reversed* **March 8, 2021** Order) **are not bias**. Id. (BN.078-79)

STATEMENT OF THE FACTS BELOW (CASE HISTORY)

The parties were divorced by a March 3, 2009 Final Judgment in Palm Beach County, Florida Case #2007DR008773, ratifying the parties' "*Mediated Marital Settlement Agreement*" (hereinafter "MSA") granting shared parental responsibility, Child Support, *agreed* \$1750 monthly Alimony to Former Wife *and Mr. Bentrim keeps sole ownership of their lucrative business, a marital asset.* (R. 054-088) The parties 'agreed' they would attend *mandatory pre-suit* "mediation" prior to litigation. (R. 069) Since entry of the 2009 Final Judgment, Mr. Bentrim filed nine (9) Modifications on child custody, child support and alimony. On February 19, 2019, new Counsel Mr. Lewis was hired and Mr. Bentrim filed a "*Notice Designating Email Address*" June 7, 2019 and *Ms. Bentrim followed* filing the same June 19, 2019. After

Trial, on October 2, 2019⁵. a final Order was entered reducing Child Support from \$650 monthly to \$221.32 essentially closing the case.

On September 4, 2020, Attorney Lewis' filed a surprise 9th Modification, breaching *mandatory pre-suit terms* to mediate prior to litigation per the MSA.(R. 069) Ms. Bentrim filed a *Motion to Dismiss F/H's Petition* for breach of the MSA's Mediation terms. On March 2, 2021 with no evidence of Mediation, Judge Francis **denied** Ms. Bentrim's Motion to Dismiss *abridging long standing Florida Contract Law*. And Judge Francis *also abridged* Chapter 61's Legislative "Purpose" "*to promote the amicable settlement of disputes that arise between parties to the marriage*". §61.001(2)(b), Fla. Stat.

A *Petition for Writ of Certiorari* followed, the majority denied relief, however, 4DCA Senior Judge, HONORABLE MARTHA WARNER *dissented*:

"The court ruled that the marital settlement agreement required mediation prior to litigation. It then found that the former husband had requested mediation before filing his petition for modification. Thus, the court denied the motion to dismiss and for sanctions. **There was no evidence at all that the former husband requested mediation prior to litigation. ... Thus, the court departed from the essential requirements of law by**

⁵ **The next day October 3, 2019**, Mr. Bentrim filed his 2018 Business Tax Returns showing his Business Income of **\$416,567**.

making findings of fact without any evidence to support them. See *Mason v Janssen*, 113 So.3d 41 (Fla. 2d DCA 2012). ... **The record also shows that the former husband has been sanctioned and had a prior petition dismissed because of his failure to mediate.”**

Dissent, Order denying *Writ of Certiorari*, **July 1, 2021**, 4D21-1128.

(BN. 162) Judge Warner’s written dissent is *important* because Judge Francis repeats this “no evidence” pattern making ‘findings of fact’ **“without any evidence to support them”** denying Ms. Bentrin justice. Some of Judge Francis’ Orders without evidence were entered 10.20.21, 10.25.21, 11.5.21 and Orders *without hearings* 8.19.21, 9.3.21, 4.29.22; and *Ex Parte Orders* heard without a Hearing Notice 10.26.21 and 11.2.21 and 11.5.21. (BN.60-63; and 4D21-3299)

In the interim, *and after Mr. Bentrin filed a ninth Modification*, on **September 28, 2020** the minor child was not returned home, violating the parties’ Parenting Plan Timesharing Schedule.⁶ (Case 4D21-1402) Ms. Bentrin’s four (4) *Pro Se* Emergency/Urgent Motions *to return the minor child* (9/29/20, 10/14/20, 10/15/20, 11/3/20) were not scheduled for hearing for 4 months, **February 23, 2021** (all

⁶ Petitioner learned the parties’ teenager was counseled by F/H’s lawyer “Robert” Lewis and she refused to come home. (BN. 115,117-119)

four motions were denied as documented in F/W's *Petition for Writ of Prohibition* filed April 21, 2021.) (Case 4D21-1402) Like the parties' elder daughter, their teenager who lives solely with the Father is *now alienated from Ms. Bentrim* **and** rejects her two pet dogs raised from puppies because the Father hates dogs. (App. 35-38, 122-126)

Because Ms. Bentrim's first *Petition for Writ of Prohibition* Case 4D21-1402 was denied July 7, 2021, on **July 21, 2021** to extricate herself from Judge Francis' ongoing bias, Ms. Bentrim filed an "Answer and Affirmative Defenses" demanding a "Jury Trial" per Rule 12.430, Fla. Fam.SL.R.P. *trusting a Jury would be fair.* (BN.114-122) At a **July 22, 2021** Case Management hearing ("CMC") a Jury Trial was **orally** calendared for 12.6-8.21.(BN. 149; T. 7.22.21, pgs. 26, 44)

Next, on August 19, 2021 and September 3, 2021, *in Chambers* Judge Francis twice denied Ms. Bentrim's two demands for Jury Trial [BN. 114, 123] in a "*Sua Sponte Order Denying Former Wife's Request for a Jury Trial*" and "*Order Denying Petitioner's Motion for Psychiatric Evaluation and Demand for Jury Trial*". (BN. 109-122) In both Orders, Judge Francis finds "There is no basis for a jury trial in this proceeding." citing the Supreme Court: B.J.Y. v. M.A., @ 1064. Id.

However, the B.J.Y. case does provide a legal basis for a jury trial:

“Accordingly, we approve the district court finding that article I, section 22 of the Florida Constitution preserves the right to a jury trial in paternity proceedings and we declare unconstitutional the portion of section 742.031, Florida Statutes, that requires paternity proceedings to be tried by the judge.”

Id. at 1064. A “paternity” proceeding is a Family Court case. **Without a hearing** and with bias, Judge Francis denied Ms. Bentrim her Constitutional right to a trial by jury, due process of law (no hearings) and equal protection under the law. Art. I, § 9, Fla. Const.; Art. I; § 22, Fla. Const.; U.S. Const. amend. XIV. §1.

On August 31, 2021 Ms. Bentrim filed a *Pro Se* Petition for Writ of Prohibition reporting Judge Francis’ denial of her Constitutional rights without a hearing. Her Petition **was denied** September 13, 2021 by GERBER, KLINGENSMITH, ARTAU, JJ. (Case 4D21-2551)

Next, at an October 19, 2021 Hearing, the Judge provided 15 minutes to hear Ms. Bentrim’s “*Continuing Objection*” to “*Orders Setting Hearings and Amended Motion to Suspend Litigation*”. (T. 10.29.21, pg. 5) Judge Francis **rejected** Ms. Bentrim’s medical evidence and *overruled* the “Continuing Objection” to five (5) “Orders

Setting Hearings” (BN. 64-74) that **did not include Ms. Bentrim’s Responses** (missing in the 10/20/21 Order) though Attorney Downey *advised the ‘notices’ were deficient.* (BN.130-134) (T. 10.19.21 pg. 8)

The parties were both present at the October 19, 2021 hearing which began with Judge Francis acting as if she represented Mr. Bentrim helping Attorney Lewis to articulate an objection:

“THE COURT: So your argument is that it doesn’t fall within the business exception rule to hearsay because it was produced in anticipation for the Court to consider.”

MR. LEWIS: Yes, I mean ...

THE COURT: Alright, I got it. Stop. I got it.

(T. Oct. 19, 2021, pg. 16) **The Judge supplied the Objection for F/H’s lawyer.** *She did not add Ms. Bentrim’s “responses” to her hearing Orders—another example of continuing bias.* (BN.130-134)

Judge Francis permits excessive litigation knowing Petitioner is *without Counsel* which has affected Ms. Bentrim’s health.⁷ (See, BN.

⁷

Ms. Bentrim endures *disparate treatment* in a *hostile* Courtroom though her Doctor opines continuous court appearance exacerbates her diagnosis and is detrimental to recovery. [BN.133] Canakaris @ 1203. *The medical letter* a “Business Record” with a “Certificate of Authentication” *was rejected* as “hearsay” and **appealed.** (4D21-3299)

017) Despite a Medical Diagnosis and doctor's recommendation to "suspend" litigation, (BN.133) Judge Francis **denied** Ms. Bentrim's "*Amended Motion to Suspend Litigation*" in the October 20, 2021 Order, evidence of continuing bias. (BN.130-134) The Judge's denial of Ms. Bentrim's request for a "suspension" of litigation which would "*safeguard meaningful family relationships*" **a premier** Legislative "Purpose" in Family Law, **abridges** § 61.001(2)(a), Fla. Stat..

On December 6, 2021, Judge Francis conducted a Trial without resolving F/W's priority *Verified Motion to Disqualify Attorney Lewis*⁸ *etc.* filed November 4, 2021. (BN.039-045) Counsel appeared briefly on a "Limited Basis" at *Mr. Bentrim's Petition for Modification* Trial ("DE 1584") to make objections to hearsay Exhibits on F/H's "Exhibit List" and to request a "Continuance" since Ms. Bentrim's "*Answer and Affirmative Defenses*" (DE 1915) was *not included* in the trial "Notice" – **only F/H's Modification "Docket Number: DE 1548" was noticed for Trial.** See "Order Specially Setting Hearing" dated 9.10.21. (BN.066) Judge Francis unwisely, with bias, *denied* F/W's motion for

⁸ That motion was set three (3) times; the first on November 10, 2021, canceled by the Judge's November 9, 2021 Email. (BN. 059)

continuance *contrary* to basic Rules of Civil Procedure – **both sides must be noticed**. As of today, no Final Judgment has been entered.

Judge Francis set a May 25, 2021 Hearing on Mr. Bentrin’s seven (7) contempt motions against Petitioner for alleged violations of Orders Judge Francis **never served** on Ms. Bentrin; the Judge knowingly uses an obsolete email which “routinely bounced back”. (BN. 132) Judge Francis stated *without Appellate direction* – or here Mandamus – she will not change her service practices to Ms. Bentrin. (T. 12.6.21, pg.4) See F/W’s Summary on “*Service/Non-Service of Orders to Petitioner*” listing 28 ORDERS. (BN. 60-64)

ARGUMENT

The disqualification of a trial judge is governed by Fla. R. Gen. Prac. & Jud. Admin. 2.330 and § 38.10, Florida Statute (2021). In a November 18, 2021 ORDER DENYING RECUSAL (Case 4D21-3540), Judge Francis declares her intention to **not** testify (for Ms. Bentrin):

“It is true that a judge is not competent to testify as a witness in a case over which she is presiding. § 90.607(1)(a), Fla. Stat. There has been no suggestion, however, that the Court intends to offer testimony in this case, ... **the Court has no such intention.**” (Emphasis Added)

(BN. 51) The trial judge’s *comment* above that she has no “intention”

of being a witness “signals its predisposition against” Petitioner and creates “well-grounded fear” she will not receive a fair trial. Williams v. Balch, 897 So.2d 498, 499 (Fla. 4th DCA 2005).

Add Judge Francis’ *continuing* refusal to properly serve Petitioner her Orders which *egregiously* sets-up⁹ Ms. Bentrim for contempt. This judicial conduct is a: “Departure from the essential requirements of law” defined as: “[A] violation of a clearly established principal of law resulting in a miscarriage of justice.” Lacaretta Restaurant v. Zepeda, 115 So.3d 1091, 1093 (Fla. 1st DCA 2013) citing Padovano, Florida Appellate Practice § 18.10 at 367 (2010 ed.) Quoting Combs v. State, 436 So.3d 93, 96 (Fla. 1983). Here, the Judicial act is done *knowingly* by the Judge. A “departure” means:

[S]omething far beyond legal error. It means an inherent illegality or irregularity, an abuse of judicial power, an act of judicial tyranny perpetrated with disregard of procedural requirements, resulting in a gross miscarriage of justice.”

Haines City Cmty. Dev. V. Heggs, 658 So.2d 523, 528 (Fla. 1995) (quoting Jones v. State, 477 So.2d 566, 569 (Fla. 1985). Moreover, the

⁹ The Judge’s non-service of Orders to Ms. Bentrim *intensified* F/H’s litigation resulting in seven more **unserved** contempt motions. (4D21-3549) (App.113-136) (BN. 017-021)

Court's 'non-service' example is *contagious*. Opposing Counsel follows the Judge's lead and fails to serve or mail Ms. Bentrim his contempt Motions and boldly sets his *unserved Motions* for hearing. (See 4D21-3549 - A. 113-136)

On March 22, 2022, one day after the 4DCA's March 21, 2022 *denial* of Prohibition, Judge Francis *quickly* set the May 25, 2022 hearing on F/H's seven Contempt Motions *knowing* F/H's contempt prosecution for Ms. Bentrim's *alleged* violations relies on **unserved** Orders. A fair Jurist familiar with Rule 12.615, Fla. Fam. L. R. P. and Chapter 61, Fla. Stat., knows "notice" is an "essential" element and *Ms. Bentrim cannot be held in contempt for willful violation on court Orders never served*. Rule 12.615, Fla.Fam.L.R.P. If the you are not served the Court Order, *how can one prove willful contempt?* Thus, the Judge's **non-service** of the *underlying* Orders makes her a defense "witness" for Ms. Bentrim. Judge Francis struck her own Subpoena and presided over the hearing, *an obstruction of justice*. (BN.027)

Ms. Bentrim complied with §38.10, Fla. Stat. (2021) and Rule 2.330, Fla. R. Gen. Prac. & Jud. Admin. and Prohibition should be granted

Ms. Bentrim timely filed a *Motion for Recusal* after the May 25,

2022 hearing (BN.023-33) *which remains pending*. Similar motions were filed on November 15, 2021 and November 17, 2021, the latter an *Amended Motion to Recuse - A trial Judge Cannot Be a Witness*. (BN. 034-052) All three Motions and Petitioner's Affidavits detail biased acts such as *ruling without evidence* "a departure from the essential requirements of law." Id. (BN.60-63)

Again, the trial judge is a "material witness" for **non-service** of Court Orders and also, for the November 3, 2021 hearing when Mr. Lewis gave false testimony in an attempt to get Sanctions issued against Petitioner and her lawyer. (BN.038-47) *The Judge witnessed his false testimony*. Rule 2.330(2)(e) (2)(D), Fla. R. Gen. Prac. & Jud. Admin. On May 25, 2022 the Judge refused to rule on F/W's "*Verified Motion to Disqualify Attorney Lewis and for Perjury*" (11.4.21) and has *cancelled* hearings on F/W's motion three times. (BN.047-48, 53-59) The Judge's refusal to rule on F/W's motion on May 25, 2022, is evidence of favoritism for opposing Counsel. She re-set F/W's motion to June 27, 2022 (BN. 53) *though she's a witness*. (BN.058) She again cancelled F/W's hearing by email. (BN.56-58) It is bias and favoritism that the Judge ignores Attorney Lewis' perjury.

The above facts magnified Petitioner's continuing belief in her Affidavit for Disqualification: **"I fear she can't be fair."** and "would create in a reasonably prudent person a well-founded fear of not receiving a fair and impartial trial." *City of Hollywood v. Witt*, 868 So.2d 1214, 1217 (Fla. 4DCA 2004) (citing *MacKenzie v. Super Kids Bargain Store, Inc.*, 565 So.2d 1332 (Fla. 1990). (BN. 037) Petitioner's motions *satisfied* Statutory requirements of Section 38.10, Fla. Stat. and Rule 2.330, Fla. R. Gen. Prac. & Jud. Admin.

Judge Francis' prior November 18, 2021 "*Order Denying Recusal*" *wrongly* finds F/W's Motion is "insufficient" and includes troubling *comments* on her "intention" **she will not be a witness** (for Ms. Bentrim) which "signals a predisposition" to favor Mr. Lewis, Mr. Bentrim's lawyer. (BN. 51-52) Williams @ 499. "Disqualification is required when judicial comments are made about matters ... *prior to an evidentiary presentation.*" *Dominquez v. Stone*, 944 So.2d 1052 (Fla. 4th DCA 2006). And see, *Bundy v. Rudd*, 366 So.2d 442 (Fla. 1979) ("When a judge has looked beyond the mere legal sufficiency of a suggestion of prejudice and has attempted to refute the charges of partiality, he has then exceeded the proper scope of his inquiry and

on that basis alone established ground for his disqualification.”) Thus, Judge Francis’ comments disputing her status as a “witness” signals a predisposition and requires the judge’s disqualification.

And after being duly served a Witness Subpoena on April 27, 2022, Judge Francis executed an ORDER STRIKING SUBPOENA. (BN.027) This bold refusal to be a witness as stated is clear and convincing evidence of preferential treatment for Attorney Lewis and Mr. Bentrin and requires disqualification. Williams at 499.

**Substantive Basis for Recusal and Mandamus:
Judge Francis’ Continuing Refusal to Mail Petitioner Orders,
Striking her Own Duly Issued and Served Witness Subpoena,
and Presiding over the May 25, 2022 Hearing is “Bias”**

In an October 20, 2021 six (6) page Order for a *15 minute hearing*, Judge Francis admits Ms. Bentrin’s email **“routinely bounces back as undeliverable or as having failed”**. (BN.132) Her admission makes her a necessary “material” defense witness **and** reveals her *mens rhea* – she *knowingly* does not transmit Orders to a Pro Se Party, a judicial abuse of power tantamount to judicial tyranny. And, here the Clerk of Court duly issued Ms. Bentrin’s “Subpoena” for Judge Francis’ appearance May 25, 2022 as a

“material witness” for the defense. (BN.029-31) Using her judicial power, she entered an “Order Striking Subpoena” duly served by the Palm Beach County Sheriff’s Office, *striking her own **Witness Subpoena*** and then presided over the May 25, 2025 Hearing, denying and obstructing Ms. Bentrim’s defense. (BN. 017-021)

Again the October 20, 2021 is replete with biased rhetoric, omissions, inaccurate and false statements¹⁰ a “departure from the essential requirements of law” and clear bias. (BN.130-136) Counsel added *handwritten* “notes” on the Orders *for this Court’s easy reading* and attached transcript excerpts to show many of Judge Francis’ misleading comments. (BN. 130-135) One example, at the hearing Counsel objected to the “Orders Setting Hearing” because they did not include Ms. Bentrim’s “reply”: “[W]e incorrectly said she was omitted. I wanted to correct that Your Honor. She got those Orders. ... [O]n July 22nd you assured us that we would be able to respond to all these

¹⁰ Judge Francis’ “findings” exaggerate facts not in the transcript: ie: “[S]ervice to the email address **historically used by the Former Wife throughout the history of this case**, now routinely bounces back. But the Record in the Clerk’s ON-LINE DOCKET shows **no** “Email designations” were filed in the **2007** Dissolution **until 2019** when both parties filed Designations *before a final hearing*.

motions.” (T.10.19.21, pgs.8-9) And the Judge writes: “F/W’s counsel admitted the CMC Orders had been served to herself as limited counsel and to former wife via her email address.” [BN. 131] “With respect to the Former Wife’s request to strike its orders specifically setting hearings on the basis that Former Wife is omitted from the service list, this argument is unpersuasive.” (BN.132)

Ms. Bentrim’s email was withdrawn *September 13, 2021* (BN: 129] so the September 10, 2021 hearing Orders were received; however, the purpose of F/W’s objection was to add her “responses” **missing** in the Orders. (T. 10.19.21, pg 8) (BN: 066) *A neutral Judge would have thanked Petitioner for bringing the errors to her attention.*

Judge Francis *overruled* F/W’s Objection; and **held a Trial 12.6.21** *on only* Mr. Bentrim’s Modification [DE 1584] though a party has a ‘clear legal right’ to have their responses – here F/W’s *Answer and Affirmative Defenses*, heard. [BN.066] It is basic Civil practice in the U.S.A. *to set and hear both sides of the case.* (BN.066;130-135)

The Judge’s conduct *is more than* “sufficient to leave Petitioner with “an objectively reasonable fear they will not receive a fair trial.” *Real State Golden Inv. Inc., et al., v. Ossandon Larrain, 278 So.3d*

812, 814 (Fla. 3DCA 2019) *citing* Williams v. Balch, 897 So.2d 498, 499 (Fla. 4th DCA 2005) (holding disqualification is required when judicial comments signal a predisposition against a party before consideration of the evidence); and in accord, Wargo v. Wargo, 669 So.2d 1123, 1125 (Fla. 4th DCA 1996). (T. Oct. 19, 2021; 1- 50) Judge Francis’ comments, actions and Orders reflect judicial bias.

Judge Francis a “Material Witness” Presided Over the May 25, 2022 Hearing Exhibited Bias in Comments and Deeds

On May 19, 2022, Petitioner hired Attorney Downey as “Limited” Counsel to appear at the May 25, 2022 Hearing. (BN. 017-021) Judge Francis presided over the Bentrin case contrary to § 90.607(1)(a), Fla.Stat.– she is a “material witness” *and should have stepped down*. The Judge started the hearing as if she was Mr. Bentrin’s lawyer first addressing Ms. April Burris, Ms. Bentrin’s witness per our “Witness List”, *the only witness present*:

THE COURT: Ms. Burris, are you a witness? ...
So anybody invoking the rule?

MR. LEWIS: Yes, I will, Judge.

THE COURT: Okay. Let me put you in the waiting room.

MS. DOWNEY: Your Honor, you're asking like you're the lawyer.

THE COURT: Yeah. So I put her in the waiting room.

(T. 5.25.25, pg. 7) *This gaffe is an admission of favoring Mr. Bentrim* and her subsequent negative rulings against Ms. Bentrim were **predetermined**. Counsel presented her Motion to Dismiss (F/H's Contempt Motions) and Motion to Disqualify Mr. Lewis as Attorney for F/H **which were not ruled upon**:

MS. DOWNEY: I have noticed a response for this morning ... for housekeeping purposes. I would like to argue a dismissal and motion to strike today's motions set before the Court. And it's docket entry 2200. It's titled former wife's response to former husband's contempt motions and motion to strike/dismiss and a renewed, attached motion for disqualification of Robert Lewis as attorney for former husband and motion for sanctions against Robert Lewis for perjury, filed on 11-4-21. And I did notice it this morning. ... I have constitutional grounds to get these hearings struck -- The motions struck. ...

(T. 5.25.22, pg. 11) *Judge Francis refused to rule on Ms. Bentrim's motions, again clear bias.*

MS. DOWNEY: ... [P]rocedurally and constitutionally, former husband's contempt motions are deficient because Mr. Lewis purposely did not serve petitioner the contempt motions. She's never received them. And absent notice, that would be a denial of due process. I cited the case Mansour versus Mansour, 118 So. 3d 978, Florida 2d DCA 2013. You can also see Rule 12.615, Florida Family Law Rules of Procedures, which says **'no civil contempt motion may be imposed without notice to the alleged**

contemnor.' His motions are also deficient in that ... Your Honor's judicial assistant or your office failed to serve by mail the attached orders *he complains she willfully did not follow*, the basis for the contempt. And not getting the orders is a denial of due process. And I cite my Summary that I served listing all of the Court orders, ... 27 of the 28 were not served. Your Honor did serve by mail one order. That order included her address. That order was dated 9-3-21. I cite some rules in the motion.

Finally, Your Honor, as you know ,... **Ms. Bentrim did subpoena you.** She had the Sheriff serve you. You were served. We believe that you're a material witness for the defense because Your Honor knows that she was not mailed the orders except one that you sent. And according to Canon 3B(1), a judge shall hear and decide matters assigned to the judge except those in which disqualification is required. And then 3E -- I think it's E(1)

Your Honor. I have the rules in front of me. ... under this rule, 'a judge is disqualified whenever the judge's impartiality might reasonably be questioned regardless of whether any specific rule of section 3E(1) applies. So this is Canon 3E(1).

Our position is that **any finding of willful contempt** when Ms. Bentrim was not on notice would be prejudicial **because Your Honor is a material witness.** And according to the Canon -- the Code of Judicial Conduct, Canons that I cited, that would be you as a defense witness. That would be improper.

Also, 90.607(1)(a), Florida statutes. 'Except as provided in (b), the judge presiding at the trial of an action is not competent to testify as a witness in a trial and an objection is not necessary to preserve the point. Absent an agreement of the parties for you to testify or for you to stay

on the case, **Your Honor, we move to strike these motions from the – from being heard. And we move to disqualify Mr. Lewis.** And we move for sanctions against him for perjury, which took place on 11-3-21. Frivolous motion to have you sanction us for something that we did not do. And we ask you to refer this matter -- or this perjury and false motion to the Florida Bar and the Palm Beach County State Attorney's office. And for attorney's fees under Section 57.105(1), Florida Statutes. ...

THE COURT: All right. Anything else?

MS. DOWNEY: I want this ruled on first before we proceed.”

(T. May 25, 2022, pgs. 13-16) *The Judge did not rule* and proceeded to hear Mr. Bentrims’ first contempt Motion, thus, she denied Ms. Bentrims’ Motions. (T. 5.25.22, pgs.1-60) She did make oral rulings **allowing** Mr. Bentrims’ Exhibits **and striking** Ms. Bentrims’ Exhibits *without any evidence, a reoccurring pattern and practice.*

THE COURT: Yeah. I'm going to find that he did provide exhibits to your client when she was self-represented. Then you came on late. So he's in substantial compliance. ...

MS. DOWNEY: Proffer to the Court Your Honor. ...
There's no evidence.

THE COURT: ... Okay. Proffer. Go ahead. ...

MS. DOWNEY: You have no evidence. You have not been given evidence that we got his exhibits. ...

THE COURT: The Court's already ruled. ... Anything else?

MS. DOWNEY: [Y]ou have no evidence other than Mr. Lewis' statement. And he's already committed perjury. And you're not going to disqualify him for today. That's my under standing of your ruling.

(T. 5.25.22, pgs. 28-29) Dominguez, Id. And Senior Judge Warner's finding of "no evidence" is important because Judge Francis *repeats this pattern* denying Ms. Bentrin *Justice* which resulted in F/W's *ore tenus* Motion to Recuse which she did rule on - **it was orally denied**.

MS. DOWNEY: I would like to do a motion to recuse, that you would allow Mr. Lewis to have his exhibits that were never served upon me, and which Ms. Bentrin just testified under oath that she never received on May 10th -- I think he said. He said he sent her something on May 10th. ... And it is biased to allow him to refer to his exhibits. And yet, you're saying and you already indicated as a ruling ... that you're not allowing our exhibits to come in. And to me, that's biased. So I move to recuse.

THE COURT: Denied. Legally, it's insufficient. ...

MS. DOWNEY: I'll ... put that in writing to Your Honor.

(T. 5.25.22, pgs. 54-55) Petitioner's written "*Motion to Recuse Judge Francis*" **filed** on May 25, 2022 *remains pending*. (BN.023-033)

Petitioner's written *Motion to Recuse* is similar to prior recusal motions (BN.034-036; 4D21-3549) and was *emailed twice to the Judge*

on May 25, 2021 and June 13, 2021. (BN. 032-033)

Attached to F/W's Recusal Motion is the Judge's April 29, 2022 "Order Striking Subpoena" (BN. 027), Ms. Bentrim's *Pro Se* "Subpoena Duces Tecum for Hearing" to Judge Francis for May 25, 2022, "Issued by the Clerk of Court" (BN. 029-31), and it was duly served April 27, 2022 per the "Palm Beach County Sheriff's Office Original Return" of service. (BN.028) *Without a hearing*, Judge Francis used her position as **Circuit Judge** to strike a duly issued, duly served Witness Subpoena for her appearance—as if she is above the law. (BN.027) And the ORDER certifies again "VIA E-SERVICE ONLY" to a defunct email not registered in Eportal which "*routinely bounces back*". (BN. 132) The Judge's "non-service" is **continuing bias in action**.

And, when Petitioner learned her Subpoena was struck that too created legitimate fear of judicial abuse – any reasonable person would fear a Judge who has prejudged the case. (BN. 027) Williams @ 498. For almost two years, Petitioner has been hammered with disparate judicial abuse by Judge Francis. Canakaris @ 1203.

Cumulative Events and Continuing Prejudicial Orders

There are continuing irregular and unfair actions taken against

Petitioner since October 2020 that reflect ongoing Judicial bias and most recently at the May 25, 2022 hearing. (T.5.25.22, pgs. 1-60) While Rule 2.330(g), Fla. R. Gen. Prac. & Jud. Admin. requires the filing of a recusal motion **within 20 days** of the biased act, *this does not preclude disclosure of cumulative events of bias and prejudice*. Cumulative events may be used to show judicial bias “even when an earlier event cannot be used as a timely basis for disqualification, that may still be relevant.” R.V. v. State, 44 So.3d 180, 183 (Fla. 4th DCA 2010). Ms. Bentrim’s three Petitions at the 4DCA detail cumulative events of Judge Francis’ non-stop, judicial bias.

It is “bias” and abuse of discretion to enter Orders without a hearing or evidence. Dominguez, Id. F/W’s Summary listing unserved Orders is clear and convincing evidence of bias denying Ms. Bentrim the ‘clear legal right’ of due process of law. (BN. 60-63) The Judge has *acknowledged* improper service writing F/W’s emails “**routinely bounces back**” making her a “**material witness**” to Petitioner’s defense. (T. 12.6.21, pg.4) Fla. R. Jud. Admin 2.330 (e)(2)(D).

All these cumulative acts are poignant and relevant in determining the basis for a litigant’s “fear” that she is unable to receive a fair trial and GRANT Prohibition. Fla. R. Jud. Admin 2.330

(e)(1). The cumulative effect of events "can cause a party to have a well-founded fear" that he or she will not receive fair and impartial handling of his case. *Michaud -Berger v. Hurley*, 607 So.2d 441, 446 (Fla. 4th DCA 1992). Judge Francis' prejudice increased after Ms. Bentrim after filed Prohibition Petitions and a complaint. (BN. 60-63)

Additional unfair acts resulted in eight (8) October and November 2021 *unfair, biased Orders on Appeal, an anomaly in Family Court*. (Case 421-3299) The Appeal includes three *ex parte* Orders entered after Judge Francis held *ex parte* hearings on unnoticed motions October 18, 2021 and October 26, 2021 **with only Mr. Lewis present with the Judge**, *which are prejudicial and evidence of gross bias*. "It seems clear that a judge's *ex parte* communication with a party presents a legally sufficient claim for disqualification...". Chace, Id. In Judge Francis' October 25, 2021 *ex parte* Order prepared by Mr. Lewis (without providing a copy to the opponent contrary to Local Administrative Orders) includes *punitive* sanctions (based upon Mr. Lewis' "oral" motion) *which is criminal in nature*. (4D21-3299) And in contrast, Mr. Bentrim's two 'calendared' motions at CMC which were *also not noticed*, were *not heard* by the Judge and no *ex parte* Orders

entered against F/H, inconsistent treatment.¹¹ (4D21-3299) Canakarlis @ 1203. And, finally, a neutral judge would have set a hearing on Petitioner's *Verified Motion to Disqualify Attorney Lewis, etc.* prior to a "trial" and/or ruled at the May 25, 2022 hearing. It is prejudicial first

¹¹ Cumulative biased actions are detailed in all three Petitions (4D21-1402; 4D21-2551, 4D21-3549) and include: Judge Francis delayed F/W's hearing to February 23, 2021 on four (4) URGENT *Pro Se* motions (filed 9/29/20, 10/14, 10/15 and 11/2/20) to enforce timesharing with the minor child and denied the motions, *an anomaly in family court (App. 122-126)*; Judge Francis denied enforcement of support (not paid since June 2019) impoverishing Former Wife, *an anomaly in family court, (4D21-1303)*; **without a hearing or motion**, Judge Francis entered an *ex parte contested Money Judgment* benefitting Attorney Lewis, signed March 6, 2021 over objection and did not e-file the Judgment until April 8, 2021, *an anomaly in Civil Court.* (App. 90, 140-143) Judge Francis' **March 8, 2021** Order, adjudicated \$1200 in sanction against *only* the Mother for obtaining her child's therapy records sent to both parents *reversed March 9, 2022.* (4D21-1303) *Without a hearing* Judge Francis denied Ms. Bentrims' *Motion to Stay Pending Appeal* of the **March 8, 2021** Order, **finding** 'it unlikely she would succeed on Appeal' and ordered Ms. Bentrims to *post a Bond - in contrast* preferential treatment, she granted Attorney Lewis' *Motion to Stay* on 12/4/20 *without a bond*; *Mr. Lewis lost his Appeal.* Canakarlis @ 1203 (BN. 106-108) **Without hearings** Judge Francis denied Ms. Bentrims' 'Demand for Jury Trial' in her August 18, 2021 and September 3, 2021 Orders, (BN. 109-122); the above actions prove *continuing bias* and violations of the Constitution, Florida Rules of Court and Florida's "Legislative Purpose" in Chapter 61, F.S.

that Judge Francis’ delayed F/W’s motion and second, she refused to rule on F/W’s motion at the May 25, 2022 hearing. (T. 5.25.22, pgs. 1-59) Again, she gave Mr. Lewis the “Oath” and is a witness his perjury and conflict of interest and should recuse herself from the case as a “material witness”. See Rule 2.330(2)(e) (2)(D), Fla. R. Gen. Prac. & Jud. Admin.

Ignoring Petitioner’s disqualification motion on Mr. Lewis’ perjury, the Judge allowed Attorney Lewis’ continuing representation at the December 6, 2021 **‘half’** Trial and *at the May 25, 2022 hearing* – that is favoritism and prejudicial to Ms. Bentrin, blatant bias.

NATURE OF THE RELIEF SOUGHT

Petitioner seeks a Writ prohibiting Judge Francis from proceeding further in the case due to her continuing¹² nonstop bias.

¹²

The Judge invited opposing counsel to appear at unnoticed *ex parte* hearings and entered 3 *ex parte* Orders – one with punitive sanctions with “no evidence” against Petitioner; on November 3, 2021 she administered the Oath to opposing Counsel as a “fact” witness and took his testimony, a conflict of interest per to R. Regulating Fla. Bar 4-3.7 then cancelled a hearing on Petitioner’s 11.4.21 *Verified Motion to Disqualify Robert Lewis and for Perjury* and **to date** has not resolved the motion. (BN.39-45) The Judge denied Ms. Bentrin’s demand for Jury Trial; she set a 12.6.21 Bench Trial **only on** Mr. Bentrin’s “Petition for Modification” **after** being informed the “Trial” Notice

And (or alternatively) Petitioner seek Mandamus to order the trial Judge to comply with proper service of Court Orders. (Absent Appellate direction ‘Mandamus’ *the Judge refuses to change her “service” procedure to Ms. Bentrim*, thus denying F/W due process of law.) Judge Francis knows Ms. Bentrim is not registered in the Eportal System per her admission in the October 20, 2021 ORDER that F/W’s email “routinely bounces back”. (BN. 132) Order Judge Francis to cease transmitting Orders to Ms. Bentrim “VIA E-SERVICE ONLY” **and to mail her Orders**. Next, Order Judge Francis to comply with the following Rules:

Rule 2.516(b)(2) “Service by Other Means” .. “service, must be made ... by .. **mailing**”.

Rule 2.516(h) “Service of Orders” “A copy of **all orders** or judgments must be transmitted .. to **all parties** at the time of entry of the order or judgment.”

Rules 12.080(a)(1), Fla. Fam. L. R. P. on “Service” provides: “Service of pleadings and documents... of all family law actions, is set forth in Florida Rule of Judicial Administration 2.516, except that rule 2.516 also applies

omitted Petitioner’s *Answer and Affirmative Defenses* (BN.66) and then commented in a second “*Order Denying Recusal*” she has “**no intention**” of being a witness. (BN. 51) See Fla. R. Gen. Prac. & Jud. Admin. Rule 2.330(2)(e)(2)(D).

to service on the party **during the attorney's limited appearance** as provided in rule 12.040(f) .. **to include orders...**".

Rule 12.080(b), Fla. Fam. L. R. P. "Service and Preparation of Orders and Judgments" requires; "A copy of all orders or judgments involving family law matters, ... must be transmitted by the court or under its direction to all parties at the time of entry of the order or judgment."

Finally, order Judge Francis to honor a Subpoena, appear at any contempt hearings and to comply with **Canon 3B(2)** "*A Judge shall be faithful to the law and maintain professional competence in it.*" Striking her own Subpoena is bias and above the law. The Judge's "duty" to serve is elementary but unfortunately requires Mandamus.

And Prohibition is requested to curtail the non-stop bias against Ms. Bentrin which is negatively affecting her health. Again, Mandamus is necessary since Judge Francis declared she will continue her "service" procedure until the Appellate Court instructs her to change. (T. 12.6.21, pg. 4)

CONCLUSION

Each of Petitioner's *Motions for Disqualification* are legally sufficient and meet all requirements of § 38.10, Fla. Stat. and Fla. R. Gen. Prac. & Jud. Admin. 2.330. Based upon the facts and the law,

prohibition is the best remedy. Judge Francis' arbitrary rulings, *ex parte* rulings, no rulings and comments at the May 25, 2022 Hearing are evidence of bias, warranting Prohibition. The Judge's continuing biased actions, denying Constitutional rights such as a Jury Trial and due process, is a departure from the essential requirements of law, intensified *after* the Fourth District Court denied each of F/W's WRITS OF PROHIBITION and the latest denial in Case 4D21-3549 and *must be addressed*. The trial judge's refusal to simply mail copies of orders to a party and give Petitioner basic due process rights is gross abuse and continues as evidenced in F/W's Summary of 28 Orders.

Judge Francis stated on December 6, 2021 she requires this Court to tell her she's wrong. Thus, Mandamus is required to compel compliance with Fla. R. Gen. Prac. & Jud. Admin. 2.516 and to honor Petitioner's "clear legal" Constitutional rights. The Judge's striking a duly issued and a duly served witness "Subpoena" is an abuse of discretion and an abuse of power.

Florida Rules of General Practice & Judicial Administration directs all Judges to transmit Orders *when entered* to a Pro Se Party, here Ms. Bentrim, which is a "**clear legal duty**". Yet Judge Francis withholds service of Orders, intentionally and knowingly. Mandamus

is a necessary remedy, “an original proceeding to enforce a clear legal right to the performance of a clear legal duty.” De Groot @ 916, 1957, Id. *And after filing this case*, Judge Francis’ issued **another** Order on June 24, 2022 with defective service to Ms. Bentrin certifying “VIA E-SERVICE ONLY” which is **no service to Petitioner**. This *continuing* refusal to mail Orders is mind-boggling and bold, and not only bias but constitutes a gross departure from justice bordering on “an abuse of judicial power” and an “act of judicial tyranny perpetrated with disregard of procedural requirements”. Haines @ 528 (Fla. 1995). Judge Francis trampled three enumerated Chapter 61, Legislative ‘purposes’ and specifically she failed to “*safeguard meaningful family relationships*”. § 61.001(2)(a), Fla. Stat.

If Florida Law and Rules of Court are ignored by jurists appointed to enforce them, doesn’t that undermine the law and malign Florida judges? If members of a legal Institution fail to “faithfully” uphold the law, or require others to do so, doesn’t that sabotage our American legal foundation? The issuance of a Writ of Prohibition and Mandamus is respectfully requested. Thank you.

CERTIFICATE OF FONT

The Petition has been typed using 14-point Bookman Old.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing was furnished by mail per *Rule 2.516, Fla. R. Gen. Prac. & Jud. Admin.* to Honorable Renatha Francis, Palm Beach Circuit Court, West Palm Beach, Florida 33401 and Mr. Jeffrey Bentrin 15667 93rd Street, West Palm Beach, Florida 33412 and Ms. Angela Bentrin, 16783 82nd Road N., Loxahatchee, Florida 33470 on June 26, 2022.

Respectfully submitted:

/s/ Margherita Downey

By: _____

Margherita Downey, Esq.
Florida Bar No.: 104574

LAW OFFICE OF MARGHERITA DOWNEY LLC
Counsel for Petitioner Angela Bentrin

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