

IN THE SUPREME COURT OF THE STATE OF NEVADA

* * * * *

OLENA KARPENKO,

Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF CLARK,
AND THE HONORABLE DAWN
THRONE, DISTRICT COURT JUDGE,

Respondent,

and

ENRIQUE SCHAEERER; and DOES I
through X,

Real Party in Interest.

S.C. No.:

D.C. Case No.:

Electronically Filed
May 20 2022 04:20 p.m.
Elizabeth A. Brown
Clerk of Supreme Court
83997
D-21-628088-C

MOTION TO DISMISS WRIT PETITION

Appellant, Olena Karpenko, by and through her attorney of record, Marshal S. Willick, Esq., of the WILICK LAW GROUP, respectfully requests that this Court dismiss this matter as it has been resolved by way of a Stipulation and Order.

This *Motion* is based upon the Points and Authorities below, and is made in good faith and not to delay justice.

POINTS AND AUTHORITIES

I. STATEMENT OF FACTS

Petitioner, Olena Karpenko, filed her *Writ of Mandamus or Prohibition* on December 30, 2021. For judicial economy, the Statement of Facts from the Writ is incorporated here by reference. The Court directed the Real Party in Interest, Enrique Schaerer, to file an Answer to the Writ by no later than February 28, by way of an Order filed February 2, 2022.

On February 28, the Court issued an Order granting Enrique a continuance, making his Brief due by March 16. On March 1, Enrique had Racheal Mastel, Esq. substitute in as his Attorney of Record.

New counsel filed Enrique's *Motion to Divert Matter to Supreme Court Settlement Program and to Suspend Briefing* on March 9. That motion correctly recited that new counsel for Enrique discussed the matter with the undersigned, and we both agreed that the settlement conference may well resolve the case, and should be given an opportunity to attempt to do so. Because of the shortness of time and uncertainty that this Court would grant the requested diversion, he filed his *Answer* to the Writ Petition timely on March 16.

The motion for diversion was granted on March 28 and the subsequent settlement conference was held on April 20.

This substantive issue at the heart of the writ petition (actually getting paternity testing accomplished while Olena is restricted from travel in a war zone in Ukraine) was resolved at the April 20 settlement conference. A written *Stipulation and Order to Resolve Parent/Child Issues* was signed by all parties then filed on May 13.¹

This *Motion* follows.

II. ARGUMENT

Since counsel have agreed to the requested protocol for paternity testing to actually go forward, and since no further hearings are imminent at which consular access would be relevant, the writ is no longer necessary. We believe that the Court's intervention at this time is not required.

¹ See Stipulation and Order to Resolve Parent/Child Issues, entered in the District Court on May 13, 2022.

III. CONCLUSION

The Court should dismiss this matter as resolved due to the *Stipulation and Order to Resolve Parent/Child Issues* being entered with the District Court.

Dated May 20, 2022.

Respectfully submitted,
WILICK LAW GROUP

//s// Marshal S. Willick
Marshal S. Willick, Esq.

P:\wp19\KARPENKO,O\SCDRAFTS\00562524.WPD\jj

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of the WILICK LAW GROUP and that on this 20th day of May, 2022, a document entitled *Motion to Dismiss Writ Petition* was filed electronically with the Clerk of the Nevada Supreme Court, and therefore electronic service was made in accordance with the master service list as follows, to the attorneys listed below at the address, email address, and/or facsimile number indicated below:

Racheal H. Mastel, Esq.
Kainen Law Group
3303 Novat Street, Suite 200
Las Vegas, Nevada 89129
Attorneys for Real Party in Interest

//s// Justin K. Johnson

An Employee of WILICK LAW GROUP

1

1

1 **SAO**
2 RACHEAL H. MASTEL, ESQ.
3 Nevada Bar No. 11646
4 KAINEN LAW GROUP, PLLC
5 3303 Novat Street, Suite 200
6 Las Vegas, Nevada 89129-8714
7 PH: (702) 823-4900
8 FX: (702) 823-4488
9 Service@KainenLawGroup.com
10 Attorney for Plaintiff

11
12 EIGHTH JUDICIAL DISTRICT COURT - FAMILY DIVISION
13 COUNTY OF CLARK, STATE OF NEVADA
14

15 ENRIQUE SCHAEERER,
16
17 Plaintiff,

CASE NO. D-21-628088-D
DEPT. NO: U

18 vs.

Date of Hearing: n/a
Time of Hearing: n/a

19 OLENA KARPENKO,
20
21 Defendant.

22 **STIPULATION AND ORDER TO RESOLVE PARENT/CHILD ISSUES**

23 COME NOW, the Plaintiff, ENRIQUE SCHAEERER ("Enrique"), by and
24 through his attorneys, EDWARD L. KAINEN, ESQ., and RACHEAL H. MASTEL,
25 ESQ., of the KAINEN LAW GROUP, PLLC, and Defendant, OELNA KARPENKO
26 ("Olena"), by and through her attorney MARSHAL WILLICK, ESQ., of the WILLICK
27 LAW GROUP and hereby stipulate and agree as follows:

28 WHEREAS the parties are presently involved in paternity litigation in this
matter related to a minor child born during the parties' marriage.

WHEREAS Olena filed a *Writ* with the Nevada Supreme Court on
December 29, 2021.

WHEREAS on April 20, 2021, the parties stipulated to, and participated in,
mediation with a Supreme Court mediator to address the issues in this matter.

...

KAINEN LAW GROUP, PLLC
3303 Novat Street, Suite 200
Las Vegas, Nevada 89129
702.823.4900 • Fax 702.823.4488
www.KainenLawGroup.com





1 WHEREAS the parties have agreed to the following terms related to this
2 present matter.

3 Therefore,

4 IT IS HEREBY STIPULATED and AGREED that the parties have agreed
5 to the broad terms for paternity testing. The parties acknowledge that Enrique's counsel,
6 Racheal Mastel, Esq., has provided requested changes to the Stipulation prepared by
7 Olena's counsel, Marshal Willick, Esq. The changes were briefly discussed and it is
8 anticipated that a final draft of the Stipulation addressing the Paternity testing will be
9 circulated and signed within one week of the mediation date.

10 IT IS FURTHER STIPULATED and AGREED that Enrique will provide
11 to Olena the amount of \$500 per month for a period of three months (a total of \$1,500).
12 Said payment is not an admission by either party as to the paternity of the minor child,
13 nor is it meant to as evidence of an agreement to the presumptions set forth in the statute.
14 The payment is without prejudice to either party.

15 IT IS FURTHER STIPULATED and AGREED that should the paternity
16 testing prove that Enrique is the father of the minor child (including any potential retests
17 as set forth in the Stipulation addressing the testing), the parties agree they will engage
18 in private mediation to attempt in good faith to resolve custody provisions and child
19 support. The parties recognize that child custody jurisdiction resides in the Ukraine and
20 that any agreement the parties reach related to custody will be a private contract until it
21 is entered as an Order in that Court. If paternity is established with Enrique as the father,
22 the aforementioned \$1,500 payment will serve as a credit against any subsequent child
23 support award arrearage.

24 IT IS FURTHER STIPULATED and AGREED that Olena will dismiss her
25 *Writ* upon entry of this Stipulation and Order.

26 ...

27 ...

28 ...

1 IT IS FURTHER STIPULATED and AGREED that this Stipulation and
2 Order shall be submitted to the Court upon the signing and submission of the Outstanding
3 Hearing Order and the Stipulation related to Paternity Testing.

4
5 STIPULATED and AGREED to
6 this 13 day of May, 2022.

7 KAINEN LAW GROUP, PLLC

8
9 By: 
10 RACHEAL H. MASTEL, ESQ,
11 Nevada Bar No. 11646
12 3303 Novat Street, Suite 200
13 Las Vegas, Nevada 89129-8714
14 Attorney for Plaintiff

STIPULATED and AGREED to
this 12th day of May, 2022.

WILLICK LAW GROUP

By: 
MARSHAL S. WILLICK, ESQ.
Nevada Bar No. 2515
3591 E. Bonanza Rd., Suite 200
Las Vegas, Nevada 89110-2101
Attorney for Defendant

13 **ORDER**

14 Based upon the foregoing Stipulation of the parties, good cause appearing,
15 IT IS HEREBY ORDERED that the terms and conditions set forth in the
16 Stipulation and Order above, are hereby ratified, approved, and confirmed, as though
17 fully set forth herein.

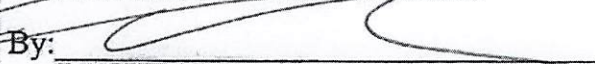
Dated this 13th day of May, 2022

18 DATED this ____ day of May, 2022

19
20 
21 03B 26A 1D68 EA57
22 Dawn R. Throne
23 District Court Judge

24 Respectfully submitted by:

25 KAINEN LAW GROUP, PLLC

26 By: 
27 RACHEAL H. MASTEL, ESQ., #11646
28 3303 Novat Street, Ste. 200
Las Vegas, Nevada 89129
Attorneys for Plaintiff

KAINEN LAW GROUP, PLLC
3303 Novat Street, Suite 200
Las Vegas, Nevada 89129
702.823.4900 • Fax 702.823.4488
www.KainenLawGroup.com



1 CSERV

2 DISTRICT COURT
3 CLARK COUNTY, NEVADA

4
5
6 Enrique Schaerer, Plaintiff

CASE NO: D-21-628088-D

7 vs.

DEPT. NO. Department U

8 Olena Karpenko, Defendant.
9

10 **AUTOMATED CERTIFICATE OF SERVICE**

11 This automated certificate of service was generated by the Eighth Judicial District
12 Court. The foregoing Stipulation and Order was served via the court's electronic eFile system
13 to all recipients registered for e-Service on the above entitled case as listed below:

14 Service Date: 5/13/2022

15 Racheal Mastel

racheal@kainenlawgroup.com

16 Service KLG

service@kainenlawgroup.com

17 Marshal Willick

marshal@willicklawgroup.com

18 Reception Reception

email@willicklawgroup.com

19 Victoria Javiel

victoria@willicklawgroup.com

20 Kolin Niday

kolin@kainenlawgroup.com
21
22
23
24
25
26
27
28