

**STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF MACOMB
FAMILY DIVISION**

EDWARD HANNAFORD,

Plaintiff,

Case No. **95-4609-DM**
Hon. Tracey Yokich

v.

CHRISTINE MORRISON,

Defendant.

**BRIEF IN SUPPORT OF EX PARTE MOTION TO DECLARE "SETTLEMENT
AGREEMENT" DATED AUGUST 19, 1997, AND ITS AMENDMENTS DATED
SEPTEMBER 2, 1997, AND SEPTEMBER 8, 1997, VOID AB INITIO FOR LACK OF
VALID CONSENT AND DUE PROCESS VIOLATIONS**

I. INTRODUCTION

Defendant, Christine Morrison, respectfully submits this Brief in Support of her Ex Parte Motion to declare the "Settlement Agreement" dated August 19, 1997, and its amendments dated September 2, 1997, and September 8, 1997, along with all subsequent enforcement orders, void ab initio under Michigan law and the United States Constitution for lack of valid consent and violations of Defendant's due process rights.

Although this Court had subject matter jurisdiction, it lacked the legal authority to enter a judgment based on documents that were never properly signed or consented to by Defendant.

The purported "Settlement Agreement" was never voluntarily executed by Defendant, and the Court's entry of judgment based on these documents violated Defendant's right to due process. As

such, Defendant respectfully requests that this Court declare the judgment, along with all subsequent enforcement actions, void from the outset.

II. STATEMENT OF FACTS

1. The purported "Settlement Agreement" dated August 19, 1997, and its amendments dated September 2, 1997, and September 8, 1997, were never signed by Defendant, Christine Morrison.
2. On March 8, 1999, a hearing was conducted before Judge Maceroni. Relevant excerpts from the transcript (attached as Exhibit A, p.14) include:
 - **COURT:** "Consent judgment of annulment, what is your issue regarding it?"
 - **CHRISTINE MORRISON:** "The validity of it. I never consented or signed that, and neither did my attorney."
 - **COURT:** "Your attorney did."
 - **CHRISTINE MORRISON:** "He said to form only, not content."
 - **COURT:** "Ms. Morrison, you are objecting to items that have been entered almost two years ago, and that's entitled to consent Judgment of Annulment."
 - **CHRISTINE MORRISON:** "Not without a signature."
 - **COURT:** "That was approved as to form only, and as far as Mr. Aiello was concerned and signed by Mr. Perakis, and if there was any problem with that, it should have been appealed a long time ago."

At the March 8, 1999, hearing Plaintiff was present and fully aware that Defendant, Christine Morrison, was challenging the validity of the purported Settlement Agreement.

Despite this knowledge, Plaintiff continued to proceed with enforcement actions based on documents that were never properly signed or consented to by Defendant.

3. On August 20, 2001, during proceedings related to an attorney malpractice trial, the attorneys stipulated on the record that neither party had signed the original Settlement Agreement or its amendments. Relevant excerpts (attached as Exhibit B, p. 39, 226) include:

- **GEYER:** "This was not a consent."
- **GEYER:** "Your Honor, for the purpose of speeding things up, I'll stipulate that the clients did not sign either amendment."
- **COURT:** "Okay."
- **HENRY:** "Or the original."
- **GEYER:** "Or the original."
- **HENRY:** "Thank you, I'll accept the stipulation, then."

This stipulation was uncontested and confirmed that Defendant did not give her consent to the terms of the Settlement Agreement.

4. Despite these facts, the Court continued to enforce the judgment based on the unsigned and unconsented Settlement Agreement.

5. Defendant never voluntarily or knowingly agreed to the terms of the Settlement Agreement or its amendments.

6. As a result, Defendant suffered legal consequences, including loss of parental rights and financial obligations without proper consent.

III. ARGUMENT

A. The Judgment is Void for Lack of Valid Consent and Due Process Violations

Under Michigan law, a judgment entered without valid consent is a nullity and has no legal effect. The Michigan Supreme Court has consistently held that a void judgment can be attacked at any time, regardless of the passage of time or enforcement efforts. Specifically:

- In *In re Ferranti*, 504 Mich. 1, 27 (2019), the Court confirmed that "a void judgment is a complete nullity and can be attacked at any time."
- Similarly, in *Lawrence M Clarke, Inc. v. Richco Construction, Inc.*, 489 Mich. 265 (2011), the Michigan Supreme Court stated, "void judgments have no legal effect and cannot be enforced."
- Further support for the notion that void judgments have no effect is found in *Abbott v. Howard*, 182 Mich. App. 243, 247 (1990), where the Court declared that "a void judgment is a complete nullity and without legal effect."

Relief is Proper Under MCR 2.612(C)(1)(d), which permits relief from a judgment that is void. Because the Settlement Agreement dated August 19, 1997, together with its amendments, and all related judgments based thereon, are void ab initio for lack of consent and violation of due process, this Court has a legal imperative to set them aside. A void judgment has no legal effect and cannot be-enforced.

B. The Court Has No Discretion But Must Set Aside the Judgment

Michigan courts have no discretion to enforce a void judgment. In *Ferranti* and *Lawrence*, the Michigan Supreme Court affirmed that judgments entered without valid consent or jurisdiction are void. This is a legal imperative, not a discretionary matter. The Court must vacate the judgment because no legal effect can be given to a void judgment.

The U.S. Supreme Court in *Tijerina* made clear that "a void judgment has no power and cannot be enforced" (407 F.2d at 1215). Therefore, the Court is obligated to set aside the judgment because it cannot legally exist.

C. Continued Enforcement Does Not Cure the Judgment's Void Status

As the Michigan Supreme Court stated in *Lawrence M Clarke, Inc. v. Richco Construction, Inc.*, 489 Mich. 265 (2011), "a void judgment cannot be validated by enforcement or time." This means that no matter how much time has passed or how the judgment has been enforced, the judgment remains void because it was entered without valid consent or due process. Additionally the U.S. Supreme Court in *Mullane* emphasized that "the violation of constitutional rights in the issuance of a judgment renders the judgment void, and enforcement does not alter this fact" (339 U.S. at 315). Thus, continued enforcement cannot cure the constitutional violations present in this case.

D. Laches and Estoppel Do Not Apply to Void Judgments

Neither laches nor estoppel can validate a void judgment. Michigan law is clear: "Laches cannot validate a void judgment" (*Jackson City Bank & Trust Co. v. Fredrick*, 271 Mich. 538, 544 (1935)). Similarly, *Lawrence v. McArthur*, 303 Mich. 745, 750 (1942), holds that estoppel cannot prevent the challenge of a void judgment. As the Court stated in *Jackson City Bank*, "The doctrine of laches is not applicable to a judgment that is void, for such a judgment has no legal effect." Because the judgment is void due to Defendant's lack of consent and violation of due process, neither laches nor estoppel can bar Defendant from seeking relief.

E. Transcript Excerpts Demonstrate No Consent

Excerpts from March 8, 1999, and August 20, 2001, transcripts demonstrate that Defendant did not consent to the Settlement Agreement. On March 8, 1999, Defendant explicitly stated: "I never consented or signed that, and neither did my attorney." Michigan law is clear that "consent as to form only does not bind a party to the content" (*Kloian v. Domino's Pizza LLC*, 273 Mich. App. 449, 452 (2006)).

The August 20, 2001, stipulation further confirms no signatures were provided by either party. The stipulation in 2001, uncontested at the time, confirmed that neither party had signed the original Settlement Agreement or its amendments, further demonstrating that Defendant's consent was never obtained. As established in *Kloian*, Michigan law dictates that without valid consent, the judgment cannot stand.

IV. CONCLUSION

It is a well-established principle under Michigan law that a judgment entered without valid consent, and in violation of due process, is void ab initio and cannot be enforced. As the Michigan Supreme Court has held in *In re Ferranti*, 504 Mich. 1, 27 (2019), and *Lawrence M Clarke, Inc. v. Richco Construction, Inc.*, 489 Mich. 265 (2011), a void judgment has no legal effect and may be attacked at any time. Similarly, the U.S. Supreme Court in *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306 (1950), reaffirmed that judgments entered without due process are void and cannot be validated through enforcement or the passage of time.

The Court has no discretion in this matter. The law is clear: a judgment that is void due to a lack of consent and due process violations must be set aside. A void judgment has no legal effect, and no subsequent action, regardless of time or enforcement attempts, can cure its inherent defects.

As such, Defendant respectfully requests that this Court declare the purported Settlement Agreement and its amendments void ab initio, vacate all judgments and orders based thereon, and permanently bar enforcement of any obligations arising from the void judgment.

V. RELIEF REQUESTED

Defendant respectfully requests this Honorable Court to:

1. Declare the "Settlement Agreement" dated August 19, 1997, and its amendments dated September 2, 1997, and September 8, 1997, void ab initio, due to lack of valid consent and violations of Defendant's constitutional due process rights;
2. Vacate and strike from the record all judgments, orders, and enforcement actions that rely upon or derive from the void Settlement Agreement and its amendments;
3. Permanently bar Plaintiff and any agency or entity from further enforcement of any orders, obligations, or collections, including but not limited to any future child support obligations or other enforcement actions that may arise from the void judgment or the Settlement Agreement and its amendments, whether through a new case, motion, or any other proceeding;
4. Defendant reserves the right to pursue restitution and other equitable relief following entry of an order declaring the underlying Settlement Agreement and amendments void;

5. No further action by the Court is necessary, and the Court shall have no jurisdiction over this matter once the order is entered.
6. Grant such further relief as the Court deems just and equitable.
7. Issue findings of fact and conclusion of law in a written order.

EXHIBIT A

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF MACOMB

EDWARD HANNAFORD,

Plaintiff,

Case No. 95-4609-DM

-vs-

CHRISTINE LYNN MORRISON,

Defendant.

COPY

PROCEEDINGS

BEFORE THE HONORABLE PETER J. MACERONI, (P-16922) JUDGE

Mount Clemens, Michigan - Monday, March 8, 1999

APPEARANCES:

For the Plaintiff(s): In Pro Per

For the Defendant(s): In Pro Per

REPORTED BY: Susan L. Hassig, CSR-0939
Official Court Reporter
(810) 469-5851

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PAGE

None

WITNESSES: DEFENDANT

None

EXHIBITS:

MARKED

RECEIVED

None

12
1 Mount Clemens, Michigan

2 March 8, 1999 - at 2:42 p.m.

3 - - -

13
4 THE CLERK: Hannaford versus Morrison.

5 THE COURT: You are Mr. Hannaford?

6 EDWARD HANNAFORD: Yes.

7 THE COURT: You are Miss Morrison?

8 CHRISTINE MORRISON: Christine

9 Morrison.

10 THE COURT: Miss Morrison. This is
11 your motion.

12 CHRISTINE MORRISON: Correct. It is a
13 motion to set aside and vacate the interim order of
14 the child support of July 20th of 1998. January 19th
15 I told this Court that I've been off on a disability.
16 There is a letter from a Dr. Miller on December 17th
17 of 1998, there is a letter January 26th of 1999, and
18 there is a disability certificate from 1-26 of '99.

19 THE COURT: Didn't we already hear
20 these motions?

21 EDWARD HANNAFORD: Yes.

22 THE COURT: Do you have the file,
23 Darla?

24 CHRISTINE MORRISON: On January 19th
25 it was a show cause and you were informed on that day

1 that I was off on a disability, but you said I had to
2 procedurally do you this correctly, so on February
3 8th this same motion was heard in front of Frank,
4 Referee Ckosasy who denied a modification for child
5 support. This was not for a modification, this was
6 to vacate and set aside the interim order. It should
7 be noted that my file and my motion was not in front
8 of him.

9 THE COURT: What do you mean it was
10 not in front of him?

11 CHRISTINE MORRISON: He did not have
12 my file.

13 THE COURT: Oh, the file.

14 CHRISTINE MORRISON: Or the motion.

15 THE COURT: All right.

16 CHRISTINE MORRISON: In front of him
17 and he was told that I had two doctors' letters and a
18 disability certificate and he denied it. I also told
19 him that they were taking out \$50 more per week in
20 arrearages, and also going back to the July 20th, '98
21 order, it was ordered that I pay a hundred dollars in
22 child care expenses.

23 Can you tell me how a hundred dollars
24 would be reasonable for nine hours of baby-sitting
25 per week? I would like you to refer to this document

15
1 give that to him?

2 THE COURT: Consent judgment of
3 annulment. What is your issue regarding the consent
4 judgment of annulment?

5 CHRISTINE MORRISON: The validity of
6 it. I never consented or signed that and neither did
7 my attorney.

8 THE COURT: Your attorney did.

9 CHRISTINE MORRISON: He said to form
10 only, not content.

11 THE COURT: Miss Morrison, you are
12 objecting to items that have been entered almost two
13 years ago. And that's entitled consent judgment of
14 annulment.

15 CHRISTINE MORRISON: Not without a
16 signature.

17 THE COURT: That was approved as to
18 form only, and as far as Mr. Aiello was concerned and
19 signed by Mr. Perakis, and if there was any problem
20 with that it should have been appealed a long time
21 ago.

22 CHRISTINE MORRISON: I never
23 consented. Can you tell me why on my docket sheet I
24 have asked for asset discovery more than thirty
25 times; it was granted but the orders were never

EXHIBIT B

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STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

CHRISTOPHER P. AIELLO, P.C., a
Professional Michigan Corporation,

Plaintiff/Counter-Defendant;

vs.

Case No. 00-020759-CK
Hon. Robert Templin

CHRISTINE LYNN MORRISON,

Defendant/Counter Plaintiff
and Third Party Plaintiff;

VS.

CHRISTOPHER P. AIELLO, Individually,

Third Party Defendant.

-----/

Proceedings had and testimony taken in
the above-entitled matter before HONORABLE ROBERT TEMPLIN,
Oakland County Circuit Court, at 1200 N. Telegraph, Pontiac,
on Monday, August 20, 2001.

APPEARANCES:

CHRISTOPHER P. AIELLO, P.C.
26393 Dequindre
Madison Heights, Michigan 48071
(By: Aaron D. Geyer, Esq.)

Appearing on behalf of Plaintiff/
Counter-Defendant
and Third Party Defendant Christopher P. Aiello

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DANIEL J. HENRY, JR.
DOUGLAS A. MCKINNEY
JOSEPH SLAVEN
34197 Doreka
Fraser, Michigan 48026
(By: Mr. Daniel J. Henry, Jr., Esq.)

Appearing on behalf of Defendant/Counter-Plaintiff
and Third Party Plaintiff Christine Morrison

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1 Q. About whether or not your client refused to sign
2 the consent judgment of annulment?

3 A. No.

4 Q. It doesn't refresh your memory?

5 A. No.

6 Q. Did you respond in writing to Mr. Perakis, that
7 that averment was not true?

8 A. Mr. McKinney, I don't know. If you have
9 something, will you show it to me? It's four
10 years ago. I'd be happy to tell you yes or no,
11 if you have it.

12 Q. And now I'm looking at this document here.

13 (Document handed to opposing
14 counsel.)

15 Do you recall whether or not Miss Morrison was in
16 court with you on August 19th of 1997?

17 A. I can't remember.

18 MR. MCKINNEY: This is again,
19 G, your Honor.

20 BY MR. MCKINNEY:

21 Q. Is this your signature on that document?

22 A. Yes.

23 Q. So you approved, as to form, that judgment?

24 A. I can't remember.

25 Q. You don't remember?

1 MR. GEYER: Actually, that's
2 a miscategorization, because on August the 19th
3 of 1997, the judgment was approved by Judge
4 Servitto, so that is not a proper question.

5 MR. McKINNEY: Well, it was
6 certainly entered on. What do you mean, it was
7 approved by her? She didn't sign it.

8 MR. GEYER: There was a
9 motion filed for entry of the order. According
10 to the docket sheet, the motion was granted.

11 MR. McKINNEY: Okay.

12 MR. GEYER: That's a
13 misstatement to the Court. This was not a
14 consent.

15 BY MR. McKINNEY:

16 Q. Then why did you sign it if that wasn't a
17 consent?

18 A. Whatever a judge says, you do. If the judge says
19 go sign it; sign it. If the judge says don't
20 sign it; don't sign it. You know that. I do
21 what the judge tells me to do.

22 Q. So you have a recollection the judge said you
23 must sign this?

24 A. I didn't say that, you did.

25 Q. Did you submit any objections to the proposed

1 judge's signature. It says it's a true copy. If
2 in fact it's a true copy, this one doesn't have
3 any signatures on it. I'm talking about your tab
4 number three, which is an Amended Consent
5 Judgment of Annulment dated September 2 of '97.

6 Q. I will show you from Exhibit G itself, what is
7 tab 3, the Judgment of September 2, 1997, and the
8 last page in particular. That has a stamp of the
9 Court?

10 A. Yes, it does.

11 Q. But no signatures of counsel?

12 A. Or of the parties.

13 Q. Yes. Let me have that book again, please.

14 And there is a subsequent amendment on September
15 8th?

16 A. Yes, it's --

17 MR. GEYER: Your Honor, for
18 the purpose of to speed things up, I'll stipulate
19 that the clients did not sign either amendment.

20 THE COURT: Okay.

21 MR. HENRY: Or the original.

22 MR. GEYER: Or the original.

23 MR. HENRY: Thank you, I'll
24 accept the stipulation, then.

25 THE WITNESS: I can't ask a

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C E R T I F I C A T E

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I do hereby certify that I have recorded stenographically the proceedings had and testimony taken in the above-entitled matter at the time and place hereinbefore set forth, and that the foregoing is a full, true and correct transcript of proceedings had in the above-entitled matter; and I do further certify that the foregoing transcript has been prepared by me or under my direction.

Tamara Fox

Tamara FOX
RPR, CSR-4281
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26600 Schoenherr Road
Warren, Michigan 48089
(586) 447-3800