

District Court, Adams County, State of Colorado 17 th Judicial District 1100 Judicial Center Drive BRIGHTON, COLORADO 80601-8873	▲ Court Use Only ▲
In rem: Marriage of Lawler Victoria Leslie Lawler - Petitioner v. Charles Harry Clements - Respondent	Case Number: <u>2003DR1773</u> Division B
propria persona Respondent pro se in forma pauperis: Charles Harry Clements 1741 Dallas Street Aurora, Colorado 80010-2018 303.364.0403 chascllements@comcast.net	
NOTICE OF INCOMPLETE DISCOVERY, MOTION FOR SANCTIONS AND ORDER	

Comes now, **Charles Harry Clements**, the Proper Person Respondent in forma pauperis pro se solely by doctrine of necessity, and MOVES the Honorable Court to SEE this forthwith NOTICE OF INCOMPLETE DISCOVERY, MOTION FOR SANCTIONS and ORDER, and to GRANT the MOTION and as grounds therefore, hereby states as follows:

Respondent made requests for Discovery of Petitioner in a timely and specific fashion and the Court ordered compliance by Petitioner.

- 1. **Petitioner has failed** to provide material information requested as of 19 April, 2005.
- 2. **Respondent submits** that Petitioner is intentionally prolonging litigation by making insupportable claims that fail when questioned, for a frivolous, vexatious and malicious purpose, and in aid of deliberate Fraud.

The Petitioner should be held to a high standard of Judicial scrutiny as her whole Petition depends on her assertion of some previously unknown and unpublished Common Law contract; solely for the purpose of its dissolution, and that dissolution solely for an assertion of some property interest, solely based on a matrimonial relationship. That recognition of Common Law Marriage is a statutory remedy in derogation of common law and it must be strictly construed

Marriage is favored over less formalized relationships. The state of Colorado has an interest in marriage, and marriage is favored over less formalized relationships which exist without the benefit of marriage. In re Newman v. Newman, 653 P.2d 728 (Colo. 1982)

Such assertions are always suspect for Fraud, as noted in this case from its inception. The failure of Petitioner to provide evidence for her assertions should compel the Honorable Court's rigorous scrutiny. The previous notations of Fraud submitted by Respondent, and unanswered by Petitioner, would tend to establish a pattern of professional conduct sufficient to engage the Honorable Court's closest attention.

Common-law marriage was seen as encouraging fraud and condoning vice, debasing conventional marriage, and as no longer necessary with increased access to clergy and justices of the peace. See, e.g., CAL. CIV. CODE § 4100 (West 1983); N.Y. DOM. REL. LAW § 11 (McKinney 1988 & Supp. 1992); Furth v. Furth, 133 S.W. 1037, 1038-39 (Ark. 1911); Owens v. Bentley, 14 A.2d 391, 393 (Del. Super. 1940); Milford v. Worcester, 7 Mass. 48 (1910); Ira M. Ellman et al., Family Law: Cases, Text, and Problems 21 (1986).

3, **Petitioner's simple denial** of having the relevant tax returns is improbable, considering that Miss Lawler had five (5) opportunities to move her belongings, including two (2) with a moving crew. She took her own records and left the balance of the files in total confusion, dumped out on the floor, trashed or missing entirely.

a. As the 'Breadwinner', as well as the Beneficiary of any 'tax refund' or 'earned income credit' for 'non-spousal child care expenses', Petitioner assumed the responsibility for the Records through the Tax Year 2002, the last year germane to the instant questions before the Court.

b. The actual tax returns, as contrasted with 'W-2's' as provided, would reflect her designation of Respondent as a 'non-spouse child care provider' for purposes of the Earned Income Credit.

c. Receipt of the IRS Refund checks paying that credit through Tax Year 2002 will also reflect that she cashed it unshared with anyone.

Affidavits and other evidence are subject to verification by personal investigation. Any intentional false statement, willful concealment of a material fact, or use of a writing or document knowing the same to contain a false, fictitious, or fraudulent statement or entry, is a violation of the law punishable by a fine of not more than \$10,000 or imprisonment of not more than 5 years, or both. (18 U.S.C. 1001)

4. **The Petitioner has failed** to make known to Respondent the names, addresses, periods of service and reasons for discontinuing child care, of the Child Care Providers for the minor child, Mason William Clements.

a. Petitioner's callous disregard for her children, as well as abuse issues, is a seminal issue. Petitioner's choices of care providers reflects her attitude and priorities as regards both her child's nurture and safety, and her desire to punish Respondent even at a cost to the well-being of the child.

b. This all in Petitioner's exercise of custody gained by improper ex parte communications and hearings as well as judgments issued ex parte concerning the modification of Permanent Trial Orders of 16 May, 2003 in Adams County Case Number 03C5606.

An ex parte order of court changing the custody of children was void because a parent cannot be deprived of the custody of his or her children without the notice required by due process of law. *Parker v. Parker*, 142 Colo. 416, 350 P.2d 1067 (1960)

An ex parte order changing custody of a child without notice to the custodial parent violates due process and is, therefore, void. *Ashlock v. District Court*, 717 P.2d 483 (Colo. 1986).

5. **Petitioner has failed** to provide any evidence whatsoever of Respondent's alleged participation in some 'Posse Comitatus' or any similar organization, contrary to the allegations made by both she and Petitioner's Counsel on numerous occasions to the Court.

These allegations have tainted the process from its inception and are entirely spurious, deliberately made to prejudice the Court, used to cite judicial bias and undue influence in the Phone Call from Petitioner's Counsel to Respondent's Counsel on 04 March, 2004

6. **Petitioner has failed** to provide proof of having paid Property Tax on the Clements' Family Home as alleged in Court.

Respondent stipulates that Petitioner has couriered monies to Brighton, as Respondent doesn't drive and has no vehicle.

7. **Incomplete Discovery** will make the Trial on Permanent Orders contemplated for 05 May, 2005 fail in Due Process requirements for Respondent's opportunity to present a cogent and specific response to Petitioner's assertions and claims.

8. **The sanctions available** in Rule 16.2 (i) and other than the Discovery non-compliance in Rule 11 (b) (1) (3) and (c) are available to the Honorable Court, and Respondent calls for their application to Petitioner under (B) and (2).

Plaintiff's pro se pleadings must be construed liberally and held to a less stringent standard than formal pleadings drafted by lawyers. *See Haines v. Kerner*, 404 U.S. 519, 520-21, 30 L. Ed. 2d 652, 92 S. Ct. 594 (1972). This means that if the court can reasonably read the pleadings to state a valid claim on which the plaintiff could prevail, it should do so despite the plaintiff's failure to cite proper legal theories or unfamiliarity with pleading requirements. *See Hall v. Bellmon*, 935 F.2d 1106, 1110 (10th Cir. 1991).

9. **Respondent respectfully notes** to the Honorable Court that the present Motion is in addition to the Motion for Sanctions filed on or about 18 November, 2004, and constitutes a pattern of such conduct by Petitioner.

Wherefore, the Proper Person Respondent, Charles Harry Clements, pro se prays that this forthwith MOTION FOR SANCTIONS and ORDER be immediately granted.

Respectfully submitted, this 19th Day of April, 2005

Charles Harry Clements Respondent pro se

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ORDER	

This matter comes before the Court on Defense's NOTICE OF INCOMPLETE DISCOVERY, MOTION FOR SANCTIONS and ORDER, **dated 19 April, 2005.**

The Court finds that it has jurisdiction and hereby orders _____.

SO ORDERED this _____ day of _____, 2005.

BY THE COURT:

 District Court Judge

Certificate of Service by United States Postal Service

I, Charles H. Clements, undersigned, do hereby certify that a true and correct copy of the foregoing, NOTICE OF INCOMPLETE DISCOVERY, MOTION FOR SANCTIONS and ORDER was personally deposited in the United States Postal Service on the 19th day of April, addressed to the following parties:

Clerk of the District Court
Division B
District Court, Adams County, State of Colorado 17th Judicial District
1100 Judicial Center Drive
BRIGHTON, COLORADO 80601-8873

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