

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
SOUTHERN DIVISION**

LUCAS ALZU,

Petitioner,

vs.

AMY NICHOLE HUFF

Respondent.

Case No.: 23-cv-03022-MDH

Hon. M. Douglas Harpool

VERIFIED ANSWER

Respondent Amy Nichole Huff hereby responds to Petitioner Lucas Alzu's Verified Petition for Return of Child under the Hague Convention on the Civil Aspects of International Child Abduction (the "Verified Petition") as follows:

1. Regarding the allegations in paragraph 1, Respondent admits that this proceeding was brought by Petitioner. Respondent avers that the Hague Convention is inapplicable to this proceeding.

2. Regarding the allegations in paragraph 2, Respondent admits that the Hague Convention on the Civil Aspects of International Child Abduction (the "Hague Convention") came into effect for the United States on July 1, 1988 and that the Hague Convention came into effect between the United States and Argentina on June 1, 1991. Respondent denies that Argentina is the child's habitual residence. Petitioner and Respondent did not reside in Argentina until a few months before the child was born and never planned to remain and raise the child there. Respondent avers that she was always the child's primary caregiver. Respondent further avers that

she never intended to remain in Argentina for an extended period of time. Those plans, however, became impossible due to the onset of the COVID-19 pandemic. The child was born on March 4, 2020; on March 20, 2020—16 days later—Argentina instituted nationwide travel restrictions, preventing the Parties from leaving the country. Respondent further avers that, contrary to the Parties' earlier plan to leave Argentina soon after the child was born, Petitioner refused to give her permission to return to be repatriated to the United States with the child. Respondent avers that she never intended to remain in Argentina and did not intend on raising the child there.

3. Regarding the allegations in paragraph 3, Respondent avers that they allege a legal conclusion, and respectfully refers the Court to the language of the Treaty for its terms and objects, including the grave risk exception that provides that the Court is not bound to order the return of the child where there is a grave risk that the child's return would expose the child to physical or psychological harm or otherwise place the child in an intolerable situation.

4. Respondent admits the allegations in paragraph 4.

5. Regarding the allegations in paragraph 5, Respondent avers that they allege a legal conclusion, and respectfully refers all matters of legal interpretation to the Court. Respondent further avers that the Hague Convention is inapplicable to this proceeding because Argentina is not the child's country of habitual residence.

6. Regarding paragraph 6, Respondent avers that it alleges a legal conclusion and respectfully refers all matters of legal interpretation to the Court.

7. Regarding paragraph 7, Respondent avers that it alleges a legal conclusion and respectfully refers all matters of legal interpretation to the Court.

8. Respondent admits the allegations in paragraph 8.

9. Regarding the allegations in paragraph 9, Respondent acknowledges that

Petitioner has filed something styled as an “Informational Brief,” which is incomplete and, therefore, inaccurate in significant respects.

10. Regarding paragraph 10, Respondent admits that Petitioner is the natural father of the child. Respondent avers that the other allegations are legal conclusions and respectfully refers all matters of legal interpretation to the Court.

11. Respondent admits the allegations in paragraph 11.

12. Respondent admits the allegations in paragraph 12.

13. Regarding paragraph 13, Respondent admits that she met Petitioner in 2018 and avers that the Parties met in Colombia. Respondent avers that she never traveled to Argentina until shortly before the child was born and that the Parties had always planned to leave the country shortly after the child was born. Respondent further avers that the Parties discussed this plan numerous times and that notwithstanding Petitioner’s apparent change of heart about remaining in Argentina, Respondent never intended for her and the child to remain in Argentina.

14. Respondent admits the allegations in paragraph 14.

15. Regarding the allegations in paragraph 15, Respondent admits that, due to the pandemic, the child lived in Argentina until December 2021. Respondent denies that the child was wrongfully retained in the United States.

16. Respondent admits the allegations in paragraph 16. Respondent avers that the Parties separated due to Petitioner’s frequent and severe domestic violence. Respondent avers that, in the presence of the child, Petitioner regularly subjected Respondent to physical and psychological violence, which manifested in verbal, emotional, physical, and sexual abuse. Respondent further avers that Petitioner psychologically and/or emotionally abused the child.

17. Respondent admits the allegations in paragraph 17.

18. Regarding paragraph 18, Respondent admits that she purchased tickets to fly to the United States with the child.

19. Regarding paragraph 19, Respondent admits the allegations.

20. Regarding paragraph 20, Respondent avers that it is a legal conclusion and respectfully refers all matters of legal interpretation to the Court. Respondent avers that she has always been the child's custodial parent and primary caretaker.

21. Regarding paragraph 21, Respondent avers that it is a legal conclusion and respectfully refers all matters of legal interpretation to the Court.

22. Regarding the allegations in paragraph 22, Respondent denies any wrongful removal or retention and avers that Argentina was not the child's habitual residence. Respondent avers that this paragraph alleges legal conclusions and respectfully refers all matters of legal interpretation to the Court.

23. Regarding the allegations in paragraph 23, Respondent admits that the child was born in Argentina. Respondent denies that Argentina is the child's country of habitual residence. Respondent denies that the child was wrongfully retained in the United States.

24. Regarding the allegations in paragraph 24, Respondent admits that Petitioner is the child's natural father. Respondent avers that the remainder of the allegations are legal conclusions and respectfully refers all matters of legal interpretation to the Court.

25. Respondent denies that the child was wrongfully retained in the United States.

26. Regarding the allegations in paragraph 26, Respondent denies that the child was wrongfully retained. Respondent lacks sufficient knowledge or information to form a belief as to what Petitioner knew. Respondent admits that she did not seek Petitioner's permission to remain

in the United States. Respondent avers that Petitioner consented to the child living in the United States for an extended period of time and later acquiesced to the child living in the United States.

27. Regarding paragraph 27, Respondent denies that Argentina is the child's habitual residence. Respondent avers that Petitioner consented and acquiesced to the child living in the United States for an extended period of time. Respondent avers that Petitioner voiced his consent to the child living in the United States for significant periods of time and later acquiesced to the child living in the United States, so long as the Petitioner had some visitation each year. Respondent further avers that, contrary to the earlier plan to leave Argentina after the child was born, Petitioner refused to give Respondent permission to return to be repatriated to the United States with the child. Respondent avers that the Parties had always planned to leave the country shortly after the child was born, that they discussed this plan multiple times, and that she never intended to remain in Argentina and raise the child there.

28. Regarding paragraph 28, Respondent lacks sufficient information or knowledge to form a belief as to the allegations.

29. Respondent denies the allegations in paragraph 29. Respondent avers that she received a letter from the United States' State Department on July 14, 2022.

30. Regarding paragraph 30, Respondent admits that she did not agree to the child's return to Argentina because the demand was unfounded and improper as a matter of law, as Argentina was not the child's country of habitual residence and the child faces a grave risk of harm there.

31. Regarding the paragraph 31, Respondent lacks sufficient information and knowledge to form a belief as to the allegations.

32. Regarding paragraph 32, Respondent denies that the child was wrongfully retained

in the United States. Respondent admits that Petitioner has not physically visited the child in person, but avers that Petitioner has seen the child through frequent video conversations facilitated by Respondent. Respondent denies that communication has been difficult, as Respondent continues to be willing to coordinate video conversations between Petitioner and the child, but Petitioner often fails to provide Respondent with any notice of when he might wish to speak to the child.

33. Respondent denies the allegations in paragraph 33.

34. Respondent admits that she currently lives with the child in Springfield, Missouri and denies the remaining allegations in paragraph 34.

35. Regarding paragraph 35, Respondent respectfully requests that all of Petitioner's requested remedies be denied.

36. Respondent respectfully requests that the Verified Petition be dismissed and denied in its entirety.

Affirmative Defenses

37. Respondent alleges the following separate affirmative defenses to the Verified Petition.

First Affirmative Defense **Grave Risk of Harm**

38. There is a grave risk that the child's return to Argentina would expose the child to physical or psychological harm or otherwise place the child in an intolerable situation.

39. Under the Hague Convention, "the requested State is not bound to order the return of the child if the person, institution or other body which opposes its return establishes that . . . there is a grave risk that his or her return would expose the child to physical or psychological harm or otherwise place the child in an intolerable situation." Hague Convention, art. 13(b).

40. Petitioner has a history of violence toward Respondent, including physical and verbal abuse. Petitioner has committed physical and verbal abuse against Respondent in the child's presence. In some of those instances, one of the Parties was holding the child during Petitioner's violence.

41. Petitioner also committed emotional and/or psychological abuse against the child.

42. Returning the child to Argentina would place the child at a grave risk of harm and into an intolerable situation. As such, the Verified Petition should be denied.

Second Affirmative Defense
Consent/Acquiescence

43. Petitioner consented to the child living in the United States and has acquiesced to the child remaining in the United States.

44. Under the Hague Convention, "the requested State is not bound to order the return of the child if the person, institution or other body which opposes its return establishes that . . . the person, institution or other body having the care of the person of the child . . . had consented to or subsequently acquiesced in the removal or retention." Hague Convention art. 13(a).

45. Prior to Respondent's trip to the United States, Petitioner had expressed agreement and consented to Respondent bringing the child to the United States for an extended period of time.

46. Upon information and belief, in conversations with Respondent after January 20, 2022, Petitioner conveyed acquiescence to the child remaining in the United States.

47. Petitioner consented to the child living in the United States for extended periods of time and acquiesced to the child living with Respondent in the United States. Therefore, the child should not be returned to Argentina.

Dated: February 28, 2023
Springfield, Missouri

Respectfully submitted,

/s/ Richard A. Rothman
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Pro Bono Attorneys for Respondent
Amy Nichole Huff

VERIFICATION

I, Amy Nichole Huff, solemnly declare and affirm, under penalties of perjury and the laws of the United States of America, that the contents of the foregoing Verified Answer are true to the best of my knowledge, information, and belief.

Affirmed this 28 day of February 2023

By: 
Amy Nichole Huff

CERTIFICATE OF SERVICE

I, Richard A. Rothman, an attorney at Weil, Gotshal & Manges LLP, hereby certify that Respondent's Verified Answer, dated February 28, 2023, was served on the below named individual via ECF this 28th day of February, 2023:

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