

Rev. Josephenie E. Robertson, M.T.T.  
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In Propria Persona

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SUSAN Y. SOONG  
CLERK, U.S. DISTRICT COURT  
NO. DIST. OF CA.

**In the United States District Court  
For the District of Northern California  
San Francisco Division**

Rev. Josephenie E. Robertson, M.T.T., individually, )  
and in her capacities as a member of the Traditional )  
Royal Authority and representative of the Miskitu )  
Indigenous Nation and non-American citizens; And, )  
all other Miskitu Indigenous peoples; )

Plaintiff(s), )

v. )

The Republic of Nicaragua, Daniel Ortega, Rosario )  
Murillo, Sandinista Party, Infinity Energy Resources, )  
Inc.; )

Defendants. }

Civil Case No. 3:17-cv-00852-JST

MOTION & AFFIDAVIT FOR SANCTIONS

**MOTION & AFFIDAVIT FOR SANCTIONS**

COMES NOW the Plaintiff Rev. Josephenie E. Robertson, M.T.T. motions this Court by and through its inherent power of discretion, for entry of Order of Sanctions against the Defendants pursuant to FRCP Rule 11 and 37 regarding unacceptable litigation behavior, ex parte communications, failure to disclose discovery, and conflict of interest by the defendants and the Indian Law Center in their attempt to prejudice our case before the

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Motion and Affidavit For Sanctions

Court. This motion is based upon, including but not limited to the attachments, supportive affidavits and the following information: To Wit:

The plaintiffs have been presented information that suggests there is a conflict of interest with respect to the Defendants and the Indian Law Center located in Washington D.C. that suggests a potential of *simultaneous representation* with the defendants who appointed a Mr. Armstrong A. Wiggins and this lawyers comments that he controls this case.

***Even if what Mr. Armstrong suggests is based upon false premises***, this lawyer should not be afforded the right to any secret jointer or amicus curiae submission as his appointment comes from Defendant Daniel Ortega resulting in a conflict of interest between the Miskitu peoples and the representatives of the Nicaraguan government which is also in direct violation with international treaties that pertain to the Miskitu people's traditional authorities and their rights.

Through his conversations with the plaintiffs, the manipulation of Mr. Wiggins which was facilitated and continually strengthened by his position within the Nicaraguan government and Indian Law Center was a proximate cause of the plaintiffs not securing counsel. Further because the defendants was a proximate cause of the deprivations, is eminently familiar with its own programs to defraud the plaintiffs and Miskitu peoples of unbiased representation, therefore, the defendants should have reasonably foreseen that this transference phenomenon would sooner or later or could develop around its leaders, Daniel Ortega who places those handpicked and selected from his Sandinista Party in order to obstruct and deny the indigenous peoples of the right to the effective assistance of counsel.<sup>1</sup>

To satisfy the requirement of full disclosure by a lawyer before undertaking to represent two potentially conflicting interests, it is not sufficient to simply inform both parties of the fact that the lawyer is representing both of them. The lawyer must explain to them the

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<sup>1</sup> ABA Model Rule of Professional Conduct 1.7. Rule 1.7(b) provides: A lawyer shall not represent a client if the representation of that client may be materially limited by the lawyer's responsibilities to another client or to a third person, or by the lawyer's own interests ..."

nature of the conflict of interest in such detail so that each side can understand the reasons why it may be desirable for each to have an independent counsel, with undivided loyalty to the interest of each of them.”<sup>2</sup> In order to satisfy the informed consent requirement, attorneys should communicate to the relevant parties (1) the conflicts of interest that may arise between employer and employee during the course of representation; (2) the ethical standards that may prohibit a lawyer from representing a client when that representation conflicts with the lawyer’s responsibilities to another client; (3) the possibility of restricting their respective claims if they were to agree not to take conflicting positions; (4) the possible added cost and disruption if it were necessary for either or both to retain new counsel later; (5) that if in the future, counsel believes representation of both employee and employer would result in adverse impact upon either party, counsel may withdraw from representing the employee and continue to represent the employer; and (6) that although communication of confidential information between an attorney and a client is ordinarily protected by the attorney-client privilege, because the employer and employee are jointly represented, counsel may disclose to an employer any information that employee gives counsel to employer.<sup>3</sup>

A lawyer, a Mr. Armstrong A. Wiggins, from the Indian Law Center has suggested that there has been some kind of ex parte communication between himself and the Court, in order to provide a tactical advantage on behalf of the defendants. However, the court has not made any prompt provision to notify all of the parties of this contact with Mr. Armstrong A. Wiggins, leading to some very serious questions, as to the veracity of, and if indeed what Mr. Wiggins has stated is truthful. The Plaintiffs however, perceive this Court as unbiased and fair, therefore we question the veracity of the statements being made by Mr. Wiggins suggesting that somehow he has both input and power to control this case regarding the Miskitu peoples. It is quite noteworthy indeed, that this lawyer, as if lost in

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<sup>2</sup> Unified Sewerage Agency, Etc. v. Jelco, Inc., 646 F.2d 1339, 1345-46 (9th Cir. 1981) (quoting In re Boivin, 533 P.2d 171, 174 (Or. 1975)); City Consumer Serv. v. Horne, 571 F. Supp. 965, 971 (D. Utah 1983) (quoting same).

<sup>3</sup> © 2002 American Bar Association <http://www.bnabooks.com/ababna/ethics/2002/savage.doc> 4 - Judith Harris, Ethical Issues Arising in Labor and Employment Law, SF76 ALI-ABA 297 (2001).

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history is unaware of the royal Miskitu lineage, or for that matter the Reverend Josephenie E. Robertson, M.T.T. who is identified by numerous Miskitu commanders as well as Sandinista appointed Miskitu representatives who have referenced her royalty as shown by previous exhibits before this Court.

In addition, Mr. Wiggins indicates that he was appointed to his position to represent the Miskitu peoples, by one of the defendants, Daniel Ortega, suggesting to the plaintiffs that this kind of simultaneous representation does not bear the fruits of a conflict of interest between the parties.

Nor has counsel for the defendants in compliance with FRCP Rule 37 failed to provide discovery nor notified the plaintiffs and court of having this associate who is "riding the fence" for parties on both sides of the complaint now before the Court.

#### **SUPPORTIVE AFFIDAVIT**

I am the plaintiff in this matter. Recently, I was notified via electronic communications as well as an audio recording from Jose Miguel Coleman Hendy, a member of the Miskitu traditional authority and of the Miskitu Royal family regarding communications that he was having with a Mr. Armstrong A. Wiggins, who is a Daniel Ortega appointee to the Indian Law Center in Washington D.C.; I am furnishing both the audio recording along with the "written" Spanish version as supportive exhibits to my motion for sanctions against the defendants and Indian Law Center. I am including this Google Translate for Business: Translator Toolkit Website Translator version for English. To Wit:

#### **CONVERSATION OF MIGUEL COLEMAN HENDY WITH AMSTRONG WIGGINS 8-15-2017**<sup>4</sup>

**MIGUEL COLEMAN:** *Hello, Hello Mr. Wiggins Hello Hello. I'm calling you from Bilwi Puerto Cabezas. My name is Jose Miguel Coleman Hendy. I want to talk to you regarding some problems that we are living. I am lucky to be in contact with you.*

**ARMSTRONG WIGGINS:** *Why are you calling me? What do you want?*

**MIGUEL COLEMAN:** *I work for our rights as Miskitu and I want to know what you are doing as our representative over there for the Miskitu. I want to know your opinion. I saw you once here*

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<sup>4</sup> **Attachment 1** (Spanish written transcript of the conversation) and **Attachment 2** the CD/DVD of the actual conversation will provide both the tone and décor of the conversation.

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in Bilwi in the office of Lottie Cunningham. We made a proposition to you to form an organization but we never saw or heard from you again. Now we are actively working for our rights.

**ARMSTRONG WIGGINS:** Where are you from?

**MIGUEL COLEMAN:** I was born in Asan Rio Coco but my grandfather is from Koom Rio Coco.

**ARMSTRONG WIGGINS:** Now I understand, in Asan Rio Coco. I know Rio Arriba very well.

**MIGUEL COLEMAN:** My grandfather is from Asan Rio Coco. My grandfather is Velazco Hendy he was born in Koom.

**ARMSTRONG WIGGINS:** Okay. It's fine. I am very familiar from Raity to Cabo Gracias Adios.

Good. Talk now.

**MIGUEL COLEMAN:** Like I was telling you, I have been working many years for our rights.

**ARMSTRONG WIGGINS:** Where? And with Whom do you work?

**MIGUEL COLEMAN:** I work with Rev. Josephenie Robertson. She lives and works in California. She works for our rights. We sent her from Bilwi documents, photos, videos, and interviews and sent her all the work we do. We also sent her info regarding what the invaders (colonists) Colonos Mestizos do with our land and our people. Now they are killing our people, burning our homes, raping our women and children, and the Miskitu people are fleeing to Honduras. Three days ago en Río Arriba the Colonos Mestizo persecuted our people with weapons of fire forcing them to Honduras. We don't have weapons but they do. This is the reason we are fighting for our rights with diplomacy. We are demanding that the Government of Daniel Ortega to stop his atrocities, but he does not. We are looking for support from the Civil and Military authorities of our regions but until now we have none. We don't fight with weapons because we fought with weapons in the 80's and 90's.. but they say that without orders from Managua and the Superiors will not act. But the Colonos Mestizos they continue to rape women, burn homes.... We have been working with Monica the daughter of Rev. Josephenie over a lawsuit. I want from you as a leader you say you are, how much you support do we have from you in this lawsuit? Until now I've wanted to see how I can speak with Mirna Cunningham and what she can help us because you both are our representative for the Miskitu Nation in front of the United Nation and other institutions in the United States. We are seeking help from you and wanting your opinion.

**ARMSTRONG WIGGINS:** Who is Josephenie?

**MIGUEL COLEMAN:** Josephenie is a descendent of Rio Prinzapolka. She declared independence in nineteen fifty... 1960 in Bilwi. She revealed herself against the Somoza government. The Somoza guards put her in jail and sent her to Managua and then deported her to Guatemala. In Guatemala she met her American husband. They married and she



*moved to California. In the U.S. she proclaimed our independence to the United Nations and until now she's been fighting for our liberty.*

**ARMSTRONG WIGGINS:** *Why haven't I heard her name before? Until now I hear her name and I don't recognize it.*

**MIGUEL COLEMAN:** *I don't know why you haven't heard the name of Rev. Josephenie.*

**ARMSTRONG WIGGINS:** *I work with the organizations ALPROMISU and have never her name mentioned. That's why I asked where she is from?*

**MIGUEL COLEMAN:** YES. YES. YES.

**ARMSTRONG WIGGINS:** *There's a lot that you should know and especially with the problems with the laws. We have to be clear with our people. If not there could be problems for you all, because this country is very strict with its laws. What they are doing is not under any law and its unlawful. What I have seen and read, it's not correct and no lawyer is going to lend his services and if they do. They will be very expensive. The judge will make a fool of you all.. The judges are going to say that this is politics and they are going to tell you to find a lawyer with U.S law... If a lawyer does work, they will take your money and do nothing, and if they don't work legally they will take their license. You understand this is not Nicaragua. Am I clear? It is wrong.*

**MIGUEL COLEMAN:** *I understand*

**ARMSTRONG WIGGINS:** *I will be clear with you since you're calling me from BILWI and I respect you. But I don't know them. That's why we will not help them. In this offices in Washington D.C. They will charge you 100 thousand or 50 thousand dollars and they will not win your case. They'll take your money. The lawyers are scared to lose their license. This lawsuit is not clear. The words are not clear. Not to long ago the Governor of Bluefield sent one of his Creole representatives to San Francisco and he said he was the Ambassador of Bluefields. The government of Nicaragua had him investigated through the State Department. Because there is only one government in Nicaragua. He was driving with his mom and they detained him. You know that the Ambassador they have is in the United States and is in front of the White House. Do you know who the FBI is?*

**MIGUEL COLEMAN:** Yes, they are from American Intelligence.

In further support of my motion for sanctions, I am also providing the affidavit of Gary Mitchell<sup>5</sup> who has memorialized his conversation with Mr. Armstrong A. Wiggins from the Indian Law Center. **Mr. Armstrong was being deceptive about not knowing who I am.** I have also attached an email I received from one of Mr. Armstrong's associates, a Ms. Naomi Roht-Arriaza.<sup>6</sup>

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<sup>5</sup> Attachment 3 – Affidavit of Gary Mitchell.

<sup>6</sup> Attachment 4 – Email from Naomi Roht-Arriaza

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These communications have led me to believe that the alleged "intrusions" by the Indian Law Center may have very well have transpired and have resulted in ex parte communications, biased my ability to seek representation, as well as biased my case with a "chilling effect" in general that requires sanctions and/or protective orders against the defendants and the Indian Law Center.

**Further Affiant Sayeth Not.**

Should no Notary Public be available, this statement is sworn pursuant to 28 U.S. Code § 1746(2), Whereas, I, the Reverend Josephenie E. Robertson, M.T.T., declares under penalty of perjury that the foregoing is true and faithfully correct.

Executed on this \_\_\_\_ day, in the month of September, 2017.

  
REV. JOSEPHENIE E. ROBERTSON, M.T.T. - AFFIANT

SWORN TO AND SUBSCRIBE before me by REV. JOSEPHENIE E. ROBERTSON, M.T.T., as sworn to, this \_\_\_\_ day of September 2017.

\_\_\_\_\_  
NOTARY PUBLIC in and for the State of  
California. Commission expires on.  
\_\_\_\_\_.

**SEE ATTACHED**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California  
County of Contra Costa

Subscribed and sworn to (or affirmed) before me on this 5<sup>th</sup>  
day of September, 2017, by Josephine E E W  
DE ROBERTSON,  
proved to me on the basis of satisfactory evidence to be the  
person(s) who appeared before me.



(Seal)

Signature BOR



Certification of Service

I, the Rev. Josephenie E. Robertson, M.T.T., and/or Ercell Fleurima, are the co-Plaintiffs in the above entitled case. I am over the age of 18. On the date listed below, I mailed a true copy of this document, "Motion and Affidavit for Sanctions" to the United States District Court, Office of the Filing Clerk of the Court, at the address of 450 Golden Gate Avenue, San Francisco, CA 94102-3489 and true copies were mailed to the Defendants counselors/parties in this case, as seen to, this 5<sup>th</sup> day of September 2017, at their respective places of practice and addresses noted below:


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Date: 5<sup>th</sup> of September 2017



Signature - Certifier

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