

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

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**In The Matter of C.G.**

**EMERIC GERVAL,**

**Plaintiff,**

**v.**

**Case No.:17cv-12179  
Honorable Susan D. Wigenton**

**DEFENDANT’S ANSWER TO  
PLAINTIFF’S AMENDED VERIFIED  
COMPLAINT AND AFFIRMATIVE  
DEFENSES**

**NIURKA GONZALEZ**

**Defendant.**

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NIURKA GONZALEZ (“Defendant”) through her undersigned counsel of record, responds to the Verified Complaint, by way of the within Answer and Affirmative Defenses:

1. Defendant denies the allegations contained in Paragraph 1 of the Verified Complaint.
2. Paragraph 2 of the Verified Complaint includes statements of law which defendant need not answer and which are respectfully referred to the court for determination. If any allegations are deemed directed at defendant, they are denied.
3. Paragraph 3 of the Verified Complaint includes statements of law which defendant need not answer and which are respectfully referred to the court for determination. If any allegations are deemed directed at defendant, they are denied.

4. The allegations contained in Paragraph 4 of the Verified Complaint are not directed at defendant and thus no response is required. If any allegations are deemed directed at defendant, they are denied.
5. Paragraph 5 of the Verified Complaint includes statements of law which defendant need not answer and which are respectfully referred to the court for determination. If any allegations are deemed directed at defendant, they are denied.
6. Paragraph 2 of the Verified Complaint includes statements of law which defendant need not answer and which are respectfully referred to the court for determination. The allegations contained in Paragraph 6 of the Verified Complaint regarding the wrongful retention are denied.
7. Defendant admits the allegations contained in Paragraph 7 of the Verified Complaint.
8. Defendant admits the allegations contained in Paragraph 8 of the Verified Complaint.
9. Defendant denies the allegations contained in Paragraph 9 of the Verified Complaint.
10. Defendant denies the allegations contained in Paragraph 10 of the Verified Complaint.
11. Defendant denies the allegations contained in Paragraph 11 of the Verified Complaint.
12. Defendant admits the allegations contained in Paragraph 12 of the Verified Complaint.
13. Defendant denies the allegations contained in Paragraph 13 of the Verified Complaint.
14. Paragraph 14 of the Verified Complaint includes statements of law which defendant need not answer and which are respectfully referred to the court for determination. If any allegations are deemed directed at defendant, they are denied.
15. Defendant denies the allegations contained in Paragraph 15 of the Verified Complaint.
16. Defendant denies the allegations contained in Paragraph 16 inasmuch as it alleges a wrongful retention took place. Paragraph 16 of the Verified Complaint also includes

statements of law which defendant need not answer and which are respectfully referred to the court for determination.

17. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 17 of the Verified Complaint, and therefore these allegations are denied and defendant leaves plaintiff to his proofs.
18. Defendant denies the allegations contained in Paragraph 18 of the Verified Complaint.
19. Defendant admits the allegations contained in Paragraph 19 of the Verified Complaint.
20. Defendant denies the allegations contained in Paragraph 20 of the Verified Complaint.
21. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 21 of the Verified Complaint, and therefore these allegations are denied and defendant leaves plaintiff to his proofs.
22. Paragraph 22 of the Verified Complaint includes statements of law which defendant need not answer and which are respectfully referred to the court for determination. If any allegations are deemed directed at defendant, they are denied.
23. Paragraph 23 of the Verified Complaint includes statements of law which defendant need not answer and which are respectfully referred to the court for determination. If any allegations are deemed directed at defendant, they are denied.
24. Defendant denies the allegations contained in Paragraph 24 of the Verified Complaint.
25. Paragraph 25 of the Verified Complaint includes statements of law which defendant need not answer and which are respectfully referred to the court for determination. Any allegations directed at defendant are denied.
26. Defendant denies the allegations contained in Paragraph 26 of the Verified Complaint.
27. Defendant admits the allegations contained in Paragraph 27 of the Verified Complaint.

28. Defendant admits the allegations contained in Paragraph 27 of the Verified Complaint insomuch as it refers to the child's age. Defendant denies the remaining allegations contained in Paragraph 27 of the Verified Complaint.
29. The allegations contained in Paragraph 29 of the Verified Complaint are not directed at defendant and thus no response is required. If any allegations are deemed directed at defendant, they are denied.
30. The allegations contained in Paragraph 30 of the Verified Complaint are not directed at defendant and thus no response is required. If any allegations are deemed directed at defendant, they are denied.
31. Paragraph 31 of the Verified Complaint includes statements of law which defendant need not answer and which are respectfully referred to the court for determination. If any allegations are deemed directed at defendant, they are denied.
32. Defendant denies the allegations contained in Paragraph 32 of the Verified Complaint.
33. Defendant denies the allegations contained in Paragraph 33 of the Verified Complaint.
34. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 34 of the Verified Complaint, and therefore these allegations are denied and defendant leaves plaintiff to his proofs.
35. The allegations contained in Paragraph 35 of the Verified Complaint are not directed at defendant and thus no response is required. If any allegations are deemed directed at defendant, they are denied.
36. The allegations contained in Paragraph 36 of the Verified Complaint are not directed at defendant and thus no response is required. If any allegations are deemed directed at defendant, they are denied.

37. The allegations contained in Paragraph 37 of the Verified Complaint are not directed at defendant and thus no response is required. If any allegations are deemed directed at defendant, they are denied.

### **AFFIRMATIVE DEFENSES**

1. Plaintiff's Verified Complaint fails to state a claim upon which relief can be granted.
2. Plaintiff's Verified Complaint is barred by the doctrines of unclean hands, estoppel, and waiver.
3. Plaintiff consented and/or acquiesced to C.G. remaining in United States.
4. C.G. is well settled in her new environment pursuant to Article 12 of The Convention on the Civil Aspects of International Child Abduction ("The Hague Convention").
5. Plaintiff failed to exercise any custody right over C.G.
6. There is grave risk of physical or psychological harm if C.G. is returned to France.
7. Defendant reserves the right to amend their affirmative defenses as discovery continues.

### **CERTIFICATION**

The undersigned certifies, under Local Civil Rule 11.2, based on information known to me to date, that the above-captioned matter in controversy is not the subject of any other action pending in any court, or of any pending arbitration or administrative proceeding. The

undersigned further certifies that the within pleading was filed within the time prescribed by the Federal Rules of Civil Procedure.

Dated: March 7, 2018

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Kristy Lipari /s/  
Kristy Lipari (KL3196)  
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