IN THE CIRCUIT COURT OF THE EIGHTEENTH JUDICIAL CIRCUIT DUPAGE COUNTY, ILLINOIS

IN RE:	PARENTA	GE OF)			OVE TO STATE OF THE PARTY OF TH
MICHELLE WATTS,)			Chris Kachiroubas e-filed in the 18th Judicial Circuit Court ********** DuPage County ******** TRANS#: 4003534
		Petitioner,)			2009F000143 FILEDATE: 03/28/2017 Date Submitted: 03/28/2017 11:25 AM
	and))	No.	09 F 143	Date Accepted: 03/28/2017 11:25 AM BRENDAN CRAVEN
MICHAEL (GANTINE		<u>)</u>			**************
		Respondent.	Ś			

MOTION TO STRIKE PETITION FOR RULE TO SHOW CAUSE

Respondent and Movant MICHAEL GANTINE ("MICHAEL"), by and through his attorney, DANIEL J. MORIARTY, P.C., moves to strike and dismiss Petitioner MICHELLE WATTS's ("MICHELLE") Petition to Rule To Show Cause filed on or about March 7, 2017 pursuant to Sections 2-615, 2-619, and 2-619.1 of the Illinois Code of Civil Procedure, 735 I.L.C.S. Act 5, §2-615, 2-619, 2-619.1 and in support thereof he states as follows:

- 1. Section 2-615 of the Illinois Code of Civil Procedure, 735 I.L.C.S. Act 5, §2-615, provides in relevant part as follows:
 - (b) If a pleading or a division thereof is objected to by a motion to dismiss or for judgment or to strike out the pleading, because it is substantially insufficient in law, the motion must specify wherein the pleading or division thereof is insufficient.
- Moreover, Section 2-619 of the Illinois Code of Civil Procedure, 735 I.L.C.S. Act 5, §2-619, provides in relevant part as follows:

Involuntary dismissal based upon certain defects or defenses. (a) Defendant may, within the time for pleading, file a motion for dismissal of the action or for other appropriate relief upon any of the following grounds. If the grounds do not appear on the face of the pleading attacked the motion shall be supported by affidavit: ***

- (9) That the claim asserted against defendant is barred by other affirmative matter avoiding the legal effect of or defeating the claim.
- Further, Section 2-619.1 of the Illinois Code of Civil Procedure, 735 I.L.C.S. Act 5, §2-619.1, provides in relevant part as follows;

- Sec. 2 619.1. Combined motions. Motions with respect to pleadings under Section 2 615, motions for involuntary dismissal or other relief under Section 2 619, and motions for summary judgment under Section 2 1005 may be filed together as a single motion in any combination. A combined motion, however, shall be in parts.
- 4. On or about March 7, 2017 MICHELLE filed a Petition for Rule to Show Cause against MICHAEL. In her motion, MICHELLE argues that MICHAEL failed to cooperate with Dr. Mark Goldstein and the reunification process per the Court's April 20, 2016 order.
- 5. By this motion, MICHAEL asserts that MICHELLE's motion should be stricken and dismissed because: a) the April 20, 2016 order which MICHELLE ostensibly seeks enforcement is superseded and thus mooted by the Court's award to MICHAEL of Parental Responsibility and Custody by order February 29, 2016, b) per the attached Affidavit of Dr. Goldstein (incorporated herein as Exhibit "A"), MICHAEL was consistently cooperative with Dr. Goldstein as opposed to MICHELLE who subverted the entire reunification process.
- 6. MICHAEL notes that the Guardian Ad Litem initially suggested that Dr. Robert Shapiro shepherd the reunification outlined by the Court's April 20, 2016 order but the parties subsequently agreed at MICHELLE's counsel's suggestion to utilize Dr. Mark Goldstein. As noted in his Affidavit, Goldstein was confronted with the problem that MICHELLE had misrepresented the nature of MICHAEL's paternity to J.C. which Goldstein was rightfully sensitive toward. Goldstein had set an appointment with MICHELLE and J.S. intended to reveal to J.S. that MICHAEL was his Father at which point MICHELLE fled the jurisdiction to avoid the entire reunification process. Goldstein's assertions per his Affidavit clearly defeat the conclusory allegations of non-compliance hypocritically advanced by MICHELLE who in end sabotaged the reunification process that had been previously established.
- 7. Irrespective of Goldstein's declaration that MICHAEL was compliant with the reunification process, Illinois law is clear any temporary custody order is superseded by a final judgment. *In re Marriage of Kostusik*, 361 Ill.App.3d 103, 836 N.E.2d 147 (1st Dist. 2005). Here, the temporary order of April 20, 2015 was superseded by the Court's award to MICHAEL of Parental Responsibilities in February of 2016. It is thus no longer actionable and cannot be enforced by MICHELLE.

WHEREFORE, based upon the foregoing, MICHAEL GANTINE, Respondent/Movant herein, respectfully prays as follows:

- A. That the instant Motion to Strike and Dismiss be granted for the reasons advanced supra;
 - B. For such other relief as in equity may be just.

MICHAEL GANTINE

Daniel 2. Moriarty
By: One of His Attorneys

Daniel J. Moriarty Attorney for Respondent 111 E. Jefferson Naperville, IL 60540 630-215-3651

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	Pe	titioner,)		
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MICHAEL	GANTINE		{		
	Re	spondent.)		

AFFIDAVIT OF DR. MARK GOLDSTEIN

DR. MARK GOLDSTEIN, on oath deposes and states as follows:

- 1. That Affiant is a licensed psychologist in practice for in excess of forty (40) years.
- That Affiant served by agreement the above parties to oversee the reunification of Respondent and the parties minor child; J.G. per order of the Circuit Court of DuPage County.
- 3. That the Respondent MICHAEL GANTINE complied with my requests of him incident to the reunification process. I spoke with Mr. Gantine several times on the phone and he was willing to fly to Chicago to begin the reunification process with his son. I indicated to him that I first needed to meet with his son several times to prepare the child. I met with MICHELLE WATTS to gain an understanding of the history and she provided me with written materials as well. Subsequently, I met with the minor child, who was unaware that Mr. Gantine was his father; he thought that another man with whom his mother had lived for a period of time was his father. The child and his mother were to have a joint session with me, in order to share that the minor child's father was Mr. Gantine, but Ms. Watts and the child did not appear for the appointment, nor cancel the appointment. Furthermore, the child's mother did not respond to my

messages through text. Later, Mr. Gantine informed me that his son and his son's mother had eloped and were not to be found. More recently, Mr. Gantine called to inform me that his son had been found and was in his custody.

Respectfully submitted,

DR. MARK GOLDSTEIN

SUBSCRIBED and SWORN to before me this 24 day of March, 2017

OTARY PUBLIC

OFFICIAL SEAL JESSIE N HOLTZ Notary Public - State of Illinois

My Commission Expires Mar 19, 2019