

**JUDGE DANIELS**

At \_\_\_\_\_, of the United States District Court, Southern District of New York, County of New York, State of New York, held at the United States Courthouse located at 500 Pearl Street, Room \_\_\_\_\_ at 9:30 a.m. on the \_\_\_\_ day of May, 2004

P R E S E N T:

HONORABLE: \_\_\_\_\_

DISTRICT COURT JUDGE

**04 CV 04090**

-----X  
BRIDGET MARKS, individually and on behalf of her infant children AMBER LYNN AYLSWORTH and SCARLET LEE AYLSWORTH, and all those similarly situated,

Plaintiffs,

- against -

JOHN AYLSWORTH, STATE OF NEW YORK, ELLIOTT SPITZER as the Attorney General of the State of New York, NEW YORK STATE UNIFIED COURT SYSTEM, LAWYERS FOR CHILDREN, Inc., as the appointed Law Guardian for the infant children named herein as Plaintiff-Petitioners, MOLLY MURPHY, Esq. as the attorney appointed to act as Law Guardian by Defendant-Respondent Lawyers for Children, ARLENE D. GOLDBERG, as the presiding Justice of the Family Court assigned to this proceeding, DR. STEPHEN B. BILLICK, in his capacity as the Court appointed forensic psychiatrist for the infant children named herein as Plaintiff-Petitioners, JOHN & JANE DOES 1 - 100 whose identities are currently unknown but necessary parties to these proceedings, ABC CORP.'S 1 - 100 those entities whose identities are currently unknown but necessary parties to these proceedings.

Docket:  
Purchased: 6/1/04

**ORDER TO  
SHOW CAUSE**

**JURY DEMANDED**

Defendant,  
-----X

UPON READING AND FILING of the Emergency Affirmation of Thomas D. Shanahan dated May 31, 2004, Affirmation of Thomas D. Shanahan dated May 31, 2004, Affidavit of Bridget Marks dated May 26, 2004 and May 31, 2004, Affidavit of Celia Blumenthal dated May 31, 2004 and exhibits annexed hereto:

LET THE DEFENDANTS show cause at before the Honorable Judge Daniels District Court Judge, Room 1506, to be held at the United States Courthouse, 40 Centre St. ~~600 Pearl Street~~, New York, New York, on the 7 day of June ~~May~~ - KMW, 2004 at 9:30 o'clock in the forenoon of that day or as soon after as Counsel can be heard, why an order should not be entered herein:

(1) Pursuant to F.R.C.P. 65(a) - KMW ~~65(b)~~ entering a preliminary injunction staying compliance with the decision and order of the Honorable Judge Arlene D. Goldberg dated May 21, 2004 transferring custody of the infant children Amber Lynn Aylsworth and Scarlet Lee Aylsworth ~~on June 1, 2004 at 12:00 p.m. (noon)~~ of that day pending the issuance of the final order of Judge Goldberg at some unknown point in the future;

(2) Permitting the Court to interview the infant children named herein in camera to determine their desires as to residence pending an appeal of the Order to Judge Goldberg dated May 21, 2004.

~~PENDING A HEARING on the aforementioned provisional relief;~~

~~(2) Pursuant to F.R.C.P. 65(a) pending oral argument or hearing on the aforementioned application, defendants and their agents or others acting on their behalf are hereby stayed and restrained from executing on the order of the Honorable Judge Goldberg dated May 21, 2004, including but not limited to the transfer of the infant~~

The Court declines to issue a Temporary Restraining Order pursuant to Fed. R. Civ. P. 65(b) staying the execution of the order of the Hon. Judge Goldberg dated May 21, 2004. The Court finds that no irreparable harm is likely to result from a one week adjournment, to permit Judge Daniels to address this matter. Furthermore, plaintiffs have failed to demonstrate a substantial likelihood of success on the merits.

~~children at issue pending the issuance of the final decision of Judge Goldberg as indicated in her decision dated May 21, 2004 or further order of this Court.~~

KME

~~Settle service, the answer to it will be sent to [unclear]~~  
SUFFICIENT CAUSE APPEARING THEREFORE, let personal service upon the defendants named herein or their attorneys of record in the family court proceeding captioned John Aylsworth v. Bridget Marks, Supreme Court of the State of New York, County of New York, Docket V-01744-5/03, on or before the 2 day of June, 2004 be deemed good and sufficient service.

DATE: 6-1-04

William M. Wood  
J.D.C. U.S.D.J. fm  
Part I

Any affidavits and memoranda of law in opposition to this request for a preliminary injunction shall be filed (with a courtesy copy to Judge Daniels' Chambers) by 9:00 a.m. on June 5, 2004.

So ordered.  
KME