JUDGE CARTER

#1

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In the Matter of SKM and SKM

JEFFREY MOSS

-

Petitioner,

v.

LISA KRUKZIENER MOSS

Respondent.

13 CV 4167

VERIFIED PETITION
UNDER HAGUE CONVENTION
FOR RETURN OF CHILD

Case No._____

FILED
U.S. DISTRICT COURT
13 JUN 17 PM 2:47
S.D. OF N.Y.

Petitioner, Jeffrey Moss, respectfully shows this Court as follows:

1. This Petition is brought by petitioner, a citizen, permanent resident and domiciliary of New Zealand, to secure the release of his children SKM and SKM, "the twins", who are six years old. The twins have been wrongfully retained in New York, New York by their mother, Respondent, Lisa Krukziener Moss, a citizen of New Zealand.

2. This Petition is brought pursuant to the Hague Convention on the Civil Aspects of International Child Abduction dated October 25, 1980 (the "Hague Convention" or the "Convention") and 42 U.S.C. §11601 et seq., the International Child Abduction Remedies Act ("ICARA"). A copy of the Hague Convention is attached as Exhibit A for the Court's convenient reference. ICARA is the implementing legislation in the United States for the Hague Convention. A copy of ICARA is attached as Exhibit B.

3. New Zealand and the United States of America are Contracting States to the Hague Convention. The Convention came into effect in the United States on July 1, 1988. The United

States and New Zealand have been treaty partners under the Hague Convention since October 1, 1991.

4. As provided in Article 1 of the Hague Convention, the objects of the Convention are: (1) to secure the immediate return of a child wrongfully removed or wrongfully retained in any Contracting State; and (2) to ensure that rights of custody and of access under the law of one Contracting State are effectively respected in other Contracting States.

5. The Hague Convention authorizes a federal district court to determine the merits of a claim for the wrongful removal or retention of a child (as opposed to determining the merits of any underlying custody dispute) and, upon a determination of wrongful retention, to order the return of the child to the aggrieved parent.

I. JURISDICTION AND VENUE

6. This Court has jurisdiction over this case pursuant to 42 U.S.C. § 11603 (jurisdiction under the Hague Convention) and 28 U.S.C. § 1331 (federal question jurisdiction).

7. Venue is proper pursuant to 42 U.S.C. § 11603 and 28 U.S.C. § 1391(b), because the twins are now living in New York, New York, where they are being wrongfully retained.

II. OVERVIEW

8. The return of the twins to their father, the petitioner, is mandated by the applicable law and facts. The twins' "habitual residence" under the Hague Convention is Auckland, New Zealand. As such, litigation over the twins' custody must take place in New Zealand. Nevertheless, and in contravention of the Convention, respondent, acting deceptively and wrongfully -- has secreted the children in New York and refuses to allow Petitioner to see his children. In conjunction with secreting the children, Respondent has acted in a fraudulent and