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IN THE CIRCUIT COURT OF THE
11TH JUDICIAL CIRCUIT, IN AND FOR
MIAMI-DADE COUNTY, FLORIDA
CIRCUIT CIVIL DIVISION
CASE NO.: 13-013466 CA 20

BETH SPIEGEL,

Plaintiff,

vs.

YVENOLINE DARGENSON a/k/a YVE
DARGENSON, PENELOPE TOWNSLEY
and PAMELA LATIMORE,

Defendants.

x

Miami-Dade County Courthouse
73 West Flagler Street
Miami, Florida
Monday, May 20, 2013
11:07 a.m. - 3:39 p.m.

HEARING EXCERPT

This cause came on for hearing before the
Honorable DARRIN GAYLES, Judge of the above-styled
court, at the Miami-Dade County Courthouse, pursuant to
notice.

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APPEARANCES

JOSEPH GELLER, ESQ., of the firm
of GREENSPOON MARDER, P.A.,
100 West Cypress Creek Road,
Suite 700, Ft. Lauderdale, FL
33309, on behalf of the Plaintiff.
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FRANK WOLLAND, ESQ., 12865 West
Dixie Highway, North Miami, FL
33161, on behalf of Yvenoline
Dargenson.
fwolland@wolland.com

DARCEE SIEGEL, ESQ., of the CITY
OF NORTH MIAMI BEACH, 17011 NE
19th Avenue, North Miami Beach, FL
33162, on behalf of NMB.
darcee.siegel@citynmb.com

OREN ROSENTHAL, ESQ., of MIAMI
DADE COUNTY, 111 NW 1st Street,
Suite 2810, Miami, FL 33128, on
behalf of Supervisor of Elections,
Penelope Townsley.

1 The following excerpt was taken from the hearing as
2 follows:

3 THE COURT: I just want to say that I think
4 the parties are generally in agreement as far
5 as the law regarding domicile and it is
6 essentially what a person says their domicile
7 is unless there's objective evidence to the
8 contrary and in this case, I do find
9 substantial evidence to contradict the
10 defendant's testimony regarding whether she is
11 domiciled in North Miami Beach within the
12 relevant period, for a period of a year prior
13 to qualifying.

14 I was hesitant to say anything before
15 at the last hearing, but I've got to say now, I
16 simply do not find Ms. Dargenson's testimony
17 credible. The problem with the first hearing
18 was that there was no objective evidence really
19 to show or to contradict what she had to say.
20 We had a drivers license that showed that she
21 was registered since 2010 in North Miami Beach
22 and nothing else, and I understand that was
23 because discovery had not been provided and now
24 we do have substantial discovery.

25 From the outset, the difficulty that I

1 had was the belief that the 5-year-old child
2 would have lived with the father for, I guess
3 since birth as opposed to Ms. Dargenson and
4 there would have been no reason as far as
5 school for that child to have lived in Miramar
6 as opposed to North Miami Beach, particularly
7 since the grandmother apparently is the primary
8 alternative caregiver for the children, but
9 even apart from that, and I didn't base my
10 decision on that, but the defendant's testimony
11 at the first hearing, and even now at parts,
12 were evasive. There were statements for which
13 a reasonable person would be expected to know
14 that she could not provide an answer and even
15 today, once again I noticed where the defendant
16 would say something, such as regarding her
17 mail, receiving mail at the Miramar address.
18 She said, "I get all of my mail there", and
19 then when Mr. Geller attempted to, I guess,
20 make sure that that was her testimony, then she
21 backtracked from that and that happened
22 regarding another area as well, which is
23 somewhere here in my notes.

24 Her testimony is belied by the vehicle
25 registration and the insurance, the life

1 insurance policies, where her children go to
2 school, and there really is no other evidence,
3 substantial evidence as to her domicile in
4 North Miami Beach for the relevant period of
5 time other than her own testimony, which again,
6 I find at least in a substantial part
7 incredible and I don't have any other
8 substantive evidence to corroborate her
9 testimony.

10 For example, there's been no testimony
11 from her husband. The neighbors, purported
12 neighbors of North Miami Beach, I find they
13 have a motive certainly to skew their testimony
14 in favor of the defendant. The most recent
15 defense witness, Mr. Travelin, or something to
16 that effect, he looked at the defendant the
17 entire time when he was under cross-examination
18 by Mr. Geller. He believed that the children
19 actually lived with the defendant in North
20 Miami Beach, which the defendant's never
21 maintained that that was the case. The
22 certainty in establishing that she lived in
23 North Miami Beach as opposed to anywhere else
24 and his failure to answer other questions was
25 problematic and Mr. Ulysse, who appeared to be

1 much more credible, but he, even from his own
2 testimony, he's never been inside the house.
3 He's never seen any of the defendant's
4 belongings. At best, he can say he saw her
5 outside the residence, which isn't unusual
6 because it's her parents' address.

7 And the issue for me really is looking
8 at the factors that I have to consider for a
9 temporary injunction, I think that all of the
10 factors have been established; the substantial
11 likelihood of success on the merits, the
12 likelihood of irreparable harm, that the harm
13 to the plaintiff outweighs any possible harm to
14 the defendant, but where I'm having some issue
15 is the public interest because I do find, not
16 just in this case, but in every case, the
17 public interest at best is served by having the
18 electorate decide. In this case the election
19 is tomorrow. What I want to do or what I'm
20 going to do is I'm going to order that the
21 election take place tomorrow, but I'm going to
22 order that the City not certify the election
23 until further order of the Court. We will make
24 time on Wednesday and you can both find the
25 time with my J.A. I'll be in trial, but I will

1 make time and I will enter an appropriate
2 ruling, if necessary, on Wednesday.

3 I don't know if there's anything
4 else. If the City does a certification, I
5 don't think I need to order the county.

6 MR. ROSENTHAL: So we will release the
7 results on Tuesday, at least the unofficial
8 results, but there won't be an official
9 election result until the City does the
10 certification.

11 THE COURT: Anything else, Mr. Geller?

12 MR. GELLER: No, sir.

13 MR. WOLLAND: So Judge, you're granting the
14 injunction in effect?

15 THE COURT: In effect, but not formally.
16 I'm going to wait until Wednesday. I'm simply
17 ordering that the election not be certified
18 until I've entered an order, but effectively
19 you know what my ruling is going to be, if
20 necessary. Have a good day everyone.

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