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## ***Modification Attempt 2, 2005***

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### ***Hired Attorney Gabe Guterrez***

I was having lunch at a Mexican restaurant in east Austin with some friends one afternoon. A friend and I were a bit early and started discussing my attorney experience. "You really ought to find a minority attorney, perhaps someone from the east side of town," my friend Steve suggested. "These guys know that the clique down town can be bad news, and are probably glad to help out." The concept was appealing. I was always taught in school that minorities had been given a bad deal by the system, so surely a minority attorney from the east side would have no problem understanding this aspect of my legal problems.

State Senator Gonzalo Barrientos happened to be sitting in the same restaurant eating lunch. "Now there is a guy who knows better," my friend commented. After lunch I called Senator Barrientos' office to get an attorney referral. The assistant said that Mr. Barrientos couldn't give out referrals, but Mr. Barrientos had a couple of attorney friends who might be able to answer my question. She gave me Gabe Guterrez's phone number.

I recognized Gabe's name. He has the office in a house just off of the north bound IH35 access road. The sign on the side of the building facing the interstate bares his name. It now burned into the subconscious of everyone in the state. I called him, his daughter answered the phone and setup an appointment.

Other attorneys I worked with had teamed with their legal assistants, so this time I decided to get my own assistant. That way at least one relationship would not have a conflicting obligation to a dishonest attorney should things travel sideways.

I arrived at the house for my appointment. The house was covered in dark silt from the interstate. The windows had burglar bars, and there were matching bullet holes in the windows on opposing sides of the house. Gabe's office was conservative, much like any other attorneys. He told me he had just finished a rape case. His client was found guilty and got five years. After that he would be deported back to Central America. Gabe considered it to be a win. "It could have been 25," he said.

I explained that I wanted information from the school, such as a copy of D\* cumulative folder, and some of his art work. I was also concerned about a dangerous fence at the school. Ultimately, I wanted to get custody of my son, but I viewed that we had a number of steps to take to get to the point where a custody hearing would be wise.

Gabe did very little for five months, and then kept the retainer. He sent one letter to the school asking for records, and when they weren't provided in full, he dropped the request. Guterrez wasn't nearly as smart as Larry, so his exit wasn't quite as well executed. He called me to his office after five months and explained he had seen the light. After five months of not providing any legal advice whatsoever, he wanted to delve in. He let me speak my uneducated thoughts on what should be done. He asked my opinion, but provided no guidance of his own. He then called the next day and told me I was selfish, never thought of anyone besides myself, and that for those reasons he was withdrawing, i.e. he baited me. Later he said he had recorded conversations, and that Attorney's are allowed to do this in their own defense. Gabe not only kept the retainer, but he also kept the trust fund set aside for paying the assistant. The assistant was absolutely aghast, and can't imagine why I'm not

suing for malpractice. What the legal assistant doesn't know is that no malpractice attorney I had spoken with would get involved over a few thousand dollars. Well, at least I proved one thing. Belonging to a minority or being active in a minority struggle does not imply integrity or empathy for another's plight.

To replace Gabe I interviewed an attorney in Round Rock who claimed to be ethical. Indeed she had worked on an ethics committee at the Bar. She said that she would never place a complaint on a colleague, as that was up to clients to do. This is lawyer speak for saying that she placed professional courtesy above advocating her client. She also said that it was better to wait until a modification hearing instead of doing any up front work such as sending any professional complaint letters or filing any injunctions. This was lawyer speak for saying she wanted to write a lot of letters without teeth, followed by a large expensive hearing. So I asked where the ethics were in that. She said, "I will always return your phone calls."

D\* and I were eating barbecue at the Iron Works a while ago. The sisters who have been serving barbecue to me and my friends for ten years, were not there that day. We sat in the open upstairs area. We had a rack of pork ribs to split between us, and a couple of large ice teas. Some grackles flew over and perched by the table. D\* reached in his tea pulled out some ice, and threw it and hit one. The flock flew off squawking and didn't come back. Wouldn't it be nice if this was prophetic. Children used to be able to have input into a divorce at age 8, but the legislator has moved it to age 12. Apparently, now child are not allowed to decide at all. A child may sign a letter of opinion. This can do little more than provoke the Divorce Industry for another go around.

### ***D\* and Dad Buy a Sailboat to Look for Treasure, Spring Break 2005***

The treasure was becoming an issue. D\* had been talking about it for two years and the kids at school were starting to question its authenticity. His mother out told him outright that it was fake.

I sold a patent and decided to buy a boat to live on. At least when I was broke I would have a place to live and a means to feed myself. In addition service never appears in the middle of large bodies of water. Then there was girl catching aspect.

D\* would use his half of the treasure to pay for his half of the boat. We found an aluminum sloop rigged for single handed circumnavigation racing for sale in the Florida Keys.

The Turquoise trading post appraised D\* treasure, all except for some jewels that had gone missing, and some coins moved to his collection, and it came out to just half the price of the boat. The appraisal cost us a pizza. You should have seen the look on the brokers face when D\* dumped the treasure on his desk. "Your turn dad."

We stayed in Florida for a week, snorkeled reefs off keys.

Why can't experiences like this be the hallmark of D\*'s raising?



*Figure 68: Picture of Mystique*

Along with the patent sale I had developed a relationship with a patent broker, and he wanted more of my work. Ironically, the reason I had patents to sell in the first place was because my business in Austin and the chances for my last business plan had been destroyed in the divorce. Who knows if the business plan would have succeeded if my reputation hadn't been smashed by the theft of my records, but why should other people be able to determine my destiny in such a fashion? The fact that the IP was marketable indicates that the business plan had some merit.

So now I had a dream job. I could work anyway in the world, even aboard my boat. I could spend my time dreaming up new technologies, and then selling them to the patent brokerage. The only draw back was that I was paid irregularly. I did not receive a salary, it was purely pay for results. It would often take months to get a group of patents together. Then I would have to wait for the funds to be assembled. Sometimes there were commitments for purchase up front, other times there were not.

But it was all meaningless because my son could not participate. I couldn't bring D\* along and it was impossible to make bi-weekly trips to Austin to visit him from the middle of the Gulf of Mexico or the Caribbean sea. And although I was paid enough to follow my dream, I was not paid enough to afford to live in two places and travel between them.

There have been two issues with the custody battle over D\*. The first has been the questions of his relationship with his mother and all the accidents. The second has been the Texas standard decree. The Texas decree was set up so that the dad has to stay in the same locality, or spend an awful lot of money on travel, or must give up his child. If the court wasn't going to see the abuse issue, at least they could have allowed a parenting sharing arrangement where by D\* would spend half calendar time with dad and half with mom. The current decree is a document of oppression that guarantees D\* dreams to spend time with his father, and my dreams for a father and son relationship will be dashed upon the rocks.

### ***H\* Discusses Moving to Korea with D\****

According to D\*, H\* sat him down asked what he thought about living in Korea. She explained to him that they could move their to get away from his father. She also said that it may not be necessary to move because of the Round Rock Police. She liked them a lot.

I called H\* to discuss this and left a long message about it along with requests for medical records. There was no reply.

### ***Day Care Instead of Dad, Summer 2005***

I had just completed a long project. I set aside six weeks to spend with my son. I gave notice to H\* by the April first deadline to take the second half of the summer.

H\* rejected the schedule because it came within 7 days of the start of school. She then insisted that I take only two weeks because that was what the decree listed for less than one hundred miles, and I had given notice from Austin. She would put D\* in daycare for the remainder of the summer. When I complained about this, she dictated that six days (?) be docked from my summer break for the time I had him when she went on her trip. She wanted D\* to have 9 days vacation with his father in 2005, and then spend the rest of the time in day care. In all she changed the schedule three times for purposes of punishing.

I had to find another attorney. I had just had the Schuhbut experience. The summer passed by before I could find anyone willing to take action. D\* stayed at daycare, while I stayed home and worked on a book.

### ***Having Fun Sailing Thanksgiving 2005***

The next Thanksgiving, just after hurricane Wilma passed, in the winds of dissipating Gamma, D\* and two crew sailed from Boot Key off of Florida to St Petersburg. We pulled our bikes out of the fo'c's'l, and road around downtown St. Petersburg. D\* talks about this still. He wants to take our bikes down town Austin all the time.

### ***Having Some Fun, Sailing Christmas 2005***

I took the boat to Mississippi delta. Christmas I drove back to Austin in a rental car, picked up D\*, and we drove back to the delta. The delta had been leveled by Rita. We then sailed back to Galveston.

### ***H\* Refuses to Give School Diary Intolerance Med Note***

D\* had diarrhea as a toddler. My mom and grandma had pointed out he was diary intolerant. I explained this to Dr. Mirrop. Dr. Mirrop talked to H\*, and H\* denied that there was a problem. Consequently I took D\* to the Mayo Clinic in 2001, and then again in 2003, where he was diagnosed using an analytical machine by a world famous pediatric gastroenterologist, Dr. El-Youssef. This information was fed back to Dr. Mirrop, who threw up his hands and quit. He then apparently fire walled himself behind his legal department. H\* chose a new doctor at the ARC who would agree with her.

Deepwood elementary school serves milk with lunch. They say it is a state law. D\* should not be drinking that milk, or at least he should have a diary enzyme to aid in its digestion. The school refused to stop the milk in any condition. They refused to provide the diary enzyme without a note from D\* pediatrician at the ARC, and it was not forth coming. Consequently D\* just suffered.

H\* refused to provide the note in K, 1, and 2.

Each year I engaged the school nurse and the pediatrician with the Mayo Clinic with a mini war of letters, and got the enzymes to the school.

### ***H\* Blocks dad From Seeing D\* at the YMCA. The YMCA Helps Her.***

When D\* was in kindergarten, and I was in California working at Quicksilver as a computer architect D\* would call daily. I would take a conference room and we would talk usually for about an hour. It was my daily executive meeting. Then H\* put a stop to the calls. My management was understanding, and allowed me to start telecommuting more from Austin Texas. I would fly in for my alternating week visit, and then I would stay a couple of weeks and make the next weekend visit as well, then fly back. In the interim I would go to Deepwood elementary in the afternoons after school. H\* had him enrolled in the after school program. It was at this time that I taught him how to play soccer, how to sight read, and how to play chess.

H\* may have been unaware of my visits. D\* was almost always the last boy to be picked up. So around 6:00 I would leave. We rarely crossed paths. Though after about a year of this an event occurred where D\* did not want to go home with H\*. I watched through a window from outside. He barricaded himself underneath one of the gym tables and refused to come out. He wanted his dad.

H\* insisted that I stop visiting. The YMCA told her that there was nothing they could do because I had a legal right to be there. H\* then elected to take him out of the program.

Some time went by, and she put him back in the program for the summer at Fern Bluff Elementary school. This time she conspired with Kacie Nesby to block me from visiting. They did this by leaving the blank on the enrollment form for the father blank. When I went over to Fern Bluff, and saw D\*, I was asked by the staff to leave. I told them to check their records. They made some phone calls, and I had to leave. I asked who I had been talking to at Fern Bluff, and the woman would not tell me. The counselors took their badges off and put them in their pockets.

I went over to the Greater YMCA of Williamson County office. I had never been there before and had not met in of their staff. I was walking across the parking lot, still outside, when there was a woman standing by the entrance to the office area. She told me from across the lot that I would have to leave.

An exchange of letters and phone calls ensued. In the end they said they couldn't stop me from visiting. H\* then took D\* out of the program. Kacie Nesby had littered the YMCA records with slander about how Kacie Nesby was afraid of me. Kacie Nesby provided a deposition. The YMCA has kept those records and distributed to them to H\* so that she may use them in court.

### ***D\* Corrects his First Grade Teacher, Mrs. Hernandez, She is Pissed***

In first grade they taught some basic Euclidean geometry. One of the lessons was that a shape does not change its name when it is rotated. This is known as rotational invariance, and it is a lesson I had been teaching D\* every since he was a baby. I put a large circle, square, and an triangle cut from plywood in his crib. I would pick them up and turn them around while saying their names. When Mrs. Hernandez taught Euclidean geometry one of

her shapes was diamond. When it was standing upright she called it diamond, when it was turned it was a square. D\* corrected her, and explained that a diamond was a forty five degree rotated square. They had a big argument, and he was punished for having the right answer.

I explained what happened to the school principal, and told her that I wanted it explained to D\* that it was wrong to interrupt the class, but that he had the correct answer. I emailed the principal a the description of a diamond from the Oxford English dictionary which explained the issue well enough. The principal talked to Mrs. Hernandez and D\* was pulled aside, as planned, but, according to D\*, he was given a lecture and told not to listen to his dad, that she was the teacher of mathematics. D\* was in tears as the first grade teacher told him not to listen to his dad in mathematics.

The principal tried again, and again D\* was told to listen to the teacher. It wasn't about mathematics, it was about Mrs. Hernandez. She was adamant.

The principal and I elected to let it go. The principal D\* and I sat outside on a bench one day and we tried to explain the concept of pride to D\*.

Mrs. Hernandez managed to undo five years of math education, and even out weigh the baby lessons with the plywood. In second grade when D\* was tested for TAG, he missed the rotation invariance question, and in fact failed the math section. I conferenced, and the principal and she wrote a waiver to let him into the program.

This was not the extent of the damage. To D\* Mrs. Hernandez now represented the reason that he could not live with his dad like he wanted to, and he let her know it. When the had an essay D\* wrote he wanted to live with his dad. Mrs. Hernandez threw it away while he watched, and told him that he needed to change the topic. She suggested writing an essay on how much he loved his mother. D\* responded by refusing to go home with his mother. Mrs. Hernandez then said that D\* had social problems and brought in the school counselor, Betty Carboneau.

Betty Carboneau invited me to her office to discuss D\* social issues. I explained to her that D\* already had a counselor. I was trying to get across to her that I had my hands full already. She was divorced four times, she should have understood that. She insisted not talking about D\* as a whole and she hung up on me. I went by the school not for an appointment in her office, but to explain to her that I did not want her working with D\*. I sat in a chair in the main office. When she walked up the hall on the opposite side of the office, some 15 feet away and on the other side of two administrator's occupied desks, I remained seated and explained I did not want her working with D\*. Ms. Carboneau was obviously very frustrated and she went through the standard lines, that I was making her uncomfortable, that perhaps I was aggressive. I was sitting in a chair 15 feet away with two people sitting between us. That proved it was a game to her. Mrs. Veach the principal invited us into a three way meeting, and I explained again that I did not want Mrs. Carboneau to meet with D\*. That afternoon I was back at the school for another reason. D\* was not in class. I asked Ms. Hernandez where he was. She said that he was meeting with Ms. Carboneau.

In second grade a much better teacher, Betty Coplin successfully resolved the situation. She invited me to the classroom to read and give a math lecture. D\* then decided that his teacher wasn't so bad. It was amazing how simple the issue actually was, and how in the appropriate D\* behavior actually was for child his age given the circumstances.

In my opinion, both Mrs. Hernandez and Betty Carboneau are unhappily divorced and have issues with men and when they act out they are creating a huge liability for the children in their school. Not all fathers are as patient and articulate as I am. Some fathers will respond to the bait, and after they take the bait the misandrists will cry about how evil they are, and that will just lead to yet more damage to the child and the family.