

Alicia Franklin Accepted A Campaign Contribution from a Party to a Case When Franklin Was The Amicus Attorney On His Case

by Greg Enos
September 2, 2014

As a lawyer, Alicia Franklin mostly worked on cases in which she was appointed an attorney ad litem or amicus attorney by a judge. Some of those cases involved the Texas Department of Family and Protective Services (CPS) and some were private child custody cases. In CPS cases, the county pays the appointed attorneys. In private child custody cases, the parents or other people seeking custody or visitation of the child are ordered to pay the amicus attorney. An amicus attorney is supposed to be a neutral attorney who represents the child's best interests.

Ms. Franklin was appointed an amicus attorney for a young boy in a hotly contested custody case by Judge Lisa Millard in case no. 2012-04106 on April 20, 2012. This case involved parents and grandparents.

Cause No. 201204106 P-1
9/1 Amgax

IN THE INTEREST OF §
§
MINOR CHILD (REN) §

IN THE DISTRICT COURT
310th JUDICIAL DISTRICT
HARRIS COUNTY, TEXAS

ORDER APPOINTING AMICUS ATTORNEY

It is **ORDERED** that Alicia Franklin is appointed Amicus Attorney to serve as an arm of the court in the making all determinations regarding the child (ren).

The Amicus Attorney is **ORDERED** to comply with all requirements of such an appointment imposed under the Texas Family Code, and enjoys all rights and privileges associated therewith.

It is **ORDERED** that PETITIONER/RESPONDENT (each) deposit the sum of \$1500.00 with the Amicus Attorney no later than 5/1/12. Such funds are ordered deposited in the Amicus Attorney's Trust account and dispersed according to a subsequent court order. The Court reserves the right to order additional costs deposits prior to trial.

It is **ORDERED** that the Amicus Attorney have immediate access to all records relating to the child (ren) not otherwise privileged, confidential, or protected by other rules of law. Any custodian of the child (ren) is **ORDERED** to grant the Amicus Attorney immediate access to the child (ren).

SIGNED on APR 20 2012

Lisa Millard
JUDGE PRESIDING

Telephone #: _____
State Bar #: 24040930

FILED
Chris Daniel
District Clerk
APR 20 2012

Time: _____
By: _____
Harris County, Texas
Deputy

RECORDER'S MEMORANDUM
This instrument is of poor quality
at the time of imaging

On October 15, 2013, Ms. Franklin and the grandparents' attorney filed a joint motion for enforcement against the mother for not obeying a court order on visitation. It is extremely unusual for an amicus attorney to file a joint motion with another party. I have never actually seen it happen in my 27 years of practice. It certainly shows that on October 15, Franklin was very actively involved in the Maxim case and would have known who the grandfather, Joe Maxim, was.

.518

Filed 13 October 15 A9:53
Chris Daniel- District Clerk
Harris County
ED101J017769386
By: sonia castro

CAUSE NO. 2012-04106

IN THE MATTER OF
THE MARRIAGE OF
NICOLE FRANCINE MAXIM
AND
VICTOR A. MAXIM
AND IN THE INTEREST OF
A MINOR CHILD

§
§
§
§
§
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§
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IN THE DISTRICT COURT OF

HARRIS COUNTY, TEXAS

310TH JUDICIAL DISTRICT

**FIRST AMENDED JOINT MOTION FOR ENFORCEMENT
AND ORDER TO APPEAR**

This First Amended Motion for Enforcement is brought by intervenors, JOE & MICHAEL MAXIM and Amicus Attorney, ALICIA FRANKLIN, Movants herein. Respondent herein (and Petitioner in the underlying suit) is NICOLE MAXIM. Service can be had on NICOLE MAXIM at her home address. In support, Movants show:

1. On April 24, 2013 this Court signed an order entitled Order Modifying Prior Temporary Orders for Possession and Access which appears in the minutes of this Court and states in relevant part as follows:

"6. Modified Possession Order...

.... **"IT IS ORDERED** that VICTOR MAXIM shall have possession of the child, at all times as the parties may mutually agree in advance, and in the absence of mutual agreement, as follows:

Weekends. For periods beginning at 6:00 p.m. on the following Fridays and ending at 6:00 p.m. on the Saturdays immediately following these Fridays, provided that these periods are continually supervised by intervenors, JOE MAXIM and MICHAEL MAXIM or either of them: April 26, 2013; May 10, 2013; May 24, 2013; June 7, 2013; June 14, 2013; June 28, 2013; July 19, 2013; August 2, 2013; August 16, 2013; September 6, 2013; September 20, 2013; October 4, 2013; October 18, 2013; and October 25, 2013....

.... **"7. General Provisions**

7.1 Pickup and Return of Child

On the very next day, on October 16, 2013, Ms. Franklin, who then was running for judge, accepted a \$1,000 contribution from the grandfather in that case. That contribution was not disclosed by Ms. Franklin to the other parties or their attorneys or to the judge. Ironically, the grandfather was represented by Rita Lucido, the law partner of Sherri Cothrun, who is now running for judge against Franklin. Lucido did not know about the contribution her client made to the amicus attorney until months later when Cothrun saw the name on Franklin's campaign finance report.

Texas Ethics Commission P.O. Box 12070 Austin, Texas 78711-2070 (512)463-5800 TDD 1-800-735-2989

POLITICAL CONTRIBUTIONS OTHER THAN PLEDGES OR LOANS (JUDICIAL)				SCHEDULE A (J)	
The INSTRUCTION GUIDE explains how to complete this form.				1 PAGE # Schedule: 5/7 Report: 7/16	
2 FILER NAME Franklin, Alicia (Ms.)				3 ACCOUNT # (Ethics Commission filers) 00069120	
4 Date 10/16/2013	5 Full name of contributor <input type="checkbox"/> out-of-state PAC (ID# _____) Maxim, Joe		7 Amount of contribution (\$) \$1,000.00	8 In-kind contribution description (if applicable)	
6 Contributor address; City; State; Zip Code Houston, TX 77001			(If travel outside of Texas, complete Schedule T) <input type="checkbox"/>		
9 Contributor's principal occupation Businessman			10 Contributor's job title President		
11 Contributor's employer / law firm Ellipse LLC			12 Law firm of contributor's spouse (if any)		
13 If contributor is a child, law firm of parent(s) (if any)					

It is highly improper for a lawyer representing the best interests of a child in a custody case to accept money or anything of value from one of the parties to the case who is fighting for custody and needs the amicus attorney on his side. Ms. Franklin had been to the grandfather's home, met him several times and, just the day before the contribution was accepted, Franklin had filed a joint motion with him against the mother. There is no way Franklin did not know who the contribution was from.

A grandfather who so badly wants custody of a grandchild because of the parents' bad behavior really needs the "neutral" amicus attorney on his side to have a chance for custody. How could any lawyer in their right mind ever think it was ethical to solicit or to accept a campaign contribution from such a grandfather while the candidate was the amicus in the grandpa's hotly contested custody case?

If Franklin asked the grandfather for the contribution, how could he really decline? If he made the contribution on his own initiative, why did Franklin accept his money?

There is no specific ethical rule or law that addresses this situation.

The Texas Code of Judicial Conduct, which applies to judicial candidates, states:

Canon 1: Upholding the Integrity and Independence of the Judiciary

An independent and honorable judiciary is indispensable to justice in our society. A judge should participate in establishing, maintaining and enforcing high standards of conduct, and should personally observe those standards so that the integrity and independence of the judiciary is preserved. The provisions of this Code are to be construed and applied to further that objective.

Canon 2: Avoiding Impropriety and the Appearance of Impropriety in All of the Judge's Activities

- A. A judge shall comply with the law and should act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

The Preamble to the *Texas Disciplinary Rules of Professional Conduct* states in part:

Each lawyer's own conscience is the touchstone against which to test the extent to which his actions may rise above the disciplinary standards prescribed by these rules. The desire for the respect and confidence of the members of the profession and of the society which it serves provides the lawyer the incentive to attain the highest possible degree of ethical conduct. The possible loss of that respect and confidence is the ultimate sanction. So long as its practitioners are guided by these principles, the law will continue to be a noble profession. This is its greatness and its strength, which permit of no compromise.

For example, it would be totally legal if an amicus attorney appointed to represent a 14 year old girl in a court case were to ask the girl for a photo of her in a bikini and then tape the photo to the dashboard of the attorney's car so he or she could see it all day. It would be weird and unsettling and I am confident that 99.9% of lawyers would say it was not the proper or ethical thing to do. But, it would not violate any specific, written ethical rule for attorneys or judges (although that action would certainly not promote confidence in the integrity of the amicus or our justice system). There are just some situations when we all know what is the proper and what is not. People with a functioning moral compass do not need a specific, written rule to tell them if a certain action is unethical and does not pass the "smell test."

Alicia Franklin accepting (even if she did not solicit) a campaign contribution from the grandfather in the custody case where she was the amicus attorney was simply improper and unethical. Certainly, Franklin should have immediately disclosed the grandfather's contribution to the other attorneys in the case and to Judge Millard who had appointed Franklin. I am very sure that Judge Millard would have told Franklin that she had to return the campaign contribution.