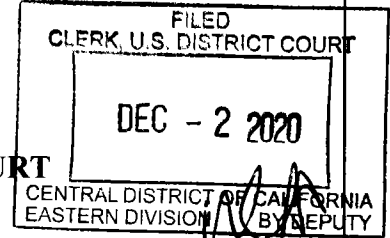


1 William F. Sardi  
2 5190 Via Del Valle  
3 La Verne, CA 91750  
4 (909) 593-9501 Fax: (909) 596-9189  
5 Email: [bsardi@aol.com](mailto:bsardi@aol.com)

AMENDED PLEADING 11/16/2020



6 In pro se

7 **IN THE UNITED STATES DISTRICT COURT**  
8 **CENTRAL DISTRICT**

9 **Edward R. Roybal Federal Bldg. & U.S. Courthouse**  
10 255 East Temple Street, Los Angeles, CA 90012

11 WILLIAM SARDI,

12 PLAINTIFF

13 and

14 Dorothy Carfrae, an individual,

15 Doreen Boxer, an individual,

16 Shannon Payne, an individual

17 DEFENDANTS

) Case Number: 2:20-cv-10186-MWF-KK

) CIVIL RIGHTS COMPLAINT

) 42 U.S.C. § 1983: 14<sup>th</sup> Amendment

) 42 U.S.C. § 1985

) Article 1 of the U.S. Constitution

) COMMON LAW TORT CLAIMS, and

) American-California common law

) **DEMAND FOR EX PARTE JUDGEMENT**

) **ISSUED BY A FEDERAL JUDGE WITH**

) **DEMAND FOR IMMEDIATE**

) **PRELIMINARY RELIEF AND**

) **SUBSEQUENT LEGAL INJUNCTIVE**

) **RELIEF REGARDING VIOLATIONS OF**

) **CIVIL RIGHTS UNDER THE**

) **CONSTITUTION**

) **Before Hon. Judge Michael J. Fitzgerald**

) **And Judge Kenly Kiya Kato**

21 **COMPLAINT FOR CIVIL RIGHTS VIOLATIONS**

22 **PRELIMINARY STATEMENT**

23  
24 Plaintiff William F. Sardi, brings this action pursuant to 42 U.S.C. § 1983, 42 U.S.C., §  
25 1985, seeking immediate remedy given the circumstances of the case, namely the prolonged  
26 deprivation of contact by minor child (Matthew Sardi, age 16; birthdate 6-15-2004) with his aged  
27 father (Plaintiff, William Sardi, age 75) brought about by the failure of agents of the court to  
28 conduct a timely evidentiary hearing that requires a "clear and convincing" evidence standard,

1 before any change in child custody status, as required under the Equal Protection Clause of the  
2 Fourteenth Amendment.

3 **EXHAUSTION OF LEGAL REMEDIES**

4 The Plaintiff has not been able to obtain due process, or “fair procedures” over a period  
5 of two years, as described in U.S. Supreme Court, Santosky v. Kramer, 455 U.S. 745 (1982),  
6 within the California Family Court and now seek timely remedy outside the deficient legal  
7 purview of the Family Court. The family court by policy conducts all initial custody hearings  
8 under the lower standard of evidence (preponderance), not the higher standard of evidence (clear  
9 and convincing). State Appellate Courts and the State Supreme court reviews procedures and  
10 issues decisions to make sure legal proceedings are fair and the proper laws are applied correctly  
11 whereas Federal Court provides relief for those who represent themselves in regard to inherent  
12 freedoms and liberties guaranteed by the Constitution, in this instance the 14<sup>th</sup> Amendment in its  
13 special instructions regarding evidence standards in cases where there is a change in child  
14 custody; and can issue immediate injunctive relief when constitution protections are being tread  
15 upon.

16 The inherent and inalienable right to due process under the 14<sup>th</sup> Amendment is not  
17 intended to be delivered only to those who can afford evidentiary hearings for child custody as is  
18 the current custom in family court. The constitutional protections of due process are policy for  
19 all citizens of the United States, regardless of the ability to pay for an evidentiary hearing. The  
20 federal court is the appropriate court to deliberate violations of constitutional law as they affect  
21 individuals and to issue immediate injunctive relief until an evidentiary hearing can take place.

22 The 14<sup>th</sup> Amendment right to due process can be circumvented by hearsay evidence the  
23 child’s welfare is in jeopardy, as occurred in this case; and then separation of parent from a birth  
24 child by a series of court continuances and submission of even more hearsay evidence, a child  
25 can be separated from a parent perpetually. It is as if a parent is “guilty until proven innocent,”  
26 in this instance until an evidentiary trial can take place. Evidentiary hearings are available in the  
27 family court only if a parent pays thousands of dollars, which is obviously not the intent of  
28 constitutional protections (“with liberty and justice for all” – pledge of allegiance).

29 **HISTORY OF EFFORTS TO OBTAIN VISITATION**

After a lengthy two-year ordeal to even have the family court issue 50-50 custody (2017),  
and then subsequent loss of all legal and physical custody by the father (2018) due to failure to

1 follow court orders (biased orders that held only the father would lose custody if the father OR  
2 MOTHER violated orders), resulting in only every-other-weekend visitation, an effort was  
3 launched by the boy's father (a 3042 petition permitting minor child to speak to the judge in  
4 chambers regarding custody preferences) to regain more visitation time after his child reached  
5 age 14 (June, 15, 2018), which is considered the age of maturity.

6 **FAILURE TO ADHERE TO A HIGHER LEVEL OF EVIDENCE**

7 Agents of the court operating under the color of law, described herein as  
8 DEFENDANTS, failed to follow the guideline of "frequent and continuing contact" prescribed  
9 for both parents (CA Fam § 3011 (CA Fam § 3020b) in the California Family Code, and in court  
10 orders issued September 19, 2017 (Statement of Decision, Judge Tamara Hall), and in a 730  
11 Evaluator's report that is employed in highly contentious divorce/custody cases, because father-  
12 son contact was considered "not in the best interest of the child" (Family Code 3011a) as  
13 presented to the court at a June 24, 2020 hearing by court-appointed Minor's Counsel Dorothy  
14 Carfrae, and in a 730 Evaluator's report, and as presented by the mother's (defendant Lucy  
15 Sardi's) legal counsel Shannon Payne, and accepted by the court commissioner Doreen Boxer,  
16 based upon hearsay evidence that does not meet the evidentiary standard demanded by the  
17 Supreme Court case Santosky v. Kramer, Supreme Court, 1982.

18 **SUPPRESSED EVIDENCE NOT REVEALED BY A PREPONDERANCE OF**  
19 **THE EVIDENCE REQUIREMENT**

20 The Plaintiff believes he will prevail in a full evidentiary trial and there is no attempt to  
21 prevail in this important issue of child custody on a technicality. That trial is more than three  
22 months away.

23 In a June 24, 2020 ex parte hearing the Mother of the child, Lucy Sardi, alleged the  
24 Father of the child dissuaded their child from taking an antidepressant drug needed for treatment  
25 of his "clinical depression," when there was no evidence presented beyond hearsay that the child  
26 had been diagnosed as clinically depressed, nor any diagnostic record the child's psychiatrist had  
27 diagnosed clinical depression, nor was any medicine ever prescribed; and, that the father  
28 allegedly instructed his son not to cooperate with the mother's efforts to homeschool their child,  
for which there was contrary evidence; all evidence that would have been revealed in an  
evidentiary hearing.

1 The Plaintiff alleges this evidence would have come into view of the court had a higher  
2 standard of evidence been employed. At his age the Minor Child is not able to comprehend or  
3 even imagine he is being deprived of his freedoms under the U.S. Constitution by Minor's  
4 Counsel failures to inform and enforce constitutional protections.

5 **FAILINGS OF MINOR'S COUNSEL TO PROTECT THE RIGHTS OF A MINOR**

6 The minor child, relies upon Minor's Counsel, who operates under color of law, to  
7 protect minor children such as Matthew Sardi. If the mother's alleged claim the child needs  
8 medication for his "clinical depression" is true, for which no diagnosis was ever made or  
9 medicine prescribed, then why did Minor's Counsel ignore this and never follow up in a  
10 subsequent hearing? The father alleges Minor's Counsel is not operating in the child's best  
11 interest and should be replaced.

12 Minor's Counsel believed the mother's false assertion that a 730 child-custody evaluator  
13 diagnosed our son as being "clinically depressed," but that Evaluator only mentioned the child  
14 exhibited behavior consistent with mental depression (oversleeping, fatigue) and has no authority  
15 to diagnose, only to report to the court. The child's psychiatrist is the proper authority to  
16 diagnose a mental state, who made no such diagnosis, nor prescribed medication of any kind.

17 Minor's Counsel in her capacity as the child's representative under California Rule of  
18 Court, Rule 5.240, Family Code Section 3151(c) is entrusted with protecting the child's best  
19 interests including the right to seek or refuse independent medical and psychological exams and  
20 to monitor others who come in contact with the child to ensure that they are not violating the  
21 child's rights.

22 Minor's Counsel was misled by the child's mother and should know that a diagnosis of  
23 clinical depression in a minor child is beyond the scope of authority of a 730 Custody Evaluator,  
24 and that a psychiatrist is the only medical authority who can make such a diagnosis.

25 It is upon the mistaken belief that the child was being dissuaded by his father from  
26 needed medication, that the court, operating in what seemed to be the child's best interest,  
27 removed all contact between father and son. Again, Minor's Counsel should have known there  
28 was no such diagnosis and ignored the issue in a subsequent hearing and failed to notify the court  
of the above failings.

The minor child, after over 120-days of no contact with his father, during his first  
telephone (ZOOM) monitored visitation with his father on October 11, 2020, recalled that after

1 90-days of attempting to participate in homeschooling (approximately June 24 to Sept. 22) in  
2 hopes of regaining visitation with his father, and with no progress report from the court over  
3 when he would see his father again, told his father and the court-appointed monitor that “the  
4 court ghosted me,” a term used by young people to indicate abandonment.

5 During the father’s 2<sup>nd</sup> monitored telephonic child visitation his son said he was informed  
6 by his Minor’s Counsel that physical visits with his father were totally out of the question. This  
7 disheartened the child and resulted in him further refusing to be home-schooled. Clearly,  
8 appointment of another Minor’s Counsel may help restore his trust in the Family Court and  
9 encourage the child to resume home-schooling.

10 Again, all this information would have come to light during an evidentiary hearing.

11 **FAILURE TO DELIBERATE CLEAR AND CONVINCING EVIDENCE**

12 While these false allegations were accepted as fact by the court, the point in this action in  
13 Federal court regarding constitutional protections under the law, is that this “evidence” was used  
14 to obtain an ex parte emergency 45-day stay-away order against the father, and a request to stay  
15 the motion by father’s counsel was denied by the court, all which occurred without adequate due  
16 process (an evidentiary hearing). Then through a series of continuances and hearings where  
17 other specious evidence was presented, the stay-away period extended beyond 120 says, without  
18 adequate justification, and continues on a very limited basis today with only 1-hour/week  
19 telephonic monitored visits between father and son.

20 It is as if the father is a prisoner reporting form jail in his monitored telephonic weekly  
21 visits with his son. A prisoner has more rights to visitation with his child than the father in this  
22 case. A prisoner in jail may lose certain civil rights while serving time for a crime they have  
23 committed, but loss of visitation and parental rights is not one of them.

24 **PROLONGATION OF STAY-AWAY ORDER BASED ON EVIDENCE NOT  
25 PRESENTED IN COURT**

26 The stay-away order was then prolonged based upon evidence that wasn’t even submitted  
27 to the court at that time (alleged evidence showing the father attempted to email his son during  
28 the stay-away order), evidence that was deemed to be inconclusive in a subsequent hearing on  
October 22, and the most serious allegation that the father harmfully influenced his son by  
discouraging him from taking an antidepressant drug, was completely forgotten. This suggests

1 the judge (commissioner), Minor's counsel and ex-spouse's attorney conspired to ignore the  
2 initial primary reason why the child was removed from contact with his father.

3 **COURT ORDERS CHILD TO ADHERE TO ORDERS OR NO FATHERLY**  
4 **VISITATION; UNPRECEDENTED; WITHOUT LEGAL FOUNDATION**

5 Then on October 22, 2020, 124 days after the initial June 24 45-day stay-away order, in an  
6 unprecedented legal action, the court ordered the child to do his homeschooling or there would  
7 be severely limited (monitored 1-hour/week telephonic visitation) or even no contact whatsoever  
8 with his father. The plaintiff's civil rights to an evidentiary hearing on this matter have yet to  
9 take place. An upcoming 733 Evidence Code trial scheduled for Feb. 2, 2021, which airs expert  
10 evidence, serves as a rebuttal to the 730 Evaluator's report but is a very expensive and untimely  
11 remedy available to achieve adequate due process. Only a high-income parent would be able to  
12 fund this level of evidence.

13 The 14<sup>th</sup> Amendment is an inalienable right (unable to be taken away). American citizens  
14 should not have to pay to obtain such an inalienable right. Otherwise, constitutional protections  
15 are only delivered to those who can afford it.

16 There is no precedence in the Family Court to issue orders directly to children. For  
17 example, there are orders parents see that their children go to school, and attend medical and  
18 dental appointments, but not orders directly aimed at children per se. Since when does the court  
19 rule over children rather than parents? Since when is any minor child required to do his  
20 schoolwork to have a parent (father) in his life?

21 **COURT'S STRATEGY BACKFIRES WITH CHILD**

22 The current status of the child is that his Minor's Counsel says he is "confused and  
23 frustrated" (testimony Minor's Counsel, Oct. 22 hearing) and refuses to cooperate with his  
24 mother's efforts to homeschool him until he has some incentive for doing so, namely, gain more  
25 time with his father (father obtained this information during Oct. 30, 2020 monitored visit with  
26 child).

27 Therefore, the court's efforts to get the child homeschooled have backfired. The child  
28 has refused to cooperate on his own volition without any prompting from his father. The child's  
29 father is being held responsible for the child's refusal to follow court orders, for which there has  
30 been no evidentiary hearing over, and which is legally without foundation or precedent. All this  
31 would come into view in an evidentiary hearing.

**EVIDENTIARY HEARING REQUIRED PRIOR TO CUSTODY CHANGE**

1 Santosky v. Kramer teaches that even parents found unfit in a contested court proceeding  
2 retain constitutionally protected parental rights. Process is constitutionally due a natural parent  
3 in State-initiated parental rights termination proceedings.

4 The decision to limit the father’s contact with his son was based upon specious hearsay  
5 evidence that doesn’t even meet the standard of “preponderance of the evidence,” which the  
6 California Family Court uses in 730 Child Custody Evaluations, which under the 14<sup>th</sup>  
7 Amendment of the Constitution is deemed to be a “constitutionally defective evidentiary  
8 standard” that may “combine to magnify the risk or erroneous factfinding,” as described in the  
9 Supreme Court Case Santosky v. Kramer, 455 U.S. 745 (1982). Santosky v. Kramer demands  
10 “clear and convincing evidence,” given that termination of custody or visitation may “destroy the  
11 natural family,” and may not promote the child’s welfare. The Supreme Court ruling requires the  
12 State to support its allegations by at least “clear and convincing evidence” to satisfy due process  
13 under the 14<sup>th</sup> Amendment to the Constitution.

14 In case law, Baker v. Baker, 411 MICH 567 (1981) ruled that when custody decisions  
15 based upon whether they are “in the child’s best interest” must be deliberated under “clear and  
16 convincing evidence” rather than “preponderance of the evidence.” Moreover, in Elkins v.  
17 Superior Court, which became Family Code 217, requires live testimony (i.e. witnesses, cross-  
18 examination) in court rather than just written declarations. In a more contemporary decision, in  
19 Giese v. The Superior Court of Ventura County, Writ of Mandate, ruled that an evidentiary  
20 hearing cannot be side-stepped and immediate restoration of custody was recommended as relief.

**RELIEF: IMMEDIATE RESTORATION OF VISITATION**

21 The Plaintiff demands the family court immediately vacate orders that compel and coerce  
22 a minor child to perform in any way in order to have a father in his life, as an unconstitutional  
23 order that violates the principle of a “natural family” and the “sanctity of the family,” and  
24 impairs the child’s “life, liberty and pursuit of happiness” as described in Article 1 of the U.S.  
25 Constitution, and a violation of due process under the 14<sup>th</sup> Amendment.

26 An evidentiary hearing is scheduled for February 2, 2021 in Dept. 2 of Family Court with  
27 Lawrence Riff, presiding judge. But this scheduled trial does not provide timely remedy to the  
28 child’s current predicament and he faces going through the holiday season without physical  
contact with his father.

**JURISDICTION AND VENUE**

- 1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. § 1331 and 1343 based on 42 U.S.C. § 1983 (deprivation of rights and standard of evidence) and 42 U.S.C. § 1985 (conspire to deprive rights) and questions of federal and State COMMON LAW TORT CLAIMS, and American-California common law.
- 2. This Court possesses proper subject matter and personal jurisdiction over the parties.
- 3. Venue is appropriate for this district.
- 4. Defendants are citizens of and reside in California.
- 5. The acts complained occurred in California. Plaintiff’s causes of action arose in California.

**PARTIES**

6. Plaintiff

WILLIAM SARDI

**William F. Sardi** is the 75-year old father of Matthew Sardi, a 16-year old son, with whom the child has a close bond with. Mr. Sardi resides at 5190 Via Del Valle, La Verne, California 91750.

**OPERATING UNDER THE COLOR OF LAW**

**The Plaintiff asserts the Defendants ignored extant Constitutional Laws and failed to inform the Plaintiffs of their Constitutional rights under the law, and operated under the color of law to deprive the Plaintiffs of their Constitutional Rights, namely an evidentiary hearing that employs a “clear and convincing” evidence standard rather than a “preponderance of the evidence” standard in child custody decisions by the family court, and repeatedly did so, which interferes with the principle of a “natural family” and the “sanctity of the family,” and impairs the child’s “life, liberty and pursuit of happiness” as described in Article 1 of the U.S. Constitution, and a violation of due process under the 14<sup>th</sup> Amendment.**

**DEFENDANTS**

**Dorothy Carfrae**, is a citizen of the United States and a resident of California. Ms. Carfrae is by court order to act as Minor’s Counsel and contracts with the Family Court and the State of California. Ms. Carfrae’s official capacity is the court-appointed Minor’s Counsel for Plaintiff Matthew Sardi. Ms. Carfrae is advertised as a family law attorney (Calif. State Bar



1 license #98355) whose office is located at 8526 E. Florence Avenue, Downey, CA 90240.  
2 Phone: 562-622-0288; FAX 562 278-0444; EMAIL [paralegal@dorothycarfrae.com](mailto:paralegal@dorothycarfrae.com)

3 **Doreen Boxer** (State License 165556, listed as inactive), serves in her official capacity as  
4 commissioner in the Family Court, is a citizen of the United States and a resident of California  
5 and performs in her official capacity as a commissioner in the The Family Court, Dept. 59,  
6 Superior Court of California, Stanley Mosk Courthouse, 111 N. Hill Street, Los Angeles, CA  
7 90012. EMAIL [dboxer@lacourt.org](mailto:dboxer@lacourt.org)

8 **Shannon Payne**, is a citizen of the United States and a resident of California. As a  
9 family law attorney (Calif. State Bar #289495), she is also an agent of the court, writes orders  
10 and summaries for the court and reports and helps to enforce court orders. Shannon Payne's  
11 office is located at Payne Law Group, 2530 Wilshire Blvd, Floor 3, Santa Monica, CA 90403-  
12 4543; Phone 323 973-0975; Fax 323 927-1917; EMAIL [Shannon@payne-law.com](mailto:Shannon@payne-law.com)

### 13 **INJUNCTIVE RELIEF**

14 **Given that the Plaintiff alleges the foregoing represents "child kidnapping under the**  
15 **color of law," he seeks immediate and timely relief.**

16 WHEREFORE, Plaintiffs pray for judgment as follows:

- 17 1. An order for all legal hearings and trials and court reports concerning child custody  
18 involving the Plaintiffs adhere to the higher level of evidence ("clear and  
19 convincing") as required by the 14<sup>th</sup> Amendment and spelled out in Santosky v.  
20 Kramer, 455 U.S. 745 (1982).
- 21 2. An order for compensatory relief against all Defendants jointly and severally, and  
22 punitive damages against Defendants Doreen Boxer, Dorothy Carfrae and Shannon  
23 Payne, as conspirators in this ordeal.
- 24 3. An order that William Sardi, as Plaintiff, be granted immediate compensatory time  
25 with his son, specifically every-weekend visitation, in compensation for lost time  
26 with his son (weekday visitation would interfere with the child's homeschooling), and  
27 negotiated visitation with his child during non-schooling hours during weekdays, and  
28 a week of December holiday time with his son as has been customary in past years,  
until an evidentiary hearing takes place and reaches legal conclusions based upon  
"clear and convincing" evidence as required by the 14<sup>th</sup> Amendment of the  
Constitution; and that orders requiring monitored visitation be vacated.

- 1 4. An order to appoint a new Minor’s Counsel who will protect Matthew Sardi’s
- 2 constitutional rights under the law as there are ongoing legal proceedings, given that
- 3 the minor child’s legal rights under the Constitution are not adequately being met or
- 4 defended at the present time.
- 5 5. An order to vacate and set aside a 730 Evaluator’s report that only met the
- 6 “preponderance of evidence” level of proof, as it categorically does not provide for
- 7 protections of due process under the 14<sup>th</sup> Amendment that demands a higher standard
- 8 of evidence and therefore becomes a superfluous and expensive level of legal
- 9 recourse.
- 10 6. An order for Relief in the form of reasonable costs and attorneys’ fees as allowed by
- 11 law. Plaintiff William Sardi seeks compensation for legal fees incurred in the pursuit
- 12 of his son’s legal right to custody and/or visitation with his son, beginning since 2018
- 13 when custody was removed and the father and son’s Constitutional rights to due
- 14 process failed to be delivered.

**DEMAND FOR HEARING BY A JUDGE**

15 Plaintiff hereby demands an immediate and timely preliminary judgment by a Federal  
16 judge that will release the minor child, Matthew Sardi, to visitation with his father as specified in  
17 this legal appeal.

18  
19 Respectfully submitted,

20  
21 William Sardi

\_\_\_\_\_ *William F Sardi* \_\_\_\_\_

(Signature page below)

22  
23 5190 Via Del Valle  
24 La Verne, CA 91750  
25 (909) 593-9501  
26 EMAIL: [bsardi@aol.com](mailto:bsardi@aol.com)  
27 Attached signature page  
28

WILLIAM F. SARDI, in pro se  
November 2, 2020

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**PREVIOUS PERTINENT LITIGATION:**

Hearing June 24, 2020 Doreen Boxer, commissioner (orders in hand)

Hearing transcript, October 22, 2020 Doreen Boxer, commissioner (orders pending)

Trial Sept.19, 2017 Statement of Decision, Tamara Hall, judge

Minute Orders issued March 15, 2018 Rolf Treu, judge (loss of custody by Wm. Sardi)

730 Evaluation, Albert Gibbs, PhD, submitted Feb. 12, 2020

Declaration William Sardi for Dec. 4, 2020 hearing

4. An order to appoint a new Minor's Counsel who will protect Matthew Sardi's constitutional rights under the law as there are ongoing legal proceedings, given that the minor child's legal rights under the Constitution are not adequately being met or defended at the present time.
5. An order to vacate and set aside a 730 Evaluator's report that only met the "preponderance of evidence" level of proof, as it categorically does not provide for protections of due process under the 14<sup>th</sup> Amendment that demands a higher standard of evidence and therefore becomes a superfluous and expensive level of legal recourse.
6. An order for Relief in the form of reasonable costs and attorneys' fees as allowed by law. Plaintiff William Sardi seeks compensation for legal fees incurred in the pursuit of his son's legal right to custody and/or visitation with his son, beginning since 2018 when custody was removed and the father and son's Constitutional rights to due process failed to be delivered.

**DEMAND FOR HEARING BY A JUDGE**

Plaintiff hereby demands an immediate and timely preliminary judgment by a Federal judge that will release the minor child, Matthew Sardi, to visitation with his father as specified in this legal appeal.

Respectfully submitted,

William Sardi

5190 Via Del Valle  
La Verne, CA 91750  
(909) 593-9501  
EMAIL: bsardi@aol.com  
Attached signature page



(Signature page below)

WILLIAM F. SARDI, in pro se  
November 2, 2020

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SUITE 103  
LA VERNE, CA 91750  
UNITED STATES US

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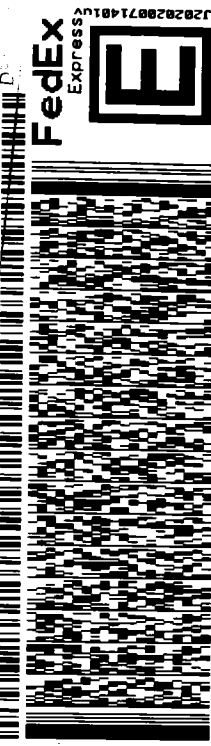
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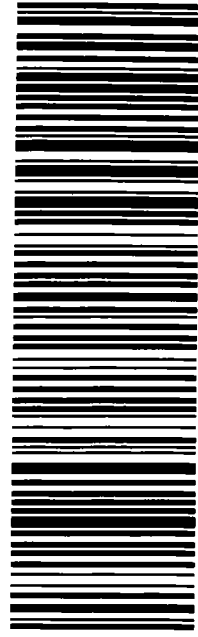
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