

IN THE CIRCUIT COURT, THIRTEENTH
JUDICIAL CIRCUIT, IN AND FOR
HILLSBOROUGH COUNTY, FLORIDA

CASE NO.: 10-DR-015058

FILED
CLERK OF CIRCUIT COURT
10 OCT -5 PM 3:23
HILLSBOROUGH COUNTY, FL
FAMILY LAW

IN RE: THE MARRIAGE OF
ROBERTO ALOMAR VELASQUEZ

Petitioner/Husband,

and

MARIA DEL PILAR ALOMAR,

Respondent/Wife.

ANSWER TO PETITION AND COUNTER-PETITION

FOR DISSOLUTION OF MARRIAGE

COMES NOW, Respondent/Wife, Maria Del Pilar Alomar, by and through the undersigned counsel and hereby files her answer to petition for dissolution of marriage, stating grounds as follows:

1. Admitted.
2. Admitted.
3. Admitted.
4. Admitted.
5. Admitted.
6. Admitted.
7. Admitted.
8. Admitted.
9. Denied.
10. Denied.
11. Denied.
12. Denied.

1 13. Denied.

2 14. Denied.

3 15. Denied.

4 16. Denied.

5 **WHEREFORE**, Respondent/Wife respectfully prays this Honorable Court:

6 A. Dissolve the marriage;

7 B. Equitably distribute the parties' real and personal property, financial assets
8 and tax credits/refunds;

9 C. Award temporary and permanent support and alimony to wife;

10 D. Award wife her attorneys' fees;

11 E. That the Court change wife's name back to her maiden name of Maria Del
12 Pilar Rivera;

13 F. That this Court retain jurisdiction over the parties and this action for the
14 purpose of entering such other and further orders as the Court may deem just and proper.

15 **COUNTER-PETITION**

16 **COUNT I**

17 **DISSOLUTION OF MARRIAGE**

18 **COMES NOW**, Counter-Petitioner/Wife, Maria Del Pilar Alomar, by and through the
19 undersigned counsel and hereby files this counter-petition for dissolution of marriage,
20 stating grounds as follows:

21 1. This is an action for dissolution of marriage

22 2. The wife has been a resident of the State of Florida for more than six (6)
23 months immediately prior to the filing of this petition.

24 3. The wife and husband were married to each other on July 1, 2009 in New
25 Port Richey, Florida.

26 4. Both parties are over the age of eighteen (18) and neither is, nor has been
27 within a period of thirty (30) days immediately prior to this date, a person in the military
28 service of the United States as defined by the Amended Soldiers and Sailors' Civil Relief

1 Act of 1970, as amended.

2 5. Husband is not mentally incompetent.

3 6. The parties were separated in and around August 2, 2010.

4 7. Husband substantially supported wife financially during the marriage and wife
5 has suffered a substantial reduction in standard of living as a result of the separation which
6 will be further compounded upon dissolution.

7 8. Wife requires substantial financial assistance in the form of alimony in order
8 to maintain the standard of living she had during the marriage.

9 9. The parties built a marital residence together during the marriage at 901
10 Palacio De Avila, Tampa Florida 33613 with the specific intent for it to be held as a tenancy
11 in the entirety as evidenced by title being placed in both parties' names.

12 10. The status of the residence as marital property is further supported by
13 financial and time contributions by both parties during the marriage for design,
14 construction, improvement, furnishing, and maintenance of said property.

15 11. Notwithstanding, wife is entitled to substantial special equity in home by virtue
16 of her efforts to design its interior and exterior as well as substantial improvements made
17 by her prior to and post construction.

18 12. The parties have one joint bank account, real property, including the marital
19 home and two vacation properties in the Bahamas, and other business and financial assets
20 and contracts, including clothing and baseball related merchandise lines, by virtue of
21 substantial financial and intellectual property contributions and commingling of the parties'
22 assets, which must be equitably distributed by this Court.

23 13. There are no children of the marriage, no other children are expected or
24 adopted and the parties do not have physical custody of any other children at this time.

25 14. The marriage existing between the wife and husband is irretrievably broken.

26 15. Wife is financially unable to pay her attorneys' fees.

27 **WHEREFORE**, Respondent/Wife respectfully prays this Honorable Court:

28 A. Dissolve the marriage;

1 B. Equitably distribute the parties' real and personal property, financial assets
2 and tax credits/refunds;

3 C. Award temporary and permanent support and alimony to wife;

4 D. Award wife her attorneys' fees;

5 E. That the Court change wife's name back to her maiden name of Maria Del
6 Pilar Rivera;

7 F. That this Court retain jurisdiction over the parties and this action for the
8 purpose of entering such other and further orders as the Court may deem just and proper.

9 **COUNT II**

10 **PARTITION**

11 16. That the parties are joint tenants by the entirety on the marital residence
12 located at 901 Palacio De Avila, Tampa, Florida 33613.

13 17. That the property is not subject to be dividing between the parties without
14 prejudice to the owners.

15 18. Since the property is not subject to physical division and neither party
16 has indicated a desire to purchase the other's interest in the property, the property should
17 be sold at a private sale and the proceeds divided equally between the parties.

18 WHEREFORE, the Counter-Petitioner/Wife, Maria Del Pilar Alomar, requests the
19 court to order the sale of the property upon such conditions as the court deems reasonable
20 and divide the net proceeds between the parties.

21 **COUNT III**

22 **INTENTIONAL INFLICTION OF EMOTIONAL STRESS**

23 19. That the amount in controversy exceed the monetary sum of FIFTEEN
24 THOUSAND (\$15,000.00) DOLLARS, exclusive of interests and costs.

25 20. That at all times material to this cause, the Counter-Respondent and Counter-
26 Petitioner were and are residents of Hillsborough County, Florida.

27 21. That the Counter-Petitioner, MARIA DEL PILAR ALOMAR, and the Counter-
28 Respondent, ROBERTO ALOMAR VELASQUEZ, began dating in September of 2008.

1 That as a result of their dating they began engaging in sexual intercourse between the
2 parties in September of 2008.

3 22. That at all times material hereto, the Counter-Respondent, ROBERTO
4 ALOMAR VELASQUEZ, knew that he had contracted the HIV virus. That the Counter-
5 Respondent, ROBERTO ALOMAR VELASQUEZ, who was infected with the HIV virus
6 failed to inform the Counter-Petitioner, MARIA DEL PILAR ALOMAR, that he had such a
7 disease and, in fact, intentionally and with total disregard of the emotional and physical
8 well-being of the Counter-Petitioner, MARIA DEL PILAR ALOMAR, continued to engage
9 in sexual conduct with her.

10 23. That on June 1, 2009, the parties were married. That prior to the marriage the
11 Counter-Respondent, ROBERTO ALOMAR VELASQUEZ, told the Counter-Plaintiff that
12 he had been tested for sexually transmitted diseases and the tests were negative. That
13 the parties continued to engage in sex, all of which was unprotected, based upon the
14 Counter-Petitioner's belief that sex with ROBERTO ALOMAR VELASQUEZ, the Counter-
15 Respondent, would be safe.

16 24. That after the marriage, the Counter-Petitioner, learned from conclusive proof
17 that the Counter-Respondent, ROBERTO ALOMAR VELZAQUEZ, was HIV positive. After
18 which time, the parties ceased having unprotected sex.

19 25. That the Counter-Respondent, ROBERTO ALOMAR VELZAQUEZ, knew prior
20 to his first sexual contact with the Counter-Petitioner that he was HIV positive and that it
21 could pass to the Counter-Petitioner if they engaged in unprotected sex. Notwithstanding
22 the foregoing, the Counter-Respondent, ROBERTO ALOMAR VELZAQUEZ, even lied to
23 the Counter-Petitioner, by telling her he had been tested and the blood tests were negative.
24 The actions of the Counter-Respondent, by having unprotected sex with the Counter-
25 Petitioner, was with total and reckless disregard for the rights of the Counter-Petitioner and
26 an intentional concealment of his condition by the Counter-Respondent, ROBERTO
27 ALOMAR VELZAQUEZ.

28 26. That after their marriage, the Counter-Petitioner, MARIA DEL PILAR ALOMAR,

1 found pharmaceuticals and information stating that the Counter-Respondent was HIV
2 positive. That this information caused the Counter-Petitioner extreme emotional distress,
3 mental anguish, and pain and suffering.

4 27. The HIV virus is a disease which is widely known to be fatal once developed
5 to full-blown AIDS and there is no cure. Thus if contracted, wife would face certain death
6 at some time in the future undeterminable at this juncture. That the Counter-Petitioner,
7 MARIA DEL PILAR ALOMAR, has not contracted the virus to date but uncertainty still
8 exists due to the delay in the onset of the virus.

9 28. That as a direct and proximate result of the foregoing conduct by the Counter-
10 Respondent, ROBERTO ALOMAR VELZQUEZ, the Counter-Petitioner, MARIA DEL
11 PILAR ALOMAR, has in the past and will in the future suffer extreme emotional distress,
12 fear, and mental anguish; and that she has in the past and will in the future incur medical
13 bills and expenses to continue testing for HIV.

14 **WHEREFORE** Counter-Petitioner, MARIA DEL PILAR ALOMAR, sues the Counter-
15 Respondent, ROBERTO ALOMAR VELZQUEZ, and demands judgment within the
16 jurisdictional limits of this Court, to-wit: in excess of FIFTEEN THOUSAND (\$15,000.000
17 DOLLARS, exclusive of costs, and demands a trial by jury of all issues triable as of right
18 by a jury.

19 **COUNT IV - BATTERY**

20 29. The Counter-Petitioner, MARIA DEL PILAR ALOMAR, by reference, reiterates
21 and adopts paragraphs 19 through 28, and further avers:

22 30. That at all times material hereto, while the Counter-Respondent, ROBERTO
23 ALOMAR VELZQUEZ, was engaging in sexual acts with MARIA DEL PILAR ALOMAR,
24 those acts were engaged in by the Counter-Petitioner, MARIA DEL PILAR ALOMAR, upon
25 the belief that sex with the Counter-Respondent, ROBERTO ALOMAR VELZQUEZ, was
26 safe based upon her knowledge of him and his assuring her he had been tested and the
27 tests were negative.

28 31. That the consent to the sexual intercourse between the parties was not freely

1 and voluntarily given due to the fact that the Counter-Respondent, ROBERTO ALOMAR
2 VELZAQUEZ, had intentionally with corrupt intent, concealed from the Counter-Petitioner,
3 MARIA DEL PILAR ALOMAR, his physical condition as to a sexually transmitted disease
4 and the he was HIV positive, and said conduct is to be considered a battery upon the
5 Counter-Petitioner, MARIA DEL PILAR ALOMAR, since her consent was as a result of
6 fraudulent misrepresentation, or was a result of intentional misrepresentation and
7 concealment of material facts by the Counter-Respondent, ROBERTO ALOMAR
8 VELZAQUEZ, as to his physical condition.

9 32. At no time would the Counter-Petitioner, MARIA DEL PILAR ALOMAR, have
10 agreed to engage in any sexual contact with the Counter-Respondent, ROBERTO
11 ALOMAR VELZAQUEZ, nor marry him if she had known of his true physical condition, to-
12 wit: the fact that he was infected with HIV.

13 33. That as a direct and proximate result of the foregoing conduct by the Counter-
14 Respondent, ROBERTO ALOMAR VELZAQUEZ, the Counter-Petitioner, MARIA DEL
15 PILAR ALOMAR, has in the past and will in the future suffer extreme emotional distress,
16 fear, and mental anguish; and that she has in the past and will in the future incur medical
17 bills and expenses to continue testing for HIV.

18 **WHEREFORE** Counter-Petitioner, MARIA DEL PILAR ALOMAR, sues the Counter-
19 Respondent, ROBERTO ALOMAR VELZAQUEZ, and demands judgment within the
20 jurisdictional limits of this Court, to-wit: in excess of FIFTEEN THOUSAND (\$15,000.000
21 DOLLARS, exclusive of costs, and demands a trial by jury of all issues triable as of right
22 by a jury.

23 **COUNT V - NEGLIGENCE**

24 34. The Counter-Petitioner, MARIA DEL PILAR ALOMAR, by reference, reiterates
25 and adopts paragraphs 19 through 28, and further avers:


26 35. That the Counter-Respondent, ROBERTO ALOMAR VELZAQUEZ, did
27 negligently and carelessly engage in sexual intercourse with the Counter-Petitioner, MARIA
28 DEL PILAR ALOMAR, when he knew he was HIV positive, and negligently and carelessly

1 failed to inform and warn the Counter-Petitioner that he was HIV positive, resulting in
2 serious and grievous personal injuries and damages to the Counter-Petitioner as herein
3 alleged.

4 36. That as a direct and proximate result of the foregoing conduct by the Counter-
5 Respondent, ROBERTO ALOMAR VELZQUEZ, the Counter-Petitioner, MARIA DEL
6 PILAR ALOMAR, has in the past and will in the future suffer extreme emotional distress,
7 fear, and mental anguish; and that she has in the past and will in the future incur medical
8 bills and expenses to continue testing for HIV.

9 **WHEREFORE** Counter-Petitioner, MARIA DEL PILAR ALOMAR, sues the Counter-
10 Respondent, ROBERTO ALOMAR VELZQUEZ, and demands judgment within the
11 jurisdictional limits of this Court, to-wit: in excess of FIFTEEN THOUSAND (\$15,000.000
12 DOLLARS, exclusive of costs, and demands a trial by jury of all issues triable as of right
13 by a jury.

14 DATED this 5th day of October, 2010.


16 RICARDO CALZADA II
17 Florida Bar No. 551619
18 DOROUGH, CALZADA & SOTO, LLP
19 419 N. Magnolia Avenue
20 Orlando, Florida 32801
21 Telephone: (407) 843-2222
22 Facsimile: (407) 648-5050
23 Attorney for Respondent/
24 Counter-Petitioner

21 I understand that I am swearing or affirming under oath to the truthfulness of
22 the claims made in this petition and that the punishment for knowingly making a
23 false statement includes fines and/or imprisonment.

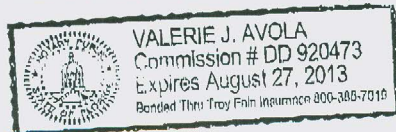
23 Dated: October 05, 2010


24 MARIA DEL PILAR ALOMAR

24 STATE OF FLORIDA
25 COUNTY OF Orange

26 Sworn to or affirmed and signed before me on this 05 day of October, 2010 by
27 MARIA DEL PILAR ALOMAR who is personally known to me and who did take an oath.

28 SEAL:




NOTARY PUBLIC

CERTIFICATE OF SERVICE

I CERTIFY that a copy hereof was furnished by mail delivery to David A. Maney, Esquire, and Patricia F. Kuhlman, Attorney, 606 E. Madison Street, P. O. Box 172009, Tampa, FL 33672-2009, this 5th day of October, 2010.

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By: 

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