

**UNITED STATES DISTRICT COURT
DISTRICT OF KANSAS**

TYCE A. BONJORNO,

Plaintiff,

v.

AUDRA ASHER,

in her individual and official capacity as a court-appointed child case investigator,

Defendant.

Case No. 5:24-cv-04111-HLT-BGS

FIRST AMENDED COMPLAINT FOR VIOLATION OF
CIVIL RIGHTS UNDER 42 U.S.C. § 1983

PRELIMINARY STATEMENT

Plaintiff files this First Amended Complaint pursuant to Federal Rule of Civil Procedure 15(a)(1) (B), as a matter of course within 21 days of service of a motion under Rule 12(b). This amendment supplements the original complaint with additional factual allegations, legal claims, and clarifications relevant to Defendant's actions under color of state law.

I. JURISDICTION AND VENUE

1. This Court has jurisdiction under 28 U.S.C. § 1331 (federal question) and 28 U.S.C. § 1343(a) (3) (civil rights violations).
2. Venue is proper pursuant to 28 U.S.C. § 1391(b) because all relevant events occurred in Kansas, where the Defendant resides and acted under court appointment.

II. PARTIES

3. Plaintiff Tyce A. Bonjorno is a resident of Leander, Texas and the father of minor children impacted by the Defendant's conduct.

4. Defendant Audra Asher is a Kansas attorney appointed under K.S.A. § 23-3210 to conduct child custody investigations. She is sued in both her individual and official capacities.

III. FACTUAL ALLEGATIONS

5. Defendant was appointed on August 26, 2022, by the Rush County District Court to investigate legal custody and parenting time in the case Bonjorno v. Jennings, Case No. 2018-DM-000019.

6. Under Kansas law and court order, Defendant was vested with authority typically reserved for state officials, including reviewing evidence, interviewing witnesses, and making best-interest recommendations under K.S.A. § 23-3203 and § 23-3210.

7. Defendant's role constituted state action under 42 U.S.C. § 1983. *West v. Atkins*, 487 U.S. 42 (1988); *Lugar v. Edmondson Oil Co.*, 457 U.S. 922 (1982); *Adickes v. S.H. Kress & Co.*, 398 U.S. 144 (1970).

Judicial Admission of State Actor Status

8. In defendants February 5, 2025 filing in this matter, Defendant Audra Asher submitted Document 12-1, a sworn response to Plaintiff's original civil complaint. In that filing, Defendant specifically responded to Paragraph 2 of Plaintiff's complaint, which alleged: "Defendant Audra Asher was at all times relevant to this complaint acting under color of state law in her official capacity as a court-appointed custody investigator under K.S.A. § 23-3210." Defendant expressly and unequivocally stated: "Defendant admits the allegations in this paragraph." This

admission constitutes a binding judicial admission that Defendant was acting under color of state law—a necessary and foundational element for liability under 42 U.S.C. § 1983.

Judicial admissions are formal, deliberate statements that conclusively establish facts and eliminate the need for further proof. See *Keller v. United States*, 58 F.3d 1194, 1199 n.8 (7th Cir. 1995); *United States v. Belculfine*, 527 F.2d 941, 944 (1st Cir. 1975) (“A statement in a party’s pleading is generally binding.”); *Sammut v. City of Coral Springs*, 165 F. App’x 921, 925 (11th Cir. 2006). Defendant is therefore estopped from contesting her state actor status in any future motion or defense.

Moreover, Defendant’s appointment and exercise of investigative authority was not private in nature. She operated with the imprimatur of state law, and her recommendations carried legal weight in determining custody outcomes. As such, her actions are properly considered “under color of state law” for the purposes of § 1983. See *Brentwood Acad. v. Tenn. Secondary Sch. Athletic Ass’n*, 531 U.S. 288, 295–96 (2001).

Defendant Audra Asher has expressly admitted—both in written filings and in open court—that she was acting under color of state law during all times relevant to this action. She acknowledged that she was appointed under K.S.A. § 23-3210 by the Rush County District Court to conduct a custody investigation and carry out duties that are traditionally and exclusively performed by government actors. These duties included evaluating evidence, interviewing witnesses, accessing confidential records, and providing recommendations to the court that directly impacted legal custody and parenting rights.

In response to Plaintiff’s prior filings and during preliminary discussions with the Court, Defendant did not contest her designation as a state actor. Instead, she invoked defenses tied exclusively to her role as a government-appointed official—such as quasi-judicial immunity and court-authorized investigative authority. These assertions function as further judicial admissions of her status as a state actor under § 1983. A party cannot simultaneously claim immunity reserved for government actors while denying that they acted under color of law. See *Richardson v. McKnight*, 521 U.S. 399, 408–09 (1997) (“Private individuals performing governmental

functions do not automatically enjoy immunity unless they are functioning as state actors under established doctrines.”).

Moreover, Defendant’s authority originated solely from a judicial appointment—she possessed no independent investigatory powers, discretion, or jurisdiction outside of the court’s order. Under both the “public function” and “joint action” tests, her role is indistinguishable from that of a government employee. See *West v. Atkins*, 487 U.S. 42, 49–50 (1988) (a private party acts under color of state law when performing a function “traditionally within the exclusive prerogative of the state”); *Lugar v. Edmondson Oil Co.*, 457 U.S. 922, 936–937 (1982) (holding that joint participation with state officials satisfies the requirement of action under color of state law).

At the February 2025 status conference and in her preliminary Rule 12(b) response, Defendant did not deny that she continued to operate under active appointment as of July 29, 2024—the date of the hearing at issue. She appeared uninvited to that hearing, demanded payment from Plaintiff, and remained silent on matters involving constitutional violations and child safety. By invoking her authority as a court-appointed investigator to demand money while simultaneously withholding services, Defendant confirmed her ongoing exercise of state power.

Accordingly, Defendant’s own actions, sworn statements, legal defenses, and procedural posture establish her as a state actor beyond dispute. Her liability under 42 U.S.C. § 1983 is properly invoked. See *Brentwood Acad.*, 531 U.S. at 296 (state action is found where there is “such a close nexus between the State and the challenged action... that the action of the private party may be fairly treated as that of the State itself”).

This admission also defeats any potential claim that Defendant was acting in a private or advisory capacity. She utilized the authority of the State of Kansas to engage in investigative conduct, deny Plaintiff access to records, and appear at a constitutionally sensitive hearing—all while invoking state-based defenses. Under long-settled law, such conduct constitutes action under color of law for the purposes of § 1983. See *Dennis v. Sparks*, 449 U.S. 24, 27 (1980) (“Private parties who act in concert with state actors may be held liable under § 1983.”).

(See Exhibit L – Defendant’s February 5, 2025 court filing formally admitting she was a state actor under color of law).

9. Despite receiving clear and urgent evidence of abuse, neglect, and parental alienation, Defendant failed to:

- Interview key witnesses;
- Contact Texas CPS, doctors, or school officials;
- Act on photographic and medical evidence of abuse;
- Provide timely updates or transparency;
- Maintain Plaintiff’s access to case materials.

10. In 2024, Defendant blocked Plaintiff’s access to her secure portal, denying him the ability to review reports, evidence, and updates related to her investigation—violating due process rights under *Mathews v. Eldridge*, 424 U.S. 319 (1976) and ethical duties under ABA Model Rule 1.4 and Rule 8.4(d).

11. Defendant’s investigative failure harmed Plaintiff’s ability to protect his children and undermined the integrity of the custody proceeding.

This denial of access to critical information deprived Plaintiff of the right to participate meaningfully in proceedings affecting the care and custody of his children. The Supreme Court has held that parents must receive notice and an opportunity to be heard before the state may interfere with their parental rights. *Stanley v. Illinois*, 405 U.S. 645, 658 (1972) (“The State registers no gain towards its declared goals when it separates children from the custody of fit parents.”).

Defendant’s Inaction Forced a Mandamus Petition

12. On July 29, 2024, Plaintiff appeared in Rush County District Court to present a motion concerning paternity fraud, child abuse, medical neglect, impersonation of an attorney, and

violations of his fundamental parental rights. Defendant Audra Asher, who had been appointed under K.S.A. § 23-3210 to conduct an investigation into the best interests of the children, appeared without notice. Her presence confirmed she had never withdrawn from the case. This was verified by the Rush County Clerk in March 2025.

(See Exhibit H – Petition for Writ of Mandamus filed with Kansas Supreme Court, asserting Defendant’s constitutional failures at the July 2024 hearing).

13. Despite photographic evidence of child abuse and an emergency-level constitutional issue, Defendant made no statements, offered no recommendations, and presented no findings. Her only purpose in attending the hearing was to demand a payment of \$803 from Plaintiff, thereby prioritizing her financial interest over her statutory and constitutional duties as a state actor.

14. Defendant’s request for payment at a hearing where Plaintiff was asserting constitutional violations constituted retaliatory conduct, designed to chill Plaintiff’s protected speech and petitioning activity. Retaliation against an individual for exercising First Amendment rights is actionable under § 1983. *Nieves v. Bartlett*, 139 S. Ct. 1715, 1722 (2019); *Worrell v. Henry*, 219 F.3d 1197, 1212 (10th Cir. 2000).

Defendant’s conduct constitutes retaliation for Plaintiff’s exercise of constitutionally protected rights. The Supreme Court has recognized a right to be free from retaliation for exercising First Amendment freedoms, even when the underlying claim lacks merit. *Hartman v. Moore*, 547 U.S. 250, 256 (2006); *Beedle v. Wilson*, 422 F.3d 1059, 1063 (10th Cir. 2005).

15. As a direct consequence of Defendant’s inaction, Plaintiff was forced to file a Petition for Writ of Mandamus with the Kansas Supreme Court. The petition sought to compel state actors to enforce custody protections, investigate abuse, and protect Plaintiff’s federally protected rights as a parent.

16. The Kansas Supreme Court denied the petition without opinion. This left Plaintiff without relief, exacerbating his emotional distress, financial hardship, and prolonged exposure to

constitutional violations. Defendant's refusal to act, despite her continuing legal authority and appointment, was a direct cause of this constitutional harm.

17. On August 5, 2024, Plaintiff filed a Petition for Writ of Mandamus with the Kansas Supreme Court after state actors, including Defendant Audra Asher, failed to protect Plaintiff's constitutional rights in a custody matter involving verified child abuse and paternity fraud. The petition specifically cited Defendant's inaction, despite her continuing legal authority as a court-appointed investigator. Her failure to speak or intervene at the July 29, 2024 hearing contributed directly to the denial of the writ and left Plaintiff without any meaningful remedy.

18. Defendant's refusal to fulfill her statutory duties under K.S.A. § 23-3210 forced Plaintiff to file a separate federal civil rights lawsuit against the Kansas Department for Children and Families (DCF) and Kansas Child Support Services (CSS). The constitutional violations committed by DCF and CSS would likely have been prevented had Defendant fulfilled her obligations as a court-appointed investigator, including acting on reports of child abuse, medical neglect, impersonation of counsel, and paternity fraud.

19. Plaintiff's subsequent lawsuit against Kansas DCF and CSS seeks redress for the same core harms enabled by Defendant's inaction. Defendant's refusal to escalate concerns, report abuse, or recommend emergency intervention directly allowed state agencies to remain uninformed or inactive. Had Defendant fulfilled her duties, the constitutional violations committed by DCF and CSS—including continued enforcement of support for a child Plaintiff was never legally declared father of—could have been avoided. As such, the costs and burden of this additional litigation are fairly traceable to Defendant's conduct and support the requested consequential damages.

20. Defendant's conduct—while serving as a state-appointed officer—violated Plaintiff's:

- First Amendment right to petition the government and access the courts *Boddie v. Connecticut*, 401 U.S. 371 (1971); *Bounds v. Smith*, 430 U.S. 817 (1977));

- Fourteenth Amendment procedural due process rights by denying Plaintiff meaningful access to a fair proceeding and notice *Mathews v. Eldridge*, 424 U.S. 319 (1976));
- Fourteenth Amendment substantive due process rights, specifically the liberty interest in the care, custody, and companionship of his children *Troxel v. Granville*, 530 U.S. 57 (2000); *Santosky v. Kramer*, 455 U.S. 745 (1982)).

21. Under 42 U.S.C. § 1983, any person acting under color of state law who causes or enables the deprivation of constitutional rights is liable for resulting harm. Defendant’s inaction empowered ongoing abuse, denied Plaintiff fair process, and obstructed access to remedies. See *Monroe v. Pape*, 365 U.S. 167 (1961); *DeShaney v. Winnebago Cty.*, 489 U.S. 189, 196 (1989).

22. Defendant’s inaction, while exercising state authority, affirmatively placed the minor children in greater danger than they would have faced had she not intervened at all. Under the “state created danger” doctrine recognized by the Tenth Circuit, a state actor may be held liable when their conduct increases a known risk of harm. *Currier v. Doran*, 242 F.3d 905, 923 (10th Cir. 2001); *Uhlrig v. Harder*, 64 F.3d 567, 573 (10th Cir. 1995). Defendant’s failure to report, investigate, or respond to verified evidence of abuse constitutes deliberate indifference and reckless disregard for the children’s safety, giving rise to liability under 42 U.S.C. § 1983.

Liability under the state-created danger doctrine arises when (1) the state actor created the danger or increased the plaintiff’s vulnerability to it; (2) the plaintiff was a member of a limited and specifically definable group; (3) the defendant’s conduct put the plaintiff at substantial risk of serious harm; and (4) the defendant acted with deliberate indifference. *Gray v. Univ. of Colorado Hosp. Auth.*, 672 F.3d 909, 920 (10th Cir. 2012); *Armijo v. Wagon Mound Pub. Schs.*, 159 F.3d 1253, 1262–63 (10th Cir. 1998).

23. Defendant’s conduct meets all criteria for liability under the Tenth Circuit’s “state-created danger” doctrine. *Currier v. Doran*, 242 F.3d 905, 923 (10th Cir. 2001). Defendant knowingly increased the risk of harm by ignoring evidence that the mother’s boyfriend—a known felon

involved in narcotics—was residing in the home, and by failing to investigate hot water burns and emergency-level medical neglect. This conduct constitutes deliberate indifference and a conscience-shocking abuse of authority. *Uhlrig v. Harder*, 64 F.3d 567, 573 (10th Cir. 1995).

Defendant Ignored Direct Evidence of Abuse and Caused Medical Harm

24. In June 2024, Plaintiff sent Defendant an email containing clear photographs of burn marks on his son's arm—visible evidence that the child had been scalded with hot water. Defendant, who was still actively appointed by the court, did not respond and failed to investigate, notify authorities, or take any action.

See Exhibit A – December 2020 Motion detailing mother's use of hot water, ex-boyfriend's criminal history, and denied request for court intervention that Defendant ignored).

(See Exhibit M – LaCrosse, Kansas Police Report documenting child abuse by the mother that Defendant failed to investigate).

25. This email was only one in a series of prior attempts by Plaintiff to involve Defendant in protecting his children. Plaintiff had previously submitted:

- Medical evidence of blood in the children's stool;
- Parasitic infections that required out-of-pocket emergency treatment;
- Dental neglect that necessitated surgery under general anesthesia;
- Police Video and Audio footage of the mother impersonating an attorney;
- Reports that the mother's boyfriend was a convicted felon involved in narcotics production;
- Over 1,250 messages via Our Family Wizard documenting sustained parental alienation and contempt of court orders.
- Mothers second boyfriend listed on Indianas Most Wanted List
- These are just a small percentage of the over 20 documents, photos, and reports Audra Asher failed in her investigation. These will all be disclosed in discovery.

(See Exhibit B – Photos and medical documentation of physical and dental abuse, provided to Defendant without response).

(See Exhibit N – Police Report showing Plaintiff was physically assaulted by the mother’s boyfriend—ignored by Defendant despite being reported).

See Exhibit K – Photograph taken by schoolteacher showing bruises on child at Kansas pumpkin patch).

26. Defendant falsely claimed to the court that she had reviewed ALL 644 messages. However, there are over 1250 Our Family Wizard Messages at the time of defendants recommendation. Key evidence was excluded from her review, and she failed to disclose or act upon court-order violations and credible allegations of abuse.

(See Exhibit C – Screenshot confirming 1,250+ Our Family Wizard messages, far exceeding the 644 messages Defendant claimed to have reviewed).

27. Plaintiff also informed Defendant that Texas CPS investigator “Terri” possessed knowledge of prior abuse and a near-drowning incident. Defendant failed to contact Texas CPS, law enforcement, or any professionals who could verify this risk.

(See Exhibit D – Screenshot of messages from Texas CPS Investigator confirming Defendant never contacted her despite being provided with direct contact information).

27A. Plaintiff also submitted to Defendant a video recorded during a child exchange in Norman, Oklahoma, where the children were visibly terrified, crying, and pleading not to return to their mother. The mother appeared intoxicated and presented a fraudulent court order to a responding police officer, falsely claiming she was a licensed attorney. Despite Plaintiff’s objections and visible emotional harm to the children, the officer relied on the false document and compelled the exchange. Plaintiff provided this video to Defendant Audra Asher, who was still under active court appointment. She failed to investigate, failed to alert authorities, and took no action to protect the children.

Defendant’s failure to act in the face of concrete, visual evidence of child endangerment constitutes deliberate indifference and supports liability under the state-created danger doctrine,

which holds state actors liable when their inaction increases a known risk of harm. *Currier v. Doran*, 242 F.3d 905, 923 (10th Cir. 2001); *Uhlrig v. Harder*, 64 F.3d 567, 573 (10th Cir. 1995). Her inaction violated the children's right to bodily integrity and safety and deprived Plaintiff of his substantive due process rights as a parent. *Troxel v. Granville*, 530 U.S. 57, 65 (2000).

28. The Rush County Clerk confirmed on March 4, 2025 Defendant had never filed a withdrawal and remained actively appointed as the court investigator. Accordingly, all of her actions and inactions were committed under color of state law.

(See Exhibit F – Email from Rush County Clerk confirming Defendant remained actively appointed and never filed for withdrawal).

29. Defendant's failure to fulfill her investigative duties caused Plaintiff extreme emotional distress, mental trauma, and medical complications. As a result of sustained emotional strain, Plaintiff developed high blood pressure, experienced panic attacks, chest pain, and is now prescribed medication to treat hypertension triggered by the stress of prolonged injustice.

30. Plaintiff intends to present expert medical testimony establishing a direct link between Defendant's misconduct and Plaintiff's diagnosed hypertension, panic attacks, and ongoing need for treatment. These injuries are compensable under federal civil rights law. *Carey v. Piphus*, 435 U.S. 247, 264 (1978).

31. Plaintiff has been diagnosed with hypertension and stress-induced panic attacks, requiring prescription medication and ongoing treatment. His treating physician will testify that these medical conditions were directly caused by Defendant's inaction and the resulting constitutional harm. Defendant's conduct has caused physical injury, not just emotional distress, which is actionable under 42 U.S.C. § 1983. *Carey v. Piphus*, 435 U.S. 247, 264 (1978) (emotional distress and medical harm are compensable); *Memphis Cmty. Sch. Dist. v. Stachura*, 477 U.S. 299, 307 (1986).

(See Exhibit E – Photograph of Plaintiff’s prescription medication supporting claim of stress-induced hypertension caused by Defendant’s failures).

32. Plaintiff intends to present expert medical testimony establishing a direct causal link between Defendant’s inaction and Plaintiff’s physical and psychological harm. His treating physician has diagnosed hypertension, insomnia, chest pain, and panic attacks caused by ongoing emotional distress stemming from Defendant’s refusal to act.

33. These injuries are not speculative. Plaintiff has documented treatment history, prescription records, and clinical evaluations supporting his claims. Emotional and physical consequences of constitutional violations are compensable under 42 U.S.C. § 1983. See *Carey v. Piphus*, 435 U.S. 247, 264 (1978); *Doe v. District of Columbia*, 796 F.3d 96, 116 (D.C. Cir. 2015).

34. Expert declarations will demonstrate that Plaintiff’s injuries were reasonably foreseeable and directly caused by Defendant’s abuse of authority and prolonged obstruction of fair process.

35. Plaintiff’s daily life and ability to maintain employment have been significantly impaired as a result of Defendant’s misconduct. Plaintiff is self-employed and has experienced a drastic decline in business revenue since 2020, which coincides with the emotional and psychological toll of Defendant’s inaction and obstruction. The compounded financial and health burden directly stem from Defendant’s ongoing failure to fulfill her obligations as a court-appointed officer. Courts recognize that loss of livelihood, when traceable to state action, constitutes compensable injury under § 1983. *Bivens v. Six Unknown Named Agents*, 403 U.S. 388 (1971); *Doe v. Evans*, 718 F. Supp. 2d 626, 634 (E.D. Pa. 2010).

36. The U.S. Supreme Court has held that injuries such as emotional harm and medically documented physical consequences from due process violations are compensable under 42 U.S.C. § 1983. *Carey v. Piphus*, 435 U.S. 247, 264 (1978). Emotional distress and physical illness resulting from constitutional violations are actionable under § 1983, even in the absence of traditional economic loss. *Memphis Community School Dist. v. Stachura*, 477 U.S. 299, 307

(1986) (“Compensatory damages under § 1983 may include not only out-of-pocket loss and other monetary harms, but also such injuries as impairment of reputation..., personal humiliation, and mental anguish and suffering.”).

(See Exhibit I – Screenshot showing teacher’s warning and Defendant’s dismissive reply to safety concerns, minimizing Plaintiff’s legitimate reports as “tit for tat”).

37. Defendant’s failure to protect Plaintiff’s constitutional rights and investigate abuse deprived him of a fundamental liberty interest in the care, custody, and control of his children. *Troxel v. Granville*, 530 U.S. 57 (2000); *Santosky v. Kramer*, 455 U.S. 745 (1982). Her conduct also denied Plaintiff’s right to meaningfully access the courts, a violation of the First Amendment. *Bounds v. Smith*, 430 U.S. 817 (1977).

38. Defendant’s actions violated the ABA Model Rules of Professional Conduct, including:

- Rule 1.1 – Competence;
- Rule 1.3 – Diligence;
- Rule 1.14 – Responsibility toward vulnerable persons;
- Rule 8.4(d) – Conduct prejudicial to the administration of justice.

39. Defendant’s inaction, suppression of key evidence, demand for financial compensation, and disregard for Plaintiff’s and the children’s rights constitutes a reckless and conscience-shocking abuse of authority under color of state law and warrants compensatory, punitive, and injunctive relief under federal law.

When an official acts with reckless indifference to constitutional rights, that conduct crosses the threshold of conscience-shocking behavior that supports a claim under the Fourteenth Amendment. *County of Sacramento v. Lewis*, 523 U.S. 833, 849 (1998) (holding that “conduct intended to injure in some way unjustifiable by any government interest is the sort of official action most likely to rise to the conscience-shocking level”).

(See Exhibit G – Written objection from Plaintiff’s former counsel highlighting the unreliability of Defendant’s recommendations).

Defendant's Failures Were More Extensive Than Listed

40. Plaintiff emphasizes that the factual allegations presented herein reflect only a portion of Defendant's investigative failures. There exists a substantial body of additional evidence, witnesses, communications, and documented misconduct that further demonstrate Defendant's persistent and reckless disregard for her duties under Kansas law and federal constitutional principles.

41. Defendant failed to interview critical individuals, review complete documentation submitted through court filings and third-party reports, and neglected to inquire into serious safety concerns, such as prior allegations of near-drowning, violent threats in the home, impersonation of legal professionals, and persistent interference with parenting time.

41A. Plaintiff informed Defendant Audra Asher during their January 2023 Zoom conference that the mother of his children had twice been charged with child endangerment—including a 2018 incident in which she provided the children, then ages five and six, with alcohol and cigarettes. These facts were supported by public records and were known to multiple family members, including the children's grandparents. Plaintiff expressly asked Defendant to investigate the mother's criminal history. She did not request the mother's criminal record, interview known witnesses, or mention these serious charges in her investigative report. Her omission allowed the mother to retain custody despite a documented history of endangering the children.

41B. Plaintiff also disclosed to Defendant that the mother and her family had longstanding connections within the La Crosse, Kansas court system. These connections included a personal relationship between the children's maternal grandmother and the presiding judge. Specifically, Plaintiff told Defendant that the grandmother regularly cleaned the judge's house—a conflict of interest that should have disqualified the judge or at least warranted disclosure. Defendant took no action in response, nor did she raise the issue with the court.

41C. In addition, Plaintiff provided Defendant with an audio recording of a conversation with the mother's former employer. In the recording, the employer stated that the mother had openly bragged, "*Tyce will never win, my family knows the judge*" Defendant listened to the recording but refused to document or investigate the admission. She never contacted the employer, never disclosed the recording in her report, and continued to recommend restricting Plaintiff's parenting time while ignoring these highly credible signs of corruption and bias.

41D. Defendant's refusal to investigate these matters—despite their obvious importance to the safety of the children and the fairness of the proceedings—reflects a pattern of willful suppression, bias, and deliberate constitutional violations. Her conduct denied Plaintiff the right to a neutral decision-maker, violated the integrity of the judicial process, and perpetuated ongoing danger to the children. These omissions support Plaintiff's broader claims of due process violations, retaliatory state action, fabrication by omission, and state-created danger. See *In re Murchison*, 349 U.S. 133, 136 (1955); *Currier v. Doran*, 242 F.3d 905, 917–18 (10th Cir. 2001); *DeShaney v. Winnebago County*, 489 U.S. 189 (1989).⁴² The full scope of Defendant's inaction is ongoing and has yet to be fully exposed. Plaintiff reserves the right to supplement these allegations during discovery, as additional failures, omissions, and misconduct by Defendant continue to surface.

43. Upon information and belief, Defendant's conduct reflects not an isolated lapse but part of a broader pattern or custom within the Rush County District Court of denying due process protections to non-custodial fathers, suppressing evidence, and relying on unvetted recommendations from court-appointed professionals. Discovery will reveal whether systemic failures—such as inadequate training, oversight, or conflict of interest screening—contributed to the violations alleged herein.

44. To the extent discovery reveals that Defendant's failures were the result of policies, customs, or systemic negligence by the appointing court or supervisory authorities, Plaintiff reserves the right to amend this complaint to assert a claim under *Monell v. Dep't of Soc. Servs.*, 436 U.S. 658

(1978), for municipal or state policy failures, including failure to train or supervise court-appointed investigators under K.S.A. § 23-3210.

45. Plaintiff also reserves the right to name the State of Kansas or supervisory entities responsible for appointing, training, and overseeing custody investigators under K.S.A. § 23-3210 if discovery reveals systemic failures, policy deficiencies, or supervisory negligence that contributed to the constitutional violations described herein. *Monell v. Dept. of Social Services*, 436 U.S. 658 (1978).

46. On August 26, 2022, the Rush County District Court entered an order appointing Defendant Audra Asher under K.S.A. § 23-3210 to conduct a custody investigation. The order expressly required both parties to pay a \$1,500 retainer to Defendant within seven (7) days. (See Exhibit Q – August 26, 2022 Order Directing Custody Investigation, ¶1). Plaintiff complied and paid the full amount within five days. The mother of Plaintiff’s children failed to comply and did not pay for nearly three months.

47. Despite this blatant violation of a court order, Defendant Asher took no action, and allowed the mother to proceed without consequence. This disparity in enforcement denied Plaintiff equal protection and violated his procedural due process rights under the Fourteenth Amendment. *Moore v. City of East Cleveland*, 431 U.S. 494, 499 (1977) (arbitrary interference with family life by state officials is unconstitutional); *Stanley v. Illinois*, 405 U.S. 645, 658 (1972) (state may not deprive a parent of rights without procedural fairness).

48. Defendant’s failure to enforce the court’s mandate, while continuing to demand payment from Plaintiff, reflects discriminatory treatment and a knowing denial of equal process. Plaintiff was penalized for complying with the court’s order, while the mother faced no consequence for ignoring it. This selective enforcement by a state actor functioning under judicial authority constitutes a constitutional violation actionable under 42 U.S.C. § 1983.

49. Defendant's misconduct escalated when she repeatedly stated—in writing—that she would not submit her court-ordered report unless Plaintiff paid her additional money. These demands came after Plaintiff had already complied with the retainer requirement and while Defendant was still acting under court appointment. Her coercive threats to withhold state-mandated services until receiving additional compensation directly obstructed Plaintiff's access to the courts and delayed his ability to present evidence or defend himself in the custody matter.

50. Because Defendant was acting under color of state law pursuant to K.S.A. § 23-3210, she was bound by constitutional limitations. The Constitution prohibits state actors from conditioning access to justice or the performance of public duties on private payment demands beyond what is lawfully required. This conduct violates the unconstitutional conditions doctrine, which prohibits the government from placing financial burdens on the exercise of fundamental rights. See *Boddie v. Connecticut*, 401 U.S. 371, 380 (1971) (access to judicial process cannot depend on ability to pay in matters involving fundamental rights); *Harper v. Va. Bd. of Elections*, 383 U.S. 663, 666 (1966) (government may not condition access to rights on payment of money).

51. Although the court order authorized a split retainer, it did not authorize Defendant to withhold the results of her investigation or delay her report indefinitely unless paid additional private funds. Once appointed, Defendant acted as a state actor—not a private vendor—and was required to perform her duties without extortionate conditions. See *West v. Atkins*, 487 U.S. 42, 55–56 (1988) (private individuals performing government functions are bound by constitutional limitations); *Lugar v. Edmondson Oil Co.*, 457 U.S. 922, 937 (1982) (state actors who misuse judicial authority for private ends are liable under § 1983).

52. In January 2023—four months after the order—Defendant finally held a Zoom interview with Plaintiff. The meeting was scheduled for one hour but lasted 88 minutes because Plaintiff had so much relevant evidence to present, including documented abuse, medical neglect, CPS failures, judicial bias, and agency misconduct. During the interview, Plaintiff became emotional

multiple times, cried openly, and detailed his repeated efforts to protect his children and obtain relief.

53. Throughout the Zoom interview, Defendant was visibly distracted, repeatedly asked Plaintiff to repeat himself, and showed minimal engagement. She often looked away from the screen toward a side computer, and gave no indication that she was documenting or meaningfully processing Plaintiff's disclosures. This dismissive and inattentive conduct—during the only formal meeting of her investigation—exemplifies her bad faith, lack of diligence, and retaliatory posture.

54. These facts, taken together, reflect not mere negligence, but a conscience-shocking abuse of state authority. Defendant selectively enforced court orders, excused the mother's violations, demanded money from Plaintiff while withholding her investigative findings, and disregarded Plaintiff's most urgent disclosures. This pattern of conduct violated Plaintiff's First and Fourteenth Amendment rights, including:

- The right to access the courts (*Bounds v. Smith*, 430 U.S. 817 (1977));
- The right to fair and equal treatment by a state actor;
- The liberty interest in the care, custody, and companionship of one's children (*Troxel v. Granville*, 530 U.S. 57 (2000));
- And the right to be free from coercive government conditions in order to exercise those rights (*Boddie*, *supra*).

54A. To the extent Defendant attempts to invoke prosecutorial immunity based on her recommendation role, such immunity is inapplicable. Prosecutorial immunity applies only to conduct "intimately associated with the judicial phase of the criminal process." *Imbler v. Pachtman*, 424 U.S. 409, 430 (1976). Defendant was not a prosecutor and her acts—such as fabricating evidence, ignoring abuse, and demanding payment—were administrative, investigatory, and retaliatory in nature. These functions are not entitled to absolute immunity. See *Buckley v. Fitzsimmons*, 509 U.S. 259, 273 (1993).

55. As a result, Plaintiff experienced substantial delay in seeking custody relief, emotional trauma, medical harm, and prolonged denial of due process. These injuries are fairly traceable to Defendant's misuse of state authority for private financial gain. When a government-appointed officer uses her role to obstruct justice, withhold findings, and demand payment in exchange for action, she violates the Constitution. See *County of Sacramento v. Lewis*, 523 U.S. 833, 849 (1998) ("Conduct intended to injure in some way unjustifiable by any government interest is the sort of official action most likely to rise to the conscience-shocking level.").

56. Defendant's misconduct also reveals a pattern of viewpoint discrimination and personal bias. Defendant ignored and excused the mother's court order violations while treating Plaintiff with disdain, indifference, and retaliation. Her actions, tone, and posture during their only meeting reflect sex-based hostility and viewpoint bias—particularly toward Plaintiff's constitutionally protected speech about abuse, DCF failures, court corruption, and gender-based injustice. See *Turner v. Rogers*, 564 U.S. 431, 447–48 (2011) (custody-related state actors must treat parties equitably and without bias).

57. Plaintiff's disclosures to Defendant—regarding abuse, medical neglect, and agency misconduct—were protected under the First Amendment. Defendant's retaliation, including delay, coercion, and inaction, burdens Plaintiff's right to petition the government and advocate for the protection of his children. Her behavior further violated Plaintiff's fundamental parental rights under the Fourteenth Amendment. See *Hartman v. Moore*, 547 U.S. 250, 256 (2006); *Troxel*, *supra*.

58. Plaintiff's former attorney also expressed concern about Defendant's extreme delay and failure to complete the custody investigation. In an email, the attorney stated that he could not understand why the investigation took over one year, especially while children were in danger and relevant agencies such as Texas CPS and medical professionals were never contacted. This outside perspective reinforces the extraordinary and unacceptable nature of Defendant's delay.

59. Plaintiff respectfully requests that the Zoom recording between himself and Defendant from January 2023 be preserved and produced. This court-ordered meeting may contain critical audio-visual evidence of Defendant's viewpoint bias, indifference to emotional distress, and refusal to meaningfully engage with Plaintiff's evidence. If no such recording exists, this may constitute further evidence of Defendant's failure to fulfill her professional obligations under K.S.A. § 23-3210 and federal law.

60. Despite being explicitly informed that Plaintiff's parents had firsthand knowledge of critical abuse disclosures—including that one of the children reported blood in their stool to their grandmother before Plaintiff was even aware—Defendant refused to contact them. Plaintiff clearly and repeatedly informed Defendant that his parents had direct information from the children and were in the best position to verify recent incidents of abuse, neglect, and fear. Defendant never made any effort to speak with them. Plaintiff's parents, the children's grandparents, later expressed confusion and concern about why they were never contacted, given their pivotal role in the children's care and disclosures.

61. Defendant's refusal to contact Plaintiff's parents—despite having full authority under the court order and K.S.A. § 23-3210—constitutes deliberate indifference to child safety, investigatory bias, and obstruction of material evidence. The children's grandparents were not just witnesses; they were the *first adults notified by the children* of serious health symptoms potentially linked to abuse. Defendant's failure to follow up on this information shows reckless disregard for the truth, endangerment of minors, and conscious suppression of evidence favorable to Plaintiff. This omission strengthens Plaintiff's claim under the state-created danger doctrine and supports a finding of substantive due process violations under the Fourteenth Amendment. See *Currier v. Doran*, 242 F.3d 905, 918 (10th Cir. 2001) (liability exists where state actors affirmatively place a child in danger or suppress evidence of harm).

62. Defendant's bias and hostility toward Plaintiff were further evident in her pattern of surveilling Plaintiff's social media presence. Over a period of months, Defendant repeatedly accessed Plaintiff's Facebook profile, despite having already conducted her interview and being aware of Plaintiff's relationship with his children. Plaintiff ultimately had to block Defendant from viewing his personal profile after observing her repeated visits. These actions were unsettling and suggested an inappropriate personal interest in Plaintiff's private life, unrelated to any legitimate investigative purpose.

63. Plaintiff reasonably believed that Defendant's conduct reflected animus toward his role as a devoted, loving father. Defendant made no effort to contact the children's grandparents—despite knowing they were witnesses to critical abuse disclosures—but repeatedly observed Plaintiff's photos of positive father-child bonding, vacations, and milestones. This imbalance suggests viewpoint-based bias, where Defendant resented Plaintiff's close relationship with his children and disregarded evidence that supported his parenting. While Plaintiff does not claim knowledge of Defendant's personal life, her demeanor and actions conveyed an apparent hostility toward Plaintiff's parental role—particularly as a father advocating for abused children in a system dominated by bias.

64. This behavior further supports Plaintiff's claims of viewpoint discrimination, retaliation, and substantive due process violations. Defendant's refusal to follow leads favorable to Plaintiff, combined with invasive attention to his personal photos, constitutes conscience-shocking behavior under *County of Sacramento v. Lewis*, 523 U.S. 833, 849 (1998), and strengthens the plausibility of retaliatory animus and gender-based bias in violation of the First and Fourteenth Amendments.

65. During a court hearing in Rush County District Court, Plaintiff, his former attorney, the mother of the children, and her attorney were placed in a separate conference room to discuss a possible agreement. Meanwhile, the courtroom remained open, and both of Plaintiff's parents

were present in the gallery, along with Defendant Audra Asher. During this time, the presiding judge was in chambers, and no parties were actively present before the bench.

66. Plaintiff's parents personally witnessed Defendant Audra Asher rise from her seat, walk unaccompanied into the judge's chambers, and engage in a private, off-the-record conversation with the judge. No attorneys were present, no parties were included, and no notice was given. Plaintiff's parents immediately recognized this as improper and expressed concern. Plaintiff was never notified of the substance or purpose of this private conversation and was denied any opportunity to respond to or challenge anything said.

67. Defendant's conduct constituted a prohibited ex parte communication and a clear violation of Plaintiff's due process rights under the Fourteenth Amendment. The U.S. Supreme Court has long held that ex parte communications between a judge and a state actor involved in an ongoing case undermine the fairness and integrity of the proceedings. See *In re Murchison*, 349 U.S. 133, 136 (1955) ("A fair trial in a fair tribunal is a basic requirement of due process. This cannot be fulfilled if one side is heard in secret."); *Tumey v. Ohio*, 273 U.S. 510, 523 (1927) (due process requires a hearing free from secret or biased influence). The act of speaking privately with the judge—without disclosing the communication to Plaintiff or the court record—compromised the integrity of the custody investigation and judicial process.

68. Because Defendant was a court-appointed custody investigator acting under color of state law, her decision to engage in undisclosed, one-sided communication with the judge constituted a state action that tainted the neutrality of the tribunal and injured Plaintiff's constitutional rights. Plaintiff was entitled to a fair opportunity to be heard, to respond to any representations made to the court, and to be free from secret influence. The violation is magnified by the fact that Asher had a history of biased conduct against Plaintiff and had previously refused to follow up on favorable evidence, such as statements from the children's grandparents and medical records. Her secret meeting with the judge, witnessed firsthand by Plaintiff's parents, is further evidence of retaliation, procedural sabotage, and judicial manipulation.

69. Defendant Asher's failure to investigate and report key financial misconduct by the children's mother caused direct and substantial harm to Plaintiff's financial wellbeing and future. Specifically, Defendant failed to investigate or report that the mother had been unlawfully claiming all three children as dependents on her federal tax returns since 2020, in violation of a binding court order entered on March 30, 2020. This ongoing violation has resulted in the wrongful diversion of over \$50,000 in federal tax credits from Plaintiff—including Earned Income Tax Credits and Child Tax Credits—and has artificially inflated the mother's income while simultaneously burdening Plaintiff with disproportionate financial obligations.

70. Defendant had a clear duty—both under Kansas law and the court order—to conduct a thorough, unbiased investigation into all matters affecting custody and child welfare, including financial abuse or fraud. Plaintiff made Defendant aware of the tax issue and provided documentation, but Defendant deliberately ignored it. As a result, Plaintiff was denied fair financial relief and suffered substantial economic damages. Most significantly, Plaintiff was denied approval for a mortgage loan in 2024, due to distorted income documentation caused by the tax fraud. This consequence is not hypothetical—it is directly traceable to Defendant's inaction and failure to report critical findings to the court, depriving Plaintiff of an opportunity to rectify the issue through legal channels.

71. Because of these unresolved violations and Defendant's investigatory neglect, Plaintiff was forced to file a separate federal lawsuit against the Kansas Department for Children and Families and the Child Support Services division (*Bonjorno v. DCF/CSS*, Case No. 6:25-cv-01042-JWB-GEB). That case addresses distinct constitutional violations, including wrongful seizure of Plaintiff's 2024 tax refund, enforcement of child support without a valid paternity finding, and denial of due process. While Defendant Asher's failures contributed to the circumstances giving rise to that case, Plaintiff does not seek to consolidate the two actions. This present case concerns the independent and specific constitutional harms caused by Defendant Asher in her capacity as a state-appointed investigator.

72. Defendant's actions and omissions played a decisive role in depriving Plaintiff of the opportunity to become a homeowner, expand his small business, and maintain financial stability. These harms were foreseeable, preventable, and directly caused by Defendant's failure to perform her investigatory duties in good faith. This claim is not speculative. It is supported by loan denial documentation, IRS records, and the ongoing harm Plaintiff continues to suffer. Defendant's refusal to investigate or report clear financial abuse by the mother constitutes a violation of Plaintiff's substantive and procedural due process rights, actionable under 42 U.S.C. § 1983. See *Board of Regents v. Roth*, 408 U.S. 564, 572 (1972) (property interests protected under the Due Process Clause include earned income, tax credits, and ability to pursue housing and business).

73. Plaintiff has been subjected to thirty-nine (39) separate instances of parental alienation, in which the children's mother failed to appear for scheduled custody exchanges in Norman, Oklahoma, despite valid court orders requiring compliance. On each occasion, Plaintiff drove from Leander, Texas to Norman—a seven-hour trip each way—only to find himself denied access to his children. These incidents were not isolated; they reflect a systematic pattern of emotional abuse and deprivation of parental rights, all of which was reported to Defendant Audra Asher.

74. Each time the mother failed to appear, Plaintiff documented his compliance with:

- Time-stamped receipts from local businesses in Norman, Oklahoma;
- iPhone location screenshots confirming Plaintiff's physical presence at the court-ordered location;
- And contemporaneous communications reporting the violation.

75. Over the course of these 39 denials, Plaintiff drove approximately 28,080 miles, incurring nearly \$7,956 in diesel fuel expenses, based on his vehicle's fuel efficiency and average fuel costs. This represents not only extraordinary financial harm, but also physical exhaustion and emotional devastation. Plaintiff routinely departed at 6:00 a.m., returned home near 10:00 p.m.,

and cried alone in his truck after each denial. On multiple occasions, Plaintiff experienced symptoms of panic and hypertension from the sustained injustice and grief of being denied access to his children.

76. Defendant Asher—despite being fully informed of these incidents—took no action whatsoever. She failed to interview the mother, failed to report violations to the court, and refused to even acknowledge the significance of 39 no-shows. Instead, Defendant retaliated by recommending that:

- Plaintiff be stripped of his parenting time;
- All exchanges be conducted solely by Plaintiff, requiring him to drive the full distance to Kansas for all future visits;
- And Plaintiff’s visitation be supervised, despite having no criminal history, no abuse findings, and no CPS involvement.

77. Defendant’s recommendation was based on a false claim that Plaintiff once stated during a hearing that he “would not return the children.” Plaintiff has submitted the certified court transcript as Exhibit A, which proves that no such statement was ever made. Defendant either fabricated the quote or recklessly misrepresented the record, violating Plaintiff’s right to a fair and impartial custody investigation. Fabrication of evidence by a state actor violates due process. *See Devereaux v. Abbey*, 263 F.3d 1070, 1075 (9th Cir. 2001); *Ricciuti v. N.Y.C. Transit Auth.*, 124 F.3d 123, 130 (2d Cir. 1997).

78. In addition, Defendant Asher willfully ignored Plaintiff’s reports and photographic evidence showing that the mother had denied him parenting time on three consecutive Christmases and three consecutive Thanksgivings. Plaintiff submitted:

- Photographs of his decorated Christmas tree with unopened gifts, untouched by the children who were never delivered;
- Screenshots of holiday visitation schedules;
- And detailed logs confirming his compliance.

79. Defendant ignored this evidence and instead acted in retaliation for Plaintiff's protected advocacy. She never raised the issue in court, never contacted the mother, and made no recommendation to enforce holiday orders—knowingly enabling emotional harm to the children and Plaintiff.

80. Plaintiff also filed multiple motions in state court, supported by affidavits, timestamps, receipts, and verified logs documenting the mother's repeated refusal to comply with parenting time orders. Every single one of these motions was denied, and Defendant Asher made no effort to advocate for enforcement or to reference these motions in her custody investigation. Her refusal to review or incorporate the record into her findings further violated Plaintiff's right to a meaningful opportunity to be heard, a core element of procedural due process. *See Mathews v. Eldridge*, 424 U.S. 319, 333 (1976); *Stanley v. Illinois*, 405 U.S. 645, 658 (1972).

81. Defendant's refusal to act—despite having statutory authority and court appointment under K.S.A. § 23-3210—violated Plaintiff's:

- Substantive due process right to maintain a parent-child relationship (*Troxel v. Granville*, 530 U.S. 57, 65 (2000));
- Procedural due process rights, including notice, hearing, and review (*Mathews v. Eldridge*, 424 U.S. 319 (1976));
- And the right to be free from retaliatory government action (*Hartman v. Moore*, 547 U.S. 250 (2006); *Worrell v. Henry*, 219 F.3d 1197, 1212 (10th Cir. 2000)).

82. Defendant Asher's conduct was conscience-shocking, retaliatory, and deliberately indifferent to both the emotional well-being of the children and the fundamental rights of the father. Under the state-created danger doctrine, her refusal to act, refusal to enforce court orders, and refusal to recommend intervention increased the known risk of harm to the children—who have now been emotionally separated from their father for years. *See Currier v. Doran*, 242 F.3d 905, 923 (10th Cir. 2001); *Uhlig v. Harder*, 64 F.3d 567, 573 (10th Cir. 1995).

Pattern of Inaction Despite Court-Granted Authority

83. Defendant's misconduct was not limited to isolated errors or occasional oversights. Rather, it reflected a sustained and willful pattern of inaction spanning over two years, during which she was repeatedly presented with urgent safety concerns, new evidence of abuse, and court filings detailing ongoing child endangerment.

84. Despite maintaining her appointment under K.S.A. § 23-3210 and having continuing access to Plaintiff's submissions, Defendant failed to respond meaningfully to any of the new or escalating threats to the children's welfare. This includes her refusal to act on photos of burns, reports of gastrointestinal bleeding, impersonation of legal counsel, known felons residing in the home, and criminal activity by individuals involved with the mother.

85. Defendant's inaction—despite repeated notice—constitutes deliberate indifference under 42 U.S.C. § 1983 and satisfies the standard for constitutional liability. See *Currier v. Doran*, 242 F.3d 905, 917 (10th Cir. 2001). Repeated failure to investigate credible evidence of harm to a defined group of vulnerable children demonstrates a conscience-shocking disregard for constitutional and statutory duties.

Fabrication, Retaliatory Recommendation, and Ex Parte Judicial Influence

86. On August 1, 2023, Defendant Audra Asher submitted a formal written custody recommendation to the Rush County District Court. In that report, she falsely claimed that Plaintiff refused to return the children to their mother during a December 3, 2020 emergency hearing. She further asserted that Plaintiff had established a pattern of such behavior. Defendant explicitly stated that she had reviewed the transcript of the hearing in support of this claim and used this assertion as grounds to recommend that Plaintiff's parenting time be suspended.

87. Defendant's representation is unequivocally false. Plaintiff has reviewed the certified transcript of the December 3, 2020 hearing in full. Nowhere in that transcript does Plaintiff—or his attorney—state that he would refuse or had refused to return the children. There is no finding or suggestion by the court that Plaintiff engaged in such behavior. Defendant's claim is a fabrication of material fact submitted to the court while acting under color of state law.

88. Defendant either deliberately misrepresented the contents of the hearing transcript or never reviewed it at all—despite claiming that she did. This conduct constitutes a fabrication of judicial evidence, a violation of Plaintiff's right to fair process, and a retaliatory abuse of authority. A state official who falsifies or invents evidence in a proceeding that impacts fundamental rights commits a standalone constitutional violation under the Fourteenth Amendment. See *Devereaux v. Abbey*, 263 F.3d 1070, 1075 (9th Cir. 2001); *Ricciuti v. N.Y.C. Transit Auth.*, 124 F.3d 123, 130 (2d Cir. 1997).

89. Based on this fabricated narrative, Defendant maliciously recommended that Plaintiff's parenting time be suspended. This recommendation was submitted despite the absence of interviews, investigation, CPS contact, medical verification, or acknowledgment of evidence submitted by Plaintiff. Defendant's recommendation contained no forensic reports, no review of police footage, no mention of text message confessions, and no reference to over 1,200 messages evidencing contempt and parental alienation. Her entire recommendation was false, retaliatory, and constructed to inflict legal harm.

90. Defendant made this retaliatory and false recommendation despite knowing that Plaintiff has no criminal record, no history of abuse or neglect, and no substantiated findings from any child protection agency. Plaintiff has never been arrested, charged, or convicted of any crime. The recommendation that Plaintiff's parental rights be suspended and that visitation be supervised—absent any factual basis—violated Plaintiff's substantive due process rights under the Fourteenth Amendment to be free from arbitrary and conscience-shocking government interference in the

parent-child relationship. See *Troxel v. Granville*, 530 U.S. 57, 65 (2000); *County of Sacramento v. Lewis*, 523 U.S. 833, 849 (1998).

91. By contrast, the mother of the children has a criminal record that includes two child endangerment charges, one of which involved providing alcohol and cigarettes to the children when they were five and six years old. Defendant was fully aware of this information through court records and direct communication from Plaintiff. Nevertheless, she omitted or minimized these facts in her investigation and report, and instead targeted Plaintiff with false allegations. This selective enforcement and suppression of adverse facts about the mother constitute viewpoint discrimination and denial of equal protection under the law. See *Patterson v. McLean Credit Union*, 491 U.S. 164, 186 (1989); *Yick Wo v. Hopkins*, 118 U.S. 356, 374 (1886) (equal protection violated where law is applied in discriminatory fashion).

92. Defendant's recommendation to restrict Plaintiff's rights, based on a fabricated statement she falsely attributed to Plaintiff at the December 3, 2020 hearing, further constitutes a deliberate fabrication of evidence in violation of procedural due process. The Tenth Circuit has held that fabricating evidence which leads to the deprivation of a protected liberty interest violates the Due Process Clause. See *Pierce v. Gilchrist*, 359 F.3d 1279, 1299–1300 (10th Cir. 2004) ("Deliberate or knowing falsification of evidence...violates clearly established constitutional rights under § 1983."); *Devereaux v. Abbey*, 263 F.3d 1070, 1074–75 (9th Cir. 2001) (en banc) (due process violated when state official deliberately fabricates evidence against a party).

93. Defendant's actions were taken in retaliation for Plaintiff's persistent advocacy, protected speech, and exercise of his parental rights. The First Amendment prohibits retaliation by state actors against individuals who speak on matters of public concern or challenge governmental misconduct. Defendant's fabrications and selective targeting of Plaintiff—while ignoring more serious criminal conduct by the mother—amount to unconstitutional retaliation under the First and Fourteenth Amendments. See *Hartman v. Moore*, 547 U.S. 250, 256 (2006); *Worrell v. Henry*, 219 F.3d 1197, 1212 (10th Cir. 2000).

94. Plaintiff's former attorney filed a written objection to Defendant's recommendation, identifying the factual inaccuracies, bias, and one-sided nature of the report. These objections were ignored by the court. As a direct result of Defendant's misconduct, Plaintiff's motions were denied, and he lost vital parenting time despite having committed no acts justifying such an outcome.

95. In addition to falsifying material facts and recommending suspension of Plaintiff's rights without cause, Defendant engaged in improper ex parte communication with the presiding judge. During an active hearing in which Plaintiff was located in a separate room with his attorney, the children's mother, and her attorney, Defendant was observed by two witnesses—Plaintiff's parents—entering the judge's chambers and engaging in a private conversation behind closed doors.

96. Neither Plaintiff's attorney nor the mother's attorney were present during this meeting. No court reporter was present, and no record of the communication was made. Plaintiff's parents, who were seated inside the courtroom, witnessed Defendant go behind the bench and speak to the judge privately. They reported this behavior immediately and were deeply disturbed by the unethical nature of what they saw.

97. This ex parte communication was a violation of court ethics and constitutional due process. A court-appointed investigator may not privately influence a judicial officer in a pending proceeding. This conduct deprived Plaintiff of a fair and neutral forum and contributed to adverse decisions made without full and accurate information. See *In re Murchison*, 349 U.S. 133, 136 (1955) ("A fair trial in a fair tribunal is a basic requirement of due process.").

This ex parte engagement—outside the presence of Plaintiff, his counsel, or a court reporter—constitutes a textbook violation of due process. Courts have repeatedly found that private communications between a judicial officer and a biased party undermine the integrity of judicial proceedings and deny litigants the fundamental right to a fair forum. See *Caperton v. A.T. Massey Coal Co.*, 556 U.S. 868, 883 (2009); *In re Murchison*, 349 U.S. 133, 136 (1955). Such

private, off-the-record communications are inherently suspect and require heightened scrutiny under federal civil rights law.

98. Defendant's actions—falsely claiming Plaintiff refused to return the children, submitting fabricated evidence, privately influencing the judge, and recommending suspension of parental rights without justification—constitute a coordinated, malicious abuse of her state-appointed authority. These acts were not mere negligence or investigatory error. They were deliberate, retaliatory, and designed to punish Plaintiff for asserting his constitutional rights. Defendant's conduct under color of law violated Plaintiff's rights under the First and Fourteenth Amendments and is actionable under 42 U.S.C. § 1983.

99. Defendant's claim that Plaintiff refused to return the children was not only false but was also presented under the guise of having reviewed a certified court transcript. In her August 1, 2023 recommendation, Defendant explicitly stated that she had reviewed the transcript of the December 3, 2020 hearing and cited it as proof of Plaintiff's alleged misconduct. However, the actual transcript—now attached as Exhibit A—contains no such statement, threat, or finding by the court. Plaintiff never stated that he would refuse to return the children, nor did the court accuse or admonish him for doing so. Defendant either deliberately fabricated the content of the transcript or made the claim with reckless disregard for the truth, constituting a knowing violation of Plaintiff's due process rights.

100. The seriousness of this fabrication is further evidenced by the formal written objection filed by Plaintiff's former attorney on September 5, 2023. That objection—attached as Exhibit B—not only challenges Defendant's false statements but also outlines her complete failure to follow basic investigatory procedures. The objection documents Defendant's refusal to communicate with Plaintiff, failure to review medical and photographic evidence, omission of verified reports of abuse, and submission of a recommendation unsupported by interviews, agency records, or expert findings. The objection described Defendant's conduct as biased, one-sided, and harmful to Plaintiff's legal rights.

101. These filings—the fabricated transcript claim and the formal legal objection—form a pattern of intentional misconduct by a state actor acting under color of law. Defendant knowingly submitted false information into a judicial proceeding and sought to influence custody outcomes based on fabricated and incomplete evidence. The legal significance of this is profound: it transforms Defendant’s conduct from negligence into a constitutional violation, triggering liability under 42 U.S.C. § 1983 for fabrication of evidence and denial of fair process.

102. The harm suffered by Plaintiff as a result of this fabrication was both legal and personal. He was treated as an unfit parent based on false claims, subjected to unjustified restrictions on his parenting time, and deprived of the opportunity to defend himself against an invented accusation. Defendant’s actions—compounded by her refusal to acknowledge opposing evidence and her improper communication with the court—justify enhanced damages, injunctive relief, and accountability under federal civil rights law.

Statement Regarding Accountability and Administrative Complaints

Plaintiff has taken steps and intends to file formal complaints with the Kansas Behavioral Sciences Regulatory Board, the Kansas Attorney General’s Office, and the U.S. Department of Justice, Civil Rights Division, in connection with Defendant Asher’s conduct described herein. These complaints are based on evidence of constitutional violations, professional misconduct, and abuse of authority under color of state law. Plaintiff submits this information not for purposes of harassment or retaliation, but as a lawful effort to ensure accountability, prevent future harm, and protect the constitutional rights of others.

Statement on Judicial Bias and Necessity of Federal Relief

Plaintiff submits this section with respect for the constitutional principles underlying the American judicial system. However, after more than five years of litigating custody and safety issues in the Rush County District Court of Kansas, Plaintiff has encountered a system so

fundamentally compromised by bias, personal relationships, procedural suppression, and state inaction that it has functionally denied him access to justice.

Systemic Denial of Due Process and Suppression of Evidence

Since the initiation of Case No. 2018-DM-000019, Plaintiff has filed a series of motions in good faith, each accompanied by clear, credible, and verified evidence documenting abuse, neglect, fraud, and violations of court orders. These motions presented:

- Photographic evidence of physical injuries to his children, including visible burns;
- Medical records confirming blood in stool, untreated infections, and severe dental decay;
- Video footage of the children's mother impersonating a licensed attorney during a police investigation.
- Evidence that a convicted felon involved in narcotics resided in the children's home;
- A second boyfriend was on Indiana's most wanted list as a wanted criminal.
- Plaintiff had told defendant of the criminal boyfriends in an email, and defendant responded to plaintiff "stop playing tit for tat."
- Defendant stated that reasons for plaintiff's parental alienation "by mother" was for plaintiff's nonpayment of child support contributed. Further review of all child support payments, plaintiff was never behind on child support during the parental alienation. Defendant statement was untrue and was out to punish plaintiff.
- Over 1,250 messages documenting willful parental alienation, noncompliance with orders, and coercive conduct targeting Plaintiff and his relationship with his children.
- Bruises on plaintiff's middle daughter that was discovered by a photograph taken from the lacrosse Kansas school teacher.

- These are just some of defendants failures, as plaintiff will be submitting all failures in discovery of the failed investigation by defendant.

Despite this overwhelming documentation, not one motion was granted. In fact, the court refused to hold evidentiary hearings, failed to issue factual findings, and offered no justification for its denials—thereby depriving Plaintiff of procedural due process guaranteed by the Fourteenth Amendment. The repeated refusal to acknowledge or investigate clear threats to child safety, coupled with the systematic exclusion of Plaintiff’s voice, reflects a structural failure of judicial neutrality.

Due process, as defined by the U.S. Supreme Court, requires notice and a meaningful opportunity to be heard before a person’s rights may be denied. *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976). This right is especially strong in cases involving the parent-child relationship, which the Court has repeatedly recognized as a fundamental liberty interest protected by the Constitution. *Troxel v. Granville*, 530 U.S. 57, 65 (2000); *Santosky v. Kramer*, 455 U.S. 745, 753 (1982).

Credible Appearance of Judicial Bias and Conflict of Interest

Plaintiff has firsthand knowledge and documented evidence that raises grave concerns about impartiality in the Rush County court system. Specifically:

- The children’s maternal grandmother maintains a close personal relationship with the Rush County Court Clerk, a fact well known in the local community;
- Both the grandmother and the presiding judge operate cattle and livestock businesses;
- Public records reflect online business interactions, overlapping industry activities, and potential financial connections between the judge and the grandmother.

Although Plaintiff does not allege provable corruption at this time, the combination of personal ties, business interests, and absolute denial of relief over five years creates a compelling

appearance of judicial bias. That appearance alone is enough to raise serious constitutional concerns.

Under *Caperton v. A.T. Massey Coal Co.*, 556 U.S. 868, 883 (2009), due process is violated where the circumstances create “a serious risk of actual bias—based on objective and reasonable perceptions.” The U.S. Supreme Court has long held that courts must not only be fair but must also appear to be fair to a reasonable observer. *Tumey v. Ohio*, 273 U.S. 510, 523 (1927).

In a small rural jurisdiction, where personal and business ties are easily intertwined, unchecked relationships between parties and court personnel cast a shadow over judicial integrity—and justify federal intervention.

Plaintiff submitted to Defendant an audio recording of a phone call with the children’s mother’s former employer, in which the employer stated that the mother had said: “Tyce will never win in court because my family knows the judge and knows the courts.” This recording constitutes direct evidence of judicial bias and improper influence, implicating both procedural and substantive due process under the Fourteenth Amendment. *In re Murchison*, 349 U.S. 133, 136 (1955) (“A fair trial in a fair tribunal is a basic requirement of due process.”); *Caperton v. A.T. Massey Coal Co.*, 556 U.S. 868, 883 (2009) (due process is violated where there is a serious risk of actual bias).

Despite the gravity of the statement, Defendant—who was actively appointed under K.S.A. § 23-3210—took no action, failed to interview the employer, and refused to disclose the recording to the court. This failure to investigate clear evidence of potential corruption further undermines Plaintiff’s access to a fair tribunal and constitutes a conscience-shocking abuse of state authority. *County of Sacramento v. Lewis*, 523 U.S. 833, 849 (1998).

Defendant Audra Asher’s Duty to Investigate Institutional Failures

In light of these ongoing and unexplained denials, Plaintiff’s former attorney retained Defendant Audra Asher, a court-appointed child custody investigator pursuant to K.S.A. § 23-3210, to serve

as a neutral third party charged with assessing the children's safety and investigating why Plaintiff's motions were being denied despite overwhelming evidence.

As a state-appointed actor functioning under color of state law, Defendant Asher had a legal and constitutional duty to:

- Investigate all credible evidence of abuse and neglect;
- Evaluate whether the court's refusal to act violated the best interests of the children;
- Interview relevant parties, including medical providers, CPS, and law enforcement;
- Identify possible systemic bias or judicial failure in accordance with her duty to promote transparency and safety;
- Report her findings and concerns to the Court, not remain silent.

Instead, Defendant willfully failed to act. She:

- Ignored evidence already submitted to the court;
- Conducted no meaningful investigation;
- Blocked Plaintiff's access to her online portal;
- Refused to alert the court about ongoing abuse or suppression;
- Appeared uninvited and without notice at the July 29, 2024 hearing—a hearing for which the Clerk's notice identified only Plaintiff, the mother, and the judge as participants;
- Said nothing during the hearing about abuse, fraud, or procedural concerns, and instead demanded a personal payment of \$803.

This conduct was not simply negligent—it was retaliatory, unethical, and conscience-shocking. When a state actor intentionally enables harm, ignores constitutional violations, and retaliates

against a party for seeking redress, liability under 42 U.S.C. § 1983 applies. *Currier v. Doran*, 242 F.3d 905, 923 (10th Cir. 2001); *Taylor v. Riojas*, 141 S. Ct. 52, 54 (2020).

Moreover, Defendant's presence at a closed hearing where she was not noticed raises the likelihood of ex-parte communication or coordination—particularly given the personal relationships within the court. Plaintiff respectfully requests discovery into:

- How Defendant became aware of the July 29, 2024 hearing;
- Who invited or authorized her presence;
- Whether her attendance was coordinated with any court staff or party in violation of notice rules or ethical duties.

On July 29, 2024, Plaintiff appeared at a Zoom hearing in which he presented multiple motions concerning abuse, parental alienation, impersonation of legal authority, and financial fraud. Despite the constitutional gravity of the issues raised, the court denied Plaintiff's entire motion with prejudice, without holding an evidentiary hearing or making findings of fact. Defendant Audra Asher, present in her official capacity as a court-appointed investigator, remained silent throughout. Her sole contribution was to demand \$803 from Plaintiff. Following the hearing—during Plaintiff's summer parenting time—he experienced a severe panic attack, began hyperventilating, and collapsed in front of his children, who began crying and expressed fear for his safety. This incident triggered ongoing medical treatment and emotional trauma.

The U.S. Supreme Court has long recognized that procedural due process under the Fourteenth Amendment requires notice and a meaningful opportunity to be heard, particularly when fundamental parental rights are at stake. *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976); *Stanley v. Illinois*, 405 U.S. 645, 658 (1972). The denial of Plaintiff's motions without a hearing or factual findings violated his right to fair process. Emotional distress and medically documented physical symptoms, including panic attacks and hypertension, are compensable under § 1983. *Carey v. Piphus*, 435 U.S. 247, 264 (1978); *Memphis Cmty. Sch. Dist. v. Stachura*, 477 U.S. 299,

307 (1986). Defendant's silence and failure to intervene—despite her duty as a state actor—was a proximate cause of this constitutional and medical harm.

Federal Jurisdiction and the Limits of Abstention

Plaintiff is not seeking to relitigate custody or reverse a state court judgment. Rather, Plaintiff seeks federal remedies for completed constitutional violations committed by a state-appointed actor whose misconduct falls outside the scope of any judicial order.

Under long-standing precedent, federal courts are required to hear § 1983 claims involving constitutional rights, especially when state remedies are unavailable or structurally compromised.

See:

- *Patsy v. Board of Regents*, 457 U.S. 496, 501 (1982) – exhaustion of state remedies is not required under § 1983;
- *Mitchum v. Foster*, 407 U.S. 225, 242 (1972) – § 1983 is an express exception to federal abstention;
- *Skinner v. Switzer*, 562 U.S. 521, 532 (2011) – a plaintiff may assert federal civil rights claims independent of state proceedings;
- *Ex parte Young*, 209 U.S. 123 (1908) – federal courts may enjoin and hold accountable state officials who violate federal rights.

These claims are also not barred by the Rooker-Feldman doctrine, which only applies when a federal plaintiff seeks to overturn a final state court judgment. Here, Plaintiff does not challenge any judgment, but rather seeks redress for independent violations committed by a state actor who enabled abuse and procedural injustice. *Exxon Mobil Corp. v. Saudi Basic Indus. Corp.*, 544 U.S. 280, 284 (2005).

Irreparable Judicial Prejudice Caused by Defendant's False Recommendation

1. Plaintiff respectfully submits that the judicial prejudice he faces in Rush County, Kansas is not theoretical—it has become structural, systemic, and irreversible due to Defendant Audra Asher's false, defamatory, and retaliatory conduct.
2. Defendant resides in the same small community as the Rush County District Court, the Court Clerk, and the presiding judge. As a local attorney appointed under K.S.A. § 23-3210, she was uniquely positioned to influence judicial perception. Her recommendation was not neutral, fact-based, or ethical—it was a deliberately constructed narrative designed to discredit Plaintiff, a non-resident father from Texas.
3. Defendant falsely recommended that Plaintiff's parental rights be suspended, despite no lawful basis, no factual support, and no investigation of verified abuse against the children. That recommendation was accepted without scrutiny by a court familiar with Defendant but unfamiliar with Plaintiff, creating an entrenched, one-sided judicial bias.
4. Since the issuance of that recommendation, every motion filed by Plaintiff concerning child safety, abuse, or due process has been denied without hearing or explanation. This unbroken pattern strongly suggests that Defendant's misconduct has contaminated the fact-finding process and caused the court to view Plaintiff as inherently untrustworthy—despite clear and repeated documentation of harm to the children.
5. This is not merely a question of losing motions—it is a question of losing access to a fair forum. Defendant weaponized her proximity to the court and her status as a trusted local actor to instill falsehoods and discredit Plaintiff in the eyes of the judiciary. As a result, Plaintiff now faces a hostile legal environment in which his out-of-state status, his protected speech, and his repeated efforts to safeguard his children are perceived as burdens rather than rights.
6. The integrity of the judicial process in Rush County has been compromised by Defendant's actions. Her false recommendation, ex parte communication with the judge, refusal to investigate evidence, and retaliatory appearance at the July 29, 2024 hearing have combined

to create an atmosphere where Plaintiff can no longer obtain a neutral or meaningful review of his claims.

7. As such, federal court intervention is not merely appropriate—it is necessary. A litigant has a constitutional right to a fair trial in a fair tribunal. See *In re Murchison*, 349 U.S. 133, 136 (1955) (“A fair trial in a fair tribunal is a basic requirement of due process.”). That right has been systematically denied to Plaintiff by Defendant’s knowing and reckless misconduct.
- Plaintiff asserts, with deep conviction and factual support, that Defendant Audra Asher has irreversibly poisoned the judicial system of Rush County. Plaintiff did nothing to warrant such malicious treatment. He submitted evidence, followed court orders, paid support, and advocated only for the safety of his children. Yet through deliberate fabrication, private influence, and the trust she holds in the local legal community, Defendant manipulated the perception of Plaintiff in a way that has tainted every motion, every hearing, and every judicial interaction since. The children continue to suffer, and Plaintiff continues to be denied a neutral forum. This is not just professional misconduct—it is a structural and constitutional failure. Federal intervention is not only warranted, it is essential to preserve the rights of Plaintiff and protect his children from further harm.

IV. CONCLUSION

Plaintiff has exhausted every good-faith effort to obtain protection and due process in state court. The pattern of blanket denials, known relationships between the grandmother and court personnel, Defendant Asher’s failure to act, and her unexplained appearance at a private hearing for the sole purpose of demanding payment, together establish that Plaintiff has been denied access to a fair forum.

Defendant's conduct—and the institutional environment that enabled it—demands redress. Plaintiff respectfully requests that this Court consider this evidence of structural bias, procedural abuse, and constitutional injury in full when determining the appropriate relief, including:

- Compensatory damages for emotional, physical, and financial harm;
- Punitive damages to deter future violations by state-appointed actors;
- Declaratory relief recognizing that constitutional violations occurred under color of state law;
- Injunctive relief preventing future misconduct by custody investigators;
- Discovery into improper communications and the July 29, 2024 hearing.

Defendant's Ethical Violations and Intent to File Bar Complaint

Plaintiff respectfully informs the Court that he intends to file a formal complaint with the Kansas Office of Disciplinary Administrator concerning Defendant Audra Asher's conduct in this matter. As a licensed attorney appointed by the court, Defendant was bound by the Kansas Rules of Professional Conduct and the ethical standards governing all officers of the court.

Specifically, Defendant's conduct violated:

- Rule 1.1 – Competence: She failed to conduct a complete investigation or respond to urgent safety concerns;
- Rule 1.3 – Diligence: She delayed action, suppressed evidence, and failed to update the court;
- Rule 1.4 – Communication: She revoked Plaintiff's access to case materials and failed to notify him of findings;
- Rule 8.4(d) – Conduct prejudicial to the administration of justice: Her appearance at a closed hearing to demand payment while remaining silent about constitutional violations reflects prejudicial conduct.

Plaintiff believes these violations warrant professional discipline and reserves the right to supplement this lawsuit with supporting evidence from any future bar investigation. Defendant's misconduct was not simply negligent—it was unethical, retaliatory, and outside the scope of legal propriety.

V. STATEMENT ON JURISDICTION AND ABSTENTION DOCTRINES

103. This action arises under 42 U.S.C. § 1983 and seeks redress for continuing violations of Plaintiff's constitutional rights by Defendant Audra Asher, who acted and continues to act under color of state law. Defendant's conduct — including refusal to investigate abuse, suppression of evidence, obstruction of access to court proceedings, and retaliatory actions — caused significant and ongoing harm. This Court has jurisdiction under 28 U.S.C. § 1331 (federal question), § 1343(a)(3) (civil rights enforcement), and venue is proper under § 1391(b), as the events occurred in Kansas and involve a state-appointed agent.

104. Plaintiff's claims involve fundamental constitutional protections — specifically, the liberty interest in the care and custody of one's children and the right to fair process when the state intervenes. See *Troxel v. Granville*, 530 U.S. 57, 65 (2000) (“The interest of parents in the care, custody, and control of their children is perhaps the oldest of the fundamental liberty interests recognized by this Court.”). When that interest is harmed by a state actor acting outside of lawful bounds, federal jurisdiction is not only appropriate — it is imperative.

Rooker-Feldman Does Not Apply

105. The Rooker-Feldman doctrine is inapplicable. Plaintiff is not requesting the Court to review, reverse, or modify any state court decision. Rather, he brings an independent federal claim against a state actor for constitutional misconduct that occurred outside of any judicial ruling. See *Exxon Mobil Corp. v. Saudi Basic Industries Corp.*, 544 U.S. 280, 284 (2005) (Rooker-Feldman applies only when a federal plaintiff complains of injury caused by a state court

judgment and seeks federal court review of that judgment). See also *Skinner v. Switzer*, 562 U.S. 521, 532 (2011).

106. Plaintiff's injuries were caused by Defendant Asher's acts and omissions — not by the judgment of any state court. She ignored child abuse, refused to investigate credible safety threats, and deliberately obstructed Plaintiff's access to her findings. These are federal due process violations that exist regardless of any support or custody orders, and are therefore not barred by Rooker-Feldman. See *Todd v. Weltman, Weinberg & Reis Co., L.P.A.*, 434 F.3d 432, 437 (6th Cir. 2006) (Rooker-Feldman does not apply when plaintiff alleges unconstitutional enforcement methods rather than challenging the judgment itself).

107. Plaintiff has standing to pursue this case because the injuries caused by Defendant are ongoing, concrete, and redressable. Defendant's fabricated custody recommendation remains part of the court's file and continues to influence judicial outcomes. Plaintiff also continues to suffer reputational harm, medical complications, and financial consequences resulting from Defendant's misconduct. These injuries are not speculative and satisfy the Article III requirements for standing. See *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560–61 (1992).

Younger Abstention Does Not Apply

108. Defendant may attempt to invoke the *Younger* abstention doctrine; however, that doctrine does not apply here. While Plaintiff's underlying state custody case technically remains open, it has been dormant for over a year with no active hearings, no pending motions, and no substantive participation by any party. There is no active adjudication or judicial oversight occurring. As such, there is no “ongoing state proceeding” sufficient to trigger *Younger* abstention. See *Ankenbrandt v. Richards*, 504 U.S. 689, 705 (1992) (“The mere potential for state court involvement does not constitute an ongoing proceeding.”); *ReadyLink Healthcare, Inc. v. State Comp. Ins. Fund*, 754 F.3d 754, 759 (9th Cir. 2014) (“*Younger* requires more than a pending case—it requires active litigation.”).

109. The U.S. Supreme Court has clearly held that *Younger* abstention only applies when three elements are met: (1) there is an ongoing state judicial proceeding; (2) the proceeding implicates important state interests; and (3) the state forum provides an adequate opportunity to raise constitutional claims. See *Middlesex Cty. Ethics Comm. v. Garden State Bar Ass'n*, 457 U.S. 423, 432 (1982); *Sprint Commc'ns, Inc. v. Jacobs*, 571 U.S. 69, 78 (2013). None of these elements are satisfied here. The proceeding is not active, Plaintiff has repeatedly been denied meaningful access to the court, and all constitutional claims presented to the state court have either been ignored or summarily denied without hearing or explanation.

110. Even if *Younger* abstention were theoretically considered, three well-established exceptions apply that compel federal jurisdiction:

1. Ongoing and irreparable constitutional harm, as Defendant continues to suppress abuse evidence and refuse to act on new threats to child safety;
2. Bad faith, reflected by Defendant's retaliatory demand for money during a hearing where she had no notice or lawful purpose, while ignoring evidence of constitutional violations;
3. Flagrant and systemic constitutional violations, including denial of fair process, suppression of exculpatory evidence, denial of access to court records, and fabrication of judicial evidence.

These exceptions have been recognized by the Supreme Court in *Trainor v. Hernandez*, 431 U.S. 434, 447 (1977), and *Kugler v. Helfant*, 421 U.S. 117, 124 (1975).

111. Allowing abstention here would irreparably harm Plaintiff by insulating Defendant's unconstitutional conduct from review and prolonging the denial of basic rights. Federal courts have both the authority and the obligation to intervene when state remedies are structurally compromised or fundamentally inadequate to protect federal rights. See *Gerstein v. Pugh*, 420 U.S. 103, 108 n.9 (1975); *Steffel v. Thompson*, 415 U.S. 452, 462 (1974). This case involves completed and ongoing violations of Plaintiff's First and Fourteenth Amendment rights by a

state-appointed official acting under color of law. Federal jurisdiction is proper and abstention is not warranted.

112. Moreover, even if Younger could be considered, three key exceptions apply:

1. Ongoing irreparable harm stemming from Defendant's refusal to investigate new abuse allegations and ongoing suppression of key evidence;
2. Bad faith and retaliation, as Defendant knowingly disregarded the safety of Plaintiff's children and actively obstructed access to court records;
3. Flagrant constitutional violations, including denial of due process and access to the courts.

See *Trainor v. Hernandez*, 431 U.S. 434, 447 (1977); *Kugler v. Helfant*, 421 U.S. 117, 124 (1975).

113. Abstention would also irreparably harm Plaintiff by allowing the continued suppression of abuse evidence and denial of fair process without judicial review. Federal courts are permitted—and required—to intervene when state procedures are inadequate to protect constitutional rights. See *Gerstein v. Pugh*, 420 U.S. 103, 108 n.9 (1975) (abstention inappropriate where procedural protections are lacking or constitutional injuries are ongoing).

Defendant's Appointment, Authority, and Ongoing Status

114. Defendant Asher was appointed under K.S.A. § 23-3210 to perform functions traditionally reserved to the state: investigating allegations of abuse, accessing confidential records, and advising the court on parental fitness. She never was never formally discharged, and continues to hold state-granted powers. Her ongoing refusal to investigate new abuse evidence while holding judicially authorized investigative powers constitutes a continuing violation of Plaintiff's constitutional rights.

115. These facts fall squarely under the public function test for identifying state action. See *Jackson v. Metropolitan Edison Co.*, 419 U.S. 345 (1974). Defendant's powers are not available

to private individuals; they are delegated state functions subject to federal constitutional constraints.

State Actor Analysis

116. Defendant's actions meet multiple tests for state actor liability under § 1983:

- Under the public function doctrine, she executed state-assigned tasks involving family integrity and child welfare.
- Under the joint action/nexus test, she operated at the direction of, and in coordination with, the court system. See *Brentwood Acad. v. Tenn. Secondary Sch. Athletic Ass'n*, 531 U.S. 288 (2001).
- Under *West v. Atkins*, 487 U.S. 42 (1988), individuals who perform duties traditionally carried out by the state, even if not formally employed by the state, are deemed state actors when their conduct affects constitutional rights.

117. Her own court filings confirmed that she acted as a state actor during the relevant times. Additionally, she invoked her appointment powers in court and continued to operate under that role beyond 2023, while refusing to act on new, urgent evidence of child abuse. Her failure to act, combined with her authority and appointment status, firmly establish her as a state actor.

Constitutional and Equitable Necessity for Federal Jurisdiction

118. Defendant's actions blocked Plaintiff's access to the courts, a violation of the First and Fourteenth Amendments. Plaintiff was denied investigative materials, refused updates, and left without the evidence needed to protect his children or challenge Asher's findings. See *Christopher v. Harbury*, 536 U.S. 403, 415 (2002) (right of access to the courts is violated when official conduct frustrates the plaintiff's ability to meaningfully participate in legal proceedings).

119. Plaintiff made every effort to seek redress through state mechanisms. He filed motions, contacted DCF, and submitted a Petition for Writ of Mandamus to the Kansas Supreme Court. Each attempt was denied or ignored. State remedies were therefore either unavailable or inadequate, and exhaustion is not required under § 1983, particularly where the alleged violations are ongoing and involve matters of fundamental rights and child safety. See *Patsy v. Board of Regents*, 457 U.S. 496, 500 (1982); *Steffel v. Thompson*, 415 U.S. 452, 472–73 (1974).

120. While the facts arise in a family law setting, this is not a domestic relations dispute. This is a civil rights case grounded in well-established federal law. See *Mabe v. San Bernardino Cty.*, 237 F.3d 1101, 1107 (9th Cir. 2001); *Brull v. Kansas Social Rehabilitation Services*, No. 04-4057-RDR, 2005 WL 768173, at 5 (D. Kan. Mar. 31, 2005) (recognizing § 1983 claims based on constitutional violations by Kansas child welfare officials).

121. The federal judiciary has a “virtually unflagging obligation” to exercise jurisdiction where federal rights are at stake. See *Colorado River Water Conservation Dist. v. United States*, 424 U.S. 800, 817 (1976); *Zwickler v. Koota*, 389 U.S. 241, 248 (1967). This Court must not allow Defendant’s abuse of state authority to escape accountability behind doctrines never intended to shield ongoing constitutional misconduct.

Final Statement on Equity and Relief

122. This is not about second-guessing state judges. It is about holding a state-appointed official accountable for conduct that violated clearly established constitutional rights, caused severe and lasting harm, and continues to deny Plaintiff a fair process. The Court should not abstain from protecting those rights. Neither Rooker-Feldman nor Younger prevents this action, and no immunity doctrine bars it. Jurisdiction is proper, the claims are actionable, and Plaintiff respectfully requests this Court to exercise its authority and allow the case to proceed to full review. The Constitution guarantees access to justice where rights have been violated by agents of the State — and this case presents such a moment.

Plaintiff reserves the right to introduce additional exhibits during discovery, including photographs, video, school records, medical documentation, police audio/video, and text communications that were ignored or suppressed by Defendant Audra Asher. The attached exhibits are a small sample of over 20 critical documents proving Defendant's gross misconduct and failure to act under color of law.

123. Since Defendant Asher issued her court-appointed recommendation in 2023, Plaintiff has continued to bear the burden of her investigatory failures. Despite providing evidence of ongoing abuse, Plaintiff was forced to file additional motions—including a 2024 motion to address newly discovered abuse of his children. At the hearing for that motion, Defendant appeared not to respond to the allegations of child abuse, but instead to confront Plaintiff and demand a payment of \$803. Defendant's repeated indifference to Plaintiff's documented abuse claims, combined with her ongoing pursuit of financial gain, has caused lasting psychological harm to Plaintiff and has further endangered the safety of his children. Her reckless and biased conduct has not only undermined the credibility of the investigative process but has prolonged Plaintiff's suffering and increased the risk to the very children she was appointed to protect.

V.(a). SUMMARY OF DOCTRINAL AND IMMUNITY DEFENSES

Before proceeding to the specific causes of action, Plaintiff addresses anticipated defenses that are inapplicable or conclusively defeated by the facts and law. Defendant Audra Asher was appointed under K.S.A. § 23-3210 and performed duties that are traditionally exclusive to the state—investigating custody, influencing judicial outcomes, accessing protected records, and issuing binding recommendations. She expressly admitted in court filings and open proceedings that she acted under color of law, invoked immunity defenses available only to government actors, and remained appointed throughout the relevant time period. Her status as a state actor is established under the “public function” and “joint action” tests. See *West v. Atkins*, 487 U.S. 42 (1988); *Brentwood Acad. v. Tenn. Secondary Sch. Athletic Ass’n*, 531 U.S. 288, 295–96 (2001); *Lugar v. Edmondson Oil Co.*, 457 U.S. 922 (1982).

Absolute immunity does not apply, as Defendant performed no adjudicative functions. Quasi-judicial immunity fails because her conduct—fabricating transcript claims, withholding reports, demanding personal payment at a hearing, and ignoring abuse—was non-discretionary, ministerial, and ultra vires. See *Antoine v. Byers & Anderson, Inc.*, 508 U.S. 429, 435–36 (1993); *Cleavinger v. Saxner*, 474 U.S. 193, 202 (1985). Qualified immunity is inapplicable because Plaintiff’s rights were clearly established, and no reasonable official could believe that suppressing abuse reports, fabricating evidence, or retaliating during active litigation was constitutional. See *Hope v. Pelzer*, 536 U.S. 730, 739 (2002); *Taylor v. Riojas*, 141 S. Ct. 52, 54 (2020).

This action is not barred by Rooker-Feldman because Plaintiff does not seek review of a final state court judgment but redress for independent constitutional violations by a state actor. See *Exxon Mobil Corp. v. Saudi Basic Indus. Corp.*, 544 U.S. 280, 284 (2005); *Skinner v. Switzer*, 562 U.S. 521, 532 (2011). Younger abstention is inapplicable because there is no active state proceeding, and Plaintiff has been categorically denied an opportunity to raise federal claims in state court. See *Sprint Commc’ns, Inc. v. Jacobs*, 571 U.S. 69, 78 (2013). Federal jurisdiction is proper under 28 U.S.C. §§ 1331 and 1343(a)(3), and this Court has full authority to provide declaratory, injunctive, and monetary relief under 42 U.S.C. § 1983.

VI. LEGAL CLAIMS

COUNT I – VIOLATION OF DUE PROCESS RIGHTS (PLAINTIFF)

Plaintiff incorporates all previous paragraphs by reference.

124. Defendant failed to perform a thorough investigation and denied Plaintiff access to critical records, violating procedural and substantive due process under the Fourteenth Amendment.

Defendant's failure to act violated Plaintiff's clearly established right to family integrity, which the Supreme Court has recognized as "a fundamental liberty interest." *Moore v. City of East Cleveland*, 431 U.S. 494, 503–504 (1977); *Troxel v. Granville*, 530 U.S. 57, 65 (2000).

COUNT II – FABRICATED FINDINGS, COERCED RESOLUTION, DEFAMATION, AND LIABILITY DESPITE COURT INACTION

125. Defendant now claims that because the court ultimately entered a "Journal Entry" on May 3, 2024, resolving custody and visitation issues, her recommendation is irrelevant. This argument is disingenuous and factually incorrect. Defendant's court-appointed investigative report—filed August 2, 2023—contained falsehoods, omissions, and retaliatory conclusions. Chief among these was the fabricated claim that Plaintiff stated during a December 3, 2020 hearing that he would not return the children. As confirmed by certified hearing transcripts provided to Defendant and entered as Exhibit A, no such statement was ever made.

126. Plaintiff's counsel filed written objections to Defendant's report on September 8, 2023, preserving them for a hearing. However, the court never held such hearing. Plaintiff was then coerced into a procedural agreement in May 2024 due to repeated denials of constitutional motions, judicial hostility, and systemic refusal to address Plaintiff's rights. The court never rejected or corrected Defendant's report, and her false conclusions were never cross-examined or disqualified.

127. Even if the court did not formally adopt Defendant's report, she remains liable for constitutional harm caused by falsehoods made under color of state law. Defendant's conduct constitutes state action. Courts have long recognized that liability under 42 U.S.C. § 1983 applies where a government actor submits false or fabricated information that materially influences judicial outcomes.

“There is a clearly established constitutional due process right not to be subjected to criminal charges on the basis of false evidence that was deliberately fabricated by the government.”

—*Spurlock v. Satterfield*, 167 F.3d 995, 1006 (6th Cir. 1999)

128. Asher’s report was never “ignored”—it poisoned the entire custody process. It influenced the court’s view of Plaintiff, emboldened the mother’s contempt of parenting orders, and directly led to retaliatory outcomes, including Plaintiff being threatened with supervised visitation and being forced to make unilateral 14-hour travel arrangements for custody exchanges.

129. Defendant’s own attorney now argues that her recommendations “weren’t followed” by the court, as if that somehow nullifies the damage done. This argument is not a defense—it is an implicit admission that Defendant’s report was so biased, flawed, and constitutionally defective that the defense now wants to prevent any judicial review of its contents. Rather than defend the integrity of Defendant’s court-appointed investigation, her attorney is actively trying to distance the State from her findings, knowing they would not withstand scrutiny. But federal law is clear: a defendant cannot escape liability under 42 U.S.C. § 1983 simply because the court never formally relied on the fabricated material.

Devereaux v. Abbey, 263 F.3d 1070, 1075 (9th Cir. 2001)

Ricciuti v. N.Y.C. Transit Auth., 124 F.3d 123, 130 (2d Cir. 1997)

Currier v. Doran, 242 F.3d 905, 917 (10th Cir. 2001)

130. The fact that Plaintiff was forced to sign a journal entry under the pressure of ongoing judicial bias, failed motions, and parental alienation does not cure or excuse Defendant’s misconduct. Courts have held that “apparent consent” obtained through government misconduct is invalid.

“Apparent acquiescence to governmental abuse does not absolve the offending official of liability under § 1983.”

—*Banks v. Katzenmeyer*, 645 F. App’x 770, 778 (10th Cir. 2016)

131. Plaintiff has suffered lasting harm—including restricted parenting rights, reputational damage, emotional trauma, and judicial hostility—stemming directly from Defendant’s fabricated report. Defendant’s recommendation created a state-created danger that emboldened the mother to violate court orders 39 times and forced Plaintiff to make unilateral custody trips while being denied basic holiday visitation.

132. Following Defendant’s false recommendation, the mother of Plaintiff’s children harassed Plaintiff, stating that he was “lucky his parental rights weren’t suspended.” She further disseminated these false claims throughout the children’s small rural community of fewer than 1,200 residents. She told schoolteachers and staff that Plaintiff was on the verge of losing his parental rights, repeating the false statements made by Defendant. This caused extreme public humiliation and damaged Plaintiff’s standing in the community.

133. During Plaintiff’s 2025 spring break parenting time, Plaintiff’s children confided that they had been teased and harassed at school by classmates who called their father “a bad person” and claimed “he doesn’t pay child support.” These statements stem directly from the false narrative advanced by Defendant’s recommendation and propagated by the mother. This caused deep emotional harm to the children and to Plaintiff, who has always provided for his children and has never abused, neglected, or endangered them in any way.

134. The dissemination of these false claims in a small town amounts to defamation under the “stigma-plus” doctrine. Courts have repeatedly held that when a state actor makes false statements that damage a person’s reputation in connection with a deprivation of a constitutional right, such as parenting time or liberty, it constitutes a violation of due process.

“When a government official defames an individual and that defamation occurs in the course of the deprivation of a liberty interest, a constitutional claim may lie.”

—*Paul v. Davis*, 424 U.S. 693, 701–710 (1976)

—*Gwinn v. Awmiller*, 354 F.3d 1211, 1216 (10th Cir. 2004)

—*Melton v. City of Okla. City*, 928 F.2d 920, 927–28 (10th Cir. 1991)

—*Doe v. Bagan*, 41 F.3d 571, 575–76 (10th Cir. 1994)

135. Defendant Asher knew or should have known that making a false recommendation to suspend Plaintiff’s parental rights would result in widespread reputational harm, both to Plaintiff and to the children. In a small community, reputations are deeply intertwined with family identity. The foreseeability of this harm—particularly where the mother was hostile and vocal—demonstrates reckless disregard for the truth, if not actual malice. Defendant’s failure to retract, correct, or clarify her recommendation underscores her liability.

136. Defendant’s misconduct did not just harm Plaintiff—it harmed the children. By planting a false narrative into the court system and enabling it to spread through the community, Defendant caused Plaintiff’s children to suffer ridicule, anxiety, and emotional confusion. This deepened the wedge of alienation and inflicted lasting trauma on the family unit.

137. Plaintiff reserves the right to assert a standalone defamation claim should discovery reveal that Defendant’s false statements were repeated to third parties, used in additional reports, or formally shared beyond the scope of her investigative authority. The facts herein support both a due process claim under § 1983 and a claim for common-law defamation under Kansas law.

COUNT III – VIOLATION OF DUE PROCESS RIGHTS (CHILDREN)

Plaintiff incorporates all previous paragraphs by reference.

138. Defendant failed to evaluate or act upon reports of abuse affecting the minor children, endangering their welfare and violating their due process rights.

COUNT IV – CIVIL RIGHTS VIOLATIONS UNDER 42 U.S.C. § 1983

Plaintiff incorporates all previous paragraphs by reference.

139. Defendant, acting under color of state law, failed to investigate reports of abuse, concealed or ignored critical evidence, refused to act on medical and safety threats, and demanded payment from Plaintiff while neglecting her state-mandated duties.

140. As a result, Plaintiff was forced to pursue extraordinary legal relief, including a denied mandamus petition, and has suffered prolonged emotional trauma, health consequences, financial harm, and the erosion of fundamental constitutional protections.

141. Defendant's actions violated clearly established rights under the First and Fourteenth Amendments:

- Right to petition the government and access the courts;
- Right to fair procedures before the state may restrict or interfere with familial rights;
- Right to be free from state-enabled abuse and neglect of children.

142. These violations were the result of deliberate inaction, reckless indifference, and misuse of authority while acting under court appointment.

Plaintiff's rights were clearly established at the time of Defendant's conduct, and no reasonable official in her position could believe that refusing to act on documented child abuse, demanding personal compensation, or denying access to investigation records was constitutionally permissible. *Mullenix v. Luna*, 577 U.S. 7, 11 (2015) ("Qualified immunity shields government officials from civil damages unless the official violated a statutory or constitutional right that was clearly established.").

COUNT V – STATE-CREATED DANGER DOCTRINE (CHILDREN AND PLAINTIFF)

Plaintiff incorporates all previous paragraphs by reference.

143. Defendant’s conduct satisfies all prongs of the “state-created danger” doctrine as established by the Tenth Circuit. *Currier v. Doran*, 242 F.3d 905 (10th Cir. 2001).

Defendant:

1. created or increased the danger of harm to the minor children by ignoring abuse and criminal elements in the home;
2. failed to act despite being aware of risks to a specifically identifiable groupPlaintiff’s children;
3. subjected them to foreseeable and severe injury;
4. acted with deliberate indifference. Her conduct exposed Plaintiff’s children to ongoing danger and deprived Plaintiff of his liberty interest in protecting them. This gives rise to independent constitutional liability under the Fourteenth Amendment.

144. Plaintiff seeks all available relief under 42 U.S.C. § 1983, including compensatory, punitive, and equitable relief, as authorized by law and precedent.

145. Defendant’s demand for payment at the July 29, 2024 hearing—while refusing to speak on matters involving constitutional rights—constitutes retaliation under the First Amendment.

146. The Supreme Court has held that retaliation for the exercise of constitutionally protected speech is itself a violation of the First Amendment. *Nieves v. Bartlett*, 139 S. Ct. 1715, 1722 (2019); *Hartman v. Moore*, 547 U.S. 250, 256 (2006).

147. Defendant used her appearance at a hearing concerning child abuse and paternity fraud to demand \$803 from Plaintiff. This retaliatory act was designed to intimidate Plaintiff, punish him for asserting his rights, and chill his protected activity under the First and Fourteenth Amendments.

COUNT VI – RETALIATION FOR EXERCISING CONSTITUTIONAL RIGHTS

Plaintiff incorporates all prior paragraphs by reference.

148. Defendant Audra Asher was a state actor at all times relevant to this action. She appeared at the July 29, 2024 hearing in her capacity as a court-appointed investigator and used that appearance to demand money from Plaintiff while refusing to act on verified constitutional violations.

149. Defendant’s conduct was motivated by animus toward Plaintiff’s protected speech, including his filing of motions, submission of abuse evidence, and requests for judicial review. By demanding payment and offering no findings at a constitutionally sensitive hearing, Defendant engaged in retaliation.

150. The Supreme Court and Tenth Circuit have held that retaliation against a person for exercising First Amendment rights—including court access—is unlawful under 42 U.S.C. § 1983. See *Nieves v. Bartlett*, 139 S. Ct. 1715 (2019); *Worrell v. Henry*, 219 F.3d 1197, 1212 (10th Cir. 2000); *Hartman v. Moore*, 547 U.S. 250, 256 (2006).

151. Defendant’s retaliatory actions were unlawful under § 1983 and directly caused Plaintiff emotional harm, legal setbacks, and a chilling effect on his protected rights.

COUNT VII – ABUSE OF PROCESS (KANSAS COMMON LAW)

Plaintiff incorporates all prior paragraphs by reference.

152. Defendant was entrusted by the Rush County District Court to conduct a neutral, lawful investigation under K.S.A. § 23-3210. She used that authority to submit false evidence, demand payment in court, and retaliate against Plaintiff for lawful conduct.

153. These acts were not legitimate uses of process but deliberate misuse of official procedures for improper purposes. Defendant used her appointment to punish Plaintiff and protect third-party interests, constituting abuse of process under Kansas common law.

154. Defendant, while acting under court appointment, used her official authority not to investigate in the best interests of the children, but to inflict reputational and legal harm on Plaintiff. Her use of a fabricated court record, secret ex parte communication with the judge, and retaliatory recommendation was made with an ulterior purpose unrelated to her official duties.

155. Abuse of process occurs when legal process is used to accomplish an end other than what it was designed to accomplish. Defendant's conduct reflects a malicious use of her appointment to punish Plaintiff and protect third-party interests, rather than to serve the best interests of the children.

156. Defendant is liable under Kansas tort law for abuse of process. Plaintiff seeks compensatory and punitive damages.

COUNT VIII- RETALIATION FOR EXERCISING CONSTITUTIONAL RIGHTS

Plaintiff incorporates all prior paragraphs by reference.

157. Defendant's appearance at the July 29, 2024 hearing, where she demanded \$803 from Plaintiff while remaining silent on child abuse, paternity fraud, impersonation, and constitutional concerns, was retaliatory and intended to chill Plaintiff's exercise of his protected rights.

158. Plaintiff attended that hearing to assert his First and Fourteenth Amendment rights. Rather than fulfill her investigatory duty, Defendant used her court appointment as a weapon to intimidate Plaintiff for filing motions and asserting constitutional claims.

159. Retaliation for exercising the right to petition the government is itself a First Amendment violation. See *Nieves v. Bartlett*, 139 S. Ct. 1715, 1722 (2019); *Hartman v. Moore*, 547 U.S. 250, 256 (2006).

160. Defendant's retaliatory actions were unlawful under § 1983 and support a separate constitutional claim. See also *Worrell v. Henry*, 219 F.3d 1197, 1212 (10th Cir. 2000) (even unsuccessful plaintiffs may bring retaliation claims if protected conduct is followed by adverse action).

COUNT IX – FABRICATION OF EVIDENCE IN VIOLATION OF DUE PROCESS

Plaintiff incorporates all prior paragraphs by reference.

161. Defendant, while acting under color of state law, knowingly and maliciously fabricated evidence in her August 1, 2023 custody recommendation by falsely stating that Plaintiff refused to return the children during a December 3, 2020 hearing. Defendant claimed to have reviewed the hearing transcript, but the certified record contains no such statement, finding, or admission. This falsehood was used as a basis to recommend suspension of Plaintiff's parenting time.

162. The fabrication of judicial evidence by a government actor is a standalone constitutional violation, separate from the outcome of the proceeding itself. Defendant's actions violated Plaintiff's clearly established right not to be subjected to adverse governmental action based on false information. See *Devereaux v. Abbey*, 263 F.3d 1070, 1075 (9th Cir. 2001); *Ricciuti v. N.Y.C. Transit Auth.*, 124 F.3d 123, 130 (2d Cir. 1997).

163. As a direct result of Defendant's fabrication, Plaintiff suffered loss of parenting time, reputational harm, severe emotional distress, and exposure to prolonged abuse of process. Plaintiff seeks compensatory and punitive damages under 42 U.S.C. § 1983.

COUNT X – FINANCIAL COERCION AND DEPRIVATION OF PROPERTY UNDER COLOR OF LAW (42 U.S.C. § 1983)

164. Plaintiff re-alleges and incorporates by reference all preceding paragraphs as though fully stated herein.

165. On July 29, 2024, during a scheduled court hearing in Rush County District Court, Plaintiff appeared prepared to present critical motions and evidence regarding abuse and neglect suffered by his children. The presiding judge, however, denied Plaintiff the opportunity to speak or present these motions. Despite this denial of due process, the judge permitted Defendant Audra Asher—who had not been subpoenaed or listed on the docket—to appear without notice and use the courtroom as a platform to demand \$803 from Plaintiff.

166. This was not the first time Defendant had improperly influenced court proceedings. Plaintiff’s parents had previously witnessed Defendant Asher engage in ex parte communication with the same judge in chambers—without Plaintiff, his attorney, or the opposing attorney present. This secret interaction, which occurred during an earlier hearing, was a flagrant violation of Plaintiff’s constitutional rights to an impartial tribunal and adversarial process. See *In re Murchison*, 349 U.S. 133, 136 (1955) (due process is violated when one side is heard in secret); *Tumey v. Ohio*, 273 U.S. 510, 523 (1927).

167. Defendant’s conduct on July 29, 2024, was an extension of this ongoing manipulation. Her surprise courtroom appearance—under color of her court-appointed authority—was made with the clear intention to intimidate, coerce, and financially harm Plaintiff. Plaintiff had no prior notice she would attend, no advance knowledge of any payment dispute, and no opportunity to prepare a response. The court failed to intervene and, by permitting her to speak while silencing Plaintiff, effectively ratified her abuse of power.

168. This selective denial of Plaintiff’s right to be heard—while allowing a state-appointed official to appear without procedural foundation and make a financial demand—violated the core guarantees of the Fourteenth Amendment Due Process Clause. The U.S. Supreme Court has repeatedly held that notice and opportunity to be heard must be afforded before any state action that deprives a person of property, liberty, or a fundamental right. See *Goldberg v. Kelly*, 397 U.S. 254, 267 (1970); *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976).

169. Furthermore, Defendant’s conduct constituted a coercive act of financial extortion under color of state law. The U.S. Supreme Court has held that government officials who use their authority to extract money or punish protected speech violate the Constitution. See *Screws v. United States*, 325 U.S. 91 (1945); *United States v. Lanier*, 520 U.S. 259, 264 (1997). Defendant’s appearance was not accidental or harmless—it was calculated and targeted. It was meant to humiliate Plaintiff, assert control, and obstruct Plaintiff’s ability to advocate for his children.

170. Defendant’s actions were intentional, retaliatory, and done in bad faith. She acted not as a neutral investigator, but as a partisan enforcer abusing the authority of her court appointment. Plaintiff had already paid his original retainer. Her uninvited appearance and verbal demand for money—while Plaintiff was barred from presenting evidence to protect his children—constitutes conscience-shocking behavior in violation of Plaintiff’s constitutional rights.

171. These events must be viewed within the broader context of collusion and judicial manipulation. Defendant had a prior history of secret communication with the judge. The court’s refusal to allow Plaintiff to be heard, while allowing Defendant to appear without notice, reveals a pattern of procedural sabotage and viewpoint discrimination that taints the integrity of the proceedings and justifies federal intervention. See *Caperton v. A.T. Massey Coal Co.*, 556 U.S. 868, 884 (2009) (bias and undue influence violate the Due Process Clause where there is a serious risk of actual bias).

172. Defendant must be held accountable for these unlawful actions. Her conduct was not a misunderstanding or discretionary error—it was a willful misuse of government authority to punish, suppress, and financially damage a parent advocating for his children. Plaintiff seeks compensatory and punitive damages, declaratory relief, and any further relief the Court deems just and proper under 42 U.S.C. § 1983.

COUNT XI – INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS (KANSAS COMMON LAW)

Plaintiff incorporates all prior paragraphs by reference.

173. Defendant’s conduct—including fabricating statements, seeking to terminate Plaintiff’s rights without cause, and privately influencing a judge—was extreme and outrageous by any standard of decency. These actions were done with reckless disregard for Plaintiff’s mental health, parental relationship, and legal rights.

174. As a result, Plaintiff has suffered prolonged and medically documented emotional distress, including anxiety, panic attacks, high blood pressure, insomnia, and clinical trauma requiring prescription treatment.

175. Under Kansas law, a defendant is liable for intentional infliction of emotional distress where their conduct is extreme, outrageous, and intentionally or recklessly causes severe emotional harm. Defendant’s conduct meets this standard. Plaintiff seeks damages accordingly.

COUNT XII – DEFAMATION (ALTERNATIVE PLEADING)

Plaintiff incorporates all prior paragraphs by reference.

176. Defendant knowingly made false and damaging statements about Plaintiff in a public legal filing, including the statement that he had refused to return the children during a prior court

hearing. This statement was false, material, and harmful to Plaintiff's personal reputation and legal standing.

177. Defendant's recommendation was not privileged because it was made maliciously, based on fabricated facts, and submitted without investigative basis. Plaintiff's former attorney objected to the report in writing, further demonstrating that Defendant's statements were unsupported and inflammatory.

178. Under Kansas law, a statement is defamatory if it is false and tends to lower a person's standing in the community or subject them to contempt, ridicule, or discredit. Statements accusing a parent of unlawful custody interference are defamatory per se.

179. Plaintiff seeks nominal, compensatory, and punitive damages for reputational harm and emotional injury.

180. Defendant Audra Asher acted under color of state law at all relevant times. Her appointment was not voluntary, contractual, or private in nature. She was appointed by a judge of the Rush County District Court under statutory authority conferred by K.S.A. § 23-3210. This Kansas statute expressly authorizes courts to appoint third-party custody investigators to assist in evaluating the best interests of children in family law proceedings. Asher's duties were derived entirely from this court order and state law; her actions were performed solely because the state empowered her to investigate, make recommendations, and influence parental rights.

181. The Supreme Court has recognized that private individuals become state actors when they perform a public function traditionally reserved to the state, act jointly with state officials, or their conduct is entwined with governmental policies or control. See *Brentwood Acad. v. Tennessee Secondary Sch. Athletic Ass'n*, 531 U.S. 288, 295–96 (2001); *West v. Atkins*, 487 U.S. 42, 55–56 (1988); *Lugar v. Edmondson Oil Co.*, 457 U.S. 922, 937 (1982). Asher satisfies all of these tests. She exercised powers delegated by statute and the judiciary, acted in tandem with court proceedings, and her findings were intended to direct the outcome of state legal decisions regarding parental rights.

182. Under the public function test, Asher exercised authority over custody determinations—one of the most sensitive and constitutionally protected areas of law. Making child custody recommendations, reviewing abuse allegations, and influencing the suspension of parental rights are duties historically and exclusively reserved to the state. See *Doe v. Rosenberg*, 996 F. Supp. 343, 346 (E.D. Pa. 1998) (“Custody evaluators act under color of law when exercising state authority over family rights.”). When a private party is delegated public power and their conduct shapes the outcome of legal proceedings, they are state actors subject to § 1983.

183. Under the joint action test, Asher’s collaboration with the judiciary and the court system establishes state action. She attended hearings, gave testimony, submitted findings directly to the court, and influenced judicial orders. See *Dennis v. Sparks*, 449 U.S. 24, 27–28 (1980) (private actors jointly engaged with state officials are state actors). She was not an independent or adversarial party—she was an arm of the court. The state cannot outsource its constitutional obligations to someone acting as an extension of its authority and then claim immunity from § 1983 liability.

184. The nexus/entwinement test is also satisfied. Asher’s role was structurally intertwined with the judicial process—she existed solely because of state intervention and appointment. Her office and function would not have existed without state law and court order. See *Brentwood*, 531 U.S. at 302 (“The state action doctrine requires recognition that actions of ostensibly private entities may be fairly treated as those of the state when they are entwined with governmental policies.”). Her authority came from the judge, her power flowed from the state, and her influence shaped constitutionally protected parental rights.

185. Defendant has admitted in prior filings that she was “appointed pursuant to court order” and was acting under that authority throughout her investigation. This constitutes a judicial admission of her state actor status. Even if she were partly compensated privately, that does not convert her to a private party. See *Kirtley v. Rainey*, 326 F.3d 1088, 1093 (9th Cir. 2003) (even

privately-paid court-appointed actors can be state actors if their role is created by statute and regulated by judicial authority). Defendant cannot claim she had the power of the state when making recommendations to the court but disavow that power to evade constitutional accountability. Her role was created by state law, guided by state mandate, and her conduct directly impacted rights protected by the U.S. Constitution. Accordingly, Defendant was a state actor for all purposes under 42 U.S.C. § 1983.

186. Defendant may attempt to argue that her actions were taken in a private or non-governmental capacity. This argument fails for two reasons. First, Defendant’s authority existed only because the state appointed her under K.S.A. § 23-3210, and all of her actions—attending hearings, submitting reports, demanding payment for investigative duties—were done while exercising powers conferred solely by the state. Second, even where a party is partially compensated by private funds, courts consistently hold that state-authorized functions remain state action. See *Jojoba v. Chavez*, 55 F.3d 488, 493 (10th Cir. 1995) (relevant inquiry is whether the function is traditionally exclusive to the state). Defendant used state power, not private discretion, and is therefore subject to constitutional scrutiny.

187. Defendant’s conduct is not insulated from liability simply because she made “recommendations.” Courts have held that when an official’s recommendations effectively determine the outcome of constitutional rights, they are actionable under § 1983. Defendant’s reports and findings were treated by the court as authoritative and caused suspension of parenting rights, despite being based on falsehoods. See *Miller v. Gammie*, 335 F.3d 889, 898 (9th Cir. 2003) (officials who create or distort the facts upon which decisions are based may be liable under § 1983 even if they lack final decision-making authority).

188. Plaintiff suffered concrete, particularized, and continuing constitutional injuries including the suspension of parenting time, reputational harm, emotional distress, denial of fair process, retaliatory targeting, and obstruction of court access. These injuries are fairly traceable to Defendant’s misconduct under color of state law and are redressable through compensatory,

injunctive, and declaratory relief. See *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560 (1992); *Carey v. Piphus*, 435 U.S. 247, 264 (1978) (constitutional violations are compensable even absent monetary loss).

189. Even if Defendant were performing functions somewhat related to court processes, quasi-judicial immunity is limited to duties that are “functionally comparable to those of judges.” Defendant’s actions—falsifying reports, suppressing evidence, demanding payment to complete a court-ordered investigation, and speaking *ex parte* to the judge—are not adjudicative or discretionary, but ministerial and administrative, and are therefore not protected by quasi-judicial immunity. See *Antoine v. Byers & Anderson, Inc.*, 508 U.S. 429, 436 (1993); *Snell v. Tunnell*, 920 F.2d 673, 687 (10th Cir. 1990).

COUNT XIII – VIOLATION OF EQUAL PROTECTION RIGHTS

Plaintiff incorporates all prior paragraphs by reference.

190. The Equal Protection Clause of the Fourteenth Amendment guarantees that similarly situated individuals must be treated equally by government actors.

191. Defendant Asher, acting under color of state law, intentionally subjected Plaintiff to disparate treatment by refusing to act on verified abuse, blocking his access to investigative records, falsely attributing parental alienation to Plaintiff despite full compliance with support orders, and engaging in *ex parte* communications and fabrication—all while showing deference to the opposing party without any investigative basis.

192. No legitimate government interest justified this unequal treatment. Her conduct was arbitrary, malicious, and carried out with retaliatory intent against Plaintiff for exercising his right to petition the courts.

193. Defendant’s discriminatory conduct deprived Plaintiff of equal protection under the law, causing severe emotional distress, reputational harm, and legal injury.

194. These violations are actionable under 42 U.S.C. § 1983. Plaintiff seeks declaratory and injunctive relief, as well as compensatory and punitive damages.

VII. ANTICIPATED IMMUNITY DEFENSES AND JURISDICTIONAL CLARIFICATIONS

195. Defendant is not entitled to absolute immunity. Absolute immunity is strictly limited to judicial officers and prosecutors performing core adjudicative or prosecutorial functions. See *Mireles v. Waco*, 502 U.S. 9, 11–12 (1991); *Cleavinger v. Saxner*, 474 U.S. 193, 201–02 (1985). Defendant Audra Asher’s role as a court-appointed custody investigator under K.S.A. § 23-3210 was investigatory and administrative—not adjudicative. Her duties included gathering facts, interviewing witnesses, reviewing evidence, and making recommendations—not issuing final binding decisions. These investigatory tasks do not fall within the limited scope of absolute judicial immunity.

196. Defendant is likewise not entitled to quasi-judicial immunity. That doctrine protects non-judicial officials only when they perform functions that are “functionally comparable to those of judges,” and only when acting within the scope of lawful discretionary authority. See *Antoine v. Byers & Anderson, Inc.*, 508 U.S. 429, 435–36 (1993); *Roland v. Phillips*, 19 F.3d 552, 555 (11th Cir. 1994). Here, Defendant’s conduct—including failure to investigate abuse, ignoring critical medical and safety evidence, blocking Plaintiff’s access to case materials, fabricating a key allegation, demanding personal payment at a court hearing, and engaging in ex parte communication—was not discretionary or adjudicative. These were ministerial and unethical acts carried out in bad faith and outside the scope of her lawful duties. Quasi-judicial immunity does

not protect such misconduct. See *Snell v. Tunnell*, 920 F.2d 673, 687 (10th Cir. 1990) (no quasi-judicial immunity for acts not “integral to the judicial process”).

197. Defendant is also not protected by qualified immunity. Qualified immunity shields government officials only when their conduct does not violate “clearly established” constitutional rights of which a reasonable official would have known. See *Mullenix v. Luna*, 577 U.S. 7, 11 (2015). The rights violated here—Plaintiff’s First Amendment right to access the courts, his Fourteenth Amendment rights to fair process and familial integrity, and his right to be free from state-enabled abuse and retaliation—were clearly established at the time of Defendant’s actions. No reasonable custody investigator could believe it was lawful to:

- Demand personal payment at a hearing while withholding findings on child abuse;
- Suppress photographic and medical evidence;
- Deny access to court-submitted materials;
- Fabricate allegations about a parent’s courtroom conduct; or
- Remain silent on verified threats to child safety while acting under color of law.

Each of these actions shocks the conscience and violates well-established law. See *Currier v. Doran*, 242 F.3d 905, 917 (10th Cir. 2001); *Hartman v. Moore*, 547 U.S. 250, 256 (2006); *Carey v. Piphus*, 435 U.S. 247, 264 (1978). Because Defendant’s conduct was plainly unconstitutional and far outside the scope of reasonable state action, qualified immunity is not available.

Additionally, the Tenth Circuit has consistently held that court-appointed professionals are not shielded by immunity when they fabricate evidence, act with retaliatory animus, or exhibit deliberate indifference to constitutional rights. See *Pierce v. Gilchrist*, 359 F.3d 1279, 1297 (10th Cir. 2004) (holding a forensic analyst liable under § 1983 for falsifying evidence that caused wrongful detention); *Snell v. Tunnell*, 920 F.2d 673, 687–88 (10th Cir. 1990) (quasi-judicial immunity is unavailable to actors who perform investigatory or advocacy roles rather than adjudicatory functions); *Trujillo v. Williams*, 465 F.3d 1210, 1226 (10th Cir. 2006) (recognizing

access-to-courts claims where officials obstruct meaningful participation). Defendant's conduct falls squarely within these prohibitions, as she fabricated material facts, obstructed Plaintiff's access to courts, and engaged in retaliatory misuse of state authority.

198. Absolute immunity applies only to judges and prosecutors performing core adjudicative or prosecutorial functions, not to investigators or court-appointed professionals engaged in fact-gathering, interviews, or administrative duties. Defendant was not making judicial decisions but rather conducting a discretionary investigation—poorly and with bias. Her role was not adjudicative, but executive and investigatory, which removes her from the shield of absolute immunity. See *Burns v. Reed*, 500 U.S. 478, 494–96 (1991) (no absolute immunity for providing legal advice or participating in investigation); *Forrester v. White*, 484 U.S. 219, 229 (1988) (administrative functions not protected by absolute immunity).

199. Quasi-judicial immunity does not apply where the official's role is non-neutral, retaliatory, or ministerial. Defendant did not act with neutrality or impartiality; she fabricated a transcript claim, refused to investigate abuse, and demanded payment before submitting reports. Courts have repeatedly held that fabrication, selective enforcement, and financial coercion are not judicial in nature, and therefore not covered. See *Antoine v. Byers & Anderson, Inc.*, 508 U.S. 429, 436 (1993) (no quasi-judicial immunity for court reporters); *Holloway v. Brush*, 220 F.3d 767, 775 (6th Cir. 2000) (no immunity where actions were investigatory and retaliatory).

200. Defendant is not entitled to qualified immunity because the rights she violated were clearly established at the time of her conduct. No reasonable custody investigator could have believed it lawful to fabricate evidence, obstruct court access, demand additional money to perform duties, or ignore child abuse while acting under court appointment. See *Hope v. Pelzer*, 536 U.S. 730, 741 (2002) (“Officials can still be on notice that their conduct violates established law even in novel factual circumstances.”); *Currier v. Doran*, 242 F.3d 905, 917 (10th Cir. 2001) (qualified immunity denied for child protection officials who failed to investigate abuse and suppressed evidence).

201. Moreover, courts have consistently held that constitutional misconduct involving bad faith, bias, or conscience-shocking behavior is not protected under any immunity doctrine. Defendant’s conduct—deliberate suppression of abuse evidence, ex parte communication with the judge, and viewpoint retaliation—goes far beyond negligence. These actions constitute intentional constitutional violations, for which no immunity applies. See *Malley v. Briggs*, 475 U.S. 335, 341 (1986) (qualified immunity not available when officials act unreasonably or maliciously); *Tonkovich v. Kan. Bd. of Regents*, 159 F.3d 504, 527 (10th Cir. 1998) (retaliatory targeting and denial of due process strip immunity).

202. Defendant cannot claim immunity while simultaneously invoking court authority to harm Plaintiff. The Supreme Court has made clear that immunity doctrines do not protect those who “clothe their conduct in state power while violating constitutional rights.” See *Scheuer v. Rhodes*, 416 U.S. 232, 238 (1974) (“Officials must answer for abuses of power that result in injury.”). Defendant abused her state appointment for private gain, punished Plaintiff for protected advocacy, and blocked due process—all under color of law. Immunity does not extend to state actors who weaponize their role to harm individuals they are tasked to protect.

203. Defendant may attempt to invoke a subjective “good faith” defense. However, the good faith doctrine is not a defense to intentional constitutional violations, especially under 42 U.S.C. § 1983. Where a state actor knowingly suppresses exculpatory information, fabricates evidence, or retaliates against protected conduct, there is no good faith defense as a matter of law. See *Harlow v. Fitzgerald*, 457 U.S. 800, 815 (1982); *Devereaux v. Abbey*, 263 F.3d 1070, 1075 (9th Cir. 2001). Defendant’s actions—including ignoring abuse, demanding money to perform state functions, and falsely representing court transcripts—were done knowingly and in retaliation, not in good faith.

204. Any defense suggesting that Defendant was acting privately because she was paid by the parties must fail. Compensation source is not dispositive of state actor status. What matters is

whether the power exercised was conferred by the state and used to impact constitutional rights. See *West v. Atkins*, 487 U.S. 42, 54–56 (1988). Defendant exercised public authority under court order. She used that authority to fabricate evidence, suppress abuse reports, and influence the suspension of Plaintiff’s parenting time. Regardless of who paid her retainer, she wielded power derived from the State of Kansas.

205. Furthermore, resolution of any immunity defense is premature at the pleading stage, because material facts remain in dispute regarding Defendant’s intent, knowledge, role, and the impact of her conduct. Courts routinely hold that immunity claims based on disputed facts should not be resolved on a motion to dismiss. See *Gomez v. Toledo*, 446 U.S. 635, 640 (1980); *Pearson v. Callahan*, 555 U.S. 223, 236 (2009). Plaintiff has plausibly alleged multiple intentional constitutional violations, and these claims are not subject to immunity dismissal at this stage.

206. Defendant cannot invoke any immunity doctrine to shield her from accountability for deliberate constitutional violations. The law is clear: there is no immunity for fabrication of evidence, suppression of abuse, retaliation for protected speech, denial of access to courts, or interference with familial integrity under color of law. Defendant’s misconduct falls squarely within this category. The Constitution does not tolerate state actors who punish parents for advocating for their children or block due process by manipulating the system. Immunity ends where constitutional abuse begins.

207. Immunity does not apply to actions taken outside statutory authority. Defendant’s failure to fulfill her legal duties as a court-appointed investigator—including refusal to report suspected abuse, provide updates, or investigate safety threats—was not merely negligent; it was ultra vires. When officials act outside the scope of their statutory authority, they are not protected by immunity. *Ex parte Young*, 209 U.S. 123, 159–60 (1908); *Scheuer v. Rhodes*, 416 U.S. 232, 238 (1974).

208. Younger abstention is inapplicable. The Younger doctrine bars federal courts from interfering in ongoing state proceedings only when:

1. the state proceeding is ongoing,
2. it implicates an important state interest, and
3. the plaintiff has an adequate opportunity to raise federal claims in the state forum. None of these conditions are met. Plaintiff's claims challenge past constitutional violations committed by a court-appointed actor, not an ongoing custody proceeding. Moreover, Kansas courts have consistently refused to address Plaintiff's constitutional claims, including the denial of his mandamus petition without explanation. *Younger v. Harris*, 401 U.S. 37 (1971); *Sprint Commc'ns, Inc. v. Jacobs*, 571 U.S. 69, 78 (2013).

209. Rooker-Feldman does not bar this action. Plaintiff does not ask this Court to review or overturn any state court judgment. Instead, Plaintiff brings an original federal civil rights claim under 42 U.S.C. § 1983 to seek redress for constitutional violations by a state actor. The Rooker-Feldman doctrine does not apply to independent claims, even if the state court previously ruled on related issues. *Exxon Mobil Corp. v. Saudi Basic Indus. Corp.*, 544 U.S. 280, 284 (2005); *Skinner v. Switzer*, 562 U.S. 521, 532 (2011).

210. This Court has jurisdiction. Plaintiff's claims fall squarely within the jurisdiction of this Court under 28 U.S.C. §§ 1331 and 1343(a)(3). Defendant's status as a court-appointed investigator acting under color of state law places her conduct within the purview of 42 U.S.C. § 1983. This case is not barred by jurisdictional doctrine, nor is it subject to abstention or immunity.

VIII. NO IMMUNITY SHIELD FOR CONSTITUTIONAL VIOLATIONS

211. Defendant cannot invoke any immunity doctrine to shield her from accountability for deliberate constitutional violations. The law is clear: there is no immunity for fabrication of evidence, suppression of abuse, retaliation for protected speech, denial of access to courts, or

interference with familial integrity under color of law. Defendant's misconduct falls squarely within this category. The Constitution does not tolerate state actors who punish parents for advocating for their children or block due process by manipulating the system. Immunity ends where constitutional abuse begins.

IX. RELIEF REQUESTED

Plaintiff respectfully seeks comprehensive relief under 42 U.S.C. § 1983, the First and Fourteenth Amendments of the United States Constitution, and related provisions of federal civil rights law. Defendant Audra Asher, acting under color of state law and pursuant to her appointment as a custody investigator under K.S.A. § 23-3210, engaged in a sustained pattern of misconduct, dereliction of duty, retaliation, and conscious disregard for the safety of minor children and the constitutional rights of the Plaintiff. Her actions—and intentional refusals to act—constitute violations of clearly established constitutional protections and have caused permanent, life-altering injury to the Plaintiff across multiple dimensions, emotional, physical, financial, reputational, legal, and parental.

Defendant's inaction in the face of photographic abuse, her refusal to contact authorities, her unauthorized presence at a court hearing where she was not listed as a party, and her retaliatory demand for personal payment during that hearing—all constitute abuse of authority, breach of ethical duties, procedural ambush, and constitutional injury.

Plaintiff further emphasizes that his separate civil lawsuit against Kansas DCF and CSS is entirely unrelated to the claims against Defendant Asher, except in the sense that her dereliction of duty directly forced the necessity of that second suit. Defendant cannot diminish her own liability by pointing to the misconduct of others that she enabled through her silence and obstruction. These are separate legal matters pursuing distinct parties for distinct failures.

Moreover, Plaintiff has strong reason to believe that Defendant's surprise appearance at the July 29, 2024 hearing—despite a written notice from the Court Clerk naming only the Plaintiff, the children's mother, and the presiding judge as attendees—was not coincidental. Defendant had not participated in any active proceedings for over a year, had not filed a withdrawal of appearance, and yet appeared without invitation, notice, or court directive, solely to demand \$803 in payment while refusing to acknowledge any of the constitutional issues raised. Plaintiff respectfully requests that this Court authorize discovery into whether any *ex parte* communication, judicial impropriety, or procedural corruption facilitated Defendant's improper appearance. This act suggests potential backchannel coordination and raises serious due process concerns.

In light of the ongoing impact and scope of these injuries, Plaintiff requests the following specific relief:

1. Compensatory Damages – \$4,000,000

- Plaintiff seeks \$4,000,000 in compensatory damages to account for:
 - A. The deprivation of Plaintiff's fundamental liberty interest in the care, custody, companionship, and decision-making rights over his children, a right repeatedly upheld by the U.S. Supreme Court. See *Troxel v. Granville*, 530 U.S. 57 (2000); *Santosky v. Kramer*, 455 U.S. 745 (1982);
 - B. Severe emotional trauma, including chronic anxiety, grief, hopelessness, humiliation, and deep psychological pain resulting from Defendant's refusal to protect Plaintiff's children despite urgent and credible evidence;
 - C. Ongoing stress and mental anguish due to Defendant's refusal to report or act on life-threatening abuse, her concealment of court filings, and her intentional obstruction of Plaintiff's participation in his own custody case;

- D. Denial of access to his children, stemming from Defendant's calculated silence and failure to report misconduct that would have otherwise triggered state intervention and court protection.

These damages reflect the real, tangible costs of Defendant's constitutional violations, which have affected every aspect of Plaintiff's daily life, parenting, and peace of mind.

2. Consequential Damages – \$1,500,000

- Plaintiff seeks \$1,500,000 in consequential damages for:
- E. The time, energy, and legal burden required to file a second federal civil rights lawsuit against Kansas DCF and CSS;
- F. The stress, duplication of effort, and increased emotional strain of pursuing separate legal actions that would have been entirely unnecessary had Defendant fulfilled her duties;
- G. The financial cost of preparing filings, organizing evidence, and navigating legal barriers erected by multiple state agencies emboldened by Defendant's refusal to intervene;
- H. Foreseeable downstream harms enabled by Defendant's silence, which forced Plaintiff to undertake a protracted legal battle to safeguard the rights and safety of his children.

See *Malley v. Briggs*, 475 U.S. 335, 344 n.7 (1986) (constitutional tortfeasors may be held liable for all foreseeable consequences of their actions or omissions).

3. Procedural Obstruction Damages – \$1,500,000

- Plaintiff seeks \$1,500,000 for procedural obstruction, including:
- A. Defendant's revocation of Plaintiff's access to her secure investigative portal, depriving him of access to court-mandated records, investigative findings, and rebuttal opportunities.
- B. Intentional concealment of evidence and exculpatory records, rendering Plaintiff unable to respond to findings that impacted his rights as a parent;

- C. Denial of a fair and meaningful opportunity to be heard, a cornerstone of procedural due process, in violation of *Mathews v. Eldridge*, 424 U.S. 319 (1976).

This obstruction significantly impaired Plaintiff's ability to advocate for his children and participate in a lawful, adversarial process.

4. Punitive Damages – \$2,000,000

- Plaintiff seeks \$2,000,000 in punitive damages to deter and punish the egregious misconduct of defendant
- A. Her ambush-style appearance at the July 29, 2024 hearing—without court order, notice, or legal basis—which directly undermined the fairness of the proceeding.
 - B. Her refusal to present evidence, speak to the judge, or acknowledge abuse, while simultaneously demanding a personal financial payment of \$803;
 - C. Her retaliation against Plaintiff for asserting his First Amendment right to petition the government for redress of grievances. See *Nieves v. Bartlett*, 139 S. Ct. 1715 (2019); *Hartman v. Moore*, 547 U.S. 250 (2006);
 - D. Her callous indifference and conscience-shocking abuse of authority, which contributed directly to ongoing harm, both to Plaintiff and his children.

Punitive damages are warranted where state actors exhibit reckless disregard for constitutional rights. See *Smith v. Wade*, 461 U.S. 30, 56 (1983); *Hope v. Pelzer*, 536 U.S. 730, 739 (2002).

5. Medical and Psychological Damages – \$1,500,000

- Plaintiff seeks \$500,000 to compensate for documented medical and psychological harm, including:
- A. Diagnosed hypertension and stress-related illness;

- B. Chest pain, insomnia, panic attacks, and sustained physical symptoms resulting from prolonged injustice and institutional gaslighting;
 - C. Ongoing need for prescription medication and mental health care, supported by medical records and expert opinion;
 - D. Inability to maintain consistent health, energy, or focus due to emotional trauma caused by Defendant's failure to intervene when she had the clear authority and obligation to do so.
- These injuries are not speculative—they are real, diagnosable, and traceable directly to the stress and harm caused by Defendant's misconduct. See *Carey v. Piphus*, 435 U.S. 247, 264 (1978); *Doe v. District of Columbia*, 796 F.3d 96, 116 (D.C. Cir. 2015).

6. Economic and Reputational Damages – \$500,000

- Plaintiff seeks \$500,000 to compensate for:
 - A. Substantial losses to his small business, including decline in revenue, inability to take on new clients, and loss of contracts due to ongoing legal stress and medical limitations;
 - B. Damage to his professional reputation and perceived stability, which is essential to his livelihood and business credibility;
 - C. Financial strain caused by lost work hours, emotional exhaustion, and diverted time required to litigate against a public official who refused to protect his children.
- When constitutional violations foreseeably interfere with a person's livelihood, courts recognize a right to recover. See *Memphis Community Sch. Dist. v. Stachura*, 477 U.S. 299, 307 (1986).

7. Injunctive Relief

- Plaintiff seeks a permanent injunction barring Defendant and all similarly situated court-appointed investigators from:
 - A. Appearing at hearings without formal notice or appointment authority;

- B. Demanding monetary payments during hearings involving constitutional issues;
- C. Blocking or revoking access to court-mandated investigation materials;
- D. Failing to act on documented reports of abuse, impersonation, or paternity fraud;
- E. Suppressing or concealing evidence material to a parent's due process rights.

Such injunctive relief is necessary to prevent recurring constitutional violations and is authorized under *Ex parte Young*, 209 U.S. 123 (1908) and *Milliken v. Bradley*, 433 U.S. 267, 280 (1977).

8. Declaratory Relief

- Plaintiff seeks a judicial declaration that:

- A. Defendant acted under color of state law and violated Plaintiff's First and Fourteenth Amendment rights;
- B. Defendant's continued appointment and presence at the July 29, 2024 hearing constituted retaliatory and unconstitutional conduct;
- C. Her failure to act constituted deliberate indifference to ongoing child abuse and due process violations.

Declaratory relief serves the public interest by establishing clear boundaries for state-appointed agents and ensuring constitutional compliance. See *Steffel v. Thompson*, 415 U.S. 452, 466–67 (1974).

- D. Prospective injunctive relief against the State of Kansas, the Rush County District Court, or other state entities as discovery may reveal, including a request for training, disciplinary procedures, or ethical guardrails to prevent further constitutional violations under *Ex parte Young*, 209 U.S. 123 (1908).

9. Attorney's Fees and Costs

- Pursuant to 42 U.S.C. § 1988, Plaintiff seeks reasonable attorney's fees and costs incurred during this litigation, including those to be incurred if legal counsel is retained for trial or appeal.

10. Total Relief Requested: \$11,000,000

In total, Plaintiff respectfully requests monetary, declaratory, and equitable relief in the amount of Eleven Million Dollars (\$11,000,000), plus all other relief deemed just and proper by this Court, in order to:

- A. Vindicate Plaintiff's constitutional rights;
- B. Redress physical, emotional, financial, and reputational injury;
- C. Expose misconduct and ensure transparency;
- D. Deter future violations by court-appointed officers and state actors.

X. CONCLUSION

Defendant Audra Asher, acting under color of state law, failed in her legal and ethical duties as a court-appointed custody investigator. Her deliberate inaction in the face of verified child abuse, paternity fraud, and medical neglect enabled continued harm to the Plaintiff's children and caused significant emotional, financial, and physical injury to Plaintiff. Despite being legally empowered to intervene, Defendant prioritized her own financial interests, obstructed access to investigation materials, and retaliated against Plaintiff for asserting his constitutional rights.

Defendant's misconduct was not isolated, accidental, or minor. It reflects a consistent pattern of indifference, retaliation, and abuse of authority that directly violated Plaintiff's First and

Fourteenth Amendment rights. Her actions—and repeated failures to act—shocked the conscience, undermined the integrity of the judicial process, and inflicted permanent harm on Plaintiff’s health, parental rights, and livelihood.

As a result, Plaintiff was forced to petition the Kansas Supreme Court for extraordinary writ relief and to initiate a second civil rights lawsuit against Kansas DCF and CSS. These burdens, born of Defendant’s dereliction of duty, represent a profound injustice that demands redress. This Court has both the authority and the obligation to provide that redress under established constitutional and statutory principles.

Plaintiff respectfully requests that the Court grant all forms of relief sought herein to uphold the rule of law, protect the rights of parents and children, and deter future violations by state-appointed officials who act outside their lawful authority and in disregard of fundamental rights.

XI. STATEMENT OF VALUES AND MORAL INJURY

Plaintiff is a parent who values honesty above all—especially when it concerns the welfare of children. It has been one of the most painful experiences of his life to witness not only abuse against his children, but to also face dishonesty and betrayal by court-appointed professionals entrusted to protect them. Defendant Audra Asher, in her capacity as a custody investigator appointed under state law, violated this sacred trust. She failed to conduct a meaningful investigation, ignored material evidence, fabricated claims unsupported by the record, and appeared in court to demand money—while turning a blind eye to ongoing abuse. These failures are not just legal violations—they are moral violations.

Plaintiff finds it heartbreaking that those entrusted with authority would use it to harm, rather than protect, children and the parents trying to safeguard them. Defendant’s refusal to admit her errors or confront the harm she caused reflects a deeper problem of institutional dishonesty that Plaintiff has experienced throughout his involvement with the Kansas court system. Plaintiff

continues to believe that truth matters—and that accountability leads to healing. While he cannot force an apology or admission from Defendant, Plaintiff is pursuing this action in the hope that justice, truth, and transparency will ultimately prevail—not only for himself, but for the protection of all children subjected to similar failures.

XII. JURY DEMAND

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiff hereby demands a trial by jury on all issues so triable.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Tyce A. Bonjorno". The signature is fluid and cursive, with the first name "Tyce" being more prominent and the last name "Bonjorno" following in a similar style.

/s/Tyce A. Bonjorno

605 W South St., Suite 271

Leander, TX 78641

(512) 579-1329

tyceanthony@me.com

XIII. LIST OF ATTACHED EXHIBITS

The foregoing exhibits are submitted in support of this Complaint and reflect only a portion of the documented failures by Defendant. Plaintiff possesses additional evidence, communications, and witness information that will be disclosed through the discovery process, further establishing the breadth and severity of Defendant's investigative inaction and constitutional violations.

Exhibit A – December 2020 Motion describing allegations that the children's mother poured hot and cold water on the children, her boyfriend was on Indiana's Most Wanted list, Defendant failed to investigate. Motion was denied, yet Defendant ignored clear documentation of abuse.

Exhibit B – Photo evidence of bruises and burns on Plaintiff's son Summer 2024, plus prior dental neglect including rotten teeth and required general anesthesia. Includes documentation of parasites and blood in stool. Defendant never investigated or contacted any doctors.

Exhibit C – At the time defendant filed her recommendation to the court she stated she reviewed all 644 messages on Our Family Wizard. There was over 1250 messages at the time of her filing.

Exhibit D – Text messages from Texas CPS Investigator Terri Barnes, confirming she was never contacted by Defendant. Despite Defendant was provided Texas CPS name and number, no investigation occurred. Included in the text messages, Terri Barnes stated the children told her their mother try to drown them. Furthermore, Terri Barnes stated she was never contacted by defendant.

Exhibit E – Image of Plaintiff's prescribed medication bottle (for hypertension), linking physical harm to Defendant's repeated inaction.

Exhibit F – Confirmation from Rush County Court Clerk stating Defendant Audra Asher never withdrew from her appointed role, contradicting her defense posture.

Exhibit G – Formal written objection by Plaintiff's prior counsel (filed Sept. 8, 2023) highlighting the unreliability of Defendant's custody recommendations.

Exhibit H – Plaintiff’s Petition for Writ of Mandamus to Kansas Supreme Court asserting denial of due process during July 2024 hearing where Defendant appeared (without notice), remained silent, and demanded payment despite knowing of new allegations of abuse in 2024.

Exhibit I – Screenshots of messages between Plaintiff and a La Crosse Kansas teacher regarding the “Momo” character used by the mother to scare the children. Includes Defendant’s dismissive responses characterizing Plaintiff’s concern as “tit for tat.”

Exhibit J – Transcripts where Defendant falsely alleged in her recommendation to the court that Plaintiff said he wouldn’t return the children in a December 2020 hearing. Transcript shows this was untrue and Defendant misled the Court.

Exhibit K – Photograph taken by La Crosse Kansas schoolteacher showing bruises on child at school pumpkin patch.

Exhibit L - Defendant admitted she was a “State Actor” filed February 5, 2025, in response to plaintiff’s civil complaint filed November 22, 2024. Attached is original Civil complaint and Defendant’s answer “both” highlighted.

Exhibit M — Lacrosse Kansas Police Report for abuse on a child from mother. Defendant Failed to investigate.

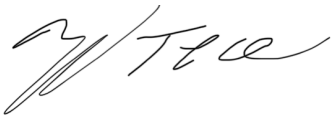
Exhibit N - Police report showing Plaintiff was assaulted by mother’s boyfriend. Defendant failed to investigate.

XIV. VERIFICATION UNDER PENALTY OF PERJURY

I, Tyce A. Bonjorno, declare under penalty of perjury under the laws of the United States of America that the factual allegations contained in this First Amended Complaint are true and correct to the best of my knowledge, information, and belief.

Executed on April 10, 2025.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Tyce A. Bonjorno', written in a cursive style.

/s/ Tyce A. Bonjorno

Tyce A. Bonjorno

605 W. South St., Suite 271

Leander, TX 78641

(512) 579-1329

tyceanthony@me.com

Pro Se Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on April 12, 2025, I mailed a true and correct copy of the foregoing document via US First Class Mail Certified to:

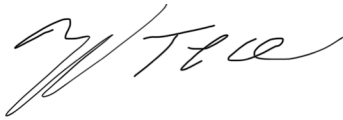
Gaye B. Tibbets

HITE, FANNING & HONEYMAN L.L.P.

100 N. Broadway, Suite 950

Wichita, KS 67202

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Tyce A. Bonjorno', with a stylized, cursive script.

/s/ Tyce A. Bonjorno

605 W South St., Suite 271

Leander, TX 78641

(512) 579-1329

tyceanthony@me.com

Pro Se Plaintiff

Exhibit A

Anna M. Jumpponen, #25805
Knopp Law Group, P.A.
310 W. Central Avenue, Suite 203
Wichita, KS 67202
(316) 265-5882 – phone
(316) 265-5892 – fax
annaj@knopplaw.com

IN THE DISTRICT COURT OF RUSH COUNTY, KANSAS

TYCE BONJORNO, Individually and as Father)
and Next Friend of D.A.B., a Minor)
Child, I.L.B., a Minor Child, H.L.B., a Minor Child,)
Petitioner,)
)
and)
)
TARA LYNN JENNINGS,)
Respondent.)

Case No. 18-DM-19

Pursuant to Chapter 23 of K.S.A.

EMERGENCY MOTION TO MODIFY CUSTODY

COMES NOW the petitioner, Tyce Bonjorno, by and through his attorney, Anna M. Jumpponen of Knopp Law Group, P.A., and hereby moves the court for an emergency order modifying custody. In support of this motion, petitioner states as follows:

1. The parties are the parents of three minor children, to-wit: HAB (YOB 2013), ILB (YOB 2014); and DAB, (YOB 2016).
2. On March 30, 2020, this Court entered a Memorandum Decision. The Court ordered the parties would enjoy joint custody of the minor children, with respondent to be named as the residential custodian, subject to petitioner's rights of parenting time.
3. The parties agreed that Petitioner would have an extended period of parenting time during the period of November 23, 2020 through November 29, 2020, because the respondent did not bring the children for petitioner's parenting time in the month of October, 2020 when she stated she needed to be tested for COVID.

4. Prior to Petitioner receiving the children, he observed that HAB (YOB 2013) and ILB (YOB 2014) appeared to have swelling in their mouths and/or cheeks. When Petitioner picked up the children, he immediately noticed that the swelling he observed in HAB (YOB 2013) and ILB (YOB 2014) was because they needed dental care. The children were taken to the dentist, who advised that both girls need oral surgery. ILB (YOB 2014) has eight cavities, five of which are so bad they are damaged to the root. HAB (YOB 2013) has six cavities -- one tooth is non-repairable, and four of the damaged teeth are adult teeth.

In addition, Petitioner took DAB (YOB 2016) to the doctor about a cyst over his right eye. The doctor advised the Petitioner that the longer the surgery to remove the cyst is delayed, the larger the cyst will grow, and its removal will be more painful.

Petitioner has repeatedly asked Respondent for information about the children's medical care, with no response.

5. Petitioner further states that the children told him that they are in fear of the Respondent because she hits them with their hand and with hangers, and that she pours hot water on them while they are sleeping. The children said that Respondent has told them she will shoot them with a gun, and that she has a "bad button" that she will push and the police will come get the children to take them to jail. The children told Petitioner that Respondent and her live-in boyfriend, Darrin Schuckman, drink alcohol every night. The children further said that they have been threatened by Respondent not to tell Petitioner about the abuse, or she will push the bad button. Petitioner took a recording of the conversation.

6. Respondent's live-in boyfriend, Darrin Schuckman, is on Indiana's Most Wanted list. Petitioner fears for the safety of the children to be around an individual with

an unresolved criminal record. In addition, Petitioner is concerned about the example Respondent is setting for the children by condoning such behavior.

7. Petitioner took the children to the local family advocacy center where they met with law enforcement. The detective told Petitioner that the children only said that the Respondent “spans them” and “drinks a lot every day.” The children later told Petitioner they were scared to speak to the police because of the Respondent’s bad button.

8. Petitioner states that the Respondent is no longer providing a safe environment for the minor children, and that her actions and neglect amount to a material change of circumstances substantiating the filing of this motion.

WHEREFORE, Petitioner requests that this court enter an order modifying the child custody orders, with Petitioner to be the primary residential custodian of the minor children, subject to Respondent’s parenting time; that the Court enter an Order requiring Respondent to undergo a drug and alcohol evaluation; and for such further and other relief as the court deems fair, just and equitable.

Respectfully Submitted:

/s/ Anna M. Jumpponen

Anna M. Jumpponen, #25805
Knopp Law Group, P.A.,
310 W. Central Avenue, Suite 203
Wichita, KS 67202
(316) 265-5882 – phone
(316) 265-5892 – fax
annaj@knopplaw.com
Attorney for Petitioner

VERIFICATION

STATE OF _____)
) §
COUNTY OF _____)

Tyce Bonjorno, of lawful age and first duly sworn upon oath states:

Affiant, the Petitioner herein, states and verifies that Affiant is familiar with the contents of the foregoing and that the statements, allegations, and other matters contained in it are true and correct.

TYCE BONJORNO, Petitioner

SUBSCRIBED AND SWORN to before me, a Notary Public, this ____ day of December, 2020.

NOTARY PUBLIC

My Appointment Expires:

CERTIFICATE OF SERVICE

I, Anna M. Jumpponen, undersigned hereby certifies that on the 1st day of December, 2020, she electronically filed or caused to be filed, the foregoing with the Clerk of the District Court by using the Kansas Judicial Branch e-filing system, which will send notice of electronic filing to counsel of record within this action.

/s/ Anna M. Jumpponen

Anna M. Jumpponen, #25805

Attorney for Petitioner

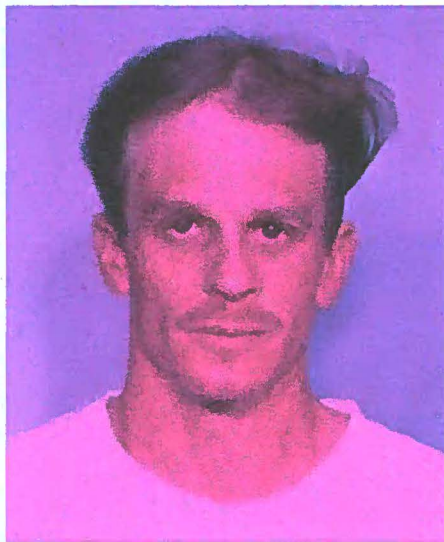
 Darrin Schuckman - Google Search

 Russell Schuckman | Allen County Indiana Warrant | Indiana's Most Wanted | TheMostWanted.net | Free W

INDIANA

Allen County

Population: 331,849
Active Warrants: 7,112
Updated: Sat Apr 05 2025

**Provide Info
About This Person**

Note: You stay anonymous
when providing tips.

Darrin Russell Schuckman

[<< Return to County Listing](#)

DOB: 09/19/1970

Gender: Male

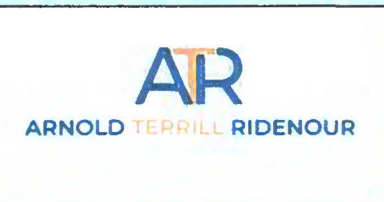
Race: White/Non Hispanic

Height: 5' 11"

Weight: 150 lbs

Hair: Brown

Eyes: Hazel



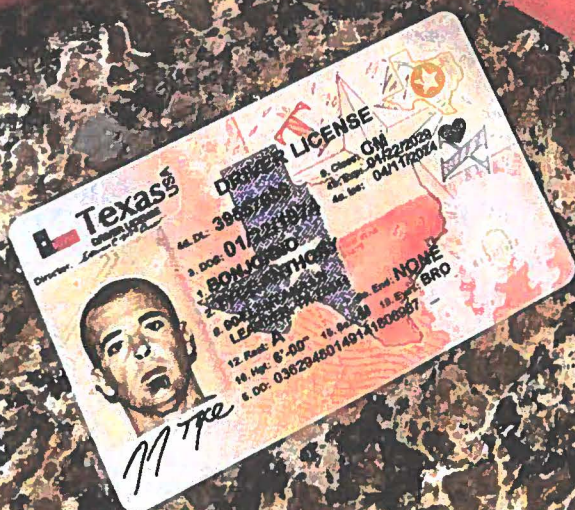
Tattoos (2):

*Descriptions of tattoos may contain content that some users
may find offensive. [See tattoo descriptions.](#)*

Wanted For:

Warrant # 05-11051

Exhibit B







Knopp Law Group, P.A.

310 W. Central Avenue, Suite 203

Wichita, KS 67202

Phone: (316) 265-5882

Fax: (316) 265-5892

Ted E. Knopp

Email: tknopp@knoppplaw.com

Anna M. Jumpponen

Email: annaj@knoppplaw.com

November 30, 2020

Greg Schwartz

greg@splaw.legal

Sent Via Electronic Transmission Only

**Re: *In the Matter of Bonjorno and Jennings*
Rush County, Kansas Case No. 18 DM 19**

Dear Greg:

Please be advised that Tyce will not be returning the children to your client. Some of the things the children revealed to him were that they are scared of their mother, that she hits them with her hand and hangers, pours hot water on them while they are sleeping, that she will shoot them with a gun, and that she has a "bad button" and if she pushes it the police will pick up the children and put them in jail. Tyce took the children to a children's advocacy facility where they were interviewed. I do not yet have the police reports, but I have asked Tyce for the name of the law enforcement officer and the facility so I can obtain them.

In addition, the children advised that Tara's live-in boyfriend, Darrin Schuckman, is on Indiana's Most Wanted. The link for the list posting that he has an outstanding warrant is: <http://www.themostwanted.net/Indiana/Allen/View/505127?pic=1&fbclid=IwAR3kjIMeWEbHDKLu0RsiIzVvq1CKttISGT62W7DQz95jhxCvNrDhOebyMWc>. In reviewing the warrant listing, it appears that he has an outstanding warrant for a DUI offense and failure to appear. Although this may very well be a non-extraditable misdemeanor offense, the fact that the children know that Tara's boyfriend is actively avoiding law enforcement for a criminal offense is extremely concerning, and indicative of a poor environment for the children. Tara is setting a horrible example for the children by allowing them to be around someone who is acting so irresponsibly. The children also advised that Tara and her boyfriend drink excessively, daily. On many occasions Tyce has asked Tara not to drink around the children, but this request, like so many others, has gone unheard.

Tyce also took the children in for medical care. Indi and Hendrix were taken to the dentist, who advised that both girls need of oral surgery. Indi has eight cavities, five of which are so bad they are damaged to the root. Hendrix has six cavities, one tooth is non-repairable, and four of the damaged teeth are adult teeth. Dominic was taken to the doctor about a cyst that is over his right eye. He was advised that the longer the surgery to remove the cyst is delayed, the larger the cyst will grow, and its removal will be more painful. Tyce has repeatedly asked Tara about the children's medical care, with no response.

In the Matter of Bonjorno and Jennings
November 30, 2020

Tyce does not believe the children are not in a safe environment with Tara, where they are subject to mental and verbal abuse, and their medical care is being needlessly neglected, and is refusing to return them to that environment.

Thank you.

Very truly yours,

/s/

Anna M. Jumpponen

AMJ/

cc: Tyce Bonjorno

CLINICAL NOTES REPORT**ALL NOTES**

12/30/2020 - 12/30/2020 Note Date

Clinics: <ALL>

Providers: <ALL>

Encounters: <ALL>

Report Date: 12/30/2020

Report Generated By: DRGILLHAM

Page 1 of 1

Bonjorno, Hendrick

BIRTHDATE
01/10/2014**CHART****SSN****HOME PHONE**
(512) 579-1329

DATE: 12/30/2020

NOTE# 1

Page 1

Time

1:30:01PM

Provider

DRGILLHAM2

ENCOUNTER:**Clinic**

LEA-PEDO

Status

Approved

Reason for visit: Limited Exam

Patient name & DOB verified with Guardian Present: Father

Age: 6 dob: 1/10/2013

xrays: 1PA

CC: tooth pain on LR

Obtained verbal/written consent(s) for procedures completed today.

Health Issues: ASA 1 - Healthy

Drug Allergies: NKDA

Current Meds: none

Caries Risk: high

Weight (lbs): 84.6 or 38.5kg

Temp: 98.6 F

Pathology: IO/EO soft tissue WNL

Clinical/Radiographic Findings: Child taking Children's Tylenol occasionally for pain, which I advised to continue prn. Gross decay & buccal abscess on #T - non restorable. No EO swelling noted.

Referred to specialist for treatment under general anesthesia on 11/25/20 for which no consult appt has been made per father of child, Tyce Bonjorno, due to legal custody matters. Child could also see OMFS Oral surgeon for ext of #T. Child needs urgent care under GA and is at high risk for recurrent infection and pain should timely care not be provided.

Father states a Texas social worker should be assigned soon. He states that mom lives in Kansas and both parties' legal counsel are involved. I stated that at this point it seems I have an ethical obligation to contact DFPS - Texas Child Protective Services (CPS) and I did so with confirmation number 45e7604a

Child resides at 904 Lantana Ln, Leander TX 78641 and Tyce Bonjorno phone is 512-579-1329

Rx Penicillin VK 250mg/5ml, sig 7ml q8h, disp 210ml, no refills to CVS at Phone: (512) 259-0130 and 500 N Bagdad Rd, Leander, TX 78641

Alternatives to treatment were discussed as listed above. No treatment was discussed as an alternative. Risks/benefits were discussed. Invited and answered questions. Addressed CC and answered all questions. Pt tolerated procedure well.

BEH: F3

Exam Assistant: Zoe Santana, RDA

Provider: Matthew Gillham DDS

RTC: refer to general anesthesia, or OMFS for ext of #T

— Signed on Wednesday, December 30, 2020 at 2:38:05 PM —

— Provider: DRGILLHAM2 - Matthew Gillham, DDS — Clinic: LEA-PEDO —

2022 Jul 13 AM 8:55

CLERK OF THE RUSH COUNTY DISTRICT COURT

CASE NUMBER: 2018-DM-000019

IN THE DISTRICT COURT OF RUSH COUNTY, KANSAS

Case No. 2018-DM-000019

1. Since the Motion was filed on May 19, 2022, school ended for the summer break and Petitioner picked up the children for the summer parenting time.

Tyce Bonjorno vs. Tara Jennings
Supplement to Motion to Modify Residential Custody and Support
Case No. 2018-DM-000019
Page 2

2. After picking up the children, it was discovered that all three children had blood in their stools and Petitioner took the children to Urgent Care for Kids – Cedar Park, Cedar Park, Texas.

3. All three children were diagnosed with streptococcal pharyngitis and Melena. The diagnosis came following rectal strep testing. (See Exhibit “A”)

4. In layman’s terms, the children all suffered from strep infection in and around their anus. A perianal strep infection is caused by bacteria called streptococcus which is the same bacteria that causes strep throat. Melena refers to black stools that occur as a result of gastrointestinal bleeding. (See Exhibit “B”)

5. It is unknown how long the children have had this untreated condition while they were with their Mother. The children stated that they noticed the bleeding back when their Mother lived at their old apartment which was approximately 8 months ago.

6. The children told their Mother about the blood in their stools but she ignored their statements and would get mad because she did not want her toilet to get dirty.

7. In the initial Motion, there is an incident described that took place on May 19, 2022, where Respondent’s boyfriend, Darin Shuckman threatened physical harm to Petitioner. Following that incident, he was then arrested on May 30, 2022, for “domestic battery; knowing rude physical contact with family member or dating relationship.” This raises even more concern regarding the children being exposed to violence while in the care of their Mother. (See Exhibit “C”)

8. One of the children told Petitioner that Respondent and Darin drink and fight every day and push each other around. Another stated that during one fight Respondent wrapped a towel around Darin’s neck and was choking him.

Tyce Bonjorno vs. Tara Jennings
Supplement to Motion to Modify Residential Custody and Support
Case No. 2018-DM-000019
Page 3

9. At the time the summer parenting time started, Petitioner attempted to set up times for Respondent to call the children. She did not follow through and she has not attempted to call and has had no contact with the children.

WHEREFORE, based upon the foregoing facts and circumstances and the facts set out in the original Motion to Modify Residential Custody and Support, Petitioner respectfully requests that the Court enter an order transferring residential custody of the parties' minor children from Respondent to Petitioner; and enter an order restraining Respondent and her significant other from threatening or harassing Petitioner, and for such other and further relief as the Court deems just and equitable.

/s/ Blake A. Bittel #23391
KENNEDY BERKLEY
119 W. Iron Avenue, 7th Floor
PO Box 2567
Salina, KS 67402-2567
T: (785) 825-4674
F: (785) 825-5936
E: bbittel@kenberk.com
Attorneys for Petitioner

Tyce Bonjorno vs. Tara Jennings
Supplement to Motion to Modify Residential Custody and Support
Case No. 2018-DM-000019
Page 4

VERIFICATION

STATE OF KANSAS, COUNTY OF RUSH, ss:

Tyce Bonjorno, of lawful age and being first duly sworn upon my oath, state that I am the Petitioner in the foregoing *Supplement to Motion to Modify Residential Custody and Support*; that I have read the foregoing *Supplement to Motion to Modify Residential Custody and Support* and aver that the statements and allegations contained therein are correct and true to the best of my belief.

Tyce Bonjorno

SUBSCRIBED AND SWORN to before me on June _____, 2022, by Tyce Bonjorno.

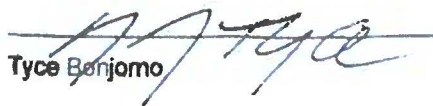
Notary Public

CERTIFICATE OF SERVICE

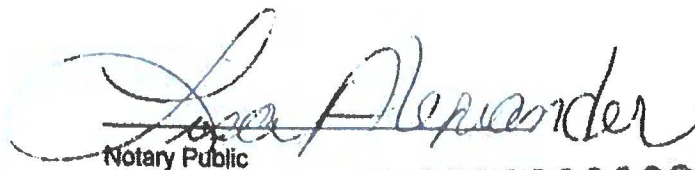
The undersigned hereby certifies that on July 13, 2022, the foregoing *Supplement to Motion to Modify Residential Custody and Support* was electronically filed with the Court using the CM/ECF System, which sent notification to all parties of interest participating in the CM/ECF System, and was forwarded via email properly addressed to the parties' and/or counsel's addresses show below who do not receive notice electronically via the CM/ECF System:

Tara Jennings
623 E. 6th Street
LaCrosse, Kansas 67548
tarajennings7@gmail.com
Respondent

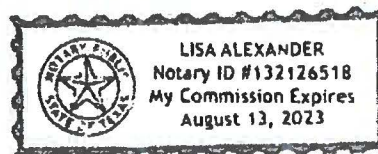
/s/ Blake A. Bittel _____


Tyce Bonjomo

SUBSCRIBED AND SWORN to before me on June 12th, 20222022, by
Tyce Bonjomo.


Notary Public

CERTIFICATE OF SERVICE



The undersigned hereby certifies that on July 13, 20222022, the foregoing
Supplement to Motion to Modify Residential Custody and Support was electronically
filed with the Court using the CM/ECF System, which sent notification to all parties of
interest participating in the CM/ECF System, and was forwarded via email properly
addressed to the parties' and/or counsel's addresses show below who do not receive
notice electronically via the CM/ECF System:

Tara Jennings
623 E. 6th Street
LaCrosse, Kansas 67548
tjennings@att.com
Respondent

/s/ Blake A. Bittel

01/10/2013

Office/Outpatient Visit

Visit Date: Tue, May 24, 2022 05:15 pm

Provider: Goytia, Raquel, N.P. (Supervisor: Trexler, Cheryl, MD; Assistant: REGMI, GUNJA, MA)

Location: Urgent Care for Kids-Cedar Park

Electronically signed by Raquel Goytia, N.P. on 05/25/2022 04:40:19 PM

Printed on 05/25/2022 at 8:24 pm.

PLAINTIFF'S
EXHIBIT

A

Subjective:

CC: [REDACTED] a 9 years 4 months Black or African American female. This is her first visit to the clinic. She presents with **blood in stool**. History details were provided by the patient's father. The history remains incomplete due to unable to obtain full history due to split household.. Immunizations are up to date and on schedule.

COVID-19 SCREENING QUESTIONS:

Has patient had exposure to confirmed or suspected COVID-19 case? No

Has patient received a positive COVID-19 test in the past 14 days? No

In the past 14 days, has patient visited any public places such as retail stores, grocery stores, restaurants, public parks, place of worship, gas stations, office/place of work, or used public transit? No

HPI:

[REDACTED] is being seen today for **BLOOD IN STOOL**. It began 4 days ago. It is of mild intensity. No attempt has been made to treat symptoms. There are no associated symptoms. Father reports child was picked up for visit 4 days ago, patient showed father blood on toilet paper) Denies constipation, v/d, or nausea. Denies PMH bleeding or GI disorders. No family history.

ROS:

CONSTITUTIONAL: Negative for fatigue, fever and weight loss.

EYES: Negative for eye drainage and eye redness.

E/N/T: Negative for ear pain, nasal congestion, rhinorrhea and sore throat. No hematemesis, no epistaxis

CARDIOVASCULAR: Negative for cyanotic spells and edema.

RESPIRATORY: Negative for cough and labored breathing.

GASTROINTESTINAL: Positive for **blood in stool**. Negative for abdominal pain, diarrhea, anorexia or vomiting.

GENITOURINARY: Negative for difficulty urinating and dysuria.

MUSCULOSKELETAL: Negative for limb or joint pain, joint swelling, and gait abnormalities.

INTEGUMENTARY: Negative for open wound and rash.

NEUROLOGICAL: Negative for altered mental status and loss of consciousness.

HEMATOLOGIC/LYMPHATIC: Negative for excessive bruising and lymphadenopathy.

ENDOCRINE: Negative for polydipsia and polyuria.

ALLERGIC/IMMUNOLOGIC: Negative for seasonal/perennial allergies and urticaria.

Past Medical History / Family History / Social History:

Last Reviewed on 5/24/2022 05:38 PM by REGMI, GUNJA

Past Medical History:

Birth history:

Patient born at term, no complications..

Medical Conditions Present:

No previous or ongoing medical diagnoses.

Developmental conditions present:

No developmental condition(s) present..

COVID-19 History: Never had COVID-19 AND no immunization

Surgical History:

REGMI, GUNJA**Office/Outpatient Visit****Visit Date:** Tue, May 24, 2022 05:15 pm**Provider:** Goytia, Raquel, N.P. (Supervisor: Trexler, Cheryl, MD; Assistant: REGMI, GUNJA, MA)**Location:** Urgent Care for Kids-Cedar Park

Electronically signed by Raquel Goytia, N.P. on 05/25/2022 04:40:19 PM

Printed on 05/25/2022 at 8:24 pm.

No previous surgeries

Family History:

No previously diagnosed or ongoing medical problems associated with parents or siblings.

Social History:

Lives with: biological parent(s)

Currently in Middle School.

Current Problems:

None Recorded

Allergies:

Last Reviewed on 5/24/2022 05:38 PM by REGMI, GUNJA

No Known Allergies.

Current Medications:

Last Reviewed on 5/24/2022 05:38 PM by REGMI, GUNJA

melatonin

Objective:**Vitals:****Current:** 5/24/2022 5:37:43 PM**Wt:** 46.8 kg (96.96%) **T:** 98.6 F; **BP:** 103/67 mm Hg; **P:** 90 bpm; **R:** 20 bpm **O2 Sat:** 98 %**Exams:****CONSTITUTIONAL:** Vital signs reviewed; The patient is well developed, well nourished, in no apparent distress.**HEAD:** normocephalic; atraumatic**EYES:** lids and conjunctiva are normal, PERRLA, and extraocular movements intact;**ENT/MOUTH:** normal external auditory canals and tympanic membranes; Nose: normal nasal mucosa, no nasal discharge Oropharynx: erythematous posterior pharynx and tonsils; normal palate; NO posterior pharyngeal exudate;**NECK:** Neck is supple with full range of motion;**RESPIRATORY:** normal respiratory rate and pattern with no distress; normal breath sounds with no rales, rhonchi, wheezes or crackles;**CARDIOVASCULAR:** normal PMI placement; no thrills, heaves, or lifts; normal rate and rhythm without murmurs; normal S1 and S2 heart sounds with no S3, S4, rubs, or clicks;; brisk capillary refill;**GASTROINTESTINAL:** normal bowel sounds; no masses or tenderness; no organomegaly rectal exam; normal tone; no masses; no hemorrhoids**SKIN:** No ulcerations, lesions or rashes are noted. Skin is generally appropriately warm and dry.**LYMPHATIC:** no enlargement of cervical nodes; no supraclavicular, suboccipital, periauricular or other nodes;**NEUROLOGIC:** appropriate neurologic tone and coordination for age**Lab/Test Results:****REGMI, GUNJA**

Office/Outpatient Visit

Visit Date: Tue, May 24, 2022 05:15 pm

Provider: Goytia, Raquel, N.P. (Supervisor: Trexler, Cheryl, MD; Assistant: REGMI, GUNJA, MA)

Location: Urgent Care for Kids-Cedar Park

Electronically signed by Raquel Goytia, N.P. on 05/25/2022 04:40:19 PM

Printed on 05/25/2022 at 8:24 pm.

LABORATORY RESULTS:

Rapid Group A Strep: POSITIVE

Procedures:

Streptococcal pharyngitis

Patient's visit was conducted at the Cedar Park clinic.

RAPID TESTS ORDERED: Rapid Strep

Assessment:

J02.0 Streptococcal pharyngitis

K92.1 Melena

Plan:

Streptococcal pharyngitis

OTC MEDICATIONS RECOMMENDED: acetaminophen and ibuprofen in children over 6 months old Based on history and exam findings suggest streptococcal infection.

CARE RECOMMENDATIONS given include: Finish complete course of antibiotics as prescribed. If the patient is uncomfortable due to fever, reduce it by giving acetaminophen and/or ibuprofen (for patients 6 months and older). Begin using a new toothbrush 2 to 3 days after first antibiotic dose.

EMERGENCY PLAN: Activate emergency services or report to emergency department for altered mental status, concern for dehydration, lethargy, respiratory distress, or intense pain that does not improve despite use of Tylenol and/or Motrin

FOLLOW-UP: Advised to follow up if there is no improvement in 2-3 day(s).

Prescriptions:

[New Rx] amoxicillin 400 mg/5 mL oral Suspension for Reconstitution [give 12.5 ml by mouth once a day x 10 days], # 130 (one hundred and thirty) milliliters, Refills: 0 (zero)

Orders:

Group A Streptococcus detection by immunoassay with direct optical observation (In-House)

Melena Reassurance given. Overall child is well appearing, active, and playful. No specimen available at time of visit to check for hemmocult. Discussed treatment plan with Dad, cost for stool analysis, home collection kit given. Instructed to obtain specimen if symptoms continue despite treatment. RTC/ED precautions given, verbalized understanding and agrees with plan of care.

Diagnosis and Procedure Summary:

Primary Diagnosis:

J02.0 Streptococcal pharyngitis

Orders:

87880 Group A Streptococcus detection by immunoassay with direct optical observation (In-House)

CONFIDENTIAL

Office/Outpatient Visit

Visit Date: Tue, May 24, 2022 05:15 pm

Provider: Goytia, Raquel, N.P. (Supervisor: Trexler, Cheryl, MD; Assistant: REGMI, GUNJA, MA)

Location: Urgent Care for Kids-Cedar Park

Electronically signed by Raquel Goytia, N.P. on 05/25/2022 04:40:19 PM

Printed on 05/25/2022 at 8:24 pm.

K92.1 Melena

ADDENDUMS:

Addendum: 05/25/2022 06:17 PM - Goytia, Raquel

Per parent request, RTC for rectal strep test. Results: +Positive for streptococcal infection, continue with treatment plan as previously discussed.

BOMBERG, DOMINIC

Office/Outpatient Visit

Visit Date: Tue, May 24, 2022 05:31 pm

Provider: Goytia, Raquel, N.P. (Supervisor: Trexler, Cheryl, MD; Assistant: REGMI, GUNJA, MA)

Location: Urgent Care for Kids-Cedar Park

Electronically signed by Raquel Goytia, N.P. on 05/25/2022 04:43:10 PM

Printed on 05/25/2022 at 8:23 pm.

Subjective:

CC: DOMINIC is a 5 years 8 months White male. He is an established patient. He presents with blood in stool. History details were provided by the patient's father. The history remains incomplete due to the informant's lack of knowledge regarding patient and unable to obtain full history due to split household. Immunizations are up to date and on schedule.

COVID-19 SCREENING QUESTIONS:

Has patient had exposure to confirmed or suspected COVID-19 case? No

Has patient received a positive COVID-19 test in the past 14 days? No

In the past 14 days, has patient visited any public places such as retail stores, grocery stores, restaurants, public parks, place of worship, gas stations, office/place of work, or used public transit? Yes

HPI:

DOMINIC is being seen today for BLOOD IN STOOL. It began 4 days ago. It is of mild intensity. No attempt has been made to treat symptoms. There are no associated symptoms. Denies fever, v/d. No PMH, bleeding or GI disorders, no family history. +recent c/o constipation.

ROS:**CONSTITUTIONAL:** Negative for fatigue, fever and weight loss.**EYES:** Negative for eye drainage and eye redness.**E/N/T:** Negative for ear pain, nasal congestion, rhinorrhea and sore throat. No Hematemesis, No epistaxis**CARDIOVASCULAR:** Negative for cyanotic spells and edema.**RESPIRATORY:** Negative for cough and labored breathing.**GASTROINTESTINAL:** Positive for constipation and blood in stool. Negative for abdominal pain, diarrhea, anorexia or vomiting.**GENITOURINARY:** Negative for difficulty urinating and dysuria.**MUSCULOSKELETAL:** Negative for limb or joint pain, joint swelling, and gait abnormalities.**INTEGUMENTARY:** Negative for open wound and rash.**NEUROLOGICAL:** Negative for altered mental status and loss of consciousness.**HEMATOLOGIC/LYMPHATIC:** Negative for excessive bruising and lymphadenopathy.**ENDOCRINE:** Negative for polydipsia and polyuria.**ALLERGIC/IMMUNOLOGIC:** Negative for seasonal/perennial allergies and urticaria.**Past Medical History / Family History / Social History:**

Last Reviewed on 5/24/2022 05:34 PM by REGMI, GUNJA

Past Medical History:**Birth history:**

Patient born at term, no complications.

Medical Conditions Present:

No previous or ongoing medical diagnoses.

Developmental conditions present:**No developmental condition(s) present.****COVID-19 History:** Never had COVID-19 AND no immunization

Office/Outpatient Visit**Visit Date:** Tue, May 24, 2022 05:31 pm**Provider:** Goytia, Raquel, N.P. (Supervisor: Trexler, Cheryl, MD; Assistant: REGMI, GUNJA, MA)**Location:** Urgent Care for Kids-Cedar Park

Electronically signed by Raquel Goytia, N.P. on 05/25/2022 04:43:10 PM

Printed on 05/25/2022 at 8:23 pm.

Surgical History:

No previous surgeries

Family History:

No previously diagnosed or ongoing medical problems associated with parents or siblings.

Social History:

Lives with: biological parent(s)

Currently in Kindergarten.

Current Problems:

Ocular pain, unspecified eye

Follicular cyst of the skin and subcutaneous tissue, unspecified

Allergies:

Last Reviewed on 5/24/2022 05:34 PM by REGMI, GUNJA

No Known Allergies.

Current Medications:

Last Reviewed on 5/24/2022 05:34 PM by REGMI, GUNJA

melatonin

Objective:**Vitals:****Current:** 5/24/2022 5:34:20 PM

Wt: 19.8 kg (46.04%) T: 98.6 F; BP: 100/67 mm Hg; P: 90 bpm; R: 24 bpm O2 Sat: 98 %

Exams:**CONSTITUTIONAL:** Vital signs reviewed; The patient is well developed, well nourished, in no apparent distress.**HEAD:** normocephalic; atraumatic**EYES:** lids and conjunctiva are normal, PERRLA, and extraocular movements intact;**ENT/MOUTH:** normal external auditory canals and tympanic membranes; Nose: normal nasal mucosa, no nasal discharge Oropharynx: erythematous posterior pharynx; normal palate; NO posterior pharyngeal exudate;**NECK:** Neck is supple with full range of motion;**RESPIRATORY:** normal respiratory rate and pattern with no distress; normal breath sounds with no rales, rhonchi, wheezes or rubs;**CARDIOVASCULAR:** normal PMI location;; normal rate; regular rhythm; no murmurs; brisk capillary refill;**GASTROINTESTINAL:** normal bowel sounds; no masses or tenderness; no organomegaly rectal exam: normal tone; no masses; no hemorrhoids**SKIN:** mild perianal erythema. is noted. Skin is generally appropriately warm and dry.**LYMPHATIC:** no enlargement of cervical nodes; not examined;**NEUROLOGIC:** appropriate neurologic tone and coordination for age**Lab/Test Results:**

Office/Outpatient Visit

Visit Date: Tue, May 24, 2022 05:31 pm

Provider: Goytia, Raquel, N.P. (Supervisor: Trexler, Cheryl, MD; Assistant: REGMI, GUNJA, MA)

Location: Urgent Care for Kids-Cedar Park

Electronically signed by Raquel Goytia, N.P. on 05/25/2022 04:43:10 PM

Printed on 05/25/2022 at 8:23 pm.

LABORATORY RESULTS:

Rapid Group A Strep: POSITIVE

Procedures:

Streptococcal pharyngitis

Patient's visit was conducted at the Cedar Park clinic.

RAPID TESTS ORDERED: Rapid Strep

Assessment:

J02.0 Streptococcal pharyngitis

K59.00 Constipation, unspecified

L29.0 Pruritus ani

K92.1 Melena

Plan:

Streptococcal pharyngitis

OTC MEDICATIONS RECOMMENDED: acetaminophen and ibuprofen in children over 6 months old. Based on history and exam findings suggest streptococcal infection.

CARE RECOMMENDATIONS given include: Finish complete course of antibiotics as prescribed. If the patient is uncomfortable due to fever, reduce it by giving acetaminophen and/or ibuprofen (for patients 6 months and older). Begin using a new toothbrush 2 to 3 days after first antibiotic dose.

EMERGENCY PLAN: Activate emergency services or report to emergency department for altered mental status, concern for dehydration, lethargy, respiratory distress, or intense pain that does not improve despite use of Tylenol and/or Motrin.

FOLLOW-UP: Advised to follow up if there is no improvement in 2-3 day(s).

Prescriptions:

[Queued New Rx] amoxicillin 400 mg/5 mL oral Suspension for Reconstitution [give 12.5 ml by mouth once a day x 10 days], #130 (one hundred and thirty) milliliters, Refills: 0 (zero)

Orders:

Group A Streptococcus detection by immunoassay with direct optical observation (In-House)

Constipation, unspecified Suspect cause of blood in stool due to constipation. Discussed increasing fiber and water intake.

Pruritus ani Reassurance given, no rectal bleeding, or fissures noted. Suspect localized irritation due to constipation/strep infection. RTC instructions given, verbalized understanding.

Melena Reassurance given. Overall child is well appearing, active, and playful. No specimen available at time of visit to check for heminocult. Discussed treatment plan with Dad, cost for stool analysis, home collection kit given. Instructed to obtain specimen if symptoms continue despite treatment. RTC/ED precautions given, verbalized understanding and agrees with plan of care.

BERNARD, DOUGLAS

Office/Outpatient Visit

Visit Date: Tue, May 24, 2022 05:31 pm

Provider: Goytia, Raquel, N.P. (Supervisor: Trexler, Cheryl, MD; Assistant: REGMI, GUNJA, MA)

Location: Urgent Care for Kids-Cedar Park

Electronically signed by Raquel Goytia, N.P. on 05/25/2022 04:43:10 PM

Printed on 05/25/2022 at 8:23 pm.

Diagnosis and Procedure Summary:

Primary Diagnosis:

J02.0 Streptococcal pharyngitis

Orders:

87880 Group A Streptococcus detection by immunoassay with direct optical observation (In-House)

K59.00 Constipation, unspecified

L29.0 Pruritus ani

K92.1 Melena

ADDENDUMS:

Addendum: 05/25/2022 06:18 PM - Goytia, Raquel

Per parent request, RTC for rectal strep test. Results: +Positive for streptococcal infection, continue with treatment plan as previously discussed.

Office/Outpatient Visit

Visit Date: Tue, May 24, 2022 05:28 pm

Provider: Goytia, Raquel, N.P. (Supervisor: Trexler, Cheryl, MD; Assistant: REGMI, GUNJA, MA)

Location: Urgent Care for Kids-Cedar Park

Electronically signed by Raquel Goytia, N.P. on 05/25/2022 04:00:20 PM

Printed on 05/25/2022 at 8:23 pm.

Subjective:

CC: INDIE is a 8 years 3 months White female. This is her first visit to the clinic. She presents with **blood in stool**. History details were provided by the patient's father. The history remains incomplete due to the informant's lack of knowledge regarding patient and unable to obtain full history due to split household.. Immunizations are up to date and on schedule.

COVID-19 SCREENING QUESTIONS:

Has patient had exposure to confirmed or suspected COVID-19 case? No

Has patient received a positive COVID-19 test in the past 14 days? No

In the past 14 days, has patient visited any public places such as retail stores, grocery stores, restaurants, public parks, place of worship, gas stations, office/place of work, or used public transit? Yes

HPI:

INDIE is being seen today for BLOOD IN STOOL. It began 4 days ago. No attempt has been made to treat symptoms. There are no associated symptoms. Denies fever, v/d or nausea. No PMH, bleeding or GI disorders, no FMH.

ROS:

CONSTITUTIONAL: Negative for fatigue, fever and weight loss.

EYES: Negative for eye drainage and eye redness.

E/N/T: Negative for ear pain, nasal congestion, rhinorrhea and sore throat. No hematemesis, No epistaxis

CARDIOVASCULAR: Negative for cyanotic spells and edema.

RESPIRATORY: Negative for cough and labored breathing.

GASTROINTESTINAL: Positive for **blood in stool**. Negative for abdominal pain, diarrhea, anorexia or vomiting.

GENITOURINARY: Negative for difficulty urinating and dysuria.

MUSCULOSKELETAL: Negative for limb or joint pain, joint swelling, and gait abnormalities.

INTEGUMENTARY: Negative for open wound and rash.

NEUROLOGICAL: Negative for altered mental status and loss of consciousness.

HEMATOLOGIC/LYMPHATIC: Negative for excessive bruising and lymphadenopathy.

ENDOCRINE: Negative for polydipsia and polyuria.

ALLERGIC/IMMUNOLOGIC: Negative for seasonal/perennial allergies and urticaria.

Past Medical History / Family History / Social History:

Last Reviewed on 5/24/2022 05:31 PM by REGMI, GUNJA

Past Medical History:

Birth history:

Patient born at term, no complications..

Medical Conditions Present:

No previous or ongoing medical diagnoses.

Developmental conditions present:

No developmental condition(s) present..

COVID-19 History: Never had COVID-19 AND no immunization

Surgical History:

No previous surgeries

[REDACTED], [REDACTED]

Office/Outpatient Visit

Visit Date: Tue, May 24, 2022 05:28 pm**Provider:** Goytia, Raquel, N.P. (Supervisor: Trexler, Cheryl, MD; Assistant: REGMI, GUNJA, MA)**Location:** Urgent Care for Kids-Cedar Park

Electronically signed by Raquel Goytia, N.P. on 05/25/2022 04:00:20 PM

Printed on 05/25/2022 at 8:23 pm.

Family History:

No previously diagnosed or ongoing medical problems associated with parents or siblings.

Social History:Lives with: biological parent(s)
Currently in Grade School.**Current Problems:**

None Recorded

Allergies:Last Reviewed on 5/24/2022 05:31 PM by REGMI, GUNJA
No Known Allergies.**Current Medications:**Last Reviewed on 5/24/2022 05:31 PM by REGMI, GUNJA
melatonin**Objective:****Vitals:****Current:** 5/24/2022 5:30:44 PM**Wt:** 23.9 kg (25.40%) **T:** 98 F; **BP:** 106/70 mm Hg; **P:** 93 bpm; **R:** 22 bpm **O2 Sat:** 98 %**Exams:****CONSTITUTIONAL:** Vital signs reviewed; The patient is well developed, well nourished, in no apparent distress.**HEAD:** normocephalic; atraumatic**EYES:** lids and conjunctiva are normal, PERRLA, and extraocular movements intact;**ENT/MOUTH:** normal external auditory canals and tympanic membranes; Nose: normal nasal mucosa, no nasal discharge Oropharynx: **erythematous posterior pharynx**; normal palate; NO posterior pharyngeal exudate;**NECK:** Neck is supple with full range of motion;**RESPIRATORY:** normal respiratory rate and pattern with no distress; normal breath sounds with no rales, rhonchi, wheezes or rubs;**CARDIOVASCULAR:** normal PMI placement; no thrills, heaves, or lifts; normal rate and rhythm without murmurs; normal S1 and S2 heart sounds with no S3, S4, rubs, or clicks;; brisk capillary refill;**GASTROINTESTINAL:** normal bowel sounds; no masses or tenderness; no organomegaly rectal exam: normal tone; no masses; no hemorrhoids**SKIN:** No ulcerations, lesions or rashes are noted. Skin is generally appropriately warm and dry.**LYMPHATIC:** **left anterior cervical node** (nontender, mobile); no supraclavicular, suboccipital, periauricular or other nodes;**NEUROLOGIC:** appropriate neurologic tone and coordination for age**Lab/Test Results:**

XXXXXXXXXX, XXXX XXXXX**Office/Outpatient Visit****Visit Date:** Tue, May 24, 2022 05:28 pm**Provider:** Goytia, Raquel, N.P. (Supervisor: Trexler, Cheryl, MD; Assistant: REGMI, GUNJA, MA)**Location:** Urgent Care for Kids-Cedar Park

Electronically signed by Raquel Goytia, N.P. on 05/25/2022 04:00:20 PM

Printed on 05/25/2022 at 8:23 pm.

LABORATORY RESULTS:**Rapid Group A Strep: POSITIVE****Procedures:**

Streptococcal pharyngitis

Patient's visit was conducted at the Cedar Park clinic.

RAPID TESTS ORDERED: Rapid Strep**Assessment:**

J02.0 Streptococcal pharyngitis

K92.1 Melena

Plan:**Streptococcal pharyngitis**

OTC MEDICATIONS RECOMMENDED: acetaminophen and ibuprofen in children over 6 months old. Based on history and exam findings suggest streptococcal infection.

CARE RECOMMENDATIONS given include: Finish complete course of antibiotics as prescribed. If the patient is uncomfortable due to fever, reduce it by giving acetaminophen and/or ibuprofen (for patients 6 months and older). Begin using a new toothbrush 2 to 3 days after first antibiotic dose.

EMERGENCY PLAN: Activate emergency services or report to emergency department for altered mental status, concern for dehydration, lethargy, respiratory distress, or intense pain that does not improve despite use of Tylenol and/or Motrin.

FOLLOW-UP: Advised to follow up if there is no improvement in 2-3 day(s).

Prescriptions:

[New Rx] amoxicillin 400 mg/5 mL oral Suspension for Reconstitution [give 12.5 ml by mouth once a day x 10 days], # 130 (one hundred and thirty) milliliters, Refills: 0 (zero)

Orders:

New patient outpatient visit, Moderate MDM and/or 45-59 minutes (In-House)

Group A Streptococcus detection by immunoassay with direct optical observation (In-House)

Melena Reassurance given. Overall child is well appearing, active, and playful. No specimen available at time of visit to check for hemmoccult. Discussed treatment plan with Dad, cost for stool analysis, home collection kit given. Instructed to obtain specimen if symptoms continue despite treatment. RTC/ED precautions given, verbalized understanding and agrees with plan of care.

Diagnosis and Procedure Summary:**Primary Diagnosis:**

J02.0 Streptococcal pharyngitis

Orders:

99204 New patient outpatient visit, Moderate MDM and/or 45-59 minutes (In-House)

87880 Group A Streptococcus detection by immunoassay with direct optical observation (In-House)

BOLIVAR, RAQUEL 05/25/2022

Office/Outpatient Visit

Visit Date: Tue, May 24, 2022 05:28 pm

Provider: Goytia, Raquel, N.P. (Supervisor: Trexler, Cheryl, MD; Assistant: REGMI, GUNJA, MA)

Location: Urgent Care for Kids-Cedar Park

Electronically signed by Raquel Goytia, N.P. on 05/25/2022 04:00:20 PM

Printed on 05/25/2022 at 8:23 pm.

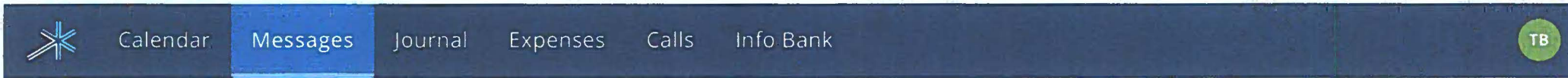
K92.1 Melena

ADDENDUMS:

Addendum: 05/25/2022 06:16 PM - Goytia, Raquel

Per parent request, RTC for rectal strep test. Results: +Positive for streptococcal infection, continue with treatment plan as previously discussed.

Exhibit C



Create message

Search All Messages



Report



Inbox

Action Items

Notifications

Sent

Drafts

Archived

All Messages

< 1501 -1549 >

Test
Got it!

Tyce Bonjorno Apr 02, 2020
to: Tara Jennings
Re: Kids

← Tara Jennings Apr 02, 2020
to: Tyce Bonjorno
Kids
I'm just seeing if you get this

Tyce Bonjorno Apr 01, 2020
to: Tara Jennings
Test
Test



No Message Selected

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Exhibit D

6:26

97



+1 (512) 550-5306

Hi mr bonjorno this is Teri Barnes with CPS. If you could give me a call at your earliest convenience I'd greatly appreciate it

Yes. Give me 5 mins. Thank you Tyce

Starry counseling
[512-388-8290](tel:512-388-8290)

Located in Round rock but doing virtual right now

Thank you. Tyce

There's more. This is moms BF/Meth addict. He's Indiana's most wanted list.

**Darrin Russell
Schuckman | Allen
County Indiana
Warrant | TheMostW...**
themostwanted.net



iMessage



6:26

97

**+1 (512) 550-5306 >**

Nov 29, 2020 at 8:45 AM

I was wanted to let you know that as a father who is very concerned about my children I will not be returning them to Kansas. I would definitely be putting them in harms way, physically and mentally. If I return them I am jeopardizing their safety. I am taking the appropriate actions as a father to protect my children. Please reach out at any time Teri. Thank you Tyce

Jul 6, 2021 at 10:54 AM

Hi Tyce it's Teri I about to head your way roughly 30 minutes or so

Can you give me one hour. I



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6:26

97



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Can you give me one hour. I am not at the house yet. I had to leave to a customers house real quick

Yes no problem

Thank you

Jul 7, 2021 at 8:15 AM

Good morning, I spoke with my attorney yesterday and advised her that you had been out to speak with the children one on one as well as myself and Melissa. She is wanting to know if we will receive a report of your findings as well as what will happen and how soon.

Thank you Tyce

Jul 12, 2021 at 7:57 AM

Teri Good morning, you had



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6:26

96



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Teri Good morning, you had visited my children last week at 904 Lantana Ln., Leander, TX. My name is Tyce Bonjorno. Can I get access to your report that you made and how do I go about doing that? Thank you Tyce

As soon as I close today and you receive your letter you can request open records

Thank you

Jul 12, 2021 at 10:09 AM

No prob also what's your wife/ or girlfriends name that I met? I need to document the things the girls reported to her

Her name is Melissa Wheelless



iMessage



6:26

96



+1 (512) 550-5306

wneerness

Thank you

You're welcome thank you

Jul 12, 2021 at 2:15 PM

Teri. There is more. I'm totally sick to my stomach, I am at work now. Melissa called me just now and told me that Hendrix told Melissa that when Hendrix and her sister indi take a bath, their mom puts their heads together and puts their head underwater and tries to drowned them. Every single day there is so much more since you have left last week. I don't know what to do at this point since we have to bring them back at the end of the month. My attorney is trying to file a motion as



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6:26

96

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trying to file a motion as quickly as possible. We have the children set up for therapy tomorrow, hopefully we can gather all the reports, because we will need that. Now this is getting completely out of hand, and my children have been crying out for over a year. I just don't know what to do at this point. My two older girls have said so much more

One of the girls told me about their mother trying to drown them. She did not say everyday but she did say it

Thank you very much. This is just news to me today. I'm just sick

Jul 13, 2021 at 8:52 AM



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6:26

96



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Jul 13, 2021 at 8:52 AM

Good morning do you by chance know the name of the person working the case in Kansas?

Yes her name is Lanie Trendel. She visited my children's school and talked with my children Wayback in January. My children opened up to her about the abuse. Lanie done nothing and turned it over to Saint Francis ministries. That day that Lanie had talk to my children at school, that same day mom found out the children talk to Lanie at school, and mom abused the girls. My girls have given us avid details.

Do you have a contact for her?



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6:27

96



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All I have is her email. Give me a sec

Lanie.Trendel@ks.gov

Thank you

You're welcome

Jul 13, 2021 at 11:39 AM

We have my children going to there first therapy today. The therapist had called just now and needs Moms consent because it is considered "Medical". The Orders from the courts only state "Joint Custody".

Orders say nothing about "medical"

Is there something we can do with the state of Texas to have therapy done for



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6:27

96



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to have therapy done for the children. I really really feel it's necessary

Jul 15, 2021 at 8:32 AM

We took the children to the dentist yesterday and I am making an appointment for Indi and Dominic to have teeth done . Indi has to be done 2 different times because of the care she is needing. They have to now remove at least 4 teeth that are no longer save able. And seal and cap other ones. Dentist did state that one tooth is so broken can't be saved and that one on other side root is almost gone. Dominic will need teeth fixed as well. Both children will need to be under sedation to do these procedures. I just wanted to give you a heads up. Thank



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6:27

96



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give you a heads up. Thank you

Jul 16, 2021 at 12:20 PM

Sorry for bothering you, I did reach out to Lanie myself regarding the children and medical issues as well as mom not agreeing to therapist visits and the drowning. Lanie told me they have an open case for medical neglect but nothing with abuse. She did state she had received your notes. She stated to file another complaint for abuse and medical. I did so. I am just so confused about everything. My daughter opened up to you, and they don't find abuse. I am going to see how I can get a copy of your report ASAP. I can't wait up to 90 days as the website states.



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6:27

96



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website states.

Jul 16, 2021 at 3:22 PM

Yeah I wrote exactly what
the children said

My attorney is going to be
contacting you

Ok

Jul 26, 2021 at 4:13 PM

I have a question, did the
dentist here in Leander
contact CPS about the
children's teeth

Jul 27, 2021 at 8:59 AM

Good morning,
I received a small notice in
the mail today stating that
the investigation is closed
and no other agency were



iMessage



6:27

96



+1 (512) 550-5306

and no other agency were going to be involved? Is that meaning no other Texas agency in Texas? As far as your findings it does not state anything at all, can you tell me what you found out? I know there is medical neglect, and I strongly believe my children with the abuse.

Thank you,
Tyce

Jun 6, 2022 at 11:20 AM

Terri good afternoon, I don't know if you remember myself, my name is Tyce Bonjorno. I have the children with me for their summer parenting time. I have already had to take the children to urgent care because they have had blood in their poop. They've been on amoxicillin for 10



iMessage



6:27

96



+1 (512) 550-5306

been on amoxicillin for 10 days and it has not helped and they still have blood/parasites/worms. Also again I have to take them back to the dentist, because all three children have more cavities/rotten teeth. Let me know what I can do, because DCF in Kansas is worthless for the best interest of the children. Thank you Tyce

Jun 7, 2022 at 9:00 AM

You need to speak to an attorney, sorry

Mar 7, 2023 at 5:00 PM

Terri good afternoon, this is Tyce the father of the Bonjorno children. Have you been contacted by my child case investigator Audra Asher? I just want to



iMessage



6:28

96



+1 (512) 550-5306

Audra Asher? I just want to make sure that she was in contact with you.

I don't need to know what was said, just if Audra had contacted you or not

Text Message • SMS
Aug 13, 2023 at 10:41 AM

Terri please please help me please. Just a yes, or a no please. Did a Kansas investigator Audra Asher contact you. Please please. Just a yes, or a no.

Sent as Text Message

iMessage
Aug 14, 2023 at 7:36 AM

No

Nobody has contacted me from Kansas. I don't work weekends or monitor this



iMessage



6:28

96



+1 (512) 550-5306

Text Message • SMS
Aug 13, 2023 at 10:41 AM

Terri please please help me please. Just a yes, or a no please. Did a Kansas investigator Audra Asher contact you. Please please. Just a yes, or a no.

Sent as Text Message

iMessage
Aug 14, 2023 at 7:36 AM

No

Nobody has contacted me from Kansas. I don't work weekends or monitor this phone. It's a work phone so wasn't ignoring you.

Thank you, Terri.

Read

No problem



iMessage



Exhibit E

Tyce Bonjorno
LISINOPRIL
10 MG TABLET

MFR: LUPIN PHARMACEU
Take 1 tablet by mouth
every day

SCAN
TO
REFILL

 **CVS pharmacy**

500 No. Bagdad Rd.
Leander, TX 78641

#4599

cvcs.com

TEL: **512-259-0130**

RX: **1506379**

QTY: **90**

REFILL: **1 by 3/3/26**

PRSCBR: D. Freeland

DATE FILLED: **3/3/25**

DISCARD AFTER: **3/3/26**

RPH: Pavel Serdyuk

SUBSTITUTED FOR:
Prinivil, Zestril

This is a PINK,
ROUND-shaped TABLET
imprinted with LUPIN on
the front and 10 on the
back.

Exhibit F

 Found in Civil Suit Mailbox



Erin Werth

RE: 2018-DM-000019

To: Handymanlawns.com

March 4, 2025 at 9:29 AM

Hi Tyce,
There is not a Motion or a Withdrawal filed for Audra Asher.

Erin

From: Handymanlawns.com . <tyceanthony@me.com>

Sent: Monday, March 3, 2025 8:47 PM

To: Erin Werth <Erin.Werth@kscourts.gov>

<mailto:tyceanthony@me.com>

Subject: 2018-DM-000019

CAUTION: This email originated from outside the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

[See More from Handymanlawns.com](#)

Exhibit G

ELECTRONICALLY FILED

2023 Sep 08 AM 11:10

CLERK OF THE RUSH COUNTY DISTRICT COURT

CASE NUMBER: 2018-DM-000019

PII COMPLIANT

KENNEDY BERKLEY, P.A.

~Chestnut Building~

1200 Main, Suite 202

Hays, Kansas 67601

T: (785) 825-4674

F: (785) 825-5936

IN THE DISTRICT COURT OF RUSH COUNTY, KANSAS

TYCE BONJORNO, Individually and as
 Father and Next Friend of Dominic A.
 Bonjorno, Indi L. Bonjorno, and
 Hendrix A. Bonjorno

Petitioner

vs.

TARA LYNN JENNINGS

Respondent

Case No. 2018-DM-000019

**PETITIONER'S OBJECTION TO CUSTODY INVESTIGATOR'S
 RECOMMENDATIONS AND REQUEST FOR TRIAL SETTING**

Comes now Petitioner, Tyce Bonjorno, by and through his attorney, Blake A. Bittel of Kennedy Berkley, P.A., and makes the following requests and objections:

1. This matter was set for trial on August 24 and 25, 2022 upon Petitioner's Motion to Modify Residential Custody. Prior to that trial, the parties and counsel agreed to appoint a custody investigator to aid in resolving custody and parenting time issues between the parties.

2. As a result, the Court stayed the trial until such time as the custody investigator could submit her report to the Court. Audra Asher was appointed as the custody investigator. On August 26, the Order directing the custody investigation was filed, giving Ms. Asher authority and powers needed to conduct a full investigation.

3. The recommendations of the custody investigator were filed on August 2, 2023. Both parties have had an opportunity to review those recommendations and the attorneys for both parties have consulted regarding the recommendations.

Tyce Bonjorno vs. Tara Jennings

Petitioner's Objection to Motion for Ex Parte Emergency Order of Custody

Case No. 2018-DM-000019

Page 2

4. Petitioner objects to the recommendations for multiple reasons which will be presented to the Court at the time of trial. The parties cannot, at this time, come to any agreement. Per the Court's Order of September 7, 2022, Petitioner is requesting that the Court also hear the following pending motions at the same time:

- a) December 21, 2022 - Motion for Sanctions Against Respondent;
- b) December 21, 2022 – Petitioner's Contempt Motion to Appear and Show Cause;

WHEREFORE, for the reasons set forth above, the Petitioner respectfully requests that the Court set the matter for trial and hearing on the above-referenced Motions, and for such other and further relief as the Court deems just and equitable.

/s/ Blake A. Bittel #23391

KENNEDY BERKLEY, P.A.

~Chestnut Building~

1200 Main, Suite 202

Hays, Kansas 67601

T: (785) 825-4674

F: (785) 825-5936

E: bbittel@kenberk.com

Attorney for Petitioner

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on September 8, 2023, the foregoing *Petitioner's Objection to Custody Investigator's Recommendations and Request for Trial Setting* was electronically filed with the Court using the CM/ECF System, which sent notification to all parties of interest participating in the eFlex eFiling system, and was forwarded via U.S. Mail first class, postage prepaid and properly addressed to the parties' and/or counsel's addresses show below who do not receive notice electronically via eFlex:

/s/ Blake A. Bittel

Exhibit H

IN THE SUPREME COURT OF THE STATE OF KANSAS

Case No.

**IN THE MATTER OF THE PETITION FOR A WRIT OF MANDAMUS
OF**

TYCE A. BONJORNO,
Petitioner,

v.

**THE HONORABLE JAMES FLEETWOOD, SENIOR JUDGE OF THE DISTRICT
COURT OF RUSH COUNTY, KANSAS,**
Respondent.

PETITION FOR WRIT OF MANDAMUS

Filed by:

Tyce A. Bonjorno

605 W. South Street, Suite 271

Leander, TX 78641

Tel: (512) 579-1329

Date of Filing: _____, 2024

Clerk of the Kansas Supreme Court

Kansas Judicial Center

301 SW 10th Avenue, Room 374

Topeka, KS 66612-1507

Statement of Action:

Petition for Writ of Mandamus, seeking relief from the District Court of Rush County, Kansas, to address alleged violations of due process, statutory noncompliance, and abuse affecting the welfare of minor children.

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TABLE OF AUTHORITIES

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- *Caperton v. A.T. Massey Coal Co.*, 556 U.S. 868 (2009)
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- *Goldberg v. Kelly*, 397 U.S. 254 (1970)
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- *Griffin v. Illinois*, 351 U.S. 12 (1956)
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- *M.L.B. v. S.L.J.*, 519 U.S. 102 (1996)
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- *Mathews v. Eldridge*, 424 U.S. 319 (1976)
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- *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306 (1950)
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- *Peralta v. Heights Medical Center, Inc.*, 485 U.S. 80 (1988)
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- *Santosky v. Kramer*, 455 U.S. 745 (1982) —Referenced
- *Troxel v. Granville*, 530 U.S. 57 (2000) — Referenced

Kansas State Cases

- *Cummings v. Cummings*, 48 Kan. App. 2d 481, 293 P.3d 1261 (2013)
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- *In re Adoption of B.J.M.*, 42 Kan. App. 2d 77, 209 P.3d 200 (2009)
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- *In re Marriage of Brown*, 277 Kan. 135, 81 P.3d 1232 (2004)
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- *In re Marriage of Ray*, 26 Kan. App. 2d 328, 988 P.2d 251 (1999)
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- *Reese v. Rankin*, 18 Kan. App. 2d 874, 861 P.2d 1088 (1993)
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- *State v. Burnett*, 293 Kan. 840, 270 P.3d 1115 (2012)
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- *Wallace v. Wallace*, 214 Kan. 344, 520 P.2d 1221 (1974)
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- *In re L.W.*, 241 Kan. 734, 740 P.2d 92 (1987)
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- Child Abuse Prevention and Treatment Act (CAPTA), 42 U.S.C. § 5106

THE SUPREME COURT OF THE STATE OF KANSAS

Tyce A. Bonjorno,
Petitioner,

v.

The Honorable James Fleetwood, Senior Judge of the District Court of Rush County,
Kansas,
Respondent.

Case No.

PETITION FOR WRIT OF MANDAMUS

COMES NOW the Petitioner, Tyce A. Bonjorno, pro se, and petitions this Honorable Court for a Writ of Mandamus to compel the District Court of Rush County, Kansas, to fulfill its statutory and constitutional duties in proceedings concerning the welfare and best interests of Petitioner's minor children. Petitioner respectfully requests this Court's intervention to rectify multiple violations of due process, statutory obligations, and constitutional rights. In support of this Petition, Petitioner states as follows:

I. INTRODUCTION

1. Petitioner, Tyce A. Bonjorno, is the father of three minor children and has been engaged in ongoing family court proceedings in Rush County, Kansas, under case number 2018-DM-000019. Due to recurring issues with Respondent mother, including her alleged interference with parenting time, denial of medical care for the children, and noncompliance with statutory requirements, Petitioner filed motions to modify custody and parenting arrangements under Kansas law. Petitioner's motions have not been heard by the court prior to the hearing on July 29, 2024.
2. Petitioner seeks this Court's assistance to enforce statutory protections, particularly those concerning the welfare and stability of his children, and to uphold Petitioner's right to due process and access to the courts without unreasonable restrictions, as guaranteed by the Fifth and Fourteenth Amendments to the United States Constitution.

II. JURISDICTION

3. This Court has original jurisdiction under Article 3, § 3 of the Kansas Constitution to issue writs of mandamus, compelling lower courts to perform their duties within legal and constitutional parameters. This Court's intervention is necessary to enforce procedural fairness, statutory compliance, and constitutional protections in family law matters directly impacting children's welfare, consistent with the due process requirements of the Fourteenth Amendment.

III. STATEMENT OF THE CASE

There is no higher authority than the Constitution of the United States, which governs all legal proceedings without exception. Judges are obligated to adhere strictly to constitutional mandates in every court matter. In this case, the lower court infringed upon the petitioner's fundamental rights guaranteed under the Fifth and Fourteenth Amendments, constituting a clear violation of constitutional law.

The Petitioner, Tyce Bonjorno, brings this mandamus action in light of the egregious denial of fundamental constitutional and procedural rights by the lower court. Specifically, the presiding judge did not give the Petitioner the opportunity to present evidence and documents before imposing severe sanctions. Immediately following, the judge issued sanctions so drastic that they effectively prevent the Petitioner from filing any further motions until the sanctions are paid. This action constitutes a violation of both the constitutional right to due process and Kansas law governing fair judicial procedures.

The Fifth and Fourteenth Amendments ensure that no person shall be deprived of life, liberty, or property without due process of law. *Peralta v. Heights Medical Center, Inc.*, 485 U.S. 80, 84 (1988), emphasized that due process requires notice and an opportunity to be heard at a meaningful time and in a meaningful manner. In *Mathews v. Eldridge*, 424 U.S. 319 (1976), the Court held that procedural due process requires notice and an opportunity for a fair hearing. The lower court's actions in this case failed to satisfy these basic due process requirements.

On July 1, 2024, the petitioner filed a motion addressing serious concerns, including allegations of child abuse, the need for DNA testing, parental alienation, tax fraud, and impersonation of an attorney. Despite the urgency and gravity of these allegations, the petitioner's motions have not been heard before the court. A week prior to the hearing, the petitioner called the court clerk and asked if the clear color photos of the burn marks would be presented in court. The court clerk informed the

petitioner that the photos would be in black-and-white because they are scanned into the court system. The scanned photos were so unclear it was hard to distinguish what was depicted. However, the county clerk assured the petitioner he would have an opportunity to present his color photos and play the USB drive containing evidence of the respondent claiming to be an attorney to an Oklahoma police officer.

The court clerk also informed the petitioner that only he, the mother, and the judge would be in attendance at the hearing. Yet, during the hearing on July 29, 2024, the child case investigator, Audra Asher, and the court clerk appeared without prior notice, violating the petitioner's due process rights to notice and a meaningful opportunity to be heard. *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306 (1950), established that due process requires notice reasonably calculated to inform parties of proceedings and provide them an opportunity to present objections.

Background: Petitioner filed this action in the District Court of Rush County, Kansas, under case number 2018-DM-000019, concerning issues of custody, visitation, and the welfare of his three minor children. Petitioner's motions highlighted Respondent mother's repeated interference with parenting time, denial of necessary medical care, and failure to notify Petitioner of address changes, which Kansas law recognizes as material changes that warrant reconsideration of custody arrangements.

1. **Key Allegations and Statutory Requirements:** Petitioner cited multiple statutory violations by Respondent mother, including her failure to comply with K.S.A. § 23-3222, which mandates notification of any change in residence. Respondent mother changed her address on two occasions without notifying Petitioner, leaving him unaware of his children's living arrangements. Under Kansas law, this constitutes a material change in circumstances affecting the children's stability and welfare. Despite Petitioner's request for the court to address this critical issue, the District Court disregarded this statutory requirement. Kansas courts emphasize the necessity of statutory compliance to protect children's best interests (*In re Marriage of Ray*, 26 Kan. App. 2d 328, 988 P.2d 251 (1999)).
2. **Procedural History and Due Process Violations:** On July 29, 2024, the District Court held a hearing on Petitioner's motions. Petitioner was denied procedural due process as the court failed to provide notice of appearances by court-appointed mediator Audra Asher and County Clerk Erin Werth, in violation of K.S.A. § 60-206, which mandates timely notice of all court proceedings. This lack of notice deprived Petitioner of his right to prepare for and respond to the participation of these individuals, undermining the fairness of the proceedings. *Mathews v. Eldridge*, 424 U.S. 319 (1976), establishes that procedural due process requires notice and a meaningful opportunity to be heard, a principle upheld in Kansas by *In re Marriage*

of *Brown*, 277 Kan. 135, 81 P.3d 1232 (2004), and consistent with the Fourteenth Amendment's guarantee of due process in state proceedings.

3. **Incomplete and Inaccurate Hearing Transcript:** Upon reviewing the transcript of the July 29, 2024, hearing, Petitioner discovered significant inaccuracies. The transcript omits critical details, including off-topic discussions between the judge and Audra Asher regarding her vacation in Colorado and the amount she was trying to collect which was stated in the beginning of trial and does not reflect on the transcripts. How would the judge know this amount? There were no motions filed from Asher regarding the \$807. Furthermore, the transcript inaccurately reflects the list of appearances, stating that only Petitioner and Respondent mother were present. However, in addition to Petitioner and Respondent, both Audra Asher (child case investigator) and Erin Werth (court clerk) were also present and actively participated. This incomplete and misleading record violates Petitioner's right to an accurate and full transcript, essential for appellate review and procedural due process under the Fourteenth Amendment. *Griffin v. Illinois*, 351 U.S. 12 (1956), held that the right to appeal must be meaningful, which requires an accurate and complete transcript of proceedings.
4. **Denial of Opportunity to Challenge Statements and Immediate Imposition of Sanctions:** During the hearing, the District Court further deprived Petitioner of due process by denying him the opportunity to proceed with his motion to the courts and to challenge statements made by Audra Asher, the court-appointed child case investigator. Without permitting Petitioner to contest Asher's assertions, the court immediately imposed punitive sanctions, including dismissal of Petitioner's claims with prejudice and the imposition of a \$5,000 retainer requirement before scheduling any future motions. This denial of the right to cross-examine or contest adverse statements constitutes a fundamental violation of due process, protected by the Fifth and Fourteenth Amendments. The U.S. Supreme Court has consistently held that the right to challenge evidence is essential for fair proceedings (See *Goldberg v. Kelly*, 397 U.S. 254 (1970); *Greene v. McElroy*, 360 U.S. 474 (1959)).
5. **District Court's Dismissal, Sanctions, and Restrictions on Access:** The District Court's dismissal of Petitioner's claims and imposition of financial barriers effectively infringe upon Petitioner's First Amendment right to access the courts and seek redress for grievances, particularly in matters impacting his children's welfare, and also violate the Fourteenth Amendment's guarantee of due process and equal protection. The U.S. Supreme Court has held that financial barriers to access the court, especially in family law cases, violate due process and the First Amendment's guarantee of access to justice (See *Boddie v. Connecticut*, 401 U.S. 371 (1971); *M.L.B. v. S.L.J.*, 519 U.S. 102 (1996)).

6. **Judicial Turnover and Lack of Continuity:** Since the beginning of these proceedings in 2020, four different judges have presided over Petitioner's case. The first judge recused himself; the second judge retired in the middle of the case; and the third judge retired immediately after issuing an order in this matter. This high turnover has left the case in the hands of a fourth judge, who may not be fully informed of the longstanding issues and evidence of abuse, neglect, and parental alienation impacting the children. This lack of continuity has disrupted consistent judicial oversight and may have directly contributed to the court's repeated failure to address Petitioner's motions regarding the safety and welfare of the children.

The instability in judicial assignment has undermined the procedural fairness of these proceedings, as each new judge may lack a comprehensive understanding of the case history. This continuity issue has likely impaired the court's ability to make fully informed decisions regarding Petitioner's substantive rights to protect his children's well-being.

7. **Fourteenth Amendment Claim and Kansas Statutory Support Related to Evidence of Child Abuse:** The Fourteenth Amendment to the United States Constitution guarantees that no state shall "deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws." This amendment safeguards both procedural and substantive due process rights, ensuring fair procedures in legal proceedings and protecting fundamental rights, including personal safety and bodily integrity. These protections are crucial in family law matters, where the welfare and safety of children are at stake.

In cases involving child custody and welfare, due process under the Fourteenth Amendment mandates that courts meaningfully consider credible evidence, especially when such evidence indicates harm or abuse. Kansas law reinforces these due process protections through statutory requirements that prioritize the best interests and safety of children in custody and visitation determinations.

8. **Violation of Procedural Due Process and Kansas Statutory Mandates:** The District Court of Rush County's failure to review critical photographic evidence of burn marks on Petitioner's child, despite the clarity and importance of this evidence, constitutes a violation of both procedural due process under the Fourteenth Amendment and Kansas statutory requirements concerning child safety. Due process requires that evidence affecting fundamental rights, such as a child's safety, be thoroughly examined to ensure a fair proceeding. By neglecting to review or inquire about the color photographs depicting the child's burn marks, the court denied Petitioner and his child the procedural fairness guaranteed under the Fourteenth Amendment.

9. Kansas Statutory Provisions on Child Welfare and Safety: Kansas law mandates the court's active consideration of child safety and well-being in all decisions impacting custody and visitation. Relevant statutes include:

- A. K.S.A. § 23-3203(a) – This statute directs Kansas courts to make custody decisions based on the child's best interests, explicitly considering each child's physical, mental, and emotional needs. The law requires the court to evaluate evidence of abuse when determining custody arrangements. Disregarding such evidence violates Kansas's requirement that the court prioritize the child's welfare, directly infringing upon the child's statutory protections.

- B. K.S.A. § 23-3201(b) – This provision establishes that in custody and visitation decisions, Kansas courts must consider any harm or risk to the child's physical or emotional safety. By failing to consider the color photographs of the child's burn marks and denying Petitioner the opportunity to fully present this evidence, the court disregarded its statutory duty to evaluate risks to the child's safety.

- C. K.S.A. § 23-3202 – This statute mandates that custody determinations take into account credible evidence of abuse or endangerment, requiring that all such evidence be reviewed in the child's best interest. The court's failure to review or address the photographic evidence of abuse directly contravenes this statutory mandate, denying both the child's right to protection and Petitioner's right to a fair process.

10. Substantive Due Process Rights of Petitioner and Children: The substantive due process protections under the Fourteenth Amendment recognize the right to safety and freedom from harm, especially for children in court-supervised custody matters. The government, including the courts, has a duty to protect children from harm and ensure they live in a safe environment. When a court neglects to consider credible evidence of abuse, it fails in this duty, infringing upon the child's right to be protected from physical and emotional harm.

In this case, by disregarding clear evidence of abuse in the form of burn marks on the child's arm, the court denied the child's substantive due process rights under the Fourteenth Amendment. The U.S. Supreme Court has recognized that the state has an obligation to protect children from harm in proceedings that directly affect their welfare. Failure to uphold this duty can create grounds for a federal constitutional claim when fundamental rights, like safety, are implicated.

11. Legal Precedents Supporting Due Process in Child Welfare Cases: The U.S. Supreme Court has underscored that procedural due process requires courts to consider evidence critical to protecting fundamental rights (see *Mathews v. Eldridge*, 424 U.S. 319 (1976)). In *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306 (1950), the Court held that due process requires notice and an opportunity to be heard, which

includes the proper consideration of critical evidence. These principles apply to child welfare cases, where due process demands thorough evaluation of credible abuse allegations.

Kansas courts have also recognized the need for thorough consideration of credible evidence of abuse in family law cases. In *In re Adoption of B.J.M.*, 42 Kan. App. 2d 77, 209 P.3d 200 (2009), and *Cummings v. Cummings*, 48 Kan. App. 2d 481, 293 P.3d 1261 (2013), Kansas appellate courts have affirmed that the safety and best interests of children are paramount in custody matters, and that courts must consider all credible abuse evidence when making determinations about a child's welfare.

The Rush County District Court's disregard for both the Fourteenth Amendment's due process protections and Kansas statutory requirements regarding child safety constitutes a profound failure to uphold the rights of Petitioner and his children. These violations of due process and Kansas law underscore the necessity of mandamus relief to ensure the protection of the children's welfare and the enforcement of Petitioner's right to a fair and complete consideration of all evidence.

Petitioner asserts that the child case investigator, Audra Asher, acted as a state actor under the authority of the Kansas family court, appointed specifically to conduct a thorough, impartial investigation into the welfare and best interests of Petitioner's minor children. Empowered by the court with significant authority, Ms. Asher was responsible for gathering critical evidence, interviewing relevant parties, and providing recommendations that directly impacted custody determinations. As a state actor performing a public function, Ms. Asher was obligated to uphold the highest standards of fairness, diligence, and transparency in her investigation, as her actions carried the weight of the state's authority and directly affected Petitioner's constitutional rights to due process and meaningful participation in decisions concerning his children.

Despite the gravity of her responsibilities, Ms. Asher failed to conduct a complete and thorough investigation, disregarding crucial evidence and neglecting to interview key witnesses. This oversight compromised the integrity of the fact-finding process and obstructed a fair assessment of the children's welfare. In response to these serious deficiencies, Petitioner has filed a civil lawsuit against Ms. Asher in the United States District Court for the District of Kansas, challenging her failure to conduct a competent investigation and her denial of Petitioner's access to critical case information. This separate legal action underscores the extent of Petitioner's concerns with Ms. Asher's investigative conduct, which he initially raised in a motion to the District Court.

The District Court's subsequent disregard of Petitioner's motion, which highlighted these investigative deficiencies, and its continued reliance on Ms. Asher's incomplete

findings, represent a profound failure to uphold the legal standards expected in child welfare investigations. Petitioner is deeply frustrated by the Kansas family court system's disregard for statutory and constitutional obligations, which not only violates Petitioner's rights but also jeopardizes the well-being of his children. Petitioner brings this matter before the Kansas Supreme Court seeking redress and demanding that this Court compel adherence to the procedural and constitutional protections that Kansas law mandates in child custody matters.

Petitioner further contends that the District Court's disregard for Respondent mother's failure to provide notification of address changes constitutes a violation of both statutory and constitutional obligations.

Kansas law, under K.S.A. § 23-3222, mandates that each parent notify the other of any change in residence. By ignoring Petitioner's motion to compel address disclosure, the District Court has effectively denied Petitioner's ability to maintain an informed relationship with his children. The court's failure to enforce this statutory requirement without cause also infringes upon Petitioner's due process rights under the Fourteenth Amendment, as it limits his fundamental right to participate meaningfully in his children's lives, a right recognized as protected under *Troxel v. Granville*, 530 U.S. 57 (2000)."

Legal Arguments and Case Law Support (Addition)

A. Violation of Due Process Rights through Withholding of Children's Location

1. Due Process Argument: The Fourteenth Amendment ensures that parents have a fundamental right to be informed of their children's whereabouts unless there is a compelling reason, such as a documented safety risk. Since there are no safety concerns in this case, the District Court's inaction in requiring address disclosure directly infringes on Petitioner's due process rights.

The failure of the District Court to require Respondent mother's compliance with K.S.A. § 23-3222 denies Petitioner's Fourteenth Amendment due process rights by preventing him from knowing the children's whereabouts. In *Troxel v. Granville*, 530 U.S. 57 (2000), the U.S. Supreme Court upheld the principle that parents have a fundamental liberty interest in the care and custody of their children. Withholding the children's location, without any legitimate justification, limits Petitioner's ability to fulfill his parental responsibilities, infringing on his constitutional rights to maintain a meaningful parent-child relationship.

2. Kansas Statutory Compliance: Kansas law explicitly mandates that each parent provide notice of any address change under K.S.A. § 23-3222. Respondent mother's

repeated failure to comply constitutes a “material change” in circumstances affecting custody and visitation. The District Court’s disregard for this statute deprives Petitioner of his statutory right to be informed of his children’s residence, a right designed to ensure the children’s stability and welfare.

By failing to enforce Respondent mother’s compliance with K.S.A. § 23-3222, the District Court has denied Petitioner access to critical information concerning his children’s living situation. Kansas law considers unnotified address changes a material change in circumstances affecting custody arrangements, underscoring the importance of both parents remaining informed to support their children’s stability (See *In re Marriage of Ray*, 26 Kan. App. 2d 328, 988 P.2d 251 (1999)). This disregard for statutory mandates infringes on Petitioner’s right to be an informed and engaged parent.

3. Mandamus Justification: This failure by the District Court to enforce K.S.A. § 23-3222 justifies mandamus relief as it reflects an ongoing denial of Petitioner’s statutory and constitutional rights. A writ of mandamus is appropriate here to compel the District Court to fulfill its legal duty to protect Petitioner’s rights as a parent and ensure statutory compliance.

The issuance of a writ of mandamus is warranted, as the District Court has neglected a clear duty to enforce Respondent mother’s statutory obligation under K.S.A. § 23-3222. This oversight effectively prevents Petitioner from exercising his due process right to remain involved in his children’s lives, a fundamental liberty interest upheld by the Fourteenth Amendment.

IV. LEGAL ARGUMENTS AND CASE LAW SUPPORT

B. Violation of Due Process Rights

12. The District Court’s failure to provide adequate notice of appearances by court-appointed child investigator Audra Asher and County Clerk Erin Werth constitutes a denial of due process under K.S.A. § 60-206. Proper notice is essential to procedural fairness (See *Mathews v. Eldridge*, 424 U.S. 319 (1976); *In re Marriage of Brown*, 277 Kan. 135, 81 P.3d 1232 (2004)). This failure also contravenes the Fourteenth Amendment’s due process protections, which require that individuals have notice and a meaningful opportunity to participate in proceedings that impact their rights.

13. Furthermore, by denying Petitioner the opportunity to challenge Audra Asher’s statements, explain his motions to the court, and immediately imposing sanctions, the District Court violated Petitioner’s due process rights, including the right to cross-examine adverse witnesses (See *Goldberg v. Kelly*, 397 U.S. 254 (1970); *Greene v.*

McElroy, 360 U.S. 474 (1959); *In re L.W.*, 241 Kan. 734, 740 P.2d 92 (1987)). The Fifth and Fourteenth Amendments safeguard these due process rights, underscoring the requirement of fair procedures in judicial proceedings.

C. Statutory Compliance and Material Change of Circumstances

14. Kansas law mandates that a parent notify the other parent of any address change, as stated in K.S.A. § 23-3222, and a failure to comply constitutes a material change of circumstances impacting custody (See *In re Marriage of Ray*, 26 Kan. App. 2d 328, 988 P.2d 251 (1999)). The District Court's refusal to address this issue denies Petitioner's right to present and seek relief for valid material changes affecting his children's welfare, a right protected by the Fourteenth Amendment's due process clause. Petitioner still does not know the whereabouts of his children.

D. Right to Accurate Transcript for Appellate Review

15. An accurate and complete transcript of court proceedings is essential to uphold the right to a fair appeal, as it enables meaningful review of judicial decisions. In *Griffin v. Illinois*, 351 U.S. 12 (1956), the U.S. Supreme Court held that an incomplete or inaccurate record obstructs an individual's right to appeal effectively, a principle essential for ensuring justice. Similarly, in *State v. Burnett*, 293 Kan. 840, 270 P.3d 1115 (2012), the Kansas Supreme Court recognized the critical nature of a complete and precise record of proceedings to support proper judicial review. Petitioner asserts that the transcript from the July 29, 2024, hearing contains significant omissions and inaccuracies, including missing references to off-topic discussions between the judge and Asher and the exclusion of key participants from the list of appearances. These inaccuracies violate Petitioner's due process rights and undermine his ability to pursue appellate remedies effectively.

E. First Amendment Right to Petition the Court

16. The U.S. Supreme Court has consistently held that financial barriers to court access, especially in family law cases involving fundamental rights such as child custody and welfare, infringe upon the First Amendment right to petition the government for redress of grievances. *Boddie v. Connecticut*, 401 U.S. 371 (1971), held that unreasonable financial impediments to court access are unconstitutional, especially when fundamental rights are at stake. Similarly, *M.L.B. v. S.L.J.*, 519 U.S. 102 (1996), reaffirmed that states cannot impose substantial financial barriers to justice in family matters. Kansas courts have also held that restricting access to court in matters involving children's welfare undermines due process rights under the Fourteenth Amendment (See *Reese v. Rankin*, 18 Kan. App. 2d 874, 861 P.2d 1088 (1993)).

F. Due Process Violation Resulting from Judicial Turnover and Lack of Continuity

17. The District Court's failure to maintain consistent judicial oversight throughout these proceedings constitutes a violation of Petitioner's due process rights under the Fourteenth Amendment. In cases involving the welfare of minor children, continuity in judicial oversight is essential to ensure that the presiding judge can fully consider the cumulative evidence, past findings, and nuanced context necessary for informed and fair rulings. The U.S. Supreme Court has held in *Mathews v. Eldridge*, 424 U.S. 319 (1976), that procedural due process requires fair procedures, including the opportunity for meaningful consideration by an informed judge.
18. Additionally, in *Caperton v. A.T. Massey Coal Co.*, 556 U.S. 868 (2009), the Court underscored the importance of judicial impartiality and competence in handling complex, ongoing cases. The frequent turnover of judges in Petitioner's case—resulting in four judges presiding over a single set of custody issues—compromises this impartiality and competence, as each new judge may lack full awareness of the case's detailed history. This instability in judicial oversight likely contributed to the repeated denial of Petitioner's motions and impaired the District Court's ability to make fully informed decisions that prioritize the children's best interests.

G. Additional Efforts to Protect Children's Welfare

19. In addition to this petition for a writ of mandamus, Petitioner has also initiated a separate case with the U.S. Department of Health under Case No. CU-25-595547 to address significant concerns about the safety and well-being of his minor children. The federal role in child welfare is supported by the Child Abuse Prevention and Treatment Act (CAPTA), which emphasizes a collaborative approach between federal and state authorities to protect children from abuse and neglect. This filing demonstrates Petitioner's commitment to exhaust all available avenues to safeguard his children's welfare, and underscores the importance of immediate and thorough judicial review by the District Court.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully demands that this Honorable Court grant the following relief in light of the Kansas court system's repeated failures to uphold the fundamental rights and welfare of Petitioner and his minor children:

1. Issue a Writ of Mandamus Directing the District Court of Rush County, Kansas, to:
 - Vacate its Order Dismissing Petitioner's Claims with Prejudice: The District Court's dismissal, without addressing critical and substantive issues concerning the children's welfare, is an affront to Petitioner's constitutional rights to due process under the Fifth and Fourteenth Amendments. Such disregard for fundamental fairness and statutory obligations cannot stand (See *Goldberg v. Kelly*, 397 U.S. 254 (1970); *In re Marriage of Ray*, 26 Kan. App. 2d 328, 988 P.2d 251 (1999)).
 - Remove All Punitive Sanctions and Financial Barriers on Petitioner's Access to the Court: The imposition of unjust financial sanctions, including the \$5,000 retainer requirement, is a severe violation of Petitioner's First Amendment right to seek redress and his due process rights. These financial obstacles have effectively barred Petitioner from advocating for his children's welfare and violate established protections under the Fourteenth Amendment (See *Boddie v. Connecticut*, 401 U.S. 371 (1971); *M.L.B. v. S.L.J.*, 519 U.S. 102 (1996); *Reese v. Rankin*, 18 Kan. App. 2d 874, 861 P.2d 1088 (1993)).
2. Compel a Full Hearing on the Substantive Issues Raised in Petitioner's Motions, in Accordance with Kansas Law, Including:
 - Compliance with K.S.A. § 23-3222: Respondent mother must be compelled to provide timely notice of all address changes, recognizing that such changes represent a material change in circumstances that impacts custody and visitation.
 - Adherence to K.S.A. § 23-3203(a): The District Court is obligated to fully consider each child's physical, mental, and emotional needs when determining custody. Any failure to address credible evidence of abuse is an unacceptable dereliction of this duty (See *In re Marriage of Ray*, 26 Kan. App. 2d 328, 988 P.2d 251 (1999); *Cummings v. Cummings*, 48 Kan. App. 2d 481, 293 P.3d 1261 (2013)).
 - Immediate Review of All Allegations of Abuse and Neglect by Respondent Mother: This includes specific incidents such as the burn injury to Petitioner's son. Kansas law mandates a thorough investigation of any claim of endangerment to

ensure the best interests of the child are safeguarded (See *In re Adoption of B.J.M.*, 42 Kan. App. 2d 77, 209 P.3d 200 (2009)).

- Evaluate Any Additional Failures by Respondent Mother to Comply with Court Orders: The District Court must act to protect Petitioner's parental rights and the children's right to a safe and secure environment, enforcing all orders related to the children's safety, medical needs, and Petitioner's parenting time rights (See *Wallace v. Wallace*, 214 Kan. 344, 520 P.2d 1221 (1974)).
3. Enforce Compliance with Due Process in All Future Proceedings: The District Court's repeated neglect of basic procedural fairness is unacceptable, and it is imperative that due process standards be restored in this case, including:
 - Timely and Transparent Notice of All Participants in Hearings: The District Court must provide Petitioner adequate notice of all individuals present in hearings, as required by K.S.A. § 60-206, to ensure he is afforded a fair opportunity to prepare (See *Mathews v. Eldridge*, 424 U.S. 319 (1976); *In re Marriage of Brown*, 277 Kan. 135, 81 P.3d 1232 (2004)).
 - Guarantee Petitioner's Right to Challenge Adverse Statements and Evidence: The District Court must uphold Petitioner's right to confront and cross-examine adverse witnesses, including Respondent mother and any appointed officials or investigators, to ensure a fair and balanced hearing (See *Goldberg v. Kelly*, 397 U.S. 254 (1970); *Greene v. McElroy*, 360 U.S. 474 (1959); *In re L.W.*, 241 Kan. 734, 740 P.2d 92 (1987)).
 - Provide an Accurate and Complete Transcript of All Proceedings: It is essential that all participant appearances, statements, and relevant details are fully recorded to enable effective appellate review and ensure due process (See *Griffin v. Illinois*, 351 U.S. 12 (1956); *State v. Burnett*, 293 Kan. 840, 270 P.3d 1115 (2012)).
 4. Conduct a Thorough and Complete Review of All Allegations of Abuse, Neglect, and Parental Alienation: Given the District Court's repeated failures to address allegations that directly impact the children's welfare, this Court must ensure a full review of all claims regarding abuse, neglect, and parental alienation to uphold Kansas law's highest standard of child protection (See *In re Adoption of B.J.M.*, 42 Kan. App. 2d 77, 209 P.3d 200 (2009); *Cummings v. Cummings*, 48 Kan. App. 2d 481, 293 P.3d 1261 (2013)).
 5. Order Comprehensive Review of All Past Motions and Evidence: The District Court's consistent disregard for past motions addressing serious allegations of abuse, neglect, and parental alienation warrants an immediate and thorough review of all such motions since the inception of this case. This review must ensure that all

credible evidence and testimony are considered in full compliance with Kansas law and constitutional due process.

6. **Mandate Detailed Findings on Child Welfare and Safety:** Require the District Court to issue detailed findings and conclusions on each allegation of abuse, neglect, and parental alienation raised by Petitioner, thereby ensuring accountability and transparency. The court's findings must demonstrate its compliance with K.S.A. § 23-3203(a) and related statutes prioritizing the welfare and safety of children.
7. **Acknowledge Procedural Failures and Commit to Corrective Action:** The District Court must formally acknowledge any procedural oversights and due process violations identified in this petition. Further, it is imperative that the court implement corrective measures to ensure compliance with statutory and constitutional obligations, reflecting a renewed commitment to uphold the rights of Petitioner and his minor children.
8. **Grant Additional Relief as Necessary:** Award any other relief this Court deems just, necessary, and equitable to ensure the welfare and best interests of the minor children and to uphold Petitioner's constitutional and statutory rights, in accordance with Kansas law.

CONCLUSION

Petitioner respectfully asserts that the District Court of Rush County, Kansas, has displayed an egregious disregard for its duty to uphold the law and protect the fundamental rights of Petitioner and his minor children. Since 2020, Petitioner has filed numerous motions, each documenting instances of neglect, abuse, and parental alienation inflicted by Respondent mother. Despite the overwhelming evidence presented, these motions have been systematically ignored or denied, allowing harmful conditions to persist and exposing the children to continued risk.

This continuous failure by the District Court to address pressing concerns for the welfare and safety of Petitioner's children represents a profound violation of due process and statutory obligations under Kansas law. Petitioner has been denied his fundamental rights to due process, fair access to the courts, and meaningful participation in proceedings directly affecting his children's welfare. Such persistent

negligence and disregard for statutory duties by the lower court not only undermine the judicial process but severely compromise the well-being of the children involved.

Petitioner finds it imperative to underscore his frustration and concern regarding the judicial system's handling of his case. The Kansas judicial system has, for over four years, repeatedly failed to enforce the protections afforded to children under both state and federal law. These continued failures, compounded by the imposition of punitive sanctions, stand in direct violation of Petitioner's constitutional rights under the First, Fifth, and Fourteenth Amendments of the United States Constitution.

In light of these ongoing injustices, Petitioner urgently requests this Honorable Court's intervention. Only a Writ of Mandamus from this Court can compel the District Court to fulfill its statutory and constitutional obligations, ensure due process, and protect the rights and welfare of Petitioner's children.

WHEREFORE, Petitioner respectfully demands that this Honorable Court issue a Writ of Mandamus, directing the District Court of Rush County, Kansas, to rectify its failures, address Petitioner's motions in full accordance with Kansas law, and take all necessary steps to uphold the welfare, safety, and best interests of Petitioner's children, as required by law.

Respectfully Prepared and Submitted by:

Tyce A. Bonjorno
605 W. South Street, Suite 271
Leander, TX 78641
Tel: (512) 579-1329

APPENDIX

1. Transcripts of hearing 29th day of July 2024.....	21 - 27
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V. CERTIFICATE OF SERVICE

I, Tyce A. Bonjorno, hereby certify that a true and correct copy of this Petition for Writ of Mandamus has been served by certified mail to:

- Clerk of the Kansas Supreme Court

Kansas Judicial Center

301 SW 10th Avenue, Room 374

Topeka, Kansas 66612-1507

- Honorable James Fleetwood, Senior Judge

525 N Main St

Wichita, KS 67203

DATED this ____ day of _____, 2024.

Respectfully Prepared and Submitted by:

Tyce A. Bonjorno

605 W. South Street, Suite 271

Leander, TX 78641

Tel: (512) 579-1329

Exhibit I

From: Handymanlawns.com . tyceanthony@me.com 
Subject: Message from Indi's teacher
Date: April 26, 2023 at 4:00 PM
To: Blake Bittel bbittel@kenberk.com, Laura Bergman lbergman@kenberk.com, Audra Asher audra@robertaandersonlawoffice.com



Would you look at that?

Blake listen to this. This is exactly what I filed motions on this "Momo" thing that my children's mom threatens them with. Obviously obviously once again, Gatterman denied the motion. Well, guess what? Now my children are bringing it to school and talking about Momo. I have the seesaw messages from Indi's teacher about Momo. Again, Tara denied the entire motion. And Gatterman told me to "stop it" like I was making it up. Gatterman is a sick man. And I guess the truth is coming out.

3:51

◀ Mail

5G^U 72%



Kacey Glaze (Indi Bonjorno's Te...



🎓 Mrs. Glaze's 2nd Grade



Your private reply

Kacey if you would like to talk about this "momo" thing I know all about it. I have filed motions with the Family Court about this exact item. I am willing to share what my children's mom does to my children when she is drunk concerning Momo. It's a bad problem and I don't like it, and Family Court ignores it.

Today at 3:42 PM



termed to say anything. The Leander,

Send to Kacey Glaze...



> Send

AA

 app.seesaw.me



Handymanlawns.com

Handyman Lawns LLC
Tina Barlow



Kacey Glaze (Indi Bonjorno's le...



 Mrs. Glaze's 2nd Grade

Sent ✓

Kacey Glaze (Indi Bonjorno's Teacher), Mrs. Glaze's 2nd Grade

Honestly, I had to look it up because I had no idea what it was. Obviously it is not an appropriate thing for kids and it should not be talked about in the classroom. I will say that Indi knew what it was and was one of the students talking about it today. I think she understood the seriousness of it, but if I have any more issues about it, I will let you know.



Today at 3:47 PM



Indi and Hendrix will tell you all about it what their mom does. My children are so terrified to say anything. The Leader

Sent ✓

Kacey Glaze (Indi Bonjorno's Teacher), Mrs. Glaze's
2nd Grade

Honestly, I had to look it up because
I had no idea what it was. Obviously
it is not an appropriate thing for kids
and it should not be talked about in

Send to Kacey Glaze...



Send

AA



app.seesaw.me



3:51

◀ Mail



5G^U_W

72

From: Handymanlawns.com . tyceanthony@me.com
Subject: Re: Message from Indi's teacher
Date: April 26, 2023 at 5:00 PM
To: Audra Asher audra@robertaandersonlawoffice.com



I am sick and tired of Family Court, you have no idea at all whatsoever what this has done to me emotionally on a daily basis. No idea Audra! This is not about Tyce/manhater. This is about my children, and until you understand how many nights Over the last four years I have cried myself to sleep. Cried and cried and cried. But all you see is this bad ass pissed off Tyce Bonjorno, and that is far from the truth. I am so emotionally heartbroken. So don't ever talk to me again like you are above the law and my children are just a pawn in this chess game. I am doing whatever it takes to put my children in a safe environment and Kansas Court could care less.

Handymanlawns.com

Handyman Lawns LLC
Tyce Bonjorno
512-579-1329

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On Apr 26, 2023, at 4:36 PM, Audra Asher <audra@robertaandersonlawoffice.com> wrote:

Unfortunately, Mr. Bonjorno, that's not how this works. You will pay on time because that is when your bill is due. What Tara does is none of your concern and that information will not be provided to you under any circumstances. I'll remind you that your tit for tat attitude is a significant factor in your ongoing conflict and legal expenses. Please adjust your behavior accordingly.

Regards,
Ms. Asher

On Apr 26, 2023, at 4:32 PM, Handymanlawns.com . <tyceanthony@me.com> wrote:

Gotcha! I will pay when Tara pays. It took her four months last time.

Handymanlawns.com

Handyman Lawns LLC
Tyce Bonjorno
512-579-1329

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From: Handymanlawns.com . tyceanthony@me.com
Subject: Re: Message from Indi's teacher
Date: April 26, 2023 at 4:45 PM
To: Audra Asher audra@robertaandersonlawoffice.com



Might I remind you do your job? I've had enough of Family Court from day one. Like I said, I will pay when Tara pays. How do I even know you sent her a bill? You know she's not working and doesn't have any money, so why not have Tyce cover the expense. Once again, I will pay when Tara pays. I could care less about the tit for tat attitude. I am so sick and tired of Family Court. Might I remind you? Do what you Gotta do and add that in your report to protect Tara just like the rest of Family Court.

Handymanlawns.com

Handyman Lawns LLC
Tyce Bonjorno
512-579-1329

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Date: April 26, 2023 at 4:36 PM
To: Handymanlawns.com . tyceanthony@me.com
Cc: Blake Bittel bbittel@kenberk.com, Laura Bergman lbergman@kenberk.com, Tami Brady tami@ewoodlaw.com

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On Apr 26, 2023, at 4:22 PM, Audra Asher <audra@robertaandersonlawoffice.com> wrote:

I'll review the case file for previous motions on the issue. I do not recall seeing any. Please provide the entire conversation so I can investigate further.

Additionally, your trust fund request is still outstanding and needs to be paid by next Wednesday.

Thanks,
Audra

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<image0.png>
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Subject: Re: Message from Indi's teacher
Date: April 26, 2023 at 4:28 PM
To: Audra Asher audra@robertaandersonlawoffice.com



What is a trust fund?

Handymanlawns.com

Handyman Lawns LLC
Tyce Bonjorno
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Cc: Blake Bittel bbittel@kenberk.com, Laura Bergman lbergman@kenberk.com, Tami Brady tami@ewoodlaw.com

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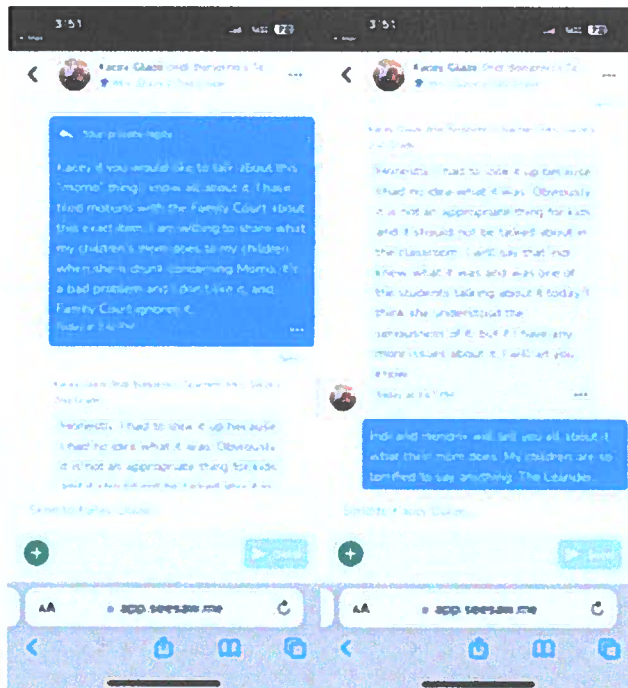
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Exhibit J

ELECTRONICALLY FILED

2021 Mar 22 PM 4:34

CLERK OF THE RUSH COUNTY DISTRICT COURT

CASE NUMBER: 2018-DM-000019

1

IN THE DISTRICT COURT OF RUSH COUNTY, KANSAS

TYCE BONJORNO,)

Petitioner)

-vs-)

TARA LYNN JENNINGS,)

CASE NO.18-DM-19

Respondent)

TRANSCRIPT OF PROCEEDINGSEMERGENCY MOTION HEARING

PROCEEDINGS held before the HONORABLE BRUCE T. GATTERMAN, Chief District Judge of the Twenty-Fourth Judicial District of the State of Kansas, on the 3rd day of December, 2020 sitting in and for the County of Rush.

APPEARANCES

The Petitioner appeared in person and by his attorney, Anna Jumpponen, 310 W. Central Avenue, Ste. 214, Wichita, Kansas, 67202

The Respondent appeared in person and by Gregory Schwartz, Attorney at Law, P.O. Box 1144, Hays, Kansas, 67601.

1 THE COURT: This is Rush County case number 18-DM-19, Tyce Bonjorno -vs-
2 Tara Lynn Jennings. Would you announce appearances for the record please?

3 MS. JUMPPOENEN: Annie Jump poenen on behalf of the Petitioner, Tyce
4 Bonjorno, both appearing by Zoom.

5 MR. SCHWARTZ: May it please the court, Tara Jennings appears by Zoom and
6 also by her attorney, Greg Schwartz by Zoom.

7 THE COURT: Thank you. This case was scheduled this morning by agreement
8 of court and counsel. Both parties have filed competing emergency motions for
9 temporary modification of parenting time and/or custody. The Respondent has filed
10 additional motions that I don't see we're noticed for hearing for today's date, the
11 Motion to Compel and for Sanctions, and a Motion for Citations.

12 So, for purposes of clarification, are we proceeding only on the emergency
13 motions at this time?

14 MR. SCHWARTZ: That's our understanding, Judge.

15 THE COURT: Okay.

16 MS. JUMPPOENEN: It's my understanding as well, Your Honor.

17 THE COURT: Okay. Let's discuss procedure. Mr. Bonjorno was the original
18 petitioner when we had our trial last March. He proceeded as the original petitioner. He
19 remains as the original petitioner but in scope of time of filing, the first Motion to
20 Modify, or emergency Motion to Modify was filed on behalf of the Respondent. So, we
21 need to discuss who's going to go forward this morning first. Any thoughts?

22 MR. SCHWARTZ: Judge, I don't know that this matters greatly. But we do have,
23 I mean, I guess it would for closing is about the only thing I think that will matter, but...
24 I guess the question is too, is how much time does the court have and how is the court
25 planning on handling this? Is this something the court's going to want sworn testimony

1 on. If so, I'm guessing there's no way we're going to get that done today. But so, is
2 that, or is this something the court's going to want to proffer? That would be my
3 questions.

4 THE COURT: Okay. Ms.... Before I give my thoughts. Ms. Jumppoenen, what
5 do you think the best way to proceed –(interrupted)

6 MS. JUMMPOENEN: Your Honor, as far as time, you know, who proceeds first,
7 I agree with Mr. Schwartz, it doesn't really matter but for closing. It's the same
8 circumstances that we're going to be delivering to the court. I do have some concerns
9 as well as far as timing. My anticipation would be Mr. Bonjorno and then Melissa
10 Wheels would be witnesses that I'd call. You know, if we have time to complete it all
11 today.

12 THE COURT: And legitimate concerns expressed by both of you. I have a, the
13 Supreme Court has scheduled its annual Chief Judges meeting which is usually held
14 in person in Topeka to commence this afternoon. And it's a mandatory meeting that is
15 this afternoon and a good share of the day tomorrow. I am, I have a small presentation
16 at that meeting, so I've got, in advance of the meeting, I need to visit with some other
17 judges. So, time wise, what I've basically got, is about an hour and 15 minutes.

18 I have reviewed both emergency motions and the accompanying affidavits to
19 each of those motions. I agree the factual circumstances are set out, I think, very well
20 by counsel. I know the contentions of both parties. I understand the relief requested by
21 both parties. They are emergency motions. It is not designed as a full custody motion.
22 And I don't think the pleadings support full custody motions at this time.

23 So, I'm happy to proceed by a proffer to allow both of you to go outside your
24 written motions and those written affidavits, if you have any information you want to
25 proffer. The other solution, is basically each of you could have about 45 minutes time a

1 piece to allocate between your direct case and any cross examination you want to do
2 to witnesses on the other side.

3 MR. SCHWARTZ: Your Honor, my preference would be proffers at this point
4 because I think once we start down the road of witnesses, I, I mean, the court, I
5 probably recall, I mean, we had lengthy testimony of Mr. Bonjorno at the trial last year,
6 and I don't know if it would be any different now. But with the allegations I have a
7 strong suspicion, I mean it could go on for quite some time, much more than we have
8 stead for today.

9 MS. JUMPPONEN: I would agree with that as well.

10 THE COURT: Okay. Alright. Let's proceed then with a proffer. Mr. Schwartz,
11 you filed first. I will hear your proffer. I'll hear Ms. Jumpsponen's proffer on behalf of
12 her client, and then we'll take up closing arguments and I will be very accommodating
13 to let both of you speak twice if you wish to do so in closing so you can have fair
14 rebuttal both ways.

15 MR. SCHWARTZ: May I begin, Your Honor?

16 THE COURT: Yes, sir.

17 MR. SCHWARTZ: Your Honor, I believe if we were to present evidence and by
18 way of proffer, the evidence would be that the court's aware of the issues that we had
19 at trial, as well as the issues we had back in June and July of this year that were
20 raised. Some of those issues, there was some additional evidence and recordings that
21 were presented to the court, that the court reviewed outside of the hearing, and issued
22 a supplemental order. But we have nearly the identical issues here. At trial, Mr.
23 Bonjorno alleged that my client was drinking all the time, and had a drinking problem.
24 Then in June, we had the issues that she was then using methamphetamine and she
25 had a drug problem. And now, we're back to alcohol.

1 The court made specific rulings in June, one of those, which was what we
2 requested in our motion, was that if he didn't return the children, that the court would
3 order him to undergo psychological evaluation and his parenting time would be
4 restricted or stayed until the results of that were back. There was a DCF complaint
5 filed in June of this year, alleging emotional abuse, a lack of supervision, which was
6 unsubstantiated. We don't have that evidence, but we are fairly certain, Judge, that
7 when we get that information and the court has an opportunity whether it discloses that
8 or not, but the court will have the opportunity to see who made that complaint, and I
9 suspect it will either be anonymous or the Petitioner.

10 The parties, my client was, believed she had Covid earlier this year, and as a
11 result of that, she had advised Mr. Bonjorno that, told him that she didn't want to
12 exchange the kids because she had concern about the spread and what not and
13 offered that if he wanted to come pick them up here he could. Ultimately, what the
14 parties through their counsel agreed too was he would just not have that visit and
15 those days would be added on to a subsequent visit. That those days were agreed to
16 be added on to the Thanksgiving holiday and so he picked the children up at
17 approximately 11 o'clock am on Monday. He had, he was at the location early. My
18 client's boyfriend was at the location. My client's boyfriend left to go get a coffee and
19 came back and was followed by Mr. Bonjorno. There was some verbal back and forth
20 between the two of them, which was observed by the property manager.

21 But let's go back into September of this year. Baily Morgan is one of Indi's
22 teacher, and in early September around the 16th, I believe it was, there was a call at
23 the school from Mr. Bonjorno that there was an emergency and he needed to Indi. And
24 at that time, Indi was over at the high school where they eat lunch. She came back
25 and was at recess and he called back, and her teacher Ms. Morgan, walked her in.

1 She was concerned that there was a true emergency and so, she wanted to be there
2 for Indi just in case it was a death or something so she wasn't there by herself. And
3 she didn't have the phone on speaker phone, but she could overhear the conversation,
4 and during that conversation, she heard Mr. Bonjorno ask her if whether her mother
5 was home at nights, whether her mother was in jail, and when she responded to those
6 things, that no, she was not in jail. Yes, she was at home at night, he would follow it up
7 with, now, come on, Indi. Don't lie to me. And that happened while she was at school.

8 Then we have this visit that comes up, and the children go on the Monday, the
9 agreement was that he would pick the kids up at her house in La Crosse, and that he
10 would return the children to Wichita where they would exchange them. Well, that was
11 what was offered, and we did not respond to that, but my client, I didn't respond to
12 that, my client did. And they had the exchange as indicated. Later in the week, Mr.
13 Bonjorno said he's not going to go to Wichita, she had to pick them up in Norman at
14 the court ordered location.

15 The, during that week after he picked up the kids on the 23rd, he advises my
16 client that he took the kids to the dentist and now Indi needs to have 5 teeth removed,
17 and Hendrix needs to have one removed. In talking with Ms. Morgan, she is available
18 to testify if we need her today, Judge, but she has no concerns that Indi's never
19 complained about her teeth, there's been no issues related to pain or anything such as
20 that. She advised she's a mandated reporter, and that she previously taught Hendrix
21 as well.

22 She said they're both happy, healthy, they're not sick all the time, they show up
23 to school when they're supposed too. That she's had more contact with Tara than she
24 would most parents, because Indi had some educational issues, she was held back.
25 And that they've communicated a lot about her education, that she'd done everything

1 the school wants her to do as far as her education, and there's never been any
2 concerns that she's observed that she thought my client was either under the influence
3 of drugs or alcohol or was showing any signs or emotional, or I mean, mental health
4 illness or issues, anything like that.

5 So, back to the Our Family Wizard, those, he sent that message, he also sent a
6 message alleging that my client's boyfriend was on the Indiana Most Wanted website.
7 We have looked at that link, that link does exist. I don't know what it reference, well we
8 know it references an early 2000s DUI that he didn't appear. Her boyfriend is 50 years
9 old. And the photograph in there is clearly not a 50-year-old. And what we've been
10 provided by her boyfriend is that there's all been taken care of, there's nothing to it. I'm
11 not aware of anything other than a website, which quite frankly, not's even admissible
12 evidence to show that what they claim happened, did.

13 The allegations about if my clients abused the children, she's drinking all the
14 time, those come from the kids I presume. What we've been provided is two audio
15 recordings that we received yesterday. And those two audio recordings reflect that the
16 first one is a recording made by the Petitioner's girlfriend that begins with the Petitioner
17 saying on the recording that he authorizes her to record this, and then he leaves the
18 room and lets her have 55 minutes, I'm sorry, 57 minutes and 25 seconds that she
19 proceeds to question the girls. And at numerous times in those recordings the girls are
20 crying, being persuaded and cajoled to answer questions. And there are numerous
21 leading and suggested questions in there.

22 All the types of questioning that forensic interviews were designed to eliminate.
23 And all the things that were done that made in a lot of these sex cases that came
24 before the forensic interviews that the testimony was thrown out because it's unreliable

1 when you ask leading and suggested questions of children. These girls are 6 and 7
2 years old.

3 The first one indicates it was created on November 24th, 2020, and 9:59 pm.
4 And like I said, it's about an hour. So, I don't know if that's when it started or when it
5 ended. But either way, it's after the kids' bed time. Then, what appears to have
6 occurred, is the next day then, Mr. Bonjorno tells his attorney about this and then he
7 decides to go to law enforcement to get, to have, the Leander, Texas Child Protective
8 Services and or law enforcement interview the kids, which happens. And we don't
9 have anything to indicate, I've been provided the names of those individuals, haven't
10 had an opportunity to reach them yet.

11 But then, we have the secondary audio recording from Mr. Bonjorno, that's 55
12 minutes long that occurred, or it says it was created on 11/25 at 6:53 pm, and that
13 starts out with him questioning the girls and discussing with them that they had just
14 talked to law enforcement and they didn't tell them everything that they told him. And
15 he was concerned about that. And Hendrix starts crying during this time, and he
16 advised her, no, we're not going to do that. We're, you know, we're not going to cry,
17 that's going to make this take longer. I want you to talk to me like young adults and we
18 want to get through this and I want you to talk to me professionally about this.

19 And then, he proceeds to ask them about, does your mom say mean things to
20 you and asks them about three times, and they say no, three times. And then he says,
21 well, you know, it's alright if you tell me, I'm not going to be mad, you know. Don't lie to
22 me, those types of things. And then, the story starts changing. And on time and again,
23 if he doesn't get the answer he wants, he adds on to it. Or keeps asking until he gets
24 the answer he wants. Children know that they want to please their parents. And so,

1 and they know that if dad's not hearing what he wants, then they're going to give him
2 what he wants.

3 He proceeds to talk at length about what happens at mom's house and
4 everything that goes on there. And then, at the end of it, he follows up with, well, let
5 me step back. The initial recording with the girlfriend, he finishes up with the girls and
6 talks to them in that recording. And then, back to this recording with him on the 25th, he
7 ends following up saying, you know, does mom ask what happens at my house, you
8 know, that my girlfriend loves you, and don't tell mom anything about what happens at
9 my house if she asks, and so on and so forth, and proceeds to do all of the things that
10 you would never want your client to do in a case.

11 And one is, ask the kids these types of questions. And so, even if we were to
12 look at this and say that everything that he's alleging is true, that those things happen,
13 we have two interviews by two untrained individuals for two hours of time
14 approximately. We have an unknown interview that took however long by others,
15 which I'm assuming they were trained, but we don't know that. But that also precludes,
16 I would hope that he didn't just start the visit with these types of questions. And so, I
17 assume there was more questioning that happened before the recorder turned on. And
18 whether that happened on the way home from Kansas to Texas, or whether it
19 happened at the house, but it's very concerning that Mr. Bonjorno has not accepted
20 that the court made a ruling last year, and that the court followed up that ruling, I think
21 it was March of this year, and then followed that ruling up in July. And he has done
22 whatever he can to not follow that order.

23 The issue back in July when we had a hearing, was he told the court that he
24 wasn't going to bring the kids back. And the court reminded him that, you know, that
25 order's been made and it's not changing and if he's got knew evidence, he needs to

1 present it. And he didn't come back at that time with anything. Now, we're here today,
2 but the pattern on this thing is, is that he doesn't like what the court ruled. And so, he's
3 going to do whatever he can to change that. And it doesn't matter if we've got to put
4 these kids through this grilling by the girlfriend and him every time they're down there
5 or calling them at school or whatever else is happening that we don't even know
6 about. And there is no way and no arguments that can be made that that is in these
7 children's best interest.

8 And it's damaging to those kids, it's damaging to their relationship with their
9 mother. Those people that interact with Tara, those people that see the kids with her,
10 have absolutely no complaints. Mrs. Morgan indicated that she spoke to Mr. Bonjorno
11 last year at parent/teacher conferences, which I believe was testified to at trial and has
12 not spoken with them a single time since that point.

13 If you were truly worried about your children, wouldn't you contact those
14 independent people that would have information that could tell you hey, yes, we do
15 have concerns that they're showing up dirty, or late, or they appear to be hungry. None
16 of that's occurred. Nothing. Although he did have the time to contact the school on
17 Monday and advise the secretary that the kids aren't going to school there anymore,
18 he's unenrolling them, and they're going to start going to school in Texas. And he told
19 that to the secretary.

20 I thought after the court advised him in July, you know, what would happen if he
21 doesn't show up with those kids or return them, that was over. But he's now followed
22 through with his threat he made, in that he's not returned the kids. He didn't file a
23 motion before he refused to return them. He knew of this fact, supposedly on the 24th
24 which would've been last Tuesday. I suspect that he would've known even earlier than
25 that and he could have filed a motion then, and had the court make a ruling and make

1 a decision on this before unilaterally going out on his own and refusing to return the
2 children. He could've returned the children and filed the motion on Monday. And done
3 the same thing, but he chose not to.

4 There's been time and again where his statements to the court have been
5 disproven, have been unsubstantiated, have been dishonest. And I don't know how
6 the court can look at what he's saying now, and say well, these, we're gonna, you
7 know, these are okay. And you know, and while I understand we're dealing with
8 children here, you know, he needs to be held accountable for his actions, and if these
9 are legitimate, I understand and I think that they ought to be investigated. But the
10 problem with it is, is he's unilaterally done these things. Unilaterally took the kids to the
11 dentist without consulting mom.

12 There's also the issue about the cyst, which is actually a fatty tumor on the
13 child's head that he's had for a while. My client's taken him to the ped's clinic here
14 which is his regular doctor in Hays. They referred her to a specialist in Hutchinson
15 where she followed up with, and they advised this is a cosmetic issue, there is nothing
16 that needs to be done but insurance won't cover it. And so, she's waiting to see if that
17 will be covered and also, you know, to see where it goes and what the doctor's if
18 they'd come back and say it has to be removed, then that will be covered.

19 One of the issues we've had throughout this, Judge, is Mr. Bonjorno accurately
20 informing the court is. He told the court back in at the trial that his income after
21 expenses was below minimum wage. Well, we've since received through discovery
22 documentation that shows in 2019 his income before any expenses was nearly
23 \$200,000. His income at trial was \$60,000. So, we got some significant concerns for
24 that. We've also received evidence that shows that he, that when he applied for the
25 loan to purchase that 2018 pickup that he testified about at trial, he indicated to them

1 that he was making \$10,000 a month. His current income that's been set by –
2 (interrupted)

3 MS. JUMPPONEN: Judge, I'm going to object to this. May be relevant
4 information for a later hearing, but not for purposes of the motions before the court
5 today.

6 MR. SCHWARTZ: We think it goes to credibility, Judge. And I'm almost
7 finished.

8 THE COURT: I had to get unmuted there. It is a collateral issue. I
9 understand the theory as to credibility but I think we save the financial information for a
10 later day.

11 MR. SCHWARTZ: Well, without going into the finances anymore, Judge,
12 we believe most if not all this ties back to Mr. Bonjorno does not want to pay child
13 support. And as we've been pressuring and subpoenaing this information and getting it
14 begrudgingly through discovery and Motions to Compel, he realizes his child supports
15 going to increase substantially based on these numbers that we've obtained. And so,
16 the only way to avoid paying it, is to get the kids back with him.

17 The court ordered him back in July to pay attorney fees at \$600 month.
18 –(interrupted)

19 MS. JUMPPONEN: I'm going to object. This isn't appropriate for
20 purposes of what's before the court today.

21 THE COURT: It goes to compliance of court orders. So, I'll allow that
22 proffer.

23 MR. SCHWARTZ: So, we've got our other motions filed and we'll here
24 those at a later point. But bottom line, Judge, is these allegations are serious. My client
25 is spending significant amounts of money and has spent significant amounts of money

1 dealing with this, and they aren't stopping. I don't have the right answer to, or I don't
2 have a good answer, I don't think, to how you make it stop. Other than to, well, the
3 only way you can make it stop is if he's going to continue to do these things, is not
4 allow visitation. But we know that that's not in these children's best interest.

5 What we want is him to have visitation with these kids and have healthy
6 visitation. That when you get the kids, you talk to them about things, you know, things
7 that are important to the kids and you do things with them. It's not a time to investigate
8 mom, or her house, or try to garner information and evidence to go have another child
9 custody hearing. And that's exactly what's happening, and it's concerning. So, we
10 would ask that the court follow through with this order from July and order the
11 psychological evaluation with a reputable entity, and that that information be shared
12 with my client's, myself and my client to evaluate. Not just the final recommendation,
13 but all the information, so it can be appropriately evaluated. And that we set this down
14 the road for a full-blown hearing as to what if anything, the court's going to do on those
15 issues.

16 It's my understanding, and I think, one of the requests may be, that the court
17 order a Child in Need of Care be filed, and if my client were asked to testify, she would
18 be appalled at that and thinks that that's the worst thing that could happen for these
19 kids. While she's not unwilling to work with social workers, cause quite frankly, it will
20 prove everything she's said, it's just not in these kids' best interest, but I don't know
21 that Mr. Bonjorno cares, because it might help him get rid of his child support
22 obligation.

23 So, we would ask the court to order that those children be returned and that Mr.
24 Bonjorno's visitation be suspended until that psychological evaluation's completed,
25 and we have time for a full-blown hearing.

1 THE COURT: Thank you. Ms. Jumpsponen?

2 MS. JUMPSPOENEN: Thank you, Your Honor. Not much, I guess, Mr.
3 Bonjorno, he ended up picking up the children on, I believe it was last Monday. There
4 was some issue with him, whether or not he was actually going to be able to have time
5 with the children. He'd been contacting me; I've been trying to get into contact with the
6 opposing counsel. We finally were able to get those arrangements made. It came
7 down to he needed to come up to Kansas to pick up the children. He was responsible
8 for the entirety of the paid transportation. When he picked up the children, he did
9 notice that the girls had some swelling in their face. He looked at their teeth and
10 confirmed some concerns he had been posing to me for some time that the girls were
11 have some issues with their dental work.

12 He did end up taking them to the dentist. I provided these records to opposing
13 counsel, but there was, you know, I have this outlined in the motions, multiple issues
14 with the teeth of both Hendrix and Indi, showing that there was extractions that were
15 going to be needed, broken teeth, things of that nature. Things that were going to
16 require significant amount of dental care.

17 With respect to Dominic, as well when he was down there, Mr. Bonjorno and
18 Ms. Wheels would observe that the cyst, essentially it looked like it would swell as
19 Dominic would run around and just get excited doing you know, whatever kids are
20 doing. He had concerns, he'd raised those concerns previously with Ms. Jennings, and
21 so, he took Dominic to the doctor.

22 They said it was a cyst and that was something that should have been removed
23 before. Frankly, whether it's a cyst or a fatty tumor is irrelevant for purposes of today,
24 but if something that he's been trying to speak with Ms. Jennings, and if she has gone
25 to Hutchinson and talked with a specialist and things of that nature, that's information

1 that she's not shared with my client. And that right there is really the, some of the
2 crutch of this case. There is just information simply that is not being shared between
3 the parties.

4 The same that goes along with contact with the school. I have counseled with
5 Mr. Bonjorno not to have conversations with the children such as the phone call that
6 was referenced by Mr. Schwartz. He did have, Mr. Bonjorno did have some concerns,
7 what was going on with Ms. Jennings because there had been a substantial change in
8 contact between the two of them from Our Family Wizard. That was a conversation
9 that he and I had that, you know, he will not be contacting the kids at school like that
10 again.

11 But I guess, speaking with the school, that was something that Mr. Bonjorno's
12 been having difficulties with is making contact with the school, and being able to get
13 the information. He's requested the IEP from the school and has not received it. He's
14 requested it from Ms. Jennings, and she just simply refers to him to the school. So,
15 again, it's a lack of cooperation and communication between these parties.

16 But as far as the crutch of the motion, the emergency motion that I have filed,
17 came down to it, the parties were sitting at the table for dinner, Hendrix and Indi made
18 some statement that they wanted to talk to Melissa and she went into the bedroom
19 with the girls. They had food, and for the most part, a casual conversation, but it did
20 come about as they were talking that there was abuse being put upon them by Ms.
21 Jennings. That she would slap them, that she would hit them with her hand and with
22 hangers. That sometimes it would happen multiple times. That Ms. Jennings was
23 drinking quite a bit, either on her own, with her boyfriend, and/or with her daughter.
24 That her daughter Hailey would hit the girls with their hands or with hangers.

1 There was, you know, a significant amount of abuse that the girls were talking
2 about. They got very emotional through the course of that conversation. Whether, you
3 know, they were scared that the information was going to be relayed back to Tyce who
4 then they felt would discuss the matter with their mother, and they didn't want their
5 mother to know because they felt like they would get hit with the hangers again.

6 Through the course of this time, Ms. Wheels did include Mr. Bonjorno into that
7 conversation. The two of them decided after that conversation they needed to have
8 police involvement. They did take the children to an advocacy center, and they were
9 interviewed by law enforcement. I have not confirmed, or been able to confirm any of
10 the information from law enforcement. But at least with Mr. Bonjorno has advised me,
11 was that the police did confirm that the girls told them that their mother does drink
12 quite a bit, and that she does strike them both her hand and with hangers.

13 Mr. Bonjorno did talk with the girls more after the fact and through the course of
14 the conversation, it came out that there's, what they, a game that they call a bad
15 button. That if the kids are bad, that their mother will push a button and the police are
16 going to come and get them and put them in a jail made especially for children.

17 Now, as Mr. Schwartz has said, these are allegations that are being brought by
18 the children. However, it would be irresponsible of any parent, on Mr. Bonjorno's side
19 or Ms. Jennings side, if it wasn't something that at least was being looked into. And
20 that's what we're asking the court to do. And that was, I presume, the statements from
21 Mr. Schwartz as far as whether or not a CINC would be a possibility. And that is
22 something that I've talked with my client that very well may be the ruling of this court,
23 that the children are taken from both parties, put into a safe place with another person.
24 And frankly, let's investigate what's going on. If the children, what they're saying is
25 true, they're not in a safe environment with their mother. If what the children is saying

1 is not true, there needs to be some sort of medical care for these children, so we can
2 figure out what is the counseling issue to help, you know, essentially if this isn't true,
3 why are they saying what they are saying.

4 That's what we're asking the court to do at this point, is to either keep them with
5 Mr. Bonjorno, to allow this investigation to continue. Or make some other report, but
6 we don't believe the children are safe with their mother. With respect to the issue with
7 the boyfriend and him being on Indiana's Most Wanted, I appreciate that it is an older
8 case. It looks like, from what I can tell, from the warrants, it's an '05 case, so that
9 would potentially be a 15-year-old picture. It appears to be a DUI and you know,
10 similar to charges in a couple of failure to appear. It may be a simple innocuous thing,
11 but if it is still an active warrant, at least from what the children have said, it's
12 something that appears to be that Tara may have information on. And she's allowing
13 somebody who's, you know, an outstanding fugitive to be around the children. That
14 again causes further concern.

15 And that's where we're at, at this point, is the concern of what's going on with
16 the children. Mr. Bonjorno and Ms. Wheels have taken the time to go through, they've
17 contacted local schools. So, if the children are able to remain down there with them
18 while this matter's pending, that they can get enrolled in school. They have been
19 working with the children, since they have not been going to school, at least this week,
20 as far as reading and writing, just trying to get an assessment of where the children
21 are at.

22 They made contact with medical professionals, you know, locally, as far as
23 dealing with the cyst on Dominic's forehead. They've at least found potential dentists.
24 The dentist that they took Hendrix and Indi to would not be able to perform the medical
25 care that they needed. But they've got, you know, referrals that were made to them. Or

1 referrals that were made and Mr. Bonjorno's at least contacted those persons to try
2 and get an idea of when appointments can be set up. They've looked into get eye
3 exams for the children cause they've got some concerns that, I believe it's with Indi,
4 may have some sort of issue with her eyes, that's either causing her to have some
5 difficulties reading.

6 So, really the essence, when it comes down to it, is they've taken some
7 proactive steps to be able to have a safety plan in place for these children if they are
8 able to stay with them. With respect to Mr. Bonjorno calling the school, he did call the
9 school on Monday and let them know that the children weren't going to be there. It
10 wasn't a matter that they were staying Texas, and they weren't going to be back. But
11 at least that they would not be in school on that day. And frankly, that was the more
12 responsible thing to do, cause had that call not been made, that would've been a
13 different set of issues.

14 And like I said, Your Honor, that's our request to the court, is that the children
15 be able to remain, at least on a temporary basis, with Mr. Bonjorno, that if there is
16 going to be any sort of investigation that that be allowed to be vetted out. It wouldn't be
17 able to occur obviously there in Texas, cause any crimes, if any, did occur, would have
18 to have occurred in Kansas. But at least the allegations that have been brought forth
19 by the children, are significant enough and consistent enough that we do believe that
20 they need to be worked out.

21 For example, there was, one of the times when Mr. Bonjorno was talking with
22 the girls, and one of the girls said mommy hits us with a hanger. The girls were able to
23 correct Mr. Bonjorno, you know, is it a wooden hanger? Is it a plastic, you know, is it a
24 metal hanger? No, it's a plastic hanger. It looks like that, but it doesn't have the clippie

1 things on there. So, it was detailed enough that the girls were able to make corrections
2 to the questions that were being asked of them.

3 Kind of to mimic what Mr. Schwartz has said, I had instructed my clients to not
4 have any more interviews or conversations like this with the children. That needs to be
5 handled through law enforcement and persons that are more aptly trained to have
6 these types of conversations. If the girls want to, if they bring it up, allow them to talk,
7 but not to, you know, have any type of situation where they are trying to secure
8 information from the children. And I'll continue to work with them if the girls are able to
9 remain in their care. But that is what we're asking from the court at this point.

10 THE COURT: Thank you. Response, Mr. Schwartz?

11 MR. SCHWARTZ: Yes, Your Honor, I believe that the, while there is
12 audio recording, the audio recording on the dentist issue, Mr. Bonjorno, when he talks
13 to the girls, says he saw the swelling on her face from a photograph my client had sent
14 him through Our Family Wizard. So, it's interesting that that is, is now it's because he
15 saw it there. You know, a lot of the, what's been proffered while I believe that that's Mr.
16 Bonjorno's position on it, I don't think the audio supports that. The dentist records we
17 received, says she has some cavities and my client has taken the child through the
18 school, the kids get their dentist check ups through the school as part of that. And this
19 year, they have not been because Covid has canceled the First Care clinic who
20 usually handles that from being there.

21 There's been no issues or complaints by the kids. The kids are also losing a
22 bunch of teeth, and these are baby teeth. And so, it often runs into the issue about, do
23 you have a child go through having a tooth pulled? Or do you just wait until that tooth
24 falls out on its own? So, while we can make a big issue about that, not to mention the
25 records that we received, don't say that these teeth have to be pulled right away.

1 Those are all allegations made by Mr. Bonjorno, that aren't really supported by
2 anything that we've been provided.

3 If, we disagree that the she's refused to provide information, but even if he
4 hasn't gotten the information he needed, it doesn't warrant him unilaterally modifying
5 the court order and keeping the children. The whole idea that the kids are the ones
6 that wanted to have a conversation with Mr. Bonjorno's girlfriend and the dinner, the
7 dinner part's accurate cause there's conversation about the food. But if the beginning
8 of that recording does not play out as if, as insinuated.

9 The reason the girls are emotional in there, and it's obvious when listening to
10 the audio, is that they're constantly being asked to talk about their mom, and tell things
11 about your mom. What's your mom doing? What's this? Is your mom mean? Did she
12 do this? Did she do that? And they reinforce things. When they say, oh, so, she did
13 that? Oh, okay. That's not nice. She shouldn't do that. I would never do that to you.
14 And Mr. Bonjorno does that a number of times. When, you know, one of the girls says
15 that she called her mom fat or something, and he laughs at it, and thinks it's the
16 funniest thing. And after a while, he finally says, well, you shouldn't say that. But he
17 laughs and thinks it's really funny.

18 A lot of this audio just does not follow through with what I heard when I listened
19 to the recordings. Or at least the proffer of what his evidence is. This bad button thing,
20 that's something that has been created by them and I just, if these are listened too, the
21 problem with all of this is, is, and if we had experts and we will if we have a trial on
22 this, the experts will tell you, and I've had them on the stand from Western Kansas
23 Child Advocacy that have testified that if you do these things to a child's testimony, it
24 makes anything they say after that very difficult to believe because they've already
25 been, they've had, they've been asked questions in the wrong fashion, and kids can

1 make up all kinds of things. And so, whether or not it's a hanger, whether or not they
2 were spanked with it, it doesn't matter how detailed it is, if you ask the questions
3 wrong, if you lead and suggest and one of the things you're not supposed to do, is
4 suggest a person. So, you shouldn't be suggesting mom.

5 If you wanted to talk about things, just say, oh, are things not good in your life?
6 Is there something you want to tell me about? Is there something bad that happened
7 to you? Then it becomes reliable. But (recording goes out)

8 Did you catch that, Judge? It -(inaudible)- on me.

9 THE COURT: We, yeah, it, you were talking about the proper method to
10 question by asking open ended questions, and you were giving examples. And that's
11 when things kind of froze up. That's where I lost you.

12 MR. SCHWARTZ: The other evidence would be if we had experts, is
13 that, the more you ask and the more interviews they go through, the more unreliable
14 that they become because the kids start given different versions. And so, but we know
15 these kids have been interviewed at least twice, and we're told a third time by law
16 enforcement. And I don't know how many other questions.

17 Even after the kids went to law enforcement, Mr. Bonjorno starts his
18 questioning, saying I've got concerns you didn't tell them what you told me. But oh,
19 well, you didn't say everything that I wanted you to say and so, that's that. That's not
20 how you're supposed to treat these kids. And so, leaving them down there with him,
21 the idea that he's not going to ask them anymore questions because his lawyers told
22 him that, and I don't doubt that she has, but he's already done it after, you know, he
23 went to law enforcement.

24 And you know, he did the things by calling the school. He had no problem
25 calling the school to talk to the daughter, but he can't call the school to ask about, you

1 know, whether they're being taking care of. Are their grades being met? Are those
2 things happening? He hasn't, I haven't heard any proffer that he's called the doctor
3 here or the dentist to find out whether or they've gone, you know, what those issues
4 are.

5 If the court's inclined to have the kids undergo counseling, there's a counselor
6 in Hays by the name of Heather Barney that does play therapy with kids. Which at the
7 age of these children is probably the best bet, instead of having them go through a
8 formalized adult type counselor or even an older child teenage type child counseling.
9 So, if that's, that is available here and can happen.

10 But I have serious concerns about Mr. Bonjorno continuing this badgering of the
11 children, trying to illicit additional information. So, we don't think that the court wants to
12 have more done, wants the kids to go to counseling, wants an investigation done,
13 Western Kansas Child Advocacy can ask questions. Heather Barney's the play
14 therapist, she can work with them. But there's nothing other than Mr. Bonjorno's
15 statements and his interviews of the girls that shows that any of things are happening
16 as he alleges.

17 And the argument was well, if they're not true, then we need to figure out what.
18 Well, if these allegations aren't true, the question isn't we need to figure out what. We
19 need to figure out why and what it is that Mr. Bonjorno did with these girls to get them
20 to say these things.

21 And so, I mean, I think the punishment becomes, and the sanctions, it would be
22 severe, but we think that all these issues are being taken care of. If they need to go to
23 the dentist, that can be done here. The First Care clinic is here in Hays which is just
24 right near where my client lives. And they are in school, they have all the established
25 bonds and ties to the La Crosse area, and they should go back there and remain there

1 until there's some availability or for a full blown hearing where we can question
2 witnesses and cross examine witnesses, and get to the bottom of what actually
3 happened, and not rely on these self help interviews of the girls in which, I don't know
4 why there would be a need to decide that, hey, we got to go record this conversation
5 because the girls said they wanted to talk to Melissa.

6 Well, why would you think you needed to record that if you didn't know there
7 was anything wrong? I mean, I could see a situation which the girls reported
8 something, and then they said, oh, well, you know, maybe we ought to turn the
9 recorder on while they're talking. But to do it in an interview, you know, I would hope
10 that the court would order this, the kids to be returned and if so inclined to do
11 something otherwise that it wouldn't do that until after it listened to those recordings
12 because I think the court will have as many concerns as we do after listening to those.

13 THE COURT: Thank you. Ms. Jumppoenen?

14 MS. JUMPPOENEN: Thank you, Your Honor. I guess, as far as the
15 medical care, Mr. Bonjorno has asked for the information from Ms. Jennings, she's just
16 not provided it. So, that's why he hasn't been able to contact local persons there. With
17 the school, what I've been advised is he has contacted the school, and Ms. Morgan
18 has actually not gotten back in touch with him about the IEP. It's his understanding
19 that Ms. Morgan and Ms. Jennings are personal friends. He feels that that may be part
20 of the issue.

21 I have no problem, I do have the audio. I can forward those to the court if the
22 court would like to review those. I'll let the court know that both of them are about an
23 hour long. The concern really when it comes down to it, is the safety of these children.
24 We just want to make sure that they are in a safe environment, and from at least what
25 they have provided. From what the children have provided, but not what Mr.

1 Bonjorno's statements are, what the children have provided is that it's not a safe
2 environment, that they don't want to go back home because they're afraid they're
3 going to get in trouble, and they want to be kept out of harms way.

4 THE COURT: Thank you.

5 MS. JUMPPONEN: Thank you.

6 THE COURT: Let me just inquire because the court ordered, I think it
7 was in the July hearing, it may have been from the March hearing, but that the parties
8 were to make all their communications through Our Family Wizard. Now, I understand
9 Mr. Bonjorno's saying he didn't get the information from Ms. Jennings but did he, is it
10 recorded on Our Family Wizard that he asked for that information?

11 MR. SCHWARTZ: Yes. He asked on November 19th.

12 THE COURT: Okay. But I mean as far as, asked on November 19th
13 which was before the visit about what?

14 MR. SCHWARTZ: He asked at that time for the children's doctor
15 information including phone numbers and Indi's IEP results.

16 THE COURT: Okay. So, just a few days before this visit started.

17 MR. SCHWARTZ: He also says that he asked numerous times, and it
18 looks like there might have been a request on it, he asked earlier that day too. But all
19 the messages are on there.

20 THE COURT: Okay. Did Ms. Jennings advise Mr. Bonjorno about seeing
21 the specialist in Hutchinson for Dominic?

22 MR. SCHWARTZ: I don't know that answer, Judge.

23 THE COURT: Okay.

24 MR. SCHWARTZ: I can ask her, or we can ask her.

1 THE COURT: Well, I don't want to get the parties started on this. But my
2 point is, both sides avoid a lot of finger point if they will use Our Family Wizard
3 because it will establish either that an inquiry was made and not responded to or the
4 information was provided. And that was the purpose of the court's order because as
5 we all well know, there is a significant communication problem here between the
6 parents. And it spills over then and that's detrimental to the children.

7 But I also told Mr. Bonjorno back in July, to stop recording these children. And
8 obviously that admonition has gone unheeded. I think Mr. Schwartz points out what
9 your remedies are Mr. Bonjorno if you have legitimate concerns, you should have
10 taken them to law enforcement or an advocacy center first instead of starting the
11 cross-examination process either by you or through your girlfriend. Because you do
12 color the water once you start that. And you know, law enforcement gave you some
13 information, but I think it's also important that law enforcement's, they're an obligated
14 mandatory provider as well. If they had legitimate concerns, they have the ability in
15 Texas to take those children in protective custody and they didn't do that.

16 I certainly don't doubt that there is some scarring of these children with
17 everything that they've been through. And I'm not going to point fingers at either parent
18 on that. There, we had two days' worth of testimony back in March and I indicated my
19 written order at that time that both sides had done things that they shouldn't have
20 done, and it wasn't in the best interest of the children, and that everyone needed to
21 take a positive step forward.

22 I, in terms of scarring of children, the court would find that there is not enough
23 information before the court at this time to initiate a Child in Need of Care proceeding.
24 I'm not going to put that stigma on these children unless it needs to be there. I am
25 really strongly considering having the children see an independent therapist and I think

1 while Mr. Schwartz's suggestion is an individual that's well qualified, Mr. Bonjorno and
2 perhaps his counselor are not going to feel very good about the children going to see a
3 therapist that's been recommended by the adverse side. So, I got other individuals
4 either in Hays or Great Bend that I, if I become inclined to order that, that I can give
5 the independent consult.

6 These are issues that if they prove to be substantive are best suited at an
7 extended hearing. Both counsel have indicated that at the onset of today's hearing that
8 they recognize there may well be a need for an extended hearing if that's the direction
9 that this case goes. And I understand that. The significant problem for Mr. Bonjorno, is
10 that the fact that this is not new action. To some extent it's scorched earth. Because it
11 represents exactly what he told this court in writing back last summer, that he was not
12 going to return those children. And it didn't prove to be founded at that time, and I don't
13 know whether it is this time. But clearly, it is a pattern that we've seen before.

14 And particularly when I told both parties to stop recording these children and it's
15 happened again. I want parents to be interested in the education of their children. I
16 don't know why that IEP hasn't been furnished. You know, the inquiry maybe needs to
17 go to the special education director instead of the classroom teacher. Because clearly,
18 they have an obligation for individuals with joint custody to provide that information.
19 And they're going to recognize that obligation perhaps more so, than a classroom
20 teacher.

21 And when, you know, I know communication's a problem. But Covid has
22 changed things for all of us, and it's important for both parents, but I guess I would
23 direct this to Ms. Jennings to point out in Our Family Wizard, be proactive. The kids
24 haven't had their dental exams this year, they haven't had their eye exams this year

1 because of Covid. Rather than Mr. Bonjorno finding that out from the children, and
2 presuming there's a neglect issue.

3 I would ask you to forward those recordings, or a copy of those recordings Ms.
4 Jumpooenen. I think the court should make its own individual assessment of those.
5 But again, based upon the fact that law enforcement did not immediately take any
6 action, I'm not going to grant Mr. Bonjorno's emergency motion to modify custody.
7 There's simply not enough information before the court to do that.

8 I did state in July that if Mr. Bonjorno, at that time, failed to return the minor
9 children, that the court was going to impose sanctions. I think Mr. Bonjorno understood
10 that one of those sanctions was going to be a suspension of his parenting time until he
11 had a complete psychological workup. I'm going to withhold ordering that
12 psychological workup. I want to listen to those recordings. I want to think about
13 appointing an independent therapist to get some information to the court to see if there
14 is a substantial basis for Mr. Bonjorno's concerns. But be advised that that is still on
15 the table, shall the court find it necessary to order that evaluation or to take further
16 action against Mr. Bonjorno's parenting time.

17 So, the competing motion of Ms. Jennings for a temporary modification of
18 parenting time, I mean, the court would first grant relief directing that the children be
19 immediately returned to Ms. Jennings residence in Kansas. Is the next scheduled
20 parenting time over Christmas or when is it?

21 MR. SCHWARTZ: Tara or Tyce?

22 MR. BONJORNO: Yes, that's correct.

23 THE COURT: Is it --(interrupted)

24 MR. BONJORNO: I believe it's the day after Christmas, Your Honor.

25 THE COURT: Okay. For an extended visit?

1 MR. BONJORNO: Yes, Your Honor.

2 THE COURT: Okay. Alright. I am not going to suspend that at this time, Mr.
3 Bonjorno. I'm going to listen to these recordings. If I need to, I'll issue a supplemental
4 order. But be advised, what I expect, when you exercise that parenting time, is that
5 these children are not cross examined by you or your significant other. They are not
6 unduly subjected to exposure to law enforcement. The reason for that is, this court is
7 contemplating an independent type of therapy or investigation, and I don't want the
8 water muddied any further.

9 I don't expect any difficulty with those children being returned to the state of
10 Kansas. As I told you, there are sanctions that are sitting on the table that are
11 available to the court, if you elect to do that.

12 MS. JUMPPONEN: Your Honor, I have discussed that with Mr. Bonjorno. If
13 the court did order the children back, would him bringing them back on Saturday be
14 agreeable to the court?

15 THE COURT: Mr. Schwartz?

16 MR. SCHWARTZ: Judge, they're missing school this week. They have activities
17 and a concert coming up that they're not being able to participate in. We think it ought
18 to be done, it really could be done today. It's about a 4 hour drive each way for them to
19 meet in Norman and so, it could happen by later this evening. Or tomorrow maybe
20 might be better with the weather down that way.

21 THE COURT: What is the reasoning for Saturday for Mr. Bonjorno's request?

22 MR. BONJORNO: The reason for the request was because I have, just work
23 obligations.

1 THE COURT: Okay. Well, I'm going to split the difference and order that they
2 be returned on Friday. The meeting will take place in Norman, Oklahoma at the usual
3 place at 2 o'clock in the afternoon.

4 MR. BONJORNO: Thank you, Your Honor.

5 THE COURT: Mr. Schwartz, you'll journalize, and then, after I've reviewed
6 those recording and give some thought to an independent therapist or counselor, I'll
7 issue a supplemental order. Is there anything else the court needs to take up this
8 morning?

9 MR. SCHWARTZ: No, Your Honor.

10 MS. JUMPPOENEN: -(inaudible)-

11 THE COURT: Alright. Thank you. I'll terminate this hearing at this time.
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1 STATE OF KANSAS)
2) ss:
3 COUNTY OF RUSH)
4

5 CERTIFICATE
6

7 I, Tamara Kirk, Court Transcriptionist in the 24th Judicial District of the State of
8 Kansas, do hereby certify that the forgoing transcript contains the transcript requested
9 to be transcribed; that said transcript is a correct and complete transcription for the
10 official recording made at the time of the proceeding as indicated by the files and
11 records of this Court.

12 I further certify that said recording constituting the official record has been at all
13 times in the custody and under the control of the Rush County District Court.

14 Dated, signed, sealed and filed with the Clerk of the District Court this 22nd day
15 of March, 2021.
16

17 \s\ Tamara Kirk
18 Tamara Kirk, Court Transcriptionist
19 Edwards County District Court
20 P.O. Box 232
21 Kinsley, KS 67547
22 620-659-2442
23

Exhibit K





Exhibit L

2. Defendant was empowered with state-like authority, including but not limited to:

- Reviewing past court motions, orders, and transcripts.
- Interviewing relevant parties, including social workers, school personnel, and caregivers.
- Collecting and evaluating evidence from law enforcement, healthcare providers, and child protection agencies in both Kansas and Texas.

3. Defendant's appointment by the Rush County District Court as a child custody investigator vested her with significant authority typically reserved for state officials, thereby aligning her role with state functions and rendering her a state actor. Under K.S.A. § 23-3210, Kansas courts are authorized to appoint investigators with the power to conduct investigations in child custody matters, a role that includes determining the "best interests of the child" as mandated by K.S.A. § 23-3203. Defendant's powers included ordering psychological examinations, accessing confidential records, and interviewing relevant parties—actions typically exercised by state officials in matters concerning child welfare and custody. These investigative and decision-making authorities are public functions under Kansas law.

This alignment with traditional state functions parallels the principle established in *West v. Atkins*, 487 U.S. 42 (1988), where the U.S. Supreme Court held that a private individual could be considered a state actor if they were performing a function delegated by the state. Similarly, in *Adickes v. S.H. Kress & Co.*, 398 U.S. 144 (1970), the Court found that a private party could be deemed a state actor if they engaged in a public function or were closely linked to state authority. Furthermore, in *Lugar v. Edmondson Oil Co.*, 457 U.S. 922 (1982), the Court ruled that a private party's actions could constitute state action where there is a significant degree of state involvement or if the party's conduct is entwined with governmental policies.

These cases underscore that Defendant's role, as empowered by Kansas statutes and authorized by court appointment, placed her within the scope of state action. Defendant's execution of these duties, under the court's authority and in furtherance of state interests, thus supports the conclusion that she acted under color of state law for purposes of 42 U.S.C. § 1983.

4. Plaintiff submitted crucial documents to Defendant, including evidence of abuse and neglect, which Defendant failed to review or adequately consider in her investigation.
5. Defendant also failed to interview key witnesses and gather essential information, rendering her investigation incomplete and incompetent.

II. Answers and Defenses to Section III. Background and Factual Allegations

- 1) Defendant admits the allegations in this paragraph.
- 2) Defendant admits the allegations in this paragraph.
- 3) Defendant denies all allegations in this paragraph not consistent with K.S.A 23-3210.
- 4) Defendant admits receiving documents from Plaintiff. All other allegations are denied.
- 5) Defendant denies this allegation.
- 6) Defendant admits to terminating Plaintiff's ability to access the client portal associated with his case following the closure of the matter. All other allegations are denied.
- 7) Defendant admits to receiving messages from Plaintiff. All other allegations are denied.
- 8) Defendant denies the allegations in this paragraph.
- 9) Defendant denies the allegations in this paragraph.
- 10) Defendant denies the allegations in this paragraph.
- 11) Defendant denies the allegations in this paragraph not consistent with K.S.A. 23-3210.
- 12) Defendant denies the allegations in this paragraph.
- 13) Defendant denies the allegations in this paragraph.
- 14) Defendant denies the allegations in this paragraph.

Exhibit M

☒ INITIAL ☐ DELETE ☐ MODIFY ☐ ADD		KANSAS STANDARD OFFENSE REPORT FRONT PAGE OPEN PUBLIC RECORD				PAGE 1 OF 4			
☐ ON VIEW ☒ DISPATCHED ☐ CITIZEN		NAME OF AGENCY Rush County Sheriff's Office		KS AGENCY ORI NUMBER KS0830000		CASE NUMBER 20-493			
I N C I D E N T	DATE OFFENSE STARTED (MMDDCCYY) 11/25/2020		TIME (HHMM) 10:30		DATE OFFENSE ENDED (MMDDCCYY) 01/05/2021		TIME (HHMM) 11:39		
	EXCEPTIONAL CLEARANCE DATE (MMDDCCYY)		EXCEPTIONAL CLEARANCE		A. ☐ DEATH OF OFFENDER D. ☐ VICTIM REFUSES TO TESTIFY		B. ☐ PROSECUTION DENIED E. ☐ JUVENILE - NO CUSTODY		
	LOCATION OF OFFENSE 600 E 16th Street TERR APT 6 La Crosse KS 67548		REPORT AREA RHSO		TIME REPORTED 10:30		TIME ARRIVED 10:33		
					TIME CLEARED 11:33				
O F F E N S E # 1	CHAPTER SECTION SUB 1 SUB 2 21-5602		☐ ATTEMPTED ☒ COMPLETED		☐ AID / ABET ☐ CONSPIRACY ☐ SOLICITATION				
	DESCRIPTION Abuse of a child; Unknown circumstance								
	PREMISE 10		# OF PREM.		HATE/BIAS 88		CAMPUS CODE		
	METHOD OF ENTRY F. ☐ FORCE N. ☐ NO FORCE								
	TYPE OF THEFT M. ☐ COIN MACHINE B. ☐ FROM BUILDING A. ☐ M V PARTS & ACC. L. ☐ SHOPLIFTING P. ☐ POCKET-PICKING S. ☐ PURSE SNATCHING		E. ☐ EMBEZZLEMENT T. ☐ POSS. STOLEN PROP. V. ☐ MOTOR VEHICLE F. ☐ THEFT FROM M V O. ☐ ALL OTHER N. ☐ NOT APPLICABLE		TYPE OF FORCE / WEAPON 11. ☐ FIREARM ☐ AUTO 12. ☐ HANDGUN ☐ AUTO 13. ☐ RIFLE ☐ AUTO 14. ☐ SHOTGUN ☐ AUTO 15. ☐ OTHER ☐ AUTO				
	OFFENDER SUSPECTED OF USING (SELECT UP TO 3) A. ☐ ALCOHOL D. ☐ DRUG / NARCOTICS C. ☐ COMPUTER EQUIP. N. ☒ NOT APPLICABLE								
	TYPE OF CRIMINAL ACTIVITY (SELECT UP TO 3) B. ☐ BUYING / RECEIVING T. ☐ TRANS/TRANSMIT IMPORT C. ☐ CULT / MANU / PUBL U. ☐ USING/CONSUMING D. ☐ DIST / SELLING J. ☐ JUVENILE GANG E. ☐ EXPLOIT. CHILDREN G. ☐ OTHER GANG O. ☐ OPER/PROMOTE N. ☒ NO GANG INVOLVEMENT P. ☐ POSSESS / CONCEAL								
	LOCAL CODE								
V I C T I M # 1	TYPE OF VICTIM I. ☒ INDIVIDUAL S. ☐ SOCIETY / PUBLIC R. ☐ RELIGIOUS ORGANIZATION O. ☐ OTHER B. ☐ BUSINESS F. ☐ FINANCIAL INSTITUTION G. ☐ GOVERNMENT U. ☐ UNKNOWN		VICTIM OF OFFENSE NUMBER 1. ☒ 2. ☐ 3. ☐ 4. ☐ 5. ☐ 6. ☐ 7. ☐ 8. ☐ 9. ☐ 10. ☐						
	NAME: LAST FIRST MIDDLE Bonjorno Hendrix								
	ADDRESS: STREET CITY STATE ZIP 600 E 16TH ST APT 6 La Crosse KS 67548								
	TELEPHONE NUMBER (HOME)		RACE W		SEX F		ETHNICITY N		
	RES. / N-RES. R		AGE 07		DATE OF BIRTH (MMDDCCYY) 01/10/2013		HEIGHT WEIGHT HAIR EYES		
	DRIVERS LICENSE NUMBER		DL STATE		EMPLOYER / SCHOOL				
	TELEPHONE NUMBER (WORK/SCHOOL)		ADDRESS: STREET		CITY		STATE ZIP		
	CIRCUM. AGG ASLT/BATTERY (MAX 2) 09		VICTIMS RELATIONSHIP TO CORRESPONDING SUSPECT NUMBER (INDICATE ALL SUSPECTS) 1. CH 2. 3. 4. 5. 6. 7. 8. 9. 10.				TYPE OF INJURY (MAX 5) 1. N 2. 3. 4. 5.		
	NAME: LAST FIRST MIDDLE Bonjorno Tyce Anthony		ADDRESS: STREET CITY STATE ZIP 904 Latana LN Leander TX 78641						
	TELEPHONE NUMBER (HOME) (512) 579-1329		RACE W		SEX M		ETHNICITY N		
RES./N-RES. N		AGE 46		DATE OF BIRTH (MMDDCCYY) 01/22/1974		HEIGHT WEIGHT HAIR EYES 600 185 BRO BRO			
EMPLOYER/SCHOOL		ADDRESS: STREET		CITY		STATE ZIP TELEPHONE NUMBER (WORK/SCHOOL)			
P R O P E R T Y D E S C	TYPE LOSS		PROPERTY / DRUG CODE		DESCRIPTION / SUSPECTED DRUG TYPE		ESTIMATED QUANTITY		
REPORTING OFFICER Ward Corsair		BADGE # 7301		DATE 11/25/2020		COPIES TO		PROPERTY TOTAL	

Exhibit N

INDIANA

Allen County

Population: 331,849
Active Warrants: 7,112
Updated: Sat Apr 05 2025

Indiana

Allen

Search



Provide Info
About This Person

Note: You stay anonymous
when providing tips.

Darrin Russell Schuckman

<< Return to County Listing

DOB: 09/19/1970

Gender: Male

Race: White/Non Hispanic

Height: 5' 11"

Weight: 150 lbs

Hair: Brown

Eyes: Hazel

AR
ARNOLD TERRILL RIDENOUR

Tattoos (2):

Descriptions of tattoos may contain content that some users may find offensive. See [tattoo descriptions](#).

Wanted For:

Warrant # 05-11051

ELECTRONICALLY FILED
2022 Aug 22 PM 1:33
CLERK OF THE RUSH COUNTY DISTRICT COURT
CASE NUMBER: 2022-CR-000036

IN THE DISTRICT COURT OF RUSH COUNTY, KANSAS

STATE OF KANSAS,	Plaintiff,	)	
		)	
-vs-		)	Case No: 22 CR ____
		)	
DARRIN R. SCHUCKMAN,	Defendant.	)	
411 W. 9 th Street		)	
La Crosse, KS 67548		)	
DOB: 09/19/1970		)	
Sex: Male Race: White		)	
		)	

COMPLAINT/INFORMATION

Tony W. Rues, Rush County Attorney, of lawful age, being first duly sworn on oath, for complaint against the above shown defendant, alleges and states:

COUNT I

BATTERY-PHYSICAL CONTACT

K.S.A. 21-5413(a)(1)

Class B Person Misdemeanor

On or about the 19th day of May, 2022 in the State of Kansas and County of Rush, **DARRIN R. SCHUCKMAN**, did, then and there, unlawfully and intentionally cause physical contact with another person, to-wit: Tyce Bonjourno a rude, insulting, or angry manner, contrary to the form of the statutes in such case made and provided and against the peace and dignity of the State of Kansas.

COUNT II

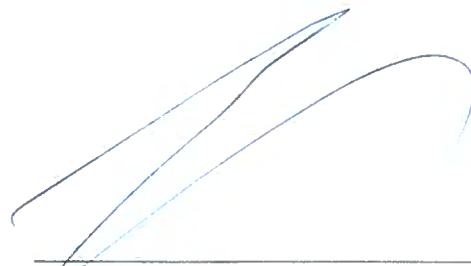
CRIMINAL THREAT

K.S.A. 21-5415 (a)(1)

Level 9, Person Felony

On or about the 19th day of May, 2022 in the State of Kansas and County of Rush, **DARRIN R. SCHUCKMAN**, did, then and there, unlawfully, feloniously, and intentionally, communicate a threat to commit violence, to-wit: stating “beat the shit out of you” with the intent to terrorize another, to-wit: Tyce Bonjourno, contrary to the form of the statutes in such case made and provided and against the peace and dignity of the State of Kansas.

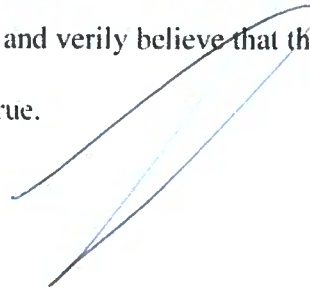
Witnesses: Deputy Kalyn Abare, Tyce Bonjourno, Deputy Dakota Colhouer, Jena Johnson, Gene Heading,



TONY W. RUES, - #14212
Rush County Attorney

STATE OF KANSAS }
 } ss.
COUNTY OF RUSH }

I, Tony W. Rues, being of lawful age, duly sworn, on oath say that I am the Rush County Attorney in the State of Kansas and I am informed and verily believe that the facts and allegations set forth in the within information are true.



TONY W. RUES, - #14212
Rush County Attorney

Subscribed and sworn to before me this 18th day of August, 2022.

June 1, 2026

MY COMMISSION EXPIRES



NOTARY PUBLIC



ELECTRONICALLY FILED

2022 Aug 22 PM 1:33

CLERK OF THE RUSH COUNTY DISTRICT COURT
CASE NUMBER: 2022-CR-000036

AFFIDAVIT

STATE OF KANSAS

)

)ss.

COUNTY OF RUSH

)

I, Kalyn Abare, of lawful age, being first duly sworn upon oath, alleges and states:

On 05/19/2022, at approximately 0822 hours, I, Deputy Kalyn Abare, was dispatched to Casey's, 1512 Main St, La Crosse, Rush County, KS 67548, because Tyce Bonjourno stated Darrin Schuckman threatened to kill him and Schuckman was outside his truck window screaming at him.

Upon my arrival, I spoke with Tyce Bonjourno, who stated his ex-wife's (Tara Jennings) boyfriend, Darrin Schuckman, was yelling at him in Casey's and Schuckman threatened to kill him. Bonjourno stated Shuckman had already left before I showed up.

Bonjourno stated he came up from Texas for his son's graduation, and he went into Casey's to get coffee. Bonjourno stated that Darrin Schuckman came up to him inside the store and said he was going to kill him and splatter him all over the parking lot. Bonjourno stated they both exchanged words, but he could not remember what all was said. Bonjourno stated he tried to calm things down and he offered to buy Schuckman's coffee, but Schuckman said he could buy his own. Bonjourno stated he purchased his coffee and walked out to his truck, which was parked in front of the store, to make a phone call. Bonjourno stated Schuckman then came outside to his truck, putting his hands on his truck and asking him to step outside, so he could "beat the shit out of me." Schuckman also told Bonjourno that he was in his county and "not to fuck with him."

While I was obtaining video footage from Casey's, Casey's staff stated they did not hear anything that Bonjourno and Shuckman said while in the store. The video does not contain audio, the footage showed at approximately 0810 hours, Bonjourno arrived at Casey's and went to the bathroom. At approximately 0811 hours, a possible witness, Gene Heading, entered Casey's. At approximately 0813 hours, Schuckman entered Casey's and walked to the coffee area. Approximately 30 seconds later, Bonjourno walked by Schuckman, and Schuckman started talking to Bonjourno for approximately 10 seconds, and Bonjourno walked away from Schuckman. Approximately 10 seconds later, Schuckman approached Bonjourno in what appeared to be an angry manner and chest bumped Bonjourno with his hands out to the side and then stood approximately 1 foot away from Bonjourno. Schuckman pointed at Bonjourno with his right index finger, at about face level. Approximately 30 seconds later, Schuckman walked away while exchanging words with Bonjourno.

At approximately 0815 hours, Bonjourno paid for his items and walked out of the store. Approximately 45 seconds later, Shuckman purchased his items and walked out to Bonjourno's truck. Schuckman was at the front of Bonjourno's truck and walked around the driver's side,

pointing at Bonjourno with his right index finger. At approximately 0816 hours, a blonde female wearing a "Whiskey Creek" shirt (later identified as Jena Johnson) arrived and stopped outside the store entrance looking at Bonjourno and Schuckman for approximately 20 seconds before, Johnson entered the store. At approximately 0817 hours, Schuckman walked east away from Bonjourno's truck.

At approximately 0841 hours, Deputy Colhouer spoke to Gene Heading over the phone. Heading stated he walked by the guy in the black shirt (Schuckman) and the guy in the blue shirt (Bonjourno), and all he heard was the guy in the black shirt (Schuckman) stating "you're not so tough when you not behind the keyboard", and the guy in the blue shirt (Bonjourno) offered to buy the guy in the black shirt's (Schuckman) coffee. Heading stated he did not hear anyone threaten to kill anyone. Heading stated the guy in the black shirt (Schuckman) drove a Ford Ranger or an S10 pickup with a 30-day Kansas tag on it. Schuckman was driving a Ford Ranger pickup with a Kansas temporary tag.

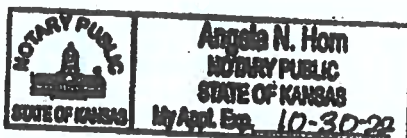
At approximately 0900 hours, I contacted Whiskey Creek restaurant in Hays, KS, and asked if Jena Johnson worked there. A worker there stated yes and handed the phone to Johnson. Johnson stated the guy in the black truck (Bonjourno) did not say anything, but the white guy (Schuckman) stated "you're lucky I didn't beat your ass, and you'll find out what I'm going to do and who I am." Johnson stated she did not hear anyone say anything about killing anyone.

At approximately 1105 hours, Deputy Colhouer and I contacted Darrin Schuckman at 411 W 9th, La Crosse, KS. In the back yard I saw a Ford Ranger with a 30 day Kansas tag. I made contact with Schuckman and asked what happened at Casey's. Schuckman stated Tyce Bonjourno has been talking a lot of "crap" to him, and he was tired of it. Schuckman stated he noticed Bonjourno's black Nissan truck outside of Casey's. Schuckman stated he did confront Bonjourno about talking "crap" over the phone and on social media. Schuckman stated he told Bonjourno he was not hiding behind a keyboard now and to take it out of town. Schuckman stated he would beat Bonjourno's "ass." Schuckman stated he told Bonjourno he was in his county now.

Schuckman stated he never told Bonjourno he was going to kill him. I advised Schuckman to not contact Bonjourno, by phone or in person. I advised Schuckman that he was being charged with assault and the charges were going to be sent to the county attorney.

FURTHER AFFIANT SAITH NAUGHT

State of Kansas; County of Rush;
Subscribed and sworn to before me this 6 day of June, 2022
(seal)



[Signature]
Affiant,

[Signature]
NOTARY PUBLIC

☒ INITIAL ☐ MODIFY		☐ DELETE ☐ ADD		KANSAS STANDARD OFFENSE REPORT				PAGE 1 OF 2		
FRONT PAGE OPEN PUBLIC RECORD										
☐ ON VIEW ☐ CITIZEN		☒ DISPATCHED		NAME OF AGENCY Rush County Sheriff's Office		KS AGENCY ORI NUMBER KS0830000		CASE NUMBER 22-156		
I N C I D E N T	DATE OFFENSE STARTED (MMDDCCYY) 05/19/2022		TIME (HHMM) 08:17		DATE OFFENSE ENDED (MMDDCCYY) 05/19/2022		TIME (HHMM) 08:22		DATE OF REPORT (MMDDCCYY) 05/19/2022	
	EXCEPTIONAL CLEARANCE DATE (MMDDCCYY)		EXCEPTIONAL CLEARANCE		A. ☐ DEATH OF OFFENDER D. ☐ VICTIM REFUSES TO TESTIFY		B. ☐ PROSECUTION DENIED E. ☐ JUVENILE - NO CUSTODY		C. ☐ EXTRADITION DENIED N. ☒ NOT APPLICABLE	
	LOCATION OF OFFENSE 1512 Main ST La Crosse KS 67548				REPORT AREA RHSO		TIME REPORTED 08:17		TIME ARRIVED 08:22	
	TIME CLEARED 11:22									
O F F E N S E # 1	CHAPTER 21-5412(a)(e)(1)		SECTION SUB 1		SUB 2		☐ ATTEMPTED ☒ COMPLETED		☐ AID / ABET ☐ CONSPIRACY ☐ SOLICITATION	
	DESCRIPTION Assault									
	PREMISE 24		# OF PREM.		HATE/BIAS 88		CAMPUS CODE		METHOD OF ENTRY F. ☐ FORCE N. ☒ NO FORCE	
	TYPE OF THEFT		E. ☐ EMBEZZLEMENT		TYPE OF FORCE / WEAPON					
	M. ☐ COIN MACHINE		T. ☐ POSS. STOLEN PROP.		11. ☐ FIREARM		☐ AUTO			
	B. ☐ FROM BUILDING		V. ☐ MOTOR VEHICLE		12. ☐ HANDGUN		☐ AUTO			
	A. ☐ M V PARTS & ACC.		F. ☐ THEFT FROM M V		13. ☐ RIFLE		☐ AUTO			
	L. ☐ SHOPLIFTING		O. ☐ ALL OTHER		14. ☐ SHOTGUN		☐ AUTO			
	P. ☐ POCKET-PICKING		N. ☒ NOT APPLICABLE		15. ☐ OTHER		☐ AUTO			
	S. ☐ PURSE SNATCHING				16. ☐ FIREARM		☐ AUTO			
OFFENDER SUSPECTED OF USING (SELECT UP TO 3)		D. ☐ DRUG / NARCOTICS		30. ☐ BLUNT OBJECT						
A. ☐ ALCOHOL		N. ☒ NOT APPLICABLE		35. ☐ MOTOR VEHICLE						
C. ☐ COMPUTER EQUIP.				40. ☐ PERSONAL WEAPON						
TYPE OF CRIMINAL ACTIVITY (SELECT UP TO 3)		U. ☐ USING/CONSUMING		50. ☐ POISON						
B. ☐ BUYING / RECEIVING		J. ☐ JUVENILE GANG		60. ☐ EXPLOSIVE						
C. ☐ CULT / MANU / PUBL		G. ☐ OTHER GANG		65. ☐ FIRE / INCID / DEVICE						
D. ☐ DIST / SELLING		N. ☒ NO GANG INVOLVEMENT		70. ☐ DRUGS / NARC.						
E. ☐ EXPLOIT. CHILDREN				75. ☐ ASPHYXIATION						
O. ☐ OPER/PROMOTE				80. ☐ OTHER						
P. ☐ POSSESS / CONCEAL				85. ☐ UNKNOWN						
LOCAL CODE				88. ☒ NONE						
V I C T I M # 1	TYPE OF VICTIM		S. ☐ SOCIETY / PUBLIC		R. ☐ RELIGIOUS ORGANIZATION		O. ☐ OTHER		VICTIM OF OFFENSE NUMBER	
	I. ☒ INDIVIDUAL		F. ☐ FINANCIAL INSTITUTION		G. ☐ GOVERNMENT		U. ☐ UNKNOWN		1. ☒ 2. ☐ 3. ☐ 4. ☐ 5. ☐ 6. ☐ 7. ☐ 8. ☐ 9. ☐ 10. ☐	
	NAME: LAST Bonjourno		FIRST Tyce		MIDDLE Anthony					
	ADDRESS: STREET 904 Latana LN		CITY Leander, Williamson		STATE TX		ZIP 78641			
	TELEPHONE NUMBER (HOME) (512) 579-1329		RACE W		SEX M		ETHNICITY N		RES. / N-RES. N	
	AGE 48		DATE OF BIRTH (MMDDCCYY) 01/22/1974		HEIGHT 600		WEIGHT 195		HAIR BRO	
	EYES BRO		DRIVERS LICENSE NUMBER 39557936		DL STATE TX		EMPLOYER / SCHOOL Self employed			
	TELEPHONE NUMBER (WORK/SCHOOL) (512) 579-1329		ADDRESS: STREET		CITY		STATE		ZIP	
	CIRCUM. AGG ASLT/BATTERY (MAX 2)		VICTIMS RELATIONSHIP TO CORRESPONDING SUSPECT NUMBER (INDICATE ALL SUSPECTS)		TYPE OF INJURY (MAX 5)					
	1. AQ									
P R O P E R T Y D E S C	NAME: LAST Bonjourno		FIRST Tyce		MIDDLE Anthony		ADDRESS: STREET 904 Latana LN		CITY Leander, Williamson	
	STATE TX		ZIP 78641							
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	EYES BRO		EMPLOYER/SCHOOL Self employed		ADDRESS: STREET		CITY		STATE ZIP	
	TELEPHONE NUMBER (WORK/SCHOOL) (512) 579-1329									
	TYPE LOSS		PROPERTY / DRUG CODE		DESCRIPTION / SUSPECTED DRUG TYPE		ESTIMATED QUANTITY		FRACTION	
	TYPE DRUG MEASURE		VALUE		DATE RECOVERED					
REPORTING OFFICER Kalyn Abare		BADGE # 7303		DATE 05/19/2022		COPIES TO		PROPERTY TOTAL		

CRIMINAL INVESTIGATION RECORD / **NOT AN OPEN PUBLIC RECORD**KS AGENCY ORI NUMBER
KS0830000CASE NUMBER
22-156DATE OF REPORT (MMDDCCYY)
05/19/2022

PAGE 2 OF 2

METHOD

INSTRUMENT USED FOR ENTRY:

1. ☐ KEY 5. ☐ BOLT CUTTER 9. ☐ THROWN OBJECT
 2. ☐ PRY TOOL 6. ☐ CHOPPING TOOL 10. ☐ OTHER
 3. ☐ SAW / DRILL 7. ☐ VICE GRIPS 11. ☒ NOT APPLICABLE
 4. ☐ HAMMER 8. ☐ PHYSICAL FORCE

POINT OF ENTRY

9. ☒ NOT APPLICABLE
 1. ☐ FRONT 2. ☐ REAR
 3. ☐ SIDE 4. ☐ ROOF

POINT OF EXIT

8. ☒ NOT APPLICABLE
 1. ☐ FRONT 2. ☐ REAR
 3. ☐ SIDE 4. ☐ ROOF

PREMISE NEIGHBORHOOD

- R. ☐ RURAL / FARM / AGRICULTURE
 S. ☐ SUBURBAN / RESIDENCE
 B. ☒ URBAN / BUSINESS / COMMERCIAL
 U. ☐ UNINHABITED

SAFE ENTERED

1. ☐ YES 3. ☐ ATTEMPTED 5. ☐ PEELED 7. ☐ COMBINATION KNOWN
 2. ☐ NO 4. ☐ REMOVED 6. ☐ EXPLODED 8. ☒ NOT APPLICABLE

INCIDENT ACTIVITY

- G. ☐ GANG RELATED
 C. ☐ DOMESTIC VIOLENCE CHILDREN PRESENT
 D. ☐ DOMESTIC VIOLENCE
 S. ☐ DRIVE BY SHOOTING
 J. ☐ CAR JACKING
 N. ☒ NOT APPLICABLE

SUSPECT

#

1

NAME: LAST

Schuckman

FIRST

Darrin

MIDDLE

Russell

ADDRESS: STREET

411 W 9th ST

CITY

La Crosse

STATE

KS

ZIP

67548

TELEPHONE NUMBER (HOME)

(785) 222-8005

RACE

W

SEX

M

ETHNICITY

N

RES. / N-RES.

R

AGE

51

D.O.B. (MMDDCCYY)

09/19/1970

HEIGHT

511

WEIGHT

150

HAIR

GRY

EYES

HAZ

EMPLOYER/SCHOOL

SELF EMPLOYED

ADDRESS: STREET

CITY

STATE ZIP

TELEPHONE NUMBER (WORK/SCHOOL)

MONIKERS/ALIAS

SNOOKY

ADDITIONAL SUSPECT DESCRIPTORS

SUSPECT VEHICLE:

MAKE

YEAR

MODEL

COLOR

VEHICLE STYLE

LICENSE NUMBER

YEAR

STATE

VEHICLE IDENTIFICATION NUMBER

OTHER

NAME: LAST

FIRST

MIDDLE

ADDRESS: STREET

CITY

STATE

ZIP

TELEPHONE NUMBER (HOME)

RACE

SEX

ETHNICITY

RES. / N-RES.

AGE

D.O.B. (MMDDCCYY)

HEIGHT

WEIGHT

HAIR

EYES

EMPLOYER/SCHOOL

ADDRESS: STREET

CITY

STATE ZIP

TELEPHONE NUMBER (WORK/SCHOOL)

MONIKERS/ALIAS

ADDITIONAL SUSPECT DESCRIPTORS

SUSPECT VEHICLE:

MAKE

YEAR

MODEL

COLOR

VEHICLE STYLE

LICENSE NUMBER

YEAR

STATE

VEHICLE IDENTIFICATION NUMBER

OTHER

EVIDENCE INFORMATION

- ☐ NONE ☐ SUBMITTED ☐ RETAINED BY VICTIM ☒ RETAINED BY OFFICER ☒ RETAINED BY INVESTIGATIVE AGENCY ☐ TRANSFER TO OTHER AGENCY
☐ OTHER

EVIDENCE OBTAINED

- ☐ LATENT PRINTS ☐ WEAPONS / TOOLS ☐ SEXUAL ASSAULT KIT ☐ STAINS ☐ SEMEN ☐ DRUGS
☐ OTHER PRINTS ☐ PHOTOS ☐ HAIR ☐ BLOOD ☐ DOCUMENTS ☐ ALCOHOL
☒ OTHER footage

EVIDENCE COLLECTOR

Kalyn Abare 7303

LOCATION STORED

RHSO

DESCRIBE BRIEFLY HOW OFFENSE WAS COMMITTED

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Last Name SchuckmanFirst DarrinMiddle RussellD.O.B. 09/19/1970Age 51Page 1 of 2Report Date: 05/19/2022Case Number: 22-156**Incident Narrative Report**Type of Report: InvestigationDate of Occurrence
05/19/2022Time
08:17

Location

1512 Main ST La Crosse KS 67548County Abbrev. and Name
RH RUSH**Narrative Report**

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Bonjourno stated he came up from Texas for his son's graduation, and he went into Casey's to get coffee. Bonjourno stated that Darrin Schuckman came up to him inside the store and said he was going to kill him and splatter him all over the parking lot. Bonjourno stated they both exchanged words, but he could not remember what all was said. Bonjourno stated he tried to calm things down and he offered to buy Schuckman's coffee, but Schuckman said he could buy his own. Bonjourno stated he purchased his coffee and walked out to his truck, which was parked in front of the store, to make a phone call. Bonjourno stated Schuckman then came outside to his truck, putting his hands on his truck and asking him to step outside, so he could "beat the shit out of me." Schuckman also told Bonjourno that he was in his county and "not to fuck with him."

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Reporting Officer

Kalyn Abare

Radio #

7303

Troop

Zone

SO

Reporting Officer Signature

Last Name SchuckmanFirst DarrinMiddle RussellD.O.B. 09/19/1970Age 51Page 2 of 2Report Date: 05/19/2022Case Number: 22-156**Incident Narrative Report**Type of Report: InvestigationDate of Occurrence
05/19/2022Time
08:17Location
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Reporting Officer
Kalyn AbareRadio #
7303

Troop

Zone
SO

Reporting Officer Signature

Rush County Sheriff's Department Statement

Date 5-19-2022 Time 8:28
 Name Tyce Bonjorno Address 904 Lantana Ln
 City Leander State TX Zip 78641 Home Phone 512-579-1329
 Employer Self employed Employer's Address _____
 Work Phone _____ Date of Birth 1-22-1974 Soc. Sec. # _____
 Height 6 Weight 220 Hair Brown Eyes Brown

DETAILS I was threatened by Darrin Schuchman he was going to kill myself. I was said inside cars and outside. He put his hands on my vehicle.

I walked in to purchase coffee. Darrin Schuchman came up to myself, said he was going to kill me and splatke me all over the parking lot we both exchanged words. I told him I would buy his coffee for him. I came outside sat in my truck and tried to call my friend melissa. She didn't answer. Darrin was then putting his hands in my truck asking me to step outside so he can beat the shit out of me. I rolled up my window. Darrin said I am in his county and not to fuck with him.

I have read the _____ page(s) of this statement and the facts contained therein are true and correct.

SIGNATURE

WITNESS

WITNESS

PAGE 1 OF 1 PAGES

Clerk of the Court
United States District Court
District of Kansas

RE: Tyce A. Bonjorno v. Audra Asher
Case No. 5:24-cv-04111-HLT-BGS

Dear Clerk,

Please find enclosed the following documents for filing:

1. Plaintiff's First Amended Complaint
2. Notice of Filing First Amended Complaint
3. Notice of Mootness of Defendant's Motion for Judgment on the Pleadings
4. Plaintiff's Motion to Strike Defendant's Motion to Stay Discovery
5. Plaintiff's Response in Opposition to Defendant's Motion to Stay Discovery

Please file these in the above-captioned matter and return a file-stamped copy to me, if possible.

I certify that a true and correct copy of the foregoing was placed in the U.S. Mail, Certified, on
April 12, 2025 and Mailed to:

Gaye B. Tibbets

HITE, FANNING & HONEYMAN L.L.P.

100 N. Broadway, Suite 950

Wichita, KS 67202

Respectfully,



/s/ Tyce A. Bonjorno

Tyce A. Bonjorno

Pro Se Plaintiff

605 W. South St., Ste. 271

Leander, TX 78641