**STATE OF WISCONSIN**
**COURT OF APPEALS**
**DISTRICT II**



In re the finding of contempt in:
In re the marriage of:

Nicole Huiras,
Petitioner-Respondent,

v.

Nathan Huiras,
Respondent-Appellant.

**District:** 2
**Appeal No.** 2022AP001731
**Circuit Court Case No.** 2021FA000592

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# BRIEF OF APPELLANT

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STATE OF WISCONSIN
COURT OF APPEALS
DISTRICT II

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## TABLE OF AUTHORITIES

**Wisconsin Statute 940.31(c) Kidnapping** – "By deceit induces another to go from one place to another with intent to cause him or her to be carried out of this state"

**Wisconsin Statute 948.31(2) Interference with Custody** – "Whoever causes a child to leave, takes a child away or withholds a child for more than 12 hours from the child's parents"

**Wisconsin Statute 767.225(1)(am) Orders During Pendency of Action** – "If the court grants physical placement to one parent for less than 25 percent of the

time, as determined under s. 49.22 (9), the court shall enter specific findings of fact as to the reasons that a greater allocation of physical placement with that parent is not in the best interests of the child."

**Wisconsin Statute 804.01(2)(a)** – Scope of Discovery – "Parties may obtain discovery regarding any **NONPRIVILEGED** matter that is relevant to any party's claim or defense and proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties' relative access to relevant information, the parties' resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit. Information within this scope of discovery need not be admissible in evidence to be discoverable."

**Wisconsin Statute 785.03(1) NONSUMMARY PROCEDURE.**

(a) Remedial sanction. A person aggrieved by a contempt of court may seek imposition of a remedial sanction for the contempt by filing a motion for that purpose in the proceeding to which the contempt is related. The court, after notice and hearing, may impose a remedial sanction authorized by this chapter.

(b) Punitive sanction. The district attorney of a county, the attorney general or a special prosecutor appointed by the court may seek the imposition of a punitive sanction by issuing a complaint charging a person with contempt of court and reciting the sanction sought to be imposed. The district attorney, attorney general or special prosecutor may issue the complaint on his or her own initiative or on the request of a party to an action or proceeding in a court or of the judge presiding in an action or proceeding. The complaint shall be processed under chs. 967 to 973. If the contempt alleged involves disrespect to or criticism of a judge, that judge is disqualified from presiding at the trial of the contempt unless the person charged consents to the judge presiding at the trial.

**SCR 20:3.1** –"Meritorious claims and contentions (a) In representing a client, a lawyer shall not: (1) knowingly advance a claim or defense that is unwarranted under existing law, except that the lawyer may advance such claim or defense if it can be supported by good faith argument for an extension, modification or reversal of existing law;"

**SCR 20:3.3** Candor toward the tribunal

(a) A lawyer shall not knowingly:

(1) make a false statement of fact or law to a tribunal or fail to correct a false statement of material fact or law previously made to the tribunal by the lawyer; A Legal argument based on a knowingly false representation of law constitutes dishonesty toward the tribunal.

**SCR 60.04 –** " A judge shall perform the duties of judicial office impartially and diligently. (b) A judge shall be faithful to the law and maintain professional competence in it."

**Duchesne v. Sugarman, 566 F. 2d 817 – United States Court of Appeals, 2nd Circuit 1977**

*"If a State were to attempt to force the breakup of a natural family, over the objections of the parents and their children, without some showing of unfitness and for the sole reason that to do so was thought to be in the children's best interest, I should have little doubt that the State would have intruded impermissibly on `the private realm of family life which the state cannot enter.'* ***Prince v. Massachusetts, 328 U.S. 158, 166, 64 S.Ct. 438, 88 L.Ed. 645.***"

*"In this situation, the state cannot constitutionally "sit back and wait" for the parent to institute judicial proceedings. It "cannot . . . [adopt] for itself an attitude of `if you don't like it, sue.'" Kimbrough v. O'Neil, 523 F.2d 1057, 1060 n. 3 (7th Cir. 1975) (Swygert, J., concurring). The burden of initiating judicial review must be shouldered by the government. We deal here with an uneven situation in which the government has a far greater familiarity with the legal procedures available for testing its action. In such a case, the state cannot be allowed to take action depriving individuals of a most basic and essential liberty interest which those uneducated and uninformed in legal intricacies may allow to go unchallenged for a long period of time. Cf. Fuentes v. Shevin, 407 U.S. 67, 83 n. 13, 92 S.Ct. 1983, 32 L.Ed.2d 556 (1972); Hernandez v. European Auto Collision, Inc., 487 F.2d 378, 385 n. 4 (2d Cir. 1973) (Timbers, J., concurring). Nowhere is the inadequacy of the state's approach more poignantly demonstrated than in the present case where the mother did not obtain legal advice until May 1971[25] and did not institute a habeas proceeding until February 1972. Until that time, some 27 months after the initial removal of the children, her rights and those of her children to live together as a family were denied with impunity. Therefore, we must conclude that the failure of appellees to obtain judicial ratification of their decision to maintain custody of the children,*

*despite the numerous and* **VOCIFEROUS** *requests of Ms. Perez for their return, constituted a violation of due process."*

**28 U.S. Code § 1343 - Civil rights and elective franchise**

*"The district courts shall have original jurisdiction of any civil action authorized by law to be commenced by any person to redress the deprivation, under color of any State law, statute, ordinance, regulation, custom or usage, of any right, privilege or immunity secured by the Constitution of the United States or by any Act of Congress providing for equal rights of citizens or of all persons within the jurisdiction of the United States;"*

***Blessing v. Freestone, 520 US 329 - Supreme Court 1997***

*"To oversee this complex federal-state enterprise, Congress created the Office of Child Support Enforcement (OCSE) within the Department of Health and Human Services (HHS). This agency is charged with auditing the States' compliance with their federally approved plans. Audits must occur at least once every three years, or more often if a State's performance falls below certain standards. § 652(a)(4). If a State does not "substantially comply" with the requirements of Title IV—D, the Secretary is authorized to penalize the State by reducing its AFDC grant by up to five percent. § 609(a)(8). The Secretary has interpreted "substantial compliance" as: (a) full compliance with requirements that services be offered statewide and that certain recipients be notified monthly of the support collected, as well as with reporting, recordkeeping, and accounting rules; (b) 90 percent compliance with case opening and case closure criteria; and (c) 75 percent compliance with most remaining program requirements. 45 CFR § 305.20 (1995). The Secretary may suspend a penalty if the State implements an adequate corrective action plan, and if the program achieves "substantial compliance," she may rescind the penalty entirely. 42 U. S. C. § 609(c) (1994 ed., Supp. II).*

*Justice O'Connor, delivered the opinion of the Court.*

*This case concerns a lawsuit brought by five mothers in Arizona whose children are eligible to receive child support services from the State pursuant to Title IV—D of the Social Security Act, as added, 88 Stat. 2351, and as amended, 42 U. S. C. §§ 651-669b (1994 ed. and Supp. II). These custodial parents sued the director of Arizona's child support agency under Rev. Stat. § 1979, 42 U. S. C. § 1983, claiming that they had an enforceable individual right to have the State's program achieve "substantial compliance" with the requirements of Title IV—D. Without distinguishing among the*

*numerous provisions of this complex program, the Court of Appeals for the Ninth Circuit held that respondents had such a right. We disagree that the statutory scheme can be analyzed so generally, and hold that Title IV—D does not give individuals a federal right to force a state agency to substantially comply with Title IV—D. Accordingly, we vacate and remand with instructions to remand to the District Court."*

**Walber v. Walber, 161 NW 2d 898 - Wis: Supreme Court 1968**

*"In cases involving family law, it is especially helpful to this court that adequate findings of fact are made. A trial court's duty only extends to finding ultimate facts upon which a judgment rests, Finkelstein v. Chicago & N. W. Ry. (1935), 217 Wis. 433, 259 N. W. 254, and there is no exception in the statute for divorce cases;"*

**STATEMENT OF THE ISSUES**

The circuit court case continues to make "temporary" orders without specific findings of fact that create an extreme amount of prejudice and violate fundamental liberty interests based on meritless claims advanced by the mother and her hostile attorney and the gender biased guardian ad litem. If the father vociferously argues or criticizes these temporary orders he is accused of harassment and "overtrial" even if it is constitutionally protected freedom of speech behavior such as inferring to a petition of grievances. Some of these "temporary" court orders have been in effect for over one year. The latest order (**Exhibit A**) was a judgement that contained criminal elements of overly vague "harassment" charges that was not proven beyond reasonable doubt and the father was denied the opportunity to testify or bring forth witnesses by the abusive Title IV-D **(Exhibit B)** underlying case official. Harassment charges in civil court are prescribed to have an injunction hearing and a separate complaint by Wisconsin Statute. The father currently has no injunctions ordered upon him. The underlying case continues to accuse of harassment without following due process of petitioning for an injunction. The underlying case made an overbroad and overly vague interpretation of the legal definition and standard of harassment and intimidation.

The father to this day has never harmed any person nor made any "True Threats" by the legal definition of Wisconsin Supreme Law. The underlying case has created so much prejudice against the father based on meritless claims advanced by the mother's attorney. How is the underlying case able to

take away so many fundamental liberty interests from a parent "Temporarily" in family law without affording due process and equal protections to find clear and convincing evidence?

**ORAL ARGUMENT**

I do believe that oral argument is necessary in this case since Wisconsin Family Law has become the modern-day version of the Salem, Massachusetts 17th century witch trials. These witch hunts were the exact reason that the 5th and 14th amendments were created in the Federal Constitution to protect people with due process. Also when a judge is this biased a citizen should have a right to trial by jury to keep the judge in check. So many parents are just trying to see their children and they are denied by judges that abuse their discretion making custody and child placement orders going beyond their judicial powers bound by statute.

Please let me be heard orally and do publish this case publicly. We need more awareness on the social injustice being performed in unlawful Title IV-D (**Exhibit B)** administrative corporate tribunals like Racine County Family Court that profit from Federally Awarded Child Support Enforcement Dollars (See Blessings v Freestone above) in creating non-custodial parents.

**STATEMENT OF THE CASE**

The disposition of the circuit court case is that it became highly contested due to the mother's unreasonable approach to the litigation by conspiring with family members to allege a completely baseless mental health diagnosis with no medical facts as evidence to support the diagnosis. Hearsay 3rd party affidavits were admitted into evidence where those 3rd parties were not present to be cross-examined in complete violation of the Rules of Evidence. Court findings were found without due process and the father was denied cross examination of these fraudulent and defamatory affidavits. The father has vociferously resisted these baseless and meritless allegations made by the mother advanced by her attorney. The father's resistance of baseless and embellished allegations has been found by the circuit court as overtrial and harassment. If the father does not subscribe to the complex corporate enterprise of coercive control by the circuit court they accuse him of harassment charges with criminal elements without respecting his due process criminal protection rights. The father has attempted 3 interlocutory appeals that challenged temporary orders that have no statutory basis in law and the

Wisconsin Court of Appeals was not persuaded despite clear and obvious violations of Wisconsin Supreme Law by the circuit court.

The status of the underlying case is that the mother is demanding an extreme amount of overbroad discovery that clearly goes beyond the scope of discovery allowed in the Wisconsin Statutes and the circuit court has violated privilege and forced the father to disclose his medical records to the other parties. The father cannot freely speak about his criticism of the unlawful court orders on social media or any other public platform or the court will put him in jail for speaking freely about the corruption of Racine County Court without making any TRUE THREATS as defined by Supreme Law. The circuit court has committed FUNDAMENTAL ERROR by accusing the father of harassment for conduct that is CONSTITUTIONALLY PROTECTED.

1. On July 2nd, 2021 the mother violated **Wisconsin Statute 940.31** and deceitfully removed the children from the State of Wisconsin and from their father. Mother also violated **Wisconsin Statute 948.31(2)** and withheld the children from their father against their will for over 30 days. There were no "True Threats" as defined by the legal standard made by the father. Nicole Huiras tortuously misrepresented the father and committed fraud to deprive the father of his constitutional right to care and custody of his children.

2. On or near July 15th, 2021 Nicole Huiras while residing in the State of Illinois violated the overtrial Doctrine and unreasonably approached this litigation by petitioning for a temporary custody order that deprived the father of his federal constitutional right to care and custody of his biological offspring. Her petitioned order DID NOT CONTAIN clear and convincing evidence as to why the father should be deprived of this constitutional right. Her attorney violated the Supreme Court Code of Conduct delaying the litigation and lobbied to push the court date for this temporary custody hearing out to October of 2021.

3. On or near August 25th, 2021 Nicole Huiras committed perjury and lied under oath submitting a defamatory and grossly mischaracterizing affidavit to the court that the father had a previous diagnosis of Schizophrenia. This medical diagnosis had no basis in fact and was contained medically false statements made by a lay witness. This fraudulent and misrepresenting affidavit of the lay witness contained no medical evidence or facts. She defamed the father's character per se by claiming many other baseless allegations. There was never any proof of a threat to bodily harm.

4. On August 26th, 2021 during the temporary custody hearing Commissioner Georgia Herrera allowed the mother's affidavit to be submitted into evidence without any cross examination. This was a clear violation of the Rule of Evidence made by the circuit court. The father attempted to cross examine the fraudulent affidavit, but Commissioner Georgia did not afford the father substantial due process or equal protections. Commissioner Georgia's salary **(Exhibit C and Exhibit D)** is significantly funded by Title IV-D (**Exhibit B**) Federal Child Support Enforcement Awards so therefore, she financially benefitted from removing the care and custody of the father's biological offspring. She removed the father's FUNDAMENTAL LIBERTY INTEREST with complete disregard for DUE PROCESS and EQUAL PROTECTIONS while gaining financially from the tortuous injury that she caused. An order was issued to garnish $1640/month in child support from the father's wages that violated substantial due process. The mother financially profited from her fraud and misrepresentation of the father.

5. On or near October 19th, 2021 before an attempted De Novo Review by the father the guardian ad litem in the underlying case attempted to practice psychology without a license and she submitted a letter to the court containing her lay witness medical opinion that the father was mentally unstable despite several medical documents submitted to her where doctor's labeled the father as mentally stable and functional. The female Guardian Ad Litem who is extremely biased towards mothers created an extreme amount of prejudice going into this critical De Novo Review. This was an act of intentional harm committed by Attorney Megan McGee Norris. She later indicated that she does not think white males with money are entitled to constitutional rights on court record.

6. On October 19th, 2021 the mother stipulated to supervised child placement and responding to Our Family Wizard messages within 24 hours. She also stipulated to share medical details about the children. The father stipulated to not harass the mother by the **LEGAL DEFINITION AND STANDARD** of harassment and intimidation.

7. On February 16th, 2022 after the Father completed 16 weeks of perfect score and always appropriate parenting demonstrating various parental skills, Kristin Cafferty violated Wisconsin Statute 767.225(1)(am) and removed all child contact from the father without any specific findings of fact or evidence via an unlawful "temporary" court order.

8. On February 16th, 2022 the guardian ad litem committed fraud and misrepresented the father's location on court record. The father was never near the guardian ad litem's home. She claimed to have video evidence of this and never submitted the evidence.

9. On March 1st, 2022 a Doctor of Psychology concluded that the father's mental health does not preclude him from parenting. To this day the circuit court has disregarded this psychological evaluation that they coerced the father into performing via threat of contempt of court and they refuse to admit this document into evidence. The official of the underlying case even quashed a subpoena submitted by the father where he attempted to have Dr. Kravit testify. THIS MEDICAL DOCUMENT PROVIDED CLEAR AND CONVINCING EVIDENCE that the FATHER IS FIT TO PARENT!!!

10. On or near March 10th, 2022 the Family Court Worker, Andrew Patch, committed fraud and alleged to the Racine police that he is the guardian ad litem in the underlying case. He used this misrepresentation to advance a meritless criminal claim that he felt intimidated by the father. He conspired with Racine County officials to maliciously prosecute the father by using his corporate counsel connections to create Wisconsin Criminal Case 2022CF000630. There are no facts to this case that constitute a crime. This case was created with the intention of draining funds from the father. It will cost the father $10,000 to retain a criminal trial attorney that any competent jury will find him innocent of this frivolous complaint. The commissioner of 2022CF000630 bound the case the trial with no legal basis to do so. Commissioner Alice Rudebusch's salary is partially funded by Title IV-D Federal Award dollars (**EXHIBIT D**).

11. On April 25th, 2022 the underlying case violated the father's constitutional right to be secure in his medical papers and they ordered another psychological evaluation to be performed by Dr. David Thompson. The judge violated Wisconsin Statute 804.01(2)(a) and ordered the father to turn over privileged medical documents to the guardian ad litem and mother's attorney without any clear and convincing evidence from a medical doctor that the father's mental health posed a danger to his children. The underlying court official only adjudicates based on how powerful the allegations are that come from mothers. She denies evidentiary hearings when mother's make baseless and meritless claims. This allows fraudulent attorneys like Jessica Grundberg to violate the Wisconsin Supreme Court Code of Conduct and advance meritless claims into unlawful "temporary" orders that create prejudice against fathers. The Wisconsin Court of Appeals

rarely is persuaded by Interlocutory appeals to protect parents from these unlawful "temporary" prejudicial orders that blatantly violate the Wisconsin Statutes.

12. On or near July 1st, 2022 during a court hearing Attorney Jessica Grundberg said that because she saw the number "10,000,000" on a 1099 TD Ameritrade tax statement that the father must be hiding $10,000,000. This is a meritless and baseless claim. The $10,000,000 number was trading volume over a year's worth of time and not an amount of dollars held at one moment. Surely an attorney that has a license to practice law would know this, but Jessica Grundberg again violated **SCR 20:3.1.** The judge advanced this meritless claim to freeze all the father's brokerage accounts and order the father to sign authorizations to give the mother access to all his bank accounts. This is clearly a 4th amendment federal constitutional violation that requires more evidence to a judge to make such an invasive order. Kristin Cafferty did not perform an evidentiary hearing to find fact. She accepts almost all hearsay from the mother and her attorney as facts without checking with experts. The underlying case continually violates the rules of evidence advancing hearsay into court findings.

13. On July 26th, 2022 after the father completed over 1,000 questions worth of personality tests and other evaluations in over 6 hours of time spent with Dr. David Thompson, he informed the father that he sees no issues with him parenting his children. The mother continues to delay this medical opinion from being submitted into evidence.

14. On August 29th, 2022 after the mother refused to acknowledge that Dr. David Thompson found the father **FIT TO PARENT** the Father criticized the mother via an Our Family Wizard message. The Father did not violate the legal definition or standard of harassment or intimidation. He did not threaten any bodily harm nor make any TRUE THREATS. He only invoked his freedom of speech and constitutionally protected right to petition a court of law via a lawsuit. Even if a mother feels intimidated by an inference to a lawsuit it is not intimidation by law. The courts are a peaceful way to resolve conflict.

15. On September 7th, 2022 without giving the father any chance to be heard on a meritless allegation advanced by Attorney Jessica Grundberg, Kristin Cafferty signed an order for arrest to the father. She was hoping that the father wasn't paying attention to his CCAP. The father caught this detail on his CCAP and reported this unlawful act by Kristin Cafferty to the

Wisconsin Judicial Commission. After she found out she was caught in her professional incompetence violating **SCR 60.04** Kristin Cafferty rescinded the order (**Exhibit E**) and apologized. The father was almost wrongfully put in jail yet again in the underlying case, but he paid attention to detail and is not going to let Racine County get away with this type of abuse. This meritless claim never was advanced any further.

16. On or Near September 16th, 2022 Attorney Jessica Grundberg violated the Wisconsin Supreme Court Code of Conduct by advancing a meritless claim through a professionally incompetent judge and attempted to prosecute the father for harassment without petitioning for an injunction hearing (Violation of **SCR 20:3.3**). She demanded $1500 and 30 days in jail with her accusation of harassment that contained criminal elements. She did not propose the $1500 to be remedial purge conditions. She proposed punitive sanctions without remediation without following the lawful process of filing a complaint.

17. On September 21st, 2022 Attorney Jessica Grundberg said on court record that her client has $60,000 in attorney fees "because of 3 interlocutory appeals" that they never responded to. This is an obvious misrepresentation. The truth of the matter is that the excessive attorney fees are due to the mother's unreasonable objections to increased child placement and asking for overbroad and unduly burdensome discovery demands. Also her client has made so many false allegations in this case that the father has had to spend a lot of time and energy resisting these baseless allegations.

Court Transcript 9/21/22

*MS. GRUNDBERG: There are many requests for attorney's fees. We are sitting at about $60,000 because three interlocutory appeals. We have been here many, many times.*
*MS. OWEN: We object to that.*
*MS. GRUNDBERG: If we're talking about all the attorney's fees, they are astronomical. Really the only thing that has changed since the last hearing the - the only thing that has changed is lots more attorney's fees with no additional progress.*

Attorney Grundberg made yet another blatant misrepresentation of the father saying "really the only thing that has changed since the last hearing" is attorney fees. The father took 2 days off work to complete the court

ordered psychological evaluation that the mother insisted on. See above in Fact #14

18. On September 21st, 2022 Judge Kristin Cafferty violated my fundamental liberty interest without substantial due process by charging me with harassment "nonsummary" contempt of court. She did not allow me to testify when I attempted to legally defend myself. She allowed the mother's attorney to prosecute the father for alleged conduct with criminal elements that happened outside the courtroom without a district attorney present. She referred to the Wisconsin Statute 813.125 definition of harassment but refused to follow the Due Process requirements prescribed by that statute. She attempted to wrongfully imprison the father for 30 days without remedial purge conditions.

Court Transcript 9/21/22

MR. HUIRAS: Am I allowed to testify?

THE COURT: No. I am not taking your testimony right now.

19. On September 21st, 2022 after this frivolous court order was about to be made by the official of the Title IV-D case, Kristin Cafferty, in violation of **SCR 60.04** the father vociferously spoke up and insisted that he was being charged with a violation that contained criminal elements therefore he deserved criminal protections. Only after this last-ditch attempt by the father where he demonstrated the circuit court's lack of professional competence on the difference between civil and criminal contempt did the family administrative Title IV-D tribunal that lacks subject matter in jurisdiction concede that there needed to be remedial purge conditions.

Court Transcript 9/21/22

THE COURT: The question then is whether Exhibit B constitutes harassment in violation of the court's order. The definition of "harassment" that I would argue is the best one to use in a circumstance such as this would be that which is used in restraining orders for harassment. Harassment is defined as follows under **813.125(1)(am)(4)** as striking, shoving, kicking or otherwise subjecting another person to physical contact. That's not alleged here or the other definitions under (a). Under (b) is engaging in a course of conduct or repeatedly committing acts which harass or intimidate another person and which serve no legitimate purpose. That was the behavior that Mr. Huiras was engaged in at the time a year ago 2021 and has engaged

in I find in Exhibit B. There has been no argument that this is not an accurate recitation of Our Family Wizard post that Mr. Huiras made on August 29, 2022.

**FACT: The OFW post was not intimidating because it doesn't meet the legal definition of intimidation imposed by the United States Supreme Court.** Also, the post did serve a legitimate purpose to vociferously advocate for the healing of the attachment injury between the children and their father as recommended by court ordered psychological expert Dr. Kravit.

**Virginia v. Black, 538 US 343 - Supreme Court 2003**

*"Intent to intimidate means the motivation to intentionally put a person or a group of persons in fear of bodily harm. Such fear must arise from the willful conduct of the accused rather than from some mere temperamental timidity of the victim." Id., at 146."*

Court Transcript 9/21/22

*THE COURT: You're going to have consequences for your behavior, Mr. Huiras, and it's going to stop and the only thing that I can do is put you in custody.*
*MR. HUIRAS: Where is the injunction hearing? There's no restraining order, there's no injunction.*
*THE COURT: It's your behavior that has put you here.*
*MR. HUIRAS: What are my conditions to get out?*
*THE COURT: This action is based on your violation of the court's order.*
*MR. HUIRAS: That's criminal contempt. That's punitive. You're being punitive. I'll read you the case. Can I read a case to you?*
*THE COURT: No, you can't.*
*MR. HUIRAS: United States Supreme Court, criminal contempt. Civil contempt only can be if there is a purge condition to get out. It's for me to satisfy a condition. This is unlawful. If you want to fine, I'll write the check. There's the fine. We're done.*

20. On September 21st, 2022 I was ordered punitive sanctions to jail for 30 days with a $1500 remedial purge condition with the contempt charge of harassment that contains criminal elements. The Racine County Jail called this $1500 a cash bond where the money went to the mother. The father sat in a filthy holding cell where unclean and miscellaneous food and garbage was laying around in the Racine County Jail for over 8 hours being wrongfully imprisoned. I continued to ask the police officers what was

taking so long to process this abusive court order. The officers said that jail orders do not process until the end of the day. They refused to let me purge my contempt by paying $1500 until they could strip search me and fingerprint me and violate my fundamental liberty interests. I finally was let out of jail 8 hours later after paying the unnecessary and excessive fine of $1500. This $1500 was transferred to the mother. The mother profited from the contempt charge of harassment that contained criminal elements without following the due process of filing a harassment injunction petition.

21. The abuse of discretion and fundamentally erroneous jail custody order made by Kristin Cafferty (**Exhibit A**) referred to a hearing by the court to be had on October 19th, 2022. There was no hearing on October 19th, 2022. This is among the many fundamental errors that have been made by this Judge in the trial court case. Undoubtedly, she will continue to violate the father's constitutional rights if she is not substituted from the underlying case.

22. On September 23rd, 2022 the father filed a prisoner complaint against Kristin Cafferty and Racine County in The Eastern District of Wisconsin Federal Court for Wrongful Imprisonment. The underlying case has become a Federal Issue **(28 U.S. Code § 1343)** since Kristin Cafferty acted under the Color of State of Wisconsin Law in her professional incompetence to deprive the father of fundamental liberty interests without due process.

**ARGUMENT #1 - THE CIRCUIT COURT MADE AN INCORRECT DISTINCTION OF CIVIL "NONSUMMARY" CONTEMPT. HARASSMENT HAS CRIMINAL ELEMENTS AND IS A PUNITIVE CHARGE. THEREFORE, THE CIRCUIT COURT DENIED THE FATHER'S CONSTITUTIONAL RIGHT TO DUE PROCESS AND CRIMINAL PROTECTIONS.**

The father was charged with criminal contempt of harassment without a formalized injunction hearing where the court erroneously called it "nonsummary" civil contempt. These were punitive sanctions made by the trial court. As stated in Wisconsin Statute 785.03(1)(b) the district attorney should be present for these proceedings and there was no district attorney present on September 21st, 2022 to charge me with harassment. The defendant to these charges should be allowed to defend himself by testifying and bringing forth witness. The trial court refused to afford the father due process and equal protections.

*"Section 939.12, Stats., states in part: "A crime is conduct which is prohibited by state law and punishable by fine or imprisonment or both." (Emphasis added.) Thus, two elements define crimes: (1) conduct prohibited by state law, (2) which is punishable by fine, or imprisonment, or some combination thereof.*

*Carpenter was sanctioned for contempt under sec. 785.04(2)(a), Stats., which provides: "A court, after a finding of contempt of court in a nonsummary procedure under s. 785.03(1)(b)[, Stats.], may impose for each separate contempt of court a fine of not more than $5,000 or imprisonment in the county jail for not more than one year or both." (Emphasis added.) Both elements of the definition of a crime are satisfied: (1) Carpenter engaged in conduct prohibited by law; and (2) his contumacious conduct was subject to imprisonment, a fine, or both.*[2]

*The legislature might have chosen to define crimes by reference to the nature of the proceeding rather than the resulting punishment, but it did not. I conclude that Carpenter's sanction fits the definition of a crime and that his penalty should be subject to enhancement under sec. 939.62, Stats.*

*Moreover, the nature of nonsummary punitive contempt is distinctly criminal. A complaint is required. Section 785.03, Stats. The proceedings are conducted pursuant to Wisconsin's code of criminal procedure. Section 785.03(1)(b), Stats., provides: "The complaint shall be processed under chs. 967 to 973." Chapters 967 to 979 govern all criminal proceedings. Section 967.01, Stats. The contemnor is entitled to notice of the charges and has a right to prepare and present a defense. Cooke v. United States, 267 U.S. 517 (1925). The contemnor is entitled to a hearing before an unbiased judge. Mayberry v. Pennsylvania, 400 U.S. 455 (1971). There is a presumption of innocence until proven guilty beyond a reasonable doubt.*

*It is illogical to believe that the legislature expressly provided the full panoply of rights afforded criminal defendants in sec. 785.03(1)(b), Stats., yet intended to exclude the resulting punitive sanctions from operation of the repeater statute, sec. 939.62, Stats. Indeed, Martineau states: "The Wisconsin Judicial Council, as a matter of policy, saw no reason to continue to treat persons charged with contempt differently from those charged with ordinary crimes." 50 CINCINNATI L. REV. at 697-98.*[3] *Presumably this includes application of the repeater statute, where appropriate, to contempt convictions.*

*Thus, I find nothing in the legislative history of ch. 785, Stats., suggesting that the contempt statutes should not be subject to sec. 939.62, Stats. Carpenter has repeatedly and contumaciously failed to support his children, flouting the inherent power of the Clark County Circuit Court. His sentence, as determined by that court, is a "crime" subject to penalty enhancement. "If such acts are not criminal, we are in error as to the most fundamental characteristic of crimes as that word has been understood in English speech." Gompers, 233 U.S. at 610.”*

**Frisch v. Henrichs, 736 NW 2d 85 - Wis: Supreme Court 2007**

*“A punitive sanction is "imposed to punish a past contempt of court for the purpose of upholding the authority of the court." Wis. Stat. § 785.01(2). "A court issuing a punitive sanction is not specifically concerned with the private interests of a litigant." **Diane K.J. v. James L.J., 196 Wis.2d 964, 969, 539 N.W.2d 703 (Ct.App.1995).** A punitive sanction requires that a district attorney, attorney general, or special prosecutor formally prosecute the matter by filing a complaint and following the procedures set out in the criminal code. Wis. Stat. § 785.03(1)(b).”*

*“A remedial sanction, on the other hand, is civil and is "imposed for the purpose of terminating a continuing contempt of court." Wis. Stat. § 785.01(3) (emphasis added).[16] Remedial contempt is concerned with the private interests of the litigant and is "designed to force one party to accede to another's demand." See **State v. King, 82 Wis.2d 124, 130, 262 N.W.2d 80 (1978**). A person aggrieved by another person's contempt may file a motion for imposition of a remedial sanction for the contempt, and the court may impose an authorized sanction. Wis. Stat. § 785.03(1)(a). Remedial sanctions may include imprisonment, forfeitures, and "[p]ayment of a sum of money sufficient to compensate a party for a loss or injury suffered by the party as the result of a contempt of court." Wis. Stat. § 785.04(1)(a), (b), and (c).”*

**State ex rel. VJH v. CAB, 472 NW 2d 839 - Wis: Court of Appeals 1991**

*“A contemnor whose liberty interests are at risk must be given an opportunity to show the court that the failure to comply with purge conditions was not willful and intentional.”*

*"the trial court erred when it held that, before being jailed, C.A.B. was not to be given the chance to explain his failure to fulfill the purge condition that he stay current in his weekly future support obligation."*

**IN RE MARRIAGE OF LARSEN, 465 NW 2d 225 - Wis: Court of Appeals 1990**

*"Purge conditions must reasonably relate to the cause or nature of the contempt."*

-Wisconsin Court of Appeals

**Nye v. United States, 313 US 33 - Supreme Court 1941**

*"We do not think this was a case of civil contempt. We recently stated* ***in McCrone v. United States, 307 U.S. 61, 64,***

*"While particular acts do not always readily lend themselves to classification as civil or criminal contempts, a contempt is considered civil when the punishment is wholly remedial, serves only the purposes of the complainant, and is not intended as a deterrent to offenses against the public."*

*The facts of this case do not meet that standard. While the proceedings in the District Court were entitled in Elmore's action and the United States was not a party until the appeal, those circumstances though relevant (****Gompers v. Bucks Stove & Range Co., 221 U.S. 418, 445-446****) are not conclusive as to the nature of the contempt. The fact that Nye was ordered to pay the costs of the proceeding, including $500 to Guthrie, is also not decisive. As Mr. Justice Brandeis stated* ***in Union Tool Co. v. Wilson, 259 U.S. 107, 110,***

*"Where a fine is imposed partly as compensation to the complainant and partly as punishment, the criminal feature of the order is dominant and fixes its character for purposes of review." The order imposes unconditional fines payable to the United States. It awards no relief to a private suitor. The prayer for relief[8] and the acts charged[9] carry the criminal hallmark."*

-United States Supreme Court

**ARGUMENT #2 - THE CIRCUIT COURT MADE AN OVERBROAD AND OVERLY VAGUE INTERPRETATION OF THE LEGAL DEFINITION AND STANDARD OF HARASSMENT/INTIMIDATION.**

It is not harassment to criticize a mother for intentionally injuring the attachment between her children and their father. There is serious psychological damage being done to the children by the mother abusing unconstitutional family Title IV-D complex corporate enterprise procedures to injure the children. The father invoking his freedom of speech constitutionally protected right to file a petition to the mother is not a threat to bodily harm. The legal definition and standard of harassment through intimidation in **Wisconsin Statute 813.125** must be that the threat is to bodily harm. The underlying case made a court finding that the father intimidated the mother when the official of the underlying case said on court record that she did not feel that the statement made on Our Family Wizard was a threat to bodily harm. This was clearly erroneous. The legal standard definition of intimidation is to use the threat of bodily harm. This was a fundamental error made by the circuit court on the legal definition of intimidation. Statutes should be interpreted exactly as written. Overbroad and vague interpretations of the law almost always lead to violations of fundamental liberty interests. Judicial Powers are bound by statute. The official of the underlying case went beyond judicial powers therefore the order is constitutionally void and the circuit court has lost jurisdiction.

**Derleth v. Cordova, 841 NW 2d 552 - Wis: Court of Appeals 2013**

*"The court explained, "`in Wisconsin it has long been held that the courts of this state have no common-law jurisdiction over the subject of divorce and that their authority is confined altogether to such express and incidental powers as are conferred by statute (citing cases). Such is undoubtedly the law.'" Id. at 122-23, 327 N.W.2d 655 (**quoting Dovi v. Dovi, 245 Wis. 50, 55, 13 N.W.2d 585 (1944**)). Further, "where the legislature has set forth a plan or scheme as to the manner and limitation of the court's exercise of its jurisdiction, that expression of the legislative will must be carried out and power limitations adhered to." Id. at 123, 327 N.W.2d 655."*

**Bachowski v. Salamone 139 Wis 2d 397**

*The definition of harassment further requires that the harassing and intimidating acts "serve no legitimate purpose." This is a recognition by the*

*legislature that conduct or repetitive acts that are intended to harass or intimidate do not serve a legitimate purpose. Whether acts or conduct are done for the purpose of harassing or intimidating, rather than for a purpose that is* ***PROTECTED*** *or permitted by law, is a determination that must of necessity be left to the fact finder, taking into account all the facts and circumstances. See Model Penal Code sec. 250.4 comment 5, 368 (1980)*

**FACT: Inferring to a lawsuit is a constitutional protected freedom of speech activity. It had the specific lawful purpose for the Father to assert his FUNDAMENTAL LIBERTY INTERESTS to a court of law.**

**Wittig v. Hoffart, 704 NW 2d 415 - Wis: Court of Appeals 2005**

*"By using the phrase "true threats" and by reference to the decision, the trial court incorporated and applied the constitutional limitations on the punishment of speech recognized by Perkins. Perkins explained: "Only a `true threat' is constitutionally punishable under statutes criminalizing threats. The phrase `true threat' is a term of art used by courts to refer to threatening language that is not protected by the First Amendment." Id., 2001 WI 46, 17, 243 Wis. 2d at 151, 626 N.W.2d at 767."*

**Hartman v. Moore, 547 US 250 - Supreme Court 2006**

*"Official reprisal for protected speech "offends the Constitution [because] it threatens to inhibit exercise of the protected right," Crawford-El v. Britton, 523 U. S. 574, 588, n. 10 (1998), and the law is settled that as a general matter the First Amendment prohibits government officials from subjecting an individual to retaliatory actions, including criminal prosecutions, for speaking out, id., at 592; see also Perry v. Sindermann, 408 U. S. 593, 597 (1972) (noting that the government may not punish a person or deprive him of a benefit on the basis of his "constitutionally protected speech"). Some official actions adverse to such a speaker might well be unexceptionable if taken on other grounds, but when nonretaliatory grounds are in fact insufficient to provoke the adverse consequences, we have held that retaliation is subject to recovery as the but-for cause of official action offending the Constitution. See Crawford-El, supra, at 593; Mt. Healthy City Bd. of Ed. v. Doyle, 429 U. S. 274, 283-284 (1977) (adverse action against government employee cannot be taken if it is in response to the employee's "exercise of constitutionally protected First Amendment freedoms"). When the vengeful officer is federal, he is subject to an action for damages on the authority of Bivens. See 403 U. S., at 397."*

**California Motor Transport Co. v. Trucking Unlimited, 404 US 508 - Supreme Court 1972**

*"The right of petition is one of the freedoms protected by the Bill of Rights, and we cannot, of course, lightly impute to Congress an intent to invade these freedoms." Id., at 138. We followed that view in* ***United Mine Workers v. Pennington, 381 U. S. 657, 669-671.*** *The same philosophy governs the approach of citizens or groups of them to administrative agencies (which are both creatures of the legislature, and arms of the executive) and to courts, the third branch of Government. Certainly the right to petition extends to all departments of the Government. The right of access to the courts is indeed but one aspect of the right of petition. See* ***Johnson v. Avery, 393 U. S. 483, 485; Ex parte Hull, 312 U. S. 546, 549.***"

-United States Supreme Court

*"The First Amendment of the United States Constitution protects the right to freedom of religion and freedom of expression from government interference. It prohibits any laws that establish a national religion, impede the free exercise of religion, abridge the freedom of speech, infringe upon the freedom of the press, interfere with the right to peaceably assemble, or prohibit citizens from* ***PETITIONING FOR A GOVERNMENTAL REDRESS OF GRIEVANCES.*** *It was adopted into the Bill of Rights in 1791. The Supreme Court interprets the extent of the protection afforded to these rights. The First Amendment has been interpreted by the Court as applying to the entire federal government even though it is only expressly applicable to Congress. Furthermore, the Court has interpreted the Due Process Clause of the Fourteenth Amendment as protecting the rights in the First Amendment from interference by state governments."*

**CONCLUSION**

The underlying Title IV-D corporate and administrative case continually profits in Title IV-D Federal Child Support Enforcement Awards by antagonizing the father and violating his fundamental liberty interests with unlawful "temporary" court orders that have no basis in fact and conclusion of law. The father attempting to resist and criticize these unlawful acts that go beyond judicial powers is deemed as harassment and contempt of court with punitive sanctions without following due process prescribed in the Wisconsin Statutes for "nonsummary" contempt. The **Exhibit A** court order violated the father's fundamental liberty interests by sanctioning the father for constitutionally

protected speech and therefore was **FUNDAMENTAL ERROR.** A fundamental error occurs whenever there is a failure to prove beyond a reasonable doubt every element of the charged offense. A fundamental error occurs whenever a defendant stands convicted of conduct that is not criminal.

It is a Federally protected freedom of speech right to petition grievances to a court of law. I can freely speak about the right to petition my grievances to anyone. I have freedom of access to the courts to peacefully resolve issues.

The circuit court continues to deprive the father of his constitutional rights maliciously and intently as each month that they delay the underlying case they receive $1640 more per month in Federal Title IV-D Child Support Enforcement Awards for garnishing the father's wages through their complex corporate enterprise.

Title IV-D Child Support was never enacted into Positive Law. It is only forced upon by abusive circuit courts by creating prejudice and coercive control through "temporary" orders that have very little if any statutory basis in fact.

Courts are constituted by authority, and they cannot go beyond that power delegated to them. If they act beyond that authority, and certainly in contravention of it, their judgments and orders are regarded as nullities; they are not voidable, hut simply void, and this even prior to reversal. See United States Supreme Court Case, **Williamson vs Berry, R Mow. 945, 540 12 L. F,d. 1170, 1 189(1X50).**

**RELIEF REQUESTED**

- In pursuant to relief on this appeal I ask that the court finding of contempt for harassment is removed and remanded.

- I request that all court orders made related to this contempt of court charge be VACATED and the excessive and unnecessary $1500 fine be refunded to the father plus punitive damages be assessed at an amount determined by the above titled court.

- I request for Declaratory and Injunctive relief from the above titled court that the father does have a fundamental liberty interest in care

and custody of his biological offspring. This cannot be taken away without clear and convincing evidence. Accusing the father of harassment when he attempts to peacefully assert constitutional rights via a petition is abuse of discretion and fundamental error by the trial court.

- I move the above titled court to STRIKE all documentation on court record related to this contempt charge because it has no legal basis.

- I request that all attorney fees related to this frivolous contempt of court order made by the circuit court be casted upon the circuit court.

**Jandrt v. Jerome Foods, Inc., 597 NW 2d 744 - Wis: Supreme Court 1999**

*"Next, it should allow fees and expenses that are attributable only to the "frivolous" continuation of the common law claims. Finally, in fashioning the award, the circuit court should consider JFI's duty of mitigation. As the majority quoted, "A party having vigorously resisted a baseless claim may therefore find that the court, in making an award, will consider its expenditures to have been excessive." Majority op. at 578 (citing Brown v. Federation of State Medical Boards of U.S., 830 F.2d 1429, 1439 (7th Cir. 1987)."*

- I also request the above titled court to disqualify the professionally incompetent (**SCR 60.04**) Kristin Cafferty from the case. This is one of many fundamental errors that she has made. She continues to be in violation of **Wisconsin Statute 767.225(1)(am)** by refusing to explain with a specific finding of fact as to why she has removed all child contact from the father. The Father attempted to get relief from that "temporary" order in Wisconsin Appeals Case 2022AP000373, but the Wisconsin Court of Appeals is rarely persuaded by interlocutory appeals. This gives circuit court judges a license to violate fundamental liberty interests without due process because it is only "Temporary". Temporary could be for years at the pace that the underlying case is going. With an open Federal Complaint open on Kristin Cafferty as the defendant and the father as a plaintiff, there is no possible way that she can be neutral.

**Ward v. Monroeville, 409 US 57 - Supreme Court 1972**

*"Respondent also argues that any unfairness at the trial level can be corrected on appeal and trial de novo in the County Court of Common Pleas. We disagree. This "procedural safeguard" does not guarantee a fair trial in the mayor's*

*court; there is nothing to suggest that the incentive to convict would be diminished by the possibility of reversal on appeal. Nor, in any event, may the State's trial court procedure be deemed constitutionally acceptable simply because the State eventually offers a defendant an impartial adjudication. Petitioner is entitled to a neutral and detached judge in the first instance.[2] Accordingly, the judgment of the Supreme Court of Ohio is reversed and the case is remanded for further proceedings not inconsistent with this opinion.*

*It is so ordered."*

**IN RE MARRIAGE OF MURRAY v. Murray, 383 NW 2d 904 - Wis: Court of Appeals 1986**

*"Due process requires that a neutral and detached judge preside over any civil or criminal action or proceeding. State v. Washington, 83 Wis.2d 808, 833, 266 N.W.2d 597, 609 (1978). See also sec. 757.19, Stats.;[2] State v. Asfoor, 75 Wis.2d 411, 436, 249 N.W.2d 529, 540 (1977). If the judge evidences a lack of impartiality, whatever its origin or justification, the judge cannot sit in judgment. Washington at 833, 266 N.W.2d at 609. Whether the judge has evidenced a lack of impartiality is a question of law; therefore, our review is de novo. Cf. State v. Walberg, 109 Wis.2d 96, 104-05, 325 N.W.2d 687, 692 (1982)."*

- I also request the above titled court disqualify Attorney Jessica Grundberg from the underlying case. She will continue to advance baseless and meritless claims if she continues.

- I also request the above titled court to disqualify Attorney Megan McGee Norris as the guardian ad litem of the underlying case. She committed fraud upon court record and lied about the father's location on February 16th, 2022. She only acts in Best Interest of her Ward that she serves. She has no interest in child psychology. Her psychological assessments of the father have no medical basis. She continues to obstruct medical evidence that the father is mentally fit to parent.

- I also request that the above titled court restrain Family Court Worker, Andrew Patch, from any further involvement in the case. Kristin Cafferty insists that Andrew Patch should be able to testify as a witness even after he committed fraud and claimed he was the guardian ad litem to the Racine District Attorney via a criminal complaint that was advanced in an act of malicious prosecution by Racine County.

- I request the above titled court to DISMISS the circuit court case 2021FA000592 and VACATE all orders made in the underlying action. There has been so much prejudice created against the father without any clear and convincing evidence that there is a near zero chance of a fair trial. The mother has deceitfully trafficked the father's children from Wisconsin to the State of Illinois and has made it evident that she wants to live in the State of Illinois going forward.

Finally, I request the above titled court to provide any other relief that deems just, proper, and equitable.

**VERIFICATION**

I, Nathan J Huiras, declare under penalty of perjury that the foregoing is true and correct.

Respectfully Amended on this 5th Day of December 2022

Nathan J Huiras
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