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PETER A. MOORE, JR., CLERK
US DISTRICT COURT, EDNC
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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA

MICHAEL SCOTT DAVIS and
STETSON MANSFIELD WEBSTER,

PLAINTIFFS,

CASE NO. 5:24-cv-440-FL

v.

BRIAN RATLEDGE, JENNIFER BEDFORD,
JULIE BELL, AND DAMION MCCULLERS,
IN THEIR OFFICIAL AND INDIVIDUAL
CAPACITIES AS DISTRICT COURT
JUDGES,

DEFENDANTS.

MEMORANDUM OF LAW IN SUPPORT OF COMPLAINT
FOR CIVIL RIGHTS VIOLATIONS UNDER 42 U.S.C. § 1983

Michael Scott Davis, Plaintiff, Pro Se

Stetson Mansfield Webster, Pro Se

Date: July 30, 2024

Re: Comprehensive Legal Analysis of Case, including Potential Counterarguments,
Rebuttals, and Suggested Remedial Actions

INTRODUCTION

This memorandum of law accompanies the Civil Rights Complaint under 42 U.S.C. § 1983 filed by Michael Scott Davis and Stetson Mansfield Webster (hereafter "Plaintiff Davis" or "Mr. Davis") and "Plaintiff Webster" (hereafter "Plaintiff Webster" or "Mr. Webster") respectively. It provides a detailed legal examination of the constitutional violations by state actors within the Wake County trial court, including the Honorable Brian Ratledge, and the Honorable Jennifer Bedford, as well as the Honorable Julie Bell, and the Honorable Damion

McCullers, focusing on the undermining of Plaintiff Davis' and Plaintiff Webster's Fourteenth Amendment rights.

IMPLICATIONS FOR CIVIL RIGHTS

The actions by the defendants, performed under the color of state law, contributed to the due process violations experienced by both plaintiffs. By engaging in conduct that disregarded due process and the plaintiffs' constitutional rights, these judicial officers highlighted systemic issues within the Wake County judicial system. This federal civil rights complaint seeks to address and rectify the unconstitutional processes and procedural misconduct that affected the integrity of judicial proceedings and violated constitutional protections without challenging the legitimacy of the judgments themselves.

This memorandum is confined to examining the procedural violations and constitutional breaches that occurred during these legal proceedings. It articulates the need for judicial redress and appropriate remedies without seeking to revisit factual determinations of the state court cases. This memorandum highlights the infringements of Mr. Davis' and Mr. Webster's individual rights and demonstrates a broader pattern of deviation from established legal standards that warrants federal court intervention.

This memorandum also acknowledges the attempted state remedies and the actions of the North Carolina Judicial Standards Commission (NCJSC), noting their failure to address the constitutional violations at issue. For detailed reference to the issues and supporting evidence, please see the list of exhibits and citations at the end of each issue.

ISSUES: PLAINTIFF MICHAEL SCOTT DAVIS

I. Civil Rights Violations: Excessive Procedural Delays

A. DETAILED ANALYSIS:

1.1. Trial Court (Systemic):

- a. **Due Process and Timeliness:** The time between filing and hearing Mr. Davis's Rule 60(b) motion spanned nearly two years (728 days), and the Motion to Modify, four years (1,409 days). This far exceeds the 270-day guideline as per the Tenth Judicial District Family Court Rules. These delays, with no mitigating circumstances, represent

- a breach of due process, depriving Mr. Davis of his right to prompt and fair trials. See Tenth Judicial District Family Court Rules for Domestic Court, Rules 1.3, 5, 5.1, and 6.
- b. **Impact of Delay:** The durations of these delays have adversely affected Mr. Davis and his child’s welfare, creating undue financial and emotional burdens and conflicting with the principals of justice and due process. See Tenth Judicial District Family Court Rules for Domestic Court, Rules 1.3, 5, 5.1, and 6.
- 1.2. **Exhaustion of State Remedies:** Plaintiff Davis sought to address these issues through state-level remedies, including filing relevant motions and complaints. Despite these efforts, the civil rights violations were not remedied. See Exhibits D01 (North Carolina Court of Appeals (hereafter “NCCOA”) Order), p.4, ¶4; Exhibit D23 (North Carolina Supreme Court ((hereafter “NCSC”)) Denial).
- 1.3. **Further Attempts at Relief:** A complaint with substantial and clear evidence of due process violations was submitted to the NCJSC. Despite their acknowledgment on July 28, 2023, the NCJSC responded on September 5, 2023, stating no improper actions occurred and no action would be taken. See Exhibit D23 (NCJSC letter and response).
- 1.4. **Necessity of Federal Intervention:** Given the significant constitutional violations and lack of remedy, federal court intervention is necessary to protect Plaintiff Davis’s civil rights.
- 1.5. **Constitutional Violations:** The actions of state officials within the Wake County trial court system constitute violations of the Plaintiff Davis’s constitutional rights, specifically U.S. Const. amend. XIV; N.C. Const. art I, § 19, (‘Law of the Land’ clause).
- 1.6 **Conclusion:** The delays in hearing Mr. Davis’s Rule 60(b) and Motion to Modify motions far exceeded the Tenth Judicial District Family Court Rules 270-day guideline, taking 728 and 1,409 days, respectively, and have had repercussions beyond the issues themselves. As demonstrated in *Marshall v. Lonberger*, due process protected under the Fourteenth Amendment and the North Carolina Constitution is compromised when necessary procedural steps are overlooked. The prolonged delays adversely impacted the fairness and integrity of the legal process, affecting Plaintiff Davis’s ability to present his case and receive a fair hearing. This overreach of judicial discretion warrants corrective measures under 42 U.S.C. § 1983. See *Marshall v. Lonberger*, 459 U.S. 422 (1983); Tenth Judicial District Family Court Rules for Domestic Court, Rules 1.3, 5, and 6.

B. POTENTIAL COUNTERARGUMENTS AND REBUTTALS:

1.1. **Anticipated Counterargument:** The delays were due to procedural issues, stemming from a heavy caseload and the complexities of the case.

1.2. **Rebuttal:**

- a. **Impact on Rights:** Regardless of a case's complexity, the trial court's delays compromised Plaintiff Davis's right to a reasonably timely and fair hearing. These delays, resulting from the failure to follow due process as guaranteed by the Fourteenth Amendment and Article I of the North Carolina Constitution, significantly exceeded the Tenth Judicial District Family Court Rules timelines for the hearing and disposing of cases, causing several issues. These issues include impact on the child's welfare, financial hardship, legal uncertainty, undue stress, and unaddressed substantial changes in circumstances. See Tenth Judicial District Family Court Rules for Domestic Court, Rules 1.3, 5, 5.1, and 6; U.S. Const. amend. XIV; N.C. Const. art. I, § 19 ('Law of the Land' clause).
- b. **Exhaustion of State Remedies:** Plaintiff Davis sought to address these issues through state-level remedies, including filing relevant motions and complaints. Despite these efforts, the civil rights violations were not remedied. See Exhibits D01 (North Carolina Court of Appeals (hereafter "NCCOA") Order), p.4, ¶4; Exhibit D23 (North Carolina Supreme Court ((hereafter "NCSC")) Denial).
- c. **NCJSC Response:** Plaintiff Davis also sought remedies through the North Carolina Judicial Standards Commission. N.C. Gen. Stat. § 7A-374.1 et seq. mandates that the NCJSC investigate and recommend disciplinary actions when substantial evidence is presented, which the NCJSC failed to do.

C. SUGGESTED REMEDIAL ACTIONS:

1.1. **Declaratory Judgement:** A declaration that Plaintiff Davis's constitutional rights were violated.

1.2. **Appropriate Compensation to Plaintiff Davis** The Plaintiff, Mr. Davis, be awarded financial compensation for the substantial expenses and considerable time incurred due to the extended duration of the litigation. This compensation addresses the impacts including but not limited to the child's welfare, financial strain, uncertainty, and stress related to legal proceedings, substantial changes in circumstances, and breaches of procedural rights.

1.3. **Injunctive Relief:** For comprehensive relief addressing the procedural delays, including compensation, see the Consolidated Injunctive Relief section.

D. **ALL SUPPORTING SOURCES:** Tenth Judicial District Family Court Rules for Domestic Court, Rules 1.3, 5, 5.1, and 6, Exhibit D01 (NCCOA Order), p.3, ¶3; Exhibit D01 (NCCOA Order), p.4, ¶4; Exhibit B (Permanent Custody Order), p.8, ¶45; p.11, ¶63, ¶64, ¶65; Exhibit V (NCSC Order); Exhibit W (NCJSC Decision); U.S. Const. amend. XIV; N.C. Const. art. I, § 19 (‘Law of the Land’ clause); N.C. Gen. Stat. § 7A-374.1 et seq.; *Marshall v. Lonberger*, 459 U.S. 422 (1983); N.C. Gen. Stat. § 7A-374.1 et seq.

II. Civil Rights Violations: Reviewing Plaintiff Davis 's Motion to Address Prior Order Errors

A. DETAILED ANALYSIS:

1.1. Trial Court Level Attempts at Relief:

a. **Professional (Official) Capacity—Due Process Violation:** During the March 2, 2022 hearing, Judge Ratledge stated on the record he had not reviewed Mr. Davis’s Rule 60(b) motion prior to the hearing, stating he would deduct it from Mr. Davis’s time. Due to the extensive matters scheduled that day, proceeding as planned would have limited his ability to address the second issue at hand and offered no solution to ensure Mr. Davis could adequately present his case before a decision was made.

This lack of due process prevented Mr. Davis from fully presenting his case and relevant evidence. This deprivation has allowed unsubstantiated prejudicial findings in the referenced order to go unaddressed, remaining as though they are settled fact with the implication of proper due process having been applied.

This is analogous to concerns highlighted in *Marshall v. Lonberger*, 459 U.S. 422 (1983), where the court emphasized the significance of evidence consideration in due process. See Exhibit D01 (NCCOA Order), p.5-¶3-p.6 ¶1, Exhibit E (Plaintiff Davis’s Rule 60(b) Motion), p 1-9; *Marshall v. Lonberger*, 459 U.S. 422 (1983).

1.2. **Exhaustion of State Remedies:** Plaintiff Davis sought to address these issues through state-level remedies, including filing relevant motions and complaints. Despite these efforts, the civil rights violations were not remedied. See Exhibit D01 North Carolina Court of Appeals (hereafter “NCCOA”) Opinion; Exhibit D23 North Carolina Supreme Court

(hereafter “NCSC”) Denial. See Exhibit D01 (NCCOA Ruling), p.11, ¶2-p.12, ¶2; Exhibit D (Mar. 2, 2022), T: p. 21:1-p. 22:11; Exhibit D23 (NCSC Denial)

- 1.3. **Further Attempts at Relief:** A complaint with substantial and clear evidence of due process violations was submitted to the NCJSC. Despite their acknowledgment on July 28, 2023, the NCJSC responded on September 5, 2023, stating no improper actions occurred and no action would be taken. N.C. Gen. Stat. § 7A-374.1 et seq. mandates that the NCJSC investigate and recommend disciplinary actions when substantial evidence is presented, thus failing to fulfill its statutory duty to act. See Exhibit D23 (NCJSC letter and response).
- 1.4. **Necessity of Federal Intervention** Given the significant constitutional violations and lack of remedy, federal court intervention is necessary to protect Plaintiff Davis’s civil rights.
- 1.5. **Constitutional Violations:** The actions of a state official within the Wake County trial court system constitutes violations of the Plaintiff Davis’s constitutional rights, specifically U.S. Const. amend. XIV; N.C. Const. art I, § 19, (‘Law of the Land’ clause).
- 1.6. **Conclusion:** The NCJSC’s failure to act and trial court’s failure to correct the due process violations violates both U.S. Const. amend. XIV; N.C. Const. art. I, § 19 (‘Law of the Land’ clause) and *Coble v. Coble*, 300 N.C. 708 (1980) (Clear link between evidence and findings, conclusions of law and judgments). *Marshall v. Lonberger* establishes the crucial role of evidence review for fair procedures, overlooked in this situation. This warrants corrective measures under 42 U.S.C. § 1983 and a referral under 18 U.S.C. § 242 for deprivation of rights under color of law. See and *Coble v. Coble*, 300 N.C. 708 (1980); *Marshall v. Lonberger*, 459 U.S. 422 (1983); N.C. Gen. Stat. § 7A-374.1 et seq.

B. POTENTIAL COUNTERARGUMENTS AND REBUTTALS:

- 1.1. **Anticipated Counterargument:** The courts were operating within their scope of judicial discretion.
- 1.2. **Rebuttal:** Judicial discretion must align with fairness, evidence-based decisions, and due process. In this case, the trial court exceeded these limits, leading to significant due process violations. The trial court admitted it did not review Plaintiff Davis’s motion and failed to offer or apply a suitable remedy before denying it, leaving unaddressed and baseless claims within the motion to stand as fact. These claims include financial misconduct, undisclosed child injury, and improper behavior, with potential civil and criminal consequences.

Additionally, the trial court explicitly acknowledged on the record that it had not reviewed Mr. Davis's motion prior to the hearing. Although given an opportunity to argue the motion verbally, this occurred without Judge Ratledge first engaging with the detailed written arguments and evidence it contained. This forced Mr. Davis to choose between losing time for necessary review or addressing additionally scheduled issues for that day. Deciding on the motion without a reasonable review of its contents deprived Mr. Davis of a meaningful opportunity to present his case.

This conflicts with due process requirements guaranteed by the Fourteenth Amendment, the N.C. Constitution Article I, 'Law of the Land' clause, and is supported by *Knight v. Miami-Dade* (Judicial action without factual basis violates due process), Article III, Section 2 of the U.S. Constitution, the principles of stare decisis, and 18 U.S.C. § 242. Furthermore, the trial court's failure to follow procedural rules outlined in N.C. Gen. Stat. § 1A-1 and N.C. R. Civ. P. 60(b) underscores the need for corrective action under 42 U.S.C. § 1983. See Exhibit D (Mar 2, 2022), T: p.8:19-22; Exhibit D01, (NCCOA Order), p.5-¶3-p.6 ¶1; Exhibit C, (Appellant's Brief), p.16, ¶1-2; Exhibit B, (Permanent Custody Order), p.8, ¶45; 11, ¶63, ¶64, ¶65; *Knight v. Miami-Dade County*, 856 F.3d 795 (11th Cir. 2017); *Coble v. Coble*, 300 N.C. 708 (1980); *Marshall v. Lonberger*, 459 U.S. 422 (1983); N.C. Gen. Stat. § 7A-374.1 et seq.

- 1.3. **Exhaustion of State Remedies:** Plaintiff Davis sought to address these issues through state-level remedies, including filing relevant motions and complaints. Despite these efforts, the civil rights violations were not remedied. See Exhibits D01 North Carolina Court of Appeals (NCCOA) Opinion; D23 North Carolina Supreme Court (NCSC) Denial. See Exhibit D01(NCCOA Order), p.5-¶3-p6 ¶1; Exhibit D22 (NCSC Denial); Exhibit D03 (Appellant's Brief), p.16, ¶1-2; Exhibit D04 (Mar. 2, 2022), T: p. 21:1-p. 22:11; *Marshall v. Lonberger*, 459 U.S. 422 (1983); *Knight v. Miami-Dade County*, 856 F.3d 795 (11th Cir. 2017).
- 1.4. **Further Attempts at Relief:** A complaint with substantial and clear evidence regarding this issue was submitted to the NCJSC, focusing on civil rights violations. Despite acknowledgment on July 28, 2023, the NCJSC responded on September 5, 2023, stating no improper actions occurred and no action would be taken. N.C. Gen. Stat. § 7A-374.1 et seq. mandates that the NCJSC investigate and recommend disciplinary actions when

substantial evidence is presented, thus failing to fulfill its statutory duty to act. See Exhibit D23 (NCJSC letter and response).

- 1.5. **Necessity of Federal Intervention:** Given the significant constitutional violations, federal court intervention is necessary to protect Plaintiff Davis's civil rights.
- 1.6. **Constitutional Violations:** The actions of a state official within the Wake County trial court system and the NCJSC constitute violations of the Plaintiff Davis's constitutional rights, specifically under the Fourteenth Amendment of the United States Constitution and Article I § 19 of the North Carolina Constitution ("Law of the Land" clause).
- 1.7. **Conclusion:** The NCJSC's failure to act and the classification of income disregarded relevant evidence and testimony—a procedural due process violation under U.S. Const. amend. XIV; N.C. Const. art. I, § 19 ('Law of the Land') as well as conflicting with *Coble v. Coble*, which underscores the need for a clear link from evidence to legal conclusions to judgments. These oversights and violations require corrective measures under 42 U.S.C. § 1983. See *Coble v. Coble*, 300 N.C. 708 (1980). N.C. Gen. Stat. § 7A-374.1 et seq.

C. SUGGESTED REMEDIAL ACTIONS:

- 1.1. **Declaratory Judgement:** A declaration that Plaintiff Davis's constitutional rights were violated.
- 1.2. **Appropriate Compensation to Plaintiff Davis** Order financial compensation for Mr. Davis to address the losses incurred due to judicial oversights that led to the infringement of his civil rights. This compensation should cover the emotional, psychological, and financial impacts resulting from the due process violations.
- 1.3. **Injunctive Relief:** For comprehensive relief addressing the procedural delays, including compensation, see the Consolidated Injunctive Relief section.

D. **ALL SUPPORTING SOURCES:** Exhibit D01 (NCCOA Order), p.5-¶3-p.6 ¶1; Exhibit D04 (Apr 26, 2022), T: p.8:19-22; Exhibit D05 (Plaintiff Davis's Rule 60(b) Motion), p 1-9; Exhibit D22 (NCSC Order); Exhibit D23 (NCJSC Decision); N.C. Gen. Stat. § 1A-1; N.C. R. Civ. P. 60(b); Exhibit D03 (Appellant's Brief), p.16, ¶1-2; Exhibit D02 (Permanent Custody Order), p.8, ¶45; 11, ¶63, ¶64, ¶65; U.S. Const. amend. XIV; N.C. Const. art. I, § 19 ('Law of the Land' clause); *Coble v. Coble*, 300 N.C. 708 (1980); *Marshall v. Lonberger*, 459 U.S. 422 (1983)); N.C. Gen. Stat. § 7A-374.1 et seq.

III. Civil Rights Violations: Income Determinations

A. DETAILED ANALYSIS:

1.1. Trial Court Level Attempts at Relief:

- a. **Professional (Official) Capacity—Due Process Violations:** The trial court misclassified a one-time executor fee as recurring income, leading to an unsupported domestic support obligation lacking justifiable judicial discretion. This misclassification parallels the due process concerns in *Marshall v. Lonberger*, where due process was violated by not considering evidence pertinent to an outcome. See Exhibit D23 (Trial Court Order), p.2, ¶8; *Marshall v. Lonberger*, 459 U.S. 422 (1983).
- b. **Personal (Individual) Capacity:**
 - i. **Malicious Intent and/or Bad Faith:** Judge Ratledge acted with personal bias and/or malice by knowingly misclassifying the one-time executor fee as recurring income to unjustly increase the financial burden on Plaintiff Davis. These actions are taken in his personal capacity.
 - ii. **Actions Beyond Judicial Discretion:** The judge’s decision to misclassify the income, despite knowing or with reasonable expectation of knowing its one-time nature, is outside the reasonable bounds of judicial discretion and attributable to personal capacity.

1.2. **Exhaustion of State Remedies:** Plaintiff Davis sought to address these issues through state-level remedies, including filing relevant motions and complaints. Despite these efforts, the civil rights violations were not remedied. See Exhibits D01 North Carolina Court of Appeals (NCCOA) Opinion; D23 North Carolina Supreme Court (NCSC) Denial. See Exhibit D01 (NCCOA Order), p.14, ¶2; *Knight v. Miami-Dade County*, 856 F.3d 795 (11th Cir. 2017).

1.3. **Further Attempts at Relief:** A complaint with substantial and clear evidence regarding this issue was submitted to the NCJSC, focusing on civil rights violations. Despite acknowledgment on July 28, 2023, the NCJSC responded on September 5, 2023, stating no improper actions occurred and no action would be taken. N.C. Gen. Stat. § 7A-374.1 et seq. mandates that the NCJSC investigate and recommend disciplinary actions when substantial evidence is presented, thus failing to fulfill its statutory duty to act. See Exhibit D23 (NCJSC letter and response).

- 1.4. **Necessity of Federal Intervention:** Given the significant constitutional violations, federal court intervention is necessary to protect Plaintiff Davis’s civil rights.
- 1.5. **Constitutional Violations:** The actions of state officials within the Wake County trial court system and the NCJSC constitute egregious violations of the Plaintiff Davis’s constitutional rights, specifically under the Fourteenth Amendment of the United States Constitution and Article I § 19 of the North Carolina Constitution ("Law of the Land" clause).
- 1.6. **Conclusion:** The failure of the NCJSC to Act, and classification of income disregarded relevant evidence and testimony—a significant procedural due process violation under U.S. Const. amend. XIV; N.C. Const. art I, § 19 ('Law of the Land') as well as conflicting with *Coble v. Coble* (Clear link from evidence to legal conclusions to judgements). These oversights and violations require corrective measures under 42 U.S.C. § 1983. See *Coble v. Coble*, 300 N.C. 708 (1980); N.C. Gen. Stat. § 7A-374.1 et seq.

B. POTENTIAL COUNTERARGUMENTS AND REBUTTALS:

- 1.1. **Anticipated Counterargument:** The court's categorizations of income is a permissible exercise of judicial discretion based on the financial data presented during the proceedings.
- 1.2. **Rebuttal:**
 - a. **Adherence to Established Legal Standards and Precedents:** While acknowledging the court's discretion, it is essential to align such discretion with established legal standards and precedents. The treatment of the executor fee contradicts both the North Carolina Domestic Support Guidelines (1998 Ann. R. N.C. 33, 34) and New Jersey state law (N.J. § 3B:18-14). This misclassification is not just a matter of interpretative difference but constitutes a procedural due process violation, significantly impacting the final determination.
 - b. **Attempts to Address Due Process Issues:** Plaintiff Davis sought to address these procedural due process violations through state-level remedies, including filing motions and a Petition for Discretionary Review. Despite these efforts, the issues were not remedied, and the violations persisted. See Exhibit D01 (NCCOA Order), p.14, ¶2; Exhibit D23 (NCSC Denial).
 - c. **NCJSC:** The NCJSC's inaction in investigating the complaint enables the trial court’s described and documented procedural misconduct to go unaddressed, indicating a lack of judicial accountability thus undermining public trust in the legal process.

C. SUGGESTED REMEDIAL ACTIONS:

- 1.1. **Declaratory Judgement:** A declaration that Plaintiff Davis’s constitutional rights were violated.
- 1.2. **Appropriate Compensation to Plaintiff Davis** Order financial compensation for Mr. Davis to address the losses incurred due to the behaviors of Hon. Brian Ratledge which infringed on his civil rights. This compensation should cover the emotional, psychological, and financial impacts resulting from the due process violations.
- 1.3. **Injunctive Relief:** For comprehensive relief addressing the procedural delays, including compensation, see the Consolidated Injunctive Relief section.

D. **ALL SUPPORTING SOURCES:** N.J. Stat. Ann. § 3B:18-14; N.C. Domestic support Guidelines (1998 Ann. R. N.C. 33, 34; Exhibit D23 (Trial Court Order) p.2, ¶8; Exhibit D (Apr 26, 2022), T: p.125:8 - 126:1-2; Exhibit D01 (NCCOA Order), p.14, ¶2; Exhibit C (Appellant’s Brief), p.17, ¶2-3; Exhibit V (NCSC Order); Exhibit W (NCJSC Decision); U.S. Const. amend. XIV; N.C. Const. art. I, § 19 (‘Law of the Land’ clause); *Coble v. Coble*, 300 N.C. 708 (1980) (Clear link from evidence to legal conclusions to judgements); *Marshall v. Lonberger*, 459 U.S. 422 (1983) and *Knight v. Miami-Dade County*, 856 F.3d 795 (11th Cir. 2017)); N.C. Gen. Stat. § 7A-374.1 et seq.

IV. Civil Rights Violations: Financial Liability Determinations

A. DETAILED ANALYSIS:

1.1. Trial Court Attempts at Relief:

a. **Professional (Official) Capacity—Due Process Violations:** Relying on unsupported testimony of the Defendant and a gut feeling “...*maybe my gut's wrong. Maybe I'm just hungry*”, the trial court determined the Plaintiff responsible for specific expenses going back eight years. This contravenes *Knight v. Miami-Dade County* (Judicial decisions require factual basis for due process). This level of disregard for due process rises to the level of violating 18 U.S.C. § 242. See Exhibit D23 (Trial Court Order) p.2, ¶10; Exhibit D (Mar 2, 2022), T: p.92:16-19, 93:11-20, 122:14-124:4; *Marshall v. Lonberger*, 459 U.S. 422 (1983).

b. **Personal (Individual) Capacity:**

- i. **Malicious Intent or Bad Faith:** Evidence shows that Judge Ratledge acted with personal bias, malice, and/or bad faith by knowingly relying on unsupported testimony and a gut feeling. His decision to hold Plaintiff Davis responsible for expenses without proper evidentiary support demonstrates actions taken in a personal capacity.
 - ii. **Actions Beyond Judicial Discretion:** The judge's decision to proceed based on either "*gut feeling*" or being "*just hungry*" instead of factual evidence is outside the reasonable bounds of judicial discretion and attributable to personal capacity.
- 1.2. **Exhaustion of State Remedies:** Plaintiff Davis sought to address these issues through state-level remedies, including filing relevant motions and complaints. The North Carolina Court of Appeals (NCCOA) failed to address these procedural due process violations, pointing to judicial discretion as justification. See Exhibit D01 (NCCOA Order), p.4, ¶4; Knight v. Miami-Dade County, 856 F.3d 795 (11th Cir. 2017).
- Despite Plaintiff Davis's efforts, including a Petition for Discretionary Review to the North Carolina Supreme Court (NCSC), the refusal to review this petition allowed the procedural due process violations by the trial court to persist, further entrenching the existing systemic issues. The NCSC declined to review the Plaintiff's Petition for Discretionary Review regarding this matter, despite clear evidence of due process violations and substantial public interest. This decision effectively supports the lower courts' rulings without addressing the due process concerns raised.
- 1.3. **Further Attempts at Relief:** A complaint with substantial and clear evidence regarding this issue was submitted to the North Carolina Judicial Standards Commission (NCJSC), focusing on civil rights violations. Despite acknowledgment on July 28, 2023, the NCJSC responded on September 5, 2023, stating no improper actions occurred and no action would be taken. N.C. Gen. Stat. § 7A-374.1 et seq. mandates that the NCJSC investigate and recommend disciplinary actions when substantial evidence is presented, thus failing to fulfill its statutory duty to act. See Exhibit D23 (NCJSC letter and response). The NCJSC's inaction in investigating the complaint enables the trial court's procedural misconduct to go unaddressed, indicating a lack of judicial accountability and undermining public trust in the legal process.

- 1.4. **Necessity of Federal Intervention:** Given the significant constitutional violations, federal court intervention is necessary to protect Plaintiff Davis’s civil rights.
- 1.5. **Constitutional Violations:** The actions of state officials within the Wake County trial court system and the NCJSC constitute egregious violations of the Plaintiff Davis’s constitutional rights, specifically under the Fourteenth Amendment of the United States Constitution and Article I § 19 of the North Carolina Constitution ("Law of the Land" clause).
- 1.6. **Conclusion:** The trial court’s reliance on unsupported testimony and a “gut feeling” to determine Plaintiff Davis responsible for educational expenses violates due process rights guaranteed by U.S. Const. amend. XIV and N.C. Const. art. I, § 19 (‘Law of the Land’ clause). Such actions conflict with judicial precedents requiring factual bases for decisions, as established in *Knight v. Miami-Dade County* and *Marshall v. Lonberger*. Furthermore, the NCJSC's failure to act on a well-documented complaint highlights a systemic lack of accountability, necessitating federal intervention. These actions collectively underscore the need for review and corrective measures under 42 U.S.C. § 1983 and a criminal referral under 18 U.S.C. § 242 for deprivation of rights under color of law. See *Coble v. Coble*, 300 N.C. 708 (1980); N.C. Gen. Stat. § 7A-374.1 et seq.

B. POTENTIAL COUNTERARGUMENTS AND REBUTTALS:

- 1.1. **Anticipated Counterargument:** The trial court acted within the bounds of allowable judicial discretion based on testimony and evidence. The NCCOA’s decisions upheld those same points. See Exhibit D01 (NCCOA Order p.15, ¶1).
- 1.2. **Rebuttal:** The trial court’s decision was reached through unsupported testimony of the Defendant, disregard of Plaintiff’s statements to the contrary, and a “gut feeling” as evidenced by the statement: “...maybe my gut's wrong. Maybe I'm just hungry.” Even when viewed in a light most favorable to the court, this decision exceeds any reasonable bounds of judicial discretion.
- 1.3. **State-Level Remedies:**
- a. **Due Process Violation:** Plaintiff Davis sought to address the trial court’s lack of due process and reliance on a "gut feeling" through state-level remedies. Despite these efforts, the state appellate court failed to address the procedural due process violations, perpetuating the issues. See Exhibit D01 (NCCOA Order), p.4, ¶4.

- 1.4. **False Equivalence:** The court created a false equivalence between passive acceptance and implied agreement to financial obligation, failing to uphold due process as mandated by U.S. Const. amend. XIV; N.C. Const. art. I, § 19 ('Law of the Land' clause); and the principles of stare decisis as articulated in *Coble v. Coble*.
- 1.5. **Additional Remedies:** Complaint with substantial competent evidence sent to North Carolina Judicial Standards Commission (NCJSC) was met with a notice they would be taking no action.
- 1.6. These actions violate 18 U.S.C. § 242 (Deprivation of rights under color of law) and warrant correction under 42 U.S.C. § 1983. See *Coble v. Coble*, 300 N.C. 708 (1980); and N.C. Gen. Stat. § 7A-374.1 et seq.

C. SUGGESTED REMEDIAL ACTIONS:

- 1.1. **Declaratory Judgement:** A declaration that Plaintiff Davis's constitutional rights were violated.
- 1.2. **Appropriate Compensation to Plaintiff Davis** Order financial compensation for Mr. Davis to address the losses incurred due to judicial oversights that led to the infringement of his civil rights. This compensation should cover the emotional, psychological, and financial impacts resulting from the due process violations.
- 1.3. **Injunctive Relief:** For comprehensive relief addressing the procedural delays, including compensation, see the Consolidated Injunctive Relief section.

D. **ALL SUPPORTING SOURCES:** Exhibit D01 (NCCOA Order), p.15, ¶1; Exhibit C (Appellant's Brief), p.18, ¶1; Exhibit D (Apr. 26, 2022), T: p. 92:16-19, 93:11-20, 122:14-124:4; Exhibit F (Appellant's Domestic support Motion) p.3-9; Exhibit D23 (Mar. 2, 2022 Trial Court Order) p.2, ¶10; Exhibit V (NCSC Order); Exhibit W (NCJSC Decision); U.S. Const. art. III, § 2; *Coble v. Coble*, 300 N.C. 708 (1980) (Clear link from evidence to legal conclusions to judgements); *Marshall v. Lonberger*, 459 U.S. 422 (1983) and *Knight v. Miami-Dade County*, 856 F.3d 795 (11th Cir. 2017); N.C. Gen. Stat. § 7A-374.1 et seq.

V. Civil Rights Violations: General Financial Obligation Determinations

A. DETAILED ANALYSIS:

1.1. Trial Court:

a. **Professional (Official) Capacity—Due Process Violations:**

- i. **The Misapplication and Overlooking of Evidence:** The trial court's handling of the case overlooked, refused to review, and incorrectly applied key evidence, violating due process protections under U.S. Const. amend. XIV and N.C. Const. art. I, § 19. Additionally, it failed to consider or apply N.C.G.S. §50-13.10(d)(3) and N.C.G.S. § 50-13.7 as appropriate. This approach mirrors the due process concerns found in *Marshall v. Lonberger*, where the failure to consider relevant evidence was deemed a violation of due process. See Exhibit D14, (Davis Certificate of Indigence 2022-2023); Exhibit D08, (Rule 803(6) Business Record Exception); *Marshall v. Lonberger*, 459 U.S. 422 (1983).

b. **Personal (Individual) Capacity:**

- i. **Malicious Intent and/or Bad Faith:** There is evidence that the judge acted with personal bias, malice, and/or in bad faith by knowingly disregarding key evidence and misapplying the law. Such actions demonstrate behavior taken in an individual capacity.
- ii. **Actions Beyond Judicial Discretion:** The judge's decision to overlook and misapply crucial evidence, despite clear legal standards, falls outside the reasonable bounds of judicial discretion, indicating personal liability.

1.2. **State-Level Remedies:** Plaintiff Davis sought to address these issues through state-level remedies, including filing relevant motions and complaints. These efforts aimed to rectify the procedural due process violations at the state court level. However, the state-level remedies did not acknowledge or address the procedural due process violations and misrepresented Plaintiff's arguments, using judicial discretion as a blanket justification. See Exhibit D01 (NCCOA Order), p.4, ¶4; *Knight v. Miami-Dade County*, 856 F.3d 795 (11th Cir. 2017). Despite Plaintiff Davis's further attempts, including a Petition for Discretionary Review, the refusal to review this petition allowed the procedural due process violations by the trial court to persist, further entrenching the existing systemic issues.

1.3. **Further Attempts at Relief:** A complaint with substantial and clear evidence regarding this issue was submitted to the North Carolina Judicial Standards Commission (NCJSC), focusing on civil rights violations. Despite acknowledgment on July 28, 2023, the NCJSC responded on September 5, 2023, stating no improper actions occurred and no action would

be taken. N.C. Gen. Stat. § 7A-374.1 et seq. mandates that the NCJSC investigate and recommend disciplinary actions when substantial evidence is presented, thus failing to fulfill its statutory duty to act. See Exhibit D23 (NCJSC letter and response). The NCJSC's inaction in investigating the complaint enables the trial court's procedural misconduct to go unaddressed, indicating a lack of judicial accountability and undermining public trust in the legal process.

- 1.4. **Necessity of Federal Intervention:** Given the significant constitutional violations, federal court intervention is necessary to protect Plaintiff Davis's civil rights.
- 1.5. **Constitutional Violations:** The actions of state officials within the Wake County trial court system and the NCJSC constitute egregious violations of the Plaintiff Davis's constitutional rights, specifically under the Fourteenth Amendment of the United States Constitution and Article I § 19 of the North Carolina Constitution ("Law of the Land" clause).
 - 1.1. **Conclusion:** The behavior of the trial court did not follow U.S. Const. amend. XIV; N.C. Const. art I, § 19 ('Law of the Land'), *Coble v. Coble* (Clear link from evidence to legal conclusions to judgements), *Marshall v. Lonberger* (Due process is compromised when relevant evidence is overlooked) and lack of corrective action by the NCCOA demonstrate judicial overreach by both courts, contrary to U.S. Const. amend. XIV (Due process protection); N.C. Const. art I, § 19 ('Law of the Land' clause), Article III, Section 2 of the U.S. Constitution, and the principals of state decisis. These actions warrant corrective measures under 42 U.S.C. § 1983 and 18 U.S.C. § 242 for deprivation of rights under color of law. See *Coble v. Coble*, 300 N.C. 708 (1980); *Marshall v. Lonberger*, 459 U.S. 422 (1983).

B. POTENTIAL COUNTERARGUMENTS AND REBUTTALS:

- 1.1. **Anticipated Counterargument:** The NCCOA and trial court's domestic support decisions were grounded in the Plaintiff's financial documents and court determinations, considered adequate for determining obligations.
- 1.2. **Rebuttal:**
 - a. **Trial Court:** Judge Ratledge's decisions in this matter violated due process as established in U.S. Const. amend. XIV and N.C. Const. art. I, § 19 ('Law of the Land' clause). The court failed to properly apply N.C.G.S. §50-13.10(d)(3) and N.C.G.S. § 50-13.7 where appropriate, leading to procedural due process violations. At the reconsideration

hearing, Judge Ratledge refused to even consider Plaintiff's notarized business expense list, which is admissible under the Rule 803(6) Business Record Exception. These actions conflict with *Coble v. Coble*, which requires a clear link from evidence to legal conclusions and judgments. See Exhibit H (Rule 803(6) Business Record Exception); *Coble v. Coble*, 300 N.C. 708 (1980).

- b. **State-Level Remedies:** Despite Plaintiff Davis's further attempts to address these issues through state-level remedies, including filing relevant motions and complaints, the state court system failed to acknowledge or address the procedural due process violations. See Exhibit D01 (NCCOA Order), p.4, ¶4; *Knight v. Miami-Dade County*, 856 F.3d 795 (11th Cir. 2017).

C. SUGGESTED REMEDIAL ACTIONS:

- 1.1. **Declaratory Judgement:** A declaration that Plaintiff Davis's constitutional rights were violated.
- 1.2. **Appropriate Compensation to Plaintiff Davis** Order financial compensation for Mr. Davis to address the losses incurred due to judicial oversights that led to the infringement of his civil rights. These oversights occurred during Judge Ratledge's March 2022 hearing and the Rule 59 reconsideration hearing in August 2022, which included the permissible use of his financial statements under the 803(6) Business Record Exception. This compensation should rightfully cover the emotional, psychological, and financial impacts resulting from the due process violations.
- 1.3. **Injunctive Relief:** For comprehensive relief addressing the procedural delays, including compensation, see the Consolidated Injunctive Relief section.

D. **ALL SUPPORTING SOURCES:** Exhibit D01 (NCCOA Order), p.18, ¶1, third sentence; *Savani v. Savani*, 102 N.C. Ap.496, 503, 403 S.E.2d 900, 904 (1991); Exhibit O (Davis Certificate of Indigence 2022-2023); Exhibit H (Rule 803(6) Business Record Exception); Exhibit V (NCSC Order); Exhibit W (NCJSC Decision); N.C.G.S. §50-13.10(d)(3); N.C.G.S. § 50-13.7(a); N.C.G.S. §50-13.4(c); U.S. Const. amend. XIV; U.S. Const. art. III, § 2; N.C. Const. art. I, § 19 ('Law of the Land' clause); U.S. Const. art. III, § 2; *Coble v. Coble*, 300 N.C. 708 (1980); *Marshall v. Lonberger*, 459 U.S. 422 (1983 and *Knight v. Miami-Dade County*, 856 F.3d 795 (11th Cir. 2017)); N.C. Gen. Stat. § 7A-374.1 et seq.

VI. Civil Rights Violations: Disregard for Court Officer’s Due Process Violations

A. DETAILED ANALYSIS:

1.1. Trial Court Attempts at Relief:

a. Professional (Official) Capacity— Due Process Violations:

- i. **Amended Motion for Sanctions not Heard:** On or about December 21 2021, Plaintiff filed a motion for sanctions against the opposing party’s counsel to address a long series of behaviors which hindered and resulted in ongoing deprivations of Plaintiff’s due process rights. On or about January 13, 2022, Plaintiff Davis filed an amended motion due to further violations of due process by the opposing counsel, effectively curtailing Plaintiff’s opportunity to present his case, impacting his right to a fair and comprehensive hearing. This mirrors the key finding in *Marshall v. Lonberger*, where the U.S. Supreme Court noted, “*Due process is violated if a court decides a case without considering evidence pertinent to the outcome*” and *Knight v. Miami-Dade County*, which found that “[*W*]hen judicial actions are devoid of a factual basis, they stray from the principles of due process.” See *Marshall v. Lonberger*, 459 U.S. 422 (1983); *Knight v. Miami-Dade County*, 856 F.3d 795 (11th Cir. 2017).
- ii. **Unequal Treatment in Motion to Continue:** The trial court denied Plaintiff’s first-ever motion to continue, which was submitted in response to continued issues with the opposing counsel. This lone request stands in stark contrast to the numerous continuance motions filed and granted for the opposing side during the same period, demonstrating unequal treatment that compromised Plaintiff’s ability to prepare a fair defense. See Exhibit D07, (Apr 26, 2022), T: p.4:11-p.7:4.
- iii. **Lack of Addressing Opposing Attorney’s Constitutional Breaches:** The trial court did not apply due process when assessing Plaintiff’s allegations. This failure allowed the procedurally improper behaviors by the opposing counsel to go un-addressed, thereby denying Plaintiff Davis a fair legal process. This goes against *Marshall v. Lonberger*, which states that due process is compromised when relevant evidence is overlooked. See *Marshall v. Lonberger*, 459 U.S. 422 (1983); Exhibit J (Apr 26, 2022), p.31:10-14.

- iv. **Opposing Counsel’s Contradictory Bias Claim:** At the sanctions hearing, the opposing counsel alleged that the judge, who had presided over a previous trial between the parties, exhibited judicial bias and breached his professional oath. She claimed that her motion to recuse the judge led to a retaliatory denial of her request to depose the Plaintiff, suggesting intentional obstacles to evidence gathering and a violation of due process under the Fourteenth Amendment and the North Carolina Constitution’s ‘Law of the Land’ clause. These allegations challenge the former judge's neutrality and raise concerns about the trial's integrity. However, the sequence of documented events reveals discrepancies in her claims:
1. **March 1, 2019:** Opposing counsel serves notice of deposition on Plaintiff. See Exhibit D14A (Defendant Motion to Recuse), p.3 ¶ 20.
 2. **March 21, 2019:** The judge denies the deposition request. See Exhibit D07 (Apr. 2019 Trial Court Order), p.6 ¶33; Exhibit D14A (Defendant Motion to Recuse), p.3 ¶ 22.
 3. **April 3, 2019:** Opposing counsel files a Motion to Recuse on the judge. See Exhibit D14A (Defendant Motion to Recuse), p.1 ¶1.
 4. **April 22, 2019:** The judge enters an order addressing both issues, referring back to the March 21st deposition request denial and then denying the Motion to Recuse. See Exhibit D14 (Apr. 2019 Trial Court Order), p.7 ¶1-2, Disposition section; Exhibit D07 (Apr 26, 2022), T: p.31:10-14.
 5. The opposing counsel's actions, arguably held to a higher standard by her professional oath to uphold the constitutions of both North Carolina and the federal government, constitute a civil rights infringement under 18 U.S.C. § 242, affecting the fairness and integrity of the judicial process. If the allegations of judicial bias and misconduct were sincerely believed, her failure to report or challenge this behavior neglects her duties to uphold the legal system's integrity and protect her client's constitutional rights, including due process under the Fourteenth Amendment.
- b. **Personal (Individual) Capacity:**
- i. **Malicious Intent and/or Bad Faith:** There is evidence that the judge acted with personal bias, malice, and/or in bad faith by knowingly disregarding Mr. Davis’s

motions for sanctions and the unequal treatment in continuance requests. Such actions demonstrate behavior taken in an individual capacity.

- ii. **Actions Beyond Judicial Discretion:** The judge's decision to deny Plaintiff's motions and fail to address the opposing attorney's constitutional breaches, despite clear legal standards, falls outside the reasonable bounds of judicial discretion, demonstrating personal liability.

1.1. **Exhaustion of State Remedies:** Plaintiff Davis sought to address these issues through state-level remedies, including filing relevant motions and complaints. Despite these efforts, the civil rights violations were not remedied. State-level appellate reviews failed to address the manner in which the trial court arrived at its decisions. Additionally, higher state-level reviews refused to consider Plaintiff's Petition for Discretionary Review, effectively endorsing the trial court's failure to address the due process violations and procedural irregularities in handling motions and continuances.

1.2. **Conclusion:** The trial court's actions, including not considering the Plaintiff's updated motion for sanctions, denying the Plaintiff's request to continue, and not addressing significant misrepresented statements made by an officer of the court, violated procedural due process rights under the U.S. Constitution, Amendment XIV, and N.C. Constitution, Article I, § 19 ('Law of the Land' clause). These issues, when viewed together, clearly show a failure to follow legal requirements as highlighted in *Marshall v. Lonberger*, emphasizing the need for courts to consider important evidence; *Knight v. Miami-Dade County*, stressing that judicial decisions must be based on facts; and *Coble v. Coble*, requiring decisions to be directly linked to the evidence presented. The NCCOA's inaction in correcting these procedural mistakes further highlights the problem, necessitating action under 42 U.S.C. § 1983 for violating constitutional rights and a criminal referral under 18 U.S.C. § 242 for knowingly violating those rights under law. See *Knight v. Miami-Dade County*, 856 F.3d 795 (11th Cir. 2017); *Marshall v. Lonberger*, 459 U.S. 422 (1983); *Coble v. Coble*, 300 N.C. 708 (1980).

B. POTENTIAL COUNTERARGUMENTS AND REBUTTALS:

1.1. **Anticipated Counterargument:** The trial court's decisions, including denying the amended motion for sanctions and handling continuances, were within its judicial discretion, aimed at ensuring efficient court proceedings.

1.2. **Rebuttal:**

- a. While the trial court may argue that its decisions fell within the scope of judicial discretion, these actions resulted in significant civil rights violations. The pattern of behavior, particularly the denial of the amended motion for sanctions and the handling of continuances, demonstrates a series of procedural irregularities that infringed upon Plaintiff's due process rights. These actions exceeded the limits of judicial discretion and contravened fundamental due process principles, violating Plaintiff's civil rights under U.S. Const. amend. XIV and N.C. Const. art. I, § 19.
- b. The trial court's consistent overlooking of procedural norms and evidence, as detailed in the exhibits, suggests a departure from the standards of a fair hearing and judicial impartiality mandated by due process. This pattern of conduct illustrates a systemic failure to uphold Plaintiff's civil rights, necessitating federal intervention under 42 U.S.C. § 1983 for violating constitutional rights and a criminal referral under 18 U.S.C. § 242 for the deprivation of rights under color of law. The trial court's actions have significantly impacted Plaintiff's right to due process, highlighting the need for corrective measures to protect civil rights and ensure judicial accountability.
- c. The court's decisions, including denying the amended motion for sanctions and handling continuances, were within its judicial discretion, ensuring efficient court proceedings.

B. **SUGGESTED REMEDIAL ACTIONS:**

- 1.1. **Declaratory Judgement:** A declaration that Plaintiff Davis's constitutional rights were violated.
- 1.2. **Appropriate Compensation to Plaintiff Davis** Order financial compensation for Mr. Davis to address the losses incurred due to judicial oversights that led to the infringement of his civil rights. These oversights occurred during Judge Ratledge's April 2022 hearing and the Rule 59 reconsideration hearing in October 2022.. This compensation should rightfully cover the emotional, psychological, and financial impacts resulting from the due process violations.
- 1.3. **Injunctive Relief:** For comprehensive relief addressing the procedural delays, including compensation, see the Consolidated Injunctive Relief section.

C. **All Supporting Sources:** Exhibit D05 (Plaintiff Davis’s Motion for Sanctions), p.1-3; Exhibit D10 (April 26, 2022 Transcript), p.31:10-14, p.37:18-22; Exhibit D12 (Documentation of continuances); Exhibit D13 (Plaintiff Davis’s Non-Timely Notification Evidence); Exhibit D14 (Apr. 2019 Rule 52 Trial Court Order), p.5 ¶28-30, p.6 ¶28-31, p.6 ¶32-33, p.6 ¶34-36; Exhibit D14A (Defendant Motion to Recuse), p.1 ¶1, p.3 ¶20, p.3 ¶22; Exhibit D22 (NCSC Denial); Exhibit D23; N.C. Gen. Stat. § 1A-1, Rule 7(b); *Marshall v. Lonberger*, 459 U.S. 422 (1983); *Goss v. Lopez*, 419 U.S. 565 (1975); *Mathews v. Eldridge*, 424 U.S. 319 (1976); *Troxel v. Granville*, 530 U.S. 57 (2000); 42 U.S.C. § 1983; 18 U.S.C. § 242; Exhibit J (Apr 26, 2022), T: p.4:11-p.7:4; Exhibit J (Apr 26, 2022), p.31:10-14; Exhibit D14A (Defendant Motion to Recuse); Exhibit D14(Apr. 2019 52 Trial Court Order); Exhibit D10 (Apr 26, 2022) T: p.7:18-p.8:5; Exhibit D10 (Apr 26, 2022) T: p.30:6-14, First line; Exhibit D10 (Apr 26, 2022) T: p.17:19-p.18:21; Exhibit D07 (Apr 26, 2022) T: p.30:6-14; Exhibit D10 (Apr 26, 2022) T: p.37:19-23; Exhibit D01 (NCCOA Order), p.24, ¶2; Exhibit D09, Appellant Brief, p.11, ¶1; Paragraphs 1-4 of the ‘General Affirmations’; *Knight v. Miami-Dade County*, 856 F.3d 795 (11th Cir. 2017); *Coble v. Coble*, 300 N.C. 708 (1980).

VII. **Civil Rights Violations: Sanctions Hearing Misconduct**

A. **DETAILED ANALYSIS:**

1.1. **Trial Court Attempts at Relief:**

a. **Professional (Official) Capacity—Due Process Violations:**

- i. **Pattern of Conduct:** The trial court’s pattern of conduct suggests predetermined conclusions and a desire to impair Mr. Davis’s ability to self-represent. These behaviors demonstrate violations of due process rights as established under state and federal law. These issues conflict with the findings in *Marshall v. Lonberger*, which emphasizes the importance of considering all pertinent evidence for a fair outcome and requires addressing under 42 U.S.C. § 1983 and a criminal referral under 18 U.S.C. § 242 . Specific issues included:
- ii. **Time Compression:** Unilaterally reducing hearing time from three hours to one on the day of the hearing, limiting Mr. Davis’s opportunity for a comprehensive case presentation. See Exhibit J (Apr 26, 2022), T: p.7:18-p.8:5.

- iii. **Denial of Motion for Continuance:** Refusal to grant a continuance, despite a first-time request and ongoing opposing party misconduct, obstructed adequate case preparation. See Exhibit J (Apr 26, 2022), T: p.4:11-p.7:4, First sentence.
 - iv. **Restrictions on Testimony and Evidence Presentation:** The trial court engaged in unreasonable restrictions on reading from prepared notes and excluding evidence without valid reason. For example, at T:30:6-9 of the Apr. 26, 2022 hearing transcript, Judge Ratledge stated he would not allow certain evidence in because Mr. Davis had misspelled the word “Plaintiff”. See Exhibit D10 (Apr 26, 2022), T: p.7:18-p.8:5; T: p.17:19-p.18:21; T:30:6-14.
 - v. **Misrepresentation of Prior Proceedings:** Judge Ratledge's unsupported claim that Mr. Davis's actions were attempts at relitigating illustrates further infringement on his civil rights. This mischaracterization and lack of substantive basis deprived Mr. Davis of a fair and impartial legal process.
- b. **Personal (Individual) Capacity:**
- i. **Malicious Intent or Bad Faith:** There is evidence that the judge acted with personal bias, malice, and/or in bad faith by knowingly relying on unsupported testimony.
 - ii. **Actions Beyond Judicial Discretion:** The judge's decision to deny Plaintiff's motions and fail to address the opposing attorney's constitutional breaches, despite clear legal standards, falls outside the reasonable bounds of judicial discretion, demonstrating personal liability.
- 1.2. **Exhaustion of State Remedies:** Plaintiff Davis sought to address these issues through state-level remedies, including filing relevant motions and complaints. Despite these efforts, the civil rights violations were not remedied. See Exhibits D01 North Carolina Court of Appeals (NCCOA) Opinion; D23 (NCSC Denial).
- 1.3. **Further Attempts at Relief:** A complaint with substantial and clear evidence regarding this issue was submitted to the NCJSC, focusing on civil rights violations. Despite acknowledgment on 7/28/2023, the NCJSC responded on 9/5/2023, stating no improper actions occurred and no action would be taken. N.C. Gen. Stat. § 7A-374.1 et seq. mandates that the NCJSC investigate and recommend disciplinary actions when substantial evidence

is presented, thus failing to fulfill its statutory duty to act. See Exhibit D23 (NCJSC letter and response).

- 1.4. **Necessity of Federal Intervention:** Given the significant constitutional violations, federal court intervention is necessary to protect Plaintiff Davis's civil rights.
- 1.5. **Constitutional Violations:** The actions of state officials within the Wake County trial court system and the NCJSC constitute egregious violations of the Plaintiff Davis's constitutional rights, specifically under the Fourteenth Amendment of the United States Constitution and Article I § 19 of the North Carolina Constitution ("Law of the Land" clause).
- 1.6. **Conclusion:** The trial court's decision, followed by subsequent unsuccessful state remedies, collectively violated the U.S. Const. amend. XIV and N.C. Const. art I, § 19 ('Law of the Land' clause) and findings in *Coble v. Coble* (clear link from evidence to legal conclusions to judgments). This requires remedial action to ensure fair and just legal processes are upheld, in line with 42 U.S.C. § 1983 and 18 U.S.C. § 242. See *Coble v. Coble*, 300 N.C. 708 (1980).

B. POTENTIAL COUNTERARGUMENTS AND REBUTTALS:

- 1.1. **Anticipated Counterargument:** time limits and constraints on self-representation, was a necessary exercise of judicial discretion, conducted in accordance with civil rights protections, and essential for maintaining efficient court management.
- 1.2. **Rebuttal:**
 - a. **Trial Court and State Remedies:** Judge Ratledge's approach during the sanctions hearing, particularly the last-minute reduction of allotted time and restrictions on self-representation, significantly impaired Mr. Davis's ability to present a reasonably comprehensive case. As detailed in the court transcripts, these limitations on presenting evidence and arguments represent more than the exercising of judicial discretion; they deviate from the due process standards established under the U.S. and N.C. Constitutions. The unsuccessful attempts at addressing these violations through other state venues and the NCJSC underscore the need for Federal intervention to protect Mr. Davis's rights.

C. SUGGESTED REMEDIAL ACTIONS:

- 1.1. **Declaratory Judgement:** A declaration that Plaintiff Davis’s constitutional rights were violated.
- 1.2. **Appropriate Compensation to Plaintiff Davis** Order financial compensation for Mr. Davis to address the losses incurred due to judicial oversights that led to the infringement of his civil rights. These oversights occurred during Judge Ratledge's April 2022 hearing and the Rule 59 reconsideration hearing in October 2022. This compensation should rightfully cover the emotional, psychological, and financial impacts resulting from the due process violations.
- 1.3. **Injunctive Relief:** For comprehensive relief addressing the procedural delays, including compensation, see the Consolidated Injunctive Relief section.

D. **ALL SUPPORTING SOURCES:** Exhibit J (Apr 26, 2022), T: p.7:18-p.8:5; T: p.17:19-20, p.17:23, p.17:22, p.17:24-26; p.18:3-7, p.18:8-9, p.18:p.17-21; p.30:6-9; Exhibit D14 (Apr. 2019 Trial Court Order), p.6, ¶36; Exhibit D14 (Apr. 2019 Trial Court Order), p.6 ¶33; T: p.37:19-23; *Goss v. Lopez*, 419 U.S. 565 (1975); Exhibit V (NCSC Order); Exhibit W (NCJSC Decision); N.C. Gen. Stat. § 7A-374.1 et seq.

VIII. **First Civil Contempt Finding Without Proper Evidentiary Foundation and Punitive Incarceration (Oct. 7, 2022)**

A. **DETAILED ANALYSIS:**

1.1. **Trial Court Attempts at Relief:**

a. **Professional (Official) Capacity—Due Process Violations:**

- i. **Context of Rule 59 Reconsideration:** Immediately following Plaintiff’s Rule 59 reconsideration hearing for sanctions against opposing counsel originally heard on 26 April 2022, the trial court heard the Defendant’s show cause | contempt motion. During this hearing, Judge Ratledge was aware of Plaintiff Davis’s previously filed motions for protective orders, including the Estate account he was managing for his recently deceased brother—an account which included private financial information of several parties unrelated to the litigation.
- ii. **Proceeding Despite Clear Issues Impacting Due Process:** Judge Ratledge proceeded with the hearing and issue a ruling despite:

- iii. **Opposing counsel’s acknowledgements:** Opposing counsel admitting her inability to successfully calendar a motion to compel in response to the protective motions before the hearing yet choosing to not seek a continuance to do so. See Exhibit P (Oct. 7 2022), T: p.30:21, 23-24, p.32:2-15; and
- iv. **Reminders by Mr. Davis’s Attorney:** Mr. Davis’s appointed attorney Ryan Short reminding Judge Ratledge—twice—that the motions for protective orders should be heard prior to a ruling. See Exhibit P (Oct. 7, 2022), T: p.45: 2-8,21.
- ii. **Ruling Without Due Process:**
 - 1. **Ruling:** The trial court's ruling of willful contempt was based on the Plaintiff's non-production of financial information, omitting the absence of rulings on Plaintiff Davis’s motions for protective orders as the underlying cause.
 - 2. **Notification of Purge and Attorney’s Fees:** The trial court then informed Plaintiff Davis of a purge amount plus \$1,000 in attorney’s fees, contradicting *Baxley v. Jackson* (Attorney’s fees are not generally awarded in civil contempt findings). See *Baxley v. Jackson*, 179 N.C. App. 635, 640 (2006).
 - 3. **Immediate Arrest and Incarceration:** Plaintiff Davis was immediately arrested and incarcerated contradicting *Hicks v. Feiock* which found that “...criminal penalties may not be imposed on someone who has not been afforded the protections that the Constitution requires of such criminal proceedings”. *Knight v. Miami-Dade County* (Judicial action without factual basis violates due process). *Knight v. Miami-Dade County* 856 F.3d 795 (11th Cir. 2017); *Hicks v. Feiock*, 485 U.S. 624.
- b. **Personal (Individual) Capacity:**
 - i. **Malicious Intent and/or Bad Faith:** There is evidence that Judge Ratledge acted with personal bias, malice, and/or in bad faith by scheduling the contempt hearing on the same day after Plaintiff Davis had already calendared a Rule 59 hearing, which challenged the judge’s prior ruling for sanctions against the opposing counsel. During the hearing, Judge Ratledge disregarded Plaintiff Davis’s motions for protective orders and his appointed attorney's repeated requests to address those motions. The judge then ordered Mr. Davis's immediate arrest without giving him the opportunity to comply with the newly set purge amount and obstructed his

appointed attorney from assisting in compliance. Additionally, the judge did not allow Mr. Davis the opportunity to appeal. The sequence of these events—starting with scheduling the contempt hearing right after the Rule 59 hearing, ignoring protective orders, ordering the arrest, and obstructing compliance—strongly suggests retaliatory motives.

- ii. **Actions Beyond Judicial Discretion:** The judge's decision to incarcerate Plaintiff Davis immediately, without allowing a reasonable opportunity to comply with the purge amount or addressing the motions for protective orders, falls outside the reasonable bounds of judicial discretion. This demonstrates actions taken in a personal capacity, exceeding the limits of judicial authority and due process.
- 1.2. **Exhaustion of State Remedies:** Plaintiff Davis sought to address these issues through state-level remedies, including filing an initial appeal with the North Carolina Court of Appeals (NCCOA) on April 4, 2022. Despite these efforts, the civil rights violations were not remedied due to procedural reasons.
- 1.3. **Further Attempts at Relief:** A complaint with substantial and clear evidence regarding this issue was submitted to the North Carolina Judicial Standards Commission (NCJSC), focusing on civil rights violations with no action taken contravening N.C. Gen. Stat. § 7A-374.1 et seq. See Exhibit D23 (NCJSC letter and response).
- 1.4. **Constitutional Violations:** The following actions of the Honorable Brian Ratledge within the Wake County trial court system as well as the lack of appropriate remedial action by the NCJSC constitute significant violations of Plaintiff Davis's constitutional rights.
- a. **Due Process Violation (Fourteenth Amendment)**
 - i. **Procedural Irregularities:** The trial court proceeded with the hearing despite opposing counsel's inability to calendar a motion to compel and Plaintiff Davis's attorney's reminders about unresolved protective orders. This deprived the Plaintiff of a fair opportunity to present his case, violating due process. See Exhibit P (Oct. 7, 2022), T: p.30:21, 23-24, p.32:2-15, p.45:2-8, 21.
 - ii. **Immediate Arrest and Incarceration:** Plaintiff Davis's immediate arrest without proper due process protections violated constitutional requirements. Criminal penalties require due process protections, as highlighted in *Hicks v. Feiock*. See *Hicks v. Feiock*, 485 U.S. 624.

b. Right to a Fair Hearing

- i. **United States Constitution and North Carolina Constitution:** Both the Fourteenth Amendment of the United States Constitution and Article I § 19 of the North Carolina Constitution guarantee due process rights. The right to a fair hearing is an integral part of due process in both constitutions.
- ii. **Contempt Ruling:** The trial court found willful contempt based on non-production of financial information, ignoring unresolved protective orders, which violated the Plaintiff's right to a fair hearing under both constitutions. See *Knight v. Miami-Dade County*, 856 F.3d 795 (11th Cir. 2017).
- iii. **Attorney's Fees:** Imposing attorney's fees in a civil contempt finding contradicts standard practices and violates procedural fairness under both constitutions. See *Baxley v. Jackson*, 179 N.C. App. 635, 640 (2006).

c. Punitive Actions Without Compliance Mechanism

- i. **Incarceration Without Compliance Mechanism:** Judge Ratledge's decision to immediately have Mr. Davis incarcerated without a practical compliance mechanism indicates punitive intent and disregards due process, conflicting with established legal precedents.

d. Failure of NCJSC to Remedy Violations

- i. **Lack of Remedial Action:** Despite substantial evidence of civil rights violations, the NCJSC failed to take action, stating no improper actions occurred. This neglect violates N.C. Gen. Stat. § 7A-374.1 et seq., which mandates investigation and disciplinary recommendations when substantial evidence is presented. See Exhibit D23 (NCJSC letter and response).

1.5. **Impact on Plaintiff's Daughter:** The ramifications of Judge Ratledge's actions on October 2, 2022 not only affected Plaintiff Davis but his daughter as well.

1.6. **Background of Custodial Interference:** The Parties' daughter has been deeply affected by the severe custodial interference by the Defendant, starting at six years of age and continuing with very little intervention until two weeks before turning 10 as substantiated by court documents and the court-appointed mental health professional's findings.

- a. **The Initial Trauma:** In February of 2015, Plaintiff Davis's then six year old daughter experienced her father not picking her up from school as expected one Friday. When

- Defendant (her mother) picked her up instead, Defendant could not tell their child when she would see her father again. And in fact, she did not see her father again for more than two weeks and then very seldom after that for more than three years following until August of 2018.
- b. **Judge Michael Denning's (Prior Judge) Extreme Actions to Address the Interference:** The Defendant's actions during the three years from that Friday culminated in the previous judge, the Honorable Michael Denning, taking extreme measures to help mitigate and prevent further intractable damage to the parties' daughter. Custody was eventually changed to Plaintiff in 2018 and again to 50/50 in 2019 as described in the Permanent Custody Order. See Exhibit B (Permanent Custody Order), p.2, ¶10-13; p.3-7, ¶34-36; p.8, ¶42-44, ¶47; p.9, ¶47 (subsections a., b., e., f.), ¶48. (Note: ¶45 is currently in dispute).
 - c. **The Traumatic Replay:** On October 7, 2022, due to Plaintiff Davis's unlawful arrest and incarceration without due process, his daughter again experienced her father not picking her up from school as expected one Friday. When Defendant (her mother) picked her up, Defendant could not tell their child when she would see her father again for the second time. This time, however, it was Judge Ratledge, the very person entrusted to protect and look out for her best interests, who was responsible for inflicting more emotional hardship by acting outside the bounds of due process.
 - d. **Continuing Psychological Impact:** In 2021, Plaintiff Davis's daughter expressed intention of self-harm, which lead to psychiatric intervention and ongoing treatment with the antidepressant Lexapro.
 - e. **Consequences of Wrongful Incarceration:** Although the incarceration lasted approximately six hours, this was only due to the lucky timing of reaching the only friend in the area on the phone who had the means to pay the purge and attorneys fees on that day on his way out of town. It is reasonable to assume, looking at the circumstances surrounding the arrest as well as the impediments to pay placed in the way by Judge Ratledge, that intent was for Mr. Davis to be away from his daughter for notably longer.
 - f. **Custody Interruption Through Due Process Violation:** Plaintiff Davis's incarceration, as a direct result of violations of the Fourteenth Amendment and Article I of the North Carolina State Constitution, caused an interruption in his custody of his

daughter. While Judge Ratledge may have acted within its authority to protect the child's immediate welfare, the root cause of the need was a violation of due process rights. This underscores the relevance of the civil rights violations in this case, ensuring that the federal court can address these issues without breaching the Rooker-Feldman doctrine.

1.7. **Conclusion:** The sequence and nature of the events in this case go well beyond reasonable exercise of judicial discretion and indicate judicial fiat against the Plaintiff, infringing upon constitutional due process rights. This is evidenced by:

- a. **Sequential Hearing Scheduling:** Placing the Show Cause hearing immediately after the Rule 59 reconsideration hearing on sanctions against opposing counsel, suggesting a possible retaliatory motive.
- b. **Lack of Ruling on Protective Orders:** When Judge Ratledge did not rule on Plaintiff Davis's motions for protective orders, it neglected to follow procedural due process.
- c. **Willful Contempt Finding Without Evidence:** When finding willful contempt in the absence of the requested financial information, it deprived the Plaintiff of due process.
- d. **Immediate Arrest and Incarceration:** Plaintiff Davis's immediate arrest and incarceration deprived the Plaintiff of due process and blurred the lines between civil standards and criminal consequences.
- e. **Attorney's Fees Award:** When imposing attorney's fees in this context, Judge Ratledge deviated from standard practices in civil contempt cases.

Acknowledgment of Payment Impracticality: The trial court's acknowledgment of the challenges associated with making a purge payment from jail, coupled with its failure to provide any mechanism for compliance before the Plaintiff's arrest, strongly suggests a punitive intent behind the decision. These actions conflict with established legal precedents, such as *Ex Parte Werblud*, *Hicks v. Feiock*, *Coble v. Coble*, and *Baxley v. Jackson*, and violate constitutional protections under U.S. Const. amend. XIV; N.C. Const. art. I, § 19; and Article III, Section 2 of the U.S. Constitution. Given these deviations from legal standards and the principles of stare decisis, these actions call for appropriate remedial action under 42 U.S.C. § 1983 and 18 U.S.C. § 242 for the deprivation of rights under color of law.

B. POTENTIAL COUNTERARGUMENTS AND REBUTTALS:

1.1. **Anticipated Counterargument:** The contempt finding was justifiable, and Mr. Davis's immediate imprisonment followed standard legal procedure, thereby upholding due process.

1.2. **Rebuttal:**

a. **Retaliation Disguised as Legality:** The timing of the contempt hearing, which directly followed Mr. Davis's motion challenging Judge Ratledge's previous ruling for sanctions against opposing counsel, Stephanie T. Jenkins, suggests punitive intent. The opposing counsel's approach of prioritizing immediate case progress over due process along with Judge Ratledge's decisions and actions did not follow due process guidelines found in the Fourteenth Amendment of the Constitution and North Carolina's "Law of the Land" Clause.

b. **Impact on Plaintiff's Daughter:** On October 7, 2022, the trial court's actions had significant effects outside the courtroom. Judge Ratledge's decisions contrast with its duty to uphold federal and state laws and prioritize the best interest of the child. This underscores the seriousness of the due process violations, extending the impact to include the most vulnerable parties involved.

c. **Violation of Fourteenth Amendments:**

i. The trial court's failure to address the multiple requests for hearings on motions for protective orders directly undermines the Plaintiff's Fourteenth Amendment due process rights.

ii. Such inaction deviates from established judicial responsibilities, as articulated in the judge's oath of office, to ensure fair proceedings and uphold constitutional protections.

iii. This behavior highlights concerns regarding adherence to constitutional mandates and principles of stare decisis.

1.2. **Substantive Violation of Constitutional Protections:** The precipitous decision to incarcerate Mr. Davis and the resulting consequences constitute a blatant infringement of the Fourteenth Amendment's due process protections and the "Law of the Land" clause of the North Carolina Constitution. These actions also represent a clear violation of 18 U.S.C. § 242 (Willful deprivation of rights under color of law).

- 1.3. **NCJSC:** The NCJSC's failure to investigate the judicial misconduct complaint, which described and substantiated this very issue, demonstrates a troubling disregard for safeguarding judicial integrity and public trust. Their inaction allowed retaliatory and improper judicial actions to stand unaddressed, in direct conflict with its mandate under N.C. Gen. Stat. § 7A-374.1 et seq.

C. SUGGESTED REMEDIAL ACTIONS:

- 1.1. **Declaratory Judgement:** A declaration that Plaintiff Davis's constitutional rights were violated.
- 1.2. **Appropriate Compensation to Plaintiff Davis**
- a. **Compensation for Emotional Distress and Punitive Damages**
 - i. **Emotional Distress** for the emotional distress and psychological impacts endured as a direct result of due process violations, including stress, anxiety, and other mental health effects stemming from the unjust arrest and incarceration.
 - ii. **Punitive Damages:** Punitive Damages: Punitive damages to address the gravity of Judge Ratledge's actions, aimed at providing appropriate redress to Mr. Davis and acting as a preventive measure against future judicial errors.
 - 1.3. **Effect of Due Process Violations on the Parties' Daughter:** Given the history of what the parties' daughter has already endured, this aspect must be appropriately considered, underscoring the broader consequences of the trial court's actions. These actions, which extend beyond legal infringement to profound personal impacts, should be considered when determining appropriate remedies.
 - 1.4. **Financial Compensation:** Financial compensation for Mr. Davis to address to the behavior that led to the infringement of his civil rights. This compensation should cover the emotional, psychological, and financial impacts resulting from the due process violations.
 - 1.5. **Injunctive Relief:** For comprehensive relief addressing the procedural delays, including compensation, see the Consolidated Injunctive Relief section.

- D. ALL SUPPORTING SOURCES:** Exhibit C (Plaintiff Davis's Brief), Pages 27-29; Exhibit Q (Oct. 7, 2022 Trial Court Order); Exhibit W (NCJSC Decision); Exhibit P (Oct. 7, 2022), T: p.32: 11-15, T: p.44: 23-25 to p.46, line 23, T: p.49: 15 to p.52, line 15; *Coble v. Coble*, 300 N.C. 708 (1980); *Ex Parte Werblud*, 536 S.W.2d 542 (Tex. 1976); *Hicks v.*

Feiock, 485 U.S. 624; *Marshall v. Lonberger*, 459 U.S. 422 (1983); *Knight v. Miami-Dade County*, 856 F.3d 795 (11th Cir. 2017); U.S. Const. amend. IV; U.S. Const. amend. XIV; N.C. Const. art. I, § 19 ('Law of the Land' clause); 42 U.S.C. and § 1983 and 18 U.S.C. § 242); N.C. Gen. Stat. § 7A-374.1 et seq.

IX. Second Civil Contempt Finding Without Proper Evidentiary Foundation (Oct. 6, 2023)

A. DETAILED ANALYSIS (Presiding Judge Jennifer Bedford):

1.1. Trial Court:

a. Professional (Official) Capacity—Due Process Violations:

- i. **Lack of Reference to Mr. Davis's Testimony and Evidence:** In the Honorable Jennifer Bedford's verbal and written findings, written up by opposing counsel did not include reference to Mr. Davis's testimony or evidence, including a properly filed motion for court supervision and its included evidence.
- ii. **Ignoring Previous Findings of Indigency:** The court did not reference in its findings or final order the multiple instances where Mr. Davis was found indigent by the court.
- iii. **Reliance on Unadmitted, Partial Financial Evidence:** Judge Bedford's decision on financial documentation produced by the opposing party which depicted Mr. Davis's finances in a particular light but never verified or admitted it into evidence. This reliance contravenes the foundational rules of evidence regarding admissibility and authentication as set forth in N.C. Gen. Stat. § 8C-1, Rule 402 and Fed. R. Evid. Rule 402, as well as the requirements for evidence authentication under N.C. Gen. Stat. § 8C-1, Rule 901 and Fed. R. Evid. Rule 901. These procedural missteps not only undermine the Fourteenth Amendment's due process protections but also Article 1 of the NC Constitution's 'Law of the Land' clause, reasonably invalidating the basis of the contempt finding.

d. Personal (Individual) Capacity:

- i. **Malicious Intent and/or Bad Faith:** There is evidence that Judge Bedford acted with personal bias, malice, or in bad faith by knowingly relying on unsupported testimony and unverified financial documents after twice being reminded by his appointed counsel to verify, while disregarding Mr. Davis's evidence, prior

findings of indigency indicates a willful disregard for the Plaintiff's rights and a punitive motive.

- ii. **Actions Beyond Judicial Discretion:** Judge Bedford's decision to issue a contempt finding based on unadmitted, unaccepted, and unverified evidence, while ignoring substantial contrary evidence and previous indigency findings, falls outside the reasonable bounds of judicial discretion. These actions demonstrate personal liability as they exceed the limits of judicial authority and due process.

1.2. **Exhaustion of State Remedies:** Plaintiff Davis sought to address these issues through state-level remedies, including filing an initial appeal with the North Carolina Court of Appeals (NCCOA) on April 4, 2022. Despite these efforts, the civil rights violations were not remedied due to procedural reasons which cost him his right of appeal.

1.3. **A Concerning Trend:**

- a. The two Show Cause | Contempt Hearings in both 2022 and 2023, presided over by distinct judges (the Honorable Brian Ratledge and the Honorable Jennifer Bedford, respectively) and involving two different court-appointed attorneys, demonstrate a pattern of due process violations that have egregiously infringed upon Plaintiff Davis's civil rights over a period of more than two years.
- b. During the October 2022 hearing, Mr. Ryan Short, appointed to represent the Plaintiff, twice reminded Judge Ratledge of the unaddressed motions for protective orders prior to issuing a ruling, highlighting a disregard for the Plaintiff's right to a fair hearing. Similarly, during the October 2023 hearing, Mr. Grey Powell, a second attorney appointed for the Plaintiff, twice reminded Judge Bedford of her duty to verify the opposing counsel's claims before issuing a ruling. These repeated failures to follow due process not only undermine the integrity of the judicial process but also constitute violations of Plaintiff Davis's Fourteenth Amendment right to due process and equal protection under the law. See Exhibit D18 (Oct. 6, 2023), T:50:14-16, 61:18-22

1.2. **Conclusion:** The court's decision, based on unverified documentation from the Defendant and disregarding Mr. Davis's admitted evidence and motions, constitutes a violation of due process as required by both the Fourteenth Amendment and Article I of the North Carolina Constitution. These actions not only exceeded the boundaries of judicial discretion but also breached constitutional protections guaranteed to the Plaintiff. Such violations necessitate

corrective action under 42 U.S.C. § 1983 for the deprivation of rights under color of law and a criminal referral under 18 U.S.C. § 242 for willful deprivation of rights.

B. POTENTIAL COUNTERARGUMENTS AND REBUTTALS:

1.1. **Anticipated Counterargument:** The trial court found, through the evidence and testimony presented sufficient basis to find the Plaintiff in willful civil contempt.

1.2. **Rebuttal:**

- a. **Evidence Assessment Without Due Process:** Judge Bedford's decision was heavily reliant on a single unverified and unadmitted single-page spreadsheet presented by the Defendant, while disregarding the Plaintiff's properly admitted financial statement, prior indigency findings, and a properly filed motion containing evidence that reasonably rebutted much of the opposing counsel's allegations.
- b. **Constitutional Requirements for Evidence:** The Fourteenth Amendment of the U.S. Constitution and the 'Law of the Land' clause of Article I of the North Carolina Constitution mandate that court decisions be based on evidence meeting legal standards of admissibility and reliability. These constitutional provisions ensure fair procedures, including the assurance that only verified and properly admitted evidence be used in judicial determinations.
- c. **Judicial Overreach:** Judicial discretion must conform to the legal standards established in Article III, Section 2, of the U.S. Constitution and principles of stare decisis. This framework requires that judicial actions adhere to established legal standards and precedents, ensuring that discretion is exercised within the bounds of the law.
- d. **A Pattern of Overlooking Due Process:** In both the October 2022 and October 2023 hearings, there was a pattern of neglecting important legal steps, leading to unjust decisions despite two different judges and lawyers being involved. These oversights have, to put it mildly, unfairly caused injury to the Plaintiff. The issue was exacerbated in 2023 when Judge Bedford ordered Plaintiff Davis to pay \$4,070 in attorney's fees. These repeated oversights highlight a concerning pattern of state actors within the Wake County court system. See Exhibit D18 (Oct. 6, 2023), T:50:14-16, 61:18-22.
- e. **Deprivation Of Rights Under Color of Law:** Judge Bedford's decision to issue a willful contempt ruling, based on a single unverified document not admitted into evidence, while disregarding substantial contrary evidence, represents a clear violation of

Plaintiff Davis's 14th Amendment Rights as well as his rights defined in the North Carolina Constitution ('Law of the Land' section) and warrant action under both 42 U.S.C. 1983 and a criminal referral under 18 U.S.C. § 242, constituting a deprivation of rights under color of law.

C. SUGGESTED REMEDIAL ACTIONS:

- 1.1. **Declaratory Judgement:** A declaration that Plaintiff Davis's constitutional rights were violated.
- 1.2. **Appropriate Compensation to Plaintiff Davis** Appropriate compensation for Mr. Davis to address the considerable personal time, effort, and resources expended in addressing these due process violations. This compensation should also account for the emotional and psychological impact of these sustained legal battles.
- 1.3. **Injunctive Relief:** For comprehensive relief addressing the procedural delays, including compensation, see the Consolidated Injunctive Relief section.

D. ALL SUPPORTING SOURCES: Exhibit S (Oct. 6, 2023 Trial Court Order); Exhibit T (Oct. 6, 2023), p.28: 21-22; N.C. Gen. Stat. § 8C-1, Rule 402; N.C. Gen. Stat. § 8C-1, Rule 901; Fed. R. Evid. Rule 402; Fed. R. Evid. Rule 901; *State v. Cooke*, 306 N.C. 132, 134 (1982); Exhibit O (Davis Certificate of Indigence 2022-2023); Exhibit T (Motion for Court Supervision);); Exhibit W (NCJSC Decision); *Coble v. Coble*, 300 N.C. 708, 714 (1980); U.S. Const. amend. XIV; N.C. Const. art. I, § 19 ('Law of the Land' clause); U.S. Const. art. III, § 2; 42 U.S.C. § 1983; *Knight v. Miami-Dade County*, 856 F.3d 795 (11th Cir. 2017); See Exhibit R (Oct. 6, 2023), T:50: 14-16, 61:18-22.

ISSUES: PLAINTIFF STETSON MANSFIELD WEBSTER

I. 14TH AMENDMENT DUE PROCESS VIOLATIONS AND EXCESSIVE JUDICIAL DELAYS

A. DETAILED ANALYSIS:

1.1. Trial Court:

i. **Professional (Official) Capacity—Due Process Violations (Judge Bell) - Alimony Trial Delays:** The alimony trial was originally set to be heard on December 7, 2021. Despite Plaintiff Webster’s protests, the other party was given latitude to move the date without a motion or even an order to continue, effectively extending the interlocutory post-separation support order, which did not have an end date as required, for another year. The court knowingly postponed the alimony trial, leaving the postseparation support order in effect for an extended period. During this extended time, Plaintiff Webster was then found in willful contempt and incarcerated. See Exhibits W01, W02, W09.

1. Two orders issued on or around September 27 and October 5, 2021, confirmed a scheduled alimony hearing for December 7, 2021, but this hearing was subsequently removed from the court’s calendar without explanation. Multiple motions to reconsider and expedite were filed, along with calendar requests, but these were either left unaddressed or rejected due to objections from the opposing party. See Exhibit W26 (Judicial Complaint).
2. The opposing counsel’s paralegal confirmed their intent to hear both ED and alimony cases on December 7, 2021, consistent with the court’s previous orders. However, the court accepted the opposing party’s subsequent objection to scheduling the hearing for that date without providing a rationale or due process.

ii. **Contempt Proceedings:**

1. Plaintiff Webster’s former spouse initiated a contempt action against Plaintiff Webster by filing a motion for an order to show cause and a motion for contempt on April 6, 2022.
2. The case was tried before the Honorable Damion McCullers during the August 26, 2022, session of the Family District Court of Wake County.

3. Plaintiff Webster, representing himself pro se, was tried in a bench trial for willful contempt of the court's amended order entered on September 30, 2021. See Exhibit W01 (Amended Order).
4. The court found Plaintiff Webster in willful contempt, and a Judgment and Order was entered on September 26, 2022. See Exhibit W02 (Judgment and Order).

iii. **Alimony Order Delays:**

1. The North Carolina Family Court Advisory Committee (NCFCAC) established case management plan aims for the just, fair, and timely resolution of cases. According to the NCFCAC, 90% of alimony claims should have an order entered within 270 days of a claim, approximately by October 16, 2020. They further advise that 100% of claims should be ordered within 365 days, approximately by January 19, 2021. See Exhibit W27, p. 8.
2. However, despite Plaintiff Webster's prodding, an alimony order was not entered until April 8, 2024. This delay resulted in the order being entered in 1,540 days, more than four times the advised duration. The alimony trial was eventually heard more than a year after the initial scheduled date, and a ruling was made more than a year after the hearing date. This extensive delay highlights significant procedural misconduct and a failure to adhere to established guidelines for timely case management.

a. **Personal (Individual) Capacity (Judge Bell):**

- i. **Malicious Intent or Bad Faith:** The evidence shows that Judge Bell acted with personal bias, malice, or in bad faith by knowingly extending the indefinite interlocutory order by delaying the alimony trial without proper justification and then issuing an order a show cause on unverified allegations later upheld to be factual findings. These actions demonstrate a willful disregard for Plaintiff Webster's due process rights and a punitive motive behind the judicial decisions.
- ii. **Actions Beyond Judicial Discretion:** Judge Bell's decision to reject Plaintiff Webster's attempts to hear his Rule 59 Motion to Reconsider before being incarcerated exceeds the limits of judicial authority and due process, indicating personal liability. Judge Bell's decision to reject evidence that the mortgage was paid before the

ruling, by insisting she would only consider payments made after the ruling, further demonstrates actions beyond judicial discretion. This decision disregards the fact that the initial ruling, which found the mortgage unpaid, was provably erroneous. This demonstrates actions taken in a personal capacity, exceeding the limits of judicial authority and due process.

b. Professional (Official) Capacity—Due Process Violations (Judge McCullers):

- i. Judge McCullers found Plaintiff to be in willful contempt without evidence of an ability to pay and without due process. During the trial, Judge McCullers insisted that the other party did not have any burden of proof because the court had already found cause that Plaintiff Webster was in contempt, although these findings were made ex-parte. As such, Plaintiff Webster was denied an opportunity to challenge or cross-examine the other party's claims.

c. Personal (Individual) Capacity (Judge McCullers):

- i. Judge McCullers acted with personal bias, malice, or in bad faith by insisting that the other party did not have any burden of proof because the court had already concluded (without proof) that Plaintiff Webster was in contempt. This indicates a willful disregard for Plaintiff Webster's rights and a punitive motive. Additionally, Judge McCullers ignored Plaintiff Webster's demands for evidence that he had the means to comply with the financial obligations despite admitting evidence of Plaintiff Webster having lost his job several months prior. These actions demonstrate a willful disregard for due process and judicial fairness, taken in a personal capacity and exceeding the limits of judicial authority.

1.2. Exhaustion of State Remedies:

- a. **Efforts Made:** Plaintiff Webster attempted to address these issues through state-level remedies, filing relevant motions and complaints. Despite these efforts, the civil rights violations remained unaddressed.
- b. **Necessity of Federal Intervention:** Due to the failure of state remedies to rectify the constitutional violations, federal court intervention is necessary to protect Plaintiff's civil rights.

- 1.3. **Further Attempts at Relief:** Plaintiff contacted the North Carolina Judicial Standards Commission (NCJSC) to address Judge Bell's conduct and due process violations but did not obtain relief See Exhibit D23; N.C. Gen. Stat. § 7A-374.1 et seq.
- 1.4. **Constitutional Violations:** The actions of state officials in the Wake County trial court system and the NCJSC constitute significant and systematic violations of the Fourteenth Amendment to the United States Constitution and Article I, § 19 of the North Carolina Constitution ("Law of the Land" clause).
- 1.5. **Conclusion:**
- a. **Significant Due Process Violations:** The procedural and constitutional errors in the handling of Plaintiff Webster's case by the Wake County trial court system illustrate significant violations of due process.
 - b. **Order Intended to be Temporary is Indefinite:** The indefinite interlocutory order, the repeated and unjustified delays in the alimony trial, and the finding of willful contempt without sufficient evidence collectively demonstrate a pattern of procedural misconduct.
 - c. **Arrest With No Ability to Defend:** The court's refusal to hear the Rule 59 Motion before taking Plaintiff Webster into custody further underscores the disregard for constitutional protections. These actions not only caused undue financial and emotional hardship to Plaintiff Webster but also violated established guidelines for timely case management.
 - d. **Federal Intervention Necessary:** Federal intervention is necessary to address these civil rights violations and ensure that justice is fairly administered.
Such violations necessitate corrective action under 42 U.S.C. § 1983 for the deprivation of rights under color of law and a criminal referral under 18 U.S.C. § 242 for willful deprivation of rights.

B. POTENTIAL COUNTERARGUMENTS AND REBUTTALS:

- 1.1. **Anticipated Counterargument:** The court's actions, including issuing an indefinite interlocutory order, delaying the alimony trial, and finding Plaintiff Webster in contempt, were all within its discretion due to the complex and evolving nature of the case. The delays and indefinite orders were necessary to ensure a thorough consideration of all factors, and the contempt finding was based on credible evidence and testimony.

1.2. Rebuttal:

- a. The court's indefinite interlocutory order and repeated delays in the alimony trial violated Plaintiff Webster's due process rights by depriving him of the ability to contest and prepare adequately.
- b. The court's reliance on unverified testimony without sufficient supporting evidence for the contempt finding and its refusal to hear the Rule 59 Motion before taking Plaintiff Webster into custody further demonstrate procedural misconduct and a disregard for constitutional protections.
- c. The extensive delays in issuing the alimony order, far exceeding the North Carolina Family Court Advisory Committee (hereafter "NCFCAC") guidelines, caused undue financial and emotional hardship, highlighting significant procedural inefficiencies and a failure to administer justice fairly. See Exhibit W01 (Amended Order); Exhibit W02 (Judgment and Order); Exhibit W03 (Rule 59 Motion); Exhibit W04 (Rule 62 Motion); Exhibit W09 (Documentation of Alimony Trial Dates and Correspondence); Exhibit W26 (Judicial Complaint); Exhibit W27 (NCFCAC Guidelines).

C. SUGGESTED REMEDIAL ACTIONS:

- 1.1. **Declaratory Judgment:** A declaration that Plaintiff Webster's constitutional rights were violated.
- 1.2. **Appropriate Compensation to Plaintiff Webster:** Order financial compensation for Mr. Webster to address the losses incurred due to judicial oversights that led to the infringement of his civil rights. This compensation should cover the emotional, psychological, and financial impacts resulting from the due process violations.
- 1.3. **Injunctive Relief:** For comprehensive relief addressing the procedural delays, including compensation, see the Consolidated Injunctive Relief section.

D. ALL SUPPORTING SOURCES: Exhibit W01 (Amended Order); Exhibit W02 (Judgment and Order); Exhibit W03 (Rule 59 Motion); Exhibit W04 (Rule 62 Motion); Exhibit W05 (Motion Correspondence); Exhibit W06 (Order Denying Stay); Exhibit W07 (Order Denying Stay); Exhibit W08 (Appeal Opinion); Exhibit W09 (Documentation of Alimony Trial Dates and Correspondence); Exhibit W26 (Judicial Complaint); Exhibit W27 (NCFCAC Guidelines)

II. PROCEDURAL ERRORS AND 14TH AMENDMENT DUE PROCESS VIOLATIONS

A. DETAILED ANALYSIS

1.1. Trial Court:

a. Professional (Official) Capacity—Due Process Violations (Judge Bell):

i. Motion to Finalize Pending Orders:

1. On November 20, 2023, Plaintiff Webster filed a motion to prompt the court to finalize eleven pending orders without further hearing (Exhibit W10). The court never responded to this motion.
2. In response, Plaintiff Webster filed a writ of mandamus on March 27, 2024, to compel the court to adjudicate the motion and enter the overdue orders (Exhibit W11). The writ was dismissed without prejudice after two months, with the court instructing Plaintiff Webster to refile in 60 days with copies of the filed motions not ruled upon (Exhibit W12).
3. The ongoing delays and pending rulings have significantly interfered with Plaintiff Webster's employment opportunities, causing financial and professional hardship.

ii. **Protective Order and Evidence Production:** On September 14, 2022, the Court decided to issue a protective order to produce evidence demanded by Plaintiff Webster. More than a year later, on March 1, 2024, the Court instead entered a protective order for its exclusive control of the evidence, barring Plaintiff Webster from access. On the same day, the Court also entered an order compelling the Defendant to comply with its order to produce the evidence to the court (Exhibit W13 and W13a).

iii. **Denial of Status Updates and Access to Forensic Data:** The court's lack of response to requests for a status update on compliance with its order and access to forensic data, as requested in his motion filed on April 23, 2024, impinges upon his procedural due process rights under the 14th Amendment and raises concerns regarding procedural due process rights (Exhibit W14). This denial prevents Webster from accessing critical materials necessary for his defense, thus violating his right to be heard in a fair legal process.

- iv. **Failure to Respond to Motion:** The court failed to respond to Plaintiff Webster’s motion to finalize eleven pending orders.
 - v. **Delayed Issuance of Orders:** The court has significantly delayed issuing orders for hearings conducted as early as September 14, 2022, in violation of the Tenth Judicial District Family Court Rules, Rule 1.3 and Rule 6. Notably, an Order to Show Cause heard on January 9, 2023, remains pending. This prolonged uncertainty has negatively impacted Plaintiff Webster's employment prospects, as employers are aware of these ongoing legal issues and remain skeptical due to the lack of timely resolution.
 - vi. **Dismissal of Writ of Mandamus:** The court dismissed Plaintiff Webster’s writ of mandamus without addressing the substantive and ongoing issues of delayed orders, thus depriving him of his ability to properly defend himself in court.
 - vii. **Failure to Provide Evidence:** The court has continually denied access to evidence critical to Plaintiff Webster’s case (Exhibits W13 and W13a).
 - viii. **Failure to Respond to Requests for Compliance:** Plaintiff sought redress through state-level remedies, including filing relevant motions and complaints, but the civil rights violations were not remedied (Exhibit W08).
- b. **Personal (Individual) Capacity (Judge Bell):**
- i. **Malicious Intent and/or Bad Faith:** There is evidence that Judge Bell acted with personal bias, malice, or in bad faith by knowingly failing to respond to motions, delaying the issuance of orders, and denying access to critical evidence. These actions demonstrate a willful disregard for Plaintiff Webster's due process rights and a punitive motive behind the judicial decisions.
 - ii. **Actions Beyond Judicial Discretion:** The judges' decisions to ignore motions, delay rulings, and obstruct access to evidence fall outside the reasonable bounds of judicial discretion. These actions exceed the limits of judicial authority and due process, indicating personal liability.
- c. **Professional (Official) Capacity—Due Process Violations (Judge Bedford):**
- i. **Repeated Failure Issue an Order:** There is evidence that Judge Bedford is acting willfully and in bad faith by knowingly delaying or withholding a ruling on the contempt issue despite minimal and straightforward evidence. This deliberate

inaction, inconsistent with the evidence presented, suggests a punitive motive and a violation of procedural fairness, given Plaintiff Webster's testimony about the impact of the unresolved litigation on his employment.

d. Personal (Individual) Capacity (Judge Bedford):

- i. **Repeated Failure Issue an Order:** There is evidence that Judge Bedford is acting willfully and in bad faith by knowingly delaying or withholding a ruling on the contempt issue that was heard on October 3, 2023, despite minimal and straightforward evidence to deliberate. This deliberate inaction, inconsistent with the evidence presented, suggests a punitive motive and a violation of procedural fairness, given Plaintiff Webster's testimony about the impact these unresolved litigation matters have on his employment. Employers are aware of these ongoing legal issues and remain skeptical due to the lack of timely resolution, further compounding the detrimental impact on Plaintiff Webster's employment prospects.

1.2. Exhaustion of State Remedies:

- a. **Exhaustion of State Remedies:** Plaintiff sought redress through state-level remedies, including filing relevant motions and complaints (Exhibits W10, W11, and W08). Despite these efforts, the civil rights violations were not remedied.
- b. **Necessity of Federal Intervention:** Given the failure of state remedies to address the constitutional violations, federal court intervention is necessary to protect Plaintiff Webster's civil rights.

1.3. Constitutional Violations: The actions of state officials in the Wake County trial court system constitute significant and systematic violations of the Fourteenth Amendment to the United States Constitution and Article I, § 19 of the North Carolina Constitution ("Law of the Land" clause).

1.4. Conclusion:

- a. **Due Process Violations:** The trial court's failure to respond to the motion to finalize pending orders and the dismissal of the writ of mandamus without addressing the substantive issues of delay violated Plaintiff Webster's due process rights. The court's continued denial of access to critical evidence and failure to respond to compliance requests further violate Plaintiff Webster's due process rights. The appellate court's lack of intervention exacerbates these violations.

- b. **Federal Intervention Necessary:** Federal intervention is necessary to address these civil rights violations and ensure that justice is fairly administered. The willful deprivation of these rights under color of law necessitates corrective measures under 42 U.S.C. § 1983 and a criminal investigation under 18 U.S.C. § 242. The pattern of conduct observed in this case underscores the systemic nature of these violations.

B. POTENTIAL COUNTERARGUMENTS AND REBUTTALS

- 1.1. **Anticipated Counterarguments:** The court's actions, including the failure to respond to the motion to finalize pending orders, delaying the issuance of orders, and denying access to evidence, were within its discretion due to the complexity and evolving nature of the case.
- 1.2. **Rebuttal:**
 - a. The court's failure to finalize pending orders and the significant delays violated Plaintiff Webster's due process rights by depriving him of the ability to contest and prepare adequately.
 - b. The court's refusal to address the writ of mandamus without resolving the substantive issues of delay further demonstrates procedural misconduct and a disregard for constitutional protections.
 - c. The extensive delays and failure to provide evidence critical to Plaintiff Webster's case caused undue financial and emotional hardship, highlighting significant procedural inefficiencies and a failure to administer justice fairly (Exhibits W10, W11, W12, W13, W13a, W14, W08).

C. SUGGESTED REMEDIAL ACTIONS

- 1.1. **Declaratory Judgment:** A declaration that Plaintiff Webster's constitutional rights were violated.
- 1.2. **Appropriate Compensation to Plaintiff Webster:** Order financial compensation for Mr. Webster to address the losses incurred due to judicial oversights that led to the infringement of his civil rights. This compensation should cover the emotional, psychological, and financial impacts resulting from the due process violations.
- 1.3. **Injunctive Relief:** For comprehensive relief addressing the procedural delays, including compensation, see the Consolidated Injunctive Relief section.

D. **ALL SUPPORTING SOURCES:** Exhibit W10 (Motion to Finalize Orders); Exhibit W11 (Writ of Mandamus); Exhibit W12 (Court Instructions); Exhibit W13 (Protective Order); Exhibit W13a (Order to Compel); Exhibit W14 (Motion for Status Update); Exhibit W08 (NCCOA Opinion 22-975)

III. CIVIL RIGHTS VIOLATIONS VIA PROCEDURAL DUE PROCESS

A. DETAILED ANALYSIS:

1.1. Trial Court:

a. Professional (Official) Capacity—Due Process Violations (Judge Bell):

- i. **Unsupported Findings and Exclusion of Evidence:** Judge Bell modified an existing order regarding the care and responsibility of minor children based on a single court officer's testimony, which excluded certain contradictory evidence presented by Plaintiff Webster. This came after a formal hearing on the matter, despite the lack of evidence showing any significant changes in the conditions that led to the original decision. This raises concerns about procedural fairness and due process, as standard legal procedures typically require substantial changes in circumstances to justify such modifications.
- ii. **Temporary Order Based on Single Court Officer's Report:** On August 27, 2021, the trial court issued a temporary order modifying an existing permanent order based on a single court officer's report, without either party or the court officer seeking such relief (Exhibit W15).
- iii. **Unsupported Findings and Exclusion of Evidence:** The trial court made factual findings that were unsupported by substantial evidence and failed to consider crucial evidence offered by Plaintiff Webster despite saying that it will (Exhibit W15).
- iv. **Modification Without Substantial Change in Circumstances:** The order was modified based on a single court officer's report, which raised previously known issues without demonstrating a substantial change affecting the child's welfare (Exhibit W15).
- v. **No Motion Filed:** The court modified the order without a motion from either party, violating N.C. Gen. Stat. § 50-13.7(a) (Exhibit W16).

- vi. **Improper Sua Sponte Action:** The court acted sua sponte in modifying the permanent custody order, contrary to established case law prohibiting such actions without a formal motion (Jackson v. Jackson, 192 NC App 455 (2008))
- b. **Personal (Individual) Capacity (Judge Bell):**
- i **Malicious Intent or Bad Faith:** There is evidence that Judge Bell acted with personal bias, malice, or in bad faith by knowingly modifying an existing order without substantial evidence or a formal motion. This included relying solely on a single court officer's testimony while excluding crucial contradictory evidence presented by Plaintiff Webster, suggesting a punitive motive and a deliberate violation of procedural fairness.
 - i **Actions Beyond Judicial Discretion:** Judge Bell's decision to modify the custody order sua sponte, without a substantial change in circumstances and in the absence of a motion from either party, falls outside the reasonable bounds of judicial discretion. These actions demonstrate a willful disregard for legal standards and due process, indicating personal liability.
- 1.2. **Exhaustion of State Remedies:**
- a. **Exhaustion of State Remedies:** Plaintiff sought redress through state-level remedies, including filing relevant motions and complaints. Despite these efforts, the civil rights violations were not remedied (Exhibit W17).
 - b. **Necessity of Federal Intervention:** Given the failure of state remedies to address the constitutional violations, federal court intervention is necessary to protect Plaintiff's civil rights.
- 1.3. **Constitutional Violations:** The actions of state officials in the Wake County trial court system constitute significant and systematic violations of the Fourteenth Amendment to the United States Constitution and Article I, § 19 of the North Carolina Constitution ("Law of the Land" clause).
- 1.4. **Conclusion:**
- a. **Due Process Violations:** The trial court's failure to respond to the motion to finalize pending orders and the dismissal of the writ of mandamus without addressing the substantive issues of delay violated Plaintiff Webster's due process rights. The court's continued denial of access to critical evidence and failure to respond to compliance

requests further violate Plaintiff Webster's due process rights. The appellate court's lack of intervention exacerbates these violations.

- b. **Federal Intervention Necessary:** The trial court's modification of the permanent custody order without a motion for modification and without finding a substantial change in circumstances constituted an abuse of discretion and violated Plaintiff Webster's due process rights. This warrants corrective measures under 42 U.S.C. § 1983 and a criminal investigation under 18 U.S.C. § 242.

B. POTENTIAL COUNTERARGUMENTS AND REBUTTALS

- 1.1. **Anticipated Counterarguments:** The court's actions, including the modification of the permanent custody order based on a single court officer's report and without a motion from either party, were within its discretion due to concerns about the child's welfare and evolving circumstances.

- 1.2. **Rebuttal:**

- a. The trial court's actions violated procedural fairness and due process requirements by modifying the custody order without substantial evidence of a significant change in circumstances and without a motion from either party, contrary to N.C. Gen. Stat. § 50-13.7(a) and established case law (*Jackson v. Jackson*, 192 NC App 455 (2008)).
- b. The court's reliance on a single court officer's report and exclusion of crucial evidence offered by Plaintiff Webster further demonstrate procedural misconduct and a disregard for constitutional protections.
- c. The court's sua sponte modification of the custody order without proper legal grounds caused undue hardship and confusion, highlighting significant procedural inefficiencies and a failure to administer justice fairly (Exhibits W15, W16, W17).

C. SUGGESTED REMEDIAL ACTIONS

- 1.1. **Declaratory Judgment:** A declaration that Plaintiff Webster's constitutional rights were violated.
- 1.2. **Appropriate Compensation to Plaintiff Webster:** Order financial compensation for Mr. Webster to address the losses incurred due to judicial oversights that led to the infringement of his civil rights. This compensation should cover the emotional, psychological, and financial impacts resulting from the due process violations.

1.3. **Injunctive Relief:** For comprehensive relief addressing the procedural delays, including compensation, see the Consolidated Injunctive Relief section.

D. **ALL SUPPORTING SOURCES:** Exhibit W15 (Temporary Custody Order); Exhibit W16 (Writ of Certiorari (8 Sep 2021)); Exhibit W17 (NCCOA Opinion 22-976); Jackson v. Jackson, 192 NC App 455 (2008)

IV. DENIAL OF 14TH AMENDMENT DUE PROCESS RIGHTS

A. DETAILED ANALYSIS:

1.1. Trial Court:

a. Professional (Official) Capacity—Due Process Violations (Judge Bell):

- i. **Equitable Distribution Claim:** Plaintiff Webster filed a Complaint for Equitable Distribution on or around January 16, 2020. The North Carolina Family Court Advisory Committee's (NCFCAC) established case management plan aims for the just, fair, and timely resolution of cases and stipulates that 90% of Equitable Distribution claims should have an order entered within 270 days of a claim, approximately by October 16, 2020. Furthermore, the plan requires that the assigned judge have a Final Pretrial Conference no later than 240 days after the first equitable distribution claim is filed. The NCFCAC advises that 100% of claims should be ordered within 365 days, approximately by January 18, 2021 (Exhibit W27, p. 8).
- ii. **Contested Agreement Admitted:** During the trial, the court admitted a contested agreement into evidence despite Plaintiff Webster's objections regarding its authenticity. Plaintiff Webster argued that the document was fraudulent, misrepresented his identity and assets, and contained provisions that violated state public policy. The trial court accepted the agreement as valid and based much of its ruling on this document, effectively binding Plaintiff Webster to its terms (Exhibits W18a and W18b, W19).
- iii. **IRS Debts Determination:** The trial court determined that IRS debts incurred during the marriage were Plaintiff Webster's separate responsibility. This determination was made based on Defendant's testimony without proper supporting documentation, despite the fact that the parties had already filed jointly for the relevant

tax years. This order deprived Plaintiff of his due process rights by imposing financial liability without sufficient evidence (Exhibit W19).

- iv. **Financial Award Calculation:** The trial court awarded Plaintiff Webster a financial amount without providing a transparent calculation or independent verification of the figures, relying solely on submissions from Defendant's counsel. This lack of transparency and independent assessment deprived Plaintiff Webster of due process rights (Exhibit W19).
- v. **Excessive Delay in Hearing and Issuing Orders:** Plaintiff Webster's Equitable Distribution claim was continued due to COVID-19 and was finally set to be heard on December 7, 2021. The final pretrial conference was rushed on the same day, contrary to NCFCAC guidelines. The time between the hearing and the issuance of the order was 240 days, with the final order issued on August 4, 2022, which was 927 days after the claim was filed (Exhibit W27, p. 8).
 1. **Failure to Verify Authenticity and Improper Findings:** The trial court did not properly verify the authenticity of the post-nuptial agreement despite significant discrepancies raised by Plaintiff Webster and relied on this document for findings that influenced the final ruling (Exhibits W18a and W18b, W19).
 2. **Improper Enforcement of Agreement:** The trial court enforced an agreement that allegedly contravenes North Carolina public policy, which generally discourages agreements that incentivize or facilitate the dissolution of marriage (NCGS § 52-10.1; *Small v. Small*, 107 N.C. App. 474, 420 S.E.2d 678 (1992)).
 3. **Failure to Assess Legal Validity:** The trial court did not critically assess the legal validity of the post-nuptial agreement's terms within the context of state public policy constraints.
 4. **Insufficient Evidence and Procedural Fairness Violation:** The trial court based its decision on Defendant's unsubstantiated claims, disregarding the joint tax filing status and failing to verify the alleged seizure of her tax refunds. This failure to require evidence deprived Plaintiff Webster of his due process rights. Additionally, the trial court failed to provide a clear and adequate explanation for the financial award, relying solely on unverified figures provided by

Defendant's counsel, further violating procedural fairness (Exhibit W19; Coble v Coble, 300 N.C. 708, 268 S.E.2d 185 (1980)).

b. Personal (Individual) Capacity (Judge Bell):

- i. **Malicious Intent or Bad Faith:** There is evidence that Judge Bell acted with personal bias, malice, or in bad faith by admitting a contested agreement into evidence despite Plaintiff Webster's objections and significant discrepancies. The decision to rely on this document without proper authentication or application of law suggests a deliberate intent to harm Plaintiff Webster's interests.
- ii. **Actions Beyond Judicial Discretion:** Judge Bell's determination of IRS debts as Plaintiff Webster's separate responsibility, without proper supporting documentation, and the failure to provide a transparent calculation for the financial award, fall outside the reasonable bounds of judicial discretion. These actions demonstrate a willful disregard for due process and legal standards, indicating personal liability.

1.2. Exhaustion of State Remedies:

- a. **Exhaustion of State Remedies:** Plaintiff sought redress through state-level remedies, including filing relevant motions and complaints. Despite these efforts, the civil rights violations were not remedied (Exhibits W17, W20, W27).
- b. **Necessity of Federal Intervention:** Given the failure of state remedies to address the constitutional violations, federal court intervention is necessary to protect Plaintiff Webster's civil rights.

1.3. Constitutional Violations: The actions of state officials in the Wake County trial court system constitute significant and systematic violations the Fourteenth Amendment to the United States Constitution and Article I, § 19 of the North Carolina Constitution ("Law of the Land" clause).

1.4. Conclusion:

- a. **Due Process Violations:** The trial court's failure to timely hear and resolve Plaintiff Webster's Complaint for Equitable Distribution, as stipulated by the NCFCAC guidelines, infringes upon Plaintiff Webster's due process and fair trial rights. The trial court's acceptance and enforcement of a potentially fraudulent post-nuptial agreement without ensuring its authenticity and alignment with public policy compromised due

process. The trial court's opaque and unverified calculation of the financial award violated due process rights.

- b. **Federal Intervention Necessary:** The willful deprivation of these rights under color of law warrants corrective measures under 42 U.S.C. § 1983 and necessitates a review of procedural conduct to prevent future violations. These actions also potentially warrant a criminal investigation under 18 U.S.C. § 242 for deprivation of rights under color of law. Further legal scrutiny is required to determine the enforceability of such agreements, ensuring compliance with state law and constitutional protections.

B. POTENTIAL COUNTERARGUMENTS AND REBUTTALS

1.1. **Anticipated Counterarguments:** The court's actions, including the admission and enforcement of the contested post-nuptial agreement, the determination of IRS debts, and the financial award calculation, were within its discretion and based on the available evidence and testimonies presented during the trial.

1.2. **Rebuttal:**

- a. The trial court's actions violated procedural fairness and due process requirements by admitting and enforcing a contested post-nuptial agreement without proper verification of its authenticity and alignment with public policy. This reliance on a potentially fraudulent document, without ensuring its compliance with state law, demonstrates a disregard for constitutional protections.
- b. The determination of IRS debts based solely on Defendant's unsubstantiated testimony, without proper supporting documentation, ignored the joint tax filing status and failed to require sufficient evidence, thereby violating Plaintiff Webster's due process rights.
- c. The lack of transparency and independent verification in the calculation of the financial award, relying solely on unverified figures provided by Defendant's counsel, further violated procedural fairness and due process rights (Exhibits W18a, W18b, W19, W27; NCGS § 52-10.1; *Small v. Small*, 107 N.C. App. 474, 420 S.E.2d 678 (1992); *Coble v Coble*, 300 N.C. 708, 268 S.E.2d 185 (1980)).

C. SUGGESTED REMEDIAL ACTIONS

- 1.1. **Declaratory Judgment:** A declaration that Plaintiff Webster’s constitutional rights were violated.
- 1.2. **Appropriate Compensation to Plaintiff Webster:** Order financial compensation for Mr. Webster to address the losses incurred due to judicial oversights that led to the infringement of his civil rights. This compensation should cover the emotional, psychological, and financial impacts resulting from the due process violations.
- 1.3. **Injunctive Relief:** For comprehensive relief addressing the procedural delays, including compensation, see the Consolidated Injunctive Relief section.

D. **ALL SUPPORTING SOURCES:** Exhibit W18a (ED Trial Transcript); Exhibit W18b (ED Trial Transcript); Exhibit W19 (Order for Equitable Distribution); Exhibit W20 (NCCOA Opinion 22-977); Exhibit W27 (NCFCAC Guidelines); NCGS § 52-10.1; *Small v. Small*, 107 N.C. App. 474, 420 S.E.2d 678 (1992); *Coble v Coble*, 300 N.C. 708, 268 S.E.2d 185 (1980)

V. Procedural Misconduct and Gatekeeper Order Related Due Process Violations

A. DETAILED ANALYSIS:

1.1. Trial Court:

a. Professional (Official) Capacity—Due Process Violations (Judge Bell):

- i. **Selective Case History Review:** The gatekeeper order was admittedly based on selective examples rather than a consistent pattern of vexatious litigation, violating principles established in *Safir v. United States Lines Inc.*, 792 F.2d 19 (2d Cir. 1986). This indicates an abuse of discretion and failure to provide a comprehensive view of Plaintiff Webster's litigation history.
- ii. **Misrepresentation of Calendar Misconduct:** The court cited Plaintiff Webster’s calendaring of a Motion for Return of Separate Property as misconduct, misrepresenting it as an attempt to relitigate rulings. However, the court transcript confirms that Webster was directed to calendar these items separately during the Equitable Distribution hearing. This misrepresentation suggests selective and misleading curation of Plaintiff Webster's motions.

- iii. **Delayed Issuance of Orders:** There were significant delays in issuing a protective order for critical evidence, impeding Plaintiff Webster's ability to present his case. This failure to act promptly affected Plaintiff Webster's right to due process.
- iv. **Broad and Overreaching Order:** The gatekeeper order was overly broad and not narrowly tailored to the specific circumstances, contrary to guidance from *Cromer v. Kraft Foods North American, Inc.*, 390 F.3d 812 (4th Cir. 2004). This excessively inhibited Plaintiff Webster's ability to file necessary motions, including those addressing ongoing violations and contempt by the opposing party.

b. Personal (Individual) Capacity (Judge Bell):

- i. **Personal Bias and Retaliation:** The issuance of the gatekeeper order and the cited reasons, such as the alleged calendar misconduct, suggest a potentially retaliatory motive against Plaintiff Webster for demanding accountability. The misrepresentation of facts and selective use of case history indicate actions that go beyond judicial discretion and suggest personal bias and retaliation.
- ii. **Deliberate Impediments to Case Presentation:** The delayed issuance of the protective order that continues to bar access to the evidence and the failure to address Webster's concurrent motions illustrate a deliberate attempt to impede Webster's ability to present his case. Such actions show bad faith and malice, which are outside the scope of judicial immunity.

1.2. Exhaustion of State Remedies:

- a. **Exhaustion of State Remedies:** Plaintiff sought redress through state-level remedies with a petition for a stay. Despite these efforts, the civil rights violations were not remedied (Exhibit W24).
- b. **Necessity of Federal Intervention:** Given the failure of state remedies to address the constitutional violations, federal court intervention is necessary to protect Plaintiff Webster's civil rights.

1.3. Constitutional Violations: The actions of Judge Bell in the Wake County trial court system constitute significant and systematic violations the Fourteenth Amendment to the United States Constitution and Article I, § 19 of the North Carolina Constitution ("Law of the Land" clause).

1.4. Conclusion:

- a. **Due Process Violations:** The complaint underscores the need for corrective measures under 42 U.S.C. § 1983 to address the constitutional violations and a potential criminal investigation under 18 U.S.C. § 242 to ensure accountability for the willful deprivation of constitutional rights. The relief sought aims to address the due process violations and ensure judicial accountability without revisiting state court judgments or factual findings.
- b. **Federal Intervention Necessary:** The willful deprivation of these rights under color of law warrants corrective measures under 42 U.S.C. § 1983 and necessitates a review of procedural conduct to prevent future violations. These actions also potentially warrant a criminal investigation under 18 U.S.C. § 242 for deprivation of rights under color of law. Further legal scrutiny is required to determine the enforceability of such agreements, ensuring compliance with state law and constitutional protections.

B. POTENTIAL COUNTERARGUMENTS AND REBUTTALS

1.3. Anticipated Counterarguments:

- a. The gatekeeper order was based on a review of Plaintiff Webster's litigation history, indicating a pattern of frivolous or vexatious filings.
- b. Plaintiff Webster's actions in calendaring motions were intended to relitigate issues and cause confusion, justifying the gatekeeper order.
- c. Delays in issuing orders were due to heavy caseloads or procedural complexities, not intentional misconduct.
- d. Concurrent motions were considered and found to be without merit or unnecessary for immediate resolution.
- e. The gatekeeper order was necessary to prevent frivolous litigation and maintain judicial efficiency, and that it was within the court's discretion.
- f. Actions taken were within the bounds of judicial discretion aimed at managing court resources and preventing abuse of the legal process.
- g. Delays or failures in addressing protective orders were unintentional and part of the normal judicial process.

1.4. Rebuttal:

- a. Plaintiff Webster will counter that the court's order admits that its review was selective and did not present a comprehensive view of his litigation history. Citing *Safir v.*

United States Lines Inc., Plaintiff Webster can argue that the court failed to establish a consistent pattern of vexatious litigation, relying instead on isolated incidents that do not justify the broad restrictions imposed by the gatekeeper order. See Exhibit 23 (Gatekeeper Order).

- b. Plaintiff Webster references the official court transcript which shows that he was directed to calendar these items separately. This demonstrates that the court's representation was misleading and that Plaintiff Webster was following judicial instructions, not engaging in misconduct. See Exhibit 18a (Court Transcript Volume I).
- c. Plaintiff Webster will argue that the delays were excessive and unreasonable, impeding his ability to present his case and constituting a violation of due process. As an example, the ongoing delays in the production of evidence and the court's exclusive control shows how these actions (or inactions) directly affect his rights. See Exhibits W10 (Motion to Finalize 11 Orders), W12 (Writ of Mandamus Dismissal), W13 (Protective Order), W13a (Order to Compel) and W14 (Status On Def's Compliance Release Or Inspection Of Docs And Adverse Inference).
- d. Plaintiff Webster will demonstrate that the court failed to address these motions altogether, violating due process by not considering all relevant filings. This omission deprived Plaintiff Webster of a fair opportunity to have his motions heard and resolved. See Exhibits W10 (Motion to Finalize 11 Orders).
- e. Plaintiff Webster will argue that the order was not narrowly tailored as required by *Cromer v. Kraft Foods North American, Inc.*, and imposed overly broad restrictions that hindered his ability to file legitimate motions. Judicial efficiency cannot come at the expense of constitutional rights.
- f. While judicial discretion allows for case management, it must be exercised within the constraints of due process and constitutional rights. Actions that are arbitrary, retaliatory, or excessively broad overstep these bounds and violate established legal standards.
- g. Plaintiff Webster can highlight specific instances where delays or omissions directly impacted the ability to present his case, such as the ongoing deprivation of evidence needed or the alimony trial, long after the trial and judgment. Such procedural failures constitute a denial of due process.

C. SUGGESTED REMEDIAL ACTIONS

- 1.4. **Declaratory Judgment:** A declaration that Plaintiff Webster’s constitutional rights were violated.
- 1.5. **Appropriate Compensation to Plaintiff Webster:** Order financial compensation for Mr. Webster to address the losses incurred due to judicial oversights that led to the infringement of his civil rights. This compensation should cover the emotional, psychological, and financial impacts resulting from the due process violations.
- 1.6. **Injunctive Relief:** For comprehensive relief addressing the procedural delays, including compensation, see the Consolidated Injunctive Relief section.

D. **ALL SUPPORTING SOURCES:** W12 (Writ of Mandamus Dismissal), W13 (Protective Order), W13a (Order to Compel), W14 (Status on Defendant's Compliance Release or Inspection of Documents and Adverse Inference), W22 (Order Continuing Plaintiff's Order to Show Cause), W25 (Writ Denial Order), *Safir v. United States Lines Inc.*, 792 F.2d 19 (2d Cir. 1986); *Cromer v. Kraft Foods North American, Inc.*, 390 F.3d 812 (4th Cir. 2004); *Baxley v. Jackson*, 179 N.C. App. 635, 640 (2006); *Hicks v. Feiock*, 485 U.S. 624; *Knight v. Miami-Dade County*, 856 F.3d 795 (11th Cir. 2017); 42 U.S.C. § 1983; 18 U.S.C. § 242.

VI. TRIAL COURT'S PROCEDURAL AND CONSTITUTIONAL ERRORS

A. DETAILED ANALYSIS:

- 1.1. **Motion to Modify Child Support:** Plaintiff Webster filed a Motion to Modify Child Support on or around 16 January 2023. The North Carolina Family Court Advisory Committee's (NCFCAC) established case management plan stipulates that 75% of child support claims should have an order entered within 90 days, approximately by 17 April 2023. Further, 90% of claims should be ordered within 180 days, approximately by 17 July 2023, and 100% of claims should be ordered within 270 days, which would have been by 13 October 2023 (Exhibit W27, p. 8).
- 1.2. **Trial Court:**
 - a. **Professional (Official) Capacity—Due Process Violations (Judge Bell):**
 - i. **Excessive Delay in Hearing:** Despite these guidelines, Plaintiff Webster’s Motion to Modify Child Support has been repeatedly continued and is set to be heard on

August 29, 2024. This will be 591 days from the original filing date, far exceeding the NCFCAC's established timelines for a final order entered on child support claims.

- ii. **Violation of Due Process:** The excessive delay in hearing Plaintiff Webster's motion constitutes a violation of the principles of due process and the right to a timely resolution of child support matters as mandated by the NCFCAC guidelines.
 - iii. **Undue Burden and Financial Hardship:** This delay imposes an undue burden on Plaintiff Webster, resulting in prolonged financial uncertainty and hardship.
 - iv. **Departure from Standards of Fair Legal Proceedings:** The failure of the North Carolina Family Court to adhere to its own established case management plan in this instance represents a significant departure from the standards of fair and just legal proceedings.
- b. **Personal (Individual) Capacity (Judge Bell):**
- i. **Malicious Intent or Bad Faith:** There is evidence that Judge Bell acted with personal bias, malice, or in bad faith by excessively delaying the hearing of Plaintiff Webster's Motion to Modify Child Support. This undue delay, far exceeding the NCFCAC guidelines, suggests a deliberate intent to harm Plaintiff Webster's interests and infringe upon his due process rights.
 - ii. **Actions Beyond Judicial Discretion:** Judge Bell's decision to continuously delay the hearing without providing a valid justification falls outside the reasonable bounds of judicial discretion. The significant and unexplained postponements demonstrate a willful disregard for procedural due process and legal standards, indicating personal liability for infringing upon Plaintiff Webster's constitutional rights.

1.3. **Exhaustion of State Remedies:**

- a. **Exhaustion of State Remedies:** Plaintiff Webster sought redress through state-level remedies, including filing relevant motions and complaints. Despite these efforts, the civil rights violations were not remedied.
- b. **Necessity of Federal Intervention:** Given the failure of state remedies to address the constitutional violations, federal court intervention is necessary to protect Plaintiff Webster's civil rights.

1.4. **Constitutional Violations:** Judge Bell's actions in the Wake County trial court system constitute significant and systematic violations of the Fourteenth Amendment to the United States Constitution and Article I, § 19 of the North Carolina Constitution ("Law of the Land" clause).

1.5. **Conclusion:**

- a. **Due Process Violations:** The trial court's failure to timely hear and resolve Plaintiff Webster's Motion to Modify Child Support, as stipulated by the NCFCAC guidelines, infringes upon Plaintiff Webster's due process and fair trial rights.
- b. **Federal Intervention Necessary:** The willful deprivation of these rights under color of law warrants corrective measures under 42 U.S.C. § 1983 and necessitates a review of procedural conduct to prevent future violations.

B. POTENTIAL COUNTERARGUMENTS AND REBUTTALS

1.1. **Anticipated Counterarguments:** The court's actions, including the delays in hearing the Motion to Modify Child Support, were within its discretion due to court schedules, COVID-19 impacts, and case complexity.

1.2. **Rebuttal:**

- a. The excessive delay in hearing Plaintiff Webster's motion, far exceeding the NCFCAC's established timelines, violates the principles of due process and the right to a timely resolution of child support matters.
- b. The undue burden and financial hardship imposed on Plaintiff Webster due to this delay highlight the failure of the court to adhere to its own guidelines, representing a significant departure from standards of fair and just legal proceedings.
- c. These procedural delays and misconduct directly infringe upon Plaintiff Webster's due process rights under the Fourteenth Amendment and the North Carolina Constitution (Exhibit W27).

C. SUGGESTED REMEDIAL ACTIONS

- 1.1. **Declaratory Judgment:** A declaration that Plaintiff Webster's constitutional rights were violated.
- 1.2. **Appropriate Compensation to Plaintiff Webster:** Order financial compensation for Mr. Webster to address the losses incurred due to judicial oversights that led to the infringement

of his civil rights. This compensation should cover the emotional, psychological, and financial impacts resulting from the due process violations.

1.3. **Injunctive Relief:** For comprehensive relief addressing the procedural delays, including compensation, see the Consolidated Injunctive Relief section.

D. **ALL SUPPORTING SOURCES:** Exhibit W27 (NCFCAC Guidelines)

CONSOLIDATED INJUNCTIVE RELIEF

A. **Introduction to Consolidated Injunctive Relief:** In light of the various due process violations and constitutional infringements detailed above, the plaintiffs respectfully request the Court to issue the following consolidated injunctive relief to address and prevent future violations effectively.

B. **Ensure Compliance with Constitutional Protections:**

a. **Non-Interference with Fourteenth Amendment Rights:**

- i. Defendants are hereby enjoined from further actions that violate the due process rights of the plaintiffs under the Fourteenth Amendment to the United States Constitution.
- ii. Defendants must ensure all future actions comply with the due process requirements of the Fourteenth Amendment and the "Law of the Land" clause in Article I, § 19 of the North Carolina Constitution.

C. **Protection Against Retaliation**

a. **Anti-Retaliation Measures:**

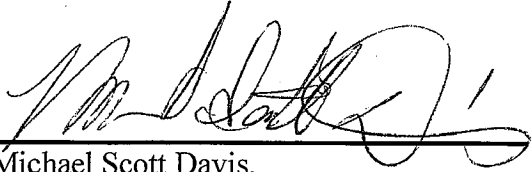
- i. Defendants are enjoined from taking any retaliatory actions against the plaintiffs for the filing of this lawsuit.
- ii. Any such actions shall be reported to this Court immediately, and appropriate measures shall be taken to protect the plaintiffs' rights.

D. **Compliance and Enforcement**

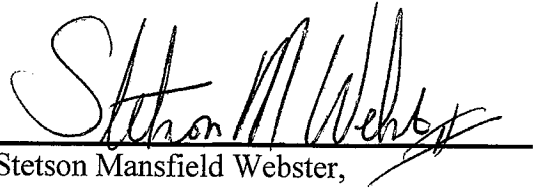
- a. Further Court Orders: This Court retains jurisdiction to issue further orders if necessary to ensure compliance with this injunctive relief and to address any violations thereof.

This the 30th day of July, 2024.

Respectfully submitted,



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