# EXPOSING THE CORRUPTION IN THE MASSACHUSETTS FAMILY COURTS

**KEVIN THOMPSON**

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This book is available at Lulu.com.

# ACKNOWLEDGMENTS

If it were not for the information that I received from a number of groups and individuals, it would have been impossible for me to represent myself in family court and write this book. I am grateful for their help and hope that this book provides the same kind of assistance for other fathers who are new to the family court system. So many ideas came from so many places that it concerns me that I may unintentionally omit someone whose words were referenced.

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Finally, to the men and women who have horror stories of their own to tell, please share these stories with whoever will listen. Reform of the family court system will never happen until these hypocrites and racketeers are exposed publicly. Since the media is mysteriously unwilling to address this war against fathers, it is up to us 25 million non-custodial fathers in this country to take the bull by the horns and spread the word about what actually goes on behind closed doors in these secretive kangaroo courts.

# DEDICATION

*Dedicated to my son Patrick, who means the world to me and who will learn <u>from me</u> that there are consequences to lying, cheating, and playing the system.*

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# CHAPTER 1

## INTRODUCTION

***All that is necessary for the triumph of evil is that good men do nothing.*** **Edmund Burke**

My name is Kevin Thompson. I am a high school physics teacher in Massachusetts and just one of the thousands of fathers who have been victimized by the organized crime in this state's family courts.

I have found that the system is corrupt to the core, from the incompetent mediators and DSS investigators to the unprofessional, biased judges; who stereotype fathers, write law from the bench, and ignore any evidence that might threaten its agenda to give mothers everything at the expense of fathers.

In a state where 17 of every 20 citizens polled believe that shared parenting should be the presumption in child custody rulings, there exists a family court system where not a single employee agrees with such a presumption.

The family courts have brainwashed the public for years with the claim that their biased rulings protect the best interests of the children. That is a LIE! Their self-serving decisions are based solely on the financial interests of lawyers, judges, case-workers, and tax-funded agencies, whose pockets are lined by inefficient, unproductive days in court and gender-biased policies that promote and prolong litigation.

What is frightening about the discrimination against fathers in this state is that it is perpetrated by an institution with a professional duty to be honorable and protect the rights of its citizens. What fathers discover quickly in the family courts of Massachusetts is that this protection does not apply to them.

In a system without checks and balances where absolute power corrupts absolutely, family court judges are arrogantly aware that they can deny Constitutional rights, treat loving fathers as criminals, and blatantly ignore the law with impunity.

You would think that family court judges would be appointed based on their reputations for fairness, competence, and professionalism. That is not the case in Massachusetts. Honorable and competent judges would only inhibit the money to be made by the racketeers working in the courts.

To make matters worse, the legislative branch in Massachusetts is the family court's strongest ally in this war against fathers. Every year bills are sponsored that address the injustices in family court and every year these bills die in the

Joint Committee on the Judiciary where, conveniently, each bill related to court reform must pass before it can be brought before the full House and Senate for a vote.

Add to this the man-hating propaganda spewed by radical feminist groups, who have made it politically correct to vilify men as violent monsters, and you have a stacked deck against fathers.

The fact is that many family court cases could be resolved instantly at the initial hearing with one simple question, "Do either of you intend to prove to the court that the other parent is unfit?" Since the answer to that question would be "no" from both parents in the majority of cases, then the compromise of 50/50 joint physical custody could, and should, be ordered immediately.

Of course, such a logical solution is ignored in this state because it reduces the billable hours that the family courts create for lawyers and eliminates the need for a child support order. It is the child support order that gives all of the joys of a parental relationship with the children to the mother, but orders the ostracized father to finance that arrangement. This, in effect, entices mothers into the system and ensures a steady influx of customers.

I am writing this book because the only hope that fathers have for justice in Massachusetts is for this corruption to be exposed publicly and hopefully generate the public outrage needed to force a change. Court reform will never happen without this kind of "whistleblower" effort because the courts currently operate under a cloak of secrecy where too many people are profiting off the corruption.

A secondary reason for writing this book is for my own peace of mind. The world will know, or at least the readers of this book will know, the lies and crimes that I have endured personally, including the names of the individuals who committed these crimes against me.

The book has three distinct parts. In the first section, the hypocrisy and unethical tactics that all fathers must endure in these courts will be exposed. The second section will detail the events of my specific case. And the third section will expose the "spin-off" corruption that resulted from my efforts to hold the criminals in my case accountable. My documented case will be used to illustrate the twilight zone level nonsense that fathers experience in and outside of this state's family courts.

It should be noted that the crimes committed against me do not make my case unique. Unfortunately, there are many fathers who have experienced much worse.

Compared to the tragic stories of other fathers in this state who were financially ruined, removed from their homes, jailed without just cause or due process, denied all contact with their children, and driven to suicide; I consider myself lucky.

What *does make* my case unique is that I am a fitter parent than the mother of my son by every objective measure imaginable. The mother of my son cannot deny this fact. Consequently, she responded to the reality of her situation with slanderous lies about me to manufacture evidence for her case.

The mistake that she made, which *would have* sabotaged her case before an *honorable* court, was to get careless with her lies and allege actions and relevant information that could easily be proven false with documents, witnesses, and the court-recorded tapes. That forced the judge in my case to step in and pull some tricks of his own to obstruct my presentation of evidence, preserve the mother's testimony, and protect his predetermined ruling of custody to her.

A domino effect of cover-ups and crimes followed. A law-defying dismissal of a lawsuit filed against one of the Mother's accomplices preceded a wildly unjust ruling from the Massachusetts Appeals Court.

A three-judge panel of the Appeals Court ruled that my appeal of the lower court decision was "frivolous" with "no basis in law or fact" to justify an order that extorts from me double the Mother's attorney fees and costs. The Supreme Judicial Court added insult on top of injury by denying my application for further appellate review.

In a nutshell, I was ordered to pay thousands of dollars to a lawyer who I did not hire for reporting blatant judicial misconduct and for requesting a new trial before an honorable court that would respect my Constitutionally-protected rights to due process and equal protection, my inalienable right to parent, and my son's right to a balanced relationship with both of his parents.

With all that I have endured in this court system, I consider the Appeals Court response, in combination with the documents that this Court claimed to examine prior to its outrageous ruling, my most convincing piece of evidence to support my contention that the Massachusetts courts are, in fact, a system of organized crime that extends to the seven justices who sit on this state's Supreme Judicial Court.

Please judge for yourself whether it is in any way possible for an *honorable* court to examine the "impounded" documents contained in chapters 25-27 of this book (ie. my brief, my reply brief, and my application for further appellate review) and reach the conclusions expressed by the three-judge panel of the Appeals Court and then affirmed by the full Supreme Judicial Court.

I contend, and will attempt to prove, that the attorney fee extortion "sentence" had nothing to do with the merits of my appeal and everything to do with coming after me personally for my very public and persistent efforts to expose the crimes that I have witnessed in family court.

Since the details of my case have not yet been communicated, the claims of retaliation and conspiracy made in this opening chapter are admittedly premature and tough to swallow. I would certainly be skeptical myself if I had not experienced the corruption with my own eyes. I ask only that you keep an open mind and reserve judgment until you have read everything.

Since Massachusetts denies fathers their right to plead their case to a jury of their peers, I respectfully request that you, the readers, be *my* jury.

.....

DISCLAIMER: If you were expecting to be shocked and/or enthralled by the opening chapter, then I apologize. That was not going to happen with claims that are, at this point, still baseless. Please be patient and stay with me because the outrage and interest that I hope to generate should grow with the supporting details still to come in the chapters that follow.

# CHAPTER 2

## THE COURT'S FINANCIAL INCENTIVE

***The one great principle of the law is to make business for itself.***
**Charles Dickens**

Make no mistake about it, the family courts of Massachusetts are a business, riddled with conflicts of interest. The rulings have nothing to do with the interests of the children and everything to do with maximizing profit. "Winner takes all" rulings are motivated by the money to be made by complicating cases that could be resolved instantly with a "win-win" joint physical custody arrangement.

Instead of compromise, where a cordial relationship between parents can be salvaged, and an obvious benefit to the children involved, family courts pit parents against one another in a high stakes battle that will ultimately define a clear-cut winner and loser in the case. If there was no animosity between the parents before the lawyers and courts got involved, then those bitter feelings are a guarantee when a father refuses to sell out and give up his parental rights voluntarily.

Compromise is sabotaged in family court by blatantly favoring mothers. Without an option to compromise, profitable mountains are made out of mole hills. Mothers have no incentive to compromise because there is no threat that they will lose in family court. The courts make it clear within the first five minutes of the initial hearing that they will ignore logic and the law to give mothers whatever they want and more. By guaranteeing mothers victory, it entices them into this adversarial system as customers.

Fathers are forced to fight every issue tooth and nail assuring years of legal fees and court appearances. Every motion, every hearing, every continuance, every appeal is money-making music to a lawyer's ears.

A court officer told me off the record about the "Rule of 40" that is applied when the parents are both represented by counsel in family court. The first thing that the lawyers do is review the financial statements submitted by their clients. The unwritten rule is that the case does not get resolved until 40% of those reported assets are in their pockets.

There is also a state income tax in Massachusetts. This means that the state gets its 5.3% "cut" from every dollar made in family court. Add to that the money that the state receives from the federal government every time the child support guidelines are applied and you have a resistance from lawmakers to reform a court system that fills the public coffers.

Nationally, the "criminalization" of fatherhood in the name of child support enforcement is now a $4 billion-plus per year business. Nearly 60,000 agents now enforce child support throughout the United States, which is about 13 times the number in the Drug Enforcement Administration worldwide. This does not include the growing number of private enforcement companies looking to get their piece of the pie.

Dr. Wade Horn, Assistant Secretary of Health an Human Services, who oversees 65 different social programs created or exacerbated by the breakup of families, estimates the cost of his programs to the American taxpayer at nearly $47 billion dollars per year.

As Stephen Baskerville, a political science professor, puts it:

*Divorce and custody are the cash cow of the judiciary and directly employ a host of federal, state, and local officials. The societal ills left by broken families create further employment for even larger armies of officials who handle child protection, domestic violence, and juvenile crime. Their workload is determined by the existence of these problems, all of which are directly connected with fatherless homes.*

Below is a list of just some of the state programs related to dysfunctional homes and fatherless families that receive federal dollars. The amounts are Fiscal Year 2004 Federal expenditures to the state of Massachusetts as reported by the U.S. Census Bureau.

| Program | | Amount |
|---|---|---|
| 93.563 | Child Support Enforcement | $53,071,068 |
| 93.667 | Social Services Block Grant | $37,681,787 |
| 93.647 | Social Services Research and Development | $2,149,115 |
| 93.865 | Center for Research for Mothers and Children | $69,958,907 |
| 93.994 | Maternal and Child Health Services Block Grant | $11,841,096 |
| 93.591 | Family Violence - Battered Women's Shelter | $237,072 |
| 93.671 | Family Violence Prevention | $1,852,74 |
| 93.575 | Child Care and Development Grant | $27,636,825 |
| 93.596 | Child Care Mandatory and Matching Funds... | $74,976,569 |
| 93.658 | Foster Care Title IV | $71,388,564 |
| 93.767 | State Children's Health Insurance Program | $73,908,948 |
| 93.645 | Child Welfare Services State Grants | $4,200,319 |
| 93.669 | Child Abuse and Neglect | $632,384 |
| 93.652 | Adoption Assistance | $26,232,093 |

If the problems that come with broken homes and fatherless children did not exist, then the programs that respond to these problems would not exist.

Consequently, employees who work in these programs have a vested interest in seeing to it that these problems linger on and are NOT corrected.

Putting aside the employment impact state-wide, it is in the self-interests of each family court judge that the efficiency of shared parenting be ignored because excessive case loads, artificially created by their own inefficient "business as usual" process, give them job security and provide an argument to lobby for more appointments to the bench. It is clearly in their best interests to be artificially overburdened since judicial powers and salaries are determined by demand for their services.

In Massachusetts, 50/50 joint physical custody is not an option because if both parents were providing support for the equally shared time that they have with their children, then support orders would be rare and only needed when there is a significant disparity in income. A presumption of joint custody early in the process would also impel *both* parents to compromise and, in effect, bring litigation to a screeching halt.

This loss of business is a scenario that family court employees do not want to see happen. It is not in *their* best interests. That is why the same politically-contrived arguments have been used for years in this state to resist this arrangement and preserve the status quo.

The bottom line is that if joint physical custody was the rule rather than the exception, then job opportunities for family court attorneys would be significantly reduced, the child support services department would lose customers and would need to be downsized, other ancillary agencies that make money off the litigation in family court would lose business, and the state would lose income tax revenue and federal monies that it currently receives with every child support order.

# CHAPTER 3

## ABSOLUTE POWER CORRUPTS ABSOLUTELY

***Where there is no publicity, there is no justice. Publicity... keeps the judge himself while "trying" under trial.*** **Jeremy Bentham**

The arrogance and unprofessional behavior that I witnessed in family court initially baffled me because I had thought that judges were appointed to be honorable, impartial, and just. I also thought that such behavior would have to be rare if for no other reason than because the proceedings are recorded by the court.

What I learned is that judicial misconduct is not just tolerated and excused, but defiantly ignored by the very agencies that theoretically exist to hold judges and lawyers accountable. These agencies deny the existence of incompetence and misconduct that would be obvious to any reasonable and honorable individual listening to the overwhelming evidence contained on the court-recorded tapes.

Judges know that they have the freedom to do whatever they want in family court and that includes ignoring the evidence and the law to deny fathers their Constitutional rights to due process and equal protection and their inalienable right to parent their children.

There is no accountability in family court because you have a system policing itself. The "lawyer-run" Commission on Judicial Conduct, which officially exists to hold judges accountable, exists in practice to conceal judicial misconduct so that complaints against judges do not become public.

When complaints *are* filed, the judge who is the subject of the complaint has full access to the complaint and the evidence submitted by the complainant. The litigant who brings the complaint is kept completely out of the process. He does not have access to the judge's response to the complaint nor is he given the opportunity to rebut his response.

Consequently, judges are aware that they have the unaccountable freedom to create whatever deceptive story works for them to justify their actions with the knowledge that their response will not be challenged because it will never be seen by the complainant.

Since the judge always has the last word in these "sham" investigations, it is only a matter of time, usually a full year after the complaint is filed, for the notice to be sent from the Commission that the complaint was investigated and dismissed. The Board of Bar Overseers performs a similar cover-up courtesy for lawyers.

Move on to the Appeals Court and you find judges who are unwilling to step on the toes of their colleagues. As Finley Peter Dunne put it, "an appeal... is when you ask one court to show its contempt for another court." You might as well have the appeal of the case decided by the lower court judge's own mother.

Not even the federal courts can touch these judges since the "domestic relations exception" prevents federal courts from exercising constitutional review of family law cases.

A second contributing factor to the absolute power that judges enjoy is that family courts operate under a cloak of secrecy. Public employee records and police arrests records are available for all to see, but the public is denied access to family court cases. Why? Because it is the lawyers who make the rules in this state and too many people are profiting off the corruption.

Unlike other courts, family courts are usually closed to the public, they generally leave no record of their proceedings, and because they keep few statistics on their decisions, information is difficult to obtain. This "closed door" policy denies the public its inherent right under the First Amendment to know what goes on in a courtroom. The state's argument is that family court cases are closed and records impounded to protect the identities and privacy of those involved.

If privacy was a genuine concern to the state, then media coverage and publicity would be allowed in family court to protect fathers from the "invasion of privacy" that occurs in these courts where fathers, without just cause or due process, are removed from the lives of their children. Most fathers, who I know, would gladly exchange their privacy *from the media* for privacy *in their homes*.

As I expressed in the introduction, what is frightening about the discrimination against fathers in this state is that it is perpetrated by a government institution with a professional duty to be honorable and protect the rights of its citizens. What fathers learn quickly in the family courts of Massachusetts is that this protection does not apply to them.

In the real world, the same kind of gender discrimination that is practiced in family court against fathers is punished. In the recent news, Morgan Stanley was successfully sued for $54 million for gender discrimination and Wal-Mart faces a discrimination lawsuit brought by 1.6 million women. If these women can claim millions of dollars in damages, then how much are a father's damages worth in a class action discrimination lawsuit against the state of Massachusetts for denying him due process, equal protection, and without just cause, his inalienable right to parent his children and support them directly? The answer is nothing, because the courts are protected by the 11th Amendment, which provides states immunity from private lawsuits in federal court.

The only way that this war can be won, and make no mistake about it, it is a war against fathers, is to generate the public outrage needed to force a change to the system.

My persistent efforts to expose this corruption and generate the outrage that is needed for court reform to happen have been ignored. Radio stations, politicians, and TV investigative programs will not return my calls or respond to my letters and emails. With few exceptions, local newspapers will not print my letters to the editor. I have to wonder who is paying off the media to protect this billion-dollar industry and keep the crimes against fathers concealed.

My local newspaper has written multi-part investigative stories to address automobile insurance fraud and teacher absenteeism. It has followed the life of a terminally ill man, a man in the early stages of Alzheimer's, a little league team, and a first-year teacher; but when it comes to exposing the financially-motivated denial of a father's rights in the family courts of this state, it has turned a deaf ear. Consequently, these secretive, unpublicized crimes against fathers continue to this day.

Many fathers who speak out against family courts and express public criticism of judges report that access to their children is used as a threat to silence them. Other fathers report the use of "attorney fee extortion" to make them go away. One particular father, forcibly separated from his son for three years, faces jail if he cannot pay two years of his salary to a lawyer he never hired, for a divorce he never requested.

In his on-going research on this topic, Stephen Baskerville has uncovered some startling stories about the depths that the family courts are willing to go to conceal the corruption.

In Massachusetts, a father who opposes judicial wrongdoing is dragged from his car, assaulted by what appear to be plainclothes police, and told to stop making trouble if he wants to see his son again. Another father in Massachusetts, who proved that the transcripts from his hearing were altered, is assessed $19,500 in fees for attorneys he had not hired and jailed without a trial by the same judges who doctored his tapes.

In yet another actual case, a father reports that literally days after he filed a complaint against the judge in his custody case, the judge granted a restraining order against him, removed his daughters from his care, and issued a warrant for his arrest on what the father contends are fabricated charges. At the time of this writing, the father has not seen his three children in two years.

Family law is now criminalizing constitutionally-protected activities as basic as free speech, freedom of the press, and even private conversations. In many jurisdictions it is now a crime to criticize judges, and parents have been arrested

for doing so. Following his congressional testimony, critical of the family courts, a father in Georgia was stripped of custody of his two children, ordered to pay $6,000 to lawyers he did not hire, and jailed when he could not pay.

Thanks to Mark Charalambous of the Massachusetts Fatherhood Coalition, I learned of John Flaherty, a law-abiding physics professor who educated himself on family court law to teach other non-custodial fathers how to defend themselves. The court's response to his efforts was to sentence Mr. Flaherty to five months in jail.

The "official" charge was contempt of court. To be more specific, Judge Beverly Boorstein of Middlesex county sentenced Mr. Flaherty for refusing to pay an alleged child support arrearage, which supposedly went back years but was manufactured at a hearing shortly before his incarceration. Mr. Flaherty was sentenced without a trial and Boorstein did not even bother to write a Findings of Fact to justify her ruling. As Charalambous put it:

> *Such is the brazen attitude of judges who don't even bother to provide the appearance of due process in their prosecution of fathers, until forced to do so. For robbery, aggravated assault, homicide - and even flying airplanes into buildings - defendants are assumed innocent until proven guilty, provided legal counsel at taxpayer expense, and given every consideration to guarantee that their civil rights are not violated in the process of ascertaining their guilt. Non-custodial fathers should be so lucky.*

These oppressive acts are not isolated incidents and they are not confined to the state of Massachusetts. They proceed logically in a system that operates behind closed doors and is accountable to no one. Judges claim that secrecy protects family privacy. What it does is give them the power to invade family privacy with impunity.

The bottom line is that if the citizens of Massachusetts knew the shocking truth of what actually goes on in this state's family courts, then this reign of terror against fathers would have come to an end long ago.

# CHAPTER 4

## THE ROLE OF THE LEGISLATIVE BRANCH

***When buying and selling are controlled by legislation, the first things to be bought and sold are the legislators. P.J. O'Rourke***

The family court system has its strongest allies in the "lawyer-controlled" legislative branch of this state's government.

The responsibility for enacting laws in Massachusetts rests with the state legislature. It is divided into two branches: a 160-member House of Representatives and a 40-member Senate. The two branches work concurrently on pending laws brought before them.

Lawmaking begins in the House or Senate clerk's office where petitions, accompanied by bills, are filed. The clerks number the bills and assign them to appropriate joint committees. There are twenty-one of these committees, each responsible for studying the bills that pertain to a specific area. Each committee is composed of six senators and eleven representatives. Each bill must make it out of its assigned committee before it can be brought before the full House and Senate for a vote.

The convenience of these small committees is that lobbyists, hired to protect the special interests of lawyers and other family-law related agencies, only have to pay off a limited number of legislators to see things "their way."

Their way means obstructing court reform so that the legal profession can continue to profit off, among other things, the crimes committed against fathers in family court. All family court reform bills are assigned to the Joint Committee on the Judiciary, where bills have been dying for years without exception.

In 2004, four bills that specifically addressed shared parenting were sponsored (Senate Bills 940 and 1075 and House Bills 2464 and 3191) and not one of them made it out of the Joint Committee on the Judiciary.

In 2005, father's rights groups were armed with the overwhelming results from the previous election's ballot initiative question where 85% of the people polled in the Commonwealth voted in favor of a presumption for shared parenting in custody cases.

The legislative branch responded to these overwhelming results with spin control and a "dog and pony" show at the statehouse to appease the masses and pretend that the voice of their constituents was being heard.

A number of the lawmakers on this committee did not hide their contempt for this hearing by proclaiming this event as "Mad Dad Day" on the hill.

Of course, nothing was accomplished at this hearing and numerous bills that addressed reform (House Bill 623 and Senate Bills 841, 855 and 994) are still being blocked at the time of this writing.

A closer look at the state's 2005 Judiciary Committee reveals that four of the six state senators and nine of the eleven state representatives on this 17-member committee list their profession as attorney or call themselves "legislators" at this time but have their degree in law. My local state senator from Methuen, Steven A. Baddour, who works as a "domestic relations" attorney for the law firm of Manzi and McCann, is conveniently vice-chairman of this committee.

If this is not a conflict of interest, then I do not know what is since these lawmakers have the power to affect their own business opportunities. How many lawyers do you really think are going to support any kind of legislation that would reduce litigation?

The money thrown at politicians by the legal profession would indicate that lawyer or not, every legislator is exposed to the temptations of selling their vote or position to the highest bidder.

With the power that the legislative branch has to legislate business for the legal system, it is of no surprise that lawyers are historically the top contributing industry to state party committees. And since litigation opportunities are significantly tied into the rulings in the courtroom, it is also not a surprise that lawyers are the top contributors to judicial campaigns.

The family court system and the puppets who have been bought off by the court system are naturally going to support the appointments of out of touch judges who are historically "mother-friendly" because such a mindset maximizes the litigation possibilities in family court. The last thing that the family court industry wants is for its judges to agree with the opinion of 85% of the citizens in Massachusetts, because such a shared custody presumption would end litigation before it even gets started.

I would like to believe that most legislators are honorable and cannot be bought. Unfortunately, most legislators are probably oblivious to the shocking truth of what goes on in family court to realize that reform is long overdue.

Consequently, a small group of hypocrites with a self-serving agenda, armed with rhetoric and propaganda, will likely continue to overcome the efforts of those legislators on the Judiciary Committee with a less vested interest and a less passionate resolve to take on these "louder voices" and demand that family court reform happen now.

# CHAPTER 5

## WHY FATHERS?

***Where any one class is made to feel that society is an organized conspiracy to oppress, rob, and degrade them, neither person nor property will be safe.*** **Frederick Douglass**

A system that overwhelmingly favors one group over another sabotages the possibility for compromise. Without an option to compromise and settle quickly, the system effectively initiates costly legal battles. Since the family courts so flagrantly discriminate against fathers, mothers know that the courts can be used to extort more than the money needed in child support from the fathers of their children.

One reason why fathers are the targets in family court is because they are perceived to have the deeper pockets and can, therefore, weather the racketeering storm longer than mothers. Deeper pockets also maximize the amount of money that can be extorted through child support orders.

Fathers, as a group, are also not a protected class. This means that "victim" agencies like the Massachusetts Commission Against Discrimination and the American Civil Liberties Union can, and do, ignore their complaints and requests for assistance.

The ACLU, for example, self-proclaims itself to be "our nations guardian of liberty." It claims to work daily in courts, legislatures, and communities to defend and preserve the individual rights and liberties guaranteed to every person in this country by the Constitution, the Bill of Rights, and the laws of the United States. The mission of the ACLU, according to its website, is to preserve among other things:

(1) The right to equal protection under the law - equal treatment regardless of race, sex, religion, or national origin.
(2) The right to due process - fair treatment by the government whenever the loss of your liberty or property is at stake.
(3) The right to privacy - freedom from unwarranted government intrusion into your personal and private affairs.

Tell that to the fathers in this country whose Constitutional rights to equal protection and due process and their inalienable right to parent and support their children directly are trampled on every day in family court.

A number of fathers have approached this group for assistance, naively believing that the ACLU would adhere to its mission statement to defend and preserve the

rights of every person in this country. Unfortunately, unless you are a gay, bisexual, or trans-gendered man, this group will not give you the time of day. It is true that the ACLU defends "equal treatment regardless of sex"... so long as that sex is female.

This kind of apathy contributes to the perception that fathers are politically harmless. In a state where most "causes" are publicly supported by an army of demonstrators, there is little sympathy for the plight of fathers. The very vocal feminist propaganda machine has effectively brainwashed significant segments of society into believing that fathers are irresponsible, violent monsters and largely to blame for relationship break ups, making any public support of these "villains" political suicide.

Since fathers have to work to survive (in many cases, two jobs to finance two homes), they also have very little free time to challenge these kinds of slanderous allegations with organized demonstrations of their own.

The bleeding hearts and radical feminists in this state are quick to defend the rights of gays to marry with references to the equal protection clause of the Constitution, but are unwilling to apply this same clause or the same arguments to defend the rights of fathers in family court.

If the courts tried to pull the same discrimination on women or a minority group that they pull on fathers, then a political powerhouse like the National Organization for Women (NOW) or the National Association for the Advancement of Colored People (NAACP) would be all over them, creating the negative publicity that is the only thing that the family court system fears.

How did we get to the point where it is politically correct to break up families and tolerate the crimes committed against fathers in family court? Adolph Hitler said it best:

> *As long as the government is perceived as working for the benefit of the children, the people will happily endure almost any curtailment of liberty and almost any deprivation.*

From the family court standpoint, it really is nothing personal. It is business. The family courts know that there are fewer repercussions in targeting fathers than the public outrage, closer scrutiny, and agency intervention that would be generated if they went after mothers.

# CHAPTER 6

## PROPAGANDA AGAINST FATHERS

***Judges are but men, and are swayed like other men by vehement prejudices. This is corruption in reality, give it whatever other name you please. David Dudley Field***

The propaganda spewed by radical feminist groups to vilify fathers, and men in general, as violent, evil monsters is not much different from the propaganda spewed by Hitler to vilify the Jews in Nazi Germany.

Radical feminists would have you believe that men are solely responsible for relationship breakups and that women who leave marriages are leaving, in most cases, to escape abusive relationships. Don't believe it. In most cases, the reasons given for divorce are that the two had simply "grown apart" or the woman claims that she didn't feel appreciated. Sadly, it has become politically correct in this state to demean and demonize fathers and suggest that their parental influence can easily be replaced with cash payments.

The propaganda is working since these "femi-nazis" have successfully convinced every idiot working at the Department of Social Services and working in family court that fathers are violent criminals. Whether they have actually convinced them that fathers are batterers and abusers is debatable, but they have certainly convinced them that it is good for business to, at least, put on the appearance that they have been convinced.

The passing of the Violence Against Women Act is more proof that the propaganda is working since it offers greater protections and services to victims of domestic violence... provided that you are a woman. The title of the act alone makes it clear that males are excluded from receiving these tax-funded services despite the fact that hundreds of research reports have concluded that women are equally likely to commit acts of physical aggression against their partners.

Days before the Massachusetts 2004 elections, which included a ballot initiative question related to shared parenting, Nancy Scannell and Mary O'Brien of Jane Doe, Inc., a man-hating organization that would also have you believe that the majority of women in this state are enduring violence at the hands of men, got their propaganda printed in newspapers throughout the state encouraging people to vote down this ballot initiative.

These two women wrote that shared parenting "oversimplifies" custody and that "shared parenting initiatives only serve to deter elected officials from the careful examination and thoughtful deliberation that policies affecting our children require."

What "oversimplifies" custody are the attention-deficit judges in family court who decide PRIOR TO the trial that the mother will get custody of the children.

And if "elected officials" actually examined the family court system with "thoughtful deliberation", rather than as an opportunity to pay back the lawyers and lobbyists who financed their campaigns, then there would be no need for a ballot initiative question in the first place.

A misleading "statistic" thrown out by Jane Doe is that 43,000 children in the Commonwealth live in homes where domestic violence exists and where the perpetrator is almost always male. Apparently, the members of Jane Doe, who believe domestic violence is a male-exclusive crime, do not have access to the news.

In today's newspaper alone (December 15, 2005 - Lawrence Eagle Tribune), I found one story about a woman on trial for drowning her three kids in a bathtub, a second story involving a woman who let men have sex with her eight year-old daughter in exchange for drugs, a third story about a mother who admitted killing her baby daughter by severing the girl's arms, and still a fourth story titled, "Child, 4, dies in filthy motel; mother arrested."

What is more accurate is that there are 43,000 children involved in REPORTS of domestic violence, which include the reports *made by men* and the plague-like number of false allegations made by women in this enabling state as a legal tactic in their custody cases.

When the available data cannot be twisted to support their claims, these man-hating groups make up their own statistics.

The director of Voices Against Violence, another group with an agenda to vilify men, is quoted as saying that domestic abuse remains the number one cause of death for pregnant women. This contradicts a 2002 report by the Massachusetts Department of Public Health, which confirms that over a ten-year period, 152 pregnant women died of medical causes, 21 died of motor vehicle accidents, and 20 died at the hands of an intimate partner.

Recently, there has been a push at the federal level to downsize the Child Support Services Department. Those working in this tax-funded industry produced their own propaganda piece to sensationalize the effect:

> *In a move stunning state officials, the House of Representatives is considering slashing programs that help poor parents collect child support, threatening to push tens of thousands of single-parent families in Massachusetts onto welfare, or worse, back into abusive relationships.*

Tens of thousands, huh? Back into abusive relationships?! Later in the piece, David Brown, a tax-funded attorney in the system, restates the lie that most fathers are abusers with his comment:

> *The cuts would OFTEN mean having to make a choice between living in a shelter or living with an abuser.*

Another claim expressed in this propaganda piece is that fathers are not only violent monsters, but irresponsible, selfish criminals who would not satisfy their child support obligations if they were not being forced to comply by the teams of tax-funded lawyers and caseworkers hired to keep tabs on them.

And since most of the 310,000 children receiving child support in Massachusetts are low-income, *according to the self preservation claims of the Child Support Services Department,* then the state would have to pick up the "estimated" $50 million increase in welfare that would result from children no longer receiving that money in child support.

This "unsubstantiated prediction" insulting implies that fathers en masse would not have paid the $50 million in child support *that they did pay* without "big brother" watching and threatening them with jail time.

*JUST A THOUGHT: Since it is documented that the federal government pays the state of Massachusetts* ***more than*** *$50 million annually for child support enforcement ($53,071,068 according to FY 2004 U.S. Census Bureau figures), then maybe it would be more cost-effective to scrap the program entirely. The savings alone would more than pay for the "wildly exaggerated" $50 million increase in welfare.*

The PBS documentary, "Breaking the Silence," is a recent example of radical feminist propaganda gone wild. Among the falsehoods in the film was the assertion that "one third of mothers lose custody to abusive husbands" and that "if a divorcing father seeks any form of child custody, he is *most likely* a wife-beater."

One of the consultants on this father-bashing documentary is Joan Meier, a George Washington University law professor. *Her* credibility in this area can be summed up with her insane claim that "75 percent of contested cases have a history of domestic violence" and that about two-thirds of fathers "accused or adjudicated of battering" win sole or joint custody of their children.

What would not surprise *me* is if it was discovered that "two-thirds of fathers" are *falsely accused* of abuse as a "lawyer-approved" court strategy for mothers in contested child custody cases.

Writer Wendy McElroy challenges the claims in "Breaking the Silence" with U.S. government figures which reveal that women win child custody 85% of the time and are equally likely to be perpetrators of child abuse and neglect as men.

David R. Usher, President of the American Coalition for Fathers and Children, Missouri Coalition, had this to say:

*In October, PBS released a scandalous documentary about domestic violence titled "Breaking the Silence". The producers of the show intentionally censored all information contrary to their partisan mission, which we know now was to go to extraordinary lengths to portray fathers as batterers who take custody of children as the final act of abuse. Breaking the Silence pretends that the system "routinely penalizes women who are victims of domestic violence by favoring their abusers in battles over child custody".*

*Anyone who knows about how domestic violence laws are routinely applied knows that when a woman files any allegation of abuse, or even fear of abuse, the father is immediately thrown out of the home and has little chance of custody or even visitation.*

*The tactical purpose of the documentary is to synthesize an "epidemic" of unrestrained male batterers who seize children from completely unprotected abused women.*

*Despite the torrent of valid criticism of the documentary, the producer of Breaking the Silence, Dominique Lasseur, flatly justified censorship of the fathers' perspective in the film on the insupportable grounds that the fathers' perspective is generically "destructive". Meaning: when you are getting paid a half million dollars by radical feminists to do a partisan documentary, you only cite liturgy from the feminist "bible."*

*The business relationships between the Mary Kay Foundation (which sponsored the making of the documentary), the producers, PBS, and feminist activists appear to constitute a profitable conspiracy against men in marriage and society... This can be done successfully only if radical feminists can project all family problems on the husband, thus seizing chattel control of family, assets, and income. Breaking the Silence plays into the larger multi-billion-dollar conspiracy of the "no-fault" divorce industry that has bilked about half the fathers in America out of their earnings, savings, and social position as husbands and fathers.*

.....

Women's rights organizations launched a counter-effort to respond to the public outrage generated by the airing of this documentary. The National Organization for Women advised their membership to send emails of support to PBS, noting,

"You're emails are especially important, as we know that PBS is being flooded with emails from bogus fathers' rights activists opposing the airing of the film."

The latest push from extreme feminists is to establish an Office of the Victim Advocate (OVA) at the Pentagon that will function to indoctrinate on a national scale the feminist dogma that men are batterers and women are victims, that a woman's allegations must be accepted as valid and acted upon, while no presumption of innocence is granted to the man, that the definition of domestic violence does not have to be physical, and that the complaining woman must be provided with tax-funded free legal and "victim" services while the man is left to fend for himself.

Phyllis Schlafly exposes the self-interest changes over time to the feminist movement in a January 2006 article titled "Feminists' Double Standards about Child Care." Some excerpts from that article have been transcribed below.

*When the feminist movement burst onto the American social scene in the 1970s, the rallying cry was "liberation." Society's expectation that a mother should care for her own children was cited as oppression of women by our male-dominated patriarchal society from which women must be liberated so they can achieve fulfillment in workforce careers just like men.*

*Demanding that husbands take on equal duties in child care, the National Organization for Women passed resolutions in the 1970s stating, "The father has equal responsibility with the mother for the child care role."*

*Then-ACLU attorney Ruth Bader Ginsburg wrote in her 1977 book "Sex Bias in the U.S. Code" that "all legislation based on the breadwinning-husband, dependent-homemaking-wife pattern" must be eliminated "to reflect the equality principle" because "a scheme built upon the breadwinning husband [and] dependent homemaking wife concept inevitably treats the woman's efforts or aspirations in the economic sector as less important than the man's."*

*The icon of college women's studies courses, Simone de Beauvoir, opined that "marriage is an obscene bourgeois institution," and easy divorce became a primary goal of the feminist liberation movement. Three-fourths of divorces are now unilaterally initiated by wives without any requirement to allege fault on the part of the cast-off husband.*

*As divorces became easy to get, the feminists suddenly did a total about-face in their demand that fathers share equally in child care. Upon divorce, mothers demand total legal and physical custody and control of their children, arguing that only a mother is capable of providing their proper care and upbringing, and a father's only function is to provide a paycheck.*

*Gone are the demands that the father change diapers or tend to a sick child. Feminists want the father out of sight except maybe for a few hours a month of visitation at her discretion.*

*Suddenly, the ex-husband is targeted as a totally essential breadwinner, and the ex-wife is eager to proclaim her dependency. Feminists assert that, after divorce, child care should be almost solely the mother's job, dependency is desirable, and providing financial support should be almost solely the father's job.*

*It is settled law in the United States that parents (note the plural) have a fundamental right to the care, custody and control of the upbringing of their children. But feminists have persuaded the family courts, upon divorce, to acquiesce to feminist demands that the mother typically be given 80 to 100 percent of those fundamental rights that belonged to both parents before divorce.*

*What's behind this feminist reversal about motherhood?*

*The explanation appears to be the maxim. Follow the money. Beginning in the mid-1980s, the feminists used their political clout to get Congress to pass draconian post-divorce support-enforcement laws that use the full power of government to give the divorced mother cash income proportional to the percentage of custody time she persuades the court to award, but unrelated to what she spends for the children or to her willingness to allow the father to see his children.*

*Since the father typically has higher income than the mother, giving near total custody to the mother enables the states to maximize transfer payments and thereby collect bigger cash bonuses from the federal government. When fathers appeal to the family courts for equal time with their children, they are opposed by a big industry of lawyers, psychologists, custody evaluators, domestic-violence agitators, and government bureaucrats who make their living out of denying fathers their fundamental rights.*

.....

Radical feminists and those profiting off the child support industry are not the only groups spreading anti-father propaganda, politicians use the same tactic to protect the interests of the lobbyists and special interest groups who pull their strings to prevent family court reform from ever happening.

The spin control began almost immediately in Massachusetts after the results came in on the 2004 shared parenting ballot initiative question. The landslide results for shared parenting revealed that 85% of the general public state-wide were not buying the perspective of Jane Doe Inc. or the handful of politicians in the state who have been "paid off" to sabotage family court reform.

State Rep. David Torrisi of North Andover, where 87.6% of his constituents voted in favor of shared parenting, belittled the results of this poll stating, among other things, that ballot initiatives are not an effective way to legislate. He further implied that the citizens of Massachusetts are too ignorant to understand the question with his condescending comment: "you're asking people in the course of 30 seconds to decide on an issue as complicated and important as divorce law."

It is worth noting that Torrisi was one of the legislators on the 2004 Joint Committee on the Judiciary which killed every single bill filed that session related to shared parenting.

The fact is that divorce law is not complicated to 85% of the citizens in Massachusetts. Judges, lawyers, and legislators make it complicated by ignoring the simple solution of 50/50 joint physical custody so that they can manufacture money-making litigation for lawyers and outside agencies in family court.

To conclude, I have a message for the radical feminist and victim advocacy groups that claim publicly to be the advocates and protectors of the children with their ridiculous suggestion that child custody is a "father versus women and children" debate.

**The joint versus sole custody debate is NOT a "father versus women and children" issue. It is fathers, it is children, and it is the majority of women in this state who realize that children need both parents significantly involved in their lives versus a vocal minority of radical feminists with a man-hating agenda; bitter, unethical mothers with an agenda to punish the father of their children and profit off the breakup; and the racketeers in the system who make their living off the crimes committed against fathers AND children in and outside of family court.**

This claim is supported with the ballot initiative results from the last election. Even if we make the "stretch assumption" that 100% of men voted in favor of shared parenting and assume a 50/50 split of voters by gender, then 70% of women in this state would have *had to* support shared parenting for this ballot initiative to pass statewide with 85% of the vote.

# CHAPTER 7

## A CLOSER LOOK AT THE RESEARCH

***Statistics are like a bikini. What they reveal is suggestive, but what they conceal is vital.*** **Aaron Levenstein**

If child custody cases were accessible to the public, then the data would confirm that the courts blatantly discriminate against fathers. The courts respond to this criticism by claiming that not every mother is walking out of family court with custody of their children.

This is technically true. There are rare cases when the mother is too unfit to give her custody and fathers do get custody when the mother voluntarily gives it up or voluntarily agrees to joint custody. Of course, if the mother agrees to a compromise of joint physical custody, then the case is not contested.

A wildly inaccurate "study" used by the courts for over a decade to defend themselves against the accusations of discrimination against fathers in family court is a 1990 report, conveniently produced by the Massachusetts Supreme Judicial Court Gender Bias Study Committee, which states that fathers who actively seek custody obtain primary or joint physical custody over 70% of the time. Since this percentage is ridiculous to anyone who has ever experienced family court, it is obvious that the Committee manipulated the data to produce these deceptive results.

Without access to the data, I initially speculated that the 70% had to include the cases that were decided by mutual parental consent. I discarded that hypothesis because, by itself, the "spin" of including uncontested cases could still not produce a percentage of 70% from a reality that is closer to 10%. Unless, of course, it included ONLY the uncontested cases.

Therefore, I believe that the study was limited to <u>contested cases that made it to trial</u>, which is the only manipulative way to fudge the numbers to obtain such a percentage.

In most cases, fathers are forced to sell out long before their case goes to trial because the courts make it clear to fathers on every one of the numerous trips to court that fathers must endure <u>prior to a trial</u> that the odds of overcoming the ignorance and incompetence against them are long, if not impossible.

The ONLY fathers who make it to trial are the ones confident that the evidence and their fitness as a parent are so overwhelmingly superior to the fitness of the mother in their particular case that the court will have no other choice but to see things their way and grant them, at the very least, joint physical custody. Even

when the father is confident of his superior fitness as a parent, he still must endure threats of extortion that are made by attorneys representing mothers in family court.

A common blackmail practice in family court, to bully the father into giving up, is to file "form letter" motions on behalf of the mother requesting that the father pay for the mother's attorney fees. Although this is a frivolous request to any reasonable individual, the threat has to be taken seriously since family court judges prove to fathers every day in court that they will ignore the law, ignore the evidence, and ignore justice if they think they can get away with it.

Under the conditions described above, which weeds out all but the very strongest cases for joint or sole custody to the father, it is not beyond the realm of possibilities that fathers could gain joint or sole custody a significant percentage of the time.

But let's look at this situation more closely.

Although I would estimate the percentage to be closer to 10%, let us assume for argument's sake, that 20% of contested cases make it to trial.

The 80% of cases that do not make it to trial, which, in many cases, still includes months of contested, billable litigation *before* the father throws in the towel, are labeled by the study as cases involving fathers who "voluntarily agreed" to the lopsided arrangement forced down their throats by the courts.

So out of a test sample of 1000 fathers, 800 are conveniently excluded from the study as fathers who did not "actively seek custody" simply because they were forced to quit short of a trial.

Since the 200 fathers who remain are the strongest cases for joint or sole custody, it *is* conceivable that 70% of that "screened" group, or 140 out of those 200 fathers, does leave the courtroom with sole or joint custody.

But if we compare that number to the 1000 fathers who originally came into the court system seeking joint or sole custody, *before* the courts worked their selective ignorance, incompetence, and arrogance on fathers to convince them that their pursuit of custody was hopeless, that 140 number represents a more accurate 14% of the original test sample.

The fact is that an independent, valid study on child custody cases will never be done in this state because the courts know that the results will only incriminate them and confirm what every father who has stepped foot in a Massachusetts family courtroom already knows.

The legitimate research out there overwhelmingly confirms that 50/50 joint physical custody is the arrangement that is in a child's best interests. According to the U.S. Census Bureau (Statistics of 2000), children from a fatherless home are 5 times more likely to commit suicide, 32 times more likely to run away, 20 times more likely to have behavioral disorders, 14 times more likely to commit rape, 9 times more likely to drop out of school, 10 times more likely to abuse drugs, 9 times more likely to be institutionalized, and 20 times more likely to end up in prison.

According to the U.S. Department of Health and Human Services, fatherless children are at a dramatically greater risk of drug and alcohol abuse, mental illness, suicide, poor educational performance, teen pregnancy, and criminality. By contrast, children whose fathers are involved in raising them do better in school, are less likely to get into trouble with the law, and are more likely to be better parents themselves.

In her article, "Disenfranchising, Demeaning, and Demoralizing Divorced Dads: A Review of the Literature," Dr. Linda Nielsen uncovers volumes of recent research that Massachusetts family courts would prefer to pretend does not exist.

Among her findings include the following:

*(1)* *Young adults who have close relationships with their fathers are less likely to become clinically depressed, to develop eating disorders, and to develop anxiety disorders (Caron. 1995b; Cooper & Cooper. 1992; Putallaz & Heflin. 1993; Scarf. 1995; Silverstein & Rashbaum. 1994; Steinberg & Steinberg. 1994; Warshak. 1992).*

This particular finding was of interest to me because <u>all three</u> of the listed disorders above apply to the mother of my son, who did not have a father in her own life.

(2) *Children who are able to maintain a close relationship with their father tend to be more socially mature and to have fewer problems related to dating and sexuality. (Bassoff. 1994a; Bingham. 1995; Caron. 1995b; Debold, Wilson, & Malave. 1992; Flaake. 1993; Glickman. 1993; Hirschmann & Munter. 1995; Maine. 1993; Mens-Verhulst, Schreurs, & Woertman. 1993; Thompson. 1995; Tolman. 1991).*

(3) *Most boys who live with their unmarried mother and have limited time with their father are more socially immature, aggressive, delinquent, defiant, and psychologically or emotionally disturbed than other boys their age (Baker. 1992; Blaise. 1993; Buchanan, Maccoby, & Dornbusch. 1997; Biller. 1993; Cherlin & Furstenberg. 1994; Corneau. 1991; Emery. 1994; Furstenberg & Cherlin. 1991; Guttman. 1993; Hetherington. 1991; Hetherington & Jodl. 1994; Kalter. 1990; Lansdale, Cherlin, & Kiernan.*

*1995; Parke. 1996; Scull. 1992; Wallerstein. 1991; Thomas & Forehand. 1993; Weiss. 1994; Zimiles & Lee. 1991).*

(4) *Although most teenage children see their father as more demanding or more judgmental than their mother, those who remain close to their father often end up being the most self-reliant, self-disciplined, self-motivated, academically and vocationally successful, and achievement oriented (Coulter & Minninger. 1993; Downey & Powell. 1993; Hetherington & Stanley-Hagan. 1997; Hosley & Montemayor. 1997; Lamb. 1997; Minninger & Goulter. 1993; Marsiglio. 1995; Parke. 1996; Pittman. 1993; Pipher. 1994; Secunda. 1992; Snarey. 1993; Warshak. 1992).*

The research findings that follow were particularly disturbing to me personally because they apply to my son's present living situation with his chronically-depressed mother.

(5) *Depressed mothers tends to relate to the children in ways that interfere with their social skills and self-reliance (Ahrons. 1994; Bassoff. 1994a; Gottlieb. 1995; Harrington. 1994; Hetherington. 1991; Karen. 1994; Miller. 1994; Pittman. 1993; Scarf. 1995; Wallerstein & Blakeslee. 1989).*

(6) *Overly indulgent, lax parenting is common among depressed mothers (Ahrons. 1994; Chapman, Price, & Serovich. 1995; Cummings & O'Reilly. 1997; Downey & Coyne. 1990; Hetherington. 1991; Hops & Biglan. 1990; Rubin, Lemare, & Lollis. 1990; Silverstein & Rashbaum. 1994).*

(7) *A depressed mother often ignores or denies whatever problems her children are having (Ambert. 1996; Block. 1996; Downey & Coyne. 1990; Dreman & Aldor. 1994; Pittman. 1993; Radke-Yarrow. 1991; Scarf. 1995; Silverstein & Rashbaum. 1994).*

(8) *The depressed mother is often the least willing to share her children with their father after the divorce (Ambert. 1996; Downey & Coyne. 1990; Pelham. 1993; Radke-Yarrow. 1991; Todorski. 1995).*

(9) *Many mothers abdicate too much power and control to their children - especially if the mother hasn't remarried and especially if the child is a boy. These children often end up less socially mature, less self-reliant, less self-disciplined, and less well-adjusted than their peers (Blau. 1994; Brooks-Gunn. 1994; Buchanan, Maccoby, & Dornbusch. 1997; Depner & Bray. 1993; Emery. 1994; Furstenberg & Cherlin. 1991; Hetherington & Stanley-Hagan. 1997; McLanahan & Sandefur. 1994; Parke. 1996; Pasley, Ihinger-Tallman, & Lofquist. 1994; Patterson, Reid, & Dishion. 1992; Silverstein & Rashbaum. 1994; Wallerstein. 1991; Warshak. 1992; Weiss. 1994).*

*(10) In extreme cases, a mother and child can become so overly dependent on one another and so overly involved in one another's lives that they are referred to as being "enmeshed" (Amato, Rezac, & Booth. 1995; Ambert. 1996; Bassoff. 1994a; Berman. 1992; Dreman & Aldor. 1994; Emery. 1994; Furstenberg & Cherlin. 1991; Guttman. 1993; Hetherington. 1991; Minuchin & Nichols. 1994; Pittman. 1993; Wallerstein & Blakeslee. 1989; Warshak. 1992).*

*(11) And even when the mother and children are not enmeshed, after a breakup, the children's relationship with their father too often suffers if the mother is emotionally fragile, needy, and dependent in ways that make the children feel that they need to protect, to pity, and to take care of her (Ackerman. 1996; Alexander. 1994; Bassoff. 1994a; Berman. 1992; Buchanan, Maccoby, & Dornbusch. 1997; Caron. 1995b; Ahrons. 1994; Berman. 1992; Blau. 1994; Caron. 1995b; Caron. 1995a; Depner & Bray. 1993; Emery. 1994; Furstenberg & Cherlin. 1991; Guttman. 1993; Hetherington & Stanley-Hagan. 1997; Maccoby & Mnookin. 1994; McLanahan & Sandefur. 1994; Minuchin & Nichols. 1994; Pittman. 1993; Kempton, Armistead, Wierson, & Forehand. 1991; Silverstein & Rashbaum. 1994; Todorski. 1995; Wallerstein. 1991; Warshak. 1992; Weiss. 1994).*

*(12) The son is more apt than the daughter to become overly involved or even enmeshed with his mother in ways that hurt his relationship with his father, especially when the mother has not remarried (Corneau. 1991; Emery. 1994; Guttman. 1993; Hetherington & Jodl. 1994; Hetherington. 1991; Pittman. 1993; Silverstein & Rashbaum. 1994; Kalter. 1990; Wallerstein. 1991).*

*(13) Sons seem to be especially affected by a divorced mother's bad moods, her depression, and her conflicts with his father (Capaldi, Forgatch, & Crosby. 1994; Colten, Gore, & Aseltine. 1991; Emery. 1994; Hetherington & Jodl. 1994; Pianta, Egeland, & Stroufe. 1990; Wallerstein. 1991).*

*(14) Lastly, the mother who is mentally well-adjusted and relatively content with her life after a breakup is usually much more supportive of the father's relationship with the children than the clinically depressed or chronically unhappy woman (Ahrons. 1994; Ambert. 1996; Garvin, Kalter, & Hansell. 1993; Gottlieb. 1995; Hetherington. 1991).*

Although every one of the claims expressed above rings true in my specific case, I do not refer to these research findings as absolute truths because there are always exceptions to the rule.

I refer to them because the courts pretend that these findings do not exist and, instead, reference only outdated studies and the flawed studies conducted by their own people to preserve "business as usual" in family court.

# CHAPTER 8

## DISCRIMINATION AGAINST PRO SE LITIGANTS

***In matters of truth and justice, there is no difference between large and small problems, for issues concerning the treatment of people are all the same.*** **Albert Einstein**

A number of fathers choose to represent themselves in court. Some choose this option because they refuse to contribute to the family court industry. Others represent themselves because they simply have no ability to pay for legal representation. No matter what the reason, judges make sure that these individuals are made to pay one way or another.

Pro se litigants are an annoyance to judges because they are outside the loop that calls for lawyers to "wing it" in family court. The last thing judges want to do is hear testimony and examine evidence that might interfere with their pre-determined rulings.

Complaints against judges to the Commission on Judicial Conduct are rarely initiated by lawyers because the minimal preparation required of them in a courtroom that expects them to wing it makes their job easier. They also have to work with these judges on a regular basis. Most importantly, the family court's "one size fits all" rulings and procedure put money in their pockets whether or not they represent the victim or the beneficiary of the corruption. The only difference is that the attorney representing the father has the additional task of convincing the father that he did something for him after he gets railroaded by the court.

Pro se litigants, who naively come into court with an expectation that the judge will be honorable and professional, are the only real threat to hold judges accountable. Consequently, arrogant, condescending treatment of pro se litigants is the rule rather than the exception. In family court, pro se discrimination even dwarfs the court's gender discrimination.

When fathers choose to proceed pro se, attorneys are quick to file motions requesting that the father pay their client's attorney fees. Family court judges have so much contempt toward pro se litigants that the threat always exists that the judge will order, without just cause, that the father pay for the mother's attorney.

Unjustifiably forcing a father to pay for an attorney, who he did not hire and who was hired by the mother of his children to convince a court to rob him of his inalienable parental rights, is extortion, plain and simple.

Many family court judges believe it is part of their job to drum up business for lawyers and, in the process, teach these pro se individuals a lesson. The attitude is "how dare he think that he can represent himself in MY courtroom and deny a lawyer the opportunity to profit off his case." If you are confused about the motivation behind this thought-process, just remember what position judges held before they became judges.

Judges also maintain the reality in their courtrooms that litigants cannot get justice without paying for it. That is why the courts only reference court procedure when it serves the purpose to censor the pro se's efforts to communicate to the court. If pro se litigants were ever heard in family court, they might win their cases occasionally against hired attorneys and prove that a family court attorney is not necessary. That is a situation that judges in this state's family courts do not want to touch.

Since this illegal, discriminating treatment of pro se litigants does happen, you will likely have to endure the advice from well-meaning friends and family who will try to convince you that it is foolish to represent yourself in family court. I suggest that you not cave to this pressure.

The fact remains that you will likely lose your case in this kangaroo court system because the discrimination and extortion of fathers is what financially feeds this billion-dollar industry. What you can control is the profit that these racketeers are hoping to make off your case.

Because the family courts are corrupt and motivated by profit, Perry Mason could not help you win your case in such a biased system. So, why add insult on top of injury by hiring a lawyer to bleed you dry and leave you with visitation hours and an extortion order to support the same children who have been taken from you?

By law, judges are required to treat pro se litigants with the same dignity and respect that they give attorneys. They do not because they think they can get away with it. Your money and time will be better spent doing everything in your power to hold them accountable.

I do not believe that I would have been any more successful if I had been foolish enough to hire a family court attorney to represent me. I would probably have the same custody and support arrangement that I have now, but I would have $40,000 less in assets that would now be in the pocket of a family court attorney.

Hiring an attorney puts the father over a barrel. The mother's attorney bleeds the father dry by bombarding him with motions and frivolous trips to court until the father has no other option but to sell out and give up his parental rights. The mother has the ability to financially outlast the father because she simply uses the exorbitant child support payments that are temporarily ordered by the court at the initial hearing to pay her attorney fees.

When you add up the father's increased living expenses, a support obligation that far exceeds the actual costs to support his children, and the outrageous costs of an attorney, it is only a matter of time before he has depleted his assets to the point of bankruptcy. If the money runs out, the father will have no other choice but to throw in the towel, often times, before he even makes it to a trial.

By not throwing away money foolishly on an unnecessary attorney, the father gives himself three strikes within the state, District Court, Appeals Court, and the Supreme Judicial Court. Chances increase that someone in the system will be honorable and correct the injustice that the father will likely experience in the lower courts.

Some fathers may feel hesitant about representing themselves in court because of the intimidation of going up against someone with more court experience. Remember this, no one knows your case better than you. The attorney for the mother is getting her information secondhand from the mother, which can be a huge advantage for you if the mother of your children is unstable and dishonest.

I put in hundreds of hours of preparation into my case to convince the court that joint physical custody was the arrangement that is in the best interests of my child. I can guarantee that there is not a lawyer out there who would have put in that kind of effort for me. Attorneys are not magicians or miracle workers who can change the facts of your case. And if the facts of the case support your position, then you do not need a lawyer to confuse the court and distract the court from those facts.

Lastly, I have not met a family court attorney yet who has impressed me with either her intelligence or her power of persuasion. In fact, the incompetence and lack of integrity that I have observed in the attorneys who have opposed me in court has disgusted me. I would not hire any one of them for $2 an hour, never mind the $150-$200 per hour that they charge for phantom hours and criminally-inflated hours that are not being used to work on their cases.

# CHAPTER 9

## COURTROOM TACTICS USED TO DENY FATHERS THEIR RIGHTS

***Judges are the weakest link in our system of justice. They are also the most protected.*** **Alan Dershowitz**

Judges run family court cases as "winner takes all" criminal cases that require a criminal and a crime. Fathers are branded the criminals from the moment they set foot in court. Their crime is that they have the audacity to believe that they should have the same parental influence as mothers in their children's lives.

The difference between a father and a criminal is that criminals are innocent until proven guilty, the prosecutor in a criminal case has a burden of proof to overcome, and criminals have a right to a jury of their peers.

A right to a jury trial, which was enacted to eliminate the tyranny of giving one judge the power to determine an individual's fate, is denied to fathers in family court by statute. This gives a single judge, with his own agenda, the absolute power to decide the case. By eliminating the uncertainty that would come with a jury trial, mothers are enticed into a system that guarantees victory before these mother-friendly judges.

In family court, mothers are all innocent victims trying to escape abusive relationships. These roles are reinforced by running the case as a "he said/she said" game of hearsay so that the judge can believe everything said by the mother as fact and ignore everything said by the father. Court procedure is only referenced when it can be used to silence the father and preclude his evidence.

Divorce lawyers advise mothers to make up allegations of abuse and demand sole custody because the court is eager to believe whatever she alleges. If the father contests this unethical strategy, the mother makes up more allegations. The court then labels it a high-conflict divorce and hands custody to the mother, declaring that shared parenting will not work because the parents cannot get along or compromise. In many cases, if the father continues to fight these efforts to railroad him, the court resorts to extortion of the father by appointing a guardian ad litem on the case over the objections of the father, who is then ordered to pay for this father-bashing service.

The condescending, biased treatment of fathers begins almost immediately in a contested case with insulting comments from the judge that the father is rigid, demanding, and selfish for refusing to voluntarily give up his parental rights. This twisted mind-set is supported by the mediators who fathers have to endure

outside of the courtroom prior to facing the judge in court. The mediators also supply the court with a convenient means to slander the father.

Judges try to bait fathers into a reaction to make their ruling that much easier. They are bombarded with injustice after injustice and ignorant comment after ignorant comment in this emotionally-charged venue until an expression of outrage is generated and pounced on as evidence that the targeted father is an out of control monster.

If the judge is unsuccessful at instigating such a reaction in his courtroom where the father's actions are recorded by the court, he solicits the mediators to claim that such an outburst occurred in mediation, where the absence of witnesses and tape recorders gives the mediator the unaccountable power to claim anything.

As a father who was ambushed by this wildly unethical tactic, I would recommend that all fathers, particularly pro se fathers who go into mediation without a single witness, refuse to participate in such meetings until the court agrees to record the mediation and allow the father a witness in the room. My mediator incident will be discussed later, but let's just say at this time that I was burned by this tactic early in my case when I still naively believed that court personnel would be honorable and professional.

This incident was a wakeup call and convinced me that the family courts would do everything in their power and outside their legal power to preserve their pre-determined ruling of custody to the mother.

Among these court tactics are the following:

(1) Sustaining merit-less objections expressed by the mother.
(2) Overruling legitimate objections expressed by the father.
(3) Labeling any evidence or testimony that discredits the mother as irrelevant.
(4) Misdirecting the father during the trial.
(5) Precluding the father from presenting his evidence.
(5) And allowing only the mother to communicate inadmissible secondhand testimony.

A unique tactic used in family court to manipulate fathers who do not know any better is the joint *legal* custody scam. If the father refuses to see things the court's way (which is that he is less important to his child than the mother), the judge threatens to take this worthless concession from him.

It is a mystery where the "joint" part comes in with joint *legal* custody, since the mother's wishes are, with the force of the law behind her, allowed to override the wishes of the father. What is really occurring with joint *legal* custody is that the

father is told, "you have an equal say in your child's life, unless the mother disagrees."

The joint *legal* custody scam is also used to deceive the public. Judges cite their joint *legal* custody rulings to exaggerate their rulings on joint *physical* custody. They simply remove the word "physical" to claim a ridiculously high percentage of "joint custody" rulings. This effectively fools those less familiar with the family court system, who are less informed about the very significant difference between joint legal and joint physical custody.

I have heard mothers who greedily pursued and obtained sole physical custody of their children use the same "play on words" to save face and claim that they have a "joint" custody arrangement with their ex's.

Lastly, when it comes time for the judge to produce his findings for the inevitable appeal of his unjust ruling from those fathers who still refuse to be bullied into throwing in the towel, the judge will ignore the facts of the case to slander the father and create his own reality of the father's character and what happened in his courtroom.

The evidence from the appeal of *my case* indicates that family court judges get away with these crimes because the three-judge panels of the appeals court are too lazy to verify the judge's findings with the court-recorded tapes OR they simply do not care and choose to cover up the crimes of their colleagues rather than protect the constitutional rights of fathers in this state's court system.

# CHAPTER 10

## STRATEGY FOR MOTHERS IN FAMILY COURT

***There is a higher court than courts of justice and that is the court of conscience. It supercedes all other courts.*** **Mohandas Ghandi**

Mothers who are integrity-challenged have a full-proof strategy for success in the family courts of Massachusetts. The rules are simple:

(1) Make up as many slanderous stories as you can dream up about the father of your child because, as the mother, the courts are eager to believe whatever you say and will not allow any evidence that would bring into question your credibility.

(2) Do not concern yourself with the consequences of lying under oath, committing perjury on legal documents, or ignoring court orders because the courts will not verify your allegations or hold you accountable for your crimes.

(3) Most importantly, no matter how willing the father is to resolve the case short of a trial, refuse to communicate or cooperate with him.

It is not relevant that the mother is the only one with a financial incentive to not cooperate, the courts will blame the father for the lack of cooperation and communication to justify the court-ordered theft of his fundamental right to parent.

The Golden Rule for mothers in family court is if the facts of the case will not support your demand for sole custody, a false allegation or two will suffice. Divorce books that can be found at any local bookstore advise mothers to "strike first" with a false allegation of abuse against the father as a legal strategy. As these books clearly explain to mothers, it does not matter whether he ever laid a hand on you or threatened you with violence, the courts are eager to believe whatever you say regardless of the evidence or lack of evidence.

Since restraining orders are handed out like candy to mothers in this state, it is of no surprise that Massachusetts issues restraining orders at three times the national average. Attorneys routinely advise women to file restraining orders at the onset of the case with explicit instructions on how to do so. Outside the divorce industry such actions are known as subornation of perjury. But in family court, perjury and suborning perjury are just tricks of the trade where the end always justifies the means.

These restraining orders are granted *ex parte*, which means that the father is not present in court to defend himself at the time that they are issued. No proof or evidence is required to obtain such an order and hearsay is admissible. If you are a mother in this state, simply ask and you shall receive.

The orders are served without warning which means that if the father lives with the mother at the time of the restraining order, he will be escorted from the home by the police with little more than the clothes on his back and whatever he can pack in five minutes.

The David Letterman restraining order incident exposed the ease with which a woman can obtain a restraining order. The Berkshire Fatherhood Coalition put it this way in a December 30, 2005 letter to the editor of THE EAGLE:

*On Dec. 15, a woman filed for a restraining order against CBS late night talk show host David Letterman. She claimed that Mr. Letterman was sending thought waves over the air, and was speaking in coded symbols. In her request, she asked that Mr. Letterman stay at least three yards away from her and not "think of me, and release me from his mental harassment and hammering." She accused Mr. Letterman of using code words in his show, gestures and "eye expressions" to send her messages. She claimed that he caused her to go bankrupt and be sleep deprived, and that he engaged in mental cruelty.*

*No doubt that at one level this is humorous, and at another level it shows the debilitating effects of mental illness.*

*Most troubling, is that the temporary restraining order was actually issued - that's right, a real judge granted an actual temporary restraining order based on this nonsensical application.*

*The poor woman was mentally ill and afflicted, but what was the judge's excuse? Granted, this goofy application didn't turn into a permanent order and was lifted the day of the writing of this letter. But the fact that this application, on its face, the work of a severely mentally ill person, could turn into an actual temporary restraining order is a living monument to today's awful state of affairs in our family court system.*

*If this woman could get a restraining order based upon patently insane accusations, what chance does the average Joe have when it's he-said, she-said?*

.....

As I discovered personally, fathers are also denied the right to challenge these kinds of allegations with polygraph lie detector devices. Add to this the fact that

perjury is almost never prosecuted in this state and you have a scenario where the mother is free to allege anything.

Restraining orders only work one way. The one served with the restraining order is restrained. No contact means no contact by the father. The mother can do anything that she wants. If she or the children call the father and he answers, then it is a criminal violation of the restraining order. If the mother comes over and tries to crawl in bed with the father (which actually happens), it is the father who has criminally violated the restraining order. Even accidental contact in a grocery store can get the father arrested.

Ironically, the more unethical and unstable the mother, the more likely she leaves the courtroom with sole custody because the court will interpret any attempt by the father to communicate such an ugly reality to the court as a hostile act against the mother and evidence that the parents cannot get along.

Since the parents cannot get along according to the out of touch judges who misinterpret "legal" conflict and "manufactured" conflict as genuine conflict outside of court, then joint custody will not work. Therefore, by default, the mother gets sole custody of the children.

The fact is that Jesus Christ himself, in a custody battle with the Glenn Close character from "Fatal Attraction," could not get a joint physical custody arrangement in a Massachusetts family courtroom where the rulings are predetermined and the "fix" is already in.

# CHAPTER 11

## THE CHILD SUPPORT ORDER

***In the absence of justice, what is sovereignty but organized robbery?***
**Saint Augustine**

Those of us who know the truth know that the current child support orders have nothing to do with the interests of the children and everything to do with enticing mothers into this billion-dollar industry. I write mothers, not custodial parents, because the only individuals who pretend that the courts in Massachusetts are not biased against fathers are the racketeers who profit in these kangaroo courts. It is mothers who have the unilateral power to guarantee a sole custody arrangement if they simply refuse to "get along" with their children's father.

With sole custody comes child support orders, which reward mothers for denying their children access to their fathers by extorting from those same fathers thousands of dollars each year above the actual costs of support. These orders (gift-wrapped to mothers at the initial hearing as "temporary" orders) also allow them to financially outlast fathers in court.

Since the state gets its "cut" as well, it will actually force mothers to continue receiving support checks when they have remarried and do not need or want any money from their children's father. One woman expressed to me, "if I had MY way, I would reject ALL support payments from my ex. I already tried that and the court wouldn't allow it."

Child support orders are not only difficult to break once obtained, but the eliminated need for a child support order with 50/50 joint physical custody can be a deterrent itself to such a ruling in family court, *even when both parents are in agreement to such an arrangement.*

Conveniently, it is not the elected legislators who create the guidelines used to set the child support amounts in this state, but the courts and child support enforcement agencies who profit by maintaining a pool of so-called deadbeat dads and defaulters.

It is in the self interests of these courts and agencies that child support orders be as high as possible - **not to increase collection, which is of little concern to them, but to create arrearages and hardship to ensure demand for their services.**

If child support orders were not outrageously high, and instead were based on actual child-related costs, where *both* parents share the responsibility of meeting those costs, then there would be a monumental drop in cases involving

delinquent accounts. If that were the case, then there would be no need for an agency dedicated to child support enforcement. Obviously, the employees who work in this industry cannot allow that to happen.

The family court industry distracts from this agenda by exaggerating the percentage of deadbeat dads and vilifying the very small number of fathers who do avoid their obligations.

A February 1, 2006 "letter to the editor" of the Lawrence Eagle Tribune exposes the court's "criminalization" of one of these fathers at the expense of the children who these hypocrites claim to protect. The letter, written by a family court attorney of all people, was given the opinion page heading, "Little Logic to Family Court Rulings."

*To the Editor:*

*I am an attorney in Massachusetts who had the privilege of witnessing the functions of the Cambridge Probate Court for the first time while representing an individual who was issued a contempt order to pay $10,000 in child support or spend 60 days in jail. Sounds reasonable for those "deadbeat dads" who scurry from their responsibilities to the state.*

*But what about those who are really trying to meet obligations in a down economy?*

*Currently paying $500 per week in support and earning less than $800 net, this arrearage dates back to prior support missed while my defendant was homeless. The story, however, is yet to come.*

*My defendant went to court with $2,500 to bring support current (for the recent period) and asked the court to allow him to give his ex-wife a lien on his home, currently on the market, so that he may continue to work and continue to pay the current support of $500 per week, as he had been paying ($325 ordered and $175 arrearage.*

*Further, that if he went to jail he would lose his current job and an opportunity for ownership. The court rejected this offer and chose instead to place this individual in jail for 60 days.*

*The court chose to place a working father in jail (at taxpayers' expense, and hopefully not to take the bed of a murderer or child rapist on early release due to overcrowding) where this individual now will lose his job and his ability to support his children.*

*The children will lose over $4,000 in support money while their father is in jail in addition to the $2,500 offered yesterday in court and now there is another*

*unemployed individual in society. By the way, this defendant has no criminal record. Is this what is best for children?*

*Robert Waters Jr.*

.....

Edward Croft put it this way in his online response to a bill that targets these deadbeat scoundrels:

*So let me see if I understand this logic. We have these deadbeat dads who can't afford to pay unwieldy child support demands. So in the infinite wisdom of our elders we:*

1. *Add interest to the money that they can't pay anyway.*
2. *Take away their driver's license so that they can't get to the job that might provide them with the funds to pay at least a portion of what is owed.*
3. *Take away business licenses of electricians, plumbers, etc. so that they can't earn a living in order to pay any of the egregious amounts of child support.*
4. *And the best yet, lock them up so that no one can get anything at all.*

*Yep, utter brilliance. What great minds*

.....

A recent study conducted by divorce researchers, Stanford Braver and David Stockburger, concluded that the Massachusetts guidelines are among the most poorly designed in the nation. The father's time with his children and the child-related expenses that come with that time are ignored, the mother is allowed to deduct her first $20,000 of income in the support formula, and thanks to the charity handed out by the I.R.S. at the father's expense, the mother receives tax breaks that are unthinkable.

Although the father is the only parent who pays federal and state income taxes on the money that is paid in child support, it is the mother who mysteriously is allowed to claim the $3,050 per "dependent" tax exemption, the Child Tax Credit (worth up to $1,000 per child), the Earned Income Credit (worth up to $4,204, with two children), deductions for school tuition and fees (up to $3,000 per return), the Child Care Credit (worth up to $1,050 per child), AND claim a lower tax rate as a "head of household." All of these tax breaks are handed to the mother despite the fact that she very often contributes nothing financially to her children's support and, in most cases, is profiting off the breakup.

The I.R.S has arbitrarily decided that a father cannot legally challenge the support percentage contributed by the mother to claim the child as his

dependent. By U.S. Tax Court decree, written into current I.R.S. tax code, the mother of a divorce, as the custodial parent, unless otherwise stated in a court order, shall be assumed to contribute more financially to her children's total support than the non-custodial parent.

Until very recently, there was a loophole to this court decision for "never married" fathers. It spread around the internet that "never married" fathers could legally claim the dependent child deduction if they contributed more than 50% of their children's total support because the mother-biased assumption described above only applied to parents who were divorced or legally separated. When the I.R.S. got wind of this loophole, they quickly closed it by court decision in September of 2003 in the case of King v. Commissioner. Consequently, the federal tax code treats divorced, and now unwed, fathers paying up to 50% of their income in child support as if they are childless bachelors.

After accounting for taxes and non-custodial child-related expenses, a Massachusetts custodial parent only needs to earn 40% of what a matched non-custodial parent earns in order to enjoy a similar standard of living. Because of these financial incentives and the prejudices that favor women in family court, it is of no surprise that women with children initiate the vast majority of divorces.

A major flaw to the child support guidelines is that orders are based on a percentage of the parents' income. The sky is the limit with these orders since there is no ceiling on the amount that can be extorted from the father. I write "extorted," because this "backdoor alimony" passed off as child support is significantly more than the child-related expenses. At least it is for any father who was not living in poverty prior to the break up.

The gap only grows with the earning capacity of the father. A high profile example of child support gone wild is the case of hip-hop entertainer, Sean "P Diddy" Combs, who was justifiably outraged by the attempts of his ten-year old son's mother to increase a child support order that was paying her $35,000 a month! In addition to these monthly payments, Mr. Combs bought the mother a $1.1 million home and pays for childcare, travel, and all medical and dental bills for their son.

The public statement below, expressed by Brett Kimmel, attorney for the mother, is typical of the self-righteous "for the children" politically correct nonsense that fathers have to endure in family court:

> *Throughout the proceedings, Mr. Combs has always acted as if he is above the law. Of course, he is not and he will be dealt with accordingly. What makes this recent behavior even more distasteful, however, is that not only is he disrespecting the judge, <u>but now he is doing harm to his son</u>.*

According to most state guidelines, the purpose of child support is to provide for a child's basic needs - that means food, clothing, shelter, and medical coverage. Since prices for these items do not fluctuate with the purchasing power of the consumer, then why is it that the support order for child A can be up to a hundred times greater than the order calculated to support child B?

All the financial consequences of the break up are shouldered by the father, while the mother is not asked to make a single concession or sacrifice. The radical feminists would have you believe that these financially-ruined and emotionally-destroyed fathers are care-free, swinging bachelors after divorce when in reality it is mothers who are much closer to living this "life of Riley."

Many fathers who I heard testify at a public forum held to consider revisions to the Massachusetts child support guidelines, shared that they were working professionals who had to take on second jobs to foot the bills for two homes. Others (many in their thirties and forties) reported that they had to move back in with their parents.

I questioned a third group to get their thoughts on child support - the so-called "deadbeat dad". These fathers are at these public hearings as well and will even testify under an alias. One used the word "civil disobedience" to justify his choice. Another claimed that he refused to be shamed into slavery by the hypocrites who stole his children from him in the first place. Still others referred to the lack of accountability and claimed that most of their hard-earned money never made it to their children during the time when they *were* paying support.

One disgruntled father, whose story I read in a New Hampshire study on men, conveyed that when he was married, he took great pride in providing for his family. Then "big brother" stepped in and gave him a divorce that he did not want and removed him from the lives of his children. Being "ordered" to support his children, an act of love he had been doing voluntarily for years, compounded by a reduced role as a "visitor" to his own children, was too crushing a blow to his self esteem, initiative, and sense of responsibility.

**His position was that if the courts could see their way to take his children from where they were decently provided for to begin with, against his will and without just cause, then the courts should be held responsible for the support of his children.**

Mothers reveal that they are very aware of the outrageous deal that they get with sole custody every time they express the insulting comment in court that fathers only want joint custody to get out of paying child support.

If joint custody saves fathers money as this frequently-used court argument implies, then the child support orders are apparently larger than the actual costs to raise the children because in a 50/50 joint physical custody split, the father

does not get out of paying child support. He provides for his children directly for the equally balanced time that he has with them.

I challenged this insulting claim by proposing to the court a joint physical custody ruling in my case with the added condition that I document all of my child-related expenses each month and deposit the difference between what was spent and what a family court would have obligated me to pay (as a non-custodial parent) into a savings account for my son. I also vowed under oath that I would never ask for anything in support checks from the Mother if the court were to transfer sole custody to me.

While I was making these kinds of proposals, the mother in my case, who has three times my disposable income since walking out of a home purchased to be the home for her and our son, was asking the court to extort *her* attorney fees from *me*.

This is a woman who has never had to buy a single item of clothing for our son and who receives in child support checks, health insurance payments, and tax benefits more than $1,000 per month in tax-free dollars from me to support a 3 year old. But according to her and her attorney, *I* am the one with a financial motive for seeking joint physical custody (?!).

If anyone has a financial motive in a custody dispute, it is mothers who do not want to lose out on the money in excess of the costs to support the children to spend on themselves. By basing child support NOT on what it costs to raise a child, the system is nothing but slavery. Enslaving men to perform labor to earn money, which is then blindly handed over to custodial mothers to use at their discretion.

The bottom line is that the higher the orders for child support with its ZERO accountability as to how that money is spent, the greater the demand for sole custody. It is the brass ring that lawyers and the courts use to convince mothers with no sense of fair play or integrity to take the children and run, guaranteeing years of billable litigation.

In conclusion, if Massachusetts was in any way interested in maximizing the number of children who are adequately supported financially and emotionally after a break up, then they would give a parental relationship with the children to both parents and allow them to each support their children directly. Studies have proven that child support compliance increases dramatically when both parents remain significantly involved and are made to feel like parents and not "visitors" or "wallets" in their children's lives.

# CHAPTER 12

## COURT ARGUMENTS USED TO DISCRIMINATE AGAINST FATHERS

***Better to keep your mouth shut and be thought a fool than to open it and remove all doubt.*** ***Mark Twain***

The same politically-contrived arguments have been used for years to resist a joint custody arrangement and preserve the status quo. Although the evidence overwhelmingly favors a 50/50 joint physical custody arrangement when both parents are fit; judges, lobbyists, and legislators choose to ignore the facts.

When the argument of the day used by the courts to justify the discrimination against fathers in family court comes under attack and is threatened by legitimate criticism, the courts simply tweak the wording and call it something else.

*"TENDER YEARS" ARGUMENT*

In Massachusetts, the tender-years argument still exists to justify the court-ordered theft of a father's parental rights. Although it is no longer coded in family court law by name, it exists in practice under the pseudonym, "primary care-giver."

The tender years presumption is based on the belief that mothers have this gender-exclusive ability to nurture. The myth goes back to the time when men went off to work and women stayed home with the kids. Current child psychology research not only contradicts this claim, but concludes that children of all ages, particularly boys, are better off when raised by their fathers.

The Alabama Supreme Court addressed the issue of whether such a biased opinion could withstand a 14th Amendment challenge, and found that it could not. The court stated "...we conclude that the tender years presumption represents an unconstitutional gender-based classification which discriminates between fathers and mothers in child custody proceedings solely on the basis of sex."

*"PRIMARY CARETAKER" ARGUMENT*

The "primary caretaker" argument is what the "tender years" argument "morphed" into. Massachusetts General Law 209C specifically refers to the "primary caretaker" parent and suggests that the courts consider where and with whom the child has resided within the six months immediately preceding the proceedings.

This is an obvious Catch-22 obstacle for never married fathers because the "primary caretaker" will almost always be the mother, no matter how unfit she is. Even if the father is clearly the fitter parent, the mother will possess the child from birth onwards. Any legal means that the father has of trying to obtain custody will take longer than the six-month residency condition referenced in Section 10(a) of this law.

The "primary caretaker" is a "Court-invented" label that does not exist in the intact family. In intact families, recognized by most as the optimal family unit, the parents are "co-caretakers." Parenting responsibilities are shared equally with each parent contributing gender-specific influences that uniquely enhance the child's physical, mental, and emotional development.

*"ONE HOME BASE" ARGUMENT*

A widely used argument to oppose joint physical custody is that children need one home base for continuity and routine. This argument revolves around the false notion that children need unvarying sameness above all else, to the exclusion of the other parent's involvement if necessary. The classic refrain is that children will not be able to cope with two different caretakers and two different homes.

Yes, children need stability, but even more important is the need for consistency and predictability, or an awareness of what is to come. Children cope and adapt quite well with change when they know what to expect. Giving both parents equal parenting time with a consistent schedule contributes to continuity in the child's life, not confusion.

Sacrificing the significant involvement of a father in a child's life to accommodate the pie in the sky ideal of providing one home base for a child is insane. That is like a doctor saying, We can save your life, but we've decided against it because the chemotherapy may cause your hair to fall out.

The reality is that the child has two parents who do not live together. The court should have no higher priority than preserving the relationship with both parents because there is not a more powerful predictor of future well-being than the significant involvement of both parents in a child's life.

Research and experience with infant day care, early pre-school, and other stable care-taking arrangements indicate that infants and toddlers readily adapt to such transitions and also sleep well, once familiarized. Indeed, a child also thrives socially, emotionally, and cognitively if the care-taking arrangements are predictable and if parents are both sensitive to the child's physical and developmental needs (Lamb, 1998).

The evening and overnight periods with nonresidential parents are especially important psychologically not only for infants, but for toddlers and young children as well. Evening and overnight periods provide opportunities for crucial social interactions and nurturing activities, including bathing, soothing hurts and anxieties, bedtime rituals, comforting in the middle of the night, and the reassurance and snuggling in the morning after awakening. These everyday activities promote and maintain trust and confidence in the parents while deepening and strengthening child-parent attachments (Emery, 1999).

As child expert, Dr. Joan Kelly, points out, "Courts have overemphasized providing geographic stability of residence for the child at the expense of the more important emotional stability of regular time with each parent. It has been thoroughly shown, by work done in the last decade and not in the 1970's, that the problems associated with movement of children between homes are *less* than those created by removing one parent from day-to-day connections with a child." Wallerstein and Kelly, Surviving the Breakup: How Children and Parents Cope with Divorce, Basic Books, (1982).

Instead, the courts exaggerate the effect of two home bases so that this MINOR inconvenience illogically outweighs the very real problems with sole custody to the mother.

*"INABILITY TO COOPERATE" ARGUMENT*

The "most flawed" argument used by the courts to deny a father his right to parent is that if one or both of the parents will not cooperate with the other or one parent will not agree to joint physical custody, then any form of joint custody is impossible. This argument eliminates any possibility of due process and equal protection for fathers because mothers have the gender-exclusive power to "not cooperate" and "be hostile" to the father to ensure that joint physical custody is not even considered by the Court.

The unilateral choice to be hostile and uncooperative after separation is often used by mothers as a legal tactic since they are overwhelmingly more likely to gain custody. Mothers also enjoy the added convenience of pleading their case to judges who are eager to confuse legal conflict with genuine conflict outside of court.

The out of touch judges in the family court system will rule that "since you two are in dispute over the custody arrangement, then joint custody will not work." Therefore, in the best interests of the children, the primary caretaker of the children (guess who according to court stereotypes?) will have sole custody.

Joan Kelly in her work, *Further Observations on Joint Custody*, expresses a concern about the position that argues that joint custody should not be awarded when parents do not agree. As she points out, it is the woman who is opposed to

joint custody. Women do not need to ask for, nor agree to, joint custody. They are presumed by society, lawyers, the courts, and themselves to have a right to keep the child. It is the father who must ask for joint custody and it is the mother's power to agree or disagree. The Mother has a financial incentive to not cooperate. She is rewarded by the court for her refusal to cooperate with monthly tax-free support payments.

How does sole custody to the mother better respond to the parents' inability to communicate? Sole custody forces the parents to be chained to each other financially for 18-23 years where, in many cases, the financially responsible parent hands over more than the money needed to support his children to the financially irresponsible parent, sabotaging his own ability to save for his children's future activity and educational costs.

**I call this argument "the most flawed" because, contrary to family court opinion, 50/50 joint physical custody is actually the most appropriate custody arrangement when the parents DO NOT get along. Joint physical custody provides a clearly defined schedule that does not give either parent the power to intrude in the other parent's life, emotionally or financially. Neither parent is humiliated, devalued, or stripped of his dignity. And each parent has a more isolated influence on their child, independent of the whims and malice of the other parent.**

*"BEST INTERESTS OF THE CHILD" ARGUMENT*

The "best interests of the child" standard is where we are now. A standard that is so vague that it gives judges the discretion to play God and interpret its meaning as they subjectively see fit.

I find this argument the most despicable because the "best interests of the child" is the very last thing that these profit-driven hypocrites are considering when they make their rulings. If the courts cared at all about the best interests of the child, then they would be interested in hearing what BOTH parents believe is relevant before making their rulings.

The Courts have subjectively interpreted the "best interests of the child" standard to mean removing loving fathers from the lives of their children and replacing them with cash payments and visitation hours. This is NEVER in the "best interests of a child" because there is not a more powerful predictor of future well-being than the significant involvement of BOTH parents in a child's life.

There are numerous case law citations that attack this standard. Troxel v. Granville found visitation orders predicated solely on the determination of the child's best interests "constitutionally inadequate." In Blixt v. Blixt, Judge Sosman defined the visitation order as "legislation masquerading as interpretation in order to salvage an admittedly unconstitutional statute." Judge

Sosman added, "Looking solely at the category of parents who were never married to each other and who are not presently living together, the court resorts to vague generalizations verging on pure stereotypes of families that are not intact to justify subjecting some parents, but not others, to the intrusive burdens of the visitation statute."

*FINAL COMMENTS*

There are many family court cases that have justified their rulings with the flawed arguments described above, but as expressed in Silvia v. Silvia, "since the equal protection statute treats each parent alike and is unambiguous in this respect, there is no need to resort to legislative history."

Citing flawed precedent and case law that has historically denied fathers their constitutional right to equal protection does not justify the continuation of this practice. The Fourteenth Amendment states quite clearly that no state "shall deny to any person within its jurisdiction the equal protection of the laws."

# CHAPTER 13

## KEY INGREDIENT TO FAMILY COURT CORRUPTION

***If you have integrity, nothing else matters. If you don't have integrity, nothing else matters. Alan Simpson***

There are three kinds of cases in family court. The first is when both parents are stable and ethical. The family court industry has a difficult time making money off of these cases because both parents possess the emotional maturity and the integrity to know that it is in the best interests of their children to get along and stay significantly involved in their children's lives. Whatever animosity the two have toward each other is put aside for the greater good. A compromise of 50/50 joint physical custody or some other mutually acceptable compromise is quickly reached with little or no help from lawyers and the courts.

The second case involves the very small percentage of fathers who avoid their parental responsibilities - specifically, their moral and legal obligation to provide for their children's emotional and financial needs. Family court intervention is certainly appropriate in these cases because without it, the children go without and the mother is burdened with the task of being mother, father, and sole provider to her children. This type of father deserves what he gets and this book does not, in any way, condone or defend such behavior.

Mothers in this situation have their own legitimate gripes with the court system because the courts are ineffective at getting this group of fathers to pay. A father who would VOLUNTARILY abandon his own children often has other issues. Teen pregnancy, drug and alcohol abuse, and unemployment are more the rule than the exception with this group. Since you cannot get blood from a stone, the racketeers in the system place a low priority on these cases. Consequently, the mothers who need the most help from the system receive the least.

*I should clarify that I would not include fathers in this category who choose to not pay child support AFTER a court has unilaterally decided to remove them from the lives of their children <u>against their will, without just cause, and without due process</u>. These are fathers who DID NOT abandon their children.*

*Fathers who choose civil disobedience in response to the crimes of extortion and kidnapping perpetrated against them have my full support. An intrusive government that forcibly removes fathers from the lives of their children should, in my opinion, incur the costs of supporting those same children.*

*It is also relevant to note that these so-called "deadbeat dads," represent a much smaller percentage of fathers than the deceptive picture painted by the father-bashing groups out there. In fact, by percentage, fathers are overwhelmingly*

*more compliant with their child support obligations than the much smaller pool of mothers who lose custody of their children.*

The third kind of case is the family court "money-maker." It involves extracting loving and responsible fathers from the lives of their children and replacing them with cash payments. Without just cause, fathers are denied their Constitutional rights to due process and equal protection and their inalienable right to parent and support their children directly. The resistance from fathers to this form of corruption is what generates billable litigation and tax-funded family court-related agencies.

Even the courts are powerless to inflict such damage on fathers without one key ingredient. These cases require mothers who can be manipulated into the system. The selling points are the guarantee of victory and the child support orders, which far exceed the child-related costs.

Since most mothers cannot be bought with any amount of money when it comes to the welfare of their children nor made to feel "entitled" to an unfair arrangement, the courts feed off women who are bitter, unstable, immature, and unethical. The stability and integrity of the father in these cases is irrelevant since the most caring, selfless, involved father on the planet has no chance of success in these kangaroo courts.

# CHAPTER 14

## A PARENT FITNESS COMPARISON

***"Facts" do not cease to exist because they are ignored.***
***Aldous Huxley***

What makes my case unique is that I am a fitter parent than the mother of my son, Kathleen Elizabeth Moran (hereinafter "the Mother"), by every objective measure imaginable. One hundred out of one hundred people *who actually know the two of us* would give custody to me if they had to make a choice that did not include the option of 50/50 joint physical custody.

I was salutatorian of my high school class, a three-sport athlete, and received a Vice Presidential appointment to the United States Naval Academy. I graduated college magna cum laude with a bachelor's degree in physics and a master's degree in educational administration. Ironically, my master's thesis was on the effect of one parent vs. two parent homes on the behavior and academic success of high school students.

I have an impeccable professional record over a twenty-year career as a teacher and a coach. And I can produce hundreds, if not thousands, of witnesses over my teaching career, in the form of former students, who can vouch for my emotional stability, work ethic, and character.

Excluding the Mother's attempts over the last three years to manufacture evidence for her case with false allegations, I have never been in trouble with the law or at my job. I rarely drink alcohol and do not smoke or take drugs. I grew up in a loving, intact, two-parent home with two siblings who were both honor roll students and outstanding athletes. My brother is a successful business owner with a wife and three children. My sister is a wife and mother to four children. Our parents were significant influences in our lives and were always there for us. They pushed us to succeed while providing guidance, encouragement, and support.

I met the Mother at our workplace seven years ago. Both of us are teachers in the Methuen public school system. Until her transfer to an elementary school this year, we both taught in the science department at Methuen High School.

The Mother and I were engaged to be married when our son was born on March 20, 2002. She moved into my townhouse, purchased to be the home for her and our son, in July of 2002. She moved out two weeks later without notice because she was jealous of the attention that I was giving to our son as a proud father.

There were no arguments or conflicts during this time. She claimed that I did not love her and that she did not want to be in a "business relationship" with me.

For this two-week period, which was the only time that I had the opportunity to be a full-time father to our son, I was the primary care-taker. I did all of the cooking and cleaning, half of the child care, and I was the only one who got up nightly to feed our son, change him, burp him, and rock him back to sleep.

Sadly, the Mother is a miserable, unstable, self-centered woman who has difficulties dealing with the stresses of the real world, including her job as a teacher. She thought that having a child would be her ticket out of the profession. When I refused to cooperate with her plan to quit her job, go on welfare so that she could qualify for health insurance, and support both her and our son in her own place, she broke off our relationship and decided to use my access to our son to maliciously punish me.

The Mother hired a lawyer to lie for her, conceal evidence, advise her on how to manufacture evidence, and distract from the facts that overwhelmingly favored custody to me. I did not hire a lawyer because, in an honorable courtroom, the overwhelming evidence in my favor should not have required one. I was also not going to mortgage my son's future so that a lawyer could profit off our case.

*MENTAL ILLNESS*

The Mother suffers from a mental illness that involves chronic depression and an eating disorder (bulimia). The bulimia was severe enough to permanently damage her teeth. I was very upset with her when I learned, after the fact, that she was taking Prozac *during* her pregnancy.

The Mother *has* the ability to conceal her emotional instability most of the time, but there are very real reasons why she is dependent on antidepressants and psychiatric counseling, why she has never been independent enough to live on her own, and why she had 148 absences from work in her first 5 years of employment in Methuen. A number of these absences were the result of two complete nervous breakdowns, which were both triggered because of break ups with me in our "on again/off again" three-year relationship.

The Mother's single-parent family includes her mother, who also requires medication and therapy for depression, and her brother, who has a history of drug problems and suffers from a bipolar disorder that has resulted in police-involved lockups at a psychiatric hospital.

*ALCOHOLISM*

I have had to witness a number of ugly incidents involving the Mother's problems with alcohol. The first time that I saw her drunk was at an end of the school year

party. Although she was seeing me at the time, she aggressively came on to two fellow members of our science department.

One of the teachers in our department shared with me that he was so disgusted with her "spectacle" that he felt sick to his stomach *for me*. I had the same feeling a time later when I caught her drunk at a house party with some guy on top of her. Although I saw it with my own eyes, she still denied it.

Another incident occurred at a family Christmas party. The Mother drank a bottle of wine before I picked her up. By the time we reached my brother's house, she could barely stand up. She spent the night crying in a bedroom, blubbering to my family members that I did not love her.

The most serious and relevant incident occurred on May 29, 2002 at her house. The maternal grandmother found the Mother passed out and drunk on the floor of her apartment with an empty bottle of wine and our, then, two-month old baby. Her mother was so upset that she called the police. Her brother called me to tell me to get over there before the police and DSS show up and take the baby. When I arrived, the Mother was nowhere to be found. She took off drunk with the baby! My sister, her brother, a Haverhill police officer, and I searched for her and the baby for over an hour. After the police left, she came out of hiding.

The Mother tried to trivialize this scary incident at the trial by claiming that she only had a couple glasses of wine and that it was a misunderstanding. My sister and I were there. There was an empty bottle of wine and a broken door. Her brother had to break the door down to get into the apartment because the Mother, who was obviously not thinking straight, locked herself in there after hearing that her mother had called the police.

The maternal grandmother would not have called the police if her daughter was simply napping next to the baby... and the Mother would have had no reason to take off and hide from the police if she was not drunk. After the police left and the Mother came out of hiding, my sister witnessed that she was so drunk that she was still stumbling and slurring her speech.

*IMMATURITY*

The Mother has proven herself to be one of the most immature, irresponsible individuals who I have ever met. I cannot call my son on days when I do not have visitation hours because the Mother screens her calls and does not pick up the phone when I call. The only phone calls that do occur are when she calls me at 6:30 in the morning on days when I am supposed to see my son to tell me that I cannot have him that day.

She usually comes up with some kind of an illness to keep me from my son. She has used a sinus infection on several occasions to exaggerate a runny nose and

on one particular day she claimed that our son had chicken pox. Since she cannot be believed, I went over to her house at my usual time to see for myself. My son had miraculously recovered from the chicken pox and I was able to leave with him that day.

The Mother also does not respond to emails and letters. She has gone so far as to block my emails. My last email to her came back, "this member is currently not accepting email from your account." This has put me in an awkward position because I will not talk to her about our custody case in front of our son.

During the three month time period when the Mother represented herself as a pro se litigant prior to the trial, she ignored my numerous written requests to meet to pre-mark the evidence. This was a task that was ordered by the court at our pretrial.

My original requests for a meeting were made through email. When those requests were ignored, I hand-delivered my requests. Finally, to get a record of my attempts, I sent my request by certified mail. She still refused to accept the letter and it was returned to me after three documented attempts at delivery. This letter was included in my evidence packet to give the court some concrete proof of the Mother's immaturity and unwillingness to communicate.

*It is worth noting that most states include each parent's ability to communicate and which parent is more likely to allow the child frequent and continuing contact with the other parent as factors in their determination of custody.*

The fact is that the Mother avoids communication with me because I threaten the delusional world that she has created to live with herself. By surrounding herself with people who do not know the true story and will give her a sympathetic ear, it allows her to stay in denial about all the unethical stunts that she has pulled on me so that she can still look herself in the mirror and sleep at night.

The Mother has all of the tell-tale signs of a woman in denial:

(1) She appears to be irrational to those who know the problem.
(2) She is a cause of frustration to those who want her to confront the truth.
(3) She is considered pathetic and pitiable by those who have tried to confront her with her denial and have failed.
(4) She appears to be caught up in delusional thinking to rationalize away her feelings of guilt and project blame onto others.
(5) And she appears to be childlike and dependent on others to nurture her and assure her.

The Mother recently enrolled our son in a day care program a couple of half days a week under *her* last name in defiance of the fact that our son's legal last name is Thompson.

This is a stunt that she has pulled on several occasions. I had to use our son's birth certificate to correct both his social security card and the name on his medical records at his pediatrician's office because the mother falsified these documents.

I became aware of the social security card stunt when I was tagged for an audit because my son's social security number, which I had listed to claim the dependent child deduction, did not match the first four letters of *the Mother's* last name. I only found out about the day care stunt when my son informed me that they were calling him Patrick Moran there.

*FINANCIALLY IRRESPONSIBLE*

The Mother is a 40 year-old woman who has lived with her mother her entire life, enjoying significantly less than average living expenses during that time period. Despite the positive cash flow that she has enjoyed for at least 10 years as a teaching professional, she has accumulated no savings or assets. In fact, her financial statements show that she has large debts on her credit cards mostly due to the fact that she only pays the minimum amount due each month.

By comparison, I have lived on my own since I was eighteen and paid for every penny of my parochial high school and college education. I have an outstanding credit rating because I am responsible enough to live within my means. My mortgage loan officer commented that I have one of the highest credit ratings that he has ever calculated. In addition to my retirement account, I have saved into three different annuity accounts. I have also started saving into an account for our son with the small amount of money that is not being extorted from me as "glorified" alimony.

Although my son was provided with enough clothes for three children, the Mother purchased clothes that our son did not need because she did not want him wearing my nephews' second-hand clothes. With all of her credit card debts and attorney fees, the Mother also got rid of a dependable car that she had been driving to lease a brand new Honda Element for $356 per month.

Regarding her salary, the Mother threw away $4,000 in salary in the school year of our trial because she deliberately delayed a horizontal move on our salary table that would have taken her ten minutes at our district office to make happen. She was hoping to use the lower salary number in court to maximize the "finalized" child support order and then correct the mistake after the fact.

Since she has refused to use *legitimate* day care, she also forfeited a perk offered by our employer that pays for day care with pre-tax dollars.

The Mother twice objected to my efforts to schedule court dates on our vacation time, costing us two days of pay. When I tried to move the trial back three weeks

to our summer vacation to save us two more days of pay, the Mother objected to my motion and then filed a motion three weeks before the trial to request *the same thing*. This cost us both another day of docked pay to hear *her* motion, which was denied by the court

The Mother also made her attorney rich on a case that could have been resolved on August 11, 2003, with my sell-out proposal that caved to all of her demands. My only request was that the child support order adhere to the Massachusetts guidelines. The Mother initially agreed to the proposal and then changed her mind just three days before the proposal was to be heard by the court.

**Lastly, the Mother made it clear that saving for our son's future is not a thought. When the appeals court ordered that double the Mother's attorney fees be extorted from me, I presented her with a proposal that I thought even she could not refuse. I offered to purchase a $20,000 U.S. Savings Bond in our son's name as an alternative to paying the $8,606.72 extortion fee. The Mother revealed where her priorities are and how truly selfish she is by turning down this proposal.**

These are only a few examples of the Mother's financial irresponsibility and waste. The money that she has already thrown away is money that my son will never see. More significantly, thanks to the incompetence of the family court judge in our case, the financially responsible parent has been ordered to hand over significantly more than the costs to support our son to the financially irresponsible parent, who will spend every penny of the excess support on herself, and in effect, compromise my ability to save for our son's future activity and educational costs.

*MY SON'S LIVING ENVIRONMENT*

The Mother's apartment is filthy, cluttered, and unsafe for a small child. Because I was concerned with the sanitary conditions of her place, I went over to the Mother's apartment to clean it myself prior to our son's birth.

I had to bring my own vacuum cleaner because the Mother did not own one. Her bathroom is always littered with dirty towels, her sink and bathtub are black with mildew and hair, and her kitchen did not (*when I was last in it*) contain a stove or oven. The Mother never required these cooking appliances herself prior to our son because she lives on coffee, diet pepsi, salads, and take-out.

The outside property looks like something out of "Sanford in Son" with toilet bowls used as flower pots, an old TV on her front porch, and a broken down bus in her back yard.

In the first two years of our son's life, the police were called to the Mother's house on nineteen occasions. The Mother had to call in sick twice during this time

period because she was unable to leave for work. Her brother was outside the house in an emotionally-unstable state and the maternal grandmother felt that it was too unsafe for the Mother to try and get to her car.

Until the grandmother recently moved out, my son's play area in the Mother's upstairs apartment was a three-foot by eight-foot area. A gate prevented him from moving into the kitchen, a gate blocked off the Mother's computer, and her couch was used to restrict our son's movement into the tiny foyer used as his bedroom.

My son spends most of his waking hours in an isolated environment with two sixty year old women who alternate the job of child care while the Mother is at work - a family friend who is paid under the table and the maternal grandmother. The maternal grandmother is a woman who has raised two children who both require medication and therapy for psychiatric problems and who lived with *her* for most of their adult lives.

*EFFECT ON OUR SON*

Unfortunately, I am already seeing the effects of the Mother's parenting on our son. She coddles him and limits his physical activity to the point where it is only a matter of time before she turns him into a clingy, inactive, miserable, medicated little boy. I write "medicated" because every sniffle requires a pill or some other form of medication.

Since the Mother is a social recluse who spends very little time outdoors, our son spends the majority of his time with her sitting in front of a TV watching cartoons, playing passively with his toys, or taking naps with her. Our son tells me that he also sleeps most nights in her bed. The Mother does not challenge our son or expose him to other children and she has ignored my suggestions to put him in legitimate daycare full-time.

The Mother's overly indulgent, lax parenting also threatens to convince our son, as it did for his mother, that the world revolves around him. I refuse to spoil him in that way. On several occasions, the Mother has expressed shock that I would not change our plans in response to our son's alleged communication to her that he did not want to do the activity that I had planned for that day (ie. the beach, ice skating, swimming). My response to her has been that I am the adult and he is the three-year old and if I left it up to him to decide what we did, then we would be watching cartoons most of the time since that is what he is accustomed to doing with her.

When I have our son, I encourage him to interact with others and develop his self-reliance and social skills. I also make it a priority to have him outside so that he can get the healthy exercise and fresh air that he does not get with his mother. It has been a struggle because it is not a part of his everyday routine.

We will go on walks and within fifty yards I start getting the complaint, "Daddy, I'm tired, pick me up."

The Mother has been quick to email me when my son has been returned to her sweaty or with a grass stain or scrape. My response to her has been that he is a little boy who is going to sweat and get stains and scrapes once in a while when you allow him to run and jump and climb things.

I have no doubt in my mind that my son gets more exercise, mental stimulation, and social interaction in the ten hours that he has with me each week than he does in the other 158 hours of the week with his mother and grandmother. I take my son fishing, bowling, ice-skating, swimming, sledding, to the beach, the movies, amusement parks, museums, libraries, the park, sporting events. We sing songs, we dance, we act silly, we play hide and seek, we go on hikes, we play tag, we put together puzzles and read together, we play catch, we fly kites, and we ride bikes.

The Mother and maternal grandmother will argue that our three year-old son is doing just fine in their care. I would agree that our son is hanging in there and he has certainly benefited from their care and guidance in some areas, but I would also argue that his current "all-around" well-being has less to do with his mother and grandmother's efforts and more to do with *my* efforts to deprogram *their* attempts to raise a clingy, needy child. It is becoming more and more critical that I have more influence in my son's life before it is too late.

My persistent efforts in and outside of court to fight this corrupt system will never end until I have changed the system and modified my son's custody arrangement. I have no choice. I love my son too much to allow the most important person in my life to become the third casualty of the Mother's dysfunctional family.

# CHAPTER 15

## THE OBVIOUS QUESTION

***Not that you lied to me but that I no longer believe you - that is what has distressed me.*** ***Friedrich Nietzsche***

I suppose the obvious question is, "Why were you involved with this woman if she had all of these issues?"

I do not have a simple answer. I cannot claim that love was blind, because the Mother certainly revealed enough to me prior to our decision to have a child together for me to know better. For that reason alone, I am not guilt-free in this case. I suppose that I was too naive. I thought that I could provide enough emotional support for the Mother to keep her instability dormant. It was worth the chance because I did love her and thought that she was worth it.

Yes, I was aware of her issues, but I was also duped to believe that she was an ethical and decent person. She was there for me when my mother passed away and I misinterpreted that to be genuine kindness and compassion. She has proven to me since with her unethical stunts and greedy demands, most recently her efforts to have the court extort *her* attorney fees *from me*, that it was all a performance and that my feelings for her were based entirely on lies and deception.

Although the Mother's behavior over the course of our family court case has certainly disappointed me, I have no bitterness or animosity toward her. I have tried to convey this to her by inviting her to family gatherings and special days with our son. I remember her birthday and Mother's day with a card or a gift every year. I always make doubles of the pictures that I take of our son so that she has copies. And as far as what I communicate to our son, his mother walks on water.

With that being said, she will still be held accountable for her actions in the telling of our court case. To protect her would compromise my efforts to expose the corruption in this state's family courts. Our son will also get the true story when he is old enough to understand it.

The bottom line is that I will always love the Mother unconditionally and be grateful to her as the mother of my son. I have no regrets because I have a wonderful little boy in my life and whatever heartache and damage the Mother thinks that she can inflict on me is all worth it because the alternative would not include our son.

# CHAPTER 16

## THE MOTHER'S UNETHICAL STUNTS

***It is not what a lawyer tells me I may do; but what humanity, reason, and justice tell me I ought to do. Edmund Burke***

Since the mother of my son is very aware that I am the fitter parent in our case, she responded to her situation with unethical stunts and slanderous lies about me to manufacture evidence for her case. Her strategy included a false accusation of assault and battery, a false allegation of verbal abuse to obtain a restraining order, false allegations of harassment at our workplace, perjury in legal documents, lies under oath, and the recruitment of a vile individual at our workplace who was willing to lie for her.

With the exception of the perjury on legal documents and lies under oath, which occurred on every trip to court throughout our case, the false allegations were generated like clockwork with each threat to her custody case.

*FALSE ACCUSATION OF ASSAULT AND BATTERY*

On July 20, 2002, days after the Mother moved out of my home, I went over to her house to discuss our relationship. She said that it was over between us because she did not want to be in a (quote) "business relationship" with me. She said that she could tell from my interaction with her and the baby that *she* was second fiddle. She also claimed that I only got her pregnant to have a child in my life and not because I wanted to be with her.

I accepted her decision and asked for the engagement ring. When she refused to return the ring, an argument ensued and ended with me storming out of her place with the parting shot: "I hope you're this smug when I get custody of Patrick." Apparently, this comment set her off.

Four hours after this incident, I received a call from the Haverhill Police Department who informed me that the Mother had called them to accuse me of assault and battery and that I needed to come down to the station. When I arrived, they arrested me. Although I never laid a hand on her and without any evidence other than the Mother's false allegation, I was fingerprinted and spent the night in jail. The Mother's conscience eventually got the best of her and she recanted her story two days later.

The Mother never did return the engagement ring forcing me to take an unpaid day out of work to take her to small claims court. Her defense in court, *under oath*, was that the diamond solitaire ring was not an engagement ring but a gift given to her for appearance so that she would not be embarrassed at school as

an unwed pregnant teacher. The Mother was caught in this lie when I showed the court letters from her attorney and her mother that refer to the ring as an engagement ring. The Mother was ordered to return the ring.

*THE RESTRAINING ORDER*

I found out how low the Mother and maternal grandmother, Charleen Moran, were willing to go when they conspired on a story of verbal abuse to manipulate a restraining order from the court. The restraining order was the Mother's desperate response to the information contained on the grandmother's 2002 tax returns.

The tax return created a Catch-22 situation for the Mother - either the Mother would have to admit that she had lied on every one of her financial statements submitted to the court *or* expose the maternal grandmother's tax fraud crimes.

Below are the events leading up to the restraining order.

On April 14, 2003, the Mother mailed me a draft of her financial statement listing significant expenses for rent and day care. I requested proof of these alleged expenses in the form of canceled checks and her mother's 2002 income tax return. In a letter dated May 9, 2003, the Mother's attorney, Demetra Pontisakos, wrote that "(the Mother) indicates that she does not actually pay rent to her mother but pays her mother's real estate taxes and water bill in lieu of rent." She also denied my request for her mother's tax return with the claim that "her mother is not a party to this matter."

I responded, "if the Mother is not paying rent, but instead, is paying her mother's real estate taxes and water bills, then she has a vested interest in her mother's property, market valued at over $1,000,000." I also repeated my request for her mother's income tax return with the argument that the maternal grandmother IS a party to this matter as the Mother's alleged landlord and day care provider.

I later requested proof of these real estate tax and water bill payments that were made "in lieu of rent" in a May 27, 2003 discovery request. The Mother responded three months later with the claim that "there are no such documents." Less than three weeks after denying that she pays rent, the Mother listed $550 per month *for rent* and $225 weekly for child care on her financial statement submitted to the court at our May 28, 2003 initial hearing.

Regarding the day care expense, her attorney's original tactic was to just ignore my requests for proof. When she realized that I was not going away, she started responding with the line, "(The Mother) has requested those documents from her bank and will provide said documents to you upon her receipt of same." After including this line in an August 27th letter, I responded, "You have been writing these same empty promises into your responses to my requests for four months

now. It does not take four months to get a bank to forward copies of canceled checks."

Faced with the dilemma of confirming phantom expenses for day care, the Mother tried some damage control to reduce the proof that she was still obligated to produce. In her September 17, 2003 financial statement, the Mother changed her child care expense from $225 to $158.37 weekly, now claiming that she does not pay $225 weekly, but pays $45 per day for child care on the 183 days that she is scheduled to work annually.

My original request for the maternal grandmother's 2002 income tax return was made on May 5th, 2003. After several more requests, a subpoena, a motion filed by the Mother's attorney to keep the income tax returns concealed, a denial of this "motion to quash", and an order from the court requiring the maternal grandmother to produce the documents within 21 days; the maternal grandmother's income tax return was finally mailed to me on October 28th, 2003, more than five months after my original request.

It became clear why the Mother and her attorney went to such lengths to keep the tax return hidden. The maternal grandmother's 2002 federal and state income tax returns confirm that she reported $0 for wages, $0 for rental income, *and* ...she collected almost $9,000 in unemployment compensation. In addition, she listed her 38 year-old daughter, *the Mother*, as a qualifying child living with her to take the head of household filing status.

The Mother ALSO filed as a head of household. Therefore, the Mother and the maternal grandmother both took the head of household filing status *for the same household.*

Since the Mother listed significant expenses for rent and child care on every financial statement submitted to the court, signed under the pains and penalties of perjury, and since the maternal grandmother, who the Mother claimed was her landlord and sole day provider, reported none of this income according to a tax form that *she* signed under the pains and penalties of perjury, then at least one of these individuals committed perjury and/or tax fraud.

I eventually received a partial submission of canceled checks for alleged rent and day care payments on May 28, 2004, *exactly one week before our child custody trial* and months after the disclosure of evidence was to be complete. Since the Mother could only produce evidence for the time period *after* my original request, her proof was $17,020 short of the $26,250 of alleged expenses paid over the time period from our son's birth through March of 2004.

The maternal grandmother's tax return in combination with the Mother's financial statements and missing day care and rent receipts provided me with just a small

sample of the concrete evidence that I intended to present in court to prove that the Mother's word is not credible.

Since the maternal grandmother's tax return was mailed to me on October 28th, 2003, it gave the Mother's attorney sufficient time to confirm the accuracy of my evidence; warn the Mother that this evidence would damage her claim for sole custody; and "school" her client to *manufacture* some evidence of her own.

The Mother responded by sabotaging my visitation time with our son in the hopes that this would instigate a reaction. When I did not react, she decided to make up a phony story that I *overreacted*, using my compromising presence at her house without witnesses, except the maternal grandmother, to justify a restraining order.

Although the Mother and maternal grandmother wrote in their statements that I was verbally out of control and that they were afraid that I was going to "kill them all," the Mother did not file her restraining order until November 12th, six days after the November 6th alleged "incident".

Apparently, this restraining order was not urgent enough for her to request prior to Monday, November 10th, my *next* visitation day, when I picked up my son and dropped him off five hours later without incident, oblivious to what she was cooking up. My guess is that she was stumped as to how to spin the incident on November 6th into a reason for a restraining order. The response that she came up with indicates that she just threw reality out the window and made up a crazy story that would qualify.

**These are the facts**… On Thursday, November 6, 2003, I called the Mother from school at 2:25 PM. There was no answer. I left a message on her answering machine to let her know that I would be a few minutes late to pick up our son because I had just come out of a meeting with our school principal. The meeting was actually initiated *by the Mother*, who had been alleging on a regular basis that I was creating a hostile environment for her at our workplace.

I arrived at the Mother's house at 2:35 PM. The Mother, her mother, and my son were not there. After waiting at her house for fifteen minutes, I returned home and left a message on her answering machine for her to call me when she got in. She called me at 4:45 PM to tell me that she had left two messages on my answering machine a day earlier for me to pick up our son before my 2:30 PM scheduled time because she had an appointment. I told her that I received no such messages and that there were no messages from her on my caller ID. She replied that she had called from school.

I recalled that I had received two incoherent, whispered messages that could not possibly be deciphered from "Town of Methuen." One message was two seconds long and the other was eight seconds. I played the calls several times

to try and understand them. The calls were both received at 12:52 PM on Wednesday. At that particular time, the Mother and I both had that particular teaching period off. That means that I would not have been more than twenty feet from her when she called my machine, which explains why she was whispering.

I asked her why she did not simply give me the message directly or confirm that I had received her message on Thursday. Her response was, "I cannot talk to you." Then, I asked her if she could bring our son to my house since she had already sabotaged half of my day with him. She refused, saying that she was already "settled in." Admittedly annoyed, I told her, "Well, have Patrick ready because I'm leaving now to pick him up." She hung up the phone in mid-sentence.

When I arrived at her house, the maternal grandmother answered the door. I sarcastically commented that her daughter is a real piece of work and that she should be very proud. She repeated her daughter's excuse that they had an appointment and that they had to be there by 2:30. I told her, "then, instead of leaving a childish, whispered message on my answering machine that she knew I could not possibly hear, she should have had the decency to tell me about this appointment directly so that I would have known to pick up Patrick early. I added, "that is how *adults* communicate!"

The maternal grandmother responded, "Well, Kathy is not giving you Patrick today because you are upset." For impact and as a wake up call to her enabling mother, I raised my voice here to say, "Of course I'm upset! Your daughter is a fuckin' psychopath!" The maternal grandmother smirked and closed the door in my face.

I calmly went to my car, drove home, and called the Haverhill Police to see if they could assist me in getting my son since the Mother was in contempt of our court order. An Officer Surrette, who was the officer involved when the Mother made her false allegation of assault and battery in July of 2002, told me that the police could not help me because they do not get involved in those kinds of civil matters.

That is EXACTLY what happened. I have not exaggerated, embellished, or downplayed anything that occurred on that day.

The phony story proved to be effective for the Mother because it isolated me from my science department for a week making our personal problems school gossip and, although the restraining order was vacated by the court a week later, it still got the Mother a three-month arrangement that required my family members to pick up and drop off my son for me on my visitation days.

After the restraining order was vacated by the court, the Mother went to our principal the following morning to tell him that, although the order was dropped, she thought that it would be best if I remained isolated from our science department on the other end of the school because seeing me around was stressful for her. To his credit, our principal, who along with our department head was getting tired of her nonsense, responded that, if she felt stressed by seeing me around, then he could accommodate *her* by moving *her* to the other end of the school. She decided to stay put.

The events surrounding the restraining order will be revisited later in this book when I communicate the court's response to this incident. Below are two "chalks" that I produced for the trial to communicate the lies contained in the Mother and grandmother's restraining order statements and the Mother's lies under oath.

## LIES IN THE RESTRAINING ORDER STATEMENTS

| LIE | WHAT ACTUALLY OCCURRED |
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| (Charleen Moran) "At 4:40 PM, November 6, 2003, I heard a knock on my door... Hesitantly, I opened the door and saw Mr. Thompson. Mr. Thompson began yelling, "You're daughter is a fucking psychopath!" I asked him to lower his voice... He said, "your daughter is a fucking asshole!" I was talking quietly and softly to calm him down. He was body was shaking (sic). His face appeared red. As he was screaming I noticed that spit came out of his mouth. | I arrived at the Moran's home to pick up my son for my visitation time. When Charleen Moran answered, I calmly said, "your daughter is a real piece of work. You should be very proud." There was no anger whatsoever in my voice. I was simply annoyed that her daughter had sabotaged two hours of my time with my son by not being there when I came by at my scheduled time to pick up my son. |
| "I was very frightened by him. Calmly I said to him, Kathy told you that you needed to be here at 2:35 PM the latest to see Patrick. He yelled that he did not get the message. Then he said, "your fucking psycho daughter left a fucking whispering message on the machine." He continued, "why can't she act like a fucking adult and fucking tell me at school? But no, she is a fucking psycho case." | NOT ONCE did I use the F-word at this point in the conversation. I told her mother that I did not get the message and if her daughter needed me to pick up Patrick early then she should have conveyed that information to me directly. I raised my voice here to add, "that is how adults communicate." |
| "He began waving his arms and yelling, "your daughter is a fucking mental case." I told him that he could see Patrick tomorrow or this weekend." | Charleen Moran said, "well, your not getting Patrick today because you're upset. I responded, "Of course I'm upset, your daughter is a fucking psychopath." That is the one and only time that Charleen Moran has EVER heard me use the F word. |

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| He continued to use the F word. I told him to leave. I shut the door and locked it. | Charleen Moran responded to my comment with a smirk and closed the door in my face. I calmly left their property and called the Haverhill Police to see if they could help me get my son for what was left of my court-ordered visitation day. The police officer who I spoke to, Officer Surrette, told me that the police do not get involved in those kinds of domestic disputes. |
| | COMMENT: I was on the Moran's porch for less than a minute. I used the F word exactly once. This is a word that I very rarely use, but which I did use on this one occasion for emphasis as a wake up call to Miss Moran's "enabling" mother. What occurred is EXACTLY as I described it. I did not exaggerate, I did not embellish, and I did not down play my behavior. |
| "The police took the report and advised us to get a restraining order and see our lawyer the next day. The police told us to call them if Mr. Thompson returns and to keep the door locked. I am afraid to have him on my property. I fear for my, Kathy's, and the baby's safety. I feel as if he is going to kill us all." | Charleen Moran, who wrote that she was afraid that I would "kill them all," did not get a restraining order until November 12th, 6 days after this alleged incident. At the trial, Charleen Moran admitted that I have never harmed her or her daughter or threatened them with physical harm. |
| In recounting the history of my relationship with her daughter, Charleen Moran referenced a previous incident: "My daughter was crying and I saw red marks on her arms. Mr. Thompson has tried to (sic) physically get the diamond engagement ring from my daughter. Kathy did not want to give it to him because he owed her child support." | Since Charleen Moran wrote this in her restraining order statement, Miss Moran has had to incorporate her mother's lie into her revised version of this incident. When Miss Moran officially broke off our relationship on July 20, 2002, I informed her that I would be seeking custody of our son. Her response was to accuse me of assault and battery. She admitted two days after this false allegation that I never touched her. At the trial, she claimed that she got red marks from a tug of war struggle over the engagement ring. I refer the court to the police report where there is no mention of these phantom red marks. Furthermore, I have never owed Miss Moran anything in child support. |

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| "Although I despise what he is doing to my daughter and continuing to take her to court, I was civil to him for the sake of Patrick. | The docket record reveals that more motions and trips to court have been initiated by Miss Moran's attorney. I have done nothing to Miss Moran but fight for my right to be a significant part of my son's life. |
| (Kathleen Moran) "I waited at my house until 2:40. At 2:41 PM, I left the house and I took Patrick and my mom to her appointment." | I was at Miss Moran's house by 2:35 PM. She was gone. I called her house from school at 2:25 to let her know that I would be a few minutes late because I had just got out of a meeting with our principal. She did not answer the phone. |
| "Approximately at 4:30, we arrived home. There was a message on my Mom's answering machine from Mr. Thompson. Upstairs, I found three messages from Mr. Thompson. He wanted to know where I was and what was going on. | I left one message on Miss Moran's answering machine. I do not even know her mother's number. |
| "I called Mr. Thompson and told him that we were home... Mr. Thompson began yelling at me and calling me a fucking mental case. I told him that I was not going to listen to him swear at me and yell. He said that, I had not left any messages and I was playing fucking games. I told him that I needed to feed Patrick and I hung up the telephone." | I did not ONCE swear at Miss Moran and I have NEVER spoken to Miss Moran in that way. I asked her, "since you sabotaged half my time with Patrick, can you drive him over here?" She responded, "I'm already settled in." I said, "Well have him ready because I'm on my way over." She hung up on me. |
| "Approximately fifteen minutes Mr. Thompson arrived at my house. He did not tell me that he was coming to my house." | As I described above, Miss Moran knew that I was coming to her house. She also knew that I would not forfeit the last three hours of time with my son just because she had sabotaged my first two hours with my son. |
| "I could hear him saying repeatedly saying (sic), your daughter is a fucking mental case." | This is simply Miss Moran corroborating her mother's lies. |
| "At 10:00 PM, Mr. Thompson's sister, Maureen Smith telephoned me. She wanted me to stop being spiteful and let Kevin see Patrick. I had been sleeping and did not want to discuss the situation with her. She began swearing, so I told her that I was not going to listen to this and I said goodbye and hung the telephone (sic)." | According to my sister, who has a lot more credibility than Miss Moran, she called Miss Moran to see about me getting my son the next day. When Miss Moran refused, my sister commented, "it is very sad what you are doing to Kevin and Patrick." Miss Moran hung up on her. |

# LIES UNDER OATH AND IN DOCUMENTS SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY

| LIE | MY RESPONSE AND COMMENTS |
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| On April 14, 2003, Miss Moran mailed me a draft of her Financial Statement alleging that she was paying $120 weekly for rent and $310 weekly for child care. | In a May 5, 2003 letter, I requested proof of these expenses and a copy of her mother's 2002 income tax returns. |
| In a letter dated May 9, 2003, Miss Moran's attorney wrote, "Miss Moran indicates that she now pays her mother's real estate taxes and water bill in lieu of rent." | On May 12th, I responded, "if Miss Moran is not paying rent, but instead, is paying her mother's real estate taxes and water bills, then she has a vested interest in her mother's property, market valued at over $1,000,000. |
| In the May 9th letter, she also wrote, "In response to your request for a copy of her mother's tax returns, you are not entitled to obtain the tax returns of a third party who is not a party to this matter." | I repeated my request for her mother's income tax return with the argument that her mother IS a party to this matter as Miss Moran's alleged landlord and day care provider. |
| May 28, 2003 Financial Statement<br><br>Miss Moran listed $127.02 weekly for rent (or $550/month) and $225 weekly for child care | After denying that she pays rent, she listed rent on her financial statement submitted to the court three weeks later at our initial hearing. |
| For over three months, Miss Moran ignored my discovery requests with the line, "Miss Moran has requested those documents from her bank and will provide said documents to you upon her receipt of same." | On August 28, 2003, I responded, "You have been writing these same empty promises into your responses to my requests for four months now. It does not take four months to get a bank to forward copies of canceled checks." |
| Miss Moran's attorney claimed in May of 2003 that her client had requested copies of her tax returns and that she would get them to me when they became available. | When I finally received her tax returns in August of 2003, the I.R.S. cover page confirms that Miss Moran did not even request her tax returns until August 11, 2003. |
| Faced with the dilemma of confirming phantom expenses for day care, Miss Moran tried some damage control to reduce the proof that she was still obligated to produce.<br><br>In her September 17, 2003 Financial Statement, Miss Moran changed her child care expense from $225 to $158.37 weekly, now claiming that she does not pay $225 | I say "scheduled to work" because Miss Moran realistically needs day care for approximately 150 days annually, when her more than 30 absences per school year, that she averages, is factored in. Furthermore, the $45 per day that she claims to pay to *an unlicensed family member* is 50% more than the $30 per day fair market rate charged by a professionally licensed day care provider. |

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| weekly, but pays $45 per day for child care on the 183 days that she is scheduled to work annually. | |
| In Miss Moran's Objection to my Motion to Appeal the Temporary Orders, it states:<br><br>That when directly asked by the Court at the time of hearing as to whether he was seeking visitation in addition to his Monday and Thursday visitation schedule, Mr. Thompson became irate, pounded his fist on the table, and demanded, "I am not going to agree to anything unless I get joint physical custody." At this juncture, the Court politely but sternly admonished Mr. Thompson, and indicated to him that it was not appropriate to come to a court of law, pound on the table, and make such demands." | My behavior in court has always been respectful and professional. I purchased the tape from this hearing to illustrate the depths to which Miss Moran will sink to distort the truth when she thinks that the court will not verify her allegations. Although this description of my behavior at our initial May 28, 2003 hearing is not the most blatant example of the character assassination that I have experienced, it does provide me with the most conclusive "pre-trial" proof. The tape from this hearing was listed as exhibit #107 on my trial evidence list.<br><br>Keep in mind that this particular lie described behavior that she knew *was* recorded. If Miss Moran is willing to take the risk to lie about recorded testimony, then what is stopping her from committing perjury when no threat exists? |
| In court under oath and in response to my interrogatory, Miss Moran asserted that all payments for rent and child care are made to her mother, Charleen Moran, who she claims is her landlord and sole day care provider. | After six months of written requests, a subpoena, a motion filed to quash my subpoena, a denial of this motion after hearing, and a ruling from the Court ordering Miss Moran's mother to produce the documents within 21 days, Charleen Moran's 2002 tax return was finally submitted to me on October 30, 2003. Both her state and federal tax returns confirm that Charleen Moran reported $0 for wages, $0 for income, BUT collected almost $9,000 in unemployment compensation. My request for her 2003 tax return has been denied. |
| Charleen Moran also listed Miss Moran, her 39 year-old daughter, as a qualifying child living with her to take the head of household filing status. | Miss Moran and her mother both took the head of household filing status for the same household. While on the stand, Charleen Moran pleaded ignorance and claimed that it must have been an error made by her accountant. |

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| Miss Moran has listed significant expenses for rent and day care on every one of her financial statements submitted to the court, signed under the pains and penalties of perjury. | If Miss Moran chooses to confess that she illegally paid her mother "under the table," then she still has only submitted evidence in the form of cancelled checks for $9,230 in payments for $26,250 of expenses based on the total amount due over the time period from our son's birth through March of 2004. This information was chalked as exhibit #27 and #27(a). Exhibit 27(a) was a supplemental exhibit since Miss Moran did not disclose her evidence until May 28, 2004, exactly one week before the trial. |
| To explain the disparity, Miss Moran claimed that she made some rent and day care payments in cash. | A problem with this claim is that her credit union statement that she submitted as evidence has very few cash withdrawals that come close to the size withdrawals needed to pay for rent or day care. This discrepancy was "chalked" as exhibit #28.<br><br>It is obvious from Miss Moran's first submission of checks that the random figures and inconsistent payments were an attempt to manufacture phony evidence after the fact. Her proof of payments only became clear and verifiable after the date when she learned that she was being held accountable for her alleged expenses. Even over this time period, she is still missing three rent payments.<br><br>Since Miss Moran has refused to disclose her mother's 2003 tax returns, I suspect that the checks were written for show, cashed, and transferred back to Miss Moran. |
| After I showed her the tax codes pertaining to the dependent child deduction for never married parents and an online article that specifically addressed our situation, Miss Moran did not dispute my information and grudgingly accepted that I would claim the dependent child deduction and she would file as head of household. | Miss Moran defied this agreement in both 2002 and 2003, claiming both the dependent child deduction and head of household filing status. When I became aware of this tax crime, which she had tried to conceal, I reported her to the Criminal Investigation Unit of the Internal Revenue Service. In court, Miss Moran played dumb and claimed that her attorney advised her to take this deduction. Judge Digangi rewarded her for this stunt by giving her this deduction on alternating years. |

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| On her May 28, 2003 and August 11, 2003 Financial Statements, Miss Moran accurately reported her 2002-2003 salary as $54,415 as a step 9 teacher with a Master's degree. On her September 17, 2003 Financial Statement, she took advantage of a payroll error and her negligence at promptly correcting the mistake to deceive the court and report her 2003-2004 salary as $54,958, which is the salary for a step 9 teacher with a bachelor's +15 degree. (Exhibits #10,11,36,37) | Miss Moran's accurate salary is $58,914 as a step 10 teacher with a master's degree (Exhibit #36). She purposely delayed correcting the error, actually canceling two appointments with our district's payroll office, so that she could lock in this deceptive lower salary in the calculation of what she hoped would be the final child support order that would come with sole custody to her. She thought she could retroactively recoup the difference by correcting her salary after the fact. |
| On Miss Moran's December 30, 2003 Financial Statement she listed the correct salary. (Exhibit #38) | I contend that Miss Moran and her attorney only changed the salary figure after they became aware of my knowledge of what they were trying to pull. |
| Miss Moran listed her accurate salary on the December 30, 2003 Financial Statement with an asterisk. She claimed that her salary change was under review. (Exhibits #38-39). | I spoke with Colleen McCarthy, our personnel manager, to confirm this claim and she denied it. She stated that Miss Moran's salary was not under review and the only thing that was holding up the move was Miss Moran's negligence at following procedure and coming into her office to make the change personally.<br><br>Although the corrected salary figure is almost $4,000 more annually than the salary that was deceptively listed on her previous statement submitted on September 17th, Miss Moran's calculated net weekly income actually went down because she offset the increase by arbitrarily listing deductions for Federal and state income taxes, Medicare, medical insurance, dental, and retirement that are not even close to the actual deduction amounts. |

## *FALSE ALLEGATIONS OF WORKPLACE HARASSMENT*

The Mother's motive for her workplace harassment allegations was to manufacture evidence for her case and run me out of the high school. The Mother wanted me out of the school for one reason and one reason only, no matter what other reasons she has deluded herself to believe. To the Mother, I am a constant reminder of all the lies and crimes that she has committed against

me. She could not escape that guilt (and I would hope remorse), unless I was to disappear. When her efforts to run me out of the school were unsuccessful, she transferred out of the school herself.

The fact is that I was nothing but cordial and polite to the Mother in school when we had to interact. As the saying goes, you get more flies with honey than with vinegar. My family members could not understand why I even bothered. I committed to this mental approach by looking at her as two people - the mother of my son and my co-worker, who I would ALWAYS treat with politeness and respect, and the unethical, unstable person, who I would only interact with in court or through her attorney.

With the exception of an occasional good morning, the only interactions that I had with the Mother in the first year of our case were my efforts to be helpful. I helped her get to an online site to renew her credential, I gave her a deck of playing cards for a classroom activity that she was doing, and I helped her clean up a spill at lunch. When she started making up stories of workplace harassment, I thought it best to avoid all contact with her. I did not say a word to her or so much as glance in her direction at our workplace during her last year at the high school.

This did not stop her from making up more allegations. The allegations always occurred in response to something that was happening with our court case. For example, when I warned her *in letters* that she was in contempt of court for ignoring my requests to meet to disclose and pre-mark the trial evidence during the time when she was representing herself *pro se*, she accused me of creating a hostile environment for her *at our work place* and filed motions to stop my visitations and postpone the trial.

She had a willing accomplice in the form of Diane Dandreta, our corrupt teachers' union president, who brought the Mother's chronic complaints to management without ever hearing my side of the story. Dandreta's lies and crimes will be exposed in greater detail later.

The Mother's accusations included the following:

(1) That I was talking about our court case in school.
(2) That I placed a "letter to the editor" in her school mailbox.
(3) That I shared a second "letter to the editor" about lawyers with a colleague.
(4) And that I was using my computer and the school copier to prepare my custody case.

It should be noted that I never put anything in her school mailbox and the only way that the Mother would know what I was copying or doing on my computer is

if she was looking over my shoulder from an intrusive distance and, in effect, harassing me.

## *THE GRANDMOTHER'S "SIGNATURE" STUNT*

On March 25th, my son came out of the Mother's house crying. The maternal grandmother insinuated that I must be the reason for his crying. I ignored her and left with my son. My son stopped crying, literally, before I had pulled out of their driveway.

On Monday, March 29th, the Mother was out sick from work, but when I arrived to pick up our son, she was not home. The grandmother, who is to have no contact with me, *per my request* (since the restraining order stunt), was the only one home to give me my son. When I asked where the Mother was, the grandmother snapped back that it was none of my business.

My son was again crying when I arrived. When he did not stop crying after being handed to me, the grandmother tried to take him back from me. I pulled him away from her and told her to get away from us. As I was putting my son in the car seat to leave, the grandmother entered my car and took my keys from the ignition. She ran into her house with my keys and called the police.

I was outside playing with my son when the police arrived. They questioned me first and I calmly told them what happened. This infuriated the grandmother who could not understand why they were hearing what *I* had to say since *she* had called the police. It could not have worked out any better for me since the police were witness to her temper tantrum.

When they got around to questioning the grandmother, they asked her why she took the keys. She told them that my son was crying and she did not want him leaving with me. The police responded, "Ma'am, kids cry... and it is not up to you to decide when he gets to see his son." The police ordered the grandmother to return my keys and then lectured her about the seriousness of making frivolous calls to the police. They warned her that the call was being reported as a domestic disturbance and if the calls continue, the Department of Social Services would be involved next.

*The mistake that the grandmother made when she stole my car keys and called the police was that she took away my ability to leave. This gave me the opportunity to respond to her lies. By contrast, the Mother was clever enough to make <u>her</u> two false accusations after I had left so that the police would only hear her one-sided story.*

Apparently, the grandmother tried to correct this mistake with a different audience since the police records confirm that a call was also made to the police on the day following this incident.

Before leaving, I spoke with the police separately about filing a complaint against the grandmother for entering my car. One of the officers, Officer Arriaga, convinced me to hold off on a complaint and offered to be present at the Mother's home for the next couple of weeks on my visitation days as a "stand by" to assure that the Mother and grandmother do not pull any more stunts.

Below is the maternal grandmother's version of the incident described above as contained in a DSS report:

> *The maternal grandmother testified that Patrick would scream and cry when the Father arrived to take him. On a particular occasion, the Father arrived at the home in a rage. Patrick was crying. The maternal grandmother stated that visitation would have to occur another day. The Father pulled the baby from her arms and took him to the car. The maternal grandmother took the Father's car keys and called the police. After the police arrived, the Father left.*

Although I, literally, had not said a single word to the Mother IN MONTHS prior to the DSS investigation, the Mother herself claimed in the DSS report that she had filed a motion to suspend visitation two weeks prior to the April 7th DSS home visit because I had been getting verbally abusive when I picked up my son.

Below is the response from the DSS worker, Carol Hanedanian, who bought the mother and grandmother's stories hook, line, and sinker without ever getting my side of the story or verifying the grandmother's allegations with the police:

> *The worker is very concerned as to Mr. Thompson's actions and behaviors in the presence of his child when he comes to the home to pick up or drop off his son for visits. The police are now involved in this transition.*

This excerpt is only a small preview of the DSS incompetence that I will expose in greater detail later.

Here is how the corrupt judge in my case, Judge Peter C. Digangi, described this same incident in his findings of fact, which he copied word for word from the Mother's proposed findings of fact:

> *He (Patrick) had just woken from a nap and was crying. Grandmother asked Mr. Thompson to help settle Patrick down. Mr. Thompson apparently got very angry and accused her of making allegations against him. The police were called to the home.*

The ignorance, incompetence, and arrogance of *this* judge will be discussed in MUCH greater detail later.

The incident with the maternal grandmother occurred during a time period when the Mother was out of work for five straight days. When she returned to school, she claimed to our union president and our principal that she was out of work because she was *"stressed"* due to a hostile work environment.

The school principal, Arthur Nicholson, and my department head, Joe Harb, investigated her complaints by questioning a number of teachers in our department. Not one teacher supported her claims. The conclusion reached by these two school officials was that the Mother's allegations were baseless and unfounded.

When the Mother was questioned about the results of the investigation, she responded, "Well, maybe hostile is a strong word, but I feel threatened by Mr. Thompson because of things that have happened outside of school."

*SLANDEROUS LIES*

If the Mother thinks that a lie will benefit her case more than the truth and she thinks that she can get away with it, then she will lie. Words like "verbally abusive, controlling, unsupportive, and hostile" that do not in any way describe ME, are some of the "buzz-word" adjectives that were used to slander me. It would not surprise me to discover that her attorney had her own "word bank of generic insults" to assist her clients.

Below are some of the more absurd lies invented by the Mother to demonize me. They are copied word for word from court documents and italicized. My comments follow:

(1) *Mother suffered a miscarriage while expecting another child of the parties while working at school. The Father refused to leave work to drive her to the hospital. She drove herself.*

I never refused to drive the Mother to the hospital because I was never informed of the Mother's miscarriage until later that day after she had returned from the hospital.

(Just a Thought) How desperate and unbalanced would someone have to be to agree to marry such a selfish and uncaring individual and have a child with that person <u>after</u> such a despicable incident?

(2) *When Mother became pregnant again, the relationship was strained. The Father refused to attend doctor's appointments, ultrasounds, and the Mother's amniocentesis.*

I was very supportive and excited about having a child with the Mother and attended EVERY appointment that I knew about and was asked to

attend. Our relationship was stronger than it ever was when she became pregnant again. I was with her all the time to make sure that she took care of herself. We went on a Caribbean cruise during her pregnancy and I complimented her constantly about how beautiful she looked.

(3) *The Father was afforded the opportunity to take paid leave from work when Patrick was born. He refused to do so.*

I was not afforded the opportunity to take paid leave from work and, therefore, I never refused to do so. I would have happily taken paid leave from work if that option were available.

(4) *Patrick required a CAT scan two days after he was born. The Father refused to go if the appointment was during working hours.*

Our son required an MRI, not a CAT scan, several days after he was born and I NEVER communicated to the Mother that I would not attend the appointment if it were during work hours. The Mother's allegation is a distortion of the truth because I simply suggested that the non-emergency exam be scheduled after 2 PM IF possible. The exam *was* scheduled after 2 PM and I *did* attend this appointment.

(5) *The Mother purchased most of the items for Patrick's care.*

The Mother did not purchase a SINGLE THING for our son's care. All food, diapers, bottles, clothing, medical insurance, cribs, changing tables, bassinets, car seats, strollers, etc. were provided by me or my family. The only expense that the Mother had prior to her return to work was $10 co-payments for our son's doctor's visits. She would not have even had that expense if she had informed me of our son's appointments and invited me.

(6) *The Father thought that Patrick was overweight and that he needed to be on a diet when he was an infant. He did not feed Patrick when he was hungry.*

What is most bizarre about this sick claim is that the Mother is the only parent of our son with an eating disorder who was actually "dieting" and taking Prozac during her pregnancy. I NEVER stated or even thought that our son was fat as an infant and I have NEVER withheld food from him. When my son is hungry, he is fed.

Such a claim is a wild contradiction because I do not even believe in "dieting" as a means of weight control. In fact, I warned the Mother on numerous occasions that her own dieting, which consisted of starving herself, was only slowing down her own metabolism. In my opinion,

regular exercise with a healthy breakfast, lunch, and dinner should not require "diets."

Furthermore, the only time that the Mother has EVER observed my interaction with our son was during the two-week period when she moved in with me. During that time, I was the ONLY one who got up nightly to feed him, change him, burp him, and get him back to sleep.

(7) *The Mother complained that the Father did not change Patrick's diaper often while in his care. The Mother testified that she placed a mark on Patrick's diaper and when the child returned, he was wearing the same diaper.*

I believe that a child's diaper should be changed immediately after it is soiled or becomes wet. My son NEVER left my care with the same diaper that he was wearing when I picked him up and, unless he had an accident on the drive home to his mother's house, he was never returned to her with a dirty diaper.

(8) *The Mother describes Mr. Thompson as a disturbed and controlling man who used to limit her use of towels when they lived together.*

To claim that I would EVER limit anyone's use of towels is what is "disturbing." For the record, I could care less how many towels the Mother uses and NEVER communicated otherwise. Such an absurd claim indicates how little she legitimately had to complain about.

The only "controlling" individual in our relationship was the Mother who is a spoiled brat and thought that she could call all the shots after our son was born with the absolute power that she enjoyed in family court to threaten me. She might as well have claimed that I allow our son to play in traffic with a loaded shotgun.

.....

I mention these allegations because there is not a grain of truth to *any* of them. But how can I defend myself against these lies when the Mother has the freedom to allege anything with impunity?

*SUBSTANTIATED LIES*

If the Mother had been clever enough to limit her lies to events that I could not prove to be false, then I would have no defense since I do not have a camera team with me twenty four hours a day to record my every move.

The mistake that she did make, which *would have* sabotaged her case *before an honorable court*, was to get careless with her lies and allege actions and relevant information that could easily be proven to be false with documents, witnesses, and the court-recorded tapes.

Below are some of the "substantiated lies" that I planned on exposing to the court at the trial to give the court an indication of the Mother's credibility. You will read the words "planned to" and "intended to" in this section because, as I will convey in greater detail later, the corrupt judge in my case precluded me from presenting every pre-marked exhibit and witness needed to confirm these lies.

(1) At the initial hearing, I was asked by the judge about the possibility of accepting less than a joint custody arrangement. The court tapes from this hearing, *which I obtained as evidence*, clearly reveal that I calmly and respectfully communicated that I would not accept anything less than 50/50 joint physical custody. I politely noted that the Mother and I have identical jobs, identical work hours, and we live five minutes from each other; which, I argued, makes 50/50 joint physical custody the most appropriate arrangement in our unique case.

Below is the Mother and her attorney's description of this same incident as contained in court papers:

*That when directly asked by the Court at the time of hearing as to whether he was seeking visitation in addition to his Monday and Thursday visitation schedule, Mr. Thompson became irate, pounded his fist on the table, and demanded, "I am not going to agree to anything unless I get joint physical custody." At this juncture, the Court politely but sternly admonished Mr. Thompson, and indicated to him that it was not appropriate to come to a court of law, pound on the table, and make such demands.*

Although this description of my behavior is not a blatant example of the character assassination that I experienced throughout the case, it did provide me with some concrete proof. I planned on reading the Mother's description of the incident first and then playing the court-recorded tape of the same incident to show the significant gap between reality and the Mother and her attorney's distortion of that reality.

I also intended to note that this particular "lie" described an incident that the Mother and her attorney *knew* was recorded. The question that I planned to pose to the court was: If the Mother and her attorney were willing to take the risk and lie about recorded testimony, then what was stopping them from lying when no threat existed?

(2) *The Judge has even had to reprimand Mr. Thompson for his inappropriate and abusive actions in court. The Mother mentioned that the court will now put extra officials in the courtroom due to Mr. Thompson's behavior.*

The Mother's claim to DSS that the court would have to put extra officials in the courtroom due to my behavior is a blatant lie. My behavior in court has ALWAYS been professional and respectful and I had the court officer present in the courtroom to testify to that fact. I planned to use the Mother herself to confirm that Officer Prader was the court officer at EVERY ONE of our court proceedings before calling him to the stand.

(3) *The Mother states that Mr. Thompson is banned from the Eagle Tribune as he has harassed them about his feelings of the court system.*

A later chapter in this book contains several of my "letters to the editor" that have been published in the Eagle Tribune *both before and after* the Mother's interview with DSS confirming that the Mother's allegation that I am "banned" was a lie.

(4) *(DSS) The Mother spoke of how Mr. Thompson has two other children, one of which is in California. He has never paid support to this child.*

This was news to me since I only have one other child. He was born in California in 1997 after I had moved back east. I was notified of this child's existence in 2003. After DNA testing confirmed that I was in fact the father, I began paying $456 per month in child support retroactive to the time when the complaint for support was first filed in August of 2002.

(5) *The parties have been in court due to motion after motion being filed by Mr. Thompson.*

The docket record confirms that all but two court appearances were initiated by <u>the Mother</u>. It also shows that the Mother has filed more motions than me including a frivolous request to have me pay <u>her</u> attorney fees.

(6) *The Mother denies having breakdowns or missing work.*

The Mother's attendance record was exhibit #12 of my pre-marked evidence. It confirms that the Mother "missed work" 148 times in less than five years of employment at Methuen High School. Since the Mother "denies having breakdowns", then she should have been able to provide the requested medical documentation of the illnesses that caused her to be out of work for seven weeks from March 4, 2000 through April 23, 2000 and the three weeks of absences from September 27, 2000 through November 6, 2000.

(7) *The Mother has noted Patrick to be upset when going with his father and she fears that Patrick is clearly being exposed to and affected by his father's rage.*

This allegation is so outrageous that I can substantiate it as a lie with hundreds, if not thousands, of former students over twenty years of teaching who would testify that they have never even seen me raise my voice in anger. If my son were old enough to testify, he could also confirm that he has never seen me angry or upset in his presence.

I do not deny that I am emotional. That is what makes me and every other individual on this planet human. But I am also a "civilized" human being with the self-control to confine the healthy release of those emotions to, in my case, hockey rinks and golf courses.

(8) *Mr. Thompson being in trouble at work due to his behaviors.*

With the exception of the Mother's attempts to manufacture evidence for her case by falsely accusing me of creating a hostile environment for her at our workplace and the recent efforts by other unethical individuals in our school system to cover up and distract from their own crimes and incompetence, my professional record is impeccable.

*FINAL COMMENT*

In my specific case, the truth did not lie somewhere between the two versions communicated to the court. The truth was EXACTLY what I conveyed. I did not exaggerate, distort, or embellish because, among other things, the actual facts of the case supported my position. One of these "other things" is that I DO NOT lie and would not have been tempted to lie, regardless of the facts, because I have more integrity than that.

Since I know that I was completely honest, I requested the opportunity to prove this truth to a court that did not know me by taking a lie detector test myself. I also requested the use of this device on the Mother to expose her as a liar. I was told that I could not make such a request.

So until polygraph lie detectors are made available to honest parents to challenge the false allegations made by dishonest parents and discourage the use of lies as a legal strategy, liars and criminals will continue to have the upper hand in family court.

Since my lie detector request was denied, I challenged the Mother and her attorney on every trip to court to produce something, ANYTHING, which would indicate that I had EVER been untruthful. They could come up with nothing.

To illustrate how desperate the Mother was to come up with "something" to discredit me, she submitted a print-out of an online personal ad as one of her three exhibits for the trial. Her "proof" that I was dishonest was that I had listed one child in my member profile, not two. This exhibit came back to bite her since the ad was placed prior to the time when I learned that I had a second child in California.

Despite the fact that the Mother was powerless to produce a single untruth that she could credit to me, my testimony was completely ignored by the lower court judge AND the three-judge panel of the appeals court.

At the same time (same case), the Mother's unsubstantiated lies and inadmissible hearsay were listed as "facts" in both the lower court's "findings of fact" and the appeals court's denial of my appeal.

My fight will go on until change happens because my son is not going to learn to be a victim and to hate himself for being male. He is also not going to learn that the way to go through life is to lie, cheat, and play the system, which is what he has learned so far from his mother and an enabling court system that has rewarded the Mother for being unethical and wildly dishonest.

# CHAPTER 17

## JUDGE MARY McCAULEY MANZI

***But how is this legal plunder to be identified? Quite simple. See if the law benefits one citizen at the expense of another by doing what the citizen himself cannot do without committing a crime.***
***Frederic Bastiat***

For most of my family court case, Judge Manzi was the presiding judge. She made it clear to me at my initial hearing on May 28, 2003, that in her courtroom fathers are all criminals to be punished and removed from the lives of their children while mothers are all selfless, innocent victims to be pitied and excused from accountability for their actions.

Judge Manzi and the incompetents who work in the court as mediators also introduced me to the family court mindset that a mother's demand for sole custody is honorable and praiseworthy, but a father's pursuit of a 50/50 joint physical custody compromise is proof that he is selfish, rigid, and demanding.

Judge Manzi was consistently rude and condescending toward me at the initial hearing, but polite and patient with the attorney for my son's mother. Before I was even called before the judge, I witnessed her rolling her eyes and asking the court clerk to point me out when she was handed my file.

During my opening statement, she repeatedly interrupted me to preach and change the subject. I was interrupted in the first minute of my opening statement when I expressed my desire to avoid a legal battle. Judge Manzi took issue with my use of the word "battle" and lectured me about how family court was not a battleground. When it was opposing counsel's turn to speak, she was allowed to make her entire statement without interruption. When she finished, Judge Manzi sought the opinion of the Mother's hired attorney as if she was some impartial social worker on the case.

I was also the only parent who was asked on two occasions at the initial hearing whether I would be willing to take parenting classes. This request was never made of the Mother in court, despite the fact that the Mother admitted to a history of mental illness and alcoholism and to the fact that her own mother called the police on her after finding her passed out and drunk with our two-month old child.

With regard to the child support, Judge Manzi asked me where I got the proposed child support amount listed in my documents. I told her that I used the financial statements that had been exchanged between parties to input the figures into the Massachusetts child support formula and then checked that amount online at a site that automatically calculates Massachusetts support orders. In an annoyed tone, Judge Manzi snapped back, "We're not online here!"

**What was most shocking about Manzi's comment is that it is mysteriously missing from the court-recorded tapes, which were ordered AFTER I had filed a complaint against her with the Commission on Judicial Conduct.**

I emphasize that the tapes were ordered AFTER my formal complaint because several individuals who work regularly in this courthouse suggested that I was naive to trust that the tapes would not be "altered" after the court became aware of my formal complaint against one of its judges.

I quoted one of these individuals in a follow-up letter to the Commission on Judicial Conduct. This individual, who also described Judge Manzi as a "man-hating bitch," denied saying anything. When I put him on the spot about his denial, he expressed anger that I had involved him and reminded me that he has to work with these people.

One particular fact, which makes this particular crime more plausible, is that I was told that I would receive the tape in two to three weeks because the actual tape would have to be forwarded from the Lawrence to the Salem courthouse for copying. When a month had passed, I became concerned and called the district court in Salem to check the status of my order. They informed me that the tape had not yet been forwarded from Lawrence. I eventually received the tape seven weeks after my order.

To be perfectly blunt, **I am certain that someone tampered with the court-recorded tape because the comment, "We're not online here!" WAS stated by Judge Manzi in her courtroom at the initial hearing On May 28, 2003.** Although there were other inconsistencies with the tape that I can only question, this specific word for word comment was tattooed in my brain because my thought at the time was, "What the hell does that mean?"

A Lawrence attorney, who I met with after this incident, shared with me that he heard the same thing. His unsolicited response was, "For what it's worth, I was in court on that day and *I KNOW* that she made that comment to you because it caught my attention as well." He prefaced this statement with the concession that, in her defense, he could not tell whether Judge Manzi was serious or trying to be humorous. This meeting ended when this attorney told me that he could not represent me because it was his policy to not take on cases involving complaints to the Commission on Judicial Conduct.

When I attempted to present my specific details related to the calculation of the child support amount, Judge Manzi told me that she was not going to hear my numeric evidence. She then allowed the Mother's attorney to argue that the child support that I was paying for a second child in California should be ignored when calculating the Massachusetts child support amount because I would be "double dipping" if I received, what she called, a "deduction" in both states.

Although prior orders for support are ALWAYS factored in, without exception, when calculating the *appropriate* Massachusetts child support amount, Judge Manzi accepted the Mother's ridiculous argument and ordered a support order that was $150 more per month than the amount obtained with the Massachusetts guidelines. She also denied my motion for temporary joint physical custody of my son. Since Manzi dated her temporary order as May 28, 2003, but mailed it so that I would not receive it until June 29, 2003, which was more than thirty days after the date of the ruling, she sabotaged my legal right to appeal her order.

Initially, I was hesitant to file a complaint against Judge Manzi because of the very real threat that she would retaliate. Then I thought to myself, how much worse can it get? I weighed the risks and felt that it was more important to send the message that I would hold the court accountable for its actions and not allow them to railroad me. To her credit, Judge Manzi treated me with patience and respect in her courtroom from that point on.

Although Judge Manzi's outward behavior was more professional after the initial hearing, she still found a way to stick it to me with her rulings on motions that were heard in her courtroom over the course of the case. Among other things, she stubbornly refused to fix the error in the child support order, she refused to recuse herself, and she allowed the Mother's motion for an insulting wage assignment order despite the fact that I proved in court with cashed check receipts that I had never been a single day late in my payments of support.

What was most disturbing about Judge Manzi's rulings regarding the child support order and wage assignment was that these rulings were not legal options based on the objective evidence. If I could not win arguments based entirely on indisputable mathematical evidence, then what was to stop this judge from ruling against me on items that were more subjective?

My original complaint to the Commission on Judicial Conduct was made in July of 2003, shortly after I received Judge Manzi's temporary orders. My file included four letters to the Commission, the cassette transcript from the May 28, 2003 hearing, and 31 pages of documents, which supported my complaint.

Included in these documents was a statement that I made in Judge Manzi's courtroom on October 8, 2003 regarding my motion for her to recuse herself from my case. The text of this statement is copied below:

*I came to the first hearing naive to believe that the court would be just, impartial, and allow both parties to be heard. If that were the case, joint physical custody would have been the temporary order that day until the Court had the opportunity to hear the case at trial.*

*In my opinion, equal protection under the law does not occur for fathers and pro se litigants in this courtroom. To protect my rights, I reported this discrimination to the Commission on Judicial Conduct.*

*Because of the threat of retaliation, I request that you, Judge Manzi, recuse yourself from this case. I refer to Canon 3, section (C) of the Code of Judicial Conduct, which obligates a judge to disqualify herself in a proceeding in which her impartiality might be reasonably questioned due to a personal bias or prejudice concerning a party.*

*The Court's "one size fits all" rulings, its gender profiling, and its refusal to hold (the Mother) and her attorney accountable for their illegal actions and concealment of evidence are reasons enough for me to be concerned.*

*Since the Court has refused to fix the error in the child support order or provide justification for disregarding the Massachusetts Child Support Guidelines, then it can only be concluded by reasonable people that it is the intention of the Court to deliberately drive me into financial ruin.*

*It is of no surprise that (the Mother) and her attorney object to my motion to recuse. They certainly do not want to lose the favored status that they enjoy in this courtroom.*

*I am not attempting to deny (the Mother) her parental rights, but she is in court to do exactly that to me. It is my opinion that the facts of this case would convince an unbiased court to award sole custody to me as the much fitter parent... if I chose to pursue this option. Instead, I have limited my request to joint physical custody in the interests of my son who, I believe, is entitled to a balanced relationship with both of his parents.*

*Despite the fact that the mother of my son has forced a sole custody arrangement on me since the day my son was born, I was the one labeled by the court as rigid and demanding because I believe that I should have the same parental rights as the Mother.*

*I am as fit a parent as any male or female in this courtroom, but I was the only individual in court at the first hearing who was treated as a criminal because I do not have two x-chromosomes.*

*The hearing should be as simple as asking both parents if either intends to prove to the court beyond a reasonable doubt that the other parent is unfit. If the answer is no from both parents and both are seeking custody, then the ruling should be 50/50 joint physical custody, period. This is the presumption in 31 states. But this ruling would not be profitable for family court lawyers in Massachusetts, now would it?*

*If I am wrong and there is no malicious intent to the court's biased rulings, then I am baffled by how blind you are, Judge Manzi, to the perspective of fathers in your courtroom.*

*At the first hearing, you did not comment on the fact that (the Mother) has denied me my parental rights that come with the "compromise" of joint physical custody. But instead, you chose to berate me for my unwillingness to voluntarily give up my rights. You interpreted my refusal to roll over and allow myself to be railroaded as an inability to compromise.*

*At the first hearing, you asked (the Mother's) attorney to give her opinion about joint physical custody as a feasible arrangement for the parties. I remind you that Attorney Pontisakos was hired to serve her client, she is not an impartial mediator with the authority to comment on an issue that she is attempting to prevent from happening. The court never requested my opinion regarding (the Mother's) selfish decision to steal the parental rights to our son from me.*

*(The Mother) is counting on the fact that the court does not know us, because if the court did know the Mother and I and based its rulings on the facts instead of gender, then I contend that the court would transfer the primary responsibility of our son's care to me as the much fitter parent.*

*You, Judge Manzi, also preached to me about the importance of being able to compromise. My response to you is that a system that overwhelmingly favors one group over another sabotages the possibility for compromise, particularly when the favored group lacks integrity, a sense of fair play, and a maturity to compromise. Furthermore, giving up my parental rights is not a compromise. It is selling out.*

*I have no intention of denying (the Mother) her rights as mother of my son, but that is exactly what she has done to me for eighteen months… with the court's blessing. If the situation was reversed and I had the discrimination of the court on my side, I would not even think to deny (the Mother) her parental rights to our son.*

*I would love for the court to award me sole custody of my son for the opportunity to show to (the Mother) how people with integrity respond to an unfair ruling that just happens to work out in their favor.*

*Without a moment's hesitation, I would still offer (the Mother) the option of joint physical custody, rather than force an unfair custody arrangement and child support order on her. No matter how much (the Mother's) lack of integrity may disgust me personally, my son deserves the right to a balanced relationship with both of his parents and a biased court ruling otherwise does not change that truth. The right to do something does not mean that doing it is right.*

*My request for joint physical custody is not negotiable. I am not going to sell out and accept a bone thrown my way of additional visitation or the worthless concession of joint legal custody as a substitute for the theft of my parental rights. That does not correct the injustice. (The Mother) does not have a problem with me having equal custody of our son. She has a problem with losing out on her tax-free support checks that exceed the costs of raising our son.*

*There is a time to compromise and a time to take a stand. There is no room for compromise on this issue. When Rosa Parks was told to go to the back of the bus, she didn't compromise and go to the back half. I will not accept a cheap imitation that fails to respond to the discrimination against those who are found guilty in this courtroom of being male.*

*If the court is inclined to feel sorry for the mother, then please be aware that (the Mother) was the one who walked out on me because she was jealous of the doting and attention that I was giving to our son as a proud father.*

*I request that the court remove itself from the restrictive box of its "one size fits all" rulings and consider what is in my son's best interests. Joint physical custody is the perfect solution for this particular unique situation. (The Mother) and I have identical jobs, identical work hours, and we live five minutes from each other. Joint physical custody will provide me with a more isolated relationship with my son, independent of the whims, malice, and instability of his mother.*

*The court can spin its gender bigotry any way it likes to rationalize that what it is doing is in the best interests of the child. The fact is, family courts are creating a generation of children who think that love is conditional and possessive. It is the children who the courts are destroying, not the fathers, who are the real victims of the gender bias in this family courtroom.*

.....

I heard nothing about the status of my complaint until I received notice by mail ten months after filing the complaint that my case against Judge Manzi was dismissed.

# CHAPTER 18

## THE MEDIATOR INCIDENT

***The terrible immoralities are the cunning ones hiding behind masks of morality, such as exploiting people while pretending to help them.***
***Vernon Howard***

On November 19, 2003, I was in court to respond to the Mother's merit-less restraining order stunt filed one week earlier. Upon arriving in court, we were told that we would be meeting first with a mediator before the judge would hear our case.

I objected to this "set up" with the court clerk before we were sent "downstairs." If I had learned anything from the mediation process during previous trips to the court it was that the gender-biased ignorance runs deep in the Lawrence courthouse. He told me that I did not have a choice because that was the procedure.

My thought was that the Mother and maternal grandmother had fabricated a despicable story in response to the evidence that I intended to introduce at the trial and I had no desire to be in the same room with these people and listen to their horrific lies a second time. There was not a word of truth in their written statements, so what was there to mediate?

I also did not want to be in a court setting out of the public eye. A meeting, behind closed doors, was not in *my* best interests. The statements are not being recorded and the only witnesses in the room are the Mother and her attorney, who will gladly corroborate any story that portrays me in a negative light.

Father advocate groups also recommend that fathers not cooperate with mediators or guardian ad litems, who, they claim, are looking for a convenient excuse to play Santa Claus for mommy at a father's expense.

*[NOTE: Guardian ad litems are individuals appointed by the court, at a cost to you, to supposedly represent the interests of your child during legal proceedings. The intrusive appointment of these feminist-indoctrinated simpletons, essentially hired by you against your will, insultingly implies that they are more capable than you at protecting the interests of your own child.]*

**Regarding the meeting**: For ten minutes, I stood there while the Mother's attorney spewed lie after lie. This did not upset me. I originally took it personally, but I have come to realize that the Mother is paying her lawyer to parrot her lies for her. I sat there quietly and did not interrupt her or react to her lies.

What became more and more annoying was the behavior of the mediator. It became increasingly more difficult to sit there and watch the mediator roll her eyes, shake her head, and throw disgusted glances in my direction; obviously falling for the drivel that she was reading in the affadavits and hearing from the Mother's attorney as if it was an unbiased, news account of what happened.

The mediator did not read *my* affadavit submitted to the court that day because it was mysteriously missing from the court file - a file that was transported from the court to the mediation room by the Mother's attorney.

After ten minutes, I politely asked her when I would have the opportunity to speak. She rudely snapped back, "You'll get your chance!" I then calmly responded, "I have been sitting here for ten minutes watching you roll your eyes and prejudge me and you haven't let me say one word yet in my defense."

She literally scowled at me and asked, "Well, what do *you* want to see happen here today?" I responded, "I want to have custody transferred to me as a punitive response to the Mother's perjury and false allegations that you have been hearing." She looked at me as if I had two heads and, after a long pause, said, "We're not here to discuss that."

I told her, "Actually, we are here to discuss that because I filed a motion requesting that exact action in my proposed amendment to the temporary orders." She gave me another "look" and with that, I realized that this mediation meeting was nothing but a trap to generate an emotional response from me and with it, a reason to justify a permanent restraining order against me.

I did not know how right I was until I ended the meeting. For the record, I did not speak rudely to the mediator and I did not raise my voice. I calmly told the mediator that I had nothing more to say to her and that I would tell my side of things to the judge.

When I got up to leave, the mediator started screaming at me to sit down and hollering for someone to get into the room. She was completely out of control. I was in shock. A second individual came into the room and I told this gentleman that I was done talking to the mediator and that I would explain my story to the judge. He said, "If that is what you want" and let me leave the room.

I have no idea what the mediator was screaming about if not to generate an incident or manipulate a response from me. I did what was appropriate at that heated moment in time, I walked away. I did not raise my voice and I did not lose control. I kept my control by exercising the good judgment to remove myself from that emotionally charged "no-win" setting.

Fortunately, I pleaded my case to the only honorable judge who I have ever encountered in a Massachusetts courtroom, the Honorable Mary Anne Sahagian.

Although I would not have blamed her for being short with me, based on "God knows what" the mediator alleged, Judge Sahagian graciously gave me five minutes of uninterrupted time to communicate what I had to say and the restraining order was dropped that day.

Justice in family court is so rare that when it does occur it is worth noting. This was the only time that I witnessed competence and professionalism in family court. I mention the Honorable Judge Sahagian by name because her patience, fairness, and willingness to listen stand out like a sore thumb in a kangaroo court system of arrogant, attention-deficit judges.

From what I understand, her competence and professionalism with me was not an isolated incident. I have heard and read online commentary from both men and women in the court system who have praised her work in the courtroom.

Below are some of those comments copied word for word:

*I read your email about Judge Sahagian. I'd like to add that this judge is the only judge I have any respect for. She seems to not take the typical crap from mothers and seems very fair. I've stood before her twice and she was fair both times. Also, while waiting for my own hearings and listening to others she seemed fair. I didn't see the hostility, sarcasm, and unprofessionalism commonly associated with Judge Manzi. I feel more confident when I stand before Judge Sahagian. Perhaps the system is slowly changing for the better. - haven't seen my daughter since 7/02 and have a 209A against me - both because of false allegations.*

*It may be of some interest for the Father's rights groups to know of my and my husband's experience with this judge has been very positive. Judge Sahagian has been overseeing my husband's post-divorce issues. She has been very open-minded and very quick to see through the lies that my husband's former wife has been throwing around in court during not only last summer's charges of sexual abuse but more recently with his request to lower his child support due to unemployment. The ex-wife is contesting the lowering based on her belief that "he intentionally lost his job to get back at her" (yes, those are the exact words). Judge Sahagian told them all that my husband, by law, is able to have the child support lowered. The ex-wife now technically owes my husband over $400... Hopefully, Judge Sahagian isn't one in a million.*

*What an intelligent, dedicated, and progressive judge! I wish there were more judges like Judge Mary Anne Sahagian around. I hate to sound cynical, but think even though judges have to contend with heavy and disheartening caseloads, many are just too complacent and at times too lazy to dig a little deeper. It has been my experience that judges often prefer to take the "low road" rather than consider other options.*

.....

Apparently, Judge Sahagian did not get the memo that fathers in family court are to be humiliated, bullied, denied their right to due process, and reprimanded for refusing to voluntarily assume the role of second-class citizens in their children's lives.

# CHAPTER 19

## ATTORNEY DEMETRA PONTISAKOS

***A lawyer is an (individual) who rescues your estate from your enemies and keeps it for (her)self. Lord Brougham***

Attorney Pontisakos was the Mother's attorney for the first two years of our family court case. Her lack of ethics resulted in a complaint filed against her with the Board of Bar Overseers in July of 2003.

Because I would not agree to drop my complaint against her, Attorney Pontisakos advised her client to not accept my "sell out" proposal, offered in August of 2003, that would have given the Mother sole custody of our son without a fight. According to the Mother, she has accrued over $40,000 in attorney fees since that time.

Pontisakos eventually withdrew as the Mother's attorney three months before the trial, shortly after she became aware of *my* evidence on her client when we met to disclose evidence.

Below are some of the absurd claims made by Attorney Pontisakos over her time as the Mother's attorney:

1. After concealing evidence, committing perjury in documents that were filed with the court, and ignoring discovery requests for months, Attorney Pontisakos claimed that she "prepared and prosecuted the case in good faith."

2. Attorney Pontisakos claimed that I only reported the unethical behavior that I witnessed in family court as a tactic to garner a settlement.

   *If Attorney Pontisakos was not guilty of violating five rules of professional conduct, then she would not have been reported to the Office of the Bar Counsel. If Judge Manzi had not rewritten the law from the bench and ignored the Massachusetts Child Support guidelines and any evidence that would contradict her agenda to discriminate against fathers in her courtroom, then she would not have been reported to the Commission on Judicial Conduct. I reported Pontisakos and Manzi to hold them accountable and protect my rights to due process and equal protection under the law.*

3. Attorney Pontisakos claimed that I was intimidating the Mother and causing her unnecessary legal fees, also, to garner a settlement.

> *If not for the efforts of Attorney Pontisakos, who thought that there was more money to be made off her client in "unnecessary legal fees," the case would have been resolved on August 11, 2003.*
>
> *Moreover, the only individual guilty of intimidation in the case was Attorney Pontisakos who tried to blackmail me into selling out with her threat to get the court to extort her client's attorney fees from me.*

Several violations of the Massachusetts Rules of Professional Conduct were cited in my complaint to the Board of Bar Overseers. Some of that formal complaint is copied below.

*VIOLATION OF M.R.C.P. RULE 1.1 (Competence)*

*Attorney Pontisakos argued in court that because I received what she calls a "credit" for the child support that I pay in California, I should not receive a "credit" for the Massachusetts child support order.*

*She is either incompetent or a con artist looking to pull one over on an incompetent judge. There is no such thing as a child support "credit." Both child support formulas include a provision that factors in "child support paid for a child other than those who are the subject of the pending action."*

*Pontisakos also promised her client that she could convince the court to order me to pay the Mother's attorney fees with the argument:*

> *a child's need for adequate legal representation is often essential to meeting the child's need for support.*

*Our son is not the plaintiff or the defendant in this case. Attorney Pontisakos was hired to represent the Mother, not my son. To claim my son as her client or assume that she, in any way, speaks on his behalf through her efforts to remove <u>me</u> from my son's life indicates either a limited understanding of the law or a disturbing confidence in the incompetence and bias of the court.*

*Attorney Pontisakos solely represents the self-centered interests of the Mother who chose to hire an attorney to protect her financial interests and vindictively deny our son equal access to his father. I, on the other hand, am the only litigant in that family courtroom defending <u>my son's right</u> to a balanced relationship with both of his parents.*

*Her only citation to the law with this request was her irrelevant reference to Massachusetts General Law c. 202 sec 9, which she herself conceded does not provide for an award of attorney fees.*

*VIOLATION OF M.R.C.P. RULE 1.2 (Scope of Presentation)*

*I specifically refer to section (d) of this Rule, which states that a lawyer shall not counsel a client to engage, or assist a client, in conduct that the lawyer knows is criminal or fraudulent.*

*Attorney Pontisakos has counseled her client to conceal evidence, lie under oath, and perjure herself in documents submitted to the court, putting (the Mother) in a position of facing serious criminal charges.*

*VIOLATION OF M.R.C.P. RULE 1.3 (Diligence)*

*My request for proof of her client's rent and day care expenses was hand-delivered on May 5, 2003. I have yet to receive proof of these payments two and a half months later.*

*In Pontisakos' most recent letter, dated July 22, 2003, and attached, she now responds to her negligence by claiming that it is her "opinion" that discovery requests are not considered filed until a litigant makes formal requests.*

*If Attorney Pontisakos only responds to "formal" requests, then that still puts her twenty-six (26) days and counting beyond the thirty (30) day deadline for a response to my third written request, which was completed in the same "formal" format as her discovery requests.*

*VIOLATION OF M.R.C.P. RULE 3.3 (Candor Toward the Tribunal)*

*Attorney Pontisakos told the judge in our case that she had to stay on the phone with me for an hour because I was irate and out of control. This statement was a bold-faced lie! Our thirty-minute (at most) conversation was actually very civil and polite. When I questioned her about this statement after this hearing, Pontisakos commented, "I was not under oath, you and (the Mother) were."*

*Attorney Pontisakos also exaggerated the length of the call to overcharge her client.*

*VIOLATION OF M.R.C.P. RULE 8.4 (Misconduct)*

*I specifically refer to sections (b) and (c), which state that it is professional misconduct for a lawyer to:*

*(b) commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer.*
*(c) engage in conduct involving dishonesty, fraud, deceit, or misrepresentation.*

*In Attorney Pontisakos' objection to my appeal of the temporary orders, she again falsely accused me of losing control. This time I had the concrete proof to discredit her since she made this allegation regarding my recorded conduct in court on May 28, 2003. This was also another violation of the competency rule since Attorney Pontisakos would have to be incompetent to make such an outrageous statement that could so easily be proven false with the cassette transcript from the hearing.*

*FINAL COMMENTS*

*I contend that Attorney Pontisakos has promised her client "the world" to prolong our case and pad her attorney fees. She also underestimated the cost of her legal fees to get (the Mother) to commit to her for legal representation. Her "anticipated cost of legal fees" stated in the Mother's original financial statement was between $5,000 and $10,000. The Mother's fees have already exceeded $10,000 and the case has yet to go to trial.*

[NOTE: As it turned out, we were not even at the halfway point at the time of this complaint to the Board of Bar Overseers. "Billable" litigation still to come in this case prior to the trial included a hearing on the Mother's merit-less restraining order, a motion filed by the mother to change the trial date, a pre-trial conference, and a meeting to pre-mark the evidence.]

*I believe that Attorney Pontisakos is "making a mountain out of a mole hill" by taking a case that should have been settled almost instantly and turning it into an "event" that is only financially beneficial to her.*

*It is bad enough that I am up against a gender-discriminating judge who ignores evidence and facts and rewrites the law from the bench. I do not need to also work against a dishonest attorney who practices law outside the Rules of Professional Conduct to deceive the court and commit fraud at my expense.*

.....

The Board of Bar Overseers dismissed my complaint against Attorney Demetra Pontisakos a month later, in August of 2003, without taking any disciplinary action. I appealed this decision to a Review Board of the Bar Counsel. They never contacted me or questioned me, but dismissed my appeal as well in December of 2003.

# CHAPTER 20

## THE DSS REPORT

***There is nothing more frightful than ignorance in action.***
***Johann von Goethe***

The Department of Social Services (DSS) investigation of the Mother was initiated by me during a time period when the Mother was out of work for five straight days. I made it clear that I was not accusing the Mother of abuse or neglect (which is the listed allegation in the report), but that I was concerned for my son since the Mother's extended absences from work in the past have indicated a mental breakdown.

I had no way of checking the well-being of my son myself because the Mother does not answer the phone when I call and the grandmother was secretive over this time period when I asked about the health of her daughter. Recall (from chapter 14) that this is a woman who was found passed out with our two-month old baby and then took off drunk with the baby after her own mother called the police on her. I would have never known about *that* incident if the Mother's brother had not called me.

Against my better judgment, I took the advice of the police and a nurse friend of mine and requested an unannounced home visit to find out what was going on. I say against my better judgment because father's rights groups warn fathers to steer clear of the DSS, which they claim, believe anything alleged by mothers as fact and nothing communicated by fathers. They also claim that DSS social workers are indoctrinated to believe that most fathers are violent monsters and that abuse and domestic violence are the rule rather than the exception.

The report was taken in Lawrence and then transferred to Haverhill. Consequently, I never met the woman who conducted the DSS investigation, Carol Hanedanian, until the trial when she appeared as a witness for the Mother.

I was told that the home visit would be unannounced so that the investigator could get a credible picture of what was going on. Instead, the home visit was announced, which gave the Mother and grandmother more than enough time to prepare her place for the visit and get their stories straight.

Under such artificial conditions, it did not surprise me that the report was favorable toward the Mother. She certainly has the ability to hide her instability for a one-hour home visit, particularly with advanced warning, and I do not deny that she can be charming.

The only thing the DSS report confirmed was that the investigator gullibly bought the Mother's performance and that no attempt was made by the investigator to get both sides. Based on the pure incompetence of this investigation, I would contend that Lizzie Borden could have convinced this particular DSS investigator that she was Mother Theresa in a one-hour home visit.

The incompetence of this one-sided investigation floored me. Although I was the one who filed the report, the investigator never met with me or interviewed me regarding the case. As a result, I was never given the opportunity to respond to the Mother's allegations - allegations that I was unaware of until I received the DSS report *from the Mother* two weeks before the trial.

Although the Mother had a copy of the report prior to the trial, the DSS did not send *me* a copy until *after* the trial, more than a month after my written request. The DSS-mailed copy was not only useless to me because I did not have it for the trial, but because someone used a marker to black out almost everything communicated by the Mother in *my* copy of the report.

This confirmed another warning that had been communicated to me about the DSS. I was warned that the DSS would withhold key records that would be needed for my case, even though they are required by law to give them to me.

The bottom line is that the DSS report contained nothing but second and third hand hearsay allegedly communicated by individuals *who were handpicked by the Mother for questioning*. I write "allegedly communicated" because these individuals were not in the courtroom at the trial for me to face my accusers and question them.

When I objected to the DSS report, the Court overruled my objection without explanation. In the court transcripts from the June 4, 2004 trial, my objection included the statement:

> *I object to the report because it is based entirely on hearsay and on the assessment of a woman who has never met me. This woman's investigation involved an hour of time in (the Mother's) company and the hearsay from individuals who barely know me and were handpicked by (the Mother) for questioning. Furthermore, the DSS investigation was initiated by me. Therefore, the only relevant information from the report is that the concerns that I expressed to a Lawrence DSS worker were unfounded.*

Aside from the fact that the entire DSS report is based on inadmissible second and third hand hearsay, the "witness" statements were wildly untrue and were denied, after the fact, by two of the three school officials credited with making them.

When I met with Dr. Charles P. Littlefield, the School Superintendent, and asked him how he could justify his DSS comment that I was "revengeful and hateful" to the Mother, since he had never met me prior to the day of this meeting to *have* an opinion, the Superintendent insisted that he never made such a statement and claimed that the DSS investigator only questioned him about the Mother's attendance record.

I have gotten to know the Superintendent since this meeting and do not give his denial credibility. I believe that the Superintendent did believe the slanderous information communicated to him by Union President Diane Dandreta and did in fact irresponsibly communicate this "third hand" hearsay to the DSS investigator. I believe that the Superintendent denied making these comments *to me* to avoid a lawsuit.

I have no doubt that Diane Dandreta lied to the DSS investigator as a friend of the Mother and did in fact slander me with the outrageous claim that she has seen me "out of control verbally at the school" and "fears" me. This is a vile individual in our school system who is not above slandering others who she perceives as her enemies. It is for this reason that I filed a character defamation lawsuit in Superior Court against this woman. Her crimes will be discussed in much greater detail later in the chapters dedicated to my efforts to hold the liars and criminals in my case accountable.

When I questioned Joe Harb, my department head, about how *he* could claim that he has seen my "temper when reprimanded," since I had never been reprimanded by my department head in my eight years at the high school, Mr. Harb insisted that he was misquoted and that he simply conveyed to the DSS worker that he has seen me justifiably angry and upset in response to the Mother's chronic complaints of a hostile work environment. Mr. Harb's word IS credible and he is the only "school official" of the three individuals questioned who actually knows me well enough to comment.

**What is most outrageous about the DSS report is that the findings expressed in this report COMPLETELY CONTRADICT the findings reached by my workplace in its formal investigation into the Mother's union-initiated complaints.**

The school investigation, **conducted a week before the DSS investigation**, by the high school principal, Arthur Nicholson, and my department head, Joe Harb, concluded that the Mother's allegations that I was creating a hostile environment for her were baseless and unfounded.

**It is baffling and criminal that the results of this school investigation were not shared with the Department of Social Services since all three of the school officials who were questioned by the DSS worker were aware of these results.**

It was this inexcusable omission of pertinent information combined with the slanderous statements communicated by individuals who barely know me that gave credibility to the lies communicated to the DSS investigator by the Mother and grandmother.

Regardless of the "screw ups" that had already occurred to damage my case, I was fully prepared to discredit the DSS investigation with a "chalk" of 25 specific lies contained in the DSS report. That is when the corrupt judge in our case stepped in to sabotage my presentation of this evidence at the trial and preserve the credibility of this wildly-flawed exhibit. The crimes committed by *this* judge are still to come.

Attached below and on the pages that follow is the chalk of "Lies in the DSS Report" that was produced for the trial, expanded to include the court's response to the DSS report *at the trial*.

The chalk was expanded because it was also included as an addendum item to my original Reply Brief. I had to re-do the Reply Brief for my appeal because the appeals court would not accept several of my addendum items, including this particular chalk of lies contained in the DSS report.

## LIES IN THE DSS REPORT

| MOTHER'S LIES | THE FATHER'S REBUTTAL |
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| "The Judge has even had to reprimand Mr. Thompson for his inappropriate and abusive actions in court. She mentioned that the court will now put extra officials in the courtroom due to Mr. Thompson's behavior." | The Father's behavior in court has ALWAYS been professional. The Mother first alleged that the Father's behavior in court was inappropriate with a reference to an exchange that took place at the initial hearing. The Father included the cassette tape from this hearing on his evidence list (exh. 107) to illustrate the gap between reality and the Mother's distortion of that reality. At the trial, when the Father referred to the officer at every one of their court appearances, Officer Prader, to confirm that the Mother had lied to the DSS worker about the court putting extra officials in the courtroom, Judge Digangi quickly interrupted the Father and made him move to something else. (Tr. p.21) |

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| "She states that Mr. Thompson is banned from the Eagle Tribune as he has harassed them about his feelings of the court system." | The Father can show several letters that he has written and had published in the Eagle Tribune over the last five years including four recent letters on the family court system, which confirm that the Mother's "ban" allegation was a lie. Furthermore, the Father is currently working with Bill Cantwell at the Eagle Tribune on a multi-part investigative series to expose the corruption in the family court system. |
| "Kathleen spoke of how Mr. Thompson has two other children, one of which is in California." | This is news to the Father who is only aware that he has one other child. |
| "He has never paid support to this child and Kathleen recently connected with this child's mother after this woman found Mr. Thompson's name in the registry for child support." | The Father has been paying $456 per month in child support retroactive to the time when the complaint for support was filed in August of 2002. This was when the mother of the child in California first contacted the Father to inform him of the child's existence. She did not find the Father's name in the registry for child support because the Father's name could not have been in the registry for child support until May of 2003 at the earliest. And it was the Father who connected the Mother with the mother of his other child when the Father called California from the Mother's home. |
| "Have been in court due to motion after motion being filed by Mr. Thompson." | The Docket Record will verify that all but two court appearances were initiated by the Mother. It also shows that the Mother has filed more motions than the Father. |
| "She denies having breakdowns or missing work." | The Father has the Mother's attendance record, which confirms that the Mother had 132 absences in her first four years of employment at Methuen High School. If the Mother has not had any breakdowns, then she should be able to provide medical documentation of the illnesses that caused her to be out of work from March 4, 2000 through April 23, 2000 and the three plus weeks of absences from September 27, 2000 through November 6, 2000. |

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| "He has also reported her to the IRS." | The Father reported the Mother to the IRS because she cheated on her taxes after assuring the Father that she would not cheat on her taxes, compromising the Father's accurately completed tax return. |
| "Mr. Thompson being in trouble at work due to his behaviors." | The Father's record is impeccable and he has never been in any trouble at work. The Mother did try to manufacture trouble for the Father by falsely accusing him of creating a hostile work environment for her. A school investigation concluded that the Mother's allegations were baseless and unfounded. |
| "She has noted Patrick to be upset when going with his father and she fears that Patrick is clearly being exposed to and effected by his father's rage." | The Father can provide hundreds of former students over twenty years of teaching who would testify that they have never even seen the Father raise his voice in anger. The Father has noted Patrick upset on two occasions in the two and a half years of his life. On both of these occasions, he was with his mother and maternal grandmother and on both of these occasions the Father had him laughing and chatting away within seconds of leaving their property. |
| "She spoke of how he has called her a "F-psycho" in the presence of their son." | The Father has NEVER called the Mother an "F-psycho" in her or their son's presence. |
| "She describes Mr. Thompson as a disturbed and controlling man who used to limit her use of towels when they lived together." | To claim that the Father ever limited the Mother's use of towels is the bizarre allegation of a very disturbed and delusional woman. The Father could care less how many towels the Mother uses and never communicated otherwise. |
| "She believes all of the court actions are money driven and that he is fighting for 50/50 custody in order to get out of paying child support. She believes that he has only maintained a relationship with Patrick as not to be embarrassed with his own relatives who are involved in Patrick's life." | The Father adores his son more than life itself. His efforts to gain 50/50 joint physical custody are to prevent his son from becoming another casualty of the Mother's dysfunctional family. If the Father's request for joint custody reduces the financial obligation of raising a child, then the current support orders are |

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| | apparently larger than the actual costs. In a 50/50 joint custody arrangement, there is no child support because each parent provides for the child directly. If anyone's actions are money driven, it is the mother who does not want to lose out on the money in excess of the costs to support their son to pay her own personal expenses. |
| "She has concerns that this man's controlling personality is effecting Patrick and she cited an example of when he withheld Patrick from eating...seen him allow Patrick to cry for extended periods of time." | The Mother might as well claim that the Father tortures small animals and allows his son to play in traffic because there would be as much truth to those allegations as there are to the absurd allegations expressed here. During the two week period when they lived together, which was the only time when the Mother actually had access to observe the Father with their son, he was the only one who got up nightly to change him, feed him, burp him, and rock him back to sleep. The Father wonders whether their child would have cried and gone hungry all night if he were not there to respond to his son's needs. |
| "Kathleen spoke of the difficulties in having to deal with Mr. Thompson on a daily basis at school." | The Mother has difficulties with the Father because he is a constant reminder of how low she sank with lies and unethical stunts to slander the Father. She cannot even look at the Father because of the embarrassment that she must be feeling. |
| "Mr. Thompson is very intimidating toward her." | The Father is ALWAYS cordial and respectful to the Mother both in and outside of school when they must interact. |
| "She described him as being unsupportive and quite controlling." | The Mother is an immature, spoiled brat who is used to getting her own way. Anyone who does not "enable" her is labeled as "controlling." |
| "He did not ask for any weekend visitation as it would get in the way of his golfing and other activities." | The Father asked for 50/50 joint physical custody, which would certainly include weekend time with his son. While he is forced to be a visitor in his son's life, he will not "enable" the mother and make her |

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| | selfish sole custody arrangement any more convenient for her. The Mother has denied his request because if the Father were to gain his parental rights, including his right to support his son directly, then the Mother would lose out on her tax-free checks each month. |
| "She spoke of how Mr. Thompson told the court about Patrick being strapped in his high chair all day. Worker saw high chair, which does not even have a strap." | Straps on high chairs are removable. The DSS worker did an announced visit which certainly gave the Mother time to remove the strap. This is a pathetic attempt to come up with something to discredit the Father. If the table is snapped into place, Patrick is locked into that high chair with or without a strap. |
| "Miss Moran describes Mr. Thompson as very intimidating and verbally abusive toward her. This has been confirmed by speaking with the school." | The DSS investigator confirmed nothing. She was duped by the Mother to question only those people who the Mother knew had bought her phony stories and false allegations as the truth. The only competent investigation was conducted by the school, which concluded that the Mother's allegations of a hostile work environment were baseless and unfounded. |
| "He (Patrick) had just woken from a nap and was crying. Grandmother asked Mr. Thompson to help settle Patrick down. Mr. Thompson apparently got very angry and accused her of making allegations against him. The police were called to the home." | When the Father showed up to pick up his son, the Mother was not home and Patrick was crying. The Mother did not ask the Father to help her settle him down. She accused him of being somehow responsible for his son's crying. The Father ignored the grandmother, picked up his son, and walked away. Upset that the Father was ignoring her, the grandmother started ranting and raving and tried to grab the child from the Father. The Father prevented this by turning his back to her. While strapping Patrick into the car seat, the grandmother entered the Father's car and stole his keys from the ignition. She went into her house and called the police. When the police arrived, the grandmother was very upset that the police were getting both sides. She kicked some toys around and |

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| | stormed off. The police ordered her to return the Father's car keys so that he could leave with his son. The police also warned the grandmother that this call was being reported as a domestic disturbance and if these calls continue the DSS would be involved next. Before leaving, the police offered the Father police presence at the next few pick ups to assure that the Mother and grandmother do not pull any more stunts. |
| "Call to Dr. Littlefield-Superintendent of Methuen Public Schools. He reports that it has never been brought to his attention that Miss Moran has been out of school an excessive amount of time. He referred to Mr. Thompson as both revengeful and hateful."<br><br>"Diane Dandreta-Union President. She has seen Mr. Thompson out of control verbally at the school and she reports that I fear him." | The DSS worker only questioned witnesses who were handpicked by the Mother. The Mother referred the DSS worker to Dr Littlefield, instead of our school principal, Arthur Nicholson, because Dr. Littlefield does not know the Father at all. Dr. Littlefield's ignorance about the Mother's attendance issues reveals how much he knows about the teachers who work in his district. His only source of information about the Father before meeting with him was Diane Dandreta, a friend of the Mother. The first time that the Father EVER spoke to Dr. Littlefield occurred following the DSS investigation when a meeting was called to address the Father's threat to sue the school system for the slanderous comments attributed to Littlefield and Dandreta in the DSS report. |
| "Joe Harb-Department head. He has witnessed Mr. Thompson's temper when reprimanded." | The Father has never been reprimanded by his department head and Joe Harb denies that he ever told the DSS worker that he has witnessed the Father's temper. Joe Harb contends that he never used the word "temper" but told the DSS worker that he has seen the Father justifiably upset. |
| "The worker is very concerned as to Mr. Thompson's actions and behaviors in the presence of his child when he comes to the home to pick up or drop off his son for visits. The police are now involved in this transition." | The reality of the Father's behavior at every single pick up has been beyond reproach. The police were temporarily involved in pick ups <u>at the Father's request</u> so that the Mother could not pull any more unethical stunts. The Father agrees that if there was |

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| | any truth to the Mother's lies, then he would draw the same conclusions about the Father that are expressed in the DSS report. The difference is that the Father would have done a competent investigation that would have included hearing both sides of the story so that he could make an accurate assessment of the situation. |
| The DSS "announced" home visit occurred on April 7, 2004, at 9:00 AM. | Rather than schedule the appointment after 2:00 PM, the Mother scheduled it in the morning as an excuse to take a day out of work, claiming a "family illness." Since the visit was announced, it gave the Mother and the maternal grandmother more than enough time to clean her place up and get their stories straight. The report is based entirely on hearsay that was premeditated and fabricated. |

# CHAPTER 21

## JUDGE PETER C. DIGANGI

***What makes it so plausible that hypocrisy is the vice of vices is that integrity can indeed exist under the cover of all other vices except this one. The criminal confronts us with the perplexity of radical evil, but only the hypocrite is rotten to the core. Hannah Arendt***

I was not entirely accurate when I claimed earlier in this book that I had not said a single word in court that was not truthful. Every time that I addressed Judge Peter C. Digangi as "your honor", I was committing perjury in that courtroom. Judge Digangi is completely undeserving of such respect and the word "honor" itself is a contradiction when used anywhere near this hypocrite.

I had the misfortune of being before Judge Peter C. Digangi on just one occasion prior to the trial. He made such an "ass of himself" at that hearing for me to know that my chances of a fair trial and my hopes of avoiding appeals court went right out the window at the exact moment in time when he replaced Judge Manzi as the trial judge.

With all of the problems that I had with Judge Manzi, she at least made the effort to *appear* honorable at recent hearings. Compared to Digangi, Judge Manzi was King Solomon. In fact, Judge Manzi's recent courtesy and professionalism had given me hope that I could overcome a bias in her courtroom at the trial.

It would not surprise me to learn that Judge Digangi took over my case from Judge Manzi, behind closed doors, as an opportunity to teach me a punitive lesson for filing a complaint against one of his colleagues. As the subject of a previous complaint, an unjust ruling from Judge Manzi could be interpreted as a vindictive response to my complaint. If Digangi does Judge Manzi's dirty work for her and I complain about him, then the two of them argue that I would not be happy with anyone.

*To the skeptical: Don't think for a second that gossip of cases and litigants among judges does not occur in the "backrooms" of these courthouses. I was told by a court officer that I was "famous" in the Lawrence courthouse myself for calling attention to an error in the application of the child support guidelines.*

I first encountered Judge Digangi at a February 25, 2004 hearing to correct the child support order and modify a visitation order that required my family members to pick up and drop off my son for me. The Mother and I were scheduled to meet before Judge Manzi, but the hearing was transferred to Digangi.

The transcript copied below describes the welcome that I received in Judge Digangi's courtroom.

*OPENING STATEMENT: ...Right now my family members have to go to her house to pick up my son.*

*DIGANGI: Are there any restraining orders?*

*MY RESPONSE: No.*

*DIGANGI: Sir, when you say your son, I believe it's -- you should use the word "our son" or did somebody create this child by -- did you create this child by yourself or is it both your child?*

*MY RESPONSE: It's both our child.*

*DIGANGI: So please refer to your child appropriately, okay? It's not just yours. Were not talking about a refrigerator, all right?*

The court papers were labeled "Thompson v. Moran." I was at one table. The Mother was at the other. I was in court to argue "my" case, not "our" case.

If Judge Digangi wants to play semantic games to bully me and put me in my place (as Judge Manzi did in my first minute before *her* when I used the word "battle"), then my son is also not an "it" as Digangi twice referred to him in this excerpt, requiring a response from me with the same inappropriate pronoun. It is the pronoun "it" that objectifies my son, not the pronoun "my".

Furthermore, the Mother's selfish demand for sole custody, with the power of an ignorant judge in her corner, would indicate that "our son" is not "our son" *at all*, but is in fact, *by judicial decree*, "her" son.

It is significant to note that the words without the attitude do not do justice to the excerpt above; because the more annoyed and intimidating Judge Digangi would get in the courtroom, the more he would sprinkle in pleasantries like "sir" and "please" so that a written transcript would not convey his "tone".

Judge Digangi revealed at this hearing that he was a dangerous combination of arrogance, ignorance, and incompetence. I had conclusive, documented evidence, which confirmed that the Mother underreported her salary AND exaggerated the costs of her day care and rent on every one of her Financial Statements submitted to the Court. Digangi would not look at my evidence, but instead went completely off topic with the response:

> *If she's cheated on her income tax, if she's overstated the cost of her daycare, and her mother's taking care of the kid and she's not really*

> *paying the daycare, that really doesn't get into the idea as to who's the best parent for the child.*

Judge Digangi was correct. The Mother's cheating on her income taxes and overstating the cost of daycare do not get into who's the best parent for the child. Those *particular* crimes supported my argument for changes to the child support order. I was not in court on that day to convince the court that I am the best parent. I was there for two specific reasons - to correct the child support order and modify the visitation schedule.

And although I am clearly the fitter parent by every objective measure imaginable, that fact is irrelevant since my son has two parents who should both be significantly involved in his life regardless of who is "better" than the other.

The transcripts confirm that Judge Digangi wasted significantly more time at this hearing trying to discourage me from pursuing joint physical custody than he did addressing my specific motions. One of his many unsolicited comments was:

> *Can we look at this case, getting the issue of joint physical custody off the table because, quite frankly, sir, no judge is probably going to entertain that, or they'll hear your argument but I don't think you're going to get very far with it.*

If no judge is going to "entertain" a joint custody arrangement, *which again was not the agenda for this hearing*, then due process and equal protection do not exist for fathers in family court. Judge Digangi was admitting with this statement that family court proceedings are a sham. The court will go through the motions and hear argument because it is has to, but, in the end, it has no intentions of letting that argument affect its pre-determined ruling of sole custody to the mother.

Judge Digangi would not let up on his efforts to convince me that my pursuit of joint physical custody was hopeless. Below are just some of his rants expressed at this hearing followed by my responsive comments. Keep in mind that all of these unsolicited remarks were expressed at a hearing to modify the child support order and visitation schedule.

*(1)* *Now, when you tell me you want joint physical custody and if she stands there and says, "I don't want joint physical custody"...absent you and her agreeing...and quite frankly with the pleadings in this case I doubt that I would even allow it even if you both came to me and said I want joint physical custody...*

Judge Digangi **"doubts"** that he would **"allow"** joint physical custody even if we "both" came to him with that request **(?!)**. Keep in mind that *this* was the same arrogant "jackass" who was to decide the fate of my son at the trial!!!!!

**AGAIN**... I was in court on this day to correct the child support order and modify the visitation schedule. Those were **"the pleadings in the case"**. No one was sorrier than me that the Mother committed perjury on her Financial Statements, but those were the facts and I was in court to communicate the facts of the case to justify a change to the support order.

This comment also conveys that the Mother was in a special position to influence him since her wishes carried more weight with Judge Digangi than mine. Sole custody is handed to the Mother with or without me agreeing to it, but my less intrusive compromise of joint physical custody requires that the Mother be in agreement.

*(2) It's going to be very hard for a court to justify taking that child away from her and giving the child to you.*

Contrary to Judge Digangi's thinking, joint physical custody does not take the child from either parent, but balances the child's relationship with both parents. It is only sole custody that actually takes the child from one of the parents. The fact that the entire family court system is in denial about this simple concept is why I believe that there is an agenda to family court rulings that have nothing to do with what is in the best interests of the children.

*(3) It appears to me with the hostility that I see in ten seconds in this case... (that) this is not going to be a case that smacks that there should be joint physical custody in this case and I haven't even heard from her yet.*

Contrary to this reality-defying claim, Judge Digangi did not see ANY "hostility" at this hearing. He also did not examine any evidence or hear any testimony specific to my argument for joint physical custody. But still, he had the whole case set for trial figured out "in ten seconds".

It became clear that in Judge Digangi's courtroom, the more unethical the mother, the more likely she leaves with sole custody because Judge Digangi will interpret any attempt to communicate the reality of the situation to the court as a hostile act. Consequently, the uglier the reality, the more hostile it will "appear" to this judge.

*(4) The situation is this. No judge can legally give you joint physical and legal custody of the child unless literally they think both of you can get along in harmony with each other.*

There is no such state or federal law that makes it illegal to award joint custody to parents who do not get along. It takes two to get along. Judges who express such a biased *interpretation* of the law send the message to mothers that if they want sole custody of their child, all they need to do is refuse to get along with the child's father.

(5) *... hearing the vituperousness that you're approaching this case right now, there's no way that a judge is going to say you should have joint physical custody of this child. I'm sorry, but that's what the law is.*

Again, Judge Digangi lies about "what the law is" AND my demeanor in his courtroom to discourage me from pursuing joint physical custody. To make the baseless claim that my approach at this hearing was vituperous indicates that Judge Digangi does not possess the competence to distinguish between legal conflict and genuine conflict outside of court.

(6) *If you can't get along together and the Court finds that either one of you are at fault, somebody might lose total custody of this child.*

The reality is that if the parents cannot get along, even when it is the mother who is completely at fault, it is the father who loses custody of the child. The mother cannot possibly be "at fault" in Judge Digangi's courtroom because he will not hear testimony or evidence that is critical of the mother.

(7) *A two-year old child, unless mom, there's really something wrong with her, in all likelihood will probably maintain physical custody of a two-year old child.*

This biased mindset completely contradicts the State Constitution, the Massachusetts Bar Association's online site, and Judge Digangi's own claim that the law looks to both parents as being equal.

(8) *If you don't want to negotiate a settlement and you proceed on one course over all other courses, it might come down even worse for you. I don't know. I haven't heard any evidence.*

Judge Digangi got it right here when he said that he had not heard any evidence. Furthermore, if I did not want to negotiate a settlement, then I would have requested the same selfish custody arrangement that the Mother had demanded. I was the only one willing to "negotiate" as evidenced by my request for joint rather than sole custody. Giving up my fundamental right to parent and my son's right to a balanced relationship with both of his parents is not a compromise it is selling out.

(9) *...so your argument saying that the laws are biased against guys for certain reasons, I can't help you there because I'm not changing the law.*

I do not want the law to change because the law protects each citizen's rights to due process and equal protection, it defines the right to parent one's child as a fundamental, inalienable right, and it forbids the creation of second-class citizens. It is Judge Digangi's ignorant interpretation of the law that is biased and what needs to change.

This is the kind of ignorant commentary that fathers have to endure non-stop in family court. If the judge succeeds at convincing the father to throw in the towel, then the courts report the case as one where the father did not "actively pursue" custody to exclude him from the skewed studies conducted by the Massachusetts court system itself to conceal the outrageous treatment of fathers in family court.

Since Judge Digangi was not able to bully me into seeing things his way at this hearing *or* at the trial, he concluded that I was not listening to him and that I "idealize myself."

After this hearing, my eyes were wide open. When I learned that Judge Digangi would be the trial judge, I prepared for his kangaroo court. I knew that he would railroad me at the trial, I knew that he would try to instigate a reaction from me, and I knew that he would distort the truth to vilify me so that he could justify his predetermined ruling.

Therefore, I was determined to conduct myself in a manner that would be beyond reproach and let Judge Digangi shoot himself in the foot with slanderous allegations about me that he would not be able to justify later to the appeals court with either the documented evidence or the recorded transcripts.

If I had so much as rolled my eyes or expressed even a hint of frustration, then my strategy to expose him as a fraud would have failed. I needed to provide absolutely nothing that he could reference to verify the false allegations and baseless conclusions that I knew would come from him later.

I contend that I did just that. I did not even object to opposing counsel's frivolous motion to sequester my sister from the courtroom to accommodate the Mother so that it would be easier for her to lie on the stand without my sister in the courtroom.

The transcript from the hearing and trial before this judge combined with Judge Digangi's own Findings of Fact document, became my "star" witness because, unlike the Mother, who had the freedom to lie about everything that was not recorded or documented, Judge Digangi did not have that luxury because all of his observations of my demeanor and behavior occurred in court and *were* recorded.

In my case alone (absent the detail that will come later):

(1) Judge Digangi made numerous findings of fact that are completely unsupported or uncorroborated by the evidence;

(2) he precluded me from presenting every one of my 55 exhibits that I had pre-marked for the trial;

(3) he ignored the mother's blatant crimes of perjury in legal documents, lies under oath, and contempt of court orders;

(4) he disregarded my Constitutionally-guaranteed rights to due process and equal protection and my inalienable right to parent my child;

(5) he overestimated the evidential value of secondhand hearsay;

(6) he fabricated evidence of his own to slander me;

(7) he misdirected me during the trial to obstruct the submission of evidence that would have damaged the mother's case;

(8) he entered orders on issues outside of his jurisdiction that were not even brought up during the trial;

(9) and he expressed his gender biased opinion on several occasions that fathers are lesser parents than mothers and have no chance of success in his courtroom.

This case went to appeals court because of Judge Digangi. A competent court would have reviewed the evidence and been able to assess the credibility of the Mother from that evidence, and an honorable court would have held the Mother accountable long before this case made it to appeals court.

Combine Judge Digangi's gender-biased agenda with flawed family court law that invites an unethical mother to abuse the system and you have a situation where a father has absolutely no chance of succeeding in his courtroom.

In conclusion, Judge Peter C. Digangi represents the out of touch ignorance that is pervasive in this state's family courts. He and others like him are the reason why there is a compelling need to remove the word discretion from family court statutes and remove judges like him, who are a disgrace to our system of justice, from the bench.

# CHAPTER 22

## THE TRIAL

***Corn can't expect justice from a court composed of chickens.***
***African Proverb***

On February 25, 2004, Attorney Demetra Pontisakos withdrew as Counsel of Record for the Mother. From that date forward to a week before the trial, the Mother represented herself pro se. During this time period, she ignored all the responsibilities clearly spelled out in the order following our pre-trial conference. The pre-trial order required all discovery to be complete within 45 days following the December 30, 2003 pre-trial conference and for the parties to meet to pre-mark the evidence.

The Mother childishly ignored my numerous written requests to meet to satisfy this order, going so far as to refuse certified mail that was returned to me after three failed attempts at delivery.

The only action that the Mother took over the three-month time period when she represented herself pro se was to file a motion three weeks before the trial to postpone it, claiming that proceeding as a pro se litigant was too stressful and overwhelming for her. Her request was denied.

We were notified at this same hearing that the trial had been reduced from two to one day because of a scheduling conflict. When I expressed my concern to Judge Manzi, she assured me that a second day would be scheduled if needed.

As was outlined in the pre-trial order, I called the trial department to report the status of the case a week before the trial. Specifically, I informed the trial clerk that the Mother was in contempt of court for ignoring my numerous written requests to meet to pre-mark the evidence and for failing to disclose her evidence prior to the trial.

I also informed the trial clerk that I had numbered all of my evidence to indicate "unobjected" exhibits since the Mother would not meet with me prior to the trial to communicate otherwise. The trial clerk assured me that this should not be a problem.

Later that same day, <u>exactly one week prior to the trial</u>, I received the Mother's evidence and notification that she had hired an attorney, Debra Dow, to represent her at the trial. The "packet" was left inside my front screen door. Her new attorney conveyed her objections to my pre-marked exhibits by using a copy of my finalized evidence list to "highlight" evidence to which she objected.

On the day of the trial, June 4, 2004, the court rewarded the Mother for her three-month negligence and contempt of court orders by absolving her of her crimes and not recognizing my evidence as pre-marked.

The court clerk, Ralph Finck, informed us that Judge Digangi would not hear the case until the exhibits were "re-marked". My evidence contained 55 exhibits, which I had spent hours preparing, organizing and numbering for the trial. The Mother's evidence consisted of the DSS report, a printout of an online personal ad, and a "log" that she claimed to have been keeping of my visitation days with our son. The log itself was pure fiction that I would guess was put together shortly before the trial. The Mother's one-week old attorney was also given the opportunity to now object to my exhibits.

The Mother's defiant contempt of court orders was pardoned by Judge Digangi in the opening minute of the trial with a pleading from the Mother's attorney for some "indulgence" because she had "literally" come on to the case the previous week.

*The railroading had begun. Every effort was made from that moment forward to sabotage my case by censoring my communication to the court.*

If Judge Digangi had been, in any way, interested in the best interests of our son, then he would have been interested in hearing all of the information that both parents believed was relevant at the trial so that he could make an informed decision. That was clearly not his agenda. Judge Digangi revealed that his mind was made up three months before the trial when we met to correct the child support order.

As Judge Digangi himself confirmed at my only other hearing before him, the trial was for show. Judge Digangi just needed to manipulate the trial proceedings and spin the evidence and testimony enough so that he could justify a ruling that was already etched in stone. Flimsy hearsay allegations that vilified me were deemed credible while conclusive evidence and testimony that did not support his ruling was censored, ignored, or thrown out.

The Mother's attorney was allowed to monopolize the court proceedings. In a trial that was to begin at 9:00 AM and was concluded prior to 4:00 PM, I did not call my first witness until 2:30. My only involvement prior to 2:30 was my opening statement, my cross-examination of the Mother's witnesses, and my time on the stand as a witness *for the Mother*.

Judge Digangi disregarded Judge Manzi's assurance to me that a second day would be added if needed when he made the announcement three quarters of the way through the trial, before I had even called my one and only witness to the stand, that the case was going to get resolved that day "one way or another."

Questioning witnesses was a minor aspect of my case because this was a custody case, not a criminal case involving witnesses who observed a crime. I was not going to win a "he said, she said" battle in this guy's courtroom, which is the reason why I went into court with objective, indisputable evidence that would leave no room for subjective interpretations.

My exhibits were organized chronologically in the order that I intended to present them to the court. I had 55 exhibits. Since I numbered every page of every exhibit, the exhibits were marked from 1 to 108. Nothing was "lettered" (which indicates "objected" evidence) because, as I conveyed earlier, the Mother refused to meet with me prior to the trial to communicate her objections to my evidence.

With the exception of the taped transcript from the May 28, 2003 hearing, the certified letter that the Mother refused to accept, and some photos; all of the evidence was self-contained in a three ring binder, with a copy for opposing counsel, that I intended to submit to the court as an "evidence booklet" to efficiently reference as I made my presentation.

The evidence contained numerous documents that would contradict the lies that had been expressed by the Mother and her witnesses while on the stand, a police printout of the 19 calls to the police since my son was born, the Mother's attendance record confirming her 148 absences from work, and the financial statements and tax returns confirming her crimes of tax fraud and perjury to the court. The booklet also contained teacher salary tables, medical insurance costs, reference letters, comparison charts, and tax law information to confirm other lies expressed by the Mother.

I sat quietly while the Mother and her witnesses lied over and over on the stand with the knowledge that I had the evidence to rebut these lies. I was not going to show my hand or interfere with them digging their own graves, which is the reason why I only expressed two objections. In the words of Napoleon Bonaparte, "Never interrupt your enemy when he (or she in this case) is making a mistake."

When it was finally my turn to speak, Judge Digangi would not allow me to reference my evidence. Instead, he blindsided me at this late stage in the trial by making me take the stand as my own witness without access to my notes and exhibits.

Court procedure was only referenced to censor out anything that he did not want to hear. By limiting the trial to a "he said, she said" game of hearsay and precluding evidence that would have destroyed the Mother's credibility, it gave Judge Digangi the power to believe what he wanted to believe.

This tactic allowed Judge Digangi to dismiss *my* claims and blindly run with any allegations expressed by the Mother or one of her witnesses to justify a judgment that was already predetermined prior to the trial.

The point of my evidence was not to prove the Mother unfit, *which I could not do*, but to *discredit* the Mother's word so that her lies *about me* would be deemed worthless.

The Mother's grasping at straw reference to an online personal ad revealed the dilemma that *she faced* to find *something* that could discredit me. I mention this exhibit again as an example of the blatant double standard in Digangi's courtroom. I was not allowed to present legal documents that were signed under the pains and penalties of perjury or question witnesses who had directly observed the Mother's unstable behavior, but the attorney for the Mother was allowed to reference an irrelevant print out of a personal ad.

Based on Judge Digangi's complete ignorance about this case and the very limited attention span that he exposed *in* court when there were witnesses observing his behavior and court tapes documenting it, I doubt that he spent even five minutes out of the public eye preparing himself for the trial by reading the written documents. The transcribed incident below provides a concrete example of the three-ring circus that went on in Judge Digangi's "attention-deficit" courtroom.

I had been cross-examining the Mother on the stand about a letter mailed to me by her attorney on May 9, 2003. I asked the Mother why she had reported that she pays her mother $550 per month in rent on her May 28, 2003 financial statement after claiming in this particular letter, mailed three weeks earlier, that she does not actually pay rent to her mother.

The Mother's attorney objected to this line of questioning and claimed ignorance about the letter itself, which was disclosed to the Mother months before the trial as evidence and pre-marked as exhibit #2 for the trial. The transcript begins with my efforts to submit this letter into evidence over the objections of the Mother's attorney, Debra Dow.

*DOW:* *Since I'm not sure if (the Mother) signed that letter or is knowledgeable about that letter, I object based on foundation.*

*DIGANGI:* *I think that's a letter that he sent to her, is that correct?*

*FATHER:* *No, it's a letter that Attorney Pontisakos sent to me.*

*DIGANGI:* *How is it relevant, sir?*

*FATHER:* *It's relevant because I've been sitting here listening to (the Mother) lie the entire time that she's been up there and all of my evidence basically proves that she is not truthful...my entire case is based on the fact that you're hearing two sides of things and it's my contention that you're only going to be hearing the truth from me. I can provide tremendous, overwhelming evidence to discredit (the Mother)... as a witness.*

*DIGANGI:* *Well, I don't know what this letter is that he's talking about. If it's a letter sent from her counsel to him, I'll accept it. You can present it to (the Mother) and see if she's ever seen it or if it's fair and accurate as to her understanding.*

NOTE: The "letter" was the specific topic of conversation for at least two minutes prior to Judge Digangi's question regarding its relevance. Digangi's ignorant comments clearly reveal that he had not been listening to the testimony.

*FATHER:* *All of my evidence was submitted months...*

*DIGANGI:* *(interrupts) Sir, please don't interrupt me. Today is the trial, so whatever other documents that are in the court file are not necessarily evidence in this trial sir.*

For the record, I did not interrupt Judge Digangi, *he interrupted me* before I could communicate that the letter was part of my trial evidence. Unlike the Mother, I disclosed my evidence months before the trial for review. This attempt to get one lousy exhibit into evidence was a five-minute fiasco, which was all for naught since the letter never did get admitted as evidence.

As I noted earlier, the written transcripts do not do justice to the court-recorded tapes because they fail to convey Digangi's rude, intimidating tone. The more Digangi would bully me in his courtroom, the more he would interject words like "please" and "sir" to camouflage his delivery.

This chapter documents the ignorant comments expressed by Judge Digangi at the trial, my rebuttals to those comments, some of the merit-less objections sustained by the Court, and the actions taken by Judge Digangi to preserve the Mother's testimony and sabotage my case.

COURT COMMENTS WITH REBUTTALS

*(1) DIGANGI'S RESPONSE TO MY ATTEMPT TO DISCREDIT THE DSS REPORT:*

***The purpose of the investigation, sir, was not about you. It was about whether or not your allegations about the mother were***

> ***justified. The purpose of this investigation by this witness was not to investigate you, sir, in any way. Bear that in mind.***

Apparently, Judge Digangi did not "bear that in mind" since he selectively chose to elevate this investigation to vilify me in his closing statement. I had conclusive "chalked" evidence that proved that the investigation was based entirely on lies and I had the court officer in the courtroom who could confirm that the Mother lied to the DSS when she said that the court has had to put extra officials in the courtroom because of my behavior.

I contend that Digangi advised me to move on so that he could preserve the credibility of this exhibit.

**This same DSS report, which Digangi himself admitted was not to investigate me, was also referenced by the Appeals Court to excuse Digangi's behavior and justify his ruling.**

*(2) DIGANGI'S RESPONSE TO MY ATTEMPT TO COMMUNICATE THE MOTHER'S HISTORY OF ALCOHOL ABUSE:*

> *It was prior to the child's birth. I find it highly irrelevant toward the situation at hand, sir.*

Judge Digangi found it "highly irrelevant" to establish that the Mother has a history of alcohol abuse, but found it relevant for the Mother to claim that I refused to take her to the hospital when she had a miscarriage *prior to our son's birth*. This absurd lie was not only allowed, but listed as a "fact" in the Court's "Findings of Fact" document.

*(3) DIGANGI'S RESPONSE TO MY ATTEMPT TO PRESENT MY EVIDENCE:*

> *If you wish to make a statement. I'll let you make it on the stand and it's subject to cross examination... I prefer you not read a prepared text.*

I never conveyed to the Court that I intended to read a "prepared text." That was what my opening and closing statements were for. The Court was railroading me out of presenting my exhibits to preserve the credibility of the Mother's testimony.

*(4) DIGANGI'S RESPONSE TO MY PROTEST AT BEING FORCED TO TAKE THE STAND AS MY OWN WITNESS:*

> *I think it's a proper way to present evidence at this time, sir. You're acting as your own counsel. You put yourself in this predicament.*

According to Judge Digangi, since I chose to represent myself, I forfeited court procedural options that are only available to hired attorneys in his courtroom.

Judge Digangi would never order an attorney to take the stand. I was representing myself pro se and needed the time that any attorney would get to present my exhibits with access to my notes so that the information could be communicated effectively and efficiently. I also had "chalks" and "documents" that required visual scrutiny by the Court.

*(5) DIGANGI: I'm not precluding you from presenting any evidence. (expressed several times)*

This was one of several contradictions expressed by Judge Digangi. Just as repeating over and over that the law looks to both parents as being equal did not change the fact that Judge Digangi made no attempt to be impartial, repeating over and over that he was not precluding me from presenting evidence did not change the fact that he did preclude me from presenting every one of my pre-marked exhibits at the trial.

*(6) DIGANGI: You might think I just have a formula that I check off, male, female. Female gets the kid, male doesn't. You're entirely wrong sir. And sir, it's not 100% women walking out of here with their kids. That's not it at all.*

Actually, I am entirely right. Judge Digangi's slanderous assessment of me was what was "entirely wrong" in this case. I challenge Digangi to produce his record because I contend that he is not being truthful. If Digangi's treatment of me was not an exception, then it *is not possible* for a pro se father in a contested case to get even joint physical custody in his courtroom when a mother chooses to be unethical and uncooperative with the father.

I suspect that Judge Digangi claims less than a 100% success rate for women by deceptively including the uncontested cases where the mother voluntarily gives up her right to custody and cases where the Mother is wildly unfit (ie. abuser, drug addict).

(7) *DIGANGI: Quite frankly, I'm happy you reported this case to the Department of Social Services. It gave us an opportunity to have an independent witness come forward and tell us what her evaluation of this case was all about.*

Judge Digangi was, of course, "happy" that I reported the case so that he could overestimate the evidential value of glorified hearsay passed off as an investigation to demonize me and justify his pre-determined ruling.

As I stated in court, the investigation involved an announced visit to the Mother's home and the hearsay from individuals who barely know me and were handpicked by the Mother for questioning. The first time the investigator ever met me was at the trial, but Judge Digangi deceptively describes her as an "independent witness" to elevate the relevance of her testimony.

*(8) DIGANGI: You have the audacity to tell the Court that you will not accept custody other than under your terms or that you're going to bully this Court into seeing things your way. Well, sir, unfortunately I'm not going to see things your way. I'm not going to be bullied as you suggest I should be.*

The only "bully" in the courtroom was Judge Digangi. I certainly was in no position to bully an individual who has the absolute power to ignore the law and do whatever he wants. I also do not apologize for having the "audacity" to believe that I should have a balanced relationship in my son's life. I contend that **it is not possible** for an "honorable" court to listen to the court tapes and conclude that I "bullied" the Court.

*(9) DIGANGI: ...for you to say what you said to this Court, I could find insulting but again, I'm not because I understand that you're emotional at this time.*

Nothing that I said in court was the result of an emotional outburst and I take back nothing that I said. I was not going to let business as usual occur without addressing the discrimination against fathers in family court that Judge Digangi would prefer to belittle and dismiss as rhetoric.

*(10) DIGANGI: If I find either one of you are using the other as a club in visitation with this kid, you both might be excised from this child's life.*

To the Mother, this was an idle threat since Judge Digangi proved that he would refuse to hear any such evidence and would instead vilify me for attempting to bring such episodes of unstable, malicious behavior into evidence.

*(11) DIGANGI: If you don't care what's fair to your child but your stuck in the mode, sir, that you either have to have 50/50 or nothing, well then shame on you.*

This was one of several pathetic attempts by Judge Digangi over two court proceedings to "shame me" into giving up my parental rights with the implication that my refusal to voluntarily rollover is somehow selfish.

I am secure in the knowledge that I am the only one who acted with integrity in this case and who cares about "what's fair to my child" to be manipulated by such condescending, sanctimonious remarks.

*(12) SOME OF THE INSULTS SPEWED BY DIGANGI IN HIS CLOSING STATEMENT:*

> *...the way you people are acting right now, I bet you your two-year old child can make better choices.*
>
> *...in criminal court they say the bad guys are acting their best. In the probate court... the nicest people act their worst... I think I've seen you both hopefully at your worst.*
>
> *both of you are guaranteeing this kids going to be on a shrink's couch for the rest of its life and if that's what you want, sir.*
>
> *Your kid is at the bottom of the hill waiting for you both to roll down on him I suppose...*

I am glad that Judge Digangi made these insulting statements because they provided me with the concrete proof to expose Digangi as corrupt and/or incompetent. This slanderous assessment of my demeanor and behavior in his courtroom completely contradicts the reality of what occurred. The court tapes confirm that a competent and honorable court could not possibly reach such bizarre conclusions.

*(13) DIGANGI: You only have one kid. I can't rip him in half...That's what you suggest I do.*

Judge Digangi expressed this opinion at both the hearing and the trial. It is frightening that this court official, who has the responsibility of deciding custody cases, is unable to comprehend that joint physical custody, which is "what I suggested he do," does not rip the child in half, but balances his relationship with both parents.

*(14) DIGANGI: When you can't even agree with her as to what this kid should eat, how he should have his diapers changed, what time he should go to bed and all the rest of this stuff...*

I do not disagree with the Mother on any of these issues. They were lies expressed by the Mother to establish a setting of hostility and disagreement, which guarantees *her* a sole custody ruling in family court

(15) DIGANGI: *The parties are going to alternate the deduction for this child for federal and state income tax purposes on alternating years...I'm going to give even years to the mother, odd years to the father.*

**Without the jurisdiction to make such an order AND without hearing any testimony on this subject at the trial,** with the exception of testimony related to the Mother's crimes of tax fraud, Judge Digangi blindsided me again in his closing statement by arbitrarily allowing the Mother to take deductions for which she does not qualify and, in effect, cheat on her taxes in alternating years at my expense. This was Judge Digangi's reward to the Mother for knowingly cheating on her tax returns since the year our son was born.

The eligibility for the dependent child deduction was not an issue for family court intervention because there was no ambiguity. For the same reason that I cannot file as a head of household, the Mother could not, at the time, claim our son as her dependent.

I did prepare for this argument because I knew that the Mother had her heart set on stealing this deduction from me before a judge eager to give her the world. Included in my packet of exhibits was tax-related documentation, which confirmed that I was the sole parent eligible for the dependent child deduction as the parent of a child born out of wedlock who pays more than 50% (in my case 100%) of our son's total support.

After getting this deduction from Digangi without any discussion on this issue at the trial, it did not surprise me that the Mother was given the deduction in the first year following the trial to limit the time that I would have to overturn his ruling.

MERITLESS OBJECTIONS

On the opposite page to the end of this chapter is a chalk containing a small fraction of the numerous objections expressed by the Mother's attorney, Debra Dow, and sustained by the Court to sabotage my case. The objections were used as non-stop interruptions of *my* testimony, the testimony of my witness, and my cross-examination of the Mother's witnesses. Very few of the objections made by the Mother's attorney were questioned by the Court and even fewer were overruled.

By contrast, I expressed two objections. I objected to the DSS report as inadmissible second hand hearsay and I objected to the form of a question asked of my sister while on the stand. Both objections were overruled. The merit-less objections with my rebuttals are presented in the same two-column format that was used to communicate this information to the appeals court in my Reply Brief.

## MERITLESS OBJECTIONS SUSTAINED BY THE COURT

| OBJECTION | THE FATHER'S REBUTTAL |
|---|---|
| | |
| FATHER'S QUESTION TO DSS WORKER: *There were comments made by Dr. Littlefield. I know that he -- until I met with him after this, he doesn't even know me, so what sort of basis did he have to make such comments.*<br><br>MS. DOW: *I'm going to object to that. It's --*<br><br>THE COURT: *Sustained.* (TTr. p.22) | The Court sustained this objection without an explanation. Judge Digangi made it clear that in his court, no explanation is necessary if it will sabotage my communication to the Court. |
| FATHER'S QUESTION TO MOTHER: *If your mother is your landlord and daycare provider, can you explain why she did not declare any of this income but collected almost $9,000 in unemployment compensation and listed you as her eligible child to file as head of household on her 2002 state and federal tax returns?*<br><br>MS. DOW: *Objection.*<br><br>THE COURT: *Sustained* (TTr. p.25) | If the Court had not sustained this meritless objection, then the Mother would have been forced to incriminate either her or her mother. Judge Digangi would not hear any such testimony because it would damage the Mother's credibility and threaten his pre-determined ruling. |
| FATHER'S QUESTION TO MOTHER: *Are you telling me that I did not show you a tax tip article that said that I was the eligible parent as a parent of a child born out of wedlock and that those conditions you referred to refer to married, divorced, or legally separated and that for never married parents, that I was the one who qualified for that deduction?*<br><br>MS. DOW: *Objection.*<br><br>THE COURT: *Sustained.* (TTr. p.31) | The Mother grudgingly agreed that I would claim the dependent child deduction after I showed her a tax tip article, which explained the eligibility requirements for this deduction. She did not protest and she did not challenge the information.<br><br>Apparently, her attorney, who was ignorant about the tax law related to never married parents, advised her to take the deduction. Since the Mother liked this answer better than the one she got from me, she did not share my information with her attorney or inform me that she had changed her mind. |

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| FATHER'S QUESTION TO MOTHER: *Can you explain why you did not request a transcript of your income tax until August, 11, 2003, more than three months after my original request for this document?*<br><br>MS. DOW: *I'm going to object based on relevance, Your Honor.*<br><br>(The Father and the Court discuss the relevance.)<br><br>THE COURT: *...So with that being said, the objection is sustained.* (TTr. p.33-35) | It was relevant for the Mother's attorney to discuss an online personal ad, my job search, and my discussion of the family court system to friends, colleagues, and public officials; but it was irrelevant to convey the Mother's dishonesty. The date of the Mother's request was more than three months after her attorney assured me that "Miss Moran has requested those documents and will get them to you as soon as they became available."<br><br>This incident is also evidence of her irresponsibility and bad faith litigation. |
| FATHER'S QUESTION TO MOTHER: *You've had some large absences from school. Could you give the specifics of why you were out from March 6th to April --*<br><br>MS. DOW: *Your honor, I'm going to object to that. I don't think that's actually been established. She said she wasn't -- she didn't recall.*<br><br>THE COURT: *You're assuming facts that are not in evidence yet, sir* (TTr. p.38) | The facts are not in evidence because the Court is repeatedly interrupting me before I can get those facts into evidence. The Mother's attendance record confirms that she has had 148 absences in less than five years of employment at Methuen High School (Exhibits #12-16 of my pre-marked evidence).<br><br>I asked the Mother the question first to see if she would lie about the absences before I introduced that exhibit into evidence. And for the record, the Mother's entire case was based on assuming facts that were not in evidence. |
| FATHER'S QUESTION TO MATERNAL GRANDMOTHER: *The fact is your daughter and her attorney's efforts to conceal your tax return had failed causing an avalanche of crimes to be exposed, isn't that the truth?*<br><br>MS.DOW: *Objection.*<br><br>THE COURT: *Sustained.* (TTr. p.44) | The Mother's attorney did not want me to proceed on this line of questioning because it would lead to the likelihood that the Mother and grandmother's restraining order stunt was an unethical response to the incriminating evidence that I had received just prior to their false accusation of verbal abuse. |
| FATHER'S QUESTION TO HIS SISTER: *Now, have you---have you observed--have you witnessed (the Mother) in a condition where she's been drinking too much?*<br><br>(CONTINUED ON NEXT PAGE) | The question was, "Have you witnessed the Mother in a CONDITION where she's BEEN drinking?" Which was the exact question that the witness was responding to. |

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| SISTER: *Yes, I had the opportunity to get the call from actually our father, Al, the night that the police were called to Kathy's house after you had called him, stating that Kathy was missing with Patrick and that I better go and --*<br><br>MS. DOW: *I'm going to object, Your Honor.*<br><br>THE COURT: *Sustained. Not responsive to the question, ma'am. The question was have you ever seen the mother drinking.*<br><br>SISTER: *Yes, I have, I have seen her...*<br><br>THE COURT: (Interrupts) *Well, that's the question you should be answering, please, okay? Go ahead.* (TTr. p. 91-92) | The Court repeatedly interrupted this witness to sabotage her communication to the Court.<br><br>Not one of the Mother's witnesses was treated this way.<br><br>The use of the word "please" is noteworthy because the ruder Judge Digangi behaved toward me or my one witness, the more he sprinkled in words like "please" and "sir/ma'am" so that a written transcript would not convey his tone. |
| FATHER'S QUESTION TO HIS SISTER: *Did her brother make any comments to you about (the Mother)?*<br><br>SISTER: *Her brother did make a comment to me that when --*<br><br>MS. DOW: *Objection.*<br><br>THE COURT: *Sustained.* (TTr. p.93) | (Double Standard)<br><br>My sister was not allowed to communicate comments that were made directly to her by the Mother's brother, but the Court allowed the DSS worker to share comments made by the Superintendent of the School, Dr. Littlefield, who got his story from the teacher's union president, Diane Dandreta, who got her story from the Mother. |
| FATHER'S QUESTION TO HIS SISTER: *Have there been other instances where you've seen (the Mother) with too much to drink?*<br><br>SISTER: *Yes, there have been other instances. Prior to Patrick, (the Mother) was intoxicated at a family Christmas party.*<br><br>THE COURT: *This is prior to Patrick's birth?*<br><br>SISTER: *Yes, it was.*<br><br>(CONTINUED ON NEXT PAGE) | (Another Double Standard)<br><br>Judge Digangi finds it "highly irrelevant" to communicate that the Mother has a history of alcohol abuse that included episodes before and after our son's birth.<br><br>But the Mother can allege that I refused to take her to the hospital when she had a miscarriage "prior to" our son's birth.<br><br>This despicable lie was not only allowed, but listed as a fact in the Court's Findings of Fact document. |

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| THE COURT: *What's the relevance?*<br><br>MS. DOW: *I'm going to object.*<br><br>THE COURT: *Sustained.*<br><br>FATHER: *Could I have clarification why that's --*<br><br>THE COURT: (Interrupts) *It's prior to the child's birth. I find it highly irrelevant to the situation at hand, sir.* (TTr. 93-94) | |
| FATHER'S REDIRECT EXAMINATION OF SISTER: *Regarding the restraining order, Attorney Dow said that you were going there because of a restraining order. Was there a restraining order during the time that you --*<br><br>SISTER: *No, I don't --*<br><br>MS. DOW: *Objection.*<br><br>THE COURT: *What's the basis?*<br><br>MS. DOW: *I don't know how she would possibly know that. I don't think that -- first of all, there's no foundation.*<br><br>SISTER: *Then why did you ask me it?*<br><br>THE COURT: *Ma'am, your not to ask the questions?*<br><br>FATHER: *The reason why I'm saying that is --*<br><br>THE COURT: *Sir, I'm not asking for an explanation. She's already answered the question.* (TTr. p. 97-98) | Contrary to Judge Digangi's concluding comment, the witness <u>had not</u> answered the question because she was interrupted by the objection.<br><br>Since Judge Digangi rudely interrupted me when I tried to explain the question, I will explain the reasoning here.<br><br>The Mother's attorney asked a question earlier that incorrectly assumed that there was a restraining order in effect when the sister was helping me with pick ups.<br><br>When I objected to the form of the question I was overruled, which required me to come back to the subject by re-questioning my sister.<br><br>Although it was inappropriate procedurally, my sister was correct when she questioned the Mother's attorney. The Mother's attorney asked a question earlier which required that my sister have knowledge of a restraining order. Then she objects to my question when I make the same assumption.<br><br>For the record, my sister <u>did know</u> about the restraining order because she was in court for the hearing to know that the Honorable Judge Sahagian vacated the order one week after it was obtained by the Mother. |

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| FATHER'S TESTIMONY: *(The Mother) is not being honest to this Court. I have been -- I have been completely honest with the Court. There are things that maybe I wish I did --*<br><br>MS. DOW: *Your honor, I'm going to object to the characterizations regarding Ms. Moran.*<br><br>THE COURT: *Sustained.* (TTr. p.112) | The Mother is allowed to describe me as disturbed, controlling, verbally abusive, etc. I describe her as dishonest and the Court sustains an objection to this characterization. |
| FATHER'S TESTIMONY: *When the police arrived, the best thing that happened was --*<br><br>MS. DOW: *Objection.*<br><br>THE COURT: *Basis?*<br><br>MS. DOW: *Calls for hearsay, Your Honor.*<br><br>THE COURT: *What the police were going to say?*<br><br>MS. DOW: *Correct.*<br><br>THE COURT: *Sustained.* (TTr. p.131) | The Mother's attorney and Judge Digangi apparently have extra sensory perception because I never indicated that I would be quoting the police. I was simply describing an incident.<br><br>Since the objection was based on what the Mother's attorney and the Court thought I might say, it provides me with another example of the double standard in Judge Digangi's courtroom.<br><br>The Mother's witnesses are given the freedom to introduce hearsay, but my sister and I are not allowed to communicate statements made directly to us by the police and the Mother's brother. |
| A RELEVANT COURT INTERRUPTION | |
| FATHER'S QUESTION TO DSS WORKER: *She (the Mother) stated that the Court is now putting extra officials in the courtroom due to my behavior. Did you check with anybody in the court about that?*<br><br>DSS WORKER: *No, I did not.*<br><br>FATHER*: Now, there's a -- Officer Prader who has been in the courtroom for every occasion that I've been in front of this Court and I would like to ask --*<br><br>THE COURT: *Are you testifying now, sir? You're not to testify, sir.* (TTr. p.21) | Judge Digangi had to respond quickly here before I could refer to the court officer, who could confirm that the Mother lied to the DSS investigator to slander me.<br><br>Judge Digangi had no interest in getting to the truth in this case. If he was sincerely interested in the best interests of our son then he would have been interested in hearing all of the information that both parents believed was relevant so that he could make an informed ruling. He was only interested in preserving his predetermined ruling by protecting the credibility of the Mother. |

## JUDGE DIGANGI'S RULING

For cheating on her taxes, making false accusations, lying under oath, committing perjury in legal documents, ignoring court orders, and childishly refusing to communicate with the father of her child; the Mother was rewarded with sole legal and physical custody of our son and given Judge Digangi's "okay" to cheat on her taxes in alternating years at my expense.

For being completely honest with the court at all times, I was given visitation hours and a support order that extorts from me significantly more than the *total costs* to support our son, which in effect, compromises my ability to save for my son's future or afford activity-related lessons (ie. swimming, skating, music) that the Mother will not purchase herself with my support checks.

# CHAPTER 23

## JUDGE DIGANGI'S FINDINGS OF FACT

***The true hypocrite is the one who ceases to perceive his deception, the one who lies with sincerity. Andre Gide***

As part of the appeals process, both parties must submit proposed Findings of Fact and Rulings of Law to the lower court judge. In my case, I produced three related documents: *my* proposed Findings of Fact and Rulings of Law, my response to the lies contained in the Mother's proposed Findings of Fact, and my response to Judge Digangi's Findings of Fact. Digangi's document was, for the most part, "cut and pasted" from the Mother's proposed findings, but it did include some unique "facts" and "rationales" that could only be attributed to him.

The slanderous statements contained in Judge Digangi's document had me concerned because they were wildly untrue and could not be justified with the court-recorded tapes. Therefore, Digangi was either dumber than I thought or he was confident that the appeals court would give him the professional courtesy to believe whatever he wrote as fact without verifying his claims with the court tapes. The evidence still to come suggests that his confidence in the negligence of the appeals court was justified.

The lies and inaccuracies contained in Judge Digangi's Findings of Fact are pasted into this chapter in the same two-column format used for all of my chalks. This chalk was included in my appeal as an addendum item to my Brief. Many of these lies have been referenced in other sections of the book and credited to the Mother. In this chapter, they are the specific lies cut and pasted from the Mother's Proposed Findings of Fact and listed in Judge Digangi's Findings of Fact as his own.

I direct readers to the "cells" containing Fact #38, Fact #43, and Fact #71; which are verifiable lies about my testimony expressed by Judge Digangi to slander and discredit me. These facts are "all Digangi" because not even the Mother would be foolish enough to challenge the consistency of my testimony.

Judge Digangi CANNOT confirm the "Facts" referenced above because the words that he attributed to me were never made in documents or in court. For the record, I stated EXACTLY what was provided for my son by my family in the form of in-kind support, I never stated that I "borrowed" these items from my family, I accurately communicated EXACTLY what I purchased myself, and there is ZERO testimony or evidence that would lead an honorable, impartial judge to conclude that I am "narcissistic and idealize myself".

# LIES, INACCURACIES, AND DISTORTIONS OF THE TRUTH LISTED AS "FACTS" IN JUDGE DIGANGI'S "FINDINGS OF FACT" DOCUMENT

| COURT ALLEGED "FACTS | THE FATHER'S REBUTTAL |
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| Fact #15. When Patrick was born, the parties originally resided together at 749 Broadway, Haverhill, MA. | The parties never lived together in Haverhill. |
| Fact #30. Testimony established that the Father is considering filing bankruptcy in the near future. | The Father has never considered filing bankruptcy. The Father did say that he had to refinance his mortgage to avoid bankruptcy. |
| Fact #32. Mother suffered a miscarriage while expecting another child of the parties while working at school. The Father refused to leave work to drive her to the hospital. She drove herself. | The Father never refused to drive the Mother to the hospital because he was never informed of the Mother's miscarriage until after she had returned from the hospital. The Father would drop everything to this day to assist the Mother if she were in distress. |
| Fact #33. When Mother became pregnant again, the relationship was strained. The Father refused to attend doctor's appointments, ultrasounds, and the Mother's amniocentesis. | The Father wonders to whom the court is referring because the Father was very supportive and excited about having a child and attended every appointment that he knew about and was asked to attend. |
| Fact #35. The Father was afforded the opportunity to take paid leave from work when Patrick was born. He refused to do so. | The Father was not afforded the opportunity to take paid leave from work and, therefore, could not have refused to do so. The Father would have happily taken paid leave from work if that option were available. |
| Fact #36. Patrick required a CAT scan two days after he was born. The Father refused to go if the appointment was during working hours. | Patrick required an MRI, not a CAT scan, and the Father NEVER communicated to the Mother that he would not attend the appointment if it were during work hours. The Mother's allegation is a distortion of the truth because the Father simply suggested that the non-emergency exam be scheduled after 2 PM if possible. |
| Fact #37. The Mother purchased most of the items for Patrick's care. | The Mother did not purchase anything for Patrick's care. The only expense that the Mother had prior to her return to work was $10 co-payments for doctor's visits. |

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| Fact #38. The Father did not pay child support while the parties were living together. Father testified that he purchased diapers and clothes for Patrick. The Father testified that the Father's family donated the items. The Court does not credit the Father's testimony. | The Father provided everything that Patrick needed prior to the Mother's return to work in September. All formula, diapers, wipes, and medical insurance were paid by the Father. The Father NEVER testified that he purchased clothing. He testified that clothing, cribs, car seats, gates, etc. were given to him by his family. The Father then transferred most of these items to the Mother. The Court has no justification for not crediting the Father's testimony. |
| Fact #39. The Father thought that Patrick was overweight and that he needed to be on a diet when he was an infant. He did not feed Patrick when he was hungry. | The Father has NEVER stated or even thought that his son was fat. The Father points out that the Mother is the only parent of the child with an eating disorder. The Father believes that when a child is hungry, he should be fed. |
| Fact #41. The Mother complained that the Father did not change Patrick's diaper often while in his care. The Mother testified that she placed a mark on Patrick's diaper and when the child returned, he was wearing the same diaper. | The Father believes that a child's diaper should be changed immediately after it is soiled or becomes wet. The Father has ALWAYS changed his son's diaper when it needs to be changed and his son has NEVER left his care with a dirty diaper. |
| Fact #43. The Father demanded the return of certain toys and clothes he provided to Patrick. He testified that the items were borrowed from his family and not for Patrick to keep. This testimony contradicted his prior statements that he purchased items with his own funds for the benefit of Patrick. The Court finds that his testimony is not credible. | There is NOTHING contradictory to the Father's testimony. The Father's rebuttal of fact #38 clearly articulates what the Father provided. It is also expressed in his testimony from the trial (Tr. p.81) AND in his answers to the Mother's interrogatories. The Father NEVER testified that the items were borrowed. |
| Fact #52. The Father admitted in his Complaint that he denied additional visitation. | The Father expands on Fact #52. The Father requested overnight time with his son and the Mother refused. Short of that, the Father will not accept the bone thrown his way of additional "visits" as a substitute for his parental rights. The Father refuses to "enable" the Mother by making her sole custodial role any more convenient for her. If the current custody arrangement is not corrected soon, then the Father's "visits" are not going to save his son from becoming another casualty of the Mother's dysfunctional family. |

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| Fact #53. Transitions were often difficult. The maternal grandmother testified that Patrick would scream and cry when the Father arrived to take him. On a particular occasion, the Father arrived at the home in a rage. Patrick was crying. The maternal grandmother stated that visitation would have to occur another day. The Father pulled the baby from her arms and took him to the car. The maternal grandmother took the Father's car keys and called the police. After the police arrived, the Father left. | The Father has NEVER shown up at the Mother's house in a rage. Because Patrick was crying when the Father arrived, the grandmother insinuated that the Father must somehow be the reason. The Father ignored her and walked away with his son. Unable to generate a reaction from the Father, the grandmother stole the Father's keys from the ignition while he was putting Patrick in his car seat. When the police arrived, they heard both sides and reprimanded the grandmother for her frivolous call to the police. They ordered her to return the Father's car keys so that he could leave with his son and warned her that the DSS would be involved next if these calls to the police do not stop. The Father accepted the officers offer to be present at the next few transfers to assure that the maternal grandmother and the Mother do not pull any more stunts. |
| Fact #55. The Father often referred to the Mother and the maternal grandmother in derogatory terms and used profane language in the minor child's presence. | The Father has NEVER used profane language in his son's presence. The Father does admit to telling the grandmother that her daughter was an f'n psychopath on one occasion when the Mother sabotaged the Father's visitation time with his son. The Mother and grandmother jumped on this one isolated incident to justify a restraining order that was vacated by the court a week later. |
| Fact #56. When Patrick was ill, the Mother stayed home and cared for him. The Father refused to miss a day from work regardless of the circumstances. | The Father has never refused to miss a day from work because he has never been asked to miss a day from work for any illness or other circumstance. |
| Fact #57. The Father was concerned that the brother would harm Patrick. | The Father has never expressed any such concern. |
| Fact #59. On March 31, 2004, Father reported the Mother to the Department of Social Services. After a thorough investigation, Carol Hanedanian, the social worker, testified that Patrick's home was one of the most loving and fit homes she had ever seen. | The social worker, in no way imaginable, did a thorough investigation. The investigator never met with the Father, she accepted the Mother's false allegations as facts, and she interviewed three people who were "hand-picked" by the Mother for questioning. |

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| Fact #61. The social worker spoke to many personnel at the Parties place of employment. The Parties' supervisor informed the social worker that he has a temper when reprimanded. | The social worker spoke to three people, which the Father would not define as "many." Two of the three individuals barely know the Father. The Father's, supervisor has never reprimanded the Father and denies ever telling the social worker that the Father has a temper. |
| Fact #62. The Superintendent of Methuen schools stated Father was "revengeful and hateful." Father threatened a lawsuit against him for slander. | This is an accurate "fact" as conveyed in court. The Father did threaten to sue the Superintendent and the union president for slander. The Superintendent, who does not know the father at all, simply repeated the lies expressed to him by the union president. The union president lied as a personal friend of the Mother to help her case. |
| Fact #69. Incredibly, the Father brought three students from the school where the parties are employed to watch the trial. The Court finds the Father's behavior extremely inappropriate... | The Father did not bring three students to court. The students were aware of the Father's situation from the time when the Mother got her merit-less restraining order and made their personal problems school gossip. The students voluntarily chose to attend the trial as an act of support. |
| Fact #71. The Father did not understand the Rules of Evidence. Frequently, he became frustrated when objections were sustained and when he was not permitted to enter certain exhibits into evidence. | The Father understood the Rules of Evidence well enough to know that the evidence was to be pre-marked prior to the trial. The Court chose to ignore all of his pre-marked evidence, but accept all of the Mother's unmarked evidence, which was mailed to the Father exactly one-week before the trial. The Father <u>did not once</u> express frustration at the trial. The Father requests that Judge Digangi reference those parts of the transcript that support this allegation. |
| Fact #72. The Father attacked the competency of the Court, the laws of the Commonwealth, and the integrity of the trial judge during his opening and closing arguments. | The Father did not attack the competency and integrity of the trial judge until his Notice of Appeal and Complaint to the Commission on Judicial Conduct, which were filed after the trial. The Father contends that the laws of the Commonwealth support his position. What he has issues with is the Judge Digangi's biased interpretation of those laws. |

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| Fact #73. The Parties can only communicate via email. | Because the Father is an embarrassing reminder of how low she sank to slander the Father, the Mother immaturely avoids all communication with the Father including email. She does not return emails and does not pick up the phone when the Father calls. The Father has no such issues. He has made several unsuccessful attempts to communicate with the Mother directly and via email, letter, and phone. |
| Fact #75. The Father and Mother cannot communicate regarding any issues involving Patrick. | The Mother does not communicate because she is extremely immature and it was in her best interests to not communicate so that the Court would not grant the Father's request for joint physical custody. |
| Fact #80. The Father frequently used profanity and acted inappropriately in Patrick presence. | The Father has NEVER acted inappropriately in his son's presence and has more class than to use profanity in conversation. The maternal grandmother jumped on an isolated incident when the Father used a single profane word in her presence to allege frequent use. Personally, the Father is embarrassed for people who cannot complete a sentence without profanity. |
| Rationale Comment. The hostility at work forced colleagues and school personnel to mediate between the parties. | There has never been any hostility at work other than the false allegations of a hostile work environment concocted by the Mother as a strategy to slander the Father. The Father has been nothing but cordial and respectful to the Mother in and outside of work. |
| Rationale Comment. Judge Digangi claimed that the Father's behavior demonstrates his obsession with discrediting and embarrassing the Mother. | Judge Digangi's claim that the Father is obsessed with discrediting and embarrassing the Mother is a purely ignorant comment. The Father is in court to communicate the reality of the situation so that the court can make an informed decision. Unfortunately, that reality includes numerous unethical stunts committed by the Mother. |
| Rationale Comment. The Court finds that the Father is unable to control his anger towards the Mother. | The Father has ALWAYS controlled his emotions towards the Mother and any testimony expressed otherwise at the trial was a slanderous lie. |

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| Rationale Comment. The Father is narcissistic, idealizes himself, and devalues the Mother. | The Father demands that Judge Digangi reference credible evidence and testimony that would lead an "honorable" judge to reach such a slanderous conclusion. |
| Rational Comment. Judge Digangi expressed that he agrees with the social worker's analysis that the Father's DSS complaint was frivolous and vindictive. | The Father involved the DSS against his better judgment because the Mother was in an unstable state at the time. The Father made it clear to the DSS worker that he was not accusing the Mother of abuse or neglect but that he was concerned because of her history of mental illness, the secrecy regarding her condition, and the observed emotional state of his son when he arrived on his two visitation days over this time period. |
| The Court finds that the Father has created an intolerable work environment for the Mother. | When the Father passes the Mother in school, he is cordial and says hello. When the Mother was having trouble finding an online site, the Father assisted her. When she spilled something at work, the Father was the first to help her clean it up. On Mother's day and her birthday, the Father always gets her a card or some flowers. On his visitation days, the Father makes sure that Patrick says "bye-bye" to "mama" before leaving. The Mother has been invited to join the Father and their son for baseball games, birthdays, beach days, and to go ice-skating. The Father has sent several unanswered emails to the Mother pleading with her to bury the hatchet. The Father challenges the Court to reference anything credible that would indicate that the Father has created an intolerable work environment for the Mother. |

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A complaint to the Commission on Judicial Conduct was filed against Judge Digangi in August of 2004, based on the information that has been presented in these last three chapters.

The Commission on Judicial Conduct dismissed my complaint against this judge in March of 2005.

# CHAPTER 24

## THE APPEALS COURT PROCESS

***As long as the world shall last there will be wrongs, and if no man objected and no man rebelled, those wrongs would last forever.***
***Clarence Darrow***

The appeals process is costly, time-consuming, and unduly complicated to discourage appeals and convince litigants to just go away. The process requires strong convictions, a stubbornness of purpose, and a secret decoder ring to overcome the bureaucratic chores that are designed to frustrate and trip up litigants. Asking for assistance from clerks in this court is like pulling teeth.

Some of the hoops that must be jumped through before the appeals court will even look at an appellant's case include the following:

(1) Notice of Appeal - must be filed within 30 days of the ruling or you can say goodbye to your right to appeal.
(2) Docket Fee - $300, the state gets its cut for the incompetence and injustice occurring in its lower courts.
(3) Purchase of the court-recorded tapes.
(4) Mandatory transcription of the court-recorded tapes AND mandatory that the tapes be transcribed by an outside agency - I found this out *after* I spent hours transcribing the tapes myself. This expense alone can cost the appellant thousands of dollars.
(5) An inevitable Motion to Dismiss from opposing counsel will require a written response.
(6) If you overcome that landmine, opposing counsel will automatically request that the Appellate Court extort up to double costs and fees from you for filing the appeal.
(7) Filing of the Briefs (Brief, Reply Brief, and Appendix to the Brief) - I followed the format to the letter, referencing the Massachusetts Rules of Appellate Procedure and a manual by Thomas J. Carey titled "A Few Tips on Effective Briefs."

*Still, it took my reply brief three revisions to be accepted because the clerks in the appeals court office did not know the difference between addendum and appendix items. I had to explain it to them with a reference to Carey's manual.*

The $300 docket fee and the "thousands" spent on transcription costs is also supposed to pay for the right to make an Oral Argument before the three-judge panel that is to decide the appeal. Specifically, Rule 22 of the Massachusetts

Rules of Appellate Procedure allows the appellant and appellee 15 minutes for argument. After spending a considerable amount of time preparing for my Oral Argument, this opportunity was denied to me without explanation or written notice.

**The names of the three corrupt and/or incompetent judges who reviewed my appeal were Judge Andre A. Gelinas, Judge Elspeth B. Cypher, and Judge Joseph A. Trainor. Their names are only referenced here, but their crimes against me are exposed in the chapters to come.**

**As despicable as I believe Judge Digangi's behavior was, the response from these three judges and the seven justices of the Supreme Judicial Court, was truly diabolical. As you will discover in the next three chapters, not only did these ten justices of this state's court system allow these egregious crimes to be committed against me, but punished *me* for bringing these crimes to their attention. This is a frightening thought and says volumes about the disturbing state of affairs in the Massachusetts judicial system.**

**Perhaps, Chief Justice Margaret H. Marshall, Justice John M. Greaney, Justice Francis X. Spina, Justice Martha B. Sosman, Justice Roderick L. Ireland, Justice Judith A. Cowin, and Justice Robert J. Cordy of the Massachusetts Supreme Judicial Court, which denied my application for further appellate review, can also explain why the Constitutional rights that they have referenced publicly to defend the rights of gays to marry in Massachusetts do not apply to fathers in this state whose same rights are violated every day in this state's family courts.**

# CHAPTER 25

## BRIEF OF THE APPELLANT

***It is dangerous to be right in matters on which the established authorities are wrong. Voltaire***

Although I would prefer that you, the reader, read this book from start to finish, if I had limited time to grab your attention and convince you that the Massachusetts court system is a system of organized crime, I would suggest that you begin here and read the two chapters that follow. It is my contention that whatever skepticism a reader of this book might have to this point would disappear with the outrageous appeals court response to the evidence contained in these chapters.

***I contend that it is not possible for an HONORABLE court to read the documents contained in these next three chapters, confirm this information with the court-recorded tapes, and agree with the three appeals court judges, who concluded that my appeal was "frivolous" with "no basis in law or fact" <u>to extort from me double the Mother's attorney fees and costs.</u>***

***I further contend that it is not possible for an HONORABLE court to examine the transcripts, particularly the excerpts that I extracted and "chalked" from my two court appearances before Judge Digangi, and reach the outrageous conclusion expressed below:***

> ***We have reviewed the transcripts and the judge's findings and our review has failed to discover any statements, actions, or conduct on the part of the judge that would support the father's claim of gender bias or prejudice.***
>
> ***Judges Gelinas, Cypher, and Trainor***

This chapter contains my actual Brief, that was submitted to the Appeals Court for review, minus the addendum items. The addendum items were omitted for brevity and because the most relevant items (ie. the chalks) are included in other chapters of this book.

Much of the Brief contains information that has been communicated in other sections of this book. The reason for including the full Brief (and the Reply Brief to follow) is to give readers access to the same documents that were allegedly reviewed by the three-judge panel of the appeals court *prior* to its "Memorandum and Order."

Regarding the Brief, the most relevant information is contained on pages 151-152, where my table of legal authorities is listed, and pages 173-198, where these legal citations are referenced to support my arguments. I ask that you examine these pages closely to assess whether the arguments raised by me "are overall frivolous and have no reasonable basis in law or fact" to justify the appeals court decision to extort double the Mother's attorney fees and costs from me.

I contend that these three judges of the Appeals Court - Judges Gelinas, Cypher, and Trainor - are corrupt and used my appeal as an opportunity to punish me for my critical comments made about one of their colleagues and for my very public and persistent efforts to expose the corruption that I have witnessed personally in the Massachusetts court system.

**It is worth noting that in my investigation into Judge Digangi's record on appeal, I discovered that 31 of his cases over the past three years have been appealed. Of those 31 cases, my case is the <u>ONLY</u> one, at both the appeals court level (Case No. 2004-P-1496) and the Supreme Judicial Court level (Case No. FAR-15094), that has been impounded. Hmmmm.**

Maybe this three-judge panel of the appeals court can explain why it went to the trouble to conceal the details of my specific case by having my case impounded and going so far as to deny me my appellate court right to make an Oral Argument, which would also be accessible to the public.

COMMONWEALTH OF MASSACHUSETTS
COURT OF APPEALS
CASE NO. 2004-P-1496

---

KEVIN MICHAEL THOMPSON, Appellant

v.

KATHLEEN ELIZABETH MORAN, Appellee

---

Appeal of a Judgment from the Lawrence Probate and Family Court on June 4, 2004, regarding the custody and support of Patrick Tiger Thompson. Debra P. Dow, Esq. represented (THE MOTHER) (hereinafter "the Mother") and Kevin Michael Thompson (hereinafter "the Father") was *pro se*. Justice Peter C. Digangi presided.

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BRIEF OF APPELLANT

KEVIN MICHAEL THOMPSON

(Pro Se)

(Address Withheld)

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**STATEMENT OF ISSUES PRESENTED FOR REVIEW**

1. Whether the Court, specifically Judge Peter Digangi, denied the Father his rights to due process and equal protection under the law by preventing the Father from presenting ANY of his 55 exhibits that he had prepared and pre-marked for the trial.
2. Whether it is possible for a competent and honorable Court to examine the transcripts from the February 25, 2004 hearing and June 4, 2004 trial and reach the slanderous conclusions about the Father expressed by Judge Digangi in his closing statement at the trial and in his "Findings of Fact" document.
3. Whether there was any credible testimony or evidence presented at the trial that would convince an impartial Court to ignore all of the Father's testimony and believe everything alleged by the Mother.
4. Whether it is possible for a fit father of a child born out of wedlock to obtain joint physical custody in Judge Digangi's courtroom when a less fit mother in a contested case simply chooses to not cooperate or communicate with the father.

5. Whether Judge Digangi's corrupt actions in this case to vilify and discredit the Father represent such a serious miscarriage of justice that they call for the immediate removal of this judge from the bench.
6. Whether the "one size fits all" arguments and presumptions referenced by the Courts to justify sole custody to mothers are gender-biased and, in effect, deny fathers due process and equal protection under the law.
7. Whether the Court's final order was reached without applying "strict scrutiny."
8. Whether the Court's final order denies the Father his fundamental, inalienable right to parent and support his child directly.
9. Whether it is ever in the best interests of a child to remove loving fathers from the lives of their children to be replaced with visitation hours and cash payments.
10. Whether it is legal to deny fathers their Constitutional right to a jury of their peers.
11. Whether Judge Digangi had the jurisdiction to give the Father's tax exemption to the Mother on alternating years.

**STATEMENT**

**A. RELEVANT PROCEDURAL HISTORY OF THE CASE**

| | |
|---|---|
| September 30, 2002 | The Mother files a complaint for custody, support, and visitation. The parties settle outside of the court system with a custody and support contract drawn up by the Father and made retroactive to September 1, 2002. |
| March 28, 2003 | In response to the Mother's abuse of her role as sole custodial parent and her refusal to be flexible to changing circumstances, the Father files a complaint for joint legal and physical custody. |
| April 11, 2003 | The Mother files a cross complaint for custody, support, and visitation. |
| May 28, 2003 | After hearing, Judge Manzi enters a temporary order that awards sole custody to the Mother. The Father is ordered to pay $615 per month, which is significantly more than the $498 amount calculated when adhering to the Child Support Guidelines. (See Addendum A1) |

| | |
|---|---|
| August 22, 2003 | The Father serves the maternal grandmother, Charleen Moran, with a *subpoena* ordering her to produce her 2002 State and Federal Income Tax returns (documents that were initially requested on May 5, 2003). |
| October 8, 2003 | After hearing, Judge Manzi orders the maternal grandmother to respond to the subpoena and submit copies of her 2002 State and Federal Tax returns to the Father within 21 days. |
| November 12, 2003 | The Mother and grandmother conspire on a phony story of verbal abuse to justify a restraining order against the Father. The order is obtained within two weeks of the Court-ordered disclosure of the grandmother's 2002 tax returns, documents that expose the Mother and grandmother's history of tax fraud and perjury to the Court. |
| November 19, 2003 | After hearing, the Honorable Judge Sahagian vacates the restraining order and orders the parties to come to |

| | |
|---|---|
| | a stipulation agreement regarding pick-ups and drop-offs for visitation. |
| December 30, 2003 | At the pre-trial conference, Judge Manzi orders completion of the discovery within forty-five days and for the parties to meet to pre-mark evidence. The trial is scheduled for June 3-4, 2004. |
| February 25, 2004 | After hearing, Judge Manzi allows the Mother's motion to withdraw counsel. On the same day, Judge Digangi partially corrects the child support order and denies the Father's request to move up the trial date. |
| May 12, 2004 | Three weeks before the scheduled trial date, a hearing occurs on the Mother's motion to postpone the trial. The motion is heard and denied by Judge Manzi. At this time, the Father expresses concern that the trial has been changed from two to one day. Judge Manzi assures the Father that the Court will schedule a second day if the case |

cannot be resolved in one day.

May 28, 2004 The Father calls the trial department one week prior to the trial to report the status of the case as was ordered in the pre-trial order. The Father informs the trial department that the Mother is in contempt of court for not disclosing her evidence and for ignoring several written requests over the previous three months to meet to pre-mark the evidence. The Father also notifies the trial department that he has pre-marked his evidence as un-objected evidence since the Mother would not meet to communicate otherwise. The trial department clerk assures the Father that this should not be a problem.

May 28, 2004 Later that same day, <u>exactly one week prior to the trial</u>, the Father receives the Mother's evidence and notification that she has hired an attorney, Debra Dow, to represent her at the trial.

| | |
|---|---|
| | Her new attorney conveys her objections to the Father's pre-marked evidence by using a copy of the Father's finalized evidence list to "highlight" evidence to which she objects. |
| June 4, 2004 | On the day of the trial, the Court clerk, Ralph Finck, will not recognize the Father's evidence as pre-marked. He tells the Father and the Mother's attorney that they need to get together to "remark" the evidence before the judge will hear the case. |
| June 4, 2004 | After trial, Judge Digangi enters his final order awarding sole legal and physical custody of the minor child to the Mother. The Father is given visitation hours and a support order. |

**B. STATEMENT OF FACTS**

**BACKGROUND INFORMATION**

1. Kevin Thompson ("Father") and Kathleen Moran ("Mother") are the parents of a two-year old child, Patrick Tiger Thompson, born March 20, 2002. The Father lives in Methuen and the Mother lives with the

maternal grandmother, Charleen Moran ("Grandmother"), in Haverhill. Both parents are teachers at Methuen High School.

2. The Mother moved in with the Father three months after the child was born and moved out, without notice, two weeks later. At the time that the Mother moved out of the home, purchased by the Father to be the home for her and their son, they were engaged to be married.

3. The parents have been fighting over custody of the child since. The Mother has demanded sole custody and the Father has proposed the compromise of 50/50 joint physical custody.

4. The Father was Salutatorian of his class and a three-sport athlete at Central Catholic High School in Lawrence, MA. He attended the United States Naval Academy in Annapolis, MD for two years under a Vice Presidential appointment. The Father graduated magna cum laude from the University of Massachusetts-Boston with a Bachelor of Arts degree in physics. He received his Master of Arts degree from California State University-Los Angeles in educational administration and did his master's thesis on the effect of one-parent vs. two-parent homes on the

behavior and academic success of high school students.

5. The Father has an impeccable professional record over a twenty-year career as a teacher and a coach. Excluding the Mother's attempts over the last two years to manufacture evidence for her case with false allegations, the Father has never been in trouble with the law.

6. The Father does not drink, smoke, or take drugs. He has never, in any way, threatened the Mother or abused her verbally or physically. The Father is the oldest of three siblings. He grew up in a loving intact, two-parent home. His brother, Christopher Thompson, is a successful business owner with a wife and three children. His sister, Maureen Smith, is a wife and mother to four children.

7. The Mother graduated from Haverhill High School and Merrimack College. She obtained her master's degree in elementary education from Endicott College.

8. The Mother takes medication (Prozac) and sees a psychiatrist for chronic depression and problems with alcohol and an eating disorder. She has 148 absences over her five-year time of employment at Methuen High School. A number of these absences were the result of

two complete nervous breakdowns.

9. There have been 19 documented police calls to the Mother's home in the first two years of the child's life. One of these calls was made by the Grandmother, who called the police on May 29, 2002 when she found the Mother passed out with their two-month old baby. Before the police arrived, the Mother took off drunk with the baby and came out of hiding over an hour later when the police left, still visibly intoxicated as witnessed by the Father's sister.

10. The Mother is a 39 year-old woman who has lived her entire life with the Grandmother in a single-parent home. The Grandmother also takes medication and sees a psychiatrist for depression. The Mother's brother, Michael Moran, who recently moved off the property, has a history of drug abuse and suffers from bipolar disorder that has resulted in police-involved lockups at a psychiatric hospital.

**COURT-RELATED FACTS PRIOR TO THE TRIAL**

1. In the Father's first hearing in Family Court on May 28, 2003, the state-mandated child support guidelines were ignored, his request to present evidence was denied, and he was labeled by the Court

as "rigid and demanding" for refusing to voluntarily give up his right to parent and his son's right to a balanced relationship with both of his parents.

2. A motion for modification of the child support order and visitation was eventually heard before Judge Digangi on February 25, 2004. Judge Digangi, who knew nothing at all about the case, bullied the Father in his first minute before the Court for referring to his son as "my" son instead of "our" son. (February 25, 2004 Transcript, pp.3-4)

3. Judge Digangi refused to look at the Father's evidence and did not correct the support order so that it would adhere to the guidelines. Instead, he "winged it" with a support order that did not reference the Father's accurately completed child support worksheet (Add. A2) or his proof that the Mother had committed perjury when completing her Financial Statements.

4. Although the Father was not in court on this day to present his evidence and arguments for joint physical custody, Judge Digangi shared his unsolicited opinion that the Father was wasting his time in court because there was no way that the court would give custody of such a young child, even joint physical custody, to

the Father. His word for word comment was, "Can we look at this case getting this issue of joint physical custody off the table? Because, quite frankly sir, no judge is probably going to entertain that or they'll hear your argument, but I don't think you'll get very far with it." (Id. p.19)

5. Judge Digangi commented further, "Read anything about the psychology of children, and this is where it comes from... a young child usually at this developmental stage of its life needs to be with the nurturance of his mother, if there's going to be a schism between two parents." (Id. pp.22-23)

**TRIAL FACTS**

1. The Mother ignored the Court order and several written requests to meet to pre-mark the exhibits during the three months when she represented herself pro se and she did not disclose her evidence to the Father until one week prior to the trial. This deliberate contempt was pardoned by the Court at the trial with a pleading from the Mother's attorney for some "indulgence" because she had "literally" come on to the case the previous week. (June 4, 2004 Transcript, p.3)
2. Judge Digangi sustained several objections expressed

by the Mother's attorney that were without merit (Id. pp.22,25,31,33-35,38,44,91,93,94,98,112,128,131,133), he overruled the Father's two objections (Id. pp.19-20,95), and he repeatedly interrupted the Father and his one witness to question the relevance of testimony and questions (Id. pp.21,29,92,94,98).

3. It was relevant for the Mother to question the Father about an online personal ad, his discussions about the Family Court system, and an engagement ring that had not been listed as an asset on his Financial Statement (Id. pp.54-67), but it was irrelevant for the Father to submit documented evidence or question witnesses who could confirm the Mother's history of unstable behavior, alcohol abuse, immaturity, and perjury.

4. The Father was not allowed to communicate anything that occurred prior to their son's birth (Id. 94), but the Mother falsely alleged that the Father refused to drive the Mother to the hospital when she had a miscarriage prior to their son's birth. This vile, outrageous lie was not only allowed, but included as "Fact #32" in the Court's "Findings of Fact" document.

5. Judge Digangi did not allow the Father to present or submit <u>ANY</u> of his 55 pre-marked exhibits to the court.

The exhibits were numbered to #108 because the Father labeled every page of every document (Add.B). With the exception of tapes, photos, and a certified letter, the evidence was self-contained in a three ring binder prepared by the Father, with a copy for the Mother and the Court, chronologically numbered in the order that the Father intended to communicate his evidence.

6. The Father's evidence included conclusive proof of the Mother's perjury on Financial Statements submitted to the Court, her bad faith litigation, her lies under oath and contained in a DSS report, her tax fraud crimes, and her deliberate refusal to respond to discovery requests or meet prior to the trial to disclose and pre-mark the evidence.

7. Exhibits regarding the police record of calls to the Mother's home, the Mother's attendance record, teacher salary tables, clarifying charts, Federal tax code information relating to the dependent child deduction, and the tape from the initial May 28, 2003 hearing before Judge Manzi were among the pre-marked exhibits that are not part of the Court Record from the trial.

8. In a trial that was scheduled for 9:00 a.m. and concluded before 4:00 p.m., the Father did not call

his first witness until 2:30 p.m. In defiance of Judge Manzi's assurance to the Father that a second day would be scheduled if needed, Judge Digangi announced that this was a one-day trial and the case was going to be resolved that day (Id. p.35).

9. Judge Digangi revealed time and time again that he was not listening to the Father's case. The Father asked his sister while on the stand whether she had ever seen the Mother "in a condition where she had been drinking too much." The witness was responding to that specific question by recounting the incident when the Grandmother called the police on May 29, 2002. The Mother's attorney interrupted the testimony with an objection. Judge Digangi sustained the objection with the comment, "not responding to the question, ma'am. The question was have you ever seen the mother drinking." (Id. pp.91-92).

10. Judge Digangi interrupted this witness several more times in mid-sentence and would not let her communicate comments expressed by the Mother's brother or communicate other episodes when she had seen the Mother intoxicated, claiming that these incidents were "highly irrelevant." (Id. pp.92-94).

11. During cross-examination, the Father asked the Mother why she had listed $550 per month for rent on every Financial Statement submitted to the court after communicating in a May 9, 2003 letter that she does not actually pay rent to her mother, but pays her mother's real estate taxes and water bill in lieu of rent (Id. p.26).
12. Judge Digangi's inability to comprehend the simplest of arguments was evident when the Father attempted to submit this May 9, 2003 letter as evidence.
13. The Mother's attorney objected, feigning confusion about this pre-marked exhibit. For the record, this was a letter that had been disclosed to the Mother as evidence six months before the trial and listed as "exh.2" on the Father's finalized evidence list (Id. pp. 26-28, Add. B1). Further, the Mother's attorney admitted earlier in the trial that she had reviewed the Father's evidence prior to the trial (Id. p.3).
14. Judge Digangi made it clear that he was not listening to this cross examination when he attempted to clarify the letter to the Mother's "confused" attorney by explaining, "I think that's a letter that he (Father) sent to her (Mother). Is that correct?" After the

Father told him that he was not correct and clarified the specifics of the letter for a third time (Id. 26,27), Judge Digangi made the statement, "Well, I don't know what this letter is that he's talking about. If it's a letter sent from her counsel to him, I'll accept it. You can present it to her and see if she's ever seen it or if it's fair and accurate as to her understanding." (Id. pp.28-29)

15. When the Father attempted to explain that this letter had already been seen by the Mother and her attorney because it was disclosed as pre-marked trial evidence months before the trial, Judge Digangi cut off the Father before he could communicate this explanation to say, "Sir, please don't interrupt me. This is the trial today. It's not evidence -- anything that you submitted to the court prior to today might have been submitted for whatever purpose you submitted it at that time. Today is the trial, so whatever other documents that are in the Court file are not necessarily evidence in this trial, sir." (Id. p. 29)

16. The Father contends that, throughout the trial, the more Judge Digangi bullied the Father, the more he masked his behavior with words like "please" and "sir"

so that a written transcript of these exchanges would not convey Judge Digangi's tone.

17. The only option that the Father was given to testify was to take the stand as his own witness without access to his notes and exhibits. When he pleaded with the Court that his son's future was too important to "wing it" and that the Mother's attorney was not required to take the stand, Judge Digangi responded, "You're acting as your own counsel. You put yourself in this predicament." (Id. p.99-103)

18. The Father objected to the Haverhill DSS report with the argument that it was based entirely on lies, hearsay, and on the assessment of a woman who had never met the Father or bothered to question him. It involved an announced visit to the Mother's home and the hearsay from individuals who barely know the Father, who were handpicked by the Mother for questioning. The DSS investigation was also initiated by the Father so the only relevant information from the report was that the concerns that the Father had expressed to a Lawrence DSS worker were unfounded. This objection was overruled. (Id. pp.19-20)

19. Third-hand hearsay when it was communicated by a DSS

worker as a witness for the mother was allowable, but the Father and his one witness were not allowed to communicate comments that were made directly to them by the police and the Mother's brother.

20. During the Father's attempt to render the report credibly worthless, Judge Digangi interrupted, "The purpose of this investigation, sir, was not about you. It was about whether or not your allegations about the mother were justified. The purpose of this investigation by this witness was not to investigate you, sir, in any way. Bear that in mind." (Id. p.22)

21. Apparently, Judge Digangi did not "bear that in mind." After discouraging the Father from presenting his indisputable evidence that would have forced the Court to dismiss the report as a collection of false allegations and hearsay, Judge Digangi ambushed the Father in his concluding statement by elevating the status of the investigator and the significance of the report (Id. pp.148-149).

22. Judge Digangi's concluding statement included a self-righteous attack of insults primarily directed at the Father for having the audacity to seek joint physical custody in his courtroom; for holding the Mother

accountable for her criminal actions; and for attempting to communicate information that was critical of the Mother (Id. 149-150).

23. Included among the false allegations and baseless insults were the following: Judge Digangi accused the Father of "bullying" the Court (Id. p.150), he stated that "if you (Father) don't care what's fair to your child... then shame on you (Id. p.157)," "the way you people are acting right now, I bet you your two-year old child can make better choices (Id. pp.157-158), "in criminal court they say the bad guys are acting their best. In the probate court... the nicest people act their worst... I think I've seen you both hopefully at your worst (Id. 159)," "You only have one kid. I can't rip him in half...That's what you suggest I do...(Id. p.159)," "Your kid is at the bottom of the hill waiting for you both to roll down on him I suppose... (Id. p.161)." This slanderous and ignorant assessment of the Father's demeanor and behavior in Court completely contradicts the reality of what occurred.

24. Without the jurisdiction to make such a ruling, Judge Digangi added insult to injury by rewarding the Mother

for cheating on her taxes with a dependent child deduction every other year that only the Father is eligible to claim (Id. p.151). This was granted without examining the Father's pre-marked Federal Tax code information (See Add. C) or hearing any testimony during the trial on this topic.

25. In response to the Father's notice to appeal his ruling, Judge Digangi produced a wildly inaccurate, one-sided document (App. pp.49-58) to slander the Father and cover up for his unethical actions. The Father's Findings of Fact document (App. pp.24-38) was not referenced at all and was not included in the Record of Appeal, nor was the Father's Response to the Court's Findings of Facts. (App. pp.59-65).

**ARGUMENT**

**A. Gender discrimination is illegal in this state and in this country.**

1. It was Thomas Jefferson who wrote, "an equal application of law to every condition of man is fundamental. The most sacred of the duties of a government [is] to do equal and impartial justice to all its citizens. A free people [claim] their rights as derived from the laws of nature, and not as a gift

from their chief magistrate." Thomas Jefferson: Rights of British America, 1774, ME 1:209, Papers 1:134

2. More recently, it was Chief Justice Marshall who wrote, "The Massachusetts Constitution affirms the dignity and equality of all individuals. It forbids the creation of second class citizens." See Goodridge v. Department of Public Health, Mass Supreme Judicial Court, 440 Mass. 312, 798 N.E. 2nd 941 (2003).
3. "Each person has an identifiable, legally protected interest in not being treated as a second-class person." Lowell v. Kowalski, 380 Mass. 663, 670 (1980).
4. The fundamental liberty interest of natural parents in the care, custody, and management of their child is protected by the Fourteenth Amendment. These protections must extend to all parents absolutely equally, or else the deprivations inherently become two other classes of civil rights violations under federal law - one under Equal Protection and the other under Gender Discrimination. Santosky v. Kramer, 455 U.S. 745 (U.S. Supreme Court, 1982).
5. Judge Digangi's ruling was in error. It violated the prohibition against gender discrimination contained in

Article I of the Massachusetts Declaration of Rights, as amended by article CVI of the Amendments. With considerable help from a gender-biased Court, the Mother was able to overcome her significant shortcomings in stability, maturity, and integrity to steal the parental rights from a clearly fitter Father.

6. The law must be *applied* to men and women equally, not just *written* equally. Judge Digangi stated several times in court that the law looks to both parents as being equal. What is not equal in Judge Digangi's courtroom is his subjective interpretation of the law where the best interests of the child equate to sole custody for the mother. Article XXIX of the State Constitution states that it is essential to the preservation of every individual that there be an impartial interpretation of the laws.

7. "In making an order or judgment relative to the custody of the children, the rights of the parents shall, in the absence of misconduct, be held to be equal, and the happiness and welfare of the children shall determine their custody." G.L. c. 208, § 31 (1998). "The State's legitimate and compelling

interest in the welfare of children… does not confer on the State a power to mandate, over the objection of a fit, competent parent, anything that might be viewed as desirable for young people." Blixt v. Blixt, 437 Mass. 669 (2002).

**B. The arguments used by the courts to justify their rulings are flawed**

1. The Father contends that when the justification for the discrimination against fathers in family court comes under attack and is threatened by legitimate criticism, the Courts simply tweak the argument and change the name of the argument used to discriminate.
2. Judge Digangi's "tender years" opinion, which claims that mothers have this gender-exclusive ability to nurture, is outdated and no longer legally acceptable as a court argument. Current child psychology research not only contradicts Judge Digangi's opinion, but concludes that "children of *all* ages, *particularly boys*, are better off when raised by their fathers." Farrell, Father and Child Reunion, Tarcher/Putnam (2001).
3. The "tender years" presumption was the argument of choice for years until the Alabama Supreme Court, for

one, concluded that, "the tender years presumption is an unconstitutional gender-based classification that discriminates between fathers and mothers in child custody proceedings solely on the basis of sex." Devine v. Devine, Supreme Court of Alabama, 398 So.2d 686 (1981).

4. The "best interests of the child" standard followed, a standard that is so vague that it gives judges the discretion to interpret its meaning as they see fit.

5. The Courts have subjectively interpreted the "best interests of the child" standard to mean removing loving fathers from the lives of their children and replacing them with cash payments and visitation hours. This is NEVER in the "best interests of a child" because there is not a more powerful predictor of future well-being than the significant involvement of BOTH parents in a child's life.

6. Troxel found visitation orders predicated solely on the determination of the child's best interests "constitutionally inadequate." Judge Sosman defined the visitation order as "legislation masquerading as interpretation in order to salvage an admittedly unconstitutional statute (Sosman, J. dissenting, with

whom Ireland, J. joins)." Blixt v. Blixt, 437 Mass. 678 (2002).

7. Judge Sosman added, "Looking solely at the category of parents who were never married to each other and who are not presently living together, the court resorts to vague generalizations verging on pure stereotypes of families that are not intact to justify subjecting some parents, but not others, to the intrusive burdens of the visitation statute." Blixt v. Blixt, 437 Mass. 686 (2002).

8. Critics of the "best interests of the child" standard have pointed out that "the open-endedness of this standard leads to the systematic imposition by courts of unnamed prejudices regarding what outcomes represent a child's best interests." Custody of Kali, 439 Mass. 841 (2003).

9. "Mere invocation of the child's "best interest" does not, by itself, amount to compelling State interest and, standing alone, would not pass constitutional muster." Troxel v. Granville, 530 U.S. 67-68 (2000).

10. The "primary caretaker" argument, referenced in both the ALI Principles and G.L. c. 209C, is another popular argument used in Family Court to deny fathers

their Constitutionally-protected rights. G.L. c. 209C § 10(a) specifically refers to the "primary caretaker" parent and suggests that the courts consider where and with whom the child has resided within the six months immediately preceding the proceedings.

11. This is an obvious Catch-22 obstacle for never married fathers because the "primary caretaker" will almost always be the mother, no matter how unfit she is. Even if the father is clearly the fitter parent, the mother will possess the child from birth onwards. Any legal means that the father has of trying to obtain custody will take longer than the six-month residency condition referenced in Section 10(a) of G.L. c. 209C.

12. The Father contends that the "primary caretaker" is a "Court-invented" label that does not exist in the intact family. In intact families, recognized by most as the optimal family unit, the parents are "co-caretakers." Parenting responsibilities are shared equally with each parent contributing gender-specific influences that uniquely enhance the child's physical, mental, and emotional development.

13. In Custody of Zia, Judge Brown and Judge LaStaiti rejected the "primary caretaker" interpretation of the

law. The unmarried father was awarded sole custody because the Court factored in the relative fitness of the parents and which parent was more willing to allow the child access to the other parent. Custody of Zia, 50 Mass. App. Ct. 237, 736 NE2d 449 (2000).

14. Many states factor in access for the child to each parent. California Family Code 3040(a) mandates that in custody determinations "the court shall consider, among other factors, which parent is more likely to allow the child frequent and continuing contact with the non-custodial parent and shall not prefer a parent as custodian because of that parent's sex."

15. As child expert, Dr. Joan Kelly, points out, "Courts have overemphasized providing geographic stability of residence for the child at the expense of the more important emotional stability of regular time with each parent. It has been thoroughly shown, by work done in the last decade and not in the 1970's, that the problems associated with movement of children between homes are *less* than those created by removing one parent from day-to-day connections with a child." Wallerstein and Kelly, Surviving the Breakup: How Children and Parents Cope with Divorce, Basic Books,

(1982).

16. Instead, the courts exaggerate the effect of two home bases so that this MINOR inconvenience illogically outweighs the very real problems with sole custody to the mother where a child is 5 times more likely to commit suicide, 32 times more likely to run away, 20 times more likely to have behavioral disorders, 14 times more likely to commit rape, 9 times more likely to drop out of school, 10 times more likely to abuse drugs, 9 times more likely to be institutionalized, and 20 times more likely to end up in prison.
U.S Census Bureau: The Official Statistics (2000).

17. The "most flawed" argument used by the Courts to deny a father his right to parent is that if one or both of the parents will not cooperate with the other or one parent will not agree to joint physical custody, then any form of joint custody is impossible. This subjective opinion eliminates any possibility of due process and equal protection for fathers in family court because mothers have the "gender-exclusive" power to "not cooperate" and "be hostile" to the father to ensure that joint physical custody is not even considered by the Court.

18. The Father contends that the "inability to cooperate" argument is the "most flawed" argument used in family court because, contrary to Court opinion, 50/50 joint physical custody is actually the MOST APPROPRIATE custody arrangement when the parents DO NOT get along.
19. Joint physical custody provides a clearly defined schedule that does not give either parent the power to intrude in the other parent's life, emotionally or financially. Neither parent is humiliated, devalued, or stripped of his dignity. Each parent has a more isolated influence on their child, independent of the whims and malice of the other parent.
20. The Father concedes that there are many Family Court cases that have justified their rulings with the flawed arguments described above, but "since the equal protection statute treats each parent alike and is unambiguous in this respect, there is no need to resort to legislative history." Silvia v. Silvia, 9 Mass. App. Ct. 339-340 (1980).
21. Citing flawed precedent and case law that has historically denied fathers their constitutional right to equal protection does not justify the continuation of this practice. The Fourteenth Amendment states

quite clearly that no state "shall deny to any person within its jurisdiction the equal protection of the laws."

22. If the Court must cite something to justify its custody rulings, then the Father suggests that the Court reference the landslide results from the Election 2004 ballot initiative where 85% of those people polled in the Commonwealth voted in favor of the presumption for joint legal and physical custody. (See Addendum F1-2)

**C. The Fourteenth Amendment's Due Process Clause protects against government interference with fundamental rights and liberty interests**

1. The liberty interests of parents, protected by the Due Process Clause of the Fourteenth Amendment to the United States Constitution, are also protected by the State Constitution. See Youmans v. Ramos, 429 Mass. 774, 784 (1999).

2. "The Massachusetts Constitution is, if anything, more protective of individual liberty and equality than the Federal Constitution; it may demand broader protection for fundamental rights; and it is less tolerant of government intrusion into the protected spheres of private life (Marshall)." Goodridge v. Department of

Public Health, Mass Supreme Judicial Court, 440 Mass. 312, 798 N.E. 2nd 941 (2003).

3. The right to parent is a fundamental right. To even consider the theft of a citizen's fundamental rights requires the reviewing court to apply strict scrutiny. The court must show a necessary and compelling reason to justify its interference with a father's rights. See Aime v. Commonwealth, 414 Mass. 667, 673 (1993).
4. The least restrictive means possible is 50/50 shared parenting, not support orders and labels that reward the mother for the breakup of a relationship with outrageous benefits at the father's expense. "Under our free and constitutional government, it is only under serious provocation that we permit interference by the State with parental rights." Custody of a Minor (No. 3), 378 Mass. 732, 749 (1979).
5. The Due Process Clause does not permit a State to infringe on the fundamental right of parents to make child rearing decisions simply because a state judge believes a better decision could be made. Troxel v. Granville, 530 U.S. 72-73 (2000).
6. "Impinging on parental decision-making implicates a fundamental right. The interest of parents in the

care, custody, and control of their children is perhaps the oldest of the fundamental liberty interests recognized by the Court." Troxel v. Granville, 530 U.S. 57, 65 (2000).

7. Fathers would get more justice if they were criminals in criminal court. In that setting, a father would be innocent until proven guilty and there would be something called a burden of proof that would be needed to justify as punishment the theft of his parental rights.

8. Fathers would also be entitled to a jury of their peers, a right specifically expressed in Article XV of the State Constitution and enacted to eliminate the tyranny of giving one judge the power to decide an individual's fate. It is the Father's opinion that fathers are denied their Constitutional right to a jury of their peers to entice mothers into a profit-driven court system where victory without compromise is guaranteed before these wildly-biased judges.

9. The Father's trial evidence was not to prove the Mother unfit. His evidence was to discredit the Mother's "word" and render her phony stories and false allegations as worthless. The Father contends that

pitting one parent against the other to prove who is slightly better or worse than the other is not only irrelevant, it is fundamentally wrong. If a parent is truly a danger to the child, evidence abounds and the offending parent should be accused of a crime and afforded due process of law like any other accused criminal.

10. While loving fathers are treated like criminals in family court, without a criminal's right to due process; mothers have the freedom to allege anything that they can dream up. If found guilty of making false allegations, they are not prosecuted nor held accountable. The Golden Rule for mothers in family court is, "If the facts and the evidence cannot justify your demands, a false accusation or two will suffice."

**D. Judge Digangi's words and conduct in this case prove him to be incompetent, biased, and corrupt.**

1. Before experiencing the corruption first hand, the Father contends that he went into family court confident that the court system would be honorable, that exhibits would need to be organized and pre-marked, and that his testimony and evidence would be

heard and examined. This expectation quickly turned to shock and outrage when the Court failed him and the Father discovered that he was pleading his case to a "kangaroo court" with a gender-biased agenda that did not include examining his evidence or hearing his arguments.

2. Judge Digangi's gender-biased ignorance creates a fool-proof strategy for Mother's seeking sole custody in his courtroom. The rules are simple:

   (a) Bombard the court with slanderous stories about the father because, as the mother, Judge Digangi will believe whatever you say and not allow any evidence that would bring into question your credibility.

   (b) Do not concern yourself with the consequences of lying under oath, committing perjury on legal documents, or ignoring court orders because Judge Digangi not only does not verify allegations or hold mothers accountable, but looks the other way and rewards them for their crimes.

   (c) Most importantly, no matter how willing the father is to resolve the case short of a trial, refuse to communicate or cooperate with him. It

is not relevant that the mother is the only one with a financial motive to not cooperate, Judge Digangi will blame the father for the lack of communication and conclude that joint custody is not possible because the parents cannot "get along."

3. At both the February 25, 2004 hearing and June 4, 2004 trial, Judge Digangi disregarded the "Canons" of the Code of Judicial Conduct (Supreme Judicial Court Rule 3:09). He did not conduct himself in a way that would preserve the integrity and independence of the judiciary (Canon 1). He clearly conveyed the impression that the Mother and her attorney were in a special position to influence him (Canon 2). And he did not accord to the Father his full right to be heard according to law. Through both words and conduct, Judge Digangi expressed his prejudice toward both fathers and pro se litigants (Canon 3).
4. Judge Digangi's comments regarding the likelihood of failure for fathers in his courtroom at the February 25, 2004 hearing, before he knew anything at all about the Father's case, contradict Judge Digangi's own claim that "the law looks to both

parents as being equal" (February 25, 2004 Transcript, p.23) and the Massachusetts Bar Association's information site where it states that, "in the past, women were thought to be more capable of parenting young children, but now, the courts give equal consideration to both parents." Probate judges may not, impermissibly, take the gender of a parent into account when making their determinations. See Silvia v. Silvia, 9 Mass. App. Ct. 339-342 (1980).

5. The Father was aware that his hopes of resolving the case short of Appeals Court was not likely to happen before this judge. Judge Digangi proved to the Father at their first hearing that he was a dangerous combination of ignorance, arrogance, and incompetence who would insult him, bully him, and railroad him at the trial to instigate an emotional reaction and make his ruling easy. The Father also expected that Judge Digangi would distort the truth to vilify the Father if he could not generate a reaction.

6. Therefore, the Father was determined to conduct himself in a manner that would be beyond reproach and let Judge Digangi incriminate himself with slanderous comments about the Father that could not be supported

with the court transcripts.

7. The recorded transcripts from the February 25, 2004 hearing and June 4, 2004 trial, when compared with Judge Digangi's "Findings of Fact" document, provide the Father with overwhelming evidence of Judge Digangi's incompetence, biased mind-set, and corrupt agenda.

8. Ironically, in Judge Digangi's courtroom it benefits the mother to be unfit, unethical, and vindictive because Judge Digangi will misinterpret any attempt by the father to communicate such an ugly reality to the court as a malicious attack against the mother and proof that the father is hostile toward her and that he "devalues her." (See App. p. 58)

9. Judge Digangi conveniently confused legal conflict with genuine conflict outside of court to justify his ruling. The Father contends that the parties were in court to present evidence that justified their proposed ruling. That scenario does not lend itself to "gushing compliments" about the other parent in a contested case.

10. No one is sorrier than the Father that the Mother of his son is dishonest, unstable, and immature, but

those are the facts of the case and the Father was in Court to communicate the reality of the situation so that the Court could make an informed ruling that would uniquely benefit his son.

11. If Judge Digangi was sincerely concerned with the best interests of the child, as he claimed, then he would have been interested in hearing all of the information that both parents believed was relevant. The best interests of children and fundamental parent autonomy rights traditionally are "cognate and connected." Parham v. J.R., 442 U.S. 584, 602 (1979).

12. Limiting the trial to a "he said, she said" game of hearsay and refusing to allow evidence that would bring into question the credibility of the Mother gave Judge Digangi the power to selectively believe what he wanted to believe. This agenda allowed Judge Digangi to ignore the Father's testimony and believe any allegations expressed by the Mother or one of her "hearsay" witnesses to justify a judgment that, the Father contends, was already pre-determined.

13. Judge Digangi ignored G.L. c. 208, § 31, which includes the mandate that "if the issue of custody is contested and either party seeks shared legal or

physical custody, the parties shall submit to the court at the trial a shared custody implementation plan and the court shall consider the shared custody implementation plans submitted by the parties." Judge Digangi did not review these plans because he did not collect them.

14. Judge Digangi attempted to justify his ruling by claiming that he was not going to take the child from the Mother and give him to the Father or "rip him in half." The Father contends that Judge Digangi was unable, or unwilling, to grasp the concept that the Father was requesting the compromise of 50/50 joint physical custody, which does not take the child from either parent, but balances the child's relationship with both parents.

15. What made the corruption so obvious in this particular case is that the Father is, without question, a fitter parent and a more credible witness than the Mother in this case will ever be. The fact that Judge Digangi could completely ignore the Father's testimony, accept everything alleged by the Mother as fact, and conclude that it is in the best interests of the child that the significantly less fit parent have sole custody is

such a blatant abuse of discretion that the Father cannot imagine a possible scenario in a contested case where a less fit mother does not leave Judge Digangi's courtroom with sole custody.

16. Judge Digangi's invidious agenda required that he prevent the Father from communicating evidence that would discredit the Mother. If the Father's documented, indisputable evidence had been admitted, then the Court would not have been able to give credence to the Mother's lies and hearsay and, consequently, Judge Digangi would have had no ammunition to vilify the Father to justify his pre-determined ruling.

17. Judge Digangi actions related to the DSS report are inexcusable. When the Father objected to the report, Judge Digangi ignored the rules of evidence regarding hearsay to deny the objection. When the Father attempted to attack the credibility and competence of the investigation, Judge Digangi advised the Father to move on, explaining that the report was not about him. Then, in Judge Digangi's final ruling, he referred to this report to insult the Father and justify his ruling, elevating the status of the investigator and

the relevance of inadmissible allegations made by the Mother and Grandmother in the report that were "premeditated and fabricated." See Commonwealth v. Marshall, 434 Mass. 358, 363-365 (2001).

18. The Father contends that overestimating the evidential value of alleged expert testimony, fabricating evidence, and misdirecting the Father during the trial so that he would not continue with questioning that would have rendered the DSS report credibly worthless are blatant miscarriages of justice and grounds for a new trial before an honorable court.

19. The Court tapes when compared to the false "facts" and slanderous conclusions contained in Judge Digangi's "Findings of Fact" document (App. pp.49-58) provide the Father with overwhelming evidence of Judge Digangi's corrupt agenda. Judge Digangi did not have the undocumented situation, that the Mother enjoyed, to lie and distort the truth. Everything that Judge Digangi witnessed was recorded. To claim that the Father is "narcissistic," and "idealizes himself" (App. p. 58) is so completely baseless and unfounded that downplaying these malicious comments as a simple distortion of the truth would be criminally

inaccurate.

20. As to this evidence, the Father requests a standard of review that applies the substantial likelihood of a miscarriage of justice. Commonwealth v. Wright, 411 Mass. 678, 681-682 (1992). The Father contends that the review would also be properly preserved by applying the prejudicial error standard of review. Commonwealth v. Hallet, 427 Mass. 552-555 (1998).

21. The lopsided contrast in credibility between the Mother and Father makes Judge Digangi's fictional "Findings of Fact" that much more outrageous. The document indicates that Judge Digangi believed everything alleged by the Mother and nothing communicated by the Father. Judge Digangi exclusively referenced the Mother's Proposed Findings of Fact (App. pp.39-44) to produce his document and claimed the Mother's lies, inaccuracies, and distortions of the truth as his "facts." (See Addendum E)

22. Judge Digangi manufactured his own evidence to discredit the Father with item #43 in his "Findings of Fact" document (App. p.52). Judge Digangi claimed that the Father testified that certain items provided to Patrick were "borrowed from his family" and "not

for Patrick to keep" and that this testimony contradicted prior statements made by the Father that he purchased items with his own funds. The Father never made such a statement, nor is there any testimony that could possibly be misinterpreted to suggest such a claim (See Add. E2). The full set of transcripts will confirm that Judge Digangi committed perjury with this allegation.

23. The Father contends that this statement was not an innocent mistake, but a premeditated crime intended to paint the father in a negative, deceptive light to justify his unjust ruling and discredit the Father, who has filed a formal complaint against Judge Digangi with the Commission on Judicial Conduct.

24. Lastly, Judge Digangi rewarded the Mother for cheating on her taxes by giving her the Father's dependent child deduction on alternating years. This was granted without examining the Father's pre-marked evidence or hearing any argument on this issue during the trial. Furthermore, Judge Digangi has no jurisdiction to defy I.R.S. Federal tax law. For the same reason that the Father cannot claim the Mother's head of household filing status, the Mother cannot

claim the dependent child deduction. According to Federal tax law, the Father is the only parent who qualifies for this deduction as the father of a child born out of wedlock who provides more than 50% of the total support for his child. Federal tax code is very clear on this topic. (See Addendum C).

**CONCLUSION**

1. The Father's appeal of Judge Digangi's ruling and his motion for a new trial before an Honorable Court is a gamble that the corruption and discrimination against men and pro se litigants in the lower courts does not extend to Appeals Court.
2. Ideally, the Father requests that the Appeals Court carefully examine the Father's arguments expressed in his brief to overturn Judge Digangi's unjust ruling immediately without a new trial, and resolve the case with a 50/50 joint physical custody ruling as outlined in the Father's Proposed Order from the trial (App. pp.12-14).
3. If the Appeals Court cannot overturn the lower Court's ruling without examining all of the censored evidence and testimony, then the Father moves the court to order a new trial, preferably before an impartial jury

of his peers, pursuant to its broad power under G.L. c. 278, § 33E.

4. The criminal conduct of Judge Digangi in this case has left the Father without any confidence in the integrity and impartiality of the Family Court system. The Father contends that Judge Digangi is either corrupt or he does not possess the competence and unbiased mind-set required to work as a judge in the Family Courts. Therefore, the Father calls for the removal of Judge Digangi from the bench. The Father cites Article XXIX of the State Constitution where it states that "it is essential to the preservation of the rights of every individual… that there be an impartial interpretation of the laws and administration of justice. Judges should hold their offices only as long as they behave themselves."

Respectfully Submitted,

Kevin Thompson (pro se)

Date: November 23, 2004

# CHAPTER 26

## REPLY BRIEF

***God grant me the courage not to give up what I think is right even though I think it is hopeless. Chester W. Nimitz***

The Reply Brief is my response to the Mother's Brief. The most noteworthy thing about the Mother's Brief was her attorney's absurd claim that she spent 25.8 hours preparing it.

Specifically, the Mother's attorney, Debra Dow, wrote in items 5 and 7 of her affidavit filed with her Motion for Allowance of Double Fees and Costs:

> *In reviewing transcripts, the Appellant's brief and reply brief, and trial court findings and rulings, and in researching and drafting the Mother's appellate brief, I expended 25.8 hours of time. I maintained contemporaneous time sheets... The difficulty in drafting this brief was in ascertaining the Appellant's actual arguments raised by the appellant on appeal for which I had to review the transcripts to determine whether or not they had been raised during the trial.*

Attorney Dow's contemporaneous time sheets must have included very long lunch breaks while on the clock, because there is no way possible that it would take a competent attorney more than a few hours to produce the document that she submitted as the "Brief of the Appellee". I am not a lawyer and do not have access to the generic template responses and case law citations used to respond to the same arguments heard over and over again in family court and *I* could have still produced the drivel that she passed off as a professional legal document inside of three hours.

Including the cover page, the table of contents page, the table of authorities page, the certificate of service page, the generous margin spaces, and the double-spaced format, the Brief of the Appellee came out to 24 pages.

Regarding Attorney Dow's claim that the brief was difficult to draft because she had to ascertain whether the actual arguments had been raised during the trial, a review of the last chapter containing *my* Brief confirms that every reference to the trial was clearly footnoted with the exact page of the exact court record where that quote, incident, or argument could be found.

Attorney Dow's "arguments" involved taking a contention of mine, expressed in my Brief, and inserting the word "not" to make it her argument. As a "filler", she

supported her arguments with the lies that were contained in her and Judge Digangi's fictitious Findings of Fact documents.

For example:

(1) I wrote that Judge Digangi committed an error in law and abused his discretion in alternating the dependent child deduction. Attorney Dow wrote: *The Judge did not commit an error of law or abuse his discretion in alternating the income tax exemption for Patrick between Mother and Father.*

(2) I wrote that I was denied due process and equal protection under the law because I was not allowed to present my evidence that I had prepared for the trial. Attorney Dow wrote in response: *Father was not denied due process and equal protection under the law because he was "not allowed" to present any evidence that he had prepared for the trial.*

(3) I wrote that the DSS report was admitted in error as inadmissible second hand hearsay. Attorney Dow wrote: *the 03/31/2004 Department of Social Services ("DSS") M.G.L. c. 124 §51B Investigation conducted by DSS Investigator Carol Hanedanian was not admitted in error.*

The only other "arguments" in Attorney Dow's brief are transcribed below:

(1) *Whether the Judge abused his discretion or committed an error of law in awarding Mother sole physical and legal custody of the minor child, and whether the Judge's findings of fact and conclusions of law support his decision.*

(2) *Father's Appeal fails to articulate any legal grounds upon which his appeal is based, and should thus be dismissed as frivolous with double costs and fees to the Mother.*

These five arguments were listed on page 2 of her brief and also on page 4. Apparently, it is more difficult than I thought to fill 24 pages of a brief and then claim that you spent 25.8 hours writing it. Who does she think she is fooling? She does not have to "fool" anyone since this corrupt system probably would have approved any number of hours.

I contend that Attorney Dow falsely alleged that it took her 25.8 hours of work at $165 per hour (!!!) to complete what was essentially a three-hour project in order to significantly pad her attorney fees that I am now responsible for paying (times two!).

My Reply Brief on the pages that follow includes my detailed responses to her baseless and poorly researched arguments.

COMMONWEALTH OF MASSACHUSETTS
COURT OF APPEALS
CASE NO. 2004-P-1496

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KEVIN MICHAEL THOMPSON, Appellant

v.

KATHLEEN ELIZABETH MORAN, Appellee

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Appeal of a Judgment from the Lawrence Probate and Family Court on June 4, 2004, regarding the custody and support of Patrick Tiger Thompson. Debra P. Dow, Esq. represented Kathleen Elizabeth Moran (hereinafter "the Mother") and Kevin Michael Thompson (hereinafter "the Father") was *pro se*. Justice Peter C. Digangi presided.

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"REVISED" REPLY BRIEF OF APPELLANT

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**INTRODUCTION**

It is in the best interests of the Father and his son and in the very worst interests of the Mother and the trial judge that the Appeals Court know everything about this case inside and out. Unfortunately, the trial record is grossly incomplete because the Court precluded the Father from presenting every one of the 55 exhibits that he had disclosed and pre-marked for the trial (See Addendum B1-B2 of Father's Brief).

Not only did the Father pre-mark a tremendous amount of physical evidence, which would have conclusively confirmed that the Mother has zero credibility, but he also "chalked" numerous lies contained in documents used by the Mother to slander the Father.

The only option that the Father was given to testify was to take the stand as his own witness without access to his notes and exhibits. When the Father attempted to reference the "verifiable" lies communicated by the Mother in a DSS report and contained in the Mother and maternal grandmother's restraining order statements; the Court, specifically Judge Peter C. Digangi, either interrupted the Father himself, sustained a merit-less objection voiced by the Mother's attorney (Add. A1-A5), or ordered the

Father to move on.

The Father has "chalked" some of the objections and interruptions from the Trial and Court comments from the February 25, 2004 Hearing and June 4, 2004 Trial (App. B1-B7) to provide the Appeals Court with some concrete examples of the ignorance, incompetence, and arrogance that the Father has experienced before Judge Digangi. The "chalked" items are attached as an addendum to this Reply Brief so that the Appeals Court would be as informed as possible prior to making its ruling.

The Mother's Brief simply repeats the false allegations that were blindly accepted as facts by a trial judge who was eager to believe anything that would support his pre-determined ruling. Judge Peter Digangi protected the credibility of the Mother's testimony and "hearsay" witnesses by refusing to hear any evidence that would have convinced an Honorable Court that the Mother is a pathological liar.

The Father contends that the truth does not lie somewhere between the two briefs submitted. The truth is EXACTLY what the Father communicated in his brief. He did not exaggerate or embellish.

The Mother's entire case is a lie and the Father has

the "precluded" evidence to prove it. What is most despicable about the Court's actions in this case is that Judge Digangi did not just look the other way, but rewarded the Mother for every one of her dishonest, unethical stunts.

Without the jurisdiction to make such an order, Judge Digangi rewarded the Mother for knowingly cheating on her taxes in 2002 *and* 2003 by giving her a dependent child deduction in alternating years that only the Father is eligible to claim (See Add. C1-C5 of Father's Brief).

For committing perjury on every one of her Financial Statements, the Court refused to look at the Father's evidence of perjury, but instead rewarded the Mother with a support order that ignores the state guidelines (See Add. A1-A2 of Father's Brief).

For not disclosing her evidence until ONE WEEK before the trial (FOUR MONTHS AFTER the court-ordered deadline for discovery to be complete) and for childishly ignoring the Father's requests to meet to pre-mark the evidence for the THREE-MONTH time period when the Mother represented herself pro se, the Court rewarded the Mother by not recognizing the Father's trial evidence as pre-marked, sabotaging the hundreds of hours that he had put in to prepare his case.

For using their son as a pawn to play vindictive games with the Father; for unilaterally deciding to not communicate with the Father by phone, email, or certified mail; and for fabricating slanderous stories about the Father's behavior and character; the Court rewarded the Mother with sole custody.

The Father requests that the Appeals Court carefully review every document submitted, listen to every word on the court-recorded cassette transcripts, and compare the reality of what occurred in court with Judge Digangi's baseless and slanderous conclusions, which are contained in his Findings of Fact document (App. 49-58) and conveyed in his closing statement from the trial (TTr. pp.147-163).

The Father apologizes for making this request. He knows that he should not have to ask an Honorable Court to examine the documents submitted. Unfortunately, his faith in the judicial system has taken a hit thanks to the unprofessional behavior and indifference that he has witnessed in the lower court before Judge Digangi.

**REPLY TO MOTHER'S NATURE OF THE CASE (Appellee's Brief pp. 4-5)**

Mother states that on November 12, 2003, she applied for and was granted a restraining order against Father.

Mother fails to add that the restraining order was vacated one week later (See Appendix p.3).

**REPLY TO MOTHER'S STATEMENT OF FACTS (Appellee's Brief pp. 5-8)**

The Mother does not respond to the Father's brief, she simply repeats the same lies and inaccuracies that are contained in the Court's Findings of Fact, a document that the Father contends is his proof that Judge Digangi is corrupt. (See Addendum E1-E6 of the Appellant's Brief).

Contrary to the Mother's claim, the Father has provided everything that his son has needed since the day he was born. The only expense that the Mother had prior to her return to work in September of 2002 was $10 co-payments for their son's medical appointments.

The Father has always paid for his son's health insurance and provided in-kind support in the form of diapers, wipes, formula, clothing, cribs, changing tables, car seats, gates, and toys for the first six months of his child's life. When the Mother returned to work, the child support changed from in-kind support to $615 support checks in September of 2002.

The Father only had to purchase diapers, wipes, and formula prior to the Mother's return to work because he is

fortunate to have a brother and sister with young children who generously offered the Father access to more baby items and quality clothing than three children could use. The Father transferred most of these items to the Mother, but kept some in the event that he gain joint physical custody of his son at a later point in time. The remaining items were transferred as a good faith gesture in early August of 2003 when a stipulation agreement was temporarily reached.

When the Mother reneged on the agreement three days before the hearing, scheduled to make the stipulation into an order of the Court, the Father asked the Mother to return ONLY the last transfer of clothing, which represented just a small fraction of the items that she had been given.

The Mother has made an issue out of the fact that the Father did not purchase most of the baby items. The Father contends that he is responsible for the support of his son. How that support is provided is irrelevant. It would have been financially irresponsible of the Father to throw away money to purchase items that were given to him.

Contrary to the Mother's opinion, child support is not a criminal sentence used to punish the other parent. It is not alimony either. The Mother wanted money so that she

could spend the excess on herself and not their son. Since the child support order far exceeds the costs to support their son, the Father contends that most of the support that he pays to this day is used to pay for the Mother's attorney.

Contrary to the Mother's allegation, the Father never refused to drive the Mother to the hospital when she had a miscarriage prior to their son's birth because he was never informed of the miscarriage until after she had returned from the hospital. The Father finds this lie particularly vile and requests that the Mother explain why she would ever stay with such a selfish and uncaring person AFTER such an incident.

Contrary to the Mother's allegation, the Father was very supportive and excited about having a child and attended every prenatal appointment that he knew about and was asked to attend.

Contrary to the Mother's claim that the Father has not paid child support to his son in California since February of 2004, the Father's check receipts confirm that he made a large advance payment in July of 2003 to stop a wage assignment order and purchased a $10,000 Savings Bond in his son's name in September of 2004 to satisfy his

support obligation for the current school year.

Because the Father, on one occasion, had a prior commitment and could not attend a last minute brunch organized by his sister, the Mother distorted the truth to slander the Father with the claim that "the Father OFTEN did not attend his own family events." The Father challenges the Mother to reference just one other family event that the Father did not attend.

Contrary to the Mother's allegation, the Father has ALWAYS changed his son's diaper when it needs to be changed and his son has NEVER left his care with a dirty diaper. The Father believes that a child's diaper should be changed immediately after it is soiled or becomes wet.

Contrary to the Mother's allegation, the Father has NEVER stated or even thought that his son was fat. The Father points out that the Mother is the only parent of the child with an eating disorder. The Father has NEVER withheld food from his son and believes that when a child is hungry, he should be fed.

The Mother's immaturity is the reason why the parents do not communicate. The Mother ignores the Father's attempts to communicate and justifies this childish behavior with the baseless lie that the Father is verbally

abusive.

**REPLY TO MOTHER'S ARGUMENT #1: The Judge DID abuse his discretion and commit an error of law in awarding Mother sole physical custody of the minor child. The Judge's findings of fact and conclusions of law DO NOT support his decision. (Appellee's Brief pp.8-15)**

The "primary caretaker" argument that the Mother cites is not gender neutral as she claims. It is a gender-biased opinion masquerading as an interpretation of the law that assures unequal application of the "best interests of the child" standard. A father of a child born out of wedlock is particularly vulnerable to this "one size fits all" criteria because he would have to literally kidnap his child from the mother to be the "primary caretaker" prior to court intervention. Even if the father is clearly the fitter parent, the mother will possess the child from birth onwards. Any legal means that the father has of trying to obtain custody will take longer than the six-month residency condition referenced in Section 10(a) of M.G.L. c. 209C.

The Mother also cites M.G.L. c. 209C §10 where it states that the court shall award joint physical custody only if the courts find the parents have successfully exercised joint responsibility for the minor child prior to the commencement of the proceedings, and have the ability

to communicate and plan for the best interests of the child.

The Father contends that this law is flawed and is an issue for Direct Appellate Review because it allows an unethical mother to abuse the system and, consequently, eliminate any possibility of due process and equal protection for fathers in family court. Mothers have the "gender-exclusive" absolute power to not cooperate and be hostile to the father to ensure that joint physical custody is not ordered by the Court.

The Father concedes that there would be no abuse of discretion in referencing M.G.L. c. 209C IF there was any truth to the testimony communicated by the Mother and her witnesses at the trial and IF the Mother had not purposely avoided communication with the Father.

Since the Court precluded the Father from presenting his evidence, the Court avoided hearing testimony that would have convinced an Honorable Court that the Mother is unstable, dishonest, and 100% at fault for the parent's inability to communicate or get along.

Limiting the trial to a "he said, she said" game of hearsay and refusing to allow evidence that would discredit the Mother gave Judge Digangi the power to believe what he

wanted to believe. This agenda allowed Judge Digangi to ignore the Father's testimony and run with any allegations expressed by the Mother or one of her "hearsay" witnesses to justify a judgment that was already pre-determined.

Contrary to the Mother's claim, overestimating the evidential value of alleged expert testimony is an abuse of discretion. Fabricating evidence, censoring evidence, and misdirecting the Father during the trial are blatant miscarriages of justice and grounds for the removal of this judge from the bench.

The Mother argues that "a joint physical custody arrangement would not in any way limit Father's interaction with Mother." The Father would agree that joint physical custody does not eliminate interaction, but it certainly reduces the amount of interaction when compared to the more intrusive sole custody arrangement.

Joint physical custody provides a clearly defined schedule that does not give either parent the power to intrude in the other parent's life. Neither parent is humiliated, devalued, financially ruined, or stripped of his dignity and each parent has a more isolated influence on their child, independent of the whims and malice of the other parent.

It is of no surprise that the Mother is going to try and defend Judge Digangi, because she was the litigant who benefited from the corruption and incompetence in his court.

A "chalk" of Judge Digangi's Court Comments with Rebuttals is attached to provide some examples of Judge Digangi's ignorance, arrogance, and incompetence at the Father's two court appearances before this judge (Addendum B1-B7).

Contrary to the Mother's claim, every conflict between the parents has been generated by the Mother. The Mother is the one who falsely accused the Father of assault and battery, the Mother is the one who falsely accused the Father of verbal abuse to get a restraining order, and the Mother is the one who falsely accused the Father of creating a hostile work environment on several occasions.

The Mother's proof that the Father has instigated conflict is that the Father accused the Mother of neglect. Contrary to the Mother's allegation, when the Father involved the DSS, he made it clear to the DSS worker that he was NOT accusing the Mother of abuse or neglect. Against his better judgment, he took the advice of the police, who were called to the Mother's home over this time

period, to request a home visit. The request was made because the Mother, who has a history of instability, was out of work for five straight days; because the grandmother was secretive about her daughter's condition, and because their son was visibly upset when the Father arrived on his two visitation days over this time period. If the Mother had simply answered the phone to address the Father's concerns, then there would have been no need for an investigation.

Contrary to her attorney's ignorant comment, the Father is very involved in his son's life, he has a very strong bond with his son, and he contributes everything he can to the parenting of his child during his scheduled visitation. The Father has ten hours of time with his son and makes sure that those are the ten most significant hours of his son's week.

Until the Father can get the current unjust ruling overturned, he will rely on quality over quantity. The Father contends that his son is exposed to more social interaction and stimulating activities in his ten hours with his son than what he gets with his Mother and maternal grandmother in the other 158 hours of the week.

The Mother conveys that the Father has complimented

her about her parenting and admits that she is fit. The Father was not in court to prove the Mother unfit. His evidence was to discredit the Mother who chose to slander the Father to prove that HE was unfit to justify her sole custody arrangement.

Although the Father is clearly the fitter parent, that fact is irrelevant since the child has two parents who should both be significantly involved in his life regardless of who is "better" than the other.

It is this "who's the best parent for the child" mentality and "winner take all" rulings that the family courts promote to generate the profitable, but destructive, legal conflict between parents.

The Father finds it curious that the only individuals in the Commonwealth who spin a Father's pursuit of a balanced relationship in his child's life as selfish are the racketeers working in the family court system who are profiting off the injustice.

If the Father's "approach" to custody were "all or nothing" as the Mother's attorney claims, then he would be pursuing sole physical custody. The only "all or nothing" arrangement is one that gives one parent all of the joys of a parental relationship with the child and orders the other

parent to finance this arrangement. Contrary to the hypocrisy that most lawyers, judges, and mediators in the family court system are selling to vilify fathers who refuse to be bullied out of their parental rights, joint custody IS a compromise and sole custody is not.

To conclude this "Argument," the Mother insists that the Father has been afforded equal protection under the law and the opportunity to parent his son. The Father suggests that since the Mother believes that visitation hours and support orders provide the opportunity to parent and since the Father disagrees, then transferring custody to the Father would apparently make everyone happy.

**REPLY TO MOTHER'S ARGUMENT #2: The Judge DID commit an error of law AND abuse his discretion by alternating the income tax exemption for Patrick between Mother and Father. (Appellee's Brief p.15)**

The Judge has no jurisdiction to give the Father's tax deduction to the Mother in alternating years because the tax deduction is not an ambiguous issue requiring court intervention.

The tax code only allows the parent of a child born out of wedlock to claim this deduction if he or she contributes more than 50% of the child's support. Since the Father provides 100% of his son's support, there is no

controversy. The Father pays $250 more per month than the Mother to cover their son's medical coverage and is the only parent who pays taxes on the $542 that he hands over to the Mother each month in child support.

The Mother claims that this issue should be waived on Appeal because it was not raised as an issue at the trial. This issue was not raised at the trial by either parent because the I.R.S. tax code is clear on this topic (see Add. C1-C5 of Father's Brief). The subject only came up in passing when the Father cross-examined the Mother about cheating on her taxes (TTr. p. 30-31).

Without any discussion on this topic, Judge Digangi ambushed the Father in his closing statement, at a time when the Father was not permitted to respond, by rewarding the Mother for knowingly cheating on her taxes in 2002 and 2003 with this tax deduction on alternating years.

**REPLY TO MOTHER'S ARGUMENT #3: Father WAS denied due process and equal protection because he was "NOT allowed" to present any evidence that he had prepared for the trial. (Appellee's Brief pp.15-17)**

Contrary to the Mother's claim, the Father was not given the forum to enter documents into evidence. Instead, he was forced to take the stand as his own witness without access to his evidence. The Court's rationale was, "I

think it's a proper way to present evidence at this time." (TTr. p.103)

The Court would only allow the Father's questioning to reach a general, non-descript level. As soon as the testimony and questioning got more detailed and would lead to the submission of evidence, Judge Digangi would sustain a merit-less objection voiced by the Mother's attorney and order the Father to move on (Addendum A1-A5).

When the Father thought he would finally get the opportunity to testify with references to his supporting evidence, both the Court and the Mother's attorney ignorantly assumed that the Father intended to testify by reading a "prepared text."

At no time did the Father indicate any such thing. The Father's opening and closing statements were his "prepared texts." The Father requested access to his exhibits and notes so that he could present and submit his concrete evidence to the Court.

In documents and in court, the Mother's attorney has implied that the Father is a bumbling idiot to convince the Court to dismiss his claims. Her proof is that the Father is pro se. Therefore, according to the condescending stereotype which she suggests, the Father cannot possibly

understand what goes on in a courtroom or be "versed" in how to admit evidence.

The Mother's attorney does not specify anything from the trial to support this claim, she simply relies on the low opinion and contempt that the Court has toward pro se litigants to belittle the Father's legitimate claims.

The Father is convinced that lawyers are very aware of the negative attitude toward pro se litigants and use it to their advantage to demean the pro se litigant's case and threaten him with extortion.

Despite the fact that the Father is already paying for the Mother's lawyer with most of his child support payments and chose to NOT hire an attorney for himself, both attorneys, who have represented the Mother, have filed frivolous motions to extort from the Father their attorney fees. The Father has had to take these threats seriously since Judge Digangi proved to him that he will do anything if he thinks he can get away with it.

**REPLY TO MOTHER'S ARGUMENT #5: The Father's Appeal clearly articulates the legal grounds upon which his appeal is based. (Appellee's Brief pp.18-20)**

The Father has appropriately referenced numerous cases and statutes that support his issues. The Mother's attorney claims that the Father has cited cases that do not

apply to this matter. She specifically cites Blixt v. Blixt and Troxell v. Granville.

The Father contends that just because a particular case does not specifically rule on a never married father pursuing joint physical custody does not make a reference to that case irrelevant. The Father cited specific issues within each case that were applicable to his particular case. In fact, the Father would argue that his arguments are clearly more detailed and unique when compared to the "canned" template-responses expressed by the Mother's attorney in her brief.

Cases were cited and opinions quoted that were relevant to all citizens of the Commonwealth whether or not that individual is a never married father, a grandparent, or a gay couple looking to marry (see Goodridge v. Department of Public Health, Mass Supreme Judicial Court, 440 Mass. 309 (2003).

The Father did not raise all of his issues at the trial that are stated in his "Statement of Issues" for the obvious reason that much of the corruption that he witnessed occurred DURING the trial and, therefore, did not afford the Father the opportunity to respond to these issues until AFTER the trial.

**CONCLUSION**

In response to the Mother's Brief, specifically her malicious request to extort from the Father HER attorney fees and double HIS court costs, the Father respectfully requests that the Court hold the Mother accountable for her lies and crimes committed in this case.

Since the Mother's perjury in documents, lies under oath, false accusations, and contempt of court regarding the Order following the Pre-trial Conference contributed significantly to the need for an appeal and because the other person responsible for this appeal, Judge Peter Digangi, is immune from such action, the Father requests that his costs be assessed against the Mother. The Father herein states the costs to be $1,036.26 based on the costs to file his appeal and transcribe the court-recorded cassette transcripts.

Respectfully submitted,
KEVIN THOMPSON, APPELLANT

Date: January 5, 2005

_____
Kevin Thompson (Pro Se)

# CHAPTER 27

## APPLICATION FOR FURTHER APPELLATE REVIEW

***Never give in! Never, never, never. Never - in anything great or small, large or petty - never give in except to convictions of honor and good sense.***
***Sir Winston Churchill***

After reviewing, among other things, the documents copied into the last two chapters; the three-judge panel of the appeals court (Judges Gelinas, Cypher, and Trainor) affirmed the lower court ruling and added insult on top of injury by calling my appeal "frivolous" with "no basis in law or fact" to extort from me double the Mother's attorney fees and costs. This ruling was a shock and confirmed in my mind that the Massachusetts court system is a system of organized crime.

**According to the Massachusetts judges who reviewed my case, my request for a new trial before an honorable court that would allow me to present my evidence this time was frivolous. And, apparently, my references to the U.S. Constitution, the Massachusetts State Constitution, and numerous case law citations, which confirm every citizens right to due process and equal protection under the law, are references that have "no basis in law or fact" when applied to fathers in family court.**

I tried to come up with an explanation for the appeals court ruling that would make sense. Either these three judges of the appeals court reviewed the evidence and innocently believed that their decision was "just" OR they knew EXACTLY what they were doing and knew exactly WHO they were doing it to.

The former scenario would suggest that these three judges are wildly incompetent and lack the thinking skills required to work as judges in a court of law. The latter suggests that their ruling was a conspired response to my very public efforts to expose the corruption that I have witnessed in the Massachusetts court system.

The malicious response to my appeal has destroyed what little faith and confidence I still had in the integrity and impartiality of this state's court system. I write "malicious" because I am convinced that the court's actions against me were in fact vindictive and had absolutely nothing to do with the merits of my case.

**The "Memorandum and Order", which is the appeals court written response to my appeal, reveals that these three judges believed every baseless lie and inaccuracy conveyed by Judge Digangi and defiantly ignored or**

**dismissed every single claim and contention expressed by me in my Brief and Reply Brief.**

The appeals court exclusive reference to the lies and hearsay contained in the DSS report to claim that the judge's findings "were well supported by the evidence and could not and should not have been ignored" was a particularly blatant example of professional incompetence.

Not only did these three judges completely ignore my arguments related to this legally inadmissible exhibit and quote directly from it in their written response to my appeal, but their "opinion" also contradicts Article XII of the Massachusetts Constitution which states that "every subject shall have a right to produce all [evidence] that may be favorable to him; to meet witnesses against him face to face, and to be fully heard in his defense by himself, or his counsel."

These three judges avoided the merits of my appeal by focusing on my request for direct appellate review of a Massachusetts statute that denies fathers their right to a jury trial. For the record, I DID NOT argue that denying fathers a jury trial was illegal in this state. It is certainly legal *by statute*. I argued that the statute itself, which "legally" denies fathers this constitutionally-protected right, should have never been trumped by a state statute in the first place and is an issue for direct appellate review.

The three-judge panel of the appeals court jumped on this relatively minor appeal issue and conveniently misinterpreted my request for a judicial review of this statute to distract from my legitimate case and produce something that they could ignorantly reference to claim that my pro se representation was incompetent.

A "Petition for Rehearing" and an "Application for Further Appellate Review" were filed to get a second opinion.

The Petition for Rehearing was a chance for the appeals court to correct the injustice against me. I had no expectations at all since the decision to allow a rehearing would have to come from the same three judges who decided the original appeal. It was no surprise to me when my "Petition for Rehearing" was denied.

The Application for Further Appellate Review required another $275 donation to the state. I decided to file it anyway because the Full Supreme Judicial Court had not yet failed me. It was a new court, with a new set of judges, and I was gambling that the corruption that I had experienced to this point would have to end somewhere. When they also denied my application, it proved to me that the corruption and/or incompetence in the Massachusetts court system goes right to the top. This "Application," which contains the same arguments expressed in my petition for a rehearing, is copied into the pages that follow.

Commonwealth of Massachusetts
Clerk of the Supreme Judicial Court
John Adams Courthouse
One Pemberton Square
Boston, Massachusetts 02108

RE: Appeals Court Case No. 2004-P-1496

KATHLEEN E. MORAN (Appellee)
vs.
KEVIN M. THOMPSON (Appellant)

## APPLICATION FOR LEAVE TO OBTAIN FURTHER APPELLATE REVIEW

(1) This is the appellant, Kevin Thompson's ("Father's") request for leave to obtain further appellate review by the full Supreme Judicial Court. The Father is representing himself pro se.

(2) Statement of Prior Proceedings in the Case

| | |
|---|---|
| May 28, 2003 | After hearing, Judge Manzi enters a temporary order that awards sole custody to the Mother. The Father receives two days of visitation per week and a support order that does not adhere to the Child Support Guidelines. |
| June 4, 2004 | After trial, Judge Digangi enters his final order awarding sole legal and physical custody to the Mother. The Father is given visitation hours and a support order. |
| June 28, 2004 | The Father files a Notice of Appeal to request a new trial before an honorable court. |
| September 30, 2005 | A three-judge panel of the Appeals Court (Judges Gelinas, Cypher, and Trainor) affirms the lower court's final order and claims that the Father's arguments raised in his appeal are "overall frivolous" and "have no basis in law or fact" to justify an award of double attorney fees and costs to the Mother. A petition for rehearing has been filed. |

(3) Short statement of facts relevant to the appeal.

The Father filed a Brief and Reply Brief in support of his appeal. The Reply Brief was revised because the Appeals Court would not accept two addendum items

contained in his original Reply Brief with the claim that they were not part of the record on appeal. These addendum items were "chalks" of the lies contained in a DSS report and in two restraining order statements.

(4) The Father requests Direct Appellate Review of M.G.L. 209C. The references to appropriate authorities of law are contained in the Father's Brief.

The Father also seeks Further Appellate Review of the appeals court opinion that the Father's case was "overall frivolous" and has "no basis in fact or law" to justify its allowance of the Mother's application for double attorney fees and costs.

(5) **The Father's Statement of why Direct and Further Appellate Review is Appropriate**

**Regarding M.G.L. 209C,** the "primary caretaker" label, referenced in M.G.L. 209C, is the biggest obstacle for fathers in family court.

A father of a child born out of wedlock is particularly vulnerable to this "court-invented" label because he would have to literally kidnap his child from the mother to be the "primary caretaker" prior to court intervention. Even if the father is clearly the fitter parent, the mother will possess the child from birth onwards. Any legal means that the father has of trying to obtain joint physical custody will take longer than the six-month residency condition referenced in this law.

Section 10 of this law states that the court shall award joint physical custody <u>only if it finds that the parents have successfully exercised joint responsibility and have the ability to communicate and plan for the child's best interests.</u>

**It is this section of M.G.L. 209C that is an issue for Direct Appellate Review because it allows an unethical mother to abuse the system.**

It takes two to communicate and get along. Mothers have the "gender-exclusive" power to not cooperate and be hostile to the father to ensure that joint physical custody is not ordered by the Court.

The Father was aware that this law was the biggest obstacle for him to overcome which is the reason why he went into court with the evidence to prove that the Mother deliberately avoided communication with the Father and was 100% at fault for their inability to get along.

Since the Father knew that she would attempt to counter his evidence with lies about his character, the Father brought insurmountable evidence into court that would also prove that the Mother's word is not credible.

**Regarding the Appeals Court ruling,** what the Father has experienced in the Massachusetts court system is an **outrage**. The claim that the Father's appeal was **"overall frivolous"** to excuse the misconduct of Judge Digangi and justify an award of attorney fees and costs to the mother, to be doubled and extorted from the Father, **is without merit**.

For the Appeals Court to further claim that the Father's arguments "**have <u>no basis</u> in fact or law**," contradicts the two-page list of cases, statutes, rules, and other authorities cited in the Father's Brief to support his legitimate arguments.

**Public interest and the interests of justice demand** that this three-judge panel of the Massachusetts Appeals Court explain itself since the Father's contentions as communicated in his appeal are substantiated by Article I of the Massachusetts Declaration of Rights (as amended by Article CVI of the Amendments), Articles XV and XXIX of the Massachusetts State Constitution, the Due Process and Equal Protection Clauses of the 14th Amendment to the U.S. Constitution, Supreme Judicial Court Rule 3:09 (Code of Judicial Conduct), and numerous case law citations.

**Moreover, there is ABSOLUTELY NOTHING frivolous about the Father's motion to the Appeals Court for a new trial before an honorable court.**

Regardless of whether the appeals court agrees or disagrees with the Father's contention that Judge Digangi is corrupt, there is no dispute that the Father DOES BELIEVE this to be true and has submitted overwhelming evidence in his appeal to support such a claim.

Judge Digangi is not corrupt because he believes that custody to mothers is always the appropriate ruling. Certainly, everyone has a right to his or her opinion. The Father contends that Judge Digangi is corrupt because he manipulated the trial to sabotage the Father's case and, in effect, guarantee such a ruling.

Furthermore, <u>substantiated</u> criticism of a judge's conduct is NOT frivolous. The words used by the appeals court to justify the actions of Judge Digangi apply to the Father as well. To quote:

> *It was not the fault of (the Father) to draw reasonable inferences from the relevant evidence before him.*

The appeals court opinion reveals that this three-judge panel disregarded EVERY contention expressed by the Father, ignored his supporting evidence and the information contained on the court-recorded tapes, and chose instead to believe ONLY what was communicated by Judge Peter C. Digangi. **On its own, this frightening agenda, which has destroyed the Father's faith in the integrity and impartiality of this state's judiciary, is a substantial reason affecting the public interest and the interests of justice.**

Since the words and actions of this three-judge panel of the Appeals Court indicate that it questions the Father's credibility, the Father challenges the court to reference any LEGITIMATE evidence on tape or in documents that would lead an impartial and honorable court to conclude that the Father's word is not credible.

**The Father can confidently make such a challenge because he knows that he has not said a single word in court or in documents in the three years that this case has dragged on that was not 100% truthful.**

To add insult to injury, with the $300 filing fee, the hundreds of hours spent to prepare his appeal, and the mandatory costs to transcribe the court-recorded tapes and produce copies of his documents, the Father paid for the right to make an Oral Argument before the Appeals Court according to Massachusetts Rule 22 of Appellate Procedure. The appeals court reference to Rule 1:28 to justify denying the Father this opportunity does not apply since **there were substantial questions of law brought by the appeal**.

Oral argument or not, the Father contends that it IS NOT POSSIBLE for an honorable court to read the Father's Brief, his Reply Brief, the "chalks" contained in the addendums to these documents, and the court-recorded transcripts, and not agree that Judge Digangi discriminated against the Father in his courtroom and precluded the Father from presenting his evidence.

The appeals court opinion references a SINGLE inadmissible exhibit, the DSS report, to claim that there was "so much negative evidence" against the Father "that could not and should not have been ignored." This statement indicates that the Appeals Court completely ignored the Father's detailed rebuttal to this evidence and the information contained on court-recorded tapes, which confirms that Judge Digangi misdirected the Father during the trial to preserve the credibility of this wildly slanderous report.

**Regarding the Court's denial of gender bias**, contrary to the conclusion reached by the three-judge panel, there was overwhelming evidence to support the Father's claim of gender bias. Judge Digangi expressed his gender-biased opinion on several occasions that fathers are lesser parents than mothers with no chance of success in his courtroom.

To prevent the appeals court from "overlooking" this bias and claiming otherwise, the Father "chalked" a number of these comments into his Reply Brief (Addendum B).

Among the numerous gender-biased comments transcribed into the Father's documents include the following:

> *Can we look at this case getting the issue of joint physical custody off the table because, quite frankly, sir, no judge is probably going to entertain that, or they'll hear your argument but I don't think you're going to get very far with it.* (Addendum B3 of Reply Brief)

If no judge is going to entertain a joint custody arrangement, **which contradicts the opinion of 85% of the citizens polled in this Commonwealth**, then equal protection does not exist for fathers in family court. It is worth noting that a custody arrangement that is supported by 17 out of every 20 people in the state, is rejected by almost every employee in the family court system.

If the previous example is not specific enough to claim gender bias, then the Father offers another Judge Digangi court-recorded moment:

> *Read anything about the psychology of children, and this is where it comes from... a young child usually at this developmental stage of its life needs to be with the nurturance of his mother, if there's going to be a schism between parents.* (February 25, 2004 Tr. pp. 22-23)

**Regarding the Court's Pro Se Argument**, the Father takes exception to the Court's unsubstantiated claim that it was the Father's decision to represent himself that interfered with his submission of evidence. Contrary to the conclusions reached by the three-judge panel, the Father contends that he was well prepared for trial and researched what he needed to do to introduce evidence.

The Father concedes that, as a pro se litigant, his arguments may not be artistically drawn, but legitimate arguments may not be dismissed based on such a reason. This is particularly true where a defendant is not represented by counsel and in view of Rule 8(f) of the rules of civil procedure, 28 U.S.C., which requires that all pleadings shall be construed as to do substantial justice.

The Father further contends that he certainly knew more about his custody case than the "experienced and learned counsel" hired by the Mother one week before the trial <u>who was hired only after the Mother ignored every court order and written request from the Father to meet to disclose evidence during the three month time period when she represented herself pro se</u>.

The bottom line is that due process did not happen because of the double standard rules that were applied in Judge Digangi's courtroom and not because the Father improperly represented himself.

While the Mother was free to introduce inadmissible secondhand testimony and exhibits that were not pre-marked prior to the trial or disclosed within the time period ordered for discovery to be complete; the Father and his one witness were not allowed to communicate comments made directly to them by the police and the Mother's brother or communicate anything that happened prior to the birth of the two year old child (a time-frame restriction placed ONLY on the Father).

The court transcripts clearly reveal that Judge Digangi denied the Father the opportunity that any hired attorney in his courtroom would have been given to present evidence.

Specifically, Judge Digangi precluded the Father from presenting every one of his 55 exhibits that he had pre-marked for the trial by forcing the Father to take the stand as his own witness without access to his notes and exhibits in violation of the Father's Constitutionally-protected right to due process. When the Father protested the court's efforts to railroad him, Judge Digangi responded:

*You're acting as your own counsel. You put yourself in this predicament.*

By manipulating court procedure, Judge Digangi limited the trial to a "he said/she said" game of hearsay so that he could believe everything alleged by the Mother and disregard everything communicated by the Father.

To rationalize his actions, Judge Digangi claimed that he was not going to allow the Father to present his evidence by reading a "prepared text." As the Father wrote in Addendum B4 of his Reply Brief, which can be verified with the court transcripts, the Father never conveyed that he intended to read a prepared text. The only "texts" that were "prepared" for the trial were the Father's opening and closing statements.

Apparently, the Appeals Court disregarded the Father's rebuttal, since it included this specific reference to "reciting a prepared speech" in the text of the court's opinion to allege that the Father's pro se efforts were incompetent.

The Father made a calculated choice to not hire a lawyer. He was not guilty of a crime and he had all of the factual evidence on his side. What he was not going to do was forfeit that advantage by handing opposing counsel the "business as usual" power to litigate the Father into bankruptcy.

Lastly, if family courts sincerely cared about the best interests of the children as they claim, then they would be interested in hearing all of the information that both parents believe is relevant.

**Regarding the DSS Report**, Judge Digangi overruled the Father's objection to this exhibit without explanation. In the court transcripts from the June 4, 2004 trial (pp.19-20), the Father's objection included the statement:

> *I object to the report because it is based entirely on hearsay and on the assessment of a woman who has never met me. This woman's investigation involved an hour of time in Ms. Moran's company and hearsay from individuals who barely know me and were handpicked by Ms. Moran for questioning.*

> *Furthermore, the DSS investigation was initiated by me. Therefore, the only relevant information from the report is that the concerns that I expressed to a Lawrence DSS worker were unfounded.*

BOTH Judge Digangi and the Appeals Court overestimated the evidential value of this second and thirdhand testimony and referenced this ONE EXHIBIT to claim that Judge Digangi's ruling was "well supported." This contradicts the information on the Massachusetts Bar Association's online site where it states:

> ***Another rule concerning the introduction of evidence prohibits the use of secondhand testimony. Under this rule, a witness cannot testify to something that he or she heard from someone else...The testimony would be inadmissible as evidence. It would be called hearsay testimony. The courts have decided that hearsay is usually not very reliable and, therefore, cannot be used as evidence in a trial.***

The Mother's attorney has argued that DSS reports are an exception to the hearsay rule. This "loophole" argument is flawed since the court's reference to this report slandered the Father, who was not the subject of the investigation.

Judge Digangi himself is quoted as saying:

> ***The purpose of the investigation by this witness was not to investigate you, sir, in any way. Bear that in mind.*** **(June 4, 2004 Tr. pp.22-23)**

Apparently, Judge Digangi and the Appeals Court did not "bear that in mind" since they both referenced this investigation in their findings.

The court-recorded statement, italicized above, was Judge Digangi's response to the Father's introduction of testimony and evidence that would have rendered the report worthless before an honorable court. Judge Digangi preserved the credibility of this slanderous report by interrupting the Father and ordering him to immediately move on.

The Father contends that Judge Digangi repeatedly interrupted and misdirected the Father during the trial to avoid hearing any testimony that would discredit the Mother and her witnesses.

**The Father was prepared to rebut the DSS report with a chalk of 25 specific lies contained in the DSS report.**

The chalk, which addressed these lies, was originally included in the Father's Reply Brief. The Father was forced to revise his Reply Brief because the appeals court would not accept several of the Father's addendum items, including his DSS-related chalk.

The court's explanation was that the Father could not reference the DSS report because it was not part of the record on appeal.

The Father questions why an exhibit that was not part of the record on appeal, precluding the Father from referencing it in his documents, could be so heavily referenced by the author of the three-judge panel in the written response to the Father's appeal.

Both Judge Digangi and the appeals court referenced three specific slanderous statements made about the Father in the DSS report. The Father did not learn of these statements until a week before the trial when he received the Mother's evidence. He was never given the opportunity to question these "witnesses" because they were not in court for the trial.

Aside from the fact that the entire DSS report is based on inadmissible secondhand testimony, the statements are wildly untrue and were denied, after the fact, by two of the three school officials credited with making them.

When the Father met with Dr. Charles P. Littlefield, the School Superintendent, and asked him how he could justify his DSS comment that the Father was "revengeful and hateful" to the Mother, since he had never met the Father prior to the day of this meeting, the Superintendent insisted that he never made such a statement and claimed that the DSS investigator only questioned him about the Mother's attendance record.

The Father has got to know the Superintendent since this meeting and does not give his denial credibility. The Father believes that the Superintendent did believe the slanderous information communicated to him by Union President Diane Dandreta and did communicate this secondhand hearsay to the DSS investigator. The Father believes that the Superintendent has since denied making these comments to avoid a lawsuit.

The Father has no doubt that Diane Dandreta lied to the DSS investigator as a friend of the Mother and did in fact slander the Father with the outrageous claim that she has seen the Father "out of control verbally at the school" and "fears him." It is for this reason that the Father has filed a character defamation lawsuit in Superior Court against this woman.

When the Father questioned Joe Harb, his department head, about how he could claim that he has seen the Father's "temper when reprimanded," since the Father has never been reprimanded by his department head in his eight years at the high school, Mr. Harb insisted that he was misquoted and that he simply conveyed to the DSS worker that he has seen the Father justifiably angry and upset in response to the Mother's chronic complaints of a hostile work environment. Mr. Harb's word IS credible and he is the only "school official" of the three individuals questioned who actually knows the Father well enough to comment.

**Ironically, the DSS findings COMPLETELY CONTRADICT the findings reached by school officials in its formal investigation into the Mother's union-initiated complaints.** The investigation, conducted by the high school principal, Arthur Nicholson, and the Father's department head, Joe Harb, concluded that the Mother's allegations that the Father was creating a hostile environment for her at their workplace were completely baseless and unfounded.

**The results of this school investigation, conducted prior to the DSS interviews, is mysteriously missing from the DSS report.**

The Mother's motive for these chronic false allegations was to manufacture phony evidence for her case. Apparently, this unethical strategy worked since the three-judge panel of the appeals court was duped to believe that there was "significant evidence" to support the lower court's findings.

**Regarding the Court's Findings of Facts,** among the lies and inaccuracies that were expressed by Judge Digangi in his Findings of Facts and referenced in the opinion from the Massachusetts Appeals Court are that "the Father believes that the child should have been put on a diet when he was an infant," that he is "unwilling to compromise," that he is "rigid," and that he has demonstrated "a lack of judgment."

Only in family court is sole custody a compromise but joint custody is not and only in family court are a father's efforts to protect his parental rights and the rights of his child to a balanced relationship with both parents considered rigid.

The Father wonders why the appeals court did not commit to this character assassination entirely and reference Judge Digangi's claim that the Father is "narcissistic" and "idealizes himself" since there would be as much truth to those descriptions as the lies that the appeals court did borrow from Judge Digangi's findings to vilify him. The Father challenges the appeals court to reference anything in documents or in the court-recorded transcripts that would support such slanderous statements about the Father.

The fact that all of the statements in Judge Digangi's Findings of Fact were addressed by the Father in his Brief (Addendum E1-E6) and in the Father's Appendix to the Brief (pp. 59-65), but still listed as facts to excuse Judge Digangi's actions and justify the Judgment from Appeals Court, proves that the Appeals Court did not read the Father's documents or simply ignored his claims and supporting evidence entirely.

To conclude, the Mother in this case perjured herself in legal documents, lied under oath, made false allegations against the Father to manufacture evidence, ignored the court order to meet with the Father to pre-mark the evidence, and did not disclose her evidence until she hired her attorney one week before the trial, months after discovery was to be complete; but it is the Father who is being ordered to pay for an attorney, who he did not hire, under a bogus charge that his appeal was frivolous.

If there was ANY truth whatsoever to the statements contained in Judge Digangi's Findings of Fact and if the Father had been given the opportunity to present his physical evidence, then the Father would not have spent the time and money to appeal his case.

If the response from the Appeals Court was not a blatant miscarriage of justice, then the Father would do what the court system is bullying him to do with merit-less extortion orders and go away.

The Father's application for further appellate review is a gamble that the unaccountable system of injustice and hypocrisy that the Father has experienced through the Appeals Court does not extend to the Supreme Judicial Court.

The bottom line is that the Father's family court case should have been resolved at the initial hearing three years ago with one question, "Do either of you intend to prove to the court that the other parent is unfit?" Since the answer to that question would have been "no" from both parents, then joint custody should have been ordered immediately.

Of course, such a simple solution is ignored in this state because it reduces the billable hours that the family courts create for lawyers and eliminates the need for a child support order, which brings federal monies into the state, gives all of the joys of a parental relationship with the children to the mother, and orders the father to finance that arrangement.

The Father requests that the Supreme Judicial Court apply strict scrutiny to examine every one of the Father's documents and supporting evidence and assess whether the Appeals Court decision to affirm the lower court's judgment, extort double attorney fees and costs from the Father, and reward the Mother for her bad faith litigation and contempt of court orders was, in any way, a just and honorable ruling.

Respectfully submitted,

Dated: October 18, 2005

_____
Kevin M. Thompson

# CHAPTER 28

## MY PUBLIC EFFORTS TO EXPOSE THE CORRUPTION

***Everything secret degenerates, even the administration of justice, nothing is safe that does not show how it can bear discussion and publicity.***
***Lord Acton***

This book is just my latest in a string of efforts to expose the corruption in the Massachusetts family court system - a corruption that, I have learned, extends well beyond the family courtroom. The fact remains that without publicity, court reform will never happen in this state because too many people are profiting off the corruption. Up to now, the racketeers in the system have successfully concealed their crimes from the general public to keep this issue dormant.

I have tried to change that. Unfortunately, my public efforts to generate the outrage needed for court reform have, for the most part, fallen on deaf ears. And what has not been ignored has instigated more crimes against me from an industry that has drawn a line in the sand with its wildly unjust rulings at my expense.

Actions speak louder than words and in my case the message is clear - you come after us and we'll come after you. I am sure that this tactic has bullied many a good father into submission, but they picked the wrong father to intimidate and oppress this time. I have certainly paid a price for standing up to be counted, but the price of indifference would be far greater... for me and for my son.

This chapter documents the efforts that have put a target on my back. Efforts that have been two-fold: to expose the actual crimes occurring in this state's family courts and to peel away the sanctimonious rhetoric that this industry of hypocrites hides behind to justify its actions and inhibit change. Among the actions that I have taken include the following:

(1) Numerous "letters to the editor" to my local newspapers.
(2) Testifying at the statehouse on the bills filed that support shared parenting.
(3) Testifying at a public forum held to review the current Massachusetts child support guidelines.
(4) Speaking at a city council meeting and a public meeting held with Congressman Marty Meehan.
(5) Working with the Lawrence Eagle Tribune to produce an investigative story on the family court system.

(6) Several emails to every state legislator in Massachusetts to "educate" them about what is actually going on in this state's family courts.

I contend that it was these efforts that are most responsible for the unconscionable response that I have endured at every level of the Massachusetts court system.

I did not naively believe that I was preaching to the choir when I wrote to every legislator at the statehouse. I was very aware that my emails were going out to those who could affect change and to those who have been paid off by this billion-dollar industry to make sure that change in this state's family courts never happens.

I put together a group list so that every email went out to all 40 state senators and all 160 state representatives. What was frustrating was the apathetic response that I received to my emails. I can count on two hands the number of responses I received and on one finger the number of legislators who showed the courtesy to respond to my emails on a regular basis. That was Senate Minority Leader Brian Lees. I also received a handful of rude responses demanding that I not email them.

Make no mistake about it. The courts know EXACTLY who I am. The legislators who oppose me have certainly kept the judges who have come after me well informed. I threaten their golden goose and jeopardize the livelihood of the many individuals in this state who profit off the illegal treatment of fathers in family court.

This chapter details some of those efforts. On the pages that follow I have cut and pasted some of my efforts that were expressed in the form of letters, emails, and speeches.

**LETTERS TO THE EDITOR:**

# Legislators won't address family court reform

**To the editor:**

Family court reform will never happen in this state as long as we have a legislative branch of government controlled by lawyers. Every year, bills are sponsored that address the injustices in our family court system and every year, these bills die in the Joint Committee on the Judiciary. The convenience of this committee is that lobbyists, hired to protect the financial interests of lawyers and other family law-related agencies and businesses, only have to pay off a small number of legislators to prevent court reform from happening.

Each bill has to make it out of its assigned committee before it can be brought before the full House and Senate for a vote. Last year, four bills that specifically addressed shared parenting were sponsored (Senate Bills 940 and 1075 and House Bills 2464 and 3191) and not one of them made it out of this lawyer-dominated committee.

What is most noteworthy about the current 17-member Judiciary Committee is that four of the six state senators and nine of the 11 state representatives on this committee list their profession as attorney or have a degree in law. If this is not a conflict of interest, then I do not know what is since these lawmakers have the power to affect their own business opportunities. How many lawyers do you really think are going to support any kind of legislation that would reduce litigation?

With the power that the legislative branch has to legislate business for the legal system, it is of no surprise that lawyers are historically the top contributing industry to state party committees. According to 2002 statistics, lawyers were also the top contributors to judicial campaigns, giving 36 percent of the money. A distant second on the list was real estate at just 11 percent. This data would indicate that lawyer or not, every legislator is exposed to the temptations of selling their vote or position to the highest bidder.

Based on the information and implications that I have expressed so far, I need to make it clear that I do not believe that working as a lawyer automatically identifies that legislator as corrupt. In fact, I would like to believe that there are honorable attorneys on the Judiciary Committee right now who are committed to doing the right thing.

Unfortunately, most legislators are oblivious to the shocking truth of what actually goes on in these kangaroo courts to realize that reform is long overdue. Consequently, a small group of hypocrites with a self-serving agenda, armed with rhetoric and propaganda, will likely continue to overwhelm the efforts of those legislators on the Judiciary Committee with a less vested interest and a less passionate resolve to take on these "louder voices" and demand that family court reform happen, and happen now.

**KEVIN THOMPSON**
**Methuen**

## Fathers get poor treatment in family court

**To the editor:**

A number of readers referred to the corruption in the family court system when responding to last week's Hot Topic question. I would like to expand on that claim with some concrete examples that I have experienced as a father in Lawrence's family court.

In my first hearing before the court, the state-mandated child support guidelines were ignored, my request to present evidence was denied, and I was labeled by the court as rigid and demanding for refusing to voluntarily give up my right to parent and my son's right to a balanced relationship with both of his parents.

After several attempts to correct the child support order were denied, I eventually got this motion heard before a different judge. He knew nothing about my case, but told me I was wasting my time because there was no way that the court would give custody of such a young child — even joint physical custody — to the father.

This same judge presided over my trial and would not allow me to present any of my exhibits. The only option that I was given was to take the stand as my own witness without access to my notes and exhibits. When I pleaded with the court that my son's future was too important to wing it and that the mother's attorney was not required to take the stand, this judge responded, "You're acting as your own counsel. You put yourself in this predicament."

I contend that the judge's agenda required that he prevent me from communicating evidence that would discredit the mother. If my conclusive evidence had been admitted, this judge would have had no ammunition to portray me as a villain to justify his predetermined ruling.

The courts send the message to fathers very early in the process that they intend to be selectively ignorant when it comes to understanding their case. When fathers lose arguments like child support calculations that they cannot possibly lose based on the objective evidence, how can they hope for justice when most of the decisions in the courtroom ignore the law and are based on the judge's biased, subjective opinion?

If the courts were truly concerned with the best interests of the children as they claim, then they would not run family court cases using criminal court procedure to censor out information that they do not want to hear. A court that is sincere in its desire to protect children would be interested in hearing all of the information that both parents believe is relevant so that it can make an informed ruling that uniquely benefits that particular child.

Of course, running the courts honorably would not be in the best interests of this billion-dollar family court industry which is currently profiting off the degradation, humiliation and extortion of fathers.

**KEVIN THOMPSON**
**Methuen**

## Voters know divorce law needs reform

**To the editor:**

As a father who has been victimized by the organized crime occurring in this state's family courts, I want to thank the voters of the commonwealth for having the intelligence to not be swayed by the propaganda spewed by legislators and special interest groups who organized a last-minute letter writing campaign to persuade the public to vote against the ballot initiative question for a joint custody presumption in Massachusetts family court cases.

The Eagle-Tribune published a "Letter to the Editor" before the election urging the public to vote down this ballot initiative question. The letter was written by Nancy Scannell and Mary O'Brien of Jane Doe, Inc. In their letter, they claimed that the ballot question "oversimplifies" custody and that "shared parenting initiatives only serve to deter elected officials from the thoughtful deliberation that policies affecting our children require."

What "oversimplifies" custody is the "one size fits all" court solution to family breakups where loving fathers are removed from the lives of their children and replaced with visitation hours and cash payments. If family court judges actually examined cases with thoughtful deliberation, then there would be no need for a ballot initiative.

Now that 85 percent of the citizens polled in the commonwealth have voted in favor of the presumption for joint physical custody, the spin control has begun. Legislators who oppose father's rights, like state Rep. David Torrisi of North Andover, have already come out publicly to belittle the landslide results from this ballot initiative question. According to Torrisi, the public did not understand the question and are not informed enough for their opinion to matter.

Torrisi condescendingly implied that voters did not put any thought into their response to this question until they entered the voter's booth. He was quoted in this paper as saying, "you're asking people in the course of 30 seconds to decide on an issue as complicated and important as divorce law." He also added that he does not believe that ballot questions are an effective way to legislate.

It is this kind of ignorance and twisted logic from legislators with their own agenda, who refuse to listen to their constituents that has obstructed court reform and allowed the degradation and extortion of fathers to continue to this day in Massachusetts family courts.

**KEVIN THOMPSON**
**Methuen**

## Child support laws treat fathers unfairly

**To the editor:**

The Massachusetts Child Support Guidelines are currently under review for revision. Public forums have been held recently across the state.

Make no mistake about it. The current child support orders have nothing to do with the best interests of the children and everything to do with enticing mothers into this billion-dollar industry. I say mothers, not custodial parents, because the only individuals who pretend that the family courts in Massachusetts are not biased against fathers are the hypocrites who profit in these kangaroo courts.

Those of us who have witnessed this system of organized crime firsthand know that mothers have the absolute power to guarantee a sole-custody arrangement if they simply claim that they cannot "get along" with their children's father.

Mothers reveal that they are very aware of the outrageous deal that they get with sole custody every time they express the insulting comment in court that fathers only want joint custody to get out of paying child support.

If joint custody saves fathers money, then the child support orders are apparently larger than the actual costs to raise a child because in a 50-50 joint physical custody arrangement, the father would be providing for his children directly for the equally balanced time that he has with them.

There are several factors that make the Massachusetts Child Support Guidelines the very worst in the nation. The father's time with his children and the child-related expenses that come with that time are ignored, the mother is allowed to deduct her first $20,000 of income in the support formula, and thanks to the Internal Revenue Service, the mother receives tax breaks that are unthinkable.

Although the father is the only parent who pays the taxes on the money that is paid in child support, it is the mother who mysteriously is allowed to claim the dependent child deduction, the child tax credit, the earned income credit, deductions for school tuition and fees, the child care credit, and a lower tax rate for filing as a "head of household."

All of these tax breaks are gift-wrapped to the mother despite the fact that she often contributes nothing financially to her children's support.

On the other hand, the federal tax code treats divorced and unwed fathers paying up to 50 percent of their income in child support as if they are childless bachelors. A recent study conducted by divorce researchers Sanford Braver and David Stockburger concluded that in Massachusetts, a mother only needs to earn 40 percent of what the father of her children earns in order to enjoy a similar standard of living.

Fortunately, most mothers realize that children need both parents significantly involved in their lives and possess the integrity to not be tempted by any amount of money. For the rest of us, family court reform, including reform of the Child Support Guidelines, needs to happen.

**KEVIN THOMPSON**
**Methuen**

## Legal advice should include telling the truth

**To the editor:**

"On the Inside" section of The Eagle-Tribune Jan. 16 illustrates what is wrong with this state's court system. Under the heading, "Never say that," which was followed by the comment, "he must not be pre-law," it was reported that a Merrimack College student, who was facing charges of having an open alcohol container, looked the judge in the eye and said, "I'm guilty." This got the attention of defense lawyer Robert C. LeBlanc, who later gave the student some free legal advice: "You never say that."

Am I the only one who finds this "legal advice" disturbing? Why are litigants required to raise their right hand and swear to tell the truth, the whole truth, and nothing but the truth if lawyers who work in the legal system are going to disrespect this oath and advise their clients to be dishonest?

I was raised in a home where it was ingrained in me that there is nothing more valuable than your word. I went to a college where the most revered code among my classmates was that a midshipman does not lie, cheat or steal or tolerate this kind of behavior in others. What I have discovered is that lawyers have their own code. Integrity is perceived as a weakness to exploit. Anything goes if it brings about the desired outcome. The pains and penalties of perjury are not a deterrent because there are no pains or penalties. Consequently, lawyers are free to lie and advise their clients to lie because judges allow it to happen.

I have had two recent opportunities to witness this "tolerance" firsthand. In the first incident, the judge allowed a lawyer to falsely date a certificate of service to get out of a default judgment. In the second incident, the judge refused to hear evidence that would have confirmed perjury on legal documents and lies under oath. There is no excuse for such incompetence. A judge who trivializes perjury and knowingly allows a lawyer or litigant to lie in the courtroom is not worthy of respect. Unfortunately, these judges will remain on the bench because we have an arrogant system that is policing itself. Until that flaw is corrected and an independent agency is given the power to hold judges and lawyers accountable, then the courts in this state will remain a disgrace and deceit will continue to triumph over honesty.

**KEVIN THOMPSON**
**Methuen**

## Fathers have few rights in family court

**To the editor:**

I have been reading The Eagle-Tribune investigative story on the "open secret" of insurance fraud and I was wondering where the sympathy is for the poor personal injury lawyer who has to pay for commercial spots on TV/radio and hire ambulance-chasing "runners" in order to recruit new clients.

We need to understand that personal injury lawyers do not have allies in the legal system drumming up business for them, as judges do for lawyers in this state's family courts. Mothers are enticed into the courts by wildly biased rulings that promise them victory without compromise. Success is guaranteed because family court judges hold the absolute power required to assure victory. This absolute power comes from the fact that fathers are the only litigants in the Massachusetts court system who are mysteriously denied their constitutional right to a jury of their peers.

The practice of vilifying and degrading loving, responsible fathers to justify its rulings is the real "open secret" in this state's court system. Judges run family courts as criminal cases where fathers are branded the criminals from the moment they walk into court. Their crime is that they have the audacity to believe that they should have a balanced relationship in their children's lives. The one significant difference between the treatment of fathers and criminals in court is that even criminals are not denied their right to a jury trial.

Judges limit the trial to a "he said/she said" game of hearsay so that they can believe anything said by the mother as fact and ignore anything communicated by the father. If the judge allowed the father to present his evidence, it might discredit the mother as a witness and cause her fitness as a parent to be questioned, consequently jeopardizing the court's predetermined ruling in her favor.

Ironically, the more unethical, unfit and vindictive the mother, the more likely she will succeed at stealing away the father's rights to parent his children and support his children directly because judges will interpret any attempt by the father to communicate the reality of the situation to the court as a malicious attack against the mother and proof that the father is hostile toward her.

I guess if the media, legislators and people of this commonwealth can ignore the corruption and injustices that occur against fathers every day in this state's family courts, it is asking a lot to show sympathy for the poor personal injury lawyer.

**KEVIN THOMPSON**
**Methuen**

# Fathers get short shrift in New Hampshire 'compromise'

**To the editor:**

The New Hampshire article titled, "Compromise reached on child custody bill" in the Nov. 20 Sunday Tribune contained several disturbing items. First of all, the headline is misleading because there was no compromise reached. If a compromise had been reached, then the original bill would have passed and each parent, from now forward in New Hampshire, would receive equal custody of the children unless there was "clear and convincing evidence" that such an arrangement was not in the best interests of the children.

Opponents of the bill claimed that this wording would give abusive fathers equal access to their children. I write abusive fathers, not abusive parents, because it is clearly implied that the victim agencies that oppose this bill believe that they are protecting women and children from men.

Grace Mattern, executive director of the New Hampshire Coalition against Domestic Violence, is quoted as saying, "our position all along was the legislation has to be written to provide the best protection in the very small number of cases where there is abuse."

I agree with this woman's concern as do the individuals who sponsored the bill, which is the reason why the bill includes the clause that such a presumption of shared custody should be discarded in the "very small number of cases" where "the clear and convincing evidence" indicates otherwise (ie. one of the parents is an abuser).

Absent such evidence, citizens in this country are supposed to be innocent until proven guilty, which is a due process right that opponents of the bill would like to continue to deny to fathers.

What was refreshing in the report was Ms. Mattern's concession that abuse is the exception and not the rule. In Massachusetts, such a concession would never be uttered by the tax-funded victim advocacy agencies in this state. It is best for business that they continue to spew the phony propaganda that men are solely responsible for relationship breakups and that women who leave relationships are leaving, in most cases, to escape abuse.

Lastly, I would like to comment on the claim that this custody issue is a father versus women and children debate as was implied in the article. Let's make one thing clear. It is NOT fathers versus women and children. It is fathers, children, and the majority of women in this state who realize that a child needs both parents in his life versus a vocal minority of radical feminists with a man-hating agenda; bitter, unstable women with an agenda to punish the father of their children and profit off the breakup; and the racketeers in the system who make their living off the crimes committed against fathers in and outside of family court.

**KEVIN THOMPSON**
**Methuen**

# Lawyers make it easy to blame someone else

**To the editor:**

John Muller hit the nail on the head with his letter to the editor titled "Lawyers are twisting our society." The problem is that there are too many lawyers out there and not enough legitimate work to go around. Consequently, lawyers generate business by taking individual responsibility out of the hands of their clients and transferring the blame to someone else who they can hold accountable financially.

"Have you been injured in an accident? Call Shady Opportunist. He will get you the money you deserve." These shameless plugs can be seen every afternoon on TV encouraging people to take their chances at the "frivolous lawsuit" lottery.

The thinking is that if you take enough cracks at the court system, you just might be the next lucky winner of a multimillion-dollar settlement because your client's coffee was too hot or the fast food restaurant your client frequents contributed to his obesity. Or better yet, the target of the lawsuit or his insurance company might decide that it would be less costly to roll over and settle the suit outside of a courtroom. Even if the lawyer loses the case, he generates business for his colleagues who must be hired to defend against these frivolous claims.

The infestation of lawyers in society provides individuals with tempting opportunities. Slip on someone else's property? Sue the owner. A relative dies on the operating table? Turn to a lawyer who will find you an alleged "expert" under some rock who will testify that it was the doctor's fault. Develop lung cancer or emphysema after smoking three packs of cigarettes a day for 20 years? Go after the tobacco companies. Crash your car while intoxicated? Sue the bar owner or the liquor store that sold you the alcohol.

Marriage in a rut, ladies? Would you rather not work on the relationship? No problem. Take the children and run. In the warped little world of family court, a lawyer will advise you that the truth is whatever cannot be proven otherwise. In these "mother-friendly" kangaroo courts, a false accusation or two will suffice to secure you a large portion of your ex's future income as a parting gift.

These are obviously not victimless crimes. Aside from the emotional injury that is always inflicted by these cases, there are far-reaching financial consequences as well. The overhead costs that come with the threat of lawsuits are passed on to the consumer. Medical malpractice insurance directly impacts our health insurance costs. State agencies that are financed by our tax dollars, like the child support services department, could be significantly downsized if the courts put an end to their "winner takes all" rulings.

Why are lawyers not held accountable for bringing these time-consuming, costly lawsuits before the courts? Because you have a "lawyer-dominated" legislative branch of government making the rules and a "lawyer-exclusive" judicial branch interpreting those rules. But that is the subject for a future letter to the editor.

**KEVIN THOMPSON**
**Methuen**

## MY PITCH TO THE MEDIA ON SUGGESTED TOPICS FOR A FAMILY COURT INVESTIGATIVE STORY

(1) What the Family Courts do to Fathers is Illegal.

*The "business as usual" family court process denies fathers their inalienable right to parent and support their children directly and their Constitutionally-guaranteed rights to due process, equal protection, a speedy trial, and a jury of their peers. Without just cause or strict scrutiny, fathers are systematically removed from the lives of their children and replaced with visitation hours and extortion orders. Mothers are guaranteed sole custody in family court if they simply allege that they cannot get along with the father of their children.*

(2) The Financial Motive Behind the Corruption in Family Court.

*The family court system is so riddled with conflicts of interest that it is little less than a system of organized crime. "Winner takes all" rulings are motivated by the money to be made by complicating cases that could be resolved instantly with joint physical custody. The bottom line is that if joint physical custody was the rule rather than the exception, then job opportunities for family court attorneys would be significantly reduced, agencies like the child support services department would lose customers and would need to be downsized, and the state would lose federal dollars that it currently receives with every child support order. It is also worth noting that Massachusetts gets its 5.3% "cut" of every dollar made by the thousands of racketeers in this state who call themselves family court attorneys.*

(3) Lawyers and their Self-Serving Agenda Control Two-Thirds of this State's Government

*The family court system has its strongest allies in the "lawyer-dominated" legislative branch of this state's government. The legislative branch enacts laws to make business for itself and obstructs court reform so that lawyers can continue to profit off the injustice against fathers in family court. Legislators have recently come out publicly to protect these kangaroo courts by belittling the landslide results to the November ballot initiative question where better than 4 out of every 5 citizens polled in the Commonwealth voted in favor of a presumption for joint physical custody.*

(4) Why Fathers?

*Fathers are the targets in family court because they are considered politically harmless. If the courts tried to pull the same sort of discrimination on women or a minority group, then a political powerhouse like NOW or the NAACP would be all over them, creating the publicity that is the only thing these family court judges fear.*

*The propaganda spewed by radical feminists and other man-hating organizations with an agenda to vilify fathers has also contributed to the perception that any public support of these "second-class citizens" is politically incorrect. The propaganda is working since the same equal protection clause of the state and federal Constitution that convinced the Supreme Judicial Court to support the rights of gays to marry in this state apparently does not apply to fathers in family court.*

(5) Absolute Power Corrupts Absolutely

*There is no accountability in family court because you have a system policing itself. The "lawyer-run" Commission on Judicial Conduct, which officially exists to hold judges accountable, exists in practice to conceal judicial misconduct so that complaints against judges do not become public. Move on to the Appeals Court and you get a "see no evil, hear no evil" response from judges unwilling to step on the toes of their colleagues.*

*They get away with this negligence and indifference to judicial crimes because family courts operate under a cloak of secrecy. Public employee records and police arrests records are available for all to see, but the public is denied access to family court cases. Why? Because it is the lawyers who make the rules in this state and too many people are profiting off the corruption.*

(6) Corrupt Tactics Used by the Courts to Deny Fathers Their Parental Rights.

*Judges run family court cases as criminal cases that require a criminal and a crime. Fathers are branded the criminals from the moment they set foot in court. Their crime is that they have the audacity to believe that they should have the same parental influence as mothers in their children's lives. The difference between a father and a criminal is that criminals have a right to a jury of their peers, criminals are innocent until proven guilty, and the prosecutor in a criminal case has a burden of proof to overcome. Mothers are the innocent victims who are all just trying to escape abusive relationships. These roles are reinforced by running the case as a "he said/she said" game of hearsay so that the judge can believe anything said by the mother as fact and ignore everything said by the father.*

*Divorce lawyer advise mothers to make up allegations of abuse and demand sole custody because the court will believe whatever she alleges. If the father contests this legal strategy, the mother makes up more accusations. The court then labels it a high conflict divorce and hands custody to the mother, declaring that shared parenting will not work.*

(7) Statistical Breakdown of Family Court Decisions. Who Gets Custody in Contested Cases?

*If custody statistics were accessible to the public, then it would be obvious that the courts blatantly discriminate against fathers. The courts respond to this criticism by claiming that not every mother is walking out of family court with custody of their children, which is technically true. There are rare cases when the mother is too unfit to give her custody and fathers do get custody when the mother voluntarily gives it up or voluntarily agrees to joint custody. Of course, if the mother agrees to a compromise of joint physical custody, then the case is not contested.*

*When forced to support their claim of impartiality, family courts spin the data by limiting the statistics to cases that make it to trial. This skews the results because most fathers are forced to give up long before their case makes it to trial. The only fathers who make it to trial are those who know that the mother is so overwhelmingly "less fit" that the court will have no other choice but to grant custody, or at least 50/50 joint custody, to them.*

Other Topics:

(8) What other states say about joint custody

(9) "Horror stories" contributed by fathers who have been victimized by the family courts

(10) Actual court-recorded comments made by judges to illustrate the arrogance, ignorance, and incompetence that fathers endure every day in family court.

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## "QUESTIONS OF THE DAY" EMAILED TO EVERY STATE LEGISLATOR

*(#1) Why is it that fathers in family court are the only individuals in the Massachusetts court system who are denied their right to a jury of their peers?*

By denying fathers their right to a jury of their peers, it gives family court judges the absolute power to decide these cases. This entices mothers into the system where victory is guaranteed before these wildly biased, out of touch judges. A system that overwhelmingly favors one group over another sabotages the possibility of a compromise and assures hours and hours of billable litigation when fathers refuse to voluntarily roll over.

The last thing the courts want is for child custody cases to be decided by a jury of the litigants' peers, particularly in a state where 85% of those "peers" recently expressed their support for shared parenting in custody cases. So by statute, the powers that be in Massachusetts created an exception to this rule to override the

7th Amendment to the U.S. Constitution and Article XV of the Massachusetts State Constitution where it states that in all suits between two or more persons, the right to a jury trial shall be held sacred.

*(#2) How do mothers guarantee a sole custody ruling in family court?*

The Golden Rule for mother in family court is "if the facts of the case cannot justify your sole custody demands, a false accusation or two will suffice." The mother simply alleges that she cannot communicate or cooperate with the father. The court then labels it a high conflict divorce and concludes that joint physical custody is not possible because the parents cannot get along. By default, sole custody is handed to the mother as a reward for her dishonesty and her strategic choice to be hostile and uncooperative with her children's father. Ironically, the more unethical the mother, the more likely she leaves the court with sole custody because the court will interpret any attempt by the father to communicate such an ugly reality to the court as a hostile act against the mother.

*(#3) How do the courts get away with denying fathers their inalienable right to parent?*

There is no accountability in family court because you have a system policing itself. The "lawyer/judge-run" Commission on Judicial Conduct is a travesty of justice, which exists in practice to conceal judicial misconduct so that complaints against judges do not become public. The complainant is kept completely in the dark about the investigation (if one actually occurs), and is not given an opportunity to rebut responses to his complaint. This cloak of secrecy allows corrupt judges to defy the Constitution and commit crimes against fathers every day in family court without the threat of impeachment, jail time, or lawsuits.

Public employee records and police arrests records are available for all to see, but the public is denied access to family court cases and judicial conduct investigations. Why? Because it is the lawyers who make the rules in this state and too many people are profiting off the corruption.

*(#4) How do family courts "railroad" fathers out of the lives of their children?*

Judges run family court cases as criminal cases that require a criminal and a crime. Fathers are branded the criminals from the moment they set foot in court. Their crime is that they have the audacity to believe that they should have the same parental influence as mothers in their children's lives. The difference between a father and a criminal is that criminals have a right to a jury of their peers, criminals are innocent until proven guilty, and the prosecutor in a criminal case has a burden of proof to overcome. Mothers are the innocent victims who are all just trying to escape abusive relationships. These roles are reinforced by ignoring the evidence and running the case as a "he said/she said" game of

hearsay so that the judge can believe anything said by the mother as fact and ignore everything said by the father.

*(#5)* *If all the statistics and research confirm that there is not a more powerful predictor of future well being than the significant involvement of both parents in a child's life, then how do the family courts get away with systematically removing fathers from the lives of their children and replacing them with cash payments and visitation hours?*

Because no one in the media or the legislative branch seems to care about the corruption, degradation, and humiliation that fathers experience every day in these kangaroo courts. The family court industry with the help from radical feminist groups have successfully brainwashed society to be unsympathetic and to believe that fathers are less important than mothers in their children's lives. Fathers in family court are all abusive monsters while mothers in the system are all helpless, innocent victims. In society's eyes, when a man does not want to marry his child's mother, he must be a cad; when a woman does not want to marry the father, he must be a creep.

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**FOLLOW-UP EMAIL TO MY "QUESTIONS OF THE DAY"**

Dear Legislators,

I would like to respond to the feedback that I have received over the last few weeks from those state senators and representatives who have expressed mixed reactions to my email efforts to expose the corruption in our family courts.

I do not want to be an annoyance, but I also do not want business as usual to continue, where bills related to protecting the parental and Constitutional rights of fathers and the rights of children to a balanced relationship with both parents are docketed each year only to die in the Joint Committee on the Judiciary.

Those who do not want to see court reform happen, because it would reduce litigation and business opportunities for the special interest groups who have financed their campaign, would prefer to belittle my "truths" and dismiss me as a crackpot. These are the same politicians who belittled the landslide results to the ballot initiative question regarding shared parenting.

I apologize to those who find my emails an annoyance or an inconvenience, but I am not going to have my three-year old son learn that the way to go through life is to lie, cheat, and play the system and to hate himself for being born male. I am communicating what actually occurs in the family courts of this state because I can guarantee that most of you have no idea what actually goes on in these kangaroo courts unless you have witnessed this system of organized crime first hand. If you did no what goes on, then you would be as outraged as I am.

Before I experienced the family court system myself, I was oblivious to the corruption. I just assumed that judges would have to be honorable and just to reach such a place in their profession. I was aware that their was a bias against fathers, but I also knew that I was a fitter parent than my son's mother by every objective measure imaginable and that I could easily overcome such a bias before a competent court that would simply listen to my testimony and examine my conclusive evidence. This did not happen.

The judge in my case (Judge Peter C. Digangi) manufactured evidence to slander me, made numerous findings of fact that are completely unsupported by the evidence, precluded me from presenting every one of my exhibits, overestimated the evidential value of alleged expert testimony, had a blatant double standard regarding court procedure, entered orders on issues outside his jurisdiction that were not even brought up during the trial, claimed that my request for 50/50 joint physical custody was selfish, and expressed his gender-biased opinion on several occasions that fathers are lesser parents than mothers and have no chance of success in his courtroom.

The bottom line is that the decisions in family court have NOTHING to do with the best interests of the children, as the family courts hypocritically claim. Rulings and court procedure are all about prolonging litigation and job opportunities for family court attorneys, support personnel, and peripheral agencies that are profiting off the degradation and extortion of fathers. Because this is what is happening throughout the state, I will continue to expose the injustice to those who can affect change.

If you do not want to receive future emails, then please respond to this email and I will remove you from my group list. For those legislators who are interested in hearing what I have to communicate, I thank you for your support.

Kevin Thompson

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**MY TESTIMONY AT THE STATEHOUSE ON THE BILLS FOR SHARED PARENTING**

STATEMENT IN SUPPORT OF BILL FOR SHARED PARENTING

If family court judges were doing their job honorably, competently, and impartially; then there would be no need for a shared parenting bill. A shared parenting bill is needed because judges have proven time and time again that they will discriminate and abuse their discretion when given the opportunity.

Justice in family court is so rare that when it does occur it is worth noting. The only time that I *ever* witnessed

competence and professionalism in family court was when I went before the Honorable Judge Mary Anne Sahagian. I mention her by name because she is the rare exception to the rule. Her patience, fairness, and willingness to listen stand out like a sore thumb in a kangaroo court system of arrogant, attention-deficit judges.

Apparently, Judge Sahagian did not get the memo that fathers in family court are to be humiliated, bullied, denied their right to due process, and reprimanded for refusing to voluntarily assume the role of second-class citizens in their children's lives.

In family court, logic is left at the door. While a mother's demand for sole custody is not questioned, the father is criticized for suggesting the compromise of 50/50 joint physical custody.

Among the insults that were thrown at me for pursuing joint custody was that I am selfish, rigid, and demanding with an "all or nothing" approach to custody.

The only "all or nothing" approach to custody is one that gives the mother all of the joys of a parental relationship with the child, but orders the father to finance that arrangement.

Judges run family court cases as criminal cases that require a criminal and a crime. Fathers are branded the criminals from the moment they set foot in court. Their crime is that they have the audacity to believe that they should have the same parental influence as mothers in their children's lives.

*The difference* between a father and a criminal is that criminals are innocent until proven guilty and the prosecutor in a criminal case has a burden of proof to overcome.

Fathers are *also* the only individuals in the Massachusetts court system that are denied their right to a jury of their peers. Why? Because it entices mothers into this billion dollar industry where victory is guaranteed before these wildly biased judges who have the absolute power to decide the case.

While fathers are the criminals, mothers are the innocent victims in family court who are all just trying to escape abusive relationships. These roles are reinforced by ignoring evidence and running the case as a "he said/she said" game of hearsay so that the judge can believe anything said by the mother as fact and ignore everything said by the father.

My *guess* is that people outside of the family court system cannot possibly believe that the courts are as corrupt as they actually are and, therefore, assume that the allegations that are made by fathers are exaggerated. I would probably be skeptical myself if I had not experienced the shocking truth first hand.

My accusations are NOT rhetoric and they are not the emotional ramblings of an angry father. The system is corrupt to the core, from the incompetent mediators to the unprofessional, biased judges; who stereotype fathers, write law from the bench, and ignore any evidence that might threaten its agenda to give mommy everything at the father's expense.

Believing that a child is better off with the mother, for whatever subjective reason, is not a criminal act. Certainly, everyone has a right to his or her opinion.

What is criminal is a judge, who has a professional duty to be impartial, obstructing justice and manipulating the court proceedings in order to guarantee that outcome.

If the situation was reversed and I had the sexism of the family court system in my corner, then my case would have never made it to trial because I would have offered my son's mother joint custody.

Not because it would be in *my* best interests, but because it would be in the best interests of our son who has a right to a balanced relationship with both of his parents regardless of what I might think about his mother.

I just need to have a relationship with my son that removes his mother from my life as much as is possible for two people who must share the responsibilities of raising a child.

That is why I support a presumption of joint physical custody. Joint physical custody defines the parents as *equal* with a custody schedule that does not give either parent, *or the state*, the power to intrude in the other parent's life, emotionally or financially.

Neither parent is humiliated, devalued, stripped of his dignity, or financially ruined.

And joint physical custody, unlike sole custody, does not defy the Constitution by denying a fit, loving father his inalienable right to parent and support his children directly.

I did not give up my rights to parent. Therefore, the government does not have the legal authority to take my child from me without just cause. The courts are obligated to protect rights, not to grant them or take them away.

I am clearly the fitter parent in my case by every objective measure imaginable, but that fact should be irrelevant since my son has two parents who should both be significantly involved in his life regardless of who is "better" than the other.

If the courts feel a need to intrude into the lives of private citizens to generate profit for lawyers and state agencies, then limit the intrusion to unfit parents and parents who *voluntarily* choose to give up their parental rights.

Stealing the fundamental right to parent from loving fathers against their will and then ordering them to pay more than what it costs to support the same children who have been taken from them, with no accountability as to how the money is spent by the mother, is extortion, plain and simple.

Since most legislators are oblivious to the shocking truth of what actually goes on in these kangaroo courts, a small group of hypocrites with a self-serving agenda, armed with rhetoric and propaganda, will likely continue to overwhelm the efforts of those legislators on the Judiciary Committee with a less vested interest and a less passionate resolve to take on these "louder voices" and demand that family court reform happen, and happen now.

I just hope that, for the sake of thousands of fathers and children in this state, you prove me wrong and put an end to this system of organized crime.

Lastly, I ask the members of this committee to look at the fathers in your own lives and ask yourselves whether they would warrant the insulting treatment that the fathers here today have endured in family court.

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# CHAPTER 29

## MY EFFORTS TO HOLD THE CRIMINALS IN MY CASE ACCOUNTABLE

***The world is a dangerous place to live; not because of the people who are evil, but because of the people who don't do anything about it.***

***Albert Einstein***

There have been several individuals who are guilty of crimes related to my case. I chose to hold "most" of them accountable. Some of these efforts have already been discussed. Complaints to the Commission on Judicial Conduct were filed against Judge Mary McCauley Manzi and Judge Peter C. Digangi. A complaint to the Board of Bar Overseers was filed against Attorney Demetra Pontisakos. And the tax fraud crimes committed by the Mother, which compromised my truthful and accurately completed tax returns, were reported to the Criminal Investigation Unit of the Internal Revenue Service.

Since judges are immune from private lawsuits in federal court and since the Commission on Judicial Conduct has proven itself to be useless, my only recourse against the three-judge panel of the Massachusetts Appeals Court who decided my appeal (Judges Gelinas, Cypher, and Trainor) is to expose them for who they are in this book.

These three judges AND the seven justices of the Massachusetts Supreme Judicial Court, who affirmed the appeals court decision, should be brought before an Ethics Commission to explain how they could not only ignore Judge Peter C. Digangi's blatant judicial misconduct, but come after *me* (with an extortion order) for reporting it (?!).

I would also like to ask Supreme Judicial Court Chief Justice Margaret H. Marshall herself why the argument that she used to justify the rights of gays to marry in Massachusetts does not apply to fathers in family court. In Goodridge v. Department of Public Health, it was Chief Justice Marshall who wrote:

> *The Massachusetts Constitution affirms the dignity and equality of all individuals. It forbids the creation of second-class citizens. The Massachusetts Constitution is, if anything, more protective of individual liberty and equality than the Federal Constitution; it may demand broader protection for fundamental rights; and it is less tolerant of government intrusion into the protected spheres of private life.*

Apparently, the equal protection clause of the State and U.S. Constitution only applies in Massachusetts if it supports the agenda of the radical feminist, gay, and bleeding heart advocates in this state. Chief Justice Marshall's comment above is a pure contradiction because, as fathers in family court are keenly aware, Massachusetts is anything but "less tolerant of government intrusion into the protected spheres of private life".

I am aware of this quote because it was one of several legal cases that I cited to support a father's rights to due process, equal protection, and his inalienable right to parent and support his children directly. In addition to case law, I also referenced Article I of the Massachusetts Declaration of Rights (as amended by Article CVI of the Amendments), Articles XV and XXIX of the Massachusetts State Constitution, the Due Process and Equal Protection Clauses of the 14th Amendment to the U.S. Constitution, and Supreme Judicial Court Rule 3:09 (Code of Judicial Conduct).

Still, the three-judge panel of the Massachusetts Appeals Court labeled my appeal "overall frivolous with no basis in law or fact" to justify their insane ruling.

# CHAPTER 30

## DIANE DANDRETA - THE MOTHER'S ACCOMPLICE

***He who does not punish evil, commands it to be done.***
***Leonardo Da Vinci***

In my opinion, the most despicable crime against me was committed by my own teachers' union president, Diane Dandreta, who lied about me to our School Superintendent and to a DSS worker who was investigating the Mother.

Dandreta is a woman who barely knows me, but who slandered me as a friend of the Mother and as an opportunity to come after me who she perceives as her enemy because I have been critical of her union leadership. I responded to her malicious actions by filing a lawsuit against her in Superior Court. I also exposed other crimes that she has committed as our union president in two letters sent to every member of our local union in Methuen.

I could be a victim and allow her to get away with her crimes and have people at our workplace continue to believe that this evil woman is a saint or I could be proactive and go after her. Although I knew that I would have to endure the wrath from her supporters, the choice was easy. To defame my character and harass me in the workplace in a way that affects me professionally is one thing. To spread lies about me in order to sabotage my court case and, in effect, damage my relationship with my son is a whole other animal.

Since teachers who are not on Dandreta's "hitlist" are unaware that she is a conniving backstabber, I felt it necessary to expose the truth and put an end to the backroom deals and power that this hypocrite currently has to ruin lives. Was I being vindictive? You're damn right I was! She was going to rue the day that she played with my life and damaged my relationship with my son. If she was going to claim that she "fears me", as she expressed to the Department of Social Services, then I was going to give her an actual reason to fear me.

Below summarizes some of the issues that I have with Diane Dandreta, with her "blind followers", and with the Massachusetts Teachers' Association (MTA), which took her side. This is a union that I have paid approximately $600 per year in union dues for 8+ years to represent me.

(1) Defamed my good name and reputation.

*Diane Dandreta used her "Methuen Teachers' Union President" title to deceive a DSS investigator into believing that she was an impartial school official with some kind of supervisory role over me to make a wildly*

*slanderous claim that she has seen me "out of control verbally at the school" and "fears me."*

(2) Used lies and misinformation to manipulate others to slander me.

*Dandreta shared enough of these lies with the School Superintendent, Dr. Littlefield, for him to claim in the same DSS report that I am "revengeful and hateful" toward my son's mother. Littlefield's comments were made despite the fact that he had never met me or spoken to me in the seven years that I had been working in the school system prior to being questioned by the DSS.*

*The comments made by Dandreta and Littlefield were referenced by Judge Peter C. Digangi to justify his ruling of sole custody to the Mother and referenced later by the three-judge panel of the appeals court to deny my appeal.*

(3) Harassed me in the workplace with baseless, unsubstantiated complaints.

*As part of her legal strategy to manufacture phony evidence for her custody case, the Mother accused me on several occasions of creating a hostile environment for her at our workplace.*

*Dandreta, who has a professional and legal obligation to represent me as my union president, never bothered to get my side of the story before running to management with these unsubstantiated complaints.*

(4) Conspired with the Mother to sabotage my child custody case and run me out of the school system.

*Witnesses overheard the Mother and Diane Dandreta arguing in her office at the beginning of the 2004-2005 school year because Dandreta had not come through on her promise to get me out of the high school.*

(5) Covered up the results of a union-initiated investigation into the Mother's complaints.

*The high school principal and my department head, who conducted this investigation, concluded that the Mother's complaints of a hostile work environment were baseless and unfounded. Since officials, including Dandreta, concealed the results of this school investigation, the DSS investigator reached the outrageous conclusion that "(The Mother) describes Mr. Thompson as very intimidating and verbally abusive. This has been confirmed after speaking to the school."*

(6) Dandreta made up her own rules to deny my nomination and self-nomination for union president.

*The MTA never acted on my request to intervene. They ignored the unethical stunts pulled by my local union and allowed the "unopposed" election results to stand.*

*A meeting did occur to address this issue, but Dandreta who is also a coward did not show up herself and address the accusations made against her. Instead, a peanut gallery of her supporters tried to distract from the topic by behaving like two-year olds in order to interfere with the efforts of those who had things to say.*

(7) Her "followers" stole a "whistleblower" letter addressed to my fellow union members from individual faculty mailboxes at the high school and made up a story that I used school supplies to produce copies of the letter and used students to distribute the letters.

*This letter, placed in the faculty mailboxes of every union member in the district, detailed the corrupt stunts that Diane Dandreta had pulled over the previous eight years to assure that she runs each year for union president unopposed.*

(8) The MTA denied my numerous requests for an attorney, a member benefit to which I am entitled according to the union's legal services policy.

*After denying my request, the MTA turned around and gave an attorney to Diane Dandreta, free of charge, to oppose my lawsuit.*

(9) An MTA consultant, Jill Coleman, lied to me face about forwarding to Diane Dandreta my faxed written request for an investigation into the Methuen union's election process.

*Diane Dandreta used this letter to generate disruption in the school setting and animosity toward me. The letter eventually ended up in the hands of the school superintendent, who used it as a frivolous and illegal excuse to suspend me for three days without pay.*

(10) Denied my request to take the grievance of my suspension to arbitration in defiance of the fact that I presented clear and convincing evidence that my suspension was both illegal and given without just cause.

*The Superintendent's suspension clearly violated my constitutional and employee rights. The U.S. Supreme Court has ruled that as a public school employer, a school superintendent has no legal authority to mandate what teachers can and cannot say in private conversations.*

Below is the speech that I made to the Executive Board of my local union requesting arbitration in October of 2005.

*Without just cause and in violation of my employee and Constitutional rights, I was suspended for three days last May without pay.*

*On April 19, 2005, I faxed a letter to Jill Coleman, an MTA regional consultant in Lynnfield, requesting an investigation into the Methuen union's nomination and election process.*

*At some point, the letter ended up in the hands of Dr. Littlefield.*

*Dr. Littlefield took this confidential letter, which he should have never had access to in the first place, and referenced a mention to my custody case as a frivolous excuse to suspend me without pay for three days.*

*Dr. Littlefield suspended me without a hearing and without a written notice. Pursuant to M.G.L Chapter 71, Section 42D, any employee shall have seven days written notice of the intent to suspend and the grounds upon which the suspension is to be imposed.*

*This particular Massachusetts General Law also entitles the employee to provide information pertinent to the decision to suspend.*

*Dr. Littlefield used this letter to claim that I violated his directive to not discuss my custody case in the workplace. Dr. Littlefield's argument is that because my custody case is referenced near the end of the letter, then his directive was not followed because I admitted to showing this letter with four people.*

*Contrary to Dr. Littlefield's unsubstantiated claims, I had adhered to his directive and did not discuss my custody case in school last year.*

*Not because I agreed to forfeit my First Amendment rights, but because there was simply nothing going on at that time to discuss and the one colleague who I had been confiding in privately was out of work last school year with a serious illness.*

*The fact is that Dr. Littlefield has no legal authority as a public employer to mandate what I can and cannot say to others, particularly when the communication is done in private.*

*The First Amendment to the U.S. Constitution provides for freedom of speech against regulation by federal and state government. This law specifically applies to state college professors and teachers in public schools.*

*The U.S. Supreme Court stated in Tinker v. Des Moines Independent Community School District that "it can hardly be argued that neither students nor teachers shed their Constitutional rights to freedom of speech and expression at the schoolhouse gate." Moreover, school officials may not prohibit speech merely to avoid "discomfort and unpleasantness" accompanying a particular viewpoint. Tinker v. Des Moines Independent School District, 393 U.S. 509 (1969).*

*In Givhan v. Western Line Consolidated School District (US 1979) the U.S. Supreme Court made clear that private communications are always entitled to full First Amendment protection.*

*The U.S Court of Appeals has warned that a proper regard for an employee's First Amendment rights requires that before firing or disciplining a public employee for his speech, management get its facts straight. If the employer chooses to discharge the employee as a result of an inadequate investigation into the employee's conduct, the employer runs the risk of eventually being required to remedy any wrongdoing whether it was deliberate or accidental. 977 F.2d at 1127.*

*Dr. Littlefield's suspension letter proves that he does not have his facts straight and has no idea of what has actually occurred at the high school.*

*He has never bothered to do an adequate investigation himself and he has ignored the results of the investigation done by his high school administrators, who concluded that the complaints against me were baseless and unfounded.*

*I am requesting that the union incur the costs of arbitration so that I can fight this merit-less suspension.*

*If this suspension is allowed to stand, then it compromises the employee and Constitutional rights of everyone in this room and gives the Superintendent the absolute power to do whatever he wants to do to run individual teachers out of the school system.*

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I learned shortly after the meeting with the Executive Board of my union, made up mostly of Diane Dandreta's supporters (the same people who behaved like two year olds at the meeting called to address Dandreta's election process crimes), that my request for arbitration was denied.

# CHAPTER 31

## THE CORRUPTION CONTINUES IN SUPERIOR COURT

***All tyranny needs to gain a foothold is for people of good conscience to remain silent. Thomas Jefferson***

I will let a rejected "letter to the editor" communicate the corruption that I experienced in Lawrence's Superior Court at the hands of Judge Diane Kottmyer.

*Dear Editor,*

*The corruption and incompetence in the Massachusetts court system is out of control. After waiting over five months for a ruling on motions that were taken "under advisement" by Judge Diane Kottmyer in Lawrence's Superior Court, my lawsuit against Methuen Teachers' Union President, Diane Dandreta, was recently dismissed.*

*This ruling, in effect, denied me my Constitutional right to have my case heard before a jury of my peers. The judge also ruled that the complaint was dismissed "with prejudice," which prevents me from having my lawsuit reheard before a more honorable court unless I pay for that privilege.*

*Judge Kottmyer's reasons given to justify her dismissal of my lawsuit contradict her own ruling. She references case law where it states that "a complaint should not be dismissed for failure to state a claim unless it appears that the plaintiff can prove no set of facts in support of his claim." Among other things, I stated a claim and I have the DSS report containing Dandreta's comments and a reliable witness who can confirm that she lied.*

*Kottmyer further concedes that the plaintiff should prevail over a motion to dismiss "unless it appears with certainty that he is entitled to no relief under any combination of facts that could be proved in support of his claims." My case against Dandreta is legitimate and my damages are real. Dandreta's comments were quoted by the judge in my custody case to justify sole custody to the mother of my son and by the appeals court to call my appeal "frivolous" and extort double the mother's attorney fees and costs from me.*

*After discussing all of the reasons why she could not dismiss my lawsuit, Kottmyer dismissed it without a legitimate reason.*

*To help the mother of my son in her custody case, Dandreta lied to a DSS investigator with the claim that she has seen me "out of control verbally at the school" and "fears me."*

*Although this is an eyewitness account of an incident that never happened, Judge Kottmyer chose to call this slanderous statement an "opinion" to claim that it is not actionable. She also claimed that I can not claim actionable harassment for the malicious complaints and actions made against me because I am not a member of a "protected" class.*

*Consequently, in Kottmyer's kangaroo court, Dandreta is allowed to defame my good name and reputation, use lies and misinformation to manipulate others to slander me, conspire with the mother of my son to run me out of the school system, conceal a school investigation which confirmed that the mother's complaints were baseless, make up her own rules to reject my nomination for union president, use my written request for MTA intervention into our union's election process to get me suspended for three days without pay, and, with the help of her friends on the union's executive board, deny my request to take my grievance of this illegal suspension to arbitration. These crimes were committed by a union that I pay $600 per year in dues to represent me!*

*One reason why these "miscarriages of justice" occur every day in our courts is because the media allows them to occur by not reporting them. My persistent efforts to expose the corruption publicly in this state's court system and hold these racketeers accountable have, with the exception of an occasional published letter to the editor, fallen on deaf ears. Consequently, judges are arrogantly aware that they have the absolute power under this cloak of secrecy to do whatever they want and that includes, coming after me personally for going after them.*

*An individual can sue McDonald's for his obesity, another individual can sue Dunkin Donuts because his coffee was too hot, and a group of women can successfully sue a golf course over unfair tee times, but I am denied my constitutional right to a jury of my peers to hold a despicable woman accountable for her crimes against me.... And they call THIS justice.*

*Kevin Thompson*

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The pages that follow contain my lawsuit against Diane Dandreta, my response to Dandreta's Motion to Dismiss, and my actual testimony communicated during a May 26, 2005 hearing before Judge Diane Kottmyer.

These legal documents have been copied for the same reason that I copied the documents related to my appeal earlier in this book - to expose the readers of this book to the same documentation and testimony heard by the Court and, in effect, expose the corrupt court response to that evidence.

**COMMONWEALTH OF MASSACHUSETTS**

Essex Division The Trial Court Docket No. 2005-366-D

# Complaint for Damages Due to Defamation of Character, Slander, and Workplace Harassment by the Defendant against the Plaintiff

KEVIN THOMPSON, PLAINTIFF

v.

DIANE DANDRETA, DEFENDANT

1. The Plaintiff is a teacher at Methuen High School, One Ranger Road, Methuen, MA 01844.

2. The Defendant is also a teacher at Methuen High School and the Massachusetts Teachers' Association Union President for the Methuen Public Schools.

3. The Defendant has used her position at the school to harass the Plaintiff by making several frivolous, merit-less complaints against the Plaintiff over the last two years to his superiors (specifically his department head, Joseph Harb, the high school principal, Arthur Nicholson, and the Superintendent of the school system, Dr. Charles P. Littlefield).

4. The Plaintiff is currently in litigation over the support and custody of a child that he had with another teacher at the high school, Kathleen Moran. As part of Miss Moran's unethical, legal strategy, she has on several occasions falsely claimed that the Plaintiff has created a hostile environment for her at their work place.

5. The Defendant, who is friendly with Miss Moran, was more than eager to enable her with these merit-less complaints against the Plaintiff, who the Defendant perceives as outspoken and critical of the union.

6. The Defendant, who has a professional duty as union president to be impartial, is famous for taking sides and maliciously harassing those teachers and administrators at the high school who she has identified as not on "her side."

7. The Defendant barely knows the Plaintiff and made no effort to get both sides of the story. Instead she shared enough "one-sided" information with the Superintendent of the school system, who did not know the Plaintiff AT ALL, for him to share with a DSS investigator that the Plaintiff is "revengeful and hateful" toward Miss Moran.

8. The Defendant stated to the same DSS worker, Carol Hanedanian, on April 9, 2004, that she has seen the Plaintiff "out of control verbally at the school" and that she "fears him." This wildly slanderous claim was made despite the fact that the Defendant has almost no contact with the Plaintiff and has NEVER seen the Plaintiff in an emotional state that could even be misinterpreted as "out of control verbally."

9. The DSS investigation was initiated by the Plaintiff who was concerned with the behavior of Miss Moran, a woman with a history of irresponsible, unstable behavior.

10. The Plaintiff contends that the Defendant offered to be a witness for Miss Moran as an opportunity to badmouth the Plaintiff and suggested the "clueless" Superintendent as a second witness because she knew that he knew nothing about the case, or the Plaintiff, other than the deceptive "hearsay" that he had received from the Defendant.

11. The Defendant and Miss Moran were careful not to refer the investigator to the school principal, Arthur Nicholson, who actually did an investigation himself and concluded that Miss Moran's multiple claims of a hostile work environment were completely unfounded.

12. When Miss Moran was questioned about the results to this thorough investigation, she conceded that maybe hostile was a strong word but she felt "stressed" by events that had happened outside of the workplace.

13. Although the questioning of members of the Plaintiff's science department by the high school principal was the only official school investigation that took place, the Defendant did not bother to share the results of this investigation with the DSS investigator because it did not support her agenda to defame the character of the Plaintiff.

14. One of the reasons for the DSS interview of school personnel was to verify the Plaintiff's claim that Miss Moran has an attendance issue at her job. Despite the fact that her attendance record reveals that she has more than 150 absences from work in five years of employment in the Methuen school system, not one school employee, including the Defendant, would comment on this fact.

15. Since the investigation of a hostile work environment did not give the Defendant the results that she was hoping to get, the Defendant pressured the Plaintiff's department head to include deceptive language in his follow up report. Specifically, she instructed him to include in his memo of the investigation that the Plaintiff was "antagonistic" at the follow up meeting.

16. The Plaintiff's department head shared with the Plaintiff that the Defendant expressed anger that his memo was not more insulting of the Plaintiff's "tone" in the meeting and did not include other derogatory adjectives that the Defendant wanted the Plaintiff's department head to include in the memo.

17. The Plaintiff contends that he was at no time verbally out of control at this meeting and that he simply expressed the justifiable outrage that any individual would feel at being forced to defend himself against the baseless, slanderous attacks that were being made regularly by a bitter, unstable woman.

18. The Defendant has supported Miss Moran's frivolous complaints on several occasions. Her complaints include that the Plaintiff is harassing her with letters to the editor of the Eagle Tribune; that the Plaintiff put one of those letters to the editor in her school mailbox (which he did not!); that he is using the school computer to research his legal case; and that he has shared his letters to the editor and opinions about the court system with his colleagues.

19. The Plaintiff is prepared to call several former students over his time of employment at Methuen High School who know the Plaintiff much better than the Defendant and who will testify under oath that they have NEVER seen the Plaintiff verbally out of control.

20. The Plaintiff contends that he works with approximately 100 students per school year and could put every single one of them on the stand over his eight years at the high school without the threat of even one of them testifying that they have EVER seen the Plaintiff verbally out of control.

21. Some of the Plaintiff's "student-witnesses" shared with the Plaintiff that the Defendant's claims are ironic since the Defendant is the only teacher of the two who is verbally abusive (ie. insulting, intimidating, and condescending) to students at the high school.

22. One of the Plaintiff's witnesses shared that he overheard the Defendant and Miss Moran arguing at the beginning of the school year in September of 2004 because the Defendant did not come through on her promise to get the Plaintiff out of the school system.

23. Although the Plaintiff avoids Miss Moran and does not speak to her at all during their work day, Miss Moran wants the Plaintiff out of the school system because he is an embarrassing reminder of all the dishonest, unethical stunts that she has pulled over the last two years to slander him.

24. In conclusion, the Defendant's slanderous comments made in the DSS report sabotaged the Plaintiff's legal efforts to get joint physical custody of his son.

25. The presiding judge at the June 4, 2004 child custody trial, Judge Peter C. Digangi, described the DSS report in his closing statement as the most influential exhibit to justify his ruling of sole custody to the mother.

26. Since the case is not resolved because the Plaintiff will never give up on his son, the Plaintiff has spent additional time and money to appeal the court's decision.

27. Much more importantly, the court's decision, which was significantly influenced by the slanderous comments made directly by the Defendant and indirectly by the Defendant through the Superintendent, has sabotaged the Plaintiff's relationship with his son. This currently represents three years of parental time that the Plaintiff will never get back with his son.

**WHEREFORE,** the Plaintiff requests that the Defendant pay actual and punitive damages to the Plaintiff in the amount of $250,000 for his pain and suffering and be removed from her position as MTA union president in the Methuen school system.

The Massachusetts Teachers' Association, of which the Plaintiff is a paying member, denied the Plaintiff's request for legal representation. The MTA claimed that it does not provide legal assistance in "union member vs. union member" litigation. Therefore, if the Defendant is given free legal assistance of any kind from the MTA in this matter, then the Plaintiff requests that additional punitive damages in the amount of $250,000 be assessed against the Massachusetts Teachers' Association.

Date: March 2, 2005

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Kevin Thompson

COMMONWEALTH OF MASSACHUSETTS

ESSEX COUNTY, SS.

SUPERIOR COURT
CIVIL ACTION
NO. 2005-366-D

| | |
|---|---|
| KEVIN THOMPSON<br>Plaintiff | ) |
| v. | ) |
| DIANE DANDRETA<br>Defendant | ) |

**KEVIN THOMPSON'S MEMORANDUM OF OPPOSITION TO DEFENDANT DIANE DANDRETA'S MOTION TO DISMISS**

**NOW COMES** the Plaintiff, Kevin Thompson, in the above referenced matter and hereby opposes Diane Dandreta's motion to dismiss and requests that the opposition be heard at the scheduled May 26, 2005. As grounds for the within Opposition, Mr. Thompson argues the following:

**1. Regarding the defendant's argument that the allegations made by her do not fall within the definition of defamation and slander.**

Defamation is defined as an intentional false communication that injures another person's good name or reputation. When the communication is written it is libel. When it is spoken it is slander. Draghetti v. Chmielewski, 416 Mass. 808, 812 n.4, 626 N.E. 2d 862, 866 (1994). In her memorandum, Ms. Dandreta claims that her lies are not defamation because, according to her, defamation is the publication, without privilege, of a false statement of fact, which causes damage to the plaintiff's reputation. This is not the definition of defamation. It is the narrower definition of libel. Ms. Dandreta would like to apply the definition of libel to mean defamation because it would then support her

argument that spoken words do not fall within such a definition. Mr. Thompson did not accuse Ms. Dandreta of libel. He accurately accused her of slander.

**2. Regarding Ms. Dandreta's argument that the complaint should be dismissed for failing to state a claim.**

The general rule in appraising the sufficiency of a complaint for failure to state a claim is that a complaint should not be dismissed "unless it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief." Conley v. Gibson (1957), 355 U.S. 41,45,46,78 S. Ct. 99, 102, 2LEd 2d 80.

Mr. Thompson has the physical report, which verifies the slanderous comments that were made to the DSS investigator. He has witnesses who will verify that Ms. Dandreta has made slanderous statements about him to them. And he has witnesses who will confirm that her statements were completely baseless and that the statements were not simply false, but were malicious and pre-meditated lies.

The burden of clear and convincing proof is sustained if the evidence induces a reasonable belief that the facts asserted are highly probably true and that the probability that they are true or exist is substantially greater than the probability that they are false or do not exist. Callahan v. Westinghouse Broad. Co., Inc., 372 Mass. 582, 588 n.3, 363 N.E.2d 240, 244 n.3 (1977).

Based on this definition of clear and convincing proof, Mr. Thompson intends to prove that the Defendant conspired with Kathleen Moran, the mother of his son, to defame him. Mr. Thompson intends to prove that Ms. Dandreta acted negligently in failing to ascertain whether the allegations made to her by Miss Moran were true or false before sharing this information with Mr. Thompson's supervisors and the Department of

Social Services.

Lastly, Mr. Thompson intends to prove that he suffered out of pocket loss, damage to his reputation, threats to his job security, and emotional harm and that his son has been relegated to a limited relationship with his father and a relationship that is clearly not in his son's best interests largely due to Ms. Dandreta's slanderous statements.

According to Jones v. Taibbi (1987), a private person plaintiff only needs to prove negligence in a defamation suit. Jones v. Taibbi, 400 Mass. 786, 799-800, 512 N.E. 2d 260, 269 (1987).

There is a controversy as to whether the plaintiff in a defamation suit even needs to prove that the statements were false. The Supreme Judicial Court has held that a private party plaintiff suing a media defendant regarding a statement of "public concern" must prove falsity, <u>but</u> neither the Supreme Judicial Court nor the U.S. Supreme Court has decided whether the same rule should apply to a private plaintiff suing a non-media defendant, <u>or</u> to a statement not of "public concern." See Shaari v. Harvard Student Agencies, Inc., 427 Mass. at 133 n.8, 691 N.E. 2d at 928 n.8.

Massachusetts law provides that the plaintiff does have the burden of alleging falsity in a defamation action, but provides for a similar burden on the defendant to prove truth as an affirmative defense. McAvoy v. Shufrin, 401 Mass. 593, 597, 518 N.E. 2d 513, 517 (1988).

**3. Regarding Ms. Dandreta's argument that because the slanderous statements were communicated to a DSS worker, she has absolute privilege.**

Absolute privilege is restricted to statements made during judicial, legislative, and

other public proceedings. For example, legislators cannot be sued for anything they choose to say on the legislature's floor. http://www.hfac.uh.edu/comm/media_libel/libel/privilege.html

Ms. Dandreta would like to claim absolute privilege because statements under absolute privilege are not actionable for slander, even if the statements are false, malicious, or damaging.

An absolute privilege against a defamation action is generally afforded only when a compelling public need justifies such immunity and the tribunal before whom statements are made has the power to discipline the maker. Absolute privilege has been confined to cases where obvious public interest and the administration of justice require that free speech prevail over the right to preserve one's reputation. W. Prosser, Handbook of the Law of Torts 114 (4th ed. 1971). Mr. Thompson contends that the administration of justice does not require that Ms. Dandreta have the right to maliciously slander Mr. Thompson.

In her search for loopholes, Ms. Dandreta cites an unrelated case, which conveys that statements made to police or prosecutors prior to trial are absolutely privileged if they are made in preparation for or preliminary to a proposed judicial proceeding. The statements made by Ms. Dandreta to the DSS worker were not in preparation for or preliminary to a proposed judicial proceeding and a DSS investigator is not a police officer or a prosecutor preparing a case. In fact, it is a criminal offense to knowingly make false allegations of abuse to the DSS.

The DSS report only became an exhibit in the plaintiff's custody case when Miss

Moran realized that she could use the slanderous statements made by Ms. Dandreta as evidence to badmouth Mr. Thompson in court and give credibility to her own lies. Mr. Thompson challenges the Defendant to reference any such law or legal case that gives an individual questioned by DSS absolute privilege, or even conditional privilege.

**4. Regarding Ms. Dandreta's argument that the allegations of workplace harassment should be dismissed because Mr. Thompson has not alleged actionable harassment.**

Because of Ms. Dandreta's numerous, frivolous complaints to Mr. Thompson's superiors and her demand for a "witch hunt" investigation to fish for someone else in the school who would be unethical enough to support her and Miss Moran's claims, Mr. Thompson's situation has become common knowledge and school gossip among his professional colleagues.

Although a school investigation proved that Mr. Thompson is completely innocent of the charges that continue to be made against him, the Superintendent, who is growing tired of the complaints, has suggested that Mr. Thompson look for a transfer to another school. He also threatened that if the accusations do not end, then he will be forced to fire both Mr. Thompson and Miss Moran.

Mr. Thompson contends that Ms. Dandreta has never bothered to get Mr. Thompson's side of the story because a due process, impartial effort on her part would interfere with her corrupt agenda to rid the school of union members, including the plaintiff, who she perceives as against her.

Her agenda became school gossip when Miss Moran was overheard complaining to Ms. Dandreta at the start of this school year in September because she had not come

through on her promise to Miss Moran to get Mr. Thompson out of the high school.

**5. Regarding Ms. Dandreta's argument that the allegations of workplace harassment could only be made in the context of a complaint filed with the Massachusetts Commission Against Discrimination.**

Mr. Thompson is not alleging discrimination because he is not a member of a protected class, which is a condition for actionable discrimination. What he is alleging is actionable workplace harassment, which does not require a complaint filed with the Massachusetts Commission Against Discrimination. Contrary to Ms. Dandreta's attorney, filing a complaint with the Massachusetts Commission Against Discrimination, is not the exclusive remedy for workplace harassment.

According to case law, the claimant is entitled to insist upon his right to have a jury decide the claim. The plaintiff can choose between an MCAD proceeding and a Superior Court trial, but he cannot have it both ways. The decision rests entirely with the claimant. The defendant has no such corresponding right. Stonehill College v. Massachusetts Commission Against Discrimination, 441 Mass. 549 (2004).

**6. Regarding Ms. Dandreta's argument that statements of opinion based upon disclosed or assumed nondefamatory facts are not actionable.**

Mr. Thompson would agree that statements of opinion based upon <u>assumed</u> nondefamatory facts are not actionable, which is the reason why the Superintendent of the Methuen Public Schools is not included in this lawsuit. The Superintendent's comments were based entirely upon the slanderous statements conveyed to him by Ms. Dandreta, which <u>he</u> irresponsibly assumed to be nondefamatory facts.

The Superintendent's opinion did not come from personal knowledge because he did not know Mr. Thompson at all. In fact, prior to his comments to the DSS worker, he

had never spoken to Mr. Thompson or observed him in or outside of the classroom in the seven years that he had been working in the school system. Since the Superintendent did not know Mr. Thompson at the time that he communicated his statement, Mr. Thompson has had to assume that his comments were not malicious.

Ms. Dandreta's claim that she has seen Mr. Thompson out of control verbally at school is not an opinion, it is an eyewitness account of an incident that never happened. Although the definition of out of control verbally could have subjective meaning, the Defendant has never seen the Plaintiff in an emotional state that could in any way be misinterpreted as out of control verbally to justify such a claim.

Ms. Dandreta also claimed that she "fears" Mr. Thompson and expressed to one of his witnesses that he "intimidates" her. Mr. Thompson would agree that these comments could be taken as subjective (and therefore opinion), but he would also argue that even statements of opinion have to have some rational basis in fact.

Ms. Dandreta argues that her claim that she "fears" Mr. Thompson is a statement of opinion that cannot be proven false, as it concerns her state of mind. According to a Massachusetts Appeals Court Slip Opinion expressed by Judge Mason in Tech Plus, Inc. v. Ansel (2003), a given state of mind is a fact that can be proved like any other and, indeed, is proved in every criminal prosecution.

## CONCLUSION

The Defendant knows that she is guilty of the charges of slander, defamation of character, and workplace harassment that have been brought against her and she is hoping that her attorney can twist the interpretation of the law to get her off on a technicality.

The arguments presented by the Defendant in her Motion to dismiss are frivolous and do not apply to this case. Mr. Thompson's complaint clearly falls within the definitions of defamation and slander, the Defendant does not have the luxury of absolute privilege to hide behind and absolve her crimes, and the Massachusetts Commission Against Discrimination is not Mr. Thompson's sole remedy for resolving this case.

Mr. Thompson concedes that, as a pro se litigant, his motions may not be artistically drawn, but a complaint may not be dismissed based on such a reason. This is particularly true where a defendant is not represented by counsel and in view of Rule 8(f) of the rules of civil procedure, 28 U.S.C., which requires that all pleadings shall be construed as to do substantial justice.

Lastly, Ms. Dandreta's response to Mr. Thompson's Complaint was not served within the twenty day time period for a response and, consequently, the Motion to Dismiss should be rendered irrelevant with an allowance of Mr. Thompson's Motion for a Default Judgment pursuant to Rule 55 of the Massachusetts Rules of Civil Procedure.

**WHEREFORE,** Plaintiff moves that Ms. Dandreta's Motion to Dismiss be denied.

Respectfully submitted,
Kevin Thompson, Plaintiff

Date: April 7, 2005

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Kevin Thompson

## COMMENTS AND REBUTTALS EXPRESSED AT MY HEARING BEFORE JUDGE KOTTMYER ON MAY 26, 2005

To put things in perspective, I have been paying approximately $600 per year in dues for eight years to a union

that has defamed my character,
that has used lies and misinformation to manipulate others to slander me,
that has harassed me in the workplace with frivolous, unsubstantiated complaints,
that has not once asked to hear my side of the story before bringing these complaints to management,
that has conspired to run me out of the school system,
that has concealed information from the DSS which supported my allegations,
and that has lied to my face about releasing an MTA-addressed letter, which eventually ended up in the hands of management.

I am representing myself, *at this time*, because the Massachusetts Teachers Association denied my member benefit request for legal services with the claim that the union does not get involved in "union member v. union member" litigation.

After I filed my lawsuit pro se, the MTA *then* turned around and gave an attorney, free of charge, to the union member defendant in my lawsuit.

The MTA's argument is that my lawsuit was filed against Diane Dandreta in her capacity as Methuen's union president. My response to them was that Diane Dandreta has criminally slandered and harassed me in *my* capacity as a paying union member.

I offered to exclude the MTA from the lawsuit if they would simply stay out of these legal proceedings *or* provide me with the same legal services that were given to Diane Dandreta. When they refused this offer, I filed a motion to expand the lawsuit to include the MTA.

My case against the MTA, *and also the Methuen school system*, which is not yet a defendant in this lawsuit,

continues to grow with the unethical stunts pulled by both groups to protect Diane Dandreta and cover up her crimes.

Since the harassment against me has continued and escalated, I would like to bring the court up to date on the more recent corrupt acts that have occurred since filing my lawsuit.

On April 19, 2004, I faxed a letter to Jill Coleman, an MTA regional consultant in Lynnfield, requesting an investigation into Methuen's nomination and election process.

Jill Coleman took this private letter, which was addressed to her, and shared it with the co-defendant in my lawsuit, Diane Dandreta.

When I questioned Jill Coleman on April 29, 2005, at a Special Executive Board meeting that had been called to address the corruption in the Methuen election process, she lied about disclosing the letter over the persistent efforts of Lois Jacobs to cut me off and inhibit my line of questioning.

Lois Jacobs is a Methuen union officer and Diane Dandreta's best friend. She has tried to involve herself in my case as a spy for Diane Dandreta.

Diane Dandreta, who has a motive to alienate me from my colleagues and stir up trouble, shared the content of this MTA-addressed 8-page letter with several teachers and administrators in the school system.

This served Diane Dandreta's purpose by generating disruption in the school setting and animosity toward me.

A teacher at the school, who is also a personal friend of Diane Dandreta, threatened to sue me through her attorney because her name is mentioned in the letter.

This MTA-addressed letter eventually ended up in the hands of Dr. Littlefield, the school superintendent, who used it as a frivolous excuse to suspend me without pay for three days.

**REGARDING MS. DANDRETA'S CLAIM THAT THE ALLEGATIONS MADE BY HER DO NOT FALL WITHIN THE DEFINITION OF DEFAMATION AND SLANDER:**

Defamation is defined as an intentional false communication that injures another person's good name or reputation. When the communication is written it is libel. When it is spoken it is slander. *Draghetti v. Chmielewski*, 416 Mass. 808, 812 n.4, 626 N.E. 2d 862, 866 (1994).

*In her memorandum, Ms. Dandreta claims that her lies are not defamation because, according to her, defamation is the publication, without privilege, of a false statement of fact, which causes damage to the plaintiff's reputation.*

*This is not the definition of defamation. It is the narrower definition of libel.*

*Ms. Dandreta would like to apply the definition of libel to mean defamation because it would then support her argument that spoken words do not fall within such a definition.*

*For the record, I did not accuse Ms. Dandreta of libel. I accurately accused her of slander.*

**REGARDING MS. DANDRETA'S ARGUMENT THAT THE COMPLAINT SHOULD BE DISMISSED FOR FAILING TO STATE A CLAIM:**

The general rule in appraising the sufficiency of a complaint for failure to state a claim is that a complaint should not be dismissed "unless it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief." *Conley v. Gibson* (1957), 355 U.S. 41,45,46,78 S. Ct. 99, 102, 2LEd 2d 80.

*Among other things, I have the physical report, which verifies the slanderous comments that were made to the DSS investigator.*

*I have witnesses who will verify that Ms. Dandreta made slanderous statements about me to them.*

*And I have witnesses who will confirm that her statements were completely base-less and that the statements were not simply false, but were malicious, pre-meditated lies.*

*The burden of clear and convincing proof is sustained if the evidence induces a reasonable belief that the facts asserted are highly probably true and that the probability that they are true or exist is substantially greater than the probability that they are false or do not exist. Callahan v. Westinghouse Broad. Co., Inc.,* 372 Mass. 582, 588 n.3, 363 N.E.2d 240, 244 n.3 (1977).

*Based on this definition of clear and convincing proof, I intend to prove that the Defendant conspired with Miss Moran in bad faith to defame me.*

*I intend to prove that Ms. Dandreta knew that her statements were false and knew that they were reckless and defamed me.*

*I intend to prove that she acted negligently in failing to ascertain whether the allegations made to her by Miss Moran were true or false before sharing this information with my supervisors and the Department of Social Services.*

*And I intend to prove that I suffered out of pocket loss, damage to my reputation, and emotional injury and that my son suffered harm as well as a result of Ms. Dandreta's slanderous statements.*

*This is more than I need to prove a claim of defamation.*

*According to Jones v. Taibbi (1987), a private person plaintiff only needs to prove negligence in a defamation suit. Jones v. Taibbi,* 400 Mass. 786, 799-800, 512 N.E. 2d 260, 269 (1987).

*There is a controversy as to whether the plaintiff in a defamation suit even needs to prove that the statements were false.*

The Supreme Judicial Court has held that a private party plaintiff suing a media defendant regarding a statement of "public concern" must prove falsity, but neither the Supreme Judicial Court nor the U.S. Supreme Court has decided whether the same rule should apply to a private plaintiff suing a non-media defendant, or to a statement not of "public concern." *See Shaari v. Harvard Student Agencies, Inc.,* 427 Mass. at 133 n.8, 691 N.E. 2d at 928 n.8.

Massachusetts law provides that the plaintiff does have the burden of alleging falsity in a defamation action, but provides for a similar burden on the defendant to prove truth as an affirmative defense. *McAvoy v. Shufrin*, 401 Mass. 593, 597, 518 N.E. 2d 513, 517 (1988).

**REGARDING MS. DANDRETA'S CLAIM THAT BECAUSE THE SLANDEROUS STATEMENTS WERE COMMUNICATED TO A DSS INVESTIGATOR, SHE HAS ABSOLUTE PRIVILEGE:**

Absolute privilege includes statements made during judicial, legislative, and other public proceedings. For example, legislators cannot be sued for anything they choose to say on the legislature's floor.
http://www.hfac.uh.edu/comm/media_libel/libel/privilege.html

*Ms. Dandreta would like to claim absolute privilege because statements under absolute privilege are not actionable for slander, even if the statements are false, malicious, or damaging.*

An absolute privilege against a defamation action is generally afforded only when a compelling public need justifies such immunity and the tribunal before whom statements are made has the power to discipline the maker and excise statements from the record.

All privileges, conditional and absolute, are founded on policy considerations. Absolute privilege has been confined to cases where obvious public interest and the administration of justice require that free speech prevail over the right to preserve one's reputation. W. Prosser, *Handbook of the Law of Torts* 114 (4th ed. 1971).

*In her search for loopholes, Ms. Dandreta cites an unrelated, irrelevant case, which conveys that statements made to police or prosecutors prior to trial are absolutely privileged if they are made in preparation for or preliminary to a proposed judicial proceeding.*

*The statements made by Ms. Dandreta to the DSS worker were not in preparation for or preliminary to a proposed judicial proceeding and the DSS investigator was not a police officer or a prosecutor. She did not have any role whatsoever related to our custody case.*

*I was not accusing Miss Moran of abuse, nor neglect. Therefore, there were no charges forthcoming from the DSS investigation that would potentially lead to a judicial proceeding.*

*The bottom line is that there is no such law or legal case that gives a DSS interviewee or accuser absolute privilege.*

*At best, the accuser may have a right to conditional or qualified privilege, which still does not excuse the statements made by Ms. Dandreta, which I intend to prove were malicious and in bad faith.*

**REGARDING THE DSS INVESTIGATION:**

*The DSS investigation was initiated by me, at the suggestion of the Haverhill police, who were getting tired of the frivolous calls that were being made regularly to them by Kathleen Moran and her mother, Charleen Moran.*

*The police even volunteered to be present at their house for pick ups of my son to protect me from future false allegations.*

*The Moran's had cried wolf enough times, 19 times to be exact in the first year and a half of my son's life, for the police to know exactly who the unbalanced individuals were in this situation.*

*The DSS investigation did not become an exhibit for our custody case until Miss Moran realized that she could use the slanderous statements made by Ms. Dandreta as evidence to badmouth me in court and give credence to her own lies.*

*Although Miss Moran's entire statement in the DSS report was perjury, which I will prove beyond any doubt, Diane Dandreta gave Miss Moran's statement credibility with lies of her own, using her Union President title to deceive the DSS investigator into believing that she was a neutral, impartial official at the school.*

*In fact, the DSS investigator wrote in her report that "Ms. Moran describes Mr. Thompson as very intimidating and verbally abusive toward her. This has been confirmed by speaking with the school."*

*What is twilight zone outrageous about this conclusion is that it was the exact opposite conclusion reached by the school principal and my department head in their investigation of Miss Moran's allegations of a hostile work environment.*

*Based on the only "official" school investigation, which was conducted just prior to the DSS investigation, it was determined that Miss Moran's chronic complaints of a hostile work environment were baseless and completely unfounded.*

*Miss Moran, herself, reluctantly retracted her allegations when informed of the results of the investigation and conceded that "maybe hostile was a strong word."*

*Ms. Dandreta was aware of this investigation and the results of the investigation. But as a witness who was passing herself off as an official spokesperson for the school, she did not share this information (or Miss Moran's attendance issue at the school), with the DSS investigator.*

**REGARDING MS. DANDRETA'S CLAIM THAT THE ALLEGATIONS OF WORKPLACE HARASSMENT SHOULD BE DISMISSED BECAUSE I HAVE NOT ALLEGED ACTIONABLE HARASSMENT:**

*Because of her numerous, frivolous complaints to my superiors and her demand for a witch hunt investigation to fish for someone else in the school who would be unethical enough to support Miss Moran and Ms. Dandreta's claims, my situation has become common knowledge and a source of school gossip among my professional colleagues.*

*Although the investigation proved that I am completely innocent of the charges that continue to be made against me, the superintendent has suggested that I look for a transfer to another school. He also threatened that if the accusations do not end, then he will have to fire both myself and Miss Moran.*

*Ms. Dandreta has taken Miss Moran's allegations and run with them as an opportunity to purge the school of someone who she perceives as not on her side.*

*It is obvious to everyone who actually knows Miss Moran at the school, and that includes Diane Dandreta, that she is a*

*bitter, childish individual with serious emotional problems.*

*That is not relevant to Ms. Dandreta, who has used Miss Moran as a means to rid the school of me, who she perceives as critical of her union leadership.*

*She has never bothered to get my side of the story because a due process, impartial effort on her part would interfere with her corrupt agenda.*

*Her agenda became school gossip when Miss Moran was overheard complaining to Ms. Dandreta at the start of this school year because Dandreta had not come through on her promise to get me out of the high school.*

**REGARDING MS. DANDRETA'S CLAIM THAT THE ALLEGATIONS OF WORKPLACE HARASSMENT COULD ONLY BE MADE IN THE CONTEXT OF A COMPLAINT FILED WITH THE MASSACHUSETTS COMMISSION AGAINST DISCRIMINATION.**

*I am not alleging discrimination because I am not a member of a protected class, which is a condition for actionable discrimination.*

*Furthermore, actionable harassment, which is what I am claiming, does not require a complaint filed with the Massachusetts Commission Against Discrimination.*

*Contrary to Ms. Dandreta's attorney, filing a complaint with the Massachusetts Commission Against Discrimination, is not the exclusive remedy for workplace harassment.*

According to *case law,* the claimant is entitled to insist upon his right to have a jury decide the claim. The plaintiff can choose between an MCAD proceeding and a Superior Court trial, but he cannot have it both ways. The decision rests entirely with the claimant since the defendant has no corresponding right. *Stonehill College v. Massachusetts Commission Against Discrimination,* 441 Mass. 549 (2004).

**REGARDING MS. DANDRETA'S CLAIM THAT STATEMENTS OF OPINION BASED UPON DISCLOSED OR ASSUMED NONDEFAMATORY FACTS ARE NOT ACTIONABLE:**

*I would agree that statements of opinion based upon assumed nondefamatory facts are not actionable, which is the reason why the Superintendent of the Methuen Public Schools is not yet included in this lawsuit.*

*For one, his comment in the DSS report that I am "revengeful and hateful" toward the mother of my son could be construed as opinion and I cannot prove malice.*

*More significantly, the Superintendent's comments were based entirely upon the slanderous statements conveyed to him by Ms. Dandreta, which he incorrectly assumed to be truthful.*

*The Superintendent's opinion did not come from personal knowledge because he did not know me at all. In fact, prior to his comments to the DSS worker, he had never spoken to me or observed me in or outside of the classroom in the seven years that I had been working in the school system.*

*Ms. Dandreta's claim that she has seen me out of control verbally at school is not an opinion, it is an eyewitness account of a fabricated incident. Although the definition of out of control verbally could have subjective meaning, the defendant has never seen me in an emotional state that could in any way be misinterpreted as out of control verbally to justify such a claim.*

*If I claim that Ms. Dandreta's lawyer has been verbally out of control at this hearing, I cannot simply brush it off as an opinion to excuse ...*

(Note: Judge Kottmyer cut me off here to say in an annoyed tone, "yeah, yeah, yeah, I get your point" before I could complete my argument that such a statement would be construed by any reasonable individual present in the courtroom today as false and slanderous.)

*Ms. Dandreta also claimed that she "fears me" and expressed to one of my witnesses that I "intimidate" her. I would agree that these comments could be taken as subjective (and therefore opinion), but I would also argue that even statements of opinion have to have some rational basis in fact.*

*I could claim that the Defendant's lawyer intimidates me because I am fearful and intimidated by people in suits who wear red ties.*

*That does not give me license to use my conveniently irrational and baseless fears to slander this person with knee jerk comments to manipulate a less than favorable response from a third party evaluator of the situation.*

*Several teachers who have caught wind of this claim that Ms. Dandreta fears me have expressed responses to me that range from disbelief to amusement. One teacher commented, and I quote, "That arrogant bitch doesn't fear anyone."*

**IN CONCLUSION:**

The arguments presented by Diane Dandreta's MTA-appointed lawyer in her Motion to Dismiss are frivolous and do not apply to this case.

My complaint clearly falls within the definitions of defamation and slander,

Diane Dandreta does not have the luxury of absolute privilege to hide behind and absolve her crimes,

and the Massachusetts Commission Against Discrimination is not my sole remedy for resolving this case.

I concede that, as a pro se litigant, my motions may not be artistically drawn, but a complaint may not be dismissed based on such a reason. This is particularly true where a defendant is not represented by counsel and in view of Rule 8(f) of the rules of civil procedure, 28 U.S.C., which requires that all pleadings shall be construed as to do substantial justice.

Most importantly, Diane Dandreta's response to my complaint was not served within the twenty day time period for a response and, consequently, the Motion to Dismiss should be rendered irrelevant with an allowance of my Motion for a Default Judgment pursuant to Rule 55 of the Massachusetts Rules of Civil Procedure.

# CHAPTER 32

## WHAT OTHER STATES SAY ABOUT JOINT CUSTODY

***You cannot escape the responsibility of tomorrow by evading it today.*** ***Abraham Lincoln***

Most states have addressed the discrimination against fathers in family court and have enacted laws to limit a judge's discretion. Joint physical custody is now the presumption in 35 states plus the District of Columbia. These are states that have overcome the propaganda and political pressure from special interest groups to prolong the practice of screwing over fathers and their children for profit.

In Delaware, the law states that the father and mother have equal powers and duties with respect to the child and neither has any right or presumption of right or fitness, superior to the right of the other concerning custody.

In Idaho, legitimate reasons must be stated if the court declines to enter an award of joint custody.

In Louisiana, if custody is claimed by both parents, custody is awarded first, in order of preference, to both parents jointly. The burden of proof that joint custody would not be in a child's best interest is on the parent requesting sole custody.

In Montana, objection to joint custody by a parent seeking sole custody is not a sufficient basis for finding that joint custody is not in the best interest of a child, nor is a finding that the parents are hostile to each other. The allotment of custodial time is to be as equal as possible.

In California, custody is granted with preference to both parents jointly. In granting custody to either parent, the court considers, among other factors, which parent is more likely to allow the child frequent and continuing contact with the non-custodial parent, and is not to prefer a parent as custodian because of that parent's sex. The court is to consider *the denial by one parent* of the child's opportunity for maximum continuing contact with the other parent, without just cause, a significant factor in determining the proper custody arrangement.

In Kansas, neither parent is to be considered to have a more vested interest in custody, *regardless of the age of the child*. There is to be *no presumption* that it is in the best interests of any infant or young child to give custody to the mother.

In the Court of Appeals of Georgia in a unanimous opinion, Judge Dorothy Beasley stated: The child, whose well-being is in the eye of the controversy, has

a right to shared parenting when both are equally suited to provide it. Inherent in public policy is a recognition of a child's right to equal access and opportunity with both parents... The child does not forfeit these rights when the parents divorce. This finding was upheld by the Supreme Court of Georgia.

In the Court of Appeals of Kentucky, Judge Schroder wrote: A divorce from a spouse is not a divorce from their children, nor should custody decisions be used *as punishment*. Joint custody can benefit the children, the divorced parents, and society in general by having both parents involved in the children's upbringing. The difficult and delicate nature of deciding what is in the best interests of the child leads this court to consider joint custody first, before the more traumatic sole custody.

In finding a preference for joint custody, even in a bitter divorce, the court is encouraging the parents to cooperate with each other and to stay on their best behavior. The trial court at any time can review joint custody and if a party is being unreasonable, modify the custody to sole custody in favor of the reasonable parent.

Surely, with stakes so high, there would be more cooperation which leads to the child's best interest, the parents' best interest, fewer court appearances, and judicial economy.

The state of New Hampshire created an independent committee to investigate the status of men and the impact of fatherlessness in the state. A condensed version of that study is copied below.

THE STATUS OF MEN IN NEW HAMPSHIRE
FIRST BIENNIAL REPORT OF THE NEW HAMPSHIRE COMMISSION
ON THE STATUS OF MEN
http://www.nh.gov/csm/
NOVEMBER 1, 2005

CHARTER

The General Court recognizes that fatherlessness is a severe social problem and that New Hampshire children who have a poor or nonexistent relationship with their father are the largest users of a variety of state-funded services.

In addition, men whose average life expectancy was formerly on a par with that of women are now dying 10 years sooner, with much higher rates of suicide and mortality from the 15 leading causes of diseases and accidents.

The New Hampshire Commission on the Status of Men was therefore created by the legislature to address and reverse the deteriorating status of men in New Hampshire.

The Commission was enabled by passage of HB587FNA (Chapter 267:2, Laws of 2002, effective July, 1, 2002).

Duties of the Commission shall include but not be limited to:

> Examining issues and effects of cultural biases and stereotyping, beginning with childhood experiences and programs in public schools, and extending to include a study of male suicide and adult concerns such as family relations, promoting education and policies which bring fathers and children closer together.
>
> Studying health problems unique to men or which predominately affect men, and making appropriate recommendations.

OVERVIEW

That men would need help by way of a chartered Commission to improve their status seemed counterintuitive given the popular image of men as independent, self-sufficient survivors, able to overcome the most difficult of life's challenges on their own. Modern pressures, however, find men and their families experiencing significant difficulties due to evolving values, health problems, growing educational deficiencies, and new socioeconomic family standards.

This report calls attention to serious problems in the lives of New Hampshire men and boys that, prior to the establishment of this Commission, were "off of the radar screen" in terms of their negative impact on society.

Fatherlessness, according to growing numbers of social thinkers, is among our most serious social problems. Fatherless children have a higher dependency on expensive state-funded services such as welfare, DCYF/Foster Care programs, child support enforcement, special education services, detention centers, etc.

There appears to be a strong link between father absence and a wide variety of pathologies, including juvenile delinquency, substance abuse, teen pregnancy, and educational failure. Children having a poor or nonexistent relationship with their natural father have lower wellness levels in the areas of safety, health, education, and economic security.

Men are often portrayed as the primary cause of domestic violence. However, the research reveals this problem as more complex than is commonly thought, and the subject will be treated in detail in this report.

The suicide rates for boys, young fathers, and older men range from four to ten times higher than that of women, depending on such factors as age, marital status, and emotional well-being.

Nationwide, approximately 9% more men will develop prostate cancer in 2005 than women will develop breast cancer. However, the federal government spends approximately seven times more on breast cancer research than on prostate cancer research ($550 million versus $80 million, in 1996 there was $12,000 in research dollars spent for each death from breast cancer versus $2,000 in research dollars for each death from prostate cancer).

When the few bills attempting to correct the situation in New Hampshire have been defeated by the (predominantly male) legislature, the causes of the failure of that legislation are unclear, but the results are anything but: Men are dying needlessly in New Hampshire due to the inaction of good people who apparently have been led to believe that legislative activity designed to primarily benefit men is somehow not appropriate politically, financially, or otherwise.

FATHERHOOD ISSUES

The Commission meetings were open to the public for comment and discussion. Early on, fathers came forward to complain about abnormal relationships with their children and unfair treatment in family court. Many complained about:

child support guidelines that seemed inflated and did not allow them to live on their remaining income;

lawyers who seemed uncaring;

perceptions that lawyers were not effectively fighting for them;

an inability to get redress for emotional and physical abuse inflicted on them and their children;

misleading and inaccurate testimony being brought to the legislature by professional court advocates who had no regard for the importance of the father/child relationship;

being made to feel like a criminal in the courtroom;

judges avoiding or ignoring the negative impact of father absence on children;

the need for men's support groups and counseling for men;

perjury and false accusations being used as weapons to render fathers impotent in court;

the manufacture of acrimony to secure custody;

guardian ad litems who don't care about the father/child connection;

the process of divorce being used as a money-making proposition (money going to lawyers and other members of the "divorce industry" that could have been used, instead, for the welfare of the children);

the permanent nature of "temporary" orders;

the misleading and inaccurate perception that domestic violence is primarily a male responsibility;

insufficient services for male victims of domestic violence;

and feelings of suicide as the ultimate solution.

Second wives, mothers, grandmothers, teachers, and girlfriends came forward to validate many of the complaints being brought by men. A school nurse told us that most of the children to which she administers medication like Ritalin and Prozac come from homes where the connection with one of the parents (usually the father) was compromised.

The Status of Fathers

As women have had difficulty establishing their role as important contributors to the workplace, men have had difficulty establishing themselves as important nurturers for their families and children.

The Legislative Committee to Study the Status of Men (LCSSM) discovered that the U.S. is the world's leader in fatherless families. Nationally, 40% or about 24 million children go to bed in homes absent their biological father on any given night (with the possible exception of every other weekend) according to the latest available data.

The fatherless problem, along with its link to the pathology of dysfunctional and disadvantaged children, seems as an invisible elephant in the room. There seems to be widespread casual regard to the notion that caring and involved fathers are ordinarily beneficial for the safety, health, economic security, education, and overall wellness of children.

In some places, fathers are even billed as villains to be avoided. In a public lecture entitled "Sexually Abusive Fathers," the University of New Hampshire's Family Research Lab (FRL) once produced a rightful attempt to get relief from the sexual abuse of children. However, it was noted by the speaker during the presentation that stepfathers or live-in boyfriends are six times more likely than natural fathers to commit such heinous acts. Children are typically best protected from sexual abuse, not by a father's absence, but by his presence.

On May 19, 2005, Judge Edwin Kelly told the Child and Family Law Committee that sole custody rates for fathers are holding steady at about 10% for uncontested cases (15% for contested cases), while mother's custody rates hovered around 66% for uncontested cases (75% for contested cases). The balance, 24% and 10% respectively, were awarded joint custody.

This may reflect a mindset that says fathers should be restricted to the breadwinner role while mothers should be restricted to the care-taking role.

According to the U.S. Department of Labor, women are projected to comprise 47 percent of the total labor force in 2012 (as they did in 2003). There were 64.7 million employed women in the U.S. in 2004. Seventy-four percent worked full time, while the remaining 26 percent worked part time.

Given the plethora of evidence documenting the benefits of involved fathers with their children, and the present rate of female participation in the workforce, the custody imbalance between fathers and mothers seems difficult to justify.

**This Commission suggests that the Governor of New Hampshire issue a proclamation declaring that both parents are equally important for their children.**

Studies have conclusively shown that children who receive higher levels of attention and interaction with their natural fathers are healthier and better psychologically adjusted than children without fathers or with uninvolved fathers.

Whether the outcome is cognitive development, sex-role development, or psychosocial development, children are better off when their relationship with their father is close and secure.

Children with involved fathers are more confident and less anxious when placed in unfamiliar settings, better able to deal with frustration, better able to adapt to changing circumstances and breaks from their routine, and better able to gain a sense of independence and an identity outside the mother/child relationship.

Father-child interaction has been shown to promote a child's physical well-being, perceptual abilities, and competency for relatedness with others, even at a young age.

Children whose fathers were highly involved in their schools were more likely to do well academically, to participate in extracurricular activities, and to enjoy school, and were less likely to have ever repeated a grade or been expelled compared to children whose fathers were less involved in these schools. This effect held for both two-parent and single-parent households, and was distinct and independent from the effect of mother involvement.

Father involvement correlates with fewer behavior problems exhibited by their children. This finding holds after controlling for the level of maternal involvement.

Fatherless children score lower on tests and have lower grade point averages. Even after controlling for race, income and religion, scholars find significant differences in educational attainment between children who grow up in intact families and children who do not."

Fatherless children are twice as likely to drop out of school.

In a study of 75 toddlers it was found that children who were attached to their fathers were better problem-solvers than children who were not securely attached to their fathers.

Children whose fathers spent a lot of time with them and who were sensitive to their needs were found to be better adapted than their peers whose fathers were not as involved.

On the 25th of October, 2005, we were informed that of the 80 dysfunctional youths incarcerated at the New Hampshire Youth Development Center, 63 (or 79%) came from homes absent their biological father.

It would be impossible to give a complete accounting of the importance of caring fathers for children with this report. The serious student is simply encouraged to type "The Importance of Fathers" in any internet search engine.

Researchers have discovered an undeniable connection between fatherlessness and a wide variety of pathological disadvantages accruing to children, yet modern court decrees, social policy, and even fathers themselves, reflect mindsets and attitudes that serve to disconnect natural fathers from their children.

**This Commission recommends that research on the father's role in child development, some of which is listed in the bibliography herewith, be given the widest possible publicity and attention.**

DOMESTIC VIOLENCE

Men came forward during our public meetings to allege unfair treatment in family court domestic violence proceedings, and to allege that unsubstantiated charges of domestic violence were being improperly used as tools to place them at a distinct disadvantage in civil matters before family court.

This, and other testimony, led us to investigate the problem of domestic violence (DV) in greater detail.

A Marital Master explained to the Task Force on Family Law that the word on the street was that a woman can readily gain immediate possession of the children, home, and other assets by filing an "emergency" ex parte domestic violence petition, claiming to be in fear of her safety.

The accused may then have an immediate restraining order placed against him on a "temporary" basis even though he may not have been given an immediate opportunity to be heard in his defense. This procedure, commonly referred to as the "silver bullet" because of its efficiency and effectiveness, is difficult to challenge and may represent a loophole in the family court system that is being exploited.

Temporary orders, it seems, have a way of evolving into permanency because of the difficulty in proving perjury or one's own innocence, especially in those 50% of cases where the parties are mutual contributors to the problem; and because of crowded dockets, time and costs involved.

According to the NH Coalition Against Sexual and Domestic Violence, New Hampshire has seen anywhere from 4 to 7 thousand petitions for DV relief annually in recent years the vast majority being filed against men. It is not unusual, since judges are prone to err on the side of caution, for DV ex parte petitions to be granted immediately on the justification that an "emergency" exists.

Court statistics on domestic violence have proved to be difficult to obtain, but one report from the Administration Office of the Courts, a 1999 study funded by the State Justice Institute, indicates that an overwhelming majority of such petitions are granted. In the Salem and Littleton jurisdictions, 98% and 100% of ex parte DV petitions for restraint of the defendant were immediately granted in 1999, according to the report. These orders are often issued in the absence of the accused having an immediate opportunity to be heard in his defense.

In an effort to better understand the domestic violence problem, this commission invited Dr. Murray Straus, PhD, DV expert and cofounder of the Family Research Lab at the University of New Hampshire to speak to us. In brief, Dr. Straus told both the Men's Commission and the Task Force on Family Law (TFFL) that most domestic violence education and advocate training programs have unfairly referred to the perpetrator as "him" and the victim as "her" over the years.

Much of the education and dialogue, furthermore, has inappropriately discounted, dismissed, or denied the estimated one-third to one-half of all domestic violence victims who are male. Such stereotyping has had a negative impact on men's status with their families, and devalues the problem of abused men and children.

Dr. Straus further indicated that female aggression rates equal to or exceeding that of men should be treated equally serious if only as a matter of safety for

women, and that men stay in abusive relationships for many of the same reasons claimed by women.

Efforts to get relief from the domestic violence problem have been unduly influenced by special interests who have successfully sold the problem as solely a responsibility of males over the years.

The whole truth on this emotionally-charged dichotomy is not being fully revealed. It is as if it did not matter that there are male victims; and worse, that only males should be seen as aggressive because female assaults are not viewed as a problem. That in any case, only women shall get relief.

The federal Violence Against Women Act (VAWA) provides one such example of gender exclusiveness. As its title indicates, only women shall benefit from government intervention. **No one was allowed to testify on behalf of male victims at any legislative hearing on VAWA enactment or renewal proceedings, so powerful is this bias against men.**

One-sided reporting comes in many forms and can have long-lasting effects. As long ago as 1981, Straus, Gelles, and Steinmetz reported that 1.8 million women *and 2.0 million men* were assaulted by their partner. From that data, half-truths evolved like the one that appears on the website of the American Judges Association: "Every 15 seconds a woman is battered somewhere in the United States."

Nothing is ever published about the "real surprise" (to quote the researchers); the even shorter time span (14 seconds) between assaults by women on their partners, or the equal number of closed doors hiding the other half of the story.

Judges and criminal justice professionals, who ordinarily can be trusted to be impartial and unbiased arbiters of the truth, can be unwitting accomplices in the dissemination of DV half-truths and exaggerations.

In the annual report of the NH Domestic Violence Fatality Review Committee (DVFRC), for example, the domestic violence problem is introduced in the overview with the statement: "between three and four million women are beaten by their husbands every year."

Men were likewise implicated in the abuse and murder of children. Yet there are no references about the number of men or children assaulted or murdered by intimates in their overview. The DVFRC is chaired and administered by judges, criminal justice professionals, and others, who should be aware of the entire set of facts on such matters.

A U.S. Department of Justice report, "Murder in Families," states that women were over half of the defendants (55%) in the murder of their offspring; and a

"2003 Child Maltreatment" report showed that a child is twice as likely to be abused by its mother than by its father: 40.8% of child abuse victims in 2003 were abused by mothers acting alone, while 18.8% of victims were abused by fathers acting alone.

An organization called RADAR (Respecting Accuracy in Domestic Abuse Reporting) has identified several serious flaws with present domestic violence policy:

(1) Blatantly discriminates against men.

*Most domestic violence programs violate men's constitutional right to equal protection under the Fourteenth Amendment. None of the billions of VAWA dollars have been spent to help male victims of domestic violence.*

(2) Takes children away from their fathers.

*VAWA laws and the courts unwittingly encourage women to make questionable allegations of domestic violence on an "emergency" basis while petitioning for divorce and custody of the children. In written testimony, a Marital Master states: "**Unfortunately, requests for ex parte relief are based upon many circumstances, some of which are made only for the purpose of obtaining an advantage in litigation."***

(3) Allows uncritical use of restraining orders.

*Judges will typically issue restraining orders based only on the word of the alleged victim, without allowing the accused an immediate opportunity to present his or her side of the argument. And many state laws define "violence" so broadly as to allow restraining orders to be issued on the flimsiest pretext.*

*One judge told the Task Force on Family Law (TFFL) that he was confident he could discern the truth at ex parte hearings in the defendant's absence by the demeanor of the plaintiff and that he was well educated on the problem of domestic violence.*

*An attending prosecuting attorney, moreover, responded to a question about the NH Constitution (Article 15), which provides that "No subject shall be held to answer for any crime or offense until the same is formally described to him...and to be fully heard in his defense" by saying that Article 15 does not apply to subjects in civil matters.*

(4) Provides incentives for law enforcement agencies and prosecutors.

*Local authorities are encouraged to implement policies for mandatory reporting, mandatory arrest, and "no-drop" prosecutions.*

(5) Federal laws preempt existing state law enforcement programs.

*New Hampshire currently has strong partner assault laws. The federal Violence of Crime Act already addresses the issue of domestic violence. VAWA spends $1 billion a year to duplicate existing programs.*

(6) Politicizes the judiciary.

*VAWA provides funding for judicial education, which in practice can amount to prejudiced-loaded rants. In one training session in New Jersey, judges were instructed: "Your job is not to become concerned about all the constitutional rights of the man that you're violating as you grant a restraining order. Throw him out on the street, give him the clothes on his back and tell him, 'See ya' around.'"*

(7) VAWA represents an overreaching of federal power and unwarranted government interference into the personal relationships of intimate partners.

*The Supreme Court has condemned parts of VAWA as representing federal intrusion into an area of law that falls squarely within the domain of the states.*

(8) Corrupts family violence research.

Researchers often seek to bias the outcome of their research by interviewing only women, by slanting the wording of questions, or by selectively reporting research findings.

During the June, 2005 meeting of the Commission, the following resolution was passed regarding VAWA: "The Commission on the Status of Men supports the renewal of the Violence Against Women Act only if it is made gender-neutral in language, intent, and application."

CHILD SUPPORT

Problems with child support compliance persist for both male and female obligors. The reasons are varied and obscure: Flagrant irresponsibility, insufficient earnings; resentment that the system discourages the parent/child connection or even alienates that connection; being estranged from one's own children (or not being properly attached to begin with); income-based guidelines

and the widespread concern that money supposedly destined for the children ends up elsewhere; and feelings of misplaced responsibility.

One disgruntled man expressed the latter by saying he adequately provided for his children prior to an unwanted divorce, but being ordered to support his children, an act of love he had been doing voluntarily for years, compounded by a reduced role as "visitor" to his own children, was a crushing blow to his self esteem, initiative, and sense of responsibility.

**His position was that if the courts could see their way clear to take his children from where they were decently provided for to begin with, without just cause, then the courts should be held responsible for the support of his children.**

The current compliance rate for obligors with child support orders in New Hampshire is around 65%. In 1985, before the days of "deadbeat" posters, license revocations, and jail sentences, the compliance rates for all obligors with child support orders hovered around 60% for all accounts.

An increase of 5% in compliance rates over 20 years might be seen as statistically insignificant when viewed in the light of the millions spent for enforcement programs and the gradual increase of shared parenting arrangements and higher levels of father involvement.

Stanford Braver's research found that when a parent *feels like* a parent to his or her child (a condition best facilitated by parental involvement and shared parenting), compliance rates can exceed 90%.

Should expensive child support enforcement programs be credited with the 5% increase in compliance rates over 20 years? Or should the credit go, instead, to the courts' increased use of shared parenting arrangements in custody actions and higher rates of father involvement?

While there has been a significant increase in the percent of cases having child support orders because of child support enforcement initiatives, there has also been a corresponding increase in the number of children born to unwed parents.

Present policy may be sending the wrong message to both independent-minded women who shun "oppressive" marriages in increasing numbers; and to men who are getting inappropriate messages about their role as fathers. While there has been a steady increase in the birthrate of children to adult single women over the past dozen years or more government efforts to encourage father involvement, except to obtain social security numbers, is limited to enforcement of support that could be garnered by encouraging parents to work together for their children's needs.

Marriage is seen as an oppressive risk to be avoided by growing numbers of women (and men). Gloria Steinem expressed this philosophy best using simplistic terms: "Women need men like fish need bicycles." Marriage, formerly held to be the best way to provide for the needs of children, seems less attractive for women having at their disposal government "family" support and enforcement services; and less attractive for men who wish to avoid the 50% odds of ending up as defendants in a divorce court that dispenses the gold mine, the mineshaft and the children in unfair proportions.

Braver formally rediscovered what we all should have known to begin with: Parents have a natural inclination to support their children in a meaningful and caring way with the important caveat that they feel like parents to their children.

The millions spent on support enforcement might have been better spent on programs that encourage mothers and fathers to be more careful about the way they bring children into the world, and to encourage intimate involvement of both the mother and the father with their children when they do.

**This Commission recommends that the state sponsor and promote educational programs that teach young men and women about the need for children to have two caring natural parents meaningfully involved in their lives, with an emphasis on the indispensable role of the father in child development.**

The Office of Child Support Enforcement should consider modifying its policy of enforcing only the support portion of family court decrees to include the parenting aspects of those decrees as well.

The Task Force on Family Law (TFFL) made many valuable recommendations for such things as parenting plans, modified court procedures, alternative dispute resolutions, and language changes in the law. It appears that the TFFL might have made significant progress in neutralizing the win-lose atmosphere in family courts that otherwise worsens an already difficult scenario.

If its recommendations are followed, family courts may evolve into a win-win system that facilitates communication, compromise, and recognition that both parents are equally important for their children.

For many disenfranchised male veterans of the family courts, however, it seems that most of the problems they faced will remain unchanged. Of primary concern is the fear that the suggested improvements will be trumped by "manufactured acrimony" and "silver bullet" restraining orders now being issued, literally, by the thousands on one-sided testimony.

Men are wondering, with considerable suspicion, how lawyers and other officers of the court, many of whom have traditionally relied on adversarial proceedings

and a winning reputation to attract clients and income, will work in good faith to reduce the hostilities associated with custody actions going forward.

Many men remain worried that a bias against them as parents will still exist in spite of TFFL recommendations for mediation and parenting plans.

They worry that women will still be able to secure control of the children by reacting with hostility toward shared parenting proposals, and then petitioning for "emergency" restraining orders to neutralize the possibility of shared parenting.

One member expressed such concerns best by saying: "I feel pain for the fathers who lose their children in family court, but I'd fight like a wildcat to keep from losing mine." That the TFFL purposefully avoided the topic of shared parenting rights and responsibilities did nothing to alleviate these fears.

**The VAWA-funded NH Coalition Against Sexual and Domestic Violence (CASDV) provided testimony that was shown to be false about "joint custody being repealed as unworkable" (in some states), and made the unsubstantiated charge that "80% of men who seek shared parenting fit the profile of a batterer,"** which may have contributed to the TFFLs refusal to look at or report on the benefits of equal custody for children, in spite of a legislative intent to review such matters.

It was also stated on numerous occasions during TFFL meetings that shared parenting and mediation should not be considered “if the parents cannot get along”.

It is reported, with some disappointment, that the TFFL was in disagreement with the following resolution passed by this Commission on September 29, 2004:

> ***The New Hampshire Commission on the Status of Men finds and declares that it should be the public policy of this state that frequent and continuing contact between minor children and both parents, if the parents have separated or dissolved their marriage, is ordinarily beneficial to the children. This Commission also finds that it is in the public interest as well as to children and families to encourage parents to share the rights and responsibility of child rearing. This Commission recommends that a rebuttable presumption of joint physical custody should be supported and encouraged.***

The starting point in any child custody action should be that both parents are *equally* important for their children until *clear and convincing evidence* proves otherwise. (Historically, the starting point has been reversed: i.e, parents begin by fighting for sole custody).

1. Parenting time should be "maximized". The parties should anticipate, in a custody action absent a parent's inability to maximize their parenting time, that those administering or supervising domestic cases (i.e., family court) will make every effort to maximize the time parents have with their children to avoid rendering either of the parties a loser in the action, and to maximize the likelihood that children will have both natural parents involved in a meaningful way. The highest and best form of maximized time, while not always possible, is an equitable split in the time each parent has with the children. Children want, love, and need two parents.

2. Child support guidelines should be based on child costs. This Commission recognizes the contribution to acrimony inherent in New Hampshire's income-based child support guidelines and recommends that child support guidelines be based on child costs not on the income of either parent; and that alimony, where necessary, be treated as a separate line item.

3. Absent fault grounds, the financial burden of family breakdown should be shared equally by the parties. Since a family that splits inherits a significant reduction in living standards because of the need for dual accommodations, etc, the parties should be advised that higher participation in the workplace by *both* parties may be required if living standards are to be maintained.

4. Judges and prosecutors should attend educational conferences on domestic violence structured to avoid the present gender bias that ignores or downplays domestic violence by women against both men and children. Another serious source of acrimony in domestic relations can be traced to domestic violence policy and education. This has resulted in thousands of men being unfairly forced out of their homes annually on one-sided testimony in "emergency" civil proceedings.

5. Properly trained Case Evaluators should screen each domestic violence case with the goal of arriving at possible alternative solutions. According to Linda Mills, author of *Insult to Injury*, many women regret losing control when the criminal justice system gets involved. Present policy blurs the distinction between a common verbal disagreement and a physical assault. Any possibility for reconciliation and counseling evaporates under such conditions.

6. Orders (temporary or permanent) should not be issued against any defendant without first affording him or her immediate opportunity to respond. Fathers are being ordered from their homes and their children, literally by the thousands, at "emergency" domestic violence hearings in which restraining orders are petitioned by women *with a secondary gain* who claim to be in fear of physical harm. The testimony is often held as trustworthy in the absence of the defendant, who is most often a man

unaware of the proceeding, and has no immediate opportunity to testify on his own behalf, or face his accuser. Present policy is unfair, counterproductive, and inflammatory.

7. All domestic violence protocols and state-sponsored reports should be modified to change references about male assault rates to include also the female assault rates. The literature should portray the fact that domestic violence is a two-way street.

.....

Massachusetts is not an island onto itself. It cannot continue to pretend that sole custody to the mother is in the best interests of a child. It cannot ignore the findings in other states that have already chosen the honorable and courageous path and have addressed and corrected the injustices in their family courts.

I did not give up my parental rights to my son and I am not guilty of a crime. Therefore, it should not be in a court's power to intrude on my relationship with my son by replacing my involvement in his life with cash payments and visitation hours.

Don Mathis, a self-described "14%er," because of the amount of time he gets to spend with his kids, had this to share recently on Martin Luther King Day:

*Thinking of the birthday and legacy of the Rev. Martin Luther King Jr., I think about the most horrible aspect of slavery. I believe, as Holocaust survivor, Victor Frankl, relates in "Man's Search for Meaning," that the most horrible aspect of the concentration camps was the injustice.*

*Aside from the injustice, what would be the most horrible aspect of slavery? The capture and removal from one's family? The lack of freedom? The beatings? The meager food and dismal shelter? The long hours of degrading work?*

*No, I believe the worst thing you can do to a person is steal their children as was the case in a time when black children were torn from loving parents.*

*This thievery of children continues today. There exists an organized, state-sponsored system that can take away your children without just cause or due process - and that system is the family courts.*

# CHAPTER 33

## BOTTOM LINE: WHAT FAMILY COURTS DO TO FATHERS IS ILLEGAL

***Experience hath shewn, that even under the best forms of government those entrusted with power have, in time, and by slow operation, perverted into tyranny.*** ***Thomas Jefferson***

The "powers that be" can rationalize their unjust rulings and horrific treatment of fathers and children any way they like, but the fact is that there is nothing ambiguous about the Constitution that allows it to be interpreted to permit this kind of injustice. The denial of basic civil rights to an entire gender is simply illegal.

Judicial awards of child custody to one parent, of which in excess of 80% nationwide favor mothers, automatically deprive the "other" parent of a fundamental right affirmed repeatedly by the U.S. Supreme Court - the right to the care, custody, control, and companionship of one's offspring.

Below are some *thoughts* and legal references:

(1) The Fourteenth Amendment of the U.S. Constitution states quite clearly that no state "shall deny to any person within its jurisdiction the equal protection of the laws."

(2) The right to parent is a fundamental right. To even consider the theft of a citizen's fundamental rights requires the reviewing court to apply strict scrutiny. The court must show a necessary and compelling reason to justify its interference with a father's rights. *Aime v. Commonwealth* (1993).

(3) *The least restrictive means possible is 50/50 shared parenting, not support orders and labels that reward the mother for the breakup of a relationship with outrageous benefits at the father's expense.*

(4) It was Thomas Jefferson who wrote, "an equal application of law to every condition of man is fundamental. The most sacred of the duties of a government [is] to do equal and impartial justice to all its citizens. A free people [claim] their rights as derived from the laws of nature, and not as a gift from their chief magistrate."

(5) *In the family courts of Massachusetts, if both parents are fit, the mother <u>always</u> gets custody of the child and the child support payments that come*

*with it. The mother has all of the power because the courts in this state will not even consider 50/50 joint physical custody if the mother is opposed to this arrangement.*

(6) *Fathers have no chance for equal protection in this state because Massachusetts' family courts have created a fool-proof strategy for mother's seeking sole custody - simply refuse to communicate or cooperate with the child's father.*

(7) The United States Supreme Court ruled back in *Santosky v. Kramer* (1982) that "the fundamental liberty interest of natural parents in the care, custody, and management of their child is protected by the Fourteenth Amendment.

(8) The United States Supreme Court ruled more recently in *Troxel v. Granville* (2000) that "the due process clause does not permit a state to infringe on the fundamental right of parents to make child-rearing decisions simply because a state judge believes a better decision could be made."

(9) Similar holdings under numerous other Supreme Court decisions convey that protections must extend to all natural parents absolutely equally, or else the deprivations inherently become two other classes of civil rights violations under federal law - one under Equal Protection, and the other under (Gender) Discrimination.

(10) In her defense of the rights of gays to marry in Massachusetts, Supreme Judicial Court Chief Justice Margaret H. Marshall wrote:

*The Massachusetts Constitution affirms the dignity and equality of all individuals. It forbids the creation of second-class citizens. The Massachusetts Constitution is, if anything, more protective of individual liberty and equality than the Federal Constitution; it may demand broader protection for fundamental rights; and it is less tolerant of government intrusion into the protected spheres of private life.*

(11) Individuals are born with certain *inalienable rights*—that is, rights that governments may not take away from them. These rights are considered to be of a "higher law," a body of universal principles of right and justice that is superior to laws created by governments. Some of these rights, such as the freedoms of speech and of the press, support democracy. Others, such as the right to trial by jury, are essential to justice.

(12) *Family courts use criminal court procedure, absent the rights afforded criminals, to illegally deny fathers federal and state-defined fundamental rights. A father would literally get more justice if he were a criminal in*

*criminal court. At least in that setting, a father would be innocent until proven guilty and there would be something called a burden of proof that would have to be overcome to justify as punishment the theft of his parental rights. A father would also be entitled to a jury of his peers, a right that was specifically enacted to eliminate the tyranny of giving one judge the power to decide an individual's fate.*

(13) Article XV of the Massachusetts Constitution states quite clearly that, "in all controversies concerning property, and in all suits between two or more persons, the parties have a right to a trial by jury."

(14) *By statute, the family courts in Massachusetts have made up their own rules to override the State and U.S. Constitution. The fact is that if family court cases were decided by an impartial jury instead of wildly biased judges who guarantee victory for mothers, more women would be discouraged from using the system.*

(15) It was again Thomas Jefferson who wrote: "I consider [trial by jury] as the only anchor ever yet imagined by man, by which the government can be held to the principles of its constitution.

(16) Jefferson warns, "if the question relates to any point of public liberty, or if it be one of those in which the judges may be suspected of bias, a jury [must] undertake to decide both law and fact. If they be mistaken, a [wrong] decision, which is casual only, is less dangerous to the state and less afflicting to the loser than one which makes [such decisions] part of a regular and uniform system."

(17) Article XII of the Massachusetts Constitution states that "every subject shall have a right to produce all [evidence] that may be favorable to him; to meet witnesses against him face to face, and to be fully heard in his defense by himself, or his counsel."

(18) *I was denied my right to present my evidence AND did not meet ANY of the "witnesses" quoted in the DSS report face to face because none of them were in court to question on the stand. But still this inadmissible exhibit of lies and hearsay was given merit by the lower court and the appeals court to justify its outrageous ruling.*

(19) *While fathers in family court are treated like criminals, without a criminal's right to due process; mothers have the freedom to allege anything that they can dream up. If found guilty of resorting to false allegations, they are not prosecuted nor held accountable. The Golden Rule for mothers in family court is, "If the facts and the evidence cannot justify your demands, a false accusation or two will suffice."*

(20) What "no fault" divorce means in family court is a feminist propagandized "male fault" where all women are victims and all men are batterers and child abusers. Only women get "no-fault" in courtrooms - no matter how many families and children they destroy, it is never their fault. (Baskerville)

(21) In the vast majority of cases, only one of the parents imposes divorce on the children *and* the other parent. In such cases, divorce amounts to a public seizure of the innocent spouse's children and invasion of his or her parental rights, perpetrated by our government and using our tax dollars. Almost all divorces involving children are initiated by the mother, who can expect to get not only the children but the cash that comes with them. The fathers then become criminally liable for financing, at extortionate levels, children they seldom or never see. (Baskerville)

(22) Under simple equity rules, if two people have the same constitutional interest in a piece of property, it is divided equally. Yet in a custody case, where the constitutional interest is "far more precious than... property rights" (*May v. Anderson*) courts routinely hamper, or outright rape the constitutional rights of a parent where fitness is not an issue." (Baskerville)

(23) Fabricated charges are rampant in divorce courts, mostly to secure child custody and remove fathers. The cry of "trapping women in abusive marriages" has become the principal argument against fault-based divorce. The irony is telling, since physical violence obviously is and always has been grounds for divorce. The argument also reveals the totalitarian nature of today's feminism.

**What feminists object to is being held to the same standards of evidence as everyone else by having to prove their accusations. What feminists want -- and already have -- is the power to trample the presumption of innocence and due process of law in order to evict fathers on accusations of abuse that cannot be proven because, in many cases, the abuse did not happen at all.** (Baskerville)

# CHAPTER 34

## FINAL COMMENT

***Life affords no greater responsibility, no greater privilege, than raising of the next generation. C. Everett Koop***

What justification can this state give to dismiss fathers as insignificant and remove them from the lives of their children to be replaced with cash payments and visitation hours? Whatever horrors minorities and women have endured in the past 100 years, nobody ever took their children away.

I would like to question the judges and legislators in this state who reveal through their actions and inactions that fathers are insignificant? Apparently, careers in family court law and politics are predicated on distant, uninvolved fathers and the lingering resentment that such a dysfunctional family upbringing would generate. I make this claim because the father-bashing mindset that prevails in family court is clearly a slap in the face to the fathers in their own lives.

Contrary to the insulting gender stereotypes, my father was as much a "nurturer" and "care-taker" in my family as my mother. The parenting responsibilities were shared.

It was my father who did all of the food shopping and the cooking in our house. He was the one who took us camping in the summer, sledding in the winter, and to church every Sunday; who kicked me out of the house and from in front of the TV to go fishing, shoot baskets, or play catch; and who was involved in cub scouts and coached my baseball and hockey teams. My father can take credit for my resilience, my competitiveness, my frugalness, my sense of fair play, my work ethic, and my love of sports. None of these influences have anything to do with how much money he gave to me or my mother.

My mother's influences were significant as well. She prioritized making each of her kids feel uniquely special. She was the one who kept our house meticulous and organized. My mother was the one who I felt most comfortable talking to about anything and everything and who instilled my love for school and learning. My mother was the one who raised me to be a leader and not a follower, to be honest to a fault, and to have the courage to not compromise my principles. I can credit my mother for my academic achievements, my integrity, my attention to detail, my stubbornness to succeed, and my confidence.

A father's influences are not more nor less important than those from a mother, they are just different. A well-rounded person needs the unique influences that are provided by *both* of his parents and it should not be in a court's power to intrude on those fundamental rights when both parents are fit.