I am studying law and I have some question about a case in federal court.

The following case was filed in federal court:

David Martin, )

Plaintiff )

)

)

V. ) **VERIFIED COMPLAINT**

)

Attorney General Kwame Raoul )

Judge Gregory Emmett Ahern Jr. )

Unnamed Cook County Clerks )

Cook County )

**VERIFIED COMPLAINT**

**The parties to this complaint**

**1. The Plaintiff**

**Name: David Martin, a natural person.**

**Street Address: 5352 S. Princeton Ave**

**City and County: Chicago, Cook County**

**State and Zip Code: Illinois, 60609**

**Phone: 773-893-0813**

**E-Mail Address:** [**MartinvThompson@gmail.com**](mailto:MartinvThompson@gmail.com%20)

**The Defendant(s)**

**1. Name: Attorney General Kwame Raoul individually**

**and in his official capacity**

**Represented by: Benjamin F. Jacobson**

**Street Address: 100 W. Randolph St., 12th Fl.**

**City and County: Chicago, Cook County**

**State and Zip Code: Illinois 60649**

**Phone: 312-814-2546 (office) | 872-276-3643(cell)**

**E-Mail Address:** [**Benjamin.Jacobson@ilag.gov**](mailto:Benjamin.Jacobson@ilag.gov)

**2. Name: Judge Gregory Emmett Ahern Jr. , individually**

**and in his official capacity**

**Street Address: 50 W. Washington St., Room 1508**

**City and County: Chicago, Cook County**

**State and Zip Code: 60602**

**Phone: (312) 603-4808**

**E-Mail Address:** [**CCC.DomRelCR1508@cookcountyilgov**](mailto:CCC.DomRelCR1508@cookcountyilgov)

**3. Unnamed Cook County Clerks individually**

**and in their official capacity**

**Street Address:** 118 N. Clark Street

**City and County:** Chicago

**State and Zip Code:** IL 60602

**Phone:** (312) 443-5500

**E-Mail Address:** [**riskmgmt.genliability@cookcountyil.gov**](mailto:riskmgmt.genliability@cookcountyil.gov)

4.  **Cook County**

**Street Address:** 118 N. Clark Street

**City and County:** Chicago

**State and Zip Code:** IL 60602

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**JURISDICTION AND VENUE**

This action is brought pursuant to 42 U.S. Code § 1983. Civil action for deprivation of rights. The US. District Courts have jurisdiction because **the "very purpose of § 1983 was to interpose the federal courts between the States and the people, as guardians of the people's federal rights." Mitchum v. Foster, 407 U. S. 225, 242**

This action is brought pursuant to the 28 U.S.C. § 1331. **“The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.”**

The US District court has jurisdiction over the pending state litigation under 28 U.S. Code § 1441. “(c) Joinder of Federal Law Claims and State Law Claims”.

The US District Court has jurisdiction over the pending state litigation under 28 U.S. Code § 1446 Removal of civil actions. The pending state litigation has become removable.

This case is being filed in federal court because of several constitutional violations. This court should exercise jurisdiction over the pending State court litigation because **“this Court has long adhered to principles of pendent and ancillary jurisdiction by which the federal courts' original jurisdiction over federal questions carries with it jurisdiction over state law claims that "derive from a common nucleus of operative fact," such that "the relationship between [the federal] claim and the state claim permits the conclusion that the entire action before the court comprises but one constitutional `case.' " Mine Workers v. Gibbs, 383 U. S. 715, 725 (1966); see Hurn v. Oursler, 289 U. S. 238 (1933); Siler v. Louisville & Nashville R. Co., 213 U. S. 175 (1909). Congress has codified those principles in the supplemental jurisdiction statute, which combines the doctrines of pendent and ancillary jurisdiction under a common heading. 28 U. S. C. § 1367. The statute provides, "in any civil action of which the district courts have original jurisdiction, the district courts shall have supplemental jurisdiction over all other claims that are so related to claims in the action within such original jurisdiction that they form part of the same case or controversy under Article III of the United States Constitution." § 1367(a).**

**BRIEF STATEMENT OF FACTS**

1. On or around May 2017, Illinois Dept of HFS filed a petition for arrearages. Ms. Thompson was the plaintiff in that petition; however, she did not provide a mailing address or an email address… Among many things, I responded to Ms. Thompson’s petition with a 2-619 motion to dismiss and a counter claim. My 2-619 motion contained an argument and defense against Ms. Thompson claims for contribution of College Expenses.
2. On August 24th 2020 I filed a claim against Ms. Thompson. I requested a trial buy jury for that claim.
3. On May 25th 2021, Judge Mackoff entered a final and appealable judgment. After the hearing. Judge Mackoff gave Ms. Thompson an in-depth lecture about hiring a lawyer. He told her that I was going to file a motion for a default judgment, and that bad things would happen if she did not have a lawyer. Judge Mackoff then told Ms. Thompson that he would talk to her in more detail after the call.
4. On June 7th 2021, I filed a notice of appeal. Ms. Thompson was served the notice of appeal at her address 3550 South Giles Avenue Unit 4N Chicago, IL 60653.
5. On June 16th 2021, I filed the docketing statement with the court of appeals. Ms. Thompson was served the docketing statement at her 3550 South Giles Avenue Unit 4N Chicago, IL 60653.
6. On or around June 22nd 2021 Attorney Keith L. Spence filed an appearance.
7. On July 13th Attorney Spencer filed a motion for contribution of college expenses.
8. On October 29th Judge Marita Sullivan issued an order for the “Defendant to appear”
9. On December 3rd Ms. Thompson did not appear, and as a result Judge Julie Aimen Struck the case from her call.
10. On January 7th 2022, Judge Julie Aimen issued an order for the “defendant to appear” on January 31, 2022. via zoom ID: 984 1388 9930; Passcode 102870.
11. On January 10th I refiled my motions to correct the court record. These motions were previously filed several times. Most notably November 29th and December 13th.
12. On January 12th 2022, I was diagnosed with COVID 19.
13. On January 31st a default order for contribution of college expenses was entered against me.

**ARGUMENT**

**COUNT 1**

**DEPRIVATION OF RIGHTS**

**UNDER COLOR OF LAW**

I allege that I was deprived of my right to due process under the color of law by; Judge Gregory Ahern, the county of cook, The circuit court of cook county and its employees, The Clerks of Cook County, The State of Illinois and its employees… **Section 1 of The Fourteenth Amendment of the United States Constitution Provides that “All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws”.** It has been well established that **(“The hallmarks of procedural due process are notice and an opportunity to be heard. See Mullane v. Cent. Hanover Bank & Trust Co., 339 U.S. 306, 313, 70 S.Ct. 652, 94 L.Ed. 865 (1950).”**). I allege that I was not given proper notice of the proceedings that took place on January 31st 2002. On or around January 10th I contacted the clerk’s office for a hearing on my motions to correct the court record. The clerk explained that there was already a court date scheduled for 9:30 AM on January 31st 2022. I asked her what the hearing was for, She said that it was for contribution of college expenses. She then provided me with zoom ID: 984 1388 9930; Passcode 102870. At 9:30 AM on January 31st 2022, I attempted to connect to that zoom ID and was unable to do so. I immediately called the clerk’s office and explained that I was unable to connect to zoom using the ID that she provided. She apologized and said that she gave me the wrong zoom ID. She then told me that my case was in Judge Julie B. Aimen’s court room, and the zoom ID was 966 5031 4052, passcode: 167210. When I connected, Judge Aimen told me that my case was no longer in her court room. She said that my case was in Judge Ahern’s court room and provided me with zoom ID: 836 1836 1978, passcode: 527306. When I singed into Judge Ahern’s zoom ID, I explained to him that I was here for my motions to correct the court record. I also explained that I had just become aware of the plaintiff’s motion for college expenses, and that was up for hearing today. Judge Ahern told me that he was not aware of this. He then said that the State was not present in court on that day. He then scheduled a court date for 9:30 AM on February 25th. I later found out that judge Ahern put in a default judgment against me. At 9:30 AM On February 25th I joined Judge Ahern’s zoom ID. The state’s attorney said that my case was not on her call. Judge Ahern then told me to come back on March 10th at 2:15 PM. I returned on March 10th, and I objected to the court’s jurisdiction. That objection was denied. Puzzled by the chain of events, I went down to the courthouse to find Judge Aimen’s order for my appearance on January 31st**.** Upon inspection of the order, I found the zoom ID provided (984 1388 9930), did not belong to Judge Aimen and did it belong to Judge Ahern. I never received a notice for the hearing on January 31st. If I had, it would not have mattered because there was an insufficiency of service of process. The order written on Jan 7th 2022, directed me to appear via zoom ID: 984 1388 9930. This was obviously not correct because I appeared on time and was not able to connect to a zoom room. I was then forced to play three card monte with the judge’s zoom ID’s to figure out where my case was being heard. In addition this case has been transferred between several judges sense Mackoff’s final judgment. According to Circuit Court General Order NO. 1.3 (e ) transfer orders shall be in writing. There is no transfer order on file. In addition, I never received any notice that the case was being transferred between judges. It has been well settled that due process of law includes notice and opportunity to be heard. I argue that I was deprived of due process because I was given incorrect zoom info and I was never provided a transfer order.

**COUNT 2**

**DEPRIVATION OF RIGHTS**

**UNDER COLOR OF LAW**

I allege that I was deprived of my right to due process under the color of law by; Judge Gregory Ahern, the county of cook, the circuit court of cook county and its employees, the clerks of cook county, The State of Illinois and its employees…All of the aforementioned allegations apply here. On June 7th, 2021 I filed a notice of appeal for judge Mackoff’s judgment for child support arrearages. The law specifically states **“When the notice of appeal is filed, the appellate court's jurisdiction attaches instanter, and the cause is beyond the jurisdiction of the trial court.” (People v. Carter 38\*38 (1980), 91 Ill. App.3d 635, 638.)…** I alleged that the cook county clerks intentionally altered the record on appeal. This led to me filing a petition in circuit court to correct the record on appeal. According to **Illinois Supreme Court rule 11, the circuit court’s jurisdiction is limited to correcting the court record.** In my efforts to correct the court’s record, I became aware that Ms. Thompsons filed a claim for college expenses sometime after my appeal. This led to me filing a motion to object to the circuit court’s jurisdiction. On March 10th, I appeared via a circuit court zoom call before Judge Ahern. I informed the judge that I was only there for the purpose of correcting the court’s record for my pending appeal, and to object to the court’s jurisdiction **(see affidavit).** Ms. Thompson’s and her Attorney Keith Spencer did not make any opposing arguments as it regarded to the court’s jurisdiction. Judge Ahern contended that the court had Jurisdiction, but his order contains no findings of jurisdiction. The order generically stated that I objected to jurisdiction, and that objection was denied. After I received the court order, I realized that it may appear that I participated in the proceedings. I emailed Judge Ahern and Attorney spence to ask that the court order be modified to indicate that I did not participate in the proceedings, beyond my objection. My request was ignored. Subsequently, I filed a motion to certify my bystanders report of the March 10th proceedings. According to Illinois Supreme Court Rule 323(c), after being provided a copy of the report, any party may propose their amendments or present an alternative report. Ms. Thompson and her lawyer were promptly served with copies of my report. On June 8th 2022, during a zoom hearing, Judge Ahern mistakenly admitted that he did not have jurisdiction over my case. He said “I don’t have Jurisdiction to do anything because this case is being appealed.” To which I responded “I know, but you’ve already entered a judgement on this case while it was in the court of appeals. I am just here to certify my bystanders report so that I can have your judgment appealed.” I also went on further to contend that his court could not have had jurisdiction because there was a pending jury claim involving the same exact issues. The Judge before him, had already granted the request for a jury trial, and the case was supposed to have been transferred to the Law division. At that point Judge Ahern told me to hold on while he cleared his other cases. Judge Ahern said “I've read your motion to certify the record. I don't agree with that. I won't certify it”. He then went on to say “It's a final order here, you can go ahead and appeal it, take your appeal up there if that's what you so choose to do.” I then went on to explain “that there has to be some input from the opposing party or from the court specifically as to what's not correct, because it's a motion to essentially preserve the record for appeal.” Judge Ahern then went on to say “I don't agree with what you said in your report; so I'm not certifying it.”… He also went on to say that I participated in the case. At this point I allege he is lying or simply being untruthfull. To prove this, I then asked “Okay, so what is it that you don't agree with? That's what I'm trying to figure out”. To which he responded There's a lot of it I didn't agree with and I'm denying your motion… I don't have to. I don't have to go through and write my own record…. I searched and was not able to find any case law that would allow Judge Ahern to refuse to certify the court record. In fact, **Supreme Court Rule 323(c ) provides that “any other party may serve proposed amendments or an alternative proposed report of proceedings…the appellant shall, upon notice, present the proposed report or reports and any proposed amendments to the trial court for settlement and approval. The court, holding hearings if necessary, shall promptly settle, certify, and order filed an accurate report of proceedings.”** I argue that according to the law, Judge Ahern does not have the discretion to flat out deny my motion to certify my bystanders report. According to the law, he has the duty to propose amendments to my report or present an alternative report so that the matter can be settled and certified. I allege that he can’t make any substantial amendments or propose an alternate chain of events because everything I provided in my report is accurate. I allege that Judge Ahern is biased. He knew that he did not have jurisdiction when he entered the judgment for college expenses. He is now lying saying that I participated when I didn’t. The record is absolutely clear that my jury request was granted, and the case was in the court of appeals at the time. Judge Ahern is now blocking the certification of the record so that I cannot effectively appeal his judgment. I argue that I am being deprived of my constitutional right for a fair and impartial hearing. **The right to a fair trial is "a basic requirement of due process" and includes the right to an unbiased judge. In re Murchison, 349 U.S. 133, 136, 75 S.Ct. 623, 625, 99 L.Ed. 942 (1955).** In addition **Due process requires both fairness and the appearance of fairness in the tribunal. "[T]o perform its high function in the best way, `justice must satisfy the appearance of justice.'" Murchison, 349 U.S. at 136, 75 S.Ct. 623 (citing Offutt v. United States, 348 U.S. 11, 14, 75 S.Ct. 11, 99 L.Ed. 11 (1954)).** I argue that the proceeding lacked the appearance of fairness. There was never a real controversy in Ms. Thompson’s claim for college expenses. I offered to pay for our son’s college expenses several times and Ms. Thompson turned those offers down each time. Ms. Thompson has never asked me to assist her with paying for my son’s college expenses. This case was supposed to have been transferred to the law division, but somehow made it to Judge Julia Aimen’s court room. After she entered a judgment, the case was magically transferred to Judge Ahern’s court room with no rhyme or reason. A transfer order does not exist, despite the fact that the circuit court rule requires that a transfer order be written for all transfers. I’ve complained of these types of transfers in the past. I allege that the purpose of such transfers was to allow the case to go to a biased judge. Again it was plainly clear that the court did not have jurisdiction. When I bring this to the courts attention, Judge Ahern simply lies and prevents me from making the court record.

**Pulliam v. Allen, 466 US 522 - Supreme Court 1984** establishes that the United States District Courts has jurisdiction to provide injunctive and declaratory relief. The issue at hand is that Judge Ahern is refusing to produce an accurate record so that I may appeal his judgment. I was not able to find anything in law that would allow him to refuse to provide a record. I argue that it is in fact his duty to provide a record when requested. Without a record, I am unable to effectively appeal. I also argue that refusing to provide a record is unheard of and a deprivation of my right to due process. I argue that this court has jurisdiction to provide relief under 42 U.S. section 1983.

**COUNT 3**

**DEPRIVATION OF RIGHTS**

**UNDER COLOR OF LAW**

I allege that I continue to be deprived of my right to due process under the color of law by; Judge Gregory Ahern, the county of cook, the circuit court of cook county and its employees, the clerks of cook county, The State of Illinois and its employees. On October 31st 2022, Attorney Keith spence filed a Petition for Rule to Show Cause. The notice that was filed along with his petition did not provide the judges name, and it did not provide any zoom information. The notice provides the calendar number (44) and a html link. The link is in the top left-hand corner of the notice. Clicking the link leads to a list of zoom ID’s and passwords. Upon inspection of the list. I found that the list is two years old and had not been updated sense September 14th, 2020… On the date of the zoom hearing November 11th 2022, I recorded myself attempting to use the notice in order to attend the proceeding. The zoom meeting ID provided 984 1388 9930, took me into a zoom session where two other zoom ID’s were provided. One ID for calendar 32 and another for Calendar 44. I attempted to use the new zoom ID for Calendar 44. That ID was 836 1836 1978. I tried using it several times, but I received the error message “Invalid Meeting ID”. I then tried using the zoom ID for calendar 32 (864 6297 1874). That zoom ID took me to Judge William Boyd’s Court room. After waiting for an opportunity to speak, I was eventually able to get another zoom ID 823 0918 0627. This was Judge Aherns zoom session. Eventually my case was called, and I complained of the incorrect zoom information, however my complaint fell on death ears… I argue that **(“The hallmarks of procedural due process are notice and an opportunity to be heard. See Mullane v. Cent. Hanover Bank & Trust Co., 339 U.S. 306, 313, 70 S.Ct. 652, 94 L.Ed. 865 (1950).”**). I alleged that I am continuously being deprived of due process of law. The plaintiff in that case provided a notice of hearing with incorrect zoom information. I allege that this has been a re-occurring problem and is the type of thing that has led to a default judgment being entered against me. I argue that providing links to zoom ID’s is a violation of due process of law. In this case, the information provided was out of date. I believe that providing a link is simply a bad idea, and it will frequently lead to violations of due process of law. I argue that the moving party is responsible for providing the correct zoom information in his notice of proceedings…

I have a recording of my attempt to sign into zoom. I would like to submit this into this courts recorded. However, I am not sure how this can be done. I ask that this court allow me time to figure out how to get my recording submitted.

**COUNT 4**

**Extrinsic Fraud**

I allege that the cook county clerks attempted to commit extrinsic fraud. On May 24th 2021, I filed a 2-1401 motion to vacate the judgment for arrearages which was entered against me on March 24th 2021. That motion was denied and subsequently I appealed. On or around January 2nd 2021, I noticed a very serious problem with the court records that the cook county clerks provided. Those records contained an altered version of my 2-1401 motion. I allege that several parts of the document was altered with the intention of making it unusable for my appeal. I reached out to the circuit court clerks to correct their obvious errors. They refused to do so, and insisted that I needed a court order. I then filed a motion in circuit court on February 2nd 2022, requesting that the clerks provide a true and correct record. On March 10th 2022, I received two orders. One order was against me granting Ms. Thompson an award of $25, 740. The second order instructed the circuit court clerks to “ensure that the appeals record is true and correct” and to “ensure that the record was free of any errors, alterations, and omissions. The order directed the clerks to “Supplement the appeals record with all the recent filings”. On July 6, 2022 the Illinois court of appeals entered a separated ordered. That order directed the circuit court clerks to prepare a record containing materials dated on and after June 7th 2021, and transmit those record to the Illinois court of appeals. Those records would contain all the case files from Ms. Thompson’s claim for contribution of college expenses… On around may 31st 2022 I was informed that the corrected record also known as the supplemental record, was ready. I asked the clerks to send the record to me first, so that I could review it to make sure it was correct. The clerks told me that they don’t send records to anyone except the court of appeals… On June 23rd 2022, the Illinois court of appeals gave me a copy of the supplemental record. The record contained a correct copy of my 2-1401 motion, but it did not contain any of the court filings after June 7th 2021.

**Extrinsic fraud is conduct which prevents a party from presenting his claim in court. Green v. Ancora-Citronelle Corp., 577 F.2d 1380, 1384 (9th Cir. 1978).** I argue that the clerks are trying to prevent me from effectively presenting a claim in the court of appeals. The circuit court records are necessary for an appeal. I argue that the clerks are intentionally providing unusable records so that my appeal will be ineffective. In the first instance, I allege that they attempted to alter documents in my appeal for child support. In the second instance I allege that they intentionally omitted records necessary for my appeals for contribution of college expenses. The clerks have been asked to deliver a true and correct record to the appeals court. The clerks have been ordered several times to ensure that they deliver a true and complete record to the appeals court. I alleged that despite the request and numerous orders, the clerks intentionally chose to deliver altered and incomplete records. I allege that they are intentionally trying to commit extrinsic fraud by impeding, obstructing , and sabotage my appeals.

**COUNT 5**

**DEPRIVATION OF RIGHTS**

**UNDER COLOR OF LAW**

I argue that the Illinois statute 750 ILCS 5/513 is unconstitutional because it violates the seventh amendment of the United States Constitution, which provides a right to a trial by jury. I argue that the right to a trial by jury is not determined by statutes. It is determined by the nature of controversy. The law provides… **“However difficult it may have been to define with precision the line between actions at law dealing with legal rights and suits in equity dealing with equitable matters,**[**Whitehead v. Shattuck, 138 U. S. 146, 151 (1891),**](https://scholar.google.com/scholar_case?case=14444932152285562334&q=Ross+v.+Bernhard+(1970)&hl=en&as_sdt=400003)**some proceedings were unmistakably actions at law triable to a jury. The Seventh Amendment, for example, entitled the parties to a jury trial in actions for damages to a person or property, for libel and slander, for recovery of land, and for conversion of personal property.****[[1]](https://scholar.google.com/scholar_case?case=3226359321665935534&q=Ross+v.+Bernhard+(1970)&hl=en&as_sdt=400003" \l "[1]) ”.**

**COUNT 6**

**DEPRIVATION OF RIGHTS**

**UNDER COLOR OF LAW**

I argue that the Illinois statute 750 ILCS 5/513 is unconstitutional as applied. As it denied me a right to a trial by jury… All of the arguments in the previous paragraphs applies here… On August 24th 2020 I filed a claim against Ms. Thompson. I requested a trial by jury for that claim. The nature of that claim involves fraud, conversion, abduction, and contract disputes. All of which allows for a trial by jury. The jury request was granted on or around May 24th 2021. My claim is still pending before the court and it has not been heard. On or around July 13th 2021, Ms. Thompson filed a petition for contribution of college expenses. Ms. Thompson was awarded a judgment on her claim on March 10th 2022. I argue that I was deprived of my Seventh Amendment right to a trial by jury because Ms. Thompsons claims involves the exact same set of facts in my claim against her.

**COUNT 7**

**DEPRIVATION OF RIGHTS**

**UNDER COLOR OF LAW**

I argue that the Illinois statute 750 ILCS 5/513 is void because it is unconstitutionally vague… All of the arguments in the previous paragraphs applies here… **"The void-for-vagueness doctrine protects against the ills of a law that `fails to provide a person of ordinary intelligence fair notice of what is prohibited, or is so standardless that it authorizes or encourages seriously discriminatory enforcement.'" Ctr. for Individual Freedom v. Madigan, 697 F.3d 464, 478-79 (7th Cir. 2012) (quoting FCC v. Fox Television Stations, Inc., 567 U.S. 239, 253, 132 S.Ct. 2307, 183 L.Ed.2d 234 (2012) (internal quotations omitted)). "The `vagueness doctrine addresses at least two connected but discrete due process concerns: first, that regulated parties should know what is required of them so they may act accordingly; second, precision and guidance are necessary so that those enforcing the law do not act in an arbitrary or discriminatory way.'" Id. (citing Fox Television, 567 U.S. at 253, 132 S.Ct. 2307)…** It has been well settled that a controversy must exist for any court to have jurisdiction to render a judgement. However the statute allows one to be sued without there being an actual controversy and without the opposing party having actual standing. I argue that the statute violates the void-for-vagueness doctrine because there is no inherent controversy in a man going to college. The statute does not give an individual proper notice as to what they have done wrong or what harm they have caused to the opposing party. I argue that an induvial must know what they must do or avoid doing so that they do not cause harm to the opposing party. The statute clearly does not “prohibit” any specific actions and it does not provide any “standards”. I allege that the statute allows for “discriminatory enforcement”.

**COUNT 8**

**DEPRIVATION OF RIGHTS**

**UNDER COLOR OF LAW**

I argue that the Illinois statute 750 ILCS 5/513 is unconstitutional as applied because of its vagueness… All of the arguments in the previous paragraphs applies here… I offered to pay for my son’s college expenses shortly after his birth. At the time my employer offered a 529 college savings plan. However, Ms. Thompson turned down my offer to enroll our son into that plan. I was so puzzled by this, that I wrote her a letter to try and get her to reconsider. In addition, I allege that there were several other times that I offered to send her money for our son’s future college expenses. She again turned those offers down. There is simply no controversy as it relates to contribution of college expenses. There were simply no justiciable matters for the court to adjudicate. Ms. Thompson has never asked me to assist with our son’s college expenses. My son has never asked me to assist him with college expenses. I have never had any disputes or disagreements over our son’s college expenses. I did not even know he was going to college until Ms.Thompson filed a claim against me. I argue that I have been denied my right to due process of law because the statute does not provide a **(“fair notice of what is prohibited, and it is standardless. It authorizes or encourages seriously discriminatory enforcement.”).** I also argue thatMs. Thompson’spetition for contribution of college expenses does not provide a fair notice because it does not allege a controversy.

**COUNT 9**

**DEPRIVATION OF RIGHTS**

**UNDER COLOR OF LAW**

I argue that the Illinois statute 750 ILCS 5/513 is unconstitutional as applied because it deprives me of substantive due process… All of the arguments in the previous paragraphs applies here… **“The Fourteenth Amendment provides that no State shall "deprive any person of life, liberty, or property, without due process of law." We have long recognized that the Amendment's Due Process Clause, like its Fifth Amendment counterpart, "guarantees more than fair process." Washington v. Glucksberg, 521 U. S. 702, 719 (1997). The Clause also includes a substantive component that "provides heightened protection against government interference with certain fundamental rights and liberty interests." Id., at 720; see also Reno v. Flores, 507 U. S. 292, 301-302 (1993)”.**

I argue that the right to plan and budget for a child’s college expenses is a fundamental right. The statute deprives me of those rights because it allows Ms. Thompson to forgo the planning, coordination, and budgeting that should happen between two parents. Without reason and without cause the statute effectively removes my right to make financial decisions regarding my son, and place them in the hands of a judge.

**COUNT 10**

**DEPRIVATION OF RIGHTS**

**UNDER COLOR OF LAW**

I argue that Illinois Supreme Court Rule 63(A)(8) Is unconstitutional in zoom hearings because it deprives an individual of due process of law… All of the arguments in the previous paragraphs applies here… Zoom is a video conferencing software application. Some of its features are; 1) It allows one to record the video conference session, 2) It can transcribe a conference session, and 3) It logs the times and dates of when individual joins a conference session. In short, zoom can keep an accurate record of a video conference.

According to the cook county courts website, <https://www.cookcountycourt.org/HOME/LiveStream>, hearings are streamed to youtube at: <https://www.youtube.com/channel/UCFWc8Pfgngzw6v9xyXif1Yg/channels>., but According to the courts website, recording the proceedings are prohibited by **Supreme Court Rule 63(A)(8).** That rule is actually part of Canon 3 of the Code of Judicial Coduct. Which simply states, **“Proceedings in court should be conducted with fitting dignity, decorum, and without distraction.”**. I argue that Supreme Court Rule 63(A)(8) is unconstitutional and has absolutely nothing to do with recording sessions on zoom or on youtube. First of all, Supreme Court Rule 63(A)(8) is the judicial code of conduct and do not apply to litigants. Second, recording a court proceeding on youtube has absolutely no impact on the actual court proceeding. Recording a youtube session would be the equivalent of some one recording their favorite television show from home. Third, recording the actual session should not cause any form of distraction. Zoom participants have the ability to record the session if the host makes that feature available. I argue that recording a zoom session has no impact on dignity and decorum.

I argue that the ability to record zoom conferences, transcribe zoom conferences, and gain access to zoom logs have a direct impact on one’s appeal. **It is well settled that the 14th amendment due process right includes the right to present evidence and question adverse witness.** I argue that the Illinois Supreme Court Rule 63(A)(8) as being applied to zoom hearings, prevents one from effectively presenting his case in appeals. The a copy of the court proceeding is necessary to appeal a judgment. The supreme court rule unnecessarily prevents an individual from getting access to the court room proceeding in a cost effective manner. In fact, this claim is being filed because I am essentially being denied a true and correct record of a court room proceeding.

**Wherefore, I Pray:**

1. **Any remedy that this court can provide.**
2. **That I receive a fair and impartial hearing in the circuit court of cook county.**
3. **That there be a certification of the circuit courts record.**
4. **That the cook county clerks be ordered to provide complete accurate records to the court of appeals.**
5. **That it be declared that I have a right to record my court room proceedings from zoom and or youtube.**
6. **That it be declared unconstitutional to provide web links to zoom information on notice of proceedings.**
7. **That the circuit court of cook county require the actual zoom ID and password be present on all notices of proceedings.**
8. **That the Illinois statute 750 ILCS 5/513 be declared unconstitutional.**
9. **That the Illinois statute 750 ILCS 5/513 be declared unconstitutional as applied.**
10. **An order declaring that I have been denied Substantive due process.**
11. **An order declaring that I have been denied due process of law.**

**Date of signing:**

**David Martin**

**5352 S. Princeton, Chicago IL 60649**

**Email: martinvthompson@gmail.com**

**Signature of Plaintiff**

**VERIFICATION**

I reviewed this complaint.

I have personal knowledge of all the allegations in this complaint and I believe them to be true.

**Certification and Closing**

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

I agree to provide the Clerk’s Office with any changes to my address where case related papers may be served. I understand that my failure to keep a current address on file with the Clerk’s Office may result in the dismissal of my case.

The respondents filed a motion to dismiss, here is a copy of their motion:

**IN THE UNITED STATES DISTRICT COURT**

**FOR THE NORTHERN DISTRICT OF ILLINOIS**

**EASTERN DIVISION**

David Martin,

Plaintiff,

v.

Attorney General Kwame Raoul, Judge

Gregory Emmett Ahern Jr., Unnamed

Cook County Clerks, Cook County,

Defendants.

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Case No. 22-cv-6296

Honorable Andrea R. Wood

**DEFENDANTS’ ATTORNEY GENERAL RAOUL AND JUDGE AHERN’S**

**MOTION TO DISMISS PLAINTIFF’S AMENDED COMPLAINT**

Defendants, Attorney General Kwame Raoul and Judge Gregory Emmett Ahern, Jr., by

their attorney, Kwame Raoul, Attorney General of the State of Illinois, respectfully request that

this Honorable Court dismiss Plaintiff’s Amended Complaint pursuant to Federal Rules of Civil

Procedure 12(b)(1) & 12(b)(6). The grounds for this motion are set forth in Defendants’

Memorandum of Law in Support of Their Motion to Dismiss Plaintiff’s Amended Complaint,

which they incorporate by reference.

Respectfully Submitted,

KWAME RAOUL */s/* Mary A. Johnston

Attorney General of Illinois Mary A. Johnston

Assistant Attorney General

General Law Bureau

100 W. Randolph Street, 13th Floor

Chicago, Illinois 60601

(312) 814-4417

[Mary.johnston@ilag.gov](mailto:Mary.johnston@ilag.gov)

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**IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS EASTERN DIVISION**

David Martin,

Plaintiff,

v.

Attorney General Kwame Raoul, Judge Gregory Emmett Ahern Jr., Unnamed Cook County Clerks, Cook County,

Defendants.

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) Case No. 22-cv-6296

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) Honorable Andrea R. Wood

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**DEFENDANTS’ ATTORNEY GENERAL RAOUL AND JUDGE AHERN’S MEMORANDUM OF LAW IN SUPPORT OF THEIR MOTION TO DISMISS PLAINTIFF’S AMENDED COMPLAINT**

**INTRODUCTION**

Plaintiff’s Amended Complaint centers around a claim for contribution of college expenses brought against Plaintiff in the Circuit Court of Cook County pursuant to 750 ILCS 5/513 (the “College Contribution Statute”), a section of the Illinois Marriage and Dissolution of Marriage Act. *See* 750 ILCS 5/101 *et seq.* Plaintiff brings various claims under 42 U.S.C. § 1983 alleging that his Fourteenth Amendment substantive and procedural due process rights were violated by Judge Ahern in family court. ECF No. 10 at Counts I-III. Plaintiff also brings claims against Attorney General Raoul challenging the constitutionality of the College Contribution Statute. *Id.* at Counts V-IX. Plaintiff seeks declarative and injunctive relief against Judge Ahern and Attorney General Raoul (the “State Defendants”). ECF No. 10 at 25.

Plaintiff cannot state any viable claim against either State Defendant. Plaintiff’s claims against Judge Ahern fail because this Court lacks jurisdiction over these claims or, alternatively, should abstain from hearing these claims pursuant to principles of comity. Plaintiff has also failed

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to state a Section 1983 claim against Judge Ahern and Judge Ahern is entitled to absolute judicial immunity regarding any claim for damages.

Plaintiff has also failed to state any viable claim against Attorney General Raoul. Plaintiff’s claims against Attorney General Raoul are grounded in his allegation that the College Contribution Statute is unconstitutional. However, Plaintiff’s claims against the Attorney General are barred by the Eleventh Amendment and, even if these claims were not barred, Plaintiff cannot state a viable constitutional challenge. As such, Plaintiff’s claims against the State Defendants should be dismissed.

**BACKGROUND**

Plaintiff’s allegations are difficult to follow, but stem from an underlying dispute regarding child support and college costs. In May 2017, the mother of Plaintiff’s child filed a claim against Plaintiff for contribution for college expenses for their son. ECF No. 10 at 5. At least one of the hearings in the contribution case was held before Judge Ahern, and Judge Ahern entered a default judgment against Plaintiff. *Id.* at 9. Plaintiff alleges that he had difficulty attending to that hearing virtually because he was initially given incorrect Zoom information. *Id*.

In 2021, Plaintiff appealed an order from a different Cook County Judge related to child support payments. *Id.* at 10. Plaintiff alleges that there were issues with the record for appeal. *Id.* at 11. Plaintiff appeared before Judge Ahern several more times where he raised his concerns regarding the record, objected to the court’s jurisdiction because of the pending appeal, and moved to have Judge Ahern certify a proposed bystander’s report. *Id.* at 10-14. Plaintiff alleges that Judge Ahern’s refusal to certify his proposed bystander’s report has deprived him of his constitutional right to a fair and impartial hearing. *Id.* at 13. As such, Plaintiff seems to bring a procedural due process claim against Judge Ahern related to receiving incorrect Zoom information and Judge Ahern’s refusal to certify Plaintiff’s bystander’s report. *Id.* at Counts I-III.

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Plaintiff also challenges the practice of providing notice of hearings via Zoom in general and the Cook County Circuit Court’s prohibition on recording Zoom hearings. In Count III, Plaintiff alleges that Judge Ahern was involved in the deprivation of his rights because Plaintiff received incorrect Zoom information for a hearing. However, he does not allege that Judge Ahern provided the incorrect Zoom information, and so it is unclear if he brings this Count against Judge Ahern or other Circuit Court of Cook County employees. Count X also challenges the prohibition on recording Zoom court hearings, but this Count does not appear to be directed towards either State Defendant. Count IV is brought against the clerks of the Circuit Court of Cook County and relates to allegations that they altered records to prevent him from appealing circuit court decisions. Counts V through IX challenge the constitutionality of 750 ILCS 5/513 of the Illinois Marriage and Dissolution of Marriage Act, which governs educational expenses for a non-minor child. Plaintiff alleges that this statute is unconstitutional on its face because it violates the right to trial by jury (Count V); is unconstitutional as applied because it violated his right to trial by jury (Count VI); is unconstitutionally vague on its face (Count VII); is unconstitutionally vague as applied to Plaintiff (Count VIII); and is unconstitutional as applied to Plaintiff because it violated

his substantive due process rights (Count IX).

**LEGAL STANDARD**

A motion to dismiss under Rule 12(b)(6) tests the sufficiency of the complaint. A complaint may be dismissed if the plaintiff fails to allege sufficient facts to state a cause of action that is plausible on its face. *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009), *quoting Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007). A sufficient complaint must allege “more than a sheer possibility that a defendant has acted unlawfully” and be supported by factual content because “[t]hreadbare recitals of the elements of the cause of action, supported by mere conclusory statements, do not suffice.” *Iqbal*, 556 U.S. at 678. On a motion to dismiss, the court may consider

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any exhibits attached to the complaint and, where the exhibit and complaint conflict, the exhibit typically controls. *Massey v. Merrill Lynch & Co., Inc.*, 464 F.3d 642, 645 (7th Cir. 2006).

When ruling on a motion to dismiss pursuant to Rule 12(b)(6), the court must accept all well-pleaded facts as true, but it must also “draw on its judicial experience and common sense” to determine if the plaintiff has stated a plausible claim for relief. *Cooney v. Rossiter*, 583 F.3d 967, 971 (7th Cir. 2009), *quoting Iqbal* 556 U.S. at 678. If, upon its review, the court determines that a plaintiff has failed to meet this plausibility requirement, the matter should be dismissed.

Federal Rule of Civil Procedure 12(b)(1) provides that a party may move to dismiss a case based on “lack of subject matter jurisdiction.” Fed. R. Civ. P. 12(b)(1). Pursuant to Rule 12(h)(3), “[i]f the court determines at any time that it lacks subject-matter jurisdiction, the court must dismiss the action. Fed. R. Civ. P. 12(h)(3).

**ARGUMENT**

1. **PLAINTIFF CANNOT STATE ANY VIABLE CLAIM AGAINST JUDGE AHERN.**

Plaintiff’s claims against Judge Ahern fail because the Court lacks jurisdiction over Plaintiff’s claims based on the domestic relations exception and *Rooker-Feldman* doctrine. Even if the Court has jurisdiction, it should decline to exercise that jurisdiction based on principles of federal abstention. Plaintiff has also failed to state a claim against Judge Ahern. Finally, to the extent that Plaintiff seeks damages against Judge Ahern, any such claim is barred by absolute judicial immunity.

* 1. **This Court lacks jurisdiction over Plaintiff’s claims against Judge Ahern.**

The Court lacks jurisdiction over Plaintiff’s claims because those claims are barred by both the domestic relations exception to federal jurisdiction and the *Rooker-Feldma*n doctrine. First, Plaintiff’s claims against Judge Ahern are barred by the domestic relations exception to federal

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jurisdiction, which prevents federal courts from adjudicating cases that involve divorce, alimony, and child custody decrees. *Marshall v. Marshall*, 547 U.S. 293, 308 (2006); *Kowalski v. Boliker*, 893 F.3d 987, 995 (7th Cir. 2018) (quotations omitted). This rule prevents the federal courts from forcing their way into a state court matter, “particularly because state courts are assumed to have developed a core proficiency in probate and domestic relations matters.” *Sykes v. Cook County Circuit Court Probate Division*, 837 F.3d 736, 741 (7th Cir. 2016). Here, Plaintiff’s claims relate to his dissatisfaction with an underlying case centered on Plaintiff’s financial obligations to his child—a clear domestic relations issue. As such, Plaintiff’s claims are barred by the domestic relations exception to federal jurisdiction.

Further, Plaintiff’s claims are barred by the *Rooker-Feldman* doctrine. The *Rooker- Feldman* doctrine applies to “cases brought by state-court losers complaining of injuries caused by the state-court judgments rendered before the district court proceedings commenced and inviting district court review and rejection of those judgments.” *Exxon Mobil Corp. v. Saudi Basic Industries Corp.*, 544 U.S. 280, 284 (2005). To the extent that Plaintiff is challenging any state court orders requiring him to pay child support and college expenses, these are final orders for purposes of the *Rooker-Feldman* doctrine. *Hadzi-Tanovic v. Johnson*, 62 F.4th 394, 400 (7th Cir. 2023) (holding that a state court custody order entered pursuant to the Illinois Marriage and Dissolution of Marriage Act was a final and appealable judgment). As stated, the *Rooker-Feldman* doctrine prevents state-court losers from re-litigating the matter in federal court. *Exxon Mobil Corp.*, 544 U.S. at 284. The doctrine recognizes that, even if a state court decision is wrong, “that did not make the judgment void, but merely left it open to reversal or modification in an appropriate and timely appellate proceeding.” *Rooker v. Fidelity Trust Co.*, 263 U.S. 413, 415 (1923). The federal district courts cannot review a state court civil judgment; only the United States Supreme Court may do that. *Harold v. Steel*, 773 F.3d 884, 886 (2014). Therefore, unless the claim is

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independent from the state court judgment, the *Rooker-Feldman* doctrine bars jurisdiction. *Kelley*

*v. Med-1 Solutions, LLC*, 548 F.3d 600, 603-04 (2008). As such, any claims related to final orders should be dismissed with prejudice.

Alternatively, should this Court determine that any of Plaintiff’s claims relate to the ongoing state court proceedings and are not subject to the *Rooker-Feldman* doctrine, this Court should decline to hear the claims pursuant to *Younger v. Harris*, 470 U.S. 37 (1971). Federal courts apply *Younger* abstention when there is a parallel, pending state proceeding and any federal rulings would “implicate a State’s interest in enforcing the orders and judgments of its courts.” *Spring Comm. Inc. v. Jacobs*, 571 U.S. 69, 72-73 (2013). Here, if Plaintiff’s claims are not precluded by the *Rooker-Feldman* doctrine, this Court should decline to hear the claims pursuant to *Younger*.

* 1. **This Court should decline to hear Plaintiff’s claims against Judge Ahern based on principles of federal abstention.**

As discussed, the Court lacks jurisdiction to hear Plaintiff’s claims against Judge Ahern. But even if the Court has jurisdiction, Plaintiff’s claims should be dismissed based on federal abstention doctrines. If this Court determines that the domestic relations exception, the *Rooker- Feldman* doctrine, or *Younger* do not apply here, it should still abstain from hearing Plaintiffs’ claims. As the Seventh Circuit explained in *J.D. v. Woodward*, even if a recognized abstention doctrine is not an exact fit, abstention can be appropriate because “[t]o insist on literal perfection” based on a complaint’s allegations “risks a serious federal infringement.” *J.D. v. Woodard*, 997 F.3d 714, 723 (7th Cir. 2021) (declining to exercise federal jurisdiction in a due process custody claim). Instead, “federal courts may decline to exercise jurisdiction where denying a federal forum would ‘clearly serve an important countervailing interest,’ including ‘regard for federal-state relations.’” *Hadzi-Tanovic v. Johnson*, No. 20-cv-3460, 2021 U.S. Dist. LEXIS 226663 at \*15 (N.D. Ill. Nov. 24, 2021) (holding that abstention was proper in federal case alleging a conspiracy

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in a state-law divorce case), *quoting Courthouse News Serv. v. Brown*, 908 F.3d 1063, 1071 (7th Cir. 2018). “A common thread underlying the Supreme Court’s abstention cases is that they all implicate (in one way or another and to different degrees) underlying principles of equity, comity, and federalism foundational to our federal constitutional structure.” *J.B.*, 997 F.3d at 722 (declining to exercise jurisdiction over a due process claim related to underlying state court custody action).

Here, Plaintiff requests that this Court insert itself into a state court proceeding, but to do so “would intrude upon the independence of the state courts and their ability to resolve the cases before them.” *J.B*, 997 F.3d at 721-22, *quoting SKS & Assocs. v. Dart*, 619 F.3d 674, 677 (7th Cir. 2010). As such, abstention is appropriate here because “[e]xercising federal jurisdiction over [these] claims would ‘reflect a lack of respect for the state’s ability to resolve [these issues] properly before its courts.’” *J.D.*, 997 F.3d at 722 quoting *SKS & Assocs.*, 619 F.3d at 679. Plaintiff’s claims are directly related to an underlying state court case and deciding Plaintiff’s claims in this case would necessarily require this Court to review those judgments, implicating principles of comity. As Judge Feinerman observed in a similar case seeking injunctive relief from a state court judge in a custody case:

If the claims brought by Bush in *J.B.* warranted abstention to avoid providing him with an ‘offensive tool to take to state court to challenge [Judge Carr's] orders, abstention surely is warranted . . . where Bush sues Judge Carr himself and asks this court to directly decide the constitutionality of the judge's rulings and actions.

*Bush v. Carr*, No. 20 C 6634, 2021 U.S. Dist. LEXIS 191289, at \*2-3 (N.D. Ill. Oct. 5, 2021). So

to here. Plaintiff asks this Court to review the constitutionality of Judge Ahern’ rulings and actions in an underlying state court case. Accordingly, this Court should abstain from hearing Plaintiff’s claims against Judge Ahern and those claims should be dismissed.

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* 1. **Plaintiff has not stated a viable Section 1983 claim against Judge Ahern.**

Even if Plaintiff could get past the substantial jurisdictional hurdles, Plaintiff has not stated a plausible claim for relief under Section 1983 against Judge Ahern. It is not clear whether Plaintiff seeks injunctive relief against Judge Ahern, but to the extent that his request for “[a]ny remedy that this court can provide” (ECF No. 10 at Prayer for Relief) can be read as a request for injunctive relief, that claim fails. Section 1983 bars any suit for injunctive relief against a judge. In 1996, Congress amended 42 U.S.C. § 1983 to provide that “injunctive relief shall not be granted” in an action brought against “a judicial officer for an act or omission taken in such officer's judicial capacity . . . unless a declaratory decree was violated or declaratory relief was unavailable.” *Haas*, 109 F. App'x at 114 (quoting 42 U.S.C. § 1983). This amendment was intended to overrule the Supreme Court’s decision in *Pulliam v. Allen*, 466 U.S. 522, 541-43 (1984), which held that judicial immunity is not a bar to demands for injunctive relief against state judges. *Haas*, 109 F. App'x at 114 (citation omitted). Plaintiff has not alleged that Judge Ahern has violated a declaratory decree or that declaratory relief was unavailable. Thus, Plaintiff cannot pursue a Section 1983 claim for injunctive relief against Judge Ahern.

Plaintiff does seek declaratory relief stating that his due process rights have been violated. ECF No. 10 at Prayer for Relief. But while the common law doctrine of absolute judicial immunity does not bar actions for declaratory judgment, *Pulliam*, 466 U.S. 522, the Eleventh Amendment

bars such relief in this case. The Eleventh Amendment “does not permit judgments against state officers declaring that they violated federal law in the past.” *P.R. Aqueduct & Sewer Auth. v. Metcalf & Eddy, Inc.,* 506 U.S. 139, 146 (1993); *see also Williams v. Wettick*, Civil Action No. 06-991, 2006 U.S. Dist. LEXIS 67867, at \*9 (W.D. Pa. Aug. 3, 2006). Here, Plaintiff is seeking a declaratory judgment that his due process rights were violated in the past, and such relief is barred

by the Eleventh Amendment.

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* 1. **Judge Ahern is entitled to absolute judicial immunity for damages.**

Finally, should Plaintiff’s request for “[a]ny remedy that this court can provide” (ECF No. 10 at Prayer for Relief) be interpreted as a request for damages against Judge Ahern, that request would fail because Judge Ahern is entitled to absolute judicial immunity. Judicial immunity has been “embraced ‘for centuries.’” *Dawson v. Newman*, 419 F.3d 656, 660 (7th Cir. 2005), *quoting Lowe v. Letsinger*, 772 F.2d 308, 311 (7th Cir. 1985); *see also Mireles v. Waco*, 502 U.S. 9 (1991) (listing cases). Judicial immunity protects judges from having to defend actions brought by disgruntled litigants. *See Forrester v. White*, 484 U.S. 219, 220 (1988); *Brokaw v. Mercer County*, 235 F.3d 1000, 1015 (7th Cir. 2000) (stating that judges must be “free to act upon [their] own convictions” without fear of liability). Judicial immunity “confers complete immunity from suit, not just a mere defense to liability,” and this immunity applies to suits brought under Section 1983. *Dawson*, 419 F.3d at 660 (internal citations omitted).

Further, judicial immunity applies even if a judge makes an erroneous ruling, as the party can still seek redress through the appellate process. *Id.* at 661. Judges cannot be sued for their judicial acts, even when those acts are “in excess of their jurisdiction, and are alleged have been done maliciously or corruptly.” *Bradley v. Fisher*, 80 U.S. 335, 351 (1871); *see also Stump v. Sparkman*, 435 U.S. 349, 358-59 (1978). Judges are absolutely immune from suits for damages unless: (1) “the suit challenges an action that is not judicial in nature” or (2) “the judge acted in the complete absence of all jurisdiction.” *Haas v. Wisconsin*, 109 F. App’x 107, 113 (7th Cir. 2004).

Plaintiff’s claims against Judge Ahern center entirely on Judge Ahern’s judicial acts, specifically entering orders and ruling on motions. ECF No. 10. In other words, Plaintiff challenges Judge Ahern’s application of state law, which is perhaps the paradigm of a judicial action. *See Loubser v. Thacker*, 440 F.3d 439, 442 (7th Cir. 2006) (the entry of rulings are judicial acts and

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entitled to judicial immunity). Further, Judge Ahern had jurisdiction to hear Plaintiff’s claims. *See* Ill. Const. Art. 6 §§ 6 & 9 (describing jurisdiction of the Illinois circuit and appellate courts). Moreover, as the Seventh Circuit has explained, “[t]he Supreme Court of [Illinois], not the federal judiciary, is responsible for dealing with claims that state judges erred.” *Myrick v. Greenwood*, 856 F.3d 487, 487 (7th Cir. 2017). Courts in this circuit have routinely dismissed lawsuits against judges for actions taken in their judicial capacity. This Court should do the same and find that Plaintiff’s claims against Judge Ahern are barred by absolute judicial immunity and should be dismissed.

1. **PLAINTIFF CANNOT STATE ANY VIABLE CLAIM AGAINST ATTORNEY GENERAL RAOUL.**

Counts V-IX of Plaintiff’s complaint challenge the constitutionality of the College Contribution Statute. *See* ECF No. 10 at Counts V-IX. These appear to be the only claims directed at Attorney General Raoul. Specifically, Plaintiff alleges that this statute is unconstitutional on its face and as applied because it violates Plaintiff’s right to a trial by jury (Counts V & VI) and is unconstitutionally vague on its face and as applied to Plaintiff (Counts VII & VIII); and, is unconstitutional as applied to Plaintiff because it violated his substantive due process rights (Count IX). *See Id.* Plaintiff’s claims against the Attorney General are barred by the Eleventh Amendment and are not viable because the underlying statute is constitutional.

* 1. **Plaintiff’s claims against Attorney General Raoul are barred by the Eleventh Amendment.**

The Eleventh Amendment prohibits suits against a state without the state’s consent. *See Will v. Michigan Dep’t of State Police*, 491 U.S. 58, 67 (1989); *Quern v. Jordan*, 440 U.S. 332, 342 (1979) (Eleventh Amendment bars § 1983 claims). It is long established that this protection is extended to state agencies. *Pennhurst State School & Hosp. v. Halderman*, 465 U.S. 89, 100 (1964). Further, “an official-capacity suit is, in all respects other than name, to be treated as a suit

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against the entity.” *Kentucky v. Graham*, 473 U.S. 159, 166 (1985). There is an exception under *Ex Parte Young* that allows for suits against state officers to enjoin the enforcement of allegedly unconstitutional acts. *See Ex Parte Young*, 209 U.S. 123, 155-57 (1908). But this exception does not apply here. To fall under this exception, “a plaintiff must show that the named state official plays some role in enforcing the statute in order to avoid the Eleventh Amendment.” *Doe v. Holcomb*, 883 F.3d 971, 975 (7th Cir. 2019), citing *Ex Parte Young*, 209 U.S. at 157.

Plaintiff’s Amended Complaint does not make any direct allegations against Attorney General Raoul1 and does not allege that he has any specific role in the enforcement of the Illinois Marriage and Dissolution of Marriage Act. *See* ECF No. 10. As such, Plaintiff has failed to allege that Attorney General Raoul has any role in enforcing the Illinois Marriage and Dissolution of Marriage Act, let alone sufficient involvement to avoid the Eleventh Amendment. At most, it can be inferred that Plaintiff’s claims against Attorney General Raoul are based on his general duties to enforce state laws. However, this general duty is insufficient to sustain a claim against the Attorney General. *Doe*, 833 F.3d at 976 (explaining that the duty to support the constitutionality of statutes does not overcome the Eleventh Amendment); *see also Heabler v. Madigan*, No. 12- cv-6193, 2013 U.S. Dist. LEXIS 136986, \*11 (Sep. 24, 2013) (dismissing claim against attorney general and noting that the “general authority over Illinois law thus does not alone render [him] a proper defendant here”); *Sierakowski v. Ryan*, No. 98-cv-7088, 1999 U.S. Dist. LEXIS 6573, \*4 (N.D. Ill. Apr. 26, 1999) (same). Because there are no allegations that the Attorney General is

1 The Amended Complaint states that Attorney General Raoul is sued “Individually and in his official capacity” (ECF No. 10 at 2), but as stated the Amended Complaint does not include any allegation that Attorney General Raoul took any direct action with regard to Plaintiff. Thus, Plaintiff has failed to state a claim against Attorney General Raoul in his individual capacity. *See Miller v. Smith*, 220 F.3d 491, 494 (7th Cir. 2000) (“Where the plaintiff seeks injunctive relief from official policies or customs, the defendant has been sued in her official capacity; where the plaintiff alleges tortious conduct of an individual acting under color of state law, the defendant has been sued in her individual capacity.”).

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involved in the enforcement of the Illinois Marriage and Dissolution of Marriage Act, Plaintiff’s claims against the Attorney General are barred by the Eleventh Amendment. Further, it does not appear that Plaintiff brings Count X against Attorney General Raoul or Judge Ahern. However, if this Court determines that Count X has been brought against either State Defendant, it is also barred by the Eleventh Amendment.

* 1. **Even if Plaintiff’s claims against Attorney General Raoul were not barred by the Eleventh Amendment, Plaintiff cannot state viable claims challenging the statute’s constitutionality.**

Plaintiff alleges that the College Contribution Statute violates his right to a trial by jury. ECF No. 10 at Counts V & VI. These claims fail because the Marriage and Marriage Dissolution Law, of which the College Contribution Statute is a part, does not provide for trial by jury. 750 ILCS 5/103 (“There shall be no trial by jury under this Act.”). This provision of the Illinois Marriage and Dissolution of Marriage Act is constitutional because the right to a trial by jury only applies to suits that were available “at common law” when the constitution was adopted, and divorce proceedings were historically, and remain, equitable proceedings. *See Maines v. Vermillion Cnty. Circuit Court*, 980 F.2d 733 (7th Cir. 1992) (unpublished opinion citing treatises for proposition that divorce proceedings were historically and are currently equitable proceedings).

Plaintiff also challenges the College Expense Statute as being unconstitutionally vague on its face and as applied. ECF No. 10 at Counts VII & VII. The void-for-vagueness doctrine typically applies to criminal statutes and “guarantees that ordinary people have ‘fair notice’ of the conduct a statute proscribes.” *Sessions v. Dimya*, 138 S. Ct. 1204, 1212 (2018), *citing Papachristou v. Jacksonville*, 405 U.S. 156, 162 (1972). Except for First Amendment challenges, “a plaintiff can only succeed in a facial challenge by “establish[ing] that no set of circumstances exists under which the Act would be valid,” *i.e*., that the law is unconstitutional in all of its applications.” *Washington State Grange v. Washington State Republican Party*, 552 U.S. 442, 449 (2008), *citing*

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*United States v. Salerno*, 481 U.S. 739 (1987). In arguing that the statute is vague Plaintiff is, in effect, arguing the merits of the underlying case. *See* ECF No. 10 at Count VII (alleging that there is no controversy and that the mother of Plaintiff’s child did not have standing to bring her claim in the Circuit Court) & Count VIII (asserting that there is no underlying controversy). These are not allegations that the College Contribution Statute itself is vague; rather, these are collateral attacks on the underlying state court case. As discussed above, these are the exact type of decisions that federal courts are either prohibited from hearing pursuant to the domestic relations exception to federal jurisdiction, the *Rooker-Feldman* doctrine, or general principles of federal abstention. Moreover, the College Contribution Statute is not vague; it provides clear direction about what educational expenses may be awarded to provide the educational expenses for a non-minor child and the factors that can be considered in making those determinations. *See* 750 ILCS 5/513.

Finally, Plaintiff alleges the College Contribution Statute violates his substantive due process right to “plan and budget for a child’s college expenses.” ECF No. 10 at Count IX. A fundamental right is one that is “deeply rooted in this Nation’s history and tradition, and implicitly in the concept of ordered liberty, such that neither liberty nor justice would exist if they were sacrificed. *Khan v. Bland*, 630 F.3d 519 (535) (7th Cir. 2010) (internal quotation omitted). Substantive due process claims have a narrow scope and courts should be hesitant to expand on this concept. *See Campos v. Cook Cty.*, 932 F.3d 972, 975 (7th Cir. 2019) (internal citations omitted). Despite Plaintiff’s conclusory assertion otherwise, there is no fundamental right to budget for a child’s educational expenses. As such, the College Contribution Statute is constitutional so long as it is rationally related to a legitimate government interest. Rational basis review is highly deferential, and a statute will stand unless the plaintiff can negate every conceivable basis for the government action. *Minerva Dairy, Inc. v. Harsdorf*, 905 F.3d 1047, 1053 (7th Cir. 2018) (internal citations omitted). Here, the College Contribution Statute provides

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framework for state courts to determine how to allocate the expenses for a child’s higher education between the parents. This promotes the education of children and equity between the parties. As such, the College Contribution Statute is rational, and Plaintiff’s substantive due process claim fails.

**CONCLUSION**

Plaintiff’s claims against Judge Ahern fail because the Court lacks jurisdiction over these claims, or in the alternative should abstain from hearing these claims pursuant to principles of comity. Plaintiff has also failed to state any claim against Judge Ahern, and Judge Ahern is entitled to absolute judicial immunity for any claims for damages. Further, Plaintiff’s claims against Attorney General Raoul fail because Plaintiff has not stated a claim against him.

WHEREFORE, the State Defendants respectfully request that this Court grant their motion and dismiss all claims against them.

Respectfully Submitted,

KWAME RAOUL */s/* Mary A. Johnston

Attorney General of Illinois Mary A. Johnston Assistant Attorney General General Law Bureau

100 W. Randolph Street, 13th Floor Chicago, Illinois 60601

(312) 814-4417

[Mary.johnston@ilag.gov](mailto:Mary.johnston@ilag.gov)

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An answer was filed to the motion to dismiss. Here is the answer:

David Martin, )

Plaintiff )

)

) Case 1:22-cv-06296

V. )

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Attorney General Kwame Raoul )

Judge Gregory Emmett Ahern Jr. )

Unnamed Cook County Clerks )

Cook County )

**PLAINTIFF’S ANSWER TO ATTORNEY GENERAL**

**RAOUL AND JUDGE AHERN’S MOTION TO DISMISS.**

I David Martin respectfully request that this Honorable Court deny the defendant’s motion to dismiss. The defendant’s motion should be denied because; This court has jurisdiction, I have stated a viable section 1983 claim against judge Ahern, Judge Ahern is not immune to declaratory judgments and injunctive relief, I have provided viable claims challenging the constitutionality of the state’s College Contribution Statute and this court has jurisdiction to enter a judgment.

**INTRODUCTION**

The defendants are asking this court to dismiss my claim against them pursuant to the Federal Rules of Civil Procedure 12(b)(1) & 12(b)(6). They are essentially arguing that this court does not have jurisdiction, and I have failed to state a claim. They argue.. *(“Plaintiff’s claims against Judge Ahern fail because this Court lacks jurisdiction over these claims or, alternatively, should abstain from hearing these claims pursuant to principles of comity….. Plaintiff has also failed to state a Section 1983 claim against Judge Ahern and Judge Ahern is entitled to absolute judicial immunity regarding any claim for damages.”)*.

I argue that the defendants are simply wrong. This court has jurisdiction and principles of comity do not apply when; There are no adequate remedies in state court, There is bias or corruption, and I will suffer irreparable harm. Among many things, my complaint basically alleges that; (1) A judgment was entered against me without proper notice of the proceedings, (2) I was provided with incorrect zoom information, which prevented me from participating in the court room proceedings, (3) The State court did not have jurisdiction because the case was pending in the state court of appeals, (4) Judge Ahern does not have the authority to refuse to certify a record of the court room proceedings… refusing to certify the record sabotages my appeal, (5) In addition the defendant’s are attempting to sabotage my State court appeal by altering and omitting court documents.

I filed this complaint mostly to preserve my appeal in state court. I argue that this court does have jurisdiction under U.S. 42 section 1983. I have stated a viable claim because I am asking this court to declare that; (1) I have a right to notice and an opportunity to be heard. (2) I have a right to accurate zoom information so that I can attend the court room proceedings, (3) I have a right to record the zoom proceedings so that I can create a bystanders report, (4) I have a right to a record of the court room proceedings and that I have a right to accurate court documents, (5) I am also asking this court to get the defendants to stop altering and omitting documents and to stop trying to sabotage my appeal in state court.

I allege that judge Ahern and the other defendants are trying to sabotage my appeals in state court. They are doing this by refusing to give me a record of the court room proceedings and by altering and omitting court documents needed for my appeal. According to State law, the state court records are the responsibility of the appellant. However, getting accurate records is proving to be an impossible task because the defendants are outright refusing to provide them. When they do provide them, they are providing altered or incomplete documents. In addition, I noticed other issues with state court proceedings such as; (1) Zoom information not being provided for court room proceedings. (2) Discouraging the recording of zoom hearings to prevent an individual from obtaining a record of the proceedings for appeal.

I argue that many of the defendant’s actions are clear cut violations of the United states constitution and this court has jurisdiction to enter judgments to prevent the defendants from continuing to violate the constitution. In addition several federal questions are raised in this case, and this court has jurisdiction to answer them. I argue that the defendants are asking this court to dismiss my case so that they can continue to; conduct court room proceedings without a notice and opportunity, to deny me a record of the court room proceedings, and alter and omit court documents. I argue that there are no other adequate remedies available other than a declaration of my rights.

The Vagueness doctrine applies to civil lawsuits. The doctrine protects individuals from arbitrary enforcement. Individuals are required to be given a fair notice of what conduct caused them to be dragged to court. What did I do… or what did I not do that caused me to be sued? I argue that there is no genuine controversy in the state court case. Ms. Thompson was offered help with college expenses on multiple occasions. On each occasion she turned those offers down. The College Contribution Statute allowed Ms. Thompson to arbitrarily sue for college expenses. In fact, Ms. Thompson’s complaint does not even allege that there was a controversy. Without a genuine dispute, the statute allowed judge Ahern to arbitrarily award Ms. Thompson a money judgment.

The void for vagueness doctrine also protects property rights. In this case, two types of property are involved. First my parental rights were taken away. The U.S. Supreme Court has long established that parental rights are rights greater than property rights. The Fourteenth Amendment establishes that everyone is entitled to equal rights under the law. I argue that my parental rights include an equal right to make financial decisions regarding my children. Second my money is at stake. I argue that I have a right to the fruits of my labor. I have a right to determine how my money will be spent.

The College Contribution Statute denies an individual of substantive due process. Under the doctrine of substantive due process, the government must respect the rights of the individual. As argued, parental rights have long been established as fundamental rights. I argue that this right includes the equal right to make financial decisions for their children. This statute allows for natural fathers to be striped of their natural rights, so that they can be made debtors. The statute will robbed me of my right to review the finances regarding my son and to participate in those decisions.

I argue that I was entitled to a trial by jury. Ms. Thompson filed a complaint for child support and I responded with a counterclaim. Along with my counter claim I requested a trial by jury and my case was to be transferred to the law division. I appealed an earlier judgment just before the case was transferred. As a result the court of appeals had jurisdiction over the case. However, the case was still transferred to the law division. Sometime after Ms. Thompson filed a complaint for college expenses and received a default judgment. This is despite the fact that the case was in the Court of Appeals. Even If the case was not in the court of appeals, the case should have still been in the law division. My counter claim alleges that Ms. Thompson; Abducted or son, committed fraud, committed conversion, made secret contracts with the government, and intentionally committed emotion distress. I argue that I am entitled to a trial by jury because there was never a controversy concerning college expenses. The nature of the controversy in this case is based on abduction, fraud, conversion, etc.

**BACKGROUND**

Ms. Thompson and I started dating around November 1,1999. Sometime around April of 2001, Ms. Thompson became pregnant. At that time Ms. Thompson was unsure who the father was. Despite this, I provided financial support for Ms. Thompson throughout her pregnancy. We both agreed that we would have a blood test to determine who the father was. Our son was born on January 27, 2002 and the blood test revealed that I was the father. After his birth I continued to provide for him emotionally, physically, and financially. Sometime after his birth, I offered Ms. Thompson several forms of additional support beyond the financial support that I was already providing. One of the notable forms of additional support was that I would start a 529 college saving plan. Ms. Thompson turned down the offers of additional support. At some point Ms. Thompson abducted our son. I continued to provide financial support throughout his abduction. Despite the fact that I provided financial support, Ms. Thompson went to the state’s attorney to sue me for child support around Feb 27 2003. When I asked why I was being sued, she told me **“This is not about you taking care of your son, I just want to make sure you never have shit in life”.** That litigation ended after I appeared in properia persona, filing documents stating that I would no longer participate in the case and that I would not accept any agreement other than joint legal and physical custody. Sometime after, I reached out to Ms. Thompson several times attempting to reconcile our differences. I offered to start sending money for our son’s college expenses. Ms. Thompson again turn that offer down.

Around May 2017, The Illinois States Attorney filed a petition for arrearages.

I had several responses to their petition. Two of which was a 2-619 motion to dismiss and a counterclaim requesting a trial by jury. The motion to dismiss argued many things. Two of which was that the court did not have jurisdiction because; (1) There was never a genuine controversy, (2) That the government had violated my rights and denied me substantive due process. The counterclaim alleged many things, three of which was that Ms. Thompson had; (1) Abducted our son, (2) Committed fraud, (3) Committed conversion…. I allege that my rights were violated several times while in state court. This led to me filing a complaint in federal court alleging that the circuit court clerks, and the judge were acting in bad faith. The complaint was dismissed in federal court and the circuit court judges entered an order for arrearages. My Motion to dismiss was never ruled on, and my claims against Ms. Thompson was transferred to the law division. At this time I was afraid that I would miss my chance to appeal, so I filed an appeal in the circuit court of appeals. At the same time my case was transferred to the law division. Sometime after Ms. Thompson filed a new complaint for contribution of college expenses. Ms. Thompson received a default judgment. I was unaware of her complaint at the time. I found out about her complaint when I returned to circuit court to correct the record for appeal. At that time, I objected to the jurisdiction of the court and Judge Ahern awarded Ms. Thompson money on her default judgment.

My complaint alleges that the defendants are trying to sabotage my appeal in state court. They are doing this by refusing to provide accurate court documents and refusing to allow me to create a bystander’s report of the record of the proceedings. There is no adequate remedy in law, other than declaratory and Injunctive relief.

This complaint has very little to do with child support. I am simply trying to preserve my appeal to the child support judgment and the judgment for college expenses.

The defendants incorrectly state *“In May 2017, the mother of Plaintiff’s child filed a claim against Plaintiff for contribution for college expenses”.*

As previously provided in my statement of facts, the Mother Ms. Thompson filed a complaint for college expenses on July 13, 2021. This date is important for several reasons. (1) Our son was an adult when this complaint was filed. (2) She filed the lawsuit with the same case number as the child support case, and that case was pending in the state court of appeals. Even if the case was not being appealed, it was transferred to the Law division. In addition; I was not properly served with her complaint and I never participated in a hearing for contribution of college expenses. I was provided incorrect zoom information. More importantly I allege that the manner in which the information is provided, violates due process of law. Overall, I found much of the information provided in the defendants motion are either incorrect or simply false. I ask that this court stick to the facts as outline in my complaint.

As previously argued, I allege that Judge Ahern does not have discretion to deny me a record of the proceedings. In this case my bystanders report. I am almost guaranteed to lose my appeal without a record of the proceedings(transcript). State law continuously places the burden of providing the record on the appellant (**“…The appellant… has the responsibility to present a sufficiently complete record to this court, including transcripts, to support his claims of error on appeal. Foutch, 99 Ill. 2d at 391–92, 76 Ill.Dec. 823, 459 N.E.2d 958.”)…** I’m not here to debate state law. I am simply showing that I am almost guaranteed to lose my appeal if I show up in the Illinois Court of Appeals without the court records and the transcripts of the proceedings. When there is no transcript of the proceedings, the supreme court of Illinois allows one to make a bystander’s report. In this situation Judge Ahern is refusing to certify the bystanders report. Effectively making my appeal an exercise in futility because **(“In the absence of a record on appeal, it will be presumed that the order entered by the trial court was in conformity with law and had a sufficient factual basis. Any doubts which may arise from the incompleteness of the record will be resolved against the appellant. As there is no transcript of the hearing on the motion to vacate here, there is no basis for holding that the trial court abused discretion in denying the motion.”)…** **Foutch v. O'BRYANT, 459 NE 2d 958 - Ill: Supreme Court 1984.** As a Judge, I allege that Ahern knows or should know the state law regarding court room transcripts. He is simply trying to withhold the record so that my appeal will fail.

The outbreak of COVID-19 caused Illinois State Courts to hold court room proceedings remotely via Zoom. I realized that the Zoom software has many features that allows one to effortlessly create bystander reports. However, I argue that Supreme Court Rule 63(A)(8) is unconstitutionally being used to prevent one from recording proceedings with the intention of creating a bystander’s report. I ask this court to declare that individuals have a right to record zoom hearings for the purpose of creating bystanders reports. I am also asking this court to declare that I have right to access all of the zoom features.

Another issue in this case is the failure of the defendants to provide timely Zoom conference information. Without the zoom conference information, I am unable to attend the proceedings. Currently, litigants are allowed to file notice of hearings with outdated links to Zoom conference information. Making it impossible to attend these hearings. I argue that this is a clear-cut violation of the due process requirement of notice and opportunity to be heard. I have several future proceedings to attend in state court. I am asking this court to declare that I have a right to an adequate notice of zoom hearings so that I may attend those proceedings in the future.

Most importantly, I was never properly served with Ms. Thompson complaint for Contribution of College Expenses. As previously argue the case was in the Illinois court of appeals and I was pre-occupied with resolving appellate court issues. I only found out about her complaint when I went back to the state’s lower courts to correct the record on appeal.

Finally I am challenging the constitutionality of the Contribution of College Expenses Statute. I argue that the Statute is Vague, deprives me of my right to trial by jury, and it denies me of substantive due process. I ask that this court declare the statute unconstitutional so that it cannot be used to deprive me of my rights in the future.

**LEGAL STANDARD**

**“pleadings of pro se petitioners are held to less stringent standards**

**than those prepared by attorneys, and are liberally construed when determining**

**whether they fail to state a claim upon which relief can be granted”. Haines v.**

**Kerner, 404 U.S. 519, 520-21, 92 S.Ct. 594, 30 L.Ed.2d 652 (1972); Jourdan v. Jabe,**

**951 F.2d 108, 110 (6th Cir.1991).** Inherently, I believe my complaint includes a request

for a declaratory judgment. Thus, I argue that it should be liberally construed to seek declaratory. relief. **“A declaratory judgment is meant to define the legal rights and obligations**

**of the parties in anticipation of some future conduct, not simply to proclaim**

**liability for a past act.” Justice Network Inc. v. Craighead County Viewed Recently**

**United States Court of Appeals, Eighth Circuit. July 26, 2019 931 F.3d 753 2019**

**WL 3366723.** In this case I am seeking a declaratory judgment so that I may preserve the records for my future appeal. In the future, I will have several hearings via zoom. I would like it declared that I have a right to zoom logs, transcripts, and other zoom features. I would like it declared that I have the right to record zoom proceedings for the purpose of creating bystander reports. It should be noted that zoom is a software product. There are other competing software products on the market and the court may choose to use a different product. I ask that if this courts grants declaratory relief, that relief should be directed at any conferencing software that the circuit court decides to use. I am also seeking a declaratory judgment to prevent the college contribution statute from being used against me in the future. Finally, I requested a jury trial for my claims against Ms. Thompson. I ask that this court declare that I have a right to defend myself against Ms. Thompson’s claims in that jury trial.

**“In order to receive declaratory or injunctive relief, plaintiffs must**

**establish that there was a violation, that there is a serious risk of continuing**

**irreparable injury if the relief is not granted, and the absence of an adequate**

**remedy at law”. See Newman v. Alabama, 683 F.2d 1312 (11th Cir.1982).** In this case I allege that the defendants violated my rights, and they continue to do so. I argue that there is a serious risk of irreparable harm. I have suffered a serious injustice. An appeal is the only chance of me receiving some relief. However, I am unable to have an affective appeal without the court records and the bystander’s report. Without them I am guaranteed to lose my appeal. Declaratory relief is the only adequate remedy at law.

**"a complaint should not be dismissed for failure to state a claim 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."** **Bell Atlantic Corp. v. Twombly, 550 US 544 - Supreme Court.** The facts of this case are: (1) The circuit court case 02D056455 was in the court of appeals. It is well settled that a lower court loses jurisdiction when an appeal is filed. However, Ms. Thompson was allowed to file a new claim in a case that was being appealed. (2) I was not properly served with notice of Ms. Thompson claim for contribution of college expenses. (3) I never participated in the case for the contribution of college expenses. (4) I never had a hearing for contribution of college expenses. (5) Ms. Thompson’s complaint did not provide a controversy. (6) There was never a real controversy as it regards to the contribution of college expenses, and it is well settled that a controversy is required to invoke a courts jurisdiction. (7) The circuit court clerks altered and omitted records which are necessary for my appeal, (8) Judge Ahern is refusing to certify my bystander report so that I may appeal his judgment. These facts can be easily proven and the defendants have not and cannot deny these facts. They are simply asking this court to ignore them and dismiss my complaint on a technicality. My complaint should not be dismissed because **“One objective of Rule 8 is to decide cases fairly on their merits, not to debate finer points of pleading where opponents have fair notice of the claim or defense. See Fed.R.Civ.P. 8(e) ("Pleadings must be construed so as to do justice."). Generally, if a district court dismisses for failure to state a claim, the court should give the party one opportunity to try to cure the problem, even if the court is skeptical about the prospects for success”. See Foster, 545 F.3d at 584.** I argue that my complaint gives the defendants fair notice. As it clearly lays out that I am trying to preserve my future appeal, my future right to a jury trial, and challenge future applications of the college contribution statute. However, I ask that this court give me an opportunity to amend my complaint if necessary.

**ARGUMENT**

1. **I HAVE STATED VIABLE CLAIMS AGAINST JUDGE AHERN.**

The defendants argue *“the Court lacks jurisdiction over Plaintiff’s claims based on the domestic relations exception and Rooker-Feldman doctrine. Even if the Court has jurisdiction, it should decline to exercise that jurisdiction based on principles of*

*federal abstention.”*

I argue that I would be unfairly denied justice if this court applies the domestic relations exception, Rooker-Feldman doctrine, and the principles of federal abstention. The defendants have clearly violated my constitutional rights. Applying these principles would mean that I would have to wait an unreasonable amount of time before I could receive relief. If applied, much of the relief that I could receive would be meaningless because the damage would have already been done. This case requires immediate attention because the defendants are actively violating my constitutional rights, and they will continue to do so if this court does not act.

1. **This Court has Jurisdiction over my claims against Judge Ahern.**

The defendants provided Marshall v. Marshall, 547 U.S. 293, 308 (2006). Arguing that the Domestic Relation Exception applies to my case. … That case was about a will in Texas probate court. Which was collaterally attacked in federal bankruptcy court. I argue that this case supports federal jurisdiction. As it says that federal courts have applied “The Domestic Relations Exception” beyond its limits. The case **“clarified that only ‘divorce, alimony, and child custody decrees’ remain outside federal jurisdictional bounds.” Marshall v. Marshall, 547 US 293 - Supreme Court 2006.** I was never married, and my federal case does not involve a divorce, alimony, or child custody decree. In addition, my son is not a child. He is a grown man. I argue that my federal claims do not involve any domestic relation issues. My claims seek to; preserve my future appeal in state court, get access to zoom features in future proceedings, to preserve the integrity of my future trial against Ms. Thompson in state court, and protect myself from future use of a statute that violates my constitutional rights. There is no domestic relations exception that can be applied here. I am not asking this court to make decisions involving domestic relation issues. I am asking this court to declare that I have a right to a record of the proceedings so that I may appeal in state court. This court has jurisdiction to grant relief because the Jurisdiction of Federal courts is granted by **Article III section 2 of the United States Constitution. Which provides “The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States.”**

The defendant’s also provided Kowalski v. Boliker, as a reason to apply the Domestic Relation Exception to my case. I argue that the case does not apply. Kowalski did not lose his case based on a Domestic Relation Exception. In fact, that case reiterates the limits of the exception. Kowalski provides “**Although the present dispute arises out of a divorce and custody proceeding, that alone is not enough to trigger that exception. The exception covers a narrow range of domestic relations issues involving the granting of divorce, decrees of alimony, and child custody orders.”** According to Kowalksi, the Domestic Relations Exception can only be applied in a few circumstances. None of those circumstances exist in my case.Again, I was never married. My son is an adult. My federal case does not challenge the granting of a divorce, decrees of alimony, or a child custody order. Neither does it challenge Ahern’s previous order granting an award to Ms. Thompson. My claim against judge Ahern was filed to protect my due process rights in the states court of appeals. Judge Ahern is blocking my appeal by refusing to certify the bystanders report. Without the report, I am unable to properly present my case to the state court of appeals. This has nothing to do with any judgments regarding divorce, alimony, and custody.

I argue that Kowalski also establishes that the Domestic Relation Exception does not apply to cases where a declaratory relief is sought. The exception can only be applied where one seeks to modify a domestic order. **The exception (“does not intend to strip the federal courts of authority to hear cases arising from the domestic relations of persons unless they seek the granting or modification of a divorce or alimony decree.”) Ankenbrandt v. Richards, 504 US 689 - Supreme Court 1992**. As argue my claims against Ahern does not seek to modify his order granting Ms. Thompson a money judgment. My claim against Ahern simply seeks to preserve the record of the proceeding via a bystanders report.

My Federal claim asks for declaratory relief, and a judge is not immune to declaratory relief where there is no adequate remedy at law. As I’ve argued several times, I’m trying to get my bystander’s report certified. Which is essentially a record of the courts proceedings. There is no adequate remedy at law other than for this court to declare that I have a right to a record of the proceedings… However, after reading Kowalski v. Boliker, I don’t believe Judge Ahern has judicial immunity. In **“Kowalski's complaint against Judge Boliker centers on her interference in a case to which she was never assigned and over which she had no responsibility. Judge Boliker cannot assert judicial immunity over matters so far removed from matters under her jurisdiction”**. I argue that the circuit court case was never transferred to Judge Ahern. As there is no record of a transfer order. There was also a jury trial pending in the law division. The case in question was also in the State Court of appeal. I only appeared in his court room to object to the court’s jurisdiction. Thus, I argue that Judge Ahern does not have judicial immunity because the case was never assigned to him. Thus I argue, he was acting completely without jurisdiction.

Also, I argue that judge Ahern acted completely without jurisdiction when he denied the certification of my bystander report. I argue that there is no law that would allow judge Ahern to consider a flat-out denial of a certification of a bystanders report. Ahern’s exact words are “I don't agree with what you said in your report; so I'm not certifying it.” The law in question only allows Judge Ahern to alter my bystander report, consider objections and make modifications based on those objections. However, nothing in the law allows for a flat-out denial of my bystanders report. He was completely without jurisdiction because there is no statute or law that allows him to consider denying my bystanders report simply because he does not like what’s in it.

The defendants argues that my claims are barred by the Rooker-Feldman doctrine. They provided several cases to support their argument. One of which was Hadzi-Tanovic v. Johnson. In which they provide *“To the extent that Plaintiff is challenging any state court orders requiring him to pay child support and college expenses, these are final orders for purposes of the Rooker-Feldman doctrine. (holding that a state court custody order entered pursuant to the Illinois Marriage and Dissolution of Marriage Act was a final and appealable judgment).”*

I argue that there are four necessary requirements for Rooker-Feldman to apply; (1) The federal-court plaintiff must have lost in state court. (2) The plaintiff must complain of injuries caused by a state-court judgment. (3) The plaintiff must invite district court review and rejection of that judgment. (4) The state-court judgment must have been rendered before the district court proceedings commenced. I argue that the Rooker-Feldman doctrine does not apply because the first requirement is not met. I have not lost in state court because there was never a trial to begin with. As I alleged in my complaint, I was completely unaware of Ms. Thompsons Claim for College expenses. I only found out about her claim when I went to court to correct the courts record. An appeal was filed before Ms. Thompson filed her claim, and there is a well-established rule that once an appeal is properly filed, the trial court is divested of jurisdiction. However according to rule 11 of the Illinois Appeals Court, the circuit court has limited jurisdiction to correct the record. The defendants claim that my appeal and Ms. Thompson’s claim for college expenses were separate. Even if this was true, I argue that this does not satisfy the due process requirement which is necessary for the court to have had jurisdiction. I only appeared in court to correct the court record, and I did not receive a copy of Ms. Thompson’s complaint. It is well settled that service of process is typically done by a third party not involved in the lawsuit. The record will show that I was never served by a third party. Even if I had been, which I was not, there would still be an insufficient service of process because the zoom information provided was incorrect. For this reason and many more, I filed an objection to the courts jurisdiction to hear Ms. Thompson’s claim. When I appeared, I objected to jurisdiction and did not participate in the case. The defendants cannot argue that Rooker-Feldman applies because there was simply never a trial in state court.

Even if there were a fair trial in state court, the defendants still can’t argue that Rooker-Feldman applies because the second element is not met. My federal complaint does not complain about injuries from Aherns judgment of contribution of college expenses. Subsequently, the doctrine does not apply because the third element is not met. I’m not asking this court to review Ahern’s judgment for college expenses. I am simply trying to get the court transcripts (bystanders report) so that I can appeal his judgment in the state court of appeals.

I argue that the Rooker-Feldman doctrine does not apply because I did not have a reasonable opportunity to litigate Ms. Thompson’s claims. **“Under the exception, if a plaintiff lacked a reasonable opportunity to litigate its claims in state court, then the federal lawsuit can proceed.” Kelley v. Med-1 Solutions, LLC, 548 F. 3d 600 - Court of Appeals, 7th Circuit 2008**. All of my previous arguments apply here. Ms. Thompson file her complaint after I appealed. I was pre-occupied with the appeals court process and was completely unaware of her law suit. Ms. Thompson did not provide correct zoom information so that I could attend those proceedings. Ms. Thompson did not provide me with a copy of her complaint. In addition, I contracted COVID-19 shortly after Ms. Thompson filed her complaint. All of these fact’s denied me a reasonable opportunity to litigate Ms. Thompson’s suite for college expenses.

I argue that the Rooker-Feldman doctrine does not apply because of extrinsic fraud In circuit court. **"The classic definition of `extrinsic fraud' refers to situations where `the unsuccessful party has been prevented from exhibiting fully his case. . . as by keeping him away from court . . . or where the defendant never had knowledge of the suit.'" Falcon v. Faulkner, 209 Ill.App.3d 1, 153 Ill.Dec. 728, 567 N.E.2d 686, 694-95 (1991).** All of my previous arguments apply here. I argue that Ms. Thompson intentionally kept me away from court so that she could get a judgment before I could have a chance of defending myself. The record will show that there was never a proper service of process. The record will show that the correct zoom information was not provided. The record will show that the case was in the court of appeals at the time and that there was a jury trial pending. I argue that Ms. Thompson knew all of these facts and she used them to get a quick default judgment before I could have a fair chance to respond. The circuit court has an electronic email system for receiving court documents. I allege that Ms. Thompson didn’t use this system because it would have given me fair notice of her lawsuit.

I argue that the Rooker-Feldman doctrine does not apply because it would allow extrinsic fraud in the Illinois court of appeals. **Extrinsic fraud is conduct which prevents a party from presenting his claim in court. Green v. Ancora-Citronelle Corp., 577 F.2d 1380, 1384 (9th Cir. 1978).** All of my previous arguments apply here. I allege that Judge Ahern commit extrinsic fraud in the circuit court. I informed Judge Ahern about the appeal, the lack of service, and the incorrect zoom information. Despite this, I allege that he intentionally entered judgments against me because he did not want to give me a chance to defend myself in court. Now, I allege that Ahern is attempting to commit extrinsic fraud in the court of appeals because he is refusing to certify my bystanders report. Without a bystander’s report, I would be unable to properly present my claim in the Illinois Court of Appeals.

The defendants argue *“this Court should decline to hear the claims pursuant to Younger v. Harris, 470 U.S. 37 (1971). Federal courts apply Younger abstention when there is a parallel, pending state proceeding and any federal rulings would “implicate a State’s interest in enforcing the orders and judgments of its courts.” Spring Comm. Inc. v. Jacobs, 571 U.S. 69, 72-73 (2013).”*

A huge part of my claim is an effort to preserve the circuit court proceedings (bystanders report) so that I can appeal Judge Ahern’s judgment. Another part of my claim is an effort to preserve the circuit court records so that I can appeal the child support judgement against me. The case law that the defendants provided states that the doctrine applies to pending state proceedings. In this instance, there are no pending state proceedings as far as Ahern is concerned because he has already entered a judgment against me. The only thing left now is for me to appeal his judgment. I argue that the younger extension doctrine does not apply because my federal claims do not involve pending state proceedings. I am simply trying to preserve my state appeal for judgments that have already been entered against me. In addition, a declaration that I have a right to a bystanders report and accurate court records would have not have any bearing on State interest in domestic relations.

Even if the Younger v. Harris doctrine applied to Ahern, this court should still grant me relief because of the bad faith and harassment exception to that doctrine. Bad faith is defined as **(“threats to enforce statutes without any reasonable expectation of securing a valid conviction") Younger v. Harris, 401 US 37 - Supreme Court 1971.** In my case, Ms. Thompson filed a claim under the contribution of college expense statute. I argue that Ms. Thompson had absolutely no chance of success if there were a fair and impartial hearing. She was offered money for our son’s college expenses multiple times. These offers came with absolutely no strings attached. Each time she turned those offers down. Neither she nor my son has ever asked me to help with college. I had no knowledge that he was even going to college until after she filed her lawsuit. There is nothing that I have done or did not do that would have allowed her to sue me under this statute. Her complaint does not allege a controversy and a controversy is necessary in order for Ahern to have had jurisdiction. To make matters worse Ms. Thompson did not properly serve me a copy of her complaint. Even if she did serve me a copy of her complaint, it would not have mattered because she did not provide the correct zoom information so that I could attend the hearings. This is besides the fact that the case was not supposed to be in Aherns court room because it was being appealed, after the appeal, the case was supposed to go to the law division for my jury trial. The case was routed to Ahern. However, there is no order of transfer that would have allowed the case to come to him. I filed an objection to jurisdiction which pointed out all of these red flags to Ahern, but he simply ignored them an entered a judgment against me. I argue that his judgment would easily be overturned in the court of appeals, but only if I have a bystanders report… I allege that Ms. Thompson filed her complaint in bad faith. I argue that Ahern acted in bad faith because no judge would award money without due process of law. Now Ahern is again acting in bad faith because he’s trying to keep me from appealing his judgment.

I allege that Ahern’s Judgment’s were issued in bad faith. In my opinion his judgment was the textbook example of a bad faith. In this situation Ms. Thompson’s complaint did not contain any allegation’s of a real controversy. The record is extremely clear that there was no service of process by an independent third party. The record will show that the case was in the court of appeals. The record will show that the case was supposed to had been in the law division for a jury trial. There is no order of transfer that would have allowed the case to come to Judge Ahern. I outlined all of these defects in my objection to the courts jurisdiction. Judge Ahern simply ignored them and entered a judgment against. Now he is refusing to certify the bystanders report. In my opinion certification is a straightforward process. However, I allege that Ahern is refusing to certify it because he knows he acted in bad faith and now he’s trying to keep me from appealing his judgment.

I also argue that this court should grant relief because of the inadequacies of the state forum. **(“The issue is not whether an individual is actually biased but whether, in the natural course of events, there is an indication of a possible temptation of bias”) - Gibson v. Berryhill, 411 US 564 - Supreme Court 1973.** I allege that there has been a pattern of abuse by the clerks and state court judges. For example, on one occasion I was given a bogus transfer order. In another example a judge dismissed my claims against Ms. Thompson without reason. In a more recent example, a judge all but told Ms. Thompson that she was going to loose if she did not have a lawyer. He then told her that he would talk to her after the zoom hearing. To which he had an exparte meeting with Ms. Thompson. After that meeting, Ms. Thompson hired a lawyer and sued for college expenses. I argue that these incidents prove that there is bias and I would not receive a fair and impartial hearing in the state court.

1. **The principles of federal abstention do not apply.**

The defendants argue “the Seventh Circuit explained in J.D. v. Woodward, even if a recognized abstention doctrine is not an exact fit, abstention can be appropriate because “to insist on literal perfection” based on a complaint’s allegations “risks a serious federal infringement … A common thread underlying the Supreme Court’s abstention cases is that they all implicate in one way or another and to different degrees underlying principles of equity, comity, and federalism foundational to our federal constitutional structure”

I argue that comity requires a reciprocal respect for the United States Constitution. In this case I allege the defendants have no respect for the constitution. I argue that the principles of comity and federalism do not apply as far as Judge Ahern is concern. As I’m simply trying to get a bystanders report certified…. **(“Jurisdiction is given to federal courts in suits involving the requisite amount arising under the constitution or laws of the United States.”) - Ex parte Young, 209 US 123.** I argue that my property is being taken without due process of law and Ex parte young clearly established that federal courts have jurisdiction to adjudicate cases like mine… The **"very purpose of § 1983 was to interpose the federal courts between the States and the people, as guardians of the people's federal rights." Mitchum v. Foster, 407 U. S. 225, 242.**

1. **I have stated a viable claim against Judge Ahern.**

The defendants argue “Even if Plaintiff could get past the substantial jurisdictional hurdles, Plaintiff has not stated a plausible claim for relief under Section 1983 against Judge Ahern”

Judge Ahern is refusing to certify my bystanders report. I argue that he does not have the authority to deny the certification of my bystanders report in this circumstance. In addition, the defendants have not offered this court any reasoning on why such a denial is justified. I am unable to appeal his judgment without a bystanders report. I am asking this court to declare that I have a right to the bystanders report. I argue that such a declaration is allowed under section 1983. However, I ask for any other remedy that this court can provide if it decides not to make the declaration.

1. **Judge Ahern did not have jurisdiction when he entered his judgments.**

The defendants argue *“Further, Judge Ahern had jurisdiction to hear Plaintiff’s See claims Ill. Const. Art. 6 §§ 6 & 9 (describing jurisdiction of the Illinois circuit and appellate courts).”.*

I argue that Ahern did not have personal jurisdiction. I filed an objection to the court’s jurisdiction. In that objection I complained about many things. One of them was that I was not properly served. I also verbally objected to the court’s jurisdiction. The plaintiff did not offer any opposing arguments. In addition the case was in the state court of appeals at the time Ahern entered his judgments. Typically when the appeals court releases a case, it issues an order so that the case can return to the lower court. In this situation there was no such order issued. Personal jurisdiction is critical because **“The personal jurisdiction requirement recognizes and protects an individual liberty interest. It represents a restriction on judicial power not as a matter of sovereignty, but as a matter of individual liberty. Thus, the test for personal jurisdiction requires that the maintenance of the suit . . . not offend traditional notions of fair play and substantial justice.” International Shoe Co. v. Washington, 326 U. S. 310, 316 (1945)…**

I argue that Ahern did not have subject matter jurisdiction because Ms. Thompson’s complaint did not allege a genuine controversy. It is well settled that the plaintiff’s complaint must present some sort of controversy to invoke the court’s subject matter jurisdiction. **"subject-matter jurisdiction, because it involves the court's power to hear a case, can never be forfeited or waived." United States v. Cotton, 535 U. S. 625, 630 (2002).** I filed an objection to jurisdiction, which pointed out that there was no controversy and that Ms. Thompson could not allege a controversy. It is well settled that when an objection to jurisdiction is made, it must be proven on the record. The plaintiff bears the burden of proof that such a controversy exist. An example of this would be the Federal Rules of Civil Procedure Rule 12(b)(1). “**The burden of proof for a Rule 12(b)(1) motion to dismiss is on the party asserting jurisdiction.” McDaniel v. United States, 899 F.Supp. 305, 307 (E.D.Tex.1995)** **... “The plaintiff constantly bears the burden of proof that jurisdiction does in fact exist.” Menchaca v. Chrysler Credit Corp., 613 F.2d 507, 511 (5th Cir.1980).** Ms. Thompson made absolutely no attempt to prove that jurisdiction existed. She made no attempt to prove an actual controversy. Jurisdiction was never proven on the record. The defendants in this case have not argued and cannot argue that there was a genuine controversy that could have invoke the state court with jurisdiction. Judge Ahern was completely absent of all jurisdiction because he made no attempt to verify that the court had jurisdiction. I argue that this was not an error, but an intentional choice.

I argue that the defendants are suggesting that this court do nothing while property is being taken without due process of law. They are suggesting that I must allow my property to be taken without a trial, and wait 10 years for this case to be heard by the U.S. Supreme Court. The Supremacy Clause of the Constitution of the United States (Article VI, Clause 2) establishes that the Constitution is the supreme law of the land. This court has jurisdiction to hear claims where property is being taken without due process of law.

1. **ATTORNEY GENERAL RAOUL WAS GIVEN FAIR NOTICE OF A CHALLENGE TO STATE LAWS**
2. **This court has jurisdiction to hear claims to prevent private parties from enforcing unconstitutional state statutes.**

The defendants argue *“Plaintiff’s claims against the Attorney General are barred by the Eleventh Amendment and are not viable because the underlying statute is constitutional… an official-capacity suit is, in all respects other than name, to be treated as a suit against the entity. Kentucky v. Graham, 473 U.S. 159, 166 (1985). Ex Parte Young that allows for suits against state officers to enjoin the enforcement of allegedly*

*unconstitutional acts. See Ex Parte Young, 209 U.S. 123, 155-57 (1908). But this exception does not apply here. To fall under this exception, a plaintiff must show that the named state official plays some role in enforcing the statute in order to avoid the Eleventh Amendment. Doe v. Holcomb, 883 F.3d 971, 975 (7th Cir. 2019), citing Ex Parte Young, 209 U.S. at 157.”*

The Federal Rule of Civil Procedure 5.1(a)(1)(B) requires that Attorney General Raoul be given notice of a challenge to state laws. The rule provides “a state statute is questioned and the parties do not include the state, one of its agencies, or one of its officers or employees in an official capacity; and serve the notice and paper on the Attorney General of the United States if a federal statute is questioned—or on the

state attorney general if a state statute is questioned—either by certified or registered mail or by sending it to an electronic address designated by the attorney general for this purpose.”… Attorney General was sent a notice on 11/29/22. That notice informed him that I intended to challenge the statute 750 ILCS 5/513. I ask that this court certify my challenge of the statute under 28 U.S.C section 2403.

I argue that Ex Parte Young establishes that Federal courts have the right to intervene when property is being taken without due process of law. Attorney General Raoul may choose not to intervene. Whether or not he does, I argue that his involvement or there lack thereof, does not stop me from challenging the statute. This court has the power to issue declarations and injunctions which would prohibit any private party from using the statute against me. **Article III section 2 provides** **“The judicial power shall extend to all cases, in law and equity, arising under this Constitution”.**  I ask that this court issue a declaration that the statute is unconstitutional for the reasons already set forth in my complaint. I ask for any remedy that this court can provide if this court chooses not to make such a declaration.

1. **I have stated a viable claim challenging the states constitutionality.**

The defendants argue *“Marriage and Dissolution of Marriage Act is constitutional because the right to a trial by jury only applies to suits that were available “at common law” when the constitution was adopted, and divorce proceedings were historically, and remain, equitable proceedings”*

I was never married to Ms. Thompson and my son is not a child. He is a grown man. The defendants have not addressed the arguments provided in my complaint. Which is that statutes do not determine whether one has a right to trial by jury. That right is determined by the nature of the controversy. **“However difficult it may have been to define with precision the line between actions at law dealing with legal rights and suits in equity dealing with equitable matters, Whitehead v. Shattuck, 138 U. S. 146, 151 (1891), some proceedings were unmistakably actions at law triable to a jury. The Seventh Amendment, for example, entitled the parties to a jury trial in actions for damages to a person or property, for libel and slander, for recovery of land, and for conversion of personal property.”**. As I have repeatedly argued, there is no controversy as it pertains to the contribution of college expenses. The defendants have not provided any explicit arguments which proves that there was. Simply having a child does not create a controversy. Ms. Thompson was sued way before she filed her claim for college expenses. Among many things, she is being sued for theft of parental rights, fraud, and conversion. Some of the controversy in this case involves theft of parental rights, fraud, and conversion. A jury trial was requested, and it is allowed for all of these claims. As argued, this statute is unconstitutional as applied because it deprives me of the right to trial by jury.

The defendants argue *“The void-for-vagueness doctrine typically*

*applies to criminal statutes and guarantees that ordinary people have ‘fair notice’ of the conduct a statute proscribes. Sessions v. Dimya, 138 S. Ct. 1204, 1212 (2018), citing Papachristou v. Jacksonville, 405 U.S. 156, 162 (1972). Except”*

I argue that nothing provided in Sessions v. Dimya or Papachristou v. Jacksonville, suggest that the void for vagueness doctrine only applies to criminal trials. In fact in Sessions v. Dimya, the governments arguments acknowledges that the void for vagueness clause applies to civil trials.

**“Although originally developed as one component of the due process safeguards afforded to defendants in criminal cases, the void for vagueness doctrine has been extended to civil cases.” Professional Standards Com'n v. Alberson, 614 SE 2d 132 - Ga: Court of Appeals 2005.** The overarching aim of providing fair notice, preventing arbitrary enforcement, and ensuring clarity remains relevant in both criminal and civil contexts.

The defendants argue “Moreover, the College Contribution Statute is not vague; it provides clear direction about what educational expenses may be awarded to provide the educational expenses for a non-minor child and the factors that can be considered in making those determinations.”

I argue that the defendants is avoiding one of the key components of the void for vagueness doctrine. Which is giving individuals a fair notice of what conduct is prohibit or required. In other words what did I do, or what did I fail to do which has caused me to be sued. The statute does not address this due process concern. The statute allows private parties to arbitrarily file claims against another individual. The statute does not give an individual a fair notice of what conduct they have committed which caused them to be sued.

The defendants argue “Despite Plaintiff’s conclusory assertion otherwise, there is no fundamental right to budget for a child’s educational expenses.”

I argue that the defendants have taken a preposterous position… Parental rights have long been established as rights **(“far more precious than property rights”). Stanley v. Illinois, 405 U.S. 645 (1972).**

**Black's Law dictionary defines Parental Rights as a parent's rights to make all decisions concerning his or her child, including the right to determine the child's care and custody, the right to educate and discipline the child, and the right to control the child's earnings and property…** I argue thatIf a parent has the right to make all decisions concerning their minor child, then they quite naturally have the right to make decisions about that child’s college finances. However, my son is not a child. So the ultimate right to make decisions about his finances belong to him. Not me or Ms. Thompson. However, if he want’s my assistance, then I retain the right to decide how my money will be used. This statute is unconstitutional because without reason and without cause it robs me of my right to make such decisions, and makes me indebted to Ms. Thompson. I ask that this court protect me from this statute being used against me in the future.

**THERE IS NO ADEQUATE REMEDY AT LAW**

I argue that there is no adequate remedy at law. One would think that I could simply go to the state supreme court and request a writ of Mandamus or a supervisory order. Those remedies are not adequate because the state supreme court can simply ignore those writs.

**CONCLUSION**

The defendants have blatantly violated my constitutional rights. Now they are asking this court to ignore those violations and dismiss my complaint because of comity and several abstention doctrines. I argue that comity requires a mutual respect for the United States constitution. The defendants have clearly shown that they have no respect for the constitution. They are essentially asking this court to stand by so that they can take property without due process of law… The defendant’s motion should be denied because this court has jurisdiction. This court has jurisdiction to provide declaratory relief. This court can declare that I have a right to a record of the proceedings. This court also has jurisdiction to declare the college contribution statute is unconstitutional.

David Martin

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Chicago Il, 60609

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While awaiting a decision on the case, the defendants entered a state court judgment even though the case was removed. As a result, the following motion was filed:  
  
**United States District Court**

**Northern District of Illinois**

David Martin, )

Plaintiff )

)

)

V. ) Case # 1:22-cv-06296

)

Attorney General Kwame Raoul )

Judge Gregory Emmett Ahern Jr. )

Unnamed Cook County Clerks )

Cook County )

Chief Deputy Clerk Gretchen Peterson )

**EMERGENCY MOTION FOR**

**TEMPORARY RESTRAINING ORDER**

I, David Martin, in pursuant to Federal Rule of Civil Procedure 65, request that

this court issue a temporary restraining order and or any remedy that this court deems

appropriate. In support of this motion, I state the following.

**BRIEF STATEMENT OF FACTS**

1. On or around 2/22/2022 I became unemployed, and I have had trouble finding

stable employment. The total time spent unemployed was about 8 to 9 months.

I recently found temporary employment on 7/10/2023… The employer was

concerned with an arrest that appeared on my background check, and they

warned me that it could be an issue.

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**Northern District of Illinois**

2. On or around 2/27/22, I was denied unemployment benefits, and I have not

received any unemployment benefits to date.

3. On 11/10/22 I filed a complaint in the US DISTRICT COURT NORTHERN

DISTRICT OF ILLINOIS. Judge Ahern is the defendant in that complaint.

4. On 11/14/22 I filed a notice of removal in state court, and email copies to the

opposing party.

5. On 11/18/22 I appeared in court via zoom to notify Judge Ahern and the opposing

parties that the case had been removed to federal court.

6. On 3/17/23 Judge Ahern continued to conduct court room hearings.

7. On 4/24/23 I filed a notice of removal in the U.S. District Court.

8. On 4/26/23 I filed a notice of removal and my amended complaint in state court.

9. On 8/23/23 I received an email copy of a court order indicating that a body

attachment may be issued if I fail to appear in state court.

10. On 8/23/23 I performed a case search on cook county’s website and I found the

following entry for my state case “Activity Date: 08/10/2023 Event Desc: Held In

Contempt Of Court - Allowed“

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**Northern District of Illinois**

**ARGUMENT**

According to the removal statutes, the state court proceedings were supposed to

have stopped until the case was remanded. Despite being given several notices of

removal, defendant Ahern continued to conduct hearings and in one instance found me

in contempt of court. In another hearing, Ahern indicated that a body attachment may be

issued. I allege that Ahern has been timing the state hearings so that I would not have

any time to participate in the state litigation if this case is remanded. The result of the

timing of the hearings would be an order for my arrest. This motion is being filed to

request any remedy that this court can provide. One such remedy would be a temporary

restraining order to stop the state court proceedings until after a decision has been

reached in my federal claims.

**JUDGE AHERN DOES NOT HAVE JURISDICITON**

**BECAUSE THE CASE WAS REMOVED TO THE U.S DISTRICT COURT**

I argue that the defendant does not have jurisdiction in state court because the

case was removed. According to Federal statute 28 U.S. Code § 1446 and 1441, Ahern

was prohibited from proceeding any further until the case is remanded. The law is wellsettled

and clear, after removal, the state court’s jurisdiction immediately and totally

**United States District Court**

**Northern District of Illinois**

ceases, and federal court immediately attaches. In addition “It is the duty of the state

court to recognized the removal and proceed no further in the matter and subsequent

proceedings therein, except for the order of removal , are void”.

I argue that all the proceedings conducted after Ahern received the notice of

removal are void. **“1446 expressly provides that upon removal ‘the State court**

**shall proceed no further unless and until the case is remanded.’ 28 U.S.C. Sec.**

**1446(e). Hence, after removal, the jurisdiction of the state court absolutely ceases**

**and the state court has a duty not to proceed any further in the case. Steamship**

**Co. v. Tugman. 106 U.S. 118, 122, 1 S.Ct. 58, 60, 27 L.Ed. 87 (1882). Any**

**subsequent proceedings in state court on the case are void ab initio. Steamship**

**Co., supra, 106 U.S. at 122, 1 S.Ct. at 60. “**

I allege that defendant Ahern was given both a verbal notice of removal and a

written notice of removal. Removal was also argued in the jurisdiction section of my

complaint against him. I allege that despite receiving a fair notice of removal, Ahern

continued to conduct proceedings in state court. I allege that the state court

proceedings were timed with the proceedings in federal court. The timing is done in

such a way that I would have little to no time to participate in the state court

proceedings.

I ask that this court declare that all the state court proceedings and orders

entered after the removal are void.…**““any proceedings in the state court after the**

**filing of the petition and prior to a federal remand order are absolutely void,**

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**Northern District of Illinois**

**despite subsequent determination that the removal petition was ineffective.”**

**South Carolina v. Moore, 447 F.2d 1067, 1073 (4th Cir.1971); see United States ex**

**rel. Echevarria v. Silberglitt, 441 F.2d 225, 227 (2d Cir.1971)”**

**JUDGE AHERN DOES NOT HAVE**

**PERSONAL JURISDICTION**

In my original complaint, I argued that Judge Ahern did not have personal

jurisdiction. So far, the defendant has not provided any arguments to suggest otherwise.

Instead, in their most recent filing, the defendants argue that (*“Deciding plaintiff’s claim*

*would be an inappropriate intrusion into the workings of the state court system because*

*exercising federal jurisdiction over these claims would reflect a lack of respect for the*

*state’s ability to resolve these issues properly before its courts... Because Plaintiff is*

*asking this Court to inject itself into state court proceedings dealing with state law, this*

*Court should decline to exercise jurisdiction based on general principles of federal*

*abstention.”)*

I argue that the defendant is missing the point of my section 1983 claim. I cannot

appeal without a bystander’s report and accurate court records. I allege that Ahern and

the other defendants are sabotaging my appeal. It’s evident that the state court does not

have the ability to " resolve these issues properly” because they are the ones that’s

sabotaging my appeal. As my claims pertain to Ahern, I am requesting declaratory relief.

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**Northern District of Illinois**

Asking this court to grant a remedy so that I can appeal his judgment. The U.S. District

court clearly has the authority to grant relief. Rule 57 of the Federal Rules of Civil

Procedure provides the process for declaratory judgments. That rule provides that

declaratory judgments may be obtained under 28 U.S.C. § 2201.

A temporary restraining order should be issued because the defendants never

had personal jurisdiction in the state case, and this court clearly has the authority to

issue declaratory relief.

**JUDGE AHERN DOES NOT HAVE**

**SUBJECT MATTER JURISDICTION**

It is important to note that Judge Ahern did not have subject matter jurisdiction in

the state case. The defendant contends that *“as a sitting judge in the Circuit Court of*

*Cook County, Judge Ahern had jurisdiction to hear any claim brought in the Cook*

*County Circuit Court. See Ill. Const. Art. 6 §§ 6 & 9.”*

I argue that the defendant is simply wrong. Judge Ahern does not have

jurisdiction to hear “any claim” brought before him… I believe the defendant is referring

to Article 6 section 9 of the Illinois Constitutions. The relevant part provides “Circuit

Courts shall have original jurisdiction of all justiciable matters”… **("In order to invoke**

**the subject matter jurisdiction of the circuit court, a plaintiff's case, as framed by**

**United States District Court**

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**the complaint ... must present a justiciable matter.") Schottel v. Young, 687 F. 3d**

**370 - Court of Appeals, 8th Circuit 2012…. “The Illinois Supreme Court defines**

**"justiciable" as "a controversy appropriate for review by the court, in that it is**

**definite and concrete, as opposed to hypothetical or moot, touching upon the**

**legal relations of parties having adverse legal interests." Schottel v. Young, 687 F.**

**3d 370 - Court of Appeals, 8th Circuit 2012.”** In other word’s, courts only have

jurisdiction when there is a real or genuine controversy. I argue that Ahern did not have

jurisdiction because there was never a real controversy. I have never refused to assist

my son with paying for college. Ms. Thompson has never asked me to assist with

paying for his college expenses. My son has never asked me to assist him with paying

for college. I did not even know he was **going** to college until I was sued in state court.

The defendants have not argued and cannot argue that there was a real controversy…

The evidence will show that Ahern could not have had subject matter jurisdiction

because Ms. Thompson’s complaint did not present a genuine controversy.

A temporary restraining order should be issued because the defendants never

had subject matter jurisdiction in the state case.

**ILLINOIS STATUTE 750 ILCS 5/513 IS VOID**

**BECAUSE ITS VAGUE**

In my complaint I argued that the statute 750 ILCS 5/513 is void because it’s

vague. The defendant contends that *“Plaintiff seems to believe that a statute must*

*outline every conceivable way that it may be applied to in order to not be vague, but that*

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*requirement would be impossible. As the Supreme Court has recognized, "[c]ondemned*

*to the use of words, we can never expect mathematical certainty from our language.”*

*Grayned v. City of Rockford, 408U.S. 104, 110 (1972). Due process thus requires only*

*“reasonable specificity.” Coates v. Cincinnati, 402 U.S. 611, 614 (1971)”.*

I argue that the defendant is being disingenuous, and he is trying to muddy the

waters… **Grayned v. City of Rockford, 408U.S. 104, 110 (1972).** Provides the basic

principles of void for vagueness… **“we insist that laws give the person of ordinary**

**intelligence a reasonable opportunity to know what is prohibited, so that he may**

**act accordingly. Vague laws may trap the innocent by not providing fair warning.**

**Second, if arbitrary and discriminatory enforcement is to be prevented, laws must**

**provide explicit standards for those who apply them. A vague law impermissibly**

**delegates basic policy matters to policemen, judges, and juries for resolution on**

**an ad hoc and subjective basis, with the attendant dangers of arbitrary and**

**discriminatory application. Third, but related, where a vague statute "abut[s] upon**

**sensitive areas of basic First Amendment freedoms,"[6] it "operates to inhibit the**

**exercise of [those] freedoms."”** To make a long story dull, Grayned was convicted for

violating the "antinoise" ordinance. Which provides **"[N]o person, while on public or**

**private grounds adjacent to any building in which a school or any class thereof is**

**in session, shall willfully make or assist in the making of any noise or diversion**

**which disturbs or tends to disturb the peace or good order of such school**

**session or class thereof. . . ." Code of Ordinances, c. 28, § 19.2 (a).” …** Grayned’s

argument was **“"that proscribed conduct was not sufficiently specified and that**

**police were given too broad a discretion in determining whether conduct was**

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**proscribed."** However, at the end of the day Grayned’s conduct along with that of other

protesters disrupted school activities. Which **(“the ordinance forbids deliberately**

**noisy or diversionary activity that disrupts or is about to disrupt normal school**

**activities. It forbids this willful activity at fixed times—when school is in**

**session—and at a sufficiently fixed place—"adjacent" to the school.”) Grayned v.**

**City of Rockford, 408U.S. 104, 110 (1972).** To overcome a vagueness challenge, a

statute must simply “give the person of ordinary intelligence a reasonable opportunity to

know what is prohibited”. The vagueness doctrine does not require that a statute

provide specific details, but “a reasonable opportunity to know what know what is

prohibited”. The defendant is trying to evade the simple question(s) I presented in my

previous filings. Which was, what did I do, or what did I fail to do which cause me to be

sued? Grayned’s conviction was upheld because he participated in a protest which

disrupted school activities. The statute in question did not specifically say what was

prohibited. It simply gave him a reasonable warning of what type of conduct was

prohibited. In short, his conduct led to his arrest and conviction… **Similarly in Coates v.**

**Cincinnati, 402 US 611 - Supreme Court 1971**. Coates was convicted for his conduct

(participating in a labor dispute). In that case it was argued that **“The city is free to**

**prevent people from blocking sidewalks, obstructing traffic, littering streets,**

**committing assaults, or engaging in countless other forms of antisocial conduct.**

**It can do so through the enactment and enforcement of ordinances directed with**

**reasonable specificity toward the conduct to be prohibited.” Similarly in Coates v.**

**Cincinnati, 402 US 611 - Supreme Court 1971**. Again, the statute provided a

reasonable warning of what was prohibit. Coates conduct generally speaking fell into

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the category of what was prohibited. Generally speaking, what did I do to violate the

statute?

I argue that the statute allowed Ms. Thompson to arbitrarily file a claim against

me. As previously stated, I never refused to help Ms. Thompson with college expenses

and she never asked me to help. I never refused to help our son with college, and he

never asked me to help.

I argue that a temporary restraining order is warranted because the statute is

void for vagueness. It allowed Ms. Thompson to arbitrarily file claims against me and it

allowed Ahern to make arbitrary finical decisions for my family. Generally speaking, It

does not provide a reasonable opportunity to know what conduct is prohibited and it

allows for arbitrary enforcement.

**I HAVE BEEN DENIED SUBSTANTIVE**

**DUE PROCESS BY STATUTE 750 ILCS 5/513**

In my previous filings I argue that I was denied substantive due process. The

defendant contends *“Plaintiff continues to argue that the College Contribution Statute*

*violates that his parental rights because, he asserts, his parental rights include the right*

*to make all financial decisions related to his child. However, Plaintiff cites no authority*

*for this position, and it is simply false. There is no right to be free from making financial*

*contribution to support one’s child and Plaintiff is trying to pervert the Constitution to*

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*avoid having to help fund his child’s education. The College Contribution Statute is*

*constitutional so long as it is rationally related to a legitimate government interest, and it*

*will stand unless the plaintiff can negate every conceivable basis for the government*

*action. Minerva Dairy, Inc. v. Harsdorf, 905 F.3d 1047”*… I allege that the defendant is

deliberately misstating my arguments.

I never made the argument that my parental rights *“include the right to make all*

*financial decisions related to”* my child. In my amended complaint I clearly argued **“the**

**planning, coordination, and budgeting that should happen between two parents.”**

In my answer to the defendant’s motion to dismiss I clearly argued **“parental rights**

**have long been established as fundamental rights. I argue that this right includes**

**the equal right to make financial decisions for their children”…** I’ve made it clear

that I believe that me and Ms. Thompson are equal under the eyes of the law and we

both possesses equal rights as it regards to our son. However, the statute deprives me

of my right to have a seat at the table where decisions are made regarding my son. No

where in any of my filings did I argue that I have the right to make all financial decisions

regarding my child.

I have never made the argument that I have the right to “be free from making

financial contribution to support one’s child”. In my answer to the defendant’s motions to

dismiss, I specifically stated that **“I provided financial support for Ms. Thompson**

**throughout her pregnancy”. "After his birth I continued to provide for**

**him...financially”. “At some point Ms. Thompson abducted our son. I continued to**

**provide financial support throughout his abduction.”.** The support would have

**United States District Court**

**Northern District of Illinois**

continued if the state had not inserted themselves. It was actually the state who told me

that I was no longer obligated to provide support.

I am not trying to (“pervert the Constitution to avoid having to help fund my child’s

education.”) In my answer to the defendants motion to dismiss I wrote that **"Sometime**

**after his birth, I offered Ms.Thompson several forms of additional support beyond**

**the financial support that I was already providing. One of the notable forms of**

**additional support was that I would start a 529 college saving plan."**

I argue that the defendant incorrectly believes that Minerva Dairy, Inc. v.

Harsdorf, applies to my case. It does not. That case does not involve a fundamental

right. As a result a rational basis test was used. However **(“where the right infringed**

**upon is among those rights considered "fundamental" constitutional rights, the**

**challenged statute is subject to strict scrutiny analysis.") Village of Lake Villa v.**

**Stokovich, 211 Ill.2d 106, 122, 284 Ill.Dec….** Making education decisions regarding

your child **“is perhaps the oldest of the fundamental liberty interests recognized**

**by this Court.” Troxel v. Granville, 530 US 57 - Supreme Court 2000.** To survive

strict scrutiny, a statute "must be narrowly tailored to promote a compelling Government

interest **"a statute is narrowly tailored only if it targets and eliminates no more**

**than the exact source of the `evil' it seeks to remedy." See Ward v. Rock Against**

**Racism, 491 U.S. 781, 804, 109 S.Ct. 2746, 105 L.Ed.2d 661.** I argue that the statute

in question horribly fails the strict scrutiny analyses. The statute does not seek to

remedy any evil. Instead it cast a broad net which ensnares the innocent. Without

reason and without cause the statute has made me a debtor and it has completely

removed my parental rights.

**United States District Court**

**Northern District of Illinois**

I am very troubled; I allege that the defendant has essentially resorted to lying. I

argue that the defendant has resorted to these measures because he cannot prove that

he had jurisdiction. He cannot prove that there was a controversy in my case. He cannot

prove that the statute is valid.

A temporary restraining order is warranted because the statute in question

denies me substantive due process.

**THE US DISTRICT COURT HAS THE POWER TO**

**PREVENT PRIVATE PARTIES FROM ENFORCEING**

**STATUTE 750 ILCS 5/513**

In my original complaint, I sought relieve from someone trying to enforce 750

ILCS 5/513 in the future. The defendants contends *“Attorney General’s option to*

*intervene pursuant to Federal Rule of Civil Procedure 5.1 does not make the Attorney*

*General a proper defendant under the Ex parte Young doctrine…. Attorney General’s*

*option to intervene pursuant to Federal Rule of Civil Procedure 5.1 does not make the*

*Attorney General a proper defendant under the Ex parte Young doctrine To state an*

*official capacity claim for injunctive relief, the named official must have some*

*involvement in the enforcement of the challenged statute. Doe v. Holcomb, 883 F.3d*

*971, 975 (7th Cir. 2019) (citing Ex parte Young, 209 U.S. at 123. 157 (1908)).”* …

Ex parte Young establishes that federal courts may intervene when there is a

violation of the U.S. constitution, there is a risk of imprisonment and property being

**United States District Court**

**Northern District of Illinois**

taken without due process of law. On 11/29/22, Attorney General Raul was sent a notice

according to Federal Rule of Civil Procedure 5.1(a)(1)(B) because **“a state statute is**

**questioned and the parties do not include the state, one of its agencies, or one of**

**its officers or employees in an official capacity”.**

The logic used in Doe v. Holcomb do not apply because Doe’s suit did not involve

a fundamental right. Doe was suing for a name change, which was blocked because he

could not provide proof of citizenship. In contrast, my case involves fundamental rights.

At stake is real property which have been earned through the fruits of my labor, and my

right to have a seat at the table to which financial decisions are being made for my

children.

In all fairness, I argue that it’s too late for Attorney General Raul to intervene. His

intervention or lack thereof, does not prevent this court from providing relief because my

federal complaint is not a suit against the state. Therefore, it’s not barred by the

eleventh amendment. Exparte young refers to Reagan v. Farmers' Loan and Trust Co.,

154 U.S. 362 (1894). Which was a suit against the members of a railroad commission.

all of which were suable. In my case I am seeking to stop private individuals from using

the statute in the future. My claim is directed to private individuals and not the state.

This court has several tools available to grant relief. For example, in Reagan v. Farmers

the court issued an injunction to **“all other individuals, persons, or corporations be,**

**and they are hereby, perpetually enjoined, restrained, and prohibited from**

**instituting or prosecuting any suit or suits against the said railroad company”**.

**United States District Court**

**Northern District of Illinois**

This court could issue a similar injunction. Alternatively, this court could also enter a

declaratory judgment which would provide protection.

I argue that, this court has jurisdiction to prevent private parties from trying to

enforce 750 ILCS 5/513. A temporary injunction is warranted. Such an injunction should

be allowed until this court has reached a decision in the matter.

**United States District Court**

**Northern District of Illinois**

**Wherefor I pray:**

**1. Any remedy that this court can provide.**

**2. That it be declared that all state court proceedings after removal are**

**void.**

**3. That it be declared that all state court orders after removal are void.**

**4. A temporary restraining order preventing defendant Ahern from issuing**

**a body attachment.**

**Date of signing:**

**David Martin**

**5352 S. Princeton, Chicago IL 60649**

**Email: martinvthompson@gmail.com**

**Signature of Plaintiff**

The defendants responded with the following:

1

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS EASTERN DIVISION

David Martin,

Plaintiff,

v.

Attorney General Kwame Raoul, Judge Gregory Emmett Ahern Jr., Unnamed Cook County Clerks, Cook County,

Defendants.

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Case No. 22-cv-6296

Honorable Andrea R. Wood

DEFENDANT ATTORNEY GENERAL RAOUL AND JUDGE AHERN’S RESPONSE TO PLAINTIFF’S MOTION FOR TEMPORARY RESTRAINING ORDER

Defendants Attorney General Kwame Raoul and Judge Gregory Emmett Ahern, Jr., by their attorney, Kwame Raoul, Attorney General of the State of Illinois, state as follows in response to Plaintiff’s motion for temporary restraining order (ECF No. 34):

INTRODUCTION

This lawsuit relates to an underlying state court case that was brought against Plaintiff for financial contribution to his son’s needs, including his college education via the College Contribution Statute, 750 ILCS 5/513. See ECF No. 10. In this lawsuit, Plaintiff brings claims against Judge Ahern related to orders that were entered in the state court case and against Attorney General Raoul alleging that the College Contribution Statute itself is unconstitutional. Id. Plaintiff initially filed this lawsuit on November 10, 2022, with an amended complaint filed on March 6, 2023. ECF Nos. 1 ¶ 10. Defendants have filed a motion to dismiss, which is fully briefed. See ECF Nos. 20-21, 26 & 33. However, after briefing on the motion to dismiss, Plaintiff filed a motion for temporary restraining order (“TRO”), ECF No. 34. In his TRO, Plaintiff argues that on April 24, 2023, he removed the underlying state court case that Judge Ahern oversees to federal court,

Case: 1:22-cv-06296 Document #: 36 Filed: 11/07/23 Page 1 of 5 PageID #:336

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specifically into this lawsuit, which he had previously filed on November 10, 2022. See ECF No. 19, filed on the docket as “Brief Statement of Facts.” Because of this purported removal, Plaintiff asserts that Judge Ahern does not have jurisdiction over the underlying state law case.

This argument has no merit because Plaintiff has not, and could not, remove the state court case. First, Plaintiff’s claim is a new cause of action, not a removal of the underlying state court case. Second, the underlying case is not eligible for removal. Third, even if removal were possible, Plaintiff’s April 24, 2023, filing (or even the November 11, 2022, filing of the original complaint) are well outside of the time frame for removal of the state court case. Fourth, Plaintiff did not follow proper procedures for removal. Because the state court case was not removed, Plaintiff’s TRO should be denied. Moreover, as the substance of the TRO is, in effect, a surreply in opposition to Defendants’ motion to dismiss, it should be disregarded as improper. As such, Defendants request that this Court deny Plaintiff’s TRO and grant the Defendants’ fully briefed motion to dismiss at the Court’s convenience.

ARGUMENT

Due to practical and procedural issues, Plaintiff has not removed the underlying state law case to federal court and, moreover, he could not remove the underlying case.

First, at its core, this is not an issue of removal. Removal involves a state court defendant taking the state court lawsuit and having it heard in the appropriate federal court. Removal can only happen if the federal court would have had jurisdiction over the original state court claim, or, in some instances, when an amended complaint or order confers federal jurisdiction. See 28 U.S.C. 1446. When a case is removed, the parties and allegations from the underlying complaint remain the same; the only change is that the case is now before the federal court rather than the state court. Simply put, that is not what Plaintiff has done in this case. Here, Plaintiff takes issue with certain

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actions that Judge Ahern took in his role as a state court judge overseeing the underlying state court case. See ECF Nos. 10, 26 & 34. Plaintiff has sued Judge Ahern and the Attorney General based on Judge Ahern’s alleged actions and Plaintiff’s belief that the College Contribution Statute is unconstitutional. Id. These are new issues with new parties that are not involved in the underlying state court case. As such, on its face, this is not an issue of removal; this is a new cause of action that Plaintiff has brought against Judge Ahern and Attorney General Raoul. See 28 U.S.C. § 1446 (stating requirements for removal); see also Home Depot U.S.A., Inc. v. Jackson, 139 S. Ct. 1743, 1746 (2019) (holding that defendants can only remove state court actions to federal court if the state court action could have originally been filed in federal court).

Second, even if Plaintiff kept the same parties and causes of actions, the underlying state court case is not eligible for removal. As the moving party, it is Plaintiff’s burden to show that this Court has jurisdiction over the underlying state law case. See Barnes v. ARYZTA LLC, 288 F. Supp. 834, 838 (N.D. Ill. 2017) (explaining that whatever party chooses federal court has the burden of establishing federal jurisdiction). Plaintiff has not met this burden for the numerous reasons outlined in Defendants’ motion to dismiss briefing, which Defendants incorporate by reference here. See ECF Nos. 21 & 33.

It is instructive to note that two different judges in this district have already held that the specific state court case at issue here is not removeable. See Martin v. Thompson et al., No. 17-cv-7541 at Docket No. 15 (“J. Chang Order”), attached as Ex. A (issuing minute entry stating that removal of the child support enforcement case is not proper under 28 U.S.C. 1443(a); Martin v. State of Illinois et al., No. 20-cv-4203 at Docket No. 25 (“J. Blakey Order”), attached as Ex. B (issuing minute entry stating that the 2002 state court case cannot be removed because there the federal court did not have subject matter jurisdiction and that any removal of a 2002 case would Case: 1:22-cv-06296 Document #: 36 Filed: 11/07/23 Page 3 of 5 PageID #:338

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be untimely). While these rulings may not fall squarely within the doctrines of res judicata, issue preclusion, or other forms of estoppel,1 they are at least highly persuasive. In particular, Judge Blakey’s ruling shows not only that Plaintiff cannot remove the underlying state court case, but that Plaintiff was fully aware that the state court case could not be removed before he filed his “notice of removal” and TRO in this matter.

Third, even if removal were possible, any attempt to remove the state law case is untimely. A case can be removed within 30 days of filing in state court or, in some cases, 30 days after an amended complaint or order would grant federal jurisdiction where it had not previously existed. 28 U.S.C. § 1446(b). Here, the underlying lawsuit was filed in 2002 and this lawsuit was filed in 2022 with the “notice of removal” filed in 2023, well outside of the 30-day period for removal. Id. Moreover, to the extent Plaintiff argues that he is removing based on either entry of a judgment requiring contribution under the College Expense Statute or Judge Ahern’s refusal to certify a bystander’s report, he is still outside of the 30-day timeline for removal because those orders were issued on January 31, 2022, and June 8, 2022, respectively. ECF No. 10 at 9 & 11-12. As such, any attempt at removal would fail as untimely. See Ex. B, J. Blakey Order; see also 28 U.S.C. 1446(b)(1).

Finally, there are specific procedures that govern how a case must be removed from state court to federal court. Removal is done by filing a notice of removal in state court and then filing the removal in federal court, which triggers the opening of the federal court case. That procedure was not followed here. Here, Plaintiff filed his original complaint against Defendants, and several months later filed a document in this case that he asserts is a notice of removal. See ECF Nos. 1 &

1 Res judicata and issue preclusion, along with claim preclusion and collateral estoppel, generally refer to the idea that once an issue has been litigated it cannot be relitigated in a subsequent proceeding. See Taylor v. Sturgell, 553 U.S. 880, 882 (2008). Case: 1:22-cv-06296 Document #: 36 Filed: 11/07/23 Page 4 of 5 PageID #:339

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ECF No. 19. Moreover, the notice of removal fails to provide any information as to why removal is appropriate or to establish federal jurisdiction. See ECF No. 19. As such, even if this notice of removal were timely or proper, it is inadequate to establish federal jurisdiction. See Brokaw v. Boeing Co., 137 F. Supp. 1082, 1091 (N.D. Ill. 1997) (explaining that a defendant meets his burden for removal with evidence providing a reasonable probability that federal jurisdiction exists). For these reasons, the underlying state court case was not removed to federal court and Plaintiff’s motion for TRO should be denied.

CONCLUSION

Because Plaintiff has not, and could not, properly remove the underlying state law case to federal court, Plaintiff’s motion for temporary restraining order should be denied and this Court should rule on Defendants’ fully briefed motion to dismiss.

WHEREFORE, for the foregoing reasons, Defendants respectfully request that this Court deny Plaintiff’s motion for temporary restraining order and grant Defendants’ motion to dismiss for the reasons set forth in Defendants’ opening brief and reply.

Respectfully Submitted,

KWAME RAOUL /s/ Mary A. Johnston

Attorney General of Illinois Mary A. Johnston

Assistant Attorney General

General Law Bureau

100 W. Randolph Street, 13th Floor

Chicago, Illinois 60601

(312) 814-4417

Mary.johnston@ilag.gov

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EXHIBIT A

Case: 1:22-cv-06296 Document #: 36-1 Filed: 11/07/23 Page 1 of 3 PageID #:341

UNITED STATES DISTRICT COURT

FOR THE Northern District of Illinois − CM/ECF LIVE, Ver 6.2.1

Eastern Division

David Terrence Martin

Plaintiff,

v. Case No.: 1:17−cv−07541

Honorable Edmond E. Chang

Arnell Frances Thompson, et al.

Defendant.

NOTIFICATION OF DOCKET ENTRY

This docket entry was made by the Clerk on Wednesday, January 10, 2018:

MINUTE entry before the Honorable Edmond E. Chang: On review of Plaintiff's

position paper, filed pursuant to the order of 12/04/2017, R. 12, removal of the child

support enforcement case is not proper under 28 U.S.C. 1443(1). As the Court explained

during the hearing of 12/04/2017, Section 1443(1) provides for removal of state−court

"civil actions or criminal prosecutions" only where a party "is denied or cannot enforce,"

in the state court, "any law providing for the equal civil rights" of persons. But removal

under § 1443(1) applies "only if the right alleged arises under a federal law providing for

civil rights based on race and the [removing party] must show that he cannot enforce the

federal right due to some formal expression of state law." State of Indiana v. Haws, 131

F.3d 1205, 1209 (7th Cir. 1997) (citing Georgia v. Rachel, 384 US. 780, 792 (1966)); see

also Johnson v. Mississippi, 421 U.S. 213, 219−20 (1975) (examples of &qu;ot;formal

expression of state law" are a "state legislative or constitutional provision"). Plaintiff's

position paper argues that the Illinois Parentage Act discriminates against unwed black

fathers, and thus he cannot enforce his parental rights in Illinois state court. But the

position paper does not explain how Illinois law disables him from presenting that

argument in state court, either in the Circuit Court of in the Illinois Appellate Court (and

ultimately, the Illinois Supreme Court). Plaintiff says that it is "common knowledge" that

unwed black fathers cannot enforce parental rights, R. 14 at 5, but that bare assertion is

not the equivalent of a formal expression of state law that prevents enforcement of rights.

The child support enforcement case must return to state court. The case is remanded and

this federal case is dismissed without prejudice to the state−court proceedings. Status

hearing of 01/11/2018 is vacated. A separate AO−450 judgment will be entered. Civil

case terminated. Emailed notice(slb, )

ATTENTION: This notice is being sent pursuant to Rule 77(d) of the Federal Rules of

Civil Procedure or Rule 49(c) of the Federal Rules of Criminal Procedure. It was

generated by CM/ECF, the automated docketing system used to maintain the civil and

criminal dockets of this District. If a minute order or other document is enclosed, please

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refer to it for additional information.

For scheduled events, motion practices, recent opinions and other information, visit our

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CaCsaes:e 1: :12:21-7c-vc-v0-60279564 1D oDcoucmumenetn #t :# 3: 61-51 FFiilleedd:: 0111//1007//1283 PPaaggee 23 ooff 23 PPaaggeeIIDD ##::33543

EXHIBIT B

Case: 1:22-cv-06296 Document #: 36-2 Filed: 11/07/23 Page 1 of 2 PageID #:344

UNITED STATES DISTRICT COURT

FOR THE Northern District of Illinois − CM/ECF LIVE, Ver 6.3.3

Eastern Division

David Martin

Plaintiff,

v. Case No.: 1:20−cv−04203

Honorable John Robert Blakey

State of Illinois, et al.

Defendant.

NOTIFICATION OF DOCKET ENTRY

This docket entry was made by the Clerk on Wednesday, January 20, 2021:

MINUTE entry before the Honorable John Robert Blakey: Plaintiff initiated this

lawsuit by submitting a complaint and filing an application for leave to proceed in forma

pauperis. While the Court was considering those initial documents, Plaintiff filed a notice

of removal. The Court subsequently denied the IFP application and dismissed the

complaint. And Plaintiff's attempt to remove a 2002 state court case in the latter half of

2020 plainly fails to comply with the removal statute. See 28 U.S.C. §1446(b)(1)

(requiring the notice of removal to be filed within 30 days after receipt by the defendant,

through service or otherwise, of a copy of the initial pleading setting forth the claim for

relief upon which such action or proceeding is based, or within 30 days after the service of

summons upon the defendant, whichever period is shorter). And even if his petition were

timely, as the Court's dismissal order makes clear, Plaintiff lacked a valid basis for

removal (the parties are not diverse and his complaint fails to state a viable federal claim

and is barred by Rooker−Feldman). In light of the Court's order, and the patently improper

removal petition, a remand is unnecessary as this case was never removed and this Court

never assumed jurisdiction of this matter. To the extent this order clarifies the matter,

Defendants' motion [23] is granted. Mailed notice(gel, )

ATTENTION: This notice is being sent pursuant to Rule 77(d) of the Federal Rules of

Civil Procedure or Rule 49(c) of the Federal Rules of Criminal Procedure. It was

generated by CM/ECF, the automated docketing system used to maintain the civil and

criminal dockets of this District. If a minute order or other document is enclosed, please

refer to it for additional information.

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The plaintiff answered with the following:  
  
United States District Court

Northern District of Illinois

David Martin, )

Plaintiff )

)

)

V. ) Case # 1:22-cv-06296

)

Attorney General Kwame Raoul )

Judge Gregory Emmett Ahern Jr. )

Unnamed Cook County Clerks )

Cook County )

Chief Deputy Clerk Gretchen Peterson )

REPLY TO DEFENDANT’S

OPPOSITION FOR A TEMPORARY RESTRAINING ORDER

I David Martin, state the following in response to the defendant’s opposition to my

motion for a temporary restraining order.

BRIEF STATEMENT OF FACTS

On 11/14/22 The Circuit Court of Cook County entered the following in its record:

“Activity Date: 11/14/2022 Event Desc: Exhibits Filed Comments: Notice of removal”

On 4/26/23 The state court entered the following in its record: “Activity Date: 04/26/2023

Event Desc: Exhibits Filed Comments: Notice of removal”

United States District Court

Northern District of Illinois

AHERN VIOLATED

FEDERAL LAW.

In the defendant’s opposition for a temporary restraining order, Ahern does not

deny that he was provided with notice of removal. Instead, he argues that the removal

was untimely and ineffective. After his determination, he issued several orders while the

case was removed to federal court. However, Ahern does not have the right to make

such determinations because the statute clearly deprives him of the authority to do so.

In addition, even if my removal was untimely or ineffective all orders issued during the

removal are still void.

As pointed out in my original motion, after removal “It is the duty of the state court

to recognize the removal and proceed no further in the matter”. This is made clear in the

statute, 28 U.S. Code § 1446 (d) Promptly after the filing of such notice of removal

of a civil action the defendant or defendants shall give written notice thereof to all

adverse parties and shall file a copy of the notice with the clerk of such State

court, which shall effect the removal and the State court shall proceed no further

unless and until the case is remanded. The state courts duty to not proceed has also

been made clear in several cases. “1446 expressly provides that upon removal ‘the

State court shall proceed no further unless and until the case is remanded.’ 28

U.S.C. Sec. 1446(e). Hence, after removal, the jurisdiction of the state court

absolutely ceases and the state court has a duty not to proceed any further in the

case. Steamship Co. v. Tugman. 106 U.S. 118, 122, 1 S.Ct. 58, 60, 27 L.Ed. 87

United States District Court

Northern District of Illinois

(1882). The Circuit Court of Cook County acknowledged my notice of removal on two

separate occasions. Once on November 14th 22 and again on April 26th 2023.

Defendant Ahern knew or should have known that the case was removed because he

was served with a notice of removal. In addition, my federal complaint against Ahern

states that the case had become removable. In the defendant’s opposition for a

temporary restraining order, Ahern does not deny that he was provided notice of

removal. Instead, he argues that the removal was untimely and ineffective. However,

these arguments are irrelevant because ““any proceedings in the state court after

the filing of the petition and prior to a federal remand order are absolutely void,

despite subsequent determination that the removal petition was ineffective.”

South Carolina v. Moore, 447 F.2d 1067, 1073 (4th Cir.1971); see United States ex

rel. Echevarria v. Silberglitt, 441 F.2d 225, 227 (2d Cir.1971)”.

A TEMPORARY RESTRAINING ORDER

SHOULD NOT BE NEEDED.

My previous argument applies here. In addition, I argue that a temporary

restraining order should not be necessary. This is because the statute itself removes the

state court’s ability to proceed with the case. The language in section 1446 is extremely

clear, “… The State court shall proceed no further unless and until the case is

remanded”. In addition, case law provides that all orders are void if they were entered

after notice removal. “any proceedings in the state court after the filing of the

United States District Court

Northern District of Illinois

petition and prior to a federal remand order are absolutely void”. With all things

considered, the statute effectively provides the same relief as a temporary restraining.

A temporary restraining order is only being requested because judge Ahern has refused

to abide by the law.

THE FEDERAL CASES MENTIONED BY

THE DEFEDANTS ARE IRRELEVENT

According to Judge Ahern, the child support case and the case for college

expenses are two separate cases. In fact, when I was in the circuit court, I argued that I

had already defended myself against Ms. Thompsons claims and that the case was

already heard. As a result, the case was in the Illinois court of Appeals. “Judge Ahern

said that I was wrong. Judge Ahern responded saying these are two separate

cases” (See page 2 of attached Affidavit). By the same logic, if the state child support

case is separate from the case for college expenses. Then that means the removal of

those cases to federal court are separate as well. Thus the removal of my child support

case is completely separate from the removal of my case for college expenses. The

judgements in those cases are irrelevant and have nothing to do with the decision in this

case.

United States District Court

Northern District of Illinois

THE DEFENDANTS ARE PROVIDING INCORRECT

INFORMATION AND MISQUOTING PREVIOIUS JUDGMENTS

All of my previous arguments apply here. In addition, I argue that many of the

defendant’s arguments are blatantly erroneous. For example, the defendants incorrectly

argue "Finally, there are specific procedures that govern how a case must be

removed from state court to federal court. Removal is done by filing a notice of

removal in state court and then filing the removal in federal court, which triggers

the opening of the federal court case. That procedure was not followed here."…

Such an argument is clearly wrong. The removal process starts by filing a notice of

removal in Federal court. Then filing copies of the notice of removal in state court and

provide notice to all involved parties. TITLE 28 § 1446. Procedure for removal of civil

actions (“A defendant(s) desiring to remove any civil action from a State court

shall file in the district court of the United States for the district and division

within which such action is pending a notice of removal … Promptly after the

filing of such notice of removal of a civil action the defendant or defendants shall

give written notice thereof to all adverse parties and shall file a copy of the notice

with the clerk of such State court, which shall effect the removal and the State

court shall proceed no further unless and until the case is remanded.”). I followed

this process twice. The first time, was when I filed a complaint in federal court on or

United States District Court

Northern District of Illinois

around November 10th 2022, and then filed copies in state court and provided notice to

all parties on November 14th 2022. Afterwards I noticed that Ahern was still entering

judgments, So I repeated the process on April 26 2023.

I argue that the defendants are intentionally misquoting old cases. Where they

have not misquoted old cases, they have simply taken them out of context. The

defendants argue “It is instructive to note that two different judges in this district

have already held that the specific state court case at issue here is not

removeable. See Martin v. Thompson et al., No. 17-cv-7541 at Docket No. 15 (“J.

Chang Order”), attached as Ex. A (issuing minute entry stating that removal of the

child support enforcement case is not proper under 28 U.S.C. 1443(a);” I argue

that Chang’s order involved a removal under 1443(a) not 1446. The removal that Chang

presided over was for a child support case. The removal now before this court pertains

to a College Contribution. Chang’s order is completely irrelevant to this case and

contains no instructive value. The issue here is whether a temporary restraining order

should be issued against Ahern for violating section 1446. The defendants are clearly

bringing up old unrelated orders and taking them out of context.

The defendants also goes on to say “Martin v. State of Illinois et al., No. 20-cv-

4203 at Docket No. 25 (“J. Blakey Order”), attached as Ex. B …. In particular,

Judge Blakey’s ruling shows not only that Plaintiff cannot remove the underlying

state court case, but that Plaintiff was fully aware that the state court case could

not be removed before he filed his “notice of removal” and TRO in this matter.”…

I argue here the defendants have misquoted Blakey’s order. I even want to go so far as

to say that they are just outright lying or making things up. Nothing in Blakey’s order

United States District Court

Northern District of Illinois

suggest that “Plaintiff was fully aware that the state court case could not be

removed”. All the removal attempts I made were done completely in good faith.

Besides that, Blakey’s order is irrelevant as it involved a removal of a child support

case. It has nothing to do with college expense.

Overall I argue that the defendant’s are bringing up old cases in an attempt to

muddy the waters. Those are separate cases and they do not provide any instructive or

persuasive value to this case. I moved this case in good faith and nothing in 1446 or its

case law prevents a party from attempting multiple removal attempts.

REMOVING THE STATE CASE

WAS PROPER AND NECESSARY

It is well known that one cannot appeal a state case in federal court. To appeal a

case, one must go through the state court appeal processes. This typically means

appealing to the state’s court of appeals. If one is not satisfied with a judgment from that

court, they could file an application for appeal with that state’s supreme court. They

would then apply to appeal to the United State’s supreme court if the state supreme

court decided not to hear the case. Conversely, they could apply to appeal in the U.S

supreme court, if the state supreme court heard the case but delivered an unsatisfactory

ruling. The overall process could take a decade for the case to be resolved. In addition,

both the state and U.S. supreme courts are highly selective. They could very well

decide not to hear the case. However, the issue here is that my case would never have

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a fair chance of making it to the Illinois court of appeals. I allege that my case would die

in Illinois circuit court because the defendants are trying to sabotage my case in the

court of appeals. The circuit court clerks are sabotaging my case by altering and

omitting documents. Judge Ahern is sabotaging my case by refusing to allow me to

submit a bystander’s report. As I have pointed out in my previous arguments. The

Illinois court of appeals requires a record of the proceedings, and all state court

documents. It places the responsibility of gathering those documents on the appellant.

According to state law (“…The appellant… has the responsibility to present a

sufficiently complete record to this court, including transcripts, to support his

claims of error on appeal. Foutch, 99 Ill. 2d at 391–92, 76 Ill.Dec. 823, 459 N.E.2d

958.”). An appellant’s case is effectively dead on arrival if he does not provide a

complete and accurate record, and a report of the state court proceedings. “In the

absence of a record on appeal, it will be presumed that the order entered by the

trial court was in conformity with law and had a sufficient factual basis. Any

doubts which may arise from the incompleteness of the record will be resolved

against the appellant. As there is no transcript of the hearing on the motion to

vacate here, there is no basis for holding that the trial court abused discretion in

denying the motion.”)… Foutch v. O'BRYANT, 459 NE 2d 958 - Ill: Supreme Court

1984. I allege that both Judge Ahern and the circuit court clerks are well aware of the

state court doctrine, and they are simply trying to sabotage my case. I also allege that

their actions constitute extrinsic fraud in the state court of appeals. “Extrinsic fraud'

refers to situations where `the unsuccessful party has been prevented from

exhibiting fully his case. . . as by keeping him away from court . . . or where the

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defendant never had knowledge of the suit.” Falcon v. Faulkner, 209 Ill.App.3d 1,

153 Ill.Dec. 728, 567 N.E.2d 686, 694-95 (1991). Because of the defendant’s action’s, I

argue that I am not able to properly present my case to the court of appeal’s. I can go

through the motions of the appeal’s processes, but my efforts will be meaningless

without the state court records and a report of the proceedings.

According to the removal statute, a case not originally removable, may become

removable based on court orders or motions filed in state court. 28 U.S.C. 1446 (C)(3)

(3) “Except as provided in subsection (c), if the case stated by the initial pleading

is not removable, a notice of removal may be filed within thirty days after receipt

by the defendant, through service or otherwise, of a copy of an amended

pleading, motion, order or other paper from which it may first be ascertained that

the case is one which is or has become removable.” I argue that there were a flurry

of court orders and motions that made my case removable. Several orders were issued

for accurate and complete records. However, the circuit court clerks ignored those

orders and continued to provide altered and incomplete records. On October 19, 2022,

the Illinois Court of Appeals denied my appeal based on lack of jurisdiction. Essentially

refusing to hear my appeal until after my claims have been heard in state court. On

October 31st 2022 the state court litigants filed a rule to show cause, at that point I

realized that the case had become removable under 1446 and U.S.C 1983. As alleged

the defendants are trying to sabotage my appeal, and I am unable to make a

bystanders report. Now the defendants are initiating a proceeding in which I could be

jailed. I filed the removal to prevent the perpetuation of the same violations that had

previously occurred. I wanted to make sure that I could get a record of the past and

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future proceedings. Most importantly I wanted to do something to try and stop the

constant constitutional violations. Such as notice and opportunity to be heard in zoom

proceedings. There is no remedy adequate at law. Except for an order that would; allow

me to present a bystanders report, declare that I have a right to notice and opportunity

to be heard (accurate zoom info), and to prevent the defendant’s from continuously

sabotaging my appeal. I filed my notice of removal in federal court on November 10th

2022, which was well within the time frame to remove a case based on 1446 (c) (3). I

filed a copy of that complaint in state court on November 14th 2022. Judge Ahern and

the state court litigants were provided with notice of removal on that same day.

THIS COURT MAY PROVIDE RELIEF

FROM AHERN’S ORDERS

All of my preceding arguments apply here. I argue that I should be relieved of all

of Aherns judgments after the notice of removal because those judgments are void.

Ahern and the state court litigants received notice of removal, the state court

acknowledge the receipt of the notice removal. According to 1446, Federal Courts gain

exclusive jurisdiction of a state case once notice of removal is filed in state court and

notice is given to all the parties. “When a case is removed from state to federal

court, the entire civil action, including all of the parties and their claims, is

transferred to federal court and the state court is prohibited from further

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proceeding, unless and until the case is remanded”. 28 U.S.C. § 1446(e); see also

Polyplastics, Inc. v. Transconex, Inc. The statute does not allow state court judges to

determine whether or not a removal is valid. This court can review state court orders. "a

federal court is free to reconsider a state court order and to treat the order as it

would any interlocutory order it might itself have entered" NOC PROPERTIES,

LLC v. GREAT SMOKY MOUNTAINS RAILROAD, LLC, 2021... "A prior state court

order in essence is federalized when the action is removed to federal court,

although the order `remains subject to reconsideration just as it had been prior to

removal." FARMLANDS PARTNERS INC. v. FORTUNAE

This court may relieve parties from void orders. Federal Rule of Civil procedure

60 (b) “GROUNDS FOR RELIEF FROM A FINAL JUDGMENT, ORDER, OR

PROCEEDING. On motion and just terms, the court may relieve a party or its legal

representative from a final judgment, order, or proceeding…” This court should

relieve me from Aherns orders because they were issued after the state acknowledged

the removal and after he and the state court litigants received notice of the removal.

ALL OF THE DEFENDANTS

ARGUMENTS ARE IRRELEVANT

All of my preceding arguments apply here. In addition I argue that all of the

defendants arguments are irrelevant. A temporary restraining order should not be

necessary. However, the defendants are trying to determine their own jurisdiction.

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Which is prohibited by statute. A temporary restraining order is only being requested to

order Ahern to adhere to the federal statute. The defendants are now essentially making

remand arguments. I argue that it is not proper for a state court judge to come to federal

court to make remand arguments. For one, I believe it would be an indication of bias.

Second, this is the job of the state court litigants. Most importantly Ahern was prohibited

from issuing orders after the notice of removal. He does not now gain the right to come

to federal court to make arguments to justify why he violated the statute.

CONCLUSION

All of the defendant’s arguments are irrelevant. Judge Ahern clearly violated the

federal removal statute. He did so by essentially determining that my removal was

invalid. However, the removal statute clearly deprives Ahern of any authority to gauge

the strength of my removal. Even if my removal is invalid, Ahern would still lack

jurisdiction until the case is remanded. Thus all, his judgments issued after the removal

are void. A temporary restraining order is being requested so that Ahern may respect

the federal statute. This court has the authority to provide relief from Aherns orders

because those orders were entered after removal, and they are already void.

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Wherefor I pray:

1. That this court issues a temporary restraining order.

2. That I be provided relief from Ahern orders during the period of removal.

3. Any remedy that this court can provide.

Date of signing:

David Martin

5352 S. Princeton, Chicago IL 60649

Email: martinvthompson@gmail.com

Signature of Plaintiff

The plaintiff later filed the following:   
  
David Martin, )

Plaintiff )

)

)

V. ) Case # 1:22-cv-06296

)

Attorney General Kwame Raoul )

Judge Gregory Emmett Ahern Jr. )

Unnamed Cook County Clerks )

Cook County )

Chief Deputy Clerk Gretchen Peterson )

**MOTION FOR PARTIAL**

**SUMMARY JUDGMENT**

I, David Martin, in pursuant to Federal Rule of Civil Procedure 56, request that this court issue a partial summary judgment and or any remedy that this court deems appropriate. In support of this motion, I state the following.

**UNDISPUTED FACTS**

1. There was no actual controversy in the state court case.
2. On January 31st 2022, a default order for contribution of college expenses was entered against me.
3. On March 10th 2022, I appeared in court to correct the court’s record and to object to the court’s jurisdiction to hear a claim for college expenses. **(see affidavit of proceedings).** Judge Ahern issued an order for college expenses.
4. On June 8th 2022 Judge Ahern denied my request to certify my bystanders report. **(see affidavit of proceedings).**
5. The bystander’s report is necessary to appeal Ahern’s judgments.

**ARGUMENT**

In my complaint filed in the U.S. district court, various allegations are made against several individuals. Specifically addressing defendant Ahern, the central issue pertains to the possibility of filing a bystander's report. As previously asserted, the ability to appeal hinges on having a bystander's report or a record of the proceedings. Notably, there are no disputes regarding material facts in this matter. A default judgment was rendered against me after I contested Ahern's jurisdiction in court. Despite my objections, Ahern proceeded to enter a judgment. Subsequently, I filed a motion seeking certification of a bystander's report, which Ahern denied. I am unable to appeal without the certification of my bystander’s report.

In Ahern's response to my federal complaint, he has not contested the aforementioned facts. I contend that this matter could be resolved through a partial summary judgment and request the court to issue a judgment affirming my right to file a bystander's report. Alternatively, I seek any other declaratory order that would allow me to appeal Ahern's judgment in state court.

**Wherefor I pray:**

1. **Any remedy that this court can provide.**
2. **A summary judgment that declares I have a right to file a by standers report in state court.**

**Date of signing:**

**David Martin**

**5352 S. Princeton, Chicago IL 60649**

**Email: martinvthompson@gmail.com**

**Signature of Plaintiff**

On or around 1/24/2024 the judge stated that the defendants has made some strong arguments regarding the states right to have the constitutionality of the statute challenged in state court..

However the judge stated that the plaintiff has made some strong arguments about being able to challenge the state court judgment in the state court of appeals. At that point the plaintiff argued that the defendants did not have a right to issue additional judgments in state court because the case had been removed to federal court. The judge agreed, but stated she did not know if she had jurisdiction to enter any judgments.  
  
What concrete arguments can be made to convince the judge that she has jurisdiction to issue a declaratory judgment as it regards to the bystanders report, access to zoom logs, and vacating state court judgements made after removal, etc.  
  
Also, what concrete arguments can be made to convince the judge that she has jurisdiction to decide on the continuality of the statute in federal district courts, vacating the state court judgment for college expenses.