David Martin, )

Plaintiff )

)

) 1:20-CV-04203

V. ) **VERIFIED COMPLAINT**

)

State of Illinois )

State’s Attorney Wobbekind )

Illinois Department of Healthcare )

And Family Services )

Circuit Court of Cook County )

Unknown Defendants )

Defendants )

Jennifer Olaya )

Illinois State Treasure )

Individual known as djh from unit aru1(HFS) )

Arnell Frances Thompson )

Unknown States attorney )

Unknown judicial clerks )

Judge Myron Mackoff )

**AMENDED COMPLAINT**

**The parties to this complaint**

**1. The Plaintiff**

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

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

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

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

**E-Mail Address: MartinvThompson@gmail.com**

**The Defendant(s)**

**1. Name: Illinois Department of Healthcare And Family Services**

**Represented by: Allison G. Castillo, Assistant Attorney General**

**Street Address: 100 W. Randolph St., 13th Fl.**

**City and County: Chicago Cook County**

**State and Zip Code: Illinois 60649**

**E-Mail Address:** [**HFS.AG.Chicago@Illinois.gov**](mailto:HFS.AG.Chicago@Illinois.gov)

**2. Name: Unknown employees and agents of the Illinois**

**Department of Healthcare and Family Services, individually**

**and in their official capacity**

**Represented by: Allison G. Castillo, Assistant Attorney General**

**Street Address: 100 W. Randolph St., 13th Fl.**

**City and County: Chicago Cook County**

**State and Zip Code: Illinois 60649**

**E-Mail Address:** [**HFS.AG.Chicago@Illinois.gov**](mailto:HFS.AG.Chicago@Illinois.gov)

**3. Name: Jennifer Olaya, individually and in her official capacity**

**Street Address: 1 W. Old State Capitol Plaza Suite 400**

**City and County: Springfield**

**State and Zip Code:** **Illinois 62701**

**E-Mail Address:** [**JOlaya@illinoistreasurer.gov**](mailto:JOlaya@illinoistreasurer.gov)

**4. Name: Individual known as djh from unit aru1, individually**

**and in his/her official capacity**

**Street Address: IL Dept of Healthcare and Family Serives**

**Division of Child support Services**

**HEALTHCARE AND FAMILY SERVICES**

**509 S. 6TH ST, 2ND FL**

**City and County: Springfield**

**State and Zip Code: Illinois 62701**

**E-Mail Address: Unknown**

**5. Name: States Attorney Wobbekind, individually**

**and in her official capacity**

**Street Address: 28 N. Clark Street, suit 300**

**City and County: Chicago Cook**

**State and Zip Code: 60602**

**E-Mail Address:** [**sao.csed@cookcountyil.gov**](mailto:sao.csed@cookcountyil.gov)

**6. Name: Attorney General Kwame Raoul, individually**

**and in his official capacity**

**Street Address: 100 W. Randolph St.**

**City and County: Chicago, cook county**

**State and Zip Code: 60601**

**E-Mail Address:** [**HFS.AG.Chicago@Illinois.gov**](mailto:HFS.AG.Chicago@Illinois.gov)

**7. Name: States Attorney Kim Fox, individually**

**and in her official capacity**

**Street Address: 28 N. Clark Street, suit 300**

**City and County: Chicago Cook**

**State and Zip Code: 60602**

**E-Mail Address:** [**sao.csed@cookcountyil.gov**](mailto:sao.csed@cookcountyil.gov)

**8. Name: Unknown employees and agents of the**

**State of Illinois, individually**

**and in their official capacity**

**Street Address: 28 N. Clark Street, suit 300**

**City and County: Chicago Cook**

**State and Zip Code: 60602**

**E-Mail Address:** [**sao.csed@cookcountyil.gov**](mailto:sao.csed@cookcountyil.gov)

**9. Name: Judge Mary S. Trew, individually**

**and in her official capacity**

**Street Address: 50 W. Washington st. room 3003**

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

**State and Zip Code: 60602**

**E-Mail Address: Unknown**

**10. Name: Judge Myron Mackoff, individually**

**and in his official capacity**

**Street Address: 50 W. Washington St. RM CL02**

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

**State and Zip Code: 60602**

**E-Mail Address: Myron.Mackoff@cookcountyil.gov**

**11. Name: Unknown judicial clerks, individually**

**and in their official capacity**

**Street Address: 50 W. Washington St. RM CL02**

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

**State and Zip Code: 60602**

**E-Mail Address: Uknown**

**11. Name: Illinois Governor JB Pritzker, individually**

**and in his official capacity**

**Street Address: 100 W Randolph St,**

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

**State and Zip Code: 60601**

**E-Mail Address: Uknown**

**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.”**

This action is brought pursuant to the **Fair Credit Reporting Act 15 U.S.C § 1681**, subsection 618 Jurisdiction of courts. **“An action to enforce any liability created under this title may be brought in any appropriate United States district court, without regard to the amount in controversy”**

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 recent violations, however there is currently a case now pending in State court. 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).**

**FEDERAL QUESTIONS**

1. The 5th and 14th Amendments to the United States Constitution both have a fundamental fairness element. Does fundamental fairness require all parties to submit to personal jurisdiction in an action for child support arrearages?
2. Whether or not parental rights are unenumerated rights, protected by the 9th Amendment of the United States Constitution.
3. Whether or not parental rights are federally protected rights

**BRIEF STATEMENT OF FACTS**

I am the biological father of Emmanuel Thompson. Arnell Thompson is the biological Mother. Prior to the initial litigation, Ms. Thompson was not the lawful custodial parent of our son. In fact, there is no evidence to support that she was. I never agreed that she would be the sole custodian of our son. There was never a hearing on custody, and there was never an award of custody to Ms. Thompson. In fact, Ms. Thompson abducted/kidnapped Emmanuel away from me.

I supported Ms. Thompson during her pregnancy, by purchasing maternity cloths, purchasing supplies prior to the birth of our child, I also made an agreement with Ms. Thompson that the child would be named Emmanuel Martin. To confirm that I was Emmanuel’s father, Ms. Thompson and I agreed to have a pregnancy test. This involved having a nurse come out to our home to take a blood samples from both me and Ms. Thompson. In addition, a blood sample was taken from the placenta. After Emanuel’s Birth on Jan 27th, 2002, and sometime after Ms. Thompson moved out of my home, I provided regular support for Emmanuel by providing biweekly checks to Ms. Thompson, purchasing and dropping off supplies, taking Emmanuel shopping for clothes, picking up Emmanuel so that he could spend weeknights and weekends with me. Several forms of additional support were offered for Emmanuel, but Ms. Thompson turned them down. One such form of support offered, was that I would purchase a multi-unit property for Ms. Thompson to live in rent free. I offered to use my credit, provide a down payment, and closing cost. However, Ms. Thompson turned that offer down without reasoning. I made several attempts to discuss additional financial plans for Emmanuel. However, Ms. Thompson started to avoid the subject. Ms. Thompson refused to allow me to provide medical insurance for Emmanuel. On one occasion I tried to make plans for Emmanuel’s college savings. Ms. Thompson refused it because she did not want me to file Emmanuel on my taxes. I explained to her that I wouldn’t unless we agreed to it. I continued to try to make financial plans with her. However, Ms. Thompson simply refused to discuss Emmanuel’s finances with me.

Ms. Thompson started to regularly hide/kidnap Emmanuel away from me for extended periods of time. On one occasion I was not able to spend time with him on thanksgiving 2002, Christmas 2002, New year’s 2002, and Emmanuel’s birthday in Jan 2003. She made constant and persistent violent threats to prevent me from trying to find Emmanuel and exercise my parental rights. During this time Ms. Thompson would constantly tell me that “Emmanuel does not need two parent’s, he only needs one. You seeing him is a luxury, not a right…. and I can take that luxury away at any time”.

I soon discovered that Ms. Thompson had initiated child support litigation against me. Surprised by this, I tried to negotiate with Ms. Thompson. She responded by saying **“This is not about you taking care of your son, I just want to make sure you never have shit in life.”**  After the litigation was initiated, Ms. Thompson later said to me **“The reason I did not agree to joint custody is because I did not want to have to listen to what you thought was best for your son”.** On October 1, 2003, the State court entered a consent judgment for child support of $300 a month plus $100 dollars for retroactive payment. (SEE COURT RECORD) I was unaware of this consent judgment at the time. I never agreed to the consent judgment. In fact the consent judgment does not have my signature. On May 20th 2005, the consent judgment was made permanent. (SEE COURT RECORD)

On or around June 27, 2005 the original consent judgment was converted to a knew judgment for support. (SEE COURT RECORD) However, the child support collection agency later told me that I was not legally obligated to pay support. They also sent a notice to my then employer saying that I was not legally obligated to pay support. (SEE COURT RECORD) Confused by all this, I went to the child support office and they told me that the case was closed, and the balance was zero. I attempted to give money directly to Ms. Thompson as I had done in the past, but she refused to accept any money from me. On one occasion I attempted to send support payments to Ms. Thompson, but she refused to accept it. She stated “Emmanuel has a new father figure in his life and he loves him”. Confused by this, I called her the next day to insist that I was going to send money to her for Emmanuel. She responded with “Emmanuel does not need anything, you do you”. I tried to insist again by saying “You can put the money away for college”. To which she replied again “Emmanuel does not need anything, you do you”.

At the same time Ms. Thompson became more aggressive in her attempts to prevent me from exercising my parental rights. She continued to refuse to share Emmanuel’s information with me. She continued to hide Emmanuel. She then started to block all communications between me and Emmanuel.

On or around July 2005 up to May 2017, the collection agency stopped collecting support, and refused to accept support payments from me. During this period of time Ms. Thompson also refuse to accept any money from me. On May of 2017, the Illinois Dept of healthcare and family services filed a petition for arrearage judgment. (SEE COURT RECORD) In that action, the Mother Arnell Thompson is listed as the plaintiff. I responded to that petition with several defenses. Some of which were; a challenge to subject matter jurisdiction, 2-1401 petition to vacate, a counter claim against Ms. Thompson, and a 2-619 motion to dismiss.

On May 5th, 2017, Judge Kelly Thompson refuse to acknowledge my motion challenging subject matter jurisdiction. (SEE COURT RECORD) Oct 12, 2017 I was not able to speak to my motions in Judge Mary S. Trew’s court room. As a result, I filed to have the cased removed to federal court. (SEE COURT RECORD)

On Oct 26th, 2017, Judge Trew entered an arrearage judgment against me for 71,955.10. (SEE COURT RECORD) The judgment also contained an order granting the Illinois Department of healthcare and Family services leave to intervene. Judge Trew’s order was void because it violated 28 U.S. Code § 1446. According to the law **“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.”**

On September 27th, 2018 the court heard my petition to vacate the arrearage judgment. Ms. Thompson was present during this hearing. The judge did not make an immediate decision. Instead, she scheduled her decision to be released on November 8, 2018.

On November 8, 2018, the court granted my petition to vacate. (SEE COURT RECORD) I also explained to Judge Trew that the collection agency was continuing to modify the child support order. I asked if she could prohibit the State from trying to collect child support arrearages until they had a court order. I then explained that the agency put in a separate order for arrearages while this case was pending. (SEE COURT RECORD) Judge Trew indicated that they would stop collecting arrearages as soon as she signed her order. A hearing was scheduled for February 14 2019.

On February 07, 2019 I refiled all my motions. In addition, I filed a petition for substitution of judge for cause. (SEE COURT RECORD)

On February 14th, 2019, Ms. Thompson did not appear. The States attorney wrote a bogus order. She wrote an order for substitution of judge as of right instead of an order for substitution of judge for cause. (SEE COURT RECORD) A substitution of judge for cause requires an immediate hearing. The States attorney also told me that they would not pursue this case because Ms. Thompson was not showing up for court. I relied on what the states attorney told me. Given the circumstances… I left thinking that the case was pretty much over. As the states attorney said they would not pursue this case unless Ms. Thompson showed up to court.

On or about June 1, 2019 The Illinois Department of Health Care and Family Services reported child support arrearages to my Experian credit report.

On June 17th, 2019, An unauthorized administrative review was performed by djh form the aru1 unit**.** This administrative review was not certified.

On July 10th 2019, I filed an emergency motion for injunctive relief in hopes of stopping the State from reporting arrearages to my credit report. (SEE COURT RECORD) First I went to Judge Trew’s court room. However, judge Trew discussed it with her clerk. The clerk then sent me to the clerk’s office. When I arrived at the clerks office, I spoke with a substitute clerk for Judge Dickler. I handed her the last order, she reviewed it. Then she viewed her computer. She then turned to me and said you already had a substitution for judge by right. I said, yes that’s true, but I did not file a substitution of Judge by right. I politely tried to explain and give her more details, but she refused to listen. She said she was not going to listen to me. She said that she was only going to go by the order. In an aggressive tone, she told me to leave her office. I considered trying to explain further, but one of the court’s deputies walked into office in a threating manner. At this point I had no choice but to leave. I went back to judge Trew’s court room.

On July 11th, 2019 I refiled the emergency motion for injunctive relief. (SEE COURT RECORD) After going back and forth between several court rooms, and the clerk’s office, I had a hearing on my motion for substitution of judge for cause. My petition for substitution of judge was denied. I was sent back to Judge Trew’s court room. When I arrived in her court room, she immediately recused herself.

On July 31, 2019. The case was reassigned to Judge Myron Mackoff. I briefly appeared in his court room to effect the transfer. The first thing I notice was that there were no other litigants in the court room.

On Oct 13, 2019 at 10:30 AM There were no litigants in the court room… I presented my motion for preliminary injunctive relief. A hearing was scheduled for that motion on September 13, 2019 at 10:30 AM. (SEE COURT RECORD) I also attempted to scheduling a hearing for my unheard motions, but Judge Mackoff was extremely hostile, he yelled at me and told me to motion them up for presentment.

On September 13, 2019 I arrived in the court room approximately 10:50 AM. 20min late. I tried to explain that his court room was different from the last 3 court rooms I had gone to in the last 3 years. I then realized that there was hardly anyone present in Makoff’s court room. In the other court rooms, there were always lots of people waiting to have their case heard. Typically, being 20 min late was not an issue, as none of my hearings were ever held on time. Typically it takes at least 45 min for all the cases with lawyers to be heard first. Judge Mackoff refused to listen and he dismissed all of my motions with prejudice and ordered that the judgement was final and appealable. Judge Mackoff also barred me from filing any future motions. (SEE COURT RECORD)

On October 4th, 2019, I filed a motion for rehearing for several reasons. Among which was an obvious error on Judges Makoff’s part. The case was being dismissed without having a hearing. According to Illinois Supreme court rule 304(a) “any judgment that adjudicates fewer than all the claims or the rights and liabilities of fewer than all the parties is not enforceable or appealable”

On October 10, 2019 The States Attorney was 40 min late for court. I presented my motion for rehearing. After Judge Mackoff scheduled my motion to be heard, I was made to wait approximately 40 min to receive a copy of the order.

On October 24th, 2019, The states attorney filed a motion to advance. I responded to the States motion on November 5th. (SEE COURT RECORD)

On November 8th 2019, Judge Mackoff granted the State’s motion to advance. He also gave the state an additional 14 days to respond to my motion for rehearing…. Again I was made to wait approximately 40min to receive a copy of the order. When the states attorney went to hand me a copy of the order, Judge Mackoff held his nose and gestured towards me. (SEE COURT RECORD)

On or about December 1st 2019, I sent a letter to the IL Dept of Healthcare and Family Services, informing them that the original order for child support was void and that the issue of arrearages was still pending in state court.

On Dec 16th 2019 I was sitting and waiting for my case to be heard, I briefly looked down to reach in my bag, when I raised my head I caught Judge Mackoff gesturing towards me, holding his nose and making a face as if I had poor hygiene. The two people behind me immediately started to laugh…. The state was given an additional 21 days to respond to my motion for rehearing. In addition, Judge Mackoff told me that I speak about my right’s, but I don’t talk about child support, and that he thinks I have a skewed version of what child support is….. Again, I was made to wait an exorbitant amount of time to receive a copy of the written order…. Judge Mackoff gestured toward me and held his nose to encourage the states attorney to do the same as she handed me a copy of the order.

On February 13, 2020 Judge Mackoff refuse to hear my reply to the states answer because it was written in the form of an affidavit. Mackoff also granted a verbal motion to the state to get an updated accounting on arrearages. (SEE COURT RECORD)

On March 16 2020, I filed a counter claim in state court. The Illinois attorney general responded to that claim stating that the circuit court did not have jurisdiction.

On or around June 23rd, 2020, the Illinois Department of Healthcare and Family Services levied my Bank Account with JP Morgan Chase totaling about $1600.00. HFS also intercepted my brokerage account with E-Trade which held about $18K to $19K worth of assets at the time.

On August 6, 2020 the circuit court judge entered an order finding that it did not have jurisdiction to hear my claim. The judge also dismissed my counterclaim with prejudice.

**ARGUMENT**

**COUNT 1**

**DEPRIVATION OF RIGHTS**

**UNDER COLOR OF LAW**

I allege that I was deprived of my parental rights under the color of law by; The circuit court of cook county and its employees, The State of Illinois and its employees, the suborganization of the State of Illinois such as HFS and CSS and their agents. Parental rights have been defined as **“A parent’s rights to make all decisions concerning his or her child”. Blacks Law Dictionary 10th addition.** By definition this includes making financial decisions, as well as and managing a child’s finances. I allege that the defendants were able to deprive me of my rights by employing the use of the Illinois Parentage Act of 1984. I allege that the act denied me Substantive Due Process.” I believe that **(“the state has the right to enhance the life of its citizens, but it must respect the fundamental rights of the individual.”) Meyer v. Nebraska.** I believe parental rights are fundamental rights, as **("The right to conceive and to raise one's children have been deemed essential, the basic civil rights of man, a right far more precious than property rights") U.S. Supreme Court. Stanley v. Illinois, 405 U.S. 645.** It is a well-known fact that parents have an obligation to provide for their children. However, I believe this obligation is inseparable from an individual’s right to raise their children without unnecessary state involvement. It has been long established that **(“children are not creatures of the State; those who nurture them and direct their destiny have the right, coupled with the high duty, to recognize and prepare them for additional obligations.”) Pierce v. Society of Sisters, 268 U.S. 510.** I believe this has been re-affirmed in Stanley v. Illinois, which says **(“the custody, care and nurture of the child reside first in the parents, whose primary function and freedom include preparation for obligations the state can neither supply nor hinder.”) Stanley v. Illinois 405 U.S. 645.** I believe the Illinois Parentage Act of 1984 denied me substantive due process and it circumvented these well establish doctrines. I believe the essence of the act circumvents the biological rights of unwed fathers by focusing on so called legal rights. However, under the act the biological father does not have any upfront legal rights. Such line of thinking has been known to be unconstitutional because, **"To say that the test of equal protection should be the 'legal,' rather than the biological, relationship is to avoid the issue. For the Equal Protection Clause necessarily limits the authority of a State to draw such 'legal' lines as it chooses." ”) U.S. Supreme Court. Stanley v. Illinois, 405 U.S. 645.** I believe the act allowed both the State and Ms. Thompson to ignore my parental rights, and it gave Ms. Thompson default custody. Section 750 ILCS 45/4 of the Act provided Ms. Thompson upfront acknowledgment of her parental rights while ignoring mine. This allowed her to engage government agencies without my consent and without a genuine cause. Section 750 ILCS 45/14 (a)(2) gives Ms. Thompson default custody without a hearing on custody or a parental fitness test. I don’t believe there was a legitimate state interest in the original litigation because I was doing a good job providing for my son. How can there be a legitimate State interest in a case where a child was already being well provided for? I think the states action was completely arbitrary and should have been barred, because “While Procedural due process imposes a requirement of fair procedure for state actions, no matter how proper those actions otherwise may be; it is "fundamentally different" from substantive due process, which forbids certain kinds of state actions no matter the fairness of the procedures used to implement them”. Miller v. Fairman, 872 F. Supp. 498 (N.D. Ill. 1994). In this case I believe a strict scrutiny analysis is required. For the law provides that **(“where the right infringed upon is among those rights considered "fundamental" constitutional rights, the challenged statute is subject to strict scrutiny analysis. To survive strict scrutiny, the means employed by the legislature must be necessary to achieve a compelling state interest, and the statute must be narrowly tailored to accomplish this goal, i.e., the legislature must employ the least restrictive means consistent with the attainment of the intended goal.”)** **Village of Lake Villa v. Stokovich, 211 Ill.2d 106, 122, 284 Ill.Dec.** Again, I don’t believe there was a compelling state interest in a child that was being well provided for. Besides that I don’t believe the Illinois Parentage Act of 1984 was “narrowly tailored”. I believe the best way to ensure that children do not become the financial responsibility of the state is by enacting laws that respect the parental rights of both parents. The parentage act of 1984 allows for arbitrary government action. As it undermined my fundamental right to make basic decisions regarding my son. Because of this act, I believe MS. Thompson was able to deprive me of my parental rights. I believe the act is inconsistent with the due process clause. For **“the due process clause grants "heightened protection against government interference with certain fundamental rights and liberty interests. One of the fundamental rights protected under the fourteenth amendment is the right of parents to make decisions concerning the care, custody, and control of their children without unwarranted state intrusion.” Virginia WICKHAM, Appellee, v. Paul Michael BYRNE 769 N.E.2d 1 2002, 199 Ill.2d 309 263 Ill.Dec. 799.**

**COUNT 2**

**DEPRIVATION OF RIGHTS**

**UNDER COLOR OF LAW**

All of the aforementioned allegation apply here. In addition I allege that I was deprived of my parental rights under the color of law by; The circuit court of cook county and its employees, The State of Illinois and its employees, the suborganization of the State of Illinois such as HFS and CSS and their agents. I allege that the actions of several unknown state employees and Ms. Thompson denied me Substantive Due Process.” I believe that unwed fathers are parents and they have parental rights. 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. The actions of both Ms. Thompson and the unknown state employees shocks the conscience. As I believe they are trying to establish an arrearage judgment based on kidnapping and unlawfully depriving me of my parental rights. Prior to the initial litigation, Ms. Thompson knew beyond a shadow of a doubt that I was the biological father of Emmanuel Thompson, yet she decided to kidnap/abduct/conceal him away from me for extended periods of time. She did this because of a dispute over Easter bunny pictures. As a result, I missed his first Thanks Giving, Christmas, New Year, and his birthday. **(“Kidnapping is the crime of seizing and taking away a person by force or fraud, usually to hold the person prisoner in order to demand something.”) Black’s Law dictionary.** Ms Thompson kidnapped our son on several occasions, once over an argument over baby shoes and another time over an argument over Easter bunny pictures. Typically **("a parent, absent any valid custody order to the contrary, has no legal right to take a child into his or her own exclusive physical custody to the exclusion of the other parent's lawful rights") PEOPLE v. Judson MANNING 778 N.E.2d 1222 (2002) 334 Ill. App.3d 882 268 Ill.Dec. 600.** I was shocked when Ms. Thompson kidnapped our son. However I believe I could find help by going to the police station because **(“it is a felony to conceal a minor child from the child's parent where the action manifests an intent substantially to deprive that parent of parental rights") People v. Manning 778 N.E.2d 1222 (2002) 334 Ill. App.3d 882 268 Ill.Dec. 600.** However I was even more shocked when I found out that I could not get help from the police. As I discovered the parental abduction statute 720 ILCS 5/10-5 did not protect unwed biological fathers. The unknown state employees choose to not only ignore Ms. Thompson’s conduct, but they choose to take it one step further and support it. It should be known that **("There are two separate strands of substantive subdue process jurisprudence. Under the first, the individual shows that the actions of the government shock’s the conscience. Under the second, the individual demonstrates the denial of a fundamental right.") Dennis E v OMalley, 256 Ill.App.3d 334.** I believe that any parent on the opposite end of Ms. Thompson conduct would be shocked. Ms. Thompson was receiving support and I was active in our son’s life at the time. Yet she decided to kidnap our son and deprive me of my parental rights. I believe the actions of the state employees are even more shocking because they chose to ignore my parental rights and support Ms. Thompson heinous conduct. As a result of the actions of the defendants, I allege that I suffered a total loss of my parental rights.

**COUNT 3**

**DEPRIVATION OF RIGHTS**

**UNDER COLOR OF LAW**

All the aforementioned allegations apply here. In addition I allege that I have been deprived of substantive due process by; The circuit court of cook county and its employees, The State of Illinois and its employees, the suborganization of the State of Illinois such as HFS and CSS and their agents. I believe that federal fundamental fairness requires that Ms. Thompson submit to personal jurisdiction of the court. The state is attempting to have a hearing on arrearages, without hearing my claims against Ms. Thompson. This has the effect of shielding Ms. Thompson from litigation. Ms. Thompson never provided an address where she could be served. However, she showed up a few times in the very beginning of the arrearage litigation, but fearing my counter claim she disappeared. As a result, I spent the last two years running back and forth to court while Ms. Thompson was able to evade my counterclaim against her. I believe it should be noted that Ms. Thompson is listed as the plaintiff in this case. However, the government is filling this claim and allowing Ms. Thompson to participate as the plaintiff without even providing so much as an email address to which she can be served. In addition, the circuit court is allowing this case to move forward with full knowledge that Ms. Thompson has not provided an address to which she can be served. I alleged that this is not only a violation of my fundamental rights, but its also outrageous.

**COUNT 4**

**DEPRIVATION OF RIGHTS**

**UNDER COLOR OF LAW**

All the aforementioned allegations apply here. In addition I allege that I was deprived of due process of law by; The circuit court of cook county and its employees, The State of Illinois and its employees, the suborganization of the State of Illinois such as HFS and CSS and their agents. I allege that the defendants committed an abuse of process. They did this so that they could prevent me from having a meaningful hearing in Judge Trew’s court room. I think that the plaintiff’s saw that their chances of getting a judgment for arrearages was slim to none. To overcome this problem, I believe the defendants intentionally sabotaged the transferring of this case so that they could use this time to enter their own review judgment. (**“There are two essentials elements of abuse of process: (1) the existence of an ulterior purpose and (2) an act in the use of legal process not proper in the regular prosecution of the proceedings”. Dixon v. Smith Wallace Shoe Co., 283 Ill. 234, 119 NE 265; Bonney v. King, 201 Ill. 47, 66 NE 377.** For a time the plaintiff’s did have an arrearage judgment, however that judgment was vacated because the court did not have jurisdiction. I believe that in the process of vacating the arrearages, it became obvious that the plaintiffs should not be able to obtain a subsequent judgement for arrearages. A substitution of judge was filed because I believe judge Trew showed several signs of bias. The states attorney is well aware that I filed a substitution of judge for cause. She knows this because she was served with a copy of my substitution for judge. She also admitted to receiving a certified copy of my petition. As previously highlighted, the authority provides that there should have been a hearing as soon as possible for substitution of judge for cause… **“Upon the filing of a petition for substitution of judge for cause, a hearing to determine whether the cause exists shall be conducted as soon as possible by a judge other than the judge named in the petition”.** Judge Trew ordered that the case be transferred. However, the case was not transferred and the hearing on the substitution of judge did not happen in a timely manner. When the transfer did happen, the clerk informed me that the order was written incorrectly. There is obviously a normal processes for a substitution of judge. There is a normal process to transfer a case after a recusal. There is a normal process for an administrative review. However, I believe there was nothing normal about the transferring of this case and the subsequent review. I believe the government had an ulterior motive, which was to prevent the case from being properly heard so that they can enter their own biased judgment on arrearages…..

I allege that the State is doubling down on abuse of process. When the case was transferred to Judge Makoff’s court room, all my defensive claims were dismissed with prejudice. Despite the fact that there had not been a hearing on the merits. Even more bizarre, Judge Makoff barred me from filing any court motions. This effectively prevents me from defending myself in state court. This provided a perfect opportunity for the State to start placing liens on my accounts. I allege that the ulterior purpose of the second administrative review and the subsequent bank liens were done to circumvent the circuit courts lack of jurisdiction to hear a claim for arrearages. I allege that the administrative review and the bank liens were not proper because the state court was in the midst of litigation for the arrearage claim.

**COUNT 5**

**DEPRIVATION OF RIGHTS**

**UNDER COLOR OF LAW**

All the aforementioned allegations apply here. In addition I allege that I was deprived of my property under the color of law by; The circuit court of cook county and its employees, The State of Illinois and its employees, the suborganization of the State of Illinois such as HFS and CSS and their agents. I allege that the defendants deprived me of my property under the collar of law. I allege that extrinsic fraud is at play here. **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).** First of all, the state’s attorney, whom is an officer of the court, provided me with what I believe was a bona fide transfer order. To my dismay, It turned out to be bogus. Second, based on how the order was written, I believe the states attorney new or should have known that the case would not be transferred. Third… I believe the State’s attorney intended to mislead me into believing that this case would be transferred. At the time I had no reason to doubt the transferring of the case. I was not horribly concerned because the judgment for arrearages had been vacated and the government sent me a letter stating there were no arrearages owed. Moreover, the States attorney told me that they would not pursue arrearages because Ms. Thompson was not showing up for the court proceedings. At this point I believe it was not necessary to take any action. Relying on the bogus transfer order, the states attorney’s direction, and the governments letter stating that no arrearages were owed… there was no need for me to be concerned with arrearages. This created a false sense of security and led me to believed that I did not have to pursue this case. However, nothing could be further from the truth because the government was simply trying to get an opportunity to perform an administrative review. Fourth, I alleged that the court mislead me into thinking that I had an order that would prevent the state from collecting arrearages. I specifically brought to judge Trew’s attention that the state agency was continuously modifying the court order. In this case, they modified the order in anticipation of my hearing on vacating the judgment for arrearages. I came to the conclusion that they would simply modify the order after the arrearage judgment was vacated. This is why I ask the judge to prohibit the state from modifying the order, and explained that the state had already modified it, while the action was pending in her court room. The court told me that the state agency would not be able to collect arrearages as soon as the judge signed the order. Imagine my surprise when the state started collection actions against me. Judge Trew knew or should have known that I was asking the court to stop the state from collecting arrearages without a court order. She knew that I filed a previous 2-1401 petition in her court room to vacate the original order for support. I allege that I was intentionally given an ineffective order, with the intent of allowing the state agency to collect arrearages without a hearing and without a court order.

**COUNT 6**

**DEPRIVATION OF RIGHTS**

**UNDER COLOR OF LAW**

All the aforementioned allegations apply here. In addition I allege that I was deprived of due process of law by; The circuit court of cook county and its employees, The State of Illinois and its employees, the suborganization of the State of Illinois such as HFS and CSS and their agents… I allege that the extrinsic fraud continued in Judge Mackoff’s court room, and that Judge Mackoff was specifically chosen so that the extrinsic fraud could continue… I was scheduled to have a hearing on my preliminary injunction on September 13, 2019 at 10:30 AM. Nothing else was scheduled to be heard on that day. Because I was late for that hearing, Judge Mackoff dismissed all my motions with prejudice. Perhaps it would have been warranted to dismiss the motion for injunctive relief. However, Mackoff dismissed all my motions with prejudice. I allege that he’s doing this because he is fully aware of the state’s actions and he wants to prevent me from having a meaningful hearing. Immediate relief was still possible though my original 2-1401 petition…..While I was slightly late, I arrived before the order was written. I asked Mackoff if I could file a post judgment motion. He told me no, you’ve made too many mistakes. He then tells the state to write in the order that I am barred from filing any other motions. I allege that this is just another tactic to prevent me from being heard. I decided to file a post judgment motion because I believe it’s an important, but a separate phase in civil litigation. On the day I was to present my motion for reconsideration, the state’s attorneys came to court about 30 mins late. Absolutely nothing was done to penalize the states attorney for their tardiness…. Eventually, Judge Mackoff, denied my post judgment motion. However a hearing on arrearages had to be scheduled because one was never had in the first place… During the hearing on my motion for reconsideration, judge Mackoff refuse to hear my reply to the states answer because It was written in the form of an affidavit. I allege that this was in violation of the 14th amendment due process of law. Fast forward to August 17th…. Judge Makoff gave me permission to file a motion to address the levies on my bank account. As a result, I presented a revised version of my original 2-1401 petition. The State’s attorney brings this to judge Mackoff’s attention. The State’s attorney, also tells Mackoff that the motion is a revised version of one he dismissed earlier. Judge Makoff immediately claims he has not seen the motion, but tells me that there may be sanctions if it is a version of one I filed earlier. I explain that issue preclusion or collateral estoppel only apply if there were a hearing on the merits. There was not a hearing on the merits. Mackoff’s order simply dismissed all my motions with prejudice. It does not even clarify which motions he dismissed. Then, he goes on to essentially argue that the judgment cannot be vacated because it is too old. I then brought to his attention the fact that a 2-1401 petition has a section that allows for vacating void judgements regardless of how old they are. Mackoff, then goes on to essentially argue that the judgment is not void but it might be voidable. At this point I bring to his attention that he claims to have not seen the motion. Mackoff then scheduled to have the 2-1401 hearing on the same day as the hearing for arrearages. I allege that Mackoff was simply trying to prevent me from having a hearing to vacate a judgment that is obviously void. Even worse, he’s arguing on behalf of the State. Now the State has had a chance to test the waters. I believe this is evidence to show that it is impossible for me to have a fair and impartial hearing in State Court.

I allege that judge Myron Mackoff and his court clerk set out to prevent me from having a meaningful hearing by cause me emotional distress. I allege that I was harassed by Judge Mackoff on the very first day that I arrived in his court room. Without provocation he started screaming at me simply for trying to notify him of my previous motions. He continued to yell and scream at me for most of the court hearings. I was also harassed by his court clerk. As she engaged in the same conduct of yelling and screaming at me without cause. Having filed a motion for rehearing, I attempted to register my appearance with her, she yelled at me telling me to sit down. I sat down and waited for the states attorney to arrive. When the states attorney arrived, I heard the court clerk telling him that there would be no hearing today because my motion did not make the call. Shocked by this, I again went to Makoff’s court clerk to explain that my motion was filed in a timely manner, and I had arrived on time. Reluctantly the clerk registered me for the call that day. The clerk yelled at me on several other occasions. The screaming and yelling by Mackoff and his clerk was completely unnecessary because I did not do anything to warrant it. After I filed my motion for rehearing, Judge Mackoff and his clerk started to use additional forms of harassment. One such tactic was to make me wait an unnecessary amount of time to receive the court’s judgment after a hearing. From my experience in the other court rooms. I would have to wait 5 to 15 min to receive the court judgment after it had been written up. I would say that 5 minutes was the normal wait time. This was my experience when going to a court room with about 15 to 30 other litigants. However, after I filed a motion for rehearing in judge Mackoff’s court room, I would have to wait 40 min to 1 hour to receive a judgment. This was bizarre considering that I’ve never seen more than 6 litigants in his court room. On one occasion, the court hearing had ended. The only thing left was to provide me with a stamped copy of the order. The states attorney attempted to hand Mackoff’s clerk a copy of the order, but the clerk made a scowl and told the states attorney this can wait. Then she instructed him to go out in the hallway to find more litigants. I was in total shock… having had my case heard, I had to wait for the cases of other pro se litigants to be heard. I also had to wait for the court orders to be written and handed out to those pro se litigants. Mackoff’s clerk made sure that I was the last person to receive my court order in every hearing.

I allege that Judge Mackoff mocked and harassed me by holding his nose indicating that I had poor hygine. Most of the times he did this, he did so when I was standing or sitting by other people. I allege that he did this because he wanted other people to join in to mock me. For example, he consistently held his nose every time the states attorney went to provide me a copy of the court order. Initially she appeared to be shocked and confused by his actions. However, overtime I allege that she understood that he was trying to encourage her to hold her nose when she would hand me a copy of the court order. Eventually she did, and both he and her would have a silent chuckle every time she did it. Mackoff typically used this form of harassment after issuing an adverse judgment against me. I allege that Mackoff didn’t actually think that I had poor hygiene, he harassed me because he was trying to create a hostile environment for me. I allege that he took this course of action to discourage me from coming back to litigate my case. He also did this hoping the result would be that I would get upset and have some sort of an outburst. Then he could have me locked up for a contempt of court. The hearings were extremely stressful to me. I left most of the hearings feeling like I was going to have a stroke. On one occasion I felt like I was going to faint because of Judge Mackoff’s harassment.

**COUNT 7**

**DEPRIVATION OF RIGHTS**

**UNDER COLOR OF LAW**

I allege that I was deprived of my property rights under the color of law by; The circuit court of cook county and its employees, The State of Illinois and its employees, the suborganization of the State of Illinois such as HFS and CSS and their agents. **The 4th amendment provides “The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.” The 14th amendment due process clause provides that “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”.** To date The HFS Division of Child support Services is depriving me of my property without due process of law. I say this because they are collecting arrearages without a hearing on arrearages. I alleged that this is a direct violation of both 4th and 14th amendment. I am seeking relief under 42 U.S. Code § 1983 because the defendants knew or should know that there has not been a hearing, yet they are continuing to collect arrearages. Arrearages are being collected under color of law because they are using statutes such as **750 ILCS 5/505, which provides inter ailia (“Any new or existing support order entered by the court under this Section shall be deemed to be a series of judgments...”).** The problem with this is that the original judgment in this case is void because it’s based on a void contract. The contract is void because a **(“consent judgment is considered a contract between the parties to the litigation, and accordingly, the law of contracts controls their interpretation.”) Citizens Utilities Co. v. Centex-Winston Corp. 1989, 185 Ill.App.3d 610, 613, 133 Ill.Dec. 470, 472, 541 N.E.2d 681, 683.** In addition, **“A legally enforceable contract is an exchange, and the elements of a contract include offer, acceptance, and consideration”. Sheller v. Frank's Nursery & Crafts, Inc., 957 F.Supp. 150, 154 (N.D.Ill.1997).** The contract in question lacks all the elements of a contract. At the time, I didn’t know it existed, I did not consent to the contract, there was never any consideration, and there was never a meeting of the minds. Therefore, the defendants should not be collecting arrearages without a court judgement.

**COUNT 8**

**DEPRIVATION OF RIGHTS**

**UNDER COLOR OF LAW**

All the previously stated allegations apply here. I allege that I was deprived of my property rights under the color of law by; The circuit court of cook county and its employees, The State of Illinois and its employees, the suborganization of the State of Illinois such as HFS and CSS and their agents. The defendants posted child support arrearages to my Experian credit report. Having noticed the arrearages on my credit report. I immediately reached out to Experian to inform them that the child support agency did not have a judgment for child support arrearages. I alleged that on or about June 17th, 2019 the individual known as djh from unit aru1(HFS) and possibly other unknown individual, responded to my Experian complaint by performed an unauthorized administrative review. The administrative review was not signed, and it was not certified. I allege that the purpose of the administrative review was to collect child support arrearages, to substantiate the posting of arrearages to my credit report, and to harass me. The individuals knew or should have known that there was not a court ordered judgment for arrearages. They knew or should have known that the issue of arrearages was still pending in circuit court. They knew or should have known that they were unable to perform an administrative review as a matter of law. However, I allege that they decided to act under the color of law with the intent to; substantiate the arrearages placed on my credit report, collect child support arrearages, and to harass me.

**COUNT 9**

**DEPRIVATION OF RIGHTS**

**UNDER COLOR OF LAW**

All the allegations above apply here. In addition, I allege that the individual known as djh from unit aru1, and several unknown individuals whom were employees, agents, or associates of the State of Illinois, and the IL Department of Healthcare and Family Services deprived me of my property under the color of law. To deprive me of my property, I allege that they committed wire and mail fraud. As previously alleged the defendants knew or should have know that they did not have a court order for arrearages, and they knew they were not authorized to perform an administrative review. To overcome those obstacles, I allege that the defendats committed wire fraud in violation of 18 U.S. Code § 1343 by devising a scheme to electronically report the arrearage judgment on my credit report with Experian. After I disputed the arrearages with Experian, I allege that the defendants took further steps to cover up their fraud by doubling down and committing mail fraud in violation of 18 U.S.C. SECTION 1341. The defendants performed an unauthorized administrative review and used the united states postal service to send the illegitimate judgment to my mailing address at 5352 s. Princeton. I allege that the purpose of mailing this review was to trick me into believing that the judgment was legitimate. I allege that several other unknown individuals employed by the state of Illinois and its agencies committed wire fraud in violation of 18 U.S. Code § 1343, by sending electronic communications to Chase Bank and E-trade, Instructing them to seize my accounts.

It is well established that a citizen cannot bring criminal charges in federal court. However, I believe it is important to inform the court of what I believe to be criminal conduct. I believe that an additional claim of deprivation of rights under color of law is justified because the defendants used fraud to deprive me of my property.

**COUNT 10**

**VIOLATION OF SECTION 623**

**OF THE FAIR CREDIT REPORTING ACT**

All the previously stated allegations apply here. I allege that several unknown individuals whom were employees, agents, or associates of the State of Illinois, and the IL Department of Healthcare and Family Services reported inaccurate information on my credit report. I alleged that the defends had reasonable cause to believe that the information was inaccurate. The defendants knew or should have known that they themselves informed me that I was not legally obligated to pay support. I also informed the defendants on several occasions that I did not owe child support arrearages. I also informed them that the judgment for child support was void. The defendants knew or should have known that there was not circuit court judgment for arrearages and the case was still pending in state court. The defendants chose to ignore all the aforementioned facts and to place an arrearage debt on my Experian credit report. As of September 1 2020, the defendants are still reporting child support arrearages to my credit report.

**COUNT 11**

**DEPRIVATION OF RIGHTS**

**UNDER COLOR OF LAW**

All the previously stated allegations apply here. I allege that Jennifer Olaya, and several other unknown individuals deprived me of my property under the color of law. On or around December February 6 2020, I reached out to the Illinois treasurer to request that my unclaimed check for approximately $1000.00 be returned to me. I also informed her that the state collection agency did not have a court order for an arrearage judgment. On or around April 2020, Jennifer Olaya handed over my unclaimed property to the Illinois Department of housing and family services.

**COUNT 12**

**DEPRIVATION OF RIGHTS**

**UNDER COLOR OF LAW**

All the previously stated allegations apply here. I allege that JB Pritzker deprived me of my property rights under the color of law. I allege that JB Pritzker deprived me of my right to due process. I allege that several of the state employees involved in this case, acted under the instructions, the policies, and the direction of JB Pritzker.

**COUNT 13**

**DEPRIVATION OF RIGHTS**

**UNDER COLOR OF LAW**

All the previously stated allegations apply here. I allege that I was deprived of my rights under the color of law by; The circuit court of cook county and its employees, The State of Illinois and its employees, the suborganization of the State of Illinois such as HFS and CSS and their agents. All the allegations in the previous paragraph apply here. In addition, I alleged that there was and continues to be an effort to prevent due process of law. After winning a judgment to vacate the arrearages, and before that judgment was entered, I made a verbal motion asking that the collection agency be ordered to stop collecting arrearages without a court order. Judge Trew granted that motion, and the States attorney acquiesced to it. However, the judgment did not include an order to stop collecting arrearages. The States attorney represented HFS. The States attorney should have told them to stop. I attempted to correct this with an emergency injunction, but that was denied. I then attempted to have another hearing on an injunctive relief. That was denied and all of my motions were dismissed as a final and appealable order. I am seeking relief under 42 U.S. Code § 1983 because I had a right to a hearing on my original 2-1401 petition. In addition, I am being deprived of my rights to the benefits of the judgment which I have already won.

**COUNT 14**

**DEPRIVATION OF RIGHTS**

**UNDER COLOR OF LAW**

All the previously stated allegations apply here. I allege that Kim Fox deprived me of my property rights under the color of law. I allege that Kim Fox deprived me of my right to due process. I allege that the assistant state’s attorney involved in this case, acted upon the instructions, the policies, and the direction of Kim Fox.

**COUNT 15**

**DEPRIVATION OF RIGHTS**

**UNDER COLOR OF LAW**

All the previously stated allegations apply here. I allege that Attorney General Kwame Raoul deprived me of my property rights under the color of law. I allege that Attorney General Kwame Raoul deprived me of my right to due process. I allege that several of the state employees involved in this case, acted under the instructions, the policies, and the direction of Attorney General Kwame Raoul.

**Wherefore, I Pray:**

1. **That the pending State litigation be removed to federal court**
2. **That an injunction be issued to stop judge Myron Mackoff from hearing the state case for child support arrearages.**
3. **That this court enter a judgment for punitive damages of 1,000,000 for the violation of the fair credit and reporting Act.**
4. **That the State agencies be ordered to return all monies that they have collected in arrearages.**
5. **That an injunction be issued to stop the States Attorney and the Attorney General from pursuing arrearages in State court.**
6. **That the circuit court be ordered to have a hearing on my 2-1401 petition to vacate the judgement for support. However, this may not be necessary if the there is an Injunction issued to stop the pursuit of arrearages.**
7. **That the United States District Court Northern District of Illinois have a hearing on my 2-1401 petition to vacate the original judgment for child support. However, this may not be necessary for the same reasons pointed out in prayer 3.**
8. **That the financial institutions be ordered to release the levy on my accounts.**
9. **That this court enter a judgment for punitive damages of 1,000,000 against the State, its agencies, its agents, and its employees.**
10. **That this court enter a judgment for compensatory damages.**
11. **That this court enter a judgment for Nominal Damages for 1,000,000 against the State, its agencies, its agents, and its employees.**
12. **Any other such remedy the Court deems appropriate.**

**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.

Date of signing:

David Martin

5352 S. Princeton, Chicago IL 60649

Email: martinvthompson@gmail.com

Signature of Plaintiff