

COMMONWEALTH OF MASSACHUSETTS

SUPREME JUDICIAL COURT

SUFFOLK, ss

No.

IMRE KIFOR,

Petitioner,

v.

THE COMMONWEALTH OF MASSACHUSETTS,

MIDDLESEX PROBATE AND FAMILY COURT,

[REDACTED]

[REDACTED]

Respondents.

**Imre Kifor's Emergency Petition For Relief In The
Nature Of Certiorari Pursuant To G.L.c. 249, § 4**

Date: 1/28/2022

Imre Kifor, Pro Se

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I have no phone

I have no valid driver's license

I no longer have a stable physical address

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UNDERLYING CASES AND TABLE OF AUTHORITIES

Underlying Cases:

- MI07D3172DV1 from Middlesex Probate & Family Court
- MI11W0787WD / MI11W1147WD from Middlesex Probate & Family Court
- 2081CV00109 from Middlesex Superior Court
- 2021-P-0503, 2021-P-0901 and 2021-P-0902 from Appeals Court
- 2181CV00921 from Middlesex Superior Court
- DAR-28508, DAR-28518 and DAR-28519 (all denied)
- 2021-J-0606 and 2021-J-0607 from Appeals Court
- 22BPA00184 from MCAD

Referenced cases¹:

1. Lamoureux v. Supdt. Mass. Correctional Inst. Walpole, 390 Mass. 409 (Mass. 1983).
2. Carter v. Housing Authority, 450 Mass. 626 (Mass. 2008).
3. Boston Edison Co. v. Board of Selectmen of Concord, 355 Mass. 79 (Mass. 1968).

¹ Relevant quotations for each are attached in the Addendum.

4. Commissioner of Revenue v. Lawrence, 396 N.E.2d 992 (Mass. 1979).
5. Massachusetts Bay Transportation Authority v. Auditor, 430 Mass. 783 (Mass. 2000).
6. LaLonde v. Eissner, 405 Mass. 207 (Mass. 1989).
7. Chicopee Lions Club v. Dist. Atty for Hampden Dist, 396 Mass. 244 (Mass. 1985).
8. Johnson v. Commonwealth, 977 N.E.2d 541 (Mass. 2012).
9. Mireles v. Waco, 502 U.S. 9 (1991).
10. Stump v. Sparkman, 435 U.S. 349 (1978).
11. Mireles v. Waco, 502 U.S. 9 (1991).
12. Pulliam v. Allen, 466 U.S. 522 (1984).
13. Carey v. Piphus, 435 U.S. 247 (1978).
14. O'Brien v. DiGrazia, 544 F.2d 543 (1st Cir. 1976).
15. Jackson v. Birmingham Bd., 544 U.S. 167 (2005).
16. RCN-BecoCom, LLC v. Commissioner of Revenue, 443 Mass. 198 (Mass. 2005).
17. Commonwealth v. Hatch, 438 Mass. 618 (Mass. 2003).

18. Barrett Assoc., Inc. v. Aronson, 346 Mass. 150
(Mass. 1963).
19. Briggs v. Carol Cars, Inc., 407 Mass. 391 (Mass.
1990).
20. Brown v. Gerstein, 17 Mass. App. Ct. 558 (Mass.
App. Ct. 1984).
21. J.A. Sullivan Corp. v. Commonwealth, 397 Mass. 789
494 N.E.2d 374 (1986).
22. In re Birchall, 454 Mass. 837 (Mass. 2009).
23. Adoption of Zoltan, 71 Mass. App. Ct. 185
(Mass.2008).
24. McHugh v. Commonwealth, 97 Mass. App. Ct. 1104
(Mass. App. Ct. 2020).
25. Judge Rotenberg Educ. v. Comm. of the Dep. of M.
R, 424 Mass. 430 (Mass. 1997).
26. Bercume v. Bercume, 428 Mass. 635 (Mass. 1999).
27. Sax v. Sax, 53 Mass. App. Ct. 765 (Mass. App. Ct.
2002).
28. Furtado v. Furtado, 380 Mass. 137 (Mass. 1980).

29. Salvesen v. Salvesen, 370 Mass. 608 (Mass. 1976).
30. U.S. v. Smith, 278 F.3d 33 (1st Cir. 2002).
31. U.S. v. Williams, 121 F.3d 615 (11th Cir. 1997).
32. U.S. v. Ballek, 170 F.3d 871 (9th Cir. 1999).
33. Mullins v. Corcoran, SJC-13049.
34. Comey v. Hill, 387 Mass. 11 (Mass. 1982).
35. Pelican Production Corp. v. Marino, 893 F.2d 1143 (10th Cir. 1990).
36. Cummings v. General Motors Corporation, 365 F.3d 944 (10th Cir. 2004).
37. Johnson v. Modern Continental Constr, 49 Mass. App. Ct. 545 (Mass. App. Ct. 2000).
38. Trillium, Inc. v. Cheung, 11-P-727 (Mass. Feb. 21, 2012).
39. Commonwealth v. Randolph, 438 Mass. 290 (Mass. 2002).
40. Commonwealth v. Alphas, 430 Mass. 8 (Mass. 1999).
41. First National Bank of Boston v. Brink, 372 Mass. 257 (Mass. 1977).

42. Fay, Spofford & Thorndike, Inc. v. Massachusetts Port Authority, 7 Mass. App. Ct. 336 (Mass. App. Ct. 1979).
43. Kendall v. Selvaggio, 413 Mass. 619 (Mass. 1992).
44. Rockdale Management Co. v. Shawmut Bank, N.A., 418 Mass. 596 (Mass. 1994).
45. Park Corp. v. Lexington Ins. Co., 812 F.2d 894 (4th Cir. 1987).
46. Amoco Oil Co. v. U.S.E.P.A., 231 F.3d 694 (10th Cir. 2000).
47. Winthrop Corp. v. Lowenthal, 29 Mass. App. Ct. 180 (Mass. App. Ct. 1990).
48. Dawson v. Equity Investment Group, No. 2001517 (Mass. Cmmw. Aug. 11, 2006).
49. Cashman Equip. Corp. v. Penny, 19-P-1814 (Mass. App. Ct. Apr. 26, 2021).
50. Sahin v. Sahin, 435 Mass. 396 (Mass. 2001).
51. Parrell v. Keenan, 389 Mass. 809 (Mass. 1983).
52. Zurich North America v. Matrix Serv., Inc., 426 F.3d 1281 (10th Cir. 2005).

53. Yapp v. Excel Corp., 186 F.3d 1222 (10th Cir. 1999) .

54. B.C. v. F.C., 59 N.E.3d 414 (Mass. App. Ct. 2016) .

INTRODUCTION

1. Pursuant to G.L.c. 249, § 4, the Petitioner, Imre Kifor, ("Father"), is seeking emergency relief in the nature of certiorari to correct errors in judicial proceedings by the Middlesex Probate And Family Court, ("Family Court"), which are not according to the course of the common law, and which proceedings are not otherwise reviewable by motion or by appeal.

2. The specific allegedly erroneous court proceedings started on 12/3/2021 in Family Court and are therefore properly within the 60 days time limit of the statute.

3. Father has two children with each [REDACTED] ("Mother-B") and [REDACTED] ("Mother-C"), from committed long-term and non-overlapping relationships.

4. Father is claiming that a systemic and sustained conspiracy to silence and to enslave him is behind the retaliatory actions by Family Court and the Mothers.

5. As he has exhausted all remedies available to him, Father is respectfully requesting this Court to quash the orders or, alternatively, to remand the entire case to "an appropriate forum" for a further hearing.

REASONS G.L.c. 249, § 4 RELIEF IS APPROPRIATE

6. "A civil action in the nature of certiorari... may be brought in the supreme judicial or superior court... The court may at any time... issue an injunction and order the record of proceedings... brought before it. The court may enter judgment quashing or affirming such proceedings or such other judgment as justice may require," G.L.c. 249, § 4.

7. Open controversies exists between Father and the Respondents and are the subject of a number of ongoing cases in Family, Middlesex Superior & Appeals Courts.

8. The defining claims of the alleged deliberate conspiracy have origins in the Family Court allowing the bitterly jealous and vindictive Mothers to collude to simultaneously target Father with false complaints², based on documented child-predatory fraud, systemic existential defamation³ and sustained discriminations⁴.

9. The Respondents' thus continued actions resulted in Father's depleted finances and his **forced indigency**

² See complaints in MI07D3172DV1 & MI11W0787WD/MI11W1147WD.

³ See complaint for defamation in 2081CV00109.

⁴ See complaint filed with MCAD (22BPA00184) on 1/25/2022.

that started on 2/12/2018 when Family Court initiated a punitive crusade⁵ against Father in response to his efforts to somehow seek relief. As Father had been alleging documented child-predatory "mental health" fraud, driven by open and ruthlessly discriminatory activism allowed in Family Court, Father was labelled "dangerous" and was silenced and sentenced to jail.

10. The ongoing fraud, defamation and discriminations allowed in Family Court through the now 20+ hearings have forced Father into an intractable indigency. His in-arrears child supports/expenses are at **\$250,000+**.

11. Father has been forcefully separated and isolated from his dear children since 2016. Family Court later allowed subornation of perjury on his children, only to then order Father to never contact them again.

12. Due to sadistic ulterior motives, the ambiguous orders failed to cover the cases when Father was only responding to his children, after they had contacted their father. All such retaliatory Family Court orders were meant to continually keep Father in contempt through malicious prosecutions and abuses of process.

⁵ See complaint for civil rights violations in 2181CV00921.

"NOT OTHERWISE REVIEWABLE BY MOTION OR BY APPEAL"

13. Specifically, Family Court has routinely acted on "evidence" brought by Mothers from their "other case," while flatly denying Father's due process rights when he had attempted to question the mere validity of any such decisive parallel (but also fraudulent) "facts."

14. Family Court's explanations for denying Father's defensive responses have always been a "nothing to do with this case" / "I don't care about the other case."

15. The non-financial aspects of the parallel Family Court cases are under appeal⁶ (and now fully briefed).

16. Therefore, this petition is not directly about any non-financial (and thus appealed) aspect of the cases.

17. While the appeals dockets are "paired," no viable standard of review cited by Father (e.g. "de novo," "clearly erroneous," "arbitrary/capricious," or "abuse of discretion") can include any conspiracies, as such claims, from the "other case," were never permitted.

18. Even if the above appeals reviews disregarded all inherent evidence of conspiracy, the damages from the

⁶ See briefed parallel appeals 21-P-901 and 21-P-902.

alleged systemic and sustained fraud-on-the-court, and therefore the relief sought by Father, are ultimately financial in nature, thus rendering this, or similar ongoing petitions, his future existential necessities.

19. Despite Father's efforts to appeal all aspects of the underlying cases, critical (i.e. financial) facets of the cases have continued in Family Court⁷, including the preclusion of Father ever referring at all to the "other case." As conspiracy still cannot be originally claimed, therefore it might not be reviewed either.

20. Father's overall efforts to appeal any colluding parallel Family Court cases, including interlocutory appeals of just issued orders⁸, are thereby limited, despite the simultaneousness or "pairing" of appeals.

21. To review inherent conspiracies between parallel Family Court cases that are under appeal, a cause of action and original jurisdiction for appellate review is also needed (in addition to G.L.c. 249, § 4). Only this Supreme Judicial Court has such jurisdiction⁹.

⁷ See parallel motions to stay denied on 12/7/2021.

⁸ See denied interlocutory appeals 21-J-606 & 21-J-607.

⁹ See motion for third amended complaint re: G.L.c. 249, § 4 filed in Superior Court (2181CV00921) on 1/14/2022.

22. The first relevant financial retaliation of the conspiracy against Father occurred on 10/21/2019 when he was sentenced to two weeks of jail for having been forcedly indigent in one case, with even his driver's license suspended by Family Court in the other case.

COLLUSION TO DEFAME PREMATURELY DISMISSED

23. As Father was precluded from making any claims in Family Court about the Mothers' documented deliberate collusion and conspiracy against him, despite Family Court finally (but silently) allowing his indigency on 11/12/2019, Father filed his timely complaint¹⁰ against them in Superior Court on 1/12/2020 (within 60 days).

24. The Pro Se Father explicitly referred to Mothers' deliberate collusion to defraud, defame & discriminate against him, both inside and outside of the privileged confines of Family Court's any judicial proceedings.

25. Despite his explicit preclusion in Family Court of any references to Mothers' collusions, thus rendering them "not reviewable by motion or by appeal," Father was nonetheless unfairly dismissed¹¹ in Superior Court.

¹⁰ See complaint for defamation in 2081CV00109.

¹¹ See the also paired and briefed appeal 21-P-503.

26. Father had hoped to properly document the allowed conspiracies by Mothers in Family Court through the so requested transcripts of all Family Court hearings.

27. Without any transcripts of Family Court hearings, however, Father could not make concrete claims of collusion and conspiracy pursuant to G.L.c. 249, § 4.

28. Accordingly, in advance of filing his complaint in Superior Court, Father attempted to appeal the Family Court decisions, filing his first notice on 7/1/2019.

RIGHT TO APPEAL SYSTEMICALLY SABOTAGED

29. Since then Father has properly and timely filed 11 notices of appeals with Family Court. Father's notices of appeals had been ignored for 2+ years until finally Family Court assembled the records on 10/6/2021.

30. Father's many affidavits of indigency, requesting waivers for the costs of 17 hearing transcripts, was allowed only on 8/12/2021, despite other courts having accepted Father's indigency on 20+ prior occasions.

31. Verifying Family Court's ongoing neglect for Father's repeated notices of appeals and his requests for "tapes," the Appeals Court noted on 3/9/2021:

- *"on-line dockets for the [Family Court] cases cited in the heading of the defendant's motion do not reflect any prior assembly of the record or [...] that a notice of appeal was filed in either matter,"*
- *"another case involving this defendant, does reflect three notices of appeal filed by the defendant. However, in that case, the record does not reflect whether the defendant has ordered the transcripts necessary for his appeal, whether the transcripts were filed with the Probate and Family Court."*

32. Father duly filed his complaint¹² for civil rights violations on 4/24/2021, within 60 days of the note.

33. Without Father's thus timely filed complaint in Superior Court, the sustained and systemic "errors in proceedings" would never have been "reviewable by motion or by appeal," just as Family Court had long conspired to attempt in violation of G.L.c. 215, § 9.

34. Specifically, without Father's implicitly "in the nature of certiorari" complaint, the ultimately proper docketing of his appeals¹³ would have been impossible.

¹² See the now twice amended complaint in 2181CV00921.

¹³ See the paired 21-P-503, 21-P-901 and 21-P-902 appeals.

35. Responding to his complaint, Family Court served Father with the logs of their "secret" docket entries.

36. Analyzing these allowed Father to file subsequent affidavits in Appeals Court on 9/20/2021, stating that

- *"[Father] has now also substantiated his claims that the lower Family Court's docket records are deliberately maintained in faulty, biased, and incomplete states with malicious, fraudulent, and child-abusive motives."*

37. Father has appealed¹⁴ the single justice denials to preserve these deceptions through his court actions.

38. Father emphasized in his docketing affidavit that

- *"Father reasserts that subsequent actions based on presumptions of 'truthful' docket records constitutes material proof of Family Court's deliberate **defrauding** of [the] Appeals Court, while also clearly sabotaging Father's right to appeal, pursuant to G.L.c. 215, §9."*

39. In his filed Appellant's Briefs, Father further substantiated the documented fraud-on-the-court scheme

¹⁴ See the consolidated and paired 21-P-825 appeal.

metastasizing with impunity from the Family Court to now the Superior and the Appeals Courts as well.

SUSTAINED DISCRIMINATIONS AND RETALIATIONS

40. Father's follow-up filings and his now submitted 9 volumes of appeals appendices substantiate Father's allegations of having been deliberately discriminated against based on color, sex and also national origin.

41. To forcefully silence Father's thus whistleblower complaints about allowed and documented deeply child-predatory abuses, Family Court has become his *de facto* employer, as Family Court had directly and punitively controlled **all** aspects of Father's work and existence.

42. Family Court openly prioritizes drawing down at the "highest possible rate of reimbursement" from the federal Child Support Enforcement Program (CSE).

43. Maximum child support orders can only be attained by forcefully and perpetually separating children from their "nonresident parent." Family Court has done just that to Father's children for thus maximum "profits."

44. Through discriminations based on color, sex, and national origin, and by purposely violating Father's

free speech, equal protection and due process rights, Family Court a) deliberately allowed the fabrication of infantile, dogmatic and forever intractable "high conflicts" within the protected judicial processes, b) forcefully silenced Father's claims and evidences for colluded "out-of-court" malicious defamations and conspiring sexual harassments, c) sadistically and fully denied all Father's contacts with his children based on now documented and purposeful subornations of perjury on children by an ARC, d) retaliated against Father's complaints for discrimination & civil rights violations by sentencing him to jail, despite Father's filed affidavits of indigency, e) interfered with his employment via systemic "mental health" defamations and sustained "toxic masculinity" discriminations, f) aided & abetted stereotypical discriminations against Father by refusing Father's "free speech" right for petitioning the government to investigate deliberate fraud, g) blatantly discriminated against an induced-handicapped person by refusing access to the court, and h) issued a retaliatory capias against an already indigent and malignly labeled as "Romanian" immigrant.

45. Father's follow-up filings and his now submitted 9 volumes of appeals appendices substantiate Father's allegations that Family Court systemically violated his free speech, equal protection and due process rights in order to cover up routine discriminations and also now documented fraud-on-the-court schemes.

46. Family Court has effectively turned Father into a muzzled "slave," with no rights afforded, nor any compensation for work completed, while also maximizing their child-predatory profits from federal resources through the now documented falsified docket records.

47. Through hundreds of emails, Father has documented that fraudulently ordered 500+ supervised visitations with his 4 children were systemically discriminating and sexually harassing to him, by coercing Father to endlessly take his children to the movies (where he could not nurture his connection with his children), while in the dark theaters the "activist feminist" monitors then forcefully separated Father from his daughter by baselessly insinuating "protection," and then explaining to Father "I needed to protect YOU."

48. The court-enforced (but fraudulently initiated) supervised visitations consistently targeted Father's bonds with his two young daughters by relentlessly cancelling and fabricating endless obstacles. Family Court then systemically denied Father's written and spoken requests for investigations and reparations.

49. Due to apparent ulterior motives, Family Court's orders have been consistently ambiguous. During one hearing Father was ordered to get a "minimum wage" job (without even a driver's license) and then, during the next, he had to suddenly get at least \$100,000+ salary (to now justify the prior "fixed" support orders).

50. As a proof of ulterior motives, the allowed "not having even a \$100" indigent Father was sentenced to jail but "A person judged in civil contempt may not be sentenced to prison for failure to pay a compensatory sum of money if he shows that he is unable to comply." Salvesen v. Salvesen, 370 Mass. 608 (Mass. 1976).

51. As a **sadistic retaliation** against Father, Family Court deceptively ordered him to never contact his children based on fabrications, i.e. now documented

subornation of perjury on his children by the "elite," purpose-appointed and ruthlessly conspiring attorneys.

CONSPIRACY TO SILENCE AND TO ENSLAVE

52. Family Court leveraged the two parallel cases to either force Father into involuntary servitude (by ordering him to seek jobs that would not support him in the future) or sentence Father with no intentions to address any of the causes of his forced indigency.

53. Specifically, Family Court suspended his driver's license **while** ordering him to get "minimum wage" jobs.

54. Being unable to pay any child supports, Father proved to be a trivial target to silence with jail sentences. As paying only "some" portion of the in-arrears supports is required, no payment at all was a proof by itself of therefore diverted, i.e. controlled moneys (with Father still present at the hearings).

55. Specifically, while owing \$110,000+ in supports on 10/21/2019, the forcedly indigent Father was sentenced to jail as he had "diverted" ~\$10 for the train ride.

56. Understanding that a layman Father had no chance to stay afloat legally (never mind any successes with

complex appeals), Family Court had no needs to respect Father's constitutional rights. His "incogent" filings were easy to ignore, delay, deny or dismiss for years, and the "in-person" contempt hearings scheduled for 12/3 and 6/2021 were staged with the purpose to muzzle Father at last with endlessly renewed jail sentences.

57. It was clear that being physically present in one of the hearings would render Father guilty of contempt in the other, by unambiguously "diverting" moneys. As Father had no ability to transport himself to court without assistance, Family Court predictably had to issue a capias for the thus forcedly indigent Father.

58. By having unconditional respect for all courts' orders, Father complied with the 12/6/2021 zoom order nonetheless, and started applying for 10 jobs/week.

59. Apparently the conspiracy scheme to silence Father with jail sentences (for non-payment of child supports in civil contempts) had to be "saved." On 12/13/2021 Family Court revised the 12/6/2021 order to compel and to trap Father with weekly mandatory meetings in court for proofs of job applications, an unnecessary hurdle.

60. Physically meeting with the probation officer (to avoid a since threatened criminal contempt) in the already decided case would have rendered Father guilty for civil contempt in the still pending case (with the capias waiting), guaranteeing silencing jail sentences for him, and also necessarily failed appeals outcomes.

61. A fully isolated, i.e. under implied house arrest, layman Father had been forced to face Family Court's "elite sicarios," the million-dollar partner/lawyers of the nation's "Best Law Firms." Based on sadistic ulterior motives, that cannot be appealed, the Family Court's deliberately ambiguous orders (relentlessly and frivolously exploited by these elite sicarios) were meant to trap & keep Father in contempt of court.

62. A thus successfully executed conspiracy would have rendered Father guilty of civil contempt. And with him sentenced and silenced, Father's paired appeals would have become meaningless. Therefore, Father's appeals were safely left without any responses on 12/20/2021.

63. Having no ability to transport himself without assistance, the indigent Father was facing criminal contempt and 6 months of jail time for a mere ~\$100 of

personal transportation money. The "slavery" (13th) amendment rightfully does not apply in child support enforcement cases. Under the threat of incarceration, however, that vital ~\$100 was **not** child support.

64. Somehow having \$100 for personal transportation, only to meet a probation officer, would have rendered the proven (as finally both cases were decided by the same judge) long-term conspiracy successful, with Father sentenced for civil contempt in the pending case. Understandably, nobody in Father's token circle of support volunteered even \$1 for his transportation.

65. Father has documented a child-predatory ulterior motive: "federal reimbursements re: child support enforcements must be claimed at the highest rate," and any revisions to the Family Court's hence documented falsified records would then result in penalties.

66. Father's any gainful employment was also excluded by the prospect of an immediate jail sentence, due to Family Court's herein demonstrated plain objective to forcefully silence a vocal whistleblower by all means.

67. No employer seems to be willing to entertain full-time job offers to a forcedly indigent Father (with a

discrimination-induced handicap prohibiting physical transportation) when his wages would be immediately garnished at 75%+ by multiple child support orders, and therefore without CCPA (Title III) protections.

68. As per those orders and threats by Family Court, Father could only escape a criminal contempt & certain silencing jail sentence by submitting himself to **"involuntary servitude."** However, as soon as Father became such a slave, he would have faced a certain jail sentence for civil contempt of his non-payment of some portion of now \$250K+ in-arrears child supports.

69. Father has attempted to duly appeal¹⁵ the parallel contempt orders. After waiting for a reconsideration by Family Court, the individual interlocutory appeals have been denied, as it was not possible to "review by motion or by appeal" the herein presented *a priori* conspiracy between the two parallel contempt actions.

MALICIOUS PROSECUTION & ABUSE OF PROCESS

70. Father's forced and thus intractable indigency is exploited ad infinitum in Family Court through endless contempt actions derived from **ambiguous court orders.**

¹⁵ See interlocutory appeals 21-J-606 and 21-J-607.

71. Only such orders can conceal the allowed activist fraud and stereotypical discriminations at the core of the matters. Specifically, Father has now documented 1,200+ contradictions and inconsistencies between the original judgments' reporting of identical "facts."

72. Family Court then purposely delayed these contempt actions, while also sabotaging their intended appeals, to apparently interfere with the appeals processes.

73. As attached, Father has properly responded to the complaints for contempts, ultimately scheduled to be heard in parallel in Family Court on 12/3 and 6/2021.

74. While Father claims and proves that he cannot be guilty of contempt because of a) his innate inability to comply/pay, and b) the Family Court's deliberately ambiguous orders, he was fearful of being once again punitively silenced and unjustly sentenced to jail by Family Court, just as it had happened on 10/21/2019.

75. The Appeals Court has denied Father's motions to stay (pending the appeals) of the contempt actions, and Family Court then immediately issued new parallel orders now threatening Father with criminal contempt.

76. Consistently ignoring Father's filed affidavits of indigency, Family Court has thus initiated a new wave of malicious prosecutions & abuses of process against Father by: a) issuing a secret capias for Father, and b) knowingly forcing Father into criminal contempt.

77. Immediately incarcerating the intractably indigent Father, specifically for his inability to physically get to the lower court without assistance, serves one purpose only: to effectively silence a whistleblower.

78. Father's conditionally accepted indigency by Family Court on 8/12/2021 could not change his forced and therefore existentially intractable circumstances.

79. Father still has no driver's license, he still has no cash, no car, nor any assets, no insurances of any kind, and he continues to be forcefully kept under house arrest, rendering him unable to "earn a living."

80. Specifically, since all of Father's meticulously filed affidavits of indigency have been consistently ignored for years now, and the thus official neglect has now developed into Father's innate inability to physically move around, e.g. to somehow get to a court without assistance, Family Court's deliberate new

insistence to hence forcefully induce an otherwise involuntary "criminal contempt" would only result in Father's immediate and irreparable harm and injustice, without having any noticeable effect on other parties.

81. While Father's two separate interlocutory appeals have been denied, as conspiracy-based decisions could not be referenced, Family Court nevertheless relaxed and parallelized the 12/13/2021 order on 1/12/2022.

82. The controversy of Father's "forced indigency" has not been addressed, however, as Family Court appears to maintain that he had been in possession of never proven "hidden" resources and had to be silenced about his allegations of fraud defamation & discriminations.

83. The theory was applied on 1/21/2022 when Father was arrested by the Sheriff at 6am, forcefully brought to Family Court and **paraded in handcuffs** until 1pm, when after a short hearing, Father was simply let go.

84. The only repeated allegations brought up against Father were the false conjecture that he had somehow selfishly controlled a "girlfriend" for exploitation.

85. While Father is still receiving food and shelter, his days are spent in complete isolation under implied house arrest, with no chance of any "liberties" nor "enjoyment of life," indicative of any relationships.

86. Father has vigorously maintained in the various courts that he was ready, eager, willing, skilled and capable to earn an income and to support his children.

87. Father has continually and verifiably published his open-source "free" software as a testament of his efforts and commitment to work and to stay productive.

88. The ordered (and sustained) 10 applications per week for "full time" jobs are purposely unrealistic, with the clear ulterior motive of sentencing Father.

89. Blindly "blanketing" the job market with forced, i.e. irrelevant, applications (~150 by the scheduled hearing on 5/6/2022) will **destroy** a desperate Father's chances, as no serious professional would ever do so.

FACTUAL BACKGROUND

90. Father had been complaining to Family Court about allowed fraud, defamation and discriminations years before his first order for child supports in 2011.

91. From then to 2018, when Father once again sought relief, he never missed nor was ever late with any of his ordered ~\$5,000/month payments for his children.

92. Father is a political immigrant from Romania, admitted in 1986 specifically for him not being "Romanian." Due to the nationally televised "Romanian Orphans" tragedy and anti-Romanian feminist activism, Family Court conveniently labeled him a "Romanian" and allowed QAnon-style fabrications of Father to persist.

93. Had Father's national origin been anything else, such discriminations could not have existed. Had he not been an "ignorant immigrant," Family Court's "protections" from malicious scare tactics, i.e. "he was a flight risks," could not have been possible.

94. To escalate the profitable conflict even more, Family Court allowed a "high-conflict" expert, and notoriously cruel 400 times GAL Harvard psychologist, Dr. Robin Deutsch, Ph.D. to be brought in to custom create infantile and dogmatic crude narratives like:

- *"[Daughter] is afraid the Father will 'put suction cups on her feet and take her out the window,' and*

[Boy] is afraid Father would 'put him in boiling water' if he went back in the Father care."

95. Father's attempts to appeal any of Family Court's chained decisions have been deliberately sabotaged for 2+ years to effectively obstruct from the contents of the recently revealed 17 court hearing transcripts.

96. Father brought his complaint against Family Court in Superior Court on 4/24/2021 due to ongoing fraud, discriminations and violations of his civil rights.

97. As a result of Father's complaint, Father was able to finally docket and pair his three separate appeals.

98. Father's timely applications¹⁶ for direct appellate reviews (DAR) in this Court were nevertheless denied.

99. Moreover, Father filed a motion on 1/14/2022 to amend his original complaint for the third time now based on Family Court's renewed punitive actions.

100. Specifically, Father's 11/23/2021 motion for a hearing in Family Court via zoom was denied due to "the Plaintiff has NOT assented to a virtual hearing."

¹⁶ See DAR-28508, DAR-28518 and DAR-28519.

101. With no relief granted by Family Court, Father's only choice is to continue his implied house arrest.

102. The forcedly indigent Father has relentlessly communicated with Family Court about his inability to physically transport himself without assistance.

103. The probation officer emailed on 12/21/2021 *"if you do not comply with the current order [to meet with me] I will have to file a criminal contempt and the sanction is up to 6 months of incarceration."*

104. On 1/21/2022 Father was arrested by the Sheriff at 6am, forcefully brought to Family Court and then paraded in handcuffs until 1pm, when after a short hearing, Father was let go without any orders.

BASES FOR RELIEF

105. As the Family Court's recent (within the last 60 days) parallel orders substantiate and prove Father's documented "Conspiracy To Silence And To Enslave" theory, Father reiterates that this Supreme Judicial Court has original jurisdiction over any such claims of collusion and conspiracy to violate civil rights.

106. Pursuant to G.L.c. 249, § 4, this Court also has original "in the nature of certiorari" jurisdiction, and Father a direct cause of action, to hereby extend his prior complaint, duly filed in Middlesex Superior Court, with the above "Conspiracy To Silence And To Enslave" (in violations of constitutional rights).

107. Father now alleges that the Respondents have been deliberately conspiring behind the current arrest and "sentencing" events to further silence Father and to violate his constitutional rights, now also including the "Slavery Amendment" to the US Constitution.

108. Pursuant to G.L.c. 249, § 4, this Court has jurisdiction over herein claims as Family Court has a) repeatedly denied Father's Rule 60 motions for relief without any explanations, and b) has deliberately sabotaged all his attempts to appeal the decisions.

109. Family Court's sustained & systemic actions (to deliberately prevent their indigency inducing punitive decisions from being "otherwise reviewable by motion or by appeal") could not have been "taken in [Family Court's] judicial capacity" and have been taken "in the complete absence of all [appellate] jurisdiction."

110. As judicial immunity is overcome in only these two sets of circumstances, Father's claims cannot be barred by the doctrine of judicial immunity as they simultaneously satisfy both. This Supreme Judicial Court has jurisdiction to review such allegations.

111. Father has alleged and documented sustained and systemic stereotypical discriminations by Respondents, including interferences, aiding and abetting, associational discriminations, etc., and retaliations for all the above, a plain discrimination in itself.

112. While Father has had a *de facto* full-time position in his own company (that has been reliably and properly paying payroll and all ordered insurances for years), Family Court deliberately and specifically denied Father the option to continue with that 30+ year "tradition" in the 12/13/2021 "seek work" order.

113. As a final retaliation (to induce a threatened criminal contempt and ~6 months of jail sentence), Family Court ordered such interlocking punitive conditions for Father's "seek work" efforts that Father could not engage in any gainful employment.

114. Family Court has therefore become Father's not just "de facto employer" (as per his "Implied Coerced Labor Context" subsection on page 66 of Father's Memorandum Of Law submitted in the Superior Court on 12/2/2021), but also his "slave master" as per:

- *"When the master can compel and the laborer cannot escape the obligation to go on, there is no power below to redress and no incentive above to relieve a harsh overlordship or unwholesome conditions of work."* Pollock v. Williams, 322 U.S. 4, 18 (1944).

115. More specifically, "What is peonage?":

- *"It may be defined as a status or condition of compulsory service, based upon the indebtedness of the peon to the master. The basal fact is indebtedness."* Clyatt v. U.S., 197 U.S. 207 (1905).

116. The malicious prosecutions and abuses of process deliberately and systemically unleashed by the Respondents had a well documented purpose: to silence a whistleblower Father about allowed child-predatory fraud, defamation & stereotypical discriminations.

117. This Supreme Judicial Court has the original and appellate jurisdictions to duly decide these matters.

CONCLUSION

118. Father is claiming that a systemic and sustained conspiracy to silence and to enslave him is behind the retaliatory actions by Family Court and the Mothers.

119. As substantial injury & injustice incurred during Father's years-long forced indigency, such conspiracy also constitutes Father's deprivation of liberty based on serious damage to his standing in the community.

120. Father has specifically asserted sufficient facts which support his claim that he may be foreclosed from a "range of opportunities" for employment or income.

121. Pursuant to Mass. R. Civ. P. 8(a), Father has repeatedly claimed that Family Court had violated his civil rights and had discriminated against him based on color, sex, national origin and induced handicap.

122. Father has requested a third amended complaint in Superior Court to extend his complaint to aspects of alleged and now documented collusions & conspiracies

(to violate constitutional rights) by Family Court, via leveraging the parallel cases against each other.

123. Father has requested Family Court to declare him "not guilty" and to dismiss Mothers' latest frivolous complaints for contempt as Father has consistently and materially provided proofs of a) his inability to comply with any orders re: any payments or monetary fees, and b) the orders being deliberately ambiguous, due to ulterior motives, and designed to forcefully separate children from their "nonresident parent."

124. As Father has exhausted all remedies available, he is respectfully requesting this Court to quash the orders or, alternatively, to remand the entire case to "an appropriate forum" for possible further hearings.

REQUESTED RELIEF

Father respectfully requests that this Court:

A. Accept this Emergency Petition. Father respectfully requests a hearing and expedited treatment.

B. Issue an injunction against the Respondents to stop from continuing their allegedly systemic and sustained

discriminatory and retaliatory actions against Father, specifically regarding his income generating capacity.

C. Issue appropriate relief by informing and directing the upcoming "paired" appeals reviews to consider the ample evidence inherent in the record of collusion and conspiracy by Respondents to commit fraud, defamation and stereotypical discriminations against Father.

D. Stay all Family Court proceedings and all orders issued since 12/3/2021. The orders have attempted to preemptively prejudge Father's forced indigency and induced inability to physically move around without assistance, by themselves causal consequences in Father's pending and now fully briefed paired appeals.

E. Grant Father relief from Family Court's orders and judgments by applying Mass. R.Civ.P. 60(b)(3) and (6) independently to a) the still recent fraud chain, and b) a systemic fraud-on-the-court scheme, respectively, as documented in Father's now fully briefed appeals.

F. Order any other relief this Court deems just.

Signed under the pains and penalties of perjury.

January 28, 2022

Respectfully submitted,

/s/ Imre Kifor
Imre Kifor, Pro Se



Newton, MA 02464

ikifor@gmail.com

I have no phone

I have no valid driver's license

I no longer have a stable physical address

ADDENDUM

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Relevant Quotes of Referenced Cases:

1. "A ... pro se document is held to a less stringent standard than pleadings drafted by an attorney and is to be liberally construed." Lamoureux v. Supdt. Mass. Correctional Inst. Walpole, 390 Mass. 409 (Mass.1983).

2. "This court has recognized that self-represented litigants must be provided 'the opportunity to meaningfully present their cases'." Carter v. Housing Authority, 450 Mass. 626 (Mass. 2008).

3. "The requisite elements for availability of certiorari are (1) a judicial or quasi judicial proceeding; (2) a lack of all other reasonably adequate remedies; and (3) a substantial injury or injustice arising from the proceeding under

review." Boston Edison Co. v. Board of Selectmen of Concord, 355 Mass. 79, 83 (Mass. 1968).

4. "Certiorari lies only where the petitioner has exhausted his administrative remedies." Boston Edison Co. v. Board of Selectmen of Concord, 355 Mass. 79, 84 (Mass. 1968).

5. "The court will review on certiorari only errors of law." Boston Edison Co. v. Board of Selectmen of Concord, 355 Mass. 79, 87 (Mass. 1968).

6. "In an action in the nature of certiorari brought under G.L.c. 249, § 4, we will correct only 'substantial errors of law apparent on the record adversely affecting material rights.' *Commissioners of Civil Serv. v. Municipal Court of the City of Boston*." Commissioner of Revenue v. Lawrence, 396 N.E.2d 992 (Mass. 1979).

7. "In an action in the nature of certiorari brought under G.L.c. 249, § 4, '[a] court will correct only a substantial error of law, evidenced by the record, which adversely affects a material right of the plaintiff... In its review, the court may rectify only those errors of law which have resulted in manifest

injustice to the plaintiff or which have adversely affected the real interests of the general public'.

Carney v. Springfield." Massachusetts Bay

Transportation Authority v. Auditor, 430 Mass. 783

(Mass. 2000).

8. "If the plaintiffs believed that the... order was erroneously entered, they were free to seek appellate review... Accordingly, we conclude that persons appointed to perform essential judicial functions are entitled to absolute immunity." LaLonde v. Eissner, 405 Mass. 207, 213 (Mass. 1989).

9. "One of the primary purposes of absolute immunity is to spare public officials the burden of having to defend their official actions in a civil lawsuit." Chicopee Lions Club v. Dist. Atty for Hampden Dist, 396 Mass. 244, 253 (Mass. 1985).

10. "To the extent that the petitioner seeks monetary damages under 42 U.S.C. § 1983, a judge is absolutely immune unless the actions giving rise to the suit were 'not taken in the judge's judicial capacity,' or taken 'in the complete absence of all jurisdiction.' *Mireles*

v. Waco" Johnson v. Commonwealth, 977 N.E.2d 541, 544 (Mass. 2012).

11. "Immunity is overcome in only two sets of circumstances. First, a judge is not immune from liability for nonjudicial actions, i.e., actions not taken in the judge's judicial capacity. Second, a judge is not immune for actions, though judicial in nature, taken in the complete absence of all jurisdiction." Mireles v. Waco, 502 U.S. 9, 11-12 (1991).

12. "The relevant cases demonstrate that the factors determining whether an act by a judge is a 'judicial' one relate to the nature of the act itself, i.e., whether it is a function normally performed by a judge, and to the expectations of the parties, i.e., whether they dealt with the judge in his judicial capacity." Stump v. Sparkman, 435 U.S. 349, 362 (1978)

13. "A judge will not be deprived of immunity because the action he took was in error, was done maliciously, or was in excess of his authority, but rather he will be subject to liability only when he has acted in the

'clear absence of all jurisdiction,' *Bradley v. Fisher*." *Stump v. Sparkman*, 435 U.S. 349 (1978).

14. "The Court, however, has recognized that a judge is not absolutely immune from... suit for prospective injunctive relief, *Pulliam v. Allen*." *Mireles v. Waco*, 502 U.S. 9, 10 n.1 (1991).

15. "We conclude that judicial immunity is not a bar to prospective injunctive relief against a judicial officer acting in her judicial capacity." *Pulliam v. Allen*, 466 U.S. 522, 541-42 (1984).

16. "Procedural due process rules are meant to protect persons not from the deprivation, but from the mistaken or unjustified deprivation of life, liberty, or property." *Carey v. Piphus*, 435 U.S. 247, 259 (1978)

17. "Claims of [bias] must overcome a presumption that state administrators are fair and honest: the court must be convinced of a 'risk of actual bias.' *Withrow v. Larkin*." *O'Brien v. DiGrazia*, 544 F.2d 543, 547 (1st Cir. 1976).

18. "A complaint should not be dismissed 'unless it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief.' *Conley v. Gibson*." O'Brien v. DiGrazia, 544 F.2d 543, 546 n.3 (1st Cir. 1976).

19. "Retaliation is, by definition, an intentional act. It is a form of 'discrimination' because the complainant is subjected to differential treatment." Jackson v. Birmingham Bd., 544 U.S. 167, 168 (2005).

20. "Substantial evidence is 'such evidence as a reasonable mind might accept as adequate to support a conclusion.' G.L.c. 30A, § 1(6). *Boston Edison Co. v. Selectmen of Concord*." RCN-BecoCom, LLC v. Commissioner of Revenue, 443 Mass. 198, 204 (Mass. 2005).

21. "The substantial evidence standard requires a judge to decide 'whether experience permits the reasoning mind to make the finding [of guilt]... whether the finding [of guilt] could have been made by reference to the logic of experience.' *Boston Edison*

Co. v. Selectmen of Concord." Commonwealth v. Hatch, 438 Mass. 618, 623 (Mass. 2003).

22. "The judge's determination must be made 'upon consideration of the **entire** record' (emphasis added). *Cohen v. Board of Registration Pharmacy.*" Commonwealth v. Hatch, 438 Mass. 618, 623 (Mass. 2003).

23. "To recover [from] intentional fraudulent conduct of which the plaintiff complains, he must allege and prove that the defendant made a false representation of a material fact with knowledge of its falsity for the purpose of inducing the plaintiff to act thereon, and that the plaintiff relied upon the representation as true and acted upon it to his damage." Barrett Assoc., Inc. v. Aronson, 346 Mass. 150 (Mass. 1963).

24. "Fraud or deceit 'may be perpetrated by an implied as well as by an express representation.'" Briggs v. Carol Cars, Inc., 407 Mass. 391 (Mass. 1990).

25. "'Fraud or deceit is no more a necessary incident to the rendition of legal services than dishonesty is to any other profession. The avoidance of fraudulent conduct requires no special skill or knowledge, but only basic precepts of honesty and integrity. When

committed by an attorney, the tort of fraud or deceit is determined by essentially the same rules that apply to any defendant, regardless of whether he is a professional.'" Brown v. Gerstein, 17 Mass. App. Ct. 558 (Mass. App. Ct. 1984).

26. "A finding is 'clearly erroneous' when although there is evidence to support it, the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been committed." J.A. Sullivan Corp. v. Commonwealth, 397 Mass. 789, 792, 494 N.E.2d 374 (1986).

27. "We require that a civil contempt finding be supported by clear and convincing evidence of disobedience of a clear and unequivocal command." In re Birchall, 454 Mass. 837, 838-39 (Mass. 2009).

28. "In order to be clear and convincing, the 'evidence must be sufficient to convey a high degree of probability that the proposition is true... The requisite proof must be strong and positive; it must be full, clear and decisive.' *Adoption of Rhona*." Adoption of Zoltan, 71 Mass. App. Ct. 185 (Mass.2008).

29. "The elements of economic duress are as follows:
'(1) that one side involuntarily accepted the terms of another; (2) that circumstances permitted no other alternative; and (3) that said circumstances were the result of coercive acts of the opposite party'. *Cabot Corp. v. AVX Corp.*" McHugh v. Commonwealth, 97 Mass. App. Ct. 1104 (Mass. App. Ct. 2020).

30. "Where the order is ambiguous or the disobedience is doubtful, there cannot be a finding of contempt." Judge Rotenberg Educ. v. Comm. of the Dep. of M. R, 424 Mass. 430, 443 (Mass. 1997).

31. "A term is ambiguous only if it is susceptible of more than one meaning and reasonably intelligent persons would differ as to which meaning is the proper one." Bercume v. Bercume, 428 Mass. 635 (Mass. 1999).

32. "In the end, '[a] final decree should be as definite and certain as the circumstances allow in order that a defendant may know what conduct is prohibited and not be subjected to contempt proceedings that might possibly arise out of any ambiguity in the decree.'" Sax v. Sax, 53 Mass. App. Ct. 765 (Mass. App. Ct. 2002).

33. "Ambiguities are regularly resolved in favor of the alleged contemnor and cannot be removed by examining the evidence underlying the judgment in which the ambiguous language is found." Sax v. Sax.

34. "Civil contempt proceedings are 'remedial and coercive,' intended to achieve compliance with the court's orders for the benefit of the complainant." Furtado v. Furtado, 380 Mass. 137 (Mass. 1980).

35. "A person judged in civil contempt may not be sentenced to prison for failure to pay a compensatory sum of money if he shows that he is unable to comply." Salvesen v. Salvesen, 370 Mass. 608 (Mass. 1976).

36. "It is important to note that 'analogy to the tax statutes suggests that the government must demonstrate only that the defendant was able to pay **some** portion of his past due child support obligations in order to establish liability under the [Child Support Recovery Act, ("CSRA")]." *U.S. v. Mattice*." U.S. v. Smith, 278 F.3d 33, 40 n.5 (1st Cir. 2002).

37. "The House Report to the CSRA also made specific reference to these provisions: The operative language establishing the requisite intent under [the CSRA] is

'willfully fails to pay.'" U.S. v. Williams, 121 F.3d 615, 620-21 (11th Cir. 1997).

38. "In order to establish willfulness under those provisions, the government must establish, beyond a reasonable doubt, that at the time the payment was due the taxpayer possessed sufficient funds to enable him to meet his obligation or that 'the lack of sufficient funds on such date was created by (or was the result of) a voluntary and intentional act without justification in view of all of the financial circumstances of the taxpayer.'" U.S. v. Williams.

39. "Abolishing Slavery" - Thirteenth Amendment

"Section 1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction. Section 2. Congress shall have power to enforce this article by appropriate legislation."

40. "Child-support awards fall within that narrow class of obligations that may be enforced by means of imprisonment without violating the constitutional

prohibition against slavery." U.S. v. Ballek, 170 F.3d 871, 874 (9th Cir. 1999).

41. "A parent who is subject to an order for child support must seek a modification of the order before making such a lifestyle change." U.S. v. Ballek.

42. "Where the additional punishment could involve the imposition of a very large fine, or a very long period of probation, or the forfeiture of substantial property, the severity of the total punishment may be sufficiently great so as to turn what would otherwise be a petty offense into a serious one" U.S. v. Ballek.

43. "'If at first you don't succeed, try, try again.' Not so in litigation." Mullins v. Corcoran, SJC-13049.

44. "The elements of the tort of interference with an advantageous relationship that a plaintiff must prove are "(1) a business relationship or contemplated contract of economic benefit; (2) the defendant's knowledge of such relationship; (3) the defendant's intentional and malicious interference with it; (4) the plaintiff's loss of advantage directly resulting from the defendant's conduct." *J.R. Nolan, Tort Law.*" Comey v. Hill, 387 Mass. 11, 19 (Mass. 1982).

45. "An abuse of discretion is defined in this circuit as a judicial action which is arbitrary, capricious, or whimsical. See *United States v. Wright*, 826 F.2d 938, 943 (10th Cir. 1987)." *Pelican Production Corp. v. Marino*, 893 F.2d 1143 (10th Cir. 1990).

46. "Other evidence of such abuse would include manifestly unreasonable judgment, prejudice, bias or ill will which is ascertainable from the record. See *id.* A failure to offer any reason for denial of such a motion could also constitute an abuse of discretion. See *id.* *United States v. Wright*." *Pelican Production Corp. v. Marino*, 893 F.2d 1143 (10th Cir. 1990).

47. "Given the lower court's discretion, the... court's ruling is only reviewed to determine if a 'definite, clear or unmistakable error occurred below.' *Amoco Oil Co.*" *Cummings v. General Motors Corporation*, 365 F.3d 944 (10th Cir. 2004).

48. "We will not set aside a judge's ultimate conclusion unless it is clearly erroneous or inconsistent with the relevant legal standard. *Freyermuth v. Lutfy*." *Johnson v. Modern Continental Constr.*, 49 Mass. App. Ct. 545 (Mass. App. Ct. 2000).

49. "Given the essentiality of a legal standard to a decision of law, appellate courts in Massachusetts hold broad power to review whether proper legal standards were applied." Trillium, Inc. v. Cheung, 11-P-727 (Mass. Feb. 21, 2012).

50. "A substantial risk of a miscarriage of justice exists when we have 'a serious doubt whether the result of the trial might have been different had the error not been made.'" Commonwealth v. Randolph, 438 Mass. 290 (Mass. 2002).

51. "An error creates a substantial risk of a miscarriage of justice unless we are persuaded that it did not 'materially influence' the guilty verdict. *Commonwealth v. Freeman*." Commonwealth v. Alphas, 430 Mass. 8 (Mass. 1999).

52. "'Findings of fact shall not be set aside unless clearly erroneous, and due regard shall be given to the opportunity of the trial court to judge the credibility of the witnesses.' In addition, this court must examine the legal standard applied to the facts found in order to assure that the ultimate findings and conclusions below were consistent with the

relevant legal standards. *Marlow v. New Bedford*."

First National Bank of Boston v. Brink, 372 Mass. 257

(Mass. 1977).

53. "Common sense and the probable intent of the parties are guides to a court's construction of a

written instrument." Fay, Spofford & Thorndike, Inc.

v. Massachusetts Port Authority, 7 Mass. App. Ct. 336

(Mass. App. Ct. 1979).

54. "Thus, the 'clearly erroneous' standard of

appellate review does not protect findings of fact or conclusions based on incorrect legal standards."

Kendall v. Selvaggio, 413 Mass. 619 (Mass. 1992).

55. "It is important to reiterate that it must be

shown through clear and convincing evidence that a

party's fraudulent conduct is part of a pattern or

scheme to defraud." Rockdale Management Co. v. Shawmut

Bank, N.A., 418 Mass. 596 (Mass. 1994).

56. "[I]n order to obtain relief from a judgment under

Rule 60(b), a moving party must show that his motion

is timely, that he has a meritorious defense to the

action, and that the opposing party would not be

unfairly prejudiced by having the judgment set aside."

Park Corp. v. Lexington Ins. Co., 812 F.2d 894 (4th Cir. 1987).

57. "Parties seeking relief under Rule 60(b) have a higher hurdle to overcome because such a motion is not a substitute for an appeal." Cummings v. General Motors Corporation, 365 F.3d 944 (10th Cir. 2004).

58. "Accordingly, our review is 'meaningfully narrower than review of the merits of a direct appeal'. *Lindberg v. U.S.*" Amoco Oil Co. v. U.S.E.P.A., 231 F.3d 694 (10th Cir. 2000).

59. "Fraud on the court implies corrupt conduct and embraces 'only that species of fraud which does, or attempts to, defile the court itself, or is a fraud perpetrated by officers of the court so that the judicial machinery cannot perform in the usual manner its impartial task of adjudging cases that are presented for adjudication...'. *Pina v. McGill Dev. Corp.*" Winthrop Corp. v. Lowenthal, 29 Mass. App. Ct. 180 (Mass. App. Ct. 1990).

60. "A 'fraud on the court' occurs where it can be demonstrated, clearly and convincingly, that a party has sentiently set in motion some unconscionable

scheme calculated to interfere with the judicial system's ability impartially to adjudicate a matter by improperly influencing the trier or unfairly hampering the presentation of the opposing party's claim or defense. *Aoude v. Mobil Oil Corp.*" Rockdale Management Co. v. Shawmut Bank, N.A., 418 Mass. 596 (Mass. 1994).

61. "A party seeking to demonstrate fraud on the court must prove 'the most egregious conduct involving a corruption of the judicial process itself.' *Paternity of Cheryl.*" Dawson v. Equity Investment Group, No. No. 2001517 (Mass. Cmmw. Aug. 11, 2006).

62. "Fraud on the court applies in instances of 'the most egregious misconduct, such as bribery of a judge or members of a jury **or the fabrication of evidence by a party in which an attorney is implicated**' (emphasis added). *Winthrop Corp. v. Lowenthal.*" Cashman Equip. Corp. v. Penny, 19-P-1814 (Mass. App. Ct. Apr. 26, 2021).

63. "Rule 60(b)(6) relief is even more difficult to attain and is appropriate only 'when it offends justice to deny such relief.' *Cashner.*" Yapp v. Excel Corp., 186 F.3d 1222 (10th Cir. 1999).

64. "There is no time limitation that would bar a judge from setting aside a judgment for fraud upon the court." Sahin v. Sahin, 435 Mass. 396 (Mass. 2001).

65. "Relief under rule 60 (b) (6) is only appropriate when justified by some reason other than those set forth in rule 60 (b) (1)-(5)" Sahin v. Sahin, 435 Mass. 396 (Mass. 2001).

66. "To prevail under rule 60 (b) (6), a party must show that there is a reason to justify the relief, and also that the reason is not within the grounds set forth in rule 60 (b) (1)-(5)" Parrell v. Keenan, 389 Mass. 809 (Mass. 1983).

67. "In essence, rule 60 (b) (6) vests 'power in courts adequate to enable them to vacate judgments whenever such action is appropriate to accomplish justice.' *Klapprott v. U.S.*" Parrell v. Keenan, 389 Mass. 809 (Mass. 1983).

68. "Rule 60(b) relief 'is extraordinary and may only be granted in exceptional circumstances.' *Servants of Paraclete v. Does.*" Zurich North America v. Matrix Serv., Inc., 426 F.3d 1281 (10th Cir. 2005).

69. "The denial of a 60(b)(6) motion will be reversed 'only if we find a complete absence of a reasonable basis and are certain that the ... decision is wrong.' *State Bank of S. Utah v. Gledhill.*" Yapp v. Excel Corp., 186 F.3d 1222 (10th Cir. 1999).

70. "When faced with a finding of fraud on the court , 'the judge has broad discretion to fashion a judicial response warranted by the fraudulent conduct.' *Commissioner of Probation v. Adams.*" B.C. v. F.C., 59 N.E.3d 414 (Mass. App. Ct. 2016).