

IN THE SUPREME COURT
STATE OF NORTH DAKOTA

Burleigh County Social Service Board)	
as assignee for Heather Odden, n/k/a)	
Heather Zins,)	
)	Supreme Court No. 20220193 ; Civil Case
Plaintiff/Appellee,)	No. 08-05-C-00073
)	
v.)	
)	
Mark Rath)	
Defendant/Appellant,)	

APPEAL FROM BURLIEGH COUNTY DISTRICT COURT ORDERS DATED
July 26, 2021, November 18, 2021, November 23, 2021, unruled on application filed
December 24, 2021, order dated April 29, 2022, and Order dated May 02, 2022

BRIEF OF DEFENDANT-APPELLANT,
MARK RATH

Oral Argument Requested given the space limitations to better expand on the arguments points herein and properly argue constitutional arguments.

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I. Statement of Issues for Review

[¶1] The district court erred as a matter of law (1) granting Heather Zins a protective order. (2) Entertaining Zins second frivolous request for a protective order. (3) claiming Zin’s income is not calculated by the Guidelines. (4) not properly considering Heather Zins Tax Returns would not lead to a rationed decision on her income. (5) Not considering Heather’s business is considered a hobby for meeting the 3 out of 5-year loss standard. (6) modifying the prefiling order, without giving Rath proper notice, a chance to respond, and ignoring the supreme court still had Jurisdiction over any aspect of the prefiling order, except its enforcement. (7) Dismissing Rath’s motion to modify his child support. (8) Stating Rath had to produce actual proof of his travel expenses when they were still ongoing. (9) did not follow N.D.A.C § 75-02-04.1-11(1). (11) not ruling on Rath’s 12/24/2021 application and should have recused himself because of it.

[¶2] The child support guidelines are unconstitutional for all reasons argued later herein.

II. History / Statement of the Case

[¶3] Appellant (Hereafter “Rath”) and Appellee, (Hereafter “Zins”), were never married and have one child together, AJO born November 25, 2004, A.J Rath-Odden.

[¶4] Zins is very manipulative and abusive towards Rath, not only now but also during their “relationship” and has done nothing but misuse this court system to further victimize Rath using typical gender stereotypes / tropes. (1) Within weeks of Rath and Zins meeting online in 2004, Rath would notice a pattern of Zins with her parents driving by Rath’s residence every time she got done with school at BSC. (2) Zins knowing Rath

did not get involved with virgins lied to Rath about her past sexual partners. (3) After Rath found out Zins was keeping money hidden to “not lose her disability checks”, this intended deception and her lies about her virginity caused Rath to want to consider adoption for AJO. Zins in retaliation threatened Rath with an abortion of the baby, going as far as to completely ignore Rath the day she said it would happen. Rath and Zins had about three or four fights in between this and during each fight Zins would threaten to not allow Rath to be involved with his son.

[¶5] (4) Around November 5, 2004, Zins hacked into Rath’s yahoo account without his permission and started to monitor Rath’s online conversations with others. Rath found out and confronted Zins discovering Zins had issue with one conversation where Rath had discussed Zins stalking him, her lying about her virginity, threatening to go to Fargo to get an abortion as well as her threats not to allow Rath be involved with his son, Rath’s friend (female) attempted to talk Rath into leaving Zins but Rath stated he had to stay until he could get the courts involved out of fear of what Zins would do with baby. (5) Zins threatened Rath 6 times during that argument (a) to end their friends with benefits relationship. (b) Rath would not be allowed to finish Lamaze class with her (c) Zins would not allow Rath to be there for his son’s birth. (d) Zins would not let Rath even be in the hospital (e) Zins would not allow Rath to be involved after AJO’s birth. (f) Zins told Rath either that he deserved a better father, or she could find a better father for him and would not even tell Rath when AJO was born.

[¶6] (7) After AJO's birth, on November 29, 2004¹, Rath made plans with his friend Kayla Wingerter, n/k/a Jones (Hereafter "Jones") Who on November 22, 2004, suffered a housefire where she lost everything. As the two were leaving the Ramkota, where Jones was staying in the interim of getting a new place, Zins, and her mother Deborah Thrasher (Hereafter "D.T") were seen driving through the parking lot of the Ramkota, and once spotted, quickly sped away. Rath rescheduled with Jones for the next evening. However, on November 30, 2004; Zins attempted to guilt Rath into cancelling on Jones, as she admitted, Rath hanging out with Jones really bothered her.² However, Zins admitted that she had known about Jones, that it bugged her, and that Rath's friendship with Jones was a cause of a lot of the problems between them because Jones was Rath's ex.

[¶7] Rath and Zins continued to fight until December 3, 2004. Rath had brought his cousins up to the NICU to see his son, Rath confessed to Zins that he brought his cousins up to the NICU, which Zins admitted to knowing about since she was at the hospital during the time, meeting with the social worker, asking about rescinding paternity, and removing Rath's name from the birth certificate. Zins started demanding that Rath seek her permission before Rath brought up anyone to see AJO, stating her real concern was that Rath would bring Jones up to see AJO³, That evening in between feeding times as Zins wanted to run home to shower, Zins immediately started fighting with Rath again after her shower. Zins was upset that Rath had been scratching on his

¹ See [R32:6-21] See also [R21:23:6]

² [R32:6-21] Though See also [R28:23:6]. [R32:6-21]; See also [R32:4:9] in 08-2012-DM-00078 (see also [R32:2:5])

³ [R32:11-14]; [R32:28]

arm, which started a fight regarding the other issues between them. Including Zins demands that Rath needed her permission to take anyone up to see AJO and that Jones was never allowed up to see AJO. Rath annoyed with Zins continued threats and control did make a comment about going to Grand Forks with AJO, but at no point did he imply he would take the baby out of the NICU to do so. In fact, Zins has given several conflicting statements about this as well.⁴

[¶8] However, Rath and Zins fought until out of nowhere, Zins Mother D.T and Father Johnathan Thrasher (hereafter “J.T”) came barging into the trailer, Zins did not call them over unless she called them while in the shower before Rath and her had begun fighting. Rath was still sitting on the bed and Zins left the room. As Rath was getting up, J.T came back into the bedroom and started demanding Rath pack his things and to get out of the trailer. Rath complied. However, as Rath attempted to walk past J.T, J.T grabbed Rath by the shirt preventing him from leaving. Zins and her mother called the police and Rath overheard D.T tell Zins that they had already called the NICU before arriving. J.T would not allow Rath to leave until the police showed up, but then claimed Rath “would not leave”. Rath called the NICU and got confirmation that Zins had falsely accused him of threatening to Kidnap AJO. The next day Rath called to discover he could ironically only see AJO with Heather’s permission. Zins parents also harassed Rath’s parents seeking confidential medical information regarding Rath.

[¶9] Terrified of Zins given what she had just done, Rath reconciled with her and over the next month contacted several attorneys to try to get an Interim order in place

⁴ [R32:25-26; R21:23-25]

regarding custody and visitations of AJO. However, Rath was advised to wait until Zins could no longer rescind paternity which both signed in the hospital⁵. Given what Zins just did in the NICU; all attorney's Rath talked to said Zins would rescind paternity.

[¶10] However, Zins expected Rath to stay in the trailer all day and take care of AJO, which made looking for work difficult as Zins quickly returned to school and work. Rath did work part-time as a substitute child aid at ECLC but was only able to work about 7 hours every two weeks as he worked days Heather did not have school or work herself. D.T did not work and only sometimes helped her husband J.T with his used car dealership G.T Auto Sales, which led to Rath being under constant surveillance from D.T, if Rath even went to the Grocery store or Gas Station, Zins was immediately notified of Rath's departure from the home and yelled at upon Zin's return. On Christmas 2004. Rath made plans to take AJO to Dickinson ND. Zins at first refused, but just invited herself, with the threat that if she didn't go, neither would AJO. Zins then used this to deny Rath taking AJO over to his parents on December 29, 2004, which was Rath's adoptive sisters' birthday. However, on December 31, 2004, Zins walked AJO the 200-300 ft in nothing but his car seat and car seat cover to her parents' house to celebrate J. T's birthday.⁶

[¶11] On Saturday January 1, 2005. Rath went out with baby for a little while, Zins tried to refuse to allow Rath to leave. Rath was going to go to his parents but decided to go to Jones as she had not yet met Rath's son. Rath was there for about 30 minutes before packing AJO back up to go back to Zins. As Rath was leaving Jones, J.T

⁵ [R28:21] [R32:28]

⁶ [R32:22]

was seen driving by Jones residence.⁷ Rath returned to Zin's residence to drop off AJO and reminded her that he would be back around 5:00 p.m. to pick up AJO for a dinner him and his family were having⁸. Rath also informed Zins that Jones was pregnant and that the two had become engaged⁹. Rath left and returned at 5:00 p.m. to discover Zins had completely absconded with AJO.

[¶12] Rath began calling to try to locate AJO.¹⁰ Rath did speak to Zins Sunday afternoon, at which Zins told Rath he could forget about ever seeing AJO again and after Rath and Zins conversation the games and threats by her family continued. That evening Rath was contacted by the police. Rath explained the situation to the officer and Zins would not disclose her location to even the police officer, only that she was allegedly "in the area". January 3, 2005. (1) Zins was accusing Rath of harassment for trying to locate AJO. (2) Zins had a "break-in" at her residence that was only found by J.T and D.T Sunday Morning. Rath was quickly cleared of any involvement, given the evidence the police did collect. Despite Rath not being a suspect, Zins would later still try very hard to blame this on Rath.

[¶13] Following this, Zins also fraudulently rescinded paternity¹¹, Zins immediately filed for a DVPO that was denied, Zins who also worked at ECLC convinced Marla Orvik Rath's boss to fire Rath as the two were also personal friends, Rath was convicted of harassment in municipal court, Rath began contacting Zins again

⁷ [R32:22].

⁸ [R21:26:1] *see/compare to footnote 17;*

⁹ [R32:6-21]; [R24]; [R28:21-28] R32:6-21]

¹⁰ [R32:22-23] vs. [R21:26] *See footnote 15*

¹¹ [R12] & [R13]

trying to locate where she and his son were. Zins took those communication attempts to falsely accuse Rath of Stalking. Rath was arrested for Stalking and Jones mother, Susan Wingerter, paid Rath's \$5,000 bail. Rath hired Attorney Loren McCray to appeal the conviction of Harassment and fight the stalking charge.

[¶14] After, Around April 2005, Zins renewed her petition for a Domestic Violence Protection Order. As Zins admitted she was in physical hiding with the party's child during this time, and Rath did not know where Zins was. The district court committed a perverse manifest injustice against Rath and granted Zins a protection order, in violation to subject-matter Jurisdiction giving Zins full temporary custody of AJO, the district court also manifestly violated Section 14-07.1-02, N.D.C.C.¹² Because she was admittedly in physical hiding since January 1, 2005; for almost 4 months, and Rath did not know where she was, Zins could not obtain a protection order based solely on Rath's communication attempts and poems he wrote when he was in 10th and 11th grade.¹³

[¶15] Given Zin's actual harassment of Rath and fact Rath had to pay his attorney to appeal the wrongful conviction of Harassment and fight the false allegations of stalking. Rath was not able to afford to appeal the decision of the lower court. Zins had

¹² *Domestic violence" includes physical harm, bodily injury, sexual activity compelled by physical force, assault, or the infliction of fear of imminent physical harm, bodily injury, sexual activity compelled by physical force, or assault, not committed in self-defense, on the complaining family or household members."*

¹³ *Fricklin v. Fricklin* 2006 ND 40710 N.W.2d 387; "[n]ear at hand; mediate rather than immediate; close rather than touching; impending; on the point of happening; threatening; menacing; perilous." and "'Actual" has been defined as "[r]eal; substantial; existing presently in fact; having a valid objective existence as opposed to that which is merely theoretical or possible." Zin's protection order was unlawful and a grievous manifest injustice on part of the district court. See Also; *Rath v. Odden* 2007 ND 51730 N.W.2d 590;

put Rath in financial hardship with her constant false allegations. However, had Rath appealed the decision, the DVPO would have been reversed and vacated on insufficient grounds and the district court granting the order was manifest injustice and abuse of the DVPO statute. Further, because Zins rescinded paternity, though Rath was AJO's biological father, from a Subject-matter Jurisdiction standpoint, Zins nor the district court had Subject Matter jurisdiction to receive/order temporary custody of AJO through the DVPO.

[¶16] Rath was not able to see his child until March 2006. Zins had successfully alienated AJO for 14 months of the child's life. Following, Zin's harassment and abuse of Rath did not stop, Zins continued to abuse Rath through false police reports and requests to allow her now husband to adopt AJO asking Rath to forfeit his Parental Rights in between 2007 to 2011, including accusing Rath of abuse for AJO having a diaper rash. In 2012; during Rath and Jones divorce, Zins decided to take it upon herself to deny Rath all visitations with AJO based solely on what Jones was telling Zins of their relationship. Zins denied Rath a total of 5 months of contact, which landed her in contempt of court.

[¶17] Zins also filed for a frivolous restraining order against Rath in 2013, Which was vacated on a Admin Rule 13 appeal¹⁴. On January 25, 2015; Zins further harassed Rath by making demands against him that he no longer schedules visitations with his daughters at the FSC close to AJO's return times; though this was outside of Rath's control, Zins and Jones had a "sleepover" on January 30, 2015 and on January 31, 2015,

¹⁴ 08-2015-CV-00741

Jones told the FSC that Rath would no longer be allowed to setup visitations with the children at the times Zins was complaining about, 7:00 p.m. to 8:00 p.m.

[¶18] Also during this time, Zins had requested a courtesy from Rath to exchange October 31, 2015, which Rath attempted to work with Zins to make happen. The parties could not agree to a reasonable date for make up, so Rath just denied the request altogether. Later in 2015, Rath gave Zins another opportunity to exchange the visitation, however, Zins started being unreasonable in other areas of visitations. (1) Such as one Saturday refusing to allow Rath a 5-minute phone call with AJO so Rath could ask where AJO put something. (2) Trying to force Rath to meet her husband when Rath dropped off AJO; which Anderson specifically stated would not happen. Rath and Jeff Zins did not get along, given Jeff Zins always insulting Rath using Money, Job, and rather meaningless possessions to do so.

[¶19] In 2018; AJO was accused of Gross Sexual Imposition of a Minor; Rath's nephew T.R. However, On May 08, 2018, Zins decided the agreements in place between Rath and Zins were no longer suitable under the false pretense that Zins had been contacted by the police that AJO was not allowed to go to Rath's residence at all. Though this was not true and AJO was just prohibited from being around T.R; Rath arranged for T.R to be at a sitter on May 8, 2018, so that Rath and AJO could continue a normal visitation routine. Zins did not like this. Zins not only denied Rath his May 08, 2018, visitation with AJO but quickly filed for an Interim Order, seeking suspension of Rath's visits pending the investigation.¹⁵

¹⁵ [R377-449]

[¶20] However, Zins filed for yet another restraining order against Rath¹⁶ in 2018, Zins the owner of Little Bear childcare in Bismarck, ND accused Rath of notifying the Department of Human Services about the GSI Allegations against AJO, Zins perjured herself and claimed that not only was Rath the individual to call but she attempted to implicate her licensing supervisor in an unethical breach of confidentiality by accusing this individual of being the one to tell Zins that Rath had in fact called. Ironically, however, after Rath submitted his response and a motion to dismiss Zins frivolous TRO requesting sanctions against Zins for abuse of process and filing frivolous litigation, Zins all of a sudden dismissed the TRO only after she learned from her Licensure board that no actions would be taken against little bear childcare.

Statement of the Facts

[¶21] Rath filed his motion on April 5, 2021¹⁷; On April 7, 2021, Rath filed an Amendment to his Addendum Brief.¹⁸ The state filed for an expedited motion for extension of time, which the district court granted in violation to Rule 3.2 of the rules of court.¹⁹; Thomas Jackson filed a response as well to the states motion on April 15, 2015.²⁰

[¶22] Rath filed discovery onto Zins around April 13, 2021; Rath requested all of Zins financial information for Little Bear childcare. However, Jackson objected to all of Rath's requests with boilerplate objections; and, automatically just filed for a "protective

¹⁶ 08-2018-CV-01312 – supreme court case: 20180208

¹⁷ [R469-477]

¹⁸ [R482]

¹⁹ [R32:486-497]

²⁰ [R491] Davis v. Davis, et al. 2021 ND 24 955 N.W.2d 117; State v. Jensen 2020 ND 31 939 N.W.2d 1;

order”²¹; Rath filed an application to file an expedited rule 37 motion for Jackson’s failure to cooperate with legal discovery, which the district court denied.²²

[¶23] Rath then responded to Jackson’s motion for a protective order arguing that Jackson did not meet the requirements for a protective order for his client. Zin’s income is not private in a child support matter, and Jackson’s claims of “harassment” are too vague for any intelligent person to determine exactly how Rath could harass Zins with the information.²³ Thomas Jackson requested oral arguments for his motion on May 25, 2021. Rath then filed for a request for summary ruling in that Jackson had no legitimate grounds for a protective order for his client.²⁴ The court held a zoom hearing on July 22, 2021. Rath mixed up the time of this hearing and did not attend.

[¶24] The court granted Zins protective order²⁵; On August 13, 2021, after receiving Zin’s income tax information, Rath determined that Zins income was not properly reflected on her income tax returns²⁶. As Such Rath filed as permitted by the protective order to seek further information on Zin’s income.²⁷ Rath’s primary contention that more information was needed is that Heather Zins income was not adding up to the public data Rath had received as Zins was reporting an averaged \$7,000 loss for her business for the past 4 years. And that even according to the public data Zins should not be limited to just seven children. Zins has the capacity for 12 children and Zins claims on

²¹ [R511-514]

²² [R32:515-516]

²³ [R32:518-520]

²⁴ [R527] - [R528]

²⁵ [R553]

²⁶ [R560] – [R21:27-28]

²⁷ [R557-569]

expenses appears to be fraudulent. Thomas Jackson's response was though Rath was not requesting anything outside his first request for Zin's financials for her business, Jackson filed for an entirely frivolous second protective order.²⁸; and frivolously requested oral arguments. Rath responded pointing out that Jackson was not entitled a second protective order as all information was covered by the first protective order. And filed to dismiss Jackson's frivolous request for a second redundant protective order²⁹.

[¶25] Though Jackson's request for oral arguments and the notice of the hearing and listed title of the hearing were for Jackson's frivolous protective order, the district court violated subject-matter and due process and instead held a hearing on Rath's motion for additional tax information from Zins.³⁰, the district court did not rule on Jackson's cross-motion and used Jackson's request to deny Rath's request for additional tax information.³¹

[¶26] Rath filed to ask the district to file a motion to ask for reconsideration of the denial, raising the due process concerns in Jackson and the court blind-siding Rath by not adhering to the fact the parties were in trial to argue Jackson's frivolous request, which is what Rath had prepared for on the grounds the first protective order covered all of Zins financial information therefore; the second protective order was entirely redundant and unauthorized under law. Without prior notice or giving Rath a chance to respond before modifying the prefilng order; Judge Bahr entered an order modifying the prefilng order claiming Rath's application to file was a motion and also ordered Zins to reply to the

²⁸ [R571-575]

²⁹ [R586]

³⁰ [R575]; [R577]

³¹ [R589]

application within 7 days.³²; Judge Bahr ultimately attempted to justify his violation to Subject-matter Jurisdiction as “stemming an abuse of filing practice”; However, even if Rath’s application was longer than Judge Bahr desired, it was very clear Rath was just presenting his legal argument to be placed in an actual motion and Rath only requested to file an actual motion.

[¶27] Beginning in late September 2021; AJO began having relationship problems with his ex-girlfriend G.G; these issues started with AJO harassing G.G, threatening the safety of G.G, her pets and her family. To AJO grabbing G.G and mouthing off to a teacher at school, which resulted in Century High School putting an emergency plan into place to limit contact between the two; Century High School; however, failed on their end as the first day this was to occur, nobody showed up to meet AJO as planned on October 14, 2021. This gave AJO the opportunity to attempt to talk to GG, steal her cellphone and leave school property with the intent of breaking the cellphone to deprive GG of her property. A Restraining order was soon taken out against AJO by Bridget Streifel on behalf of GG. The restraining order was granted.³³ AJO violated the restraining order around October 30, 2021, by having someone else contact G.G on his behalf. Zins and her husband attempted to confront AJO on October 31, 2021; at which AJO assaulted his stepfather by punching Jeff Zins in the face. AJO was taken to Youthworks until Tuesday, November 2, 2021, at which AJO stayed with Rath with the plan being AJO would begin therapy before returning to Zins. AJO was also permanently suspended from CHS and started school at BHS on November 8, 2021.

³² [R591-595]; [R603]

³³ Civil Matter 08-2021-CV-01930

[¶28] On November 9, 2021. AJO stole Rath's vehicle to go to his mother's residence to get a leather Jacket Zins refused to allow AJO to take. And though Zins knowing the police were looking for AJO with the stolen vehicle, allowed AJO to leave her residence with the stolen vehicle. Rath called the school worried that AJO would go there, and later discovered that AJO had entered school grounds with a kitchen knife and was walking towards G.G's classroom. AJO was arrested and placed into YCC until December 3, 2021, when AJO was found to be a delinquent involving serious charges.³⁴ custody of AJO was removed from Zins and placed under the Division of Juvenile Services.

[¶29] On December 24, 2021; Rath filed an application with the district court, to file for a change of custody for AJO; requesting to file all legally allowed documents including a demand for change of Judge against Judge Bahr. The motion to date, still has not been ruled on and has created an irreversible manifest prejudice / injustice against Rath's rights.

[¶30] The parties finally had Trial on March 21, 2022. Rath requested Judge Bahr to rule on his December 24, 2022, application (Tr.) Jackson lied to Judge bahr about why Rath is requesting a new trial in his appeal with Jones; Rath testified (Tr.); Rath was cross-examined (Tr.); Zins Testified (Tr) Zins was cross-examined and given her direct (Tr.) The parties agreed to give closing briefs within two weeks. (Tr) Rath Submitted his closing ³⁵; Jackson and the state submitted theirs.³⁶. Given Bahrs refusal to rule on Rath's

³⁴ Terrorizing, Simple Assault (reduced to Disorderly Conduct), Stalking, carrying a concealed weapon (onto school grounds), Violation of a RO, etc.

³⁵ [R611]

request to re-address custody of AJO, Rath through Brief filed for the disqualification of Judge Bahr given the prejudicial error and effect Bahr's ignoring Rath's request had as given AJO's legal situation and Zins loss of custody of AJO, a prima Facie case would certainly be created warranting not only a motion but a full evidentiary hearing on the matter. Bahr denied this request and The district court entered its order denying Rath's motion altogether.³⁷

III. Law and Argument

A. Standard of Review

[¶31] *Child support determinations involve questions of law which are fully reviewable, findings of fact subject to the clearly erroneous standard of review, and some matters of discretion subject to the abuse of discretion standard of review.*³⁸

[¶32] *A district court's decision whether to grant a protective order limiting discovery is reviewed for an abuse of discretion.*³⁹

B. The district court violated Rule 3.2 in dealing with the states request to respond.

[¶33] A request for expedited decisions does not forego the rules of court.⁴⁰ The state should have submitted its request sooner than it did, the states laziness and failure to respect the clearly defined rules of court, is not Rath's problem or burden. *Id.* As such,

³⁶ [R615 & 618]

³⁷ [R627] & [R629];

³⁸ *Gervig v. Gervig, et al.* 2022 ND 2969 N.W.2d 184

³⁹ *Lessard v. Johnson* 2022 ND 32970 N.W.2d 160

⁴⁰ *Davis v. Davis, et al.* 2021 ND 24 955 N.W.2d 117 (Failure to provide a non-moving party the allotted time to respond under N.D.R.Ct. 3.2(a)(2) is a misapplication of law). *State v. Jensen* 2020 ND 31 939 N.W.2d 1 (Under N.D.R.Ct. 3.2(a)(2), the moving party may file a reply brief within seven days after service of the answer brief. A motion is not submitted to the court for decision until all briefs are filed or the time for filing has expired.)

Rath's due process rights were egregiously violated at this stage, Where Rath understands his brief was 56 pages, Keller had 14 days to respond to Rath's motion. *Id.* But waited until only four days remained to file for her extension.

[¶34] In this matter, Rath had a right to respond, the notice of the state's motion stated Rath had 17 days to respond to the request and the district court erroneously entered an order the same day demanding responses be filed by 5:00 p.m. close of the next day. However, the clerks of the district court for some reason mailed Rath the copy of the order, so Rath had no idea the court even entered an order. Rath did not receive the actual paperwork until after 4:00 p.m. on April 18, 2021, and the court entered its order on April 19, 2021, not giving Rath an opportunity to respond, being the first violation of due process to occur under Judge Bahr. *Id.*⁴¹ Because this is a due process requirement for fundamental fairness, it is not a trivial error of law. The state waiting until only 4 days before their response was due caused Rath's rights to once again be violated by one of the imbeciles this state calls a "Judicial Officer"

C. The district court abused its discretion in granting Zins a protective order.

[¶35] Under N.D.R.Civ.P 26(c) a party may move for a protective order only "*to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense*" *Id.* In this matter, given that Zins owns and operates Little Bear Childcare; Rath requested two crucial pieces of information required for his case in chief against Zins. (1) Zins 1040's and attached schedules (for an exact figure of her claimed expenses and earnings) and (2) Copies of recent contracts for her daycare children.

⁴¹ [R486-500]

[¶36] However, Jackson did not comply in anyway with Rath's discovery request. In fact, Thomas Jackson utilized boilerplate objections to Rath's requested discovery.⁴² And immediately just filed for a protective order. Boilerplate anything; is frowned upon not only in this state level court but Federal Courts; which our court has stated is given great deference in dealing with protective orders. Where; Rath cannot find any per say federal cases regarding Jackson's abuse of boilerplate objections to Rath's discovery request; nonetheless, the burden was on Jackson to properly object to the discovery or comply with all requested discovery.

[¶37] Because of N.D.A.C § 75-02-04.1-09 (2)(n); Zins Income and information pertaining to her income is relevant. Rath had a right to evidence that could show that Zins is making three times as much as him. And Zins income tax information was extremely unreliable as no indication of Zins income is actually given, there is also no clear indication of whether the reported losses are even Zins or her husbands and we must assume that the losses are Zins in the following arguments Regardless this fact, an individual may not just request a protective order because they do not want to comply with discovery, which is exactly what Jackson did.

⁴² *Interest of K.B.* 2021 ND 106 961 N.W.2d 293 [¶19] (stating boilerplate statements of law are insufficient;) See Also; *Beam v. WSI, et. al.* 2020 ND 2020 ND 168946 N.W.2d 486 (stating Boilerplate specifications of error are not tolerated by the court);

[¶38] Judge Bahr abused his discretion by not adhering to federal law⁴³ and acting arbitrary in relation to Zins original protective order. Evidence of Zins actual net income was relevant to a child support matter and the district court prejudiced Rath in not ordering disclosure of that evidence to afford Rath his due process protected right to meet his burden at the trial with competent evidence, especially considering the facts Jackson did not properly follow the procedures and rules of court to obtain the protective order.

[¶39] Our state law, recognizes that

*“Under N.D.R.Civ.P. 37(a)(1), a party moving for an order compelling discovery must certify that it has in good faith conferred or attempted to confer with the person or party failing to make discovery in an effort to obtain it without court action.”*⁴⁴

Federal precedence proceeds the same accord to those seeking a protective order; in that a good-faith effort must be made to confer with the party(s) to whom discovery is denied before a protective order can be requested. Which Thomas Jackson failed to wholly do.⁴⁵ In fact, Thomas Jackson did not attempt to confer with Rath at all, as he even admitted in his brief for the protective order; he immediately filed for a protective order only in anticipation to Rath filing a Rule 37 motion to compel and several other facts that are a misapplication of record or law. There was no good-faith and given the true history of these parties, nor was there good cause. Zin’s allegations against Rath

⁴³ *Kouba v. State of North Dakota, et al.* 2004 ND 186 687 N.W.2d 466 “While we have not previously ruled on this issue, this Court has noted when considering rule 26(c), great deference should be given to any case law interpreting and construing Fed. R. Civ. P. 26(c)”

⁴⁴ *Twin city technical, et al v. Williams Cty, et al.* 2022 ND 63 971 N.W2d 822.

⁴⁵ *Forest Prods. Northwest, Inc. v. United States*, 453 F.3d 1355, 1361 (Fed Cir. 2006)(holding the district court was correct to deny a motion for a protective order... “neither conferred with the [other party]” ...

were overly broad and unsubstantiated⁴⁶ Zins just did not want to comply with discovery, which is not a valid reason, Sanctions should have been placed against Zins and Jackson as requested by Rath.

[¶40] Also, questions arise of Jackson's harassment of Rath regarding the prefiling order to impermissibly just presume Harassment on the part of Rath. Jackson is abusing the prefiling order to create prejudice against Rath. Though this is the same level of what Zins did in 2012 and 2013; attempted to latch on to what was going on in 08-2012-DM-00078 to create a non-existent correlation. 08-2012-DM-00078 and 08-05-C-00073 are opposites of each other.

D. This district court violated due process with its handling of Zins request for a second protective order.

[¶41] Though Judge Bahr did abuse his discretion in granting Zins first protective order; but the serious problem of abusive and harassing litigation comes in Thomas Jackson's frivolous request for a second protective order and his request for a trial on that protective order; where it becomes very clear that Jackson was just abusing the rules of court to unnecessarily delay discovery; given the questionable nature of Zins submitted information it is reasonable to question why? However, first we address the abuse of discretion; Judge Bahr never should have allowed Zins second request to go to trial. The first protective order "[¶5]IT IS FURTHER ORDERED that Zins is Protected from producing other tax documents, such as supporting schedules, **and other personal**

⁴⁶ *Lauer v. Lowes Home Centers, LLC Dist Court, ED California 2018 [no other citation found]*

financial information unless otherwise ordered by the Court.⁴⁷ if Zins financial information was protected under the confines of the first protective order why did Jackson file for a second protective order and request a trial? Thomas Jackson engaged in a fragrant abuse of Rule 11 with his request and engaged in harassing and abusive litigation against Rath.

[¶42] However, the factual assertion of Rath’s request deduces an abuse of discretion on part of the district court, even if the court were to apply the facts of Zins admitted 7 daycare children. At \$115 per capita, Zins should be making \$805 per week or \$3,220 per month (assuming she has not raised her rates since 2014, which is unlikely) calculated the same as an obligor as the guidelines do not state an obligee’s net income is calculated differently. Times 52 weeks in the year, Zins total gross income is \$41,860; Zins is then reporting an averaged loss of \$7,006 in the past 4 years.⁴⁸; Which brings her actual reported loss to over \$195,796 for the past 4 years. Something isn’t adding up about Zins reported income.⁴⁹

[¶43] Given Zins daycare is her home; she is bound by a time-space% for most costs and expenses, there is absolutely no way Zins could be reporting a loss of \$44,970 (2017), \$51,536 (2018), \$52,169 (2019) and \$47,121 (2020), especially considering Zins not only obtains heartland reimbursement but a tax deduction for meals.⁵⁰. According to USDA Food plans⁵¹, for a liberal food plan for children, the average cost per child ranges only \$187.50 to \$221.70 per month. Which is for three meals a day and the recommended

⁴⁷ [R553]

⁴⁸ [R560]

⁴⁹ [R557-559]

⁵⁰ [R563]

⁵¹ [R569]

three snacks. Zins only provides breakfast, lunch and 2 snacks. The base line of fact is even if Zins did have over \$10,173.80 in food costs for her childcare annually. She still obtains an annual deduction on what she owes for taxes. Without explicit information concerning Zins actual costs and expenses, it is impossible to determine what her net income is from her childcare, other than it appears her 1040's do not have any viable income information for her, which is unlikely for a daycare Zins who only has 7 children.⁵²

[¶44] Rath asserts that Fundamental fairness, is not just procedural in nature, but under the Substantive Due Process rights, Rath has a fundamental right to not only ensure that his case is not tainted by even the possibility of Fraud, but that the court will authorize due diligence in all legal aspects to ensure that evidence of suspected fraud is heard by the court and thrown out if necessary, as to maintain the confidence in the Judiciary by satisfying the appearance of Justice⁵³.

[¶45] However, Jackson's request for a frivolous redundant order of law, is not the only issue. "*By requiring litigants to follow procedural requirements enacted in statute and adopted in this Court's rules, we enhance predictability and fairness in our courts.*"⁵⁴ The second issue is that Jackson's request violated res judicata. "*Under res judicata principles, it is inappropriate to rehash issues which were tried or could have*

⁵² 26 US Code § 183; N.D.A.C § 75-02-04.1-05(8);

⁵³ State v. Stockert, 2004 ND 146, ¶ 29, 684 N.W.2d 605 "This confidence and respect can be maintained only if justice satisfies the appearance of justice."

⁵⁴ Chase v. State 2021 ND 206 996 N.W.2d 557

been tried by the court in prior proceedings.”⁵⁵ Again, because of the redundancy of Jackson’s request and what was specifically protected under the first protective order.

[¶46] The third issue is that Judge Bahr violated Rath’s due process rights through the trial itself; as can be seen by the Notice of hearing⁵⁶; Rath was noticed that the only thing the parties would be in trial for was whether Zins had grounds for a protective order. Which because of the circumstances of the first protective order already covering **“and other personal financial information unless otherwise ordered by the Court.”** The district court misapplied Jackson’s burden of proof for the protective order and Rath’s motion for additional tax information and Jackson’s motion for a protective order, were not closely intertwined, because not only was Jackson’s second request for a protective order entirely frivolous as it not only violated res judicata in requesting a redundant order of law, but it was requesting a redundant order of law which Rath did request to dismiss pursuant Rule 41 due to its redundancy, had the court allowed Rath to file, Rath would have also cited Rule 12(f) N.D.Civ.P.

[¶47] This is especially true since Judge Bahr did not even rule on Jackson’s frivolous request for a second protective order.⁵⁷ He utilized the hearing to hear arguments on Rath’s motion, not Jacksons, which went outside the scope of what the parties were in trial for and violated Rath’s due process rights⁵⁸.

E. **Judge Bahr acted arbitrary and again violated Rath’s due process rights in his order denying Rath’s request to file pursuant Rule 41(b).**

⁵⁵ *Sall v. Sall* 2013 ND 108 833 N.W.2d 417

⁵⁶ [R577]

⁵⁷ [R589]

⁵⁸ [R578]

[¶48] Rath filed on September 30, 2021 to request permission to file on December 30, 2021; pursuant Rule 41(b) and Rule 11(b) to not only dismiss Jackson’s cross-motion for another protective order, but also filed to seek Sanctions against Jackson for filing a frivolous and redundant request. A troubling issue is that though Judge Bahr provides no reasoning as to why he was denying Rath’s request. Rath had to file his request three times for the district court to even place it on the record and enter an actual order. Because Rule 41(b) gives a litigant a rule based right to seek dismissal of any action that violates the rules or laws of our state, Judge Bahr violated Rath’s rights by not allowing Rath to seek the appropriate dismissal of Jackson’s frivolous request. This is an egregious violation to the transparency of the court and violates Rath’s 14th amendment right to a public trial. Which is satisfied by the district court remaining transparent and having a precise and accurate record.⁵⁹ Though every man for any injury done him...shall have remedy by due process of law and right and justice administered without sale, denial or delay...is questionably being violated if the court is using the prefiling order to limit anything other than 100% frivolous litigation.

F. **The District Court violated Rath’s due process rights and violated subject matter jurisdiction by modifying the prefiling order.**

[¶49] On November 21, 2021; Rath filed an application to file a motion for reconsideration and to file for a continuance of the child support trial given AJO’s criminal matters.

⁵⁹ *N.D Const. Art I Sec. 7 “All courts shall be open, and every man for any injury done him in his lands, goods, person or reputation shall have remedy by due process of law, and right and justice administered without sale, denial or delay”*

[¶50] The first problem; is that the court itself doesn't seem to understand how to read rule 58 or the pre-filing order. Pursuant Rule 58 of the administrative rules; more specifically Section 3: "*A pre-filing order must contain an exception allowing the person subject to the order to file an application seeking leave to file.*"; where the problem is that the district court is not allowing Rath to file these requests. In Fact, they are not properly filing the applications as required under law and if the court decides to disallow the filing, they then reject the application, denying Rath an opportunity to create a concise and clear record that the relief was even sought. Rath ran into this issue on May 11, 2022 in 08-2012-DM-00078 as well; Jones forced Rath to reschedule a visitation memorial day weekend in 2021 to extend her holiday time with the children the full weekend, something which is explicitly prohibited in the Judgment. Rath filed to seek intervention with the court in which the application was never properly filed until Rath pushed for it to be filed.

[¶51] The second part is the apparent arbitrary and unfair nature to which the district court applies the pre-filing order. Rath's request to file for reconsideration may have been 18 pages long. However, that does not in itself make it a motion. In fact, because Rule 58 nor any rule for that matter; gives any direction on how these applications for leave are supposed to be structured and what they are and are not supposed to contain, the court harms pro se litigants access to the court with them, because they do not properly, nor can they be trusted to properly limit only abusive and frivolous litigation. Instead, as in Bahr and Borgen's case, it seems they just deny any request they do not want to deal with. For example in 08-2012-DM-00078 on May 21, 2021. Rath filed to seek intervention with the

court because Rath had been making plans for months with his family for that weekend, which Jones just didn't care, she wanted to go camping with the children for the second of three weekends in a row. Then on May 9, 2021; Jackson and Jones were making unreasonable demands in an alleged effort to negotiate a visitation change on Rath's request for Rath's college graduation on May 13, 2022. Though there were other more respectable options, Jones was only going to allow the parties youngest child to go but not their oldest. But the unconscionable condition was that Jones was still forcing Rath to exchange the visitation with both children, while keeping the oldest child calling that "Rath's parenting time" and forcing Rath to accept 24 hours less time with his child.

[¶52] The issue as it directly relates to this appeal, however, is that Rath filed an application seeking leave; Rath's requested relief was to file an application and Rath very clearly made his argument points. If Judge Bahr did not agree with Rath's arguments he should have just denied the application; but instead, Bahr arbitrarily stated Rath filed a "motion" instead because Bahr did not like the fact Rath's application was 18 pages and challenged him on his decision. And where Judge Bahr is not incorrect entirely, a motion for leave to file or as titled by Rath an application to file, was still permitted by the courts pre-filing order and Rule 58.

G. Rath was entitled a reduction to his child support:

[¶53] Judge Bahr denied Rath's request to modify his child support on the premise that Rath only provided "one year" of self-employment records. Again, a problem is, there is no definition or general form for self-employment gain or losses. And the district court ignored [R478] In that Rath submitted all financial gains from 2018 to present and

at the trial submitted a different form for the 2021 fiscal year, including his monthly income of around \$1,200 to \$1,300 for his child care. Rath will admit all three years he had been in business his averaged total would only be around \$9,000 instead of the \$16,000 he made for 2021. However, that only applies if the self-employed individual operated at the same level and capacity as previous years. Rath completely restructured his business model in January of 2021. Even if the court wanted to reject Rath's financial expenditures, it still had adequate information to assess Rath's income from his self-employment from 2018 when he started his business to 2021 and 2022, showing a repeat of 2021's financials.

[¶54] The district court misapplied the guidelines by not properly assessing Rath's income and stating that Rath had to provide copies of his income tax returns. As under N.D.A.C § 75-02-04.1-05; Rath's income tax returns were unavailable to the court, but he did make his profit and loss statements in their very simple format available to the court for determination of his net income [R478]. Pursuant statute, the court had to utilize that information in Rath's request to determine his income from self-employment, and even if the court wanted to impute Rath's income it would have to be done so off of a childcare worker which 6/10 of the state average was only a couple hundred dollars off what Rath was reporting as a Gross annual income from his childcare services provided for 2021 and 2022. The district court erred as a matter of the guidelines in denying Rath's request. This is especially true because Rath specifically argued, he was given a deviation for his visits with this children at the FSC that no longer applied, Rath showed adequately that

the current amount does not comport to the required guidelines amount. The court just didn't want to do what it had to do and reduce Rath's child support accordingly.

H. Whether North Dakota Child support violates certain aspects of basic human rights and the North Dakota and United States Constitution.

[¶55] Judge Bahr in his findings ruled that Rath's constitutional claims were merely procedural and legislative arguments, Rath wholly disagrees. The Arguments that Rath will focus on, in fact are constitutional in nature and a challenge to the constitutionality of child support is one of the appropriate methods to force compliance with the North Dakota and Federal Constitutions. Though Rath will not waste his time on some of the arguments, there are three specific ones that have not really been argued in extensive detail.

1. The freedom of choice is absolute and cannot be denied or punished

[¶56] However, though the specific supreme court case cannot be located again, The U.S supreme court has overturned laws that have attempted to regulate a citizen's mere choice of whether to follow the law or not, whether the law was actually disobeyed. Holding that every citizen has the right to choose whether they adhere to the laws of state or country and must accept the consequences of their choices, but the fundamental right to make that choice cannot be infringed upon by state or federal law.

[¶57] Child supports mentality that it can coerce and regulate a citizen's daily choices, do in some fashion act violative of the 4th amendments unlawful seizure under the context of the above-mentioned argument. And where I disagree it is forced labor, to

make it indentured servitude. It does fundamentally violate as citizens of the United States and even North Dakota's right to our basic human right to make choices without governmental interference or coercion. This right is so ingrained in our culture and essence as a democracy that it transcends just some basic human right, it is a fundamental principle of humanity, the cognitive ability and power to make choices, good or bad, is what makes us human. The freedom of choice is one that by the core foundation of our society does not need be written or enumerated in our state or federal constitution, because it is a basic human function.

[¶58] The freedom's enumerated under the state and federal constitutions envision this right and limit the states and federal government's power to encroach upon this right. However, if a constitutional delegation had to be provided in which the states alleged power to penalize a citizen for exercising their right of choice, the 1st, 4th, 10th, and 14th amendments would be the catalyst. And as the United States supreme court has made abundantly clear, the state has no authority to punish a citizen for exercise of a constitutional right under the constitution.⁶⁰ This stems under the Unconstitutional Conditions Doctrine.⁶¹ And the Doctrine of Colourable Legislation; in that which cannot be done directly, cannot be done indirectly. When a fundamental right is at stake, the only constitutional test that can be applied is Strict Scrutiny. The state must show a compelling governmental interest and that the law is narrowly tailored to meet its interest.

⁶⁰ *Murdock v. Pennsylvania*, 319 U.S. 105 (1943); *Griffin v. California*, 380 U.S. 609 (1965); *Elrod v. Burns*, 427 U.S. 347 (1976)

⁶¹ *Rust v. Sullivan*, 500 U.S. 173 (1991); *Elrod v. Burns*, 427 U.S. 347 (1976);

[¶59] Given the importance of the freedom of choice in our society in all aspects of human daily living, mating and other activities all protected under the United States and North Dakota constitutions. The freedom to choose one's employment for gainful living and enjoyment envisions a basic human need for survival in a purely capitalistic society.

[¶60] However, the freedom of choice of employment while enumerated under North Dakota Constitution Article 1 § 7; North Dakota Child Support attempts to hinder an Obligor's ability to obtain gainful employment of their choosing, in turn infringing upon a citizens right to Freedom of Choice, Freedom of Speech, Freedom of Expression and Freedom of Association under the first amendment, all because the state benefits financially for every dollar it collects in child support, the state fiscal status is not Rath's responsibility. Because the state cannot even claim that is in "the best interests of the child", because the state fails to realize and admit, that whatever you do to the Obligor parent, whereas in Rath's case, he is an active parent in his child's life, you also force the child to endure the same hardships you place on the obligor of support. Imposing a penalty for the exercise of the freedom of choice, reduces the financial ability of the targeted parent to care, feed and appropriately cloth, entertain and house a child while in their care. Which the state "justifies" under its unethical and impractical visitation schedules, however, by doing so...you create an undesirable living arrangement for the targeted parent as well as the targeted child. It is and will always be in the best interests of a child that both parents can adequately provide for the children while they are in their care and justifying a reduction in style of living while with the targeted parent is not a compelling governmental interest, nor would it even pass a rational basis test, unless the

parent is completely absent and not receiving visitations with the child, you harm the child by lowering their quality of life while with the non-residential parent. Whereas, most of the time, it is not that parents choice to not have custody or split-custody of their children, it is a choice forced upon them by the states exercise of their power of choice, a choice which though Rath does not entirely agree has everything to do with Title IV-D of the social security act, is heavily influenced by the monetary gain of the implications of that act.

[¶61] In the case of Pavan v. Smith, 582 U.S. (2017), the application or lack of application of an Arkansas statute was deemed unconstitutional. The statute in question was Ark. Code 20–18–401, “*the mother is deemed to be the woman who gives birth to the child ... if the mother was married at the time of either conception or birth ... the name of [her] husband shall be entered on the certificate as the father of the child.*” Ark. Code 20–18–401. Where the issue at stake was same-sex couples being granted the same privileges and protections afforded to opposite-sex couples, SCOTUS. Under North Dakota Law, more specifically, N.D.C.C § 14-09-08 creates a statewide “mutual duty” to support their children. Classifying individuals, not as “obligor” or “Obligee” but unanimously as “parents” compelling that both have the duty to support. In the case of Rath and Zins, given Zins reported lack of income, if not fraudulent as common sense would deduce it is. How is Zins meeting her burden to care for AJO with no income? Yet this court is going to say that Rath being laid off for an entire year from a certain profession, being threatened by child support that if he didn’t start paying his full child support his license would be suspended, because his unemployment benefits ran out and

having to choose something more reliable as employment doesn't entitle him to seek a reduction to his child support under the premise that his change of employment wasn't actually within his control?

[¶62] Again in *United States Dept. of Agriculture v. Moreno*, 413 U.S. 528 (1973) in the district of Columbia, the then Section 3 of the food stamp act of 1964 violated equal protection, though the language was written that prohibited households with unrelated members from receiving food stamp benefits. It was very clear, that this law was geared solely at the discrimination of "Hippies" and "Hippie Communes", and North Dakota law has repeatedly in different variations iterated *Clutter v. McIntosh*, 484 N.W.2d 846 (ND 1992), in "*that the primary purpose of child support must be the needs of the child.*" *Id.* Raising the ultimate question of constitutionality. If child support is intended to account for the need of the child...why is the child's need only relevant where the Residential Parent is concerned? Child Support under North Dakota Law is cited as being to ensure that the children do not pay financially for the separation of the parents, however, that cannot be the purpose of child support, nor can prejudice and bias be a rationalization for the systematic destruction of the children's lives while they are with the Non-Residential Parent. The idiom of this stance is, no matter what you do, the children are going to suffer in their living arrangements. The real question is does the state have too much of a financial interest under Title IV-D reimbursement to not be prejudicial in this capacity as it is clear it is overlooking the best interests of the children presently.

[¶63] And where I am not focusing on my equal protection argument so much in that state does intentionally classify parents into two distinct categories for purpose of

disenfranchisement of one of those parents' rights and freedoms enjoyed under the constitution(s), the state does impose a "penalty"⁷⁶ for the non-residential parents exercise of this basic human right that it does not impose on the Residential parent. It is illogical, serves no rational purpose and surely does not comport to the states "legitimate purpose" in ensuring that children are cared for to the best of both parents' abilities.

2. **The Liens List violates a citizen right to privacy without due process of law.**

[¶64] N.D.C.C § 50-09-02.7, requires all Obligor to be listed on a public database regardless of reason for falling behind on child support, however, obligors who are not through Child Support Enforcement are given exemption from being on this list. Because these lists are socially recognized as a "Deadbeat" parents list. Regardless the reason parents are placed on the list, they are publicly titled deadbeat parents, even if there only transgression is falling behind on court appointed payments but still emotionally take care of their children and spend time with them.

[¶65] National registers such as Sex offenders' lists have stood the test of constitutionality because they serve for the protection of the public and children living around where sex offenders take up their new residence. However, the arrears registry serves no rehabilitative purpose, offenders relating to sexual crimes are given fair notice that their name is being released to the public, parents who accumulate arrears, are given no such notice. Child Support simply puts their name on a list for the public to know they are not remaining constant on their court ordered child support.

[¶66] Child support on <https://childdsupport.dhs.nd.gov/partners/lien-registry> lists its purpose as “warning” Lenders, Car Dealerships and title companies, the Lien registry still serves no public function, because child support already reports any and all past due amount of child-support to the major credit reporting agencies. So, any of the “targeted” entities child support lists, would already see the arrears upon the credit check of the obligor, which all Major lender types already do a credit check before lending someone money. Therefore, public listing of the obligor on this so-called list, serves no important or rational function.

[¶67] Our Constitution has long recognized that people have a fundamental interest in their reputation. *Paul v. Davis*, 424 U.S. 693, 96 S. Ct. Which stems from the 1st Amendment, The North Dakota Constitution Article 1 secs. 1, 4 & 9, conclude in North Dakota the right to reputation is a fundamental inalienable liberty interest. The U.S Government in *Paul*, has confirmed this as well, however, has stated that the right by itself may not be a reason to invoke constitutional protections. Where 2 years prior in *Wisconsin v. Constantineau*, 400 U.S. 433 (1971), the Supreme Court found the opposite that public identifying of an individual claimed to be banned for one year from drinking violated the tenants of Due Process and the actions or law was stricken as Unconstitutional. Child Support arrears registry should be seen in the same fashion of Wisconsin; under the premise that child support does so without due process of law being satisfied, obligors are given no notice or chance to rebut their name being placed on this list. As in *Moreno*, a case which found portions of a federal act unconstitutional because of its intentional discrimination against a politically unpopular group (hippies), because

there were other safeguards in place to the effect of welfare fraud. As is the case with Moreno; other than public humiliation and privacy violations, the public liens list serves absolutely no function that child supports requirement to report all delinquent amounts to the credit reporting agencies doesn't already cover. There are already provisions in place that makes the lien list being public serve no basis again especially with no due process of law being satisfied.

3. **Child supports mentality on employment and choice of employment violates the freedom of association**

[¶68] In the case of NAACP v. Alabama, 357 U.S. 449 (1958), the freedom of association was solidified as one of the constitutional rights of magnitude protected from governmental infringement under the First Amendment of the United States, enforceable and challengeable under the equal protection and due process clauses of the Fourteenth Amendment. Both North Dakota's constitution and the U.S Constitution solidify an individual right to freely choose their employment. In fact, this freedom of association also carries with it the right to freely choose not to associate with certain groups or individuals. As the freedom of association also carries an intimate capacity as well as group capacity. this delves deeper into the constitution than just the Right to Privacy E.g. Griswold Et Al. Appellants, V. State Of Connecticut. 381 U.S. 479; Reno v. Flores, 507 U.S. 292, 301—302 (1993) and the constitutional rights to parent a child. (See also Troxel V. Granville (99-138) 530 U.S. 57 (2000)) But also, the first amendments freedom of association. Roberts v. United States Jaycees, 468 U.S. 609 (1984); whereas the U.S

Supreme Court first solidified and expanded its finding that freedom to associate in NAACP v. Alabama, 357 U.S. 449 (1958), covered explicitly private associations.

[¶69] There are few things for debate in this specific argument. By denying these arguments you in turn rationalize the argument tenfold. The right to choose is a vital component of any democratic society, the second you start taking choice away from individuals, you are no longer practicing democracy, but turn to tyranny and oppression

[¶70] Further arguments reserved for oral argument that rely on the Guidelines for legal authority is (1) Zins who has lost physical custody of AJO, should be ordered to pay support as presently she is not meeting any obligation to AJO while in DBGR.

[¶71] Therefore; ***Rath prays for oral argument to better argue some of these positions given page restraints some may seem a little unclear in written form***, Rath prays that the modification to the pre-filing order be in all things reversed for its violation to Rath's due process rights, The states response be treated as violative to the rules of court as Rath was not properly and timely notified or given a chance to respond to the states request for an extension to file, The courts determination on child support be reversed and the court be ordered to properly calculate Rath's income under the guidelines based on his income as a child care worker and the earning potential of another childcare worker. Rath also prays that the three constitutional arguments succeed, and child support is found unconstitutional where those rights are violated.

Dated this 24th day of October 2022

/s/Mark Rath

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Brief of Defendant – Appellant and, was on the 24th day of October 2022, served electronically to the following:

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Rule 32(e) Compliance

I Mark Rath hereby certify that the above brief is in compliance to N.D.R.App.P. Rule 32(a)(8) that this brief including this certificate page is 18 pages, set forth by N.D.R.App.P. Rule 32(a)(8).

/s/Mark Rath

Mark Rath