IN THE CIRCUIT COURT OF
ST. LOUIS COUNTY MISSOURI

In Re the Matter of:	)	
	)	
MATTHEW R. GRANT,	)	
	)	Case No. 12SL-DR03959-02
Petitioner,	)	
	)	
v.	)	Division 65
	)	
C.M.G. et al,	)	
	)	
Respondent.	)	

PETITIONER'S MOTION TO DISQUALIFY COMMISSIONER GREAVES FOR CAUSE, AND FOR TRANSFER TO THE MISSOURI SUPREME COURT

COMES NOW, Petitioner, Matthew R. Grant, and respectfully requests that, pursuant to Missouri Supreme Court Rules 51.05 and 51.15 and the inherent powers of the court, that Honorable Michael Hilton enter an Order finding that Commissioner Greaves is disqualified for cause and enter an order prohibiting her from handling any further rulings due to her failure to recuse ("Motion to DQ").

Further, Petitioner requests that, pursuant to Rule 51.05(e)(1) and the inherent powers of the court, Judge Hilton transfer this matter to the Missouri Supreme Court for its selection of a new circuit court judge outside of St. Louis County for the further handling of this matter.[1]

In support of this Motion to DQ, Petitioner states:

1. Petitioner is a lawyer licensed in the State in Missouri with Bar Number 50312. He

[1] As revealed *infra*, the matters raised in this Motion are, apparently, controversial in nature. Indeed, Petitioner's actions relating to this Motion have apparently already garnered the attention of local family court practitioners. That fact is troubling in light of the "sealed" nature of the filings on this court docket, but it is, nevertheless, not surprising. Because of the *potential* for, among other things, subconscious bias in favor or against either of the parties or their counsel in this case, or future cases, Petitioner requests that Judge Hilton transfer this matter to the Missouri Supreme Court for its transfer of a judge from outside St. Louis County to this Circuit for further handling of this matter. *See* Rule 51.05(e)(1).

was licensed in Missouri in the year 2000. He is also licensed in the State of Illinois.

2. Petitioner has never been sanctioned, nor has he been the subject of any bar complaint or disciplinary investigation.
3. Petitioner has never requested that any judge or commissioner be disqualified from handling a matter. Moreover, Petitioner has never been involved in a single case in which any party sought to disqualify a judge or commissioner. This is situation is extremely unique and limited to the facts of this specific case.
4. Petitioner was most recently an equity partner with Husch Blackwell LLP. He spent ~21 years at that firm under its current and predecessor names, after beginning his career as a Summer Associate and then an Associate Attorney at Thompson Coburn LLP.
5. Petitioner is a civil litigator that routinely practices before judges *in this very circuit courthouse* and many judges around the country.
6. Petitioner has appeared before judges, as a few examples, in the following courts:
    a. Circuit Court for St. Louis County, Missouri;
    b. Circuit Court of St. Louis, City, Missouri;
    c. Circuit Court of St. Charles County, Missouri;
    d. Circuit Court of Jackson County, Missouri;
    e. Circuit Court for Scott County, Missouri;
    f. Madison County, State of Illinois;
    g. St. Clair County, State of Illinois;
    h. Cook County, State of Illinois;
    i. Cobert County, State of Alabama;

j. Potter County, State of Texas;

k. the USDC for the Eastern District of Missouri;

l. the USDC for the Southern District of Illinois;

m. the USDC for the Central District of Illinois;

n. the United States Bankruptcy Court for the Central District of Illinois;

o. the USDC for the Southern District of New York;

p. the USDC for the Western District of Texas;

q. the USDC for the District of South Dakota; and

r. the USDC for the Northern District of Mississippi.

7. Petitioner has drafted briefs for filing in the United States Court of Appeals for the Eighth Circuit, the Court of Appeals for the Federal Circuit, and the United States Judicial Panel on Multidistrict Litigation before which he appeared in Columbus, Ohio, but at which he did not personally handle oral argument. His law partner Mark Arnold argued the client's successful Motion for MDL that was established before the Honorable Henry A. Autrey, here in United States District Court for the Eastern District of Missouri.

8. Petitioner is an experienced litigator and has observed the judiciary and their actions on the bench around Missouri and throughout the United States of America.

9. Petitioner is keenly familiar with the various rules of ethical conduct applicable to both lawyers, judges and appointed positions such as commissioners.

10. The ethical cannons in the Missouri Code of Judicial Conduct to be addressed in this Motion to DQ are well-known throughout the legal profession. They are beyond dispute and are well-recognized:

2-2.2 | Impartiality and Fairness

(A) A judge shall uphold and apply the law, and shall perform all duties of judicial office promptly, efficiently, **fairly and impartially**.
(B) A judge may make reasonable efforts, consistent with the law and court rules, to facilitate all litigants, including self-represented litigants, being **fairly heard**.

> Comment: [1] In disposing of matters promptly and efficiently, a judge must demonstrate due regard for the rights of the parties to be heard and to have issues resolved without unnecessary costs or delay. To ensure impartiality and fairness to all parties, a judge must be objective and open-minded.

Rule 2-2.2 and comment (emphasis added).

2-2.3 | Bias, Prejudice, and Harassment

(A) A judge shall perform the duties of judicial office **without bias or prejudice**.

(B) **A judge shall not, in the performance of judicial duties, by words or conduct manifest bias or prejudice**, or engage in harassment, including but not limited to bias, prejudice, or harassment based upon race, sex, gender, gender identity, religion, national origin, ethnicity, disability, age, sexual orientation, or marital status, and shall not permit court staff, court officials, or others subject to the judge's direction and control to do so.

Rule 2-2.3 (A)&(B) (emphasis added).

2-2.8 | Decorum, Demeanor, and Communication with Jurors

(A) A judge shall require order and decorum in proceedings before the court.
(B) **A judge shall be** patient, **dignified**, and **courteous to litigants**, jurors, witnesses, **lawyers**, court staff, court officials, and others with whom the judge deals in an official capacity, and shall require similar conduct of lawyers, court staff, court officials, and others subject to the judge's direction and control.

Rule 2-2.8 (emphasis added).

2-2.11 | Recusal

> (A) A judge shall recuse himself or herself in **any proceeding in which the judge's impartiality might reasonably be questioned**, including but not limited to the following circumstances:
>
> (1) The judge has a **personal bias** or prejudice concerning a party or a party's lawyer or knowledge of facts that are in dispute in the proceeding that would **preclude the judge from being fair and impartial**.
>
> . . .
>
> > **Comment:** [1] Under this Rule 2-2.11, a judge ***should recuse*** whenever the judge's **impartiality might reasonably be questioned, regardless of whether any of the specific provisions of paragraphs (A)(1) to (5) apply**.
>
> Rule 2-2.11 (emphasis added).

11. As discussed below, Commissioner Greaves has violated each and every one of the above-cited Rules of Judicial Conduct in this case in relation to her treatment of Petitioner.

12. The critical issue for future Presiding Judge Hilton to consider in this case is quite simple: It is not whether the evidence shows conclusively that Commissioner Greaves has actual bias towards the Petitioner, which the evidence *also* shows. To the contrary, the low burden of proof before Judge Hilton in this matter is whether Commissioner Greaves' impartiality might be questioned by a reasonable person.

13. The Missouri Supreme Court addressed this general issue in *Anderson v. State*, when it stated:

> Rule 2–2.11(A) sets the standard for when a judge should recuse in a proceeding. Rule 2–2.11(A) provides that "[a] judge shall recuse himself or herself in ***any proceeding in which the judge's impartiality might reasonably be questioned***." This includes situations where "[t]he judge has a personal bias or prejudice concerning a party ... or knowledge of facts that are in dispute...." Rule 2–2.11(A)(1). The rule is not limited to actual prejudice and also requires recusal when "a reasonable person would have factual grounds to find an appearance of impropriety and doubt the impartiality of the court"

Anderson v. State, 402 S.W.3d 86, 91 (Mo. 2013) (citations omitted) (emphasis added).

14. Petitioner need not prove either the existence or source of Commissioner Greaves' bias, nor does Commissioner Greaves have to admit that any such bias exists. That is the rule of law that makes the instant Motion easy to summarily grant.

15. The undisputed fact remains that there can *no dispute* that Commissioner Greave's <u>*appearance*</u> of bias and impartiality does exist.

16. **Proof of the Appearance of Bias, of Actual Bias (Example #1):**

    A. In the case, Commissioner Greaves' bias against Petition has actually been observed and confirmed by the Guardian *Ad Litem* ("GAL") in this very case. *See* **Exhibit A**, Affidavit of Matthew R. Grant.

    B. Commissioner Greaves' hostility towards Petitioner is so obvious that even Mr. Fenley expressly noted his impression of her hatred. This should set off alarms throughout the overseeing circuit judges' chambers throughout this courthouse considering the fact that Commissioner Greaves has been advised of that statement and she has not recused on her own.

    C. With regard to the GAL's impression and statement, the following provides more context:

        i. The Guardian *Ad Litem* stated to Petitioner that he had the <u>impression</u> that Commissioner Greaves **"hates"** Petitioner. *Id.*

        ii. That precise comment was made once by the GAL and confirmed a second time in which the GAL clarified that his statement was merely based upon his <u>impression</u> of the Commissioner and not based upon any actual communications. *Id.* The GAL's impression is precisely

what satisfies the standard for disqualification. To rule otherwise, would be to hold that the GAL is not a reasonable person.

iii. As noted in Petitioner's December 4, 2024, Second Expedited Motion and Request For July 23, 2023 Hearing Recording, Petitioner did not intend to imply in any fashion that the GAL has any communications whatsoever with Commissioner Greaves outside of the courtroom regarding this matter. *See* **Exhibit B**, ¶ 5.

iv. In fact, the GAL's statement was not even a surprise or otherwise notable to Petitioner, because it was a mere recognition of what everyone involved in this case, and anyone in attendance at any hearing in this matter has observed during any hearing.

D. The GAL's impression provides more than sufficient basis for the granting of this Motion.

v. Case closed, end of story.

vi. Commissioner Greaves cannot remain assigned to this case under the Missouri Supreme Court's Code of Judicial Conduct.

17. From a procedural standpoint,Commissioner Greaves' December 2, 2024, comments suggested that the Honorable Circuit Judge Jason D. Dodson, Administrative Judge of the Family Court of St. Louis County, was to hear this Motion. *See* **Exhibit A**, ¶ 8.

18. However, Missouri law is clear that this case should be transferred to future Presiding Judge Hilton, and that Judge Hilton will rule on this Motion to DQ. *See* **Exhibit B**, p. 1, n.1 (Petitioner's December 16, 2024, Motion to Vacate (w/o exhibits)); *see also* Rule 51.05.

19. Because it appears that Commissioner Greaves has no intention to recuse, Petitioner plans to call, at least, the Guardian *Ad Litem* to the stand at the hearing on this Motion and create a record of the evidence that the Guardian *Ad Litem* is expected to freely admit.

    a. The need to create such a spectacle is the choice of Commissioner Greaves and not Petitioner.

    b. Petitioner understands that he is placing the GAL, Mr. Fenley, in a very uncomfortable position by relying upon his statement as evidence. Mr. Fenley has a private practice in the Family Court of this courthouse and Petitioner understands that he routinely serves as a Guardian *Ad Litem*. Petitioner understands he may very well face consequences before Commissioner Greaves in future cases. To be clear, he absolutely should not, but based upon the Commissioner's actions in this case, it is likely. As discussed below, this is but one problem with Commissioner Greaves' actions in this matter.

        i. The blow-back potential for the GAL illustrates Petitioner's point. Why would any GAL fear retaliation? Why would any GAL face consequences for truthfully stating that any Judge or Commissioner is biased?

            1. He or she should have no such concerns.

            2. The Judicial Code of Conduct is in place to avoid the very situation that Commissioner Greaves has created. Self-recusal should have resolved the obvious bias long ago.

            3. Unfortunately, here any such concerns are fully understandable

because if Commissioner Greaves will not acknowledge her bias against Petitioner in this case, her wrath may surely be felt by Mr. Fenley in future cases. As will be discussed below, Commissioner Greaves has already begun her campaign of retaliation against Petitioner.

a. Petitioner's counsel/co-counsel, face that same dilemma.[2] Who dare cross Commissioner Greaves? Her culture of retaliation and fear *in this case* permeates throughout the courtroom like a thick fog for all to see.

b. Petitioner is a self-interested party no doubt. More importantly, he is also a Member of the Missouri Bar. This matter deserves the attention of the future Presiding Judge of this Court.

c. Mr. Fenley did absolutely nothing wrong by stating the obvious. Also, Petitioner's counsel had no involvement in the decision for Petitioner himself to file this Motion. It is Commissioner Greaves that should be held accountable here – and she should be disqualified. No one should face any retaliation.

    i. Again, the abomination that has taken place before Commissioner Greaves *in this case* is shameful. But, by no means does Petitioner

[2] It will be interesting to see if and for how long Petitioner's counsel can resist the urge to withdraw in this matter out of fear of retaliation from Commissioner Greaves.

suggest this is a common occurrence before any other Commissioner or Judge in this courthouse. Surely, it is not.

ii. Thankfully, the Missouri Supreme Court Code of Judicial Conduct, and the Canons therein, provide an avenue of redress for Petitioner to take on this issue *on his own*. However, the damage caused by Commissioner Greaves *in this case* is already done, it is permanent, and shockingly, it is ongoing.

iii. What if the Petitioner were a family law attorney? What retaliation would he face by filing this Motion?

1. If that situation were the case, Petitioner would likely have to unfairly waste future clients' absolute right to take a change in judge in every case in which Commissioner Greaves was assigned.

20. Because the evidence cited above may not be deemed sufficient evidence to satisfy the burden for the disqualification, Petitioner feels obligated to present a more complete record of Commissioner Greaves' appearance of and her actual bias against Petitioner will be further documented in the event it is needed for future appellate review. Solely due to the current length of this Motion, Petitioner will not list all of

the examples that exist above and beyond those in this Motion.

21. **Bias Example #2:**

The Commissioner's handwritten Order dated December 2, 2024, is false by material omission. Petitioner will present evidence at the hearing on this Motion on exactly how Commissioner Greaves attempted to deny Petitioner the right to even make his oral motion. Citing the lack of a notice of hearing was not the only tactic she employed. Out of respect for others, this evidence will be offered orally, and on the record.[3]

A. After Petitioner's statement as counsel in open court, Commissioner Greaves **slammed** down her binder (or notebook) and said, here paraphrasing: 'ok, let's go see Judge Dodson.' **Exhibit A.**

1. It was because her attempt at circumvention had failed that made the Commissioner so upset. She is well aware of her *actual bias* and she is finally being held to account.

22. **Bias Examples #3 and #4**:

A. After her concerted effort to deny Petitioner his right to even seek disqualification, Commissioner Greaves doubled-down on her attack upon

[3] As will be discussed infra, in light of the current leaks of information relating to the sealed docket in this matter, Petitioner assumes that this Motion will be fully circulated within, at least, the small, core group of family law practitioners in case. When that happens, it is more likely than not that this written Motion will be shared as well. Indeed, this Motion does not include all of the evidence that Petitioner will present at the hearing on this matter. To be clear, it is Petitioner's Notice of Deposition of Commissioner Greaves that seems to have garnered attention. Deposing a witness before testimony at a hearing should make sense to all knowledgeable in this matter.

Petitioner.

1. Following the December 2, 2024, oral motion, Commissioner Greaves deployed her most recent attack on Petitioner:

The Commissioner's Plan for Sua Sponte Attorney Disqualification of Petitioner:

B. On December 9, 2024, Commissioner Greaves entered, within a total of eight (8), two (2) specific mandates that should make any judge that reviews this Motion stop and stand still. In her December 9, 2024, Pre-Trial Orders, she issued the following mandates:

> 4) All attorneys of record for Petitioner shall file with the Court a declaration as to who will serve as first chair for the trial no later than December 17, 2024. Any attorney who will examine, or cross examine, a particular witness shall disclose that to the Court, in writing, no later than December 17, 2024.
>
> 6) The Court strongly encourages the parties and attorneys of record to review Supreme Court Rule 4 regarding Rules of Professional Conduct, including but not limited to Rule 4-3.7, Lawyers as Witnesses.
>
> **Exhibit B**, ¶¶ 4 and 6 (emphasis added).

C. With her actions above, Commissioner Greaves waited no longer than seven (7) days from the date of Petitioner's oral Motion to DQ, to signal that she has every intention to double-down and to proactively disqualify the Petitioner as counsel of record.

D. In paragraph four (4) of the Pre-Trial Orders, Commissioner Greaves set a rather obvious trap. *Id.*

E. In a surprising move, the Commissioner mistakenly revealed the trap when she included the statement that she "strongly encourages" the parties

and attorneys of record to review Rule 4-3.7, Lawyers as Witnesses. *Id.* Only one party in this case is bound by the Rules of Professional Conduct. The target of her aim could not be clearer.

F. Petitioner is no fool. He knows his obligations under Rule 4-3.7. He sees the trap for what it is.[4] Petitioner only entered his appearance in this case to handle a fact witness that was, and is, difficult to deal with:

1. This matter was filed on March 12, 2024.
2. On May 30, 2024, Petitioner's counsel filed a Notice to take Deposition of fact witness Staci Thomas.
3. That deposition was to take place on June 10, 2024.
4. The original Deposition Notice was amended on June 27, 2024, and reset the postponed deposition of Ms. Thomas until July 23, 2024.
5. It was only after fact witness Staci Thomas alleged some sort of conflict of interest with lead counsel and his firm taking her deposition, that Petitioner himself entered his appearance on July 10, 2024, to avoid the claim of conflict, save on more attorneys' fees and depose Ms. Thomas himself.[5]

[4] On December 17, 2024, Petitioner and his counsel timely filed their required compliance. *See* unredacted filing on the court docket.

[5] As Petitioner understands Ms. Thomas' claim of conflict it was based upon some closed, *completely unrelated matter*, handled by lead counsel's associate. It surely is strange that Ms. Thomas never raised this issue when she appeared for her June deposition in this matter and provided her document production.

6. Prior to the actual first day of Ms. Thomas' deposition, she alleged that Petitioner was also, now all of the sudden, prohibited from taking her deposition.

7. To avoid an unnecessary and costly dispute and delay, Mr. C. Curran Coulter was hired by Petitioner to handle all issues relating to Ms. Thomas, including, but not limited to taking her deposition. *See* Limited Entry of Appearance.

8. As discussed below, Petitioner has never even argued a Motion before Commissioner Greaves in this case, so the source of her obvious bias is a matter of tremendous concern. That said, the source or basis of her bias need not be resolved in order to grant this Motion.

G. With regard to the Commissioner's Pre-Trial Orders, it is undisputed that Missouri Ethical Rule 4-3.7 "Lawyers as Witnesses" has no application to the *pre-trial* stage of any litigation. The very rule itself states that it only applies to trial proceedings: "A lawyer shall not act as advocate **at a trial** …" if he/she is a *necessary* witness unless one of three exceptions apply. *See* Rule of Professional Conduct 4-3.7(a); *see also* LAWYER-AS-WITNESS RULE OFTEN MISUNDERSTOOD, *Minnesota Lawyer* (September 6, 1999):

> One often-misunderstood aspect of Rule 3.7 is that it is limited in its application to 'at a trial.' Virtually all authorities agree that even a lawyer who knows he is likely to be a necessary witness at trial is not prohibited from handling that matter throughout investigation, discovery and settlement negotiations, with client consent.

Id. (citing *ABA Inf. Op. 89-1529 (1989);* Pa. Ethics Op. 96-15 (1996)) (emphasis added).

I. Petitioner is quite confident that none of the Circuit Judges in this courthouse, nor any appellate judges of the Missouri Court of Appeals for the Eastern District, have ever seen a Family Court judge or commissioner Order such an odd disclosure of ***attorney work product***, namely, what counsel of record will examine which witness at trial. It is unheard of.

J. In the context of a situation in which counsel has just made an oral motion to disqualify for bias, the intent of that Order is downright scary. A reasonable person would conclude that Commissioner Greaves wanted to find a basis to *sua sponte* disqualify Petitioner on December 17th as soon as the ***attorney work product*** was disclosed via filing. In fact, a reasonable person could reach no other conclusion regarding the motive behind that aspect of the Pre-Trial Orders.

K. That aspect of the Pre-Trial Orders is even more suspicious considering a written version of Petitioner's Motion to Disqualify is looming and the relevant trial setting was more than three (3) months away at the time of the relevant Pre-Trial Orders' entry on the docket.

1. More troubling and as will be discussed below, the Pre-Trial Orders *sua sponte* reopened discovery for a period of seven (7) days.

2. Similarly, the Commissioner's *sua sponte* allowance of amended pleadings during the final eight (8) days of reponed discovery, is another frightening development.

3. The oddity of these additional points will be addressed below.

L. With regard to the "lawyer as witness" citation and the Order compelling a list of trial counsel responsibilities, the Commissioner's demand that counsel disclose who he/she will examine at trial was pretextual. A reasonable person could reach no other conclusion.

M. Commissioner Greaves knew that this Motion to Disqualify her would not have been filed and heard before December 17, 2024.

1. Does this aspect of the Pre-Trial Orders raise an appearance of impropriety and bias? Of course it does.

2. What it demonstrates should be a matter of serious concern for anyone reviewing this situation. It was intentional, and it was overt, even though it was poorly concealed.

3. The Commissioner set a trap hoping that Petitioner would affirmatively state that he will examine a witness so that she could *sua sponte* disqualify him as counsel in this case on or after December 17, 2024. That was her plan. She put it writing. There can be no doubt. Her Orders say that it is directed at Petitioner as the only party who is a member of the Missouri Bar.

4. There is zero chance that the Commissioner was concerned that any other counsel in this case would also be a witness at trial. That is clear. It was an attack on one person.

5. Not only would that scenario have allowed her to disqualify Petitioner at the new close of discovery, but it would also allow Commissioner Greaves to disqualify him as counsel of record ***before*** he could ***argue his own Motion to Disqualify***. So devious it was!

   a. Clearly, the Commissioner was and is so blinded with *hatred* and *bias* for the Petitioner that she doesn't even realize how obvious her maneuver was and is today to everyone involved.

   b. Whether or, if applicable, when Petitioner intends to withdraw as counsel now that Mr. Coulter has entered his appearance is not information the Commissioner needed on December 17, 2024.[6]

   c. The issue of which counsel may be serving in precisely what examination role at the *current* March 2025 trial setting before Commissioner Greaves in this matter, was not only protected by

[6] Of course, Petitioner and his counsel's filing pursuant to the Pre-Trial Orders directly complied with and addressed the issues raised by the Commissioner. *See* unredacted filing on this Court's docket.

the attorney work-product doctrine, it also was not ripe for any attention or ruling on December 17, 2024. No party had raised it by motion. It was raised by the Commissioner *sua sponte* and she had one motive. Any reasonable person could see that bias.

d. The indisputable fact is that this "lawyer at witness" issue was wielded as a weapon by the Commissioner solely at Petitioner in retaliation and in response to his oral Motion for Disqualification. It was and was a blatant effort to deny the him his right to argue this very Motion.[7] What more clear and convincing evidence of bias could there be?

e. Judge Greaves, again, violated the Code of Judicial Conduct with *extreme passion*.

f. The question remains as to why. Is it

[7] It is beyond notable that Petitioner has *never* even argued a single motion in this case. Clearly, Commissioner Greaves' hatred and bias comes from another source. *See* note 1 *supra*.

because Commissioner Greaves is uneasy having a non-family law practitioner appear before her?

g. Maybe it is because the Petitioner fears no retaliation from the Commissioner after the ruling on this Motion because Petitioner will likely never need to appear before her again?

h. What does that say about the Commissioner's view of her intimidation of those lawyers who practice before her?

i. Also, if the Commissioner's docket is truly sealed, how could other lawyers and judges learn of actions and filings in this matter?

    i. The answer is sad but obvious.

j. It is Petitioner's God given *free-will* to speak the truth that the family court lawyers appearing before Commissioner Greaves lack.

    i. Here, the Commissioner's most recent actions prove that there

can be no doubt that she will continue to violate the Rules of Judicial Conduct that govern her behavior, and she will continue to retaliate against Petitioner for insisting upon nothing more than an unbiased judiciary in this case.

ii. Just imagine the ruling that would follow the trial of this matter if Commissioner Greaves is allowed to keep this case.

iii. A reasonable person, such as Petitioner, can read the writing on the wall, that is why the oral Motion was made.

iv. The GAL's statement regarding hatred is irrefutable and it is clear and convincing evidence that Petitioner needed to be sure that when this Motion was brought, it would be either granted at the Circuit Court level or granted by the Missouri Court of Appeals

for the Eastern District.

v. The Commissioner's bias has been obvious for some time, but the moment the GAL acknowledge verbally his impression of hatred, Petitioner knew there was no risk that this Motion will be denied.

vi. No impartial judge would refuse to disqualify Commissioner Greaves in light of the statement of the GAL in this very case in which he is appointed.

k. Petitioner hopes that future Presiding Judge Hilton also reviews the (2) handwritten Orders entered by Commissioner Greaves on December 19, 2024, just days before this filing.

l. The most recent Orders *fly in the face* of the very Missouri Supreme Court and Eastern District Court of Appeals cases that Petitioner proactively cited to Commissioner Greaves in his December

16, 2024, Motion to Vacate. **Exhibit B**.

Allegations of bias be damned;

Commissioner Greaves feels that she is

immune from any oversight.

23. **Bias Example #4:**

The Commissioner's Prejudicial Effect of Assisting Respondent and Her Witnesses Directly Against the Petitioner's Interests

A. As noted above, on December 9, 2024, Commissioner Greaves reopened discovery for a period of eight (8) days. What an odd *sua sponte* action and what an odd selection of a length of time for reopened discovery. Trial was cancelled. Aligning anything with the trial date made no sense.

B. While not immediately apparent to an outside observer, this choice was yet another *biased* effort by Commissioner Greaves to prejudice the Petitioner.

C. Discovery in this matter closed on November 27, 2024. With the exception of a few agreed upon final discovery issues that were lingering, such as two (2) unexpected deposition cancellations, discovery was closed in this matter and the parties were ready for the trial to begin on December 17, 2024.[8]

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[8] Importantly, Commissioner Greaves should have had no way of knowing that third-party fact witness Ms. Sarah Grant, represented by counsel, walked out of her December 4, 2024 deposition before it even began. That was nothing but pure theatre. That was due to the fact that Ms. Thomas' deposition made Respondent and their two witnesses to all the sudden realize that they maybe had not considered whether they missed recording devices or whether they had been surveilled. They both had trespassed in Petitioner's home before. That was five (5) days before the December 9, 2024, Pre-Trial Orders. No motion practice had taken place as of December 9, 2024. Further, the Motion to Compel directed at Ms. Grant was not filed until December 16, 2024. What a convenience that this new discovery might reveal what surveillance might exist that will impact how truthful Ms. Grant is in her deposition. Similarly, there can be no doubt that Commissioner Greaves should not have known that reopening discovery for eight (8) days would benefit Ms. Thomas by allowing the Respondent to serve discovery seeking the very surveillance that would prove Ms. Thomas had lied under oath. So how could she know? Is this a coincidence?

D. Notably, Respondent had made no request for additional discovery.

E. Why would the Court *sua sponte* reopen discovery on December 9, 2024, for such an odd period of eight (8) days?

F. A review of the events of December 9, 2024, tells yet another chapter of this story of *hatred* and *bias*.

1. Counsel of record received notice from the Court's e-filing system at approximately December 9, 2024, at 12:02 p.m. that, among other things, discovery was now reopened. **Exhibit D.**

2. All counsel should have been surprised by such an unusual, *sua sponte* order.

a. What happened next reveals the plan that was somehow afoot:[9]

i. At 4:09 p.m., just 4 hours and 7 minutes after the Commissioner's 12:02 p.m. *sua sponte* Pre-Trial Orders (4:09 p.m.) were circulated to

[9] The question to be asked, is how would Commissioner Greaves know the non-court record facts that follow? Petitioner knows the answer and Commissioner Greaves denied the Motion to Reopen discovery for purposes of this Motion for Disqualification for one very specific reason. Any reasonable observer knows what that is. Fortunately, Petitioner issued a Notice of Deposition for Commissioner Greaves while the reponed discovery period was still open. That is why Commissioner Greaves ruled on a Motion so clearly directed to Judge Hilton. Any reasonable person can see that the Commissioner will never voluntarily sit for a deposition or testify at this hearing on this Motion. Any reasonable person knows why. Then again, Petitioner could be completely wrong, and the Commissioner will volunteer to take an oath and offer truthful testimony about the allegations of bias. Hopefully, we shall have the chance to see.

counsel of record, Respondent's counsel supposedly drafted a new set of unexpectedly allowed and new written discovery.

ii. It was as if Christmas had come early for Respondent and her counsel.

iii. Is that what happened?

b. What would a reasonable person infer from the fact that Respondent served two (2) sets of fully developed written discovery just over 4 hours after the unexpected Pre-Trial Orders were circulated earlier that very same day?

c. How could Respondent's counsel be ready to pounce so soon after an Order was circulated that absolutely no one expected?

d. The answer ***becomes clearer*** when the Circuit and/or Appellate Judge(s) consider what happened outside the courtroom and off the court's docket on November 26, 2024.

3. On November 26, 2024, the same fact witness discussed above, Staci Thomas, was deposed for several hours in a deposition that was agreed upon to be continued to take place on December 13, 2024. **Exhibit E-1.**

4. Ms. Thomas was asked if she met with Respondent and two (2) other fact witnesses in December 2023. She denied it:

> Q. At one point did Team Matt meet at your house and go over to Matt's house without his permission in December of '23?
>
> A. Not that I recall.

Id. at p. 103:18-21.

5. Ms. Thomas was also asked:

> Q. Were you at Matt's house in December of '23?
>
> A. No, not that I know of.
>
> Q. Do you know of anybody, Sarah, or Rebecca, accessing Matt's house *in December of '23*?
>
> A. Not that I know of. *That's a very specific timeline*. I don't know.

Id. at pp. 101:12-19 (emphasis added).

6. The question did not set forth any sort of "specific timeline" at all, and the witness' answer was knowingly false as will be proven at trial.

7. How does Petitioner know it was false? Because Ms. Thomas attempted to change her testimony the same exact evening that followed her deposition a few hours earlier

that day.[10] **Exhibit F.**

G. As no surprise, once Ms. Thomas realized that further false testimony could only harm her interests, she revoked her agreement to appear from Volume II of her deposition by filing a Motion to Quash on December 5, 2024. **Exhibit G.**

H. Ah but there's more, the very suggestion of the need for a Motion to Quash came from Respondent's counsel:[11]

> MR. COULTER: Okay. We'll suspend the deposition now and plan it continuing on the 13th.
>
> MS. BRODIE: ***Unless you file a motion to quash***, and that will be heard by Judge Greaves.

Exhibit E-2, p. 127:13-16 (emphasis added).

H. Respondent's counsel suggested to a third-party fact witness for her client

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[10] Ms. Thomas' deposition ended at 12:48 p.m. and her email was sent at 9:27 p.m. What we know is that Ms. Thomas recorded her own deposition and listed to it to determine the need to change anything based upon her review of evidence that she knew Petitioner possessed. What is shocking is that Respondent's counsel is the one that knew of the recording and jumped in to save her from revealing that secret:

> Q. Will you pull up your cell phone and see if you have this message?
> MS. BRODIE: You can't force her to open up a cell phone and look at it. Staci, this is up to you.
> THE WITNESS: Oh, yeah, no.
> **MS. BRODIE: You're representing yourself, but --**
> **THE WITNESS: Well, it's easy enough for me to look.**
> **MS. BRODIE: You shouldn't do that.** ***He can look at what you're doing on your cell phone, so***...

Exhibit E-2, pp. 58:22-59:9 (emphasis added).

That instruction from Respondent's counsel is surely odd to a reasonable person since Ms. Thomas testified that she and Respondent's counsel had ***only discussed fashion.*** **Exhibit E-3**, pp. 18:11-19:18. A reasonable person would certainly have a lot of questions about what has been going in this case by this point in this Motion.

[11] Surely, just another coincidence. And the correlation of Ms. Thomas' to the unexpected, reopened discovery seeking surveillance, etc. was yet another coincidence too.

that she should file a Motion to Quash and, miraculously, discovery reopens for only 8 days and Respondent has discovery ready to serve?

I. What would a reasonable person think that may show?

J. This case has been pending since March 12, 2024, so the new written discovery must have been something that Respondent had merely forgotten to serve, right? It can't relate to some new development, right?

K. Well, what a surprise, the written discovery the Respondent was miraculously allowed to serve, requested what?

L. It requested surveillance footage that may be in Petitioner's possession and/or in the possession of a private investigator that would show that Respondent and/or her third-party fact witness Staci Thomas, the one who changed her deposition testimony by email on November 27, 2024, the night of her completed deposition, had knowingly provided false testimony.

M. Here again, maybe Petitioner is wearing a tin foil hat and is exaggerating whether the discovery would show whether he possesses direct evidence that would prove false testimony, let's take a look:

5. As it pertains to Rebecca Copeland, Sarah Grant, Staci Thomas, and Christine Tinker, please state whether you are currently in possession of any photographs, and voice or audio recordings of any of the aforementioned persons, either individually or as a group; emails or text messages exchanged between any of the aforementioned persons; and/or text messages exchanged between any of the aforementioned persons from January 1, 2023, to the present.

PETITIONER'S ANSWER:

RESPONDENT'S ANSWER:

Already produced.

6. If your answer to the preceding interrogatory is in the affirmative, please provide the dates on which the photographs, and voice or audio recordings and email or text message exchanges were obtained.

PETITIONER'S ANSWER:

RESPONDENT'S ANSWER:

Not applicable – already produced.

7. If your answer to Interrogatory Number 5 is in the negative, please state whether someone whom you know or someone whom you have hired is currently in possession of the items detailed in Interrogatory Number 5.

PETITIONER'S ANSWER:

RESPONDENT'S ANSWER:

Not applicable.

8. If your answer to Interrogatory Number 7 is in the affirmative, please state the name and address of the person or persons who are currently in possession of the items detailed in Interrogatory Number 5.

PETITIONER'S ANSWER:

RESPONDENT'S ANSWER:

Not applicable.

9. Please state whether there has been any surveillance or any investigation of Rebecca Copeland, Sarah Grant, Staci Thomas, and Christine Tinker, either individually or within a group, including but not limited to photographs, video recordings, voice recordings, text messages, or emails.

PETITIONER'S ANSWER:

RESPONDENT'S ANSWER:

None exist.

10 If your answer to the preceding interrogatory is in the affirmative, please provide the following for each surveillance and/or investigation that has taken place or remains pending:

a The date or dates on which such surveillance or investigation occurred;

b The name and address of the person or persons performing the surveillance or investigation;

c. Whether or not the person performing the surveillance or investigation was a private detective or private investigator;

d. Whether or not any photographs were taken, and in whose possession such photographs currently remain;

e Whether or not a written report was made, and when it was completed.

f. If a written report was made, set forth verbatim the contents of that written report or attach a copy thereof to your answers;

g Whether or not oral reports were made and to whom (including addresses).

h. The names and addresses of all persons who have viewed any photographs or written reports, specifying which documents each party viewed;

i. At whose instruction such surveillance or investigation was initiated;

j. Whether there were any video or audio recordings made that include the other party;

k. The person(s) in possession of such video and audio tapes; and

l The names, addresses, and telephone numbers of all persons who have viewed and/or listened to any such video or audio tapes.

PETITIONER'S ANSWER:

RESPONDENT'S ANSWER:

None exist – not applicable

5. Relating in any way to your answer in Respondent's First Interrogatories, Interrogatory Number 5, please provide any and all photographs and voice or audio recordings of which you are currently in possession that relate in any way to the persons mentioned therein from January 1, 2023, to present.

PETITIONER'S ANSWER:

RESPONDENT'S ANSWER:

Not applicable – already produced.

6. Relating in any way to your answer in Respondent's First Interrogatories, Interrogatory Number 5, please provide any and all photographs and voice or audio recordings from January 1, 2023, to present that relate in any way to the persons mentioned therein, of which someone whom you know or have hired is currently in possession.

PETITIONER'S ANSWER:

RESPONDENT'S ANSWER:

Not applicable.

See **Exhibits H and I.**

M. Wow. The coincidences and convenient prejudice to Petitioner, again, continue to pile up.

N. Could it be that the denial of Petitioner's Motion to Reopen Discovery solely relating to disqualification evidence was denied by Commissioner Greaves, when ***she had no power to rule on it*** as *Matter of Buford* teaches, was somehow intended to prohibit further exploration of these coincidences? What would a reasonable person think? *See* **Exhibit B**.

O. Finally, what about the discovery period of eight (8) days? What could that mean to a reasonable person?

i. Is it yet another coincidence that Rule 58.02(b) prohibited Petitioner from serving any further subpoenas for documents along with any subpoenas for depositions on the

same day the December 9, 2024, Pre-Trial Orders were entered.

ii. Is it another coincidence that the eight (8) day period of reopened discovery is less than the ten (10) day minimum notice period for a deponent to bring documents? What would a reasonable person think?

iii. But Respondent served discovery on December 9, 2024, that would not be due until January 9, 2025, doesn't that mean that Respondent waived any objection that any further discovery conducted by Petitioner must be concluded by December 17, 2024?

iv. Only Respondent's counsel's own words reveal more than a description ever could:

From: Maia Brodie <MBrodie@brodielawstl.com>
Sent: Monday, December 16, 2024 10:37 AM
To: Mat Eilerts <Mat@groweeisen.com>; John Fenley <john@rhflegal.com>
Subject: FW: Notice of Deposition - Suzanne Bremehr

The judge closed all discovery as of December 17th. Obviously, until that order is set aside I will not agree to schedule more discovery.

Maia Brodie

From: Matt Grant <mattgrant.stl@gmail.com>
Date: Sunday, December 15, 2024 at 9:02 PM
To: Maia Brodie <MBrodie@brodielawstl.com>, Liz Carthen <lbiscan@brodielawstl.com>, John Fenley <john@rhflegal.com>
Cc: Mat Eilerts <Mat@groweeisen.com>, Curran Coulter <curran@coultergoldberger.com>
Subject: Notice of Deposition - Suzanne Bremehr

Exhibit J (highlighting added, cropped but unedited above, full email attached hereto).

v. Before moving on to the next example of the appearance of, or actual or bias and prejudice, it is more than worth the time and additional page length to address Commissioner Greaves' December 19, 2024 handwritten Orders.

vi. What caused Commissioner Greaves, so staunch in her belief that no motion is ripe for ruling until properly noticed for hearing upon seven (7) days' notice, to abandoned such a firmly held belief and rule on those two (2) orders *sua sponte*?

vii. What is it that garnered her attention so much that the Commissioner would *sua sponte* rule that discovery could not be reopened on the disqualification issues?

viii. Could it be the fact that on December 17, 2024, Petitioner filed a Notice of Videotaped Deposition to obtain the *Commissioner's own sworn testimony* before Petitioner calls her to the stand before future Presiding Judge Hilton at the hearing on this matter?[12] *See* **Exhibit K**.

23. **Bias Example #5**:

Petitioner-Counsel of Record is Denied the Right to Sit With his Lead Counsel

A. The history of Commissioner Greaves' bias in this case goes back much further than December 2, 2024, and before the GAL stated he had the

[12] Petitioner is not new to litigation. A deposition prior to cross-examination of any witness, much less the key witness, on the stand is critical. Here, the value of *videotaped* deposition of this witness is many times more than its financial cost.

impression that Commissioner Greaves "hated" the Petitioner. Much further back.

H. During a hearing on November 7, 2024, Commissioner Greaves admonished the Petitioner, both as counsel of record and as a party in this matter, from trying to move from the gallery of the courtroom to sit next to his counsel and co-counsel during the November 7, 2024, hearing in this matter.

I. Commissioner Greaves exclaimed:

> THE COURT: ***Have a seat, sir*** …
>
> *See* **Exhibit B**, p. 7:1 (hearing transcript) (emphasis added); *see also* Hearing Audio Recordings:
>
> [redacted] (LEVEL THREE RECORDING) (hereinafter "Google Drive").

J. While Commissioner Greaves' behavior is shocking in and of itself, it is mind-blowing when it considered in light of the fact that the *Respondent was sitting next to her own counsel at counsel table* at the moment the Commissioner verbally lashed out at Petitioner.

K. There is nothing more than needs to be said here. Petitioner is not only a party, but he is also counsel of record. Is there any question whether there is an appearance of bias by the Commissioner's commanding him like a dog to sit in the gallery?

L. If five (5) examples of bias were not enough, the floodgates continue to pour with even more evidence of hatred and bias.

23. **Bias Example #6:**

No discovery for you!

A. Commissioner Greaves' discovery rulings have not only been reversible error, but they are also simply unbelievable and classic evidence of bias and prejudice.

B. The following are not examples of mere complaints about losing a routine discovery motion that should be taken up on appeal at a later time. Oh no. These are Code of Judicial Conduct safety flares high in the night sky begging for the Court's attention.

C. Motion to Quash Credit Union Records:

1. This matter is a Motion to Modify action in which the Respondent intends to seek an award of her attorneys' fees in this matter at trial and the adoption of Respondent's proposed Parenting Plan, including her erroneous Form 14 calculations to reach child support figures, based upon her knowingly false Statement(s) of Income and Expenses, and false Statement(s) of Property.

2. This matter ***also involves*** Petitioner's now Second Amended Counter-Motion to Modify, in which he seeks to, among other things, recalculate and lower his monthly child support obligations, and he seeks an award of his attorneys' fees that he has incurred as a result of the travesty, including unnecessary fees, that has occurred with Commissioner's Greaves' active

assistance.

3. It goes without saying that Respondent's income, expenses, assets and liabilities are not only discoverable in this matter, but also admissible at trial. She filed a Form 14 and is seeking her attorneys' fees.
4. This should go without saying. This is not a controversial stance.
5. In light of this logical fact, and pursuant to routine discovery, Petitioner issued subpoenas to Respondent's credit union for her banking records dating back to January 1, 2018.[13] **Exhibit L.**
6. That led to Respondent's Motion to Quash, the ruling upon which Commissioner Greaves needed to only address the scope of discoverability. Notably a Protective Order was long ago entered in this case.
7. Surely, a Family Court Commissioner would allow a party to test the veracity of income, expense, asset and liability assertions that were made by a party under oath.
8. In opposition to Respondent's Motion to Quash, Petitioner's counsel explained how:
    a. The Respondent's claims do not "match up."

[13] This date was chosen as the last Motion to Modify Judgment is dated December 20, 2017. *See* Court Docket, Case No. 12SL-DR03959-01.

Exhibit M, pp. 3:1-9:22 (11/7/24 hearing transcript); *see also* Google Drive.

b. Certain things on Respondent's statement of property, "based on connecting some dots, that are missing." *Id.*

c. Counsel stated that he wanted to see if "there's other employment, or sources of funds, people are giving her money, so on and so forth." *Id.*

9. Well, to no one on Petitioner's side's surprise, Commissioner Greaves' hatred and bias reared its head again and, that's right, she flat-out refused to allow Petitioner to subpoena ***any*** copies of Respondent's banking records in this matter. *Id.; see also* **Exhibit N** (11/7/24 handwritten order granting Respondent's Motion to Quash).

10. In order to limit the time frame of the subpoena, Petitioner's counsel even offered to voluntarily limit the request to the last 12 months. But that wasn't acceptable either:

> MR. EILERTS: Judge, can I help this by saying ***that I will agree simply to limit this back to <u>one year from now</u>*** on these requests? Like I said, we have evidence that she is deliberately not disclosing all of her assets.
>
> THE COURT: Well then put on that evidence at trial.

Id. at p. 8:17-23 (emphasis added).

11. Commissioner Greaves' ruling was based upon nothing,

nothing but overwhelming bias.

12. "Put on that evidence at trial"? What evidence?
13. Without the aid of discovery such as obtaining copies of Respondent's financial documents, there is no way to test the veracity of the Respondent's financial claims and there is no impeachment evidence available to put into evidence at trial as the Commissioner suggests.
14. Petitioner's counsel's arguments here, like every other time, were *predestined to fail*. Not because the scope or time frame were improper, but because the discovery was sought by Petitioner.
15. Again, the evidence on actual bias and prejudice on this issue does not stop here.

24. **Bias Example #7:**

The Commissioner's Bias is So Palpable That Respondent and her Counsel Cannot Resist

A. The *objective* proof that Commissioner Greave's November 7, 2024, Order on Respondent's Motion to Quash the subpoena to Respondent's credit union, was based upon bias and was so one-sided, and obvious and apparent to everyone in the courtroom to see – not just the GAL, that Respondent's counsel jumped at the chance to take full advantage of the Commissioner's willingness to rule against Petitioner at every chance.

B. The Commissioner had struck again, and Petitioner's blood was in the water.

C. No counsel in their right mind would issue a subpoena to Petitioner's bank for

his records that was similar to the subpoena that Commissioner Greaves' had just quashed. No reasonable attorney would do such a thing.

D. Wrong. Respondent's counsel not only fully understood the situation, she took full advantage of the Commissioner's bias and hatred and pounced again.

E. That's right, just ~~five (5)~~ six (6) days after the Commissioner's ruling quashing the subpoena that sought Respondent's financial bank records, Respondent did exactly what the reader of this Motion should now expect. Yep, after virtually seeing the bias dripping from Commissioner Greaves' bench, Respondent's counsel issued a subpoena to Petitioner's bank for *his bank records* going back to January 1, 2019. *See* **Exhibit O**.

F. This is no joke, this happened in this courthouse. You can't make this stuff up.

G. But why would Respondent's counsel request the same information that Petitioner was just denied? The answer is obvious.

H. Respondent issued her post-quash Order subpoena to Petitioner's bank with the full expectation, based upon real observation and experience, that Commissioner Greaves would provide an inconsistent ruling and allow her, but not Petitioner, the right to obtain copies of his bank records going back to January 1, 2019. Of course she expected that. How could she not?

I. Petitioner was not surprised by Respondent's subpoena one bit. He knew, just like Respondent's counsel, that Commissioner Greaves would allow the subpoena as it was directed at the Petitioner.

J. Ah, finally, the doors finally opened for Petitioner to act.

25. **Bias Example #8:**

Finally, a Chance for One of the Rebels to Strike Back at the Empire and Show Knowledge of Actual Bias within the Fleet

A. Faced with a Commissioner expected by everyone to provide inconsistent rulings, Petitioner finally set a trap of his own.

B. He did not file a Motion to Quash Respondent's subpoena to his own bank that the Commissioner would summarily deny. No that is too obvious. Besides, Respondent was entitled to those records just as was entitled to hers.

C. Instead, on November 18, 2028, Petitioner ***literally copied and pasted*** the Exhibit A from the Respondent's subpoena to *his bank* and pasted into his own Exhibit A and reissued his own subpoena to *her bank*. *Compare* **Exhibit P** *with* **Exhibit Q**.

D. The trap was obvious. No one could miss it, right?

E. Wrong, Respondent's counsel fell into it, headfirst.

F. On November 27, 2024, Respondent ***moved to quash*** Petitioner's subpoena to Respondent's bank containing the ***exact same*** Exhibit A that he copied from Respondent's subpoena to his own bank. **Exhibit R**.

1. Respondent's counsel is an experienced lawyer in this Family Court. Petitioner does not suggest in the slightest that she failed in her litigation skills.

2. Respondent and her counsel were *blinded* by the situation created by Commissioner Greaves. They did not hesitate to take every action they could against Petitioner, it was

utterly irresistible. It was because they knew, just like the GAL knew when he made his rather obvious statement, that Commissioner Greaves would rule against Petitioner at every opportunity because she *hated* him.

3. It is from that lens that Respondent and her counsel viewed their opening to move to quash what is substantively their own subpoena. Once this Motion is leaked, and it will - unfortunately - be leaked by someone other Petitioner or his counsel, this should make for Christmas and New Year's party conversation. Imagine, moving to quash your own subpoena.

26. **Bias Example #9:**

A Preliminary Injunction Hearing Setting Didn't Indicate Any Hearing at All

A. Petitioner appeared at the Preliminary Injunction Hearing on August 5, 2024, and he was eager to have a hearing so that a ruling, any ruling, based upon the GAL's known recommendation, disclosed to both Petitioner and Respondent, to include unsupervised visits and overnights would surely be entered.[14]

B. As expected, Commissioner Greaves not only dissuaded Petitioner from pursuing an actual hearing, the Commissioner refused to even consider the GAL's *obvious emphasis* that despite the absence of an agreement of the

[14] Shockingly, although Petitioner had returned from rehab in April and had been undergoing and100% passing every breathalyzer test (minimum of 3 times per day), Petitioner still had supervised visits and no overnight custody.

parties, he was prepared to recommend expanded custody and/or visits after the hearing. Not to be thwarted, Commissioner Greaves pivoted and grasped onto some nonsensical argument for delay:

> MS. BRODIE: John Fenley did provide me with documents, ***but he didn't -- he did not get the documents for the three that are outstanding***. He got documents for three other treatment centers but not the three that are still outstanding. And he did provide me with those in a timely manner, yeah.
>
> THE COURT: Right. So I guess the question I'm asking is, we've got a lot of records involved in this case, right? And it's not in our control over if or when these entities hand them over, right? It sounds like it's not for lack of trying. It doesn't sound like your client is obstructing the release of those documents. But do we have all the documents we need?
>
> MS. BRODIE: I do not -- I do not have those three entities.
>
> THE COURT: Mr. Fenley, do you feel like we have all the documents we need for you to feel comfortable proceeding today and making a recommendation as the Guardian ad Litem for the minor children?
>
> MR. FENLEY: Your Honor, I think we're -- when I'm looking at this, I'm looking at in terms of the preliminary injunction. ***I feel like we have enough to proceed on a temporary basis, wherein a lot of the main concerns of this were Mr. Grant's alcohol use and abuse, in all honesty, and I think he would admit that.***
>
> THE COURT: I don't know. I don't know what he's going to admit or not admit, ***we're still talking about documents that someone has asked for and we don't have yet.***
>
> MR. FENLEY: His most recent treatment records were provided to me, records from his treating therapists were provided to me. ***So, in my opinion, the most relevant things have been provided and the most up-to-date items have been provided.*** I don't disagree with Ms. Brodie that, you know, she wants everything to flesh out the history here because there is a long history. ***Do I think I could make a temporary recommendation that's subject to change at a full motion to modify trial? Yes, I could, on today's -- at today's --***

> ***at the conclusion of today's hearing. But I also have been in contact with both attorneys making an informal recommendation and both parties to try and move this along on a consent basis, which, unfortunately, we have not gotten an agreement on which is why we are here today.***
>
> THE COURT: All right. ***So when do we think we're going to have all the records?***

Exhibit S, pp. 9:3-11:3 (LEVEL 3 filing) (emphasis added); *see also* Google Drive.

C. Right there, it happened in the flash of an eye; did the reader of this Motion see it?

D. Like a David Copperfield magic trick and with an almost invisible sleight of hand, Commissioner Greaves pulled off her plan.

E. The Commissioner completely ignored the GAL's ***strained effort*** to convey to the court that, no more records were needed, he was ready to have the hearing and he was ready make a recommendation that would help the Petitioner.

F. The Commissioner's knee-jerk reaction was to try to prejudice the Petitioner.

G. The excuse? The GAL did not receive and pass along 3 sets of records that the GAL was "missing."

H. It is here, on queue, that Respondent's counsel played her part and helped hide the bias and prejudice that had just been pulled off without the audience's observation.

I. Regarding the three (3) missing sets of records, surely it was Petitioner's fault they had not been provided to the Respondent before the hearing.

That is the clear implication.

J. The truth tells yet another different story.

K. The truth can be found by reviewing Respondent's Motion to Continue the Preliminary Injunction hearing that had already been continued from June 13, 2024.[15] **Exhibit T**.

L. As the Motion to Continue demonstrates, even though this matter was filed on March 12, 2024, and the Preliminary Injunction was originally set for June 13, 2024, Respondent was basing her argument on the fact that she didn't have records that were not requested until June ~~27,~~ 25, 2024!

M. How was Respondent going to go forward at the Preliminary Injunction Hearing was scheduled on June 13, 2024?[16]

***Some Parting Wisdom from the Georgetown Journal of Legal Ethics*:**

1. As a final, and secondary source citation, Petitioner urges the reader of this Motion to review the insightful article: THE CURIOUS CASE OF CHILD SUPPORT MAGISTRATE LU ANN BALLEW: A DEMONSTRATION OF THE PROBLEM WITH RELIGIOUS BIAS IN JUDICIAL DECISION MAKING, 27 Georgetown Journal of Legal Ethics 391 (Summer 2024).

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[15] The delay tactic employed here will be addressed at trial. In summary, Respondent made an agreement with Respondent and the GAL that avoided the need the June 13, 2024, Preliminary Injunction hearing because the parties agreed on a protocol to cease supervised visits. Then, once the hearing was cancelled, she reneged! Petitioner will likely call a witness at trial to address exactly how this scam was deployed.

[16] Now, if we remove another layer from this onion, the reader can see that while Petitioner provided the requested authorizations on July 13, 2024 (not July 14th), the delay was caused by, you guessed it, the Respondent. Petitioner had sent Respondent a draft Protective Order that was needed to secure the treatment of his medical records. Respondent did not return it until – wait for it – July 11th. **Exhibit T** (highlighting added).

2. As the article's authors summarized, the "curious case" at issue in the case analyzed there, involved a Child Support Magistrate in the State of Tennessee named Lu Ann Ballew who, much like Commissioner Greaves, refused to relent and acknowledge her own bias:

> In September of 2013, the Chancellor Telford E. Forgety Jr. reversed Ballew's decision stating that "the rationale for her decision was based on her Christian beliefs." On October 23, Ballew was charged with judicial code violations by Tennessee's Board of Judicial Conduct. She was served with process on November 5 and she was required to respond by December 5. Both parties announced an agreed order on December 11 that gave Ballew until January 6, 2014 to file an answer with the Judicial Board. On January 6 she responded and did not deny that her religious bias affected her decision-making. She stuck to her argument that Messiah is a titled reserved for only Jesus. On January 31, Ballew was removed from her position as Child Support Magistrate by Judge Duane Slone. Ballew was "serving at the pleasure of" Slone, which means that Slone appointed her so Slone can remove her. A hearing was held on March 3 in Jefferson County concerning Ballew's violations of the Tennessee Code of Judicial Conduct. At the hearing, the Tennessee Board of Judicial Conduct unanimously found her in violation of all charges. Since she had already been fired from her job as Child Support Magistrate the court sanctioned her with "public censure," which is simply a public reprimand for these infractions.

Id. at 392-93.

3. The review article involved a detailed discussion of a judge's (or, by analogy, here a Commissioner's) duty under Canon 1 to "uphold and promote the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety." *Id.* at 395.

4. The Ethics article went on to address the express language of Rule 1.2 that a judge "A judge shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary, and **shall avoid impropriety and the appearance of impropriety**." *Id.* at 396 (emphasis added).

5. As recently referenced by Petitioner in his Motion to Vacate (**Exhibit B**, ¶ 24),

the authors of this article emphasized that "[t]he importance of the impropriety standard is revealed with the American Bar Association's (ABA) placement of this standard at the beginning of the ABA Code of Judicial Conduct." *Id.* (emphasis added).

6. The authors responded to any criticism of this component of Canon 1 of the ABA's Code of Judicial Conduct as misplaced because "[t]he impropriety standard was to 'carefully [guard] not only against actual abuse, but even against ***the appearance of evil***, from which doubt can justly be cast upon the impartiality of judges.'" *Id.* (emphasis added).

7. This recognition applies with ***strenuous force*** in this matter.

8. Just as here, the article makes a compelling observation that "[b]ut even if the judicial ethical standard is vague, 'members of a bar can be assumed to know that certain kinds of conduct, generally condemned by responsible men, will be grounds for disbarment.'" *Id.* Such is very the situation before this Court.

9. Commissioner Greaves' eyes are not shut; they are wide open.

10. In light of her recent refusal to even attempt to distinguish a case directly on-point from the Missouri Supreme Court, Commissioner Greaves is no different than Magistrate Ballew.

11. The Commissioner should have recused long ago.

12. Petitioner has been open about the fact that this case was always being litigated for an appeal before the Missouri Court of Appeals, Eastern District. Just ask the GAL, the communications between those two individuals are not privileged.

13. Petitioner went so far as to tip his hand as to the evidence he has from the GAL's

statement in this case that it is his impression that Commissioner Greaves "hates" him.

13. Why would the Petitioner include a roadmap for the Commissioner to take the exit ramp and depart this situation?

14. Why? Why wouldn't Petitioner just keep his mouth shut and file this Motion to Disqualify and wait for the Order granting it?

15. In case the answers to these questions are not clear, Petitioner will set the record straight as he fully expects many will read this Motion, despite its sealed nature:

    A. Petitioner is not just a litigant; he is a member of the Missouri Bar;

    B. He has seen the reputation of those in this profession, whether on the bench or arguing before it, suffer ridicule;

    C. So often the jokes are undeserved and the ill-repute lingers for far too long;

    D. Petitioner has practiced at the very top of this profession and he is starting over at the very bottom. This experience provides a perspective that others, fortunately, do not possess;

    E. All Commissioner Greaves had to do is what was right. She took an oath. All she had to do was follow it;

    F. Just recuse and let another Judge or Commissioner take an unbiased look at this case. It is that simple;

    G. Even after digging her foxhole, climbing in, and firing every weapon she has at Petitioner, the Petitioner still dug her a trench so should could escape;

H. She simply will not take it;

I. Commissioner Greaves refuses to admit her bias. Her decision is knowing and it is intentional;

J. She actually thinks she can prevail;

K. The exit lane is now closed and Petitioner has filled the trench to escape with dirt;

L. It is Commissioner Greaves that has caused this time of reckoning. Her and her alone;

M. *More important* than his interests as a Member of the Bar, Petitioner is a father;

N. He is a father that took ownership of challenges, tackled them on exactly March 17, 2024, and he has done every single thing asked of him ever since;

O. He and his Children have been forced to have no real meaningful time together;

P. Petitioner and his Children had only a few hours of weekly ***supervised*** visits, until August 7, 2024;

Q. Recall that the TRO was entered on March 13, 2024. That is almost five (5) months;

R. Petitioner has lost at every turn;

S. It is a miscarriage of justice;

T. It was not an accident or the result of judicial negligence;

U. Commissioner Greaves has ***actively cooperated to prejudice***

Petitioner, in this ongoing scheme;

V. Right now, on December 22, 2024, more than nine (9) months after the TRO was entered, Petitioner has one (1) overnight with his Children each week; from a single overnight with his Children that began on March 13, 2024;

W. What is worse, is that Petitioner only received the one (1) weekly overnight on October 3, 2024;

X. What has happened at the hands of Commissioner Greaves in this case is utterly shocking and should make this courthouse stand-still;

Y. Now this scheme *involving many*, is on a path guided by the Commissioner Greaves to possibly result in Petitioner going backwards and only having two (2) overnights with his Children ***each month***;[17]

R. Petitioner has 4 overnights with his Children each month now;

S. Does the reader of this Motion see it? Is it obvious yet?

T. How could Respondent's counsel sign off on and file such a request, to reduce Petitioner's overnights with his Children to ***two (2) nights each month***?

U. Does the reader know the answer?

V. Does Petitioner even need to keep typing….

W. IT IS BECAUSE Commissioner Greaves has *no judicial ethics*

[17] *See* Respondent's November 26, 2024, Proposed Parenting Plan.

whatsoever in this case as her actions prove that she does, indeed, hate the Petitioner;

X. But why? Oh, Petitioner knows, but this Courthouse is not where that story will be told;

Y. Petitioner would have had a better chance jumping in a time machine and going back to 1919 and betting on the ***1919 Black Sox to win in the World Series***, than he would betting on himself to have anything close to a fair result in this case;[18]

Z. He will ***not*** allow a biased Commissioner continue to irreparably harm his Children;

AA. No, he will not;

BB. Petitioner is 49 years old. He has experience and maturity that his 13 and 15 year old sons do not have;

CC. Their time with their father before they are off to college is ticking away;

DD. Will this and his recent filings create, despite the "sealed" nature of these proceedings, cause talk within the rather small legal community in St. Louis?

EE. Of course it will;

FF. This is just another case for the Commissioner, not so for Petitioner;

GG. Petitioner needs no foxhole, he fights in the open and welcomes all

[18] https://en.wikipedia.org/wiki/Black_Sox_Scandal

to watch;

GG. His Children are at stake before a Commissioner who openly rejects her ethical duties under the Missouri Supreme Court's Code of Judicial Conduct; and

HH. And this battle for what is ethical, for what is right, and for what is fair, has only just begun!

WHEREFORE, Petitioner prays that this future Presiding Judge Hilton enter an Order disqualifying Commissioner Greaves in this matter, transferring this matter to the Missouri Supreme Court for its appointment of a Non-21st Circuit Judge, and for such further relief as the Court deems just and proper.

Respectfully submitted,

By: _____

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing was served in accordance with Rule 103.08 of the Missouri Rules of Civil Procedure, through the electronic filing system of the State of Missouri, this 23rd day of December 2024 to:

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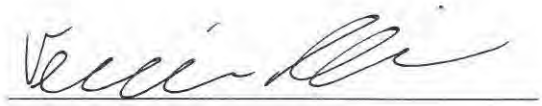
Guardian *Ad Litem*

NOTARY ACKNOWLEDGEMENT

State of Missouri)

County of St. Louis)

On this 23rd day of December, 2024, before me, the undersigned notary, personally appeared Matthew R. Grant, proved to me through identification documents (a Missouri Driver's license), to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose.



(official signature and seal of notary)

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing was served in accordance with Rule 103.08 of the Missouri Rules of Civil Procedure, through the electronic filing system of the State of Missouri, this 3rd day of January 2025 to:

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/s/ Matthew R. Grant