

6-4-2009

# Driggers v. Grafe Clerk's Record v. 1 Dckt. 35618

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IN THE  
SUPREME COURT  
OF THE  
STATE OF IDAHO

PAUL WILLIAM DRIGGERS,

PLAINTIFF-APPELLANT,

vs.

AMANDA GRAFE, THE IDAHO DEPARTMENT OF  
HEALTH AND WELFARE, RICHARD ARMSTRONG,  
KAREN P. VASSALLO, DAVID BECK, THE POST  
FALLS POLICE DEPARTMENT, CERTAIN  
UNKNOWN POST FALLS POLICE OFFICERS,  
EUGENE MARANO, ROBERT BURTON, THE  
KOOTENAI COUNTY COURT, LINDA GREEN, CASA,  
DANIEL COOPER, and THE KOOTENAI COUNTY  
PUBLIC DEFENDERS OFFICE,

DEFENDANTS-RESPONDENTS.

*Appealed from the District Court of the Fourth Judicial  
District of the State of Idaho, in and for ADA County*

*Hon RONALD J. WILPER, District Judge*

PAUL W. DRIGGERS

*Appellant Pro Se*

LAWRENCE G. WASDEN  
Attorney General

*Attorney for Respondent*

FILED - COPY  
JUN - 4 2009  
Supreme Court Court of Appeals  
Entered on ATS by: \_\_\_\_\_

COPY

35618

IN THE SUPREME COURT OF THE STATE OF IDAHO

PAUL WILLIAM DRIGGERS,

Plaintiff-Appellant,

and

DESARAE J. DRIGGERS, CSARENA M. DRIGGERS  
and MILINDA K. DRIGGERS,

Plaintiffs,

vs.

AMANDA GRAFE, THE IDAHO DEPARTMENT OF  
HEALTH AND WELFARE, RICHARD ARMSTRONG,  
KAREN P. VASSALLO, DAVID BECK, THE POST  
FALLS POLICE DEPARTMENT, CERTAIN UNKNOWN  
POST FALLS POLICE OFFICERS, EUGENE MARANO,  
ROBERT BURTON, THE KOOTENAI COUNTY  
COURT, LINDA GREEN, CASA, DANIEL COOPER,  
and THE KOOTENAI COUNTY PUBLIC DEFENDERS  
OFFICE,

Defendants-Respondents.

Supreme Court Case No. 35618

CLERK'S RECORD ON APPEAL

Appeal from the District Court of the Fourth Judicial District, in and for the County of Ada.

HONORABLE RONALD J. WILPER

PAUL W. DRIGGERS

APPELLANT PRO SE

TUCSON, ARIZONA

LAWRENCE G. WARDEN

ATTORNEY FOR RESPONDENT

BOISE, IDAHO

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Date	Code	User		Judge
10/26/2007	NCOC	CCWRIGRM	New Case Filed - Other Claims	Ronald J. Wilper
	MOAF	CCWRIGRM	Motion & Affidavit for Fee Waiver (prisoner)	Ronald J. Wilper
11/19/2007	NOTC	CCWATSCL	Notice of Change of Address of Record and Request for Ruling on Application of Plaintiff to Proceed in Forma Pauperis	Ronald J. Wilper
12/7/2007	ORDR	DCABBOSM	Order Denying Motion for Fee Waiver	Ronald J. Wilper
12/24/2007	MOTN	CCTOONAL	Motion for Reconsideration of Plt's Forma Pauperis Application	Ronald J. Wilper
2/4/2008	MOTN	CCAMESLC	Suppliment to Motion for Reconsideration of Plt's Forma Pauperis Application	Ronald J. Wilper
	SUPL	CCAMESLC	Supplement to Breif in Support of Complaint	Ronald J. Wilper
	OBJT	CCSTROMJ	Objection to Clerk's Failure to File Complaint and to Return of Same	Ronald J. Wilper
2/22/2008	ORDR	DCJOHNSI	Order Denying Motion to Reconsider	Ronald J. Wilper
3/4/2008	COMP	CCTOONAL	Complaint Filed	Ronald J. Wilper
3/7/2008	SMFI	CCTOONAL	(3) Summons Filed	Ronald J. Wilper
5/29/2008	NOTC	CCTOONAL	Notice of Special Appearance and Motion to Dismiss (Moody for State of Idaho, Department of Health and Welfare)	Ronald J. Wilper
	MEMO	CCTOONAL	Memorandum in Support of Motion to Dismiss	Ronald J. Wilper
6/16/2008	RSPN	CCTEELAL	Plaintiff's Response in Opposition to Defendant Idaho Department of Health & Welfare's Memorandum in Suppor tof Motion to Dismiss	Ronald J. Wilper
7/16/2008	NOHG	CCGWALAC	Notice Of Hearing	Ronald J. Wilper
	HRSC	CCGWALAC	Hearing Scheduled (Motion to Dismiss 08/04/2008 01:30 PM)	Ronald J. Wilper
8/4/2008	DCHH	DCJOHNSI	Hearing result for Motion to Dismiss held on 08/04/2008 01:30 PM: District Court Hearing Held Court Reporter: cromwell Number of Transcript Pages for this hearing estimated:50	Ronald J. Wilper
8/14/2008	ORDR	DCJOHNSI	Order Granting Motion to Dismiss	Ronald J. Wilper
	CDIS	DCJOHNSI	Civil Disposition entered for: Beck, David, Defendant; Burton, Magistrate Robert, Defendant; Grafe, Amanda, Defendant; Idaho Department Of Health And Welfare, Defendant; Kootenai County Magistrate Court, Defendant; Marano, Magistrate Eugene, Defendant; Post Falls Police Department, Defendant; Unknown Post Falls Police Officers, Defendant; Vassallo, Karen R, Defendant; Driggers, Csarena M, Plaintiff; Driggers, Desarae J, Plaintiff; Driggers, Milinda K, Plaintiff; Driggers, Paul William, Plaintiff. Filing date: 8/14/2008	Ronald J. Wilper
	STAT	DCJOHNSI	STATUS CHANGED: Closed	Ronald J. Wilper
8/25/2008	APPL	CCRANDJD	Application for Default Declaratory Judgment	Ronald J. Wilper

00003



Date: 4/28/2009

urth Judicial District Court - Ada Coun

User: CCTHIEBJ

Time: 12:49 PM

ROA Report

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Case: CV-OC-2007-19469 Current Judge: Ronald J. Wilper

Paul William Driggers, etal. vs. Amanda Grafe, etal.

Date	Code	User		Judge
8/25/2008	APSC	CCTHIEBJ	Appealed To The Supreme Court	Ronald J. Wilper
9/4/2008	ORDR	DCJOHNSI	Order Dismissing Application for Default Declaratory Judgment	Ronald J. Wilper
10/10/2008	AMEN	CCTHIEBJ	Notice of Appeal	Ronald J. Wilper
	STIS	CCTHIEBJ	Statement Of Issues On Appeal	Ronald J. Wilper
12/22/2008	ORDR	DCJOHNSI	Order Approving Application to Proceed w/o Full Fees	Ronald J. Wilper

00004

RECEIVED

OCT 26 2007

Ada County Clerk

NO. \_\_\_\_\_ FILED \_\_\_\_\_  
A.M. \_\_\_\_\_ P.M. 4

OCT 26 2007

J. DAVID NAVARRO, Clerk  
By R. WRIGHT  
DEPUTY

PAUL WILLIAM DRIGGERS

Full Name of Party Submitting This Document

Reg. 00922-287

Mailing Address (Street or Post Office Box)

FDC Seatac Unit DC

City, State and Zip Code

P.O. BOX 13900

Telephone Number

Seattle, WA. 98198-1090

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

PAUL WILLIAM DRIGGERS

Plaintiff,

vs.

AMANDA GRAFE, IdHW,  
et Al., Defendants

Case No.: CV OC 0719469

MOTION AND AFFIDAVIT FOR FEE  
WAIVER

STATE OF IDAHO )  
County of ADA ) ss.

Plaintiff  Defendant asks to start or defend this case without paying fees, and swears under oath:

1. This is an action for (type of case) TORT AND DECLARATORY JUDGMENT (ABUSE OF PROCESS)
2. I am unable to pay the court costs. I verify that the statements made in this Affidavit are true and correct. I understand that a false statement in this Affidavit is perjury and I could be sent to prison for one to 14 years. The waiver of payment does not prevent the court from later ordering me to pay costs and fees.

Do not leave any items blank. If any item does not apply, write "N/A". Attach additional pages if more space is needed for any response.

**IDENTIFICATION AND RESIDENCE:**

Name: PAUL W. DRIGGERS Other name(s) I have used: NONE

Address: Federal Detention Center, Seattle, WA. 98198

How long at that address? 4-months Phone: N/A

Date and place of birth: Baltimore, Maryland

Education completed (years): 16 yrs.

**FAMILY:**

Marital Status: [ ] Single [ ] Married [] Divorced [ ] Widowed [ ] Separated

The following minor children live with me:

Name	Age	Relationship	Child Support Received (\$/month)
<u>(NOT APPLICABLE)</u>			

**EMPLOYMENT:** NONE

Occupation: \_\_\_\_\_ Employed by: \_\_\_\_\_

Position: \_\_\_\_\_ Salary: \$ \_\_\_\_\_ or \$ \_\_\_\_\_ per hour

Monthly gross income \$ \_\_\_\_\_. If your current position is temporary what are the start and end dates? (NONE - Federal detainee)

Phone number to use to verify: \_\_\_\_\_. If you have held this job less than one year, previous employer: \_\_\_\_\_

Phone number to use to verify: \_\_\_\_\_

Spouse's Occupation: \_\_\_\_\_ Employed by: \_\_\_\_\_

Position: \_\_\_\_\_ Salary: \$ \_\_\_\_\_ or \$ \_\_\_\_\_ per hour

Monthly gross income \$ \_\_\_\_\_. If your spouse's current position is

temporary what are the start and end dates? \_\_\_\_\_

I receive assistance or support from the following sources and in the following monthly amounts:

Spouse: \$ \_\_\_\_\_ Welfare: \$ \_\_\_\_\_ Food Stamps: \$ \_\_\_\_\_ Relatives: \$ \_\_\_\_\_

Unemployment Compensation: \$ \_\_\_\_\_ Social Security: \$ \_\_\_\_\_ Retirement: \$ \_\_\_\_\_

Former Spouse: \$ \_\_\_\_\_ Other (identify) \_\_\_\_\_ \$ \_\_\_\_\_

If unemployed, how long since your last regular employment? \_\_\_\_\_

List all places where you have applied for work in the last six months:

Company	Last Applied	Reason for Rejection
- NONE -		

Are you willing to work now? N/A What work can you do? N/A

What is the minimum wage for which you are willing to work? \$ N/A

List all employers you worked for during the last three years.

Company	Date Terminated	Ending Salary	Reason for Termination
QUEST TELEPHONE,	AUGUST 2, 2006	\$9.50/hr.	ARRESTED by FBI
(None other in last 3-yrs.)			

Are you capable of working now? [ ] Yes [X] No If no, why not? PRISONER.

If a health problem keeps you from working, provide the name of your treating doctor: N/A

\_\_\_\_\_ Is your health problem permanent? [ ] Yes [ ] No

When will you be released to work? UNKNOWN.

**ASSETS:**

List all real property (land and buildings) owned or being purchased by you.

Address	City	State	Legal Description	Value	Your Equity
<u>NONE</u>					

List all other property owned by you and state its value.

Description (provide description for each item)	Value
Cash	<del>0</del>
Notes and Receivables	<del>0</del>
Vehicles:	<del>0</del>
Bank/Credit Union/Savings/Checking Accounts	<del>0</del>
Stocks/Bonds/Investments/Certificates of Deposit	<del>0</del>
Trust Funds	<del>0</del>
Retirement Accounts/IRAs/401(k)s	<del>0</del>
Cash Value Insurance	<del>0</del>
Motorcycles/Boats/RVs/Snowmobiles:	<del>0</del>
Furniture/Appliances	<del>0</del>
Jewelry/Antiques/Collectibles	<del>0</del>
TVs/Stereos/Computers/Electronics	<del>0</del>
Tools/Equipment	<del>0</del>
Sporting Goods/Guns	<del>0</del>
Horses/Livestock/Tack	<del>0</del>
Other (describe)	<del>0</del>

EXPENSES: List all of your monthly expenses.

Expense	Average Monthly Payment
Rent/House Payment	0 (N/A)
Vehicle Payment(s)	0
Credit Cards (list each account number)	0
Loans: (name of lender and reason for loan)	
(Loans)	\$43,000.00 STUDENT LOANS (payback in abeyance)
Electricity/Natural Gas	N/A
Water/Sewer/Trash	0
Phone	0
Cellular Phone	0
Cable/Satellite TV/Internet	
Groceries	
Dining Out	
Clothing	
Auto Fuel/Transportation	
Auto Maintenance	
Cosmetics/Haircuts/Salons	
Entertainment/Books/Magazines	
Home Insurance	
Auto Insurance	
Life Insurance	

~~NOT APPLICABLE (PRISONER)~~

James W. Triggers

Average Expense (continued)

Monthly Payment

Medical Insurance

Medical Expense

Child Care

Other

*NOT APPLICABLE*

MISCELLANEOUS:

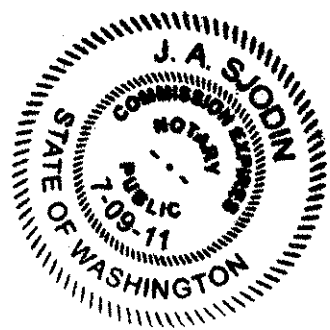
How much can you borrow? \$ 0 From whom? N/A

When did you file your last income tax return? 2003 Amount of refund: \$ 1,400.<sup>00</sup>

PERSONAL REFERENCES: (These persons must be able to verify information provided.)

Name	Address	Phone	Years Known
Fred Stephenson	POB 1461, Priest River, ID, 83856	(208)-448-1828	4 YRS
SON DRIGGERS,	4742 W. HAVASUPAI DR. ALNDL, AZ. 85308	(623)-388-4909	34 YRS
		Signature <u>Paul W. Driggers</u>	
		Typed Name <u>PAUL WILLIAM DRIGGERS</u>	

20 07 SUBSCRIBED AND SWORN TO before me this 26 day of September



[Signature]  
Notary Public for Idaho state of Washington  
Residing at KING COUNTY  
My Commission expires 7/9/11

Date: 10/03/2007  
Time: 6:37:43 am

Federal Bureau of Prisons  
TRUFACS  
**Inmate Statement**  
Sensitive But Unclassified

Facility: SET

000011

**Start Date:** 01/03/2007  
**End Date:** 10/03/2007  
**Inmate Reg#:** 00922287  
**Account Status:** All  
**Institution:** All

**General Information**

Inmate Reg#: 00922287      Living Quarters: D05-016L  
Inmate Name: DRIGGERS, PAUL WILLIAM      Arrived From:  
Current Site Name: SeaTac FDC      Transferred To:  
Housing Unit: SET-D-C      Account Creation Date: 5/31/2007

**Transaction Details**

Alpha Code	Date Time	Reference#	Payment#	Receipt#	Transaction Type	Transaction Amount	Encumbrance Amount	Ending Balance
SET	06/05/2007 05:05:21 AM	70184401			Lockbox - CD	\$40.82		\$40.82
SET	06/05/2007 05:05:28 AM	70184401			Lockbox - CD	\$20.00		\$60.82
SET	06/06/2007 11:28:35 AM	TFN0606			Phone Withdrawal	(\$20.00)		\$40.82
SET	06/08/2007 07:20:28 AM	3			Sales	(\$24.65)		\$16.17
SET	06/09/2007 12:04:07 PM	33318007			Western Union	\$50.00		\$66.17
SET	06/12/2007 12:01:38 PM	TFN0612			Phone Withdrawal	(\$10.00)		\$56.17
SET	06/14/2007 12:26:11 PM	87			Sales	(\$49.90)		\$6.27
SET	06/17/2007 05:02:58 AM	33318607			Western Union	\$30.00		\$36.27
SET	06/17/2007 06:33:31 AM	70185302			Lockbox - CD	\$50.00		\$86.27
SET	06/18/2007 06:33:04 PM	TFN0618			Phone Withdrawal	(\$10.00)		\$76.27
SET	06/21/2007 02:17:22 PM	98			Sales	(\$61.25)		\$15.02
SET	06/22/2007 03:32:51 PM	TFN0622			Phone Withdrawal	(\$5.00)		\$10.02
SET	06/25/2007 07:40:47 PM	TFN0625			Phone Withdrawal	(\$10.00)		\$0.02
SET	06/26/2007 05:03:31 AM	33319207			Western Union	\$50.00		\$50.02
SET	06/28/2007 09:40:43 AM	64			Sales	(\$47.65)		\$2.37
SET	07/02/2007 09:40:13 AM	TFN0702			Phone Withdrawal	(\$2.00)		\$0.37
SET	07/03/2007 05:03:57 AM	33319707			Western Union	\$65.00		\$65.37
SET	07/03/2007 01:40:26 PM	TFN0703			Phone Withdrawal	(\$20.00)		\$45.37
SET	07/06/2007 02:07:29 PM	19			Sales	(\$27.80)		\$17.57
SET	07/09/2007 08:28:46 AM	TFN0709			Phone Withdrawal	(\$10.00)		\$7.57
SET	07/10/2007 08:29:46 AM	2			Sales	\$0.00		\$7.57



Date: 10/03/2007  
Time: 6:37:44 am

Federal Bureau of Prisons  
TRUFACS  
**Inmate Statement**  
Sensitive But Unclassified

Facility: SET

00012

**General Information**

Inmate Reg#:	00922287	Living Quarters:	D05-016L
Inmate Name:	DRIGGERS, PAUL WILLIAM	Arrived From:	
Current Site Name:	SeaTac FDC	Transferred To:	
Housing Unit:	SET-D-C	Account Creation Date:	5/31/2007

**Transaction Details**

Alpha Code	Date Time	Reference#	Payment#	Receipt#	Transaction Type	Transaction Amount	Encumbrance Amount	Ending Balance
SET	07/11/2007 01:00:31 PM	GICP0707			Inmate Co-pay	(\$2.00)		\$5.57
SET	07/12/2007 06:42:59 PM	TFN0712			Phone Withdrawal	(\$5.00)		\$0.57
SET	07/17/2007 08:35:45 AM	GICD0707 - 406			Debt Encumbrance		(\$0.57)	
SET	07/19/2007 05:03:26 AM	33320907			Western Union	\$25.00		\$25.57
SET	07/19/2007 05:03:26 AM	GICD0707 - 409			Debt Encumbrance		(\$1.43)	
SET	07/19/2007 07:31:33 AM	TFN0719			Phone Withdrawal	(\$20.00)		\$5.57
SET	07/20/2007 12:10:15 AM	GICD0707 - 409			Debt Encumbrance - Released		\$1.43	
SET	07/20/2007 12:10:15 AM	GICD0707 - 406			Debt Encumbrance - Released		\$0.57	
SET	07/20/2007 12:10:15 AM	GICD0707			Inmate Co-pay	(\$2.00)		\$3.57
SET	07/24/2007 07:03:49 PM	33321207			Western Union	\$20.00		\$23.57
SET	07/26/2007 12:19:53 PM	72			Sales	(\$15.20)		\$8.37
SET	07/29/2007 08:47:01 PM	TFN0729			Phone Withdrawal	(\$8.00)		\$0.37
SET	08/02/2007 05:03:56 AM	33321907			Western Union	\$65.00		\$65.37
SET	08/02/2007 12:09:44 PM	80			Sales	(\$29.25)		\$36.12
SET	08/02/2007 05:29:38 PM	TFN0802			Phone Withdrawal	(\$10.00)		\$26.12
SET	08/07/2007 06:29:31 PM	TFN0807			Phone Withdrawal	(\$7.00)		\$19.12
SET	08/09/2007 12:28:49 PM	81			Sales	(\$12.65)		\$6.47
SET	08/09/2007 05:27:20 PM	TL0809			TRUL Withdrawal	(\$2.00)		\$4.47
SET	08/12/2007 11:25:50 AM	TFN0812			Phone Withdrawal	(\$4.00)		\$0.47
SET	08/16/2007 05:03:23 AM	33322907			Western Union	\$65.00		\$65.47
SET	08/16/2007 09:15:30 AM	59			Sales	(\$26.60)		\$38.87
SET	08/16/2007 01:24:15 PM	TFN0816			Phone Withdrawal	(\$15.00)		\$23.87
SET	08/16/2007 08:33:44 PM	TL0816			TRUL Withdrawal	(\$2.00)		\$21.87
SET	08/23/2007 12:45:23 PM	44			Sales	(\$17.24)		\$4.63
SET	08/24/2007 05:59:10 PM	TL0824			TRUL Withdrawal	(\$2.00)		\$2.63
SET	08/29/2007 09:48:05 AM	TFN0829			Phone Withdrawal	(\$2.00)		\$0.63

Date: 10/03/2007  
Time: 6:37:44 am

Federal Bureau of Prisons  
TRUFACS  
**Inmate Statement**  
Sensitive But Unclassified

Facility: SET

00013

**General Information**

Inmate Reg#:	00922287	Living Quarters:	D05-016L
Inmate Name:	DRIGGERS, PAUL WILLIAM	Arrived From:	
Current Site Name:	SeaTac FDC	Transferred To:	
Housing Unit:	SET-D-C	Account Creation Date:	5/31/2007

**Transaction Details**

Alpha Code	Date Time	Reference#	Payment#	Receipt#	Transaction Type	Transaction Amount	Encumbrance Amount	Ending Balance
SET	09/02/2007 05:03:07 AM	33324107			Western Union	\$65.00		\$65.63
SET	09/02/2007 12:41:51 PM	TFN0902			Phone Withdrawal	(\$15.00)		\$50.63
SET	09/02/2007 09:10:17 PM	TL0902			TRUL Withdrawal	(\$2.00)		\$48.63
SET	09/07/2007 12:41:33 PM	85			Sales	(\$47.52)		\$1.11
SET	09/12/2007 08:47:15 AM	TFN0912			Phone Withdrawal	(\$1.00)		\$0.11
SET	09/17/2007 08:03:21 AM	33325107			Western Union	\$65.00		\$65.11
SET	09/17/2007 10:10:28 AM	TFN0917			Phone Withdrawal	(\$15.00)		\$50.11
SET	09/17/2007 02:46:25 PM	TL0917			TRUL Withdrawal	(\$2.00)		\$48.11
SET	09/20/2007 11:37:12 AM	9			Sales	(\$35.45)		\$12.66
SET	09/21/2007 06:17:00 PM	TL0921			TRUL Withdrawal	(\$2.00)		\$10.66
SET	09/21/2007 07:01:09 PM	TFN0921			Phone Withdrawal	(\$10.00)		\$0.66
SET	10/02/2007 05:04:07 AM	33300208			Western Union	\$65.00		\$65.66
SET	10/02/2007 06:53:16 AM	TFN1002			Phone Withdrawal	(\$20.00)		\$45.66
SET	10/02/2007 05:33:15 PM	TL1002			TRUL Withdrawal	(\$2.00)		\$43.66
<b>Total Transactions:</b>		<b>61</b>			<b>Totals:</b>	<b>\$43.66</b>	<b>\$0.00</b>	

**Current Balances**

Alpha Code	Available Balance	Pre-Release Balance	Debt Encumbrance	SPO Encumbrance	Other Encumbrance	Outstanding Instruments	Administrative Holds	Account Balance
SET	\$43.66	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$43.66
<b>Totals:</b>	<b>\$43.66</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$43.66</b>

NO. \_\_\_\_\_ FILED 4:08  
A.M. P.M.

DEC - 7 2007  
By J. DAVID NAVARRO, Clerk  
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

PAUL WILLIAM DRIGGERS,

Plaintiff,

vs.

AMANDA GRAFE, IDAHO HEALTH  
AND WELFARE, et al.,

Defendant.

Case No. CVOC0719469

ORDER DENYING MOTION FOR  
FEE WAIVER

This matter came before the Court on the Plaintiff's Motion for Fee Waiver on his  
"Complaint and Request for Declaratory Judgment, with Motion for Dismissal."

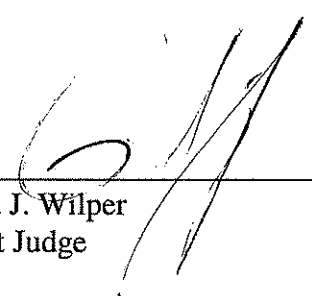
It appears that the Plaintiff, Paul Driggers, is a prison inmate in Seattle, Washington. It  
appears that he is attempting to sue the Idaho Department of Health and Welfare, the Post Falls  
Police Department and certain police officers employed by that department, two magistrate  
judges, a guardian ad litem and a Kootenai County, Idaho, public defender.

The motion for fee waiver is denied. The Plaintiff has not supplied the Court with  
sufficient information to support the contention that this Court has jurisdiction in this matter. A  
review of his Complaint reveals that it is the Plaintiff's contention that his children are in the  
custody of the Idaho Department of Health and Welfare. It also appears that this lawsuit is an  
attempt to collaterally attack the outcome of that case.

The Motion for Fee Waiver is hereby DENIED.

IT IS SO ORDERED.

Dated this 7<sup>th</sup> day of December 2007.

  
\_\_\_\_\_  
Ronald J. Wilper  
District Judge

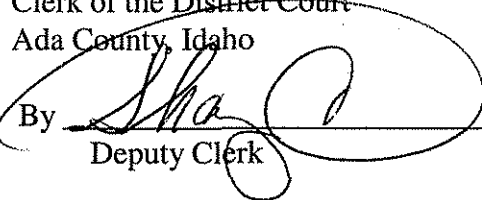
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CERTIFICATE OF SERVICE

I, J. David Navarro, the undersigned authority, do hereby certify that I have mailed, by United States Mail, on this 17<sup>th</sup> day of December 2007, one copy of the foregoing as notice pursuant to Rule 77(d) I.C.R. to each of the attorneys of record in this cause in envelopes addressed as follows:

Paul William Driggers, inmate  
Reg. Nu. 00922-287  
FDC Seatac Unit DC  
P.O. Box 13900  
Seattle, WA 98198-1090

J. DAVID NAVARRO  
Clerk of the District Court  
Ada County, Idaho  
By   
Deputy Clerk

RECEIVED

DEC 24 2007

Ada County Clerk

PAUL WILLIAM DRIGGERS, in persona propria  
Reg. 00922-287  
FCI Florence,  
P.O. Box 6000  
Florence, CO 81226-6000

(ORIGINAL)

CT.

NO. \_\_\_\_\_  
A.M. \_\_\_\_\_ FILED P.M. 5

DEC 24 2007

J. DAVID NAVARRO, Clerk  
By A TOONE  
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR ADA COUNTY

PAUL WILLIAM DRIGGERS,  
Petitioner,

v.

AMANDA GRAFE,  
IDAHO DEPARTMENT OF  
HEALTH AND WELFARE,  
RICHARD ARMSTRONG,  
et al.,  
Defendants.

CIVIL ACTION NO.: CV 000  
719469

MOTION FOR RECONSIDERATION  
OF PLAINTIFF'S FORMA PAUPERIS  
APPLICATION

(WRITTEN RULING REQUESTED)

Pursuant to Rule 11(a)(2) and Rule 11(B) of the Idaho Rules of Civil Procedure Plaintiff Driggers moves for Reconsideration of his Application for Fee Waiver (forma pauperis) which was denied by this court in its ORDER DENYING MOTION FOR FEE WAIVER dated December 7, 2007.

In its Order the court states that plaintiff has not supplied the court with sufficient information to support the contention that this court has jurisdiction in this matter.

Plaintiff clarifies for the court that his lawsuit is primarily an action in TORT for the wrongful actions against plaintiff and damages resulting therefrom. In fact, plaintiff's description of his grievances comprises about 40 pages. The Complaint for TORT names at least one State of Idaho agency (the Idaho Department of Health and Welfare) and some of its employees, and also agents who worked in tandem with the Department. It also names the Legal Custodian of the plaintiff's children, Richard Armstrong, who is a resident of Ada County, and who continues within Ada County to wrongfully detain plaintiff's children over his continuing objections.

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The Supplement was attached to the original Complaint. Title 6, Chapter 914 of the Idaho Statutes for TORT actions states that the district court shall have jurisdiction over any action brought under this act. And Title 6, Chapter 915 of the Idaho Statutes declares in relevant part:

" Actions against the state or its employee shall be brought in the county in which the cause of action arose or in Ada county [emphasis added]..... Actions against a political subdivision or its employees shall be brought....in any county where the political subdivision is located. "

Needless to say the Idaho Department of Health and Welfare is a political subdivision of the State and is located and its seat is in Boise, (Ada county), Idaho.

It seems clear enough that this court does have jurisdiction over the defendants as well as the subject matter of the Action. Plaintiff detailed some of these same facts in his Supplementary Complaint filed with the Complaint.

In respect to the issue of the Declaratory Judgment plaintiff proceeds pursuant to Rule 57 of the Idaho Rules of Civil Procedure.

" The procedure for obtaining a declaratory judgment pursuant to the statutes of this State, shall be in accordance with these rules.....The existence of another adequate remedy does not preclude a judgment for declaratory relief in cases where it is appropriate. "

Plaintiff needs forma pauperis status to carry his civil action to completion. Plaintiff maintains he is still qualified to be approved as a petitioner-plaintiff in a state of poverty unable by himself to pay the costs that may arise.

THEREFORE, plaintiff PRAYS for Reconsideration and begs that his Application for forma pauperis status be granted.

RESPECTFULLY,

PAUL WILLIAM DRIGGERS,

By Paul W. Driggers  
Plaintiff-petitioner Pro Per

Executed the 19<sup>th</sup>  
day of DECEMBER, 2007.

RECEIVED

FEB 04 2008

DRIGGERS, Pro Per  
Ada County Clerk

PAUL WILLIAM DRIGGERS, Pro Per  
Reg. 00922-287  
Federal Corr. Institute  
P.O. Box 6000  
Florence, CO 81226-6000

NO. 9:59 FILED COURT  
AM. 9:59 PM

FEB 04 2008

J. DAVID NAVARRO, Clerk  
By L. AMES  
DEPUTY

IN THE FOURTH JUDICIAL DISTRICT COURT  
OF THE STATE OF IDAHO FOR ADA COUNTY, IDAHO

PAUL WILLIAM DRIGGERS,  
et al., Plaintiff,

V.

AMANDA GRAFE,  
et al., Defendants.

CASE NO. CV 00-719469

SUPPLEMENT TO THE MOTION FOR  
RECONSIDERATION OF DENIAL OF  
APPLICATION FOR FEE WAIVER

REQUEST FOR RULING

SUPPLEMENT TO THE BRIEF IN  
SUPPORT OF THE COMPLAINT

Approximately a month ago plaintiff filed a Motion for Reconsideration of this court's denial of his request for a fee waiver. Presently plaintiff supplements herewith that Motion by the following discussion and argument in support of this Motion.

ISSUE OF JURISDICTION

In plaintiff's Motion for Reconsideration he did demonstrate that according to Idaho statutes this court does have personal jurisdiction.

In this court's ruling of December 7th, 2007, the court suggested the Complaint appears to be a "Collateral" attack upon another judicial ruling. Plaintiff now addresses this suggestion.

THE SUBSTANTIAL NATURE OF PLAINTIFF'S GRIEVANCES

This case concerns plaintiff's young children and family integrity. As wise courts have appreciated and commented upon, such things are far more precious than any property. Plaintiff asserts he can establish through evidence that his children have been stolen from him by fraud. Without justifiable cause it has now recently exceeded 24-months since plaintiff has seen or spoken with his three daughters. This situation not only needs to be rectified but

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plaintiff is entitled to damages from the time his children were fraudulently and wrongly taken from him until such time as they are restored to their natural and proper relationship.

In most Civil cases the damage from having to wait for the court and litigation process to complete is amendable to repair or restitution. However, in the circumstances involving young children the damage from extended total separation from a parent is irreparable and that damage is almost wholly attributable to the ordinary slowness of resolving issues in court. And there really is no amount of money that can compensate for such losses.

It is as if any observer or the public can witness the reality that no family court (or any other type of court) is actually appropriate or amendable (or amenable either) to resolving problems in domestic matters but is only capable of destroying families. As stated, it has now been more than 2-years since plaintiff has had contact with his minor children. The whole situation as it came about and exists today in plaintiff's case is not substantially different from the human rights abuses perpetrated against families in totalitarian socialist States, as will be revealed by the facts in this case.

As explained, this affair concerns plaintiff's children and time is of the essence. In view of the substance, nature and importance of the case to this court these matters should now take priority and the case expedited.

#### THE NATURE OF PLAINTIFF'S COMPLAINT

Plaintiff submits that it may be debateable whether the Complaint constitutes a collateral attack as it may be more akin to a direct attack on the previous case.

A proceeding that is in effect a direct attack on a judgment is not a collateral attack, even if the relief sought includes an injunction to restrain further proceedings on the Judgment.

(SEE Hill V. Walker, 154 A.L.R. 814, 944). 1/

The addition of a prayer for relief with respect to the enforcement of a Judgment will not transform into a collateral attack an action or proceeding which would clearly be a direct attack otherwise, since its purpose is the vacation or annulment of the Judgment. (Brakke V. Hoskins, 67 N.W. 235; 1896). 2/

However it may be, a review of the details of the Complaint indicates that fraud, deceit and collusion are at the core of events. The facts, as can be established by both direct and circumstantial evidence, also indicates that the magistrate court in Kootenai County has acted irregularly towards plaintiff. Hence it is relevant that the doctrine of Res judicata, with its companion, Collateral estoppel, are founded upon principles of fundamental fairness. The doctrine of Res judicata is not absolute; a court should not adhere to the doctrine where its application would work an injustice. Thus, situations may arise which call for exceptions to the applications of the doctrine, such as where the party against whom the earlier decision is asserted did not have a full and fair opportunity to litigate that issue in the earlier case. (Allen, 66 L.Ed.2d 308; 1980).

" Fraud by a party will not undermine the conclusiveness of a Judgment unless the fraud was Extrinsic, that is, it deprived the opposing party of the opportunity to appear and present his or her case.

---

#### FOOTNOTES

1/ An attack on a Judgment in proceedings based on equitable relief as allowed by rule or law constitutes a direct attack and is not a barred collateral attack. This may be applicable where the primary and basic object of the suit is to obtain an injunction against the enforcement of the Judgment or relief in the nature of annulment of the Judgment. Thus, for example, a Complaint to set aside a Judgment alleged to be void is a direct and not a collateral attack upon the Judgment. AM. JUR. 2d, Section 747  
PROCEEDINGS IN EQUITY FOR RELIEF FROM JUDGMENT.

2/ Plaintiff in his situation has no access to any Idaho Case law or the Case law of any State. He has only federal sources. Plaintiff does possess some of the Idaho Rules of Civil Procedure.

Plaintiff has no practical access to any lawyer or lawyer's advice or help.

The principles of Res judicata may not be invoked to sustain fraud, and a Judgment obtained by fraud or collusion may not be used as a basis for the application of the doctrine of Res judicata. (AM.JUR. 2D, Section 537. FRAUD OR COLLUSION).

The basis for allowing a collateral attack is that a Judgment reached without due process of law is without jurisdiction and void and thus attackable collaterally by resistance to its enforcement, since the government is forbidden by the fundamental law to take either life, liberty, or property without due process of law, and its courts are included in the prohibition.

(SEE, Bass V. Hoagland, 172 F. 2d 205; 5th Cir. 1949).

" Judgments may be void due to fraud, and thus subject to collateral attack; however, a collateral attack cannot be maintained on the grounds that the Judgment was obtained through fraudulent conduct Intrinsic to the Judgment. Thus, Judgments based on Extrinsic fraud may be subject to collateral attack. " (743 F. Supp. 700, D. Ariz. 1990).

" Extrinsic fraud necessarily requires evidence not found in the record.  
A collateral challenge to a Judgment obtained by Extrinsic fraud is allowed because such fraud perverts the judicial processes and prevents the court or the non-defrauding party from discovering the fraud through the regular adversarial process. " (Peet V. Peet, 429 S.E. 2d 487; 1993).

As outlined in the Complaint this plaintiff has been denied any chance to defend his, or his children's interests, has been denied any chance to present evidence exposing for the record the fraudulent means used to steal his children and to usurp by force and fraud an unwarranted jurisdiction over his children. The Kootenai County Court never even had legitimate territorial jurisdiction allowing it to entertain any further action relative to the plaintive or his children.

#### RELIEF REQUESTED

Therefore, plaintiff prays for relief from this court as follows:

- 1) That the fee waiver be granted and plaintiff be

allowed to proceed in forma pauperis.

2) That the case be allowed to proceed with plaintiff being allowed to serve Summons with the Complaint upon each of the defendants at his own costs.

3) That this case be otherwise allowed to proceed with Service of Process effected by plaintiff upon defendants at his own costs.

4) That the arguments herein be considered by this court and added to the plaintiff's Brief in support of his Complaint.

RESPECTFULLY, PAUL WILLIAM DRIGGERS, in Persona Propria

By: Paul W. Driggers  
Plaintiff

Dated: 31<sup>st</sup> JANUARY, 2008.

Logged at FCI  
mailroom on the 31<sup>st</sup>  
day of January 2008.  
STH

RECEIVED

FEB 04 2009

ORIG. - 00457

NO. \_\_\_\_\_  
A.M. 11:00 FILED P.M.

PAUL WILLIAM DRIGGERS, Pro Per  
Reg. 00922-287  
Federal Corr. Institute  
P.O. Box 6000  
Florence, CO 81226-6000

FEB 04 2009

J. DAVID NAVARRO, Clerk  
By M. STROMER  
DEPUTY

IN THE FOURTH JUDICIAL DISTRICT COURT OF  
THE STATE OF IDAHO FOR ADA COUNTY, IDAHO

PAUL WILLIAM DRIGGERS, )  
et al., )  
Plaintiffs, )  
V. )  
AMANDA GRAFE, )  
et al., )  
Defendants. )

CASE NO. CVOC 719469

PLAINTIFF DRIGGERS' OBJECTION  
TO CLERK'S FAILURE TO FILE  
COMPLAINT AND TO RETURN OF SAME

The Plaintiff, PAUL WILLIAM DRIGGERS, hereby files his OBJECTION to the return of his Complaint identified under the above indicated case number, by the Clerk of this Court (See copy of letter attached hereto providing a letter of explanation).

Plaintiff respectfully states and argues as a basis for his OBJECTION herein that Rule 10(a)(1) of the Idaho Rules of Civil Procedure do not explicitly mandate refusal to file a copy of a pleading. Plaintiff can certainly understand that the court needs a petitioner's actual original signature on a document presented before it so that accountability can be secure. However in this case it would have been sufficient for the Clerk of the court to mail this Plaintiff a document for him to sign and return. The procedure used, however, has now further delayed Plaintiff's action to redress his grievances, and cost him unnecessary extra costs for re-mailing his entire complaint with exhibits.

"We are generally more solicitous of the rights of pro se litigants, particularly when technical jurisdictional requirements are involved."  
Garoux V. Pulley, 739 F.2d 437, 439-440; Borzeka V. Heckler, 739 F. 2d 444, N.2 (9th Cir., 1984)

" .....less stringent standards for pro se litigants."  
Harris V. Kerner, 404 U.S. 519, 520-21, 30 L.Ed.2d 652 (1972).

00024

A situation somewhat on point to this objection is Corjasso V. Ayers, 278 F. 3d 874, 878 (9th Circuit, 2002),

" Because Corjasso was a Pro Se petitioner, the district court erred in rejecting his petition on the ground that he used a whited-out cover sheet from the wrong district. "

Moreover, the envelope from the clerk was initially mailed to the wrong address then returned to the court and that required eight-days. Four-days later the envelope containing the Complaint was re-mailed and received ten (10 ! ) days later. This is a total time of 22-days !

Plaintiff is re-submitting the Complaint with the original of his signatures.

RESPECTFULLY, PAUL WILLIAM DRIGGERS, Pro Per

By: Paul W. Driggers

Date: 01/29, 2008.

CERTIFICATE OF MAILING:

I hereby certify that I have mailed a copy of this document to the Ada County Court, 200 W. Front St., Boise, Idaho 83702 on the 30<sup>th</sup> day of JANUARY, 2008.

Paul W. Driggers

Witness to mailing:

Jeff Trott (Printed Name)

ISI JEFF TROTT

33592-013

\_\_\_\_\_

1-30-08

Logged at FCI Florence Mailroom on the 30 day of Jan 2008. Trott



Christopher Rich  
Chief Deputy

200 W. Front Street  
Boise, Idaho 83702-7300

Accounting  
Room 1191

Civil Court  
Room 1155  
Phone (208) 287-6900  
Fax (208) 287-6919

Court Assistance Officer  
Room 1182  
Phone (208) 287-6963  
Fax (208) 287-6919

Criminal Court  
Room 1190  
Phone (208) 287-6900  
Fax (208) 287-6919

Elections  
Room 1202  
Phone (208) 287-6860  
Fax (208) 287-6849

Payroll  
Room 1193  
Phone (208) 287-6840  
Fax (208) 287-6989

Recorder  
Room 1208  
Phone (208) 287-6840  
Fax (208) 287-6849

**J. DAVID NAVARRO**  
Ada County Clerk of the District Court  
Ex-Officio Auditor and Recorder

Clerk of the Court  
Ada County  
200 W. Front St.  
Boise, ID 83702-7300

January 2, 2008

Paul W. Griggers  
REG NU. 00922-287  
FDC Seatac DC  
PO Box 13900  
Seattle WA 98198-1090

Re: CVOC0719469

Dear Mr. Driggers,

We received your "Complaint, Summons, Supplement to Complaint and Money Order #R100211217997" on January 2, 2007. Please be advised that the document(s) you submitted do(es) not comply with the Idaho Rules of Civil Procedure, specifically:

- Rule 10(a)(1) *Improper Format*; the Complaint is a copy, although the face page is an original, the signature must be original (you may also want to double check your page numbers).

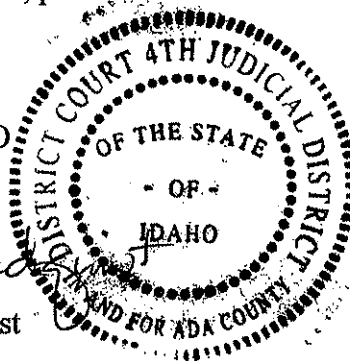
When an error in procedure/format is identified, it's my duty as correspondence clerk is to return documents and provide a letter of explanation. Therefore, I am returning your document(s), un-filed.

Typically, when someone wants to add a party, they file an amended complaint. Since I'm returning your complaint anyway, it may be prudent to make the change now. Otherwise, please list all the names of the parties on your pleadings.

Sincerely,

J. DAVID NAVARRO  
Clerk of the Court

By: Margaret Lundquist  
Deputy Clerk



Enclosures: Letter, Complaint (copy & cover page), Supplement to the Complaint, Summons (6)

Cc: file

00026

FEB 22 2008

By J. DAVID NAVARRO, Clerk  
INSA JOHNSON  
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

PAUL WILLIAM DRIGGERS,  
Plaintiff,

Case No. CV OC 07-19469

**ORDER DENYING MOTION FOR  
RECONSIDERATION**

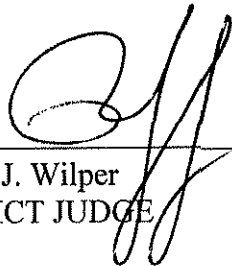
vs.

AMANDA GRAFE, et al.,  
Defendants.

This matter comes before the Court on the Plaintiff's motion and supplemental motion to reconsider the denial of his fee waiver application. A motion for reconsideration is brought under Idaho Rule of Civil Procedure 11(a)(2)(B). The decision to grant or deny a request for reconsideration rests in the sound discretion of the trial court. *Carnell v. Barker Mgt., Inc.*, 137 Idaho 322, 329, 48 P.3d 651, 658 (2002). The Plaintiff's motions have not set forth the legal or factual reasons necessary for the Court to reconsider its decision. Therefore, the motions for reconsideration are hereby DENIED at the discretion of the Court.

IT IS SO ORDERED.

Dated this 22<sup>nd</sup> day of February 2008.

  
\_\_\_\_\_  
Ronald J. Wilper  
DISTRICT JUDGE





RECEIVED

NO. \_\_\_\_\_ FILED \_\_\_\_\_  
A.M. 11:50 P.M.

MAR 04 2008

PAUL WILLIAM DRIGGERS, in Persona Propria

Ada County Clerk

Reg. 00122-287

Federal CORR. Institute, P.O. Box 6000  
Florence, CO. 81226-6000

MAR 04 2008

J. DAVID NAVARRO, Clerk  
By A TOONE  
DEPUTY

IN THE FOURTH JUDICIAL DISTRICT COURT  
OF THE STATE OF IDAHO  
FOR ADA COUNTY

PAUL WILLIAM DRIGGERS,  
DESARAE J. DRIGGERS,  
CSARENA M. DRIGGERS,  
And, MILINDA K. DRIGGERS,  
Plaintiffs;

v.

AMANDA CRAFE,  
The IDAHO DEPARTMENT  
OF HEALTH AND WELFARE,  
RICHARD ARMSTRONG,  
KAREN R. VASSALLO,  
DAVID BECK,  
The POST FALLS POLICE  
DEPARTMENT,  
CERTAIN UNKNOWN POST FALLS  
POLICE OFFICERS,  
EUGENE MARANO,  
ROBERT BURTON,  
The KOOTENAI COUNTY COURT,  
LINDA GREEN,  
CASA,  
DANIEL COOPER, and  
The KOOTENAI COUNTY PUBLIC  
DEFENDERS' OFFICE,  
Defendants.

CASE NO. CV 00-  
07-19469

COMPLAINT

(LAW SUIT)

T O R T

COMPLAINT FOR MALICIOUS  
USE OF PROCESS, ABUSE OF PROCESS,  
TORT

THE PLAINTIFFS

PAUL WILLIAM DRIGGERS is the natural father of the three (3) subject matter children herein (named as co-plaintiffs). He is currently in federal detention as a result of a 10-year(s) prison sentence following conviction for violation of 18 U.S.C. 1958, 'USE OF INTERSTATE FACILITIES IN THE COMMISSION OF MURDER FOR HIRE.' The conviction is currently on Appeal de Novo.

Desarae J. Driggers, et al., are the minor daughters (children under the age of 18 years), presently in the possession of the natural mother with (ostensible) legal custody in the Idaho Department of Health and Welfare (IDHW).

THE DEFENDANTS

Richard ARMSTRONG is the current custodian of the minor children of plaintiff, Desarae, CSARENA, and Milinda DRIGGERS. Defendant ARMSTRONG is a resident of ADA County, residing in Boise, Idaho.

Plaintiff alleges that MR. ARMSTRONG is confederate with the named defendants listed in the COMPLAINT, and he has refused to return said children to plaintiff's control or to respect plaintiff's fundamental rights in his children or their rights in their natural father.

page 3

COMPLAINT FOR  
ABUSE OF PROCESS  
DRIGGERS, et AL., V. GRAFE, et.

AMANDA GRAFE is an employee of Children and Family Services, IdHW, a Social Worker (LMSW) employed at the Coeur d'Alene office of same (1250 Ironwood Drive), and Case Manager controlling the custody arrangements of the Driggers' children.

KAREN R. VASSALLO is the former wife of Paul William Driggers and the natural mother of the three Driggers' children. Upon belief plaintiff Driggers states she is a resident of Bonner County. Her address for purposes of service of process is known but withheld from publication by AMANDA GRAFE and IdHW.

DAVID BECK is an employee of the Post Falls Police Department presently and at all times relevant to the acts described herein.

POST FALLS POLICE DEPARTMENT is the city agency for the Post Falls, Idaho, incorporated city, responsible at all times complained of herein for the conduct 00031's

page 4

COMPLAINT FOR ABUSE  
OF PROCESS

DRIGGERS, et Al., V. GRAFE, et al

employees.

CERTAIN UNKNOWN POST FALLS POLICE OFFICERS ARE THE RESPONDING OFFICIALS OF SAME WHO WERE INVOLVED IN THE INCIDENT AT PLAINTIFF'S HOME ON JANUARY 6, 2006, DESCRIBED HEREIN AND WHOSE NAMES WILL BECOME A MATTER OF RECORD DURING DISCOVERY HEREIN.

EUGENE MARANO AND ROBERT BURTON ARE MAGISTRATES IN THE KOOTENAI COUNTY DISTRICT COURT LOCATED IN COEUR D'ALENE, IDAHO.

LINDA GREEN IS A WORKER, MEMBER, AND AGENT OF CASA ASSIGNED BY COURT ORDER AS GUARDIAN AD LITEM TO THE CHILDREN OF PLAINTIFF DRIGGERS, SITUATED IN THE CASA COEUR D'ALENE OFFICE, IDAHO.

DANIEL COOPER IS, ALLEGEDLY, A LICENSED ATTORNEY AT LAW EMPLOYED BY THE KOOTENAI COUNTY PUBLIC DEFENDER'S OFFICE, APPOINTED BY COURT ORDER AND ASSIGNED BY THE EMPLOYER OFFICE TO REPRESENT MR. DRIGGERS IN THE CHILD PROTECTIVE ACTION THAT IS ONE OF THE ISSUES OF COMPLAINT DESCRIBED HEREIN.

00032

## BACKGROUND OF THE CASE

AS A RESULT OF ALLEGATION(S) OF BRUISING BY DISCIPLINE THE DAUGHTER OF PLAINTIFF DRIGGERS, DESAAE, ALL THE CHILDREN IN HIS HOME WERE TAKEN INTO CUSTODY AND A PETITION FILED FOR STATE CUSTODY OF SAME. JUDGE ROBERT BURTON ORDERED (CASE NO. CV05-8666) VESTING LEGAL CUSTODY IN THE IDAHO DEPARTMENT OF HEALTH AND WELFARE ON DECEMBER 12, 2005.

ON JANUARY 6, 2006, THE CERTAIN UNKNOWN POLICE OFFICERS OF THE POST FALLS POLICE DEPARTMENT RESPONDED TO AND MET WITH KAREN R. VASSALLO WHO ALLEGED THAT MR. DRIGGERS WITH WHOM SHE RESIDED HAD THREATENED HER VERBALLY AND THAT THE (A) HANDGUN WAS HIDDEN IN A LAUNDRY HAMPER INSIDE THE HOUSE.

PURSUING THIS ALLEGATION SAID POLICE OFFICERS AWOKE MR. DRIGGERS FROM HIS SLEEP AND OVER HIS CLEAR OBJECTIONS MADE A WARRANTLESS ENTRY INTO THE HOME, SEARCHING AND FINDING AND SEIZING A HANDGUN. THEREUPON THE PLAINTIFF HEREIN WAS ARRESTED AND CHARGED WITH FELONY POSSESSION OF A STOLEN HANDGUN. ON ABOUT JANUARY 19, 2006, A PRELIMINARY HEARING WAS HELD IN THE KOOTENAI COUNTY COURT AND KAREN VASSALLO TESTIFIED, ADMITTING THAT ONLY HER FINGERPRINTS WERE

page 6

to be found on the gun, that she had hidden the gun in the bottom of the laundry hamper in MR. DRIGGERS' bedroom, that she had then gone out of the house and called the police, offering no evidence of how the gun had entered the house.

She also testified stating that she could not remember ever being MARRIED to MR. DRIGGERS. She also stated she believed she may be MARRIED to MR. DRIGGERS.

The charge against MR. DRIGGERS was Dismissed.

Around this same time KAREN VASSALLO swore out A PROTECTIVE ORDER AGAINST MR. DRIGGERS in the court of Eugene MARANO. she wrongly included the DRIGGERS' children in that order as said children were in the care, custody and control of IDHW.

However, about 2-weeks later this order was modified to exclude the children.

Beginning about JANUARY 24, 2006, contrary to her AVOCA and stipulation VASSALLO took advantage of the PROTECTIVE ORDER to begin removing with larcenous intent all possessions, property, and assets of value from the house of Plaintiff DRIGGERS which theft continued until about FEBRUARY 4, 2006, when the house was empty.

At the time of MR. DRIGGERS' arrest

00034

on JANUARY 6, 2006, AMANDA GRAFE HALTED  
ALL VISITATION BY PAUL WILLIAM DRIGGERS WITH  
HIS THREE MINOR CHILDREN.

BETWEEN NOVEMBER 23<sup>RD</sup>, 2005, AND JANUARY  
5<sup>TH</sup>, 2006, MR. DRIGGERS HAD CONDUCTED  
NO LESS THAN 25-VISITS WITH ALL HIS KIDS  
WHICH VISITS WERE UNEVENTFUL, NORMAL,  
AND PLEASANT FOR ALL INVOLVED. EACH VISIT  
WAS OF APPROXIMATELY AN HOUR DURATION.

FROM ABOUT MAY 2006 TO AUGUST 2006  
WHILE UNDER THE COERCION AND DURESS OF  
AMANDA GRAFE AND THE IDHW HOLDING  
HOSTAGE THE DRIGGERS' CHILDREN AS HE  
PERCEIVED IT, PLAINTIFF DRIGGERS WAS  
INDUCED TO COMPLY WITH THE DEMANDS  
OF GRAFE IN SPENDING MONEY FOR TOYS  
AND CARDS FOR HIS CHILDREN IN FOSTER CARE  
SPENDING MONEY TO RE-ESTABLISH A HOME  
WITH ALL AMENITIES, ATTEND PARENTING  
CLASSES, AND COMPLETE PSYCHOLOGICALS, ALL  
OF WHICH HE NEARLY COMPLETED.

AMANDA GRAFE HAD BEEN 3-MONTHS  
LATE IN ESTABLISHING A CASE PLAN NONETHELESS  
THE CASE PLAN DESIGNATED MR. DRIGGERS FOR  
REUNIFICATION AND IN HOME CARE OF HIS CHILD-  
REN. THIS WAS ALSO CONSISTENT WITH THE  
CUSTODY ORDER OF THE DIVORCE DECREE FROM  
SEPTEMBER, 2004, AWARDED MR. DRIGGERS AS  
PRIMARY CUSTODIAN.



page 8.

From February to April 20, 2006, Defendant VASSALLO conducted a persistent pattern of MAKING ACCUSATIONS to LAW enforcement authorities against MR. DRIGGERS even though they were no longer living together. Some of these accusations included allegations of Rape, stalking, molestation, and Repeated instance of protective order violations.

On April 20, 2006, all this HARASSMENT by VASSALLO suddenly ceased and she remained quiet.

On April 25, 2006, approximately, MR. DRIGGERS met a secret Confidential paid Informant ("C.I.") working for the FBI (which position as C.I. was unknown to MR. DRIGGERS) in a Restaurant in Coeur d'Alene, Idaho. Previously on MARCH 6, 2006, VASSALLO had met with the FBI and gave them MR. DRIGGERS' Computer and all paperwork, out of which no charges were ever forthcoming.

On August 2, 2006, MR. DRIGGERS was arrested by the FBI for allegedly violating 18 U.S.C., Section 1958.

On MAY 22, 2006, a Judgment of Conviction was entered against MR. DRIGGERS for same, and he was sentenced to 10 years imprisonment by the U.S. District Court for the District of Idaho. Notice of appeal  
00036

page 9.

COMPLAINT FOR  
ABUSE OF PROCESS

Appeal is pending.

THE CAUSE OF ACTION, IN SUMMARY

The purpose of the law as expressed in the Idaho Code is expressed as an official policy at TITLE 16, CHAPTER 16 of the Child Protective Act, 16-1601, thus:  
(In parts) -

" Each child coming within the purview of this chapter shall receive, preferably in his own home, the care, guidance and control that will promote his welfare and the best interests of the state of Idaho..... the state of Idaho shall, to the fullest extent possible, seek to preserve, protect, enhance and reunite the family relationship.....

This chapter seeks to..... (1) Preserve the privacy and unity of the family whenever possible; .... "

Moreover it has been repeatedly expressed in innumerable instances that the Constitution protects family relationships and parents rights to maintain relationships with their children. Wooley v. City of Baton Rouge, 211 F.3d 913 (1983); P.O.P.S. v. Gardner, 998 F.2d 00037

Nevertheless, in and out of a spirit of complete lawlessness and disregard for law within a nation that proclaims it is a nation where the Rule of Law prevails, the Defendants and each of them, have purposefully and knowingly frustrated the proper purposes of the statutes.

The Defendants instituted proceedings at law against this Plaintiff without probable cause and in violation of his Constitutional Rights, with malice, and said proceedings terminated in favor of the Plaintiff while he suffered special damages.

The Defendants also made improper use of legal process after it had been initiated making a perversion of it.

In particular, they perverted even the policy expressed in the Idaho Code, from using the law to reunite the family of Plaintiff and maintain relationships with his children to one of actively perverting the law to commit the theft (to steal) his children.

Defendants have been self-serving and acting against the best interests of the children, the family, and the Plaintiff, MR. DRIGGERS.

Defendants' Actions ARE unjustified.

Everyone has a legal right to enjoy personal security at home, including the right of enjoyment of life, and the enjoyment of the happiness of home and the love and trust of family members. And anyone who injures another in the enjoyment of any of these rights commits a tort. (98 F. Supp. 963 [1951])

### PLAINTIFF'S STATEMENT OF THE CASE

In this action the Plaintiff will not only prove with competent evidence all of the above but through the presentation of various documents and records as evidence, and the testimony of witnesses, he will establish as true all of the following.

That the Plaintiff and Karen Vassallo were husband and wife from October, 1998, living in Phoenix, ARIZONA, until about February 2004. During the 4 1/2 years in Phoenix together the marriage was a "bitter-sweet" experience for both parties due to occasional manifestations of symptoms of Karen's mental illness, paranoid schizophrenia. She had been diagnosed as a schizophrenic from the age of 8 years. 00039

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COMPLAINT FOR  
ABUSE OF PROCESS

She WAS AN <sup>10R, CHRONIC</sup> ACUTE AND extreme case of the disorder. FOR ALL this time MR. DRIGGERS through "superhuman" efforts of patience, tolerance, and understanding held the MARRIAGE together in the face of extreme and stubborn verbal (and sometimes physical) abuse by KAREN VASSALLO upon him, such as RAGING AND RAVING OVER IMAGINARY OR FRIVOLOUS thoughts FOR whole days AND nights, devious comments directed to demean OR hurt the feelings, actual stabbing with a knife into MR. DRIGGERS' chest on two occasions, spitting in the face, throwing COLAS with ice into the face, grabbing the SCROTUM, ALL UNPROVOKED.

Unbeknownst to MR. DRIGGERS when he WAS NOT AWARE his wife had not taken her medication OR WAS "changing over" to her other personality (A personality that could be incredibly clever and devious and that had secret plans to remove him from her life) she would talk to Phoenix Police OR ARIZONA CPS, making false accusations against him. All her accusations AS TO MR. DRIGGERS were found to be with-  
out any foundation. Out of numerous accusations MR. DRIGGERS WAS MADE AWARE of only three while the others were secretly

00040

investigated. For these Karen Vassallo was able to receive some social services.

Three children were born of this union.

In February 2004, Mr. Driggers relocated the family to Pocatello, Idaho, to provide a better environment for the children. Karen Vassallo (KAREN) began showing symptoms in the presence of the children and then she suddenly left home, so in order to protect the children Mr. Driggers filed for divorce. KAREN was served process by publication and was personally notified of the petition but she chose to not participate.

About September 19, 2004, the divorce was granted.

After appearing to accept the reality of the divorce KAREN begged for "the return of her life" as it had been. Upon her promises to stay on her medication and maintain reasonable behavior, Mr. Driggers allowed KAREN to live with him and the children without civil marriage.

Mr. Driggers then bought for the family's happiness a beautiful new home in Blanchard,

page 14

Idaho, on 5-ACRES of surrounding trees and gorgeous views.

KAREN's mental condition seemed to greatly be improved for about a year. Then she expressed unhappiness at living 3-miles from the nearest store. Therefore MR. DRIGGERS sold the house and moved the family to a house in Post Falls, Idaho, where KAREN announced she could be happy.

About this time however KAREN presented as regressing because the Adult Mental Health Services ceased providing her subsidized medications and the full cost was beyond the means of the family. So MR. DRIGGERS began working on enrolling KAREN in the pharmaceutical manufacturers programs for discounted medications.

During the time MR. DRIGGERS was working towards this, KAREN was secretly working towards alienating the affection of MR. DRIGGERS' children against him.

She also, as she graduated into her emerging "evil" personality, began taking steps to destroy MR. DRIGGERS and obtain the help of organizations and people to exist on her own.

00042

PAGE 15 (065)

FOR ALL THE LENGTH OF HIS CHILDREN'S LIVES MR. DRIGGERS HAD BEEN A FULL-TIME FATHER TO MAKE SURE HIS CHILDREN (AND SICK WIFE) WERE TAKEN CARE OF.

MR. DRIGGERS HAD IN REALITY BEEN VERY GOOD TO KAREN REFUSING TO GIVE UP HOPE THAT HE COULD HELP HER GET MENTALLY HEALTHY AND BY HIS DEEP AND ABIDING LOVE HELD TO THE IDEAL THAT KAREN WAS DESERVING OF SOMEONE WHO WOULD "WALK THE EXTRA MILE" WITH HER AND GIVE HER A CHANCE TO FIND FULFILLMENT AND HAPPINESS IN LIFE INASMUCH AS SHE SEEMED TO HAVE SUFFERED SO MUCH AS A RESULT OF HER MENTAL DISEASE.

IN VIEW OF THIS SITUATION THEREFORE, WHEN THE POST FALLS POLICE AND SOCIAL WORKER ENTERED THE LIVES OF THE DRIGGERS FAMILY THROUGH KAREN VASSALLO THEY ENTERED INTO A DIFFERENT REALITY, AN UNREAL REALITY, AND BY SO DOING THEY CREATED AN IMAGE OF A WHOLE NEW FALSE REALITY. THEY WERE HAPPY AND EVEN ANXIOUS TO DO THIS.

THE ACCURATE REALITY WAS THAT THE DRIGGERS' FAMILY WAS NOT UNSTABLE IN ANY WAY, AND THE CHILDREN WERE NOT ABUSED OR UNHAPPY BUT QUITE THE CONTRARY. 00043



The only unstable factor in the family was KAREN, (AS described herein), and the bruises appearing on Desarae were an isolated incident.

Once KAREN's schizophrane personality fully emerged she MARSHALLED every conceivable prevailing social, moral, and law enforcement power against MR. DRIGGERS and either persuaded or prejudiced their minds that he was "the bad guy" in the developing controversy.

The several Reports of the Defendants in assessing the situation and conclusions lack indicia of principled thinking based on "fair inferences".

Plaintiff has been denied his fundamental rights by actions of the Defendants, and Plaintiff is entitled to a judgment and damages.

In regards to the actions by Defendants denying him contact with his children he is entitled to damages for all the time he has been unjustly denied contact with his kids from JANUARY 6, 2006, to the date that contact is re-established.

page 17. (065)

COMPLAINT FOR  
ABUSE OF PROCESS

And the Plaintiffs, All of them, Are entitled to judgment and damages incidental to the forced separation they have suffered and they are entitled to damages arising out of the injury they will experience in the future because of the past evil acts of Defendants.

(The threat of a petition for termination of rights)

Termination of MR. DRIGGERS parental rights as father to the children would not be a viable option based on any logic and any such petition would merely be another (bad faith) abuse of process for the purpose of delay to further alienate the children from this father.

A careful consideration of the situation reveals that every pretended ground fails when exposed to logic.

MR. DRIGGERS did not abandon his children because he could not abandon what the state stole from him and that he has tried to get back or maintain hope to so do.

His children are not neglected.

The actual mother is available for their care.

Extended family is available for care or

00045

custody on the father's side.

The Idaho Legislature chose to give notice as to which offenses would constitute grounds for termination of a parent's rights by making a specific listing and the father's offense is not "on the list".

During the years plaintiff Driggers had care and custody of his children he can show he was a good and even "doting" father and he never did anything wrong or inappropriate in relation to his minor daughters.

He has been exonerated of any charges of physical abuse.

Consistent with the past conduct of the defendants in this case plaintiff can only expect specious \*OR "wibbled" or "hokey" arguments to support a petition, such as the argument that due to Mr. Driggers offense [against the mother ostensibly] that due to Mr. Driggers action a relationship with the father would be too traumatic for the children. That therefore it would be in the best interests of everyone to sever all ties. This argument should apparently fail because the caretaker and not the father has control over the

information to the children.

"This chapter seeks to preserve the unity of the family whenever possible; " (Idc. 16-1601).

Additionally the children are nearing the age where they will not be traumatized by such information.

Clearly it is truly possible in this case to preserve the relationship.

Dailey by the thousands can be seen children visiting their parent in prison. With the highest rate of imprisonment in the world and modern history, the reality of prison has become a part of national culture. In these contexts it has not or can hardly be argued that the fact of prison is not "normal".

While no one can with certainty predict the future MR. DRIGGERS' federal conviction may be overturned and MR. DRIGGERS' vindicated rendering all that has been done futile. Yet even if MR. DRIGGERS were required to serve imprisonment for another 6-years it would not be in these children's best interest to be cut loose from their blood relatives.

It would be manifestly against the best interests of these children to destroy their ties to their own father. The mother has

page 20 (:65)

no Relatives with any genuine interest in taking care of them in the event she becomes unable to continue to raise them; whereas the father has an extended family whose members, though outside Idaho, are interested in raising them if need be. To destroy these ties will leave them with no one but strangers and rootless of themselves, for these children have no one except their mother and MR. DRIGGERS, the father. This would be cruel and in the finest Stalinist fashion.

Only a intellectually dishonest or corrupt "finding" could conclude severance would be in their best interests. When they become of age and discover for themselves the true facts they would be outraged about their true family being made victims by the State of Idaho.

If the relationship is not destroyed the father has extensive education and diverse and versatile talents to better the quality of his children's lives. MR. DRIGGERS has not requested visitation in prison with his children, but only to communicate with them via telephone and letters. His right to do this is the LAW.

It is common knowledge governments are best in the application of force and they don't do anything else very well. In this case the entry and involvement of the state and its employees have created a "mess" of the family's situation.

Some parents commit suicide from the trauma of state entry into their family or seizure of their children. In the Driggers' case the father was so traumatized he ended up contributing to some extent to putting himself in prison.

It was wrong and inappropriate and counterproductive to the declared policy of the state for it to force its way into this man's home and family and then to impose the subjective or capricious demands of state employees upon the father while under the coercion and duress of his children being fostered, while there were alternate placements with extended family.

Never in the history of man, until now, has a parent had to prove to any society his or her skill to be a parent when the basic ability is apparent.

FOR these Reasons the Plaintiff challenges the Constitutionality of Idaho statutes 16-1610 to 16-1643 AS APPLIED TO PLAINTIFF AND HIS SITUATION AND IN GENERAL, in that the State legislature took to itself Authority OR power it WAS NOT GRANTED by ANY Right OR precedent OR express SOCIAL CONTRACT.

RATHER, it usurped (certain) Rights legitimately Reserved to the people, OR in this case to the family, All in violation of the 9<sup>th</sup> Amendment of the BILL OF RIGHTS to the UNITED STATES CONSTITUTION, AS WELL AS in violation to the Common Law Rights of MAN that Plaintiff has never compromised OR intentionally surrendered; (SEE EXHIBIT 'H' Attached hereto noticed on file with the Kootenai County Recorder); said usurpations being mere "social engineering" deceptions.

Plaintiff Reserves the Right to supplement this Record with documentation as it becomes AVAILABLE to support his Assertions.

Ci

Paul W. Driggers  
4742 West Havasupai Dr.  
Glendale, AZ 85308

Number \_\_\_\_\_

08-14-2007

TESTAMENTARY AFFIDAVIT

This Testamentary Affidavit is prepared in accordance for use under the authority of an in accordance with the "Convention de le hay, 5 October, 1961", for evidentiary purposes, Federal and State, under the authority of and in accordance with the RULES OF EVIDENCE, Rule 902, to establish "self-authenticating evidence under seal".

On the soil of KOOTENAI )  
  )  
On the soil of IDAHO         )

TO WHOM THESE PRESENTS SHALL COME, GREETINGS!

The undersigned, affiant sui juris, heretofore having properly identified himself to be a native born natural American citizen, jus soli, bearing true faith and allegiance thereto; a sovereign elector inhabiting IDAHO, enjoying the "Right of soil", "Right of property", "Right of preemption", "Right of exemption", and all other rights unalienable, as publicly published and thus declared nunc pro tunc, and by virtue of the appertaining thereto, to wit:

I specifically deny that I have granted, donated or given any legal title to any purported, implied, resulting, charitable, or other trust administered by the United States, the United States of America, or the state of IDAHO. I further specifically deny that I ever had or have any intent to create a cestui que trust, whereby PAUL W. (initial only) surnamed DRIGGERS is settler, donor, or grantor of any Res to which a trust wherein PAUL W. DRIGGERS is a beneficiary having a territorial relationship with the United States, United States of America, or the state of Idaho.

I specifically deny that I ever had or now have intent to pledge, gift, assign, act as settler, donor or granting of any Res which would attach to my children, my biological property gifted to me by the Creator, as subject to condition precedent, thereby PAUL W. DRIGGERS is free born upon the soil of IDAHO country.

Likewise and in accordance with same, thereby my children to wit: CSARENA M. (initial only) DRIGGERS; DESARAE J. (initial only) DRIGGERS; and MILINDA K. (initial only) DRIGGERS; are all and each and everyone free born upon the soil of IDAHO country.

I specifically deny that there is any law that can compel me to accept or assign liabilities imposed by the compelled use of a legal personality.

(page 1 of two pages)

00051

EXHIBIT 4



C1

Whereupon, I, PAUL W. DRIGGERS juris et de jure, state and declare that the foregoing is entirely true, correct, certain, and complete, not interposed to cause delay, and that without mental reservation or hesitation, coercion, or fortiori, I have voluntarily appeared before a Notary Public and have ascribed my lawful signature hereto, appearing herein below, under pain and penalty provided by law for perjury.

Further affiant saith naught.

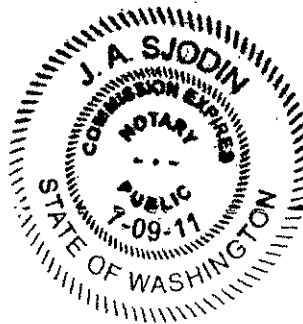
Dated Aug 14 2007.

By: Paul W. Driggers  
PAUL W. (initial only) DRIGGERS,  
sui juris  
Mailing Address:  
4742 West Havasupai Dr.  
Glendale, AZ 85308

State of Washington )  
County of King ) SS.

Subscribed and affirmed to, before me, a notary public, the above signator having personally appeared before me this 14 day of Aug 2007 and having identified himself to be one and the same and after having reiterated his solemn declaration above set out, ascribed his signature above.

[Signature]  
NOTARY PUBLIC  
7/9/11  
My commission expires



TESTAMENTARY AFFIDAVIT

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00052  
Second part,  
EXHIBIT '4'

COMPLAINT

PAUL WILLIAM DRIGGERS pursuant to the pertinent parts of the Idaho Rules of Civil Procedure and the FRCP, NOW APPEARS for himself and for his natural children and for the particulars of their cause of action, declares, asserts, and states as follows.

PART 1

PARA. 1: With competent evidence PAUL WILLIAM DRIGGERS will prove that defendant at some point in time between October 1998 and November 2005 developed a scheme in her mind to abuse the special or Holy institution of marriage in order to commit theft from plaintiff of his biological property, (that is, his children, the issue resulting from the marriage) and all material possessions and assets thereby leaving him impoverished, by means of defendant KAREN R. VASSALLO (VASSALLO) practically destroying him or physically destroying his ability to defend himself or his interests.

That this was a pattern of abusing the system of laws, contrary to their intended use.

( 00053

PARA. 2: In July 2005 she committed Grand

Theft against Kevin and Julie Koropatnicki which act damaged his Relationship with his Church, the couple being members of the same church. 1

shortly thereafter she stole the affections and attention of the church members and hierarchy to herself, as a part of her plan.

PARA. 3: That on November 17, 2005, she accidentally bruised by discipline their child, DESARAE, aged 6-years, then sent her to school intending to turn to her advantage her abusive action with DESARAE against MR. DRIGGERS in the eyes of the law.

PARA. 4: That all the above constitutes ABUSE OF PROCESS.

## PART 2

PARA. 1: That DAVID Beck, Detective of the Post Falls Police Department (Idaho)

## FOOTNOTES

1 This act brought the Idaho state Police to search with a WARRANT MR. DRIGGERS' home in Blanchard, Idaho, where no guns were found and KAREN declared to police MR. DRIGGERS' had an gun. This fact is not to be taken for a liter

page 25 (25:65)

contacted Plaintiff DRIGGERS about the bruises on DESARAE. MR. DRIGGERS apprised Officer Beck he did not know about any bruises and suggested some possible causes. MR. DRIGGERS willingly went to the Post Falls Police Department and spoke with David Beck.

PARA. 2: While Plaintiff DRIGGERS denied striking DESARAE the previous day and explained that DESARAE and the children were happy and well cared for, Detective Beck asserted that MR. DRIGGERS was guilty because DESARAE told him so and he declared she was more credible than MR. DRIGGERS.

PARA. 3: That at the initiation of the above described adversarial position by Officer Beck, MR. DRIGGERS declined to converse further with him. Whereupon Officer Beck issued MR. DRIGGERS a Misdemeanor citation for "injury to child".

PARA. 4: That Detective David Beck became aware during the visit by Plaintiff herein, DRIGGERS, that the Idaho DMV had very recently revoked MR. DRIGGERS' driving 00055

privileges to drive within the state. <sup>1/</sup>

PARA. 5: That instead of advising MR. DRIGGERS of this fact,

PARA. 6: He directed instead a patrol officer to stop MR. DRIGGERS on the road and arrest him for driving without privileges.

PARA. 7: That moreover, Police officer Beck took advantage of plaintiff DRIGGERS contrived arrest to illegally and improperly

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### FOOTNOTES

1/ Previously Idaho DMV had desired proof of insurance from MR. DRIGGERS. However MR. DRIGGERS had changed his Idaho license for a Nevada license for commercial purposes. Because his Idaho license was cancelled there appeared to be no need to provide Idaho DMV with his Nevada business address or address in Idaho. Instead of sending the letter to the new business address on the valid Nevada records the Idaho DMV sent the request for information to MR. DRIGGERS' obsolete Idaho address. 00056

This was just a bureaucratic bungle.

invade the home of Plaintiff. <sup>21</sup>

PARA. 8: That Beck unreasonably and with the thought to take unfair advantage of a number of statements (which were a part of her scheme) of VASSALLO, [he] willingly entering into an altered and unreal reality of VASSALLO.

PARA. 9: Further, in violation of the 4<sup>th</sup> Amendment of MR. DRIGGERS' constitutional rights (and the 5<sup>th</sup> and 14<sup>th</sup> Amendments) did seize or cause to be seized without probable cause the children of Plaintiff, taking same into custody.

PARA. 10: That Beck did all the above absent "reasonable inferences" in support of his claims that he avowed in A (connected to)

FOOTNOTES

<sup>21</sup> The United States Supreme Court has ruled that the consent of one party to entry of a dwelling by police when the other inhabitant has not consented is inadequate under the 7<sup>th</sup> Amendment. SEE: <sup>00057</sup> GEORGINA V. RANDOLPH, U.S. No. 04-1067; 281 F. 3d 712,

petition that the children were in immediate danger, while such claims would have been laughable if but for the serious consequences of such claims.

PARA. 10: That All the Above was done to punish, degrade, and humiliate the plaintiff for his exercise of his Right to Remain Silent, when MR. DRIGGERS had refused to continue a discussion with MR. Beck.

PARA. 11: That Detective Beck was not acting in good faith and he did not seek positive evidence of the stability and happiness and safety of the family members such as interviewing neighbors or talking to any other children without being suggestive, or taking into account the visible "nice home" the family lived in that was visibly equipped and modeled and "attuned" to the needs of children; instead striving to present a false picture of the home situation.

PARA. 12: That Beck did the above, including the omissions of duty and observation, out of an ulterior motive of job justification, financial reward for himself and connected children's agencies, and the generated glory attendant upon the mere appearance of  
00058

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PARA. 13: That All the Above constitutes  
MALICIOUS USE OF PROCESS AND ABUSE OF PROCESS

### PART 3

PARA. 1: In continuing the chain of events from the above, that Christina McNutt of IdHW, a social worker, conducted a faulty investigation with a pre-determined outcome, falsely finding that the family was "unstable" and the children at risk. That she submitted this erroneous and false report to Judge Robert Burton of the Kootenai County District Court Magistrate Division. (In other words this report was full of unfounded declarations and conclusions).

PARA. 2: That in part Magistrate Burton relied on said report to erroneously find that the subject children came within the purview of the Child Protective Act.

PARA. 3: That the ulterior motive of Ms. McNutt was improperly political to divest the father as male head of household of PATRIA POTESTAS and to please her state employee superiors.

00059



PARA. 4: That on or about the 12<sup>th</sup> day of December, 2005, the PLAINTIFF MR. DRIGGERS appeared in Magistrate Burton's Court room for the purpose of meeting with his appointed Attorney, LARRY PURVIANCE, and to attend a pre-trial conference relating to an upcoming adjudication hearing.

That Attorney LARRY PURVIANCE made certain representations verbally to this plaintiff, to wit:

The state of Idaho, IdHW, through its counsel had made an offer to the father that if he would sign an agreement, amounting to a promise, to procure health insurance or Medicaid coverage for his children, AND ALSO attend a parenting class as part of something called a CASE PLAN, that IdHW would promptly return the children to his home.

The employees of IdHW would help him qualify for and obtain Medicaid coverage if he needed help in doing so.

That the Judge (Burton) approved this arrangement and did not prohibit it.

That the offer is a "good deal".

PARA. 5: That during the above described discussion between MR. DRIGGERS and MR. PURVIANCE, an employee of IdHW, Christina McNutt, social

WORKER, APPROACHED AND ENTERED THE DISCUSSION SAYING, "DON'T WORRY PAUL. ROBIN JACOBSEN OR I MYSELF WILL SEE TO IT THAT YOU GET MEDICAID FOR THE KIDS AND I WILL SET YOU UP SO YOU CAN GET ENROLLED IN A PARENTING CLASS PROMPTLY. JUST COOPERATE WITH US AND SIGN THE AGREEMENT. YOUR CHILDREN WILL BE HOME SOON."

PARA. 6: THAT LARRY PURVIANCE, APPOINTED COUNSEL, FOLDED A DOCUMENT AND HELD IT DOWN ON TOP OF A COUNTER-TOP AND INVITED MR. DRIGGERS TO READ PART OF A PARAGRAPH WHILE EXPLAINING THIS STATEMENT CONSTITUTED THE COURT'S APPROVAL. HIS FINGERS OBSTRUCTED THE VIEW AND THE FOLDING OF THE DOCUMENT APPEARED TO BE HIS WAY OF HIGHLIGHTING OR FOCUSING ON WHAT HE DECLARED WAS THE IMPORTANT PART. (MR. DRIGGERS WAS NOT SUSPICIOUS OF HIS ACTIONS AND HIS WORDS SEEMED TO MATCH THOSE OF CHRISTINA McNUTT).

PARA. 7: THAT PLAINTIFF HEREIN, MR. DRIGGERS, WITH SAID UNDERSTANDING, DID AFFIX HIS SIGNATURE TO THE PROFFERED DOCUMENT AS A CONSEQUENCE OF THESE INDICATED REPRESENTATIONS BY MR. PURVIANCE AND MS. McNUTT.

PARA. 8: THAT PLAINTIFF AT THAT TIME WAS IGNORANT OF IDAHO STATUTORY LAW, BEING A RELATIVE

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new Resident of the state, and never having studied family law or having any experience. As such, he was vulnerable and easily misled.

PARA. 9: That in that same hour MR. DRIGGERS WAS informed that he could not qualify for coverage on his children until the children were in his home first, after he went to the nearest Medicaid office and made a written application for insurance on his children.

PARA. 10: That MR. DRIGGERS, in a recorded telephone call with Robin Jacobson confirmed the understanding that had been made (see para. 1 and para. 2 above) and asked her what she could do. SAID Robin Jacobson stated she was in the process of keeping the agreement and also was working on making the various appointments for the children, and that she would have Christina McNutt call MR. DRIGGERS.

PARA. 11: That shortly after this time, all parties involved in this situation became unavailable and refused to return any phone calls.

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PARA. 12 : That MR. DRIGGERS, Plaintiff, promptly completed an AFFIDAVIT (of fraud) to explain and Repudiate and void the document he had signed in ignorance of its true and accurate nature. He mailed it to the Magistrate Court, (see EXHIBIT '1' attached and incorporated by reference hereto), as part of a motion for new counsel to be appointed to him in the CPA case. (MR. PURVIANCE also represented MR. DRIGGERS on a traffic matter, and MR. DRIGGERS sent a copy of the AFFIDAVIT to Judge BURTON on that case as well.)

PARA. 13 : That Magistrate BURTON never took any action to take precaution that his Court be not used to advance a fraud although he had reasonable notice that such may have occurred and may be ongoing.

PARA. 14 : That the above-described motion with the AFFIDAVIT mysteriously disappeared from the CPA case entirely, disappearing entirely from the active file in the Kootenai County Court, and a copy had to be retrieved from the traffic archived files in storage. Neither was MR. DRIGGERS conformed copy returned.

00063

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to him.

PARA. 15: That others, both employees and non-employees of IdHW, have worked to take advantage of the fraud and to cover it up.

PARA. 16: That IdHW, its employees, and all defendants, have failed to perform their oral promises never having any intention in the first place to perform that which they promised: to place the children back into MR. DRIGGERS' home. (said intention being manifested by making a contract impossible to perform).

PARA. 17: That all the above acts by defendants constitutes all the elements of fraud. That is, fraud in the inducement; fraud in the factum; actual and constructive fraud; and, intrinsic and extrinsic fraud. The defendants made false representations and concealed facts; they each had knowledge of the fraud, with the intent to induce reliance; and the plaintiff herein justifiably relied on the representations and as a result he suffered the loss.

00064

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of monies and his children.

PARA. 18: PLAINTIFF DRIGGERS essentially alleges that defendant IdHW and its employees and agents have acted the part of a thief in stealing by fraud, deceit, and subterfuge with collusion the three (3) children which were (are) the biological property of MR. DRIGGERS as gifted to him by the CREATOR. Further, that Robert Burton, Magistrate, has conspired with same to effectuate the theft "under color of State law."

PARA. 19: That plaintiff Driggers has attached hereto the subject AFFIDAVIT OF FRAUD labelled EXHIBIT '1' and by reference incorporated herein. The document is titled "MOTION FOR CHANGE OF COUNSEL; AFFIDAVIT OF PAUL W. DRIGGERS."

PARA. 20: That All the Above continues a chain of ABUSE OF PROCESS under law.

PARA. 21: Thereafter on January 6, 2006, Karen Vassallo did plant a stolen handgun, hiding same in the bottom of a laundry basket located between a bed and closet in a bedroom inhabited by Mr. Driggers within the house.

PARA. 22: Karen Vassallo then met with CERTAIN UNKNOWN POST FALLS POLICE OFFICERS from the Post Falls (City) Police Department, and falsely claimed Plaintiff Driggers had threatened her with a gun and she then consented to a search of the house.

PARA. 23: Immediately said Police Awoke Mr. Driggers from his sleep and demanded entry to the house without a warrant. That as a matter of policy Plaintiff Driggers objected to any entry and explained that any forced entry would be illegal and in derogation of his rights under the circumstances and prevailing law. 3

PARA. 24: That the CERTAIN UNKNOWN POLICE OFFICERS entered the house nevertheless. They then escorted VASSALLO into the house AT 11:00 PM

they took possession and secured the premises  
PARA. 25: Whereupon said Post Falls Police officers seized a handgun and announced it had been previously reported as stolen.

PARA 26: That Plaintiff Driggers advised the said unknown police officers that Karen Vassallo was psychotic, a schizophrenic, and had an evil plan to destroy him, and that they should pay her no mind but continue to investigate both of the parties' statements.

PARA. 27: VASSALLO also informed them that she was suffering from paranoid schizophrenia.

PARA. 28: Nonetheless over Plaintiff Driggers' objections and without probable cause they arrested MR. Driggers.

PARA. 29: They then and there gave VASSALLO Plaintiff's credit and debit cards and

#### FOOTNOTES

3/ MR. DRIGGERS' belief was based on his interpretation of the case law of Minn. v. Olson, 495 U.S. 91, 110 S. Ct. 1684, 109 L. Ed. 2d 85; Wilson v. Layne, 526 U.S. 00067



All of his keys. 4

PARA. 14: That All the Above was MALICIOUS USE OF PROCESS by KAREN VASSALLO and the unknown officers of the Post Falls Police Department.

PARA. 15: That upon preliminary hearing on the matter the case ended in MR. DRIGGERS FAVOR with a DISMISSAL of the charge for LACK OF PROBABLE CAUSE. 5

PARA. 16: That the particular Police officers of the Post Falls Police Department were motivated to act as they did out of bias in FAVOR of the female figure in the situation and their personal dislike of MR. DRIGGERS arising out of the recent abuse charge and the shared policy of advancing the social goal of destruction of PATRIA POTESTAS further motivated and enhanced dislike by MR. DRIGGERS refusal to "bow the knee" to them, or in other words, to allow himself to be subjugated or humiliated.

### FOOTNOTES

4 VASSALLO immediately without authorization shared in the matter (account) 67-A

## PART 4

PARA. 1: Continuing between JANUARY 6, and JANUARY 20, 2006, Defendant KAREN VASSALLO Resumed MARSHALLING every segment of society and including its official ARMS in her support and AGAINST PLAINTIFF DRIGGERS, with a design to disable and/or destroy him unjustly.

PARA. 2: That she Recruited Women's ORGANIZATIONS to speak in tandem with her even seeking to influence the MAGISTRATE COURT of Robert Burton AGAINST MR. DRIGGERS Reference to the pending "INJURY to child" charge.

PARA. 3: She enlisted the help and financial support of the MORMON Church by using SLANDER AGAINST PLAINTIFF.

## FOOTNOTES

5/ VASSALLO and the Reporting Post Falls Police conveniently failed to include in their reports that during the execution of the SEARCH WARRANT in July (see FOOTNOTE '1') VASSALLO declared there WAS NO GUN AND NO GUN WAS FOUND 00068

PARA. 4 : That she falsely swore to Magistrate Eugene MARANO that she needed a protective order against MR. DRIGGERS because of [alleged] verbal threats by him.

PARA. 5 : That she would not dispossess MR. DRIGGERS of his property if the protective order were granted.

PARA. 6 : Additionally moreover AMANDA GRAFE, Social Worker from IDHW, was present in the court room on this date (JANUARY 19, 2006) and knew or should have known and/or had reasons to know that the statements and avowals by KAREN VASSALLO were a fabrication and false, and she possessed good and credible evidence that they were false and a story.

Yet she took no affirmative action to apprise the court of the truth, in violation of her duty.

PARA. 7 : That although the Plaintiff herein, the father of the subject children, held legal custody of his children as primary custodian, KAREN represented to the court that the children should be included in the protective order even though they were in truth subjects of a CPA case. (Plaintiff had to hire and

pay counsel to have this corrected.)

PARA. 8: That AMANDA GRAFE WAS AWARE also of this fraud on the court by VASSALLO notwithstanding which she kept silent and then actually used the fraud herself to wrongly confuse the CPS records and cause delays in progress on the case.

PARA. 9: Magistrate MARANO did issue the requested protective order.

PARA. 10: That KAREN VASSALLO did promptly take advantage of the protective order to take by larceny an amount of property of great value (both pecuniary and sentimental) belonging to plaintiff DRIGGERS, with certain members of the Mormon church aiding and abetting, from MR. DRIGGERS home, even though he had warned them not to do it. <sup>6/</sup>

#### FOOTNOTES

<sup>6/</sup> In JANUARY, 2007, Judgment WAS given to plaintiff DRIGGERS in the Kootenai County Court, case No. CV06-2497, for this wrongful act. However, VASSALLO refuses to comply with the <sup>00070</sup> judgment.

PARA. 11: That over, and in spite of, Plaintiff DRIGGERS objections the officers of the Post Falls Police Department did allow "under their noses" this larceny to occur, stating that they could not stop it because VASSALLO claimed to be MARRIED to MR. DRIGGERS.<sup>2</sup>

PARA. 12: Plaintiff requested them to temporarily halt the theft just long enough to await the ARRIVAL of the Divorce Decree from Bonner County.

PARA. 13: That Defendant Police Officers were happy to conduct the situation as they did because they believed that

### FOOTNOTE

7 Indicative of the fact that VASSALLO knew, or should have known, that she was not MARRIED any longer to MR. DRIGGERS (CIVILLY) ARE the MANY declarations she made on various legal documents on file in connection with different cases. One such case is the Civil Lawsuit, Bonner County (2005), KRISTA CONLEY V. KAREN VASSALLO. OF COURSE 00071

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Under the circumstances they could, and the ultimate motive was punishment of MR. DRIGGERS because of their failure in court to indict him and their desire for Revenge to assuage their own embarrassment.

### PART 5

PARA. 1: On about MARCH 6, 2006, KAREN VASSALLO contacted and spoke with the FBI, making various unfounded accusations against MR. DRIGGERS, and gave them all of his paperwork and computer. (Nothing directly by way of charges came out of these items).

PARA. 2: On about MARCH 12, 2006, MR. DRIGGERS alerted the Bonner County Sheriff's Dept. to seize his mini-VAN at a certain place, which VASSALLO had stolen. This was done.

PARA. 3: On about MARCH 13 to 15, 2006, KAREN VASSALLO and AMANDA GRAFE with DAVID BECK all declared a new investigation was just beginning based upon an allegation of VASSALLO that MR. DRIGGERS in some past year had molested his daughter. 00072

PARA. 4: The above accusation was false.

And not made in good faith.

PARA. 5: The investigation was not genuine and not a good faith effort.

PARA. 6: Plaintiff DRIGGERS alleges that the above was a ploy to give excuse to AMANDA GRAFE to delay Reinstitution of visitation between the father and his children.

PARA. 7: This was also an act of Revenge by VASSALLO.

PARA. 8: The above "investigation" lasted three (3) months at the end of which there was declared to be insufficient evidence to support any charges.

PARA. 9: That AMANDA GRAFE, instead of resuming visitation between the father and his children, stated the children were so fearful of their father that visitation could not be resumed and that he would have to build bridges to re-establishing a relationship.

PARA. 10: That this position by AMANDA GRAFE was a facade and contrivance and made for the purpose of delay.

PARA. 11: That AMANDA GRAFE said it would

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to speak with him on the phone due to their fear.

PARA. 12: AMANDA GRAFE Refused to Allow her assertions (Above) to be tested by means of any independent person speaking with the children, OR by cooperating with Discovery Requests in providing Audio OR Video of interviews OR allowing discussion with any professionals who had interviewed the children.

PARA. 13: That AMANDA GRAFE established a CASE PLAN in bad faith, Requiring MR. DRIGGERS to buy gifts and toys, CARDS and letters, for his children in Foster Care, which he did to the tune of more than A thousand dollars.

PARA. 14: That AMANDA GRAFE Required MR. DRIGGERS to buy furniture, establish a home, attend parenting classes, obtain psychologicals, All of which MR. DRIGGERS substantially completed.

PARA. 15: That Regardless of her promises, AMANDA GRAFE Refused to Resume any visitation.

PARA. 16: That this conduct was not



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in good faith but for the purpose of delay  
PARA. 17: That all this conduct, and  
other conduct described herein, were  
"probing" efforts, and part of a chain  
of wrongful actions to set up a case for  
presentation of phony arguments in support  
of a planned petition for termination of  
parental rights — to seek a way to steal  
plaintiff's children by any possible means,  
including the (possible) possibility of  
terminating paternal parental rights.

PARA. 18: That Karen Vassallo, with the  
help of AMANDA GRAFE at times and other-  
wise on her own, conducted a kind of  
"all out war" upon plaintiff Driggers by  
misusing the courts and ignorant law enforce-  
ment officers. Karen Vassallo continued  
to "chase" plaintiff Driggers by gaining  
sympathy of various law officers for her  
stories and generating hostility for him  
by same; by sending various law officers  
after him for [allegedly] violating the  
previous issued PROTECTIVE ORDER, inclu-  
ding (duped) Detectives from the Bonner  
County Sheriff's Department. That is,  
MR. Driggers would receive phone calls  
on his cell phone while he was in the  
hospital in Spokane, Washington, OR 00075  
nursed

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of miles AWAY otherwise, from Bonner County the Detectives accusing him of stalking Karen VASSALLO.

PARA. 19: THAT AMANDA GRAFE WAS personally given by Clayton Andersen, A LAWYER, A modification of the PROTECTIVE ORDER (allowing contact with the children by MR. DRIGGERS) yet she continued to assert that the PROTECTIVE ORDER included the children.

PARA. 20: THAT AMANDA GRAFE is AN extremely deceptive and wily individual employed by Idaho CPS and who is adept at "the tricks of her trade" due to long experience, and she routinely perverts the system of child protective statutes for her own benefits and ends.

PARA. 21: THAT AMANDA GRAFE falsely and for delay and probing purposes accused MR. DRIGGERS of "inappropriately touching" his daughter(s) at some indefinite time past.

PARA. 22: THAT All the above conduct WAS in bad faith, AN ABUSE OF PROCESS, with the ulterior motive of destroying the relationship between this father and his children. 00076

PART 6

PARA. 1 : That during A June 2006 hearing in the COURT of ROBERT BURTON, AMANDA GRAFE claimed that the State's professionals advised against contact between the Plaintiff DRIGGERS, the father, and his children, ostensibly for the reason that the children thought their Dad had a gun and would shoot them

PARA. 2 : That the father, MR. DRIGGERS, expressed to the Court that the IDHW had in effect terminated ALL of MR. DRIGGERS' parental rights without the DUE PROCESS OF LAW owing to MR. DRIGGERS.

PARA. 3 : That Magistrate BURTON, in violation of principles of Reasoning and making no fair inferences, declared that if the children were fearful of the father and the professionals could not correct that, that he was prepared to terminate MR. DRIGGERS' parental rights.

PARA. 4 : That he refused to rectify the unjust and illegal situation, and AMANDA GRAFE of Idaho Health and Welfare Department continued to deprive the Plaintiff herein of his fundamental rights to maintain

A Relationship with minor daughters.

PARA. 5: That Robert BURTON WAS ACTING in the CASE WITHOUT JURISDICTION.

PARA. 6: That Robert BURTON throughout the conduct of this CASE acted corruptly and intellectually dishonestly.

PARA. 7: That the ABOVE WAS AN ABUSE OF PROCESS AND the ulterior motive of Robert BURTON WAS to ALLOW perpetuation of the ABUSE OF PROCESS FOR the profit of the STATE AND COMITY OR bias in FAVOR of the Department of Health and Welfare, much of this being influenced by benefits of federal funding of related programs.

PARA. 8: That during the month of July, 2006, while the Plaintiff father WAS held under the coercion and duress of the unlawful detention of his minor daughters by IDHW and while continuing compliance with the demands (extortion) of AMANDA GRAFE, that she declared a new excuse for delaying Resumption of visitation in that she alleged the children were citing new incidences of past physical abuse.

PARA. 9: That during the month of July 2006, AMANDA GRAFE refused to allow the biological adult brother of the children, Jonathan Driggers to visit his sisters, declaring that such a visit would not be in their interest.

PARA. 10: The above declaration by GRAFE was not in good faith and it was a continuation of the chain of wrongful and unlawful actions by GRAFE.

PARA. 11: AMANDA GRAFE continued to ABUSE the process of law by continuing to deny the father's repeated requests in July, 2006, for telephone contact with his minor daughters without good reason.

PARA. 12: That the father, MR. DRIGGERS, had been, or was, exonerated of the Misdemeanor charge of Injury to child when the charge was dismissed, ending in MR. DRIGGERS' FAVOR. 81

FOOTNOTES

81 A county pathologist examined photographs of the bruises, issuing a report indicating a deduction therefrom that the mother and child had not been truthful in identifying the belt used, or the time of the incident, or the clothing worn. (00079

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PARA. 13: In indirect connection with the above MR. DRIGGERS Requested A brief hearing FROM AMANDA GRAFE AND IDHW for the purpose of presenting empirical evidence showing that KAREN VASSALLO AND DESARAE had not told the truth about the bruises she received, so that they might revise their "Finding" related thereto. They Refused any hearing or further proof.

PARA. 14: This refusal was an abuse of discretion as a continuing ABUSE OF PROCESS

PARA. 15: In July 2006, AMANDA GRAFE again falsely claimed that there had been no modification of the PROTECTIVE ORDER AND asserting consequently that there could be no contact between the children and their father.

PARA. 16: That the above was an ongoing egregious delaying technique.

PARA. 17: That all the above constitutes a continuing ABUSE OF PROCESS for all the same reasons.

PARA. 18: That Plaintiff Driggers filed a formal complaint about the situation with 00080

the [then] Governor of the State of Idaho.

PARA. 19: That five days later MR. DRIGGERS WAS ARRESTED by Federal Authorities accused of Use of Interstate Facilities in the Commission of Murder for hire, and naming KAREN VASSALLO AS Alleged target. 9/

PARA. 20: That the Record will show officer DAVID BECK represented to Federal Authorities that MR. DRIGGERS had been A DANGER to KAREN VASSALLO and that they just had not been able to prove their cases against him. That these assertions by BECK were prejudicial (and logically unsupportable). That the United States did not call BECK AS A witness.

PARA. 21: That on MAY 22, 2007, A Judgement of Conviction WAS given AGAINST MR. DRIGGERS in the U.S. District Court for the District of Idaho, and A sentence of 10-YEARS imprisonment imposed

#### FOOTNOTES

9/ MR. DRIGGERS believes his prosecution in Federal Court WAS A further extension of the Abuse of Process by Federal officials in northern Idaho sympathetic to VASSALLO and hostile and biased AGAINST MR. DRIGGERS. However this is AN issue in A case for another jurisdiction and forum.

upon him. <sup>10/</sup>

PARA. 22: That DANIEL COOPER, Alleged lawyer appointed to MR. DRIGGERS, "Ran interference" such that PLAINTIFF DRIGGERS could not protect his own interests.

He Allowed false evidence to be Admitted without objection. He Refused to notify DRIGGERS of ANY upcoming hearings. Therefore PLAINTIFF did not have ANY opportunity to make ARRANGEMENTS to APPEAR AT ANY hearing; telephonically OR otherwise. He Failed to Act upon MR. DRIGGERS' Reasonable Requests such AS providing A copy of ANY documents in the file.

He did not familiarize himself with the necessary facts and LAW connected to the case. He Refused to communicate Adequately so that he knew not what this client's

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#### FOOTNOTES

10/ An Appeal was taken to the U.S. Court of Appeals for the 9<sup>th</sup> Circuit on a number of grounds including violations of Due Process; the Court's inability and government inability to formulate in conformity with the LAW a statement describing how the Alleged offense occurred; and the possibility the Verdict was the Result of Reverse Jury Nullification (Verdict Contrary to the evidence).



conviction WAS FOR in Federal court OR how it did AND did not relate to ANY pertinent PARTS of the Idaho code.

PARA. 23: All the above by Daniel Cooper WAS done in combination with Magistrate BURTON'S Refusal to permit MR. DRIGGERS to Represent himself in PERSONA PROPRIA thereby rendering the Appointment of DANIEL COOPER a calculated obstacle to MR. DRIGGERS protecting his Rights.

PARA. 24: That All this constitutes AN ABUSE OF PROCESS by Magistrate Robert BURTON AND DANIEL COOPER.

That DANIEL COOPER is paid to serve the state while acting AS token counsel to MR. DRIGGERS. This is improper AND Abusive.

PARA. 25: That on OR About MAY 29, 2007, IdHW brought A motion Requesting permission to discontinue Reunification efforts AND to file A petition for termination of parental Rights. Without allowing ANY fair chance to be heard Robert BURTON granted the Requested permission without hesitation OR attention to ANY good conscience.

PARA. 26: Plaintiff believes these actions by Robert Burton as Magistrate were done without lawful jurisdiction.

PARA. 27: Additionally Plaintiff alleges that these acts and others by Robert Burton in this case were wholly corrupt, motivated by the same improper purposes stated earlier herein, and abusive of process.

PART 7

PARA. 1: That AMANDA GRAFE and IDHW, in connection with their plans and actions in abusing their powers for evil purposes, refused proper requests for discovery so that certain assertions by AMANDA GRAFE could be tested.

PARA. 2: That Magistrate Burton ignored Plaintiff DRIGGERS' written request for an Injunction, Prohibition, or Writ of Mandamus he filed while representing himself pro se, which he filed while pro se in an effort to regain or enforce his rights to maintain a relationship with his daughters.

PARA. 3: That in total disregard of MR. DRIGGERS' request for the assistance of 00084

Counsel other than the Kootenai County Public Defender with whom he had a serious conflict of interest in fact and in law; Magistrate Burton appointed same to represent MR. DRIGGS.

All this conduct provides further evidence of bad faith.

PARA. 4: That the Guardian Ad Litem, and CASA, have failed to act in the best interests of the subject matter children. Basically they have acted subservient to IdHW or GRAFE.

She has failed to investigate the fact of the case. She has failed to practice legally sufficient truth-finding practices and reasoning. Her reports and the reports of CASA are replete with conclusions based on supposition and conjecture. CASA's conduct as a whole amounted to a bias in favor of condemnation while refusing to consider any redeeming qualities.

PARA. 5: Said Linda Green has acted with malice toward this plaintiff based on her shared social and political philosophy of gender discrimination and favoritism with IdHW and for pecuniary profit. All this constitutes an ABUSE OF PROCESS.

PARA. 6: That on March 17, 2007, Karen Vassallo (Vassallo) did wrongfully cause a false misdemeanor charge of 'violation of civil protection order' to be lodged against the Plaintiff Driggers, alleging that Mr. Driggers was not supposed to mail greet- ing, or birthday cards to his daughters alleging violation of Idaho Code 39-6312

PARA. 7: This malicious action by Vassallo was a violation of Plaintiff Driggers' civil and constitutional rights in that: a) No such protective order existed but was a claim continuing the same sinister plan as her cohort GAFFE using the same methods, and, b) Even if such an order existed it would be invalid as void under law (P.O.R.S. v. Gardner, 998 F.2d 764, 9th Circuit, 1993). As Mr. Driggers has a fundamental and substan- tive right to maintain a relationship with his children. The action concluded in a dismissal

PARA. 8: This malicious action by Vassallo was in the Bonner County Court comprising malicious prosecution and abuse of process with an improper and evil purpose of perse- cuting Mr. Driggers and illegally converting his parental rights to her own exclusivi- ty, all in violation of the law. 00086

PARA. 9 : That on May 22, 2007, Karen VASSALLO, appeared at the sentencing hearing of MR. DRIGGERS, her ex-husband, and addressed the U.S. District Court for [Northern] Idaho, as was her statutory right. Further that she requested of the court that it sentence her ex-husband, whom she called "MR. DRIGGERS" to the maximum term of imprisonment for the reason she was afraid "Mister DRIGGERS" would get out of prison and obtain custody of "her <sup>children</sup>". VASSALLO did not utter a word of concern or fear of MR. DRIGGERS for her personal safety or her life.

PARA. 10 : That AMANDA GRAFE refused to send reports reference to plaintiff's children, or photographs of same, or to discuss in good faith the children with their father, the plaintiff.

PARA. 11 : That all the above conduct is revealing of VICIOUS MANIFESTED ABUSE OF PROCESS and deprivation of rights belonging to PAUL WILLIAM DRIGGERS.

## RELIEF REQUESTED

THEREFORE, the Plaintiff Paul William Driggers in persona propria Requests Relief pursuant to the Idaho Rules of Civil Procedure and FRCP Rule 57 giving him A DECLARATORY JUDGMENT in his favor, including also Dismissal of any State action, that MAY COME TO THE COURT'S ATTENTION relative to the facts in Plaintiff Driggers' COMPLAINT.

FURTHERMORE the Plaintiff demands:

1. The costs of this action be assessed to the defendants either individually or collectively as the Court may determine; And
2. Actual monetary damages in a sum certain to be determined later in a subsequent hearing; And
3. Punitive financial award to be similarly determined.

FOR such further relief as equity and law demand.

RESPECTFULLY, PAUL WILLIAM DRIGGERS

Gaul W. Driggers

By: Gaul W. Driggers  
Plaintiff in persona propria.

Dated: the 27<sup>th</sup>  
of AUG., 2007.

VERIFICATION

I, PAUL WILLIAM DRIGGERS, PLAINTIFF  
 in PERSONA PROPRIA, below-signed, being  
 of A sound mind and without coercion  
 or duress, hereby solemnly swear upon  
 oath the following to be true,  
 stating, avowing and asserting that  
 I AM the person making this declaration  
 and attached complaint, that I fully  
 understand everything I have written,  
 that everything I have written and  
 drafted is true and correct and  
 complete to the best of my knowledge  
 and belief, except for those parts  
 stated to be based upon information  
 and belief, and as to those parts I  
 verily believe them to be true.

I make this sworn statement  
 with the knowledge of the penalties  
 for perjury and false statements  
 provided by law.  
 Further affiant sayeth naught.

By  
 SWORN  
 TO the 27<sup>th</sup>  
 day of  
 AUGUST, 2007.

PAUL WILLIAM DRIGGERS  
 Paul W. Driggers  
 AFFIANT

PAUL WILLIAM DRIGGERS, PRO PER  
Reg. No. 00922-287  
Federal CORR. Institute  
P.O. Box 6000  
Florence, CO. 81226-6000

IN THE FOURTH JUDICIAL DISTRICT COURT  
FOR THE STATE OF IDAHO  
FOR ADA COUNTY

PAUL WILLIAM DRIGGERS,  
et al.,

Plaintiffs,

v.

AMANDA GRAFE,  
et al.,

Defendants.

CASE NO. IV-

OC 0719469

SUPPORTING

BRIEF

'PLAINTIFFS' MEMORANDUM OF  
POINTS AND AUTHORITIES

It has sometimes been said that the term "process", as used in the tort of abuse of process, is interpreted broadly and encompasses the entire range of activities and procedures incident to the litigation process, including discovery proceedings, noticing of depositions, etc. U.S. Steel, LLC, v. Teco, Inc., 261 F.3d 1275, Am. Jur. 2d 1, p. 458.



page 62. (165)

Any person who makes use of a legal process for some private, personal purpose that is beyond the scope of the process or who knowingly participates in its use for such a purpose, is liable in damages for abuse of process. 328 F.3d 1230, (10<sup>th</sup> Cir. 2003).

In respect to a claim for malicious use of process, malice may be proved by circumstantial evidence and it may exist even in the absence of hatred or ill will. Bushon v. Shea, 419 F.Supp. 1349 (1976).

A public official may also be charged with abuse of process. 135 S.Ct. 811, 160 L.Ed.2d 598 (U.S. 2004).

Rights to MARRY, have children, and maintain relationship with children are fundamental rights protected by the 14<sup>th</sup> Amendment and thus, strict scrutiny is required of any statutes that directly and substantially impair those rights. (P.O.P.S. v. Gardner, 998 F.2d 764 (9<sup>th</sup> Cir. 1993)).

The custody, care, and nurture of a child.

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Reside first in the parents, whose primary function and freedom include preparation for obligations the state can neither supply nor hinder.

The equal protection clause of the Fourteenth Amendment limits the authority of a state to draw such legal lines as it chooses.

Stanley v. Illinois, 92 S.Ct. 1208,

### FATHER'S INVOLUNTARY SERVITUDE

Both the Thirteenth Amendment and its enforcing statutes apply to contemporary as well as to historic forms of involuntary servitude and it has long been recognized that the words involuntary servitude have a larger meaning than slavery. 18 U.S.C., sec. 1581, 1583, 1584, 3731. U.S. v. Mussy, 726 F.2d 1448 (1984).

A holding in involuntary servitude occurs when an individual coerces another into his service by improper or wrongful conduct that is intended to cause, and does cause, the other person to believe that he or she has no alternative but to perform the labor.

"We hold that a violation of the peonage and involuntary servitude statutes may occur through conduct other than the use or threatened use of law or force...." Pollock v. Williams, 322 U.S. 4, 17-18, 64 S.Ct. 792.

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## COMPLAINT FOR ABUSE OF PROCESS

A person with a strategic advantage may not take advantage using psychology.

May not take advantage of vulnerabilities.  
U.S. v. Kozminski (1988) 487 U.S. 931, 101 L. Ed 2d 788, 108 S. Ct. 2751.

### ABUSE OF PROCESS

A public official may also be charged with ABUSE OF PROCESS. 125 S. Ct. 811, 160 L. Ed 2d 598 (U.S. 2004).

A magistrate acting without jurisdiction or outside the scope of authority may be charged and held accountable for Abuse of Process.

Donohoe v. Burd, 722 F.S. 1507 (1989).

AM. JUR. 2d, Sec. 20. Judicial officers.

A person is also liable for Abuse of process if he or she procures the improper initiation of a proceeding by a third party. Alexander v. Unification Church of America, 634 F. 2d 673, (2<sup>nd</sup> Cir. 1980); 722 F.S. 1507; 923 F. 2d 854 (6<sup>th</sup> Cir. 1991).

Crux of action for Abuse of process is improper use of process after it has been issued, that is, a perversion of it. Dunagin v. City of Oxford, Miss., 489 F. Supp. 763 (1980).

### DECLARATORY JUDGMENT

While it is true that a declaratory judgment

00093

page 65 (65:65) DRIGGERS, et al., v. GRAFE, et al.

is usually obtained before there has been an interference with the rights of a party, such interference is not necessarily a bar to such an action. State v. Kelley, 541 N.W. 2d 645 (1996).

Discretion must not be arbitrary, but based on good reason (477 A. 2d 1131, 18 Ed. Law Rep. 648), and calculated to serve the purpose for which the declaratory judgment legislation was enacted.

Also see, Uniform Declaratory Judgments Act, 28 U.S.C.A. 2201-2202; 565 P. 2d 1326.

RESPECTFULLY SUBMITTED,

PAUL WILLIAM DRIGGERS  
Paul W. Driggers  
Paul W. Driggers  
BY  
In propria persona

DATE:  
AUGUST 27, 2007.

Paul W. Driggers

INMATE MAIL

STATE OF IDAHO }  
COUNTY OF KOOTENAI } SS  
FILED

IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF IDAHO  
FOR THE COUNTY OF KOOTENAI

2006 JAN -3 AM 11:56

CLERK DISTRICT COURT  
*Paul W. Driggers*  
DEPUTY

PAUL W. DRIGGERS  
1501 EAST 1<sup>ST</sup> AV.  
POST FALLS, ID. 83854  
208-773-8532

STATE OF IDAHO, )  
Plaintiff, )  
)  
VS. )  
)  
PAUL W. DRIGGERS, )  
Defendant. )  
)

CASE NO. CR-2005-0023230

MOTION FOR CHANGE OF COUNSEL  
(Conflict of Interest)

Appears now PAUL W. DRIGGERS and respectfully Motions the Court to dismiss his/her presently assigned lawyer from representing him/her in any further proceedings in this case and to appoint a new Attorney at Law to represent him/her so that his/her interest will be adequately represented and advocated.

The grounds for this Motion are outlined in the accompanying Affidavits attached hereto and incorporated by reference hereby.

Therefore this Motion should be granted.

Respectfully, (Printed Name)

PAUL W. DRIGGERS

Signed By: *Paul W. Driggers*

Dated: 29<sup>th</sup> DEC, 2005.

EXHIBIT '1' (first page)

STATE OF IDAHO )  
 ) SS.  
 COUNTY OF KOOTENAI )

AFFIDAVIT OF PAUL W. DRIGGERS

I, the below-signed PAUL W. DRIGGERS, without coercion or duress and being of a stable and sound mind do hereby state solemnly under oath under the penalties provided by law for perjury or false swearing, that the following averments, declarations or statements are true and correct to the best of my knowledge and belief.

That Larry Purviance of the Kootenai County Public Defender's Office was appointed by the Kootenai County Court to represent me in a matter involving my children and an allegation of physical abuse. This was case number '05-8666'. I first met Larry Purviance the day of a scheduled Shelter Care Hearing on or about the 22<sup>nd</sup> day of November, 2005. That Mr. Purviance advised me to stipulate to Shelter Care for my children for a 30-day period due to the fact that the hearing would be futile for us due to the fact that Mr. Purviance had just received the paperwork and was not in any way prepared or ready to proceed in the court hearing. I did agree or stipulate to this Shelter Care because it was comparable to a Continuance allowing us more time to prepare a defense properly for a hearing.

That I had a conference with Mr. Purviance in his office on or about the 1<sup>st</sup> day of December, 2005, that lasted for about 35-minutes. He advised me that he still did not have any Discovery materials from the State and therefore there was little we could discuss. After this Mr. Purviance and I did not discuss the details of the case and he did not inform me concerning the receipt of Discovery materials or when he might receive them. On the 12<sup>th</sup> day of December, 2005, when I met Mr. Purviance at the Court he advised he had Discovery. This was a mere 4 (four) days before a scheduled Adjudication Hearing and Mr. Purviance did not provide me with a single reason to believe that we could be ready for the hearing. He had not interviewed any lay-witnesses I offered, nor any expert witnesses, and neither did he formally interrogate for rebuttal purposes any State witnesses. In short, he was not prepared to effectively represent me and present my available explanation to the Court.

I realized or assumed that he had been busy due to handling many cases and believed that he would catch up with the work and do a decent job and I was willing

EXHIBIT '1' (second page)

to go along with a modest Continuance or extension of time for the Adjudication hearing to allow time to prepare properly. I did not feel I had any reason to distrust Mr. Purviance. In fact I felt confident in his ability to settle the case amiably and acceptably when he told me, just prior to going into the Pre-Trial Conference room that he planned on getting a stipulation from the State that my children could come home immediately with the condition that protective monitoring would be done at the family home. This further instilled confidence in me respecting his desire to help me.

I further state that it was about 15-minutes later that Mr. Purviance came out of the Court room from the Pre-Trial conference carrying a document. He informed me that he had made a good deal with the Prosecutor. That the agreement was that as soon as I had obtained medicaid coverage for my children that the children would be returned home and we could then start a case plan with the children at home. Mr. Purviance folded the document to show me one sentence regarding the Court approving the Health & Welfare Department returning the children to their home. He explained that the Court could not legally order the children returned but that the children would be returned by separate agreement with Health & Welfare as soon as I did my part in obtaining insurance coverage. None of the rest of this document was made visible to me because Mr. Purviance kept it folded while holding it down on the counter-top. As my Representative Counsel I trusted Mr. Purviance and that he would have enlightened me as to any other material conditions or any rights being waived. He most certainly did not discuss with me the paper or explain the document in its entirety. Christine McNutt, Case Worker from Health & Welfare, came over to us and stated that Health & Welfare would work with me and help me get the Medicaid set up so that the children could be returned home. Other State personel involved in the case also made statements to me consistent with the story I was being given. These facts are not only my testimony as evidence but I can support these statements I am making with strict proof in any Court hearing. I state that even to this day I have not seen the entirety of the document I signed. Mr. Purviance did not give me a copy or even offer a copy to me.

I state I then immediately that day went to the Medicaid office and completed an application for Medicaid assistance. A copy was stamped 'received' and given to me. Then it was explained to me that I could not obtain Medicaid approval because the children were not in the home. I felt that I had been given a bogus deal because it was impossible to perform and that the "deal" had not been made in good faith but with an intent to trick me inasmuch as the State Workers dealt with these cases all the time and should have known the kids had to be in the home first.

On the 15<sup>th</sup> day of December, 2005, I had a phone conference with Larry Purviance and he told me that he would made some phone calls and get the Medicaid issue resolved and that my children would likely be home before Christmas.

I first learned of the crooked and corrupt fraud perpetrated upon me on the morning of December 19<sup>th</sup>, 2005, when I contacted 'Amanda', the new Case Worker assigned to the case, who informed me of some of the contents of the document with my signature on it. Mr. Purviance refuses to communicate with me since the 15<sup>th</sup> day of December, 2005.

I state that I feel this has been a monstrous and incredible fraud upon me by almost everyone involved in the case, and I naturally question how I can trust anyone in "the system" to do or complete a "Case Plan" with me and act in good faith towards me.

I further state that on the 29<sup>th</sup> December, 2005, I spent the time and expense to go to Court reference to a Misdemeanor citation for allegedly Driving while Privileges suspended, (case number Cr-2005-0023230), on which Mr. Purviance had been appointed to represent me. That after sitting an hour I found out Mr. Purviance had gotten the case continued and had failed to have the decency to notify me by mail or phone. That I walked over to his office and neither Mr. Purviance or his secretary would come out to talk to me although I waited 20- minutes, saying I just needed a minute.

I state that I have read and understand all the above that I have declared to be true and that it is true and accurate.

AFFIANT: Paul W. Driggers  
PAUL W. DRIGGERS

SUBSCRIBED AND SWORN TO BEFORE ME A NOTARY PUBLIC OF THE STATE OF IDAHO on the 29<sup>th</sup> day of December, 2005, personally appearing PAUL W. DRIGGERS.

Julia White  
NOTARY PUBLIC

JULIA WHITE  
NOTARY PUBLIC  
STATE OF IDAHO

7-13-07  
My Commission Expires:

EXHIBIT '1' (fourth page)



MAY 29 2008

J. DAVID NAVARRO, Clerk  
By A TOONE  
DEPUTY

LAWRENCE G. WASDEN  
ATTORNEY GENERAL

STEVEN L. OLSEN, ISB # 3586  
LITIGATION DIVISION CHIEF

MELISSA MOODY, ISB # 6027  
Deputy Attorney General  
Office of the Attorney General  
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650 W. State Street  
P. O. Box 83720  
Boise, Idaho 83720-0010  
Telephone: (208) 334-2400  
Facsimile: (208) 854-8073  
E-mail: [melissa.moody@ag.idaho.gov](mailto:melissa.moody@ag.idaho.gov)

Attorneys for Defendant, Idaho Department of Health and Welfare

**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT**

**STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA**

PAUL WILLIAM DRIGGERS, DESARAE J.  
DRIGGERS, CSARENA M. DRIGGERS  
AND MILINDA K. DRIGGERS,

Plaintiffs,

v.,

AMANDA GRAFE, The IDAHO DEPARTMENT  
OF HEALTH AND WELFARE, RICHARD  
ARMSTRONG, KAREN R. VASSALLO,  
DAVID BECK, THE POST FALLS POLICE  
DEPARTMENT, CERTAIN UNKNOWN POST  
FALLS POLICE OFFICERS, EUGENE  
MARANO, ROBERT BURTON, THE  
KOOTENAI COUNTY COURT, LINDA  
GREEN, CASA, DANIEL COOPER, AND THE  
KOOTENAI COUNTY PUBLIC  
DEFENDANRS' OFFICE,

Defendants.

) **Case No. CV OC 07-19469**

) **NOTICE OF SPECIAL**  
) **APPEARANCE AND**  
) **MOTION TO DISMISS**

COMES NOW THE STATE OF IDAHO, DEPARTMENT OF HEALTH AND WELFARE, by and through its attorney, Melissa Moody, Deputy Attorney General, and hereby enters a special appearance in these proceedings solely for the purpose of moving this court to dismiss the above-referenced case because the court lacks jurisdiction over subject matter, I.R.C.P. 12(b)(1), and because the service of process was insufficient, I.R.C.P. 12(b)(2).<sup>1</sup>

This motion is supported by the Department's accompanying memorandum filed contemporaneously herewith.

DATED this 29 day of May 2008.

STATE OF IDAHO  
OFFICE OF THE ATTORNEY GENERAL

BY Melissa Moody  
MELISSA MOODY  
DEPUTY ATTORNEY GENERAL

---

<sup>1</sup> By making this limited appearance and filing motions to dismiss on these grounds, the State Defendants do not waive other defenses, for example, that the tort alleged by Plaintiff is not recognized in Idaho Law. Nor do the Defendants waive any of their immunities by filing this motion; they specifically reserve the right to plead immunities at a later time, if necessary.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 29 day of May, 2008, I caused to be served a true and correct copy of the foregoing Notice of Special Appearance and Motion to Dismiss by the following method to:

Paul William Driggers  
Reg. 00922-287  
Federal Corr. Institution  
P.O. Box 6000  
Florence, CO 81226-6000

- U.S. Mail
- Hand Delivery
- Certified Mail, Return Receipt Requested
- Overnight Mail
- Facsimile: \_\_\_\_\_
- Statehouse Mail

  
\_\_\_\_\_  
MELISSA MOODY  
DEPUTY ATTORNEY GENERAL

LAWRENCE G. WASDEN  
ATTORNEY GENERAL

MAY 25 2008

J. DAVID NAVARRO, Clerk  
By A YOONE  
DEPUTY

STEVEN L. OLSEN, ISB # 3586  
LITIGATION DIVISION CHIEF

MELISSA MOODY, ISB # 6027  
Deputy Attorney General  
Office of the Attorney General  
Len B. Jordan Building, Lower Level  
650 W. State Street  
P. O. Box 83720  
Boise, Idaho 83720-0010  
Telephone: (208) 334-2400  
Facsimile: (208) 854-8073  
E-mail: [melissa.moody@ag.idaho.gov](mailto:melissa.moody@ag.idaho.gov)

Attorneys for Defendant, Idaho Department of Health and Welfare

**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT**

**STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA**

PAUL WILLIAM DRIGGERS, DESARAE J.  
DRIGGERS, CSARENA M. DRIGGERS  
AND MILINDA K. DRIGGERS,

) **Case No. CV OC 07-19469**

Plaintiffs,

) **MEMORANDUM IN**  
) **SUPPORT OF MOTION**  
) **TO DISMISS**

v.,

AMANDA GRAFE, The IDAHO DEPARTMENT  
OF HEALTH AND WELFARE, RICHARD  
ARMSTRONG, KAREN R. VASSALLO,  
DAVID BECK, THE POST FALLS POLICE  
DEPARTMENT, CERTAIN UNKNOWN POST  
FALLS POLICE OFFICERS, EUGENE  
MARANO, ROBERT BURTON, THE  
KOOTENAI COUNTY COURT, LINDA  
GREEN, CASA, DANIEL COOPER, AND THE  
KOOTENAI COUNTY PUBLIC  
DEFENDANRS' OFFICE,

Defendants.

I.

**THIS CASE SHOULD BE DISMISSED BECAUSE THE COURT  
LACKS SUBJECT MATTER JURISDICTION UNDER I.C. § 6-905**

**A. Introduction**

Paul Driggers did not file his tort Complaint with the Secretary of State within 180 days from the date his claim arose as required by the Idaho Tort Claims Act. I.C. § 6-905. As of the date of the filing of this document, Driggers still has not filed his Complaint with the Secretary of State. Because Driggers did not file his claim with the Secretary of State in the time required by statute, his tort action should be dismissed. "No claim or action shall be allowed against a governmental entity or its employee unless the claim has been presented and filed within the time limits prescribed by this act." I.C. § 6-908.

**B. Driggers' Claim Arose on December 12, 2005; at the Latest, His Claim Arose in May 2006**

It is difficult to say when, exactly, the tort claim arose as to the named Defendants Department of Health and Welfare and Amanda Grafe, a Department of Health and Welfare employee, because the tort itself is not clearly set forth in the Complaint. Driggers' Complaint is unclear as to both the nature of the tort, and the date when the alleged injury occurred. Indeed, the reading of Driggers' document as a tort action is based primarily on the fact that he labeled his claim on the first two pages: "TORT." (Plaintiff's Complaint, p.1-2).

Driggers' principal concern seems to be that his children were placed into the custody of the Department of Health and Welfare. Construing the Complaint as a whole, the claim should be read as an allegation that the Department acted tortiously in securing placement of the Driggers' children with the Department. If this is the claim, the correct date for calculating the time when this claim arose is December 12, 2005. The Order placing the children in the custody of the Department of Health and Welfare was signed

on December 12, 2005. The Court should find that Driggers' claim arose or reasonably should have been discovered on or by December 12, 2005.

The only other dates mentioned in the Complaint, as relating to Defendants Health and Welfare and Amanda Grafe, are: (1) January 19, 2006 and (2) May 2006 – August 2006, at pages 40 and 7 of the Complaint, respectively. Even using the latest possible date provided by Driggers, his claim arose or reasonably should have been discovered no later than May 2006.

### C. Conclusion

Driggers did not file his claim with the Secretary of State within the 180 days provided for in I.C. § 6-905. (*Miren Artiach affidavit*, attached).<sup>1</sup> Because Driggers' claim was not filed in the time required by statute, this court lacks subject matter jurisdiction over the action. *Madsen v. Idaho Department of Health and Welfare*, 116 Idaho 758, 779 P.2d 433 (Ct. App. 1989).

Driggers' tort claim should be dismissed for lack of subject matter jurisdiction under Idaho Rule of Civil Procedure 12(b)(1).

## II.

### **THIS CASE SHOULD BE DISMISSED BECAUSE SERVICE OF PROCESS WAS INSUFFICIENT UNDER I.C. § 6-916**

Paul Driggers did not serve the Secretary of State with a copy of the summons and complaint and therefore did not comply with I.C. § 6-916. (*Miren Artiach affidavit*, attached).

---

<sup>1</sup> The filing of an affidavit in support of this motion to dismiss does not convert this into a motion for summary judgment. The affidavit would only convert this motion into a motion for summary judgment if the motion were brought pursuant to I.R.C.P. 12(6). I.C.R.P.12. "When a district court rules on a Rule 12(b)(1) motion, unlike a 12(b)(6) motion, it may consider affidavits or other extra-pleading evidence." *U.S. v. LSL Biotechnologies*, 379 F.3d 672, 700, n.13 (9th Cir. 2004), citing *St. Clair v. City of Chico*, 880 F.2d 199, 201 (9th Cir. 1989). "[T]he court 'may review any evidence, such as affidavits and testimony, to resolve factual disputes concerning the existence of jurisdiction.'" *Friends of Potter Marsh v. Peters*, 371 F.Supp.2d 1115, 1119 (D.Alaska 2005).

Idaho Code § 6-916 states:

In all actions under this act against the state or its employee the summons and complaint shall be served on the secretary of state with a copy to the attorney general. This section shall not be construed to release the party making service of process from serving any named defendant other than the governmental entity in compliance with other applicable statutes or rules of civil proceeding.

In all actions under this act against any employee wherein it is alleged that such employee was acting within the course and scope of his employment, a copy of the summons and complaint shall be served upon the governmental entity which is his employer.

Because Paul Driggers did not comply with I.C. § 6-916, the service of process was insufficient; therefore, this case should be dismissed for insufficiency of service of process under I.R.C.P. 12(b)(5).

DATED this 29 day of May 2008.

STATE OF IDAHO  
OFFICE OF THE ATTORNEY GENERAL

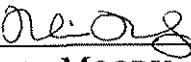
BY Melissa Moody  
MELISSA MOODY  
DEPUTY ATTORNEY GENERAL

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 29 day of May 2008, I caused to be served a true and correct copy of the foregoing Memorandum in Support of Motion to Dismiss by the following method to:

Paul William Driggers  
Reg. 00922-287  
Federal Corr. Institution  
P.O. Box 6000  
Florence, CO 81226-6000

- U.S. Mail
- Hand Delivery
- Certified Mail, Return Receipt Requested
- Overnight Mail
- Facsimile: \_\_\_\_\_
- Statehouse Mail

  
\_\_\_\_\_  
MELISSA MOODY  
DEPUTY ATTORNEY GENERAL



Paul M. Driggers v. Amanda Grafe, et al.  
Case No. CV OC 07-19460

Attachment to Memorandum  
Affidavit of Deputy Secretary of State,  
Miren A. Artiachin  
In Support of Motion to Dismiss

LAWRENCE G. WASDEN  
ATTORNEY GENERAL

STEVEN L. OLSEN, ISB # 3586  
LITIGATION DIVISION CHIEF

MELISSA MOODY, ISB # 6027  
Deputy Attorney General  
Office of the Attorney General  
Len B. Jordan Building, Lower Level  
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P. O. Box 83720  
Boise, Idaho 83720-0010  
Telephone: (208) 334-2400  
Facsimile: (208) 854-8073  
E-mail: [melissa.moody@ag.idaho.gov](mailto:melissa.moody@ag.idaho.gov)

Attorneys for Defendant, Idaho Department of Health and Welfare

**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT**

**STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA**

PAUL WILLIAM DRIGGERS, DESARAE J.  
DRIGGERS, CSARENA M. DRIGGERS  
AND MILINDA K. DRIGGERS,

Plaintiffs,

v.,

AMANDA GRAFE, The IDAHO DEPARTMENT  
OF HEALTH AND WELFARE, RICHARD  
ARMSTRONG, KAREN R. VASSALLO,  
DAVID BECK, THE POST FALLS POLICE  
DEPARTMENT, CERTAIN UNKNOWN POST  
FALLS POLICE OFFICERS, EUGENE  
MARANO, ROBERT BURTON, THE  
KOOTENAI COUNTY COURT, LINDA  
GREEN, CASA, DANIEL COOPER, AND THE  
KOOTENAI COUNTY PUBLIC  
DEFENDANRS' OFFICE,

Defendants.

) **Case No. CV OC 07-19469**  
)  
)  
) **AFFIDAVIT OF DEPUTY**  
) **SECRETARY OF STATE**  
) **MIREN A. ARTIACH IN**  
) **SUPPORT OF MOTION**  
) **TO DISMISS**

STATE OF IDAHO            )  
  ) ss  
COUNTY OF ADA            )

I, MIREN E. ARTIACH, being first duly sworn upon oath depose and state as follows:

1. I am a Deputy Secretary of State duly appointed by the Idaho Secretary of State and work full-time in the Secretary of State's Office.

2. My functions and duties as a Deputy Secretary of State include compiling and maintaining the records and files of the Secretary of State's Office pertaining to tort claims and complaints filed against the State of Idaho, its agencies, departments, officers and employees under the Idaho Tort Claims Act. I make this affidavit from personal knowledge after reviewing the files and records of the Idaho Secretary of State's Office.

3. Idaho Code § 6-905 provides that when any person has a claim in tort against the State of Idaho, its agencies, departments, officers or employees for any act or omission taken within the scope of employment that the claim "shall be presented to and filed with the secretary of state within one hundred eighty (180) days from the date the claim arose or reasonably could have been discovered, whichever is later."

4. Idaho Code § 6-916 provides that "in all actions [under the Idaho Tort Claims Act] against the state or its employee the summons and complaint shall be served on the secretary of state with a copy to the attorney general."

5. I have reviewed the files maintained by the Idaho Secretary of State's office in an attempt to locate filings in connection with the court case of Paul William Driggers v. Amanda Grafe, Idaho Department of Health and Welfare, et al., Case No. CV OC-07-19469. The Secretary of State's Office has no record of ever receiving a notice of tort claim filed by or on behalf of Paul William Driggers. The Secretary of State's Office

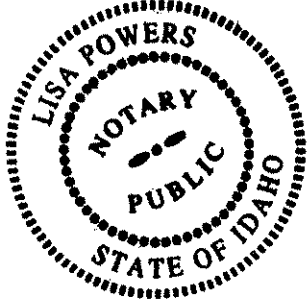
has no record of ever receiving a summons and complaint in the case of Paul William Driggers.

This concludes my affidavit.

DATED this 22<sup>nd</sup> day of May, 2008.

Miren E. Artiach  
MIREN E. ARTIACH

SUBSCRIBED AND SWORN to before me this 22<sup>nd</sup> day of May, 2008.



Lisa Powers  
Notary Public for Idaho

My Commission Expires: 10-9-2013

RECEIVED

JUN 16 2008

Ada County Clerk

PAUL WILLIAM DRIGGERS, in Persona Propria  
Reg. 00922-287  
Federal Corr. Institute  
P.O. Box 6000  
Florence, CO 81226-6000

NO. \_\_\_\_\_ FILED \_\_\_\_\_  
A.M. 1013 P.M. \_\_\_\_\_

JUN 16 2008

J. DAVID NAVARRO, Clerk  
By A. GARDEN  
DEPUTY

IN THE FOURTH JUDICIAL DISTRICT COURT  
FOR THE STATE OF IDAHO IN AND FOR ADA COUNTY

Paul William Driggers,	)	
et al.,	)	
Plaintiffs,	)	CASE No. <u>CV-OC-07-19469</u>
	)	
V.	)	PLAINTIFFS' RESPONSE IN OPPOSITION
	)	TO DEFENDANT IDAHO DEPARTMENT OF
AMANDA GRAFE,	)	HEALTH & WELFARE'S 'MEMORANDUM IN
et al.,	)	SUPPORT OF MOTION TO DISMISS'
Defendants.	)	

PLAINTIFFS Paul William Driggers, et al., hereby responds to the Defendant IDAHO DEPARTMENT OF HEALTH & WELFARE, opposing same based upon the following facts, circumstances, and law.

I.

THIS COURT HAS SUBJECT MATTER JURISDICTION BECAUSE THE CLAIM HAS INDEED BEEN FILED WITH THE SECRETARY OF STATE AND PLAINTIFF IS ENTITLED TO 'EQUITABLE TOLLING' UNDER THE CIRCUMSTANCES THEREBY ALLOWING THE ACTION TO PROCEED BECAUSE JUSTICE REQUIRES IT

A. Plaintiff Driggers filed his Complaint and Summons on all the defendants and the Secretary of State at his first realistic opportunity fully within the context of the law. The circumstances here are appropriate for equitable tolling. Whalem/Hunt V. Early, 233 F. 3d 1146, (9th Cir., 2000)

B. The wrongful actions that have occurred in this case have been ongoing continuously from November, 2005 to the present time.

As of May 2006 the defendant and plaintiff were engaged in investigations and negotiations and disputing of facts and no issues were ripe for litigation, and certainly damages were not complete but continuing.

The wrongful actions effecting plaintiff and his children are fairly set forth and described in the Complaint.

A few examples are exposed at page 30, para. 4, "The State of Idaho, IdHW, through its Counsel had made an offer to the father ....."(the tort of fraud); at page 35, para. 18, ".....defendant IdHW and its employees and agents have acted the part of a thief in stealing by fraud.....has conspired with same....." (the tort of fraud with conspiracy); at page 48, paras. 1 through 4, (the wrongful action of deprivation of the right to maintain a relationship with his own children and denial of due process of law).

The date of the wrongful actions occurred on the dates indicated in the Complaint, but as inferred previously the underlying issues remained in flux while the causes of action did not fully ripen because they were continuing while the father (plaintiff), was working to get them stopped.

Then on August 2nd, 2006, plaintiff was arrested by State and federal authorities and placed in jail. There he had no access to a suitable law library or access to addresses. Moreover and critically important is the fact that authorities seized all his records and paperwork documentation and evidence supporting his allegations and kept same until March 2008 when the U.S. District Court in Coeur d'Alene, Idaho, ordered that all of same be returned to Mr. Driggers. (See 'Verified Declaration of Mr. Driggers relative to Access to the Courts ', attached hereto as EXHIBIT 'C' incorporated by reference).

As soon as plaintiff had access to a federal facility's law library he filed a claim in this Court (on October 26, 2007) which was amended and re-filed (on MARCH 4, 2008).

A plaintiff/petitioner's knowledge of a legal basis of his claims is not the same as knowledge of the procedural rules that

that must be complied with in order to get a hearing on the merits.

" Confiscation of prisoner's legal papers justify equitable tolling of the one-year period of limitations applicable to.....obstruction of a prisoner's access to the Courts by means of confiscating his legal work product.....violates the Fourteenth Amendment. "  
Valverde V. Stinson, 224 F. 3d 129, 2d Cir. 2000).

" .....or imprisonment on a criminal charge or.... the time of such disability shall not be part of the time limited for the commencement of action. "  
Mitchell V. Greenough, 100 F. 2d 184, 187 (9th Cir., 1938).

" In light of these precedents, we hold that actual, uninterrupted incarceration is the touchstone for determining disability by incarceration. "  
See also, Hurst V. Hederman, 451 F. Supp. 1354 (N.D. Ill., 1978); Bianchi V. Bellingham PD, 909 F. 2d 1316 (1990).

Also controlling is the Ninth Circuit case of Schinkel V. Kramer, (2002), 34 Fed. Appx. 257; 2002 U.S. App. LEXIS 497, concerning equitable tolling. Also see Miles V. Prunty, 187 F.3d 1104, (9th Cir., 1999) (lack of access to law library).

### C. Conclusion

Mr. Driggers as a Tort Complainant has substantially and in essence fully complied with the statute by filing with the Secretary of State upon overcoming an external "impediment" and the doctrine of equitable tolling permits a Court to allow an action to proceed when justice requires it even though a statutory time period has elapsed technically. Calderon V. U.S. Dist. Ct. (Beeler), 128 F.3d 1283, 1288-89 (9th Cir., 1997).

Defendant IdHW's motion to dismiss should be denied.

## II.

THIS CASE SHOULD PROCEED BECAUSE PLAINTIFF HAS SERVED  
PROCESS UPON THE SECRETARY OF STATE

00113

Mr. Driggers did in fact cause service of process to be effected upon the Secretary of State for Idaho with a copy of the Summons and Complaint thereby complying with the statute, (see copy of 'RETURN'--Proof of Service by process server labelled EXHIBIT 'E' attached and incorporated), on the 27th day of May, 2008.

Therefore the Defendant IdHW's motion to dismiss should be denied.

RESPECTFULLY SUBMITTED,

By Paul W. Driggers  
PAUL WILLIAM DRIGGERS, Pro Per

Reg 00922-287  
FCI Florence,  
Colorado 81226-6000

DATED: the 6<sup>th</sup> day of  
June, 2008.

CERTIFICATE OF SERVICE

I, Paul William Driggers, HEREBY CERTIFY that I caused to be served a true and correct copy of the foregoing documents of Plaintiffs' Response in Opposition to Defendant Idaho Department of Health & Welfare's 'Memorandum in Support of Motion to Dismiss', upon the defendant mailing same to:

Millissa Moody,  
Deputy Attorney General  
Office of the Attorney General  
Len B. Jordan Building, Lower Level  
650 W. State Street  
P.O. Box 83720  
Boise, ID 83720-0010

On the 7<sup>th</sup> day of June, 2008.

By Paul W. Driggers  
Paul W. Driggers, AFFIANT



VERIFIED DECLARATION  
BY  
MR. DRIGGERS  
RELATIVE TO ACCESS TO THE COURTS

I, Paul William Driggers, the plaintiff in the lawsuit numbered 'CV-OC- 07-19469', hereby depose swearing under oath the following.

On November 18, 2005, the Post Falls Police illegally invaded my home and without adequate cause seized my three children. On December 12, 2005, Ms. McNutt of Idaho Health and Welfare (IdHW) defrauded me of an adjudication hearing on these issues. On January 6, 2006, Karen Vassallo caused my false arrest on a stolen gun charge that I was confined on for two-weeks and then vindicated by dismissal. Upon release I discovered that all my property was being stolen (including my paperwork and records) by Karen Vassallo with the Post Falls Police aiding her. I immediately began recouping my documents and records by re-ordering them from original sources. In about early January 2006 I had filed an affidavit of fraud with the Kootenai County Court respecting the fraud of McNutt and others, but as explained in my Complaint magistrate Robert Burton acted to conceal or dispose of the affidavit from the record and refused to take any action on it.

From February through July 2006, Amanda Grafe, Denise Metzger, and other named defendants represented they would place my children back into my home while they held hostage my children under a fraudulently procured custody order, and I did work during that time to resolve the wrongs they had done by negotiating with them and fulfilling some of their demands even though I continued to reject (by refusing to sign) the proposed CASE PLAN and denouncing same. The defendants repeatedly broke their promises while holding my children illegally and the wrongs could not be righted.

On August 2, 2006, I was arrested by authorities and placed in jail without access to a law library. I was not given copies of all my documents and evidence that had been seized from my home, but the federal authorities gave me only those documents relative to my criminal case from their perspective. My access to information overall was also severely restricted.

P. II.

'Verified Declaration by Mr. Driggers.....'

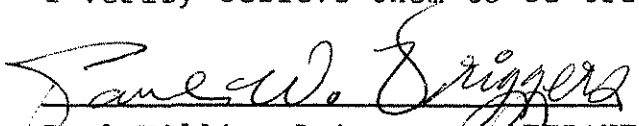
In early June, 2007, I was transferred to the FDC in Seatac, Washington, and obtained access to a rudimentary law library. About September, 2007, I had recouped enough of my documentary evidence and a copy of the Idaho Rules of Civil Procedure and parts of the Idaho Code from my family that I was able to begin work on a Complaint to the Court. At first all Idaho Courts refused me access by denying my requests for fee waiver. Then the federal authorities at the FDC refused to allow me to purchase sufficient postage to mail my legal documents. It cost me six (6) weeks time to straighten out this problem.

At the first of November, 2007, I was transferred to FCI Florence Colorado, a medium security institution with a more sophisticated law library with typewriters, etc.. However, I still have no direct access to any State law cases including Idaho case law. Any case law from any State is from secondary sources quoting Idaho law (for instance).

I also state that during my federal trial I testified that during January through July, 2006, I had been working on developing lawsuits against the defendants now named in this lawsuit.

My filing of my claims against the named defendants in October of 2007 and March 2008 was the soonest I could humanly succeed in getting it filed under the circumstances.

I solemnly declare under the penalties provided by law for perjury that all the above is true and correct to the best of my knowledge. Any parts declared to be based upon information and belief I declare I verily believe them to be true and correct.

  
Paul William Driggers, AFFIANT  
Federal Correctional Institute  
P.O. Box 6000  
Florence, CO 81226-6000

EXECUTED the 6<sup>th</sup> day of June, 2008,  
at FCI Florence, Colorado, in the  
County of Freemont.

(00116

EXHIBIT 'C'

PAUL W. DRIGGERS, Pro Per  
Reg. 00922-287  
Federal Corr. Institute  
P.O. Box 6000  
Florence, CO 81226-6000

IN THE FOURTH JUDICIAL DISTRICT COURT OF  
THE STATE OF IDAHO AND BONNER COUNTY

PAUL WILLIAM DRIGGERS,  
et al.,  
Plaintiffs,

CASE NO. CV-OC-0719469

AMANDA GRAFE,  
The IDAHO STATE DEPT. OF  
HEALTH & WELFARE,  
LINDA GREEN,  
CASA,  
et al.,  
Defendants.

R E T U R N  
A F F I D A V I T

(Proof of Service of Process)

I, FRED STEPHENSON the below-signed, being of  
age over 18-years, hereby certify that I have personally served process  
of the Summons and Complaint in the above titled and numbered case upon  
defendant(s) AMANDA GRAFE; IDHW; POST FALLS POLICE  
DEPT., et al., by personally ~~delivering~~ MAILING  
same to The office of the Secretary of State for Idaho at  
the seat of state government for Idaho located  
at (Boise), on  
the 27 day of MAY 2008.

AFFIANT: 

FRED STEPHENSON,  
for Service of Process.  
Address: P.O. Box 1461  
Priest River,  
ID. 83856

STATE OF IDAHO, )  
County of Bonner, ) SS.

I, the below-signed FRED STEPHENSON hereby depose and certify  
solemnly stating that the statements above are true and correct and

2nd Side. SS. Cont'd.

I swear same under the penalties of law provided for perjury.

AFFIANT

By

  
FRED STEPHENSON

EXECUTED the 28 day of MAY 2008.

Mailed to Sec of State  
State of Idaho  
P.O. Box 83720  
Boise, Id 83720-0080

(EXHIBIT 'E', second page) 00148

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Sec of State  
 St. of Idaho  
 PO Box 83720  
 Boise, Id  
 83720

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature

X

Agent

Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1?  Yes

If YES, enter delivery address below:  No

RECEIVED BY  
 MAY 30 2008  
 UNITED STATES POSTAL SERVICES

3. Service Type

Certified Mail

Express Mail

Registered

Return Receipt for Merchandise

Insured Mail

C.O.D.

4. Restricted Delivery? (Extra Fee)

Yes

2. Article Number

(transfer from service label)

7007 2560 0000 0083 1355

PS Form 3811, February 2004

Domestic Return Receipt

EXHIBIT 'E'

102595-02-M-15

AUG 14 2008

J. DAVID NAVARRO, Clerk

By \_\_\_\_\_  
ANGEL JOHNSON

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

PAUL WILLIAM DRIGGERS,  
DESARAE J. DRIGGERS, CSARENA M.  
DRIGGERS AND MILINDA K.  
DRIGGERS,

Plaintiffs,

vs.

Case No. CVOC-0719469

ORDER GRANTING MOTION TO  
DISMISS

AMANDA GRAFE, THE IDAHO  
DEPARTMENT OF HEALTH AND  
WELFARE, RICHARD ARMSTRONG,  
KAREN P. VASSALLO, DAVID BECK,  
THE POST FALLS POLICE  
DEPARTMENT, CERTAIN UNKNOWN  
POSTFALLS POLICE OFFICERS,  
EUGENE MARANO, ROBERT  
BURTON, THE KOOTENAI COUNTY  
COURT, LINDA GREEN, CASA,  
DANIEL COOPER, AND THE  
KOOTENAI COUNTY PUBLIC  
DEFENDERS OFFICE,

Defendants.

This matter came before the Court on Defendant's Motion to Dismiss for Lack of Subject Matter Jurisdiction, IRCP 12(b)(1), and Insufficiency of Service of Process, IRCP 12(b)(2), filed May 29, 2008. The Court heard oral argument on the Motion August 4, 2008, and considered the

1 matter under advisement at that time. Melissa Moody made a special appearance for the Defendant  
2 and Plaintiff Paul Driggers appeared pro se telephonically due to his incarceration in a Colorado  
3 facility. The Defendant's Motion to Dismiss is granted for failure to comply with the Idaho Tort  
4 Claims Act.

### 5 BACKGROUND

6 The Plaintiff filed a motion and affidavit for fee waiver on October 26, 2007, which the  
7 Court denied. The Plaintiff filed the complaint on March 4, 2008, seeking damages for alleged  
8 wrongful seizure of his children by the Idaho Health and Welfare Department prior to December 12,  
9 2005 and denial of contact with those children since January 6, 2006. On August 2, 2006, the  
10 Plaintiff was arrested and alleges that all of his paperwork and documentation were seized. On May  
11 22, 2006, the Plaintiff was convicted and sentenced to ten years for violation of 18 USC 1958, use  
12 of interstate commerce facilities in the commission of murder for hire.  
13

14 The Defendant moved the Court to dismiss this case because the Plaintiff did not file a tort  
15 complaint with the Secretary of State with 180 days from the date his claim arose. Idaho Code § 6-  
16 905. Further the Defendant asserted that the service of process was insufficient because the Plaintiff  
17 did not serve the Secretary of State with a copy of the complaint and summons as required by Idaho  
18 Code § 6-916.  
19

20 In his Memorandum and at oral argument, the Plaintiff stated that he served a copy of the  
21 summons and complaint on the Secretary of State on May 27, 2008 and that the 180 day  
22 requirement should be tolled due to his incarceration and lack of available legal materials. The  
23 Plaintiff also argued that the Court has jurisdiction because the claim did not ripen until he became  
24 aware of the fraudulent accusations behind the seizure of his children.  
25  
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1  
2 **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

3 Idaho Code § 6-905 provides guidance to a party filing a tort claim against governmental  
4 entities:

5 All claims against the state arising under the provisions of this act and all claims  
6 against an employee of the state for any act or omission of the employee within  
7 the course or scope of his employment shall be presented to and filed with the  
8 secretary of state within one hundred eighty (180) days from the date the claim  
9 arose or reasonably should have been discovered, whichever is later.

10 To maintain a tort action against a governmental entity, a plaintiff must follow those  
11 time limits. Idaho Code 6-908. The purposes of the notice of claim requirement under the  
12 Idaho Tort Claims Act are to “(1) save needless expense and litigation by providing opportunity  
13 for amicable resolution of differences among parties, (2) allow authorities to conduct a full  
14 investigation into the cause of the injury in order to determine the extent of the state's liability,  
15 if any, and (3) allow the state to prepare defenses.” *Pounds v. Denison*, 120 Idaho 425, 426–27,  
16 816 P.2d 982, 983–84 (1991). A trial court lacks subject matter jurisdiction of an action brought  
17 under the Act where the Plaintiff has not filed a claim with the Secretary of State within the  
18 required time period. *Madsen v. Idaho Dept. of Health and Welfare*, 116 Idaho 758, 760–61,  
19 779 P. 2d 433, 435–36 (Ct. App. 1989).

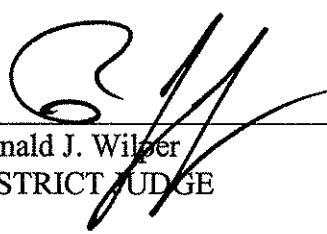
20 More than six months passed between the time Plaintiff asserts that the Defendant  
21 fraudulently seized his children, prior to December 12, 2005, and the time of his incarceration  
22 on August 2, 2006. Plaintiff claims that he did not have knowledge of the fraudulent basis for  
23 the seizure until much later, but the Court finds that he reasonably should have known because  
24 he alleges that his damages began to accrue on the date that they were taken. The law in this  
25



1 jurisdiction is that the Court does not have subject matter jurisdiction where the complaint is  
2 filed later than 180 days after the date the claim arose. The Defendant's Motion to Dismiss is  
3 therefore GRANTED.

4 IT IS SO ORDERED.

5 Dated this 14<sup>th</sup> day of August, 2008.

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10 Ronald J. Wilber  
11 DISTRICT JUDGE  
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**CERTIFICATE OF MAILING**

I, HEREBY CERTIFY that on the 14 day of August, 2008, I caused a true and correct copy of the foregoing ORDER GRANTING MOTION TO DISMISS to be served by the method indicated below, and addressed to the following:

Paul William Driggers  
Reg. 00922-287  
Federal Corr. Institution  
P.O. Box 6000  
Florence, CO 81226-6000

- U.S. Mail, Postage Prepaid
- Hand Delivered
- Overnight Mail
- Facsimile

Copy to:  
Mr. Thomas Quintana  
Inmate Counselor  
Federal Corr. Institution  
P.O. Box 6000  
Florence, CO 81226-6000

- U.S. Mail, Postage Prepaid
- Hand Delivered
- Overnight Mail
- Facsimile

Melissa Moody  
Deputy Attorney General  
Office of the Attorney General  
Len B. Jordan Building, Lower Level  
650 W. State Street  
P.O. Box 83720  
Boise, ID 83720-0010

- U.S. Mail, Postage Prepaid
- Hand Delivered
- Overnight Mail
- Facsimile

J. DAVID NAVARRO  
Clerk of the District Court  
Ada County, Idaho

By INGA JOHNSON  
Deputy Clerk

CT.

RECEIVED

AUG 25 2008 WILLIAM DRIGGERS

NO. 11-18 FILED  
AM. PM.

Ada County Clerk

00922-287  
Federal CORR. Institute  
P.O. Box 6000  
Florence, CO. 81226-6000  
PRO SE

AUG 25 2008

J. DAVID NAVARRO, Clerk  
By J. RANDALL  
DEPUTY

IN THE FOURTH JUDICIAL DISTRICT COURT  
OF THE STATE OF IDAHO IN AND  
FOR ADA COUNTY, IDAHO

PAUL WILLIAM DRIGGERS,  
et Al.,  
Plaintiffs,

vs.

KAREN VASSALLO,  
et Al.,  
Defendants.

CASE NO. CV-OC-  
07-19469

APPLICATION FOR  
DEFAULT DECLARATORY  
JUDGMENT

NOTICE

COMES NOW Plaintiff, PAUL WILLIAM  
DRIGGERS, in the Above titled and numbered  
Case, pursuant to Rule 55(b)(2) Idaho Rules  
of Civil Procedure, and hereby Applies to this  
Court for a declaratory Judgment pursuant to

00125

rk

Rule 57, IDBCP, AS PRAYED FOR IN HIS ORIGINAL COMPLAINT IN THIS CAUSE OF ACTION SPECIFICALLY AGAINST DEFENDANT KAREN VASSALLO.

THAT THIS COURT DECLARE AS ADMITTED THE WRONGFUL ACTIONS OF VASSALLO AS OUTLINED AND DETAILED IN THE COMPLAINT AT PAGE(S) 36, PARAGRAPHS 21 THROUGH 23; AND ON PAGE 37, PARAGRAPHS 27, 29; PAGE 38, PARAGRAPHS 14; AND PAGE 39, PARAGRAPHS 1 THROUGH 3; PAGE 40, PARAGRAPHS 4-5, 7; PAGE 41, PARAGRAPHS 10; PAGE 43, PARAGRAPHS 7; AND PAGE 46, PARAGRAPH 18; PAGE 47, PARA. 22; AND FINALLY AT PAGE 57, PARAGRAPHS 6 THROUGH 8.

ACCORDING TO THE FACTS ALLEGED AND ADMITTED BY DEFAULT BY DEFENDANT VASSALLO, PLAINTIFF DRIGGERS APPLIES TO THIS COURT FOR AN APPROPRIATE DECLARATION THAT THE ACTIONS BY VASSALLO WERE WRONGFUL TORTS AT LAW, COMPRISING ABUSE OF PROCESS, AND DECLARING SUCH OTHER OR FURTHER JUDGMENT AS THE COURT MAY DEEM FITTING.

PLAINTIFF HAS ATTACHED HIS AFFIDAVIT OF DEFAULT RELATING TO VASSALLO.

RESPECTFULLY, PAUL WILLIAM DRIGGERS  
DATED: 20<sup>TH</sup> AUG. '08. Paul W. Driggers 00126

PAGE III.

CV-OC-27-19469

C.T.

PLAINTIFF DRIGGERS' AFFIDAVIT OF  
DEFAULT RELATING TO DEFENDANT  
VASSALLO

STATE OF COLORADO, )  
  )      SS.  
COUNTY OF FREEMONT )

I, PAUL WILLIAM DRIGGERS, hereby  
SWEAR under oath to the truthfulness and  
correctness of the following AVOUALS AND ASSERTIONS.  
I AM the Plaintiff in the instant  
Action.

That upon Reliable information and  
my belief, Karen VASSALLO WAS SERVED PROCESS  
through her Attorney of Record, Lauren Hayden  
of Coeur d'Alene, Idaho, on the 20<sup>th</sup> May,  
2008, by a person over 18-yrs. of age delivering  
A copy of the Summons and Complaint to same.

I certify the SAID Karen VASSALLO AS  
the person OR PARTY AGAINST WHOM I seek A  
declaratory judgment in this matter.

The address most likely to give the  
defendant notice of such default judgment  
is: KAREN VASSALLO, C/O LAUREN HAYDEN,  
Attorney-of-Record, 1424 E. SHERMAN AVE.,  
Suite 400, COEUR D'ALENE, ID. 83814 (Rule 55b1)  
00127

Plaintiff avows he is prepared to submit his sworn testimony and documentary evidence to prove his assertions in his complaint in the event the Court requires proof either by mail or telephonically and by mail with his testimony in support of his exhibits I declare under penalty of perjury by law all the above to be true.

By: Paul William Driggers  
~~Carroll D. Driggers~~  
APPLICANT - AFFIANT

DATED:

20th August, 2008.

CERTIFICATE OF SERVICE

I, the below-signed, hereby certify that I have served a true and complete copy of this Notice and Affidavit by mailing same to the defendant to her address indicated below and postage paid from FCI, Florence, Colorado, the 20th day of August, 2008.

AFFIANT: Paul W. Driggers

~~181 Carroll D. Driggers~~

To: LAUREN HAYDEN, Attorney for Vassallo,  
1424 E. Sherman Av., Ste. 400, Ada, ID, 83814  
00128

RECEIVED

AUG 25 2008

Ada County Clerk

PAUL WILLIAM DRIGGERS,

Reg. 00922-287

Federal CORR. Institute

P.O. Box 6000

Florence, CO. 81226-6000

PRO SE

NO. \_\_\_\_\_ FILED  
A.M. 8:00 P.M.

AUG 25 2008

J. DAVID NAVARRO, Clerk  
By BRADLEY J. THIES  
DEPUTY

IN THE FOURTH JUDICIAL DISTRICT COURT  
OF THE STATE OF IDAHO IN AND  
FOR THE COUNTY OF ADA

PAUL WILLIAM DRIGGERS,  
et al.,

Plaintiffs,

vs.

AMANDA GRAFE,

et al.,

Defendants.

CASE NO. CVOC-  
0719469

NOTICE OF APPEAL

(Appeal to the Idaho  
Court of Appeals)

COMES NOW the Plaintiff, PAUL  
WILLIAM DRIGGERS, and hereby gives Notice  
that he Appeals from the decision of this  
Court its ORDER GRANTING MOTION TO DISMISS  
the Complaint as against AMANDA GRAFE and

00129

NOTICE OF APPEAL

page 2.

The Idaho Department of Health and Welfare, which Order granting Dismissal was dated and filed August 14, 2008. Said Dismissal Order was not directed to any other Defendant than the above named.

RESPECTFULLY,

Paul W. Driggers  
PAUL WILLIAM DRIGGERS  
PRO SE

EXECUTED the 20<sup>th</sup> day of August, 2008.

CERTIFICATE OF SERVICE:

I, the undersigned, hereby certify that I have served a true and correct copy of this Notice upon each of the below-named by mailing same postage paid from a depository in FCI, Florence, Colorado, on the 20<sup>th</sup> day August, 2008.

Paul W. Driggers  
PAUL W. DRIGGERS,  
AFFIANT

Melissa Moody  
Deputy Attorney General  
650 W. State St.  
Len B. Jordan Bldg.  
P.O. Box 83720  
Boise, ID. 83720-0010

00130



SEP 04 2008

J. DAVID NAVARRO, Clerk

By MICA JOHNSON

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

PAUL WILLIAM DRIGGERS,  
DESARAE J. DRIGGERS, CSARENA M.  
DRIGGERS AND MILINDA K.  
DRIGGERS,

Plaintiffs,

vs.

Case No. CVOC-0719469

ORDER DISMISSING "APPLICATION  
FOR DEFAULT DECLARATORY  
JUDGMENT"

AMANDA GRAFE, THE IDAHO  
DEPARTMENT OF HEALTH AND  
WELFARE, RICHARD ARMSTRONG,  
KAREN P. VASSALLO, DAVID BECK,  
THE POST FALLS POLICE  
DEPARTMENT, CERTAIN UNKNOWN  
POSTFALLS POLICE OFFICERS,  
EUGENE MARANO, ROBERT  
BURTON, THE KOOTENAI COUNTY  
COURT, LINDA GREEN, CASA,  
DANIEL COOPER, AND THE  
KOOTENAI COUNTY PUBLIC  
DEFENDERS OFFICE,

Defendants.

On August 14, 2008, this Court entered an Order granting the Defendants' motion to dismiss the Plaintiffs' underlying complaint for lack of subject matter jurisdiction.

1 On August 25, 2008, the Plaintiffs filed a Notice of Appeal.

2 On August 25, 2008, the Plaintiffs also filed a document entitled "Application for  
3 Default Declaratory Judgment."

4 Because the Plaintiffs have filed an appeal of this Court's previous Order dismissing  
5 this case, the Court lacks jurisdiction to take such action as the Plaintiffs are now requesting.

6 Therefore, the "Application" is hereby DISMISSED.

7 IT IS SO ORDERED.

8 Dated this 3<sup>rd</sup> September day of ~~August~~, 2008.  
9 ~~4<sup>th</sup>~~

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12 Ronald J. Wilger  
13 DISTRICT JUDGE  
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CERTIFICATE OF MAILING

I, HEREBY CERTIFY that on the 4 day of ~~August~~<sup>Spt</sup>, 2008, I caused a true and correct copy of the foregoing ORDER GRANTING MOTION TO DISMISS to be served by the method indicated below, and addressed to the following:

Paul William Driggers  
Reg. 00922-287  
Federal Corr. Institution  
P.O. Box 6000  
Florence, CO 81226-6000

- U.S. Mail, Postage Prepaid
- Hand Delivered
- Overnight Mail
- Facsimile

Copy to:  
Mr. Thomas Quintana  
Inmate Counselor  
Federal Corr. Institution  
P.O. Box 6000  
Florence, CO 81226-6000

- U.S. Mail, Postage Prepaid
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- Overnight Mail
- Facsimile

Melissa Moody  
Deputy Attorney General  
Office of the Attorney General  
Len B. Jordan Building, Lower Level  
650 W. State Street  
P.O. Box 83720  
Boise, ID 83720-0010

- U.S. Mail, Postage Prepaid
- Hand Delivered
- Overnight Mail
- Facsimile

J. DAVID NAVARRO  
Clerk of the District Court  
Ada County, Idaho

By  INGA JOHNSON  
Deputy Clerk

RECEIVED

OCT 10 2008

Ada County Clerk

orig.

NO. \_\_\_\_\_ FILED \_\_\_\_\_  
A.M. 8:00 P.M. \_\_\_\_\_

OCT 10 2008

J. DAVID NAVARRO, Clerk  
By BRADLEY J. THIES  
DEPUTY

PAUL WILLIAM DRIGGERS, Pro Se  
Reg. 00922-287  
Federal Corr. Institute  
P.O. Box 23811  
Tucson, ARIZONA 85734-3811

IN THE FOURTH JUDICIAL DISTRICT COURT OF  
THE STATE OF IDAHO IN AND FOR THE COUNTY OF ADA

PAUL WILLIAM DRIGGERS,  
et al.,  
Plaintiffs-Appellants,  
v.  
AMANDA GRAFE,  
et al.,  
Defendants-Respondents.

CASE NO. 2007-19469  
(Ada County)  
Supreme Court Docket No. 35618  
NOTICE OF APPEAL

Appellants, PAUL WILLIAM DRIGGERS, et al., in his own proper person, hereby appeals the ORDER GRANTING MOTION TO DISMISS filed August 14th, 2008, following hearing on Defendant's Motion to Dismiss for Lack of Subject Matter Jurisdiction and Insufficiency of Service of Process filed May 29, 2008.

The motion hearing was held in the District Court of the Fourth Judicial District, Ada County, Idaho, on August 4th, 2008, Judge Ronald J. Wilper presiding.

Appellant, Paul W. (William) Driggers, appeals to the Supreme Court of the State of Idaho.

This appeal is made pursuant to Idaho Rules of Appellate Procedure and Rule 10 (c) and (d) and Rule 11 of the Idaho Rules of Appellate Procedure.

This appeal is taken upon matters of law and fact.

The testimony of the original hearing on August 4th, 2008, was taken telephonically and recorded by tape or digital recording

Page II of two.

Docket No. 35618

Notice of Appeal

systems, and is currently in the custody of the Clerk of the Court. Likewise, any exhibits marked and admitted are in the custody of the Clerk of the Court.

DATED this 6<sup>th</sup> day of October, 2008.

PAUL WILLIAM DRIGGERS

BY: Paul W. Driggers  
Pro Se Appellant

00135

ORIG.

NO. \_\_\_\_\_ FILED \_\_\_\_\_  
A.M. 8:00 P.M. \_\_\_\_\_

OCT 10 2008

J. DAVID NAVARRO, Clerk  
By BRADLEY J. THIES  
DEPUTY

PAUL WILLIAM DRIGGERS, Pro Se  
Reg. 00922-287  
Federal Corr. Institute  
P.O. Box 23811  
Tucson, AZ 85734-3811

IN THE FOURTH JUDICIAL DISTRICT COURT OF  
THE STATE OF IDAHO IN AND FOR THE COUNTY OF ADA

PAUL WILLIAM DRIGGERS,  
et al.,  
Plaintiffs-Appellants,

v.

AMANDA GRAFE,  
et al.,  
Defendants-Respondents.

Ada County Case No. 07-19469  
Supreme Court Docket Number:  
35618.

STATEMENT OF ISSUES ON APPEAL

COMES NOW, Appellant, PAUL W. (WILLIAM) DRIGGERS, by and through himself (Pro Se), and hereby states the following issues that Appellant intends to assert in the above entitled appeal:

Whether the district court Judge abused his discretion by finding that Appellant reasonably should have known about the Tort by Respondents in wrongly seizing his children prior to December 12, 2005, and that accordingly Appellant was not within the Statute of Limitations.

Whether the district court Judge abused his discretion in dismissing the entire case against Defendants-Respondents when the Statute of Limitations issue surrounded only a single incident and all other incidents of misconduct by Defendants were within the Statute of Limitations without dispute.

Whether the district court Judge abused his discretion in dismissing the action against the State agency Idaho Department of Health and Welfare for not serving process upon the Idaho Secretary of State within 180-days of the date the claim

arose or should have been discovered.

Whether the district court Judge abused his discretion in refusing to grant "Equitable Tolling" in favor of the Plaintiffs-Appellants in light of his circumstances and the massive and continuing fraud of the Defendants-Respondents.

Appellant reserves the right to assert other issues on appeal hereafter discovered by the Appellant, pursuant to I.R.C.P. Rule 83(f)(6).

DATED this 6<sup>th</sup> day of October, 2008.

**PAUL WILLIAM DRIGGERS**

By Paul W. Driggers  
Appellant Pro Se

**CERTIFICATE OF SERVICE**

I the undersigned HEREBY CERTIFY that on the 6<sup>th</sup> day of October, 2008, I caused a true and correct copy of the foregoing NOTICE OF APPEAL and STATEMENT OF ISSUES ON APPEAL to be served upon the Respondents by mailing same to the below indicated address: \_\_\_\_\_

MELISSA Moody  
Deputy Attorney General  
Office of the Attorney General  
Len B. Jordan Building, Lower Level  
650 W. State Street  
P.O. Box 83720  
Boise, ID 83720-0010

By Paul W. Driggers  
Paul W. Driggers, AFFIANT

DEC 22 2008

J. DAVID NAVARRO, Clerk  
By INGA JOHNSEN

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

PAUL WILLIAM DRIGGERS,  
DESARAE J. DRIGGERS, CSARENA M.  
DRIGGERS AND MILINDA K.  
DRIGGERS,

Appellants-Plaintiffs,

Case No. CVOC-0719469

vs.

ORDER APPROVING APPLICATION  
TO PROCEED WITHOUT FULL  
PREPAYMENT OF FEES

AMANDA GRAFE, THE IDAHO  
DEPARTMENT OF HEALTH AND  
WELFARE, RICHARD ARMSTRONG,  
KAREN P. VASSALLO, DAVID BECK,  
THE POST FALLS POLICE  
DEPARTMENT, CERTAIN UNKNOWN  
POSTFALLS POLICE OFFICERS,  
EUGENE MARANO, ROBERT  
BURTON, THE KOOTENAI COUNTY  
COURT, LINDA GREEN, CASA,  
DANIEL COOPER, AND THE  
KOOTENAI COUNTY PUBLIC  
DEFENDERS OFFICE,

Respondants-Defendants.

This matter came before the Court when the Idaho Supreme Court issued a Remittur requesting the Court to rule on Appellant's Application to Proceed without Full Prepayment of Fees.

00138



1 On August 2, 2006, the Appellant Paul Driggers was arrested and alleges that all of his  
2 paperwork and documentation were seized. On May 22, 2006, Driggers was convicted and  
3 sentenced to ten years for violation of 18 USC 1958, use of interstate commerce facilities in the  
4 commission of murder for hire. Driggers filed a motion and affidavit for fee waiver on October 26,  
5 2007, which the Court denied. On March 4, 2008, the Appellant filed a complaint seeking damages  
6 for alleged wrongful seizure of his children by the Idaho Health and Welfare Department prior to  
7 December 12, 2005 and denial of contact with those children since January 6, 2006. The State  
8 moved the Court to dismiss the Complaint because the Appellant did not file a tort complaint with  
9 the Secretary of State within 180 days from the date his claim arose as required by Idaho Code § 6-  
10 905. Further the State asserted that the service of process was insufficient because the Appellant did  
11 not serve the Secretary of State with a copy of the complaint and summons as required by Idaho  
12 Code § 6-916. The Court granted the State's Motion to Dismiss on August 14, 2008 and this appeal  
13 ensued.  
14

15 The Notice of Appeal was filed on October 10, 2008, but the Appellant's Application to  
16 Proceed without Full Prepayment of Fees was not filed until October 15, 2008. The clerk of the  
17 Ada County Court apparently forwarded the Appellant's Application to Proceed without Full  
18 Prepayment of Fees directly to the Supreme Court based upon the file stamp. This Court had  
19 not previously seen the application. After receiving the Remittur, the Clerk of the Court in Ada  
20 County requested from the Clerk of the Supreme Court a copy of that original motion and  
21 application. The Application has now been received and reviewed and the Court has considered  
22 the affidavits setting forth the average monthly balance in the inmate account.  
23  
24  
25  
26

00139

1 Idaho Code § 31-3220A provides that a prisoner who seeks to file an action with partial  
2 payment of court fees shall file a motion to proceed on partial payment, an affidavit of inability  
3 to pay all court fees at the time of filing, and a certified copy of the inmate account at the time  
4 of filing the action. "In no event shall a prisoner be prohibited from bringing an action for the  
5 reason that the prisoner has no assets and no means by which to pay the initial partial filing  
6 fee." Idaho Code § 31-3220A(7). Upon review of the information provided and the Appellant's  
7 inability to pay the entire fee at the time of filing this appeal, the Court finds that the Appellant  
8 may proceed without full prepayment of fees. Pursuant to Idaho Code § 31-3220A(4) the Court  
9 orders the Appellant to pay \$12.74, which represents twenty percent of the Appellant's average  
10 monthly balance for the six month period immediately preceding the filing of this appeal. The  
11 remainder of the filing fee is to be deducted from the Appellant's inmate account in monthly  
12 payments of twenty percent of the preceding month's income credited to the Appellant's inmate  
13 account until the full amount of all applicable court fees are paid, pursuant to Idaho Code § 31-  
14 3220A(5).  
15

16 The Appellant's Application to Proceed without Full Prepayment of Fees is therefore  
17 APPROVED.  
18

19 IT IS SO ORDERED.

20 Dated this 21<sup>st</sup> day of December, 2008.

21  
22  
23 Ronald J. Wilper  
DISTRICT JUDGE  
24  
25  
26

00140

CERTIFICATE OF MAILING

I, HEREBY CERTIFY that on the 22 day of December, 2008, I caused a true and correct copy of the foregoing ORDER APPROVING APPLICATION TO PROCEED WITHOUT FULL PREPAYMENT OF FEES to be served by the method indicated below, and addressed to the following:

Paul William Driggers  
Reg. 00922-287  
Federal Corr. Institution  
P.O. Box 6000  
Florence, CO 81226-6000

- U.S. Mail, Postage Prepaid
- Hand Delivered
- Overnight Mail
- Facsimile

Copy to:  
Mr. Thomas Quintana  
Inmate Counselor  
Federal Corr. Institution  
P.O. Box 6000  
Florence, CO 81226-6000

- U.S. Mail, Postage Prepaid
- Hand Delivered
- Overnight Mail
- Facsimile

Melissa Moody  
Deputy Attorney General  
Office of the Attorney General  
Len B. Jordan Building, Lower Level  
650 W. State Street  
P.O. Box 83720  
Boise, ID 83720-0010

- U.S. Mail, Postage Prepaid
- Hand Delivered
- Overnight Mail
- Facsimile

J. DAVID NAVARRO  
Clerk of the District Court  
Ada County, Idaho

By   
Inga JOHNSON  
Deputy Clerk

00141

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

PAUL WILLIAM DRIGGERS,  
  
Plaintiff-Appellant,  
and  
DESARAE J. DRIGGERS, CSARENA M. DRIGGERS  
and MILINDA K. DRIGGERS,  
  
Plaintiffs,  
vs.  
AMANDA GRAFE, THE IDAHO DEPARTMENT OF  
HEALTH AND WELFARE, RICHARD ARMSTRONG,  
KAREN P. VASSALLO, DAVID BECK, THE POST  
FALLS POLICE DEPARTMENT, CERTAIN UNKNOWN  
POST FALLS POLICE OFFICERS, EUGENE MARANO,  
ROBERT BURTON, THE KOOTENAI COUNTY  
COURT, LINDA GREEN, CASA, DANIEL COOPER,  
and THE KOOTENAI COUNTY PUBLIC DEFENDERS  
OFFICE,  
  
Defendants-Respondents.

Supreme Court Case No. 35618

CERTIFICATE OF EXHIBITS

I, J. DAVID NAVARRO, Clerk of the District Court of the Fourth Judicial District of the State of Idaho in and for the County of Ada, do hereby certify:

There were no exhibits offered for identification or admitted into evidence during the course of this action.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the said Court this 28th day of April, 2009.

J. DAVID NAVARRO  
Clerk of the District Court

By BRADLEY J. THIES  
Deputy Clerk



CERTIFICATE OF EXHIBITS

00142

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

PAUL WILLIAM DRIGGERS,  
  
Plaintiff-Appellant,  
and  
DESARAE J. DRIGGERS, CSARENA M. DRIGGERS  
and MILINDA K. DRIGGERS,  
  
Plaintiffs,  
vs.  
AMANDA GRAFE, THE IDAHO DEPARTMENT OF  
HEALTH AND WELFARE, RICHARD ARMSTRONG,  
KAREN P. VASSALLO, DAVID BECK, THE POST  
FALLS POLICE DEPARTMENT, CERTAIN UNKNOWN  
POST FALLS POLICE OFFICERS, EUGENE MARANO,  
ROBERT BURTON, THE KOOTENAI COUNTY  
COURT, LINDA GREEN, CASA, DANIEL COOPER,  
and THE KOOTENAI COUNTY PUBLIC DEFENDERS  
OFFICE,  
  
Defendants-Respondents.

Supreme Court Case No. 35618

CERTIFICATE OF SERVICE

I, J. DAVID NAVARRO, the undersigned authority, do hereby certify that I have personally served or mailed, by either United States Mail or Interdepartmental Mail, one copy of the following:

CLERK'S RECORD

to each of the Attorneys of Record in this cause as follows:

PAUL W. DRIGGERS  
APPELLANT PRO SE  
TUCSON, ARIZONA

LAWRENCE G. WARDEN  
ATTORNEY FOR RESPONDENT  
BOISE, IDAHO

J. DAVID NAVARRO  
Clerk of the District Court

Date of Service: APR 29 2009

By BRADLEY J. THIES  
Deputy Clerk

CERTIFICATE OF SERVICE



00143

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

PAUL WILLIAM DRIGGERS,  
  
Plaintiff-Appellant,  
and  
DESARAE J. DRIGGERS, CSARENA M. DRIGGERS  
and MILINDA K. DRIGGERS,  
  
Plaintiffs,  
vs.  
AMANDA GRAFE, THE IDAHO DEPARTMENT OF  
HEALTH AND WELFARE, RICHARD ARMSTRONG,  
KAREN P. VASSALLO, DAVID BECK, THE POST  
FALLS POLICE DEPARTMENT, CERTAIN UNKNOWN  
POST FALLS POLICE OFFICERS, EUGENE MARANO,  
ROBERT BURTON, THE KOOTENAI COUNTY  
COURT, LINDA GREEN, CASA, DANIEL COOPER,  
and THE KOOTENAI COUNTY PUBLIC DEFENDERS  
OFFICE,  
  
Defendants-Respondents.

Supreme Court Case No. 35618

CERTIFICATE TO RECORD

I, J. DAVID NAVARRO, Clerk of the District Court of the Fourth Judicial District of the State of Idaho, in and for the County of Ada, do hereby certify that the above and foregoing record in the above-entitled cause was compiled and bound under my direction as, and is a true and correct record of the pleadings and documents that are automatically required under Rule 28 of the Idaho Appellate Rules, as well as those requested by Counsels.

I FURTHER CERTIFY, that the Notice of Appeal was filed in the District Court on the 25th day of August, 2008.

J. DAVID NAVARRO  
Clerk of the District Court

By BRADLEY J. THIES  
Deputy Clerk

SEAL

CERTIFICATE TO RECORD

00144