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Pro se

FILED

SEP 08 2021

ANGIE SPARKS, Clerk of District Court
By: *[Signature]* Deputy Clerk

MONTANA FIRST JUDICIAL DISTRICT COURT,

LEWIS AND CLARK COUNTY

INDEXED

)	BDR-2010-248
JOHN C. OPITZ,)	
)	
Petitioner,)	
)	AFFIDAVIT
vs.)	
)	
SHERRIE R. REED,)	
)	
Respondent.)	

I, John C. Opitz, affirm under oath, the following: Greg Daly has illegally accessed my computer and email. In that process he provided material to Judge McMahon, saying he "discovered evidence," on my computer, which he then provided to Judge McMahon. Quite possibly by using my own email account, on my own computer to do so. Then shared it with opposing counsel and the other party. More likely manufactured it with opposing counsel

beforehand, then committed the felonies required to plant and “find” it and report back “Mission Accomplished.” All under the watchful eye of Judge McMahon. This is outrageous, abominable and unacceptable. There can be no question that Greg Daly fabricated and planted whatever material he claims to have “found” on my computer. In collusion with Timothy Willis McKeon. His track record in this case includes lying, destroying, willfully misinterpreting, and fabricating evidence. This has all been acceptable to judge McMahon. Daly continues to state that the forensic interview my son underwent proves my son was not abused, knowing full well it does no such thing. Tiffany Evans notes are attached proving my desperate struggles to keep this man from destroying police evidence from the organization and interviewer the FBI trusts in this region as much or more than anyone for forensic interviews of abused children. Daly is also lying about a car accident in which my daughter was seriously injured, and saying the accident never occurred. He has lied over and over again about issues of abuse rising to the level of felony criminal endangerment. Daly participated with Sherrie in destroying evidence including video footage of her raging on about how horrible a person I am in front of our son. Moreover, Greg Daly had no business being on my computer, or in my bedroom, which was locked and which he broke into. He was given permission to do neither of those things. Nor was he given permission to access my cellphone. If there was a legitimate reason to presume evidence of a crime existed on my computer, the police should have been contacted and a warrant to search it sought and obtained. And myself and my attorneys should have been made aware of that. Judge McMahon spent time on the Montana Supreme Court committee on evidence. He knows better. He doesn't have the slightest defense for having participated in these crimes. Alleged fact 1.)

There is zero doubt that Judge McMahon participated in these crimes and stonewalled myself and my attorneys to benefit the other party and the stalker of my children it is his solemn oath and duty to protect my children from. He continues in this regard. Alleged fact 2.)

There is zero doubt the tacit refusal of judge McMahon to honor my discovery requests, my attorneys discovery requests, and my attorney's subsequent motions to compel this discovery, are to prevent these crimes from being discovered, for the benefit of the other party, as well to hide the fact that the Judge himself violated the very parenting plan it was his duty to uphold. And allowed the other party to violate it. Alleged fact 3.)

There is zero doubt Judge McMahon refuses to rule on my attorney's motion to remove Greg

Daly as GAL to benefit the other party as well. Alleged fact 4.)

Judge McMahon colluded not just with the sleazy lawyers for the other party, and the other party, he colluded with the stalker of my children. Alleged fact 5.)

The Court should pay very close attention here. Judge McMahon never ruled on the motions for discovery. He never ruled on the motions to compel. He never ruled on the motion to remove Greg Daly as GAL and admitted on the record he hadn't even bothered to read them. Or the supporting affidavits submitted by both of my rational sisters, my daughter, myself, and my attorney. Didn't even bother to read them. There's nothing here for a litigant or this father to appeal. He simply ignored these motions, and affidavits, ignored the contempt of court the other party and Greg Daly should have been charged with, for not providing discovery, and his solemn oath, his duties and obligations as a judge in that series of actions. And violated my right to due process. A litigant cannot appeal something The Court hasn't made a decision on. This is a very deliberate, calculated strategy, coordinated with the GAL, and opposing counsel, to stonewall and hamstring myself and my attorneys from being able to prove the appalling dereliction of duty, the crimes committed against my children and myself, by the very people who are supposed to help my children. As well as the miles long list of the rest of the unacceptable things that have been perpetrated on my children and myself. Alleged fact 6.)

There is no relief that can be found within Montana law to remedy this. Except to disqualify the judge. One cannot appeal the refusal of a judge to rule on these things. He knows that. Can one move The Supreme Court to compel the judge to do his job? To act like a judge and rule on the motions to compel discovery? The motion to remove Greg Daly? If so, I hereby move The Court to do so. Please.

On the same day Greg Daly broke into my room and illegally accessed my computer, he did many unacceptable things. He rummaged about in my room and went through my drawers, my closet, my bank boxes of legal papers and more. From the bank boxes of legal paperwork he found the pro se forms I had downloaded and printed for my friend and neurologist, Dr. Thomas Mulgrew. After one of our friendly talks, about proper parenting and the like, my doctor friend wanted to try his hand at self representation. He didn't know how or where to get the forms so I offered to help Thomas out. It was clear that Daly had retrieved these files from half a dozen boxes in my room with many hundreds of pages because Daly affixed these forms I downloaded

for Doc to my refrigerator with magnets for me to see. The doctor's name was right on it. My mother saw those also. My room resembled the condition I found my room in as a child when I very nearly walked in on the monsters committing the second of two home invasions. My mother was devastated. Mom and I both suffered trauma as a result of this. It appeared there was nothing he hadn't gone through. Anywhere in the house. He had lied to me and said he wanted to speak to my mother in private and asked me to take my son outside. I played outside with my son until Daly left, about an hour later, in a big rush. Saying nothing. My mother said she'd been in her room and Greg Daly had never come to talk to her as he told me he would. One can understand why this coward could never look my mom in the eye again, let alone speak with her. Daly had also accessed my cellphone and destroyed texts between Sherrie Reed and myself. These were on the phone before he came, and gone right after he left. These texts were known to Daly to be exceedingly damning to Sherrie and were evidence to be used in an upcoming Contempt hearing. These actions of Greg Daly are known to Judge McMahon. Alleged fact 7.)

Greg Daly also lied to John the same day and said he had inadvertently deleted the same texts from his phone also. An iPhone. I was puzzled. I knew he was lying. I could put a dozen Apple software engineers on the stand as expert witnesses to explain how this is simply laughable and isn't possible. A 9 year old could provide the same information with equal veracity. Judge McMahon is aware Greg Daly has destroyed evidence in this regard. Alleged fact 8.)

Greg Daly committed an act of breaking and entering in my home to gain access to my computer and cellphone to both destroy and plant evidence. An act of breaking and entering. A crime, a felony, and one known to Judge McMahon. Alleged fact 9.)

Greg Daly committed all 3 of these crimes and Judge McMahon has allowed him to get away with it for not only the benefit of the other party, Sherrie Reed, but also for the benefit of my children's and my stalker, Lea Opitz. And to assist Greg Daly in his efforts to vilify me any way he can, impugn my veracity as a witness against him, and to drive the final coffin nails into Daly's promise to "destroy" me. Alleged fact 10.)

The evidence planted on my computer I can only speculate on, because I haven't seen it, but there can be no doubt this is clearly intended to provide a means and a manner for Greg Daly, with Judge McMahon's assistance, to carry through on the litany of threats my children and I have been violated with. One, to bar me from owning firearms and to prevent me from "hunting elk with my son or daughter ever again." There exists a framework within our Montana justice

system to accomplish that threat. I see that framework, which is a nationwide model, being abused here. In outrageous fashion. With tacit approval from, and implicit coordination with Judge McMahon. Alleged fact 11.)

The evidence planted on my computer is likely intended also as a means to villify me as the sort of monster who would have done any of the outrageous false accusations, vile assertions or whatever else is Sherrie has leveled against me in secret that makes McMahon seethe with rage also. This would be another necessary component of the framework to which I refer. Alleged fact 12.)

Greg Daly has subsequently accessed my email and deleted multiple emails from my account either with the use of the "password recovery key" he made while on my computer and inside my email account, or with the assistance of his "good friend," the "computer guru," or both.

McMahon knows this and is complicit with Daly on it. Alleged fact 13.)

Fortunately for this dad, these email deletions occurred not before forwarding the email from me to McKeon, where I ask Timothy Willis McKeon to assist this young mother who is being stalked and sexually harassed by Greg Daly, to my attorney, Rick Pyfer. So the FBI or the similar forensic computer techs from the Montana Attorney General's office can find that one certainly, and also investigate whether there has been a similar breach at Doubek, Pyfer, and Storrar. They'll either find the email or discover the breach and the corresponding IP addresses of the hacker. Despite any sox chain proxy the "Guru" may have used. The same computer guru Greg Daly was going to get thousands of dollars of equipment from, to just gift me with, to bribe me from exploring this matter further. A clear indication of the terror he has of being discovered and charged for these many felonies. It won't bode well for Greg Daly when they track the breach back to a county employee, on the county dime, using the county's servers to commit felony, federal computer crimes to cover up crimes committed by another county employee, who runs his highly lucrative business out of the county health department, on the county dime. Judge McMahon, again, can't deny knowledge of, or participation in, this very serious and quite determinable series of crimes with any credulity. He has worked hard to hide these things with Daly. Alleged fact 14.)

These actions constitute felony stalking, cyber stalking, and felony destruction of evidence. Among others.

Sherrie and my sister Lea have been stalking me through the internet as well. I accessed my

email from Lea's computer when I traveled to meet her before Sherrie destroyed that relationship and never logged out of the account. It was just email, nothing in it of concern. I foolishly thought, back then. And then forgot. It only dawned on me much later when the emails damning to Daly were deleted in multiple instances, from multiple folders within my email, and after both Sherrie and Daly seemed to be aware of my every move and had a corresponding ambush in place for every move my lawyers and I had planned prior, that I became aware there was a breach. Changing the password at that point still was not effective as Greg Daly had his good friend to help him gain access and the recovery key to use in place of Lea's access. Having discovered this I contacted the FBI to report cyberstalking and destruction of evidence. I volunteered both my computer and total access to all my accounts to them to assist in proving these crimes occurred, when, and by whom. I didn't specify this was only for the above crimes and they could have looked at anything and everything. I wasn't concerned by that possibility, as there wasn't then, and never was, anything a person should be concerned about, or alarmed by, on my computer. Or so I believed. People with dirty laundry don't volunteer these things. And never to the FBI.

Judge McMahon used information he received from Greg Daly, which Greg Daly obtained from criminal access to my computer, and my email, and coordinated responsive judicial strategies in collusion with opposing counsel. Alleged fact 15.)

Timothy Willis McKeon and Greg Daly have both lied in writing and stated that Sherrie underwent a second psychological evaluation, a PhD level psychological evaluation. And Judge McMahon is more than aware of that. In Greg Daly's "report" to The First District Court of Montana, he refers to it as Exhibit 5. This is more fabricated evidence. No such evaluation occurred and a record of it does not exist. Judge McMahon knows that. Alleged fact 16.)

The proposed parenting plan, the Judge himself and Daly worked on, takes that into account and provides a mechanism for the fact of this crime to go undetected. Judge McMahon isn't just aware of this, he has participated in these behind the scenes maneuvers in collusion with Greg Daly and Timothy Willis McKeon and Meegan McKeon Dowd. And obviously the other party. Alleged fact 17.)

Greg Daly, Sherrie, and Timothy Willis McKeon have slandered me for years now to St. Peter's hospital, my children's schools and other medical providers. I have been slandered as being extremely mentally ill, and "dangerous" to these institutions. I can only presume this newly

discovered, fabricated evidence is part of this gargantuan effort. This is known to Judge McMahon who likely assisted in the case of St. Peter's hospital, where his brother chairs one of the boards. Alleged fact 18.)

The abusive malpractice my children, my family and I have endured as a consequence is so foul my mother, an 80 year old prior stroke patient, was left in the waiting room at the Emergency room for 13 minutes displaying clear signs of having a stroke before the unconcerned ER staff finally wheeled her back. The woman who admitted us was in full panic and had called back several times making sure the red flags had been communicated properly to appropriate ER staff. It was more important than my mom's brain for the institution to take all the measures they take any time I set foot on the property because of the lies and slander illegally relayed to them by Greg Daly and the gang. For what reason only God could possibly know, but with the track record here, like an interstate highway, the purpose of this, above and beyond the obvious character assassination, and willingness to assist Greg Daly in his criminal efforts to "destroy" me, as he has threatened to, many times, is to "frontload" the psychiatric professionals at St. Peter's who McMahon and Daly believe they can manipulate to engineer an assessment of me, with a predetermined outcome. Alleged fact 19.)

Another consequence of this is mine, and my mother's inability to file a malpractice lawsuit against St. Peter's hospital for the criminal dereliction of duty, and blatant malpractice there's zero doubt St. Peter's hospital has committed and which they are guilty of. Due to the bad acts of Judge McMahon. Declaring me mentally impaired in some way certainly does lay an excellent defense for the malpractice lawsuit and lawsuit for slander both Greg Daly and Judge McMahon know I intend to file. Judge McMahon is protecting the institution his brother works at from a massive and publicly devastating series of lawsuits by blatant and deliberate abuse of power. This is a despicable, outrageous and unacceptable abuse of power. Alleged fact 20.)

I've taken what steps I can to defend myself, my veracity and my family in this regard. The false accusations that have been leveled against me by Sherrie, Lea, Ms. Jeffrey, Daly and others, include the absurd, despicable, very hurtful, and outrageous claim, that I am the monster responsible for the disappearance of a child from the Elkhorn mountains in the early 80's. I did what any rational, innocent and decent human being would do after learning this. I reached back out to the FBI and let them know, if they weren't already aware, that this slander and abominable lie was raging like wildlife throughout Helena, and my own family. I demanded to be subjected

to an FBI polygraph test, to be subjected to a psychological evaluation and profiling only the best experts in the world can provide. The Good Guys. The Quantico team. The guys that don't make mistakes. The guys that somehow knew, a killer they needed to catch, would drive a red Volkswagen. How in blazes? I drive a Red Silverado and remain available to the FBI and more than willing to have the men and women I trust and admire the most, do their work, if they require. Or just because they ask. This will prove beyond all doubt that I don't suffer from any of the conditions Daly and McMahon lie and say I do. To cover up the ghastly and abominable things that have been done. Or that I'm some crazed killer or hitman as my children's mother has repeated for years now. The tales continue to evolve and mutate. Sherrie told our sons daycare staff many years ago that I "kill people." Greg Daly has been aware of this insane assertion from day one and has never given it the significance it should have been, as irrefutable proof of Sherrie's Borderline Personality Disorder. This fact is also known to Judge McMahon. (Alleged fact 21.)

I have my own exam, through my own medical providers on the books, to appease the hysteria and slander. I have secured my own PhD psychologist who does these evaluations, as an expert witness, in addition. This man is an expert witness on these matters, and also my therapist from my childhood tragedies. He has known me for 40+ years and has an excellent working relationship with my therapist. He can shut this false narrative of me being unstable down in no uncertain terms. This false narrative that exists not out of any reality based nature, but the false narrative necessary to keep from exposure for, and criminal liability and accountability for, the blatant collusion with the other party by McMahon, the crimes committed and the complicity in them by Daly, McMahon, McKeon, Dowd, Reed, Lea Opitz, and Jeffrey. Greg Daly's obvious goal is to ultimately terminate the parent child relationship between my son and I. Daly does the same in almost all of his cases. Like he did with my friend Thomas Mulgrew. Like he did to the best friend of the cop that discovered his "indiscretions." Tom Fredericks. The family law establishment in Helena is more than aware of this. So is Judge McMahon. This is the precise outcome in the vast majority of cases Daly works on. His specialty is terminating the parent child relationship of one parent. A percentage rate simply off the charts for this GAL dynamic, and one which is unheard of in all of the national and international organizations I have contacted for assistance, resources, and support. The national average is pretty close to zero for one parent's rights to be terminated, but Greg Daly's percentage is nearly 100%. Why is that? It's not lost on

this father that Montana ranks 50th out of 50 states for mortality of children in these situations. It is not lost on this father that Greg Daly is responsible for at least one of these children's deaths, that can be confirmed, despite the secrecy Montana deploys in these horrors, and quite possibly more, that cannot currently be known because of the secrecy unique to Montana for child fatality statistics. This father is stating on the record for the world to hear, the actions of Judge McMahan and Greg Daly in my case go a long way to explaining why so many more children die here than in the rest of the country. Why Montana loses more children to death than any other state with charlatans like Greg Daly involved in decisions that affect their safety.

And that this gut wrenching and heartbreaking statistic is unacceptable to me. I understand the dire possibilities of Greg Daly's absence of keen judgment and thoughtless abuse of power. It is not lost on this father that two of my daughters and my son came within inches of losing their lives during this debacle as a consequence of the abuse received at the hands of their mother and her violent partners, and that the near death of my youngest daughter occurred during the tenure of Greg Daly and as a direct result of the criminal dereliction of duty, and the deliberate crimes that Greg Daly has committed, and has been allowed to commit, instead of even pretending to give a damn about the best interests of my children. And the sinful and unacceptable complicity of Judge McMahan in these crimes and deliberate failings.

My daughter reported to me recently that Judge McMahan and Greg Daly, together as a team, accosted her therapist, right after a hearing in which my daughter testified. They were "concerned" about a look my daughter had supposedly given Timothy Willis McKeon in court that day. The blatherings of a corrupt attorney, being given credulity towards some psychological aptitude or prowess, of which Timothy Willis McKeon has none. McKeon was at the very southern end of the courtroom, McMahan and Daly were present only from TV monitors. These monitors were on the northern end of the courtroom. The only thing either McMahan or Daly could have seen, while my daughter allegedly gave Timothy Willis McKeon a "dirty look," would have been the back of my daughter's head. There you have it. Ex parte communication, as soon as my daughter and I left the courtroom, between the judge, the GAL, and counsel for the other party, a soon to be disbarred and disgraced attorney. The judge and the GAL, taking this attorney's word, for a look, from a teenage girl, and trying to turn it into something they could use against dad. And trying to get my daughter's therapist to agree. Thereby allowing opposing counsel, to interfere in my daughter's vital therapy as well. HIPAA

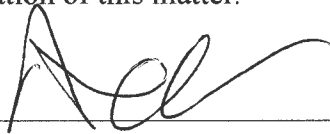
laws were violated here. Counsel for the other party says 'jump', and the two little dogs get a hoop. McKeon did swear to me, he tells the judge what to do. I guess so. Do the actions of a judge get more pathetic, or more biased than this? This father doesn't believe they do. You gentlemen should be ashamed of yourselves. Alleged fact 22.)

Since Timothy Willis McKeon was the attorney of record until July 7, 2021, when he was placed on disability status, this case, along with all of his other cases should have been put on hold. The fact that this case continues despite that fact demonstrates more disparate treatment against this father and litigant. Alleged fact 23.)

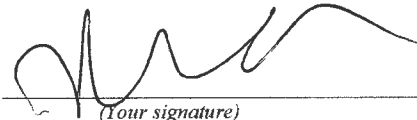
Sherrie's new attorney of record seems like a fine young man, and a sharply dressed one as well. Michael McLean seems like a man one can trust. I liked him at first glance. The fact that he works for Judge McMahan's own lawfirm troubles me however, and I believe this is unethical and demonstrates more disparate treatment of my son's father and this litigant. By judge McMahan. Alleged fact 24.)

Thank you for your consideration of this matter.

Respectfully, John C. Opitz



DATED this 8 day of SEPTEMBER, 2021
(date) (month) (year)


(Your signature)

State of Montana

County of Lewis and Clark

SIGNED AND SWORN (OR AFFIRMED) to before me on Sept. 8, 2021

by KKresge

Deputy Clerk
Notary Public for the State of _____
Printed name of notary _____
Title or rank: _____
Residing at _____
My Commission Expires: _____

Attachment 1.)

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Attorneys for Plaintiff

MONTANA FIRST JUDICIAL DISTRICT COURT, LEWIS AND CLARK COUNTY

<p>JOHN C. OPITZ, Plaintiff, v. SHERRIE R. REED, Defendant.</p>	<p>Cause No. BDR-2010-248 SUBPOENA DUCES TECUM</p>
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THE STATE OF MONTANA SENDS GREETINGS TO:

**GAL – Greg Daly
1 Jackson Creek Rd.
PMB 2217
Clancy, MT 59634**

WE COMMAND YOU, that all and singular, business and excuses being laid aside, produce the following documents or objects at the offices of DOUBEK, PYFER & STORRAR, 307 N. Jackson, Helena, Montana on or before **December 25, 2020**:

A true, correct and complete copy of all files (electronic and/or hard copy) of:

- (1) Copies of all emails, letters, text messages, correspondence or any other written or typed communications sent to or received from counsel for Ms. Reed or Ms. Reed herself from the time of your appointment as GAL to present. (effectively all communications between you and Ms. Reed's counsel and/or Ms. Reed);
- (2) Copies of all emails, letters, text messages, correspondence or any other written or typed communications sent to or received from any previous counsel for Mr. Opitz or Mr. Opitz himself from the time of your appointment as GAL to present;
- (3) Copies of all emails, letters, text messages, correspondence or any other written or typed communications between you and any counselor involved in this case from the time of your appointment as GAL to present, including Tiffany Evans, which is related to this custody case;
- (4) Copies of all emails, letters, text messages, correspondence or any other written or typed communications between you and any school employee, principal or other school official from the time of your appointment as GAL to present which is related to this custody case;
- (5) Copies of all emails, letters, text messages, correspondence or any other written or typed communications between you and any Montana State Official/employee, including anyone from CPS or DPHHS from the time of your appointment as GAL to present which is related to this custody case;
- (6) Copies of your entire case file from the time of your appointment as GAL to present which is related to this custody case;

Compliance with the Subpoena will be deemed sufficient if a copy of the requested documents is mailed, faxed, e-mailed, or otherwise transmitted to requester at the address shown

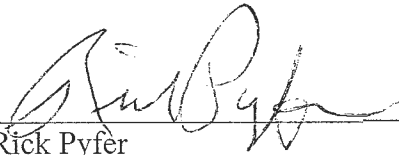
above on or before the specified date. The Requester will pay a reasonable copying charge for compliance.

You are entitled to certain protections and have certain responsibilities under Montana law, including Rule 45(d) and (e) of the Mont. Rules of Civil Procedure, the text of which follows.

Disobedience will be punished as a contempt by this Court.

DATED this 11th day of December, 2020.

DOUBEK, PYFER & STORRAR

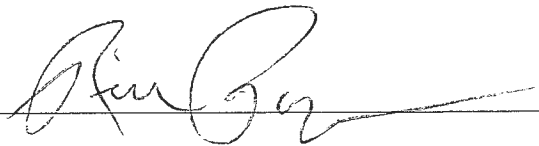
By 
Rick Pyfer
Attorney for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on the 11th day of December, 2020, I served a true and correct copy of the foregoing upon opposing counsel by as follows:

Timothy W. McKeon
McKeon Dowd Law Firm P.C.
828 Great Northern Blvd Ste 2A
Helena, MT 59601

- US Mail
- Federal Express
- Hand-Delivery
- Email



Rule 45(d) Protecting a Person Subject to a Subpoena.

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction -- which may include lost earnings and reasonable attorney fees - on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) Appearance not Required. A person commanded to produce designated documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing, or trial.

(B) Objections. A person commanded to produce designated materials or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the designated materials or to inspecting the premises - or to producing electronically-stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the issuing court for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expenses resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) When Required. On timely motion, the issuing court must quash or modify a subpoena that:

(i) fails to allow a reasonable time to comply;

(ii) requires a person who is neither a party nor a party's officer to travel more than 100 miles from where that person resides, is employed, or regularly transacts business in person -- except that, subject to Rule 45(d)(3)(B)(iii), the person may be commanded to attend a trial by traveling from any such place within the state where the trial is held;

(iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) When Permitted. To protect a person subject to or affected by a subpoena, the issuing court may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information;

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party; or

(iii) a person who is neither a party nor a party's officer to incur substantial expense to travel more than 100 miles to attend trial.

(C) Specifying Conditions as an Alternative. In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

(i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

(ii) ensures that the subpoenaed person will be reasonably compensated.

Rule 45(e) Duties in Responding to a Subpoena.

(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

(A) Documents. A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) Form of Producing Electronically Stored Information Not Specified. If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) Electronically Stored Information Produced in Only One Form. The person responding need not produce the same electronically stored information in more than one form.

(D) Inaccessible Electronically Stored Information. The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of the undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) Information Withheld. A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

(i) expressly assert the claim; and

(ii) describe the nature of the withheld documents, communications, or things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) Information Produced. If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

Rick Pyfer
DOUBEK, PYFER & STORRAR
PO Box 236
Helena MT 59624
Telephone: (406) 442-7830
Facsimile: (406) 442-7839
rick@lawyerinmontana.com

Attorneys for Plaintiff

MONTANA FIRST JUDICIAL DISTRICT COURT, LEWIS AND CLARK COUNTY

<p>JOHN OPITZ,</p> <p>Plaintiff,</p> <p>v.</p> <p>SHERRIE R. REED,</p> <p>Defendant.</p>	<p>Cause No. BDR-2010-248</p> <p>PLAINTIFF'S FIRST REQUEST FOR PRODUCTION TO DEFENDANT</p>
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Plaintiff hereby requests and demands the above-named defendant to answer, under oath, in accordance with Rules 33, 34, and 36, Mont. R. Civ. P., the following requests for production within thirty (30) days from the date of service upon you.

NOTE:

- (a) "Email(s)" is meant to include any responsive document and/or electronically-stored information (ESI) including writings, drawings, graphs, charts, photographs, sound recordings, images and other data or data compilations stored in any medium from which information can be obtained either directly or, if necessary, after translation by the responding party into a reasonably usable form.

REQUEST FOR PRODUCTION NO. 1: Copies of all emails sent by you to Guardian Ad Litem (GAL) Greg Daly and all emails received by you from GAL Greg Daly from the inception of your representation of the Respondent, Sherrie R. Reed in the above entitled matter.

ANSWER:

REQUEST FOR PRODUCTION NO. 2: Copies of all emails sent by you to any attorneys who represented Petitioner, John C. Opitz, and copies of all emails received by you from attorneys who represented Petitioner, John C. Opitz, in the above entitled matter.

ANSWER:

REQUEST FOR PRODUCTION NO. 3: Copies of all emails sent by you to counselor Tiffany Evans and all emails sent by Tiffany Evans to you that is related to this custody case.

ANSWER:

DATED this 25th day of June, 2020.

DOUBEK, PYFER & STORRAR

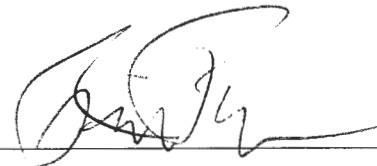
By 
Rick Pyfer
Attorney for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on the 25th day of June, 2020. I served a true and correct copy of the foregoing upon opposing counsel by as follows:

Timothy W. McKeon
McKeon Dowd Law Firm P.C.
828 Great Northern Blvd Ste 2A
Helena, MT 59601

- US Mail
- Federal Express
- Hand-Delivery
- Email





**DOUBEK, PYFER
& STORRAR**
HELPING INJURED PEOPLE

(406) 442-7830 office
(406) 442-7839 fax
lawyerinmontana.com
P.O. Box 236
307 N Jackson St.
Helena, MT 59624

August 24, 2020

Timothy W. McKeon
McKeon Dowd Law Firm P.C.
828 Great Northern Blvd, Ste 2A
Helena, MT 59601

RE: Opitz- Child Custody

Dear Timothy,

I served Discovery requests on you dated June 25, 2020 and served via USPS on the same day. I have not received responses. I am enclosing a copy of the requests served. Please let me know when you will be forwarding your responses. If I don't hear from you within 10 days of this writing, I will prepare a Motion to Compel service. If you have any questions, please let me know. Thank you.

Sincerely,

Rick Pyfer
Attorney at Law
rick@lawyerinmontana.com

RJP/rkf
Enc.

Cc: John Opitz



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& STORRAR**
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P.O. Box 236
307 N Jackson St.
Helena, MT 59624

August 24, 2020

Greg Daly
Case Manager, Family and Child Health
1930 Nineth Avenue
Helena, MT 59601

RE: Opitz- Child Custody

Dear Greg,

I served Discovery requests for you dated June 25, 2020 and served via USPS on the same day to Timothy McKeon. I have not received responses. I am enclosing a copy of the requests served. Please let me know when you will be forwarding your responses. If I don't hear from you within 10 days of this writing, I will prepare a Motion to Compel service. If you have any questions, please let me know. Thank you.

Sincerely,

Rick Pyfer
Attorney at Law
rick@lawyerinmontana.com

RJP/rkf
Enc.

Cc: John Opitz

MONTANA FIRST JUDICIAL DISTRICT COURT

LEWIS AND CLARK COUNTY

1)	
2)	
3)	
4	JOHN OPITZ,)	
5	Plaintiff,)	
6	vs.)	Case No. BDR-2010-248
7)	
8	SHERRIE R. REED,)	
9)	
10	Respondent.)	
11)	

TRANSCRIPT OF PROCEEDINGS
LEWIS AND CLARK COUNTY COURTHOUSE
228 BROADWAY STREET
HELENA, MONTANA 59601
March 7, 2018

HONORABLE MICHAEL MCMAHON, PRESIDING JUDGE

APPEARANCES

For Plaintiff: Pro Se

For Defendant: Mr. Timothy W. McKeon
McKeon Dowd Law Firm, P.C.
828 Great Northern Blvd., Suite 2A
Helena, Montana, 59601

ANGELA NURRE, OFFICIAL COURT STENOGRAPHER ON BEHALF
OF JOSLYN CUMMINGS, FORMER OFFICIAL COURT STENOGRAPHER
415 2nd Avenue North, Suite 301
Great Falls, Montana, 59601
anurre@mt.gov

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I N D E X

Proceedings:

Page

Motion to Seal Records

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P R O C E E D I N G S

1
2 THE COURT: Good afternoon. Please be seated. We
3 will go on the record in BDR-2010-248, In the Matter of John
4 C. Opitz and Sherrie R. Reed.

5 Present in the courtroom is Mr. Opitz unrepresented
6 by counsel. Ms. Reed, you are here with counsel, Mr. McKeon.

7 Counsel and Mr. Opitz, the Court set this hearing
8 based upon Mr. Opitz's request of December 12, 2017 to have
9 all records sealed and the Court issue a gag order to protect
10 "the privacy of the minor children and the parties."

11 The Court set a hearing dated February 21, 2018 and
12 in response, Mr. Opitz, you said, "We don't need a hearing
13 because it's not contested." Let me make it very perfectly
14 clear, Mr. Opitz, when you make allegations in an affidavit
15 that things are being said, taken out of the record, and you
16 don't state clearly what those allegations are, just a simple
17 affidavit, the Court takes it very serious. So that's why we
18 are having a hearing.

19 MR. OPITZ: Yes, sir.

20 THE COURT: And just because a motion is
21 uncontested, doesn't mean it gets granted.

22 MR. OPITZ: Yes, sir.

23 THE COURT: Do you understand that?

24 MR. OPITZ: Yes.

25 THE COURT: Is Mr. Daly here today?

1 MR. OPITZ: No, sir.

2 THE COURT: Was he told about the hearing?

3 MR. OPITZ: Yes, sir.

4 THE COURT: All right. Mr. McKeon, what's your
5 client's position with respect to Mr. Opitz's motion.

6 MR. MCKEON: We don't have a lot of objection to it.
7 We had worked with Mr. Opitz to seek resolution on this simple
8 request, and I had prepared a -- what I thought was a
9 reasonable resolution and sent it to Mr. Opitz.

10 Basically, we don't have any -- we don't have any
11 objection to the -- any records regarding the children being
12 sealed. There are some -- some issues relative to the
13 children that I feel that the minors have a need for privacy.
14 The way that the motion was drafted, it also did not allow for
15 any communication with either party to any counselors or
16 anything. And as far as the children go, we believe that
17 we're okay with those records being sealed.

18 As far as the adults go, I don't think it's
19 necessary to seal, and I think they need to be able to speak
20 to their counselors and those that are involved in this
21 matter. Both the children have counselors. I believe both
22 parties have counselors. You've got Mr. Daly involved, and so
23 I think they should be able to have free communication between
24 them.

25 THE COURT: Mr. Opitz?

1 MR. OPITZ: I have listened to Mr. Ma /KAOUPB's
2 arguments, and I have pondered them. And I -- I reject them.
3 I don't see that his proposed modifications to the order are
4 necessary. You know, the way --

5 THE COURT: There is no order yet, sir.

6 MR. OPITZ: The proposed order. Excuse me. You
7 know, the information has been shared inappropriately, and the
8 best example I can give to you, sir, of that, is the letter
9 from my sister Lee that showed up on your desk, having an
10 objection to what was in Mr. Daly's report. That should leave
11 no doubt that Mr. Daly's report was shared, and it wasn't
12 necessary. It was very harmful to the children.

13 What Mr. McKeon said to me in his primary objection
14 was, was the way the proposed order is written, is it would
15 preclude the parties being able to discuss anything, even with
16 their own therapist, and I find that argument absurd. You
17 know, the Court has ordered both parties to continue to talk
18 to their therapists, and so I believe that that's covered in
19 the wording of the proposed order. And in the affidavit, it
20 specifically mentioned respective attorneys.

21 THE COURT: Well, I will tell you that I have spent
22 a great deal of time looking at this file, and this has been
23 going on since 2010.

24 MR. OPITZ: Yes, sir.

25 THE COURT: I feel bad for the kids. When parents

1 cannot co-parent in a cooperative and communicative manner, in
2 my view, the only people that suffer are the kids. And I
3 looked at your motion and I considered it from a standpoint,
4 is he really searching for his children or trying to protect
5 himself?

6 Mr. Daly is very respected by this Court, and it's
7 shameful to both of you to have a babysitter for you two to
8 co-parent. But he will continue to be your babysitter,
9 because his job is to protect the kids as the GAL. And I have
10 not seen his response to this, how he thinks the children are
11 being harmed.

12 I did notice that Judge Sherlock entered an order in
13 April of 2014 sealing the GAL report at that time. That's the
14 only order sealing anything in this record.

15 MR. OPITZ: I have another order, if I may, that
16 tends to pertain to that issue.

17 THE COURT: Is there another order sealing other
18 things?

19 MR. OPITZ: There is a stipulation for protective
20 order that indicates both parties should refrain from sharing
21 information. It mentions information received through
22 discovery. I have that order here, if you would care to look
23 at it, sir.

24 THE COURT: The only order I am aware of sealing
25 anything is that April 25, 2014 order signed by Judge

1 Sherlock.

2 MR. OPITZ: Okay.

3 THE COURT: And he sealed the GAL report in that
4 regard.

5 MR. OPITZ: Right. You know, another consideration,
6 you know, that I have, our daughter who is 14 was a victim of
7 sexual assault, and she has been a victim of just god awful
8 bullying of the -- things here that you can't even image.

9 One boy said to her he hopes that the next time the
10 rapist rapes her, he murders her. And anyone -- and anyone
11 can go to the courtroom downstairs and can pull that file up,
12 and, you know, for a buck a page can print out whatever they
13 want. And, you know, here is a person, here is a family that
14 has every reason in the world to go down there and get their
15 hands on whatever information they have, you know, that isn't
16 sealed and use it in --

17 THE COURT: So who is using it against her? That's
18 what I want to know. You make some --

19 MR. OPITZ: I am just trying to seal it so my
20 children are protected, you know, from -- from anyone. You
21 know, there is a tremendous amount of, you know, information
22 pertaining to the children. And, you know, I see that, you
23 know, records are sealed routinely when -- you know, I checked
24 to see if something is on the court docket. There is a number
25 of cases listed that are being seen that day, and quite

1 frequently, anything related to domestic relations,
2 specifically --

3 THE COURT: It's --

4 MR. OPITZ: -- children --

5 THE COURT: -- untrue, sir.

6 It's untrue.

7 MR. OPITZ: -- has "sealed" on it, but --

8 THE COURT: It's untrue.

9 MR. OPITZ: -- not all of them.

10 THE COURT: Most anything that's sealed in this
11 courtroom is for DN matters.

12 MR. OPITZ: Is for?

13 THE COURT: Dependency and neglect matters.

14 MR. OPITZ: Okay. Well, I -- I couldn't presume to
15 know what the sealed, you know, things pertain to. That's an
16 assumption on my part, but I know that it is possible to -- to
17 seal the records.

18 And, you know, there is so much inflammatory, you
19 know, information, specifically related to the children and,
20 you know, both litigants. I -- I think it serves the best
21 interests of the children to seal them, sir.

22 THE COURT: Yeah. And that's what Mr. McKeon has
23 indicated. There is no objection with respect to the
24 children. But sealing the entire record from everybody,
25 you're asking the Court to take a public proceeding, which

1 anybody can walk in that door and sit in here, and binding it
2 up and say nobody gets access to it. You are asking a very,
3 very touchy issue, especially with the Court, and to place a
4 gag order with no evidence submitted on any party bothers me.

5 I will tell you both what I tell many parents. I
6 don't really give anything or care about how you two feel. My
7 concern is your kids. That's why a GAL has been appointed and
8 that GAL has been switched out since 2014. But the GAL's job
9 is to protect the kids, not to protect or advocate for either
10 one of you. But to protect the kids.

11 As I indicated, Mr. Daly didn't file anything with
12 respect to your motion; that he supported it. That causes me
13 some concern. Does he feel the same way? And that's why I
14 asked if he was here today.

15 MR. OPITZ: I have discussed it with him, and, you
16 know, it's my opinion that he was generally supportive of the
17 motion. But I don't think that I should speak for him or, you
18 know, presume that the Court should take my word for what Mr.
19 Daly says.

20 THE COURT: Mr. McKeon, have you talked to Mr. Daly.

21 MR. MCKEON: I have, your Honor. He didn't express
22 any issue or concern one way or the other to me.

23 THE COURT: Yeah. I just -- obviously, the Court is
24 going to protect the children, but speculation doesn't pass
25 muster with the Court, that things could happen. If things

1 have happened, the Court wants to know about it. And I would
2 expect if something happened adverse to the children, he would
3 let me know about it, Mr. Daly.

4 But this file, I think there is over 500 files in
5 this case already, and your last comment, sir, that you expect
6 there would be more filings troubles me.

7 MR. OPITZ: I don't intend to make them, sir. I see
8 the way things are going. The kind of decision I have had,
9 you know, with opposing counsel, I see that, you know, it's
10 going nowhere. I hope that it doesn't. It isn't my intention
11 to file, you know, any motions of any kind.

12 I have tried to work with the previous attorney on
13 this, send an e-mail to, you know, Mr. Kakuk asking him about
14 the motion to seal the records, and he said he didn't know
15 what I meant by it. And I never -- I never got him, you know,
16 to broach the subject again. That was after he received the
17 letter from my sister Lee in Colorado, and that was April of
18 last year that I --

19 THE COURT: The Court doesn't deal with ex parte
20 contact, sir. That letter is filed. I really don't know what
21 it says. If somebody has got something to say to me, there
22 better be a hearing and they better be sworn and they better
23 sit in that chair (pointing). This case troubles me from both
24 sides.

25 Now, the last question I have for both of you, did

1 you guys -- when this action was filed in 2010, we had the
2 Children's First Orientation class.

3 MS. REED: Yes.

4 THE COURT: And you both attended.

5 MR. OPITZ: Yes, sir.

6 THE COURT: You both have failed completely
7 miserably in following those recommendations. If there is
8 going to be any more motions filed with respect to the
9 children, I expect the mediation provision to be complied
10 with.

11 If there is going to be a motion filed with respect
12 to the child, I expect Mr. Daly, and the Court has given him
13 much authority, to be contacted first and have his opinion as
14 to the issue with respect to that motion. I am done playing
15 around with this. It's not fair to the kids. It wastes
16 judicial time. And like I said, I feel bad for your children.

17 If there is going to be another motion and mediation
18 has failed, I am going to send you back to Children's First
19 Orientation. I am going to make you go through it again.
20 Because I really mean it, the best parenting plan that can
21 ever be signed is one that is signed and never looked at
22 again, because the parents are able to communicate and
23 cooperate and co-parent in an effective and proactive manner.

24 It hasn't been done in this case for eight years. I
25 expect it to be started. Whatever issues are between you is

1 over. That bridge has been crossed. Anger is a wasted
2 emotion, and it shouldn't be implored on anybody, and the
3 Court won't allow it.

4 I just -- I, frankly, will not put up with it. Your
5 goal is that when your children are married, you are both
6 walking them down the aisle. Your goal is when they turn 18
7 and leave your homes, that some day they will become your
8 friends, not just your children; your friends. They don't
9 stop being your kids, and you don't stop worrying about them.
10 And you don't stop caring about them. And you don't stop
11 supporting them when they turn 18, and they graduate from high
12 school.

13 That's my goal for you two, that you are both
14 walking them down the aisle when they get married and you both
15 are their friends. I got six of them. When the girls were in
16 their teens, they hated their dad. So would the boy. They
17 are my friends. There is not a day that doesn't go by that
18 they don't know that I love them, and that's either by a text,
19 because that's what girls like to do. They don't pick up a
20 damn phone and call their dad. They will text. That's life.

21 So I implore both of you to show your children what
22 compassion is, what respect is, what courtesy is, what love is
23 and what kindness is. And you do that by your actions, not by
24 your words but by your actions.

25 No one, Mr. Opitz, wants any of these children, in

1 this room -- any of those children to be harmed. So the Court
2 is going to issue an order sealing all records relative to the
3 kids.

4 MR. OPITZ: Thank you, your Honor.

5 THE COURT: But I am not going to impose a gag
6 order. I am not going to seal the record for everything. If
7 it relates to the kids, that will be sealed.

8 But I ask you both, look yourselves in the mirror
9 and work hard to be the best co-parents you can be. Bury the
10 hatchets. If an apology needs to be made, make it. If an
11 apology is made, accept it, because your children need to
12 learn that forgiveness means forgiveness. I just hope for
13 their sake the fighting is over. And if it's not, we will go
14 back to step one the next time a motion is filed. And I mean
15 it. I will make you go to Children's First Orientation.

16 MR. OPITZ: I agree with every word that you have
17 said, Your Honor.

18 THE COURT: They deserve the best, and that best has
19 to come from you guys.

20 MR. OPITZ: (Nodding.)

21 THE COURT: Court will issue its order, sealing only
22 those records relative to the children. You will receive a
23 copy of the order in the mail.

24 Again, if there is going to be motions, I want
25 them -- and they're with respect to the kids, and right now,

1 it's just with respect to the kids, Mr. Daly has to approve it
2 first. And you will be required to go to mediation before its
3 filed, so that means mediation and Mr. Daly approves the
4 motion.

5 MR. OPITZ: In the children's first class --

6 THE COURT: If you file the motion, the Court will
7 order both of you to go to Children's First Orientation. I
8 just ask you both to step back. I mean, it's been eight
9 years.

10 MR. OPITZ: This all sounds good to me, Your Honor.

11 THE COURT: Mr. McKeon?

12 MR. MCKEON: Judge, I appreciate your words of
13 wisdom. I couldn't have said it any better. I was asked to
14 come into this matter to help Mrs. Opitz and to try to bring
15 this thing to a conclusion so that the parties can go forward,
16 and I did that particularly because -- after hearing what the
17 children have been through.

18 I agree with you a great deal, and I've been working
19 with Mr. Daly to try to get this thing on a level surface so
20 that these children don't have to live with this sort of
21 environment any further. They need it. And I give the
22 description, when I used to do a lot of this work, of the two
23 adults standing in the middle of the room going at it, and the
24 children standing beneath them pulling on the pant legs trying
25 to get one of their parent's attention. And a lot of times,

1 the parents -- they don't get the attention. And this has
2 to -- I agree this has to come to a conclusion, and I am
3 working with Mr. Daly to try to accomplish that and in a
4 harmonious fashion.

5 THE COURT: And I appreciate that. And, hopefully,
6 the next step is Mr. Opitz, Ms. Reed, you are able to do that
7 face-to-face. I hate texts. I hate e-mails. Things get
8 said. Things get misconstrued. But, again, show your
9 children what those five elements mean.

10 There is good in this world. Please be the good in
11 the world, is all I ask. Thank you. We'll be in recess.

12 MR. MCKEON: Thank you very much, Judge. You have a
13 good day.

14 MR. OPITZ: Thank you, your Honor.

15 (Proceedings were adjourned at 3:18 p.m.)

16 --oo0oo--
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CERTIFICATE OF STENOGRAPHER

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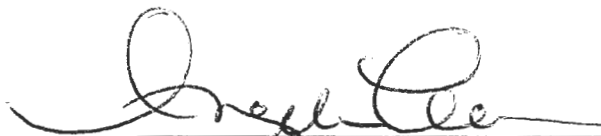
I, ANGELA NURRE, Official Court Stenographer for the State of Montana,

Do hereby certify that JOSLYN CUMMINGS reported in machine shorthand the foregoing proceedings at the time, place and with the appearances of counsel hereinbefore noted.

I further certify that the transcript was transcribed from her original shorthand notes, and that I, ANGELA NURRE, by means of computer-assisted transcription, created a full, true, and correct transcript of the oral testimony adduced therein, to the best of my ability.

I further certify that I am not of counsel for, nor in any way related to, any of the parties in this matter, nor am I in any way interested in the outcome thereof.

IN WITNESS WHEREOF, I have hereunto set my hand this 26th day of May, 2020.



ANGELA NURRE
Court Stenographer on behalf of
Joslyn Cummings, Former Official
Court Stenographer

2014 DEC 15 PM 4:32

MICHELLE WRAY
BY
D. WRAY

1 Sarah P. LaRue
KELLER, REYNOLDS, DRAKE,
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5 splarue@kellerlawmt.com

6 Attorneys for Respondent

8 MONTANA FIRST JUDICIAL DISTRICT COURT, LEWIS AND CLARK COUNTY

9 IN RE THE MARRIAGE OF:

10 JOHN C. OPITZ,

11 Petitioner,

12 and

13 SHERRIE R. OPITZ,

14 Respondent.

Cause No. BDR 2010-248

STIPULATION REGARDING
PETITIONER'S MOTION TO
COMPEL;

STIPULATION FOR PROTECTIVE
ORDER.

16 STIPULATION REGARDING PETITIONER'S MOTION TO COMPEL

17 Petitioner John C. Opitz, and Respondent Sherrie R. Opitz, through their respective
18 counsel of record, hereby stipulate that all matters pertaining to Petitioner's November 25, 2014
19 Motion to Compel are resolved to each party's satisfaction. No action is necessary and none
20 should be taken by the Court regarding Petitioner's Motion to Compel.

21 Petitioner specifically reserves the right to file any motions related to other discovery
22 matters, and to issue any subpoenas as he deems appropriate to discover other matters related to
23 this case. Likewise, Respondent specifically reserves the right to respond and object to any
24 motions Petitioner may file, and to respond and object to any subpoenas Petitioner may issue in
25 this case.

26 STIPULATION FOR PROTECTIVE ORDER

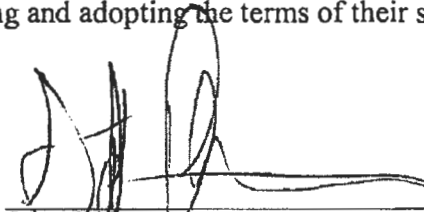
27 The parties further agree, through their respective counsel, that neither will disseminate
28 any documents or information obtained through discovery beyond the parties to this case, the

STIPULATION REGARDING PETITIONER'S MOTION TO COMPEL;
STIPULATION FOR PROTECTIVE ORDER

1 attorneys to this case, or the guardian *ad litem* in this case.

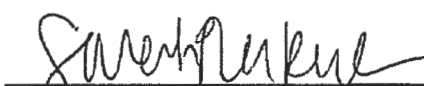
2 The parties request an order approving and adopting the terms of their stipulations set
3 forth above.

4
5 Dated: 12/12/2014



Scott Peterson
Attorney for Petitioner John Opitz

6
7
8 Dated: 12-15-2014



Sarah P. LaRue
Attorney for Respondent Sherrie Opitz

9
10 ORDER

11 The Court having reviewed the foregoing Stipulations and finding good cause therefor;
12 IT IS ORDERED that the foregoing Stipulations of the parties is hereby adopted by the
13 Court and all of the terms of the Stipulations are made orders of this Court. Both parties are
14 ordered to follow the terms of the Stipulation.
15

16 Dated this 16 day of December, 2014.

17 JEFFREY M. SHERLOCK

18
19 _____
District Court Judge

FILED

08/10/2021

Bowen Greenwood
CLERK OF THE SUPREME COURT
STATE OF MONTANA

Case Number: PR 21-0080

IN THE SUPREME COURT OF THE STATE OF MONTANA

PR 21-0080

FILED

AUG 10 2021

Bowen Greenwood
Clerk of Supreme Court
State of Montana

IN THE MATTER OF:

TIMOTHY McKEON,

ORDER

An Attorney at Law.

On February 19, 2021, a formal disciplinary complaint was filed against Montana attorney Timothy McKeon. The disciplinary complaint may be reviewed by any interested persons in the office of the Clerk of this Court.

On July 5, 2021, McKeon gave notice, pursuant to Rule 28(B) of the Rules for Lawyer Disciplinary Enforcement (MRLDE), that he is unable to assist in the defense of the disciplinary proceedings against him. As a result, McKeon acknowledges that he shall be transferred to disability/inactive status and the pending proceedings shall be deferred during the period of his inability to defend.

Therefore,

IT IS ORDERED that Timothy McKeon is transferred to disability/inactive status in the Bar of the State of Montana, and that these disciplinary proceedings are deferred while he is on disability/inactive status. McKeon is directed to provide notice of his change in status to his clients and others as required by MRLDE 30, and to arrange for the delivery to his clients of any papers or other property to which they are entitled.

IT IS FURTHER ORDERED that the Commission on Practice shall enter an order deferring these disciplinary proceedings during the period of McKeon's inability to defend pursuant to MRLDE 28(E).

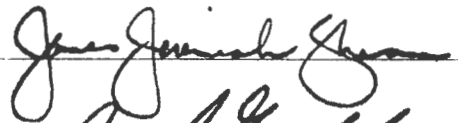
IT IS FURTHER ORDERED that the Clerk of this Court shall serve a copy of this Order of Discipline upon McKeon personally.

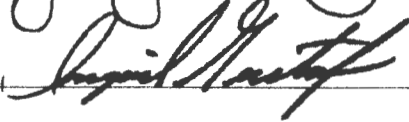
The Clerk of this Court is further directed to provide copies of this Order to Disciplinary Counsel, the Office Administrator for the Commission on Practice, the Clerks of all the District Courts of the State of Montana, each District Court Judge in the State of Montana, the Clerk of the Federal District Court for the District of Montana, the Clerk of the Circuit Court of Appeals of the Ninth Circuit, and the Executive Director of the State Bar of Montana.

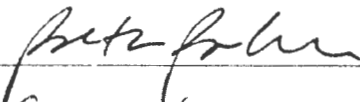
DATED this ¹³10 day of August, 2021.

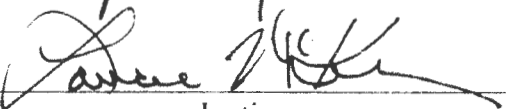

Chief Justice










Justices

Justice Jim Rice did not participate in the decision of this matter.

Rick Pyfer
DOUBEK, PYFER & STORRAR
PO Box 236
Helena MT 59624
Telephone: (406) 442-7830
Facsimile: (406) 442-7839
rick@lawyerinmontana.com

Attorneys for Plaintiff

MONTANA FIRST JUDICIAL DISTRICT COURT, LEWIS AND CLARK COUNTY

<p>JOHN C. OPITZ, Plaintiff, v. SHERRIE R. REED, Defendant.</p>	<p>Cause No. BDR-2010-248 SUBPOENA DUCES TECUM</p>
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THE STATE OF MONTANA SENDS GREETINGS TO:

**GAL – Greg Daly
1 Jackson Creek Rd.
PMB 2217
Clancy, MT 59634**

WE COMMAND YOU, that all and singular, business and excuses being laid aside, produce the following documents or objects at the offices of DOUBEK, PYFER & STORRAR, 307 N. Jackson, Helena, Montana on or before **December 25, 2020**:

A true, correct and complete copy of all files (electronic and/or hard copy) of:

- (1) Copies of all emails, letters, text messages, correspondence or any other written or typed communications sent to or received from counsel for Ms. Reed or Ms. Reed herself from the time of your appointment as GAL to present. (effectively all communications between you and Ms. Reed's counsel and/or Ms. Reed);
- (2) Copies of all emails, letters, text messages, correspondence or any other written or typed communications sent to or received from any previous counsel for Mr. Opitz or Mr. Opitz himself from the time of your appointment as GAL to present;
- (3) Copies of all emails, letters, text messages, correspondence or any other written or typed communications between you and any counselor involved in this case from the time of your appointment as GAL to present, including Tiffany Evans, which is related to this custody case;
- (4) Copies of all emails, letters, text messages, correspondence or any other written or typed communications between you and any school employee, principal or other school official from the time of your appointment as GAL to present which is related to this custody case;
- (5) Copies of all emails, letters, text messages, correspondence or any other written or typed communications between you and any Montana State Official/employee, including anyone from CPS or DPHHS from the time of your appointment as GAL to present which is related to this custody case;
- (6) Copies of your entire case file from the time of your appointment as GAL to present which is related to this custody case;

Compliance with the Subpoena will be deemed sufficient if a copy of the requested documents is mailed, faxed, e-mailed, or otherwise transmitted to requester at the address shown

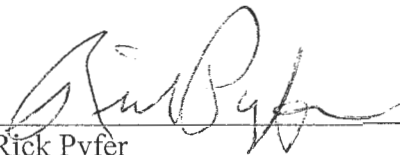
above on or before the specified date. The Requester will pay a reasonable copying charge for compliance.

You are entitled to certain protections and have certain responsibilities under Montana law, including Rule 45(d) and (e) of the Mont. Rules of Civil Procedure, the text of which follows.

Disobedience will be punished as a contempt by this Court.

DATED this 11th day of December, 2020.

DOUBEK, PYFER & STORRAR

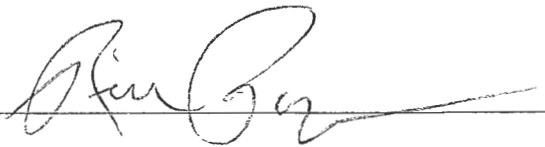
By 
Rick Pyfer
Attorney for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on the 11th day of December, 2020, I served a true and correct copy of the foregoing upon opposing counsel by as follows:

Timothy W. McKeon
McKeon Dowd Law Firm P.C.
828 Great Northern Blvd Ste 2A
Helena, MT 59601

- US Mail
- Federal Express
- Hand-Delivery
- Email



Rule 45(d) Protecting a Person Subject to a Subpoena.

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction -- which may include lost earnings and reasonable attorney fees -
- on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) Appearance not Required. A person commanded to produce designated documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing, or trial.

(B) Objections. A person commanded to produce designated materials or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the designated materials or to inspecting the premises -
- or to producing electronically-stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the issuing court for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expenses resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) When Required. On timely motion, the issuing court must quash or modify a subpoena that:

(i) fails to allow a reasonable time to comply;

(ii) requires a person who is neither a party nor a party's officer to travel more than 100 miles from where that person resides, is employed, or regularly transacts business in person -- except that, subject to Rule 45(d)(3)(B)(iii), the person may be commanded to attend a trial by traveling from any such place within the state where the trial is held;

(iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) When Permitted. To protect a person subject to or affected by a subpoena, the issuing court may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information;

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party; or

(iii) a person who is neither a party nor a party's officer to incur substantial expense to travel more than 100 miles to attend trial.

(C) Specifying Conditions as an Alternative. In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

(i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

(ii) ensures that the subpoenaed person will be reasonably compensated.

Rule 45(e) Duties in Responding to a Subpoena.

(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

(A) Documents. A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) Form of Producing Electronically Stored Information Not Specified. If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) Electronically Stored Information Produced in Only One Form. The person responding need not produce the same electronically stored information in more than one form.

(D) Inaccessible Electronically Stored Information. The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of the undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) Information Withheld. A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

(i) expressly assert the claim; and

(ii) describe the nature of the withheld documents, communications, or things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) Information Produced. If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

Rick Pyfer
DOUBEK, PYFER & STORRAR
PO Box 236
Helena MT 59624
Telephone: (406) 442-7830
Facsimile: (406) 442-7839
rick@lawyerinmontana.com

Attorneys for Plaintiff

MONTANA FIRST JUDICIAL DISTRICT COURT, LEWIS AND CLARK COUNTY

<p>JOHN OPITZ, Plaintiff, v. SHERRIE R. REED, Defendant.</p>	<p>Cause No. BDR-2010-248 PLAINTIFF'S FIRST REQUEST FOR PRODUCTION TO DEFENDANT</p>
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Plaintiff hereby requests and demands the above-named defendant to answer, under oath, in accordance with Rules 33, 34, and 36, Mont. R. Civ. P., the following requests for production within thirty (30) days from the date of service upon you.

NOTE:

- (a) "Email(s)" is meant to include any responsive document and/or electronically-stored information (ESI) including writings, drawings, graphs, charts, photographs, sound recordings, images and other data or data compilations stored in any medium from which information can be obtained either directly or, if necessary, after translation by the responding party into a reasonably usable form.

REQUEST FOR PRODUCTION NO. 1: Copies of all emails sent by you to Guardian Ad Litem (GAL) Greg Daly and all emails received by you from GAL Greg Daly from the inception of your representation of the Respondent, Sherrie R. Reed in the above entitled matter.

ANSWER:

REQUEST FOR PRODUCTION NO. 2: Copies of all emails sent by you to any attorneys who represented Petitioner, John C. Opitz, and copies of all emails received by you from attorneys who represented Petitioner, John C. Opitz, in the above entitled matter.

ANSWER:

REQUEST FOR PRODUCTION NO. 3: Copies of all emails sent by you to counselor Tiffany Evans and all emails sent by Tiffany Evans to you that is related to this custody case.

ANSWER:

DATED this 25th day of June, 2020.

DOUBEK, PYFER & STORRAR

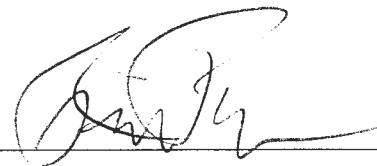
By 
Rick Pyfer
Attorney for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on the 25th day of June, 2020. I served a true and correct copy of the foregoing upon opposing counsel by as follows:

Timothy W. McKeon
McKeon Dowd Law Firm P.C.
828 Great Northern Blvd Ste 2A
Helena, MT 59601

- US Mail
- Federal Express
- Hand-Delivery
- Email





**DOUBEK, PYFER
& STORRAR**
HELPING INJURED PEOPLE

(406) 442-7830 office
(406) 442-7839 fax
lawyerinmontana.com
P.O. Box 236
307 N Jackson St.
Helena, MT 59624

August 24, 2020

Timothy W. McKeon
McKeon Dowd Law Firm P.C.
828 Great Northern Blvd, Ste 2A
Helena, MT 59601

RE: Opitz- Child Custody

Dear Timothy,

I served Discovery requests on you dated June 25, 2020 and served via USPS on the same day. I have not received responses. I am enclosing a copy of the requests served. Please let me know when you will be forwarding your responses. If I don't hear from you within 10 days of this writing, I will prepare a Motion to Compel service. If you have any questions, please let me know. Thank you.

Sincerely,

Rick Pyfer
Attorney at Law
rick@lawyerinmontana.com

RJP/rkf
Enc.

Cc: John Opitz



**DOUBEK, PYFER
& STORRAR**
HELPING INJURED PEOPLE

(406) 442-7830 office
(406) 442-7839 fax
lawyerinmontana.com
P.O. Box 236
307 N Jackson St.
Helena, MT 59624

August 24, 2020

Greg Daly
Case Manager, Family and Child Health
1930 Nineth Avenue
Helena, MT 59601

RE: Opitz- Child Custody

Dear Greg,

I served Discovery requests for you dated June 25, 2020 and served via USPS on the same day to Timothy McKeon. I have not received responses. I am enclosing a copy of the requests served. Please let me know when you will be forwarding your responses. If I don't hear from you within 10 days of this writing, I will prepare a Motion to Compel service. If you have any questions, please let me know. Thank you.

Sincerely,

Rick Pyfer
Attorney at Law
rick@lawyerinmontana.com

RJP/rkf
Enc.

Cc: John Opitz

Rick Pyfer
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Facsimile: (406) 442-7839
rick@lawyerinmontana.com

Attorneys for Plaintiff

MONTANA FIRST JUDICIAL DISTRICT COURT, LEWIS AND CLARK COUNTY

<p>JOHN OPITZ, Plaintiff, v. SHERRIE R. REED, Defendant.</p>	<p>Cause No. BDR-2010-248 AFFIDAVIT OF RICK PYFER IN SUPPORT OF MOTION TO REMOVE GAL GREG DALY</p>
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I, Rick Pyfer, being first duly sworn, state and depose the following:

1. I am the *pro bono* representative attorney for John Opitz in the above entitled cause of action.
2. I have known Mr. Opitz for over 25 years and have interacted with him on many occasions, as a client of his, cutting/trimming my trees, and having him act as a tree expert for our law firm.
3. I was asked to help John with his daughter V.O.'s auto crash claim on January 21, 2017 while she was in a car with her mother's boyfriend in Whitefish, Montana. She reported that he had been extremely intoxicated from drinking all night when he ran the red light, crashed into another vehicle and seriously injured V.O. with head and internal injuries.
4. I was shocked and appalled when I learned that her mother was not supportive of V.O. in this claim and was denying her injuries, discouraging her from attempting to obtain medical care for

her injuries, and objecting to providing needed insurance information from her boyfriend to allow her daughter to pursue medical expense recovery for her injury treatments. I was finally able to get the information only when her attorney, Tim McKeon, got involved and notified me there was “no insurance” coverage on the boyfriend’s vehicle. At that point, we pursued uninsured motorist coverage on John’s policy of insurance to take care of medical care needs of V.O. which continue to this date, nearly FOUR years later.

5. It was about several years later that I learned from John about the difficulty he was having keeping M.O. and V.O. safe due to their mom’s constant alcoholic episodes and interactions with boyfriends who were also alcohol abusers. This pattern continued through the fall of 2019, when again, M.O. reported to my client John, that mom’s alcohol use had put him at great risk. He felt unsafe and was involved in dangerous situations in the household as well as driven on a four-wheeler at high speeds without a helmet to wear.

6. John got me involved in this matter after he had disagreements/misunderstandings with Christopher Betchie, his previous attorney. I was substituted in to represent John and Mr. Betchie shared his files with me in 2019, at which time I have done what I can to troubleshoot and give John supportive advice.

7. From the beginning of my involvement, I heard from John that he did not trust GAL Greg Daly. I read his August 13, 2018 Affidavit filed with this Court in this matter which spoke volumes about his problem at that time with Mr. Daly. Mr. Daly first met me and suggested he had made referrals to me before. I had never met Mr. Daly in my life prior to that time, and no clients were ever referred to me by him. I understood he had been deeply imbedded in this matter and John understood that he, Mr. Daly, had great power to control the flow of his ability to regulate the safety and wellbeing of his children. He expressed to me from the start his strong doubts about the manner and method of the GAL’s handling of this matter as the GAL was being

provided information from his unstable sister Lea Opitz (see affidavit of Teresa Bannon), and Lea and the Respondent were telling some extremely disquieting false stories about him to the GAL. The GAL was welcome to talk to his two stable sisters, Teresa Bannon, who had regular contact and knowledge of V.O., and is well thought of by V.O., and Chrisonti "Sonti" Opitz. Neither were contacted but both made regular visits in summer to see John and V.O. and M.O. V.O. traveled to Teresa's to visit months at a time. Both could have provided important and relevant information regarding their sister Lea and her mental challenges. They were never contacted, (see affidavit of Teresa Bannon filed herein). Also, he was disgruntled that no immediate protective action was ordered by the GAL after his children were subjected to episodes of drinking and sex in the home.

8. This affiant tried to encourage a congenial work out of the problems and urged John to cooperate. The record will show that the parents most times were able to work on a cooperative basis. However, in the past few years as the matters escalated with the second boyfriend, Rick, it became apparent to John that the GAL was concerned more with rehabilitating the Respondent than with assuring M.O. felt safe in his environment. M.O. was not feeling safe and would come to his Dad with stories and complaints. However, if M.O. told on his mom, there were repercussions. Therefore, he has had problems for years when he was younger facing and confronting his mom. And, he was always upset with her lack of acceptance of the fact that her first boyfriend had abused him physically. (see report of Tiffany Evans)

9. The blindside attack of John and myself, set up by the GAL, was clearly an attempt to discredit John, and was more evidence that he was not tuned into the "best interests of Max". Had he consulted Tiffany about the reasons M.O. was to stay with his dad and learned the traumatic and unsafe feelings he had he would have understood John was not being "hostile" to the "rule of law", but protective of his son. (Attached as Exhibit A is a report of Tiffany Evans

completed the night before the hearing which recommended M.O. be with John for a month to two months).

10. John's distrust of Greg Daly as GAL was reinforced by this ambush. John heard his son's crying and nightmare attacks and his description of the weekend event which terrified him. John was instructed by me to do what Tiffany recommended. And, he did. He kept Max with him and did not return him to his mother on the assigned date. I notified ^{her} his attorney of the circumstances as noted above and we both fully intended to comply with Tiffany's recommendations for Max's safety and wellbeing. However, before that report could be provided to this Court by us, the attorney representative with our recommendation, Mr. Daly took it upon himself to request a "status conference." Not being familiar or knowledgeable that Mr. Daly had made the request. I assumed the Court wanted the attorney to informally let the Court know status of this matter. On the morning of the hearing, I first learned Mr. Daly had "notified up" the conference and read his attached memo to this Court, which indicated that fact.

11. The GAL duty is to preserve and protect the child's best interest. Having attached the report of Tiffany Evans to the submittal for that "status conference", Mr. Daly knew full well the situation and it was as reported to him. Ms. Evan's clearly recommended a hiatus period of month for M.O. to be with his dad due to his very deep seated fear and concern about his safety being in the custody of his mom.

DATED this 3rd day of December, 2020.

DOUBEK, PYFER & STORRAR

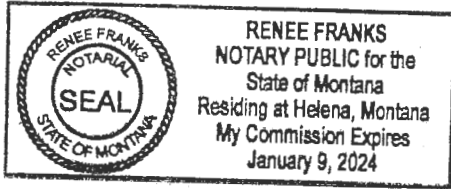
By



Rick Pyfer

Pro Bono Attorney for John Opitz

SIGNED AND SWORN BEFORE ME on this 3rd day of December, 2020.



Renee Franks

Notary Public for the State of Montana

Rick Pyfer
DOUBEK, PYFER & STORRAR
PO Box 236
Helena MT 59624
Telephone: (406) 442-7830
Facsimile: (406) 442-7839
rick@lawyerinmontana.com

Attorneys for Plaintiff

MONTANA FIRST JUDICIAL DISTRICT COURT, LEWIS AND CLARK COUNTY

<p>JOHN OPITZ, Plaintiff, v. SHERRIE R. REED, Defendant.</p>	<p>Cause No. BDR-2010-248 AFFIDAVIT OF VIOLET OPITZ IN SUPPORT OF MOTION TO REMOVE GAL GREG DALY</p>
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I, Violet Opitz, being first duly sworn, state and depose the following:

1. My name is Violet Opitz and my birthdate is June 14, 2003. I will be 18 years of age on June 14, 2021. I am the person referred to as V.O. throughout the pleadings in this case and I am competent and comfortable stating my full name and signing this affidavit.
2. I am the daughter of John Opitz and Sherrie Reed. I currently live with my Dad, John Opitz, and have the freedom to make contact with my Mom as I choose. This arrangement was made after I expressed my very strong desire to not be required to be bound by a custody schedule which required me to live at my Mom's house for any extended periods of time, including any overnight visits. My life has become much less stressful with this change and I was able to complete my high school work and graduate

ahead of the usual scheduled time. I have the ambition and intention to be a Marine Biologist and my aunt Teresa Bannon has offered to have me live with her while I work on that degree in Washington state.

3. This custody freedom became my strong wish during the years that I was subjected to repeated dangerous and extremely uncomfortable situations involving my Mother and her live-in boyfriends. My brother M.O. was also subjected along with me over many years to these dangerous and uncomfortable situations with my Mom and her boyfriends drinking heavily and leaving us to fend for ourselves.
4. I also was subjected to repeated and very regular, sometimes daily negative statements by my Mom about my Dad. I know the comments made are not true and I was very frustrated and angry with those lies. I also was contacted by my aunt Lea, against the restraining order of the court that was in place. These contacts were arranged by my Mom in direct violation of that restraining order. I did not appreciate those interactions as they were negative for me.
5. I am familiar with the verbal abuse that my brother M.O. has been subjected to by my Mom and I have witnessed many times where she speaks badly about my Dad in front of M.O. or other people. I have tried to have her change this behavior but have not been successful. I am glad I can be on my own and don't have to deal with it anymore. I called out my Mom on this a number of times. I do not hear my Dad saying negative things about my Mom in front of M.O. or myself. He is upset when M.O. or I tell him about the many times that she has done this and continues to do this over the years.
6. My Dad has been the stable person for M.O. and myself. He has always listened to me and tries to do his best to take care of my personal or medical needs. When I was badly

head injured and had a serious abdominal/rib/pelvic area injury in the deep tissue from the automobile crash in Kalispell my Dad helped me to get the medical care I needed.

7. The Kalispell crash was caused by my mom's then boyfriend, who was the chaperone to Kalispell, drove while impaired by alcohol and ran a red light and crashed into a large suburban. I suffered serious head and abdominal injuries from this crash. It totally destroyed the Subaru we were in so my Mom had to drive to Kalispell to bring us back to Helena. The drive back was as frightening as the crash since my Mom allowed the boyfriend to drive and he was driving too fast and recklessly all the way back as his daughter and I held hands in fright in the back seat fearing another crash. He had been drinking all night the night before the car crash and should not have been driving that day as he was still impaired. My mom said nothing to him about this driving behavior on the ride back to Helena and it was her car so I am not sure why she didn't drive in the first place. This was one of a number of times my mother endangered me. I have had to receive many treatments with injections from Performance Injury Care for my deep tissue abdominal area injury and treatments for my vision issues recently due to the closed head injury. My Dad has taken me to all those appointments and has been the caregiver that understood, empathized with me and helped me and still helps me to deal with those injuries.
8. My father was the person who insisted on my follow up care and helped me get the medical attention I needed with Performance Injury care for my concussion and head injury memory and vision issues. He recently accompanied me for more follow up care with eye specialists to deal with my visual problems which have caused headache and difficulty reading and comprehending. He has always been very concerned about my best interests and well being physically and emotionally and every day I am very fortunate to

live with him as he is there to talk to me and share my deepest concerns. He also treats my brother, M.O. with the same respect for his best interests.

9. I am aware that my brother was highly traumatized recently by an event while in our Mom's care involving an open elevator shaft as he shared his concerns and facts from that recent episode with me. M.O., like me, does not feel safe with his Mom and fears that her boyfriends or their children will be abusive or put him in danger. M.O. was subjected to a dangerous situation last year, again, when our Mom and her boyfriend were drinking and driving a recreational vehicle. M.O. always turns to me for support and I do my best to support and comfort him. He has the same concerns I had, and still does, that our Mom places boyfriends and their children ahead of us and our needs and does not support us. M.O. experienced many years of our mom not accepting he had been abused as a four year old by one of her boyfriends. He has also been abused by older children of her boyfriends and He does not feel supported by our Mom. His fears and concerns are much like the ones I had over the years. Our Mom would convince the counselors that she changed but she never did. She would fall back to the same habits and ways.
10. I have deep concerns about my brother's well being. Our Mom does not act in our best interests and I have confronted her about it. Over the years, I have observed that my Mom becomes a different type of person around a counselor or those she wants to impress with how well she is treating us. But, when out of the spotlight or situation she always reverts to her old habits and behaviors which place us in very uncomfortable and periodically very dangerous situations.
11. I live with my brother and have witnessed the difficulty he has had with the online schooling, completing assignments etc. I, like my Dad work with him. My Dad is very attentive and diligent to Max's education needs. But Max has struggled with difficulty

(as I have) understanding math problem solving due to the lack of instruction given online. M.O. is smart, likes school, and does his best to complete his daily work. Yet, I can see how stressed he is with the fears he has expressed to me about being forced to return to our Mom's place. At this time, he, like me, has tremendous fear and apprehension about our Mom's ability to keep him safe. And, he is worn out by her constant negative talk to others about our Dad and the favoritism She shows to her new men partners putting them ahead of him.

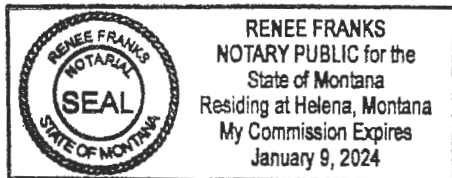
12. M.O. would be much happier, less stressed, and emotionally much more stable if allowed to live with his Dad. I know M.O. well. I've had to be his second Mom. I care about his well being and don't believe the GAL Mr. Daly has supported his best interests here by continuing to pass over the endangering actions by our mom – which have never stopped. This recent horrible fright she caused him at the elevator should, I hope, be the last straw. Thank you for reading my thoughts and this statement which absolutely speaks to my experiences and Max's with our Mom.

DATED this 3 day of December, 2020.

DOUBEK, PYFER & STORRAR

By *Violet Opitz*
Violet Opitz
Sister to M.O.

SIGNED AND SWORN BEFORE ME on this 3rd day of December, 2020.



Renee Franks
Notary Public for the State of Montana

Rick Pyfer
DOUBEK, PYFER & STORRAR
PO Box 236
Helena MT 59624
Telephone: (406) 442-7830
Facsimile: (406) 442-7839
rick@lawyerinmontana.com

Attorneys for Plaintiff

MONTANA FIRST JUDICIAL DISTRICT COURT, LEWIS AND CLARK COUNTY

<p>JOHN OPITZ, Plaintiff, v. SHERRIE R. REED, Defendant.</p>	<p>Cause No. BDR-2010-248 AFFIDAVIT OF JOHN OPITZ IN SUPPORT OF MOTION TO REMOVE GAL GREG DALY</p>
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I, John Opitz, being first duly sworn, depose and state the following:

1. My name is John Opitz and I am the father of V.O. and M.O.
2. I have lost all trust in Guardian Ad Litem (GAL) Greg Daly over the years based on actions he has taken and inaction in the face of serious risk to my children, particularly to M.O. V.O. has been living primarily with me for over a year and she is not at risk at this time. She was very upset with the neglect of the order by the GAL regarding contacts by her aunt Lea, which were to be prevented and not allowed.
3. I am extremely concerned about the safety and wellbeing of my children. I have been able on many occasions to co-parent with their mom and we were able, in most cases, to civilly discuss

and conduct exchanges of the children. My greatest concern over the years is the abuse that my son M.O. has been subjected to by his mom's boyfriends. This history is thoroughly explained and reported in the November 11, 2020, letter report from my son's counselor Tiffany Evans. Ms. Evans has been with M.O. since the initial abuse and is aware of the sensitivity he has to his mother's nonacceptance over the years of negative conduct by her boyfriends.

4. M.O. is now aware his mom has a new boyfriend. Ms. Evans thinks that may have something to do with M.O.'s concerns about not feeling safe with his mom. M.O. has shared with me regularly on numerous occasions over the years that his mom berates him, takes the side of her other children and teases him and laughs at his insecurities.

5. The relationship between myself and Mr. Daly was not good from the start based on representations he made to me. I was appreciative that he did acknowledge V.O.'s claims and needed to be away from her mom. The same expressions and reasons she had for needing to be away from her mother applied to M.O. over the years. V.O. did not feel safe with her mother and did not feel supported by her in her concerns about her live-in boyfriends, their actions and habits.

6. The fact that V.O. was seriously injured and could have been killed by an alcohol impaired, reckless driving boyfriend of her mother, was one serious event which stood out for her. There were numerous instances V.O. experienced of alcoholic parties at the house and dangerous conduct by her mom which impacted both herself and M.O.

7. On August 13, 2018, I submitted an affidavit to this Court summarizing many of my problems with Mr. Daly actions/inactions as GAL. I incorporate that affidavit here by reference and would urge the Court to reread it given events summarized here.

8. In October of 2019, the events which finally collapsed my trust in the GAL was his failure to rein in and report and deal with the extreme danger M.O. was exposed to by drunk driving and

unsafe activities that were allowed by his mom. This was yet a repeat of past activity yet excused and covered by the claim that mom had reformed, stopped drinking and was now somehow different. I have become extremely familiar with the repeated pattern of abusive behavior by the children's mom over the years and have recognized that the pattern always continued, and it always jeopardized the safety of M.O. and V.O. I had enough at that point and refused to accept that the GAL was acting to protect the safety of my son. I believed he was only attempting to protect the mom and her interests by continually insisting that the same exchange of time was in my son's best interest. It clearly was not. M.O. clearly was not safe.

9. I found it impossible to interact and accept the suggestions or advice from this GAL after the repeated exposures to endangerment of my son. M.O. is a very smart young man and he knows his mom will continue to engage in relationships and knows she has a new one, even though he is not exposed to her new man.

10. I have been home schooling M.O. this year and the report that the GAL submitted to the court about absences from school and incomplete work assignments was not properly investigated. It had not been reported to me that these absences existed, and the incomplete work was on record. I contacted the school and learned that the many of the assignments where M.O. had pushed the send button on his computer did not get to the teacher at Kessler School. Also, the record of workdays I spent with M.O. which were registered as absences were not correct. That has been discussed with the teacher we are working to correct the situation. The stress M.O. endured from the horrible experience (see paragraph 12 of this affidavit) shook him badly and we worked hard to try to keep up his online school work and attendance. He gets the subject matter of his courses, likes his schoolwork, and is an accomplished student.

11. I firmly believe that at this point the GAL is not helpful to our family dynamics. 95 percent of the interactions Sherri and I have had to discuss and deal with M.O.'s exchanges and

appointments are fine. The times I get upset are when I hear from my children of the risks and their complaints that their mom is badmouthing me. I don't say negative things about her in front of or to my children. V.O. has testified to that by her affidavit filed here as she knows the reality. I would not ask M.O. to witness to those facts but I have been regularly hearing from him how upset he is that his mom says really bad things about me to other people in his earshot.

12. The safety of my son is my primary priority. I was shaken to the core when he reported the events about a month ago where he was taken to a place and walked to an elevator and his mother acted like she was pushing him off an elevator shaft, then laughed at and mocked him when he reacted with sheer fright. When he reported this to me, he was shaking and crying in my arms. He was terrified first by the scare of being pushed, then horrified that his mother mocked him. During the next few days, I was awakened numerous times by M.O. in the night with serious nightmares and had to spend long hours comforting him. This event was the reason I contacted Tiffany his counselor about whether I should keep M.O. with me. My attorney and I talked about it and he instructed me to follow Tiffany's lead and instructions. That's what I did, and I did not return M.O. to his mother on the date she was otherwise assigned to have him in her custody. I did so after consultation with my attorney and with Ms. Tiffany and believed then, and believe now, that was the right thing to do to protect my son. I did not trust Greg Daly to protect my son. I did not contact Greg Daly about this serious upheaval and horrible experience of my son. I had and have lost all faith and trust in his ability to keep M.O. safe as I've stated above.

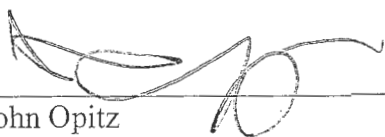
13. The fear M.O. has about being at his mom's is not something I promoted in any way. That was a reaction, which has been building over the years, as he has not felt safe numerous times as noted in the very detailed report of Ms. Tiffany of his explanations to her. This is not something I've cooked up. This is coming from M.O. to Tiffany and its serious and scary for M.O. and I'm very concerned for him. I have no faith, trust or confidence that Greg Daly is going to act to keep

M.O. safe. Fortunately, V.O. has been given the freedom to live primarily with me and see or visit her mother on her own terms. M.O. frankly needs the same arrangement.

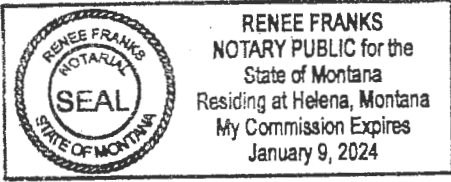
14. For the reasons stated above, I respectfully request that the court remove the GAL from this case. I am aware that the family counselor, Cathryn English-Straub, has made a strong recommendation of this change. She is fully aware, from our many meetings, my concerns and lack of trust and confidence in this GAL.

15. Also, I was informed that the GAL has been contacted by, and discussed, my family matters with the children's Aunt Lea, who is not stable mentally, as expressed in the Affidavit in Support of this Motion filed by my sister Teresa Bannon. Aunt Lea was not to be allowed to be in contact with the children, but this interaction was not denied or discouraged by the GAL which made the negative information provided by her to the children about me readily available. This information was toxic and untrue. This unstable person's interactions had been recognized and dealt with earlier by a temporary restraining order (TRO) in this matter starting in 2013 and after Mr. Daly assumed the GAL duty on appointment from Judge Sherlock in 2015, he was very aware of it. I had spoken to him numerous times about it and the need to discourage or stop this negative interaction and my requests went unheeded.

DATED this 3rd day of December, 2020.

By 
John Opitz
Father to V.O. and M.O.

SIGNED AND SWORN BEFORE ME on this 3rd day of December, 2020.



Renee Franks

Notary Public for the State of Montana

Rick Pyfer
DOUBEK, PYFER & STORRAR
PO Box 236
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Telephone: (406) 442-7830
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Attorneys for Plaintiff

FILED

DEC 03 2020

ANGIE SPARKS, Clerk of District Court
By JREUGERS Deputy Clerk

MONTANA FIRST JUDICIAL DISTRICT COURT, LEWIS AND CLARK COUNTY

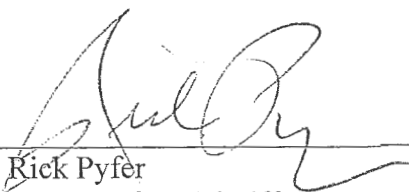
<p>JOHN OPITZ, Plaintiff, v. SHERRIE R. REED, Defendant.</p>	<p>Cause No. BDR-2010-248 NOTICE OF FILING AFFIDAVITS IN SUPPORT OF MOTION TO REMOVE GAL GREG DALY</p>
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Comes now the Petitioner in the above entitled cause of action by and through his attorney Rick Pyfer and hereby files this Notice of Filing the attached affidavits of John Opitz, Rick Pyfer, and V.O. in support of the Petitioner's Motion To Remove GAL Greg Daly in this custody matter.

The Petitioner will supplement this filing hereafter with Affidavits of Teresa Bannon and Sonti Opitz, aunts of M.O.

Respectfully submitted this 3rd day of December, 2020.

DOUBEK, PYFER & STORRAR

By 
Rick Pyfer
Attorney for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on the 3rd day of December, 2020, I served a true and correct copy of the foregoing upon opposing counsel by as follows:

Timothy W. McKeon
McKeon Dowd Law Firm P.C.
828 Great Northern Blvd Ste 2A
Helena, MT 59601

- US Mail
- Federal Express
- Hand-Delivery
- Email

GAL – Greg Daly
1 Jackson Creek Rd.
PMB 2217
Clancy, MT 59634

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Renee Fisher

Rick Pyfer
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Attorneys for Plaintiff

FILED

DEC 08 2020

ANGIE SPARKS, Clerk of District Court
By _____ Deputy Clerk

REIDGERS

MONTANA FIRST JUDICIAL DISTRICT COURT, LEWIS AND CLARK COUNTY

<p>JOHN OPITZ, Plaintiff, v. SHERRIE R. REED, Defendant.</p>	<p>Cause No. BDR-2010-248 MOTION TO REMOVE GAL GREG DALY</p>
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Comes now the Petitioner, John C. Opitz, by and through his counsel of record, Rick Pyfer, and files this Motion to Remove GAL Greg Daly pursuant to MCA 41-3-112 (5) which reads as follows: Any party may petition the court for the removal and replacement of the guardian ad litem if the guardian ad litem fails to perform the duties of the appointment. Mr. Greg Daly was appointed as GAL in this matter by Judge Sherlock. He has served in that capacity for nearly five (5) years. During that time V.O. and M.O., the children of the marriage were under his care and protection. Events have taken place over the course of years which have clearly demonstrated serious risk of harm or injury to the children when in the care and custody of the Respondent. These are all record events that the Gal was aware of. In fact, over the course

of years it was agreed that V.O. could reside primarily with the Petitioner and have only such contact as she deemed appropriate with her mom, the Respondent. This arrangement was necessitated by a series of events where V.O. did not feel safe and protected while in the custody of the Respondent. She is aware that similar risk and repeated events have occurred while her brother M.O. was present (see attached Affidavit of V.O. filed herewith). She understands that he has been and continues to be subjected to safety concerns and has expressed those to his father and his counselor. The gravitas of these events was lost on the GAL who continued to support regular custody sessions with mom at the risk of M.O.

The facts and circumstances supporting this motion are summarized in the Affidavits of Petitioner, Teresa Bannon, V.O. and the undersigned filed herewith. It is extremely noteworthy that the Family Counselor assigned to this case Ms. Catherine English- Straub stated in her Recommendation Number 1 in her September 15, 2020 report after a year of dealing with the family in counseling stated:

“I. I strongly recommend that Greg Daly be removed as the GAL. At this time, Greg Daly can not function as an effective GAL as I feel unable to request any interaction between the father and the GAL.” (See Attachment 1 to their filing)

The GAL initiated a “Status Hearing” by his request which was set for November 12, 2020. The undersigned counsel had no idea why that “Status Hearing” had been set, who requested the “Status Hearing”, or the nature of the hearing that would take place. Counsel understood this would be a time when the court would ask the attorneys for an update of the status of the case, which at this time only involved the custody arrangements for the well being and best interests of M.O., as all parties, counselors, attorneys as well as the GAL fully understood that the well being and custody arrangements of V.O. had been taken care of at that point.

The morning of this "Status Hearing" the GAL dropped off a "GAL REPORT WITH RECOMMENDATIONS" for V.O. and M.O. to the offices of the undersigned. It was not until this counsel read that "REPORT" that he understood Mr. Daly (the GAL responsible for the safety and security of MO had set the "Status Hearing". Prior to that date it was counsel's understanding this Court had requested the hearing to be updated on the case status and counsel was fully prepared to do that, understanding that the attorneys involved in the matter would be informally discussing the matter with the court (see affidavit of Rick Pyfer). After several attempts by requesting the court's clerk for information regarding the nature of the hearing counsel became aware that Mr. Daly had requested that Ms. Evans clear her calendar for the day and had notified her to appear in the courtroom. Mr. Daly dropped his report with attachments at 9:00 a.m. the morning of this "Status Hearing".

Mr. Daly begins his report at page 2 by stating as follows:

"1. We are here today because Dad has decided to not follow the court ordered Parenting Plan while alleging with great hostility that he has determined that M.O. is in danger. He has unilaterally decided to stop the parenting plan without any authority or support of the GAL or the Treatment team. This occurred on October 21, 2020, but was foreshadowed in communications over the two weeks prior (Attachment 1) The Gal (sic) then became aware that Dad's attorney was supporting this action. The GAL informed Dad's attorney, Mr. Pyfer, that he was encouraging Dad to violate a current court order: abandon the parenting plan and actively encourage dad to ignore the GAL (attachment 2). (Underlining is emphasis added).

It is highly noteworthy that the "Treatment Team" referred to included Ms. English-Straub and Ms. Tiffany Evans. That was the "Treatment Team". The GAL knew or clearly should have known at the time he had not been in regular communication of any type with Petitioner for many months. He also was clearly aware that a "CRISIS SITUATION" was occurring and that M.O. was at GREAT RISK!! That was expressed in the emails and it was CLEARLY communicated that Ms. Evans decisions needed to control the current crisis situation as MO was in a state of horrified upset and his father found him inconsolable. His father, as

noted in the Affidavit filed herewith, expressed the extremis his son was experiencing and turned to Tiffany Evans for guidance on what to do. She advised that MO should remain with him and that was her call. That was what she clearly expressed in the REPORT, which we finally received the night before the status hearing on November 12, 2020. Yet, instead of focusing on the real danger and concern here for MO, the focus was made by the GAL on the “great hostility” of Dad. Dad was clearly upset for over a year with the failures of the GAL. That is clearly evident in the communications of Dad with the team. (see Catherine English-Straub report quote noted above). What the GAL describes for this Court’s edification as “hostility” was clearly the effort to protect M.O. There were no “hostile” actions of any sort taken by John. The report of Tiffany Evans made the circumstances and concerns for M.O. crystal clear. (see report Attachment 2 to this motion)

This court should immediately remove the GAL for these actions. The GAL was not consulted about the protection of the child and an emergency hearing request was not filed to protect the child as this court has informed counsel that these matters should be dealt with between the parties. The undersigned communicated to Tim McKeon, counsel for Respondent, that a horrible event took place traumatizing MO and that Ms. Evans needed to inform the respective counsel of how this matter should be dealt with. In the meantime, the undersigned had advised in email to counsel for Respondent that we needed to let Ms Evans sort this out and inform us of appropriate custody measures for M.O. Yet, in the meantime, the GAL took it upon himself to “NOTICE UP” a Status Hearing, provide the court with an attack REPORT against this counsel and Petitioner leading this Court to obviously react with “great anger” and trepidation ordering a “CONTEMPT HEARING” be set and the terrible parents get online counseling.

This debacle was created by the GAL who should be immediately removed from this case for the abject failure to do what is right for M.O. under these circumstances. Ms. Evans report clearly demonstrated that M.O. was in need of primary custody of his father on a temporary basis. Had that report been generated days before the hearing counsel would have requested, with Respondent's counsel, that a temporary understanding be agreed upon to allow for a sorting out and potential adjustment of the custody arrangement to conform to the treating counselor's recommendations. Such a custody adjustment was implemented and agreed upon by Respondent and placed into effect the day after the hearing on November 13. That temporary arrangement has taken place place now, per the counselor's suggestion, however, Ms. Evans has been now given the impression that, based on the reporting of Mr. Daly and the Court's comments regarding violation of the parenting plan and contempt by the petitioner and the undersigned, his counsel, the report she has filed has no bearing on the court's position re the custody arrangement. That is extremely unfortunate.

Dad and his attorney are aware the court is angry with the circumstances here and they are prepared to face the court's wrath. Technically, the parenting plan order was not followed. However John and I, were far more concerned with the well being and best interests of M.O. than what might be deemed a violation of the "parenting plan" as expressed in that formal document. The parties have acted voluntarily in modification of those dates and visitations over the years to deal with situational matters. This one is an extreme case. It was not intended by either Dad or his attorney to permanently abrogate this Court order, contact was made with mom's attorney to explain the situation. Under the circumstances, the Respondent's counsel did not move this Court for an order to find a violation of the parenting plan and request an "IMMEDIATE status hearing" (unless this was done by the GAL in collaboration with Respondent's counsel). No, this was clearly the work of the GAL, who had failed at his job for

over a year's time and now attacked Petitioner in absolute defiance of the safety facts which were in his plain view.

For these reasons and those stated in the Affidavits filed herewith in support of this motion, it is respectfully requested that the GAL be removed. The undersigned called and discussed the intent to file their motion with the GAL to determine if he would voluntarily step away from the GAL appointment. He indicated he would leave the determination to this Court.

DATED this 3rd day of December, 2020.

DOUBEK, PYFER & STORRAR

By 
Rick Pyfer
Attorney for Plaintiff

CERTIFICATE OF SERVICE

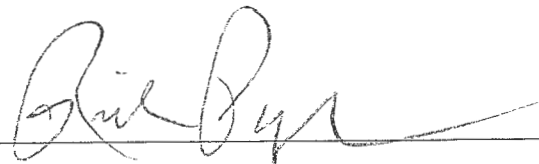
I hereby certify that on the 3rd day of December, 2020, I served a true and correct copy of the foregoing upon opposing counsel by as follows:

Timothy W. McKeon
McKeon Dowd Law Firm P.C.
828 Great Northern Blvd Ste 2A
Helena, MT 59601

- US Mail
- Federal Express
- Hand-Delivery
- Email

GAL – Greg Daly
1 Jackson Creek Rd.
PMB 2217
Clancy, MT 59634

- US Mail
- Federal Express
- Hand-Delivery
- Email



ATTACHMENT 1



Cathryn English-Straub

Licensed Clinical Social Worker Licensed Addiction Counselor

FILED

OCT 06 2020

September 15, 2020

Judge McMahon
228 Broadway
Helena, MT 59601

ANGIE SPARKS, Clerk of District Court
By *[Signature]* Deputy Clerk

BDR 2010-248

RE: Violet Opitz, DOB: 06/14/2003
Max Opitz, DOB: 01/24/2010

I am the family therapist for the Opitz family. I was requested by Tiffany Evans (Max's Individual Therapist) to become the family therapist and work with herself and Greg Daly, GAL as a therapeutic team for this family. An agreement was put forth to see the above mentioned children with each parent one time a month. At this time, I only have a release from their mother Sherrie Opitz to discuss her participation in family therapy and any current recommendations I have. Sherrie has attended the following family sessions with either Max and/or Violet : 6/25/19, 7/16/19, 8/19/19, 9/30/19, 10/30/19, 11/11/19, 12/30/19, 3/2/20, 4/20/20, 5/11/20, 6/20, 7/27/20 and 8/27/20.

It became apparent within a short period of time that this family was part of a high conflict divorce that occurred over 7 years ago and remains contentious. Boundaries were set in family therapy, the children and parents only talked about the parent present and what was happening in present parent's house. There has been a struggle at times to keep this focus in family therapy.

For the last year Max has been following a parenting plan and goes back and forth between the care of his mother and the care of his father. Violet has graduated high school June 2020. She does not follow a parenting plan and lives with her father. Violet sees her mother on her own terms and directly communicates with her mother when she spends time with her mother. As the family therapist, I feel supportive of the current arrangements for each minor. I support Violet having independence and choosing where to live and time spent with her parents.

Both parents have very different parenting styles. As the family therapist, I do not see a problem with the differences as most families have differences between parents and their parenting style. As long as Max feels safe, is safe, going to school and completing his schoolwork as assigned, the parenting style is not a problem. Both parents have strengths and weaknesses, if the parents could coparent, their opposite style could be more balanced and in fact beneficial for Max. Unfortunately, coparenting does not occur and this therapist is doubtful it will be due the high conflict nature of the relationship.

Family therapy has focused on each child's concerns regarding living with Sherry. Both children in the beginning of family therapy wanted her to leave current relationship at that time. Sherry had been having medical issues and when she felt stronger, she was able to leave that relationship. The children then became concerned that they were meeting a new boyfriend too soon. A team meeting was held early on with Sherrie, Tiffany Evans, me and the GAL, Greg Daly. It was reiterated to Sherrie that she not introduce any boyfriends for at least 6 months, not drink any alcohol in the presence of Max and adhere

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Helena, MT 59601



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to the boundaries the GAL has put in place. Since that meeting, Sherrie has not introduced any boyfriends before 6 months and Max has not reported any drinking of alcohol in front of him. In October 2019 Max had a negative interaction with his teacher at Central School where the teacher publicly shamed him in front of the classroom. Max became depressed and struggled with being able to go to school and feel safe. The team met and agreed that it was in Max's best interest to support a move to a new elementary school despite he had already moved once before. Max was moved to Kessler school and expressed relief that he liked his new teacher and felt more comfortable in class. Max continued to struggle with peers, but this seems to be a life long pattern. Max continued to use family therapy to express things he did not like about living with mom and Sherrie would respond and show she was hearing Max's concerns. . Sherrie did a positive job of rearranging the Christmas visitation so that Max did not go as long without being with his father. In March 2019 Max had an experience that he thought he had been left home alone at his mother's house and called his father, John. John called the police and went to Max as soon as he could. Max in reality had not been left alone but his sister was in a car outside the house having a verbal disagreement with her boyfriend. In the family session, Max expressed how scared he was, scared of his sister's boyfriend and at first Sherrie expressed anger that the situation had been blown out of proportion. With redirection she was able to listen to Max and agreed he did the right thing by calling an adult. In April 2020 a family session with mom occurred through teletherapy where mom expressed concern that Max left her care to go to dads because he wanted to get a video game and have more time on it after his mother set limits. Max agreed this was true. Max was encouraged to express his feelings to his mother directly instead of side stepping her limits with going to dads. In May 2020, Max started to express more directly that he did not want to be in family therapy, and he did not want the focus to be on him. In June 2020, Max again expressed agitation regarding family therapy and an attempt was made to work on Max feeling yelled at by his mother when she was trying to get him to do his online schooling. July 10, 2020, I spoke with Tiffany Evans regarding Max's deterioration of participation in family therapy especially since it had gone to teletherapy due to Covid 19. We also observed John's deteriorated relationship with the GAL as John felt the children were not safe with the GAL. We further discussed that we did not feel able to ask the GAL to engage with the father due to the negativity. Communication had broken down and in fact my communication with the father had broken down as well. A team meeting was held on July 23, 2020 with me, Tiffany Evans and Greg Daly, GAL to discuss the communication break down and our concerns that therapeutically the team was no longer effective with this family. By the end of July in 2020 Max was refusing to participate in telehealth and not wanting to share anything of substance in family therapy. Sherrie contacted this therapist on Sunday, August 23rd reporting that Max and Violet advocated for Max to go to Dad's house for dinner on Friday night August 21st despite having dinner already at moms. Mom agreed and then Max asked to spend the night and again Mom agreed. She reached out on Saturday August 22nd to have Max return to her care however there was no communication with her again until Monday August 24th which was the beginning of the time for Max to be in dad's care. Mom met with me through teletherapy on August 27, 2020 without Max. We scheduled another family session for 9/3/20 to encourage Max to share his concerns he has with mom directly instead of side stepping to leave her care. In conclusion I am experiencing Sherry Reed to be working with the team and seeking support when needed.

At this time, I do not have a release to talk about family therapy that has occurred between John, Violet or Max. I did request a release.

This case is a high conflict case, complex and difficult for many reasons. I recommend the following recommendations:

1. I strongly recommend that Greg Daly be removed as the GAL. At this time Greg Daly can not function as an effective GAL as I feel unable to request any interaction between the father and the GAL.
2. I recommend family therapy continue for both John Opitz and Sherrie Reed with their son. If it is deemed a different family therapist is needed, that is fine.
3. I request that the Judge determine if a new GAL needs to be appointed to this case.
4. I recommend that John Opitz have a psychological evaluation. I am concerned with John's mental health at this time.

Please contact me if you have further questions or concerns regarding the current status of this case.

Sincerely,



Cathryn English-Straub, LCSW, LAC

ATTACHMENT 2

FILED

NOV 12 2020

ANGIE SPARKS, Clerk of District Court
By **LISA KALLIO** Deputy Clerk

GREG DALY G.A.L.
ONE JACKSON CREEK ROAD
PMB 2217
CLANCY MT, 59634
406-439-6945

MONTANA FIRST JUDICIAL DISTRICT COURT
LEWIS AND CLARK COUNTY

<p>In re the Marriage of JOHN C. OPITZ,</p> <p>PETITIONER,</p> <p>and</p> <p>SHERRIE R. OPITZ, n/k/a REED</p> <p>Respondent</p>	<p>Cause No.: BDR-2010-248</p> <p>GAL REPORT WITH RECOMMENDATIONS for V.O. and M.O.</p>
---	---

- 1. The GAL was appointed December 10, 2015 to provide assistance as a "mediator/guardian ad litem" by Judge Sherlock.**
- 2. VO is 17 years old. MO is 10 years old.**
- 3. The GAL has Interviewed or collaborated with: CPS, Phyllis Reynolds LCPC Family therapist until September 2016, Karrie Bird LCPC John's (dad) therapist, Kessler school Principal, Central School Principal, Dawnell Blood LCSW for VO, and primarily have been**