

STATE OF MICHIGAN
MICHIGAN SUPREME COURT

TRIAL LAWYERS ASSOCIATION OF WAYNE COUNTY JUVENILE COURT; SUE E. RADULOVICH P.C.; SUE E. RADULOVICH, as Next Friend of NADIA E., a Minor; SUE E. RADULOVICH, as Next Friend of TOMMIE P., a Minor; DEBORAH TRENT; DEBORAH TRENT, as Next Friend of TONY B., a Minor; MURIEL SHILLINGFORD; MURIEL SHILLINGFORD, as Next Friend of KIMBERLY S., a Minor; JEREMY BRAND; JEREMY BRAND, as Next Friend of NAOMI S., a Minor; JEREMY BRAND, as Next Friend of KYISHIA R., a Minor, JEREMY BRAND, as Next Friend of TERRI N., a Minor; SYDNEY L. RUBY; SYDNEY L. RUBY, as Next Friend of CLARENCE S., a Minor; SYDNEY L. RUBY, as Next Friend of WILLIAM and WESLEY D., Minors; PATRICK DEVINE; PATRICK DEVINE, as Next Friend of JUSTIN S.,
on behalf of themselves and all others similarly situated,

Plaintiffs,

vs.

Docket No. 133616

HON. MARY BETH KELLY, CHIEF
JUDGE THIRD JUDICIAL CIRCUIT COURT,
in her official administrative capacity; THIRD
JUDICIALCIRCUIT COURT, jointly and severally,

Defendants.

JULIE H. HURWITZ (P34720)
JULIE H. HURWITZ, P.C.
Attorney for Plaintiffs
23880 Woodward Avenue
Pleasant Ridge, Michigan 48069
(248) 691-4200

GREGORY J. KOCAB (P31584)
Office of the Judicial Assistant
Third Circuit Court
Attorneys for Defendants
2 Woodward Avenue, Room 742
Detroit, Michigan 48226
(313) 224-5262

SUPPLEMENTAL AFFIDAVIT OF JEREMY BRAND

STATE OF MICHIGAN)
) ss:
COUNTY OF WAYNE)

JEREMY BRAND, being first duly sworn, deposes and says that:

1. I am an attorney licensed to practice law in Michigan.
2. I have actively practiced law in Wayne County Circuit Court-Juvenile Division for the past twenty-five years.
3. I am familiar with the court rules, statutes, case law, procedures and obligations concerning attorney and Lawyer-Guardian Ad Litem (LGAL) assignments to represent children.
4. The facts stated in this Affidavit are within my own personal knowledge and if I am called upon to testify, these facts would be admissible as evidence.
5. Up until I started receiving Notices of Removal, starting in November 2006, I had been led to believe by Court representatives that we individual attorneys who had been appointed to represent children would not be removed from our ongoing cases even after Judge Kelly started to implement the new group contract appointment system.
6. In response to all allegations, claims, and other assertions, please be advised that I am unable to completely respond to all the particular details because I do not have access to the statistics and other detailed information that is available to the authorities represented in the Third Judicial Court.
7. However, from reviewing the excerpts from the docket printout, attached to the Affidavit of Bernard Kost (Def. Exh. I), I was the duly appointed lawyer guardian ad litem (LGAL) for my former client Terri N, Case #01395330, from January 2001 until January 24, 2007, when I received an Order of Removal with Chief Judge Kelly's signature on it.
8. Between January 2001 and January 2007, (6 years), according to the docket printout attached to Bernard Kost's Affidavit, (Def. Exh. I), there were a total of 31 hearings regarding my former client.
9. Although the printout shows that substitute counsel appeared on the record 12 times, and although I do not have access to the same statistics and records that the Third Circuit Court

has, I believe that the records will reflect that I was present in the courthouse on all, or most, of the dates which indicate that substitute counsel appeared.

10. With respect to the hearings after January 25, 2005 and before October 11, 2006, alluded to by Chief Judge Kelly at ¶10 of her Affidavit (Def. Exh. A), I was in the courthouse on every one of those dates and had checked in with the courtroom.
11. As is a common occurrence in the Juvenile Court, after I checked in with the courtroom on the dates of my clients' hearings, prior to the case being heard I was required to leave the courtroom to attend other hearings in the courthouse. However, before leaving for the other courtrooms, I made sure to speak with all the relevant parties regarding Terri N's situation, ensuring that her specific needs and circumstances were addressed and that outstanding issues were resolved.
12. When I returned to the courtroom, the hearings had either begun or had been called without me. The substitutions that occurred were based on the decisions by the referee's clerk to proceed with those hearings without paging me or waiting for me to return to the courtroom.
13. Regardless of whether a substitute counsel appeared on the record at those, or any other hearings, I was present in the courthouse and in many instances in the courtroom, I made sure that Terri N's best interests were represented on each and every date that a hearing took place in her case.
14. Despite having been issued an Order of Removal on November 28, 2006, the records show that I was still considered to be attorney of record until March 2, 2007. (See docket printout attached to Bernard Kost's Affidavit, Def. Exh. I).
15. On April 10, 2007, nearly three months after the date of the Order of Removal in Terri N's case, replacing me with "MCLC" as the attorney of record, the docket printout reflects that a substitute attorney appeared at the scheduled hearing instead of "MCLC."
16. Whenever I did need to have a substitute appear for me in my absence, I made sure that the

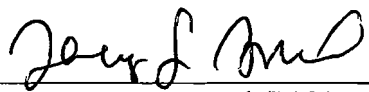
substitute attorney was familiarized with the case and with the current circumstances surrounding the particular hearing for that day, in compliance with MCR 3.915(D)(2).

17. In addition, if I was dissatisfied with the outcome of any hearings from Terri N's case on a date when a substitution was utilized, I would immediately file a Petition for Review in front of a judge of the court.
18. During the two week period identified by the Chief Judge Kelly and Bernard Kost, (April 17-21 and August 7-11, 2006) where I supposedly "had substituted counsel appear for [me] in eight cases," (Def. Exh. A, Kelly Affidavit, ¶ 12), this is not true. In fact, during those two one-week periods, there were six hearings, not eight, where it was necessary for me to have substitute counsel, as indicated by the same dates (April 21, 2006 and August 9, 2006) and case numbers, Case #06450872 and Case #04426879, each appearing twice in the same docket printout.
19. Prior to being removed from my cases, during any single week, I appeared at an average of approximately 35-40 hearings on behalf of my clients in Juvenile Court. Therefore, the six substitutions referred to above by Chief Judge Kelly during the aforementioned two week period, indicate I attended more than 90% of the hearings scheduled in my cases.
20. Whenever I did need to have a substitute appear for me in my absence, I made sure that the substitute attorney was familiarized with the case and with the current circumstances surrounding the particular hearing for that day, in compliance with MCR 3.915(D)(2).
21. In every instance I make a diligent effort to vigorously represent my clients' interests, maintain the confidentiality of attorney-client relationship and proceed in the clients' best interest.
22. In the Wayne County Circuit Court Juvenile Section, the number of "assignments" that allegedly appear on a court record during any given year is not an accurate reflection of the number of cases to which I was actually assigned or the number of children that I actually

represented during that year and is very misleading. The fact that Bernard Kost's Affidavit, ¶7 (Def. Exh. I) alleges that I received 216 "assignments" in 2006 does not mean that I actually represented 216 children in child protective proceedings for that year.

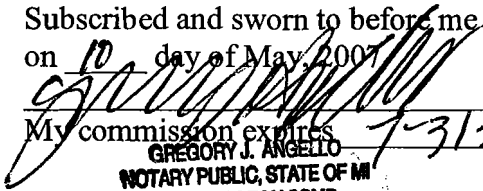
- 2.3. Many "assignments" do not actually become cases; rather, in many instances, an abuse and neglect petition that results in an "assignment" frequently ends up being withdrawn before it actually becomes a case. Also, many "assignments" may include re-assignments to ongoing cases when new petitions are filed.
- 2.4. In addition, the number of "assignments" in the record does not distinguish between child protective proceedings and delinquency proceedings, or violations of probation in delinquency proceedings.
- 2.5. In further response, I would indicate that my representation of all clients assigned to me through the Third Judicial Court Indigent Counsel System, have been represented in accordance with all concern for upholding my ethical responsibilities under the Michigan Code of Professional Conduct.
- 2.6. In my experience since November 2006, when the Court's "group" contract system was implemented under LAO 2006-08, with the exception of LADA's representation of children, the remaining "group" contractors do not laterally follow any of their cases. In the overwhelming majority of child protective hearings that I have attended, representing parents, a different contract group lawyer has appeared on behalf of the child.

Further Affiant sayeth naught.


Jeremy Brand (P32392)

Dated: 5/10/07

Subscribed and sworn to before me
on 10 day of May, 2007


My commission expires 7-31-2011
GREGORY J. ANGELLO
NOTARY PUBLIC, STATE OF MI
COUNTY OF MACOMB
MY COMMISSION EXPIRES Jul 31, 2011
ACTING IN COUNTY OF OAKLAND

STATE OF MICHIGAN
MICHIGAN SUPREME COURT

TRIAL LAWYERS ASSOCIATION OF WAYNE COUNTY JUVENILE COURT; SUE E. RADULOVICH P.C.; SUE E. RADULOVICH, as Next Friend of NADIA E., a Minor; SUE E. RADULOVICH, as Next Friend of TOMMIE P., a Minor; DEBORAH TRENT; DEBORAH TRENT, as Next Friend of TONY B., a Minor; MURIEL SHILLINGFORD; MURIEL SHILLINGFORD, as Next Friend of KIMBERLY S., a Minor; JEREMY BRAND; JEREMY BRAND, as Next Friend of NAOMI S., a Minor; JEREMY BRAND, as Next Friend of KYISHIA R., a Minor, JEREMY BRAND, as Next Friend of TERRI N., a Minor; SYDNEY L. RUBY; SYDNEY L. RUBY, as Next Friend of CLARENCE S., a Minor; SYDNEY L. RUBY, as Next Friend of WILLIAM and WESLEY D., Minors; PATRICK DEVINE; PATRICK DEVINE, as Next Friend of JUSTIN S., on behalf of themselves and all others similarly situated,

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JUDGE THIRD JUDICIAL CIRCUIT COURT,
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Defendants.

JULIE H. HURWITZ (P34720)
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Attorney for Plaintiffs
23880 Woodward Avenue
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2 Woodward Avenue, Room 742
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(313) 224-5262

AFFIDAVIT OF PATRICK DEVINE

STATE OF MICHIGAN)
) ss:
COUNTY OF WAYNE)

PATRICK DEVINE, being duly sworn, deposes and says:

1. I am an attorney licensed to practice law in Michigan.
2. I have actively practiced law in the State of Michigan since 1978.
3. For the past 29 years, I have specialized in the representation of parents and children in child protective and delinquency proceedings in Wayne County.
4. I am familiar with the court rules, statutes, case law, procedures and obligations concerning attorney and Lawyer-Guardian Ad Litem (LGAL) assignments to represent children.
5. The facts stated in this Affidavit are within my own personal knowledge and if I am called upon to testify, these facts would be admissible as evidence.
6. In the Wayne County Circuit Court Juvenile Section, the number of “assignments” that allegedly appear on a court record during any given year is not an accurate reflection of the number of cases to which I was actually assigned or the number of children that I actually represented during that year. The fact that Bernard Kost’s Affidavit, ¶7 (Def. Exh. I) alleges that I received 135 “assignments” in 2006 does not mean that I actually represented 135 children in child protective proceedings for that year.
7. Many “assignments” do not actually become cases; rather, in many instances, an abuse and neglect petition that results in an “assignment” frequently ends up being withdrawn before it actually becomes a case. Also, many “assignments” may include re-assignments to ongoing cases when new petitions are filed.
8. In addition, the number of “assignments” in the record does not distinguish between child protective proceedings and delinquency proceedings.
9. With respect to the “four” substitutions listed in the attachments to Bernard Kost’s Affidavit, those numbers are inaccurate and misleading. I only missed two hearings, but there were two petitions heard at each of the hearings, and the Court has listed those separately.
10. While I have always avoided using substitute counsel when I am able, in the cases where it has been unavoidable (for example, where I have had hearings in two different courtrooms at the same time or I have been out of town), I have met with my substitute counsel, helped them become familiar with the case, given them the case file to review when appropriate and otherwise complied with MCR 3.915(D).
11. On April 19, 2007, I was representing a parent on the matter set for permanent custody adjudication. The children were represented by MCLC attorneys. The particular MCLC attorney scheduled to appear did not show up. A replacement MCLC attorney eventually showed up about an hour later. After the MCLC attorney finally showed up, he was brought up

to speed on the case by the other attorneys involved in the matter. We had to schedule another court date at which time the MCLC attorney stated to the Court that the attorney for the children or MCLC only appears in Juvenile Court on given days of the week. (For example only Tuesday or Thursday.)


12. On two occasions I have been requested by court personnel to substitute or stand in for different attorneys, who are members of the contracted groups, who had not shown up for a scheduled matter.

13. Representatives of the Wayne County Juvenile Court told me that children would not be deprived of counsel that had already been assigned to them. Rather, "group" assignments would only be given to children entering the Court's jurisdiction.

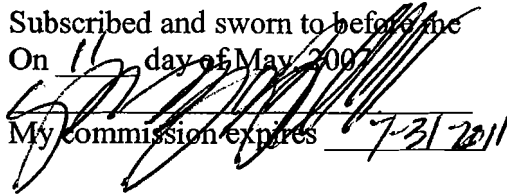
14. I attempted to contact representatives of the Court to raise my concerns when it became apparent that the contract system was negatively impacting the rights of children.

15. Due to the confidentiality of the proposals and contracts themselves, it has been difficult to determine exactly how the new system is being administered. Regardless, I have been gathering information on the new system by my experiences in the courthouse.

Further Affiant sayeth naught.


Patrick Devine (P28479)

Dated: 5-11-07

Subscribed and sworn to before me
On 15 day of May, 2007

My commission expires 7-31-2011

GREGORY J. ANGELLO
NOTARY PUBLIC, STATE OF MI
COUNTY OF MACOMB
MY COMMISSION EXPIRES Jul 31, 2011
ACTING IN COUNTY OF ADAMS

STATE OF MICHIGAN
MICHIGAN SUPREME COURT

TRIAL LAWYERS ASSOCIATION OF WAYNE COUNTY JUVENILE COURT; SUE E. RADULOVICH P.C.; SUE E. RADULOVICH, as Next Friend of NADIA E., a Minor; SUE E. RADULOVICH, as Next Friend of TOMMIE P., a Minor; DEBORAH TRENT; DEBORAH TRENT, as Next Friend of TONY B., a Minor; MURIEL SHILLINGFORD; MURIEL SHILLINGFORD, as Next Friend of KIMBERLY S., a Minor; JEREMY BRAND; JEREMY BRAND, as Next Friend of NAOMI S., a Minor; JEREMY BRAND, as Next Friend of KYISHIA R., a Minor, JEREMY BRAND, as Next Friend of TERRI N., a Minor; SYDNEY L. RUBY; SYDNEY L. RUBY, as Next Friend of CLARENCE S., a Minor; SYDNEY L. RUBY, as Next Friend of WILLIAM and WESLEY D., Minors; PATRICK DEVINE; PATRICK DEVINE, as Next Friend of JUSTIN S., on behalf of themselves and all others similarly situated,

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(313) 224-5262

AFFIDAVIT OF JULIE H. HURWITZ

STATE OF MICHIGAN)
) ss:
COUNTY OF WAYNE)

JULIE H. HURWITZ, being duly sworn, deposes and says:

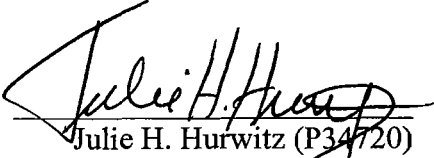
1. I am an attorney licensed to practice law in Michigan.
2. I have actively practiced law in the State of Michigan for 24 years, since 1983, after graduating from the University of Michigan Law School.
3. The facts stated in this Affidavit are within my own personal knowledge and if I am called upon to testify, these facts would be admissible as evidence.
4. I have been a solo practitioner in Pleasant Ridge, Michigan until April, 2007, under the name of JULIE H. HURWITZ, P.C. In April, I started a small law partnership with William H. Goodman who has practiced civil rights and constitutional law in Michigan and New York for 42 years. The name of that partnership is GOODMAN & HURWITZ, P.C.
5. Since I started practicing law, I have specialized and have developed an expertise in the theory and practice of civil rights and constitutional law. In that regard, I have published articles relating to those subjects, have lectured to professional groups on topics related to those matters and currently teach the course on Civil Rights Litigation at the University of Detroit Mercy School of Law.
6. I have successfully litigated many cases on behalf of persons who have alleged violations of their constitutional rights. In those areas of litigation I have represented individuals, as well as representing large numbers of plaintiffs and classes in class actions and other complex litigation. This litigation has been undertaken in Wayne County Circuit Court and other courts throughout Michigan, in federal courts, in particular, the Eastern District of Michigan, in the U.S. Court of Appeals for the 6th Circuit and in appellate courts throughout Michigan and the United States, as both attorney for a party and on behalf of *amici*.
7. I write this affidavit, fully cognizant of the need and the responsibility to protect privileged information, in particular that protected by the work product and the attorney/client privileges and believe that I can instruct this Court with regard to the timing of the filing on this case without waiving privileges that I or my clients may wish to assert at some time in the future.
8. On November 11, 2007, I was first contacted by the Plaintiffs in the above-captioned matter. I was asked to investigate and research whether the plaintiffs' rights had been violated and whether and how the violations of those rights, if any, could be best rectified and remedied.
9. Since the factual background was both complex and vast, I undertook numerous intensive interviews and other investigation and research. I have also spent many hours researching issues of liability, jurisdiction, standing and other critical issues.
10. While I am routinely careful and precise before I commence any litigation, I am fully cognizant of the implications of signing my name, as counsel for the Plaintiffs, to a complaint against any judicial officer, let alone the Chief Judge of the Wayne County Circuit Court. Thus both care and precision in both research, pleading and written submissions to the Court, is of great importance, not only to me as an officer of the Court, but particularly to my clients, many of whom are also attorneys and officers of the Court.

11. This is particularly true when taking the extraordinary step of seeking superintending control from the Michigan Supreme Court.

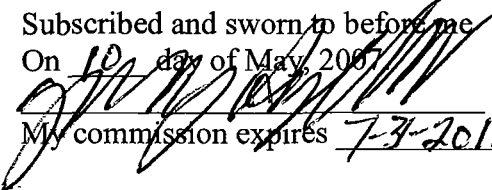
12. Being thus aware of the implications and importance of this case, I been very careful, meticulous and precise in the work undertaken to date. In that regard, I have so far expended more than 200 hours since mid-November 2006 in all of the work I have done on behalf of these Plaintiffs.

13. In addition to the sheer number of hours, this project has required of me, I, as a solo practioner until April of this year have had sole responsibility for other cases and clients. Regardless, given all that has been required of any attorney to bring such an action, this case has been handled professionally, carefully and with due diligence, under all the circumstances that have prevailed, as set forth herein and in the affidavits of the named Attorney Plaintiffs/Next Friends in this action.

Further Affiant sayeth naught.


Julie H. Hurwitz (P34720)

Dated: 5/10/07

Subscribed and sworn to before me
On 10 day of May, 2007

My commission expires 7-3-2011

GREGORY J. ANGELLO
NOTARY PUBLIC, STATE OF MI
COUNTY OF MACOMB
MY COMMISSION EXPIRES JUL 31, 2011
ACTING IN COUNTY OF OKLAHOMA

