

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

DAVID F. KOZEL,

Plaintiff,

v.

DEBORAH L. KOZEL, MICHAEL E.
SPEARS, Esq., SCOTT J. RICK,
DALLAS C. KOZEL, I.L.K., SPRING
RIDGE ACADEMY, INC., JULIANNA
HAMILTON, LPC, KIMBERLY R.
ROSBOROUGH, MSW, LISW-CP, and
TLC: TURNING LEAVES FOR
CHILDREN, LLC

Defendants.

) CIVIL ACTION

) No. 2:14-cv-01059-JFC

) **Jury Trial Demanded**

SECOND AMENDED COMPLAINT

AND NOW comes Plaintiff, David F. Kozel, by and through his attorneys, Heather S. Heidelbaugh, Esquire, Patrick R. Malone, Esquire, Steven M. Toprani, Esquire, and LEECH TISHMAN FUSCALDO & LAMPL, LLC, and files this Second Amended Complaint against Deborah L. Kozel, Michael E. Spears, Esq., Detective Scott J. Rick, Dallas C. Kozel, I.L.K., Spring Ridge Academy, Inc., Julianna Hamilton, LPC, Kimberly R. Rosborough, MSW, LISW-CP, and TLC: Turning Leaves for Children, LLC, and in support thereof, avers as follows:

PARTIES

1. Plaintiff, David F. Kozel, is an adult individual who resides in Highland Park, Dallas County, Texas. Mr. Kozel also owns a home located in Wexford, Pennsylvania 15090.
2. Defendant, Deborah L. Kozel, is an adult individual who resides in Landrum, South Carolina.

3. Defendant, Michael E. Spears, is an adult individual and licensed personal injury attorney who conducts business at 122 South Liberty Street, Spartanburg, South Carolina, 29306.

4. Defendant, Detective Scott J. Rick, an adult individual who resides in this district and is a detective with the Northern Regional Police Department that conducts business at 230 Pearce Mill Road, Wexford, Pennsylvania, 15090.

5. Defendant, Dallas Kozel, is an adult individual who resides in Landrum, South Carolina.

6. Defendant, I.L.K., a minor, age 17, is an individual who resides in Landrum, South Carolina.

7. Defendant, Julianna Hamilton, LPC, is an adult individual and Licensed Professional Counselor (“LPC”), who conducts business in Prescott Valley, Arizona, and who was, at all relevant times hereto, employed by Defendant Spring Ridge Academy. Ms. Hamilton is licensed in Arizona and North Carolina.

8. Defendant, Spring Ridge Academy, Inc. is a therapeutic boarding school located at 13690 S. Burton Road, Spring Valley, Arizona 86333. Spring Ridge Academy Inc. was incorporated in Arizona and is also domiciled there.

9. Defendant, Kimberly R. Rosborough, MSW, LISW-CP, is an adult individual and Licensed Independent Social Worker – Clinical Practice, who conducts business at 601 West Main Street, Spartanburg, County of Spartanburg, South Carolina 29301 and who at all times relevant hereto, owned Defendant TLC: Turning Leaves for Children, LLC. Ms. Rosborough is licensed in South Carolina.

10. Defendant TLC: Turning Leaves for Children, LLC is a private practice providing therapy and related services to children located at 601 West Main Street, Spartanburg, County of

Spartanburg, South Carolina, 29301. Turning Leaves for Children, LLC is incorporated and domiciled in South Carolina.

JURISDICTION

11. Jurisdiction is appropriately situated in this Honorable Court pursuant to 28 U.S.C. § 1332 as diversity exists among the parties and the amount in controversy exceeds \$75,000.00.

12. This Honorable Court also has jurisdiction over this action pursuant to 28 U.S.C. § 1331 with regard to Mr. Kozel's claims under 42 U.S.C. § 1983 and has supplementary jurisdiction over the remainder of Mr. Kozel's claims pursuant to 28 U.S.C. § 1367.

VENUE

13. Venue is appropriately situated in the United States District Court for the Western District of Pennsylvania pursuant to 28 U.S.C. § 1391(b)(2) as the events and circumstances which form the basis of this lawsuit transpired in this District.

INTRODUCTION

14. This action involves a disturbing fraud, perpetrated as outlined in this Second Amended Complaint, by a mother and ex-wife, Deborah Kozel, with her personal injury lawyer, Spears, and with the participation of her two troubled and impressionable daughters, Dallas Kozel and I.L.K., and involving concocted criminal charges against Mr. Kozel, in a desperate effort to harm him.

15. This fraud was aided and abetted through the negligent, careless, and unprofessional counseling of Dallas Kozel and I.L.K., which was provided at Turning Leaves for Children, LLC by its owner, Kimberly R. Rosborough, and at Spring Ridge Academy by its employee, Julianna Hamilton.

16. Upon information and belief, Dallas Kozel and I.L.K. were placed into “therapy” by their mother, Debbie Kozel, when Dallas was three (3) years old, *i.e.* 1998 and I.L.K. was three (3) years old, *i.e.* 2000.

17. Upon information and belief, Dallas Kozel attended eighty-four (84) sessions of therapy in South Carolina from the age of three (3) years old until she began attending Spring Ridge Academy where she disclosed for the first time alleged sexual abuse in January of 2013.

18. Upon information and belief, I.L.K. attended eighty-two (82) sessions of therapy in South Carolina from the age of three (3) years old until she disclosed for the first time alleged sexual abuse sometime between December 2012 and January 2013.

19. Dallas Kozel had thirteen (13) sessions with Kimberly R. Rosborough from August 10, 2006 to May 9, 2007, and I.L.K. had eight (8) sessions from August 10, 2006 to May 9, 2007, as well as additional sessions in 2012 and 2013 wherein controversial therapy was utilized known as EMDR.

20. Upon information and belief, because of the extensive history of therapy of both girls, it is highly likely that all therapists knew of the conflicted history between Debbie and David Kozel, as well as the long history of litigation and custody disputes.

21. In June 2012, before the first allegation that a crime had been committed, Deborah Kozel demanded from her ex-husband, Mr. Kozel, that he quadruple his court-ordered child support payments from \$6,344.00 per month to \$25,376.00 to continue until the girls’ 21st birthdays (at that time, the girls were 17 and 15 years-old), an amount exceeding approximately \$1.75 million.

22. In the June 2012 demand letter, attached hereto as Exhibit “D”, Deborah Kozel informed Mr. Kozel that she and “others concerned” for Dallas Kozel had decided to enroll Dallas Kozel in Spring Ridge Academy, a therapeutic boarding school, located in Arizona.

23. Dallas was enrolled at Spring Ridge Academy on March 23, 2012, and was treated by Defendant, Julianna Hamilton, who, at all relevant times, was acting in the course and scope of her employment and within the scope of her authority as an employee of Spring Ridge Academy.

24. At all relevant times hereto, Defendants Spring Ridge Academy and Turning Leaves for Children, LLC employed Defendants Julianna Hamilton and Kimberly R. Rosborough, respectively, as therapists to provide counseling sessions and therapy sessions to Dallas Kozel and I.L.K. using a technique known as Eye Movement Desensitization and Reprocessing therapy (“EMDR”).

25. EDMR is a controversial therapy technique. While Dallas Kozel was enrolled at Spring Ridge Academy, Defendant Julianna Hamilton utilized EMDR therapy to uncover “repressed memories.” In January of 2013, ten (10) months after seventeen (17) year old Dallas Kozel enrolled, she, alleged that she was sexually abused by her father, Mr. Kozel, during her early childhood. Then, immediately thereafter, her sister, I.L.K., also being treated by a therapist to uncover “repressed memories,” parroted similar allegations, despite neither ever disclosing such allegations previously. Together, these Defendants repeated their false claims to law enforcement.

26. Central to their scheme, the Kozel Defendants sought to have Mr. Kozel investigated and arrested. Seven months after Dallas Kozel’s initial allegations, the Kozel Defendants, with the aid of their personal injury lawyer, Spears, pressed Detective Rick, who

was conducting the investigation, to falsely charge Mr. Kozel. Initially, this scheme worked and Mr. Kozel was falsely arrested and later tried in criminal court for sexually abusing his daughters. Detective Rick's wanton and reckless investigation aided the scheme.

27. Despite the conspiracy to railroad Mr. Kozel, he was acquitted by the trial judge, the Honorable Donna Jo McDaniel, who stated at the end of the trial:

Now my question is to decide whether they [Dallas Kozel and I.L.K.] are victims of sexual abuse or whether they're victims of some cruel hoax perpetrated most likely by their mother."

[Criminal Trial Tr. At 198:8-11, Commonwealth of Pennsylvania v. David F. Kozel (CC No. 2013-0015401), July 22, 2014.

FACTUAL ALLEGATIONS

The Kozels' Marriage and Divorce

28. On July 30, 1994, Mr. Kozel married Deborah Kozel.

29. Mr. Kozel and Deborah Kozel resided in Allegheny County, Pennsylvania during their marriage.

30. In 1995, the Kozels had their first child, Dallas Kozel, and in 1997, they had their second child, I.L.K.

31. In or about September 1998, Mr. Kozel and Deborah Kozel separated and she moved to South Carolina with Dallas Kozel and I.L.K.

32. In or about 1998, Mr. Kozel and Deborah Kozel agreed to shared custody, with the girls staying with Mr. Kozel in Allegheny County, Pennsylvania several times per year.

33. While Mr. Kozel and Deborah Kozel litigated their divorce, Dallas Kozel and I.L.K. were treated by multiple psychologists, social workers, and therapists and were interviewed by the Honorable Eugene F. Scanlon, Jr. and the Honorable Kathryn Hens-Greco.

At no time during the litany of treatment or interviews did Dallas Kozel or I.L.K. disclose or otherwise complain of sexual abuse.

34. Upon information and belief, between April 10, 2000 and June 7, 2004, Dallas Kozel was treated by Caryn M. Coons, M.A. at Living Process Counseling in Landrum, South Carolina, for forty-two sessions. At no time during these sessions did Dallas Kozel disclose or otherwise complain of sexual abuse by Mr. Kozel.

35. On April 4, 2002, a Decree of Divorce was entered between Mr. Kozel and Deborah Kozel by the Allegheny County Court of Common Pleas, Family Division.

36. On June 16, 2004, the Family Division further ordered a shared custody arrangement for the two girls.

37. During the divorce, Deborah Kozel initiated spousal and child support actions.

38. Upon information and belief, by January 18, 2005, Deborah Kozel spent \$463,561.51 in legal fees, expert fees and costs in her ongoing efforts to increase support payments from Mr. Kozel.

39. Upon information and belief, between September 9, 2005 and October 10, 2007, Dallas Kozel was treated by Kimberly R. Rosborough, LISW-CP at Turning Leaves for Children, LLC in Spartanburg, South Carolina, for thirty-six sessions. At no time during these sessions did Dallas Kozel disclose or otherwise complain of sexual abuse by Mr. Kozel.

40. Upon information and belief, between September 9, 2005 and October 10, 2007, I.L.K. saw Kimberly R. Rosborough, LISW-CP at Turning Leaves for Children, LLC in Spartanburg, South Carolina, for thirty-one sessions. At no time during these sessions did I.L.K. disclose or otherwise complain of sexual abuse by Mr. Kozel.

41. On September 27, 2005, the Allegheny County Court of Common Pleas, Family Division awarded fifty percent of the marital estate, totaling \$664,924.00, to Deborah Kozel.

42. On June 2, 2006, both Dallas Kozel and I.L.K. were interviewed on the record by Judge Kathryn Hens-Greco regarding, *inter alia*, their relationship with Mr. Kozel and their time at his residence. During this interview with Judge Hens-Greco, Dallas Kozel and I.L.K. did not disclose or complain of any sexual abuse by Mr. Kozel.

43. On February 27, 2007, the Superior Court of Pennsylvania, in addressing various appeals, affirmed that Mr. Kozel pay \$6,344.00 per month in child support, remaining in effect until each child's eighteenth birthday. A true and correct copy of the Superior Court's February 27, 2007 Order is attached hereto as Exhibit "A".

44. The February 27, 2007 Order also required Mr. Kozel to pay the amount of \$272,064.00 in Alimony Pendente Lite payments. (See Ex. "A").

45. On October 10, 2007, Mr. Kozel, Deborah Kozel, Dallas Kozel and I.L.K. all participated in an evaluation with William D. Fischer, Ph.D., at Allegheny Forensic Associates. During this evaluation, Dallas Kozel and I.L.K. did not disclose or complain of any sexual abuse by Mr. Kozel.

46. On March 11, 2008, Deborah Kozel filed a subsequent Petition for Modification of Child Support in the Family Division seeking to increase Mr. Kozel's support payments. A true and correct copy of Deborah Kozel's March 11, 2008 Petition is attached hereto as Exhibit "B".

47. On March 17, 2008, Deborah Kozel's Petition was dismissed without hearing. Deborah Kozel appealed this dismissal on April 16, 2008, and on August 6, 2009, the Superior Court of Pennsylvania affirmed the dismissal.

48. Upon information and belief, between December 6, 2010 and December 16, 2013, Dallas Kozel was treated by Gabrielle Leopard, Ed.S., LMFT-S, RPT-S, at Magnolia Counseling Associates in Spartanburg, South Carolina, for five sessions. At no time during these sessions did Dallas Kozel disclose or otherwise complain of sexual abuse by Mr. Kozel.

49. Upon information and belief, between December 13, 2011 and January 20, 2012, Dallas Kozel was seen by her school therapist at Oakdale on three occasions. At no time during these sessions did Dallas Kozel disclose or otherwise complain of sexual abuse by Mr. Kozel.

50. Upon information and belief, on or about January 30, 2012, Dallas Kozel enrolled at SUWS of the Carolinas because of Dallas Kozel's behavior problems, namely terrible fights with her mother. Dallas Kozel was evaluated by Scott J. Miller, Psy.D. at this time. While at SUWS of the Carolinas, Dallas Kozel did not disclose or otherwise complain of any sexual abuse by Mr. Kozel.

51. Knowing that Dallas Kozel was one year away from turning eighteen and that Deborah Kozel was one year away from having the child support she received reduced, on February 8, 2012, Deborah Kozel, for the first time, reported to therapist Scott Miller, Psy.D. that when Dallas Kozel was a child she supposedly told her therapist that she felt uncomfortable when her father "gave her a bath."

52. Upon information and belief, between February 22, 2012 and November 27, 2012, I.L.K. was treated by Kimberly R. Rosborough, LISW at Turning Leaves for Children, LLC in Spartanburg, South Carolina, for six sessions. At no time during these sessions did I.L.K. disclose or otherwise complain of any sexual abuse by Mr. Kozel.

**Dallas Kozel's Enrollment at Spring Ridge Academy and
Continued Divorce Proceedings**

53. Upon information and belief, on March 23, 2012, Dallas Kozel enrolled at Spring Ridge Academy, a therapeutic boarding school for girls, located in Arizona, to complete the therapy that began at SUWS of the Carolinas.

54. Spring Ridge Academy is a therapeutic boarding school that operates as a licensed behavioral health care provider in the State of Arizona. Spring Ridge Academy described itself as “an empowering emotional growth program with a sophisticated therapeutic approach and rigorous college prep curriculum” serving students ages “13-17 in grades 9-12”.

55. Spring Ridge Academy advertised that it allows parents to participate in family therapy with their daughter, have monthly visits and have communication through letters and telephone calls.

56. Spring Ridge Academy advertised that it permits certain privileges over time, including allowing girls enrolled there to travel to visit their families away from Spring Ridge.

57. Spring Ridge Academy advertised that its Therapeutic Boarding School Program Components included: “individual, group and family therapy; . . . therapeutic services geared to each student’s specific needs; dynamic family workshops that value and involve every family member; . . .”

58. Spring Ridge Academy held itself out, unrestricted and on the internet, to “work[] effectively with a wide range of behavioral and emotional struggles.”

59. Spring Ridge Academy advertised its treatment protocol to include: “DBT Skills Groups; Post Induction Therapy; Erikson’s Developmental Stage Theory and Assessment; Cognitive & Behavioral Therapies; Structural Family Therapy; Experiential Therapy; Insight

Oriented Therapy; EMDR – Eye Movement Desensitization and Reprocessing; Adlerian, Jungian & Gestalt Approaches; and, Substance Abuse & Addiction Treatment.”

60. Spring Ridge Academy advertised in Pennsylvania. Upon information and belief, students from Pennsylvania enrolled in Spring Ridge Academy. Therefore, Spring Ridge Academy earned revenue from Pennsylvania, thereby purposefully availing itself of jurisdiction in the Commonwealth of Pennsylvania.

61. Additionally, Spring Ridge Academy, through its website, has continuous and systematic ties with Pennsylvania. It is entirely foreseeable that those domiciled in Pennsylvania have become patients of Spring Ridge Academy and Julianna Hamilton as a result of its unrestricted and widely-available advertisement on the internet, just as Dallas Kozel, a resident of South Carolina, also became a student/patient of Spring Ridge Academy and Julianna Hamilton.

62. Upon information and belief, Dallas Kozel’s tuition at Spring Ridge Academy cost approximately \$7,000.00 per month, a portion of which was funded by the monthly child support payments made by Mr. Kozel.

63. Upon information and belief, Deborah Kozel expended sums in excess of tuition payments, which sums were from Mr. Kozel’s support payments.

64. Dallas Kozel was enrolled at Spring Ridge Academy for approximately fourteen (14) months, from March 2012 through May 2013, at a cost of approximately \$98,000.00.

65. For a certain period of her treatment, Spring Ridge Academy prohibited Dallas Kozel from leaving its facility. On information and belief, as a result of these travel restrictions, Deborah Kozel and I.L.K. visited her in Arizona on a monthly basis. Upon information and belief, the cost of said travel was paid from the monthly support payments of David Kozel.

66. While Dallas Kozel was attending Spring Ridge Academy, Ms. Julianna Hamilton acted as Dallas' Kozel's licensed professional counselor.

67. Upon information and belief, Ms. Hamilton is a graduate of the University of North Carolina and holds a Master's Degree in Guidance and Counseling.

68. In her counseling sessions with Dallas Kozel, Ms. Hamilton "had to employ a lot of [Eye Movement Desensitization and Reprocessing therapy ("EMDR")] with [Dallas Kozel]." (See Ex. "J" at 11:14-15).

69. EMDR therapy is a psychotherapy that theoretically relies on a patient's own rapid, rhythmic eye movements to dampen the power of emotionally charged memories of past traumatic events.

70. According to Ms. Hamilton,

the beauty in that kind of work [i.e., EMDR] is that [Dallas Kozel] doesn't have to actually physically say -- she -- it's a modality that works on brains (inaudible) processing, so she can actually do the trauma work without having to say -- . . . -- he did this.

(Id. at 11:19 – 12:3).

71. On May 15, 2012, two (2) months after Dallas Kozel enrolled at Spring Ridge Academy, Deborah Kozel filed, for the first time, a Support Complaint in the Family Court of the Seventh Judicial Circuit in South Carolina (another state) seeking additional monies for child support. A true and correct copy of Deborah Kozel's May 15, 2012 Complaint is attached hereto as Exhibit "C".

72. As Dallas Kozel's eighteenth birthday approached, Deborah Kozel was concerned because the child support payments she received from Mr. Kozel would be reduced, upon information and belief, by at least 50%. As a result, in June of 2012, Deborah Kozel wrote Mr.

Kozel a letter demanding that Mr. Kozel pay her additional money and reimburse her for various expenses. A true and correct copy of Deborah Kozel's June 2012 letter is attached hereto as Exhibit "D".

73. In the June 2012 letter, Deborah Kozel demanded that Mr. Kozel quadruple his current child support payment of \$6,344.00 per month to \$25,376.00 per month, until each child's twenty-first birthday. (See Ex. "D" at 3).

74. On August 10, 2012, the Family Court of the Seventh Judicial Circuit in South Carolina dismissed the Support Complaint for lack of personal jurisdiction. A true and correct copy of the August 10, 2012 Order is attached hereto as Exhibit "E".

75. On August 14, 2012, Ashley Kozel, Dallas Kozel's Aunt and a co-resident of Pennsylvania and Florida, loaned \$60,000.00 to Deborah Kozel, as evidenced by the promissory note executed by and between Ashley Kozel and Deborah Kozel. A copy of the promissory note is attached hereto as Exhibit "X".

76. Upon information and belief, a portion of this money contributed to the payment of Dallas Kozel's tuition at Spring Ridge Academy, which included her treatment with Ms. Hamilton.

77. On November 9, 2012, Deborah Kozel filed a Petition for Modification of Existing Order for Child Support in the Allegheny County Court of Common Pleas, Family Division, seeking an increase in child support.

78. On November 21, 2012, by consent of the parties, the Allegheny County Petition was dismissed as the parties agreed any support proceeding should be filed in Texas, where Mr. Kozel resided in 2012. Deborah Kozel then re-filed the Petition in Texas.

The “Recollection” Appears

79. In December 2012, Dallas Kozel traveled from Arizona, where she was in school at the time, to South Carolina to visit with her mother and sister for Christmas.

80. At the time of Dallas Kozel’s December 2012 visit to South Carolina, Dallas Kozel was two months away from turning eighteen years-old and Deborah Kozel was two months away from having her child support reduced, upon information and belief, by at least 50%.

81. On December 3, 2012, Deborah Kozel, Dallas Kozel, and I.L.K. were photographed together, and therefore were physically present together.

82. On December 21, 2012, Kimberly R. Rosborough, LISW-CP, counselor for both girls and a friend of Deborah Kozel, wrote in her clinical notes as follows:

Update – Mom. She emailed Juliana [Hamilton – Dallas Kozel’s counselor at her school in Arizona] – it is OK for me to talk to [I.L.K.]. EMDR. Remember incident – David touching in bathtub both girls.

A true and correct copy of Kimberly R. Rosborough’s December 21, 2012 note is attached hereto as Exhibit “F”. At no time after this note was written, did Ms. Rosborough initiate a report to authorities in South Carolina regarding an allegation of sexual abuse of a minor as state law would require.

83. This note is documentation of the pivotal events that took place in South Carolina **prior** to the later, alleged “spontaneous” revelation of sexual abuse by Dallas Kozel on January 7, 2013 and subsequently given to law enforcement. The December 21, 2012 note evidences coordination amongst the Defendants, twenty (20) days prior to the “alleged” first revelation. (See Ex. “F”).

84. Turning Leaves for Children, LLC is an individually owned and operated private practice providing therapy and related services to children, according to its website. Turning Leaves for Children, LLC's therapist is Kimberly R. Rosborough. The practice specializes in trauma, grief and loss, depression, anxiety, divorce adjustments and conflicts, abuse and neglect and adoption issues.

85. Turning Leaves for Children, LLC's website indicates that Kimberly R. Rosborough utilizes EMDR – Eye Movement Desensitization and Reprocessing as a therapy in her practice. It is described as “the use of bilateral stimulation to help process traumatic memories, unpleasant feelings and emotions and intrusive thoughts. . . . [EMDR] was modified to use with children.”

86. Turning Leaves for Children, LLC held itself out, unrestricted and on the Internet to provide therapy to children in the form of EMDR.

87. Turning Leaves for Children, LLC treated both Dallas Kozel and also I.L.K., who traveled regularly to Pennsylvania and whose parent resided in Pennsylvania.

88. Kimberly R. Rosborough was appointed by the Court of Common Pleas, Judge Hens Greco, on the 3rd day of July, 2006 to be the children's therapist. (See Exhibit “Y”).

89. David Kozel paid \$6,344.00 per month in child support, which assisted in the payment of the Turning Leaves for Children, LLC therapy, as Debbie Kozel was unemployed. Therefore, Turning Leaves for Children, LLC and Kimberly R. Rosborough earned revenue from Pennsylvania, thereby purposefully availing themselves of jurisdiction in the Commonwealth of Pennsylvania.

90. Additionally, Turning Leaves for Children, LLC and Kimberly R. Rosborough, through the Turning Leaves for Children, LLC website, has continuous and systematic ties with Pennsylvania.

91. Additionally, Turning Leaves for Children, LLC and Kimberly R. Rosborough continued to treat Dallas Kozel and I.L.K. during the criminal investigation into the false allegations of sexual abuse.

92. Upon information and belief, Kimberly R. Rosborough is a graduate of the University of South Carolina and holds a Masters Degree in Social Work.

93. According to Kimberly R. Rosborough's treatment records, she employed EMDR therapy with I.L.K.

94. Upon information and belief, Dallas Kozel, I.L.K., and Deborah Kozel spent most of the month of December 2012 together and had the opportunity to formulate the eventual story they told to law enforcement.

95. Upon information and belief, Dallas Kozel then traveled back to Arizona for her second semester at school.

96. Exactly fifteen (15) days after Deborah Kozel reminded both Julianna Hamilton and Kimberly R. Rosborough that the girls did not like being given a bath by Mr. Kozel when they were six (6) and four (4) years old, on January 5, 2013, a Saturday, the Yavapai County Sheriff's Office received a phone call from Spring Ridge Academy regarding a "sex offense." According to the Supplemental Duty Report, the individual that initiated the call was from Spring Ridge Academy and "stated that she wanted to schedule a deputy to be at the school on Monday 1-7-13 0900 hrs, for a scheduled interview. Upon information and belief, the person who placed the call was Julianna Hamilton.

97. On, Thursday, January 3, 2013 (four days before the “spontaneous” revelation), Deborah Kozel booked airfare for herself and her attorney, Spears, to Arizona and Attorney Spears reserved a rental car in Arizona, listing Deborah Kozel as an “Additional Driver”. A true and correct copy of certain January 3, 2013 travel documents are attached hereto as Exhibit “G”.

98. According to the Kozel Defendants, Attorney Spears’ relationship to them has been described as follows:

- a. On May 15, 2012, Deborah Kozel filed a Support Complaint in the Family Court of the Seventh Judicial Circuit in South Carolina, seeking additional monies for child support. Attorney Spears submitted this Support Complaint on behalf of, and was listed as legal counsel to, Deborah Kozel. (See Exs. “C” & “E”).
- b. On January 10, 2013, Attorney Spears and Deborah Kozel informed Deputy Don Owen, a deputy with the Yavapai County Sheriff’s Office that Attorney Spears was Deborah Kozel’s attorney. A true and correct copy of the Yavapai County Police Report is attached hereto as Exhibit “H”. (See Ex. “H” at 5).
- c. On February 12, 2013, Attorney Spears represented to Detective Rick that he was the attorney for Deborah Kozel. A true and correct copy of Detective Rick’s investigation file is attached hereto as Exhibit “K”. (See Ex. “K” at 6).
- d. On May 25, 2013, Attorney Spears again represented to Detective Rick that he was the attorney for Deborah Kozel. (See id. at 8).
- e. However, on January 28, 2014, Deborah Kozel, during a sworn deposition, stated that Attorney Spears was the attorney for Dallas Kozel and I.L.K. A true and correct copy of pages 40 and 63 – 65 of Deborah Kozel’s January 28, 2014 deposition transcript is attached hereto as Exhibit “S”.
- f. On July 22, 2014, during the criminal trial of Mr. Kozel, when asked, Dallas Kozel denied three times that Attorney Spears was her lawyer. A true and correct copy of excerpts of the criminal Trial Transcript are attached hereto as Exhibit “P.” (See Ex. “P” at 42:11-15; 78:13-15; 80:15-25).

- g. Later during the criminal trial Dallas Kozel further represented that Attorney Spears was not Deborah Kozel's attorney either. (See id. at 96:11-14).
- h. Finally, I.L.K. testified under oath that she and Dallas Kozel met with Attorney Spears at some point prior to the criminal trial and that they met with Attorney Spears to go over "court procedures" and "the questions" they would be asked. (Id. at 141:22 – 142:19).

Dallas Kozel's Allegations of Sexual Abuse

99. By January of 2013, Dallas Kozel had been a student at Spring Ridge Academy for nine months. During this time, Julianna Hamilton was Dallas Kozel's counselor and was employing the controversial therapy known as EMDR therapy in a supposed effort to explore alleged traumatic events in Dallas Kozel's past.

100. EMDR was developed by Francine Shapiro, who received a non-accredited doctoral degree in 1988 and, shortly thereafter, established the EMDR Institute to train mental health professionals.

101. Ms. Shapiro began developing EMDR in 1987 while she was walking in the park when she realized that rapid eye movements appeared to decrease the negative emotion with her own distressing memories. EMDR Institute, Inc., *History of EMDR*, <http://www.emdr.com/general-information/what-is-emdr/history-of-emdr.html> (last visited Oct. 28, 2014).

102. During EMDR, a client is asked to visually track the therapists' finger as it moves rhythmically from right to left in sets of 12 to 24 strokes.

103. Following each set of 12 to 24 strokes, a client is asked to "blank out" a traumatic visual image and inhale deeply.

104. The efficacy of EMDR has not been widely tested in any controlled studies, and the limited controlled studies that exist are inconclusive as to the effectiveness and reliability of EMDR therapy.

105. On December 21, 2012, Debbie Kozel prompted Kimberly R. Rosborough to ask the girls to discuss the allegation that they didn't like when their father bathed them.

106. Upon information and belief, Deborah Kozel's prompting improperly influenced the treatment of Dallas Kozel and I.L.K. by Ms. Rosborough and Ms. Hamilton.

107. Upon information and belief, Ms. Hamilton, a practitioner of EMDR therapy, held a predetermined belief that troubled youths, including Dallas Kozel, are "troubled" because of some traumatic event that has been repressed.

108. The use of EMDR as a treatment for a girl of I.L.K.'s stage of development was, and is, questionable.

109. Both therapists, Julianna Hamilton and also Kimberly R. Rosborough were likely to have known of the conflicted history between Debbie and David Kozel and, therefore, should have suspected that Debbie Kozel may have influenced the development of the memories of sexual abuse.

110. Kimberly R. Rosborough, based on the clinical notes, breached the boundaries of professional objectivity and did not entertain the possibility that Dallas Kozel was developing elaborate false memories of her experiences with her father in earlier years.

111. Following nine months of a therapy that had unverifiable results and effectiveness, and after visiting South Carolina over the Christmas holidays, Julianna Hamilton called the police in Arizona upon Dallas Kozel's return to school.

112. On January 7, 2013, approximately one month prior to her eighteenth birthday and immediately before child support was to terminate, Dallas Kozel, for the first time, accused Mr. Kozel of sexually assaulting and physically abusing her as a child.

113. On January 7, 2013, Yavapai County Deputy Sheriff Don Owen was dispatched to obtain Dallas Kozel's statement. (See Ex. "H").

114. Prior to interviewing Dallas Kozel, Deputy Sheriff Owen spoke with Julianna Hamilton.

115. Ms. Hamilton informed Deputy Owen that Dallas Kozel's "memories" of sexual abuse were elicited through EMDR therapy.

116. Deputy Owen then interviewed Dallas Kozel at the Spring Ridge Academy. A true and correct copy of Dallas Kozel's Transcription of the Interview with the Yavapai County Sheriff's Office on January 7, 2013 is attached hereto as Exhibit "J".

117. Prior to Dallas Kozel's January 7th, 2013 interview with Deputy Owen, Ms. Hamilton informed Deputy Owen that Dallas Kozel's mother, Deborah Kozel, "is aware we're doing this today." (See Exhibit "J" at 6)

118. During the January 7, 2013 interview between Deputy Owen and Ms. Hamilton, Ms. Hamilton referenced Mr. Kozel's power and wealth at multiple points, stating that he "is, like, a multimillionaire" and "like, an oil billionaire from Texas[.]" and that Dallas Kozel was scared "over the power that fathers have." (See Exhibit "J" at 10, 12, 13).

119. Ms. Hamilton further advised Deputy Owen that "[Dallas] had a lot of symptoms of PTSD, but she wanted to relay the information[.]" so I have spent about nine (9) months with her you know, gaining her trust, building her (inaudible). She's a really neat kid. She will be eighteen (18) in a few weeks as a matter of fact. She never denied that there was any kind of

abuse, but she would never (inaudible)... so she is now finally ready, which just totally surprised me, you know but her younger sister has also been subjected to the same whatever it is....And she's finally beginning to open up back home in South Carolina about her father." (See Exhibit "J," at 8:4-23, 9:1-10).

120. From the above statement by Julianna Hamilton to Deputy Owen, it is reasonable to infer that Dallas Kozel never actually disclosed any allegations of sexual abuse by her father to Ms. Hamilton.

121. Therefore, Julianna Hamilton involved the authorities in Arizona based on communication that Julianna Hamilton apparently had with either Kimberly R. Rosborough or Debbie Kozel based on the statement that I.L.K. was beginning to talk about, "the same whatever it is."

122. When Deputy Owen further questioned Julianna Hamilton as to when Dallas Kozel had "opened up about all this stuff," Julianna Hamilton replied, "She hasn't yet. She just told me I'm ready to make ..." (See Exhibit "J," at 10:21-23, 11:1).

123. Deputy Owen stated "So she never told you any physical stuff that was going on or anything...this is the first time we're talking to her actually." (See Exhibit "J," at 11:4-9).

124. Julianna Hamilton said "I had to do a lot of the EMDR with her. I don't know if you're familiar...It's a trauma work and the beauty of it in that kind of work is that she doesn't have to actually physically say – she – it's a modality that works on brain's processing so she can actually do the trauma work without having to say..." (See Exhibit "J," at 11:14-23, 12:1).

125. Julianna Hamilton exhibited a failure to recognize professional boundaries when she then remarked to Deputy Owen in reference to Dallas Kozel's father "I guess he's just, like, an oil billionaire from Texas." (See Exhibit "J," at 13:1-2).

126. Julianna Hamilton's behavior in the interview with Deputy Owen (see transcript) and the fact that she set up the interview with a call to the Sheriff's office on a Saturday prior to having any direct communication with Dallas Kozel regarding the interaction between Dallas and David Kozel, supports the conclusion that Julianna Hamilton did not maintain appropriate professional boundaries. Further, Julianna Hamilton failed to objectively consider whether Dallas Kozel was involved in a situation wherein the prompting and interests of adults in establishing and perpetuating a story of sexual abuse was a significant consideration. (See Exhibit "J," at 10:23).

127. In addition, Julianna Hamilton failed to establish appropriate professional boundaries when Dallas Kozel admitted under oath in trial that Julianna Hamilton actually wrote out the "voluntary statement" that was allegedly the account of sexual abuse from Dallas Kozel and Julianna Hamilton failed to note on the "voluntary statement" that the handwriting was her own.

128. Also, Julianna Hamilton failed to establish appropriate professional boundaries and her objectivity was put into question when, during the interview of Dallas Kozel conducted by Deputy Owen, Julianna Hamilton prompted Dallas Kozel with a leading question.

129. During the January 7, 2013 interview with Deputy Owen and Counselor Hamilton, Dallas Kozel made certain allegations against Mr. Kozel, including, but not limited to, the following:

- a. Mr. Kozel molested her from 8 or 9 years-old until 11 or 12 years-old. (Ex. "J" at 20).
- b. Mr. Kozel put her into the bath tub and "touch[ed her] in ways he shouldn't be touching" her. (Id. at 23).
- c. Mr. Kozel was in bed with Dallas Kozel. (Id.).

- d. Mr. Kozel touched Dallas Kozel “all over” including her vagina and buttocks. (Id.).
- e. **Denying that Mr. Kozel ever penetrated her with his fingers or “anything else” four times. (Id. at 23-24, 26).**
- f. Denying that Mr. Kozel ever “rub[bed] his privates or anything up against” her. (Id. at 26).
- g. Mr. Kozel and Deborah Kozel were divorced and that Mr. Kozel was a “multimillionaire.” (Id. at 9, 32).
- h. Mr. Kozel’s then-girlfriend, Deanna Novak, was an eyewitness to at least one instance of Mr. Kozel’s sexual assault of Dallas Kozel. (Id. at 24-25, 32).

130. Dallas Kozel identified Mr. Kozel’s then-girlfriend Deanna Novak as an eyewitness to the alleged abuse. (Deanna Novak and Mr. Kozel later married and she took the married name “Kozel”).

131. On January 7, 2013, Dallas Kozel signed a Yavapai County Sheriff’s “Voluntary Statement” containing different allegations of sexual abuse than she had stated in the interview on the same day. A true and correct copy of Dallas Kozel’s January 7, 2013 signed statement is attached hereto as Exhibit “I”.

132. Upon information and belief, Ms. Hamilton was present when Dallas Kozel’s allegations against Mr. Kozel were reduced to writing.

133. In the January 7, 2013 signed statement, Dallas Kozel certified the following to be true and correct:

- a. Mr. Kozel molested her beginning at age 5 (Kindergarten). (Ex. “I” at 1).
- b. Mr. Kozel came into her bed at night wearing “boxer shorts”, remove her clothing, and fondle her. (Id.).
- c. “Dianna [sic] Novak,” walked in on one episode of Mr. Kozel fondling her. (Id. at 2). (This is at least the second time Dallas

Kozel identified Ms. Novak as an eyewitness to the alleged conduct.)

- d. She found her sister, I.L.K., “in the loft shower naked and crying.” (Id.). (Dallas Kozel did not include this allegation during the January 7, 2013 interview with Deputy Owen.)
- e. She would come home to South Carolina after visits with Mr. Kozel with multiple bruises, mostly on her upper arms. Mr. Kozel would also grab her hard and yell at her. (Id.). (Dallas Kozel later recanted these allegations of physical abuse at trial.)

134. Upon information and belief, on January 9th and 10th, 2013, Deborah Kozel and her personal injury attorney, Spears, met with Dallas Kozel and Deputy Owen to discuss Mr. Kozel. (See Exs. “G” – “H”).

135. Although Deborah Kozel had actually purchased her ticket for air travel to Arizona four days (i.e., January 3, 2013) prior to Dallas Kozel’s first-reported accusations, she falsely told Deputy Owen that she “did not know about any of [Dallas Kozel’s allegations] until now [January 10, 2013].” (See Ex. “H” at 5).

136. Deborah Kozel’s statement concerning discovery of the alleged abuse is contradicted by at least two of her prior representations:

- a. **Her February 8, 2012 report (i.e., one year prior to the scheduled reduction of Mr. Kozel’s child support obligations), to Scott Miller, Psy D. that when Dallas Kozel was a child, she supposedly told her therapist that she felt uncomfortable when her father “gave her a bath;” and**
- b. Her December 21, 2012 contact with Kimberly R. Rosborough directing her to ask I.L.K. to “remember incident – David touching in bathtub both girls.”

Detective Rick's Involvement

137. On or about February 7, 2013, the Yavapai County Sheriff's Office transferred to Detective Scott J. Rick of the Northern Regional Police their sexual assault investigation in regard to Dallas Kozel. (See Ex. "K").

138. Later that day, Detective Rick received a copy of the Yavapai County Sheriff's report and "a C/D of the audio interview with Dallas Kozel." (Ex. "K" at 6).

139. Upon information and belief, Detective Rick also received a copy of the handwritten statement that Dallas Kozel provided to the Yavapai County Sheriff's Office, which, upon information and belief, Dallas Kozel completed with assistance from Julianna Hamilton.

140. Detective Rick contacted Deborah Kozel after his telephone call with the Yavapai County Sheriff's Office. She advised Detective Rick that I.L.K. also was sexually assaulted by Mr. Kozel. (See id.).

141. On February 12, 2013, Deborah Kozel and Attorney Spears contacted Detective Rick to discuss the investigation. (See id.).

142. Attorney Spears represented himself to Detective Rick as the attorney for Deborah Kozel, Dallas Kozel, and I.L.K. (See id.).

143. On February 14, 2013, Attorney Spears telephoned Detective Rick and informed him that Dallas Kozel and I.L.K. would be in Pittsburgh on February 27, 2013 for interviews with the Allegheny County District Attorney's Office. (See id.).

144. Upon information and belief, at some point in time during the Allegheny County Investigation, Ms. Hamilton and Ms. Rosborough were in contact with Detective Rick and/or other law enforcement personnel in Allegheny County, regarding their therapy sessions with Dallas Kozel and I.L.K. and the memories elicited in those sessions.

Dallas Kozel's First Interview with Detective Rick

145. On February 27, 2013, Detective Rick and representatives of the Allegheny County District Attorney's Office met with Dallas Kozel and I.L.K. in order to interview them regarding their accusations that Mr. Kozel sexually abused them as children. (See id.).

146. During the February 27, 2013 meeting with Detective Rick, Dallas Kozel stated that:

- a. The sexual abuse occurred when she was 5/6 years-old "with Deanna (girlfriend)." (Id. at 7).
- b. Together, Deanna Kozel and Mr. Kozel would bathe her. (Id.).
- c. Together, Deanna Kozel and Mr. Kozel would bathe I.L.K. (Id.).
- d. Mr. Kozel had "skin to skin" contact with her in bed using his penis. (Id.).
- e. Deanna Kozel was witness to Mr. Kozel "rubbing cream on [Dallas Kozel's] vagina." (Id.).
- f. She told her friends of the sexual abuse in the eighth grade. (Id. at 7-8).
- g. She first told Counselor Hamilton of the sexual abuse "in Arizona after she arrived in March 2012." (Id. at 8).
- h. She never told her mother or I.L.K. of her allegations of sexual abuse against Mr. Kozel. (Id.).

147. Dallas Kozel further stated that her counseling with Ms. Hamilton at Spring Ridge Academy had "helped so much that she would have never come forward if they didn't help." (Id.)

148. After the interview, the Allegheny County Assistant District Attorney's Office advised Detective Rick that Dallas Kozel and I.L.K. should continue counseling for their betterment "and the fact that the girls' full disclosure will occur." (See Exhibit "K").

149. The Allegheny County Assistant District Attorney's Office directed Detective Rick to contact Deborah Kozel monthly in order to receive updates on the progress of the girls while in therapy.

150. Upon information and belief, Dallas Kozel returned to Spring Ridge Academy and continued EMDR treatment with Ms. Hamilton following the February 27, 2013 meeting.

151. Upon information and belief, I.L.K. continued to receive EMDR treatment with Kimberly R. Rosborough.

152. Upon information and belief, following Dallas' and I.L.K.'s February 27, 2013 interview with the Allegheny County law enforcement authorities, Ms. Hamilton and Ms. Rosborough spoke, on several occasions, with Deborah Kozel regarding Dallas Kozel's and I.L.K.'s treatment and progress. Such information was passed along to Detective Rick in Allegheny County.

I.L.K.'s First Interview with Detective Rick

153. At this February 27, 2013 meeting with Detective Rick, I.L.K. stated that:

- a. Mr. Kozel videotaped the girls "for 'everything', 24/7 even in the bath tub." (Id.).
- b. Dallas Kozel was "sick" often and Mr. Kozel "would take Dallas [Kozel] to the loft where [I.L.K.] would try to get to her but [Mr. Kozel] would not let her." (Id.).
- c. Mr. Kozel took her to the shower in the loft of the townhouse where she would get undressed in front of Mr. Kozel. (Id.).
- d. She informed her therapist of the alleged sexual abuse three months prior to the interview. (Id.).

154. On or about February 27, 2013, after the interviews with Dallas Kozel and I.L.K., Detective Rick informed Deborah Kozel of the nature and extent of the girls' allegations. (Id.).

155. At no time following these interviews with Dallas Kozel and I.L.K. did Detective Rick interview the only eye-witness to the alleged abuse, Deanna Kozel. He also did not contact the therapists identified by Dallas Kozel to confirm Dallas Kozel's first report in March 2012 at Spring Ridge Academy. Further, he did not contact the therapist identified by I.L.K. to confirm that I.L.K. reported the abuse three months prior to the interview.

Detective Rick Fails to Investigate

156. Six days after Dallas Kozel and I.L.K. made allegations of sexual abuse against their father to Detective Rick, on March 5, 2013, Deborah Kozel filed a Petition Seeking Modification of Child Support in the District Court of the 303rd Judicial District, Dallas County, Texas to indefinitely extend child support into the girls' adult life. A true and correct copy of the March 5, 2013 Petition is attached hereto as Exhibit "L".

157. Detective Rick put the matter in a "pending" status and requested monthly reports from Deborah Kozel regarding the progress of Dallas Kozel and I.L.K. (See Ex. "K" at 8).¹ Otherwise, Detective Rick took no action to investigate this matter including failing to interview an eye-witness identified by both Dallas Kozel and I.L.K.

158. Upon information and belief, in May 2013, Ms. Hamilton advised Deborah Kozel that Dallas Kozel was ready to disclose additional allegations of criminal conduct by Mr. Kozel in Allegheny County.

1. Detective Rick either did not prepare or failed to provide notes in the criminal investigation regarding the monthly reports provided by Deborah Kozel. Upon information and belief, the monthly reports provided to Detective Rick from Deborah Kozel contained information regarding her divorce, custody, and financial disputes with Mr. Kozel.

159. On May 25, 2013, Attorney Spears contacted Detective Rick to inform him that Dallas Kozel and I.L.K. were prepared to disclose additional criminal acts of Mr. Kozel that they had suddenly recalled. (Id.).

I.L.K.'s Second Interview with Detective Rick

160. On June 6, 2013, Detective Rick and representatives of the Allegheny County District Attorney's Office interviewed I.L.K. for the second time regarding her accusations that Mr. Kozel sexually abused her when she was a child.

161. At this June 6, 2013 meeting with Detective Rick, I.L.K. stated:

- a. Deanna Kozel was present when Mr. Kozel gave her a bath with his bare hands. (Id. at 9).
- b. She informed her teacher that she was afraid of Mr. Kozel in the third grade. (Id.).
- c. **Mr. Kozel digitally penetrated her vagina in the shower.** (Id.).
- d. Mr. Kozel took her to the shower in the loft of the townhouse where Mr. Kozel forced her to get undressed in front of him and Mr. Kozel her to take a shower with him. (Id.).
- e. Her sister, Dallas Kozel, found her crying in the loft shower after one time her father forced her to shower with him. (Id.).
- f. While her sister, Dallas Kozel, was in the bed with her and Mr. Kozel, Mr. Kozel placed I.L.K. on top of him and rocked her back and forth on his penis. (Id.).
- g. Mr. Kozel always walked around the house "naked or in his briefs." (Id.).

162. I.L.K.'s June 6, 2013 allegations were materially different, contained numerous discrepancies and were largely inconsistent with her February 27th report. (Compare Ex. "K" at 8, with Ex. "K" at 9).

Dallas Kozel's Second Interview with Detective Rick

163. Upon information and belief, Dallas Kozel departed Arizona and travelled to Allegheny County for her second interview.

164. On July 17, 2013, Detective Rick and representatives of the Allegheny County District Attorney's Office interviewed Dallas Kozel for the second time regarding her accusations that Mr. Kozel sexually abused her when she was a child. (*Id.* at 10).

165. At this July 17, 2013 meeting with Detective Rick, Dallas Kozel provided a different story regarding her alleged abuse and she stated, for the first time, that:

a. Mr. Kozel digitally penetrated her. (*Id.*).

b. Mr. Kozel photographed her naked. (*Id.*).

166. Dallas Kozel's July 17, 2013 statements were materially different and contained numerous discrepancies from the statements she gave on February 27, 2013. Dallas Kozel stated in her January 7, 2013 interview that Mr. Kozel did not penetrate her and only changed her story after I.L.K.'s alleged digital penetration in her June 2013 interview.

167. Following Dallas Kozel's second interview, on July 17, 2013, Detective Rick requested from Deborah Kozel, the names of the counselors the girls had seen throughout the years, as well as the counselors' addresses and medical reports.

168. Upon information and belief, Deborah Kozel provided the requested therapist information to Detective Rick, including Kimberly R. Rosborough and Ms. Hamilton's information.

169. Upon information and belief, Kimberly R. Rosborough and Ms. Hamilton provided statements, records and/or reports related to her treatment of Dallas Kozel for use in the Allegheny County investigation.

170. On or about July 17, 2013, I.L.K. provided Detective Rick, per his request, a drawing of Mr. Kozel's residence. (See id. at 11). However, this drawing failed to include the second story of Mr. Kozel's townhome residence or display the master bedroom of that home where many of incidents allegedly apparently took place.

Dallas Kozel's Handwritten Narrative

171. After the July 17, 2013 meeting, Dallas Kozel provided Detective Rick with a handwritten narrative "about herself and the things she went through with her father." (Id. at 10). A copy of this handwritten narrative is attached hereto as Exhibit "Q". (As Dallas Kozel's handwritten narrative is difficult to read, for the Court's convenience, attached as Exhibit "R" is an attempted transcription of Dallas Kozel's handwritten narrative.)

172. Upon information and belief, Julianna Hamilton was still treating Dallas Kozel using EMDR therapy at the time Dallas Kozel wrote the narrative that she provided to Detective Rick.

173. In her handwritten narrative, Dallas Kozel stated, for the first time:

- a. Mr. Kozel would corner her in the bathroom and "slap her face." (Ex. "Q" at 1; Ex. "R" at 6).
- b. Mr. Kozel and Deborah Kozel fought in court and referred to each other with derogatory names such as "Beverly Hillbillies," "Monsters," and "liars." (See Ex. "Q" at 6; Ex. "R" at 3).

174. Prior to providing this handwritten narrative, Dallas Kozel never alleged Mr. Kozel struck her.

175. Upon information and belief, Julianna Hamilton's and Kimberly R. Rosborough's continued use of EMDR therapy with Dallas Kozel and I.L.K. caused them to develop false memories of abuse, which became more severe, as evidenced by the material inconsistencies in

their allegations between the first and second interviews, as well as those contained in the handwritten narrative.

176. Upon information and belief, Kimberly R. Rosborough and Julianna Hamilton encouraged Dallas Kozel and I.L.K. to disclose the false memories of abuse that were created through Julianna Hamilton's and Kimberly R. Rosborough's negligent treatment of Dallas Kozel and I.L.K.. Further, Ms. Hamilton and Ms. Rosborough knew that such disclosures were directed at Mr. Kozel, and that he would suffer severe harm as a result.

177. While Deborah Kozel was seeking \$25,376.00 per month in child support payments from Mr. Kozel, on July 30, 2013, the District Court of the 303rd Judicial District in Dallas County, Texas issued a Temporary Order which reduced all Child Support payment obligations to \$1,236.92 and for I.L.K. only. A true and correct copy of this July 30, 2013 Order is attached hereto as Exhibit "N".

178. On August 5, 2013, Detective Rick filed a criminal complaint and filed for an arrest warrant for Mr. Kozel. (See Ex. "K" at 11). A true and correct copy of the Criminal Complaint is attached hereto as Exhibit "O".

179. Detective Rick's investigation spanned a period of seven months.

180. Upon information and belief, Detective Rick's investigation only included the following:

- a. A single telephone call with Yavapai County Arizona Sheriff Office Deputy Don Owen;
- b. A review of Deputy Owen's official report and a review of Deputy Owen's interview of Dallas Kozel;
- c. Multiple telephone calls with Attorney Spears;
- d. Two interviews with Dallas Kozel;

- e. Two interviews with I.L.K.;
- f. A review of a handwritten narrative provided by Dallas Kozel regarding her allegations of abuse;
- g. Documents provided by Deborah Kozel regarding Dallas Kozel and I.L.K.'s medical records; and
- h. A review of drawings of Mr. Kozel's residences prepared by I.L.K.

(See Ex. "K").

Detective Rick's Unconstitutional Actions

181. Detective Rick's conduct during the investigation was afoul of the Constitutional mandates required of his position as a sworn police officer and criminal investigator. While conducting his investigation and prior to filing criminal charges against Mr. Kozel, Detective Rick, *inter alia*, failed to properly establish probable cause, in that, he:

- a. failed to interview the only identified eyewitness as named by the accusers;
- b. failed to interview the mother of the accusers to establish a motive to fabricate their allegations by coaching them to lie about their experiences;
- c. failed to consider multiple, glaring and material inconsistencies provided by the accusers, especially the factual differences in their timelines of abuse;
- d. failed to question the accusers and their supporters about their motives;
- e. failed to corroborate the bald allegations made by the accusers, specifically by not obtaining travel records to determine whether Dallas Kozel and I.L.K. were actually in their father's care for the dates that they claimed he abused them, and would establish that Mr. Kozel had not seen his daughters since 2006 or in not reconciling I.L.K.'s drawing of Mr. Kozel's home that failed to include a second story and a master bedroom where many instances of abuse allegedly took place;

- f. failed to independently corroborate the accusers' statements of events by not obtaining statements or interviewing any of the numerous healthcare professionals that interacted with Dallas Kozel and I.L.K. over many years;
- g. failed to obtain complete medical and mental health records of each accuser to substantiate the physical and psychological manifestations that ordinarily would result from the purported abuse;
- h. failed to establish a precise timeline of reporting, specifically by not obtaining statements from the teachers or therapists who purportedly received disclosures of abuse from the accusers;
- i. failed to conduct his investigation within acceptable law enforcement standards applicable to child sex abuse cases; and
- j. failed to act in the interests of justice by proceeding without probable cause and in conscious shocking defiance of Plaintiff's Constitutional rights.

182. On August 5, 2013, Detective Rick, in support of the criminal charges, submitted an Affidavit of Probable Cause in which he outlined certain allegations of Dallas Kozel and I.L.K. against Mr. Kozel. (See Ex. "O" at 6-9).

183. Detective Rick failed to include material information in his Affidavit of Probable Cause regarding the allegations of Dallas Kozel and I.L.K. that a judge would want to know prior to issuing an arrest warrant, including, but not limited to the information missing from Detective Rick's investigation and included at Paragraph 201, *supra*.

184. In that regard, his Affidavit of Probable Cause failed to identify the material inconsistencies from the interviews of Dallas Kozel (3) and I.L.K. (2). (See Ex. "O" at 6-9).

185. Most shockingly, Detective Rick failed to identify that **both** Dallas Kozel and I.L.K. identified Deanna Kozel as an eyewitness and that he had willfully decided not to interview Deanna Kozel. (Ex. "O" at 6-9).

186. Detective Rick's Affidavit of Probable Cause also contains material falsehoods relating to his investigation, including, but not limited to, the fact that Detective Rick conducted at least two interviews each of Dallas Kozel and I.L.K., and that Dallas Kozel was interviewed by Deputy Owen and prepared two written contradictory statements regarding her allegations, Detective Rick willfully failed to disclose that he conducted two interviews of each accuser, and only stated that "[a]n interview" was conducted with each girl. (Id.).

187. Upon information and belief, had Detective Rick properly disclosed (a) the multiple interviews of Dallas Kozel and I.L.K., (b) that both girls identified Deanna Kozel as the only eyewitness, (c) that he failed to interview that eyewitness, and (d) the material inconsistencies in the girls' allegations, the lack of probable cause, and the facial deficiency of Detective Rick's Affidavit of Probable Cause would have been apparent to anyone.

Criminal Charges Filed Against Mr. Kozel

188. On August 5, 2013, six days after Deborah Kozel's child support payments were reduced by eighty-one percent, Detective Rick filed a criminal complaint charging Mr. Kozel with two counts of Aggravated Indecent Assault, two counts of Indecent Assault, two counts of Endangering the Welfare of Children, two counts of Unlawful Contact with Children, and two counts Corruption of Minors, all felonies. (See Ex. "O").

189. On August 5, 2013, a warrant was issued to take Mr. Kozel into custody. (See Ex. "K" at 24).

190. When Mr. Kozel learned of the existence of the arrest warrant, rather than suffer the embarrassment of being hauled away in handcuffs, he traveled to Pittsburgh, Pennsylvania to voluntarily surrender to authorities.

191. After turning himself in, Mr. Kozel nevertheless had to spend several hours in jail while awaiting his appearance before the court.

192. On August 28, 2013, Mr. Kozel's bail was set at \$100,000.00, and other liberty restrictions were imposed as conditions of bail, including, surrendering his passport and restricting him from seeing his two children.

193. On August 29, 2013, the Pittsburgh Post-Gazette published a news article regarding the allegations made against Mr. Kozel by Dallas Kozel and I.L.K. This news article reported the allegations that Mr. Kozel touched Dallas Kozel and I.L.K. inappropriately in the bath, recorded Dallas Kozel and I.L.K. using a video camera, and followed the girls into the bedroom where he allegedly inappropriately touched the girls or touched himself sexually. A copy of this August 29, 2013 news article is attached hereto as Exhibit "T". This news article was published in the Pittsburgh Post-Gazette's written publication as well as in its online publication. The Pittsburgh Post-Gazette has over 893,000 daily readers of its print publication and over 2.6 million online visitors.

194. On August 30, 2013, Detective Rick faxed a copy of the criminal charges to Attorney Spears.

195. On or about September 9, 2013, more than a month after filing his charges and more than eight months after he first initiated an investigation, Detective Rick, for the first time, spoke to the only eyewitness identified by both accusers: Deanna Kozel.

196. Detective Rick failed to record or otherwise create any record of this September 9, 2013 conversation with Deanna Kozel.

197. According to the criminal trial transcript Deanna Kozel informed Detective Rick during this September 9, 2013 telephone call and testified under oath, that the charges against Mr. Kozel were not true. (Ex. “P” at 192:5-10).

198. At the request of Deanna Kozel, on November 5, 2013, three months after he filed his Affidavit of Probable Cause and two months after he first informally spoke with her, Detective Rick, finally interviewed Deanna Kozel. (See Ex. “K” at 12). This was the first and only record created by Detective Rick of any interview or other conversation with Deanna Kozel.

199. While this was the only record created by Detective Rick of an interview with Deanna Kozel, and that of the only eyewitness as identified by the accusers, Detective Rick failed to take any notes, make any recording, or otherwise write anything down during this interview.

200. In fact, Detective Rick failed to accurately report or otherwise record Deanna Kozel’s statements to him in his report.

201. Deanna Kozel provided Detective Rick with material exculpatory evidence, the same evidence to which she testified to, under oath, at Mr. Kozel’s criminal trial. This exculpatory evidenced included, but was not limited to, the following:

- a. The charges against Mr. Kozel are not true. (Ex. “P” at 192:5-10).
- b. She never walked in on Mr. Kozel molesting Dallas Kozel. (Id. at 185:1-2).
- c. She never walked in on Mr. Kozel putting cream on Dallas Kozel’s vagina. (Id. at 185:3-5).
- d. Dallas Kozel and I.L.K. had a “good time when they were with” Mr. Kozel. (Id. at 167:18-20).

- e. Dallas Kozel and I.L.K. had a “great” relationship with Mr. Kozel and Mr. Kozel was a “loving father” and a “doting dad.” (Id. at 169:1-4).
- f. Dallas Kozel and I.L.K. were “always hugging and kissing all over their dad.” (Id.).
- g. Dallas Kozel and I.L.K. never appeared to her to be afraid of Mr. Kozel. (Id. at 169:5-6).
- h. Dallas Kozel and I.L.K. never expressed to Deanna Kozel that they were afraid of Mr. Kozel. (Id. at 169:7-9).
- i. She was “always there when the girls were” at Mr. Kozel’s residence. (Id. at 173:7-8).
- j. Mr. Kozel did not sleep in bed with them, did not bathe them, and did not dress them. (Ex. “K” at 12; Ex. “P” at 169:14-22).
- k. Mr. Kozel was too large to fit in the shower in the loft, where I.L.K. states she was molested. (Ex. “P” at 186:5-7; 186:13-14).
- l. She would bathe both girls at the same time. (Id. at 171:5-6).
- m. Mr. Kozel did not have purple soap in his house. (Id. at 185:13-15).
- n. She would put both girls to bed. (Id. at 171:11-12).
- o. She was the primary caregiver for both accusers. (Ex. “K” at 12; Ex. “P” at 169:12-13).
- p. Mr. Kozel never laid in bed with the girls and never took a nap with them. (Ex. “K” at 12).
- q. She never saw Mr. Kozel “in bed with either of the girls.” (Ex. “P” at 172:5-8; 172:20-22).
- r. Mr. Kozel never brought either girl into the master bedroom. (Id. at 172:23-25; 173:9-25).
- s. Mr. Kozel never spanked, slapped, or hit either Dallas Kozel or I.L.K. (Id. at 174:22-23).

- t. The frequency with which Dallas Kozel and I.L.K. alleged they came to visit Mr. Kozel was actually much less than the girls alleged. (Ex. "K" at 12).
- u. Dallas Kozel and I.L.K. slept together in Dallas Kozel's room, and not with Mr. Kozel. (Id.).
- v. She had a great relationship with Dallas Kozel and I.L.K. and they always told her they wanted Deanna Kozel to be their mother. (Id.). In fact, Dallas Kozel and I.L.K. loved Deanna Kozel. In fact, they loved Deanna Kozel so much, that they both told Deanna that they "wish [she] was [their] momma." (Ex. "P" at 175:18).
- w. Dallas Kozel and I.L.K. loved Mr. Kozel and always gave him hugs and kisses. (Ex. "K" at 12).
- x. Mr. Kozel did not walk around the house naked and did not wear boxer shorts. (Ex. "P" at 185:16-21).
- y. "Every time [Dallas Kozel and I.L.K.] were in Pittsburgh with [Mr. Kozel], they always cried and did not want to go back to their mother." (Ex. "K" at 12).

202. During this interview, Deanna Kozel also informed Detective Rick that "the criminal charges are false and should not be filed." She further stated that Mr. Kozel's ex-wife, Deborah Kozel "needs money and they are in a court battle to get her more money." She also informed Detective Rick that Deborah Kozel "had the kids file the charges against [Mr. Kozel] because they needed to get their story together for the courts. They're [sic] court action was in August 2013 and since they are not getting anything they came up with this story." (Id.).

203. Upon information and belief, had Detective Rick made an effort to interview Deanna Kozel prior to filing the criminal complaint, he would have learned of the above exculpatory evidence, including the motives of Dallas Kozel, I.L.K., and Deborah Kozel, and would not have omitted evidence that defeats or negates probable cause such that a judge would have wanted to know prior to issuing a warrant for Mr. Kozel's arrest.

204. On November 6, 2013, a preliminary hearing was held.

205. On November 6, 2013, the Pittsburgh Post-Gazette again published a news article regarding the allegations made against Mr. Kozel by Dallas Kozel and I.L.K. This news article reported that Mr. Kozel was ordered to stand trial for inappropriately touching the girls over several years when they visited his home. A copy of this August 29, 2013 news article is attached hereto as Exhibit "U". This article was also republished in the Pittsburgh News, which is attached hereto as Exhibit "V".

206. At the November 6, 2013 preliminary hearing, in attendance were:

- a. Attorney Spears, despite the fact that the Kozel Defendants all separately admitted and denied that Attorney Spears was their attorney;
- b. Margaret N. Fox, Esquire, associate of Lewis, Babcock & Griffin, LLP, current attorney for Deborah Kozel, Dallas Kozel, and I.L.K.; and
- c. Ashley Kozel, Esquire, a licensed Florida attorney, former wife of Todd Kozel, Mr. Kozel's brother; and
- d. Sandee Kozel, former wife of Robert Kozel, Mr. Kozel's brother.

207. During the testimony of Dallas Kozel and I.L.K., Attorney Spears positioned himself in direct view of the accusers and, while testifying, Dallas Kozel and I.L.K. continually focused on Attorney Spears while proffering answers.

208. On January 2, 2014, Mr. Kozel was arraigned before Judge McDaniel in open court.

209. From August of 2013, the date Mr. Kozel became aware of the false accusations against him, through the present, Mr. Kozel has suffered severe and unremitting physical

ailments due to the stress and anxiety of being falsely accused of child molestation by his own children, to wit:

- a. Insomnia;
- b. Diarrhea;
- c. Nausea;
- d. Gastrointestinal discomfort;
- e. Anxiety;
- f. Chest pains;
- g. Suicidal ideation;
- h. Severe headaches;
- i. Crying;
- j. Depression and hopelessness; and
- k. Weight loss.

210. From January 2, 2014, through July 22, 2014, Mr. Kozel hired a legal team to defend him from the false allegations and incurred legal expenses that exceeded \$500,000.00.

211. The severity of the charges placed Mr. Kozel's case with the Sex Offender Court, a specialized docket with a rapidly proceeding court calendar, which gave him little time to cope with the socially stigmatizing charges that further increased his anxiety and terror, and prepare his defense.

212. Mr. Kozel's significant felony charges subjected him, had he been convicted, to an immediate and substantial prison sentence likely measured by the duration of his natural life and requiring a mandatory, lifetime registration as a Megan's Law registered sex-offender.

213. On July 22, 2014, a non-jury trial was held before Judge McDaniel in the Court of Common Pleas of Allegheny County, Criminal Division.

214. After approximately 5 hours of testimony, Judge McDaniel acquitted Mr. Kozel of all charges. (See Ex. "P" at 198-199).

215. Judge McDaniel stated on the record:

In this case I see two very, very sad victims. Now my question is to decide whether they are victims of sexual abuse or whether they're victims of some **cruel hoax perpetrated most likely by their mother**. I saw the videos and the pictures of the children when they were young. They were clearly happy, affectionate children. There were a number of inconsistencies, but the one thing that I just can't get over is the reporting timeline.

(Id.) (emphasis added).

216. On July 22, 2014, the Pittsburgh Post-Gazette published a news article of Mr. Kozel's acquittal. However, this article again included specific allegations made against Mr. Kozel by Dallas Kozel and I.L.K. of sexual abuse. A copy of this July 22, 2013 news article is attached hereto as Exhibit "W".

217. The public media reports of the false charges and the ensuing malicious prosecution have devastated Mr. Kozel and his family.

218. The crimes he was falsely accused of are among the most horrific crimes imaginable and the charges were completely false, yet the damage to his reputation was complete and irreparable.

219. Mr. Kozel incurred well in excess of \$500,000.00 in legal fees, costs, and expenses in connection with the false allegations of sexual abuse.

COUNT I
Civil Conspiracy (Supplemental State Law Claim)
Deborah L. Kozel, Dallas C. Kozel, I.L.K. and Michael E. Spears

220. The preceding paragraphs are incorporated by reference as if set forth fully herein.

221. Defendants Dallas Kozel, Deborah Kozel, I.L.K., and their personal injury attorney, Spears, acted in concert with the common purpose being to perpetuate a fraud and to

obtain assets from Mr. Kozel as described herein. Defendants pursued this unlawful purpose by developing and implementing a scheme to manufacture and then report to law enforcement false allegations of criminal conduct by Mr. Kozel.

222. Defendants, with the shared motive and intent to perpetuate a fraud or perform another unlawful act against Mr. Kozel, provided law enforcement with false information and/or deceitfully concealed the truth.

223. Defendants, acting together with malice, initiated false criminal charges against Mr. Kozel and took other overt acts in furtherance of their common purpose to injure Mr. Kozel.

224. Defendants, in furthering their conspiracy, engaged in an ongoing course of conduct aimed at harming, damaging or prejudicing Mr. Kozel's rights.

225. Defendants' conspiracy resulted in the provision of materially false testimony by Dallas Kozel and I.L.K. in the criminal trial in which Mr. Kozel was acquitted of all wrongdoing.

226. As a result of these Defendants' actions, Mr. Kozel suffered compensable damages and personal harm, including restraint on his liberty, severe embarrassment, loss of reputation and standing in the community, and legal costs.

WHEREFORE, David F. Kozel demands judgment in his favor and against Deborah L. Kozel, Dallas C. Kozel, I.L.K. and Michael E. Spears, and prays for appropriate relief, including compensatory and punitive damages.

COUNT II
Malicious Prosecution
Deborah L. Kozel

227. The preceding paragraphs are incorporated by reference as if set forth fully herein.

228. The criminal proceedings against Mr. Kozel were not supported by probable cause but were based on false statements promulgated by Deborah Kozel.

229. Deborah Kozel made false claims regarding Mr. Kozel to law enforcement and, upon information and belief, convinced her daughters, Dallas Kozel and I.L.K., to similarly make false claims regarding Mr. Kozel.

230. Upon information and belief, Defendant's own false statements and her encouragement of others to make additional false statements resulted in the initiation of criminal proceedings. Deborah Kozel's false statements were not made with the purpose of bringing Mr. Kozel to justice, but instead were made to harass, embarrass, and to obtain money from him.

231. Upon information and belief, Deborah Kozel acted with malice in making the false statements, and in encouraging her daughters to make similarly false statements upon which the charges against Mr. Kozel were based.

232. Those accusations against Mr. Kozel were proven false when, on July 22, 2014, Judge McDaniel acquitted Mr. Kozel of all charges.

233. As a result of Deborah Kozel's actions, Mr. Kozel suffered compensable damages and personal harm, including restraint on his liberty, severe embarrassment, loss of reputation and standing in the community, and legal costs.

WHEREFORE, David F. Kozel respectfully requests that this honorable Court enter judgment in his favor and against Deborah L. Kozel in an amount in excess of \$75,000.00, together with costs, attorney's fees, punitive damages and any other relief this Court deems just and proper under the circumstances of this matter.

COUNT III
Malicious Prosecution
Dallas C. Kozel and I.L.K.

234. The preceding paragraphs are incorporated by reference as if set forth fully herein.

235. The criminal proceedings against Mr. Kozel were not supported by probable cause but were based on false statements promulgated by Dallas Kozel and I.L.K.

236. The accusations against Mr. Kozel by Dallas Kozel and I.L.K. were proven false when, on July 22, 2014, Judge McDaniel acquitted Mr. Kozel of all charges.

237. Dallas Kozel and I.L.K. were motivated by malice towards Mr. Kozel in making the false statements upon which the charges against Mr. Kozel were based.

238. The criminal proceedings were initiated due to false statements made by Dallas Kozel and I.L.K., for a purpose other than to bring Mr. Kozel to justice, including an attempt to harass, embarrass, punish, and to obtain money from Mr. Kozel.

239. Defendants' false statements ultimately culminated in their false testimony being offered at Mr. Kozel's criminal trial.

240. As a result of the actions of Dallas Kozel and I.L.K., Mr. Kozel suffered compensable damages and personal harm, including restraint on his liberty, severe embarrassment, loss of reputation and standing in the community, and legal costs.

WHEREFORE, David F. Kozel respectfully requests that this honorable Court enter judgment in his favor and against Dallas C. Kozel and I.L.K. in an amount in excess of \$75,000.00, together with costs, attorney's fees, punitive damages and any other relief this Court deems just and proper under the circumstances of this matter.

COUNT IV
Malicious Prosecution
Michael E. Spears

241. The preceding paragraphs are incorporated by reference as if set forth fully herein.

242. Upon information and belief, the criminal proceedings against Mr. Kozel were not supported by probable cause but were based on false statements promulgated by Attorney Spears.

243. Upon information and belief, Attorney Spears made false claims regarding Mr. Kozel to law enforcement and convinced Dallas Kozel, I.L.K., and Deborah Kozel, to similarly make false claims regarding Mr. Kozel.

244. Attorney Spears contacted Detective Rick at the Northern Regional Police Department to ensure that criminal proceedings were initiated against Mr. Kozel.

245. The accusations against Mr. Kozel were proven false, when on July 22, 2014, Judge McDaniel acquitted Mr. Kozel of all charges.

246. Attorney Spears was motivated by malice towards Mr. Kozel in making the false statements upon which the charges against Mr. Kozel were based.

247. Upon information and belief, the criminal proceedings were initiated due to false statements made by Attorney Spears, for a purpose other than to bring Mr. Kozel to justice, including an attempt to harass, embarrass, and to obtain money from Mr. Kozel.

248. As a result of Attorney Spears' actions, Mr. Kozel suffered compensable damages and personal harm, including restraint on his liberty, severe embarrassment, loss of reputation and standing in the community, and legal costs.

WHEREFORE, David F. Kozel respectfully requests that this honorable Court enter judgment in his favor and against Michael E. Spears, in an amount in excess of \$75,000.00, together with costs, attorney's fees, punitive damages and any other relief this Court deems just and proper under the circumstances of this matter.

COUNT V
Abuse of Process
Dallas C. Kozel, Deborah L. Kozel, I.L.K.,
and Michael E. Spears

249. The preceding paragraphs are incorporated by reference as if set forth fully herein.

250. On August 5, 2013, Detective Rick filed a criminal complaint against Mr. Kozel, in which Mr. Kozel was charged with two counts of Aggravated Indecent Assault, two counts of Indecent Assault, two counts of Endangering the Welfare of Children, two counts of Unlawful Contact with Children, and two counts Corruption of Minors.

251. The criminal proceedings were initiated due to the false statements made by these Defendants.

252. The primary purpose of Defendants in initiating and continuing to participate in the criminal proceedings was to harass, punish, and to obtain money from Mr. Kozel.

253. In furtherance of this purpose, upon information and belief, Attorney Spears and Deborah Kozel encouraged Dallas Kozel and I.L.K. to offer false testimony during the criminal proceedings.

254. Also in furtherance of this purpose, Dallas Kozel and I.L.K. offered false testimony during the criminal proceedings.

255. Defendants did not seek to bring Mr. Kozel to justice by initiating and continuing to participate in the criminal proceedings and therefore, the process was not used for a lawful process.

256. As a result of these Defendants' abuse of process, Mr. Kozel suffered compensable damages and personal harm, including restraint on his liberty, severe embarrassment, loss of reputation and standing in the community, and legal costs.

WHEREFORE, David F. Kozel respectfully requests that this honorable Court enter judgment in his favor and against Dallas C. Kozel, Deborah L. Kozel, I.L.K., and Michael E. Spears, in an amount in excess of \$75,000.00, together with costs, attorney's fees, punitive damages and any other relief this Court deems just and proper under the circumstances of this matter.

COUNT VI

Defamation *Per Se*

**Dallas C. Kozel, Deborah L. Kozel, I.L.K.,
and Michael E. Spears**

257. The preceding paragraphs are incorporated by reference as if set forth fully herein.

258. Defendants made materially false claims of sexual abuse against Mr. Kozel to the Yavapai County Sheriff's Office, the Northern Regional Police Department and/or the District Attorney's Office in Allegheny County, Pennsylvania, and other parties, in order to cause his arrest and prosecution. Further, Defendants published these statements throughout the prosecution.

259. The recipients of this information, including the law enforcement agencies listed above, understood that that these statements were intended to apply to Mr. Kozel and understood the defamatory purpose of these statements.

260. These statements were defamatory *per se* because they related to false accusations of sexual misconduct and criminal conduct against Mr. Kozel.

261. These Defendants made those false statements that ascribed criminal conduct to Mr. Kozel knowingly, maliciously or with reckless disregard for the truth, when they knew, or should have known, the publication of such statements would adversely impact him.

262. Defendants had no privilege to make such false statements.

263. As a result of these Defendants' actions, Mr. Kozel suffered irreparable reputational harm, and incurred compensable damages, including restraint on his liberty, severe embarrassment, loss of standing in the community, and legal costs.

WHEREFORE, David F. Kozel respectfully requests that this honorable Court enter judgment in his favor and against Dallas C. Kozel, Deborah L. Kozel, I.L.K., and Michael E. Spears, in an amount in excess of \$75,000.00, together with costs, attorney's fees, punitive damages and any other relief this Court deems just and proper under the circumstances of this matter.

COUNT VII

Intentional Infliction of Emotional Distress **Dallas C. Kozel, Deborah L. Kozel, I.L.K.,** **Michael E. Spears and Detective Scott J. Rick**

264. The preceding paragraphs are incorporated by reference as if set forth fully herein.

265. The instigation of the criminal investigation of Mr. Kozel, the illegal arrest and seizure, and the criminal charges and prosecution brought against Mr. Kozel, as described herein above, were all undertaken, initiated, instituted or procured by Defendants.

266. As outlined in the preceding paragraphs, Defendants engaged in conduct that was:

- a. intentional, reckless and/or willful;
- b. extreme and outrageous;
- c. without privilege; and
- d. without justification.

267. Defendants, through their conduct, desired to inflict serious emotional distress upon Mr. Kozel and knew, with substantial certainty, that distress to Mr. Kozel would result as a consequence of their conduct.

268. Defendants' conduct, leading up to and throughout the course of the investigation, institution and promulgation of criminal proceedings, has been so outrageous in character and so extreme in degree, as to go beyond all possible bounds of decency, such that it is atrocious and utterly intolerable in a civilized society.

269. Defendants' conduct has been egregious in nature, such that it has caused severe distress to Mr. Kozel.

270. It was foreseeable and certain the Defendants' conduct would cause Mr. Kozel to suffer severe emotional distress.

271. Mr. Kozel has suffered severe emotional distress, which has manifested into physical symptoms and ailments that can be demonstrated by and through competent medical evidence.

272. Defendants' conduct was the direct and proximate cause of Mr. Kozel's emotional distress and physical ailments described in this Amended Complaint, such that, Mr. Kozel has suffered compensable harm from:

- a. Gross deprivation of his Constitutional rights and liberty interests;
- b. Severe emotional distress, fright, horror and shock;
- c. Emotional trauma and suffering;

- d. Insomnia;
- e. Diarrhea;
- f. Nausea;
- g. Gastrointestinal discomfort;
- h. Anxiety;
- i. Chest pains;
- j. Suicidal ideation;
- k. Severe headaches;
- l. Crying;
- m. Depression and hopelessness; and
- n. Weight loss.

WHEREFORE, David F. Kozel respectfully requests that this Honorable Court enter judgment in his favor and against Dallas C. Kozel, Deborah L. Kozel, I.L.K., Michael E. Spears, and Detective Scott J. Rick in an amount in excess of \$75,000.00, together with costs, attorney's fees, punitive damages and any other relief this Court deems just and proper under the circumstances of this matter.

COUNT VIII

Violation of 42 U.S.C. § 1983: Failure to Investigate

Detective Scott J. Rick

273. The preceding paragraphs are incorporated by reference as if set forth fully herein.

274. Detective Rick was the sole investigator for the case against Mr. Kozel and was responsible for conducting a thorough investigation, as such, Detective Rick was acting under the color of state law.

275. Detective Rick was present during interviews of Dallas Kozel and I.L.K. on February 27, 2013, June 6, 2013, and July 7, 2013.

276. Detective Rick was present to hear material inconsistencies and changes in both Dallas Kozel's story and I.L.K.'s story from one interview to the next.

277. Because of existing and readily available evidence, the dubious veracity of the statements of Dallas Kozel and I.L.K. was apparent to Detective Rick.

278. Detective Rick was in periodic contact with Deborah Kozel and Attorney Spears throughout the investigation.

279. Prior to the initiating charges, Detective Rick failed to interview the only eyewitness identified by the accusers.

280. Detective Rick knowingly and deliberately, or with a reckless disregard for the truth, made false statements or omissions that created a falsehood in applying for a warrant to be issued against Mr. Kozel.

281. Such statements or omissions were material, or necessary, to the finding of probable cause against Mr. Kozel.

282. Furthermore, after the warrant was issued against Mr. Kozel, but prior to the Magistrate Hearing on November 6, 2013, Detective Rick interviewed Deanna Kozel, who provided exculpatory information.

283. Despite his awareness of exculpatory evidence that a reasonable person would have known a judge would wish to know, Detective Rick did not pursue any further investigation into the allegations against Mr. Kozel or otherwise make such evidence known.

284. Detective Rick's failure to investigate corroborating or exculpatory information constituted intentional or reckless conduct that "shocks the conscience."

285. Detective Rick's failure to investigate resulted in a false arrest in violation of Mr. Kozel's clearly established Fourth Amendment rights.

286. As a result of Defendant's actions, Mr. Kozel suffered a deprivation of his constitutionally protected rights, and damages and personal harm, including severe embarrassment, loss of reputation and standing in the community, and legal costs.

WHEREFORE, David F. Kozel respectfully requests that this honorable Court enter judgment in his favor and against Detective Scott J. Rick in an amount in excess of \$75,000.00, together with costs, attorney's fees, punitive damages and any other relief this Court deems just and proper under the circumstances of this matter.

COUNT IX
Violation of 42 U.S.C. § 1983: Fourteenth Amendment Substantive Due Process and
Fourth Amendment Search and Seizure
Detective Scott J. Rick

287. The preceding paragraphs are incorporated by reference as if set forth fully herein.

288. Detective Rick was acting under the color of state law.

289. While acting under the color of state law, Detective Rick violated Mr. Kozel's clearly established constitutional and statutory rights.

290. Detective Rick's violation of Mr. Kozel's constitutional or statutory rights caused injury to Mr. Kozel.

291. Detective Rick's actions were so ill-conceived and/or malicious that it shocks the conscience.

292. There were no exigent circumstances that justified Detective Rick's wantonly deficient investigation.

293. Detective Rick was deliberately indifferent to a substantial risk of harm to Mr. Kozel and did nothing to prevent it.

294. Detective Rick conducted the investigation with such deliberate indifference so as to shock the conscience.

295. Detective Rick was more than merely negligent in handling and conducting the investigation.

296. Detective Rick drafted and prepared the willfully deficient Affidavit of Probable Cause that contained false statements and omissions of fact which were instrumental or necessary to the finding of probable cause.

297. A reasonable and prudent detective, similarly situated as Detective Rick, could find that several contrary factual findings existed, such that probable cause did not exist.

WHEREFORE, David F. Kozel respectfully requests that this honorable Court enter judgment in his favor and against Detective Scott J. Rick in an amount in excess of \$75,000.00, together with costs, attorney's fees, punitive damages and any other relief this Court deems just and proper under the circumstances of this matter.

COUNT X

Violation of 42 U.S.C. § 1983: Malicious Prosecution
Detective Scott J. Rick, Dallas Kozel, I.L.K., Deborah Kozel,
and Michael E. Spears

298. The preceding paragraphs are incorporated by reference as if set forth fully herein.

299. Defendants initiated a criminal proceeding.

300. The criminal proceeding ended in Mr. Kozel's favor by an acquittal.

301. Defendants acted with malice or ill will.

302. Defendants caused to be filed a criminal complaint against Mr. Kozel without probable cause.

303. Defendants falsely represented probable cause by dubious and inconsistent statements by the accusers.

304. A review of the accusers' statements reveals various material discrepancies that cast significant doubt as to the credibility and veracity of the accusers.

305. All Defendants were aware of exculpatory evidence that established the accusers' unreliability.

306. A reasonable person, acting without malice, ill will or without reckless disregard for the truth, would not have believed that Mr. Kozel violated the law.

307. Defendants acted maliciously or for a purpose other than bringing Mr. Kozel to justice.

308. Mr. Kozel suffered deprivation of liberty consistent with the concept of seizure as a consequence of a legal proceeding.

WHEREFORE, David F. Kozel respectfully requests that this Honorable Court enter judgment in his favor and against Dallas C. Kozel, Deborah L. Kozel, I.L.K., Michael E. Spears, and Detective Scott J. Rick in an amount in excess of \$75,000.00, together with costs, attorney's fees, punitive damages and any other relief this Court deems just and proper under the circumstances of this matter.

COUNT XI
Violation of 42 U.S.C. § 1983: False Arrest
Detective Scott J. Rick

309. The preceding paragraphs are incorporated by reference as if set forth fully herein.

310. Detective Rick was acting under the color of state law.

311. While acting under the color of state law, Detective Rick violated Mr. Kozel's clearly established constitutional and statutory rights.

312. The constitutional or statutory rights violated by Detective Rick are clearly established.

313. Detective Rick's violation of Mr. Kozel's constitutional or statutory rights caused injury to Mr. Kozel.

314. Detective Rick's drafted and prepared the Affidavit of Probable Cause and criminal complaint for the underlying criminal proceedings.

315. The criminal proceeding ended in Mr. Kozel's favor by an acquittal.

316. The Affidavit of Probable Cause drafted and prepared by Detective Rick was deficient.

317. Detective Rick knowingly and deliberately, or with a reckless disregard for the truth, made false statements or omissions that created falsehoods in his Affidavit of Probable cause.

318. The Affidavit of Probable Cause authored by Detective Rick contained material misrepresentations and omissions of fact.

319. Detective Rick's false statements or omissions are material, instrumental or necessary, to the finding of probable cause

320. A reasonable and prudent detective, similarly situated as Defendant, would find that several contrary factual findings exist, such that there was no probable cause to arrest.

WHEREFORE, David F. Kozel respectfully requests that this honorable Court enter judgment in his favor and against Detective Scott J. Rick in an amount in excess of \$75,000.00, together with costs, attorney's fees, punitive damages and any other relief this Court deems just

and proper under the circumstances of this matter.

COUNT XII
Professional Negligence
Julianna Hamilton, LPC

321. The preceding paragraphs are incorporated by reference as if set forth fully herein.

322. At all times relevant hereto, Defendant Hamilton was an employee of Defendant Spring Ridge Academy, who was acting within the scope of her duties and obligations.

323. Defendant and Dallas Kozel were engaged in a professional relationship, wherein Spring Ridge Academy's employee, Julianna Hamilton, treated and provided Plaintiff's daughter Dallas Kozel with counseling/therapy sessions.

324. Plaintiff was a readily identifiable and reasonably foreseeable third-party as he was the subject of mandatory reporting requirements that would have been triggered by the false allegations of sexual abuse.

325. Defendant Julianna Hamilton had a duty to act with reasonable and ordinary care when providing counseling/therapy sessions to Dallas Kozel.

326. Defendant Julianna Hamilton breached her obligations by deviating from the standard of care in regard to the psychological care provided to Dallas Kozel in general and in the following particulars:

- a. Failing to maintain appropriate professional boundaries in her work with Dallas Kozel;
- b. Failing to consider and maintain a differential diagnosis *i.e.* potential sexual abuse by her father or caught in an emotional triangle in which her mother Debbie Kozel urged the development of false memories that distorted the perception of her father, or an intentionally perpetrated fraud by Debbie Kozel that involved her daughters. The third differential diagnosis is supported by the conflict and financial issues presented by Debbie Kozel which was known or should have been known;

- c. Failing to recognize that it was Debbie Kozel that initially prompted the inquiry regarding sexual abuse by reminding a therapist of the “bathtub” incident;
- d. Failing to follow professional procedures *i.e.* by apparently responding to communication from Kimberly R. Rosborough, with the assistance of Debbie Kozel, arranging for Arizona authorities to interview Dallas Kozel about allegations of sexual abuse on a Saturday for an “urgent” interview even before she had listened to Dallas Kozel in the therapy sessions, initiating said actions improperly so as to correspond with Debbie Kozel’s arrival in Arizona, in presenting leading comments to the authorities, in asking leading questions in the interview, in inappropriately acting as a scribe for Dallas’ written statement;
- e. Failing to continually evaluate her assessment and diagnosis to consider other alternatives despite her ability to have obtained a comprehensive psychological evaluation done by Scott J. Miller, Psy.D., dated February 14, 2012, which described Dallas Kozel’s complex psychological issues;
- f. By using a therapeutic technique (EMDR) which can encourage the development of false memories especially when used with adolescents with a diagnosis of trauma

327. Hamilton’s deviations from the standard of care, as outlined above, throughout the course of Dallas Kozel’s counseling/therapy sessions, resulted in severe harm to Dallas Kozel, by the implantation of false memories of childhood sexual and physical abuse by her father, Mr. Kozel, into the mind of Dallas Kozel.

328. Defendant Julianna Hamilton, therefore, negligently harmed Dallas Kozel and induced Dallas Kozel into falsely believing that Mr. Kozel sexually and physically abused her as a child.

329. These false accusations against Mr. Kozel necessarily injured him, as they were the basis of the criminal investigation and subsequent prosecution against him.

330. Mr. Kozel suffered severe emotional distress that manifested into physical symptoms and, ultimately, physical injury as well as incurred well in excess of \$500,000.00 in

legal fees, costs, and expenses in connection with the false allegations of sexual abuse and permanent loss to reputation.

331. Mr. Kozel was an identifiable third party and it was reasonably foreseeable that Mr. Kozel would be harmed by the negligent and improper treatment of Dallas Kozel, as it included the implantation of “false memories” of sexual abuse by Mr. Kozel, into the mind of Dallas Kozel.

332. Dallas Kozel did not make false accusations of alleged sexual abuse until after she enrolled in Spring Ridge Academy, where Defendant Julianna Hamilton began “treating” her by encouraging Dallas to believe and promulgate these “false memories”; thus, the harm to Mr. Kozel did not occur prior to Defendant Spring Ridge Academy’s and Defendant Julianna Hamilton’s involvement with Dallas Kozel.

333. Mr. Kozel provided monthly child support payments to Deborah Kozel and, therefore, funded, in part, Dallas Kozel’s enrollment at Spring Ridge Academy; consequently, Defendant Julianna Hamilton owed a duty of care to Mr. Kozel as well.

334. Defendant Julianna Hamilton breached the duty of care owed to Mr. Kozel, as he was an identifiable third-party and it was reasonably foreseeable that her failure to adhere to an acceptable standard of care when engaging in counseling/therapy sessions with Dallas Kozel would cause harm to Mr. Kozel.

335. Specifically, it is reasonably foreseeable that Defendant Julianna Hamilton’s negligent treatment of Dallas Kozel, whereby she engaged in unprofessional counseling with controversial techniques and breached the standard of care caused Dallas Kozel to believe that she was sexually and physically abused by Mr. Kozel, and therefore would cause harm to Mr. Kozel.

WHEREFORE, David F. Kozel respectfully requests that this Honorable Court enter judgment in his favor and against Julianna Hamilton in an amount in excess of \$75,000.00, together with damages and any other relief this Court deems just and proper under the circumstances of this matter.

COUNT XIII
Professional Negligence
Kimberly R. Rosborough, MSW, LISW-CP

336. The preceding paragraphs are incorporated by reference as if set forth fully herein.

337. At all times relevant hereto, Defendant Kimberly R. Rosborough was an owner of Defendant Turning Leaves for Children, LLC, who was acting within the scope of her duties and obligations.

338. Defendant Rosborough and I.L.K. and Dallas Kozel were engaged in a professional relationship, wherein Defendant Rosborough treated and provided I.L.K. and Dallas Kozel with counseling/therapy sessions.

339. Defendant Kimberly R. Rosborough had a duty to act with reasonable and ordinary care when providing counseling/therapy sessions to I.L.K. and Dallas Kozel.

340. Plaintiff was a readily identifiable and reasonably foreseeable third-party as he was the subject of mandatory reporting requirements that would have been triggered by the false allegations of sexual abuse.

341. Defendant Kimberly R. Rosborough breached her obligations by deviating from the standard of care in regard to the psychological care provided to I.L.K and Dallas Kozel in general and in the following particulars:

- a. Failing to maintain appropriate professional boundaries in her work with Dallas Kozel and I.L.K.;

- b. Failing to consider and maintain a differential diagnosis *i.e.* potential sexual abuse by their father or caught in an emotional triangle in which their mother Debbie Kozel urged the development of false memories that distorted the perception of their father, or an intentionally perpetrated fraud by Debbie Kozel that involved her daughters. The third differential diagnosis is supported by the conflict and financial issues presented by Debbie Kozel which was known or should have been known;
- c. Failing to recognize that it was Debbie Kozel that initially prompted the inquiry regarding sexual abuse by reminding the Defendant Rosborough of the “bathtub” incident;
- d. Failing to continually evaluate her assessment and diagnosis to consider other alternatives despite her ability to have obtained a comprehensive psychological evaluation done by Scott J. Miller, Psy.D., dated February 14, 2012, which described Dallas Kozel’s complex psychological issues;
- e. By using a therapeutic technique (EMDR) which can encourage the development of false memories especially when used with adolescents with a diagnosis of trauma;
- f. Failing to follow professional procedures, *i.e.* when I.L.K. revealed that she believed that her father had sexually abused her, Rosborough failed to report the allegation to the South Carolina authorities and instead, with the assistance of Debbie Kozel, induced Julianna Hamilton to involve Arizona authorities.

342. Rosborough’s deviations from the standard of care, as outlined above, throughout the course of I.L.K.’s and Dallas Kozel’s counseling/therapy sessions, resulted in severe harm to the girls, by the implantation of false memories of childhood sexual and physical abuse by their father, Mr. Kozel, into their minds.

343. Defendant Rosborough, therefore, negligently harmed I.L.K. and Dallas Kozel and induced I.L.K. and Dallas Kozel into falsely believing that Mr. Kozel sexually and physically abused them as children.

344. These false accusations necessarily injured Mr. Kozel, as they were the basis of the criminal investigation and subsequent prosecution against him.

345. Mr. Kozel suffered severe emotional distress that manifested into physical symptoms and, ultimately, physical injury as well as incurred well in excess of \$500,000.00 in legal fees, costs, and expenses in connection with the false allegations of sexual abuse and permanent loss of reputation.

346. Mr. Kozel was an identifiable third party and it was reasonably foreseeable that Mr. Kozel would be harmed by the negligent and improper treatment of I.L.K and Dallas Kozel, as it included the implantation of “false memories” of sexual abuse by Mr. Kozel, into their minds.

347. Mr. Kozel provided monthly child support payments to Deborah Kozel and, therefore, funded, in part, the therapy sessions at Turning Leaves for Children, LLC and consequently, Defendant Rosborough owed a duty of care to Mr. Kozel.

348. Defendant Rosborough breached the duty of care owed to Mr. Kozel, as it was reasonably foreseeable that her failure to adhere to an acceptable standard of care when engaging in counseling/therapy sessions with I.L.K. and Dallas Kozel would cause harm to Mr. Kozel.

349. Specifically, it is reasonably foreseeable that Defendant Rosborough’s negligent treatment of I.L.K. and Dallas Kozel, whereby she induced I.L.K. and Dallas Kozel into believing that they were sexually and physically abused by Mr. Kozel, would cause harm to Mr. Kozel.

WHEREFORE, David F. Kozel respectfully requests that this Honorable Court enter judgment in his favor and against Kimberly R. Rosborough in an amount in excess of \$75,000.00, together with punitive damages and any other relief this Court deems just and proper under the circumstances of this matter.

COUNT XV
Vicarious Liability
Spring Ridge Academy, Inc.

350. The preceding paragraphs are incorporated by reference as if set forth fully herein.

351. At all times material hereto, Defendant Spring Ridge Academy acted through its agents, ostensible agents, servants, and employees, including, but not limited to, Defendant Julianna Hamilton, who personally and materially participated in the practice of counseling/treating Defendant Dallas Kozel and, at all such times, held itself out as having the necessary training for the treatment and care of Defendant Dallas Kozel.

352. Defendant Dallas Kozel enrolled in Spring Ridge Academy on March 23, 2012.

353. Defendant Julianna Hamilton acted on Defendant Spring Ridge Academy's behalf when treating and counseling Dallas Kozel while Dallas Kozel attended Spring Ridge Academy. Defendant Julianna Hamilton was acting in the course and scope of her employment with Defendant Spring Ridge Academy and was acting under Defendant Spring Ridge Academy's direct supervision and control.

354. Defendant Spring Ridge Academy, through its employee Defendant Julianna Hamilton negligently breached its duty to Defendant Dallas Kozel and David Kozel, by failing to exercise reasonable and ordinary care in regard to the treatment personally given to Defendant Dallas Kozel.

355. Mr. Kozel was an identifiable third party and it was reasonably foreseeable that Mr. Kozel would be harmed by the negligent and improper treatment of Dallas Kozel, as it included the implantation of "false memories" of sexual abuse by Mr. Kozel, into her mind.

356. The negligent, reckless, careless and/or wanton and willful conduct of Defendant

Spring Ridge Academy and its employee Defendant Julianna Hamilton, in providing care and treatment to Defendant Dallas Kozel, was the direct and proximate cause of the injuries and damages to Mr. Kozel

WHEREFORE, David F. Kozel respectfully requests that this Honorable Court enter judgment in his favor and against Julianna Hamilton and Spring Ridge Academy in an amount in excess of \$75,000.00, together with punitive damages and any other relief this Court deems just and proper under the circumstances of this matter.

COUNT XVI

Vicarious Liability

TLC: Turning Leaves for Children, LLC

357. The preceding paragraphs are incorporated by reference as if set forth fully herein.

358. At all times material hereto, Defendant Turning Leaves for Children, LLC acted through its agents, ostensible agents, servants, and employees, including, but not limited to, Defendant Kimberly R. Rosborough, who personally and materially participated in the practice of counseling/treating Defendants I.L.K. and Dallas Kozel and, at all such times, held itself out as having the necessary training for the treatment and care of Defendants I.L.K. and Dallas Kozel.

359. Defendants I.L.K. and Dallas Kozel were counseled and treated at Turning Leaves for Children, LLC during various time periods relevant hereto.

360. Defendant Kimberly R. Rosborough acted on Defendant Turning Leaves for Children, LLC's behalf when treating and counseling I.L.K. and Dallas Kozel. Defendant Kimberly R. Rosborough was acting in the course and scope of her employment with Defendant Turning Leaves for Children, LLC and was acting under Defendant Turning Leaves for Children,

LLC's direct supervision and control.

361. Defendant Turning Leaves for Children, LLC, through its owner Defendant Kimberly R. Rosborough negligently breached its duty to Defendant I.L.K. and Defendant Dallas Kozel and David Kozel, by failing to exercise reasonable and ordinary care in regard to the treatment personally given to Defendant I.L.K. and Defendant Dallas Kozel.

362. Plaintiff was a readily identifiable and reasonably foreseeable third-party as he was the subject of mandatory reporting requirements that would have been triggered by the false allegations of sexual abuse.

363. The negligent, reckless, careless and/or wanton and willful conduct of Defendant Turning Leaves for Children, LLC and Defendant Kimberly R. Rosborough, in providing care and treatment to Defendant I.L.K. and Defendant Dallas Kozel, was the direct and proximate cause of the injuries and damages to Mr. Kozel

WHEREFORE, David F. Kozel respectfully requests that this Honorable Court enter judgment in his favor and against Defendant Turning Leaves for Children, LLC and Defendant Kimberly R. Rosborough in an amount in excess of \$75,000.00, together with punitive damages and any other relief this Court deems just and proper under the circumstances of this matter.

Respectfully submitted,

LEECH TISHMAN FUSCALDO & LAMPL, LLC

Dated: **January 22, 2015**

By: /s/ Heather S. Heidelbaugh
Heather S. Heidelbaugh
PA ID No. 49989
hheidelbaugh@leechtishman.com
Steven M. Toprani
PA ID No. 93217
stoprani@leechtishman.com
Patrick R. Malone
PA ID No. 206479
pmalone@leechtishman.com
525 William Penn Pl., 28th Floor
Pittsburgh, PA 15219
(412) 261-1600 (Main)
(412)-227-5551 (Fax)

*Attorneys for Plaintiff,
David F. Kozel*

JURY TRIAL DEMANDED

CERTIFICATE OF SERVICE

I hereby certify that on the 22nd day of January 2015, I electronically filed the foregoing Second Amended Complaint, with the Clerk of the Court using the CM/ECF system which sent electronic notification to the following:

Margaret N. Fox, Esquire
James M. Griffin, Esquire
Badge Humphries, Esquire
Lewis, Babcock and Griffin, L.L.P.
1513 Hampton Street
Columbia, SC 29201

Jason T. Shipp, Esquire
Goldberg Persky White, P.C.
1030 Fifth Ave
Pittsburgh, PA 15219

*(Attorneys for Defendants, Deborah Kozel,
Dallas Kozel, & I.L.K.)*

Sheryl L. Brown, Esquire
Michael E. Truncellito, Esquire
Siana, Bellwoar & McAndrew
941 Pottstown Pike
Suite 200
Chester Springs, PA 19425

(Attorneys for Defendant, Scott J. Rick)

Amy J. Coco
David L. Haber
Weinheimer, Schadel & Haber
429 Fourth Avenue
602 Law & Finance Building
Pittsburgh, PA 15219

Dennis J. Roman, Esquire
Charlene S. Seibert, Esquire
Rebecca G. Yanos, Esquire
Marshall, Dennehey, Warner, Coleman & Coggin
US Steel Tower, Suite 2900
600 Grant Street
Pittsburgh, PA 15219

(Attorneys for Defendant, Michael E. Spears)

LEECH TISHMAN FUSCALDO & LAMPL, LLC

Dated: January 22, 2015

By: /s/ Heather S. Heidelbaugh

Heather S. Heidelbaugh

PA ID No. 49989

hheidelbaugh@leechtishman.com

Steven M. Toprani

PA ID No. 93217

stoprani@leechtishman.com

Patrick R. Malone

PA ID No. 206479

pmalone@leechtishman.com

525 William Penn Pl., 28th Floor

Pittsburgh, PA 15219

(412) 261-1600 (Main)

(412)-227-5551 (Fax)

*Attorneys for Plaintiff,
David F. Kozel*

UNSILENCED
UNSILENCED
UNSILENCED
UNSILENCED
www.UNSILENCED.ORG | (KM)

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NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37
DEBORAH L. KOZEL, Appellant IN THE SUPERIOR COURT OF PENNSYLVANIA

v.

DAVID KOZEL,

Appellee

Nos. 1807 & 1808 WDA 2005

Appeal from the Orders Entered, September 27, 2005
In the Court of Common Pleas of ALLEGHENY County
Family Court Division, at FD No. 98-00761-004

DEBORAH L. KOZEL,

Appellee

IN THE SUPERIOR COURT OF PENNSYLVANIA

v.

DAVID KOZEL,

Appellant

Nos. 1857 & 1858 WDA 2005

Appeal from the Order Entered, September 27, 2005
In the Court of Common Pleas of ALLEGHENY County
Family Court Division, at FD No. 98-00761-004

BEFORE: LALLY-GREEN, McCAFFERY, AND KELLY, JJ.

MEMORANDUM:

FILED: February 27, 2007

Deborah L. Kozel ("Wife") appeals and David F. Kozel ("Husband") cross-appeals from two trial court orders that resolved a variety of economic issues between these divorced parties. This Court consolidated the appeals/cross-appeals: Nos. 1807 and 1857 WDA



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2005 address issues of equitable distribution, alimony, counsel fees, and contempt; Nos. 1808 and 1858 WDA 2005 address issues of alimony *pendente lite* ("APL") and child support). Upon review, we affirm.

The factual and procedural history of this case has been summarized by the trial court as follows:

The parties were married on July 30, 1994, and separated [on] September 9, 1998. A Decree in Divorce was entered on April 4, 2002. They are the parents of two minor children: Dallas Kozel, born [REDACTED], 1995, and [REDACTED], born [REDACTED], 1997. Both children currently reside with Wife in South Carolina.

Wife filed for divorce on September 9, 1998, raising claims for [REDACTED] *inter alia*, APL, child support, alimony, and equitable distribution. Previous actions filed by Wife in February 1998 for support and custody were dismissed as the parties [had] attempted a reconciliation. Initially, the parties entered into a Consent Support Order on November 12, 1998, without findings as to incomes, providing Wife with \$4,500 per month in unallocated support for herself and the two children. [Husband] was also to pay 100% of the unreimbursed medical expenses of Wife and [the] children.

In April 2001, Wife filed a Petition for Modification of the November 1998 support Order and for contempt. A hearing was held before the Court's Permanent Master in September 2001, and [the matter] concluded . . . with the issuance of a Report and Recommendation on October 24, 2001, granting Wife's request for modification. At that time[,] Husband was ordered to pay \$3,742 per month in APL and \$5,682 per month in child support for [the] two children for a total monthly support obligation of

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\$9,424. Further, Husband was ordered to provide medical insurance and pay 100% of the unreimbursed medical expenses, which exceed \$250 annually for each child and Wife as of April 20, 2001. Further, Husband was ordered to pay \$2,500 in preliminary counsel fees to Wife. Husband was also found to be in contempt of the previous support Order with regard to . . . unreimbursed medical expenses. The arrears on the order were set at \$33,418 as of October 24, 2001, and [Husband] was ordered to pay an additional \$750 per month on the arrears.

Both parties filed Exceptions to the October 24, 2001 recommendation and after oral argument, this Court dismissed both the Exceptions and Cross-Exceptions by Order entered June 26, 2002. Wife filed appeals and Husband [filed] cross-appeals from this Order and in a Memorandum Opinion of May 27, 2003, the Superior Court of Pennsylvania dismissed the appeals/cross-appeals and AFFIRMED the Order of June 26, 2002.... A petition for Allowance of Appeal to the Pennsylvania Supreme Court was filed in June 2003 and by Order dated December 8, 2003, the petition was DENIED.

In August 2002, Wife filed a praecipe for conciliation regarding equitable distribution and related claims, thereby indicating that the parties were ready to proceed to resolution. Over the next 30 months, a number of conciliations were held and the parties continued to engage in discovery and litigate a variety of issues. Pursuant to Rule 1920.51(a) of the Pennsylvania Rules of Civil Procedure, [the trial court] appointed a Permanent Master . . . to hear all of the economic claims existing between the parties and issue a Report and Recommendation.... Initially, the proceedings were scheduled to be concluded over a five-day period of time, but ultimately a total of nine days was required. The Master issued two separate reports... The report of January 27, 2005, resolved the issues of APL and child support, while the report of May 4, 2005[,] disposed of the others.

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Exceptions and Cross-Exceptions were filed by the parties to these reports and following oral argument and the review of lengthy briefs, [the trial court] disposed of the Exceptions/Cross-Exceptions by two Orders entered on September 27, 2005.

(Trial Court Opinion, dated March 9, 2006, at 2-3).

One trial court order addressed APL and child support, and the other order addressed equitable distribution, alimony, counsel fees, and contempt. Wife appealed and Husband cross-appealed from both orders. For ease of disposition, we address the appeals from the two trial court orders separately.

SUPPORT ISSUES: APL AND CHILD SUPPORT

First, we consider Wife's appeal and Husband's cross-appeal from the order concerning APL and child support. Wife raises the following questions for our review:¹

I. Whether the trial court erred in calculating Husband's net monthly income by applying a speculative discount not supported by any evidence to the amount of retained earnings available for distribution to Husband.

II. Whether the trial court erred in assigning Wife an unrealistic and inflated earning capacity and by failing to suspend such earning capacity for child care responsibilities consistent with the best interests of the children as previously adjudicated by the trial court.

III. Whether the trial court erred in terminating Wife's receipt of alimony *pendente lite*.

¹ We have reordered Wife's list of questions for ease of disposition.

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IV. Whether the trial court erred in failing to enter an appropriate award of alimony *pendente lite*.

V. Whether the trial court erred in failing to enter an award of child support in the full amount of Wife's budget, by misconstruing and disregarding uncontroverted evidence of housing repair expenses, and by disallowing without explanation expenses previously found reasonable by the trial court.

(Wife's Brief at 7).

Husband raises one question for our review:

Did the trial court err in its determination of Husband's monthly net income by including a percentage share of . . . reported but undistributed income from [Husband's business, Texas Keystone, Inc.]?

(Husband's Brief at 7).

When we review a trial court order concerning an award of APL or child support, our standard is abuse of discretion. *Berry v. Berry*, 898 A.2d 1100, 1103 (Pa.Super. 2006) (reiterating standard of review of child support order); *Haentjens v. Haentjens*, 860 A.2d 1056, 1062 (Pa.Super. 2004) (reiterating standard of review for APL order).

A support order will not be disturbed on appeal unless the trial court failed to consider properly the requirements of the Rules of Civil Procedure Governing Actions for Support, Pa.R.C.P. 1910.1 et seq., or abused its discretion in applying these Rules. An abuse of discretion is not merely an error of judgment, but if in reaching a conclusion the law is overridden or misapplied, or the judgment exercised is manifestly unreasonable, or the result of partiality, prejudice, bias or ill-will . . . discretion is abused.

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[The role of the appellate court is limited] and, absent a clear abuse of discretion, we will defer to the order of the trial court. A finding of abuse is not lightly made but [rather is made] only upon a showing of clear and convincing evidence.

Berry, supra at 1103-04 (citation omitted).

In support matters, as in every other type of case, the responsibility for fact-finding resides with the trial court, and we as an appellate court may not usurp this duty. *Isralsky v. Isralsky*, 824 A.2d 1178, 1190 (Pa.Super. 2003). "The finder of fact is entitled to weigh the evidence presented and assess its credibility." *Smith v. Smith*, 904 A.2d 15, 20 (Pa.Super. 2006). In so doing, the finder of fact "is free to believe all, part, or none of the evidence and [we as an appellate court] will not disturb the credibility determinations of the court below." *Id.* (citation omitted). We extend such deference to the trial court's assessments of credibility because that court, not we, had the opportunity to see and hear the witnesses. *Isralsky, supra* at 1190.

An award of child or spousal support must be made in conformity with the guidelines promulgated by our Supreme Court, based on the reasonable needs of the obligee and the ability of the obligor to provide support. See 23 Pa.C.S.A. § 4322(a); Pa.R.C.P. 1910.16-1-16-7. To determine the appropriate level of support, the trial court must begin with an evaluation of each parent's income and ability to

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pay based on all financial resources. *Howland v. Howland*, 900 A.2d 922, 930-31 (Pa.Super. 2006).

In the instant case, Husband and Wife both contend that the trial court erred in its calculation of Husband's income for purposes of determining the appropriate level of support. Specifically, the parties focus on the court's attribution as income to Husband of a portion of the retained earnings of Husband's business, Texas Keystone, Inc. ("TKI"). TKI is an S-corporation, started by Husband and his brother in 1989 to explore, develop and produce natural gas and oil. Husband and his brother were the only stockholders in the closely-held corporation, at least at the time of its inception.

To calculate the percentage of TKI's retained earnings properly attributable to Husband as net income available for support in 2004, the court looked to the history of TKI distributions. First, the court calculated the average amount that TKI had distributed to its shareholders during the years 1991 through 2000. During this 10-year period, TKI had total net earnings of \$4,344,258 and distributed 49.6% of that total, or \$2,156,057, to its shareholders.² The court then applied this 10-year average distribution [i.e. 49.6%] to TKI's net earnings for the year 2003, which were \$889,017, thereby calculating

² The trial court also noted that the percentage of TKI's net earnings that was distributed varied from zero to 100% over the 10-year period from 1991-2000. After 2000, TKI made no distributions of earnings.

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an amount hypothetically available for distribution of \$440,952. Since Husband was a 50% shareholder, his share of TKI's distributable earnings would have been 50% of \$440,952, or \$220,476. Based on this estimate, the court attributed \$220,476 to Husband for inclusion in his income for 2004, and recalculated his net monthly income as \$24,690.

Both parties contend that the trial court's calculation constitutes an abuse of discretion. Wife argues that the court should have attributed to Husband one-half of TKI's total net earnings for 2003, not one-half of the average distribution, i.e., 49.6%, of the net earnings. Husband argues that the court should not have attributed any of TKI's net earnings to his income. Neither party's argument has merit.

We note first that in calculating a support award, a trial court must consider every aspect of a party's financial ability to pay in order to assess a party's actual financial condition. *Fennell v. Fennell*, 753 A.2d 866, 868 (Pa.Super. 2000); *Hoag v. Hoag*, 646 A.2d 578, 582 (Pa.Super. 1994).

When actual net earnings do not reflect earning capacity, the trial court should investigate a variety of sources to determine the party's true wealth. The court should pierce the corporate veil to determine if a spouse's ability to pay support is enhanced by advantages relating to owning or being a member of a corporation.

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Hoag, supra (citations omitted). This Court has expressly held that "[w]hen a parent . . . has a business which retains profits and earnings without sufficient business justification, those retained earnings are also required to be included in income for the purpose of determining support." *Blaisure v. Blaisure*, 577 A.2d 640, 642 (Pa.Super. 1990). The court will not allow a party to evade his or her support obligations by sheltering income in a closely-held corporation without sufficient evidence of a legitimate business reason for doing so. *Fennell, supra* at 868; *King v. King*, 568 A.2d 627, 629 (Pa.Super. 1989). The burden rests with the obligor to prove that a retention of earnings is "necessary to maintain or preserve the business." *Fennell, supra* at 869 (citation and quotation omitted).

However, this Court has also clearly stated that for earnings to be attributed as income to a party, those earnings must actually be available to that party. *Id.* at 868. For example, if a party is a minority shareholder and therefore does not have control over the distribution or retention of corporate earnings, then retained earnings are not properly considered as income available to that party. *Id.* at 869.

Returning to the case *sub judice*, we first address Wife's argument that the trial court was required to attribute to Husband's income his share of TKI's total retained earnings, rather than his share

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of 49.6% of the total earnings. Contrary to Wife's assertion, nothing in our case law requires that the entirety of TKI's retained earnings be attributed as income to Husband. The Master determined, based on TKI's history and Husband's testimony, that TKI had historically and legitimately retained a portion of its net earnings for business reasons. The trial court estimated, based on TKI's past practice, what percentage of the corporation's net earnings was available to Husband in 2004. There is evidence to support the Master's determination, as well as the trial court's method of calculation. Therefore, we conclude that Wife's assertion does not have merit.

At the opposite extreme, and equally untenable, is Husband's assertion that *none* of TKI's net earnings were available to him. Husband insists that TKI's decision to distribute none of its earnings subsequent to 2000 was a necessary business decision; In addition, Husband argues that he was not in a position of control over TKI and thus could not control the distribution or retention of earnings. The Master disagreed with both assertions. The Master found that Husband had failed to establish that TKI's retained earnings were necessary to maintain or preserve the business. These findings have

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support in the record, and the trial court accepted the Master's findings.³

The issue of who exerted control over TKI was ultimately a question of credibility. The Master found Husband's assertions not credible, and concluded that Husband had purposefully diluted his interest in TKI in order to shelter income from wife.⁴ The trial court concurred with the Master's credibility determination. Therefore, because the trial court's determinations have support in the record and because we extend great deference to the credibility assessments of the fact-finders, we conclude that the trial court did not abuse its

³ *Inter alia*, the Master found that, although no shareholder distributions have been made since 2000, Husband had taken a distribution from TKI in every year from 1991-2000, with the sole exception of 1995. Even in 1998, TKI's worst year financially, when its net income was negative, Husband received a distribution. Indeed, Husband acknowledges that his distribution in 1998 was the largest he had received since the parties married. (See Husband's Brief re: APL and child support at 38). In addition, the Master found that TKI's net income, oil and gas production revenue, and equity have risen substantially since 1998.

⁴ Husband contended that TKI had granted another of his brothers, Robert Kozel, an option to purchase one-third of the TKI stock and that the option had been exercised on January 1, 1999. Therefore, Husband argued, each of the three brothers has owned one-third of the TKI stock since that date. However, the Master found, and the trial court agreed, that the evidence did not suggest a TKI stock transfer for value. No corporate minutes reflected a decision by TKI's Board of Directors to give anyone an option to purchase stock, and Robert Kozel's alleged purchase was not reflected in TKI's financial statements. Based on this and other evidence, the Master determined and the trial court agreed that Husband and his family had engaged in "divorce planning."

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discretion in attributing a portion of TKI's net earnings to Husband's income. Husband's assertion to the contrary has no merit.

In Wife's second question for our review, she contends that the trial court erred in its calculation of child support by assigning her an earning capacity that was too great in light of her limited work experience and her child care responsibilities. Wife insists that she has *no* earning capacity, citing her absence from the workforce since the parties' marriage and a decision by the parties during their marriage that she would stay at home to rear their children. Wife cites no case law that supports her position,⁵ and we are aware of none.

What is undeniably and expressly clear from our case law is that the duty to support one's children rests equally on both parents and must be discharged even if it causes the parents some hardship. *Howland*, 900 A.2d at 931. One way in which the court attempts to allocate fairly the financial responsibilities to one's children is via the determination of earning capacity. Earning capacity is not a theoretical concept, but rather is defined as "that amount which the person could realistically earn under the circumstances, considering his or her age, health, mental and physical condition and training." *Id.* at 930 (citation omitted). The support guidelines promulgated by our

⁵ Wife's reliance on *Karp v. Karp*, 686 A.2d 1325, 1327 (Pa.Super. 1996), is misplaced. *Karp* does not address, or even mention, the issue of earning capacity.

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Supreme Court expressly state that all of the following factors must be considered in determining earning capacity: "[a]ge, education, training, health, work experience, earnings history and child care responsibilities." Pa.R.C.P. 1910.16-2(d)(4). Furthermore, in most situations, a party who "willfully fails to obtain appropriate employment will be considered to have an income equal to the party's earning capacity." *Id.*

In the instant case, the Master made extensive findings of fact concerning Wife's age, health, experience, skills, personal presentation, and child care responsibilities. The Master's findings include the following: Wife was 38 years of age and in good health at the time of the hearing; both children were in school full-time and had no special needs; Wife had graduated from high school and had earned a travel agency school certificate, although she had not worked as a travel agent; prior to the parties' marriage, Wife had pursued a career in modelling, but had not worked as a model since the marriage; Wife was articulate and organized. After considering all these factors, the Master determined that Wife's earning capacity was \$20,870 per year, the typical salary of a receptionist/information clerk in her metropolitan area. The Master considered higher-paying positions, e.g., as a travel agent or an administrative assistant, but rejected those choices based on well-described, reasonable criteria. The trial

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court concluded, as do we, that the Master's determinations were well-supported by credible evidence. Thus, we determine that the trial court did not abuse its discretion in assigning Mother an earning capacity of \$20,870 per year.

In Wife's next two questions, she focuses on the award of APL and contends that the trial court erred by terminating APL prior to the end of the litigation.⁶ In the order of September 27, 2005, the trial court directed that unless Husband appealed,⁷ the award of APL to Wife would cease within 30 days of the order or when Husband concluded his payment of the equitable distribution award to Wife, whichever occurred later. Wife contends that the trial court's discontinuation of APL was in error because it attempted to preclude her from filing an appeal to this Court.

Our law clearly establishes that APL is not a matter of right, but rather is based on financial need during divorce litigation. As we have previously explained,

APL is based on the need of one party to have equal financial resources to pursue a divorce proceeding

⁶ Wife's question number IV also takes issue with the amount of the trial court's award of APL retroactive to January 30, 2004. Her argument rests entirely on her contentions that the trial court erred in determining Husband's income and her earning capacity. We have already addressed these issues, *supra*, and no further analysis is required.

⁷ The trial court later clarified that APL would also terminate if Wife appealed and Husband cross-appealed.

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when, in theory, the other party has major assets which are the financial sinews of domestic warfare. APL focuses on the ability of the individual who receives the APL during the course of the litigation to defend her/himself, and the only issue is whether the amount is reasonable for the purpose, which turns on the economic resources available to the spouse.

Haentjens, 860 A.2d at 1062 (citation omitted).

APL should terminate when all matters relevant to equitable distribution have been resolved, including through the process of appeal to this Court. *Id.* However, as we held in *Haentjens*, a party is "automatically eligible to receive APL through appeals to this Court." *Id.* at 1063 (emphasis added) (citing *Prol v. Prol*, 840 A.2d 333, 335-36 (Pa.Super. 2003), appeal quashed, 582 Pa. 368, 871 A.2d 791 (2006)). This holding does *not* mean that a party has an absolute right to receive APL during an appeal, any more than he or she has an absolute right to receive APL at any other time. During the pendency of an appeal, as during litigation in the trial court, an award of APL is based on need and available economic resources. Indeed this Court has expressly held that APL "may be terminated before the litigation is concluded where the recipient has acquired assets or income which sufficiently equalizes the financial ability of the parties to pursue the action," *Brody v. Brody*, 758 A.2d 1274, 1281 (Pa.Super. 2000). This Court's holdings in *Haentjens* and *Brody* are completely consistent: in *Haentjens* we affirmed an award of APL during the

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appeal process based on the trial court's finding that the wife continued to need APL *because she had not yet received her equitable distribution award. Id.* at 1063.

In the instant case, the trial court determined that Wife no longer required APL payments during the appeal process. The trial court noted several factors in explaining its decision. Husband had been paying APL and counsel fees for nearly seven years, during which time he had paid Wife at least \$272,064 for such expenses. Wife's equitable distribution award was substantial, in excess of \$630,000, and by the time of argument before the trial court, she had already received a large advance, \$175,000, against this total sum. Given these large sums, the trial court determined that Wife had not shown that she was in need of yet additional sums in the form of APL during her appeal. The trial court's decision is supported by credible evidence and is well-reasoned. We conclude that the trial court did not abuse its discretion in terminating Wife's APL award prior to the resolution of her appeal.

Wife's fifth and final question arising from this trial court order concerns the award of support for the parties' two children. Wife contends that the trial court erred in not ordering a child support award in the full amount of Wife's submitted budget. More specifically, Wife takes issue with the trial court's elimination of certain specific

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Items from her budget, calling into question the fact-finding and credibility assessments of the trial court. In essence, Wife argues that the trial court is bound to accept *all* of her evidence and *all* of her testimony as to the reasonable expenses of the children. The law most certainly does not sanction—much less require—the unthinking, uncritical acquiescence by the trial court that Wife seems to envision.

Child support in this case must be calculated according to the principles set forth by our Supreme Court in *Melzer v. Witsberger*, 505 Pa. 462, 480 A.2d 991 (1984), since the net monthly income of the parties exceeds that which is delineated in the guidelines. Under *Melzer*, “the hearing court must first calculate the reasonable expenses of raising the children involved, based upon the particular circumstances—the needs, the custom, and the financial status—of the parties.” *Chapman-Rolle v. Rolle*, 893 A.2d 770, 775 (Pa.Super. 2006) (quoting *Melzer, supra* at 471, 480 A.2d at 995). Since parents have an obligation to share the benefits of their financial achievements with their children, it lies within the discretion of the court, where parental income permits, “to recognize that certain expenditures for recreation, entertainment, and other nonessential items are reasonable and in the best interests of the children.” *Spahr v. Spahr*, 869 A.2d 548, 554 (Pa.Super. 2005) (quoting *Melzer, supra* at 470, 480 A.2d at 995). The court must separate the needs

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of the children from those of the parents. *See Chapman-Rolle, supra* at 775-76.

In the instant case, Wife presented a budget suggesting that an amount of \$10,305 per month was required to provide for the reasonable needs of the two children, who were eight and ten years of age, respectively, at the time of the hearing. The trial court reduced the amount to \$6,344 per month, explicitly accepting the findings and recommendations of the Master. The reasons for the reduction were explained in detail, were most often based on credibility assessments as to Wife's testimony, and are strongly supported by the record. Very clearly, the trial court did not abuse its discretion in reducing Wife's requested budget for child support; rather, it carefully examined each item in the budget in light of the evidence of record and made a reasoned assessment as to the reasonable needs of the children. We determine that Wife's contention is supported neither by law nor by fact.

EQUITABLE DISTRIBUTION AND COUNSEL FEES

We turn now to the subject matter of the trial court's second order, which addresses numerous issues involved in the equitable distribution of the parties' marital property and counsel fees.

Before turning to the substantive issues raised by the parties, we must address a procedural matter. In Wife's Statement of the

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Questions Involved, she presents fifteen questions for our review, comprising 42 lines on two pages, thereby violating Pennsylvania Rule of Appellate Procedure 2116. In relevant part, this Rule provides that the Statement of Questions Involved "should not ordinarily exceed 15 lines [and] must never exceed one page.... This rule is to be considered in the highest degree mandatory, admitting of no exception." Pa.R.A.P. 2116(a). Pursuant to Rule 2101, when the defects in a brief are substantial, the appeal may be quashed or dismissed. We have the authority to *dismiss* Wife's appeal. See *Kenis v. Perini Corp.*, 682 A.2d 845, 848 n.3 (Pa.Super. 1996). Although we decline to do so, we will consider only the issues on the first page of Wife's Statement of Questions Involved.⁸ See *Rabutino v. Freedom State Realty Co., Inc.*, 809 A.2d 933, 937 n.3 (Pa.Super. 2002) (limiting review to the questions that appear on the

⁸ Given the large number of issues and sub-issues raised by Wife, we feel compelled to reiterate the following:

"[T]he effectiveness of appellate advocacy may suffer when counsel raises numerous issues, to the point where a presumption arises that there is no merit to any of them."

Rabutino, supra at 937 n.3. Wife has challenged virtually every aspect of the trial court's rulings in this complex and lengthy case. Essentially, Wife appears to be seeking *de novo* review of the entire equitable distribution order, as well as the child support and APL order. Wife ignores the standard of review as well as the limited function of this Court. We do not.

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first page of an appellant's multi-page Statement of Questions Involved).

Wife's seven questions on appeal from page 1 of her statement are the following:

I. Whether the trial court erred in failing to include the value of the interests diverted by Husband as part of his divorce planning either as part of the increase in value of TKI, or as a separate asset in the marital estate.

II. Whether the trial court erred in failing to apply the fair value standard in calculating the increase in value of Husband's interest in TKI.

III. Whether the trial court erred in calculating the increase in value of Husband's interest in TKI under the fair market value standard by applying a 35% discount multiple and by applying a speculative amount of taxes for a hypothetical sale.

IV. Whether the trial court erred in determining the value of Husband's limited partnership interests by incorrectly applying a 50% discount multiple and by applying a speculative amount of taxes for a hypothetical sale.

V. Whether the trial court erred in the calculation of the post-separation distributions received by Husband from his limited partnership interests by failing to include distributions for the year 2004.

VI. Whether the trial court erred in calculating the value of Husband's interest in Falcon Partners and by failing to include 6% interest as part of such value.

VII. Whether the trial court erred in calculating the amount of the advance Husband received from retaining the proceeds of the sale of the parties' marital residence by crediting Husband for alleged

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improvements to the residence and by failing to include 6% interest as part of such calculation.

(Wife's Brief re equitable distribution at 5).

Husband raises six questions on cross-appeal:

[I.] Was it error for the trial court to charge Husband with a purported marital increase in TKI when there was no proof it existed at distribution?

[II.] Did the trial court err in finding there was a marital increase in value of Husband's interest in TKI and in failing to adopt Husband's expert's valuation of TKI?

[III.] Did the trial court abuse its discretion in adopting Wife's expert's valuation of a purported marital increase of Husband's interest in TKI?

[IV.] Did the trial court err in the marital estate distribution in not applying a different distribution percentage to any increase in value of Husband's pre-marital interest in TKI?

[V.] Did the trial court err in finding that Husband's Alpen Court residence represented a marital asset as it was acquired in Husband's individual name and the source of the funds for its acquisition was the sale proceeds of his pre-marital townhouse?

[VI.] Did the trial court err in awarding discovery-related counsel fees to Wife by failing to consider the counsel fee payment made by Husband in the amount of \$35,000 pursuant to the trial court's February 25, 2003 Order?

(Husband's Brief re equitable distribution at 7).

We consider first the issues related to equitable distribution, noting our well-established standard of review.

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In assessing the propriety of an equitable distribution scheme, our standard of review is whether the trial court, by misapplication of the law or failure to follow proper legal procedure, abused its discretion. Specifically, we measure the circumstances of the case, and the conclusions drawn by the trial court therefrom, against the provisions of [23 Pa.C.S. § 3502(a)] and the avowed objectives of the Divorce Code, that is, 'to effectuate economic justice between the parties . . . and insure a fair and just determination of party rights.'

Haentjens, 860 A.2d at 1060-61 (quoting 23 Pa.C.S. § 3102(a)(6)).

In addition, it is well-established that the trial court may accept some, all, or none of the submitted testimony for purposes of the valuation of marital property. *Id.* at 1061.

The first three questions of both Wife and Husband concern the trial court's calculation of the increase in value of TKI during the marriage and Husband's percentage interest therein. Wife argues, on various grounds, that the trial court's determination of the increase in TKI's value was too low; Husband argues that the trial court's determination of the increase was too high, and, in the alternative, that no increase in TKI value was proven. Neither party's allegations have any merit.

Many of the parties' questions concerning the determination of TKI's increase in value are at root challenges to the trial court's extensive fact-finding and credibility assessments. We agree with the trial court that "[w]ith regard to TKI, the Master[,] in detailed findings

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of fact, reviewed, commented upon, and made essential credibility determinations. This included a thorough analysis of voluminous exhibits, the testimony of four experts, the report of a fifth and the testimony of the parties." (Trial Court Opinion, dated March 9, 2006, at 16). The trial court adopted the Master's determinations of fact and credibility. We remind the parties that our standard of review of the trial court's order is abuse of discretion. When, as here, the trial court's findings are supported by evidence in the record, we will not disturb those findings. In addition, we extend great deference to the credibility assessments of the fact-finder. Given the appropriate deference that we extend to the trial court with regard to fact-finding and credibility determinations, we conclude that neither Wife's nor Husband's claims of error with regard to determination of the increase in TKI value have any merit.

In addition, each party complains that the trial court improperly relied on the opposing party's expert witnesses, leading to an unjust result. Wife also repeatedly alleges that the trial court erred by substituting speculation or intuition for the testimony of her expert witnesses. These allegations reflect neither controlling legal authority nor the circumstances of the instant case. Our case law is clear: the weight to be accorded an expert's testimony is a matter for the fact-finder. *See Gaydos v. Gaydos*, 693 A.2d 1368, 1377 (Pa.Super.

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1997). The trial court is not bound to accept even the uncontradicted opinion of an expert witness. *Id.* (applying this principle to the opinion of a valuation expert). The trial court and the Master provided detailed and very well-reasoned explanations for their numerous decisions with regard to the valuation of Husband's interest in TKI. It is abundantly clear from the trial court's thorough opinions and the Master's comprehensive reports that the court carefully considered the expert opinions and had sound reasons for the weight it ascribed to them. From our review of the record, we conclude that there is not the slightest indication that the trial court abused its discretion during its assessment and weighing of the extensive expert testimony in this case. The fact that neither party is happy with the conclusions derived by the trial court from its assessment and weighing of the experts' testimony does not in any way suggest an abuse of discretion.

Wife also insists, in her second issue, that the trial court erred by failing to apply the "fair value standard" in calculating the increase in value of Husband's interest in TKI. The trial court used a different standard, the "fair market value standard," which contemplates a sale of the property. Wife's allegation that the trial court erred by using the fair market value standard is devoid of any merit.

As noted by the trial court, Wife's own expert acknowledged that no Pennsylvania court has adopted the fair value standard in the

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equitable distribution setting and that the fair market value standard has been used routinely. (Trial Court Opinion at 17). In following well-established precedent, rather than venturing into a judicially uncharted means of valuation, the trial court obviously did not abuse its discretion. *See Anthony v. Anthony*, 514 A.2d 91, 95 (Pa. Super. 1986) (*en banc*) (holding in the context of an equitable distribution case that "the value of any property is a function of its relation to other property, i.e., its fair market (exchange) value").

Wife further complains, in her third issue, that the trial court erred in applying a particular tax rate to the hypothetical sale of Husband's interest in TKI. However, as the trial court points out, the tax rate utilized by the court was the very rate to which the parties' experts had stipulated. (Trial Court Opinion at 18). This Court's role most surely does not include entertaining arguments on matters to which the parties have stipulated.

Husband's fourth issue also concerns TKI, specifically raising the argument that the trial court incorrectly awarded to Wife 50% of the increase in value of Husband's interest in TKI, as part of the distribution of the marital estate. Husband believes that the percentage awarded to Wife should have been smaller, but he cites no controlling statutory or case law in support of his belief. The trial court was well aware that it had the authority to divide different marital

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assets differently in fashioning an equitable distribution scheme. (See *id.* at 24; 23 Pa. C.S.A. § 3502(a)). In addition, the trial court took into account the appropriate factors in reaching its decision to award Wife 50% of the marital estate, including the increase in value of TKI. (See Trial Court Opinion at 24). Husband offers no specific reason as to how or why the trial court erred by dividing the marital assets equally. We readily conclude that the trial court acted well within its discretion in awarding 50% of the increase in TKI's value to Wife.

Thus, with regard to Wife's first three questions and Husband's first four questions, we conclude that none have any merit and indeed, some approach frivolity. No relief is due to either party.

Wife's next two questions concern the value of Husband's limited partnership interests that were acquired during the marriage. As with the questions described above, these questions also challenge the fact-finding of the trial court and the Master. Not surprisingly, the testimony from the opposing parties' experts differed with respect to the value of Husband's interest in the partnerships. After assessing all the evidence, the trial court determined that the value calculated by Husband's expert was appropriate. The trial court adopted the Master's reasoning for this decision, and thereby provided a thorough and detailed rationale which has support in the record. The weight to

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be accorded an expert's testimony is a matter for the trial court; therefore, we discern no abuse of discretion.

Wife's sixth question concerns the value of Husband's interest in another partnership, Falcon Partners. Wife again challenges the trial court's fact-finding and credibility assessments. There is support in the record for the trial court's determinations; therefore, we will not disturb them.

Wife's seventh question and Husband's fifth question concern the marital home, which was purchased after the parties married. Husband argues that the trial court erred in characterizing the property in question as marital property because he purchased it in his own name with a down payment derived from the sale of his pre-marital townhome. Wife argues that the trial court incorrectly characterized certain improvements that Husband made to the home as post-separation improvements.⁹ Neither party's arguments have merit.

Husband's argument consists entirely of a reiteration of the evidence and an assertion that the trial court derived the wrong

⁹ Wife also argues that the trial court erred by applying the wrong percentage of interest to the advance that Husband received when he retained the proceeds from the sale of the property. The parties agree that Husband received an advance of \$235,953, and that the trial court charged him 3% interest on this advance. Wife claims, without citation to appropriate legal authority, that the appropriate interest was 6%. Because this claim is totally undeveloped, it is waived.

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conclusion from that evidence. However, the trial court's conclusion is supported by evidence of record and is largely based on credibility assessments. Under these circumstances, we will not disturb the trial court's conclusion. Similarly, we will not disturb the trial court's characterization of certain home improvements as post-separation improvements, as this finding rests on the trial court's credibility determinations.

The final issue is Husband's claim that the trial court erred in awarding Wife counsel fees. The trial court awarded counsel fees to Wife in the amount of \$37,081, concluding that these fees were incurred because of the failure of Husband and TKI to respond properly to discovery requests. In addition, the trial court awarded counsel fees to Husband in the amount of \$31,758, concluding that these fees were incurred due to Wife's excessive discovery requests. Wife's award was offset against Husband's award, for a net award of counsel fees to Wife of \$5,323. Husband alleges that previous awards of counsel fees were sufficient to cover Wife's legal expenses and that Wife did not establish that she had incurred additional fees.

The trial court determined, and we agree, that the Master had "in very precise detail" gone through "each and every aspect of the claim of each party with regard to fees." (Trial Court Opinion at 23). The Master's findings, adopted by the trial court, are supported by the

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record. We conclude that the trial court did not abuse its discretion in awarding offset counsel fees to Wife in the amount of \$5,323.

After review of the parties' numerous questions, we conclude that none have merit, and many are frivolous. Therefore, we affirm the order of the trial court.

Orders affirmed.

Judgment Entered:


Deputy Prothonotary

DATE: February 27, 2007

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IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA
FAMILY DIVISION

DEBORAH L. KOZEL,

Plaintiff,

v.

DAVID F. KOZEL,

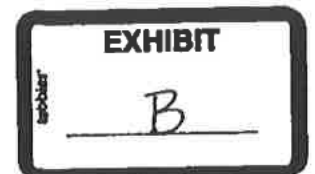
Defendant.

No. FD 98-00761-004

**PETITION FOR MODIFICATION OF
EXISTING ORDER FOR CHILD SUPPORT**

Plaintiff Deborah L. Kozel, by her counsel, Margaret P. Joy, Esquire, and McCarthy McDonald Schulberg & Joy, files this Petition For Modification of Existing Order for Child Support, and in support thereof represents as follows:

1. The parties are the parents of two minor children: Dallas C. Kozel (DOB [REDACTED] 95, age 17) and [REDACTED] (DOB [REDACTED] /97, age 15).
2. The children are in the exclusive custody of Plaintiff Mother. Defendant Father has had no or virtually no contact with either child for many years, due to his willful refusal to abide by Orders of this Court regarding custody, which resulted in his being stripped of his partial custody rights.
3. By Order dated September 27, 2005, Defendant Father is obligated to pay child support of \$6,344 per month. See attached Exhibit A.
4. This Order was based on the testimony presented at the equitable distribution hearing (with which was consolidated Mother's claim for child support) before Special Master Gary Gilman, the Report and Recommendation in which was filed on May 4, 2005.
5. At the commencement of those hearings, Dallas was age 10 and [REDACTED] was age 8.



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6. At that time, both children attended Oakbrook Preparatory School in Spartanburg, South Carolina, where Mother and the children live.

7. Since that Order was entered, the following material and continuing changes in circumstances have occurred:

a. Dallas has experienced significant mental health and emotional issues. Due to these issues, she left Oakbrook in January 2012, and was enrolled in a wilderness and counseling program at SUWS of the Carolinas, in Asheville, NC. She remained there until March 22, 2012. The cost for this program was over \$30,000.

b. Upon recommendation from SUWS and a firm hired by Mother to evaluate Dallas and the best options for her continued treatment and education, Dallas was enrolled at Spring Ridge Academy in Spring Valley, Arizona. Dallas enrolled there in April 2012 and is a student there presently. Significant costs have been incurred and paid by Mother for her enrollment, tuition, room/board, therapy, evaluation, travel, and other expenses.

c. On information and belief, the income of Defendant Father has increased significantly from the net income which formed the basis of the September 27, 2005 Order.

d. On information and belief, Father has, since 2005, failed to report to the Court and to Mother increases in his income from the net income which formed the basis of the September 27, 2005 Order.

e. On information and belief, Father has, from a date prior to the September 27, 2005, and continuing to the present date, received and/or was legally or equitably entitled to receive, income in excess of the income which formed the basis of the September 27, 2005 Order.

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f. The Pennsylvania Support Guidelines have been substantially modified since the date of the current order, including but not limited to the repeal of *Melzer v. Witsberger*, 505 Pa. 462, 480 A.2d 991 (1984), effective May 12, 2010. The current child support order was based on a *Melzer* analysis.

g. Both children have incurred increases in extraordinary expenses since the date of the current Order, including but not limited to activities/lessons, including but not limited to [REDACTED] participation in elite regional and national soccer teams which involve significant costs and expenses.

h. Mother reserves the right to assert at trial other material and continuing changes in circumstance which would justify an increase in the child support order, after she conducts discovery in this matter.

8. If the Court finds that Father (a) received and/or was legally or equitably entitled to receive, prior to the date on which this Petition is served on him, income in excess of that which formed the basis of the September 27, 2005 Order, and/or (b) experienced, prior to the date on which this Petition is served on him, an increase in his net disposable income from that which formed the basis of the September 27, 2005 Order, and (c) failed to report such changes in his income to the Court and/or to Mother or her counsel, Mother respectfully requests, and reserves the right to contend at trial, that any increase in the September 27, 2005 Order be awarded retroactive to the appropriate date(s), even if prior to the date on which this Petition is served on Father.

9. Mother believes and therefore avers that each and all of the above-listed material and continuing changes in circumstance justifies an increase in child support from that ordered in the September, 27, 2005 Order.

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WHEREFORE, Plaintiff Deborah Kozel respectfully requests this Honorable Court to enter an Order in the form attached hereto.

Margaret P. Joy

McCarthy McDonald Schulberg & Joy
1111 Oliver Building
535 Smithfield Street
Pittsburgh, PA 15222

Counsel for Plaintiff
Deborah Kozel

Date: _____

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IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA
FAMILY DIVISION

DEBORAH L. KOZEL,

Plaintiff,

v.

DAVID F. KOZEL,

Defendant.

No. FD 98-00761-004

ORDER OF COURT

AND NOW, this _____ day of _____, 2012, upon presentation
of the foregoing Petition For Modification of Existing Order for Child Support on behalf of
Plaintiff Deborah Kozel, it is hereby ORDERED that a conference/hearing shall be scheduled on
the Petition for the _____ day of _____, 20____, at _____ a.m./p.m.

BY THE COURT:

_____, J.

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VERIFICATION

I, Deborah L. Kozel, state that the averments made in the foregoing Petition are true and correct to the best of my knowledge, information and belief. I understand that this statement is made subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.

Deborah L. Kozel

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STATE OF SOUTH CAROLINA

COUNTY OF Spartanburg

Deborah Kozel

Plaintiff,

vs.

David Kozel

Defendant.

5-22-12

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IN THE FAMILY COURT
Seventh JUDICIAL CIRCUITJRM
SC 1173
Exp 7-27-14

FAMILY COURT COVERSHEET

2012-DR-42-1349

Docket No. _____

NOTE: The coversheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for docketing purposes for the Clerk of Court and must be signed and dated, and filled out completely. A copy of this coversheet must be served on the defendant(s) along with the Summons and Complaint.

Submitted by: Michael E. Spears, Esq.
Address: 122 South Liberty Street
Spartanburg, SC 29306
Email: mty Spears@charter.net

SC Bar # 5204
Telephone # 864.583.3535
Fax # 864.583.3525
Other: _____

DOCKETING INFORMATION (Check one box below if filing in a Mandatory Mediation County)

- ☐ This case is subject to MEDIATION pursuant to the Family Court Alternative Dispute Resolution Rules.
☐ This case is exempt from ADR (certificate attached).

Nature of Action Codes
(Check One)

Marital Dissolution

- ☐ Divorce (110)
☐ Annulment (120)
☐ Separate Support and Maintenance (130)
☐ Registration of Foreign Divorce Decree - Without support/custody (190)
☐ Registration of Foreign Divorce Decree - With support/custody (191)
☐ Marital Dissolution - Other (199)

Abuse and Neglect

- ☐ Abuse and Neglect - Child (210)
☐ Abuse and Neglect - Adult (220)
☐ Abuse and Neglect - Other (299)

Juvenile Delinquency

- ☐ Truancy (311)
☐ Incurable (312)
☐ Runaway (313)
☐ Criminal Offense (320)
☐ Juvenile Delinquency - Other (399)

Protection from Domestic Abuse

- ☐ Domestic Abuse - Intimate Partner (410)
☐ Domestic Abuse - Minor (420)
☐ Registration of Foreign Order of Protection (490)
☐ Domestic Abuse - Other (499)

Support

- ☐ Child Support - Private (501)
☐ Child Support - Administrative Process (502)
☒ Child Support - Judicial Process (503)
☐ Registration of Foreign Order of Support (504)
☐ UIFSA - Outgoing (505)
☐ UIFSA - Incoming (506)
☐ Modification of Child Support - Private (507)
☐ Modification of Child Support - DSS (508)
☐ Modification of Alimony (523)
☐ College Expenses (530)
☐ Support - Other (599)

Custody/Visitation

- ☐ Child Custody/Visitation (610)
☐ Modification of Custody/Visitation (615)
☐ Registration of Foreign Child Custody Order (690)
☐ Custody/Visitation - Other (699)

Miscellaneous Actions

- ☐ Name Change (710)
☐ Correction/Birth Record (720)
☐ Judicial Bypass (730)
☐ Adoption (740)
☐ Foreign Adoption (745)
☐ Post Dissolution Equitable Distribution (750)
☐ Paternity - Private (761)
☐ Paternity - DSS (762)
☐ Termination of Parental Rights - Private (771)
☐ Termination of Parental Rights - DSS (772)
☐ Miscellaneous Actions - Others (799)

Submitting Party Signature: _____

Date: 5/15/12

Custodial Parent (if applicable): _____

Note: Frivolous civil proceedings are subject to sanctions pursuant to Rule 11, SCRPC and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. § 15-36-10 et seq.

SCCA 467 (6/2011)

EXHIBIT

C

FOR MANDATED ADR COUNTIES ONLY

Allendale, Anderson, Beaufort, Clarendon, Colleton, Florence, Greenville, Hampton, Horry, Jasper, Lee, Lexington, Oconee (Family Court Only), Pickens (Family Court Only), Richland, Sumter, Union, Williamsburg, and York Counties.

SUPREME COURT RULES REQUIRE MEDIATION OF ALL CONTESTED DOMESTIC RELATIONS ACTIONS. IF THE DOCKETING INFORMATION ON PAGE 1 OF THIS COVERSHEET INDICATES THAT THIS CASE IS SUBJECT TO MEDIATION YOU ARE NOTIFIED THAT MEDIATED SETTLEMENT CONFERENCES ARE REQUIRED IN THIS CASE, AND THAT THE COURT-ANNEXED ADR RULES SHALL APPLY TO ALL CASES IN WHICH MEDIATION IS REQUIRED. FOR ADDITIONAL INFORMATION CONCERNING THE PROCESS AND TIME FRAMES, PLEASE CONSULT THE ADR RULES. KEY SECTIONS OF THE RULES ARE IDENTIFIED BELOW.

CONTESTED ACTIONS INVOLVING CUSTODY AND VISITATION

Rule 3	Actions Subject to ADR
Rule 4(d)(1)(3)(4) &(5)	Appointment of Mediator by Family Court
Rule 5(g)	Scheduling in Family Court
Rule 6(g)	Agreement in Family Court
Rule 7(f)	Reporting Results of Conference
Rule 9	Compensation of Neutral

ALL OTHER CONTESTED ACTIONS

Rule 3	Actions Subject to ADR
Rule 4(d)(2)(3)(4) &(5)	Appointment of Mediator by Family Court
Rule 5(g)	Scheduling in Family Court
Rule 6(g)	Agreement in Family Court
Rule 7(f)	Reporting Results of Conference
Rule 9	Compensation of Neutral

Indigent Cases: Where a mediator has been appointed, a party may move before the Chief Judge for Administrative Purposes to be exempted from payment of neutral fees and expenses based upon indigency. Applications for indigency shall be filed no later than ten (10) days after the ADR conference has been concluded. Determination of indigency shall be in the sole discretion of the Chief Judge for Administrative Purposes.

Please Note: Attendance at mediated settlement conferences is mandatory. You must comply with the Supreme Court rules regarding court-ordered mediation. Failure to do so may affect your case and may result in sanctions.

Note: Frivolous civil proceedings are subject to sanctions pursuant to Rule 11, SCRPC and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. § 15-36-10 et seq.

SCCA 467 (6/2011)

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

DEBORAH KOZEL

Plaintiff,

vs.

DAVID KOZEL

Defendant.

IN THE FAMILY COURT
SEVENTH JUDICIAL CIRCUIT

SUMMONS

2012-DR-42-1319

Docket No.

TO THE DEFENDANT ABOVE-NAMED: DAVID KOZEL

YOU ARE HEREBY SUMMONED and notified that an action has been filed against you in this court. Within thirty (30) days of the day you receive this Summons, you must respond in writing to this Complaint by filing an Answer with this court. You must also serve a copy of your Answer to this Complaint upon the Plaintiff or the Plaintiff's Attorney at the address shown below. If you fail to answer the Complaint, judgment by default could be rendered against you for the relief requested in the Complaint.

Date: 5/14, 2012

Spartanburg, S.C.

Michael E. Spears
Plaintiff/Attorney for Plaintiff Signature

Print Name: Michael E. Spears

Address: P.O. Box 5806

Spartanburg, S.C. 29304

STATE OF SOUTH CAROLINA) IN THE FAMILY COURT
COUNTY OF SPARTANBURG) SEVENTH JUDICIAL CIRCUIT

C/A No. **2012-DR-42-1319**

DEBORAH KOZEL)
VS.)
DAVID KOZEL)

SUPPORT COMPLAINT

The Plaintiff Deborah Kozel (hereinafter "Plaintiff Mother") respectfully shows this Court:

1. Plaintiff Mother is a citizen and resident of the State of South Carolina, Spartanburg County.
2. Defendant David Kozel (hereinafter "Defendant Father") is a citizen and resident of the State of Florida, with a last known address at 650 Pinellas Bayway, 1301, Tierra Verde, Pinellas County, Florida.
3. Plaintiff Mother married Defendant Father on July 30, 1994 and resided in Pennsylvania, during their marriage.
4. Plaintiff Mother and Defendant Father have two children, Dallas Kozel, age 17 (date of birth [REDACTED]/1995) and [REDACTED], age 15 (date of birth [REDACTED]/97).
5. The children have resided with Plaintiff Mother in South Carolina since September 1998.
6. The parties were divorced on April 4, 2002 when Decree of Divorce was entered by the Court of Common Pleas, Family Division, Allegheny County, Pennsylvania.
7. On February 27, 2007 final judgment was entered in the Allegheny County, Pennsylvania Court of Common Pleas, Family Division, from appeals of various orders resolving the economic issues between Plaintiff Mother and Defendant Father.

8. Plaintiff Mother has registered the Pennsylvania order of support with this Court for enforcement and modification in accordance with S.C. Code § 63-15-358(C) and 28 United States Code § 1738B.
9. Pursuant to Order of the Pennsylvania Court, Defendant Father was ordered to pay child support of \$6,344 per month.
10. Because neither Plaintiff Mother nor Defendant Father resides in Pennsylvania, the Pennsylvania family court does not have continuing jurisdiction over the child support obligations.
11. During the course of the parties' divorce proceeding, Defendant Father failed to disclose substantial and material income producing assets that he either owned directly or beneficially through a family member.
12. Plaintiff Mother was unaware of the extent of Defendant Father's fraud upon the court until very recently, when the fraud was disclosed during a divorce proceeding involving Defendant's brother Todd.
13. During Todd's divorce, Plaintiff learned that since 1997 Todd has been holding as beneficial owner for the Defendant Father shares in an international oil company that is currently publicly traded on the London stock market exchange believed to be worth more than \$30 million.
14. In addition, Plaintiff Mother has now learned that in 2008, less one year after the final order settling the economic issues between the parties, Defendant Father received a distribution of more than \$10 million from an investment partnership that Defendant Father denied he had an ownership interest during the divorce proceeding.

15. Since their divorce, Plaintiff Mother has been raising the parties' two children in South Carolina without any meaningful involvement or support from Defendant Father, other than payment of court ordered child support.

16. Recently, the parties' daughter Dallas began experiencing severe emotional and mental health issues and upon advice of professional counselors was enrolled in a wilderness treatment and counseling program located in North Carolina, at a cost of more than \$10,000.

17. Following her successful completion of this wilderness treatment and counseling program and at the recommendation of her treating healthcare professionals, Dallas is now enrolled at a therapeutic boarding school located in a State located in the Western part of the United States. The cost of this boarding school is more than \$10,000 per month.

18. Plaintiff Mother has not received any financial assistance from Defendant Father for these emergency healthcare needs of Dallas. Rather, Plaintiff Mother has been required to borrow money to pay for the healthcare needs of Dallas.

19. Plaintiff Mother does not have sufficient funds available to pay for the full cost of the therapeutic boarding school and as a result Dallas may be discharged prior to the completion of the program if Defendant Father is not ordered to immediately pay for the cost of the tuition.

20. Defendant Father is a multi-millionaire, who travels in private jets, is believed to have at least three homes and is completing construction of a fourth mansion in Highland Park, Texas, an exclusive suburb of Dallas.

21. Defendant Father does not provide fair and reasonable support for his children according to his means and capacity.

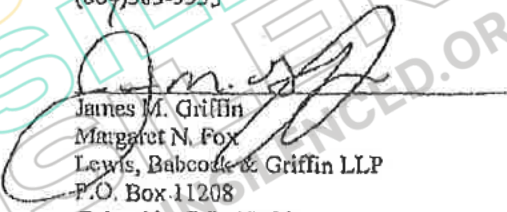
Based upon the foregoing, Plaintiff Mother requests the following relief:

- a. An Order requiring Defendant Father to pay for all of Dallas' therapy, counseling, treatment and therapeutic boarding school tuition;
- b. An Order requiring Defendant Father to reimburse Plaintiff Mother for the amount of money Plaintiff Mother has spent for the payment of all of Dallas' therapy, counseling, treatment and therapeutic boarding school tuition, as well as the travel cost and other expenses incurred by Plaintiff Mother;
- c. An Order modifying and increasing the amount of child support owed by Defendant Father to Plaintiff Mother, and further requiring that the modification be made retroactive to 2007;
- d. For such other and further relief as the Court deems just and proper.

Respectfully submitted,



Michael Spears
P.O. Box 5806
Spartanburg, S.C. 29304
(864) 583-3535



James M. Griffin
Margaret N. Fox
Lewis, Babcock & Griffin LLP
P.O. Box 11208
Columbia, S.C. 29211
(803) 771-8000

May 14, 2012

STATE OF SOUTH CAROLINA)

IN THE FAMILY COURT OF THE
Seventh JUDICIAL CIRCUIT

COUNTY OF Spartanburg)

Deborah Kozel)

Plaintiff,)

FINANCIAL DECLARATION
OF Deborah Kozel

vs.)

David F. Kozel)

Defendant.)

Docket No. _____

2012-DR-42-12/17

HUSBAND/FATHER		WIFE/MOTHER	
Address		Address	335 Barles Fort Road, Landrum, SC 29356
Age		Age	45
Occupation		Occupation	none (former retail business)
Employer		Employer	none
Employer Address		Employer Address	148 W Main Street, Sptbg, SC 29306 (Former employer)

Gross Monthly Income	Husband/Father	Wife/Mother
Principal Earnings from Employment ¹		177.00
Overtime, Tips, Commission, Bonuses ²		0.00
Pensions, Retirement, and Annuities Income		0.00
Additional Employment Income		0.00
Social Security Benefits (SSA) and VA Benefits		0.00
Disability and Worker's Compensation Benefits		0.00
Unemployment and AFDC		0.00
Spousal or Child Support (from other marriage/relationship)		400.00
Dividends, Interest, Trust Income, and Capital Gains		0.00
Rental Income and Business Profits		0.00
Other (Specify): (child support: this marriage)		6,344.00
TOTAL GROSS MONTHLY INCOME		6,921.00

Payroll Deductions from Monthly Income	Husband/Father	Wife/Mother
Federal Income Tax ³		0
State Income Tax		0
Social Security and Medicare Tax (FICA)		0
Self-Employment Tax		0
Health and Dental Insurance (Adult)		0
Health and Dental Insurance (Child)		0
Union Dues		0
Voluntary Retirement Contribution (401(k), 457, IRA)		0
Mandatory Retirement Contribution		0
Savings Plan		0
Other (Specify):		0

TOTAL MONTHLY DEDUCTIONS		0
NET MONTHLY INCOME *		6,921.00

Estimate monthly expenses: (Specify which party is the custodial parent and list name and relationship of all members of household whose expenses are included. Mother, Deborah Kozel (Plaintiff), Dallas Kozel, [REDACTED])

MONTHLY EXPENSES *	Husband/Father	Wife/Mother
Residential Rent Payment		0
Note or Mortgage Payment on Residence(s)		1,920.00
Food and Household Supplies *		1,454.00
Utilities, Water, and Garbage Collection		330.00
Telephone and Cellular Phone		332.00
Medical, Dental and Disability Insurance Premiums (not deducted from paycheck)		0
Life Insurance Premiums (not deducted from paycheck)		0
Child Support (from other relationship)		0
Work Related Day Care		0
Spousal Support (from prior marriage)		0
Auto Payment		263.00
Auto Insurance, taxes, gasoline, and maintenance *		529.00
SUBTOTAL:	4828.00	
Real Property Tax on Residence(s)		0 (escrowed in mortgage)
Maintenance for household *		500.00
Adult Clothing		110.00
Children's Clothing *		489.00
Cable Television, Satellite, and Internet/Online Services		(included in telephone)
Laundry and Dry Cleaning **		10.00
Medical and Dental Expenses (not paid by insurance)		238.00
Prescriptions, Glasses, and Contacts (not paid by insurance)		42.00
Children's incidental expenses **		964.00
School lunches, supplies, field trips, and fees **		91.00
Entertainment **		200.00
Adult incidental expenses **		228.00
All installment payments **		800.00
Other (Specify):		8,535.00
SUBTOTAL:	Spring Ridge Academy (Dallas) Parental Travel	
TOTAL MONTHLY EXPENSES		16,945.00

Installment Loan Payments Section

Creditor	For	Monthly Payment	Balance	Owed by ¹⁵
Lowes	Credit Card	100.00	2,200.00	Plaintiff
Belk	Clothing	75.00	800.00	Plaintiff
Bank of America	Credit Card	350.00	13,000.00	Plaintiff
First Citizens	Home Equity	200.00	75,000.00	Plaintiff
Dillards	Clothing	75.00	1,200.00	Plaintiff
TOTAL		800.00	92,200.00	

Other Debts and Obligations *not* payable in monthly installments

Creditor	For	Date Payable	Balance	Owed by ¹⁵
Wilder & Mahood	Attys fees	now	123,886.00	Plaintiff
B Weaver	Tuition	now	18,000.00	Plaintiff
H. Stott	general expenses	now	14,000.00	Plaintiff
R. & C. Stott	SUWs (Wildermans)	now	10,000.00	Plaintiff
B. Stott	SUWs (Wildermans)	now	33,000.00	Plaintiff
TOTAL:			198,886.00	

Are you currently in Bankruptcy? ☐ YES ☒ NOAre any obligations listed above, including mortgage and note payments, in arrears? ☒ YES ☐ NO

If yes, please list the obligations in arrears.

All Marital Property Known to Parties

Assets	Husband/Father	Wife/Mother	Joint
Cash and Money in Checking Account(s)			
Money in Savings Account(s), Credit Union, Money Market, or Cert. of Dep.			
Value of Voluntary Retirement Account(s)			
Value of Pension Account			
Value of Publicly Held Stocks, Bonds, Securities, Mutual Funds			
Value of Privately Held Stocks and Other Business			
Value of Real Estate - Net of Mortgage Balances			
Value of All Other Property ¹⁷			
TOTAL ASSETS			

Any Non Marital Property Known to Parties

Description of Asset	Title Owner	Date of Acquisition	Source of Funds to Acquirer	Estimate Present market Value
2005 Ford Escape	Debbie Kozel	2011	Harold Stott	5,500.00
Home	Debbie Kozel			375,000.00
2010 Ford Escape	Debbie Kozel	2011	self	14,000.00

TOTAL:				\$394,500.00
--------	--	--	--	--------------

If total assets are less than \$300,000.00, sign and have notarized.

If total assets are greater than \$300,000.00, itemize assets by completing additional sections below and sign and have notarized.

Financial Accounts Section¹⁸

Owner	Name of Institution	Type of Account	Balance
Checking Account	First Citizens	Checking	548.00

Voluntary Retirement Accounts and Pension Accounts Section

Type of Account	Value

Publicly Held Stocks, Bonds, Securities, Mutual Funds Section (Non-Retirement)¹⁹

Name of Company	Number of Shares/Type of Account	Value

Real Estate Section²⁰

Owner	Address	Value	Mortgage Balance	Mortgage Equity
Plaintiff	335 Earles Fort Rd, Landrum, SC	375,000.00	210,000.00	165,000.00

Other Property Section²¹

Owner	Description of Asset	Value	Loan Balance	Equity

--	--	--	--

Signature

Sworn to before me this 14th of May
2012

[Signature] (SEAL)
 Notary Public for South Carolina
 My commission expires: 02/29/13

Custodial Parent (if applicable): _____

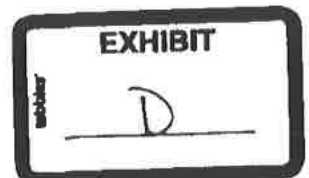
1. A recent paystub should be attached to the Financial Declaration. To compute Principal Earnings from Employment, first determine whether you are paid semi-monthly, biweekly, or weekly. If you are paid semi-monthly, multiply the gross amount of your pay check by two. If you are paid biweekly, multiply the gross amount of your pay check by 26 and then divide by 12. If you are paid weekly, multiply the amount of your paycheck by 52 and divide by twelve. Round to the nearest whole dollar.
2. To compute Overtime, Tips, Commission, and/or Bonuses, take an average of your monthly earnings from overtime, tips, commission, bonuses, etc. from the past three years or the length of employment if employed less than three years (including this year).
3. To compute State, Local, and Social Security Tax deductions, use the same formula used to compute principal earnings in endnote 1 above, or consult or have your attorney consult an accountant.
4. Net monthly income is equal to Total Gross Monthly Income minus Total Monthly Deductions.
5. Do not include any expense in the Monthly Expenses section that has already been included in the Deductions from Gross Monthly Income on page one of the Declaration.
6. Food Expense is to include the cost of groceries, toiletries, cleaning supplies, and casual eating out.
7. Auto Expenses are to include gasoline, oil changes, tune-ups, tire replacement, maintenance, and related items.
8. Maintenance for Household is to include appliance and household repairs, landscaping, house cleaning, pest control, pool service, alarm service, and other related items.
9. Clothing Expense is to include shoes and clothing purchases, clothing repair and alterations, and related items.
10. Laundry Expense is to include the cost of laundry service, dry cleaning, and related items.
11. Children's Incidental Expenses are to include allowance, summer camp, baby sitters, lessons, activities, participatory sports, and related items.
12. School Expense is to include tuition, supplies, field trips, dues, tutors, locker rentals, school lunches, and other related items.
13. Entertainment is to include movies, theater, vacations, sporting events, compact discs, digital video discs, and related items.

-
14. Adult Incidental Expenses are to include cosmetics, hair and nail care, books, magazines, newspapers, business dues, memberships, pets, charity, religious dues or tithes, gifts, bank charges, hobbies, and related items.
 15. All Installment Loan Payments is the total amount itemized in Installment Loan Payments Section, which should include all loan payments not already listed as a monthly expense. Examples: home equity loan, credit cards, etc.
 16. Indicate which spouse legally owes the payment (husband, wife, or joint).
 17. Other property is to include automobiles (minus loan balance), boats (minus loan balance), furniture, furnishings, china, silver, jewelry, collectibles, and other personal property.
 18. Itemize Financial Accounts such as checking, savings, credit union, money market, or certificate of deposit accounts in the Financial Accounts Section.
 19. Itemize Publicly Held Stocks, Bonds, Securities, Stock Options and Mutual Funds (excluding retirement accounts) in the Publicly Held Stocks, Bonds, Securities, Mutual Funds Section.
 20. Itemize each parcel of Real Estate in the Real Estate Section.

David,

As I told you before, Dallas has an urgent financial need and [REDACTED] has an immediate as well as upcoming financial needs. Rather than do this bit by bit I would hope that we can agree to plan for the obvious future expenses as well as the current urgent expenses.

In January, I decided along with others concerned for Dallas to enroll her in a Wilderness Therapy Program, SOWS of the Carolinas. The cost for that program was approximately \$37,500.00 for the treatment. Also included is an invoice for \$2,990.00 which is still owed to SOWS. At the end of her treatment SOWS highly recommended that Dallas go on to a therapeutic boarding school. The Price Group (May Peak) was hired to find the proper school for Dallas and her needs.



Spring Ridge Academy in Arizona was our choice. SRA is an all girls therapeutic boarding school. Enclosed are the expenses for SRA monthly tuition and allowance of \$75.00 which is sent separately. Also enclosed are a list of supplies (receipts for those supplies) that were required for her as well as receipts for shipping those supplies to Arizona.

██████████ and I visit Dallas once a month. I have included receipts for our monthly trip to Arizona. At this point in her treatment Dallas is not allowed to come home for visits.

██████████ is still in private school and the tuition increases yearly. Included is a tuition chart for Oakbrook 2012. This does not include monthly invoices for lunch, sports, trips, etc. Also, as I have discussed with you, ██████████ travels all over the country with her soccer team. Expenses for her soccer last year was approximately \$10,000.00.

There were many trips I could not afford to travel with her, which does not make her happy. I would like to be able to attend more in the following years.

Even the high school years there are many extra expenses such as prom gowns, party dresses, laptops, trips etc. I would like for them to have the freedom to enjoy these events/supplies without worrying about the cost. Both girls are well aware our money has been very tight and are always concerned with the cost. This should not be something they should worry about.

██████ becomes eligible to drive in August of this year and Dallas will need transportation as soon as she is discharged from SKA. Neither of these needs are immediate but if we could agree to and plan for them now we won't have to do this again in the future.

I wish for you to reimburse me for the money that I have spent so far for Dallas. This would include the Wilderness Program (Sons of the Carolinas), The Price Group and Spring Ridge Academy. Also all expenses that went along with these programs. Receipts are enclosed. Also, I wish for you to quadruple the current Child Support from \$4,344.00 a month to \$25,376.00 per month and continue to pay that until each girl's 21st birthday. After that, all your mandatory obligations for support of the children will be agreed to be ended. In return for this I will agree to do the following

- 1) drop all claims for past child support increases due from 2007 - present
- 2) Assume all responsibility for higher education expenses for the future
- 3) Assume responsibility for all vehicle purchases and special needs

4) Agree to never ask for any increase in child support for any reason.

5) dismiss my current action immediately

David, I know that you know you are free to help the girls financially in anyway that you wish after they become adults. I also know that you know that there is no legal requirement for you to do that. I hope that you will but that is totally up to you.

As I mentioned before I am at my limit of my ability to borrow anymore money from family and friends and it was only after I hit the wall and when you did not return my text that I was left no choice but to ask for emergency Ref. I do not like wasting money on lawyers.

I hope we can agree to the above immediately and have it reduced to nothing so that I can stop paying lawyers and give the girls the support they need.

David this will only last for four more years for Dallas and five more for [REDACTED]. This averages out to be just an increase of \$190,320.00 per year for a brief period of time.

That is the full request from me and would end all issues concerning past, present or future support for the girls. Whatever you decide, please remember Dallas' school bills are due now.

Thank you,
Deborah

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

IN THE FAMILY COURT
SEVENTH JUDICIAL CIRCUIT

Deborah Kozel

Plaintiff,

vs.

David Kozel

Defendant.

JUDGMENT IN A
FAMILY COURT CASE

Docket No. 2012-DR-42-1349

Submitted by:

Jack W. Lawrence

Attorney for ☐ Plaintiff ☒ Defendant
or
☐ Self-Represented Litigant ☐ GAL

DECISION BY COURT (check all that apply)

- ☒ This action came to trial, hearing or was resolved by consent and an order was rendered.
☐ This action has been dismissed pursuant to ☐ Rule 12(b), SCRPC ☐ Rule 41(a), SCRPC
☐ Rule 43(k), SCRPC ☐ Family Court Benchmark
☐ Other: _____

IT IS ORDERED AND ADJUDGED: ☒ See attached order; ☐ Statement of Judgment by the Court:

☐ Additional information for Clerk: _____

ORDER INFORMATION

- This is a ☐ Temporary ☒ Final order. If Final, does this order end the case? ☒ Yes ☐ No.
Support ☒ is not ordered ☐ is ordered, and it is to be paid ☐ through the court. ☐ directly to the
Case number under which support is paid if different from this one: _____
This order involves the immediate ☐ issuance ☐ dismissal of a bench warrant, or ☐ does not apply.
☐ The following motions are ended by this order (include motion filing date): _____
☐ This order adds or dismisses the following parties to this case:
☐ dismiss ☐ add: _____ ☐ dismiss ☐ add: _____

INFORMATION FOR THE JUDGMENT INDEX/TRANSCRIPT OF JUDGMENT (§ 20-3-670(B)(1))

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information to enroll, indicate "N/A" in one of the boxes below.

Judgment In Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount to be Enrolled (List amount(s) below)
N/A		\$
		\$
		\$
If applicable, describe the property, including tax map information and address, referenced in the order:		

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the South Carolina Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: title abstractors and researchers should refer to the official court order for judgment details.

Family Court Judge

Judge Code

Date

SCRPC Form 4F (12/2011)

RECEIVED

EXHIBIT

E

FOR CLERK OF COURT OFFICE USE ONLY

This judgment was entered on the _____ and a copy mailed first class or placed in the appropriate attorney's box on _____ to attorneys of record or to parties (when appearing pro se) as follows:

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEYS FOR THE DEFENDANT(S)

CLERK OF COURT

Court Reporter: _____

Custodial Parent (if applicable): _____

UNSILENCED
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UNSILENCED
www.UNSILENCED.ORG | (KM)

2012 AUG 10 AM 9:16
H. HOPE BLACKLEY
SHERIFF'S OFFICE
CLERK OF COURT

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

IN THE FAMILY COURT
SEVENTH JUDICIAL CIRCUIT

Deborah Kozel

Plaintiff,

vs.

David Kozel

Defendant.

**MOTION AND ORDER INFORMATION
FORM AND COVERSHEET**

Docket No. 2012-DR-42-1349

Plaintiff's Attorney: Michael E. Spears, Bar No. _____ Address: 122 South Liberty Street, Spartanburg, SC 29306 Phone: 583-3535 Fax 583-3525 E-mail: attyspears@charter.net Other: _____		Defendant's Attorney: Jack W. Lawrence, Bar No. 3148 Address: P O Box 5722 Spartanburg SC 29304 Phone: 583-5057 Fax 208-9797 E-mail: jack@lawrencerudasill.com Other: _____	
☐ MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and II) ☐ FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III) ☒ PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)			
SECTION I: Hearing Information			
Nature of Motion:		Court Reporter Needed: ☒ YES / ☐ NO	
Estimated Time Needed:			
SECTION II: Motion/Order Type			
☐ Written motion attached ☒ Form Motion/Order I hereby move for relief or action by the court as set forth in the attached proposed order.			
Signature of Attorney for ☐ Plaintiff / ☒ Defendant		Date submitted <u>8/6/12</u>	
SECTION III: Motion Fee			
☐ PAID - AMOUNT: \$ _____ ☐ EXEMPT: (check reason)			
☐ Rule to Show Cause in Child or Spousal Support ☐ Domestic Abuse or Abuse and Neglect ☐ Indigent Status ☐ State Agency v. Indigent Party ☐ Sexually Violent Predator Act ☐ Post-Conviction Relief ☐ Motion for Stay in Bankruptcy ☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRPC) ☒ Proposed order submitted at request of the court; or, reduced to writing from motion made in open court per judge's instructions Name of Court Reporter: <u>Lisa G. Arnick</u> ☐ Other: _____			
JUDGE'S SECTION			
☐ Motion Fee to be paid upon filing of the attached order. ☐ Other: _____		JUDGE CODE _____ Date: _____ Judge Signature: _____	
CLERK'S VERIFICATION			
Collected by: _____ Date Filed: _____ ☐ MOTION FEE COLLECTED: \$ _____ ☐ CONTESTED - AMOUNT DUE: \$ _____			

SCCA 233F (12/2009)

After the initial filings, the Mother sought emergency relief requiring the Father to immediately pay past due housing, education and therapeutic boarding expense for Dallas because of the school's threat to dismiss Dallas from their program if payment was not promptly received. The Mother also requested that the Father be required to pay the tuition at the school, temporarily. Judge Phillip K. Sinclair, Administrative Family Court Judge for the Seventh Judicial Circuit, granted the Mother's request for an expedited hearing. The case comes before the Court under these circumstances with the Father continuing to assert that the case should be dismissed for lack of personal jurisdiction.

FACTS

Based upon the pleadings, argument of counsel and documents introduced into the record the following facts can be made:

1. The parties were previously married and had, as a result of the marriage, two children: Dallas Kozel, whose date of birth is [REDACTED] 1995, and who is now 17 years old and [REDACTED], whose date of birth is [REDACTED] 1997, and is now 15 years old.
2. After the marriage, the parties resided in the State of Pennsylvania until they separated in September of 1998. On separation, the Mother moved with the children back to the State of South Carolina.
3. The Mother sought relief in the courts of the State Pennsylvania against the Father as to all marital issues. In Pennsylvania, these issues are addressed by the Family Division of the Court of Common Pleas in the particular county of residence of the litigants. The Mother sought relief from the Allegheny County, Pennsylvania, Court of Common Pleas, Family Court Division. She obtained a divorce

from the Father on April 4, 2002. Orders as to other issues were filed at other times.

There were at least two appeals of Orders from the Court of Common Pleas for Pennsylvania. The last such appeal ended in August of 2009.

4. The Mother and the children have resided in South Carolina since 1998. The Mother alleges that the child, Dallas, has had profound psychological and emotional disturbances which have caused her to have suicidal ideation and cut herself repeatedly and secretly. The Mother alleges that Dallas' condition has required her to seek counseling for Dallas and treatment at a special therapeutic boarding school for girls located in Spring Valley, Arizona.

5. The Mother also alleges that the cost of the schooling is substantial and ongoing, and she needs financial help in addition to the child support that she is receiving from the Father. She alleges that if she does not receive the financial help she requests that the child will not receive the treatment necessary her condition will get worse.

6. Although the parties disagree as to the Order requiring it, they do agree that the child support ordered by the Pennsylvania Court is in the amount of \$6,344.00 per month. They also agree that the Father is current on that child support as of the date of the hearing.

Registration of Pennsylvania Order

7. The Mother has brought a separate case to register the Pennsylvania Order under S. C. Code § 63-15-358(C). This statute is commonly referred to as the Uniform Child Custody Jurisdiction and Enforcement Act ("UCCJEA"). In her application to register support orders in South Carolina she attached two Pennsylvania court orders – one appears to be an opinion of Judge J. Scanlon of the

Court of Common Pleas for the Allegheny County, Pennsylvania, Family Court filed on March 9, 2006; the other appears to be an opinion from the Superior Court of Pennsylvania (an appellate court in Pennsylvania) filed on February 27, 2007.

8. This attempt by the Mother to register the Pennsylvania court orders have been brought by her in another case filed in the Family Court for Spartanburg County, South Carolina, under Case No. 2012-DR-42-1350.

9. Pursuant to S.C. Code § 63-15-358(D), the Father has contested the registration of the Orders. The Father contests the validity of the Mother's attempted registration and has demanded a hearing as to the registration. As of the date of the hearing before this Court, a hearing as to the registration has not been held; at this time there is no resolution to the Mother's attempt to register the Pennsylvania Orders under Case No. 2012-DR-42-1350.

Positions of the Parties

10. The Mother asserts that because of the dire nature of the situation in regards to her daughter this Court should hear the matter and grant the relief as requested in her pleadings; she contends that a ruling by the South Carolina courts as to registration and validity of the Pennsylvania Orders is not necessary in order to provide the relief she now requests. She alleges South Carolina has personal and subject matter jurisdiction.

11. The Father's assertions are:

a. That the Orders attempted to be registered under Case No. 2012-DR-42-1350 do not contain the Pennsylvania Orders related to custody or support and therefore the Orders cannot be enforced or modified by a South Carolina Court.

b. South Carolina Courts lack personal jurisdiction over him and therefore must dismiss the suit.

c. South Carolina Courts lack subject matter jurisdiction over the issues and therefore must dismiss the Complaint.

d. In Case No. 2012-DR-42-1350, the Mother attempts to register a support order under a custody/visitation registration statute (UCCJEA). He asserts such an attempt is improper when attempting to register a support order; he contends that any support orders must be registered in South Carolina under S.C. Code § 63-17-3610 et seq. pursuant to what is commonly referred to as the Uniform Interstate Family Support Act ("UIFSA").

CONCLUSIONS OF LAW

Registration

A. The case before this Court concerns the enforcement or modification of a Pennsylvania Order. Specifically, the Mother wishes for this Court, on an emergency basis, to require the Father to pay expenses in the nature of child support which were not directly addressed in the court orders of Pennsylvania. The case as it comes before this Court does not deal with the question of the proper or improper registration of an out-of-state order or whether or not the correct orders are being registered. A separate suit has been brought for that determination under Case No. 2012-DR-42-1350. The issues as to proper registration and whether or not the proper orders are being registered will be left to a hearing to be scheduled in that case. This Court will not address those issues.

Personal Jurisdiction

B. The next matter which this Court is called upon to address is whether or not this Court has personal jurisdiction over the Father.

(i) The Mother asserts that this Court does have personal jurisdiction over the Father pursuant to S.C. Code § 63-17-3010 (which is a part of UIFSA) and under 28 U.S.C.A. §1738(B), commonly called the Federal Full Faith and Credit for Child Support Orders Act ("FFCCSOA").

(ii) The Mother argues that under S.C. Code § 63-17-3010, this Court may exercise personal jurisdiction over the non-resident Father if: (a) the child resides in South Carolina as a result of the acts or directive of the Father; or (b) the Father engaged in sexual intercourse in South Carolina and the child may have been conceived by that act of intercourse; or (c) there is any other basis consistent with the Constitutions of South Carolina and the United States for the exercise of personal jurisdiction. [See § 63-17-3010(A)(5),(6) and (8).]

(iii) The Mother contends that the Father indeed has had contacts with the State of South Carolina in that prior to their marriage he played golf in Myrtle Beach, South Carolina and had trips to that area where she actually met him. She also contends that their child, Dallas, was conceived in South Carolina, and the parties vacationed here. All of these allegations allege incidents which occurred prior to the separation. After the separation, she contends that the Father vacationed with their daughters in Myrtle Beach and visited in Greenville, South Carolina, with the children. She did acknowledge that the Father had not been in this state for six or seven years.

(iv) The Father argues that these incidents are too remote in time to give this Court jurisdiction over him. He asserts that the Long-Arm Statute set forth in

S.C. Code § 36-2-801 *et seq.* and the Due Process Clause of the State and Federal Constitutions require that this Court find that it does not have personal jurisdiction. He additionally argues that having conceived a child in this state over 17 years ago (if indeed that did occur) is far too remote in time to give jurisdiction over him in the state. Further he argues that S.C. Code § 63-17-3010(A)(6) relates to a situation where a putative father is no longer in the state and the state is seeking support for a child born as a result of being conceived in the State of South Carolina, which is not the situation as it exists in this case.

(v) The Father further argues that since the Mother returned to South Carolina in 1998 she has been actively involved in family law litigation in the State of Pennsylvania which only concluded three or four years ago. She has purposefully placed herself in the jurisdiction of the Pennsylvania courts. By involving herself in family law litigation in that state and having that state rule on the issues before it, her actions break any claim that she may have to personal jurisdiction over him in the State of South Carolina under the facts of this case and any legal theory she raises.

(vi) The Father's argument is the more persuasive and the Court adopts his reasoning.

C. The Court has examined Leggett vs. Smith, 386 S.C. 63, 686 S.E.2d 699 (Ct. of App. 2009) and the statutes argues by counsel and concludes that the Mother has not established personal jurisdiction over the Father.

(i) The Mother has not directed the Court to any facts showing that the children reside in South Carolina as a result of the acts or directions of the Father. The Mother has failed to satisfy the requirements of § 63-17-3010(A)(5).

(ii) Further, under Long-Arm Statute, the Mother has failed to show any of the requirements for personal jurisdiction based upon an enduring relationship (§ 36-2-802) or conduct (§ 36-2-803). Even if she could meet these requirements, giving personal jurisdiction over the Father would offend the Due Process Clause of the Federal and State Constitutions. She fails to satisfy the power prong of the Due Process Clause; there is no evidence that the Father has directed his activities to the Mother, the children or any resident in South Carolina; and there is no evidence that a cause of action has arisen out of those activities. She has failed to prove to this Court that the fairness prong of the Due Process Clause has been satisfied; there is no evidence of lengthy activity of the Father in this State; the Father's activities in this state were many years ago and related to visitation with the children and other minor contacts; the inconvenience resulting to the Mother by refusing to confer jurisdiction in South Carolina is small; she has indeed accessed and used the courts of Pennsylvania for many years on these related issues. This state does not have an interest in exercising jurisdiction over matters that are just as easily heard in the State of Pennsylvania or the state of the Father's residence.

FFCCSOA

D. The Mother also asserts that FFCCSOA requires jurisdiction be had in the State of South Carolina. She is in error in her analysis. This federal statute specifically provides that each state shall enforce orders of another state according to the terms of that order. Modifications of orders of another state may only be made in three situations under 28 U.S.C.A. § 1738(B):

(i) First, if only one court has issued a child support order, the order of that court must be recognized (28 U.S.C.A. § 1738(B)(e)(1)). In this case only one order

has been issued by a court in the State of Pennsylvania therefore it must be recognized. The remaining subsections of § 1738B(e) deal with situations where two or more states have issued orders. The Mother cannot seek modification of the Pennsylvania Order in South Carolina under this section.

(ii) Secondly, Section 1738(B)(i) provides that South Carolina may modify the Pennsylvania Order if neither parent nor the child is residing in Pennsylvania and if South Carolina has jurisdiction over the Father for its purposes of modification. As discussed previously in this Order, South Carolina does not have personal jurisdiction over the Father under any theory of law. The Mother may not use this subsection to modify the Pennsylvania Order in the State of South Carolina.

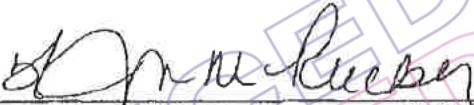
(iii) Finally, Section 1738(B)(e) provides a third method of one state modifying a support order of another state. There are two requirements under the subsection that must be met before South Carolina may entertain a motion to modify the Pennsylvania Order. One of those requirements is alternative in nature: (a) the Father consents to jurisdiction or (b) South Carolina has jurisdiction over the Father under § 1738(B)(i). The Father has not consented to jurisdiction in South Carolina, so the Mother has failed to satisfy that alternative. The second alternative has not been satisfied because, as addressed previously in this Order, South Carolina does not have personal jurisdiction over the Father under § 1738(B)(1). Therefore, the Mother's attempt to modify the Pennsylvania Order under this subsection must fail.

E. South Carolina does not have personal jurisdiction over the Father the Court need go no further in its analysis: it is not necessary to address the issue of subject matter jurisdiction.

Due to the fact that this Court does not have personal matter jurisdiction over the Father, this entire action shall be dismissed.

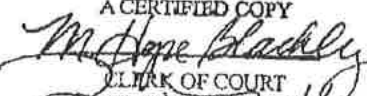
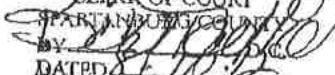
IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the Plaintiff's Petition for emergency relief is denied and this entire action is dismissed.

AND IT IS SO ORDERED this 7 day of August, 2012, at Newberry, South Carolina.



JOHN M. RUCKER, PRESIDING JUDGE OF THE
FAMILY COURT, SEVENTH JUDICIAL CIRCUIT

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WWW.UNSILENCED.ORG | (KM)

A CERTIFIED COPY

CLERK OF COURT
SPARTANBURG COUNTY
BY 
DATED 8/10/12

27

CLINICAL NOTES

Name: [REDACTED] Accompanied By: Mom
Date: 12/21/12 CPT: 90806

update - Mom

She emailed Julianna - it is
OK for me to talk to [REDACTED]

ANDR

Remember incident - ~~David~~ David
Touching in bathtub with girls

clinical notes.doc 02/16/2009

DEBORAH KOZEL 1530



view

http://webmail-classic.windstream.net

Date: Monday, January 7, 2013 1:01 AM
From: Orbitz <travelercare@orbitz.com>
To: [REDACTED]@windstream.net
Subject: Prepare for your trip



Prepare for your trip

Dear deborah ,

Just a friendly reminder, there are only a few days left until your trip:
 Phoenix Wed, Jan 9, 2013

See great hotel deals for your trip.

Traveler information

Traveler names, loyalty programs, and ticket type

Traveler 1 **DEBORAH KOZEL**
Airline Ticket Number: 0067170905196
 Electronic
Loyalty Programs: Delta Air Lines SkyMiles
 9109105719
Primary phone number: [REDACTED]
Seat preference: Any Seat
Meal (if available): Standard
Requests for disabled travelers: Notice to airline of the ticket number

Flight itinerary

Orbitz record locator:
PBORB0951929764

To make changes to your trip, go to

Cost and Billing Summary

This booking is subject to our [Privacy Policy](#) and our [Terms and Conditions](#)

Your current trip cost

Flight
 Airline Ticket(1)
 (Adult: 1) \$374.10
Insurance
 Travel Insurance Plan 2395 \$22.45

Total due at booking \$396.55

[Taxes and fees included](#)
[Price Assurance](#)

Additional [baggage fees](#) may apply.

This reservation was

DEBORAH KOZEL 0158



1/8/2013 4

few

http://webmail-classic.windstream.net/

[Trip details](#) | [Modify Seat Requests](#) | [Terms and conditions](#)

Leave **Wed, Jan 9** 7hr 29min Total time

Depart **Charlotte, North Carolina**  Delta Air Lines 5704 Economy | Embraer 175 505 ml | 1hr 57min

12:35 PM Douglas Airport (CLT)

Stop 1 **Detroit, Michigan**

2:32 PM Detroit Wayne County Airport (DTW) | Terminal EM

On-time performance: 90% | Seats: 18-A | Seats are confirmed.

Flight 5704 Operated by COMPASS DBA DELTA CONNECTION

Change planes. Time between flights: 1hr 5min

Depart **Detroit, Michigan**  Delta Air Lines 2021 Economy | Boeing 757 1,678 ml | 4hr 27min

3:37 PM Detroit Wayne County Airport (DTW) | Terminal EM

Arrive **Phoenix, Arizona**

6:04 PM Sky Harbor Airport (PHX) | Terminal 3

On-time performance: 90% | Seats: 30-B | Seats are confirmed. | Meal: Food for purchase

made on Thu, Jan 3, 2013 8:35 PM CST .

Billing Information

Card holder's name: Rupeshkumar J Patel

Card type: Visa

Card number: *****8790

Billing Address: 115 oriole ct
Bolling springs, SC 29316
US

Air policies and additional billing information

Changes to this ticket will incur change fees.

Orbitz Travel Alerts

The following alerts have been setup for this trip.

deborah kozel
Dkozel@windstream.net
Receiving: Departure Alerts

Wake-up call: For flights departing early in the morning, you will start receiving alerts in the middle of night.

[add alerts for \[6\] more people](#)

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DEBORAH KOZEL 0159

1/8/2013

review

<http://webmail-classic.windstream.net/do/mail/message/prev...>

Return Mon, Jan 14 5hr 48min Total
time

Depart **Phoenix, Arizona**  Delta Air Lines 1646
Economy | Boeing 757
12:55 AM Sky Harbor Airport (PHX) | Terminal 3
1,584 mi |

Stop 1 **Atlanta, Georgia** 3hr 21min

6:16 AM Hartsfield-Jackson Airport (ATL) | Terminal S

On-time performance: 90% | Seats: 32-F |
Seats are confirmed. | Meal: Snack or breakfast

Change planes. Time between flights: 1hr 14min

Depart **Atlanta, Georgia**  Delta Air Lines 1419
Economy | Boeing 737
7:30 AM Hartsfield-Jackson Airport (ATL) | Terminal S
228 mi | 1hr 13min

Arrive **Charlotte, North Carolina**

8:43 AM Douglas Airport (CLT)

On-time performance: 90% | Seats: 15-F |
Seats are confirmed.

Delta Air Lines record locator: GWMEUQ

Security update: Airports and airlines now require that you obtain a boarding pass before entering the security checkpoint. Review the latest airport security rules.

RENTER / DRIVER INFORMATION				INDEPENDENT FRANCHISEE OF		PCR Venture of Phoenix, LLC	
RENTER MICHAEL SPEARS				PAYLESS CAR RENTAL		1805 E SKY HARBOR CIRCLE S PHOENIX AZ 85034 602-881-9589	
CURRENT ADDRESS				FACE PAGE		YOU MUST REPORT ALL DAMAGE TO US AND ALL ACCIDENTS TO US AND THE POLICE. YOU MUST ALSO COMPLETE OUR ACCIDENT REPORT FORM.	
RES. PHONE NO.				RA. NO. PHX-167300			
CITY	STATE	ZIP CODE					
DRIVER'S LICENSE NO.	STATE	EXPIRE DATE					
DATE OF BIRTH	AGE	RENTER'S INSURANCE COMPANY					
CURRENT EMPLOYER		WORK PHONE NO.					
EMPLOYER'S ADDRESS		CITY	STATE				
RENTER'S LOCAL ADDRESS (IF DIFFERENT FROM ABOVE)		LOCAL PHONE					
RENTER REQUESTS PERMISSION FOR ADDL DRIVER (IF NONE, WRITE NONE AND INITIAL)		DATE OF BIRTH	AGE				
DEBORAH KOZEL		1967	45				
Geographical Restrictions: Use of this vehicle is restricted to the states of AZ, CA, NM, NV & UT only. Vehicles are not permitted to be driven into Mexico. Violation of the restriction will result in a mileage charge of 50 cents per mile for each mile driven during the duration of your rental. Initial							
COLLISION DAMAGE WAIVER (CDW)							
BY INITIALING HERE YOU DECLINE TO PURCHASE CDW. YOU AGREE TO BE RESPONSIBLE FOR ALL DAMAGE TO, OR LOSS OF, THE VEHICLE.							
PERSONAL ACCIDENT INSURANCE (PAI)							
BY INITIALING HERE, YOU DECLINE TO PURCHASE PAI.							
SUPPLEMENTAL LIABILITY INSURANCE (SLI)							
BY INITIALING HERE, YOU DECLINE TO PURCHASE SLI AND YOU AGREE TO BE PRIMARILY RESPONSIBLE FOR ALL DAMAGE OR INJURY YOU CAUSE TO OTHERS OR THEIR PROPERTY.							
RENTER LIABILITY INSURANCE (RLI/RLP)							
BY INITIALING HERE, YOU DECLINE TO PURCHASE RLI/RLP AND YOU AGREE TO BE RESPONSIBLE FOR ALL DAMAGE OR INJURY YOU CAUSE TO OTHERS OR THEIR PROPERTY.							
ROADSIDE SERVICE PLAN (RSP)							
BY INITIALING HERE, YOU AGREE TO PURCHASE OUR ROADSIDE SERVICE PLAN, THE TERMS OF WHICH ARE CONTAINED IN A SEPARATE BROCHURE THAT YOU ACKNOWLEDGE RECEIVING. \$ 2.99 Per Day							
VIOLATION MANAGEMENT SERVICES (VMS)							
By signing below, you hereby authorize us to release rental and credit card information regarding this rental to Violation Management Services (VMS) for the purpose of processing and billing you for unpaid parking, traffic, and toll violations incurred by you or assessed against us or the vehicle during this rental, plus a service charge payable to VMS of a maximum of \$50.00 per violation. You authorize VMS to bill all those items directly to the credit/debit card you used for this transaction.							
VEHICLE CONDITION				AT RENTAL ☒			
RENTER ACKNOWLEDGES ATTACHED VEHICLE CONDITION FORM				AT RETURN ☒			
THE DRIVER OF THE RENTED VEHICLE AND ANY PASSENGER OVER FIVE YEARS OF AGE MUST WEAR A SEAT BELT. NOTICE OUR LIABILITY DOES NOT COVER INJURIES TO PASSENGERS IN THE VEHICLE.				CONF. # 0011263838			
CREDIT CARD INFORMATION/SEC. INFORMATION				NEAR SOURCE PAYLESS			
CREDIT CARD TYPE: AX CREDIT CARD NO. XXXXXXXXXX06000				REG CENTER			
AUTH AMT. 250.00 AUTH # AUTH# 198934				PCAR			
BY SIGNING BELOW, YOU AGREE TO ALL THE TERMS AND CONDITIONS OF THIS AGREEMENT AND YOU ACKNOWLEDGE THAT YOU HAVE BEEN GIVEN AN OPPORTUNITY TO READ IT BEFORE BEING ASKED TO SIGN. YOUR SIGNATURE BELOW ALLOWS US TO PROCESS A SEPARATE CREDIT/DEBIT CARD VOUCHER IN YOUR NAME FOR ALL AMOUNTS DUE US. YOU AUTHORIZE US TO CHARGE YOUR CREDIT/DEBIT CARD AFTER THE RENTAL CONCLUDES FOR ANY UNPAID PARKING TOLLS, TOLL EMISSION FINES OR OTHER FINES OR PENALTIES ASSESSED AGAINST YOU, US OR THE VEHICLE DURING THIS RENTAL. THE TIME AND MILEAGE RATES ABOVE ARE SUBJECT TO CHANGE IF YOU RETURN THE VEHICLE BEFORE OR AFTER THE DUE DATE OR TO A LOCATION OTHER THAN THE RENTING LOCATION.							
ALL AUTHORIZED DRIVERS MUST BE 21 OR OLDER WITH PERMITS/DR LICENSE.							
RENTER ☒				AGENT ☒			
ADDITIONAL DRIVER ☒				ABDUL			
FOR RENT 2013 PAYLESS CAR RENTAL SYSTEM INC. 01/09/2013 07:16 PM							
ALL CHARGES SUBJECT TO FINAL AUDIT.							
PHX 08-29-2011 TRAZ12							

DEBORAH KOZEL 0152



Yavapai County Sheriff's Office

Deputy Report for Incident 13-000414

Nature: Sex Offense
Location: SE35

Address: 13690 S. BURTON RD
Spring Valley AZ 86333

Offense Codes: SOFF

Received By: Hall-Frueh, C

How Received: T

Agency: YCSO

Responding Officers: Craypser, M, CANCELLED, Oen, Donald

Responsible Officer: Oen, Donald

Disposition: ACT 02/06/13

When Reported: 10:41:43 01/04/13

Occurred Between: 10:35:31 01/04/13 and 10:35:31 01/04/13

Assigned To:

Detail:

Date Assigned: **/**/13

Status:

Status Date: **/**/13

Due Date: **/**/13

Complainant: 257269

Last: SPRING RIDGE
ACADEMY

First:

Mid:

DOB: **/**/13

Dr Lic:

Address: 13690 S BURTON RD

Race:

Sex:

Phone: (928)632-4602

City: Spring Valley, AZ 86333

Offense Codes

Reported: SOFF Sex Off, Forcible Fondling

Observed: SOFF Sex Off, Forcible Fondling

Additional Offense: SOFF Sex Off, Forcible Fondling

Circumstances

LTB Highway/Road/Alley

EVID Evidence Booked

Responding Officers:

Unit:

Craypser, M

S58

CANCELLED

000

Oen, Donald

S40

Responsible Officer: Oen, Donald

Agency: YCSO

Received By: Hall-Frueh, C

Last Radio Log: 10:25:09 01/07/13 CMPLT

How Received: T Telephone

Clearance: CRD Cleared by Responding
Deputy

When Reported: 10:41:43 01/04/13

Disposition: ACT Date: 02/06/13

Judicial Status:

Occurred between: 10:35:31 01/04/13

Misc Entry: 3807

and: 10:35:31 01/04/13

Modus Operandi:

Description:

Method:

Involvements

Date

Type

Description

02/07/13

Name

TAMPA BAY FLORIDA POLICE DEPAR, CONTACT AGENCY.

EXHIBIT

H

02/07/13

Commonwealth 025

Deputy Report for Incident 13-000414

Page 2 of 8

02/07/13	Name	KOTHERN REGINAL POLICE DEPARTM,	CONTACT AGENCY
01/14/13	Name	KOZEL, DALLAS C.	INVOLVED/VICTIM
01/14/13	Name	KOZEL, DAVID FRANCIS	SUSPECT INVOLVED
01/14/13	Name	KOZEL, DEBRA LYNN	MOTHER TO VICTIM
01/04/13	Name	SPRING RIDGE ACADEMY,	Complainant
01/04/13	Cad Call	10:41:43 01/04/13 Sex Offense	Initiating Call

UNSILENCED
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UNSILENCED
UNSILENCED
www.UNSILENCED.ORG | (KM)

02/07/13

Deputy Report for Incident 13-000414

Page 3 of 8

Narrative

Investigation Narrative

Synopsis: Sometime between 1999 and 2006, Dallas Kozel was allegedly touched several different times on the outside of her vagina by her father, David Kozel. This occurred in Pennsylvania and in Tampa Florida.

Victim: Dallas C. Kozel [REDACTED]

Suspect: (Father of Victim)

David Kozel.

DOB: [REDACTED] 1964.

Social Security No: [REDACTED]

Pennsylvania Phone Number: (412) 337-2177 or (412) 337-8505

Texas Phone Number and e-mail (214) 707-1422,

Email "diketexaskeystone.com"

Suspects multiple Residences addresses:

1: (Pennsylvania)

405 Alpen Court

Wexford, PA 15090

"SOLD" 2003.

2: (Pennsylvania)

703 Georgetown Ct

Wexford, PA 15090

"David purchased CT-2003"

3: (Pennsylvania)

505 Georgetown Ct

Wexford, PA 15090

"David bought in 2003 and is currently still owned by David".

4: (California)

20765 Via Montecito

La Quinta, CA 92253

"Still owned by David".

5: (Idaho)

7145 S. Cozzer Rd

Coeur d'Alene, Idaho 83833

"Still owned by David".

6: (Texas)

4700 St. Johns Drive

Highland Park

Dallas, Texas 75205

"Still owned by David".

7: (Florida)

650 Pinellas Bayway #1301

Tierra Verde, Florida 33715

"Still owned by David".

Dates of visitation to David's house as follows per Dallas' mother:

1999 May, September, October, November, December in Pennsylvania

2000 January, March, April, May June, July in Pennsylvania.

2001 February March, April May, in Pennsylvania.

2001 June, November December in Florida.

2002 January, March, April May, June, July August, October, December in Pennsylvania.

2003 January, February, March, April, May, in Pennsylvania.

02 03/13

Deputy Report for Incident 13-000414

Page 4 of 8

2013 June 22-28 in Myrtle Beach South Carolina, July in Florida, September and December in Pennsylvania.

2014 January, February, March (Greenville, South Carolina) April, May 22-30 (Florida) June, July September, November, December

2015 June, July, December (South Carolina).

2016 February, March, April, May.

Witness/School Therapist to interview:
 Julianna Hamilton.

Mother to Victim:
 Debra Kozel.

Evidence: #1 Audio CD Disk of interview with witness/School therapist, Julianna Hamilton and victim, Dallas Kozel.

Narrative: On 01-07-13 at approx. 1040 hours, I was dispatched to the Spring Ridge Academy, at 13690 S. Barron Rd. reference a delayed alleged child molestation that occurred in Pennsylvania and Florida.

On arrival, I contacted the reporting party Julianna Hamilton, the Spring Ridge School therapist. Hamilton advised she has been working with a student named Dallas Kozel, 17 yoa. Julianna advised Dallas Kozel has been having a lot of PTSD over something that happened in the past with her father. Hamilton said Dallas has been at the school since last March. Hamilton said she has not heard of anything as of yet and Dallas was going to talk to both of us. Hamilton was also in on the interview during this time.

Dallas Kozel then came into the office. I advised her why I was there and that she could tell me anything and I would not be offended. I asked her what has been going on. Dallas also completed a written statement.

Dallas stated the following, beginning when she was approx 5 years old in Kindergarten, she would visit her father David Kozel, monthly at his house in Pennsylvania (possibly Pittsburgh). Dallas said she lived with her mother in South Carolina after her parents divorced in 1998 or 1999.

Dallas advised during the visit to her father's house, she remembered her father would insist on bathing her, even though she could do it herself. Dallas said her father would crouch by the side of the bath tub with one hand on her back and the other hand fondled her vagina. Dallas said she would 'blank out' then, so she would not remember anything else he had done.

Dallas said her father would also come into her room at night and get into her bed with her. He would take off her clothes and she would be naked and he only had on boxer shorts. She said he would lay beside her and fondle her vagina area. Dallas said when all this would happen she would always 'blank out', so she would not remember anything else that happened. She advised when she woke up in the morning she would have her clothes back on and her younger sister would be sleeping next to her.

I asked Dallas if her father ever penetrated her with his fingers when she told me about the fondling her vagina. She said she did not understand. I asked her if he only rubbed on the outside of her vagina or put his fingers inside her vagina. She advised it was only rubbing

Deputy Report for Incident 13-000414

Page 5 of 8

outside with open hand. I asked her what she meant by she would 'blank out', or if he gave her something to make her unconscious. Dallas advised she would make her self 'blank out' so she would not have to remember what was occurring. Julianne Hamilton said that would be like blacking out so you would not remember anything.

I asked Dallas how many times this has occurred with her father touching her in the vagina area. She said if she had to guess it would be at or around 20 times. I asked her if he only touched her vagina area and not the buttocks. She said it would only be the vagina area and it would be when all her clothes were off.

I asked her if she remember what state and county her father lived in during this time and she could only think of Pennsylvania and Florida.

Dallas said when she visited her father it would be monthly in Pennsylvania when she was about 11 or 12 years old in 5th or 6th grade. She said she remembered about "SIX" vacations to Tampa Florida with her dad. During the 3rd grade, Dallas said she remembered one incident occurred in his bed, when he was lying with her and she had no clothes on and was naked. Her father was fondling her and his girlfriend walked in on them. David's girlfriend said "David, what are you doing". He replied "She's my daughter". She said his girlfriend then walked away. Dallas said her name was Diana Novak.

Dallas remembers another time in Pennsylvania when she found her younger sister, [REDACTED] in the loft of the shower naked and crying. Dallas said she was wondering why she was up in the loft and no one else was around. Dallas said she was maybe 9 or 10 years old at that time, and her sister was 6 years old. Dallas said she got into the shower with her and just sat with her while she cried. Dallas remembers telling her sister its ok and they would be home soon.

Dallas said her father would yell a lot and called her and her family names. He would call Dallas stupid all the time.

Dallas said she was very afraid of her father. She said he was a wealthy and powerful man, and it was always insinuated that if she ever told him would come to her and her family. Dallas was always afraid he would kill any of them.

On 01/20/13 at approx. 1130 hours, I contacted Dallas' mother, Debbie Rozell, at the Spring Ridge Academy. I asked her if she got a chance to read the written statement that Dallas wrote. She said she did. Debbie did not know about any of this going on until now. Debbie said she has been having trouble with Dallas and she sent her to the "Wilderness camp" where they live in the woods and have to take care of themselves. She said the next place she went was the Spring Ridge Academy.

Debbie and her attorney, Michael Spears, were present during this time. They wanted to know what the next process would be in this investigation. I told them I needed to come up with the dates and time and the jurisdiction of the crime when it occurred. I asked Lynn if she could e-mail me the above address that she thought this occurred at. I advised them when I got that information, I would contact the Pennsylvania and Florida police or Sheriff's Office and forward this to them. They wanted to know if the FBI could get involved and I said I would check with my supervisor and see, but from my experience we would forward it to the jurisdiction the crime occurred in.

Lynn and her attorney Michael just wanted me to know the kind of person David was. They said he came from a lot of money in the millions of dollars from his family. They said he has two air planes and lives all over. They advised that if he had anything on his computer he could wipe them clean if we made contact with him. I advised Debra that I would be sending my report to the agency where the crime allegedly occurred.

02 09 13

Commonwealth 029

Deputy Report for Incident 13-000414

Page 6 of 8

The written statement by Dallas will be turned into Records after I make contact with the agency where the crime occurred.

Audio CD will be turned into evidence after I make contact with the agency where the crime occurred.

Case continues, until other agency have been notified.

Date, Time, Reporting Officer:
Thu Jan 31 14:08:02 MST 2013
Deputy Don W. Oen #13696/S40.

REPORT APPROVED
Sgt. C. Myhre/ 3607
Thu Feb 05 11:16:31 MST 2013

Responsible LEO:

Approved by:

Date

Deputy Report for Incident 13-000414

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Supplement

Contacted the RP, she stated that she wanted to schedule a deputy to be at the school on Monday 1-7-13 0900 hrs, for a scheduled student interview. I requested dispatch re-open the call on Monday 1-7-13.

Sat Jan 05 12:11:46 MST 2013
Deputy Craypser L8300

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02-07-13

Commonwealth 031

Deputy Report for incident 13-000414

Page 8 of 8

Name Involvements:

CONTACT 543628

AGENCY:

Last: NOTHERN RE-
GIONAL POLICE
DEPARTM

First:

Mid:

DOB: **/**/**

Dr Lic:

Address: 230 PEARCE MILL RD,
City: WEXFORD, PA 15090

Race:

Sex:

Phone: (724)625-3157

Complainant : 257269

Last: SPRING RIDGE
ACADEMY

First:

Mid:

DOB: **/**/**

Dr Lic:

Address: 13690 S BURTON RD
City: Spring Valley, AZ 85333

Race:

Sex:

Phone: (928)632-0602

INVOLVED/VIC-542026

TIM:

Last: KOZEL

First: DALLAS

Mid: C.

DOB: [REDACTED]

Dr Lic:

Address: [REDACTED]

Race: W

Sex: F

Phone: [REDACTED]

City: [REDACTED]

CONTACT 543627

AGENCY:

Last: TAMPA BAY
FLORIDA PO-
LICE DEPAR

First:

Mid:

DOB: **/**/**

Dr Lic:

Address: 411 NORTH FRANKLIN
STREET

Race:

Sex:

Phone: (818)276-3200

City: TAMPA BAY, FL

MOTHER TO 543028

VICTIM:

Last: KOZEL

First: DEBRA

Mid: LYNN

DOB: [REDACTED]

Dr Lic:

Address: [REDACTED]

Race: W

Sex: F

Phone: [REDACTED]

City: [REDACTED]

SUSPECT IN-542027

INVOLVED:

Last: KOZEL

First: DAVID

Mid: FRANCIS

DOB: **/**/**

Dr Lic:

Address: UNKNOWN AT THIS TIME

Race:

Sex:

Phone: () -

City: UNKNOWN.

YAVAPAI COUNTY SHERIFF'S OFFICE

VOLUNTARY STATEMENT

I

Voluntary Statement

(continuation page,

These visits to PA happened monthly until I was about 11-12, between 5th & 10th grade.

Also during these years, there were about 6 vacations to Tampa, Florida with dad. During 3rd grade, I remember an incident in his bed, when he was lying with me and I had no clothes on. He was foisting me and his girlfriend walked in on us. She said, "David, what are you doing?" Dad replied "She's my daughter." Girlfriend walked out and I don't remember anything after. Girlfriend's name was Dianna Novak.

I remember another time in PA when I found my younger sister [redacted] in the left shower naked and crying. I remember wondering why she was up in the left. No one else was around. I was maybe 9 or 10, she was maybe 8. I got into the shower with her and just sat with her while she cried. I remember saying "It's ok. We're going to be home soon."

I would come home to SC after visits with dad with multiple bruises, mostly on my upper arms. He would grab me hard and yell at me even more when I cried. I had to keep [redacted] from crying or he would take it out on me.

He yelled a lot, called me and my family names. Called me stupid all the time.

I am very afraid of my father. He is a very wealthy and powerful man, and it was always insinuated that if I ever told harm would come to me and my family. I was always afraid he would kill any of us.

IN THE COURT OF COMMON PLEAS
OF ALLEGHENY COUNTY, PENNSYLVANIA

- - -

COMMONWEALTH OF PENNSYLVANIA,)
)
Plaintiff,)
) CRIMINAL DIVISION
vs.)
)
DAVID F. KOZEL,)
)
Defendant.)

- - -

TRANSCRIPTION OF INTERVIEW OF
DALLAS KOZEL BY DONNY OWEN (PHONETIC)
REQUESTED BY TINA MILLER'S OFFICE
TRANSCRIBED BY NANCY B. ARONSON

- - -



INDEX

INTERVIEW of DALLAS KOZEL PAGE
Audio file 2

MR. OWEN: This is Donny Owen. The date is January 7, 2013. Time is about 0935 hours. This is in reference to a sex offense, and the Spring Ridge Academy is the reporting assignment. The (inaudible) on this is 13-000414.

(Inaudible.)

How old is she?

UNIDENTIFIED SPEAKER: (Inaudible) -- 17.

MR. OWEN: Okay.

UNIDENTIFIED SPEAKER: Julianna knows all that stuff.

MR. OWEN: Okay.

UNIDENTIFIED SPEAKER: This is Julianna Hamilton.

MS. HAMILTON: Hello. It's nice to meet you.

(Inaudible) official greeter.

MR. OWEN: (Inaudible.) Can I talk to you

1 first before I talk to her?

2 MS. HAMILTON: Yes.

3 MR. OWEN: Got any place we can talk or --

4 MS. HAMILTON: I'm hoping he'll take us in
5 there.

6 MR. OWEN: Okay.

7 UNIDENTIFIED SPEAKER: Why don't y'all --
8 well, here's what you do. Here's what you do.
9 You can use your office --

10 MS. HAMILTON: Uh-huh.

11 UNIDENTIFIED SPEAKER: -- or use the one
12 that I'm using, because he's going to be in in
13 a little bit.

14 MS. HAMILTON: Okay.

15 UNIDENTIFIED SPEAKER: Yeah.

16 MS. HAMILTON: You mean this one here?

17 UNIDENTIFIED SPEAKER: Yeah. He's going
18 to be in --

19 MS. HAMILTON: Right. But --

20 UNIDENTIFIED SPEAKER: No. I mean the one
21 I've been using.

22 MS. HAMILTON: Oh, that one. Okay. Well,
23 we can go in my office.

1 UNIDENTIFIED SPEAKER: There you go.

2 MS. HAMILTON: That -- she's comfortable
3 in there, anyway.

4 MR. OWEN: Where is she at?

5 MS. HAMILTON: She's in (inaudible).

6 MR. OWEN: Oh, okay.

7 MS. HAMILTON: (Inaudible.) I can call
8 her.

9 MR. OWEN: All right.

10 MS. HAMILTON: I don't know if she's
11 actually (inaudible).

12 MR. OWEN: You say it's been about seven
13 years?

14 MS. HAMILTON: (Inaudible.) I'm in here.

15 MR. OWEN: Oh. And you're Juliannie
16 (phonetic)?

17 MS. HAMILTON: Yeah. I'm going to give
18 you a card. Julianna.

19 MR. OWEN: Julianna. And it's Hamilton?
20 Is that the physical address here at the
21 school?

22 MS. HAMILTON: Is that Burton Road? Yeah.

23 MR. OWEN: Yeah. What's your date of

1 birth?

2 MS. HAMILTON: Oh, God. Really?

3 MR. OWEN: Yeah.

4 MS. HAMILTON: [REDACTED] 1951.

5 MR. OWEN: July. Middle initial?

6 MS. HAMILTON: I don't have one.

7 MR. OWEN: Okay. And it's Julie Hamilton,
8 huh? Okay. What's the name of the student?

9 MS. HAMILTON: Her name is Dallas, like
10 the city.

11 MR. OWEN: Okay. And it's D-a-l-l-a-s?

12 MS. HAMILTON: Yes.

13 MR. OWEN: And --

14 MS. HAMILTON: K-o-z-e-l.

15 MR. OWEN: K-o-z-e-l. And her date of
16 birth, [REDACTED]/95?

17 MS. HAMILTON: Yes.

18 MR. OWEN: Do you know what her middle
19 initial is?

20 MS. HAMILTON: Caroline, I think. I think
21 it's C. Yes, it is. It's C.

22 MR. OWEN: And it's Caroline?

23 MS. HAMILTON: Uh-huh. And she hails from

1 Landrum, South Carolina.

2 MR. OWEN: Do you have her physical
3 address?

4 MS. HAMILTON: I do. Let me get that for
5 you. Okay. Her mother's name is Deborah
6 Kozel, and she is aware we're doing this today.

7 MR. OWEN: Kozel?

8 MS. HAMILTON: Uh-huh.

9 MR. OWEN: Do you have her mom's date of
10 birth? Probably not.

11 MS. HAMILTON: No, I don't.

12 MR. OWEN: Okay. That's fine. What's her
13 physical address?

14 MS. HAMILTON: 335 Earles, E-a-r-l-e-s,
15 Fort Road, Landrum, L-a-n-d-r-u-m, South
16 Carolina 29356 --

17 MR. OWEN: South Carolina. That's all
18 right. South Carolina. And what's the ZIP
19 there?

20 MS. HAMILTON: 29356.

21 MR. OWEN: And what's her phone number?

22 MS. HAMILTON: Okay. I have a couple for
23 her. I never get her home phone. I call her

1 cell.

2 MR. OWEN: Okay.

3 MS. HAMILTON: I'll give you her cell, and
4 I'll also give you her home. The area code for
5 both of them is [REDACTED].

6 MR. OWEN: Okay.

7 MS. HAMILTON: And the cell is [REDACTED] --

8 MR. OWEN: Okay.

9 MS. HAMILTON: -- [REDACTED].

10 MR. OWEN: Okay.

11 MS. HAMILTON: And the home number is

12 457-3798.

13 MR. OWEN: All right. Just give me sort
14 of a --

15 MS. HAMILTON: Okay. This --

16 MR. OWEN: -- rundown.

17 MS. HAMILTON: This girl came in last
18 month. She came here from Wilderness. She had
19 a lot of symptoms of PTSD, but she refused to
20 talk about it.

21 MR. OWEN: What's Wilderness?

22 MS. HAMILTON: Wilderness, it's kind of
23 like -- well, they call it, in plain terms,

1 brat camp. (Inaudible.)

2 MR. OWEN: It's another school, though?

3 MS. HAMILTON: Well, it's a place in the
4 woods.

5 MR. OWEN: School in the woods?

6 MS. HAMILTON: Kind of like -- yeah. It's
7 a -- it's a treatment program in the woods or
8 in the mountains or -- and Utah has a lot of
9 them.

10 MR. OWEN: Okay. So she came here last
11 March?

12 MS. HAMILTON: Uh-huh.

13 MR. OWEN: Okay.

14 MS. HAMILTON: She's -- like I said, she
15 had a lot of symptoms of PTSD, but she wanted
16 to relay the information, so I have spent about
17 nine months with her, you know, just gaining
18 her trust, building her (inaudible). She's a
19 really neat kid. She'll be 18 in a few weeks,
20 as a matter of fact.

21 MR. OWEN: Okay.

22 MS. HAMILTON: She never denied that there
23 was any kind of abuse, but she would never

1 (inaudible).

2 MR. OWEN: Okay.

3 MS. HAMILTON: So she is now finally
4 ready, which just totally surprised me, you
5 know, but her younger sister has also been
6 subjected to the same whatever it is.

7 MR. OWEN: Okay.

8 MS. HAMILTON: And she's finally beginning
9 to open up back home in South Carolina about
10 her father.

11 MR. OWEN: Okay. Is the father the one
12 that's been doing this, or --

13 MS. HAMILTON: Yes. They have not seen
14 him for years. Mom is the only one that
15 (inaudible).

16 MR. OWEN: Is the mom and the father, are
17 they divorced --

18 MS. HAMILTON: Yes.

19 MR. OWEN: -- right now?

20 MS. HAMILTON: Yeah.

21 MR. OWEN: Okay.

22 MS. HAMILTON: They split when the girls
23 were little, and the girls would go and see

1 him. I think the last time they saw him, the
2 girls --

3 (Cell phone interruption.)

4 MR. OWEN: Sorry about that.

5 MS. HAMILTON: The father is, like, a
6 multimillionaire --

7 MR. OWEN: Okay.

8 MS. HAMILTON: -- with various houses in
9 different states, even some overseas, so this
10 has happened in a variety of places. But the
11 last time the girls were scheduled to go see
12 him, I think Dallas was about 12 --

13 MR. OWEN: Okay.

14 MS. HAMILTON: -- and her little sister
15 was about ten. Mom put them on the airplane,
16 and the little sister raised such a fit that
17 Dallas got her little sister and then walked
18 off the plane before it took off.

19 MR. OWEN: Oh.

20 MS. HAMILTON: I mean, that's just how...

21 MR. OWEN: So when did she open up about
22 all this stuff?

23 MS. HAMILTON: She hasn't yet. She just

1 told me. She says "I'm ready to make" --

2 MR. OWEN: Okay.

3 MS. HAMILTON: Today -- (inaudible).

4 MR. OWEN: Okay. So she never told you
5 any physical stuff that was going on or any-
6 thing?

7 MS. HAMILTON: No.

8 MR. OWEN: This is the first time we're
9 talking to her actually?

10 MS. HAMILTON: Yes.

11 MR. OWEN: Okay.

12 MS. HAMILTON: That's how --

13 MR. OWEN: Okay.

14 MS. HAMILTON: I had to do a lot of EMDR
15 with her. I don't know if you're familiar --

16 MR. OWEN: No, not really.

17 MS. HAMILTON: It's a trauma work.

18 MR. OWEN: Oh, okay.

19 MS. HAMILTON: And -- but the beauty in
20 that kind of work is that she doesn't have to
21 actually physically say -- she -- it's a
22 modality that works on brains (inaudible)
23 processing, so she can actually do the trauma

1 work without having to say --

2 MR. OWEN: Okay.

3 MS. HAMILTON: -- he did this.

4 MR. OWEN: Okay. Now, do you want to get
5 her in --

6 MS. HAMILTON: And now, she has reached
7 the point where she is ready to say it.

8 MR. OWEN: Right. Do you think she's
9 somewhere (inaudible).

10 MS. HAMILTON: What I might do is put you
11 over here, and I'll sit here with her.

12 (Inaudible.)

13 MR. OWEN: Okay. And she's almost 18 now,
14 huh?

15 MS. HAMILTON: Yeah. She's 17. She'll be
16 18. It will take her a minute. She's down
17 (inaudible). Anybody down there that can
18 (inaudible).

19 (Discussion off the record.)

20 MS. HAMILTON: She's really, really
21 scared. Part of this has been fear over the
22 power that fathers have.

23 MR. OWEN: Uh-huh.

1 MS. HAMILTON: I guess he's just, like, an
2 oil billionaire from Texas.

3 MR. OWEN: Oh, okay.

4 MS. HAMILTON: So she's been really
5 scared.

6 MR. OWEN: Has she been in these schools
7 for awhile, or --

8 MS. HAMILTON: No. Wilderness was the
9 first time she went off to -- and that was
10 because of her -- you know, her (inaudible)
11 behaviors had been escalating over her teen
12 years --

13 MR. OWEN: Okay.

14 MS. HAMILTON: -- which is pretty typical
15 for post trauma girls, anybody who has post
16 trauma. A lot of avoidant behaviors. She was
17 self- (inaudible). She was (inaudible) -- she
18 was sort of clammed up. Let's see. She
19 started drinking, she was smoking pot, she was
20 oppositional, disregard for parental authority.
21 But mostly it was just this extended periods of
22 depression, you know, depression and feelings
23 of worthlessness and fatigue, concentration

1 problems. Her parents separated in 1998, so
2 Dallas was like three, I guess, then.

3 MR. OWEN: 1998?

4 MS. HAMILTON: Uh-huh. It says dad
5 eventually was mandated to treatment before
6 being allowed for a visit at which point he
7 stopped (inaudible). And that -- like I said,
8 that wasn't an issue (inaudible).

9 MR. OWEN: Is she all the way at the
10 bottom of the hill or --

11 MS. HAMILTON: Yeah.

12 MR. OWEN: Oh, okay.

13 MS. HAMILTON: When you first pull into
14 the driveway, there's that big barn-like --

15 MR. OWEN: Yeah.

16 MS. HAMILTON: -- structure on the left.
17 She's in yoga class.

18 MR. OWEN: Oh, okay.

19 MS. HAMILTON: All the way up the hill, I
20 imagine it.

21 MR. OWEN: And how long has she been at
22 school here, then, do you know?

23 MS. HAMILTON: She enrolled here in March

1 of -- March 23, 2012. So she's been here --

2 MR. OWEN: So is she --

3 MS. HAMILTON: -- like ten months.

4 MR. OWEN: Basically, when she turns 18,
5 is she, like, free to leave then, or --

6 MS. HAMILTON: She is, and she's debating.
7 You know, we're doing our best to talk her into
8 staying and graduating high school.

9 MR. OWEN: Uh-huh.

10 MS. HAMILTON: But she's --

11 MR. OWEN: Is she a senior this year?

12 MS. HAMILTON: Yes, she is. So

13 (inaudible) South Carolina high school there or
14 (inaudible).

15 MR. OWEN: (Inaudible) one or she will be
16 living with her mother?

17 MS. HAMILTON: With mom, yeah.

18 MR. OWEN: Okay.

19 MS. HAMILTON: They're very -- I know that
20 family. It's one of those old southern
21 families where they're like highland clans.
22 They all live in the same general area of
23 Landrum. I think maybe that's why I made

1 inroads with Dallas. I'm from that area
2 myself --

3 MR. OWEN: Yeah.

4 MS. HAMILTON: -- from years ago, so I
5 know -- I know her family, and I know the area.
6 They're a very close-knit family.

7 MR. OWEN: Yeah.

8 MS. HAMILTON: She'll be getting lots of
9 support when she gets there, but she'll also --
10 you know, they're in everybody's business.

11 MR. OWEN: Yeah.

12 MS. HAMILTON: It's one of those families
13 where everybody's in everybody's business,
14 which is probably why she's never opened up --

15 MR. OWEN: Yeah.

16 MS. HAMILTON: -- aside from being afraid.

17 MR. OWEN: So that's the only other family
18 relative she has, like, a sister --

19 MS. HAMILTON: She has two sisters. She's
20 got a stepparent -- a step dad that she really
21 likes. She's got her grandparents. She's got
22 aunts and uncles and cousins, so she's got a
23 pretty big family unit --

1 MR. OWEN: Yeah.

2 MS. HAMILTON: -- and they are pretty
3 supportive, but she's never mentioned -- she
4 never, never made any disclosure.

5 MR. OWEN: Okay.

6 MS. HAMILTON: So this is it. (Inaudible)
7 for our ears. I never -- she told me, "I'm
8 going to do this once." And she -- yeah, she
9 gets very, very almost (inaudible) fearful.

10 MR. OWEN: How long have you been out at
11 this school?

12 MS. HAMILTON: I've been here since last
13 February --

14 MR. OWEN: Oh, okay.

15 MS. HAMILTON: -- so for about a year.
16 I've been in the field for 20 years but --

17 MR. OWEN: Yeah.

18 MS. HAMILTON: -- didn't start working
19 here at the school until last February,
20 February, but, I mean, I've known about it
21 for --

22 MR. OWEN: And what's your title here
23 again?

1 MS. HAMILTON: I'm a licensed professional
2 counselor.

3 MR. OWEN: Oh, okay.

4 MS. HAMILTON: I'm an LP. I think
5 that's -- they're changing classes. Yeah.
6 I've been about twenty years since I lived in
7 Arizona.

8 MR. OWEN: Oh.

9 MS. HAMILTON: I've been up here in
10 practice for ten years now. I worked at the
11 (inaudible) clinic. (Inaudible) therapists cut
12 their teeth here in this area. And then was in
13 private practice in Prescott Valley for a
14 number of years. Worked at the VA hospital for
15 a couple of years.

16 MR. OWEN: How did the private practice
17 stuff go? Pretty good, or --

18 MS. HAMILTON: It was going pretty well,
19 but I got blind-sided by a really big health
20 thing, and I had a -- spinal tumors, and I had
21 to have a big surgery three years ago. It was
22 kind of -- I mean, it probably would be a lot
23 better if I hadn't had to take some time off.

1 MR. OWEN: Yeah.

2 MS. HAMILTON: Here she comes. So --

3 hello. {Inaudible.}

4 MR. OWEN: Hi.

5 MS. KOZEL: Hi.

6 MR. OWEN: Donny Owen.

7 MS. KOZEL: Dallas.

8 MS. HAMILTON: Sit right here, right next

9 to you.

10 MR. OWEN: Let's see. Your first name is

11 Dallas, D-a-l-l-a-s? How do you spell your

12 middle name?

13 MS. KOZEL: C-a-r-o-l-i-n-e.

14 MS. HAMILTON: Take your coat off.

15 MR. OWEN: Yeah. Take your coat off

16 (inaudible). Last name?

17 MS. KOZEL: Kozel, K-o-z-e-l.

18 MR. OWEN: What's your date of birth?

19 MS. KOZEL: [REDACTED] 1995.

20 MR. OWEN: And how old are you?

21 MS. KOZEL: Seventeen.

22 MR. OWEN: All right.

23 MS. HAMILTON: Do you want a fan?

1 MS. KOZEL: (Inaudible.)

2 MR. OWEN: Do you need some water or
3 anything?

4 MS. KOZEL: No.

5 MR. OWEN: All right.

6 MS. KOZEL: (Inaudible.)

7 MR. OWEN: All right. Well, I'm here
8 doing an investigation of whatever's going on,
9 okay? But I can tell you I've been a cop for
10 awhile, all right, so anything that you tell
11 me, it's not going to be, like, shocking to me
12 or anything like that. If there's any big
13 words or whatever, I want you to use your
14 words, whatever you know them as, all right?
15 Don't hold back, okay? Yeah. Just tell me
16 what's kind of going on.

17 MS. KOZEL: I don't know. I just wanted
18 to report my dad's molesting me from my ages
19 eight or nine until, like, eleven or twelve.

20 MR. OWEN: Eight to nine, eleven to
21 twelve? And I'm going to be taking notes,
22 okay, but I'm still listening to you. So eight
23 to nine and also eleven to twelve?

1 MS. KOZEL: Yeah, somewhere in there.

2 MR. OWEN: Where did it occur at?

3 MS. KOZEL: Pittsburgh, Pennsylvania all
4 the way to Florida, Tampa.

5 MR. OWEN: Pittsburgh, Pennsylvania?

6 MS. KOZEL: Yeah.

7 MR. OWEN: And Florida. Do you know any
8 certain dates where it occurred, though, like
9 when you were eight to nine, where were you
10 guys? (Inaudible.) Where did that occur at?

11 MS. KOZEL: He -- I lived in his town-
12 house. I don't even know, like, where it is or
13 anything.

14 MR. OWEN: Was it in Pittsburgh or --

15 MS. KOZEL: I think it's --

16 MR. OWEN: -- or Florida?

17 MS. KOZEL: -- Wexford, I think, is the
18 city is called.

19 MR. OWEN: Is that in --

20 MS. KOZEL: Pennsylvania, yeah. But it's
21 somewhere near Pittsburgh, though. I was
22 always in Pittsburgh, so...

23 MR. OWEN: All right. Was that between

1 eight and nine, do you think, then?

2 MS. KOZEL: Yeah. Young.

3 MR. OWEN: And then what about when you
4 were 11 to 12?

5 MS. KOZEL: I didn't know -- I just know
6 it occurring there in Pittsburgh.

7 MR. OWEN: Okay. So do you think the
8 majority of all this stuff occurred in
9 Pittsburgh or Pennsylvania?

10 MS. KOZEL: Yeah. But we did, like, go on
11 vacations to Tampa, Florida since my grand-
12 father has a house there, so it happened there,
13 too.

14 MR. OWEN: Tampa, Florida?

15 MS. KOZEL: Yeah.

16 MR. OWEN: All right. So kind of -- so
17 kind of tell me, like, when you were from eight
18 to nine what occurred, and remember -- and like
19 I say, I heard stuff before, so I want to speak
20 in your language, all right?

21 MS. KOZEL: I don't know. Like, at that
22 age, I was more than capable of, you know,
23 bathing myself and stuff, but he would have me

1 in the bathtub and just, you know, touch me in
2 ways he shouldn't be touching me, and I never
3 really understood it, and then I would be in
4 bed, and I didn't really understand why he was
5 in bed with me, and then I'd just sort of blank
6 out when that happens.

7 MR. OWEN: Okay. When you're in the
8 bathtub, where did he touch you at?

9 MS. KOZEL: (Laughs.)

10 MR. OWEN: On the privates?

11 MS. KOZEL: Yeah.

12 MR. OWEN: Okay. Anywhere else?

13 MS. KOZEL: I mean, all over. I mean,
14 that's really all he was concerned about.

15 MR. OWEN: All right. Vagina. What about
16 the buttocks or the butt?

17 MS. KOZEL: Yeah. All in that area.

18 MR. OWEN: Okay. Did he ever penetrate
19 with fingers or anything like that?

20 MS. KOZEL: I don't think so.

21 MR. OWEN: Okay. Just kind of -- just
22 think back. It's a little bit ago. Did he
23 ever --

1 MS. KOZEL: I mean, he never, like, shoved
2 his hands up me, but he would, like, rub on me.

3 MR. OWEN: Rub on them? Do you know how
4 long that would be when he'd be doing that?

5 MS. KOZEL: I mean --

6 MR. OWEN: Like in the bathtub, I'm
7 talking about.

8 MS. KOZEL: (Inaudible.)

9 MR. OWEN: About 30 minutes? Did he say
10 anything when this was going on or not really?

11 MS. KOZEL: I don't remember anything he
12 would have said.

13 MR. OWEN: Okay. What about in the bed?
14 What would he do at night in the bed? Is this
15 at nighttime, in the daytime, or --

16 MS. KOZEL: Nighttime.

17 MR. OWEN: Okay.

18 MS. KOZEL: One thing I really remember is
19 being in Tampa, and his girlfriend walked in,
20 and she was, like, "David, what the hell?" And
21 he was, like, "She's my daughter." And that's
22 something I always remember.

23 MR. OWEN: So his girlfriend walked in?

1 Do you remember what his girlfriend's name was?

2 MS. KOZEL: Deanna Novak (phonetic).

3 MR. OWEN: Is he still with her?

4 MS. KOZEL: I don't think so.

5 MR. OWEN: Novak? Okay. And what was he
6 doing at that time?

7 MS. KOZEL: Doing me or job? I don't
8 know --

9 MR. OWEN: No, no. In Tampa, Florida,
10 when he --

11 MS. KOZEL: I mean, in the bed.

12 MR. OWEN: Okay. What was he doing?

13 MS. KOZEL: Rubbing on me.

14 MR. OWEN: Rubbing on you again?

15 MS. KOZEL: Yeah.

16 MR. OWEN: Did you have clothes on?

17 MS. KOZEL: Uh-uh.

18 MR. OWEN: Okay. And where was he rubbing
19 on you at then?

20 MS. HAMILTON: (Inaudible.)

21 MS. KOZEL: I think so, yeah.

22 MR. OWEN: You think he was dressed?

23 MS. KOZEL: Yeah. I mean. It's hard to

1 remember. All I remember is me.

2 MR. OWEN: All right. Also, there --
3 that's when I'm going to be asking a lot of
4 this stuff, you know, anything that you can
5 think of, if he ever entered you or anything
6 like that. Do you know the difference between
7 rubbing and entering?

8 MS. KOZEL: Uh-huh.

9 MR. OWEN: That's what I need to know,
10 too, okay? So when you guys were in the bed
11 and that was taking place, did he ever enter
12 you --

13 MS. KOZEL: (Inaudible.)

14 MR. OWEN: -- with fingers or --

15 MS. KOZEL: (Inaudible.)

16 MS. HAMILTON: -- or anything else? Did
17 he rub his privates or anything up against you
18 during that time?

19 MS. KOZEL: I don't think so.

20 MR. OWEN: So it was mainly just hands?

21 MS. KOZEL: Yeah.

22 MR. OWEN: Okay. Can you think of any-
23 thing else? Because I know we're going to keep

1 jumping back and forth from Pennsylvania to
2 Tampa, Florida, so let's just try to concen-
3 trate on the Pennsylvania one first. Was that
4 the only time in the bathtub and also in the
5 bed at night, the same thing, too?

6 MS. KOZEL: Uh-huh. That one, that would
7 have been almost nightly.

8 MR. OWEN: And what would he do nightly?
9 The exact same thing, just rub?

10 MS. KOZEL: Yeah.

11 MR. OWEN: And you didn't -- did you ever
12 have clothes on, or were you naked, or --

13 MS. KOZEL: I usually had clothes off, and
14 then he put them back on me. And I had a
15 sister who stayed with me, but I don't even
16 remember where she was during these times.

17 MR. OWEN: Would he ever say anything else
18 to you or anything when this stuff was going on
19 or not? Or would he ever tell you anything not
20 to tell anybody or anything like that?

21 MS. KOZEL: I mean, (inaudible) he never
22 really had to say anything, but he's a pretty
23 powerful man, and he makes his status known, so

1 it was sort of, like, you know, if you tell
2 you're going to (inaudible).

3 MR. OWEN: Yeah. Did he ever come right
4 out and say that, or it's just --

5 MS. KOZEL: No. But --

6 MR. OWEN: -- that's the personality,
7 that's pretty --

8 MS. KOZEL: (Inaudible.)

9 MR. OWEN: Okay. Does your mom know about
10 this?

11 MS. KOZEL: I think she has a (inaudible.)

12 MR. OWEN: Okay. Has this ever happened
13 with anybody else in your family? How many
14 sisters and brothers do you got?

15 MS. KOZEL: I have a half sister and a
16 biological sister, but he doesn't know about
17 that.

18 MR. OWEN: Okay. Have you ever heard of
19 this going on with anybody else in the house-
20 hold, or --

21 MS. KOZEL: Well, I recently heard about
22 him and my cousins, but I don't know where he
23 is or anything, so...

1 MR. OWEN: Okay. What other kind of
2 stuff? How many times do you think this
3 occurred in Pittsburgh or Pennsylvania?

4 MS. KOZEL: I -- I can only say
5 (inaudible). It happened a lot. I can't put a
6 number on it.

7 MR. OWEN: Like 12? Over 12, under 12?

8 MS. HAMILTON: Was it every time you went
9 to visit?

10 MS. KOZEL: Yeah. A couple of times every
11 visit.

12 MS. HAMILTON: How many times would that
13 be?

14 MS. KOZEL: I visited him monthly, so, I
15 mean...

16 MR. OWEN: But he -- every time you'd go
17 visit him, it would always be the same thing
18 happening, though --

19 MS. KOZEL: Yeah.

20 MR. OWEN: -- like that?

21 MS. KOZEL: So maybe 24. (Inaudible.)

22 MS. HAMILTON: Over a couple of years,
23 right?

1 MS. KOZEL: Yeah, yeah.

2 MR. OWEN: What about in Florida?

3 MS. KOZEL: We only went to Florida, like,
4 I think, three or four times (inaudible).

5 MR. OWEN: Just to visit?

6 MS. KOZEL: Just, like, vacations.

7 MR. OWEN: Vacations?

8 MS. KOZEL: Yeah. Like six times.

9 MR. OWEN: And that would happen like
10 that? Did anything ever happen, like, in the
11 bathtub, like --

12 MS. KOZEL: I don't remember any bathtub
13 stuff, but I do remember being in the bed a
14 couple of times with him.

15 MR. OWEN: And so the same thing: Rubbing
16 without clothes?

17 MS. KOZEL: Uh-huh.

18 MR. OWEN: Was it just the (inaudible) or
19 your vagina or what about the butt or anything
20 like that or --

21 MS. KOZEL: I mean, all I really remember
22 is the big stuff, which is (inaudible).

23 MR. OWEN: Okay. But no entry, though,

1 right?

2 MS. KOZEL: I don't think so.

3 MR. OWEN: What year do you think that
4 would have been when you're in eight to nine
5 range?

6 MS. KOZEL: Maybe like third grade, fourth
7 grade.

8 MR. OWEN: All right. Do you remember
9 any, like, physical -- like, the house it would
10 be or -- because you said it's in Wexford, too.
11 Were you guys living in Wex-- -- or was he
12 living in Wex-

13 MS. KOZEL: He was living in Pittsburgh,
14 so I consider myself from Pittsburgh, but I
15 think the town we actually -- the house or
16 apartment is in Wexford.

17 MR. OWEN: Okay.

18 MS. KOZEL: I think that's what it's
19 called. We lived in something called -- the
20 apartment they called Concord, I think
21 (inaudible).

22 MR. OWEN: Okay. Do you know actually
23 where he's at these days?

1 MS. KOZEL: I heard (inaudible) in
2 California, over the world. I don't know.

3 MR. OWEN: When was the last time you seen
4 him?

5 MS. KOZEL: When I was twelve or thirteen,
6 probably thirteen. I talked to him last month.
7 Fourteen, I think, fifteen.

8 MR. OWEN: Did your mom ever, say, want to
9 get a divorce or anything or --

10 MS. KOZEL: They divorced when I was two,
11 so I still had visitation with him.

12 MR. OWEN: Okay. Do you think anybody
13 else might have been there that would have seen
14 this happen?

15 MS. KOZEL: Deanna (inaudible).

16 MR. OWEN: And that was just his
17 girlfriend?

18 MS. KOZEL: Yeah. And, I mean, I guess,
19 my sister, but she (inaudible).

20 MR. OWEN: And where's your sister at
21 right now?

22 MS. KOZEL: In Landrum, South Carolina.

23 MR. OWEN: And what's her name?

1 MS. KOZEL: [REDACTED].

2 MR. OWEN: Same last name?

3 MS. KOZEL: [REDACTED].

4 MR. OWEN: And what's your dad's name?

5 MS. KOZEL: David Kozel.

6 MR. OWEN: You don't know his date of
7 birth, do you?

8 MS. KOZEL: No.

9 MR. OWEN: Now, do you know how old he is,
10 about?

11 MS. KOZEL: I remember him turning 40
12 forever ago, so maybe his 50s.

13 MR. OWEN: All right. Anything else on
14 that that you can think about? Is that kind of
15 why you're in counseling and stuff that that --
16 do you think about that stuff a lot when that
17 was going on or what?

18 MS. KOZEL: (Inaudible.)

19 MR. OWEN: Okay. Well, that's probably
20 something you need to talk to your counselor
21 about and stuff, too, because --

22 MS. KOZEL: Oh, yeah.

23 MR. OWEN: -- it might be on your mind

1 quite a bit, so...

2 MS. HAMILTON: What about physical stuff
3 (inaudible).

4 MS. KOZEL: Yeah. (inaudible) come back.
5 (inaudible) I don't know how I got them.

6 MR. OWEN: Okay. One thing that you did
7 say when you were talking, you were saying,
8 like, when he used to lay down with you or
9 whatever, then you would black out. What do
10 you mean you would black out?

11 MS. KOZEL: He wouldn't, like, knock me
12 out, but my memory -- I have a lot of blocks in
13 my memory.

14 MR. OWEN: Uh-huh.

15 MS. KOZEL: Block out that stuff.

16 MR. OWEN: Okay.

17 MS. KOZEL: So, like, I can remember up to
18 a certain point, and then I just don't remember
19 any more.

20 MR. OWEN: Okay. You think he'd give you
21 something to knock you out, or you just don't
22 remember or --

23 MS. KOZEL: (Inaudible) I don't think he

1 drugged me, but...

2 MR. OWEN: Okay. Well, that's what I was
3 trying to ask just on that part. Okay. Okay.
4 Anything else you can think of?

5 MS. KOZEL: (Inaudible) Yeah. I mean, I
6 don't know where to go (inaudible) basically
7 everything physically he tried to do
8 (inaudible).

9 MR. OWEN: Okay. Well, what I want to do,
10 if you get a chance, can you fill this out for
11 me in case you -- because a lot of times,
12 people have problems talking, especially to the
13 cops.

14 MS. HAMILTON: (Laughs.)

15 MS. KOZEL: (Laughs.)

16 MR. OWEN: So -- but if you could, and if
17 you would, fill this out, think this stuff over
18 tonight, maybe, anything that you -- like, what
19 I'm kind of looking for, like, if you have any
20 dates, like years, if you can think what year
21 that was, thinking back when you were 9 or 10
22 or 11 or 12, just so I can put that there.
23 And, also, like, where it occurred at, all

1 right?

2 Because a lot of people are a lot more
3 better when they're writing stuff down, because
4 stuff pops in their mind a lot easier than just
5 sitting here and going, okay, what's the
6 answer? What do you tell me? Do you know what
7 I mean? So if you can do that. And then what
8 I'll do is, I'll -- are you going to be here
9 tomorrow, by chance?

10 MS. KOZEL: Oh, yeah.

11 MR. OWEN: What I'll do is try to come by
12 here and get this, and if I have any other
13 questions, I might call you up and -- or have
14 you come back up, and we'll talk about it
15 again, okay?

16 MS. KOZEL: Uh-huh.

17 MR. OWEN: So do you have any issues with
18 that? Okay. I'll leave this in here for you,
19 and do you have any other questions on this?
20 (Inaudible) -- from there and see what we're
21 going to do with it and see if we can find him
22 and all that kind of stuff.

23 You're turning 18 pretty soon, or, like,

1 when?

2 MS. KOZEL: February 5th.

3 MR. OWEN: Oh. Like --

4 MS. KOZEL: (Inaudible).

5 MR. OWEN: -- a month. During that time,
6 you know, you're going to be an adult then, so
7 do you have a cell phone on you or anything,
8 or --

9 MS. KOZEL: No.

10 MR. OWEN: All right. Is there any way
11 before -- hopefully, you'll stick around to
12 graduate and all that good stuff, all right?

13 MS. KOZEL: Yeah.

14 MR. OWEN: You definitely need to. But if
15 you can, let's say for some instance that you
16 do leave the school or whatever, can you give
17 her all your information, like phone numbers
18 and all that kind of contact stuff --

19 MS. HAMILTON: (Laughs.)

20 MS. KOZEL: (Laughs.)

21 MR. OWEN: -- in case I need to talk to
22 you later down the road and all that kind of
23 stuff? This is my business card. Keep that

1 with you. If you have any questions, give that
2 number a call --

3 MS. KOZEL: Uh-huh.

4 MR. OWEN: -- but I'm not going to write
5 what type of offense it is because you're at
6 the school. But basically that's what (inaudi-
7 ble), a sex offense. I'm going to give you
8 that card with that on the bottom, so -- yeah,
9 if you can, I'll be working tomorrow, so if you
10 get this thing done tonight, you can flip it
11 over. But you can write in there as much as
12 you need to, and I'll come by tomorrow or you
13 can give me a call, and I'll try to -- let me
14 give you -- all right. Any other questions?

15 MS. HAMILTON: (Inaudible) 058?

16 MR. OWEN: Yeah. (Inaudible.)

17 MS. HAMILTON: (Inaudible) right around
18 (inaudible) curb here.

19 MR. OWEN: Okay. Well, anyway. Yeah,
20 whatever you can think of tonight or whatever,
21 just write that down there, okay, or if you
22 have any questions, give me a call, and I'll
23 try to swing by and answer them for you, okay?

1 Good luck to you. Thank you.

2 MS. HAMILTON: Thanks.

3 (End of testimony.)

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Incident Report

NORTHERN REGIONAL POLICE DEPT
ALLEGHENY COUNTY
230 PEARCE MILL RD
WEXFORD, PA 15090

Phone: (724)625-3157

Approved Report ☒ JOHN SICILIA

Municipality PINE (218)
Report Type OFFENSE

Incident #

13-0998

Reference #

J-1155-13

Location **703 GEORGETOWN CT - WEXFORD
15090**

Landmark

Premise **HOME OF OFFENDER - SINGLE FAMILY
DW**

Point of Entry
Meth. of Entry

Patrol Zone 1 Grid

Reported **02/07/2013 @ 14:00 (Thur)**

Discovered @

Last Secure @

Received 14:00 Dispatched

Arrived Cleared 16:00

Status **CLOSED/CLEARED**

Disposition **CLEARED BY ARREST**

Clear Date **08/29/2013**

Badge **2261 - DET. SCOTT RICK**

Criminal Code	Title : 18
	Section : 3123
	Sub-Section : 1
	Description : INVOLUNTARY DEVIATE SEXUAL INTERCOURSE

LCR Codes **0830 SEXUAL ASSAULT**

EXHIBIT

K

Investigating Officer

Signature

Date

Approving Officer

Signature

Date

NORTHERN REGIONAL POLICE DEPT

Printed by: SCOTT RICK (11/18/2013 09:41:26 AM)

Page 1 of 15



Commonwealth 002

13-0998

J-1155-13

0830 - SEXUAL ASSAULT

Persons Involved**KOZEL, DALLAS**

Arrest Date :

Disposition Date :

VICTIM	Incident Classification 0830 SEXUAL ASSAULT	How Charged	Disposition
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Alias

Race **WHITE**
 Sex **FEMALE**
 Ethnicity **NON-HISPANIC**
 Marital Stat
 Residency

Height
 Weight **0**
 Hair
 Eyes
 Build
 Complex.

Home Ph #
 Work Ph #
 Cell Ph #
 Other Ph #
 E-Mail
 Employer

No Photo

SSN
 Gang
 Tattoo
 Clothing
 GBM Id
 -Entered //
 -Released //
 OLN/State /
 Injury

Occupation

Arrest Date :

Disposition Date :

VICTIM	Incident Classification 0830 SEXUAL ASSAULT	How Charged	Disposition
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Alias

Marital Stat
 Residency
 SSN
 Gang
 Tattoo
 Clothing

Height
 Weight **0**
 Hair
 Eyes
 Build
 Complex.

Work Ph #
 Cell Ph #
 Other Ph #
 E-Mail
 School

No Photo

GBM Id
 -Entered //
 -Released //
 OLN/State /
 Injury

Juvenile Disp.: //

UNDEFINED

Occupation
 Addl Addr **None**

Juvenile!

13-0998	J-1155-13	0830 - SEXUAL ASSAULT	
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BRAZELL, JOSHUA		Arrest Date :	Disposition Date :
Role CONTACT	Incident Classification 0830 SEXUAL ASSAULT	How Charged	Disposition

Alias	Height	Home Addr	
Age-DOB - / /	Weight 0		
Race	Hair		
Sex	Eyes		
Ethnicity	Build	Home Ph #	
Marital Stat	Complex.		
Residency		Cell Ph #	
SSN		Other Ph #	No Photo
Gang		E-Mail	
Tattoo		Employer	
Clothing			
GBM Id		Occupation	
-Entered / /		Add Addr	None
-Released / /			
OLN/State /			
Injury			

JOHNSTON, JOHN		Arrest Date :	Disposition Date :
Role CONTACT	Incident Classification 0830 SEXUAL ASSAULT	How Charged	Disposition

Alias	Height	Home Addr	
Age-DOB - / /	Weight 0		
Race	Hair		
Sex	Eyes		
Ethnicity	Build	Home Ph #	
Marital Stat	Complex.		
Residency		Cell Ph #	
SSN		Other Ph #	No Photo
Gang		E-Mail	
Tattoo		Employer	
Clothing			
GBM Id		Occupation	
-Entered / /		Add Addr	None
-Released / /			
OLN/State /			
Injury			



13-0998	J-1155-13	0830 - SEXUAL ASSAULT	
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KOZEL, DAVID F		Arrest Date :	Disposition Date :
Role SUSPECT	Incident Classification 0830 SEXUAL ASSAULT	How Charged	Disposition

Alias	Age-DOB 48 - [REDACTED]/1964	Height 6'01"	Weight 0	Home Addr 703 GEORGETOWNE CT	
Race	WHITE	Hair	BROWN	WEXFORD, PA 15090	
Sex	MALE	Eyes	HAZEL		
Ethnicity	NON-HISPANIC	Build		Home Ph # (412)337-2177	
Marital Stat	UNKNOWN	Complex.		Work Ph #	
Residency	Non-Resident			Cell Ph # (412)337-2177	
SSN	[REDACTED]			Other Ph #	
Gang				E-Mail	No Photo
Tattoo				Employer	
Clothing					
GBM Id				Occupation	
-Entered	//			Addl Addr	None
-Released	//				
OLN/State	[REDACTED]				
Injury					

KOZEL, DEANNA		Arrest Date :	Disposition Date :
Role CONTACT	Incident Classification 0830 SEXUAL ASSAULT	How Charged	Disposition

Alias	Race WHITE	Height	Weight 0	Home Ph # ()	
	Sex FEMALE	Hair		Work Ph #	
	Ethnicity NON-HISPANIC	Eyes			
	Marital Stat	Build		Other Ph #	
	Residency	Complex.		E-Mail	No Photo
				Employer	
Gang				Occupation	
Tattoo				Addl Addr	None
Clothing					
GBM Id					
-Entered	//				
-Released	//				
Injury					

13-0998	J-1155-13	0830 - SEXUAL ASSAULT	
JEN, DONALD		Arrest Date :	Disposition Date :
R R RTING PARTY	Incident Classification 0830 SEXUAL ASSAULT	How Charged	Disposition
Alias Age-DOB - / / Race Sex Ethnicity Marital Stat Residency SSN Gang Tattoo Clothing GBM Id -Entered / / -Released / / OLN/State / Injury Height Weight 0 Hair Eyes Build Complex. Home Addr [REDACTED] Home Ph # Work Ph # Cell Ph # Other Ph # E-Mail Employer Occupation Addl Addr None No Photo			
SPEARS, MIKE		Arrest Date :	Disposition Date :
Role CONTACT	Incident Classification 0830 SEXUAL ASSAULT	How Charged	Disposition
Alias Age-DOB - / / Race Sex Ethnicity Marital Stat Residency SSN Gang Tattoo Clothing GBM Id -Entered / / -Released / / OLN/State / Injury Height Weight 0 Hair Eyes Build Complex. Home Addr [REDACTED] Home Ph # Work Ph # Other Ph # E-Mail Employer Occupation Addl Addr None No Photo			

13-0998

J-1155-13

0830 - SEXUAL ASSAULT

Main Narrative
DET. SCOTT RICK (2261)

02/07/2013 14:00 - 2261 PTLM SCOTT RICK

Received a call from Yavapai County Arizona Sheriff Office Deputy Don Oen regarding a sexual assault investigation their agency is conducting with a 17y/o female named Dallas Kozel. On 01/04/2013, the listed agency responded to [REDACTED] to speak with counselor/therapist Julianna Hamilton about Dallas Kozel. In their interview the counselor claimed that Dallas has a lot of (PTSD) Post Traumatic Stress Disorder over something that happened between her and her father, David Kozel. Today, Dallas wants to disclose what happened between her and her father and Deputy Oen took a audio/written report from Dallas.

Dallas claimed when she was 5y/o in kindergarten through 11-12y/o she would visit her father in Pennsylvania and Florida at different times and during the visit, David Kozel would "rub her vagina" on numerous occasions during her visits. It was also stated by Dallas that her younger sister, [REDACTED] was found crying and naked in the shower, it is unknown if something occurred with her due to being upset and crying about her father. Investigation to continue..

Attached is a copy of the Yavapai Sheriff Office report and a C/D of the audio interview with Dallas Kozel. I spoke to DDA Laura Ditka regarding the above. She had requested to hear the video interview and to see if the victim will come to PA to further the investigation between this agency and Florida authorities.

Message left with Yavapai Investigative Unit..

See attached JNET, Pen-Dot record and Clear report.

2/11

Message left with DDA Ditka

Message left with mother, Debra Kozel to call this officer.

2/12

I received a call from Debra Kozel and her attorney Mike Spears [REDACTED] they were explained the process of the investigation and our request to come to Pittsburgh to conduct and interview of both daughters.

2/14

Mike Spears called and stated the family will be in Pittsburgh on February 27th to do interviews with the girls. A meeting was set at 9am at the Allegheny County District Attorney's Office.

Spoke to Yavapai Sheriff Detectives John Johnston [REDACTED] and Joshua Brazelt [REDACTED] they were advised of the Feb 27th date to further the investigation. Our agency will keep them posted.

13-0998

J-1155-13

0830 - SEXUAL ASSAULT

Supplemental Narrative DET. SCOTT RICK (2261)

Supplemental 03/04/2013 18:27 - 2261 DET. SCOTT RICK

2/27/13 930am

Meeting at District Attorney Office with DDA Laura Ditka, ADA Jennifer Diagovanni, ADA Patrick Schulte, Det Rick and PAAR Advocate Andrea Pottgren.

Dallas Interview:

Dallas stated she was born in Pittsburgh and lived in the Wexford, Alpen Ct area and moved out of the area when she was 2-4 years old when her parents separated. The family moved to Columbus, North Carolina and both girls (Dallas and India) have not seen their father in years. Dallas stated that a Judge ordered that they were to come once a month to visit their father which was usually through the week, Thursday to Sunday. Both girls visited their father until approximately Dallas was in 5th grade (11-12 y/o). At first they lived in Wexford (the big house) but eventually moved to Georgetown townhouses (Pine Twp.).

Dallas stated when she was 5-6y/o was the first time something occurred in the Wexford home with Deanna (girlfriend). Dallas described being "scared" of her father and always wanted to be with her sister or wanting to know where her sister was because she did not trust her father. Dallas stated the incidents started in the tub when her father would wash her. Dallas stated that in the beginning, Deanna would wash the girls but then father insisted on bathing them, using only his hands and soap and no wash cloth. She stated he would rub her chest and then move down to her vagina. He began to rub the outer area of the vagina which she knew was wrong but she was scared of her father because he "had power" and he would insinuate that he would hurt my family if anything was said.

Dallas reported during 3rd or 4th grade they moved to the Georgetown townhouse and David and Deanna would bath them. Dallas stated she was capable of and wanted to wash herself but father insisted on such. Dallas reported father would always come into the bathroom which she did not like but she was afraid of him and described fits of anger, verbal abusiveness and would be afraid he would be physical to her or her family. Dallas stated while she was in the bath tub, father walks in and begins to wash her again which she did not want. He uses his hands and no cloth to wash her and goes to her vagina and begins to rub the area and then she blanks out, not remembering anything else.

Dallas describes being at her fathers on a different occasion when she finds her sister [REDACTED] in the loft shower, crying hysterically naked for an unknown reason. Dallas knew something was wrong and repeatedly stated to [REDACTED] "it would be okay, we will be going home soon". Dallas stated [REDACTED] would always take baths at David's and for unknown reasons was in the shower which was not a normal routine for her. She described sleeping with her sister on a nightly basis in the guest room because they did not have their own rooms. Dallas described waking up to her father in bed with her and it was unknown where [REDACTED] was at the time. Dallas stated her clothes would be off and her father would begin to touch her vagina and then she would "fog out". She described being "skin to skin", father laying behind her but at this time unsure if his penis was exposed and if he inserted into her vagina because she was generally "in a fog". When she woke up her clothing was on and [REDACTED] would be sleeping next to her. Dallas stated she hated to come to Pittsburgh because of the way her father treated her and her sister. At times she would get in trouble for things that [REDACTED] did wrong, even getting a spanking for what [REDACTED] had done. He would yell at her, grab her and both girls were scared because of his temper and "power" that he had. Dallas stated when these incidents would occur she would not tell anyone because she was afraid father would hurt her mother or sister.

Dallas recalled on one visit they (Dallas, [REDACTED], David and Deanna) went to Florida to visit Pap Pap's house (Pap Pap wasn't there). During this stay Dallas remembered being in so much pain inside her vagina because of her father rubbing so much that she had to go to him and ask for help for the pain. Father began rubbing cream on her vagina when Deanna walked in and yelled "What are you doing" in surprise of his actions. He replied "She is my daughter." Deanna then walked out.

Dallas stated they stopped seeing their father in the 5th grade time frame. She began to tell friends of the occurrences with

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her father in 8th grade but did not tell an adult until her current counselor (Julianna) in Arizona after she arrived in March 2012. Dallas stated this counseling had helped so much that she would have never come forward if they didn't help. Dallas stated she not told her mother because she was afraid of what would happen to her mother or the family. She also stated she was ashamed to tell her mother of these acts because of being embarrassed. Dallas stated she never talked about these incidents with her sister because she keeps things "close to heart" and stated if father finds out he will go after the family.

Dallas described her father as "weird" who always liked having a video camera going, even in the bath area. Dallas stated when he would come around with the camera; she would get a strange feeling and didn't know why. Dallas described not feeling safe with her father and only felt safe with her grandfather at his house when the girls were away from their mother. Interview with [REDACTED]

[REDACTED] stated she was born in Pittsburgh and would float between Pittsburgh and South Carolina after her parents separated. [REDACTED] stated during their visits, David (during interview always referred to her father as David) would always be with his new "wife or girlfriend" Deanna in the big house in Wexford. [REDACTED] described her relationship with David as "not good and fake", he would always put on a show. David liked to video the two girls for "everything", 24/7 even in the bath tub. [REDACTED] stated while being videoed in the bath tub she described it as being "different" and would have Deanna wash a few times but then David started to do the washing. [REDACTED] being of school age, would tell David that she was old enough to do her washing but he would insist. [REDACTED] described sleeping with her sister because they did not have a bedroom for them but Dallas would often get "sick", supposedly, per David, and he would take Dallas to the loft where [REDACTED] would try to get to her but David would not let her. When she would go to the room to check on Dallas, the door would be closed and David would tell her to go away. [REDACTED] described after Dallas would come out of the loft, she would always hold onto [REDACTED] and wanted to know where she was at all times. [REDACTED] stated David would threaten them and stated "If you don't stop crying you will never see your mom again." David acted as he had power and had power over both girls. He yelled all the time, was red faced and would spank both girls if they did a "kid thing wrong", she described Dallas as getting beatings for simple things.

[REDACTED] stated when she would get baths from David in the townhouse; he would always use his bare hand to wash her, never a cloth and would rub her vagina, "every part of it". [REDACTED] described the loft shower as a place she and Dallas did not to go and the shower was never used except by the girls at different times. David would tell [REDACTED] to go to the loft to take a shower which she did not want to do. [REDACTED] would go to the loft crying, asking for her mother because she was afraid to go up there; David would always tell her to be quiet. David would make [REDACTED] take her clothes off in front of him in the bathroom and when she would ask him to leave he would refuse. [REDACTED] stated she would never tell anyone about the incidents with David including Dallas. [REDACTED] was scared to tell her mother because she was scared of David and what he would do to them (mom, Dallas and [REDACTED]). He would tell her over and over that if she cried, or didn't stop crying, he would never let her go home to see her mom. She finally told her therapist three months ago. [REDACTED] stated during the interview several times that David would threaten "If you say anything, you will not be going home anymore." Meaning the bath tub incidents or the beatings Dallas would receive. [REDACTED] describes David as "pushing Dallas away and giving everything to [REDACTED]."

After interviews, Debra Kozel was advised of the above disclosures but DDA Laura Ditka feels that the counseling is working for the girls and wants the counseling to continue for the betterment of the girls and the fact that the girls full disclosures will occur. Case will be left pending and this officer will contact Debra Kozel monthly to get updates on the progress of the girls. Case pending at this time.

See the attached portfolio of information on David Kozel.

5/25

Received a call from Debra Kozel's Attorney, Mike Spears. The girl's counselors feel the girls are ready to disclose any criminal acts that occurred to them. A date of June 6th, 2013 has been set for the victims to come to Pittsburgh to meet with this agency.

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6/6/13 9:15am

Interview of [REDACTED] with Patrick Schulte, Det Rick and advocate Andrea Pottgren

[REDACTED] again disclosed that her parents were separated when the incidents occurred and she was approx. 5-6 y/o when the incidents began. [REDACTED] stated the incidents occurred when they would have to visit their dad and would come on weekend visits or over the summer. [REDACTED] disclosed that she was in the Wexford home when her father would wash her using no wash cloth, bare handed and she would tell him she was old enough to wash herself. He would wash her body and then move to her vagina and rub the area for a while. These incidents occurred almost every time she got a bath with her dad. [REDACTED] stated there were times where dad's girlfriend, Deanna was in the room but nothing bad ever happened when Deanna was in the room except for dad not using a wash cloth. After the bathing occurred, dad would always hold the towel out and make her get out of the bath tub exposing her body to him. [REDACTED] stated in 3rd grade (9y/o) she told her teacher about not wanting to go with her father because she was afraid of him.

The father moved from Alpen Ct. to the townhouse and when [REDACTED] had to get a bath her father was always in the room watching her take off her clothes to get into the tub. Dad would wash [REDACTED] with his bare hands, no wash cloth which she would always tell him she was old enough to wash herself. He washed her body and then moved to her vagina rubbing the outer area and now began to digitally penetrate her vagina which hurt and made her uncomfortable. [REDACTED] stated this occurred almost every time she got a bath; her sister was not present, Deanna was not present, no statements were made by dad and there was no penetration of the anus nor was dad exposed during these incidents. Dad would have a video camera in the bathroom in his hands while she would get naked to get into the tub and at times during the bath he would have the camera in his hands which she thought she was being recorded. [REDACTED] stated her dad would make them get 1 or 2 baths/showers a day whether they needed it or not.

[REDACTED] described a loft in the townhouse that no one ever went to except when she and Dallas went up there to play a pinball machine. The first time she was directed by her father to go to the loft to take a shower he followed her into the bathroom. He made her take her clothes off in front of him and he would get into the shower with her. This happened on several occasions when she recalled him using purple soap bare handed and would wash her in the shower. [REDACTED] stated dad would then begin rubbing her vagina hard in an up/down motion using no soap and then would digitally penetrate her vagina. [REDACTED] stated she would tell her dad to "get out" of the shower which he would not do. After one incident, Dallas found [REDACTED] in the shower, crying and Dallas held her telling her they would be going home soon.

[REDACTED] stated on occasion they began to stay in the master bedroom where dad, Dallas and [REDACTED] would all stay together. Deanna would leave the room, leaving the two girls in bed with dad and her whereabouts were unknown. Dad always wore briefs in bed and she recalled Dallas sleeping, dad pulled [REDACTED] on top of him and she recalled him rocking her back and forth where his unexposed penis touched her vagina. She recalled wearing a Cinderella night gown and underwear which dad would reach down or around when this occurred and remembers 5 or more times when these acts happened. She recalled feeling his hard penis on her for several minutes until he stopped but it was unknown if he climaxed. [REDACTED] stated she remembers after he was done having her on top of him rocking back and forth, he would lay her down on the bed and begin to digitally penetrate her while Dallas was still asleep. [REDACTED] described the penetration as uncomfortable and it was a different feeling that she did not like. She stated she was so scared and would fixate herself on a naked female statue in the bedroom, "just to get through it." [REDACTED] described being "so scared" of her dad because she did not know what he would do to them or their mother because of his power. [REDACTED] stated she did not like the fact that dad would walk around the house naked or in his briefs, which made her uncomfortable.

[REDACTED] recalled a time when dad said Dallas was sick and he gave her medicine and had her stay in the loft which typically no one went to. She was not allowed to see her and when she went up to the 3rd floor to check on Dallas, dad was in the room and yelled at her to "get out". She never saw Dallas that night and she recalled at least 3 incidents where she was not allowed in the room with Dallas and had to stay alone which was uncomfortable. Dad gave both girls a lot of purple medicine to get

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them to stop crying. [REDACTED] stated they did cry a lot because they wanted to get away from him for the things he would do to hurt them.

7/17/13 1030am

Interview with Dallas Kozel with Patrick Schulte, Det Rick and advocate Andrea Pottgen

Dallas stated she remembers starting to visit her father at the "big house" in Wexford. Dallas stated she never liked being around her father because she was afraid of him and the fact that he "made her feel empty inside". Dallas stated she recalled being in the big house when dad would come into her bed at night and play with her vagina. She said she always slept in sleeping clothes, underwear which dad would either remove or go around the clothes and rub her vagina. Dad always came into the room in his underwear and would stay in bed with her. Dallas never saw anything occur to [REDACTED] during their stays with dad.

At around 5-6 y/o Dallas recalled moving from Alpen Ct to staying in a townhouse. The incidents began when she was in kindergarten with dad in the bathroom. Dallas stated she was in the tub alone when dad would wash her bare handed which she thought was strange for her age. As he washed her, he spent time around her chest, and then would wash her vagina beginning to rub it for an extended period of time with his hands. Dallas stated there were times when both sisters were in the tub but nothing ever occurred. Dallas stated as he was rubbing her vagina she would "not dare say a word to get him to stop because she was scared of him." He liked to walk around the bathroom and the house in his white Calvin Klein briefs or naked which she said was uncomfortable. Her sister nor her dad's girlfriend, Deanna was never in the room when these acts occurred. Dallas disclosed that 15 plus times, she was in the tub alone; he would wash her and rub her vagina. After the bath was over he would hold the towel and dry her off even though she was old enough to take care of herself. Dallas stated she taught herself to "feel nothing", to get through what her dad would do to her. No disclosure of penal or digital penetration in vagina or anus.

Dallas stated when she was in the bedroom alone, dad would have the girls separated and she did not know where [REDACTED] was at the time. Dallas would be trying to fall asleep with the T.V. on with the lights out when dad would come into the room in his white Calvin Klein briefs and it would appear that dad was playing with himself. He would get into bed with her and take her clothes off (t-shirt, pants and underwear) he would begin to rub her vagina and penetrate her using his fingers while masturbating at the same time. She would hear dad moaning and she would stare scared at the wall and focus on that area until her dad was done. She did not know if he inserted his penis inside her nor if he would climax. She recalled 15 plus times these acts occurred when she was alone in the bedroom.

Dallas disclosed being older and in bed with her dad where he had her naked in bed and he was in his briefs. He took pictures of her naked and then showed her and stated "doesn't this look good". Dad then began to take pictures of the two of them in bed where she was naked and he was just in his underwear. She only saw the pictures once and she doesn't know where they went. Dallas also disclosed being with her dad and sister in Myrtle Beach, South Carolina visiting a theme park where they rode a mechanical bull. At night she chose to sleep with her dad so he would not do anything to [REDACTED]. While being in bed, dad took off her pants and began to rub her vagina and penetrate her using his fingers while he rubbed his exposed penis on her leg while he was masturbating. She recalled being 11-12y/o and this only occurring once.

Dallas stated because of what her dad had done to her when she was younger she began to hate herself the older she got. She began to self-cut herself because she thought the physical pain was better for her than the sadness she was going through over the abuse. At the end of the interview, Dallas gave this officer a 14 page story she wrote about herself and the things she went through with her father. The document was placed into the file jacket.

I requested information on all travel that Debra Kozel had on the two girls and there trips to Pittsburgh. See the attached documents on the travel that was located by Dab Kozel.

I also requested the counselors that the two girls had gone through in prior years. See the attached documents on the

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counselors, including addresses and medical reports.

The two girls were requested to draw the rooms of the residences included furniture locations and room colors. See attached drawings for the victims.

Supplemental Narrative
DET. SCOTT RICK (2281)

SUPPLEMENTAL 08/08/2013 07:30 - 2261 DET. SCOTT RICK

8/5

Warrant issued on David Kozel through Magistrate Wagers Office. Charges:

2 counts Aggravated Indecent Assault
2 counts Indecent Assault
2 counts Endangering the Welfare of Children
2 counts Unlawful Contact with Children
2 counts Corruption of Minors.

Warrant was faxed to U.S. Marshalls Office Attention Geoff Long.

Warrant placed on board in Roll Call Room.

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Supplemental Narrative
DET. SCOTT RICK (2261)

SUPPLEMENTAL 11/5/2013 14:24 - 2261 DET. SCOTT RICK

11/5/13 930am Interview with David Kozel's ex-wife Deanna Kozel and attorney Charles Porter

Deanna stated she met David in 1999 at a Pittsburgh restaurant and dated 8 years until they got married in 2006. They lived at numerous locations throughout the United States but but live in a house in Fox Chapel and then in Wexford. Deanna stated she divorced David on 12/21/2010 and did not have a reason. She stated she decided to divorce him but did not know why, she thought it was time for her to "move forward in life." There were no domestic issues, Deanna stated David was semi-retired and they were together all the time and she felt she "needed space". Deanna stated they sat at the kitchen table in Wexford and both agreed on their divorce and wrote it on paper. Deanna stated she did not want anything from David because "he earned all the money and it was not right for her to take it from him." David took the written document to an attorney in Florida for this person to finalize. Deanna said he did not go to the proceeding with this attorney, did not know what the final document said and she stated she did not care and to this day doesn't know exactly what the document states.

Deanna stated she decided to move to Washington State because it is the only state they she and David did not go to and she wanted a fresh start. She stated she did not go there to get away from David because they are good friends to this date. They talk on birthdays and holidays and the last time she physically saw David was August 2011. To date, Deanna is trying to finish her R/N license and she works for a men's clothing store (J. Hilburn) where she makes clothing as a sub-contractor. Deanna stated she did received in an agreement to get monies from David for 3 years (2011-2013).

Deanna stated they lived at 406 Alpine Ct where the two girls were at the house 5-6 times and then on 2001/2002 they moved to the townhouse on Georgetown. She stated David was suppose to get the girls once a month, but with the mother fighting the girls coming to Pittsburgh they only came once every 4-6 months. She stated they would arrive on a Friday and usually leave on Sunday taking a U.S. Air flight.

Deanna claimed to be the primary care giver and would cloth, feed, wash and take care of the two girls. She stated David would leave the house early in the morning, when he was working full time and would not come home until later in the evening. She stated David did nothing for the kids, he was a millionaire and did not have to. Deanna stated the girls slept in Dallas's room because they were use to sleeping with their mother and use to bath with their mother when all three would be in the tub together. Because the girls took baths with their mother, they would ask her to get in the tub with them and take baths but she knew it was wrong and would not do so. Deanna stated while she was taking care of the kids, David was always on the couch watching TV or at work. He was never in the bathroom while they were getting ready, never helped them get ready for bed and never laid in bed with them, never laid on the couch with them, never took a nap with them. He never helped them get ready in the mornings and never even took them to the mall to buy clothes because their mother never packed clothes for them. Deanna always took them to the mall to get clothes for their stays. Deanna stated they had to go to court to get the courts to order the mother to send clothes to them for their visits. During the (11) years they were together, David was never alone with the kids and there was never dad/daughters time alone. Deanna stated she had a great relationship with the girls and they always told her they wanted Deanna to be their mother. Deanna stated the girls loved there dad and always gave him hugs and kisses. Every time they were in Pittsburgh with dad, they always cried and did not want to go back to their mother. She said the four of them had a great relationship.

Deanna stated the girls would get "quick baths" in the mornings from wearing pull-ups at night but she did all the work. During their time in Pittsburgh, Deanna claimed they spent more time with the grandparents (Frank and Shirley Kozel) in Mt Washington then they did with their father. She stated since they were not in Pittsburgh a lot, they needed to move the kids around to see their family in the area, especially their grandparents. Deanna claimed the girls spent a lot of time in Florida at Frank's condo and in hotels in South Carolina. Deanna stated the flights that David had to pay for got expensive so they started to drive to South Carolina to get the girls. They would stay in hotels to do activities in the area. During their visits they would take videos of the girls at the grandparents house or video tape for court battles because they were always accused of doing improper things. David would take the girls at times to take photos/videos of the kids but it was during visits with other family members around.



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Deanna stated David had no issues; no drug/alcohol, gambling, night club/strip clubs (Deanna stated David's brother Todd took clients to strip clubs), did not watch movies, did like nude artwork but their house was decorated by the person they purchased the house from. They only came in with a mattress, nothing else.

Deanna stated the criminal charges are false and should not be filed. She claimed the ex-wife (Deb Kozel) needs money and they are in a court battle to get her more money. She claims that she had the kids file the charges against David because they needed to get their story together for the courts. Their court action was in August 2013 and since they are not getting anything they came up with this story.

David has homes:

Florida

Idaho

Texas

Pennsylvania

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UNSILENCED
UNSILENCED
www.UNSILENCED.ORG | (KM)

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Supplemental Narrative
DET. SCOTT RICK (2281)

SUPPLEMENTAL 11/15/2013 14:37 - 2261 DET. SCOTT RICK

11/6

Magistrate Wagner

ADA Jen Berosh

Defense Tina Miller and Bill Diferdorfer

During the beginning of the court case, all parties were walking into the court room. Sandy and Ashley Kozel (sister-in-laws) were sitting near the door not saying anything. Deanna Kozel walked into the court room and was seen with her cellular phone up and she took a picture of the two sister-in-laws. This started an verbal argument where Magistrate Wagner asked what she was doing and she would not admit to anything. Deanna was told to leave by the judge and she wanted to know why the sister-in-laws could stay. I advised the judge that Deanna could be a potential witness for the defense and the grandparents of the victims. Since there was going to be a mutual sequestration, they were all told to leave the court room and the judge was advised that the two sister-in-laws were not witnesses for the prosecution and would be able to stay.

During the criminal proceedings, state constables were in the court room and had to tell Shirley Kozel to stop causing problems in the waiting room or she would be removed from the area. As I walked to get the victims, Deanna Kozel kept making comments and was told by constables to be quiet during the court case.

All charges held.

11/7

Received a call from Deanna attorney, Chuck Porter. He stated Deanna was at a relatives house in Latrobe and that he found a picture of David with "some girls" in the photo. Deanna thinks it is someone from Deb Kozel network or sister in laws Sandy and Ashley Kozel that are playing games with Deanna over this case. I advised Porter that I would speak to their attorney Mike Spears about the above. Porter also advised that around Halloween, there was a note found at Deanna's house. It was unknown what the paper stated or if she called the police.

In talking with both Mike Spears and mother, Debra Kozel, they stated they would have no idea who is leaving the picture and they have nothing to do with it. It was reported to this officer that when Deb Kozel was going through other legal battles with David Kozel over the children, this same thing occurred. She stated David is known for playing games like this.

11/12

Received another call attorney Porter, he stated when Deanna arrived home in Washington, she found three notes written on white paper that state: "you will die", "child abuser" and "you cant hide" that were on her porch. He stated he was told by Deanna that a private investigator saw someone on her property that may have left the notes. I asked why she had a private investigator on her property and his response was "I don't know". She was told by Porter to go to her police department to file a report which she did do. Porter stated if they are able to prove who is doing this they will file charges against that person.

I told Porter that his client was seen by numerous persons causing problems in the court room which he did not know what I was talking about. He said Deanna told him that she was not allowed in the court room because Porter was not there to enter the room with her. I advised Porter of the above actions of Deanna Kozel while entering the court room.

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Supplemental Narrative

DET. SCOTT RICK (2261)



SUPPLEMENTAL 8/8/2013 08:31 - 2261 DET. SCOTT RICK

8/8

Had Anthony Aulicino come to NRPD station and gave his PA State Polica business card. After having general conversation for several minutes, I asked Anthony what our agency could do for him. He then gave a Mountaineer Keystone business card and told me he worked for the Kozel family for security support. He showed the criminal document sheet and asked if I could fill him in on these charges. I advised Anthony I could not discuss the case and referred him to the magistrate for any criminal documents. See attached copies of business cards.

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**PENNSYLVANIA
STATE POLICE**

SERGEANT ANTHONY AULICINO
Troop D, Kittanning

184 Nolle Drive
Kittanning, PA 16201
E-mail [REDACTED]

Fax (724) 543-4360

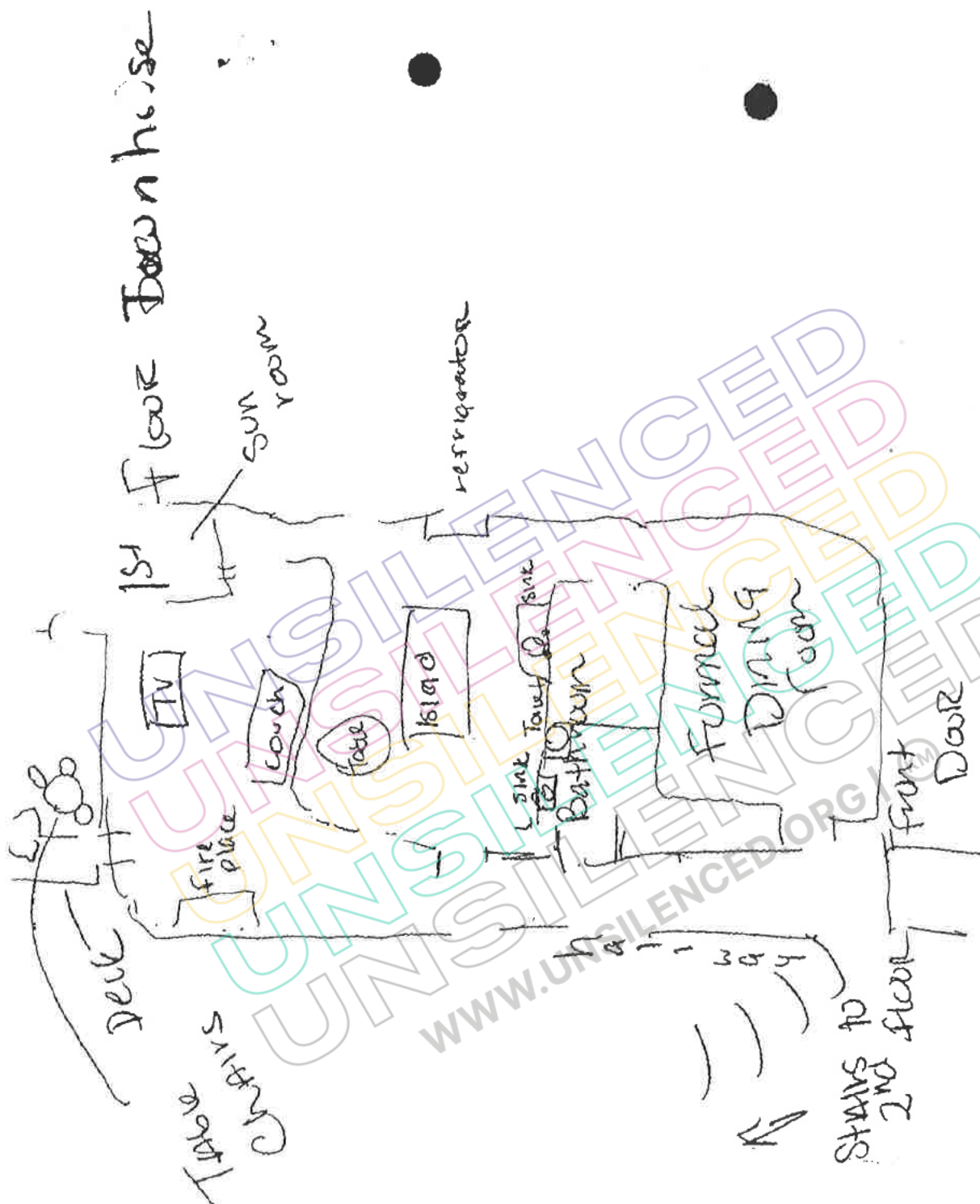
**Mountaineer
Keystone**



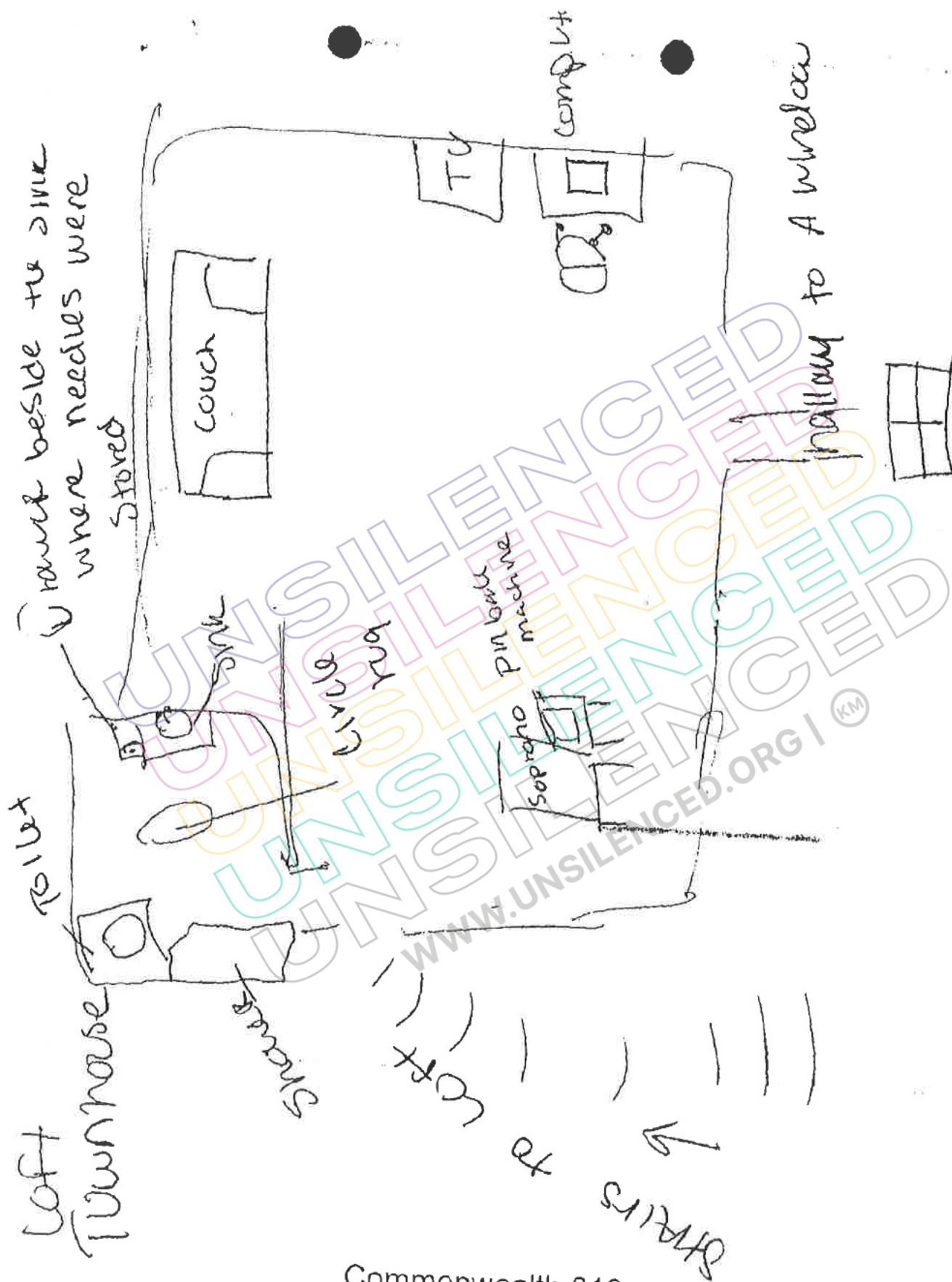
6031 Wallace Road Ext.
Suite 300
Waxford, PA 15090

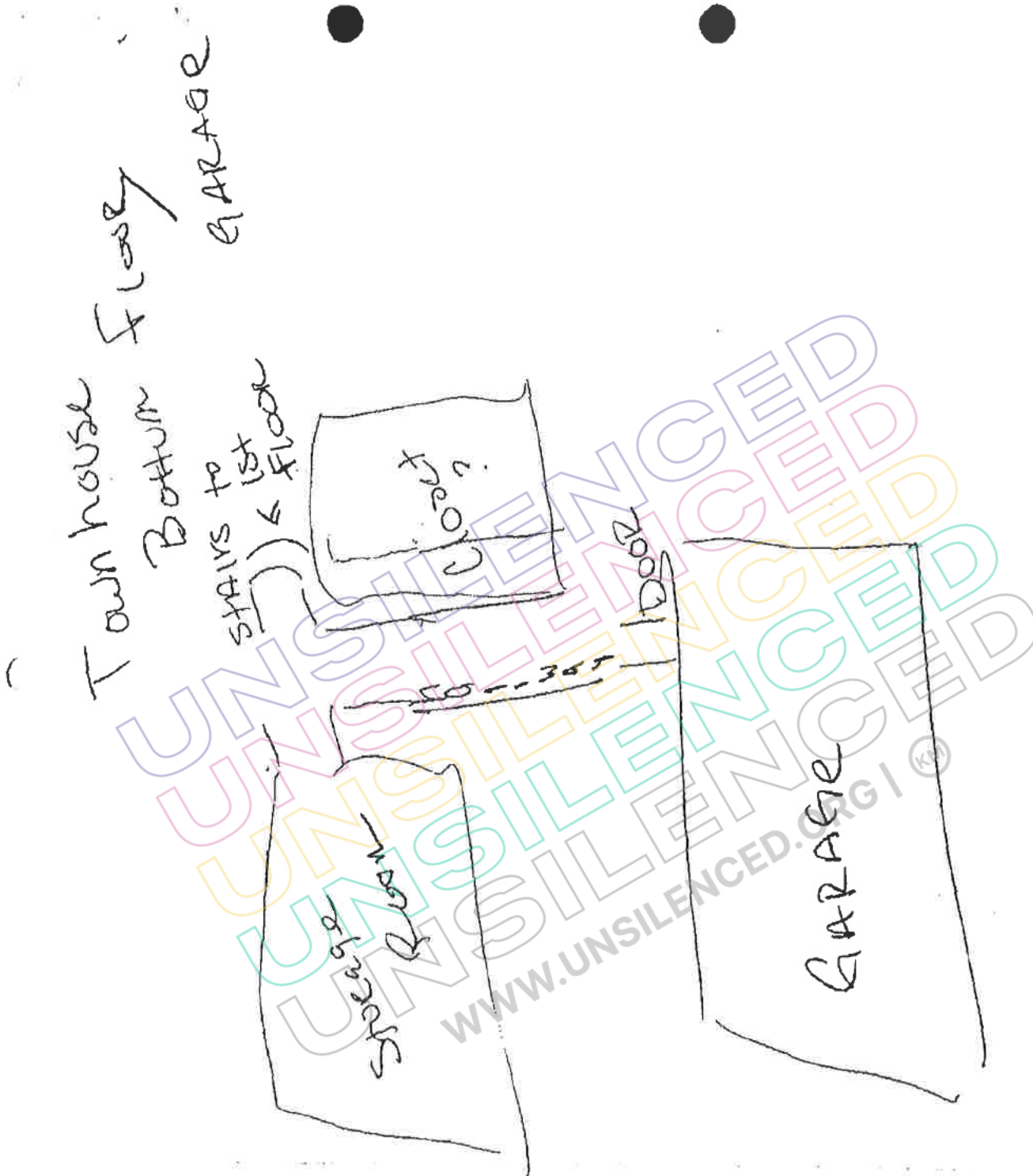
Anthony Aulicino
Director of Safety & Security

Mobile: 412-638-8033
[REDACTED]

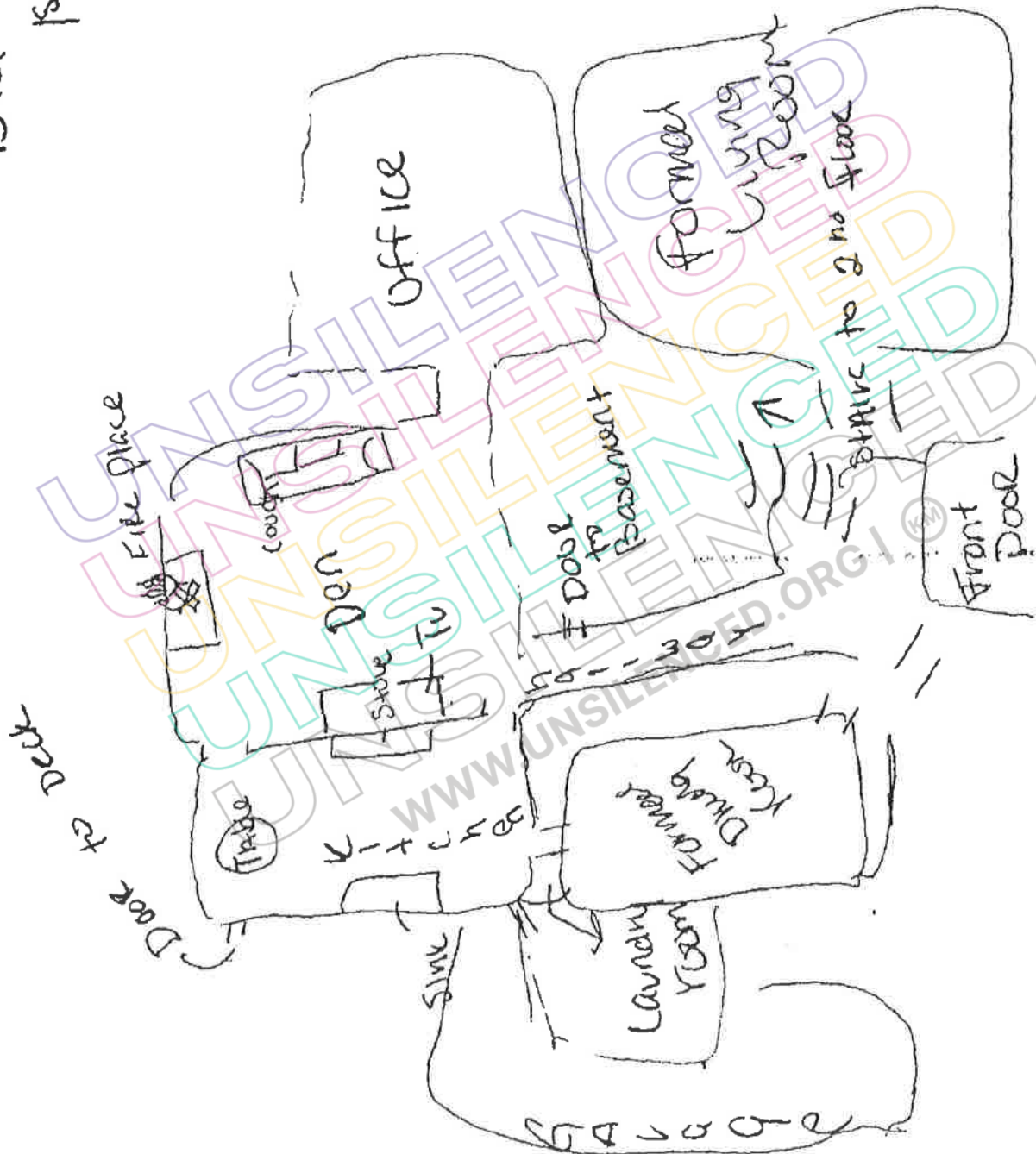


Commonwealth 018

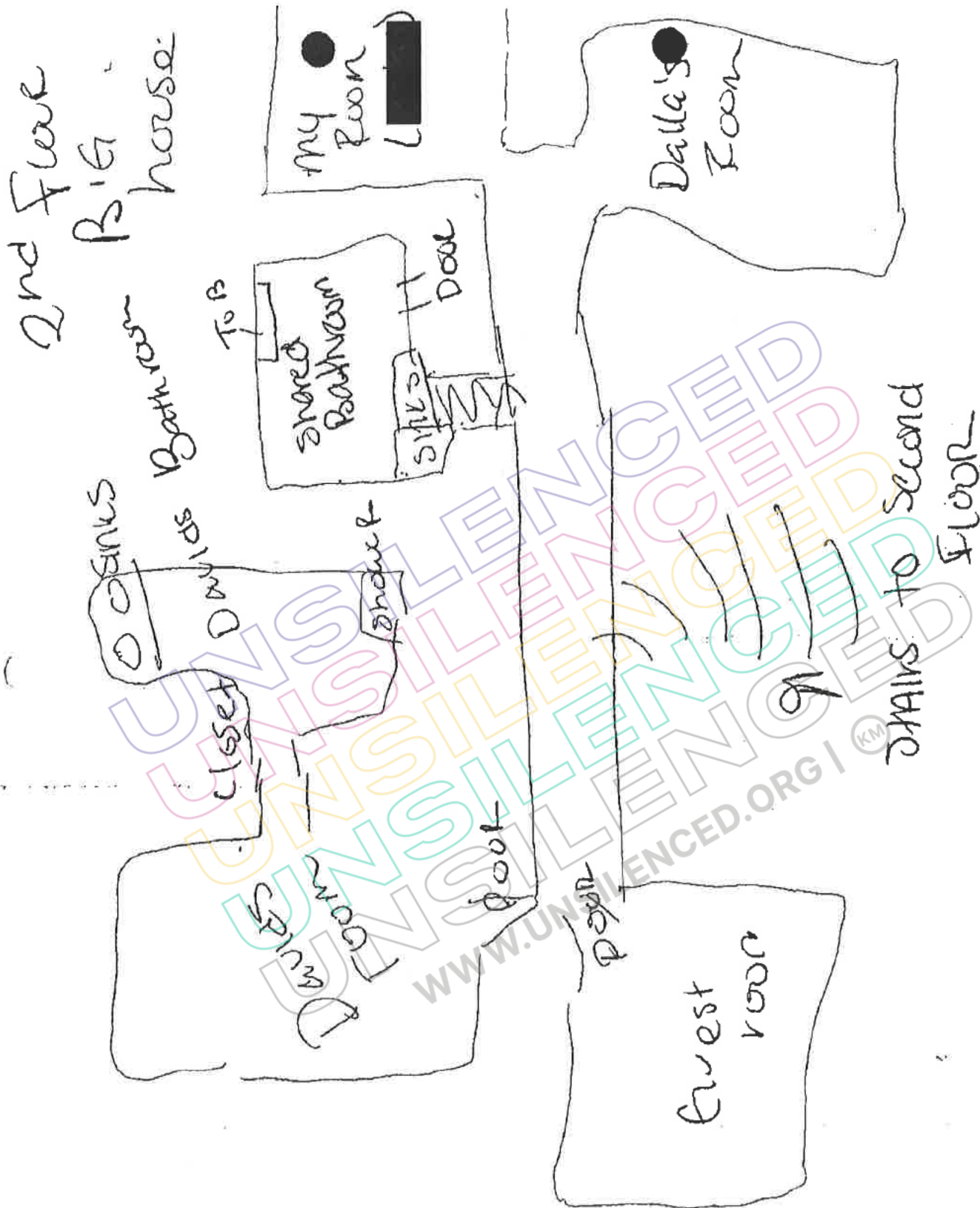




B1A house
1st Floor



Commonwealth 021



Big house
Basement

Storage

Fireplace

Commonwealth 023

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF ALLEGHENY**Arrest Warrant**

Mag. Dist No : MDJ-05-2-12

MDJ Name : Honorable William Wagner

Address : 8105 Perry Highway
Lower Level
Pittsburgh, PA 15237

Telephone : 412-366-2221

Commonwealth of Pennsylvania

v.

David Kozel

Complaint No: 13-0998
 Charging Officer: Rick, Scott J
 Arresting Agency: Northern Regl Pd Police Dept
 Case Filed: 08/05/2013
 OTN: G 602047-5
 Reason For Warrant: Felony
 Offense Date: 02/07/2013
 Lead Offense: 18 § 3126 §§ A7 INDECENT ASSAULT

Issued For: David Kozel
 Docket No: MJ-05212-CR-0000184-2013
 NCIC OFF:
 OOC:
 WARRANT ID: DJS702750772
 Warrant Control No: 05212-AW-0000103-2013

TO THE OFFICER: Scott J Rick

In the name of the Commonwealth of Pennsylvania, you are commanded to take the defendant, David Kozel, into custody. When the defendant is taken into custody, bring the defendant before me at the Court address shown above to answer the complaint of Scott J Rick charging the defendant with the offense(s) set forth above and further to be dealt with according to law.

Witness the hand and official seal of the issuing authority on this 5th day of August, 2013.

August 05, 2013

Date

Magisterial District Judge William Wagner



MJ-05212-CR-0000184-2013

MOJS 417

05212-AW-0000103-2013

David Kozel

Printed: 08/05/2013 9:50:24AM

NO.

13-04036

FILED
2013 MAR -5 AM 8:55
GARY FITZSIMMONS
DISTRICT CLERK
DALLAS CO. TEXAS
Felisha-Bumley

IN THE INTEREST OF
DALLAS CAROLINE KOZEL
A CHILD

§ IN THE DISTRICT COURT
§
§ 303rd JUDICIAL DISTRICT
§
§ DALLAS COUNTY, TEXAS

**ORIGINAL PETITION IN SUIT AFFECTING THE PARENT-CHILD
RELATIONSHIP SEEKING MODIFICATION OF OUT-OF-STATE ORDER**

1. *Discovery Level*

Discovery in this case is intended to be conducted under level 2 of rule 190 of the Texas Rules of Civil Procedure.

2. *Parties*

This original petition in suit affecting the parent-child relationship seeking modification of an out-of-state order is brought by Deborah Lynn Kozel, Petitioner, who is a party affected by the order sought to be modified. The last three numbers of Petitioner's driver's license number are 852 SC. The last three numbers of Petitioner's Social Security number are 509.

Respondent is David Francis Kozel. The requested modification will be in the best interest of the child.

3. *Order to Be Modified*

The order to be modified is entitled ORDER OF COURT - Final and was rendered on October 9, 2007 in the Court of Common Pleas of Allegheny County, Pennsylvania, in Cause No. 461100495, styled "Deborah L. Kozel vs. David F. Kozel." A true copy of the order is attached to this petition as Exhibit A.

4. *Jurisdiction*

This Court has jurisdiction to make a child custody determination in this case under sections 152.201 and 152.203 of the Texas Family Code.

5. *Child*

The following child is the subject of this suit:

Name: Dallas Caroline Kozel
Sex: Female
Birth date: [REDACTED] 1995
County of residence: Spartanburg, SC



6. *Parties Affected*

The parties whose rights, privileges, duties, or powers may be affected by this suit are as follows:

Name: David Francis Kozel

Relationship: Father

No service is necessary at this time.

7. *Child's Property*

There has been no change of consequence in the status of the child's property since the out-of-state order sought to be modified was rendered.

8. *Support*

The order to be modified is not based on a mediated or collaborative law settlement agreement. The circumstances of the child or a person affected by the order have materially and substantially changed since the date of the rendition of the order to be modified, and the support payments previously ordered should be extended beyond the eighteenth birthday of the child. The child requires substantial care and personal supervision because of a mental or physical disability and will not be capable of self-support and the cause of the disability is known to exist on or before the 18th birthday of the child.

The Court is requested to modify the child support order to provide that Respondent provide support for the child for an indefinite period of time beyond the eighteenth birthday of the child

The requested modification is in the best interest of the child.

9. *Request for Temporary Orders*

Petitioner requests the Court, after notice and hearing, to make temporary orders for the safety and welfare of the child including but not limited to the following:

Petitioner requests that the Court, after reasonable advance notice and for good cause shown, allow Petitioner to present testimony and evidence by electronic means, including by teleconference or through the Internet.

Ordering Respondent to produce copies of income tax returns for tax years 2010 through 2011, a financial statement, and current pay stubs by a date certain.

Ordering Respondent to pay reasonable interim attorney's fees and expenses.

Ordering a pretrial conference to simplify the issues in this case and determine the stipulations of the parties and for any other matters the Court deems appropriate

10. Attorney's Fees

It was necessary for Petitioner to secure the services of Craig M. Fowler, a licensed attorney, to preserve and protect the child's rights. Respondent should be ordered to pay reasonable attorney's fees, expenses, and costs through trial and appeal, and a judgment should be rendered in favor of this attorney and against Respondent and be ordered paid directly to Petitioner's attorney, who may enforce the judgment in the attorney's own name. Petitioner requests post judgment interest as allowed by law.

11. Prayer

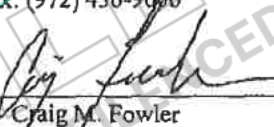
Petitioner prays that citation and notice issue as required by law.

Petitioner prays that the Court enter a modifying order in accordance with the allegations of this petition.

Petitioner prays for attorney's fees, expenses, costs, and interest as requested above.

Petitioner prays for general relief.

Respectfully submitted,
HAMMERLE FINLEY LAW FIRM
1660 S. Stemmons Freeway, Suite 300
Lewisville, Texas 75067
Tel: (972) 436-9300
Fax: (972) 436-9000



Craig M. Fowler
State Bar No. 07318000
Attorney for Petitioner

NOTICE OF HEARING FOR TEMPORARY ORDERS

The hearing Temporary Orders is set for ____ day of _____, 2013 at ____
a.m./p.m. in the ____ Judicial District Court, Dallas County, Texas.

Signed this ____ day of February, 2013.

Judge Presiding

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA
FAMILY DIVISION

DEBORAH L. KOZEL,

Plaintiff,

v.

DAVID F. KOZEL,

Defendant.

No. FD 98-00761-004

**PETITION FOR MODIFICATION OF
EXISTING ORDER FOR CHILD SUPPORT**

Plaintiff Deborah L. Kozel, by her counsel, Margaret P. Joy, Esquire, and McCarthy McDonald Schulberg & Joy, files this Petition For Modification of Existing Order for Child Support, and in support thereof represents as follows:

1. The parties are the parents of two minor children: Dallas C. Kozel (DOB [REDACTED]/95, age 17) and [REDACTED] (DOB [REDACTED]/97, age 15).
2. The children are in the exclusive custody of Plaintiff Mother. Defendant Father has had no or virtually no contact with either child for many years, due to his willful refusal to abide by Orders of this Court regarding custody, which resulted in his being stripped of his partial custody rights.
3. By Order dated September 27, 2005, Defendant Father is obligated to pay child support of \$6,344 per month. See attached Exhibit A.
4. This Order was based on the testimony presented at the equitable distribution hearing (with which was consolidated Mother's claim for child support) before Special Master Gary Gilman, the Report and Recommendation in which was filed on May 4, 2005.
5. At the commencement of those hearings, Dallas was age 10 and [REDACTED] was age 8.



6. At that time, both children attended Oakbrook Preparatory School in Spartanburg, South Carolina, where Mother and the children live.

7. Since that Order was entered, the following material and continuing changes in circumstances have occurred:

a. Dallas has experienced significant mental health and emotional issues. Due to these issues, she left Oakbrook in January 2012, and was enrolled in a wilderness and counseling program at SUWS of the Carolinas, in Asheville, NC. She remained there until March 22, 2012. The cost for this program was over \$30,000.

b. Upon recommendation from SUWS and a firm hired by Mother to evaluate Dallas and the best options for her continued treatment and education, Dallas was enrolled at Spring Ridge Academy in Spring Valley, Arizona. Dallas enrolled there in April 2012 and is a student there presently. Significant costs have been incurred and paid by Mother for her enrollment, tuition, room/board, therapy, evaluation, travel, and other expenses.

c. On information and belief, the income of Defendant Father has increased significantly from the net income which formed the basis of the September 27, 2005 Order.

d. On information and belief, Father has, since 2005, failed to report to the Court and to Mother increases in his income from the net income which formed the basis of the September 27, 2005 Order.

e. On information and belief, Father has, from a date prior to the September 27, 2005, and continuing to the present date, received and/or was legally or equitably entitled to receive, income in excess of the income which formed the basis of the September 27, 2005 Order.

f. The Pennsylvania Support Guidelines have been substantially modified since the date of the current order, including but not limited to the repeal of *Melzer v. Witsberger*, 505 Pa. 462, 480 A.2d 991 (1984), effective May 12, 2010. The current child support order was based on a *Melzer* analysis.

g. Both children have incurred increases in extraordinary expenses since the date of the current Order, including but not limited to activities/lessons, including but not limited to [REDACTED] participation in elite regional and national soccer teams which involve significant costs and expenses.

h. Mother reserves the right to assert at trial other material and continuing changes in circumstance which would justify an increase in the child support order, after she conducts discovery in this matter.

8. If the Court finds that Father (a) received and/or was legally or equitably entitled to receive, prior to the date on which this Petition is served on him, income in excess of that which formed the basis of the September 27, 2005 Order, and/or (b) experienced, prior to the date on which this Petition is served on him, an increase in his net disposable income from that which formed the basis of the September 27, 2005 Order, and (c) failed to report such changes in his income to the Court and/or to Mother or her counsel, Mother respectfully requests, and reserves the right to contend at trial, that any increase in the September 27, 2005 Order be awarded retroactive to the appropriate date(s), even if prior to the date on which this Petition is served on Father.

9. Mother believes and therefore avers that each and all of the above-listed material and continuing changes in circumstance justifies an increase in child support from that ordered in the September, 27, 2005 Order.

WHEREFORE, Plaintiff Deborah Kozel respectfully requests this Honorable Court to
enter an Order in the form attached hereto.

Margaret P. Joy

McCarthy McDonald Schulberg & Joy
1111 Oliver Building
535 Smithfield Street
Pittsburgh, PA 15222

Counsel for Plaintiff
Deborah Kozel

Date: _____

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IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA
FAMILY DIVISION

DEBORAH L. KOZEL,

Plaintiff,

v.

DAVID F. KOZEL,

Defendant.

No. FD 98-00761-004

ORDER OF COURT

AND NOW, this _____ day of _____, 2012, upon presentation
of the foregoing Petition For Modification of Existing Order for Child Support on behalf of
Plaintiff Deborah Kozel, it is hereby ORDERED that a conference/hearing shall be scheduled on
the Petition for the _____ day of _____, 20____, at _____ a.m./p.m.

BY THE COURT:

_____, J.

VERIFICATION

I, Deborah L. Kozel, state that the averments made in the foregoing Petition are true and correct to the best of my knowledge, information and belief. I understand that this statement is made subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.

Deborah L. Kozel

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www.UNSILENCED.ORG | (KM)

NO. FD-98-00761-004

IN RE THE MARRIAGE OF	§	COURT OF COMMON PLEAS
	§	
DEBRAH L KOZEL	§	ALLEGHENY COUNTY,
Petitioner,	§	PENNSYLVANIA
AND	§	
DAVID F. KOZEL	§	
Respondent.	§	FAMILY DIVISION

NOTICE OF REGISTRATION OF FOREIGN SUPPORT ORDER

To: David Francis Kozel

1. A copy of a foreign support order that has been registered under Texas Family Code chapter 159, subchapter G, is attached, along with a copy of any other relevant information accompanying the order.
2. A registered order is enforceable as of the date of registration in the same manner as an order issued by a Texas court.
3. The amount of the alleged arrearage is \$0 as of February 4, 2013.
4. A hearing to contest the validity or enforcement of a registered order or the allegation of which order is the controlling order must be requested within twenty days after the date of personal service of this notice.
5. If you wish to contest the validity of the registered order, the allegation of which order is the controlling order, or the amount of the alleged arrearage, file a written response with the District clerk and mail a copy to Deborah Lynn Kozel within twenty days after the date of service of this notice.
6. Failure to contest the validity or enforcement of a registered order or the allegation of which order is the controlling order in a timely manner will result in confirmation of the order and enforcement of the order and the alleged arrearages and precludes further

contest of that order with respect to any matter that could have been asserted and the amount of the alleged arrearages.

7. Direct all child support payments to State Disbursement Unit for distribution according to law.

District Clerk of Dallas County, Texas

By _____

Deputy

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In the Court of Common Pleas of **ALLSHEEN** County, Pennsylvania
FAMILY DIVISION

DEBORAH L. KOZEL

Plaintiff

vs.

DAVID F. KOZEL

Defendant

) Order Number 98-00761
)
) PACSES Case Number 461100495
) Docket Number 98-00761
) Other State ID Number

ORDER OF COURT

☒ Final ☐ Interim ☐ Modified

AND NOW, 29th DAY OF OCTOBER, 2007

based upon the Court's determination that the Payee's monthly net income is \$ 0.00 and the Payor's monthly net income is \$ 0.00, it is hereby ordered that the Payor pay to the Pennsylvania State Collection and Disbursement Unit

SEVEN THOUSAND NINETY-FOUR

Dollars (\$ 7,094.00) a month payable MONTHLY as follows: first payment due NOVEMBER 01, 2007 AND THE 1ST OF EACH MONTH THEREAFTER

The effective date of the order is 10/05/07.

Arrears tot at \$ 16,898.44 as of OCTOBER 9, 2007 are due in full

IMMEDIATELY. All terms of this Order are subject to collection and/or enforcement by contempt proceedings, credit bureau reporting, tax refund offset certification, driver's license revocation, and the freeze and seize of financial assets. These enforcement/collection mechanisms will not be initiated as long as obligor does not owe overdue support. Failure to make each payment on time and in full will cause all arrears to become subject to immediate collection by all the means listed above.

For the Support of:

Name

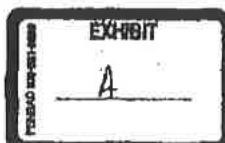
DALLAS CAROLINE KOZEL

Birth Date

_____/95

_____/97

Service Type M



Form OB-519 Rev. 3
Worker ID 02216

KOZEL

V. KOZEL

PACSES Case Number: 461100495

The defendant owes a total of \$ 7,094.00 per month payable MONTHLY ;
 \$ 6,344.00 for current support and \$ 750.00 for arrears. The defendant must
 also pay fees/costs as indicated below.

Said money to be turned over by the Pa SCDU to:

DEBORAH LYNN KOZEL

Payments must be made by check or
 money order. All checks and money orders must be made payable to Pa SCDU and mailed to:

Pa SCDU
 P.O. Box 69110
 Harrisburg, Pa 17106-9110

Payments must include the defendant's PACSES Member Number or Social Security Number
 in order to be processed. Do not send cash by mail.

The monthly support obligation includes cash medical support in the amount of \$250 annually
 for unreimbursed medical expenses incurred for each child and/or spouse. Unreimbursed
 medical expenses of the obligee or children that exceed \$250 annually shall be allocated
 between the parties. The party seeking allocation of unreimbursed medical expenses must
 provide documentation of expenses to the other party no later than March 31st of the year
 following the calendar year in which the final medical bill to be allocated was received. The
 unreimbursed medical expenses are to be paid as follows: ~~N/A~~ % by defendant and
~~N/A~~ % by plaintiff. ☒ Defendant ☐ Plaintiff ☐ Neither party to provide medical
 insurance coverage. Within thirty (30) days after the entry of this order, the ☐ Plaintiff
☒ Defendant shall submit to the person having custody of the child(ren) written proof that
 medical insurance coverage has been obtained or that application for coverage has been made.
 Proof of coverage shall consist, at a minimum, of: 1) the name of the health care coverage
 provider(s); 2) any applicable identification numbers; 3) any cards evidencing coverage; 4)
 the address to which claims should be made; 5) a description of any restrictions on usage, such
 as prior approval for hospital admissions, and the manner of obtaining approval; 6) a copy of
 the benefit booklet or coverage contract; 7) a description of all deductibles and co-payments;
 and 8) five copies of any claim forms.

KOZEL

V. KOZEL

PACSES Case Number: 461200495

Other Conditions:

ON COURT LIST OF 10/05/07, BOTH COUNSEL APPEARED ON PETIT'S PETITION TO ENFORCE & FOR SANCTIONS REGARDING UNREIMBURSED MEDICAL EXPENSES. DEFT FILED A SUMMARY WITH A REQUEST FOR COUNSEL FEES. PARTIES WERE PERMITTED TO TESTIFY BY TELEPHONE BUT NO TESTIMONY BY THE PARTIES WAS TAKEN BY THE COURT. COUNSEL PRESENTED EXHIBITS & SUMMARIZED THEIR POSITIONS. AFTER REVIEW OF THE RULES & THE EXHIBITS IT IS RECOMMENDED THAT DEFT PAY UNREIMBURSED MEDICAL EXPENSES IN THE AMOUNT OF \$10,554.44 FROM 06/20/05 TO 09/27/07. THIS AMOUNT IS ADDED ONTO THE CURRENT ARREARS OF \$6,344 RESULTING IN A TOTAL BALANCE OWED OF ARREARS OF \$16,898.44. COUNSEL FEES ARE DENIED FROM BOTH PARTIES. DEFT TO PAY 750 A MONTH ON ARREARS. CURRENT MONTHLY OBLIGATION REMAINS THE SAME.

PARTY IS DIRECTED TO PROVIDE DOCUMENTATION OF UN REIMBURSED MEDICAL EXPENSES TO THE DEFT ON A QUARTERLY BASIS. DEFT THEN MUST PAY THE EXPENSES WITHIN 30 DAYS OF RECEIPT OR NOTICE FROM PETIT OF ANY OBJECTION. EACH CHILD'S 250 HAS ALREADY BEEN APPLIED FROM 2007.

RECOMMENDATIONS MAILED 10/09/07.

\$ 0.00	for	Payable at \$ 0.00	per
\$ 0.00	for	Payable at \$ 0.00	per
\$ 0.00	for	Payable at \$ 0.00	per
\$ 0.00	for	Payable at \$ 0.00	per
\$ 0.00	for	Payable at \$ 0.00	per

IMPORTANT LEGAL NOTICE

PARTIES MUST WITHIN SEVEN DAYS INFORM THE DOMESTIC RELATIONS SECTION AND THE OTHER PARTIES, IN WRITING, OF ANY MATERIAL CHANGE IN CIRCUMSTANCES RELEVANT TO THE LEVEL OF SUPPORT OR THE ADMINISTRATION OF THE SUPPORT ORDER, INCLUDING, BUT NOT LIMITED TO, LOSS OR CHANGE OF INCOME OR EMPLOYMENT AND CHANGE OF PERSONAL ADDRESS OR CHANGE OF ADDRESS OF ANY CHILD RECEIVING SUPPORT. A PARTY WHO WILLFULLY FAILS TO REPORT A MATERIAL CHANGE IN CIRCUMSTANCES MAY BE ADJUDGED IN CONTEMPT OF COURT, AND MAY BE FINED OR IMPRISONED.

PENNSYLVANIA LAW PROVIDES THAT ALL SUPPORT ORDERS SHALL BE REVIEWED AT LEAST ONCE EVERY THREE (3) YEARS IF SUCH REVIEW IS REQUESTED BY ONE OF THE PARTIES. IF YOU WISH TO REQUEST A REVIEW AND ADJUSTMENT OF YOUR ORDER, YOU MUST DO THE FOLLOWING: CALL YOUR ATTORNEY. AN UNREPRESENTED PERSON WHO WANTS TO MODIFY (ADJUST) A SUPPORT ORDER SHOULD CONTACT THE DOMESTIC RELATIONS SECTION.

ALL CHARGING ORDERS FOR SPOUSAL SUPPORT AND ALIMONY PENDENTE LITE, INCLUDING UNALLOCATED ORDERS FOR CHILD AND SPOUSAL SUPPORT OR CHILD SUPPORT AND ALIMONY PENDENTE LITE, SHALL TERMINATE UPON DEATH OF THE PAYEE.

KOEHL

V. KOEHL

PACES Case Number: 461100495

A MANDATORY INCOME ATTACHMENT WILL ISSUE UNLESS THE DEFENDANT IS NOT IN ARREARS IN PAYMENT IN AN AMOUNT EQUAL TO OR GREATER THAN ONE MONTH'S SUPPORT OBLIGATION AND (1) THE COURT FINDS THAT THERE IS GOOD CAUSE NOT TO REQUIRE IMMEDIATE INCOME WITHHOLDING; OR (2) A WRITTEN AGREEMENT IS REACHED BETWEEN THE PARTIES WHICH PROVIDES FOR AN ALTERNATE ARRANGEMENT.

UNPAID ARREARAGE BALANCES MAY BE REPORTED TO CREDIT AGENCIES. ON AND AFTER THE DATE IT IS DUE, EACH UNPAID SUPPORT PAYMENT SHALL CONSTITUTE, BY OPERATION OF LAW, A JUDGMENT AGAINST YOU, AS WELL AS A LIEN AGAINST REAL PROPERTY.

IT IS FURTHER ORDERED that, upon payor's failure to comply with this order, payor may be arrested and brought before the Court for a Contempt hearing; payor's wages, salary, commissions, and/or income may be attached in accordance with law; this Order will be increased without further hearing by 60 % a month until all arrearages are paid in full. Payor is responsible for court costs and fees.

Copies delivered to parties BY MAIL

Date

Consented:

Plaintiff

Plaintiff's Attorney

Defendant

Defendant's Attorney

BY THE COURT:

CERTIFIED FROM THE RECORD

Patricia W. Quinn
Administrative, Family Division, Adult Section

Tracy Schell
Family Division Supervisor

PER CURIAM

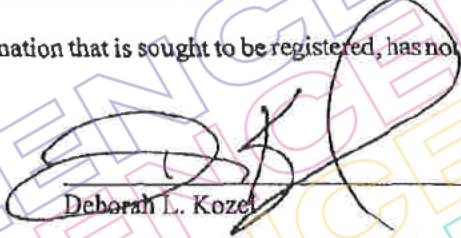
Judge

AFFIDAVIT

Deborah L. Kozel appeared in person before me today and stated under oath:

"My name is Deborah L. Kozel. I am above the age of eighteen years, and I am fully competent to make this affidavit.

"To the best of my knowledge and belief, the child custody determination issued from the Court of Common Pleas of Allegheny County, Pennsylvania, in Cause No. FD 98-00761-004 and signed on October 29, 2007 the determination that is sought to be registered, has not been modified."


Deborah L. Kozel

SIGNED under oath before me on 11/31/2013


Notary Public, State of South Carolina

13-04036
HAMMERLE FINLEY
LAW FIRM

February 4, 2013

303rd V
FILED
2013 MAR -5 AM 8:56
GARY FITZSIMMONS
CLERK
DALLAS CO. TEXAS
DEPUTY

Gary Fitzsimmons, District Clerk
Dallas County, Texas
George Allen Courts Building
600 Commerce St.
Dallas, Texas 75202

Re: In Interest of Dallas C Kozel and [REDACTED], Children

Cause No. FD 98-00761-004, Court of Common Pleas of Allegheny County,
Pennsylvania, Family Division

This is a formal request to register an order under the Uniform Interstate Family Support
Act, section 159.601-159.604 of the Texas Family Code.

I enclose two copies, including one certified copy, of the determination sought to be
registered and a statement under penalty of perjury that to the best of the knowledge and belief of
Deborah L. Kozel the order has not been modified.

The name and address of the person seeking registration and any parent or person acting
as a parent who has been awarded support in the order sought to be registered is as follows:

Name: Deborah L Kozel

Address: 335 Earlesfort Road, Landrum, SC 29356

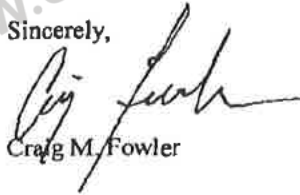
Relationship to children: Mother

Name: David Francis Kozel

Address: 4700 St. Johns Drive, Highland Park, Dallas, Texas 75205

Relationship to children: Father

Sincerely,



Craig M. Fowler

CAUSE NO. 13-04036

IN THE INTEREST OF

DALLAS CAROLINE KOZEL AND

CHILDREN

§
§
§
§
§
§

IN THE DISTRICT COURT

303RD. JUDICIAL DISTRICT

DALLAS COUNTY, TEXAS

ORDER

On the 9th day of July 2013, came on to be heard the above and foregoing Motion to Withdraw as Attorney, and the Court, after hearing the evidence and argument of counsel, is of the opinion that the same should be GRANTED; therefore,

IT IS ORDERED that the above and foregoing Motion to Withdraw as Attorney is hereby GRANTED.

IT IS FURTHER ORDERED that Craig M. Fowler is allowed to withdraw as attorney of record for Deborah Lynn Kozel, Respondent, in this matter, and that his name shall be stricken from the records as attorney of record for Deborah Lynn Kozel, Respondent, in this matter.

IT IS FURTHER ORDERED that all notices of hearings in this matter shall be sent directly to Defendants, Deborah Lynn Kozel, at her last known mailing address, 335 Earles Fort Road, Landrum, SC 29356.

SIGNED this 9th day of July 2013.

Mary Brown
Associate Judge
JUDGE PRESIDING
Dallas County Family District Courts

Agreed by: I have no choice

Deborah Kozel

ORDER TO WITHDRAW

EXHIBIT

M

SOLO

NO. 13-04036

IN THE INTEREST OF	§	IN THE DISTRICT COURT
DALLAS CAROLINE KOZEL AND	§	303RD JUDICIAL DISTRICT
[REDACTED]	§	
CHILDREN	§	DALLAS COUNTY, TEXAS

TEMPORARY ORDERS IN SUIT TO MODIFY PARENT-CHILD RELATIONSHIP

On July 9, 2013, the Court heard Respondent/Counterpetitioner's application for temporary orders.

Appearances

Petitioner/Counterrespondent, Deborah L. Kozel, although duly cited and noticed, did not appear in person or through attorney of record and wholly defaulted.

Respondent/Counterpetitioner, David F. Kozel, appeared in person and through attorney of record, Erin M. Bogdanowicz, and announced ready.

Jurisdiction

The Court, after examining the record, and hearing the evidence and argument of counsel, finds that all necessary prerequisites of the law have been legally satisfied and that this Court has jurisdiction of this case and of all the parties.

The Court finds that a tribunal of Pennsylvania has continuing exclusive jurisdiction over the child-support issue and that the controlling order for child support is the order issued by that tribunal in Cause No. 461100495 on October 29, 2007. The Court further finds, in accordance with Texas Family Code chapter 159, that it has jurisdiction over Obligor, who is a resident of Texas, Oblige, who is a resident of South Carolina and who has submitted to Texas jurisdiction by initiating this proceedings, and the subject matter of this suit. In making this determination,



the court considered the following child-support orders: The Pennsylvania "Order of the Court" from October 29, 2007 and the Pennsylvania "Consent Order" from November 21, 2012.

Best Interest of the Child

The following orders are for the safety and welfare and in the best interest of the following child:

Name:	██████████
Sex:	Female
Birth date:	██████████ 1997
Home state:	South Carolina

Child Support

IT IS ORDERED that David F. Kozel pay to Deborah L. Kozel for the support of ██████████ one thousand two hundred thirty six dollars and ninety two cents (\$1,236.92) per month, with the first payment being due and payable on August 1, 2013 and a like payment being due and payable on the first day of each month thereafter until the first month following the date of the earliest occurrence of one of the events specified below:

1. the child reaches the age of eighteen years or graduates from high school, whichever occurs later, subject to the provisions for support beyond the age of eighteen years set out below;
2. the child marries;
3. the child dies;
4. an affidavit of parental preference is filed by David F. Kozel;
5. the child enlists in the armed forces of the United States and begins active service as defined by section 101 of title 10 of the United States Code; or
6. the child's disabilities are otherwise removed for general purposes.

If the child is eighteen years of age and has not graduated from high school, IT IS

ORDERED that David F. Kozel's obligation to pay child support to Deborah L. Kozel shall not terminate but shall continue for as long as the child is enrolled-

1. under chapter 25 of the Texas Education Code in an accredited secondary school in a program leading toward a high school diploma or under section 130.008 of the Education Code in courses for joint high school and junior college credit and is complying with the minimum attendance requirements of subchapter C of chapter 25 of the Education Code or

2. on a full-time basis in a private secondary school in a program leading toward a high school diploma and is complying with the minimum attendance requirements imposed by that school.

Statement on Guidelines

In accordance with Texas Family Code section 154.130, the Court makes the following findings and conclusions regarding the child support order made in open court in this case on July 9, 2013:

1. The amount of child support ordered by the Court is in accordance with the percentage guidelines.
2. The net resources of David F. Kozel per month are \$6,315.60.
3. The net resources of Deborah L. Kozel per month are unknown.
4. The percentage applied to David F. Kozel's net resources for child support is 20 percent. The Court finds that Dallas Kozel is no longer eligible to receive child support and is no longer subject to the jurisdiction of the Court.

In the event any monthly child support is paid by David F. Kozel to Deborah L. Kozel in excess of \$1,236.92 to satisfy a monthly child support obligation after August 1, 2013, IT IS FURTHER ORDERED that Deborah L. Kozel shall reimburse David F. Kozel such amount

directly to David F. Kozel by sending a check or money order for the amount to the last known address of David F. Kozel within seven days of receipt.

IT IS FURTHER ORDERED that in the event any additional documentation, information, or cooperation is needed from the Office of the Attorney General or Texas State Registry to effectuate these orders, all parties shall promptly and sufficiently comply with such request.

Withholding from Earnings

IT IS ORDERED that any employer of David F. Kozel shall be ordered to withhold from earnings for child support from the disposable earnings of David F. Kozel for the support of [REDACTED]

IT IS FURTHER ORDERED that all amounts withheld from the disposable earnings of David F. Kozel by the employer and paid in accordance with the order to that employer shall constitute a credit against the child support obligation. Payment of the full amount of child support ordered paid by this order through the means of withholding from earnings shall discharge the child support obligation. If the amount withheld from earnings and credited against the child support obligation is less than 100 percent of the amount ordered to be paid by this order, the balance due remains an obligation of David F. Kozel, and it is hereby ORDERED that David F. Kozel pay the balance due directly to the state disbursement unit specified below.

On this date the Court authorized the issuance of an Income Withholding for Support.

Payment

IT IS ORDERED that all payments shall be made through the state disbursement unit at Texas Child Support Disbursement Unit, P.O. Box 659791, San Antonio, Texas 78265-9791, and then remitted by that agency to Deborah L. Kozel for the support of the children. IT IS

General Child Support Division begins providing services to Deborah L. Kozel, the clerk shall deliver the order to withhold earnings as provided above.

ACCORDINGLY, IT IS ORDERED that, as long as no delinquency or other violation of this child support order occurs and as long as the Office of the Attorney General Child Support Division is not providing services to Deborah L. Kozel, all payments shall be made through the state disbursement unit and thereafter promptly remitted to Deborah L. Kozel for the support of the children. If a delinquency or other violation occurs or if the Office of the Attorney General Child Support Division begins providing services to Deborah L. Kozel, all payments shall be made in accordance with the order to withhold earnings as provided above.

Termination of Previous Withholding

IT IS ORDERED that David Kozel's child support obligation, as ordered in the Pennsylvania Order signed October 29, 2007, is modified effective August 1, 2013, as ordered above, and all payments of child support from such date shall be in accordance with this Order. It is ORDERED that any Order for Withholding that orders child support to be withheld from the income of David Kozel rendered in accordance with the Pennsylvania Order or any prior child support order in this matter is terminated. Any employer of David Kozel is ORDERED to cease withholding of funds for child support purposes from David Kozel's income beginning August 1, 2013 and modify their records regarding child support from David Kozel in accordance with this Order.

Health Care

No modification to the health care provisions in the most recent Pennsylvania Final Order shall be made.

Termination of Orders on Remarriage of Parties but Not on Death of Oblige

The provisions of this order relating to current child support terminate on the remarriage of Deborah L. Kozel to David F. Kozel unless a nonparent or agency has been appointed conservator of the children under chapter 153 of the Texas Family Code. An obligation to pay child support under this order does not terminate on the death of Deborah L. Kozel but continues as an obligation to [REDACTED].

Warnings

WARNINGS TO PARTIES: FAILURE TO OBEY A COURT ORDER FOR CHILD SUPPORT OR FOR POSSESSION OF OR ACCESS TO A CHILD MAY RESULT IN FURTHER LITIGATION TO ENFORCE THE ORDER, INCLUDING CONTEMPT OF COURT. A FINDING OF CONTEMPT MAY BE PUNISHED BY CONFINEMENT IN JAIL FOR UP TO SIX MONTHS, A FINE OF UP TO \$500 FOR EACH VIOLATION, AND A MONEY JUDGMENT FOR PAYMENT OF ATTORNEY'S FEES AND COURT COSTS.

FAILURE OF A PARTY TO MAKE A CHILD SUPPORT PAYMENT TO THE PLACE AND IN THE MANNER REQUIRED BY A COURT ORDER MAY RESULT IN THE PARTY'S NOT RECEIVING CREDIT FOR MAKING THE PAYMENT.

FAILURE OF A PARTY TO PAY CHILD SUPPORT DOES NOT JUSTIFY DENYING THAT PARTY COURT-ORDERED POSSESSION OF OR ACCESS TO A CHILD. REFUSAL BY A PARTY TO ALLOW POSSESSION OF OR ACCESS TO A CHILD DOES NOT JUSTIFY FAILURE TO PAY COURT-ORDERED CHILD SUPPORT TO THAT PARTY.

Order of Referral to Mediation

This case is referred to mediation in accordance with sections 6.602 and 153.0071 of the Texas Family Code. Donna Harris is appointed mediator in this case, and all counsel or pro se

parties are ORDERED to contact the mediator to arrange the logistics of mediation within three business days of the date of this Order. The mediator's address and telephone number are 1301 Northwest Highway, Suite 103, Garland, Texas 75041, 214-271-9569.

This mediation is a mandatory settlement conference, conducted with the assistance of the mediator. A mediated settlement agreement can be made binding on the written agreement of the parties. Mediation is private, confidential, and privileged, except as provided by applicable law. After mediation, the Court will be advised by the mediator, the parties, and counsel only that the case did or did not settle. The mediator shall not be a witness, and the mediator's records may not be subpoenaed or used as evidence. No subpoenas, citations, writs, or other process shall be served at or near the location of any mediation session on any person entering, leaving, or attending any mediation session.

The mediator will negotiate a reasonable fee with the parties, which shall be divided and borne equally by the parties, paid in advance by the parties directly to the mediator, and taxed as costs. If the parties do not agree on the fee requested by the mediator, the mediator is ORDERED to supply the Court with all information requested for compliance with Texas Supreme Court Miscellaneous Docket Order No. 94-9014, and the Court will set a reasonable fee, which shall be taxed as costs. Each party and counsel will be bound by any rules for family law mediation furnished by the mediator and shall complete and supply all information requested by the mediator.

IT IS ORDERED that all named parties shall be present during the entire mediation process. IT IS ORDERED that the parties will appear and mediate with Donna Harris no later than 30 day prior to trial. In the event the parties both agree in writing that an agreed upon date should be cancelled, Counsel and parties are ORDERED to agree on a mediation date within the

next 7 days of the cancellation. If no agreed date can be scheduled within the next 7 days from the cancellation, the mediator shall select a date for the mediation and all parties are ORDERED to appear as directed by the mediator. Any date so scheduled by the mediator is incorporated in this Order as the date on which the mediation shall occur. In any event, the mediation shall be conducted no later than 30 days prior to any trial setting.

Referral to mediation is not a substitute for trial, and the case will be tried if not settled.

Duration

These Temporary Orders shall continue in force until the signing of the final order or until further order of this Court.

SIGNED on JUL 30 2013

John White Howard
JUDGE PRESIDING

Associate

APPROVED AS TO FORM ONLY:

[Signature]
Erin M. Bogdanowicz
Attorney for David Kozel

Deborah Kozel, Pro Se Petitioner

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF ALLEGHENY

MDJ: Hon. WILLIAM K WAGNER
Magisterial District Number: 05-2-12
Address: LOWER LEVEL
8105 PERRY HIGHWAY
PITTSBURGH, PA 15237
Phone: 412 366 2221



POLICE CRIMINAL COMPLAINT
COMMONWEALTH OF PENNSYLVANIA

VS

ORIGINAL

DEFENDANT:

(NAME AND ADDRESS)

DAVID

KOZEL

First Name

Middle Name

Last Name

Gen

703 GEORGETOWN COURT WEXFORD, PA 15090

15401

Felony - Full Extradition
Distance

Docket Number CR-184-13	Date Filed 8.5.13	CNLiveScan Number G 602047-6	Complaint/Incident Number 13-0998	SIC	Request Lab Services? ☐ Yes
GENDER MALE	DOB 1964	POB	Addl DOB	Co-Defendant(s) ☐	
RACE WHITE	First Name	Middle Name	Last Name	Gen	
ETHNICITY	AKA				
HAIRO COLOR SDY (SANDY)	EYE COLOR HAZ (HAZEL)				
Driver License	State FL	License Number	Expires		
DNA	DNA Location				
FBI Number					
Defendant Fingerprinted			8 01		
Fingerprint Classification					

DEFENDANT VEHICLE INFORMATION

Plate #	State	Plate	Registration Sticker (MURV)	Commil Veh Ind	School Veh	Other NOC Veh. Code	Reg Same as Def.
VIN	Year	Make	Model	Style	Color		☐

Office of the attorney for the Commonwealth ☒ Approved ☐ Disapproved because:

(The attorney for the Commonwealth may require that the complaint, arrest warrant, affidavit, or both be approved by the attorney for the Commonwealth prior to filing. See Pa.R.Crim.P. 507.)

Name of the attorney for the Commonwealth

(Signature of the attorney for the Commonwealth)

(Date)

1. SCOTT RICK 19778
(Name of the Affiant) (PERMPCSTC Assigned Affiant ID Number & Badge #)

of NORTHERN REGIONAL PA0021B00
(Identify Department or Agency Represented and Political Subdivision) (Police Agency OR Number)

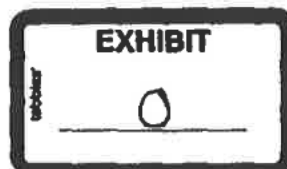
do hereby state (check appropriate box)

1. X I accuse the above named defendant who lives at the address set forth above
I accuse the defendant whose name is unknown to me but who is described as

I accuse the defendant whose name and popular designation or nickname are unknown to me and whom I have
therefore, designated as John Doe or Jane Doe

with violating the penal laws of the Commonwealth of Pennsylvania at 216 PINE TWP
(Subdivision Code) (Place-Political Subdivision)

In Allegheny County 02 on or about 02/07/2013 14:00
(County Code)





POLICE CRIMINAL COMPLAINT

Docket Number: CR-184-13	Date Filed: 8.5.13	OTNLiveScan Number: G 602047-5	Complaint Number: 13-0998
Defendant Name: DAVID	First: DAVID	Middle:	Last: KOZEL

The acts committed by the accused are described below with each Act of Assembly or statute allegedly violated, if appropriate. When there is more than one offense, each offense should be numbered chronologically. (Set forth a brief summary of the facts sufficient to advise the defendant of the nature of the offense(s) charged. Action to the statute(s) allegedly violated, without more, is not sufficient. In a summary case, you must cite the specific section(s) and subsection(s) of the statute(s) or ordinance(s) allegedly violated. The age of the victim at the time of the offense may be included if known. In addition, social security numbers and financial information (e.g. PINs) should not be listed. If the identity of an account must be established, list only the last four digits. 204 PA Code §§213.1-213.7.)

☒ Indecent Assault 18 901.A	☐ Solicitation 18 902.A	☐ Conspiracy 18 903						
X	1	3126	A?	2	Counts	Grade	NOC Offense Code	LOPNERS Code
Pen/Det/Prob (if applicable)	Arresting Number						☐ Safety Zone	☐ Work Zone
Statute Description/Acts of the accused associated with this Offense:								
18 3126A7 INDECENT ASSAULT F3 2 COUNTS The actor had Indecent contact with, or caused JANE DOE #1 to have indecent contact with the actor or intentionally caused JANE DOE #1 to come into contact with seminal fluid, urine or feces for the purpose of arousing sexual desire in the person or the complainant when that person was less than 13 years of age, in violation of 18 Pa. C.S. §3126 (a) (7). The actor had Indecent contact with, or caused JANE DOE #2 to have Indecent contact with the actor or intentionally caused JANE DOE #2 to come into contact with seminal fluid, urine or feces for the purpose of arousing sexual desire in the person or the complainant when that person was less than 13 years of age, in violation of 18 Pa. C.S. §3126 (a) (7).								



POLICE CRIMINAL COMPLAINT

Docket Number: CR 184-13	Date Filed: 8.5.13	CRIMINAL Scan Number: G 602047-5	Complaint Number: 13-0988a
Offense Code: 1801	First Name: DAVID	Middle Name:	Last Name: KOZEL

Inchoate Offense	☐ Attempt 1801A	☐ Solicitation 1802A	☐ Conspiracy 1803
Lead?	Offense	Section	Subsection
PA Status (Title)	Counts	Grade	NDC Offense Code
Permit/DOT Data (if applicable)	Accident Number	☐ Safety Zone	☐ Work Zone
Statute Description/Acts of the accused associated with this Offense:			
18 6318A1 UNLAWFUL CONTACT WITH MINOR - FELONY 1 OFFENSE ENUMERATED IN CHAPTER 31 F1 2 COUNTS The actor intentionally contacted a minor namely, JANE DOE #1 for the purpose of engaging in the activity of AGGRAVATED INDECENT ASSAULT OF A CHILD AND/OR INDECENT ASSAULT OF A CHILD BY DIGITALLY PENETRATING JOE DOE #1'S VAGINA, HOWEVER SLIGHT, AND/OR BY OTHERWISE HAVING INDECENT CONTACT WITH JANE DOE #1 in violation of 18 Pa. C.S. §6318(a)(1). The actor intentionally contacted a minor namely, JANE DOE #2 for the purpose of engaging in the activity of AGGRAVATED INDECENT ASSAULT OF A CHILD AND/OR INDECENT ASSAULT OF A CHILD BY DIGITALLY PENETRATING THE VAGINA OF JANE DOE #2, HOWEVER SLIGHT, AND/OR OTHERWISE HAVING INDECENT CONTACT WITH JANE DOE #2 in violation of 18 Pa. C.S. §6318(a)(1).			

Inchoate Offense	☐ Attempt 1801A	☐ Solicitation 1802A	☐ Conspiracy 1803
Lead?	Offense	Section	Subsection
PA Status (Title)	Counts	Grade	NDC Offense Code
Permit/DOT Data (if applicable)	Accident Number	☐ Safety Zone	☐ Work Zone
Statute Description/Acts of the accused associated with this Offense:			
18 6301A11 CORRUPTION OF MINORS M1 2 COUNTS The actor, being 18 years of age and upwards, corrupted or tended to corrupt the morals of a minor under the age of 18 years or aided, abetted, enticed, or encouraged said minor in the commission of any crime or knowingly assisted or encouraged said minor in violation of their parole or any Order of Court, in violation of 18 Pa. C.S. §6301(a)(1)(i). The actor, being 18 years of age and upwards, corrupted or tended to corrupt the morals of a minor under the age of 18 years or aided, abetted, enticed, or encouraged said minor in the commission of any crime or knowingly assisted or encouraged said minor in violation of their parole or any Order of Court, in violation of 18 Pa. C.S. §6301(a)(1)(i).			

POLICE CRIMINAL COMPLAINT

Docket Number: CR-184-13	Date Filed: 8.5.13	OTN LiveScan Number: G 602047-5	Incident Number: [REDACTED]
First: DAVID	Middle:	Last: KOZEL	

2. I ask that a warrant of arrest or a summons be issued and that the defendant be required to answer the charges I have made.
3. I verify that the facts set forth in this complaint are true and correct to the best of my knowledge or information and belief. This verification is made subject to the penalties of Section 4904 of the Crimes Code (18 PA.C.S. §4904) relating to unsworn falsification to authorities.
4. This complaint is comprised of the preceding page(s) numbered _____ through _____.

The acts committed by the accused, as listed and hereafter, were against the peace and dignity of the Commonwealth of Pennsylvania and were contrary to the Act(s) of the Assembly, or in violation of the statutes cited (Before a warrant of arrest can be issued, an affidavit of probable cause must be completed, sworn to before the issuing authority, and attached.)

AUGUST 5, 2013

(Date)

(Signature of Affiant)

AND NOW on this date AUGUST 5, 2013 I certify that the complaint has been properly completed and verified.

An affidavit of probable cause must be completed before a warrant can be issued.

05-2-12

(Magisterial District Court Number)

(Issuing Authority)

WILLIAM K. WAGNER,
MAGISTERIAL DISTRICT JUDGE
MAGISTERIAL DISTRICT 05-2-12
MY COMMISSION EXPIRES ON THE
FIRST MONDAY IN JANUARY, 2018

POLICE CRIMINAL COMPLAINT

Docket Number: CR-184-13	Date Filed: 8.5.13	CINLiveScan Number: G 602047-5	Complaint/Incident Number: 13-0998
Defendant Name:	First: DAVID	Middle:	Last: KOZEL

AFFIDAVIT of PROBABLE CAUSE

1. WHEN:

- a) Date when Affiant received information:
02/07/2013
- b) Date when the source of information (Police Officers, Informant, Victim, Co-Defendant, Defendant, etc.) received information:
02/07/2013

2. HOW:

- a) How Affiant knows this particular person committed crime: (personal observation, defendant's admissions, etc.):
Personal observations of victims.
- b) How the source of information knows this particular person committed the crime:
Personal observations of victims.
- c) How both Affiant and/or source of information knows that a particular crime has been committed:
Personal observations of victims.

3. WHAT CRIMES:

18 3125 B AGGRAVATED INDECENT ASSAULT
 18 4304 A ENDANGERING WELFARE OF CHILDREN
 18 6301 A11 CORRUPTION OF MINORS
 18 6318 A1 UNLAWFUL CONTACT WITH MINOR - FELONY 1 OFFENSE ENUMERATED IN CHAPTER 31
 18 6301 A11 CORRUPTION OF MINORS
 18 4304 A ENDANGERING WELFARE OF CHILDREN
 18 6318 A1 UNLAWFUL CONTACT WITH MINOR - FELONY 1 OFFENSE ENUMERATED IN CHAPTER 31
 18 3126 A7 INDECENT ASSAULT
 18 3125 B AGGRAVATED INDECENT ASSAULT
 18 3126 A7 INDECENT ASSAULT

4. WHERE CRIME(S) COMMITTED:

703 GEORGETOWN COURT WEXFORD, PA 15090

5. WHY AFFIANT BELIEVES THE SOURCE OF INFORMATION:

- X Source is presumed reliable, i.e. other Police Officer, Eyewitness, Victim of Crime, etc.
 Source has given information in the past which has led to arrest and/or conviction
 Defendant's reputation for criminal activity
 This source made declaration against his/her penal interest to the above offense
 Affiant and/or other Police Officers corroborated details of the information

POLICE CRIMINAL COMPLAINT

Docket Number: CR-184-13	Date Filed: 8.5.13	CINLiveScan Number: G 802047-6	Complaint Number: 13-0998
First Name: DAVID	Middle:	Last: KOZEL	

On February 7, 2013, your affiant received information from the Yavapai, Arizona County Sheriff Department regarding a 17y/o female, referred to in this affidavit as Jane Doe #1 [REDACTED]. Jane Doe #1 disclosed she was sexually assaulted by the defendant, David F. KOZEL, her father. Contact was made with Jane Doe #1's mother, whom advised that the sibling of Jane Doe #1 also is disclosing she was sexually assaulted by the defendant. Jane Doe #1's sibling will be referred to as Jane Doe #2 [REDACTED] in this affidavit. Interviews were conducted in Allegheny County, PA by your affiant.

An interview was conducted with Jane Doe #1, who has not seen her father in years. Jane Doe #1 stated that a judge once ordered both victims to visit their father once a month for approximately a week at a time. Both girls visited their father until Jane Doe #1 was in 5th grade (approx. 11-12 y/o). At first they lived in Wexford, 406 Alpen Ct Wexford, PA 15090 (the big house) but eventually moved to Georgetown Townhouses, 703 Georgetown Ct Wexford, PA 15090.

Jane Doe #1 stated the first time something occurred was when she was 5-8y/o and that she never told anyone because she was "scared" of her father and did not trust him. Jane Doe #1 stated the incidents started in the bathtub when her father washed her, insisting he do so, despite the fact that she wanted to wash herself. Jane Doe #1's father would only use his hands and soap and no wash cloth. She stated he would rub her chest and then move down to her vagina. He would rub the outer area of her vagina which she knew was wrong, she was scared of her father because he "had power". Jane Doe #1's father also insinuated that he would hurt her family if Jane Doe #1 said anything.

Jane Doe #1 described being at her father's house on a different occasion when she found her sister, Jane Doe #2, naked in the loft shower, crying hysterically for an unknown reason. Jane Doe #1 knew something was wrong and repeatedly told Jane Doe #2 "it would be okay, we will be going home soon." Jane Doe #1 stated incidents also occurred in the father's master bedroom where Jane Doe #1 would be naked and her father would begin to touch her vagina. Jane Doe #1 described her father as "weird" and stated he always liked recording Jane Doe #1 with a video camera, even in the bathroom. Jane Doe #1 stated that when he would come around with the camera, she would get a strange feeling and did not know why. Jane Doe #1 described not feeling safe with her father and stated she taught herself to "feel nothing" to get through what her father would do to her.

Jane Doe #1 recalled incidents in the bedroom where her father would have the girls separated and he would enter the room touching himself in his genital area. He would get into bed with her, take her clothes off and would begin to rub her vagina and penetrate her vagina with his fingers while masturbating at the same time. She would hear her father moaning and she would stare scared at the wall and focus on that area until her dad was done. She recalled many times these acts occurred when she was alone in the bedroom.

An interview was conducted by your affiant with Jane Doe #2. Jane Doe #2 described her relationship with her father during the visits as "not good and fake", and she stated he would always put on a show. Jane Doe #2 stated that her father liked to video record the two girls for "everything," 24/7, even in the bath tub. Jane Doe #2 described being recorded in the bath tub as "different." Jane Doe #2 stated her father would do the washing. Jane Doe #2, being of school age, would tell her father that she was old enough to do her washing but her father would insist that he did it. Jane Doe #2 described sleeping with her sister because there was not a bedroom for each of them but her father would take Jane Doe #1 to the loft and say that Jane Doe #1 was "sick." Jane Doe #2 would try to get to Jane Doe #1 but her father would not let her in and tell Jane Doe #2 to go away. Jane Doe #2 described that Jane Doe #1 would come out of the loft and would always hold onto Jane Doe #2, wanting to know where she was at all times. Jane Doe #2 stated her father would threaten them and stated "If you don't stop crying, you will never see your mom again."

Jane Doe #2 stated that when her father would bath her in the townhouse, he would always use his bare hands to wash her, never a wash cloth, and would rub her vagina - "every part of it." Father would make Jane Doe #2 take her clothes off in front of him in the bathroom and when she would ask him to leave her father would refuse. Jane Doe #2 was scared to tell her mother because she was scared of her father and what he would do to her and Jane Doe #1. He would tell her over and over that if she cried, or

POLICE CRIMINAL COMPLAINT

Docket Number: CR-184-13	Date Filed: 8.5.13	OTN Live Scan Number: G 602047-5	Complaint Number: 13-0984
Defendant Name: DAVID	First: DAVID	Middle:	Last: KOZEL

didn't stop crying, he would never let her go home to see her mom. Jane Doe #2 disclosed that during baths, her father was always in the room watching her take off her clothes and getting into the bathtub. Her father would wash her even though she would tell him she was old enough to wash herself. He would wash her body and then move to her vagina and rub her vagina for a while. These incidents occurred almost every time she got a bath with her dad.

Jane Doe #2 stated her father washed her body and then moved to her vagina rubbing the outer area and then began to digitally penetrate her vagina, which hurt and made her uncomfortable. Jane Doe #2 stated this occurred almost every time she got a bath. Her father would have a video camera in the bathroom in his hands while she would get naked and get into the tub. At times during the bath he would have the camera in his hands and she thought she was being recorded. Jane Doe #2 stated her father would make them get 1 or 2 baths/showers a day whether they needed it or not.

Jane Doe #2 described a loft in the townhouse where her father would send them to take showers. The first time she was directed by her father to go to the loft to take a shower, he followed her into the bathroom. He made her take her clothes off in front of him and he would get into the shower with Jane Doe #2. This happened on several occasions when she recalled him using purple soap, barehanded, to wash her in the shower. Jane Doe #2 stated her father would then begin rubbing her vagina hard in an up/down motion using no soap and would digitally penetrate her vagina with his fingers. Jane Doe #2 stated she would tell her father to "get out" of the shower which he would not do. After one incident, Jane Doe #1 found Jane Doe #2 in the shower, crying and Jane Doe #1 held her telling her they would be going home soon.

Jane Doe #2 stated that on occasions they began to stay in the master bedroom where dad, Jane Doe #1, and Jane Doe #2 would all stay together. Jane Doe #2 recalled her father always wearing boxer briefs in bed. Jane Doe #2 recalled that when Jane Doe #1 was asleep, Dad pulled Jane Doe #2 on top of him and rocked her back and forth where his unexposed penis touched her vagina. She recalled her father reaching down or around her underwear and pajamas when this occurred. She recalled feeling his hard penis on her for several minutes until he stopped but it was unknown if he climaxed. Jane Doe #2 stated she remembers that after he was done having her on top of him rocking back and forth, he would lay her down on the bed and begin to digitally penetrate her while Jane Doe #1 was still asleep. Jane Doe #2 described the penetration as uncomfortable and a different feeling that she did not like. She stated she was so scared that she would fixate on a naked female statue in the bedroom, "just to get through it." Jane Doe #2 described being "so scared" of her father because she did not know what he would do to them or their mother because of his power. Jane Doe #2 stated both girls cried a lot because they wanted to get away from him for the things he would do to hurt them.

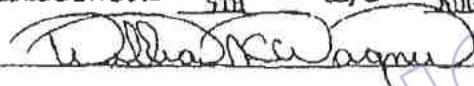
Due to the above information, your affiant requests a warrant be issued for: (2) count of Aggravated Indecent Assault, (2) counts of Indecent Assault, (2) counts of Corruption of Minors, (2) counts of Endangering the Welfare of Children and (2) counts of Unlawful Contact with Minors against the defendant.

POLICE CRIMINAL COMPLAINT

Docket Number: CR-184-13	Date Filed: 8.5.13	OTN LiveScan Number: G 602047-6	Complaint Number: 13-0585
Defendant Name: First DAVID	Middle		Last KOZEL

I, SCOTT RICK, BEING DULY SWORN ACCORDING TO THE LAW, DEPOSE AND SAY THAT THE FACTS SET FORTH IN THE FOREGOING AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF.


(Signature of Affiant)

Sworn to me and subscribed before me this 5TH day of AUGUST, 2013.
8.5.13 Date  Magisterial District Judge

My commission expires first Monday of January, 2018

SEAL
WILLIAM K. WAGNER,
MAGISTERIAL DISTRICT JUDGE
MAGISTERIAL DISTRICT 05-2-12
MY COMMISSION EXPIRES ON THE
FIRST MONDAY IN JANUARY, 2018

IN THE COURT OF COMMON PLEAS OF
ALLEGHENY COUNTY, PENNSYLVANIA

COMMONWEALTH OF
PENNSYLVANIA

vs.

DAVID F. KOZEL

CRIMINAL DIVISION

CC No. 2013-0015401

PROCEEDING:
Nonjury Trial

DATE:
July 22, 2014

FILED BY:
Noreen A. Re, CRR
Official Court Reporter

BEFORE: HONORABLE DONNA JO McDANIEL

COUNSEL PRESENT:

For the Commonwealth:

Lee Goldfarb, ADA

For the Defendant:

William Difenderfer, Esq.
and
Tina O. Miller, Esq.

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COPY

NOREEN A. RE (412) 350-5414

EXHIBIT P

D. Koze1 - Cross

42

1 Q. There is no need for you to have a civil lawyer to
2 sue someone for money at the time, is there?

3 A. I don't know what you're asking.

4 Q. I'm going to ask you again. On January 3rd,
5 January 4th, when you're struggling with this with
6 your counselor and you're now coming to see the
7 sheriff, is there any reason why a personal injury
8 lawyer or what we call a tort lawyer, a guy that
9 sues for money, would be involved in your case?

10 A. I don't understand what lawyer is suing for money.

11 Q. Mr. Spears, Michael Spears.

12 A. He's not my lawyer.

13 Q. He's been calling the detectives on your behalf. He
14 went out to Arizona on your behalf; correct?

15 A. Yes. He's a family friend.

16 Q. Okay. Well, you want to tell me this. Why after
17 your -- you were already home for Christmas. Why in
18 God's name did your mother have booked a trip one
19 day before the 4th of January, January 3rd of 2013,
20 for her and a civil lawyer, Michael Spears, to come
21 out to Arizona?

22 MS. GOLDFARB: Objection. Calls for
23 speculation.

24 THE COURT: I'll sustain.

25 MR. DIFENDERFER: Your Honor, we have a

D. Koze1 - Cross

78

1 Q. You don't know?

2 A. I don't ever remember being in the master bedroom.

3 Q. Now, in your interview that occurred on January 7th
4 and recorded as well as February 27th up here in
5 Pittsburgh you never alleged any penetration, did
6 you?

7 A. I did in Pittsburgh.

8 Q. Later, didn't you?

9 A. After Arizona.

10 Q. So when you go back home after your interview of
11 2-27, you meet with your lawyer, Mike Spears, don't
12 you and your mother; right?

13 A. Did I meet with Mike Spears?

14 Q. Yeah.

15 A. Well, he's not my lawyer. He's just a family
16 friend. And he would give me like tips on trial and
17 stuff.

18 Q. He said what?

19 A. What?

20 THE COURT: Tips on trial.

21 Q. He gave you tips on trials?

22 A. Yeah. Like how it works.

23 Q. Like how they sue people and get a lot of money?

24 A. No.

25 Q. Well, that's what he does. Did you ever see his

D. Kozel - Cross

80

1 criminal acts?

2 A. No, sir.

3 Q. Did he talk to you about criminal acts?

4 A. No, sir.

5 Q. Well, when you come back up, you have another
6 interview on July 17th, months after February;
7 correct?

8 A. I have been up here a few times.

9 Q. No charges were filed against your father at this
10 time; correct?

11 A. I don't know.

12 Q. Your mother just sent that letter asking for
13 \$190,000 a year; correct?

14 A. I've never been aware of anything my mom has done.

15 Q. And then you come up here to Pittsburgh; and you're
16 with Mike Spears, aren't you?

17 A. In Pittsburgh?

18 Q. Yeah.

19 A. Yeah. He comes.

20 Q. He comes with you. Just nothing better to do,
21 thought I would make a trip to Pittsburgh, even
22 though I'm not your lawyer and have no interest in
23 this case; right?

24 A. Well, like I said, he's a friend; and he's here to
25 support me.

D. Kozel - Recross

96

1 A. Yes. He's here. Family friend.

2 Q. Is Maggie Fox here?

3 A. I haven't seen her.

4 Q. Do you know who she is?

5 A. Yeah.

6 Q. She's another lawyer; right?

7 A. Yeah.

8 Q. Working on the case; right?

9 A. She's not working on this case.

10 Q. What case is she working on?

11 A. I know she's my mom's lawyer. But I don't know
12 anything about that.

13 Q. I thought Mr. Spears was your mom's lawyer?

14 A. I don't think Mike is my mom's lawyer. I really
15 don't know.

16 Q. You testified that when you would come to your dad's
17 place, you would want to try to act normal?

18 A. I would try to keep myself together for [REDACTED].

19 Q. So you were really concerned about [REDACTED]?

20 A. Yeah. That's my little sister.

21 Q. And you want to protect her?

22 A. Yes.

23 Q. And all of those visits with the psychologist, all
24 of the things with the judge, all of the things, you
25 never made anybody aware of these problems with your

141

25 A. Just the stuff that they do in court, the questions

I. Koze1 - Cross

142

1 they ask.

2 Q. Going over the types of questions they would ask;
3 right?

4 A. I mean, not in detail.

5 Q. But you did -- you and your sister were in the same
6 room; right?

7 A. Yes.

8 Q. He would go over what to expect, what kind of
9 questions I might be asking; right?

10 A. Yes, sir.

11 Q. Right?

12 A. Yes, sir.

13 Q. And you both heard together what the answers should
14 be; correct?

15 A. We never went over answers.

16 Q. You never went over answers. You just sat there and
17 listened. Did you just listen to what the questions
18 were going to be?

19 A. Just simple questions.

20 MR. DIFENDERFER: If I can just have
21 one minute, Your Honor, I think I'm finished.

22 THE COURT: You may.

23 (Pause.)

24 Q. Now, interesting, you talk also in your statement to
25 this officer about your dad's power, that when you

D. Kozel - Direct

167

1 Q. Did the girls call her "Shirley" when they were with
2 you?

3 A. Yes.

4 Q. They called her "Shirley"?

5 A. Yes.

6 Q. What did they call their grandfather?

7 A. Frank.

8 Q. They called him "Frank"?

9 A. Yes.

10 Q. And so after you would visit Shirley or Frank's
11 house, what would you do?

12 A. Well, depending. Sometimes Shirley would keep the
13 girls for the day. Or we would all go to the zoo.
14 Go shopping with just me or Shirley. They would
15 either go shopping or as a family we would go
16 bowling. We would go tubing in the wintertime. It
17 was literally activities from morning until night.

18 Q. Did the girls seem to have a good time when they
19 were with you and David?

20 A. Yeah, they did.

21 Q. Now, at the time did you also take the girls on
22 trips?

23 A. We did.

24 Q. Where?

25 A. We went to Florida a lot to St. Petersburg to

D. Kozel - Direct

169

1 A. Their relationship with David was great. I mean,
2 David was a loving father, a doting dad. The girls
3 were incredibly spoiled, always hugging and kissing
4 all over their dad.

5 Q. Did they ever appear to you to be afraid of David?

6 A. Never.

7 Q. Did they ever express to you that they were afraid
8 of David?

9 A. Never.

10 Q. Did they ever express that they were afraid of you?

11 A. Never.

12 Q. Who was the primary caregiver for the girls?

13 A. I was.

14 Q. Tell me about that. Who gave them baths, first of
15 all?

16 A. I did.

17 Q. Did David bathe them?

18 A. No, he did not.

19 Q. Did David dress them?

20 A. No.

21 Q. Who did?

22 A. I did.

23 Q. What else? Who fed them?

24 A. I did. Or we would eat, you know -- we would eat
25 out a lot, depending on what we were doing. In the

D. Koziel - Direct

171

1 She would soap up her hair herself and
2 rinse it out herself. Dallas I kind of had to help
3 a little bit along. Sometimes she just was a little
4 lazy, unmotivated at times. But I didn't mind.

5 Q. Would you bathe the girls together?

6 A. Yes.

7 Q. Why?

8 A. Because it was easier to do that.

9 Q. Was David bathing the girls?

10 A. No.

11 Q. Then you would put them to bed?

12 A. Yes. Then I would put them to bed. They liked to
13 watch cartoons at night, Dallas longer than [REDACTED]
14 [REDACTED] would fall asleep sometimes walking to the
15 bed, if not as soon as she hit the bed. But Dallas
16 liked to watch SpongeBob and all the shows that are
17 on at night eventually watching, I think, a Nick at
18 Night that had some Disney films and short stories
19 and stuff.

20 But for the most part Dallas -- if I did
21 not walk in and turn that television off at night,
22 she would stay up all night and watch it.

23 Q. Would you get up during the night to turn her TV
24 off?

25 A. I would. I would go in and check on them to see if

D. Kozel - Direct

172

1 they were okay and asleep. [REDACTED] was always asleep.
2 Dallas, most of the time she was asleep. But if
3 not, the TV was still on; and I would have to tell
4 her we needed to turn it off.

5 Q. At any time when you went to turn the television
6 off, did you find David in bed with either of the
7 girls?

8 A. Never.

9 Q. Now, in Alpen Court they had their own rooms; right?

10 A. They did.

11 Q. Would they both sleep in their own rooms?

12 A. No. They always slept in Dallas' room.

13 Q. India would go into Dallas' bedroom?

14 A. Yes. She never even slept in her own bedroom.

15 Q. And eventually you moved from Alpen Court to the
16 townhouse, Georgetown?

17 A. Yes.

18 Q. The girls shared a bed there?

19 A. They did.

20 Q. At any time did you find David in bed with the girls
21 in the townhouse?

22 A. Never.

23 Q. At any time did David bring the girls into your
24 bedroom, the master bedroom?

25 A. No. Never.

D. Kozel - Direct

173

1 Q. Would you sleep in there with David?

2 A. In our bedroom?

3 Q. Yes.

4 A. Yes.

5 Q. Every night?

6 A. Every night.

7 Q. Were you always there when the girls were there?

8 A. Yes.

9 Q. And at no time did David come into the master
10 bedroom and say, "Deanna, I'm bringing the girls
11 into bed. You got to leave"?

12 A. No, he did not.

13 Q. What would you have done had that happened?

14 A. No. 1, I know that he would never do that. The
15 girls had their room, and we had our room. But if
16 he had brought the girls into that room and said I
17 was supposed to leave, No. 1, I would have called
18 the police and then notified his family. Obviously,
19 there would have been a problem.

20 Q. But that never happened?

21 A. It never happened.

22 Q. Would David sneak out of your bed in the middle of
23 the night into the girls' rooms?

24 A. No.

25 Q. How do you know that?

D. Kozel - Direct

174

1 A. Because I am a light sleeper, and I could hear
2 everything. I have eagle ears. I can hear a pin
3 drop.

4 Q. Was David a big help around the house with cleaning
5 and cooking and grocery shopping and things like
6 that?

7 A. David is not a manual labor guy. So, no. He's a
8 hard worker. But when it comes to taking care of
9 the kids or grocery shopping or clothes shopping for
10 the kids, no. I could never make it past the cheese
11 aisle before he was ready to roll out of the grocery
12 store. So, no.

13 Q. Discipline of the children when they were there,
14 were the children ever physically disciplined in any
15 way by you or David?

16 A. No. I mean, unless they were going to get hurt
17 doing something. We did practice a lot of safety.
18 So [REDACTED] likes to ride her skateboard, so that's
19 always a safety issue. But as for discipline, we
20 really didn't need to discipline them. They were
21 good kids.

22 Q. No spanking? Slapping? Hitting?

23 A. Never.

24 Q. Would Dallas go home with bruises on her arms?

25 A. Never.

D. Kozel - Direct

175

1 Q. Given the nature of the nasty divorce litigation,
2 what would have happened had Dallas gone home with
3 bruises all over her arms?

4 A. Oh, we would have been sued.

5 Q. Did the girls ever ask you to get in the bath with
6 them?

7 A. They did.

8 Q. What was that all about?

9 A. My response was no. It was inappropriate. But
10 their mother and the girls bathe together all the
11 time. So I believe that they thought that was
12 normal. But I didn't feel that that was appropriate
13 for me to do so.

14 Q. And at some point did they tell you that they wish
15 you were their mother?

16 A. One time. [REDACTED] and Dallas both ran to me at the
17 top of the stairs at Georgetown Court, and their
18 exact quote was "I wish you were my momma." And my
19 response was "Girls, I will love you like you are my
20 best friends, but I can never take the place of your
21 mom."

22 Q. Were you working during the years that you were
23 living with David?

24 A. No.

25 Q. Did the girls ever tell you about negative comments

D. Koze1 - Direct

185

1 Q. Did you ever walk in on David molesting Dallas?

2 A. Never.

3 Q. Did you ever walk in on David putting cream on
4 Dallas' vagina?

5 A. Never.

6 Q. Did Dallas ever complain of any kind of vaginal pain
7 or infection during the time that you and David were
8 having visitation with the girls?

9 A. No.

10 Q. Did they see a pediatrician when they were back
11 home?

12 A. I believe so, yes.

13 Q. Did you have purple soap in your house?

14 A. No. We used white Dove unscented soap, because
15 David had allergies and so did I.

16 Q. And in one of her statements [REDACTED] said that David
17 would wear boxer shorts or walk around naked in the
18 house. First of all, did he wear boxers?

19 A. He did not. He wore tighty-whities.

20 Q. Did he walk around naked in the house?

21 A. He did not.

22 Q. Tell the Court about the loft in the Georgetown
23 townhouse. What was up there?

24 A. Well, you walked up the stairs and entered the loft
25 directly. There was no door. There was a small

D. Kozel - Direct

186

1 bathroom with a prefabbed shower only and a toilet.
2 There was one small sofa that you could maybe fit
3 two people on, one desk, two slot machines and a
4 pinball machine.

5 Q. Would David fit in that shower up there when you
6 were married to him?

7 A. No.

8 Q. Now, when you were married to him, he was a lot
9 heavier than he is now; is that fair to say?

10 A. Yes.

11 Q. About how many pounds did he weigh?

12 A. Probably about 250.

13 Q. And he wouldn't have fit in that loft shower?

14 A. No.

15 Q. Did he regularly shower there, then?

16 A. No.

17 Q. Was there a time that you had to take care of Dallas
18 or did take care of Dallas in the loft?

19 A. I did.

20 Q. Tell us about that.

21 A. Whenever I went to check in on the girls to turn the
22 television off and to see if they were sleeping,
23 India was asleep and Dallas was not. She told me
24 that her stomach wasn't feeling well. So instead of
25 staying in the bedroom with [REDACTED] I said, 'Well, if

D. Kozel - Direct

192

1 Q. After David had been arrested?

2 A. Yes.

3 Q. And did you speak with who?

4 A. Detective Rick.

5 Q. And did you tell him that this wasn't true?

6 A. Oh, I did.

7 Q. And did you eventually go with Chuck Porter in for
8 an interview to Detective Rick's office?

9 A. I did.

10 Q. And did you tell him that this wasn't true?

11 A. I did.

12 Q. And why are you here today?

13 A. Because I'm outraged. I'm appalled. I'm insulted,
14 and I'm angry over this. These accusations are not
15 true.

16 MS. GOLDFARB: Objection.

17 THE COURT: Sustained.

18 Q. No further questions.

19 -----

20 CROSS-EXAMINATION

21 BY MS. GOLDFARB:

22 Q. The video that we just watched, did you edit that or
23 did someone else edit it?

24 A. I did not.

25 Q. So there is a lot more that was documented that we

1 THE COURT: Any rebuttal?

2 MS. GOLDFARB: No, Your Honor.

3 THE COURT: I sit in sexual offender
4 court most of my career lately. And every
5 day I see children and adults who have been
6 victims. In this case I see two very, very
7 sad victims.

8 Now, my question is to decide whether
9 they are victims of sexual abuse or whether
10 they're victims of some cruel hoax
11 perpetrated most likely by their mother.

12 I saw the videos and the pictures of
13 the children when they were young. They were
14 clearly happy, affectionate children. There
15 were a number of inconsistencies, but the one
16 thing that I just can't get over is the
17 reporting timeline.

18 And the reporting timeline is such that
19 [REDACTED] says that she -- well, Kim Rosborough
20 says that [REDACTED] disclosed 12-21. Dallas then
21 came home for Christmas, apparently; and this
22 issue was not discussed by anyone.

23 On January 3rd, interestingly enough,
24 mother made reservations with Attorney Spears
25 to fly to Arizona. And the next day [REDACTED]

1 says that for the first time ever she
2 disclosed. Three days later she goes to the
3 Dallas police.

4 And I cannot, as hard as I try, put
5 this timeline together or make any sense of
6 it other than to say that it does create a
7 reasonable doubt; and I find the Defendant
8 not guilty of all charges.

9 THE MINUTE CLERK: No emotional
10 outbursts.

11 THE COURT: I'll ask that you leave the
12 room first.

13 (Defendant exits courtroom.)

14 -----
15 (Whereupon, the above-captioned matter
16 was adjourned.)

IT IS NOT HER FAULT WHAT IS WRITTEN IN THESE NEXT PAGES. SHE DID NOT DESERVE ANY OF THE THINGS THAT WAS DONE TO HER. SHE DESERVES LOVE AND CARE. IT ALL HAPPENED A LONG TIME AGO. SHE WAS IN LINDEN GARDEN WHEN SHE STARTS REMEMBERING IT ALL. SHE WOULD GO TO PITTSBURGH WITH HER LITTLE SISTER FOR VISITS WITH HER DAD. HER MOM COULDN'T STOP HIM FROM SEEING THEM. I FEEL LIKE SHE KNEW BUT THERE WAS ABSOLUTELY ~~NOTHING~~ NOTHING THE MOTHER COULD DO. THE LITTLE GIRL REMEMBERS BEING VERY VERY SCARED OF HER DAD. SOMETIMES SHE WOULD GO INTO HER BATHROOM AND LOCK THE DOOR JUST SO HE COULDN'T GET IN BUT HE ALWAYS DID. HE WOULD PUT HER IN THE TUG AND RUB HER PRIVATE AREA THAT A KID DIDN'T REALLY UNDERSTAND WHAT WAS GOING ON SHE JUST KNEW IT WAS BAD. SHE REMEMBERS NOT DARING SAYING A WORD IN FEAR OF WHAT ELSE HE MIGHT DO OR SAY. HE WOULD RUB HER UNTIL SHE FELT RAW AND IN PAIN. IF SHE CRIED HE WOULD MAKE IT THAT WORSE. SO THIS LITTLE GIRL NEVER CRIED IN FRONT OF ANYBODY ELSE FROM THEN ON. UNLESS TO HER MOM WHEN SHE WOULD BEG NOT TO GO. THE LITTLE GIRL LOST LOVE FOR HERSELF AND INVESTED ALL HER ENERGY IN TRYING TO SAVE HER YOUNGER SISTER BECAUSE HER DAD ALREADY RUINED HER. THE LITTLE GIRL WASN'T GOING TO LET IT HAPPEN TO HER SISTER TOO. THE LITTLE GIRL STARTED TO GROW UP WITH

THE LITTLE GIRL REMEMBERS NOT WANTING TO GO ANYWHERE WITH HER DAD AND DAD CHASED HER IN THE TUG AND I LOCKED HER DOOR. SHE TRIED TO GET IN THE TUG BUT DAD WOULDNT LET HER. SHE WOULD CRY BUT HE DIDNT LISTEN.

WOULD HER FATHER PAY MORE
 AND MORE ATTENTION TO HER.
 ONE TIME THIS LITTLE GIRL REMEMBERS
 LAYING IN BED WITH HER DAD.
 SILENT OR COARSE WITH WIDE
 EYES AND SHIVERING. HE TOOK
 A PICTURE OF HER AND SMILED
 THEN SHOWED THE GIRL THE
 EVAL HE PROVIDED. SHE WASN'T
 IMPRESSED BUT SMILED BACK SO
 HE WOULDN'T BE DISAPPOINTED
 IN HER REACTION. AFTER HE
 WAS DONE WITH HER SHE WOULD
 GOE UP TO SLEEP AND WAKE
 UP HOURS LATER TO THE SOUND
 OF THE T.V. GOING AND
 MOST OF THE TIME HER FATHER'S
 VOICE TALKING FROM DOWNSTAIRS
 SHE WOULD BE CLOTHED UNLIKE
 BEFORE SHE FELT WEEED. SHE
 WOULD BE REALLY CONFUSED
 THIS GIRL DIDN'T DESERVE WHAT
 HAPPENED TO HER. SHE DIDN'T
 DESERVE WHAT THE MAN
 DID TO HER AND SHE
 DESERVES A FATHER FIGURE
 WHO LOVES AND CHERISHES HER.
 THE LITTLE GIRL WAS TAKEN
 WITH DADDY AND DIANA
 ON TRIPS TO FLORIDA
 SHE WOULD STAY IN THE
 GUEST BED DOWNSTAIRS ONE
 NIGHT SHE WENT UPSTAIRS

I DON'T WANT TO GO TO DAD DADA
 SO MUCH
 I DON'T WANT TO GO TO DAD DADA
 SO MUCH
 I DON'T WANT TO GO TO DAD DADA
 SO MUCH

TO DADDY'S ROOM SO HE
 WOULDN'T GO NEAR [REDACTED]
 IN MY BED DURING THE
 NIGHT, AND EVERY NIGHT SHE
 DID THIS IN FLORIDA SHE
 WOULD GO TO SLEEP ON THE
 FLOOR AT THE END OF THE
 BED AND WAKE UP IN THE
 BED THE NEXT MORNING. SHE
 REMEMBERS FEELING IN
 PAIN. THE GIRL DIDN'T REMEMBER
 A THING BUT SHE KNEW
 WHAT WAS DONE SHE DIDN'T
 DESERVE IT, BUT AT THE TIME,
 SHE THOUGHT SHE DID. SHE
 WOULD GO MAKE SURE [REDACTED]
 WAS OKAY THE NEXT MORNING.
 BUT THIS TIME [REDACTED] WAKEN
 IN THE BED SHE STARTED
 OUT IN, SHE WAS IN THE
 OTHER GUEST BEDROOM IN
 BED ASLEEP. SHE WAKES
 UP SHE'S IN BED CAUSE
 IT'S AFTERNOON BUT JUST
 LAYS DOWN IN BED WITH
 HER. THE LITTLE GIRL
 KNEW SOMETHING WAS WRONG
 BUT SHE WASN'T GONNA LET
 HERSELF BELIEVE SHE DIDN'T
 DO HER JOB AS A YOUNG
 SISTER. THIS LITTLE GIRL

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WOULD COUNT DOWN THE DAYS
 WHEN SHE GOT TO GO HOME
 BACK TO MAMA. DAD WOULD
 GET MAD WHEN SHE FORGOT
 WHAT DAY IT WAS AND
 WOULD GRAB AND HIT HER
 SO SHE STOPPED ASKING.
 DAD WOULD ASK ME TO GO
 SHOPPING AND AS A LITTLE
 GLAM DIVA GIRL THE ANSWER
 WAS ALWAYS YES. HE WOULD
 BUY HER ANYTHING AND
 EVERYTHING SHE WANTED. THIS
 MADE HER FEEL LIKE MOM.
 MOMMY LOVED HER BUT WHEN
 SHE GOT HOME THAT DAY
 SHE DIDN'T FEEL LOVED. SHE
 FELT SCARED. SHE KNEW
 ALL THE GIFTS DADDY BOUGHT
 HER WERE IN EXCHANGE
 FOR SOMETHING HE WANTED.
 SOON, SHE BECAME WANTLESS.
 IF DADDY TOOK HER SHOPPING
 AGAIN SHE NEVER BOUGHT
 ANYTHING. BUT SOMETIMES HE
 WOULD INSIST AND BUY HER
 CLOTHES AND JEWELRY.
 ANYWAYS, SO SHE KNEW WHAT
 WAS TO COME LATER THAT
 DAY. DADDY WOULD BUY
 HER MAKEUP. THIS LITTLE

SHE REMEMBERS
 HER MOM'S
 DAD'S
 SHE REMEMBERS
 HER MOM'S
 DAD'S

GIRL LOVED IT AND THOUGHT
 IT WAS FUN. UNTIL SHE
 REALIZED THAT DADDY LIKES
 IT BUT WHEN SHE WORE
 IT DADDY WOULD BROWBEAT
 HER MORE. SO SHE FELT
 LIKE A PROTECTOR TO HER
 SISTER SO IT WAS OKAY.
 AT NIGHT DADDY WOULD
 WALK IN, IN HIS BRIEFS
 AND TALK HIMSELF ON
 THE WAY TO THE BED. I
 WOULD CLOSE MY EYES TO
 PRETEND I WAS ASLEEP.
 HE KNEW SHE WASN'T BUT
 HE DIDN'T CARE. HE WOULD
 STICK HIS FINGERS INSIDE
 HER LITTLE BOOT AND
 SHE WAS IN SO MUCH
 PAIN BUT SHE DIDN'T
 CRY. SHE KEPT HER EYES
 CLOSED AND CONTINUED
 TO PRETEND TO BE ASLEEP.
 DAD WOULD LAUGH AT
 HER TRYING TO ACT

SHE REMEMBERS HER FATHER
 DADDY WOULD SAY
 SHE WAS A LITTLE BIT
 BUT NOT BROTHER

LIKE HE DIDN'T KNOW
 WHAT WAS GOING ON. SOON
 THE LITTLE GIRL WAS
 GROWING UP AND MOM
 AND DAD WERE FIGHTING
 IN COURT. SHE WAS SCARED,
 DADDY WOULD SAY HOW
 HER FAMILY IS A BUNCH
 UP BEVERLY HILLS
 AND MAMA WOULD SAY HOW
 DAD WAS A MONSTER AND
 HIS FAMILY WERE ALL
 LIARS. SHE FELT ALONE.
 THE GIRL BECAME HYPER
 AWARE OF ALL HER SURROUNDINGS
 ALWAYS WATCHING AND WAITING
 FOR HER DAD TO SHOW UP.
 THE LAST TIME SHE SAW
 HER DAD WAS IN MYRTLE
 BEACH, SC. DIANA WASN'T
 THERE SO SHE WAS MORE
 SURE THAT DIANA WASN'T
 THERE TO DISTRACT HER
 DAD. ME AND DAD SLEPT
 IN A BED AND [REDACTED]

SHE WOULD SAY THAT MOM
 WAS A BUNCH UP
 HER DAD DIDN'T

SLEPT IN THE OTHER
 I GOT IN BED WITH HIM
 SO HE WOULDN'T WANDER
 OVER NEXT TO [REDACTED] IT
 WAS REALLY DARK AND
 HER SISTER WAS FAST
 ASLEEP, BUT THE LITTLE
 GIRL WAS WIDE AWAKE,
 AND SO WAS HER FATHER.
 HER DAD PUL HER CLOSE
 AND PUT HIS PENIS ON
 HER BODY AND TOLD HER
 SHE WANTED TO CRY, BUT
 DIDN'T LET HERSELF. IT
 COULD GET WORSE IF SO.
 NEXT THING SHE KNOWS IT'S
 MORNING. SHE MADE IT ALL
 DAY WITH A SMILE BUT
 ONCE SHE GOT BACK TO
 THE HOTEL WITH HER DAD
 AND SISTER SHE WENT TO
 THE CORNER WHERE DAD
 COULDN'T SEE HER BEHIND THE
 BED AND SHE STARTED TO
 CRY. SHE DOESN'T REMEMBER

SHE WOULD NEVER TALK ABOUT
 THIS AND DIDN'T TALK ABOUT IT
 FOR YEARS.

THE LITTLE GIRL REMEMBERED
 W AS THE SCHOOL WITH A VIDEO CAMERA
 AND SHE WAS SCARED.

ANYTHING AFTER THAT.
 THE VISITS WITH DAD STOPPED.
 BUT THIS GIRL WANTED DAD.

SHE KNEW HE WOULD BE
 BACK. SHE DIDN'T KNOW
 HOW OR WHEN. BUT SHE KNEW
 IN MIDDLE SCHOOL. THIS GIRL
 WAS GROWING UP AND TRYING
 TO FORGET THE EVER HAD
 A DAD. BUT IT WAS HARD
 AND IMPOSSIBLE FOR HER.

THE WALLS SCREAMED ALL
 NAME. HER SHOWN UP
 THERE BEFORE. ANY MINUTE
 HE COULD AGAIN. THIS
 GIRL FOUND OTHER WAYS
 OF FORGETTING HER DAD.
 AND THAT WAS BEING

WITH SOMEONE ELSE. SHE
 WOULD MAKE SURE SHE
 LOOKED PRETTY EVERY
 MORNING AND GIVE A LIP
 IN MAKEUP. SHE WANTED
 TO LOOK PERFECT.

NO LONGER WAS SHE STAYING FOR
 PROTECTION. HER FATHER TAKEN FOR

NO NUMBER WAS ~~THE~~ STATIONING FOR
 PROSECUTION. AED. FATHER TALKED TO HER
 IT DIDN'T EXIST, SO SHE WAS THE
 OFFICER. PROSECUTION DID EVALUATING WAYS
 IN CASE ANY GUY WIP
 COUGHT FOR EYE APPEARED SO
 THIS GIRL WOULD HAVE UP
 WITH GUYS AT SCHOOL
 OUTSIDE NEAR THE TRAIN
 TRACKS THEY MADE HER
 FEEL SAFE AND NOT ALONE
 FOR THE TIME AT LEAST.
 HER DAD WAS ALWAYS IN ^{WOMEN'S} ~~THE~~
 THE BACK OF HER HEAD THAT
 SCHOOL WAS TORTURE. I BEGGED
 MOM TO LEAVE BUT SHE
 WOULDN'T LET ME. THIS
 GIRL STOPPED TALKING TO
 HER MOM SHE HATED
 HER SO MUCH. WHEN SHE
 GOT INTO 8TH GRADE A
 GUY NAMED JOHN WAS NEXT
 IN LINE ON HER LIST.
 FOR SOME REASON JOHN
 STOLE HER HEADSET. MAYBE
 IT WAS HIS MUSCLES MAYBE
 IT WAS HIS STATUS IN
 TOWN. HE WAS A DRUG
 AND GUN DEALER. A

ANYTHING. ONLY HIM. ONE NIGHT,
 JOHN DECIDED TO LEAVE HER. HE
 TOLD HER SHE WASN'T SAFE
 AROUND HIM ANYMORE. BUT
 SHE DIDN'T CARE ABOUT HER
 SAFETY. SHE'D BE PERFECTLY
 HAPPY DYING IF IT MEANT
 SHE WAS AROUND IN HAND.
 WHEN SHE BREATHED, HE LOST
 BREATH. WHEN HE SAID "GOODBYES"
 SHE TOLD HIM "I HAVE RUN AT
 MY PUNISHMENT" AND SHE
 PLANNED TO DIE. NEXT THING
 SHE KNEW MOM CAME INTO
 HER ROOM AND SAW THE
 DESTRUCTION THAT SHE CAUSED
 ON HER BODY. SHE SCREAMED.
 THE GIRL SCREAMED FOR ALL
 THAT WAS DONE TO HER. SHE
 SCREAMED FOR WHAT HER
 DAD DID TO HER. SHE SCREAMED
 FOR SOMEBODY TO PUT AN END
 TO IT ALL. SHE JUST
 YELLED, SHE WASN'T QUIET.

HE BECAME HER
 ONLY CAR TO GET
 ONLY PULLY OFF HER
 DAD

SHE WANTED TO
 KNOW WHO SHE
 WAS. SHE WAS
 ONLY WITH THE PER
 VIOUS PROSECUTOR

THE RELATIONSHIP
 BECAME MORE
 INTENSE. SHE
 HAVING SEX WITH OTHER
 MEN. HER MIND WAS
 HER DAD AND A MURDER.

IN THIS TIME SHE WAS TOLD
 HER DAD TO WEAR THE PAIN
 HE CAUSED HER BUT HE DIDNT
 HE PROBABLY WOULDNT CARE
 EITHER. SHE DIDNT DESERVE
 THE HOUSE THE GIRL
 DIDNT DESERVE THE DESPAIR
 AND ANYWAY SHE ACC
 EVER SINCE SHE LAST SAW
 HER FATHERS FACE SHE
 DESERVES LOVE AND TO BE
 NUTURED. THIS LITTLE
 GIRL IS NOW GROWN UP
 AND SHE GOT SOME
 VISIBLE SCARS TO SHOW THE
 INSIDE PAIN SHE HAS FELT
 FOR 18 YEARS. SHE CARRIES
 THE SHAME OF HER KATHAROS
 WRONG DOINGS ON HER
 SHOULDERS. BUT SHE DOESNT
 DESERVE THAT THIS GIRL
 DESERVES TO REEL PREC
 SHE DESERVES TO BREAK

THE TELLER
 THAT SHE
 SHE WANTS
 TO BE
 SECRETLY

THE CHAINS THAT BIND
 HER TO HER DAD SHE
 DESERVES TO BE ANGRY AND
 SHE HAS A RIGHT TO
 FEEL SHAME. BUT SHE DOESN'T
 DESERVE HER FATHER'S
 FINGERS INSIDE OF HER
 BODY SHE DOESN'T DESERVE
 FOR HER FATHER TO GET
 OFF ON PICTURES OF HER
 NAKED BODY. SHE DOESN'T
 DESERVE THE SHAME SHE IS
 NOT TO BLAME HER.
 SHE DESERVES TO FEEL
 LOVED. SHE DESERVES TO BE
 TAKEN CARE OF. SHE
 DESERVES A FATHER WHO
 LOVES AND RESPECTS HER.
 SHE DESERVES HEALTHY
 RELATIONSHIPS WITH GUYS.
 SHE DESERVES TO FEEL
 FREE. THIS GIRL DESERVES
 EVERY GOOD THING IF

LIFE AND SHE DESERVES
 THE GREAT FAMILY SHE
 WAS BORN GIVEN. THIS GIRL
 HAS BEEN A VICTIM OF
 HER DADS CORRUPT WAYS.
 BUT THIS GIRL WILL NOT
 BE A VICTIM ANY MORE.
 SHE IS BEAUTIFUL.
 SHE IS INNOCENT.
 AND SHE WILL OVERCOME.
 THIS GIRL WILL NOT
 FALL INTO THE TRAP HER
 FATHER HAS SET FOR
 HER. SHE IS NOT A TOY,
 SHE IS A HUMAN, AND
 SHE IS BEAUTIFUL INSIDE
 AND OUT. THIS GIRL
 IS ME AND IM NOT
 DONE FIGHTING YET.
 WE STILL GOT SOME
 POWER IN US. I
 DON'T DESERVE WHAT
 WAS DONE TO ME.

**PLAINTIFF'S TRANSCRIPTION OF DALLAS KOZEL'S
HANDWRITTEN NARRATIVE¹
(EX. "Q" TO THE AMENDED COMPLAINT)**

NARRATIVE

It is not her fault what is written in these next pages. She did not deserve any of the things that was done to her. She deserves love and care. It all happened a long time ago. She was in kindergarten when she starts remembering it all. She would go to Pittsburgh with her little sister for visits with her Dad. Her Mom couldn't stop him from seeing them. I feel like she knew but there was absolutely nothing the hopeless mother could do. The little girl remembers being very very scared of her Dad. Sometimes she would go into her bathroom and lock the door just so he couldn't get in. But he always did. He would put her in the tub and rub her private area that a didn't really understand what was going on. She just knew it was bad. She remembers not daring saying a word in fear of what else he might do or say. He would rub her until she felt raw and in pain. If she cried, he would make it hurt worse. So this little girl never cried in front of anybody else from then on. Unless to her Mom when she would beg not to go. The little girl lost love for herself and invested all her energy in trying to save her younger sister because her Dad already ruined her. The little girl wasn't gonna let it happen to her sister too. The little girl started to grow up which made her Father pay more and more attention to her. Over time this little girl remembers laying in bed with her Dad silent of course with wide eyes and shivering. He took a picture of her and smiled then showed the girl the evil he produced. She wasn't impressed but smiled back so he wouldn't be disappointed in her reaction. After he was done with her she would doze off to sleep and wake up hours later to the sound of the T.V. going and most of the time her father's voice talking from downstairs. She would be clothed unlike before

¹ The original handwriting of Dallas Kozel was very difficult to read. Plaintiff makes no representation of authenticity.

she fell asleep. She would be really confused. This girl didn't deserve what happened to her. She didn't deserve what the man did do her and she deserves a father figure who loves and cherishes her. The little girl was taken with Daddy and Diana on trips to Florida. She would stay in the guest bed downstairs. One night she went upstairs to Daddy's room so he wouldn't be near [REDACTED] in my bed during the night and every night she did this in Florida. She would go to sleep on the floor at the end of the bed and wake up in the bed the next morning. She remembers feeling in pain. The girl didn't remember a thing. But she knew what was done. She didn't deserve it. But at the time, she thought she did. She would go make sure [REDACTED] was okay the next morning but this time [REDACTED] wasn't in the bed she started out in. She was in the other guest bedroom in bed asleep. She wonders why she's in bed cause it's afternoon but just lays down with her. The little girl knew something was wrong but she wasn't gonna let herself believe she didn't do her job as a big sister. This little girl would count down the days to when she got to go home back to mother. Dad would get mad when she asked what day it was and would grab and hit her so she stopped asking. Dad would ask me to go shopping and as a little glam diva girl the answer was always yes. He would buy her anything and everything she wanted. That made her feel like her Daddy loved her but when she got home that day she didn't feel loved. She felt scared. She knew all those gifts Daddy bought her were in exchange for something he wanted. Soon, she became want-less. If Daddy took her shopping again she never bought anything. But sometimes he would insist and buy her clothes and jewelry anyways. So she knew what was to come. Later that day, Daddy would buy her makeup. This little girl loved it and thought it was fun until she realized that Daddy likes it but when she wore it Daddy was around her more. So she felt like a protector to her sister so it was okay. At night Daddy would walk in, in his briefs and touch himself on the way to the bed. I would close my eyes to pretend I was asleep. He

knew she wasn't but he didn't care. He would stick his fingers inside her little body and she was in so much pain, but she didn't cry. She kept her eyes closed and continued to pretend to be asleep. Dad would laugh at her trying to act like he didn't know what was going on. Soon, the little girl was growing up and Mom and Dad were fighting in Court. She was scared. Daddy would say how his family is a bunch of Beverly Hillbillies and Mom would say how Dad was a monster and his family were all liars. She felt alone. The girl became hyper aware of all her surroundings. Always watching and waiting for her Dad to show up. The last time she saw her Dad was in Myrtle Beach, SC. Diana wasn't there so she was more afraid that Diana wasn't there to distract her Dad. Me and Dad, slept in a bed and [REDACTED] slept in the other. I got in bed with him so he wouldn't wander over next to [REDACTED]. It was really dark and her sister was fast asleep but the little girl was wide awake and so was her father. Her Dad pull her close and rub his penis on her body and touch her. She wanted to cry but didn't let herself. It could get worse. If so next thing she knows its morning. She made it all day with a smile but once she got back to the hotel with her Dad and Sister she went to the corner where Dad couldn't see her beside the bed and started to cry. She doesn't remember anything after that. The visits with Dad stopped but this girl wasn't dumb she knew he would be back. She didn't know how or when but she knew in middle school this girl was growing up and trying to forget she ever had a Dad but it was hard and impossible for her. The halls screamed his/her name. He's shown up there before. Any minute he could again. This girl found other ways of forgetting her Dad and that was being with somebody else. She would make sure she looked pretty every morning and even sleep in makeup. She had to look perfect in case any boy who caught her eye appeared. This girl would hook up with guys at school outside near the train tracks. They made her feel safe and not alone for the time. At least her Dad was always in the back of her head or at school was torture. I

begged Mom to leave but she wouldn't let me. This girl stopped talking to her Mom she hated her so much. When she got into the 8th grade a guy named John was next in line on her list. For some reason, John stole her heart. Maybe it was his muscles, maybe it was his status in town. He was a drug and gun dealer, a "bad boy." And this girl wanted to be his "bad girl." She started smoking weed. It numbed her whole body. She didn't even want to move. It felt good not to have her worry all the time. She would drink and take her Mom's Oxycodone. She soon started buying them herself from a guy at school. The girl thought this was saving her, but it only covered up what she knew was hidden in her soul. Cutting became a release that was different than the drugs and alcohol. It was a different high. It left her feeling the physical pain instead of the emotional. John became this girl's life. If he left, she had no reason to live anymore. She didn't care about anything, only him. One night John decided to leave her. He told her she wasn't safe around him anymore but she didn't care about her safety. She'd be perfectly happy dying of it. Meant she was holding his hand when she breathed her last breath. When she said "goodbye" she told him "have fun at my funeral." And she planned to die. Next thing she knew Mom came into her room and saw the destruction that she caused on her body. She screamed, the girl screamed for all that was done to her. She screamed for what her Dad did to her. She screamed for somebody to put an end to it all. She just yelled. She wasn't quiet in this time. She wanted her Dad to hear the pain he caused her but he didn't. He probably wouldn't care either. She didn't deserve the abuse. The girl didn't deserve the despair and agony she felt ever since she last saw her father's face. She deserves love and to be nurtured. The little girl is now grown up and she's got some visible scars to show and inside pain she has felt for 18 years. She carried the sham of her father's wrong doings on her shoulders but she doesn't deserve that. This girl deserves to feel free. She deserves to break the chains that bind

her to her dad. She deserves to be angry and she has a right to feel sad, but she doesn't deserve her father's fingers inside of her body. She doesn't deserve her father to get off on pictures of her naked body. She doesn't deserve the shame. She is not to blame here. She deserves to feel loved. She deserves to be taken care of. She deserves a father who loves and respects her. She deserves healthy relationships with guys. She deserves to feel free. This girl deserves every good thing in life and she deserves the great family she has been given. This girl has been a victim of her dad's tortious ways but this girl will not be a victim anymore. She is beautiful. She is innocent and she will overcome. This girl will not fall into the trap her father has set for her. She is not a toy. She is a human and she is beautiful inside and out. And I'm not done fighting yet. I've still got some power in me. I don't deserve that was done to me."

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TEXT WRITTEN ON SIDE OF PAGES

First page – “She tried to do everything perfect so Dad wouldn’t hurt her. She found perfection didn’t exist. The little girl remembers not wanting to get in the tub and dad cornered her in the bathroom and slapped her face.”

Second page – See third page.

Third Page – “That night she had to go to Dad for help causes she was in so much pain. Diana saw Dad putting neosporin in her.”

Fourth page – See fifth page.

Fifth page – “She remembers hearing her Dad’s moaning and feeling his breath in her face.”

Sixth page – See seventh page

Seventh page – “She would never tell what her Dad did to her in fear of her family’s safety.”

Eighth page – “The little girl remembers Dad showing up at the school with a video camera videoing her and her friends. She was scared.”

Ninth page – “No longer was she starving for perfection. Her father taught her it didn’t exist. So she was the opposite. Purposely did everything wrong.”

Tenth page – See eleventh page

Eleventh page – “Soon after _____ John met Curtis _____ buy for would never _____ when John wasn’t around her. She liked that she had two boyfriends. She didn’t have to be alone in the loft.”

Twelfth page – “The relationship revolved around sex and she loved it. Having sex with others took her mind off of her dad for a minute. She wondered what would she do without this _____ guy who she felt was protecting her. He became her only tool to get Dad fully off her mind.”

Thirteenth page – “She remembers all of the times she wanted to scream .”

DEBORAH KOZEL

Page 1

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CAUSE NO. DF-13-04036-V
IN THE INTEREST OF DALLAS) IN THE 303RD JUDICIAL
CAROLINE KOZEL AND [REDACTED]) DISTRICT COURT OF
[REDACTED], The Children) DALLAS COUNTY, TEXAS

ORAL AND VIDEOTAPED DEPOSITION
DEBORAH KOZEL
JANUARY 28, 2014

ORAL AND VIDEOTAPED DEPOSITION OF DEBORAH KOZEL,
produced as a witness at the instance of Mr. David
Kozel, and duly sworn, was taken in the above-styled and
numbered cause on January 28, 2014, from 10:29 a.m. to
12:23 p.m., before Sandy A. Treft, Certified Shorthand
Reporter in and for the State of Texas, reported by
computerized stenotype machine at the offices of
McCathern, 3710 Rawlins, Suite 1600, Dallas, Texas,
pursuant to the Texas Rules of Civil Procedure and the
provisions stated on the record or attached hereto.

DEBORAH KOZEL

Page 40

1 A. Maggie.

2 Q. Who's Maggie?

3 A. Maggie Fox.

4 MR. CARLOCK: Right here.

5 Q. (BY MS. BOGDANOWICZ) And that's the attorney
6 that's sitting to my right?

7 A. Yes.

8 Q. Anyone else?

9 A. Mike Spears.

10 Q. Mike Spears?

11 A. Yeah.

12 Q. And who's he?

13 A. An attorney for Dallas and [REDACTED].

14 Q. Have you spoken to Mike Spears about the
15 criminal case?

16 MR. CARLOCK: Objection, form.

17 THE WITNESS: Yes.

18 Q. (BY MS. BOGDANOWICZ) And why is -- why do the
19 girls have an attorney in that criminal case?

20 MR. CARLOCK: Objection, form.

21 THE WITNESS: Mike is a friend and he's
22 just...

23 Q. (BY MS. BOGDANOWICZ) That's the only reason,
24 he's a friend?

25 A. Yes.

DEBORAH KOZEL

Page 63

1 A. Yeah, Ann Robinson. Sorry.

2 Q. And so why are you writing them checks?

3 A. Well, sometimes, you know, if the girls are --
4 they take the girls to dinner or -- and I owe them
5 money. It's extra soccer stuff. It just depends.

6 Q. Okay.

7 (Exhibit No. 6 marked.)

8 Q. (BY MS. BOGDANOWICZ) Okay. I'm going to show
9 you what I marked as Exhibit 6.

10 MS. BOGDANOWICZ: And I'm tendering to
11 Mr. Carlock.

12 Q. (BY MS. BOGDANOWICZ) Okay. If you look at
13 Exhibit 6, you testified earlier that Michael Spears is
14 the girls' attorney for the criminal case in
15 Pennsylvania. Do you remember that?

16 A. Yes.

17 Q. Is that right?

18 A. Yes.

19 Q. Okay. And so is -- can you explain on Exhibit
20 6 why he's the person that's on the rental agreement?

21 A. I don't know the answer to that question. I
22 don't know.

23 Q. Okay. I mean, what -- do you remember in
24 Exhibit 6, what this was for?

25 A. I do not.

DEBORAH KOZEL

Page 64

1 Q. Okay. If we look at it, it's in Arizona. Do
2 you remember -- I mean, you produced this document, so
3 that's why I'm asking you --

4 A. Okay.

5 Q. -- what it is and why you produced it?

6 A. I mean, I guess Mike was at the school. I know
7 Mike had went to Spring Ridge Academy at some point, so
8 that looks like that's what that's for.

9 Q. So Mike went to Spring Ridge Academy for what?

10 A. I think it was after the allegations came out
11 of sexual abuse.

12 Q. So he went to talk with one of the girls?

13 A. I'm not sure who he talked with there.

14 Q. Okay. So why do you have this document?

15 A. I have no idea.

16 Q. Okay. Did you pay for him to rent this
17 vehicle?

18 A. Not that I'm aware of. Does this say it's
19 charged to --

20 MR. CARLOCK: Objection.

21 THE WITNESS: Is my name somewhere?

22 MR. CARLOCK: Objection, nonresponsive.

23 Q. (BY MS. BOGDANOWICZ) I'm just trying to find out
24 what --

25 A. I don't know.

DEBORAH KOZEL

Page 65

1 Q. -- what the significance of it, why you
2 produced it?

3 A. I don't know.

4 Q. Okay. And so Michael Spears, he's -- has he
5 been retained by you guys as the attorney, or is he just
6 operating as a friend?

7 A. Yeah, I haven't retained him.

8 Q. Okay. So has he received any money or payment
9 for his services?

10 A. I don't know.

11 Q. But I mean, you haven't paid him anything?

12 A. No.

13 Q. Okay. I'm going to --

14 MS. BOGDANOWICZ: I tried to wait as long
15 as I can. Can we take a break?

16 MR. CARLOCK: Sure.

17 MS. BOGDANOWICZ: Thank you. Let's go off
18 the record.

19 THE VIDEOGRAPHER: We're going off the
20 record. It's 11:45 a.m.

21 (Recess from 11:45 a.m. to 11:52 a.m.)

22 THE VIDEOGRAPHER: Going back on the
23 record. The time is 11:52 a.m. Please proceed.

24 MS. BOGDANOWICZ: Thank you.

25 (Exhibit No. 7 marked.)

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Pine executive facing sexual assault charges

Case involves 2 young female relatives

August 29, 2013 12:00 AM

By Liz Navratil Pittsburgh Post-Gazette

A Pine man who sits on the board of his family's oil and gas exploration firm was arraigned Wednesday on charges that he inappropriately touched two female relatives when they were under the age of 18.

David Kozel, 48, faces 10 criminal counts of charges including indecent assault, aggravated indecent assault, endangering the welfare of a child and unlawful contact with a minor.

His attorney William Difenderfer said, "The charges are outrageous" and declined to comment further.

Mr. Kozel is semi-retired as vice president of Texas Keystone Inc., an oil and gas exploration firm run by his family and registered in Downtown Pittsburgh. Texas Keystone has been active in several states, including in the Marcellus Shale industry in Pennsylvania, and has sister companies that drill wells.

Northern Regional police wrote in a criminal complaint filed earlier this month that investigators in another state contacted them after one girl to whom Mr. Kozel is related said she was sexually assaulted by Mr. Kozel years ago and another girl recounted similar experiences.

The Pittsburgh Post-Gazette does not typically name the victims of alleged sexual assaults without their consent.

The girls, now 16 and 18, told police the encounters occurred over several years during the times when they visited Mr. Kozel at his home in Pine.

Both girls described instances when they wanted to wash themselves while taking a bath, but Mr. Kozel insisted that he do so and touched them inappropriately, according to the complaint. At times, the girls told police, he used a video camera to record them.

Police wrote that both girls also described instances in which Mr. Kozel accompanied them into his bedroom and then inappropriately touched them or touched himself sexually. The 16-year-old girl told police the girls cried often and that at one point Mr. Kozel told her, "If you don't stop crying you will never see your mom again," according to the complaint.

Mr. Kozel was released on \$100,000 unsecured bail after his arraignment before Magisterial District Judge Anthony Ceoffe, according to court records. The conditions of his bond state that he must surrender his passport, cannot travel outside the continental United States and cannot have contact with the victims.

Mr. Kozel could not be reached for comment. His father, Frank Kozel, said Wednesday afternoon he thought the girls were being manipulated by their mother, who is angry at David Kozel and has a

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☐ No
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rocky relationship with the man.

The girls' mother referred questions to her attorney, who did not respond to a request for comment Wednesday evening. The Post-Gazette is not identifying the girls' mother to protect their identities.

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Liz Navratil: lnavratil@post-gazette.com, 412-263-1438 or on Twitter @LizNavratil.

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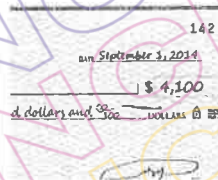
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Pine man on family oil and gas firm's board held for trial on indecent assault charges

November 6, 2013 3:49 PM

By Liz Navratil / Pittsburgh Post-Gazette

A Pine man on the board of his family's oil and gas exploration firm was ordered to stand trial today on charges that he inappropriately touched two female relatives when they were under the age of 18.

David Kozel, 48, appeared before District Judge William Wagner for a preliminary hearing this morning, according to online court records. Mr. Kozel was semi-retired as vice president of Texas Keystone Inc. when Northern Regional police charged him with numerous crimes in August.

Police wrote in court documents that two relatives, who were 16 and 18 at the time, told them Mr. Kozel inappropriately touched them over several years when they visited his home.

Charges against Mr. Kozel include indecent assault and endangering the welfare of a child.

His attorney, who could not immediately be reached for comment, said previously "The charges are outrageous" and declined to go into further detail.

Liz Navratil: lnavratil@post-gazette.com or 412-263-1438. Twitter: @LizNavratil.

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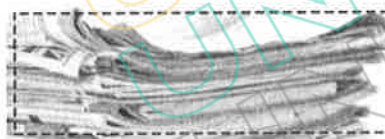
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David Koziel, Pittsburgh News



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Man acquitted of inappropriate conduct

Relatives pushed claims of touching

July 22, 2014 11:40 PM

By Paula Reed Ward / Pittsburgh Post-Gazette

An oil and gas executive was found not guilty Tuesday of charges he inappropriately touched two female relatives while they were children.

David Kozel, 49, formerly of Pine, had a nonjury trial before Common Pleas Judge Donna Jo McDaniel on charges including aggravated indecent assault, unlawful contact, corruption of minors and endangering the welfare of children dating back a decade.

At the time of his arrest last summer, Mr. Kozel was semiretired as vice president of Texas Keystone Inc., an oil and gas exploration firm.

During the one-day trial, the prosecution called only the two alleged victims to testify. They are now 17 and 19 years old. The Post-Gazette does not name alleged victims of sexual assault.

The young women said that Mr. Kozel inappropriately touched them while they bathed when they visited, and that he also touched them in their beds. They last visited him in 2006.

The alleged victims did not report what they claimed was happening until January 2013.

"I was really confused," the older teen testified. "I just felt less than human, I guess.

"I was afraid. I thought he was going to hurt my family."

During cross-examination by defense attorney William Difenderfer, the witness said she didn't tell because what happened was shameful.

"So these visits had to be absolutely horrible," Mr. Difenderfer said.

Exhibit W

"Yes, sir," the older teen said.

But Deanna Kozel, who lived with Mr. Kozel during the time frame of the alleged abuse, said there was no abuse.

"Did you ever find David in their room?" asked defense attorney Tina O. Miller.

"Never," the witness answered. "It never happened."

Deanna Kozel, who divorced Mr. Kozel in 2010 and is not related to the alleged victims, said that she was with the girls and Mr. Kozel almost all the time during the visits and that she never saw him act inappropriately with them. Further, she said she was the one responsible for bathing them.

In reaching her verdict, Judge McDaniel said the inconsistency in the timeline of when the girls reported the alleged abuse raised reasonable doubt.

First Published July 22, 2014 12:00 AM

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PROMISSORY NOTE

FOR VALUE RECEIVED, I, Deborah Kozel, the undersigned Borrower, promise to pay to Ashley D. Kozel, Lender, the sum of Sixty Thousand (\$60,000.00) Dollars, together with interest thereon at the rate of one percent (1%) per annum or the lowest applicable federal rate (AFR) whichever is less. The entire unpaid principal and accrued interest thereon, if any, shall become immediately due and payable on demand by the holder hereof and in no event later than five (5) years from the date hereof.

This Note may be prepaid in whole or in part at any time without premium or penalty. All prepayments shall be applied first to interest, then to principal payments in the order of their maturity.

The undersigned agrees to pay all costs and expenses, including all reasonable attorneys' fees, for the collection of this Note upon default. All payments shall be made at 3931 Solymar Drive, Sarasota, Florida 34242, or at such other place as the holder hereof may from time to time designate in writing.


Witness Borrower


DEBORAH KOZEL

8.14.12
Dated: Borrower

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Exhibit

X

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA
FAMILY DIVISION

Deborah L. Kozel,

Plaintiff,

No.: FD-98-00761-004

v.

David F. Kozel,

Defendant.

INTERIM ORDER OF COURT

AND NOW, this 3rd day of July, 2006, after conciliation, it is
hereby ORDERED, ADJUDGED, and DECREED as follows:

1. If Father wants to exercise partial custody time with the children, Father shall cooperate with and facilitate the provision of Kimberly Rosborough's therapeutic services to the children and participate in therapy with Dr. Stephen Schachner.

Specifically, Father shall:

- a. Schedule a face-to-face consultation with Kimberly Rosborough.
- b. Execute any consents or authorizations required for the children's therapy including:
 - i. Authorizations for the exchange of information between Kimberly Rosborough and Dr. Stephen Schachner;
 - ii. Authorizations for the exchange of information between and among Kimberly Rosborough, Dr. Stephen Schachner, counsel, and the Court.

Exhibit
y

- iii. Parties shall sign these authorizations within 20 days of this Order of Court.
 - c. Schedule and attend sessions with Dr. Stephen Schachner twice monthly.
2. Mother shall facilitate Father's partial custody of the children by cooperating with and facilitating the provision of Kimberly Rosborough's therapeutic services to the children and by participating in therapy with Dr. Stephen Schachner. Specifically, Mother shall do the following:
- a. Schedule a face-to-face consultation with Kimberly Rosborough.
 - b. Cause the children to be brought to any scheduled session with the Father.
 - c. Execute any consents or authorizations required for the children's therapy including:
 - i. Authorizations for the exchange of information between Kimberly Rosborough and Dr. Stephen Schachner;
 - ii. Authorizations for the exchange of information between and among Kimberly Rosborough, Dr. Stephen Schachner, counsel, and the Court.
 - iii. Parties shall sign these authorizations within 20 days of this Order of Court.
 - d. Schedule and attend sessions with Dr. Stephen Schachner twice monthly.
3. Counsel for Father, Christine Gale, shall be responsible for obtaining from Dr. Stephen Schachner any and all documents required for authorizing the release of information necessary for Father's and Mother's participation in this therapy and

shall provide the same to Counsel for Mother, James E. Mahood, within 10 days of this Order of Court. Parties shall sign these authorizations within 20 days of this Order of Court.

4. Counsel for Mother, James E. Mahood, shall be responsible for obtaining from Kimberly Rosborough any and all documents required for authorizing the release of information necessary for Mother's and Father's participation in this therapy and shall provide the same to Counsel for Father, Christine Gale, within 10 days of this Order of Court. Parties shall sign these authorizations within 20 days of this Order of Court.
5. Consistent with the recommendations of Kimberly Rosborough, as to the time, place and length of the visits, Father shall have partial custody of the parties' children. Visitation shall occur in South Carolina, before and/or after Father's meetings with Kimberly Rosborough, and shall be in the presence of a third party known to the children, Gina Scott.
6. At any time when in the judgment of Kimberly Rosborough, it appears that the children can resume time with their father without the presence of a third party, this contact shall occur. Under any circumstances, when Father has completed three visits with the children pursuant to Paragraph #5 above, Kimberly Rosborough shall provide information to Dr. Stephen Schachner to enable him to properly counsel the parents on adjusting the visitation schedule as to the length, location and the need for the presence of a third party.

7. If such adjustments cannot be made by agreement with the assistance of Dr. Stephen Schachner, either party may praecipe for a further conciliation with this court.
8. Father's deposit with Generations for the cost of evaluations shall be refunded to him upon presentation to the Generations office of a file-stamped copy of his withdrawal of his complaint for primary custody.
9. This Order supercedes previous custody/visitation orders.

BY THE COURT:



J. Michael Davis J.

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**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

DAVID F. KOZEL,

Plaintiff,

V.

DEBORAH L. KOZEL, MICHAEL E. SPEARS, Esquire, SCOTT J. RICK, DALLAS C. KOZEL, I.L.K., SPRING RIDGE ACADEMY, INC., JULIANNA HAMILTON, LPC, KIMBERLY RHAЕ ROSBOROUGH, MSW, LISW-CP, and TLC: TURNING LEAVES FOR CHILDREN, LLC

Defendants.

CIVIL ACTION

No. 2:14-cv-01059-JFC

Jury Trial Demanded

**CERTIFICATE OF MERIT AS TO DEFENDANTS, SPRING RIDGE ACADEMY, INC.
AND JULIANNA HAMILTON, LPC**

I, Heather S. Heidelbaugh, Esq., certify that:

X An appropriate licensed professional has supplied a written statement to the undersigned that there is a basis to conclude that the care, skill or knowledge exercised or exhibited by this defendant in the treatment, practice or work that is the subject of the Amended Complaint, fell outside acceptable professional standards and that such conduct was a cause in bringing about harm;

And

X The claim that this defendant deviated from an acceptable professional standard is based solely or in part on allegations that other licensed professionals for whom this defendant is responsible deviated from acceptable professional standards, and an appropriate licensed professional has supplied a written statement to the undersigned that there is a basis to conclude that the care, skill or knowledge exercised or exhibited by the other licensed professionals in the treatment, practice or work that is the subject of the Amended Complaint, fell outside acceptable professional standards and that such conduct was a cause in bringing about the harm;

Or

___ Expert testimony of an appropriate licensed professional is unnecessary for prosecution of the claim against these defendants.

Respectfully submitted,

LEECH TISHMAN FUSCALDO & LAMPL, LLC

Dated: January 22, 2015

By: /s/ Heather S. Heidelbaugh

Heather S. Heidelbaugh

PA ID No. 49989

hheidelbaugh@leechtishman.com

Steven M. Toprani

PA ID No. 93217

stoprani@leechtishman.com

Patrick R. Malone

PA ID No. 206479

pmalone@leechtishman.com

525 William Penn Pl., 28th Floor

Pittsburgh, PA 15219

(412) 261-1600 (Main)

(412)-227-5551 (Fax)

*Attorneys for Plaintiff,
David F. Kozel*

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Respectfully submitted,

LEECH TISHMAN FUSCALDO & LAMPL, LLC

Dated: January 22, 2015

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hheidelbaugh@leechtishman.com

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PA ID No. 93217

stoprani@leechtishman.com

Patrick R. Malone

PA ID No. 206479

pmalone@leechtishman.com

525 William Penn Pl., 28th Floor

Pittsburgh, PA 15219

(412) 261-1600 (Main)

(412)-227-5551 (Fax)

*Attorneys for Plaintiff,
David F. Kozel*

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Western District of Pennsylvania

Civil Action No. 2:14-CV-01059-JFC

Signature of Clerk or Deputy Clerk:

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Western District of Pennsylvania

DAVID F. KOZEL

Plaintiff(s)

v.

DEBORAH L. KOZEL, et al.,

Defendant(s)

Civil Action No. 2:14-CV-01059-JFC

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) KIMBERLY R. ROSBOROUGH, MSW, LISW-CP
601 West Main Street
Spartanburg, SC 29301

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Heather S. Heidelbaugh
LEECH TISHMAN FUSCALDO & LAMPL, LLC
525 William Penn Place, 28th Floor
Pittsburgh, PA 15219

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Western District of Pennsylvania

DAVID F. KOZEL

Plaintiff(s)

v.

DEBORAH L. KOZEL, et al.,

Defendant(s)

Civil Action No. 2:14-CV-01059-JFC

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* SPRING RIDGE ACADEMY, INC.
13690 S. Burton Road
Spring Valley, AZ 86333

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Heather S. Heidelbaugh
LEECH TISHMAN FUSCALDO & LAMPL, LLC
525 William Penn Place, 28th Floor
Pittsburgh, PA 15219

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date:

Signature of Clerk or Deputy Clerk

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Western District of Pennsylvania

DAVID F. KOZEL

Plaintiff(s)

v.

DEBORAH L. KOZEL, et al.,

Defendant(s)

Civil Action No. 2:14-CV-01059-JFC

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) TLC: TURNING LEAVES FOR CHILDREN, LLC
601 West Main Street
Spartanburg, SC 29301

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Heather S. Heidelbaugh
LEECH TISHMAN FUSCALDO & LAMPL, LLC
525 William Penn Place, 28th Floor
Pittsburgh, PA 15219

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk