In reference to the Constitution:

1. Child custody is within the prevue of federal courts e.g. ***Wallis v. Spencer, 202 F.3d 1126, 1136 (9th Cir. 2000)***

2. Parents have a well-elaborated constitutional right to live together with their children without government interference e.g. ***J.B v. Washington County, 127 F.3d 919, 935 (10th Cir 1997)***

3. The forced separation of parent from child, even for a short time, represents a serious infringement upon both the parent and the child's rights e.g. ***Wooley v. City of Baton Rouge, 211 F.3d 913, 923 (5th Cir. 2000)***

4. A child's right to family integrity is concomitant to that of a parent e.g. ***Morris v. Dearborne, 181 F.3d 657, 672 (5th Cir. 1999)***

5. Making knowingly false statements of child neglect violates clearly established constitutional right to familial relations e.g. ***Smith v. City of Fontana, 818 F.2d 1411, 1418 (9th Cir. 1987)***

6. It is in the constitutional interest in familial companionship and society logically extends to the protection from unwarranted interference with the relationship between a parent and a child e.g. ***Kelson v City of Springfield, 767 F.3d 651 (9th Cir. 1985)***

7. Parents have a fundamental right to the custody of their children and the deprivation of that right effects a cognizable injury e.g. ***Santosky v Kramer, 455 U.S. 745, 758-59, 102 S. Ct. 1388, 1397, 71L. Ed. 2d 599 (1982)***

8. Rights of parents to the care, custody and nurture of their children is of such character that it cannot be denied without violating those fundamental principles of liberty and justice which lie at the base of all our civil and political institutions, and such right is a fundamental right protected by the 1st, 5th, 9th and 14th Amendments see ***Doe v. Irwin, 44 F Supp 147: U.S. D.D. of Michigan, (1985)***

9. A parent's right to the custody of his or her children is an element of "liberty" guaranteed by the 5th Amendment and the 14th Amendment of the United States constitution. ***Matter of Gentry, 369 NW 2d 889, MI App Div (1983).***

10. Persons faced with forced dissolution of their parental rights have more critical need for procedural protections than do those resisting state intervention into ongoing family affairs. ***Santosky v. Kramer, 102 S CT 1388:455 US 745, (1982)***

11. Parents have a fundamental constitutionally protected interest in continuity of legal bond with their children. ***Matter of Delaney, 617 P 2d 886, Oklahoma (1980)***

Exhibit A

12. Liberty interest of the family encompasses and interest in retaining custody of one's children and, thus, a state may not interfere with a parent's custodial rights absent due process protections. ***Langton v. Maloney, 527 F Suppp 538, D.C. Conn. (1981)***

13. A parent, who is deprived of custody of his child, even though temporarily, suffers thereby grievous loss and such loss deserves extensive due process protection. See ***Cooper, 621 P 2d 437; 5 Kansas App Div 2d 584, (1980)***

14. The Due Process Clause of the Fourteenth Amendment requires that severance in the parent-child relationship caused by the state occur only with rigorous protections for individual liberty interests at stake. ***Bell v. City of Milwaukee, 746 F 2d 1205; US Ct App 7th Cir WI, (1984)***

15. A parent has the right to associate with his children which is guaranteed by the First Amendment as incorporated in the Fourteenth Amendment, or which is embodied in the concept of liberty as that word is used in the Due Process Clause of the 14th Amendment and Equal Protection Clause of the 14th Amendment. ***Mabra v. Schmidt, 356 F Supp 620; DC, WI (1973)***

16. A parent's right to care and companionship of his or her children are so fundamental, as to be guaranteed protection under the First, Ninth, and Fourteenth Amendments of the ***United States Constitution. In re: J.S. and C., 2324 A 2d 90; supra 129 NJ Super, at 489.***

17. A parent's interest in the companionship, care, custody and management of his or her children rises to a constitutionally secured right, given the centrality of family life as the focus for personal meaning and responsibility. ***Stanley v. Illinois, 405 US 645, 651; 92 S Ct 1208.***

18. Parent's rights have been recognized as being "essential to the orderly pursuit of happiness by free men." ***Meyer v. Nebraska, 262 US 390; 43 S Ct 625, (1923).***

19. That a once married father who is separated or divorced from a mother and is no longer living with his child" could not constitutionally be treated differently from a currently married father living with his child. ***Quilloin v. Walcott, 98 S Ct 549; 434 US 246, 2554^Q56, (1978).***

20. The U.S. Court of Appeals for the 9th Circuit holds that the parent-child relationship is a constitutionally protected liberty interest and that no state can deprive any person of life, liberty or property without due process of law nor deny any person the equal protection of the laws. ***Kelson v. Springfield, 767 F 2d 651; US Ct App 9th Cir, (1985).***

21. The parent child relationship is a liberty interest protected by the Due Process Clause of the 14th Amendment. ***Bell v. City of Milwaukee, 746 f 2d 1205, 1242^Q45; US Ct App 7th Cir WI, (1985).***

Attached to Petition

Exhibit A

22. No bond is more precious, and none should be more zealously protected by the law as the bond between parent and child. ***Carson v. Elrod, 411 F Supp 645, 649; DC E.D. VA (1976).***

23. A parent's right to the preservation of his relationship with his child derives from the fact that the parent's achievement of a rich and rewarding life is likely to depend significantly on his ability to participate in the rearing of his children. A child's corresponding right to protection from interference in the relationship derives from the psychic importance to him of being raised by a loving, responsible, reliable adult. ***Franz v. U.S., 707 F 2d 582, 595^Q599; US Ct App (1983).***

24. In acknowledging the protected status of the relationship and yet deny protection under Title 42 USC ~ 1983 is to negate the right completely. ***Wise v. Bravo, 666 F. 2d 1328, (1981)***

25. The above-mentioned cases are joined ad infinitum by literally hundreds of case rulings that have sided with the parent's right to a relationship with their child.

Petitioner alleges deprivation of rights secured by the Constitution and case law as sited above.

Attached to Petition

Exhibit A

In reference to Disability Rights and Considerations

There is no question that, in enacting the ADA and authorizing its attendant regulations, Congress intended to abrogate state sovereign immunity. **See *Board of Trustees of Univ. of Ala. V. Garrett, 531 U.S. 356, 363-64 (2001) & Alsbrook, 184,F. 3d at 1005-06***

Title II of the ADA requires states to take affirmative steps to ensure that "no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the service, programs or activities of a public entity or be subjected to discrimination by any such entity." ***42 U.S.C. § 12132***

The sixth Circuit in issuing its Popovich decision, in which it interpreted Garrett to bar private ADA suits against States based on equal protection principles, but not those relying on due process, and therefore permitted a Title II damages to proceed despite the States' immunity claim. **See Supreme Court of the United States in *Tennessee v. Lane 541 U.S 509 (2004)***

In *Lane*, the court held that Title II of the ADA was a valid abrogation of sovereign immunity as applied to claims that disabled people were being denied the fundamental right of access to court proceedings. ***Tennessee v. Lane, 541 U.S. 509 (2004) Id. At 531, 533-34***

The Supreme Court has held that Title II also validly abrogates sovereign immunity for conduct that is in itself unconstitutional. **See *Georgia, 126 S. Ct at 881***

Disparate treatment by the court based on disability is subject to rational basis review. **See *City of Cleburne v. Cleburne Living Ctr., Inc., 473 U.S 432, 446 (1985)***

The Supreme Court has referred to multiple sections of Title II and is regulations in support of its determination that Title II as it applies to cases implicating the right of access to the courts was congruent and proportional, and therefore a valid abrogation of Sovereign immunity. **See *Lane,541 U.S. at 529-33***

The Supreme Court has held that Title II sought to enforce a variety of basic constitutional guarantees, including the fourteenth amendment's prohibition on irrational disability discrimination and some of the rights protected by the due process clause. **See *Lane, 522-23: se also id. At 540-41* (Rehnquist, C.J., dissenting)**

The Supreme Court determined that Congress targeted "pervasive unequal treatment in the administration of state services and programs, including systemic deprivations of fundamental rights." **See *Lane, 541 U.S. at 524.***

The facts of a case must be sufficient to warrant service of a complaint with respect to the disability discrimination claim under the ADA and the Rehabilitation Act against the individual state court defendants in their official capacity and against the state court. **See *U.S v. Georgia 546 U.S. 151,159 (2006)* and *Tennessee v. Lane 541 U.S. 509, 533-34 (2004)***

Attached to Petition

In so far as the plaintiff is acting ***pro se***:

1. The court can reasonably read the submissions, despite failure to cite proper legal authority, confusion of legal theories, poor syntax or sentence construction or the plaintiffs unfamiliarity with particular rule requirements see ***Boag v. MacDougall***, 454 U.S. 364,102 S. Ct. 700, 70 L.Ed.2d 551 (1982); ***Estelle v. Gamble***, 429 U.S. 97, 106, 97 S.Ct. 285, 50 L.Ed.2d 251 (1976); ***Conley v. Gibson***, 355 U.S. 41, 45-46, 78 S.Ct 99, 2 L.Ed.2d 90 (1957); ***Haines v. Kerner***, 404 U.S. 519, 92 S.Ct. 594, 30 L.Ed.2d 652 (1972); ***McDowell v. Delaware State Police***, 88 F.3d 188, 189 (3rd Cir. 1996); ***United States v. Day***, 969 F.2d 39, 42 (3rd Cir. 1992); ***Then v. I.N.S.***, 58 F.Supp.2d 422, 429 (D.N.J. 1999) and, etc., along with numerous similar rulings.

2. The court has a duty to use its own common sense to determine what relief that a party either desires or is otherwise entitled to. See ***S.E.C. v. Elliott***, 953 F.2d 1560, 1582 (11th Cir. 1992); ***United States v. Miller***, 197 F.3d 644, 648 (3rd Cir. 1999)

3. The court has a special obligation to construe *pro se* litigants' pleadings liberally. See ***Poling v. K. Hovnanian Enterprises***, 99 F.Supp.2d 502, 506-7 (D.N.J. 2000)

4. The court has a duty to take particular pains to protect *pro se* litigants against consequences of technical errors if injustice would otherwise result. ***U.S. v. Sanchez***, 88 F.3d 1243 (D.C.Cir. 1996)

5. The court has a duty to examine the complaint to determine that the allegations provide for relief of any possible theory. See ***Bonner v. Circuit Court of St. Louis***, 526 F.2d 1331, 1334 (8th Cir. 1975), ***Bramlet v. Wilson***, 495 F.2d 714, 716 (8th Cir. 1974), ***Thomas W. Garland, Inc. v. City of St. Louis***, 596 F.2d 784, 787 (8th Cir. 1979), ***Bowers v. Hardwick***, 478 U.S. 186, 201-02, 16 S.Ct. 2841, 92 L.Ed.2d 140 (1986), ***Brooks v. Blue Cross & Blue Shield of Fla., Inc.***, 116 F.3d 1364, 1369 (11th Cir. 1997), ***O'Boyle v. Jiffy Lube International Inc***, 866 F.2d 88 (3rd Cir. 1989.

A SIMPLE GUIDE TO FILING A CIVIL ACTION

"DON'T WORRY THAT YOUR COMPLAINT IS NOT PROFESSIONALLY WRITTEN . . .THE COURT WILL TAKE INTO CONSIDERATION THAT YOU ARE A *PRO SE* LITIGANT AND UNTRAINED IN DRAFTING LEGAL DOCUMENTS."

PUBLISHED BY:

THE DISTRICT COURT FOR THE WESTERN DISTRICT OF PENNSYLVANIA

Attached to Petition

Exhibit B

~ CERTIFICATE ~

This case has brought forward an issue of significant national importance. The issue of disability law is badly in need of the Supreme Courts authoritative voice. The lower courts did not properly apply the law to the facts. The Petitioner has brought this issue to this court's doorstep in an awkward and clumsy fashion due to his own inability to research and cite where the lower courts are confused, divergent, or rebellious.

The following **"Petition for a Panel Rehearing and Rehearing En Blanc"** presents a question of **exceptional importance** as it represents an abridgement of the Petitioners statutory defined rights as a disabled man. Both lower courts have allowed an intolerable conflict to exist and the error in judgment is so important that it must be corrected immediately.

The Petitioners disabilities blocked him from understanding the procedures/language and from vigorously participating in the court's proceedings. It can be argued that in such circumstances only an attorney can provide the knowledge, energy, strategy, translation and understanding to mount a case. That the appointment of an attorney is the only reasonable accommodations under Title II. However, it is noteworthy that the Petitioner requested disability accommodations that were much less intrusive on the lower courts time and resources.

Both the ADA/504 create a duty to gather sufficient information from the disabled individual and qualified experts as needed to determine what accommodations are necessary. The lower court did not execute such a review.

The ADA/504 does not prescribe specifically what would be an appropriate assistance for each disability accommodation requested. In recognition of this fact the petitioner asked the lower court for an advisory counsel in the form of a *pro se* clerk, law school student or pathway to a clinic to aid in both the receptive and expressive communications used within the jurisprudence paradigm.

Absent the available accommodations, virtually all missteps in the presentation of the pleadings, were executed in the facilitators hand. A hand that trembled and proved incapable of grasping needed legal arguments.

Perhaps most significant among those missteps was a copy and paste error that included a reference to 1983, thereby eliminating all constitutional claims as none of the defendants were state actors. This serves as but one example to silence any consideration that the case itself was not meritorious.

Most notable here, is that the facilitator was not the litigant but rather just a father dutifully trying to help his son who had a stroke and was rendered disabled and incapable of execution in the science and art of law. The facilitator has failed in this parental obligation. Therefore, the Petitioner still has not seen his children since February 4, 2014. All because the court itself has failed in its responsibility to both the law and the individual.

At issue in this presentation is the lower courts failure to first evaluate the Petitioners capabilities and deficits and then make a responsible determination with regards to ADA/504 mandated accommodations. The district court simply ignored all the above and was silent on the issues raised in the pleadings.

The courts services were not equally accessible to the disabled petitioner as they are to the less challenged litigants. A circumstance readily remedied by the court, had it chose to provide appropriate alternative aids and services.

Absent the specialized knowledge necessary to make a recommendation the Petitioner request that this above consideration be given prominence as one that has **exceptional importance** as it remains neglected in the lower courts.

If this writing satisfies Rule 44, it is only by luck that it has done so. If it does not satisfy Rule 44, it is due to the lower courts failure to recognize the pronouncements of the ADA/504.

Executed on October 30, 2021

Daniel J. Heffley

Pro Se, Indigent and Disabled

Certificate