

No. 23A829

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IN THE  
SUPREME COURT OF THE UNITED STATES

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In re Joseph Rued; W.O.R., a minor child; Scott Rued; and Leah Rued II

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In re Joseph Rued, Applicant

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Joseph Rued, et al, Applicants v. Charlene Hatcher, et al, Respondents

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In re the Marriage of Joseph Rued, Applicant, v. Catrina Rued,  
Respondent

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**On Emergency Application for Injunction of Orders Appealed At the  
Minnesota Court of Appeals (Nos. A23-1444 and A23-1467), Supreme Court  
of Minnesota (Nos. A23-1754; A23-1755; and A23-1936), and at Issue In  
Eighth Circuit Proceedings (No. 23-CV-03092) Pending Appeals And/Or  
Adjudication of Petitions for Review By This Court**

**EMERGENCY APPLICATION TO JUSTICE KAVANAUGH FOR  
WRITS OF INJUNCTION PENDING APPEAL**

Joseph Rued, individually,  
and also on behalf of W.O.R.,  
a minor child;  
Scott Rued; Leah Rued  
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## QUESTION PRESENTED

Applicants have sought emergency relief at every other possible venue in the state and country related to violations of the fourteenth amendment causing Applicants irreparable harm. The fundamental Constitutional issue for which Applicants seek emergency relief relates to child welfare investigations admitted to be fraudulently concluded which direct Respondents have determinatively relied upon to deprive federal rights of and unlawfully confine Applicants for years. Not only are these underlying federal claims unreached by every other possible venue in the state and country, but Applicants' emergency claims of irreparable harm are also unreached in every other possible venue. There is no other available venue for Applicants' emergency relief sought than from this Court through this Application.

### THE QUESTION PRESENTED IS:

Should emergency writs of injunction pending appeals issue against enforcement of direct Respondents' orders for which due process, already appealed through this Court without adequate relief, has not been provided in seven years of litigation, which fundamentally rely upon admittedly falsified conclusions to child welfare investigations, violate child maltreatment and other statutes, and deprive Applicants' most precious and protected rights and liberty interests, including physical liberty, when underlying constitutional claims, repeatedly presented, are unreached by all lower state and federal judiciaries, causing undue delay and impeding this Court's appellate jurisdiction, due to irreparable harms sustaining such unconstitutional actions causes Applicants?

## **PARTIES TO THE PROCEEDING**

Applicants are Joseph D. Rued, a person and father; W.O.R., a person and son; Scott D. Rued, a person and grandfather; and Leah J. Rued, a person and grandmother.

Direct Respondents are state judicial officers in their official capacity Hennepin County District Court Family Division Chief Judge Charlene W. Hatcher; Minnesota Court of Appeals Judge Jennifer L. Frisch; Minnesota Court of Appeals Judge Sarah I. Wheelock; Minnesota Court of Appeals Judge Randall J. Slieter; Hennepin County District Court Family Division Referee Mike Furnstahl; Hennepin County District Court Family Division Referee Richard Stebbins; Scott County District Court Judge Charles Webber; Minnesota Court of Appeals Judge Peter M. Reyes; Minnesota Court of Appeals Judge Denise D. Reilly; Minnesota Court of Appeals Judge Theodora Gaitas; Minnesota Court of Appeals Judge Tracy M. Smith; Hennepin County District Court Family Division Judge Nelson L. Peralta; Hennepin County District Court Family Division Judge Christian M. Sande; and Minnesota Court of Appeals Judge Renee L. Worke;

Indirect Respondents are parties to the proceedings below and are Catrina M. Rued and [xxxx], a minor, and persons that are state judicial officers in their personal capacity Charlene W. Hatcher; Jennifer L. Frisch; Sarah I. Wheelock; Randall J. Slieter; Mike Furnstahl; Richard Stebbins; Charles Webber; Lorie Skjerven Gildea; Peter M. Reyes; Susan M. Segal; Denise D. Reilly; Theodora

Gaitas; Tracy M. Smith; Jeanne M. Cochran; Nelson L. Peralta; Christian M. Sande; Lucinda E. Jesson; and Renee L. Worke.

## STATEMENT OF RELATED PROCEEDINGS

- *In Re Joseph Rued, Petitioner*, Minnesota Supreme Court  
Nos. A23-1755; A23-1936
- *In Re Joseph Rued, Petitioner*, Minnesota Court of Appeals  
No. A23-1754
- *In Re the Marriage of Catrina Rued and Joseph Rued*, Minnesota Court of Appeals Nos. A21-0798; A21-1064; A22-0812; A23-0715; A23-1235; A23-1444; A23-1467
- *In Re Joseph Rued, et al v. Charlene Hatcher, et al*, Eighth Circuit Court of Appeals No. 0:23-CV-03092
- *In Re Joseph Rued, et al v. Charlene Hatcher, et al*, Minnesota District Court No. 0:23-CV-02685
- *Joseph D. Rued v. Catrina M. Rued*, Supreme Court of the United States No. 22-702
- *Joseph Daryll Rued and on Behalf of minor child W.O.R and Catrina Marie Rued, et al*, Minnesota Court of Appeals No. A22-0593
- *Joseph Daryll Rued and on Behalf of minor child W.O.R and Catrina Marie Rued, et al*, Minnesota Court No. 70-FA-21-13336
- *In Re the Marriage of Catrina Rued and Joseph Rued*, Minnesota Court No. 27-FA-16-6330

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- *Joseph Rued v. Commissioner of Human Services*, Minnesota Court No. 70-CV-22-7318
- *In Re Joseph Rued, Petitioner* Minnesota Court of Appeals No. A23-0044
- *In Re Petitioners Scott Rued and Joseph Rued, In Re Complaint Against 041423, A Minnesota Attorney*, Minnesota Supreme Court No. A23-1004
- *In Re Complaint Against 041423, A Minnesota Attorney*, Minnesota Supreme Court No. A23-0614
- *In the Matter of the Welfare of the Children of: Catrina M. Rued and Joseph D. Rued*, Minnesota Court No. 27-JV-18-5395

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## OPINIONS BELOW

The controlling orders for which Applicants seek Emergency Writs of Injunction to enforcement pending appeals are in *In Re the Marriage of Catrina Rued and Joseph Rued*, Minnesota Court No. 27-FA-16-6330 and Minnesota Court of Appeals Nos. A21-0798; A21-1064; A22-0812; A23-0715; A23-1235; A23-1444; A23-1467, which are included as *Appendix L* (App. -402-), *Appendix M* (App. -424-), *Appendix N* (App. -580-), *Appendix O* (App. -729-), *Appendix P* (App. -784-), *Appendix Q* (App. -821-), *Appendix R* (App. -841-), *Appendix U* (App. -880-), and *Appendix W* (App. -939-), and *Joseph Daryll Rued and on Behalf of minor child W.O.R and Catrina Marie Rued, et al*, Minnesota Court No. 70-FA-21-13336 and Minnesota Court of Appeals No. A22-0593, which are included as *Appendix S* (App. -849-), *Appendix T* (App. -871-), and *Appendix V* (App. -924-).

No opinion has been rendered related to Applicants' claims of irreparable harm in seeking emergency relief in *In Re Joseph Rued, et al v. Charlene Hatcher, et al*, by the Minnesota District Court in No. 0:23-CV-02685 (App. -107-; App. -106-) or the Eighth Circuit Court of Appeals in No. 0:23-CV-03092 (App. -103-; App. -102-), or *In Re the Marriage of Catrina Rued and Joseph Rued* and *In Re Joseph Rued* by the Minnesota Court Appeals or Supreme Court of Minnesota in A23-0715 (App. -1236-; App. -1217-), A23-1754 (App. -251-; App. -1350-), A23-1755 (App. -298-), and A23-1936 (App. -298-).

## JURISDICTION

This Emergency Application for Writs of Injunction Pending Appeals and/or Adjudication of Petitions for Review to this Court is sought in support of this Court's appellate jurisdiction under 28 U.S.C. § 1254(1) and 28 U.S.C. § 1257(a).

The Minnesota District Court denied Applicants' motion for preliminary injunction (App. -107-) and injunction pending appeal (App. -106-). The Eighth Circuit Court of Appeals denied Applicants' motion for injunction pending appeal (App. -103-) and petition for rehearing en banc (App. -102-), which requested emergency injunction be reached and granted (App. -137-).

The Scott County District Court declined to reach Applicants' federal claims (App. -871-), inhibiting ability for Applicants to reach such issues on appeal and this Court's appellate jurisdiction. The Hennepin County District Court has repeatedly refused to reach Applicants' federal claims (App. -73-; App. -124-; App. -158-; App. -207-; App. -833-), then found Applicant's continuing to raise unaddressed federal claims (App. -352-401-) to be frivolous, imposing preemptive court permission for and \$25,000 bond from Applicant to seek any further relief (App. -880-). The Supreme Court of Minnesota denied Applicant's petition for accelerated review related to Applicants' emergency claims and requisite emergency relief for the welfare of W.O.R. (App. -1211-1215-; App. -260-; App. -1217-). The Minnesota Court of Appeals has denied Applicant's petition for writ of prohibition related to Applicants' emergency claims of irreparable harm (App. -251-) and unduly delayed Applicant's direct appeal (App. -1236-), which the Supreme Court of Minnesota declined review regarding (App.

-1217-). The Supreme Court of Minnesota has denied Applicant's petitions for writs of prohibition related to Applicants' claims of irreparable harm (App. -298-).

All possible judicial bodies in the state and country, except for this Court, have declined to reach Applicants' emergency claims of irreparable harm. Adequate relief is, accordingly, unavailable from any court but this Court. The Jurisdiction of this Court is invoked under 28 U.S.C. § 1651(a) and pursuant to Supreme Court Rule 22.

## **CONSTITUTIONAL AND STATUTORY PROVISIONS**

### **U.S. Const. Amend. V**

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

### **U.S. Const. Amend XIV § 1**

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

**28 U.S. Code § 1254(1)**

Cases in the courts of appeals may be reviewed by the Supreme Court by the following methods:

- (1) By writ of certiorari granted upon the petition of any party to any civil or criminal case, before or after rendition of judgment or decree;

**28 U.S. Code § 1257(a)**

Final judgments or decrees rendered by the highest court of a State in which a decision could be had, may be reviewed by the Supreme Court by writ of certiorari where the validity of a treaty or statute of the United States is drawn in question or where the validity of a statute of any State is drawn in question on the ground of its being repugnant to the Constitution, treaties, or laws of the United States, or where any title, right, privilege, or immunity is specially set up or claimed under the Constitution or the treaties or statutes of, or any commission held or authority exercised under, the United States.

**28 U.S. Code § 1651(a)**

The Supreme Court and all courts established by Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law.

## STATEMENT OF THE CASE

Applicants have been involved in state court proceedings for seven years throughout which time the direct Respondents of the Minnesota Judiciary have denied due process related to the most material issues of the case relating to an executive agency's investigations of abuse and maltreatment of W.O.R. ("Applicant") (App. -274-) and to Applicants' federal claims (App. -266-). Direct Respondents have leveraged their violations of due process to deprive Applicants of protected liberty interests, including imposing physical confinement, and federally protected rights far more precious than any property right (*Santosky v. Kramer*, 455 U.S. 745 (1982)). Direct Respondents have also sustained orders based upon fraud upon the Court of actors on behalf of the state of Minnesota, including state judicial officers' (App. -235-; App. -237-), for years and refused to reach such issues repeatedly presented (App. -373-374-; App. -394-; App. -1264-1265-; App. -1286-), resulting in clear violations of rudimentary due process, including principles of fundamental fairness (App. -89-) and inhibition of this Court's appellate jurisdiction.

These circumstances, given the clear duties for direct Respondents to provide for the best interests and welfare of W.O.R. and adhere to the U.S. Constitution, beg the question to what end would the state judiciary not reach Applicants' Constitutional claims and claims of irreparable harm—the only logical conclusion to such question is that the state judiciary has chosen to attempt to protect its executive agency "partners" (App. -808-) and the judiciary by not acknowledging clearly unlawful conduct exhibited in these proceedings at the expense of W.O.R.'s



basic welfare, the Constitution, and Applicants' federally protected rights (App. -1224-1236-).

Controlling Court Orders from direct Respondents also violate numerous criminal and child maltreatment statutes (App. -125-126-) resulting in violations of Applicants' rights, including W.O.R.'s, under state and federal law (App. -90-91-). Such actions constitute child maltreatment, neglect, and emotional terrorism of W.O.R. (App. -321; App. -323-; App. -339- App. -341-; App. -349-), all of which are indefensible for persons such as direct Respondents that have state and federal duties to protect W.O.R. from such improper and unlawful actions and have no authorization to violate such law or Constitution. Applicants are suffering severe and irreparable harm (App. -303-; App. -334-; App. -336-) due to such unlawful and constitutionally prohibited conduct by direct Respondents (App. -25-; App. -77-).

Applicants have been seeking emergency relief since the month after this Court denied Applicant's petition for writ of certiorari regarding the initial trial proceeding (App. -1201-), and within the same month as the most recent order regarding such acute harm again presented to the state courts (App. -354-; App. -370-384-), which, again, declined to reach Applicants' federal claims (App. -833-).

Currently pending appeals are not ordinary (App. -1021-1023-), especially given the number of opportunities the state apparatus has neglected to reach such fundamental and serious claims through judicial gamesmanship (App. -264-; App. -280-) and unlawful reliance on judicial doctrine above Constitution (App. -1194-). Collectively, state courts have had, at least, *eighteen* prior opportunities, to reach

the Constitutional issues and irreparable harm presented here, with the Supreme Court of Minnesota declining to reach Applicants' emergency claims four times in the last seven months. Absent provision of Applicants' requested emergency relief pending appeals, continuing harm will be sustained through multiple appeals that certainly could take years given that such issues have already been repeatedly raised to and not reached by the same judicial bodies.

The violations of the fourteenth amendment through the actions and omissions by direct Respondents in relying upon admitted perjury and fraud upon the court, then refusing to reach such clear Constitutional issues and resulting irreparable harm to Applicants is truly extraordinary, especially given this Court's numerous related holdings related to the non-discretionary and binding nature of the Constitution and its supremacy, including in *Cooper v. Aaron*, 358 U.S. 1 (U.S. 1958):

[T]he command of the fourteenth amendment [is] that no state should deny to any person within its jurisdiction the equal protection of the laws...Article VI of the Constitution makes the Constitution the supreme law of the land...makes it of binding effect on the States, "any Thing in the constitution and laws of any state to the Contrary notwithstanding." Every state legislator and executive and judicial officer is solemnly committed by oath taken pursuant to article VI, cl.3 to support the Constitution...No state officer or executive or judicial officer can war against the Constitution without violating his solemn oath to support it.

Due to this extraordinary and unlawful conduct of direct Respondents, through repeated actions and omissions inhibiting this Court's appellate jurisdiction, Applicants have no other avenue to procure adequate relief than through this Application to this Court. Applicants present the same emergency

claims related to irreparable harm presented to and unreached by all possible courts below to this Court and pray for adequate injunctive relief causing irreparable harm to cease pending appeals through this Court due to the exceptional nature of these circumstances and extraordinary and constitutionally prohibited conduct of direct Respondents.

**I. BACKGROUND ON FUNDAMENTAL CONSTITUTIONAL ISSUES.**

While the record of this case is voluminous and there are numerous proceedings, the fundamental Constitutional issues are straightforward. During the pendency of divorce proceedings, Hennepin County Child Protective Services (“CPS”) initiated a Juvenile Court Proceeding against Joseph Rued (“Applicant”) for reporting abuse and maltreatment of W.O.R. through a Child in Need of Protection or Services Petition (“CHIPS Petition”) which included allegations that such reports were false (App. -799-). The Juvenile Court proceeding was dismissed. The Hennepin County CPS investigator that signed the CHIPS Petition under oath was deposed prior to initial custody trial and admitted that the CHIPS Petition was untrue with respect to all material claims and, specifically, that there was evidence of abuse and maltreatment of W.O.R. in his investigations (App. -1276-1298-).

After reviewing the submitted deposition, the initial trial court did not allow the deposition admissions into evidence and prevented Joseph Rued from calling the investigator at trial by dictating which witnesses Joseph Rued would call and in which order they would be called (App. -952-; App. -955-958-; App. -435-). The state district court then utilized such falsified investigation outcomes, absent testimony, to

summarily conclude that abuse or maltreatment of W.O.R. had not occurred and, therefore, Joseph Rued's reports of abuse and maltreatment of W.O.R. were false and constituted child endangerment to deprive Joseph Rued's federally protected rights. Such due process violations were appealed through this Court (App. -130-). Direct Respondents do not have a single witness subject to cross examination or reliable evidence in the record for which direct Respondents fundamentally rely upon for all conclusions related to W.O.R.'s abuse and maltreatment (App. -371-374-), which are the most important and essential aspects of the case.

Pending appeal of the initial trial order, Joseph Rued submitted evidence that the CHIPS Petition was admittedly falsified and could not credibly or lawfully continue being relied upon to two district courts (App. -1241-1277-; App -1285-). This evidence has not been reached despite state county district courts having five separate opportunities to do so over the course of years (App. -352-401-), the Minnesota Court of Appeals having multiple opportunities to do so (App. -235-250-; App. 251-254; App. -1218-1235-; App. -1236-; App. -880-950-), and the Minnesota Supreme Court having had four direct opportunities (App. -255-281-; App. -282-297-; App. -298-301-; App. -1201-1216-; App. -1217-) to do so since Applicant has been seeking emergency relief virtually continually from the month after this Court denied petition for writ of certiorari on the initial trial appeal in April 2023.

Instead, all controlling orders fundamentally and determinatively either rely upon the perjurious CHIPS Petition as if it were true or rely upon orders relying upon the CHIPS Petition as if it were true (App. -409-410-; App. -435-; App. -901-; App. -

877-; App. -925-; App. -799-; App. -940-; App. -822-; App. -843-). As a result, such orders have unlawfully deprived numerous federal rights of Applicants for years all in violation of due process and prohibited under the fourteenth amendment, including with respect to fundamental fairness and causing unlawful confinement of W.O.R. and Joseph Rued, violating liberty and association interests of all Applicants.

Violations of Constitution and state law are not within judicial discretion or jurisdiction. Such actions result in changing Constitution or constitutionally sound law in application of law, which is a usurpation of unauthorized judicial power in excess of jurisdiction as such power is reserved for the legislature (App. -90-91-). The violations of child maltreatment laws and related criminal statutes under Minnesota law (App. -290-) against W.O.R. are indefensible and also necessitate immediate relief through this Application. Joseph Rued's statutory immunity as a reporter of child maltreatment has also been denied in reliance upon falsified investigation outcomes that perjurally claimed Joseph Rued's reports were false. All material investigation outcomes relied upon by direct Respondents are admitted to being untrue (App. -373-; App. -1276-1298-; App. -1306-), which no judicial officer in the state or country has acknowledged or even reached, frustrating and impeding this Court's appellate jurisdiction.

## **II. APPLICANTS' IRREPARABLE HARM**

Depriving federally protected rights such as custody for a natural parent or basing determinations related to children's welfare (App. -50-) upon admittedly falsified child welfare investigations is unlawful. Such is self-evident under the U.S.

Constitution and from this Court's holdings. It is also clear that such actions violate federally protected rights in this case:

Rights far more precious to [Joseph Rued] than property rights will be cut off if [he] is to be bound by the [Minnesota] award of custody. *May v. Anderson*, 345 U.S. 528, 532 (1953).

[Despite] suggestion that the [sought remedy for state deprivation of child custody] could be available only when the State takes the child away from its natural parents, but not when the State simply determines custody in a routine intrafamily dispute[,]... [i]t is not apparent that such distinctions are possible, either in legal theory or as a practical matter. The circumstances of custody vary widely, though in each disputed case the child is in the custody of one person—over the objections of someone else—by order of a state court. *Lehman v. Lycoming County Children's Services*, 458 U.S. 502, 512 \*15 (1982).

Constitutional rights of association and liberty are implicated for all Applicants. Joseph Rued's liberty interests and parental rights related to his natural child, W.O.R., are firmly established through this Court's holdings (*Stanley v Illinois*, 405 U.S. 645, 651 (U.S. 1972); *Troxel v. Granville*, 530 U.S. 57, 64 (2000)). The unlawful deprivation of such rights for such extended periods of time clearly results in irreparable harm given that such periods of time are unreturnable.

With respect to W.O.R., he specifically testified in an order for his protection trial: (1) to the abuse he suffered consistent with his writings (App. -1266-1275-) upon which the ex parte Order for Protection was based; (2) that he came up with his writings on his own and wrote what he did because it is the truth; and (3) that he needs to stay with his father because of all of the abuse he has told the judicial officer about. Further, W.O.R. wrote that his abusers threaten him that if he tells anyone about the abuse that he will not be able to see his father and such is the

scariest thing in W.O.R.'s life. Rather than listening to W.O.R., without any other evidence, direct Respondents relied upon the prior perjurious claims in the CHIPS Petition and the initial trial order relying upon the same to discredit W.O.R.'s testimony and cut Joseph Rued and other Applicants out of W.O.R.'s life, fulfilling the scariest thing in W.O.R.'s life. App. -241-242- and App. -378-384-.

Clearly, such actions violate law and Constitution, causing severe, irreparable harm to Applicants, especially to W.O.R. Every level of the Minnesota state judiciary has abdicated their duties to W.O.R.:

The State, of course, has a duty of the highest order to protect the interests of minor children, particularly those of tender years. *Palmore v. Sidoti*, 466 U.S. 429, 432 (1984).

Since the State has an **urgent** interest in the welfare of the child, it shares the parent's interest in an accurate and just decision. *Lassiter v. Department of Social Services*, 452 U.S. 18, 27 (1981) (**Emphasis** added).

The interests of justice require that the irreparable harms from basing determinations related to child welfare and federally protected rights upon admittedly falsified investigation outcomes for years be caused to cease pending appeals through petitions for review to this Court. Applicants have given the Minnesota Judiciary every opportunity to address the irreparable harm such unconstitutional conduct is causing Applicants, and especially W.O.R. The Minnesota Judiciary, including Respondents, have instead chosen to defy reason, Constitution, state law, and duties, as held by this Court, by sustaining such patently unlawful conduct. The lower federal judiciary has refused to reach such clear constitutional issues that, being unreached by state courts, mandate federal jurisdiction under

congressional grants of jurisdiction and Constitution (App. -49-100-).

Accordingly, reaching the merits of Applicants' repeatedly requested emergency relief, which has been requested at every possible venue in the state and country, based upon deprivations of federal rights ongoing for years was imperative and the refusal by all lower courts to even reach the merits of Applicants' claims of irreparable harm generates extraordinary circumstances and further injury to all Applicants.

The conduct of direct Respondents towards W.O.R. not only results in acts prohibited by state law and Constitutions but is also inhumane (App. -280-; App. -359-). Based upon the facts and evidence in this case, no reasonable judicial officer anywhere in the United States would find the conduct towards W.O.R. exhibited here by direct Respondents (App. 241-242-) acceptable conduct towards their own child or grandchild; nor could any reasonable judicial officer view such as lawful under the U.S. Constitution. Direct Respondents have no authorizable business being anywhere near, or ignoring, violations of child maltreatment law or any related prohibitions (App. -349-; App. -927-; App. -125-), much less violating such (App. -242-243-; App. -978-; App. -1019-1020-; App. -75-; App. -1024-; App. -90-91-; App. -132-) through Constitutionally prohibited action (U.S. Const. Art. VI §2):

The legislature hereby declares that the public policy of this state is to protect children whose health or welfare may be jeopardized through maltreatment. (Minn. Statute 260E.01).

No [judge]...may set [binding] law at defiance with impunity. All...officers of...government ...are creatures of...law, and...bound to obey it. *United States v. Lee*, 106 U.S. 196, 220 (1882).



The irreparable harms Applicants are suffering from direct Respondents' unconstitutional abuses are clear, indisputable, and compounded by the fact that throughout all of this litigation no judicial officer in the state or country has reached any of Applicants' Constitutional or emergency claims, creating exceptional circumstances and generating abusive delays for Applicants' ability to procure relief from direct Respondents' Constitutional abuses.

### III. SUMMARY OF STATE AND FEDERAL PROCEEDINGS

#### A. STATE PROCEDURAL HISTORY

##### 1. CHILD IN NEED OF PROTECTION OR SERVICES JUVENILE COURT PROCEEDING

A juvenile court proceeding was initiated against Joseph Rued related to a number of reports of abuse and maltreatment of W.O.R. prior to and during the pendency of divorce proceedings alleging that Joseph Rued's reports of W.O.R.'s abuse were false (App. -1288-; App. -833-). Upon adjudication, the proceeding was dismissed without any finding that Joseph Rued had harmed W.O.R. or that his reports were false.

##### 2. DEPOSITION OF CHILD WELFARE INVESTIGATOR

After juvenile court and prior to initial custody trial, the investigator that signed the CHIPS Petition against Joseph Rued admitted that the under oath Petition was materially untrue, including in the following ways:

- The Petition alleged that Joseph Rued made allegations of abuse and maltreatment of W.O.R. while in the care of another that were false (App. -1288-), which was admitted by the investigator to **not** be supported by the

evidence (App. -1294-).

- The Petition alleged that there was no evidence to support Joseph Rued's allegations of abuse of W.O.R. in the care of another (App. -1293-), which was admitted by the investigator to be "**totally incorrect**" (App. -1294-).
- The Petition alleged that there was no evidence of medical diagnosis to support Joseph Rued's allegations of medical neglect of W.O.R. in the care of another (App. -1293-), which was admitted by the investigator to be "**not true**" (App. -1294-).
- The Petition alleged that there was no evidence to support Father's allegations of abuse of W.O.R. in the care of another, but the investigator admitted that W.O.R. **disclosed sexual abuse to him** (App.-1276-1277-), **on multiple different occasions** (App. -1293-), and separately to another child welfare investigator, and that W.O.R. further **reported sexual abuse** in additional forensic interviews (App. -1293-1294-), and that there **was evidence of abuse** of W.O.R. in the care of another (App. -1294), consistent with Joseph Rued's reports. App. -121-.

### 3. INITIAL CUSTODY TRIAL AND SUBSEQUENT PRE-APPEAL PROCEEDINGS

After dismissal of the juvenile court proceeding, an initial custody trial was held in which both the witnesses and order in which Joseph Rued was allowed to call them was dictated by the state district court judicial officer (App. -952-; App. -955-958-). Joseph Rued was unable to call a number of witnesses that he informed the court he would be calling (App. -952-), including the child welfare investigator that

signed the CHIPS Petition, Jaykumar Jayswal (App. -1288-). The court made these determinations through email (App. -955-958-). Moreover, these determinations were made after reviewing deposition admissions from the child welfare investigator related to the CHIPS Petition in '2' above and not allowing such deposition admissions into the record (App. -1173-).

In its custody determinations, the court relied upon the admittedly fraudulent child welfare investigations referenced in '2', as if such were complete and accurate conclusions related to the evidence in the investigations without testimony from anyone involved (App. -373-374-), including a therapist named Anne Gearity that the court prohibited father from calling as a witness or deposing (App. -763-; App. 372-373-), and the judicial officer's own flat out lie regarding what an expert testified, claiming what was stated was the opposite of what actually was stated (App. -371-). The unconscionable scheme to exclude known and essential evidence discrediting the district court's determinations, prohibit Joseph Rued from calling such witnesses to prove the same in a manner that was kept out of the record for potential review, and lie about testimony essential to determinations to deprive federally protected rights constitutes fraud upon the court by the initial judicial officer as well as actions prohibited by the fourteenth amendment (App. -1174-).

#### 4. INITIAL APPEAL

Joseph Rued appealed the available due process issues, which were affirmed on the basis that the admittedly falsified child welfare investigations in '2' above provide sufficient evidence to support the court determinations that no abuse had

occurred (App. -901-), as if such investigations were accurately concluded when such were admitted to be falsely concluded, as the evidence substantiating such was admitted to be falsified was kept out of the record and Joseph Rued was prevented from calling the investigator that had already admitted the investigation conclusions were perjurious, under oath.

Joseph Rued appealed available due process issues, which clearly suffice for fourteenth amendment violations, through this Court without further ruling.

5. STATE DISTRICT COURT PROCEEDINGS WHILE INITIAL APPEAL WAS PENDING

Due to continuing, unaddressed abuse and maltreatment of W.O.R. while in the care of another (App. -1266-1275-), Joseph Rued sought an Order For Protection for W.O.R., which was granted and proceeded to trial. W.O.R. testified to the abuse he suffered (App. -378-384-) in trial. The only affirmative evidence the court relied upon for its conclusions in the proceeding was submitted by an attorney-advocate in the proceeding, Beth Barbosa, in which she swore, under oath, in her own affidavit, that the dismissed CHIPS Petition allegations were proven true (App. -1315-). Beth Barbosa participated in the deposition of such CPS investigator, so she was aware that she was submitting a document she knew was admittedly falsified. The state county district court relied upon such falsified document and testimony (App. -862-) submitted by an attorney-witness and sworn to be true.

The order for protection court was informed that the CHIPS Petition was admitted perjury (App. -1306-) but declined to consider the evidence and continued to rely upon the CHIPS Petition as if such were true (App. -876-).

An *ex parte* motion to eliminate all of Joseph Rued's parenting time with W.O.R. and impose supervised parenting time was filed, based upon the Order For Protection for W.O.R. being dismissed and supported through presenting the CHIPS Petition, again, as if such Petition were not admitted to be fraudulent. Joseph Rued submitted the deposition admissions related to the CHIPS Petition perjury (App. -1250-; App. -1264-1265-) in the proceeding, which were not reached by the district court that instead continued to rely upon the CHIPS Petition (App. -799-) and prior orders relying upon the same.

6. SECOND ROUND OF APPEALS

Joseph Rued appealed both of these proceedings that occurred while the initial appeal was pending, and such appeals were affirmed in reliance upon the CHIPS Petition as if it were true and the initial appeal order relying upon the investigations that culminated in the falsified CHIPS Petition (App. -925-; App. -940-) and did not reach the due process issues related to the fact that such CHIPS Petition is admitted perjury through reliance upon prior orders. These appeals concluded prior to this Court denying review on the initial trial appeal.

7. THIRD ROUND OF DISTRICT COURT PROCEEDINGS

Joseph Rued was ordered to attend therapy to address his purportedly false beliefs regarding this situation, including W.O.R.'s maltreatment, and prohibited from seeking relief until having done so. Joseph Rued did so and another proceeding commenced prior to the second round of appeals concluding. The court was presented with the outcome of ordered therapy, which concluded that Joseph Rued's beliefs are

the only reasonable beliefs one could have given the evidence and to believe as the district court is directing Joseph Rued to believe would be negligent and endangering to W.O.R. (App. -339-; App. -341-). Joseph Rued again presented that the court orders were relying upon admitted perjury in the CHIPS Petition (App. -373-) and violate due process (App. -372-373-), state statutes (App. -397-398-), and cause acute harm to W.O.R. (App. -354-), among numerous other issues (App. -354-401-).

In response, the district court explicitly did not reach any of the issues Joseph Rued presented (App. -833-), found Joseph Rued again raising unaddressed Constitutional issues to be frivolous (App. -845-) and required the court's prior approval and \$25,000 bond to be posted for Joseph Rued to seek any relief (App. -847-). Additionally, the court confined Joseph Rued and W.O.R. to supervised facilities for any parenting time they have (App. -835-), which does not occur (App. -303-), and permanently eliminated W.O.R.'s association with other Applicants.

#### 8. THIRD ROUND OF APPEALS

Joseph Rued appealed within weeks of the district court's order and filed for accelerated review with the Supreme Court of Minnesota (App. -1201-). The Minnesota Court of Appeals dismissed Joseph Rued's direct appeal based upon an issue that was not being appealed (App. -1236-). Joseph Rued petitioned the delay and not promptly reaching fraud upon the court, Constitutional abuses, and harm to W.O.R. by the district court to the Supreme Court of Minnesota, which denied both accelerated and general review (App. -1217-; App. -89-).

Joseph Rued refiled the direct appeal and filed petitions for writs of prohibition

at the Minnesota Court of Appeals (App. -235-) directed to the state county district courts to prohibit sustaining orders in violation of Constitution and law causing irreparable harm and at the Supreme Court of Minnesota (App. -282-) directed to the Minnesota Court of Appeals sustaining orders in violation of and causing the same. The Supreme Court of Minnesota has held that a writ of prohibition under state law may lie in extraordinary circumstances when no other speedy remedy is available to cause irreparable harm to cease (App. -276-).

The Minnesota Court of Appeals denied the petition for writ of prohibition without reaching the merits of any issues presented or claims regarding irreparable harm (App. -251-), for which Joseph Rued filed another writ of prohibition based upon the illegality of such order (App. -258-262-) and a petition for review (App. -1340-). The Supreme Court of Minnesota denied both writs of prohibition without reaching the merits of any issues presented or claims regarding irreparable harm (App. -298-), and the petition for review (App. -1350-).

## B. FEDERAL PROCEDURAL HISTORY

### 1. MINNESOTA DISTRICT COURT PROCEEDINGS

After the Supreme Court of Minnesota denied accelerated review and petition for review, Applicants filed in federal district court for an emergency injunction against sustaining unconstitutional actions violating Applicants' federally protected rights under the fourteenth amendment (App. -222-).

The Minnesota District Court summarily dismissed Applicants' complaint for lack of jurisdiction and denied emergency relief as moot (App. -107-), applying *Rooker-*

*Feldman* to ongoing state proceedings and related to independent claims that are unreached by any state proceeding (App. -127-), and also claimed Applicants' federal action was an appeal. Such claims are unreasonable (App. -92-) given Applicants' fundamental federal claims repeatedly raised have never been reached by any state judicial officer. Applicants filed with the federal district court for a stay of the determination that federal jurisdiction did not exist and for injunction against persons that are state judicial officers sustaining unconstitutional actions against Applicants pending appeal (App. -192-), which was denied (App. -106-).

## 2. EIGHTH CIRCUIT PROCEEDINGS

Applicants appealed and filed for an injunction pending appeal (App. -143-). The Eighth Circuit took response from the Minnesota Attorney General (App. -171-), representing persons that are state judicial officers, and reply from Applicants (App. -180-). The Eighth Circuit then summarily dismissed the proceeding without briefing (App. -103-), affirming the application of *Rooker-Feldman* to deny federal jurisdiction related to ongoing state proceedings that had not reached Applicants' repeatedly presented federal claims.

Applicants petitioned for rehearing en banc on the basis that the Eighth Circuit's affirmance of such application of *Rooker-Feldman* conflicts with the Eighth and other Circuits' holdings, along with holdings from this Court, and violates Applicants' fifth amendment rights, requesting emergency relief be reached (App. -112-). The Eighth Circuit denied Applicants' petition for rehearing (App. -102-).

## 3. SUPREME COURT OF THE UNITED STATES PROCEEDINGS



Applicants filed a petition for writ of certiorari with this Court related to the issues of federal-state concurrent jurisdiction, unconstitutional misapplication of abstention doctrine, violations of Applicants' fifth amendment rights by the federal courts, and other issues (App. -49-100-). Applicants' petition for writ of certiorari was returned undocketed due to the determination by the Clerk of Court that Joseph Rued raising claims on behalf of W.O.R. to vindicate W.O.R.'s constitutional rights, which cannot otherwise be vindicated, violated bar admission requirements of Supreme Court Rule 9.1. The Clerk of Court also directed Applicants to both change and not change the substance of their petition for writ of certiorari in order for their petition to be docketed. App. -215-218-.

Applicants filed a petition for writ mandamus regarding such determinations and directives by the Clerk of Court on the basis that Joseph Rued's standing to raise claims on behalf of W.O.R. is controlled by holdings of this Court and not determinations by the Clerk of Court that Joseph Rued, a non-attorney, is subject to bar requirements of this Court and for their petition for writ of certiorari to be docketed or, alternatively, for any directives to cure genuine deficiencies to both be possible for Applicants to reasonably fulfill and to not inhibit Applicants' Constitutional claims properly preserved and properly petitioned to this Court, which is pending. (App. -1-48-).

This Application for emergency injunction is sought under 28 U.S.C. 1651(a) pending appeals and/or petitions for review in this Court. Federal and state proceeding individual capacity parties have been served in their personal capacity

through their respective representation, and service is provided to the respective judicial officers responsible for the controlling orders Applicants seek emergency injunctive relief against in underlying proceedings to ongoing state and federal proceedings in their official capacity. This Application is sought in support of this Court's state and/or federal appellate jurisdiction, relating to actions frustrating and inhibiting this Court's appellate jurisdiction that also cause undue delay to vindication of Applicants' Constitutional rights and irreparable harm to Applicants.

**IV. UNCONSTITUTIONAL ACTIONS AND OMISSIONS BY THE MINNESOTA JUDICIARY HAVE IMPEDED THIS COURT'S APPELLATE JURISDICTION AND REPEATEDLY CAUSED UNDUE DELAY FOR RELIEF APPLICANTS REQUIRE TO CAUSE UNCONSTITUTIONAL, IRREPARABLE HARM TO CEASE, GENERATING AN EXTRAORDINARY SITUATION AND FURTHERING IRREPARABLE HARM FOR WHICH APPLICANTS HAVE NO AVENUE FOR ADEQUATE RELIEF THAN THROUGH THIS EMERGENCY APPLICATION.**

By repeatedly refusing to reach Applicants' Constitutional issues, the Minnesota Judiciary inhibits this Court's appellate jurisdiction and even alters what is an appeal as of right at the state level into a proceeding for which only discretionary relief can be sought to attain adequate relief when the same entities have already repeatedly refused to reach the same issues. Given the repeated refusal to reach Constitutional issues at all levels of the state judiciary, determinations that even raising Constitutional issues is frivolous and inhibiting Joseph Rued's ability to seek adequate relief at the state county district court level, and state appellate and lower federal courts refusing to reach Applicants' claims of irreparable harm, there is no possible avenue for adequate relief related to Applicants' irreparable harm than from this Court. Such flagrantly unconstitutional and bad-faith state action (App. -79-)

generates independent federal claims, which, alone, inhibits lawful application of *Rooker-Feldman* or other comity abstention doctrines in this case (App. -77-80-).

The conduct of the state judicial officers in systematically avoiding due process (App. -244-) and refusing to reach essential issues while sustaining flagrant violations of law and Constitution and cutting off Applicant access to redress is so egregious writs of mandamus may well lie if the injunctive relief available to Applicants here was not available (*Kerr v. U.S. Dist. Court*, 426 U.S. 394, 402 (1976)). Where Constitutional standards and protections have been repeatedly ignored and violated, there can be no reasonable presumption that adequate remedy will be provided through such process by the same state apparatus that has violated due process and refused to reach Applicants' federal claims for years (App. -78-79-). Fundamentally, the relief required for Applicants is akin to what would be sought through *habeas corpus* (App. -94-) with the exception that deprivations of liberty interests for Applicants extend to beyond just physical confinement, so no *habeas corpus* remedy is available for all of Applicants' federal claims (App. -89-; App. -49-100-).

Applicants have suffered constitutionally prohibited deprivations of federal rights for years and adequate relief to cause such irreparable harm to cease should be promptly provided. Injunction pending appeal from this Court is the only adequate remedy for Applicants. Any presumption that continuing to wait for appeals that have been sought and neither reasonably nor adequately addressed since 2020 could be adequate for Applicants in this case, is overcome by the repeated refusal to address constitutional issues or Applicants' irreparable harm, especially given the life-long

scarring the unconstitutional actions of direct Respondents are likely to cause W.O.R. (App. -303-; App. -330-; App. -336-337-; App. -341-).

Given that the admitted perjury in the CHIPS Petition by the child welfare investigator has been in court records since 2021 and presented to every possible court in the state, numerous times, and country below this Court and no judicial officer has reached or acknowledged issues of fundamental reliance upon perjury related to serious issues of child welfare while such admitted perjury remains controlling for this situation and deprivations of numerous federal rights, this situation fulfills any exceptional criterion warranting immediate intervention from this Court for the sake of W.O.R. and the irreparable harm caused by direct Respondents' negligence and unlawful conduct since 2020 against all Applicants.

The state and federal judiciaries are the cause of this extraordinary situation through continuous refusal to reach serious federal claims based upon arbitrarily and incoherently applying judicial doctrines in supremacy to Constitution. The result has unlawfully deprived Applicants' rights, caused Applicants irreparable harm for which no damages can make up for, and continues to cause irreparable and increasing damage with each passing day such constitutionally prohibited orders are enforced upon Applicants. The acts and omissions of repeatedly not reaching such serious constitutional issues frustrates and inhibits this Court's appellate jurisdiction, clearly injuring Applicants and inhibiting this Court's ability to review cogent judicial considerations based upon the actual evidence and arguments presented below.

**V. APPLICANTS' RIGHTS UNDER THE FOURTEENTH AND FIFTH AMENDMENTS RELATED TO APPLICANTS' CLAIMS OF IRREPARABLE HARM GENERATED BY**

**UNCONSTITUTIONAL ABUSES UNREACHED AT EVERY OTHER POSSIBLE LEVEL IN THE STATE AND COUNTRY IMPOSE A REQUIREMENT TO BE ADEQUATELY REACHED HERE.**

Emergency relief is not a matter of right, but Applicants do have rights under the fourteenth and fifth amendments which have been trampled and ignored by the state and federal judiciaries in deference to incoherent applications of judicial doctrines above Constitution (App. -67-; App. -75-; App. -124-; App. -137-). Applicants have petitioned at every possible level of the state and federal judiciary for emergency relief and no court below has even reached Applicants' claims regarding irreparable harm, which are straight forward, well founded, and for which Applicants have uncontroverted, highly qualified expert support for based on the same evidence in the respective records under appeals. Rudimentary due process principles provide that this Court of last resort should reach Applicants' emergency claims, especially when Applicants' claims relate to such fundamental rights as even seeing one's child (App. -303-) and protecting children of tender years from lifelong emotional scarring (App. -303-; App. -336-) due to unconstitutional actions by all Respondents.

Applicants have a clear and indisputable right under the fourteenth amendment to protection from unlawful deprivation of their federally protected rights (*May v. Anderson*, 345 U.S. 528, 532 (1953); App. -97-; *Lehman v. Lycoming County Children's Services*, 458 U.S. 502, 512 \*15 (1982); App. -94-). Applicants have diligently taken every reasonably possible measure to procure this emergency relief required, and no judicial officer in the state or country has reached Applicants' claims of irreparable harm, which accretes to the appropriateness in reaching Applicants'

claims of irreparable harm here. The merits of Applicants' underlying claims and claims of irreparable harm should be reached under the basic tenants of this Court in evaluating applications such as this:

We assess requests for temporary injunctive relief under a familiar standard that focuses, among other things, on the merits of the applicants' underlying claims and the harms they are likely to suffer. *Dr. A v. Hochul*, 142 S. Ct. 552, 554 (2021) (Justice Gorsuch and Justice Alito Dissent on denial of application for injunctive relief) (citing to *Roman Catholic Diocese of Brooklyn v. Cuomo*, 592 U. S. (2020)).

### REASONS FOR GRANTING THE APPLICATION

#### I. APPLICANTS ARE LIKELY TO SUCCEED ON THE MERITS OF PENDING APPEALS.

Applicants are likely correct that sustaining orders based upon clear violations of due process and fraud upon the court by the court, itself, and officers of the court is violative of the fourteenth amendment, given that such is "so totally devoid of evidentiary support as to be invalid under the Due Process Clause of the Fourteenth Amendment" (*Douglas v. Buder*, 412 U.S. 430, 431 (1973)) as well as plainly violative of rudimentary principles of fundamental fairness (App. -1019-1020-):

The due process clause requires [t]hat state action...shall be consistent with the fundamental principles of liberty and justice which lie at the base of all our civil and political institutions. *Brown v. Mississippi*, 297 U.S. 278 (1936).

That the action of state courts and judicial officers in their official capacities is to be regarded as action of the State within the meaning of the Fourteenth Amendment, is a proposition which has long been established by decisions of this Court. That principle was given expression in the earliest cases involving the construction of the terms of the Fourteenth Amendment. Thus, in *Virginia v. Rives*, 100 U.S. 313, 318 (1880), this Court stated: "It is doubtless true that a State may act through different agencies, — either by its legislative, its executive, or its judicial authorities; and the prohibitions of the amendment extend to all action of the State denying equal protection of the laws, whether it be action by one of these agencies or by another." In *Ex parte Virginia*, 100 U.S. 339, 347 (1880), the Court observed: "A State acts by its legislative, its

executive, or its judicial authorities. It can act in no other way." In the *Civil Rights Cases*, 109 U.S. 3, 11, 17 (1883), this Court pointed out that the Amendment makes void "State action of every kind" which is inconsistent with the guaranties therein contained, and extends to manifestations of "State authority in the shape of laws, customs, or judicial or executive proceedings." Language to like effect is employed no less than eighteen times during the course of that opinion.[] Among the phrases appearing in the opinion are the following: "the operation of State laws, and the action of State officers executive or judicial"; "State laws and State proceedings"; "State law . . . or some State action through its officers or agents"; "State laws and acts done under State authority"; "State laws, or State action of some kind"; "such laws as the States may adopt or enforce"; "such acts and proceedings as the States may commit or take"; "State legislation or action"; "State law or State authority." Similar expressions, giving specific recognition to the fact that judicial action is to be regarded as action of the State for the purposes of the Fourteenth Amendment, are to be found in numerous cases which have been more recently decided. In *Twining v. New Jersey*, 211 U.S. 78, 90-91 (1908), the Court said: "The judicial act of the highest court of the State, in authoritatively construing and enforcing its laws, is the act of the State." In *Brinkerhoff-Faris Trust Savings Co. v. Hill*, 281 U.S. 673, 680 (1930), the Court, through Mr. Justice Brandeis, stated: "The federal guaranty of due process extends to state action through its judicial as well as through its legislative, executive or administrative branch of government." Further examples of such declarations in the opinions of this Court are not lacking[], see] *Neal v. Delaware*, 103 U.S. 370, 397 (1881); *Scott v. McNeal*, 154 U.S. 34, 45 (1894); *Chicago, Burlington and Quincy R. Co. v. Chicago*, 166 U.S. 226, 233-235 (1897); *Hovey v. Elliott*, 167 U.S. 409, 417-418 (1897); *Carter v. Texas*, 177 U.S. 442, 447 (1900); *Martin v. Texas*, 200 U.S. 316, 319 (1906); *Raymond v. Chicago Union Traction Co.*, 207 U.S. 20, 35-36 (1907); *Home Telephone and Telegraph Co. v. Los Angeles*, 227 U.S. 278, 286-287 (1913); *Prudential Insurance Co. v. Cheek*, 259 U.S. 530, 548 (1922); *American Railway Express Co. v. Kentucky*, 273 U.S. 269, 274 (1927); *Mooney v. Holohan*, 294 U.S. 103, 112-113 (1935); *Hansberry v. Lee*, 311 U.S. 32, 41 (1940). *Shelley v. Kraemer*, 334 U.S. 1, 14-15 (1948).

[F]ailure of State to correct testimony known to be false violates due process[.]  
*Albright v. Oliver*, 510 U.S. 266, 299 (1994).

The evidence in these records demonstrates that there is no possible good faith response from direct or indirect Respondents related to Applicants' serious and unreached Constitutional claims (App. -171-179-; App. -185-; App. -1173-). Accordingly, there is no reasonable doubt that these actions by direct Respondents

are unconstitutional and cause Applicants irreparable harm.

Applicants are likely correct that applying *Rooker-Feldman* to ongoing state proceedings, to claims unreached in state proceedings, or to independent federal claims is improper and conflicts with holdings of this Court with respect to each (App. -77-79-), and that there is no other impediment to their federal relief sought:

If a federal plaintiff presents an independent claim, even one that denies a state court's legal conclusion in a case to which the plaintiff was a party, there is jurisdiction, and state law determines whether the defendant prevails under preclusion principles...Nor does §1257 stop a district court from exercising subject-matter jurisdiction simply because a party attempts to litigate in federal court a matter previously litigated in state court. If a federal plaintiff [p]resent[s] some independent claim, albeit one that denies a legal conclusion that a state court has reached in a case to which he was a party..., then there is jurisdiction and state law determines whether the defendant prevails under principles of preclusion.[]...There is nothing necessarily inappropriate, however, about filing a protective action. *Exxon Mobil Corp. v. Saudi Basic Industries Corp.*, 544 U.S. 280 (2005).

[W]e have never held that judicial immunity absolutely insulates judges from declaratory or injunctive relief with respect to their judicial acts...The Court did say, quoting from *Ex parte Virginia*, 100 U.S. 339, 346 (1880),...§1983 was designed to enforce the provisions of the Fourteenth Amendment against all state action, whether that action be executive, legislative, or judicial. *Supreme Court of Va. v. Consumers Union*, 446 U.S. 719, 736 (1980).

Applicants are likely correct that state judicial discretion does not lie to violate Constitution and state law or to willfully sustain violations of such (App. -282-):

It is State action of a particular character that is prohibited[,]...void[ing] all State legislation, and State action of every kind, which impairs the privileges and immunities of citizens of the United States, or which injures them in life, liberty or property without due process of law, or which denies to any of them the equal protection of the laws. It not only does this, but, in order that the national will, thus declared, may not be a mere *brutum fulmen*, the last section of the amendment invests Congress with power to enforce it by appropriate legislation. To enforce what? To enforce the prohibition...Positive rights and privileges are undoubtedly secured by the Fourteenth Amendment; but they are secured by way of prohibition against State laws and State proceedings



affecting those rights and privileges, and by power given to Congress to legislate for the purpose of carrying such prohibition into effect; and **such legislation must necessarily be predicated upon such supposed State laws or State proceedings, and be directed to the correction of their operation and effect.** *United States v. Stanley*, 109 U.S. 3, 11 (1883). (Emphasis added).

[W]here the officer's powers are limited by statute, his actions beyond those limitations are considered individual and...is not...the business...the sovereign has empowered him to do **or he is doing it in a way which the sovereign has forbidden.** His actions are ultra vires his authority and therefore may be made the object of specific relief...without impleading the sovereign,...because of the officer's lack of delegated power. A claim of error in the exercise of that power is therefore not sufficient. *Larson v. Domestic Foreign Corp.*, 337 U.S. 682, 690 (1949). (Emphasis added).

Applicants' emergency claims relate to all pending appeals in state and federal court. Accordingly, if Applicants are likely to succeed in any appeal, then Applicants are likely to succeed on the merits with respect to these emergency claims, irrespective of whether such determinations relate to the state or federal side, or both. Applicants are likely to succeed on their fourteenth amendment claims and therefore are likely to succeed on the merits of appeals with respect to this emergency injunctive relief applied for.

## **II. APPLICANTS ARE LIKELY TO SUFFER IRREPARABLE HARM IN THE ABSENCE OF PRELIMINARY RELIEF.**

Multiple experienced and highly qualified experts have provided input into the state and federal records related to overt and severe irreparable harm Applicants are suffering based upon the record evidence and actions and omissions of direct Respondents (App. -302-351-). Such expert input is uncontroverted in the court records. Applicants' irreparable harm continues and increases by the day until emergency relief is provided for (App. -201-; App. -243-; App. -291-). Unlawful

confinement and deprivations of basic rights to child welfare or rights far more precious than any property rights indisputably results in irreparable harms, consistent with what is outlined above and throughout this Application.

Applicants are likely to suffer irreparable harm in the absence of injunctive relief because rights far more precious than any property right have been unlawfully deprived by unconstitutional actions and omissions of direct Respondents since 2020, present court orders constitute child maltreatment of W.O.R., and ongoing inhibition of Applicants' liberty interests and rights of association cannot be remedied by future damages suits (App. -23-; App. -30-; App. -66-; App. -80-; App. -89-90-; App. -97-; App. -99-; App. -120-; App. -130-; App. -133-; App. -136-; App. -144-146-; App. -161-; App. 166-168; App. -180-; App. -189-190-; App. -201-202-; App. -208-; App. -211-212-; App. -224-; App. -226-; App. -229-232-; App. -235-237-; App. -241-; App. -243-244-; App. -246-248-; App. 255-260-; App. -264-266-; App. -268-; App. -271-; App. -273-274-; App. -276-280-; App. -282-284-; App. -288-; App. -291-; App. -292-294-; App. -296-297-; App. -1174-; App. -1181-; App. -1195-; App. -1198-) because what Applicants are losing under the enforcement of these unlawful court orders is *time, welfare for a child, and further relationship development*, resources and possessions far more valuable than money could ever be and for which no amount of money can adequately compensate. In this case, justice further delayed is justice denied:

Protecting against abusive delay is an interest of justice. *Martel v. Clair*, 565 U.S. 648, 662 (2012).

Applicants easily make "a clear showing" (*Winter v. Natural Res. Def. Council, Inc.*, 555 U.S. 7, 22 (2008)) that Applicants' injuries from unconstitutional

deprivations and abuses by direct Respondents are “imminent” (*Roman Catholic Diocese of Brooklyn v. Cuomo*, 141 S. Ct. 63, 74 (2020) (Concurrence Justice Kavanaugh)). Denying Applicants’ requested relief will lead to further irreparable injuries.

### **III. THE BALANCE OF EQUITIES IS IN APPLICANTS’ FAVOR.**

No Respondent has cognizable rights at issue through this Application. This Court is not being asked to finally determine anything related to the cases below, and Applicants do not seek an open-ended or permanent injunction. Rather, Applicants seek a tailored injunction that the controlling orders fundamentally relying upon falsified conclusions of child welfare investigations be enjoined from enforcement pending appeals because direct Respondents have violated due process in relying on such conclusions and have repeatedly not reached the merits of the Constitutional claims presented that doing such violates due process and results in Applicants suffering irreparable harms, including unlawful confinement, deprivations of child welfare, and denial of association rights (App. -50-).

State law preclusion principles such as law-of-the-case or *Res judicata* are inapplicable to the issues raised in this Application because no judicial officer at every possible venue has reached Applicants’ federal claims, including that fundamentally relying upon admitted perjury to deprive rights violates due process. No person has the right to determinations in court based upon their presentation of admitted perjury as if true and their own fraud upon the court (App. -1173-; App. -1181-). No government official or state has cognizable rights or interests to enforcement of orders

procured in clear violation of the fourteenth amendment and basic principles of fundamental fairness, especially when harmful to children (App. -97-).

The “purpose of a preliminary injunction is merely to preserve the relative positions of the parties until a trial on the merits can be held.” *University of Tex. v. Camenisch*, 451 U.S. 390, 395, 101 S.Ct. 1830, 68 L.Ed.2d 175 (1981). Here, after years of litigation, due process has not been remotely provided for on the most essential and important of issues to the case. There has been incessant litigation and no reasonable trial on the merits in this case. The balance of equities lies in favor of returning to the status quo until a genuine trial on the merits can be held (App. - 1047-):

Due process requires more than a hearing. Rather it is the “opportunity to be heard in a meaningful manner.” *Armstrong v Manzo*, 380 U.S. 545, 552 (1965). “The hearing, moreover, must be a real one, not a sham or a pretense.” *Palko v. State of Connecticut*, 302 U.S. 319, 327 (1937)...The lack of ability by petitioner to challenge an essential element of the determination itself is repugnant to fundamental due process...[A] hearing which excludes consideration of an essential element from consideration does not comport with fundamental due process concerns: “[t]he hearing required by the Due Process Clause must be ‘meaningful,’... It is a proposition which hardly seems to need explication that a hearing which excludes consideration of an essential element to the decision...does not meet this standard.” *Bell v. Brunson*, 402 U.S. 535, 542 (1971).

While it is obvious no genuine trial on the merits has been had, Applicants are seeking only that this injunction last through appeals to this Court because it is essential that Applicants do everything possible to ensure it is as straightforward as possible to efficiently provide W.O.R. and all Applicants’ federal rights such immediate relief from irreparable harm and grievous injuries as is clearly required.

Given the record demonstrates that controlling orders are based on admitted perjury and such is unreached by Respondents in the federal proceeding and such fraud upon the court is still being perpetrated by Respondents in the state proceedings (App. -1170-1175-) to deprive Applicants' most precious rights for years and facilitate child maltreatment and neglect of W.O.R. that the state courts have refused to reach, resulting in further irreparable harm, the balance of equities is clearly in Applicants' favor. If asked for a response, there is no possible credible, or even good faith, defense that direct Respondents, or any other Respondents, could provide this Court related to Applicants' claims (App. -171-179-; App. -185-; App. -1173-). There is not even a good faith defense for not adequately addressing such Constitutional issues, much less in not *reaching* the claims regarding fundamental reliance upon perjury in this case for years.

#### **IV. IT IS IN THE PUBLIC INTEREST TO ISSUE PRELIMINARY RELIEF.**

The effective administration of justice is a paramount public interest. Here, the facts are so overwhelming that there can be no confidence in the integrity of the justice system in either these state or federal proceedings. The Minnesota Judiciary has refused to even reach its own violations of Constitution and fraud upon the court (App. -235-; App. -237-; App. -239-; App. -240-245-; App. -248-249-; App. -257-; App. -264-267-; App. -269-; App. -275-; App. -277-280-; App. -282-; App. -284-; App. -287-288-; App. -290-292-; App. -1190-; App. -1192-; App. -1194-1196-; App. -1198-) or the repeated fraud upon the court by counsel (App. -240-; App. -296-297-; App. -1173-1174-), all of which is violative of the rudimentary principles of fundamental fairness

inherent to fundamental due process under our Constitution and which are foundational to all of our civil institutions (App. -71-72-).

It is not in the public interest to provide the state judiciary, at least, a *nineteenth* opportunity to cease their constitutional abuses of Applicants including child maltreatment of W.O.R. (App. -125-126-), while Applicants continue to suffer irreparable harms and grievous injuries. It is in the public interest for the rule of law and Supremacy of the U.S. Constitution to be upheld, not violated by state judicial officers for years and then condoned by persons that are judicial officers as direct Respondents ignore the holdings of this Court (App. -98-; App. -75-), misapprehending that they have judicial immunity to ignore the Constitution, abuse citizens' rights, and, abhorrently, children (App. -172-; App. -176-; App. -178-), and that this Court would never care about one child or one family when the law holds otherwise.

This Application is not only about one child or family. This is also about access to the law for children and whether or not there is any dignity with respect to Constitutional conduct to even be expected in the judicial institutions of this Country below this Court. If access to the Constitution and possession of clear Constitutional rights in the United States is based solely upon the greater of two factors: the exercised discretion of judicial officers below this Court to follow the Constitution or this Court granting petition for writ of certiorari, then such rights do not exist unless provided by persons that are judicial officers, which are not the source of such rights. Clearly, it is not in the public interest for the government to be allowed to continue to cover up its own Constitutional violations and unlawful conduct at the expense of

citizens and, even more importantly and appallingly, children and their rights to welfare when such same governments have an unequivocal duty to protect (App. -26-), much less not neglect, maltreat, endanger, and terrorize (App. -1211-; App. -1215-), any child such as W.O.R.

The actions exhibited by the Minnesota Judiciary demonstrate a clear willfulness in abusing Constitutional rights of Applicants (App. -244-; App. -274-; App. -278-; App. -280-; App. -1183-; App. -1342-), including neglecting and emotionally terrorizing W.O.R. (App. -321-; App. -343-). Public interests are fundamentally harmed by judicial officers violating due process (App. -169-) and committing fraud upon the court (App. -240-), then sustaining and refusing to reach such issues for years (App. -1194-).

Years of W.O.R.'s childhood and liberty have been taken from him and years of liberty have also been taken from all other Applicants, which include W.O.R.'s closest and most trusted relationship in the world (App. -25-; App. -225-; App. -1208-), based on clear unconstitutional and unlawful actions and omissions by direct Respondents. The facts of this case demonstrate that the Constitution has so far been irrelevant to these state (App. -235-237-) and federal (App. -77-79-; App. -90-92-) judicial proceedings and the Applicants before these judiciaries in these cases are merely at the whim of these judicial officers and persons with respect to Applicants' most precious and protected federal rights and rudimentary rights to basic child welfare, all of which unequivocally violates statute and/or the Constitution in clear excess of jurisdiction.

Such is unacceptable conduct, anywhere, by anyone, but especially where the rule of law is purported to govern subject to supremacy of the Constitution. The facts of this case are illustrative of the fundamental civil rights crisis in family law and child welfare settings in this country (App. -99-; App. -1224-) resulting from abandonment of Constitutional provisions and basic standards long held in western civilization related to fundamental fairness and provision for children (App. -99-). Any reasonable person aware of the facts of this case would know that these circumstances are prohibited by the fourteenth amendment and addressable under the Constitution (App. -100-).

Here, the conduct of the Minnesota Judiciary doesn't just risk perception of lacking integrity—the conduct is defiant of the U.S. Constitution and demonstrates unrestrained lawlessness (App. -77-; App. -242-243-), which are not only clear and indisputable abuses of discretion but also are clearly in excess of non-discretionary jurisdictions (App. -91-):

[P]ublic perception of judicial integrity is “a state interest of the highest order.” *Caperton*, 556 U.S., at 889, 129 S.Ct. 2252 (quoting *White*, 536 U.S., at 793, 122 S.Ct. 2528 (KENNEDY, J., concurring)). *Williams-Yulee v. Fla. Bar*, 135 S. Ct. 1656, 1666 (2015).

Constitutionally governed judiciaries exist to distribute justice based, first and foremost, upon the Constitution's principles, not to withhold justice and distribute injustice in clear violation of the Constitution. Such is as profound as any public interest. Public interests are served, not harmed, through the issuance of Applicants' requested injunctive relief pending petitions for review through this Court, which would be parallel and in concert with any cognizable interests of Minnesota or any



state (App. -97-).

### CONCLUSION

Applicants respectfully request relief applied for to be granted as expeditiously as possible. Seeking institution of lawfulness for such flagrant due process violations, as here, for federal rights and issues related to child welfare are important not just for Applicants, but for any citizen or child subjected to state judicial proceedings or executive agencies. It is exceptional that such clear federal claims have been unreached for years while a child suffers, but, unfortunately, such issues are not isolated to this case. Such unconstitutional conduct, as exhibited by direct Respondents here (App. -96-), is inherently fostered by the attempted implementation of clearly constitutionally unsound interpretations and applications of the FCIA of 1996 additions to 42 U.S.C. § 1983 by the lower judiciaries (App. -82-85-; *Simmons v. Fabian*, 743 N.W.2d 281 (Minn. Ct. App. 2007)), which inherently ascribe otherwise unprovisioned Congressional authority from the Enforcement Clause to validate such holdings (App. -80-81), given human nature (App. -100-) *because* judicial officers or persons that are judicial officers are clearly human beings.

Children in this country matter, are persons, and they have Constitutional rights, just like W.O.R. does—given that W.O.R.’s rights have been abused by the Minnesota Judiciary, including direct Respondents here, since 2020, and by executive agencies and their forensic affiliates since, at least, 2018, the relief applied for here should be granted expeditiously. It is truly extraordinary, and worth re-repeating, that in all such time and at every possible venue in the state and country no judicial

officer has reached Applicants' constitutional or irreparable harm claims. The clarity and indisputability of Applicants' federal claims and related evidence here adds to the exceptionality of these disturbing, unconstitutional circumstances requiring emergency remedy.

“Applicants have clearly established their entitlement to relief pending appellate review” ((*Roman Catholic Diocese of Brooklyn v. Cuomo*, 141 S. Ct. 63, 66 (2020)). Applicants have demonstrated their fourteenth amendment claims are likely to prevail, denying Applicants' requested relief will cause irreparable injury, and granting Applicants' requested relief will not harm public interests. “See *Winter v. Natural Resources Defense Council, Inc.*, 555 U.S. 7, 20, 129 S.Ct. 365, 172 L.Ed.2d 249 (2008)” (*Roman Catholic Diocese of Brooklyn v. Cuomo*, 141 S. Ct. 63, 66 (2020)).

There is need for this Court to intervene and issue an order promptly:

[This Court] may not shelter in place when the Constitution is under attack. Things never go well when [this Court shelters in place when the Constitution is under attack]. (*Ibid.* at 71) (Concurrence, Justice Gorsuch).

The Constitution is openly under outright assault in Applicants' family law and child welfare settings, as it is for children and parents with respect to clearly established, protected federal rights across this Country in similar settings in which state court judicial officers are ignoring the Constitution. This is occurring *because* governmental and judicial impulses, contrary to the Constitution, are so entrenched (App. -33-) in opposition to enforcement of Constitutional rights in such settings, trying to elevate government actions above the Constitution, but, the reality remains that, under our law, while it may be difficult to achieve such enforcement (App. -204-

205-), if it were legally impossible such would be unconstitutional (App. -214-; App. -95-). The Constitution is not subordinate to any common law or Congressional Act, or anything within the scope of authorities of the United States or any individual state (U.S. Const. Art. VI §2, 3; App. -77-; *Marbury v. Madison*, 5 U.S. 137 (1803)).

When Constitutional rights are unconstitutionally deprived and such Constitutional abuses sustained for so long, without even so much as reaching such issues by so many duty and oath bound to uphold the Constitution, this Court should step in and cause the irreparable harm to cease pending appeals when the merits of Applicants' Constitutional claims in the underlying cases and clarity of irreparable harms are as clear and definitive as the case is here. There is not any reliable evidence in the record that W.O.R.'s reports of abuse are untrue or anything other than completely sincere (App. -302-347-; App. -1251-; App. -1265-; App. -399-401-).

Respectfully Submitted,

Date: March 4, 2024.

s/Joseph Rued

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Case No. \_\_\_\_\_

**In the Supreme Court of the United States**

*In Re, Joseph Rued; W.O.R., a minor child; Scott Rued; and Leah Rued II*

*In re Joseph Rued, Applicant*

*Joseph Rued, et al, Applicants v. Charlene Hatcher, et al, Respondents*

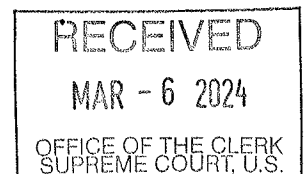
*In re the Marriage of Joseph Rued, Applicant, v. Catrina Rued, Respondent*

On Emergency Application for Injunction of Orders Appealed At the Minnesota Court of Appeals (Nos. A23-1444 and A23-1467), Supreme Court of Minnesota (Nos. A23-1754; A23-1755; and A23-1936), and at Issue In Eighth Circuit Proceedings (No. 23-CV-03092) Pending Appeals And/Or Adjudication of Petitions for Review By This Court

**Supreme Court Rule 29 Declaration of Service**

Joseph Rued has served all required parties at or before the time of filing by depositing a copy of Applicants' Applicant for Emergency Writs of Inunction and accompanying Motion for Leave to File Emergency Application on More Than One Acceptable Type of White Paper to the respective judicial officers, direct Respondents, in their official capacities at the Minnesota Court of Appeals; Hennepin County District Court; and Scott County District Court, and to indirect Respondents addressed to the counsel of record in the underlying proceedings in 8 1/2 x 11 paper form with the United States Postage Service, with no less than first-class postage prepaid on March 4, 2024. Required electronic transmissions pursuant to this rule are made reasonably contemporaneous with this filing. A list of parties served and any persons they represent follows:

**Minnesota Court of Appeals**



Judge Peter M. Reyes, Jr.  
Judge Jennifer L. Frisch  
Judge Sarah I. Wheelock  
Judge Randall J. Slieter  
Judge Denise D. Reilly  
Judge Theodora Gaïtas  
Judge Tracy M. Smith  
Judge Renee L. Worke  
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St. Paul, Minnesota 55155

**Hennepin County District Court—Family Division**

Chief Judge Charlene W. Hatcher  
Referee Mike Furnstahl  
Referee Richard A. Stebbins  
Judge Nelson L. Peralta  
Judge Christian M. Sande  
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**Scott County District Court**

Judge Charles Webber  
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St. Paul, Minnesota 55101-2131

I declare under penalty of perjury the foregoing is true and correct. Executed on  
March 4, 2024.

s/Joseph Rued  
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Applicant

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