No. 24-5649

ORIGINAL

IN THE SUPREME COURT OF THE UNITED STATES

DEANDRE ARNOLD,

Petitioner,

v.

TYARIELLE PATTERSON,

Respondent.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Eleventh Circuit

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED

Whether a tort suit for the intentional infliction of emotional distress based on the alleged extortionate usage of a child support order and breach of fiduciary duty arguably does not apply to Domestic Relations under diversity jurisdiction if an element of the Federal claim involves a failure to perform to a state court domestic relations order and seeks no issuance of a state court order?

PARTIES TO THE PROCEEDING

The Petitioner is Deandre Arnold and is the Appellant in the Eleventh Circuit Court of Appeals.

The Respondents are Tyarielle Patterson, the Appellee in the appeal below. The Appellee was never summons or participated in the district court or appellate proceedings below.

CORPORATE DISCLOSURE STATEMENT

Pursuant to Rule 29.6, Petitioner states that he has no parent company, and no publicly held company owning 10% or more of any stock.

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PETITION FOR WRIT OF CERTIORARI

The Petitioner, Deandre Arnold, the appellant below, respectfully petitions the Court for a writ of certiorari to review the judgment of the United States Court of Appeals for the Eleventh Circuit.

ORDERS AND OPINIONS ENTERED BELOW

On 12/19/2023, Middle District Judge Thomas Barber for the Tampa Division entered an order dismissing Petitioner's case for lack of jurisdiction. (App. A) On 1/23/2024, district judge Barber denied Petitioner's motion to proceed "in forma pauperis" ("IFP") on appeal. (App. B) On 6/25/2024 Circuit Judge Barbara Lagoa entered in an order denying Petitioner's motion to proceed "in forma pauperis" ("IFP") on appeal. (App. C.).

JURISDICTION

The Eleventh Circuit denied the Petitioner's motion to proceed in forma pauperis on June 25th, 2024. This petition is timely filed pursuant to Supreme Court Rule 13.1. This court has jurisdiction under 28 U.S.C. 1254(1).

STATEMENT OF THE CASE

I. Background Facts

A. Petitioner's Complaint in the District Court.

On December 4th, 2023, Petitioner ("Arnold") filed a diversity action in the Middle District Court of Florida for the Tampa Division against his child's mother ("Patterson") alleging that for a period of five (5) plus years, Patterson utilized court ordered child support in a manner, style, pattern and continuing scheme of extortion and blackmail in order to compel Petitioner to refrain from enforcing their child custody order for her alleged interference with his parenting with their minor child. *Arnold et al., v Patterson*, 8:23-cv-02708, Doc. 1. Arnold alleged that for

a period of five plus (5) years, Patterson refrained from enforcing an order of support for years or several months at times support amounts were allegedly owing according to her but only *suddenly* sought to enforce such support order in response to Arnold's acts to enforce their child custody order for alleged parental interference by Patterson. [Id. Par. 255-266] Arnold alleged Patterson engaged in such scheme seeking to exploit what she knew or had reason to know was Arnold's fear of incarceration, which would be threatened or possible in response to acts to hold Patterson liable for parental interference or in proceedings seeking to enforce his custody order. [Id. Par. 1, 2] Arnold alleged that the motives for Patterson 's schemes was because she knew and had reason to know that her acts of parental interference would lead to her incarceration and that to avoid such imprisonment she utilized the support order and Title IV-D mandates contrary to its original intent. [Id. Par. 1, 3, 22, 26-31, 235]

Arnold alleged that Patterson's acts caused him and his minor child Intentional Infliction of Emotional Distress ("IIED"). [Id. 224-244, 245, 254-266] Arnold further alleged that Patterson breached her fiduciary duty to act in good faith, with care and concern for their minor child and in exchanging their child consistent with the provisions of their child custody orders and acted in a manner contrary to the benefit of the parties minor child. [Id. 268-26] Arnold's sole requests for relief were (1) damages for the IIED under Title IXV, Chapter 836 of Florida's extortion statutes, (2) damages for the breach of Pattersons's fiduciary duty and (3) punitive damages. [Id. Par. 254-276]. At no time did Arnold seek or request the issuance of any state court domestic relations order, nor did he ever request the court to enforce or otherwise modify any state court order. Arnold at no time challenged any state court order nor did he ever request the court to intervene in any state court proceeding. In fact, Arnold alleged that he "does not argue whether he is an absent parent within the meaning of Congresses legislation of Title IV-D being lawfully...

obligated to pay support under Title IV-D mandates, rather... [Patterson] exploited [Arnold's] fear of making such a defense and knew and had reason to know that Arnold feared an absence in his child's life in such an act or incarceration for alleged owing [amounts in] support." See Id. Par. 2.

II. **Statement of the Proceedings.**

B. Dismissal of Petitioner's Complaint by the district court and denial of pauper status on appeal.

On 12/19/2023, Florida Middle District judge for the Tampa Division, Thomas Barber, dismissed Petitioner's action *sua sponte* contending the district court lacked subject matter jurisdiction of the Complaint. Judge Barber's reasoning for dismissing the complaint was based on the "*likelihood, possibility, appearance and to the extent*" that the Arnold's claims were barred by the Rooker-Feldman Doctrine, the Younger Abstention Doctrine and the Domestic Relations exception. (App. A. pp. 1) On January 17th, 2024, Arnold filed a Notice of Appeal against the order dismissing his complaint for lack of jurisdiction. On the same date, the Petitioner also filed a Motion to proceed "in forma pauperis" ("IFP") in the district court seeking to proceed on appeal without payment of filing and docketing fees. On January 23rd, 2024, judge Barber denied the Petitioner's IFP motion contending that the appeal failed to establish the existence of a reasoned, nonfrivolous argument raised on appeal. (App. B. pp. 1) Arnold was required to pay filing fees on appeal or to pay the $605.00 filing fee to have his appeal heard on the merits of the district court's order dismissing his case for lack of jurisdiction or to alternatively, renew his motion within the Court of Appeals to proceed on appeal without payment of filing fees.

C. Petitioner files premature appellate brief and a Motion to proceed IFP in the United States Court of Appeals and Motion to expedite a ruling on his IFP motion.

On January 19th, 2024, Arnold's appeal was docketed in the United States Court of Appeals for the Eleventh Circuit. On February 6th, 2024, Petitioner then filed a premature appellate brief although briefs are not required until the Court of Appeals rules on an IFP motion pending in said court. See 11th Cir. R. 31-1(b). On the same date Arnold also filed his IFP motion in said court. Months following no order being entered on his IFP motion, on May 30th, 2024, Arnold filed an "Emergency Motion to Rule on IFP Motion within 8 days to prevent an impediment of justice". In such motion, he contended that the 11th Circuit discriminated against him and pauper filers on the basis of their poverty absent the least restrictive means by burdening and delaying review of district court orders and the benefit of briefing until the court ruled on his motion to proceed IFP. Petitioner contended the 11th Circuit treated him differently than paid filers who received immediate review of their district court orders dismissing their complaints and the benefit of briefing on appeal.

D. Circuit court judge Lagoa denies Petitioner's Motion to proceed IFP.

On 6/25/2024, approximately one-hundred and forty (140) days and during this court's summer term, Circuit Judge Barbara Lagoa entered an order denying Arnold's IFP motion, as frivolous, as it was barred by the Domestic Relations Exception to diversity jurisdiction. (App. C. pp. 3). Judge Lagoa's order stated that, "[T]he district court properly concluded that his complaint fell within the domestic relations exception to diversity jurisdiction, Arnold's claims **stemmed from the custody and child support orders** relating to their child, an area from which federal courts generally abstain ... Arnold's allegations contend that Patterson utilized these orders to prevent Arnold from parenting their child, and a determination of these claims **would necessarily implicate the enforcement of these orders** ... Arnold's motion for leave to proceed IFP is denied." *Id.*

Judge Lagoa's sole reasoning for denying Arnold's IFP motion was because Arnold's claims would *necessarily* implicated the enforcement of the child custody and child support orders because his claims "stemmed" from those from those orders and was thus barred by the Domestic Relations Exception to diversity jurisdiction. Judge Lagoa's order did not address nor mention any of the reasons that the district court dismissed Arnold's complaint based on the Rooker-Feldman Doctrine or the Younger Abstention Doctrine. Judge Lagoa's order stated that "The district court properly concluded that [Arnold's] complaint fell within the domestic relations exception to diversity jurisdiction." (App. C. pp. 2). Judge Lagoa's order oddly did not include her name within the order denying Petitioner's IFP motion. *Id.* Arnold however has learned from the circuit court clerk that Judge Lagoa entered the order on the date of 6/25/2024.

E. Petitioner's Files Motion to Disqualify Circuit Judge Barbara Lagoa.

On July 2nd, 2024, a week after judge Lagoa's order denying the Petitioner's IFP motion was entered, the Petitioner filed a Motion to Disqualify Judge Lagoa contending that facts showed that judge Lagoa had an actual or reasonable prerequisite intent to obstruct or to reach a decision adverse to the Petitioner evidencing bias, partiality, prejudice and antagonism as to make any fair judgment impossible. (App. D.) Petitioner's relief requested that Judge Lagoa disqualify herself from his appeal and that her order denying Petitioner's pauper status be declared void. *Id.*

F. The Eleventh Circuit court clerk dismisses the Petitioner's Appeal.

On July 17th, 2024, the Eleventh Circuit Court clerk dismissed Petitioner's appeal for want of prosecution on the grounds that Petitioner failed to pay the filing and docketing fees within the time fixed by the rules. (App. E.). According to the circuit court clerk, the Petitioner's motion to disqualify judge Lagoa was then denied as MOOT. *Id.* The appeal was yet dismissed in

despite of Judge Lagoa and the circuit court clerk's office refraining from providing the Petitioner "notice" that filing and docketing fees were due within a fixed time. Importantly to note, although failing to give Petitioner notice that filing and docketing fees were due in the appeal below, the circuit court clerk's office did give the Petitioner such a notice in a separate appellate case in which Arnold was also, Appellant. (See USCA case no. 24-10634, styled *as Deandre Arnold v Chad Chronister et al.*) In that case, the circuit clerk's office stated that Arnold had 14 days from the date of said notice to pay filing and docketing fees to the district court or that the case would be dismissed. *Id.* This notice was in fact provided precisely one date after the circuit court clerk's office dismissed Arnold's appeal for failure to prosecute. No such notice was ever provided to Arnold in the appeal below relevant to this Mandamus action.

G. Petitioner files Motion for review by a panel of the court and a Motion to Reinstate his appeal which is denied by circuit court clerk's office.

Pursuant to 11th Cir. R. 27-2, orders denying pauper status are "subject to review by the court." The Petitioner sought such review on July 18th, 2024, by filing a Motion for Review of judge Barbara Lagoa's order denying his IFP Motion by a panel of the court of appeals. Such review was sought one (1) day after the circuit court clerk's office dismissed Petitioner's appeal for failing to pay filing fees. On July 22nd, 2024, Petitioner then filed a Motion to Reinstate his dismissed appeal. One day later, on July 23rd, 2024, the Circuit court clerk's office entered in a procedural order stating that no action would be taken on the Petitioner's motion for review by panel nor his motion to reinstate his dismissed appeal and further stated that "This case is closed."

H. Petitioner files Motion for review by panel of the Circuit Court Clerk's Refusal to Reinstate his dismissed appeal.

Pursuant to 11th Cir. R. 27-1(c), a circuit court clerk's procedural orders refusing to reinstate a dismissed appeal are also "subject to review by the court." On August 5th, 2024, Petitioner sought such review by filing a motion for review by a panel of the court of the circuit court clerk's procedural order refusing to reinstate his dismissed appeal. On the same date, the circuit court clerk's office refused to reinstate the dismissed appeal stating that no action would be taken on the motion and that "[T]he deficiencies that caused this case to be dismissed have not been remedied. This case is CLOSED." (App. F. pp. 16) The court itself did not review the circuit clerk's order refusing to reinstate his appeal, rather, the circuit court clerk reviewed its own order dismissing Arnold's appeal in *its* refusing to reinstate Arnold's dismissed appeal.

REASONS FOR GRANTING THIS WRIT

The Eleventh Circuit's decision – deeming Petitioner's appeal frivolous vehemently conflicts with this Court's decision in *Ankenbrandt* on an important question of subject matter jurisdiction in Federal court as it is applicable to the Domestic Relations Exception. Equally important, the Circuit Court and the district court below, deems the Petitioner's claims lacking any arguable basis in law or fact for a suit of its type to be within the subject matter jurisdiction of the Federal courts. This is the equivalent of deeming this court's dominant instruction in *Ankenbrandt,* which explicitly held that the Domestic Relations only applies to the *issuance* of state court orders, frivolous. Under the Eleventh Circuit's contention, any Federal claims that that would "necessarily implicate" the *enforcement* of state court domestic relation orders will forever be determined frivolous in the Eleventh Circuit whether or not they seek the issuance of a state court domestic relations order. Under this approach, the Eleventh Circuit produces an inequitable result, depriving thousands of litigants of a federal forum who seek damages for torts against their persons or other persons for elemental acts that do and do not require a failure to

perform to a state court domestic relations order. Arnold contends that the Eleventh Circuit's conflict with this court's decision in *Ankenbrandt* is likely to be reoccurring and thus of such imperative public importance as the Petitioner's case is the exceptional case for resolving it.

I. THE ELEVENTH CIRCUIT'S DECISION CONFLICTS WITH THIS COURT'S DECISION IN ANKENBRANDT.

Eleventh Circuit Judge Barbara Lagoa's sole reasoning for denying the Petitioner pauper status on appeal rides the back of the district court's order dismissing the Petitioner's case for lack of jurisdiction and denying Arnold's motion to proceed IFP on the grounds that his appeal was frivolous. However, the Circuit judge's reasoning was quite different from that of the district court's order. Circuit judge Barbara Lagoa denied Arnold's IFP motion on the grounds that his appeal was frivolous solely because the Petitioner's claims would "*necessarily* implicate the enforcement" of his child custody and child support orders and was thus barred by the Domestic Relations Exception. (App. C. pp. 3) Arnold argues that the Circuit court's decision was so far outside the bounds of this court's decision in *Ankenbrandt* that this court's consideration of such order is paramount to guide the Eleventh Circuit as to the applicability of the Domestic Relations Exception brought under diversity jurisdiction when presented with tort claims which elements involves a failure to act or to perform pursuant to a state court domestic relations order, or not.

A. *Ankenbrandt* only applies to the issuance of divorce, alimony and child custody orders under diversity jurisdiction cases.

This court said "[T]hat the domestic relations exception encompasses **only** cases involving the issuance of a divorce, alimony, or child custody decree." *Ankenbrandt v. Richards, 504 US 689 – Supreme court (1998)* This court made that determination when viewing this court's decision in *Barber* for which the domestic relations exception authority stemmed from. With reference to *Barber*, this court said "[W]e are unwilling to cast aside an understood rule

that has been recognized for nearly a century and a half, we feel compelled to explain why we will continue to recognize limitation on federal jurisdiction." *Id.*[1] This court determined that "[W]hen Congress amended the diversity statute in 1948 to replace the law/equity jurisdiction on with the phrase "all civil actions," we presume Congress did so with full cognizance of the Court's nearly century-long interpretation of the prior statues, which had construed the statutory diversity jurisdiction to contain an exception for certain domestic relations matters. *Id.* This court then concluded that "[T]he *Barber* court did not intend to strip the federal court of authority to hear cases arising from the domestic relations **unless they seek the granting or modification of a divorce or alimony decree**." *Id.* Ankenbrandt concluded that the Court of Appeals erred by affirming the district court's ruling declining jurisdiction based on domestic relations exception to *diversity* jurisdiction. It said "[B]ecause the allegations in this complaint do not request the District Court to issue a divorce, alimony, or child custody decree, **we hold** that the suit is appropriate for the exercise of § 1332 jurisdiction given the existence of diverse citizenship between petitioner and respondent and the pleading of the relevant amount in controversy." *Id.*

This court's dominant instruction has been followed by multiple Federal district and circuit courts to the letter. For instance, *See Drewes v. Ilnicki, 863 F. 2d 469 (CA6 1988)* (holding that the exception **does not apply to a tort suit for intentional infliction of emotional distress)**. *Id.*; *Raftery v. Scott, 756 F.2d 335, 338 (4th Cir. 1985)* (district court **has jurisdiction** over damages for intentional infliction of emotional distress where former husband alleges **that former wife has taken custody of child illegally**). The case of *Raftery* is an excellent example

[1] Similar to *Ankenbrandt*, other than the general assertion that Petitioner's claims would "necessarily implicate the enforcement" of state court orders, Eleventh Circuit judge Barbara Lagoa, "[O]ffered no explanation... why the domestic relations exception applies at all to... [Arnold], who would appear to stand in the same position with respect to *Ankenbrandt* as any other... in a tort suit **brought in federal court pursuant to diversity jurisdiction**. *Ankenbrandt v. Richards, 504 US 689 – Supreme court (1992)*

of a ruling based on claims being consistent with this court's opinion in *Ankenbrandt*. With the use of this example in viewing the Eleventh Circuit's order in Arnold's appeal, it is undisputably clear that the Eleventh Circuit abandoned this court's decision in *Ankenbrandt*, followed its own course of action, introduced its own legal authority and acted contrary to this court's dominant instruction. Arnold's claims is truly an identical case of *Raftery*. But unlike *Raftery*, Arnold did not allege the interference with his parenting time caused him emotional distress, he alleged that the extortionist usage of a child support order by his child's mother in a scheme & design to compel him not to enforce his child custody order for Patterson's alleged interference with his parenting time caused him and his minor child emotional distress. Arnold did not seek to directly enforce his child custody decree in the Federal court. Arnold's "[L]awsuit in no way [sought] such a decree; rather, it alleges that [Patterson] ... committed torts against [him]. *Catz v. Chalker, 142 F. 3d 279 (6th Cir. 1998)*.

Eleventh Circuit Judge Barbara Lagoa however, held Arnold's IFP motion seeking to proceed on appeal to review the merits of the district court's order dismissing his complaint as because Arnold's claims would allegedly "*necessarily* implicate *enforcement* of these orders." (App. C) Judge Lagoa did not at all assert that Arnold's claims requested the court to issue, grant or modify a state court domestic relations order. In fact, judge Lagoa did not identify at all *how* Arnold's claims would *necessarily* implicate the enforcement of the state court orders mentioned in his complaint.. Thus, this case is exceptional to correct an error overwhelmingly in conflict with this courts dominant instruction explicitly and clearly stated in *Ankenbrandt.*

B. The Child Custody and Child Support Orders were not implicated in any way as to be barred by the Domestic Relations Exception under diversity jurisdiction.

Arnold's claims is simply one involving the extortionate usage of a child support order by his child's mother in response to Arnold's actions to enforce their child custody order against

Patterson for her alleged interference with his court ordered parenting time. These are "acts" that Arnold alleged *caused* him and his minor child Emotional distress ("IIED") within his federal diversity action seeking damages for IIED. Judge Lagoa's assertion that his claims *would* "implicate" the enforcement of these state court orders are frivolous simply because no arguable claim can be made that any enforcement would result in the *issuance* of any state order to make the domestic exception applicable. The subject of domestic relations was only designed for "[R]emedies which are attendant to domestic situations sitting before state courts in which federal courts are poorly equipped to handle the task... However, Federal courts [are] equally equipped [as state courts] to deal with complaints alleging the commission of torts" and breach of contract." *Chevalier v. Estate of Barnhart, 803 F. 3d 789 (6th Cir. 2015)*. Nothing in judge Lagoa's order makes these cites to law even appear questionable or arguable as to deem Arnold's complaint frivolous. Even if the enforcement of state court orders were barred under the domestic relations exception to diversity jurisdiction, which it is not according to *Ankenbrandt,* Arnold's tort claims would not directly or indirectly enforce compliance or modification of any state court order to even make the said exception, applicable. Thus, to say that Arnold's appeal was frivolous in denying his IFP motion, was frivolous in of itself.

C. Intentional Infliction of Emotional Distress claims does not depend on the determination of the Appellant's parental status.

Under Florida law, a parent may sue for intentional infliction of emotional distress for parental interference regardless if that parent is a custodial parent or not. "[W]ith regard to the [tort] of intentional infliction of emotional distress claim, the trial court erred in determining that the father lacked standing and in dismissing the claim... The concept of "standing" in terms of custodial rights is therefore irrelevant if the father can satisfy the four elements of the tort. *Stewart v. Walker 5 So. 3d 746 (Fla. Dist. Ct. App. 2009)* Thus, Arnold's IIED claim against his

child's mother for parental interference does not depend on his parental status. Further, Arnold has standing to sue Patterson for extortion/blackmail which too does not concern any status related to a court order which questions his claim. Lastly, Arnold did not sue Patterson for tortious interference of a custodial relationship under their child custody order where custody was been removed from him because according to *Stewart*, the Appellant would "[L]ack standing to bring this suit because he is not the custodial parent." *Id.*

D. Arnold's breach of fiduciary duty claim for parental interference does not depend on the determination of the Appellant's status.

Arnold also has standing to sue Patterson for the breach of a fiduciary duty. As with this claim, Arnold also did not sue his child's mother for tortious custodial interference, rather, breach of the Appellee's fiduciary duty because of her parental interference with his and his minor child's parenting time with one another on behalf of himself and his minor child. [Compl. Par. 267-273] [See also Compl. Pg. 54, Section C of relief] In this instance, the custodial relationship is also irrelevant. Parents clearly have a fiduciary duty to act in the best interests of their minor child while the child is in their custody. "[R]estatement (Second) of Torts, § 874... ("A fiduciary relation exists between two persons when one of them is under a duty to act for or to give advice for the benefit of another upon matters within the scope of that relation." Schovanec v. Archdiocese, 2008 OK 70 (Okla. 2008) As the Father, Arnold too has "[A] legal duty to act to protect [his] child[] from harm and abuse." *State v. Crosky, 2007 Ohio 6533 (Ohio Ct. App. 2007)* Furthermore, Arnold's breach of fiduciary duty would not seek to enforce the custody order because "[T]he liability is not dependent solely upon an agreement or contractual relation between the fiduciary and the beneficiary but, results from the relation." *Schovanec v. Archdiocese 2008 OK 70 (Okla. 2008)*. Nonetheless, Arnold's breach of fiduciary duty count does not depend on the status of the parties as to fit within the domestic relations.

II. **A FEDERAL TORT SUIT INVOLVING CLAIMS WHICH ELEMENTS DO AND NOT INVOLVE A FAILURE TO ACT OR TO PERFORM TO A CHILD CUSTODY ORDER IS NOT BARRED UNDER THE DOMESTIC RELATIONS EXCEPTION.**

Under the contentions of the Eleventh Circuit, any Federal tort suit involving claims which elements do *and* do not involve a failure to act or to perform pursuant to a state court order is barred by the Domestic Relations Exception and is frivolous. Excluding count three (3) for punitive damages based on the alleged extortionist usage of a child support order, there were only two counts in Arnold's complaint. Count one (1) was for the IIED based on Patterson's alleged extortionist usage of a child support order. [Compl. 254-266] Count one (1) does not involve a failure to perform pursuant to a child custody order. Count two (2) was for the breach of Patterson's fiduciary duty in disobeying their child custody order in exchanging their minor child and acting contrary to acting benefit to their minor child. [Compl. 267-273] Count two (2) does involve a failure to perform pursuant to a child custody order. But Arnold argues as more fully alleged below, that in both circumstances, his claims would are barred under the Domestic relations exception to Federal diversity jurisdiction for two reasons. The first is because his IIED claim are based on Florida's extortion statues which elements do not involve a failure to perform to a child custody order. Thus, the domestic relations exception applicability to state court orders are not a matter of concern with respect to this count. The second reason is because both his claims does not seek the issuance, the granting or modification of any state court order for the Domestic Relations to even apply to begin with.

A. The elements of Arnold's claims for the Intentional Infliction of Emotional Distress for the Extortionist Usage of a Child Support Order pursuant to Fla Stat. 836.05 does not seek the issuance, granting or modification of any state court order.

Arnold argues that his IIED claim cannot remotely be barred under Domestic Relations because the elements of such claim does not concern itself with any state court order because

under Florida's extortion statues, in which his IIED claim is based upon, the failure to perform to a child custody order is immaterial. Arnold contends that the Florida case of *State v Roberts* is an excellent case to determine whether the elements of his extortion claims even involve a failure to perform to a child custody order considering his extortion claims are based on Florida law. In considering the factors to determine jurisdiction under the omission-to-perform a duty, *State v Roberts*, citing the *Caruso* court, stated that one of the factors were "[W]hether the charged offense... forms the foundation or essence of an offense, even though the omission is not the offenses only element." State v Court Roberts, 143 So. 3d 936 (Fla. Dist Ct. App 2014)[2]. Arnold sought damages against his child's mother for IIED based on her acts of extortion under Florida law. Neither of the **elements** of extortion under Florida law require any violation of a custody order. Under Florida law, "[T]o prove the crime of extortion the State must prove the **following four elements**... [1] verbal communication... [2] by such communication threatened an injury to the person ... [3] the threat was made maliciously... [4] with the intent to extort money... or with intent to compel the person so threatened... to do any act... against his or her will." Duan v State, 970 So. 2d 903 (Fla. Dist. Ct. App. 2007).; Duan v State, 970 So. 2d 903 (Fla. Dist. Ct. App. 2007) (A threat to a person's mental well-being can constitute a threat of injury to a person). These four elements are absent any mentioning of a failure to perform to a child custody order.

Domestic relations are in fact, cases concerning child custody decrees and divorces which are historically based on "[H]usband and wife, parent and child, belong[ing] to the laws of the

[2] "[I]n *People v Caruso*, 119 Ill.2d 376, 116 Ill. Dec. 548, 519 N.E.2d 440 (1987), the court held that the father's acts of harboring his children in Ohio and failing to return them to the mother in violation of an Illinois custody order subjected him to prosecution in Illinois... The Caruso court found this language consistent with the Supreme Court's holding in *Strassheim v. Daily*, 221 U.S. 280, 285, 31 S.Ct. 558, 55 L.Ed. 735 (1911), that acts done outside a jurisdiction, but intended to produce and producing detrimental effects within it, justify a State in punishing the cause of the harm as if he had been present at the effect." State v Court Roberts, 143 So. 3d 936 (Fla. Dist Ct. App 2014).

States and not to the laws of the United States." *Ankenbrandt v. Richards, 504 US 689 – Supreme court (1998)*. Because the elements of Arnold's extortion claims for which his IIED claim is based upon, it does not concern itself with the failure to perform to a child custody order, his claims cannot remotely be regarded as such as to "[R]egulate the domestic relations of society and produce an inquisitorial authority in which federal tribunals enter the habitations and even into the chambers and nurseries of private families." *Ankenbrandt v. Richards, 504 US 689 – Supreme court (1998)*. Thus, his claims for the IIED have no bearing to any Domestic Relations to even be remotely considered barred under the Domestic Relations "*Exception*."

B. Both of the elements of Arnold's claims does not seek the issuance, granting or modification of any state court order to be barred under the Domestic Relations Exception.

The only claim which does involve a failure to perform or act pursuant to a child custody order is count two (2) within Arnold's complaint for the breach of a fiduciary duty. Unlike Arnold's IIED claim based upon Florida's extortion laws, the only element of the offense for his breach of fiduciary duty claim *is* based on his child's mother disobedience to the child custody order. [Compl. Par. 268-269] Arnold alleged that Patterson's extortion scheme caused her to interfere with his parenting time without fear of consequence because she was confident that if need be, her scheme could be utilized and would work and that she would not be held liable for her acts of alleged inteference. [Compl. Par. 270] Arnold alleged that Patterson's inteference with his parenting time was encouraged, provoked, engaged in, stimulated and emboldened by her blackmail and extortion scheme crafted to avoid being held liable for any inteference of Arnold's parenting time with his minor child. [Compl. Par. 273] Although Arnold's claims allege that Patterson's extortion scheme caused her to be confident she could avoid liability for her interference, Arnold's breach of fiduciary duty involves a sole element of her interference being

in disobedience to a child custody order. However, even if both of Arnold's claims involved an element of the failure to perform pursuant to a child custody order, it cannot be barred under Domestic Relations because neither elements involve the issuance, granting or modifying of a state court domestic relations order.

Eleventh Circuit judge Barbara Lagoa simply attempted to iron away Arnold's claims in its entirety under the general assertion that his claims "necessarily implicated the enforcement" of his child custody and child support orders. "[B]ut there is a wrinkle: the so-called domestic relations exception to federal diversity jurisdiction deprives federal courts of jurisdiction to adjudicate "only in cases involving the issuance of a divorce, alimony, or child custody decree." *Chevalier v. Estate of Barnhart, 803 F. 3d 789 – Court of Appeals, 6th Circuit (2015)* Thus, under no circumstance can either of Arnold's claims for relief be considered barred under domestic relations because neither of the elements of his claims involve the issuance of a divorce, alimony or child custody decree. Thus, under neither theory does the Domestic Relations apply.

CONCLUSION

For all the reasons stated above, the Petitioner respectfully requests that this Honorable Court to GRANT the Petitioner's Writ of Certiorari to determine whether a tort suit for the intentional infliction of emotional distress based on the alleged extortionate usage of a child support order and breach of fiduciary duty arguably does not apply to Domestic Relations under diversity jurisdiction if an element of the Federal claim involves a failure to perform to a state court domestic relations order and seeks no issuance of a state court order.

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