No. 24-6530

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

TIMOTHY DASLER,

(and on behalf of his minor child T.D.) Plaintiff-Appellant

Petitioner,

V.

DALENE WASHBURN, Defendant-Appellee

Respondant,

On petition for Writ of Certiorari

to the 2nd Circuit Court of the US.

PETITION FOR WRIT OF CERTIORARI

Timothy Dasler,
pro se, petitioner
488 NH Rt 10 Apt D
Orford, NH 03777

Dalene Washburn
and Counsel Jennifer McDonald
199 Main Street
PO Box 190 Burlington, VT 05401

Statement of the Issues Presented for Review

1. Whether the Federal Court's "virtually unflagging obligation" to exercise jurisdiction prohibits Domestic Relations or Younger abstention when:

   A. State remedies for the civil claims in the federal suit are inadequate;

   B. Allegedly parallel litigation lacks remedies for the same claims raised; and

   C. Federal abstention would prejudice the rights of the plaintiff.

2. Whether private discretion becomes state action under § 1983 when a state creates a hierarchy that delegates power to a private party, allowing that party to act as the gatekeeper of another's constitutional rights, and state power enforces the private discretion to sever those rights without due process of law.

3. Whether the "Class of One" protection under the Fourteenth Amendment, as established in Village of Willowbrook v. Olech, 528 U.S. 562 (2000), extends to § 1985 claims, unifying the statutory language "person or class of persons" with evolving equal protection jurisprudence and rejecting the requirement for "class-based animus" when the plain language protects "a person" or "class of persons."

4. Whether medical providers have third-party liability to parents when their actions interfere with the parent's constitutional rights to direct their child's medical care or when tortious conduct during medical treatment harms the child and injures the parent directly or indirectly, and whether such actions are actionable.

Parties to the Proceeding

The parties to the proceeding in the court below were:

TIMOTHY DASLER,

(and on behalf of his minor child T.D.) Plaintiff-Appellant

who brought claims on his own behalf and, where appropriate, as next friend of his minor child T.D.

Dalene Washburn, Respondent,

the medical provider whose actions are at issue in this litigation.

TABLE OF CONTENTS

Page(s)

Table of Contents

Table of Authorities

Statutes and Rules — Page(s)

Constitutional and Statutory Provisions Involved

Fourteenth Amendment to the United States Constitution; Section 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.

42 U.S.C. § 1983

Civil action for deprivation of rights:

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable.

42 U.S.C. § 1985

Conspiracy to interfere with civil rights:

(3) Depriving persons of rights or privileges: If two or more persons in any State or Territory conspire, or go in disguise on the highway or on the premises of another, for the purpose of depriving, either directly or indirectly, any person or class of persons of the equal protection of the laws, or of equal privileges and immunities under the laws; or for the purpose of preventing or hindering the constituted authorities of any State or Territory from giving or securing to all persons within such State or Territory the equal protection of the laws...

Opinions Below

Second Circuit Court affirmation of dismissal of Petitioner's claims is available at Dasler v. Washburn, 2024 U.S. App. LEXIS 10050(2d Cir. 4/25/24) and attached as(A.P .0003). Rehearing denied on 6/25/24 and mandate issued on 7/2/24(A.P .0003)

Relevant District Court of Vermont orders, include;

10/22/21 Order Denying Injunction,

12/10/21 Order to Show Cause,

Order 8/2/22, dismissal order partially granting Defendant's motion to dismiss

11/18/22 dismissal, final order dismissing the case on 7/18/23 available at 2:21-cv-194 and attached as(A.P .0011)

Jurisdiction

The Second Circuit affirmed the dismissal of Petitioner's claims on 4/25/24. Petitioner was granted an extension of time by the Second Circuit and filed within the extended deadline. Rehearing denied on 6/25/24. Mandate issued on 7/2/24.

On 10/2/24, Justice Sotomayor granted an extension until 11/22/24 to file a Petitoin of Writ of Certiorari pursuant to Rule 13.1

The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1), which provides for review of cases decided by the United States Courts of Appeals by writ of certiorari.

Statement of the Case

1. This case arises from Defendant Dalene Washburn's abuse of her role as T.D.'s therapist, resulting in tortious harm and violations of Mr. Dasler's and T.D.'s Fourteenth Amendment rights to due process and equal protection.

2. During the ex-parte suspension of Mr. Dasler's parental rights and visitation, Ms. Knapp(T.D.'s mother), hired Ms. Washburn as T.D.'s therapist. Ms. Washburn advocated against enforcement of the Family Court's 6/12/17 and 8/1/17 orders(A.P.009-0010) to "normalize contact" between Mr. Dasler and T.D

3. The Family Court's 2/23/18 Order(A.P.009-0010) enforced 50/50 visitation after nine months of deprivation and rejected Ms. Knapp's and Ms. Washburn's advocacy for supervised visitation. The order required both parents to continue T.D.'s treatment with Ms. Washburn.

4. The Final Divorce Order(8/17/18(A.P.0044) preserved Mr. Dasler's "equal rights" to access T.D.'s medical records and to have a "meaningful opportunity to have input" into medical decisions. However, it granted Ms. Knapp tie-breaking authority on medical decisions.

5. In October 2018, Ms. Washburn and Ms. Knapp privately agreed to conduct T.D.'s medical services in secret, excluding Mr. Dasler from decisions and access to records, in direct violation of the 8/17/18 Custody Order, severing his access to medical information and decisionmaking(12/19/22 Comp. Pg.5,13,16-18, Brief Pg.37)

6. This exclusion appears to have been in retaliation for Mr. Dasler's questioning of Ms. Washburn's "therapy dog" credentials after the dog bit T.D., causing severe facial

injuries(12/19/22 Comp. Pg.2,5,10-15,22-28). In response, Ms. Washburn accused Mr. Dasler of coaching T.D. and obstructed his lawful access to medical records. These retaliatory actions violated court orders and interfered with Mr. Dasler's parental rights

7. In May 2021, Mr. Dasler filed a federal lawsuit under VT/NH state torts, diversity, federal jurisdiction, 42 U.S.C. §1983 and §1985, alleging that Ms. Washburn's actions, enabled by the state's delegation of authority, constituted state action.

8. The District Court abstained and dismissed the case(A.P.0011 affirmed A.P.0003). Neither court addressed inadequacy of remedies in state proceedings or accepted that state power backing Ms. Washburn's severance of parental rights to medical information rendered her actions state action under §1983, and dismissed §1985 claims without considering "Class of One" developments since Willowbrook(11/29/21 Response Pg.14-18, Brief Pg.39-41)

9. Relying upon abstention, the claimed a lack of subject matter jurisdiction.

10. This case raises critical questions about the limits of federal abstention, the scope of state action under §1983, and the interpretation of §1985 in light of evolving equal protection jurisprudence. Given the significant constitutional stakes and systemic misuse of abstention doctrines, this Court's intervention is necessary to resolve these issues.

Reasons for Granting Certiorari

1. Federal Courts Misapply Abstention Principles to Abdicate Jurisdiction

11. Abstention is a limited exception to Federal courts' "virtually unflagging obligation" to exercise their jurisdiction(Colorado River v. US, 424 U.S. 800, 817 (1976)) predicated

on availability of adequate remedies for the same claims raised in federal court(Sprint v. Jacobs, 571 U.S. 69, 73 (2013)).

12. The court erred extending abstention to;

1. Non-parties to the state/family court proceedings
2. Dismissal of claims that could not be addressed in those proceedings, and;
3. Claims "entirely distinct" from Family Court Jurisdiction/interests

13. The courts misapplication of Domestic Relations and Younger abstention, to issues "on the verge of being matrimonial" conflicts with clear precedent in Ankenbrandt v. Richards, 504 U.S. 689(1992), stating that abstention does not extend to tort or contract claims merely because they arise in a domestic context.

14. In Ward(infra Pg.18), the SCOV emphasized that tort claims are "entirely distinct" from family law issues and forbid joinder with family court because tort claims require a jury trial. Dismissal on abstention grounds ignored both SCOTUS precedent and the Vermont judiciary's explicit recognition of jurisdictional boundaries.

15. Family Court remedies for these claims are plainly unavaiulable, and Vermont's judicial standards fall below Constitutional Minimums(further detailed(Infra(Pg.19, 24, 24)(12/19/22 Comp.Pg.42, 11/29/21 Response Pg.14-18, Brief Pg.23-33, Reply Pg. 17-24 to argument in brief).

16. The Second Circuit's decision conflicts with SCOTUS precedent by applying abstention in a case involving clear constitutional violations including deprivation of 14th Amendment Rights without due process. Abstention is inappropriate where federal rights are at stake, even in the context of domestic relations(Elk Grove Unified Sch. Dist. v.

Newdow, 542 U.S. 1(2004); Palmore v. Sidoti, 466 U.S. 429 (1984))

17. The Vermont Courts have also showed an alarming inability/unwillingness to address the weaponization of ex-parte actions, private interference with visitation/custody that is backed by state power, and allowed ex-parte deprivations to extend for as much as 5 years after proving "no credible factual basis" to the allegations(see Knutsen v. Cegalis 2016 and 2017). The Vermont assessment of what process is due falls far short of Federal Minimum Standards.

2. Clarification of State Action Standards Under § 1983

18. This case presents an opportunity for the Court to clarify when private discretion becomes state action under 42 U.S.C. §1983 unifying a theory including;

1. Private creditor obtained a pre-trial attachment only ratified by the court(Lugar v. Edmondson, 457 U.S. 922(1982))
2. Private Real Estate agreement elevated from private discrimination to Unconstitutional State Action if enforced by a court(Shelley v. Kraemer | 334 U.S. 1(1948))
3. Private medical providers become State Actors when state power selects the provider a party must use(West v. Atkins, 487 U.S. 42(1988))
4. When duty to provide medical care to a child was outsourced to a private party, State Power limited access to medical care, thus backed the discretion of the medical provider creating State Action Roberson v. Dakota Ranch, 42 F.4th 924(2022)

19. The logical nexus is that private harm elevates to Unconstitutional State Action when

1. A private party becomes the gatekeeper of another person's Constitutional Right
2. Their discretion is empowered/supported by state power
3. This nexus gives the private party state power to achieve an impairment of a Constitutional Right that the state would lack authority to achieve without Due Process, and the private party would lack the power to achieve without state support/power..

20. Where the state power/delegation makes a private party the gatekeeper of a Constitutional Right, that private party's decision to obstruct that right becomes actionable under §1983

21. Here, Vermont ordered the parties to use Ms. Washburn, a private therapist(2/23/18 Order(A.P.009-0010). State enforcement mechanisms prevented Mr. Dasler from seeking alternative providers, making Ms. Washburn the gatekeeper of his parental rights, and allowing her to sever his access to his child's medical care/records under the cloak of state authority, transforming her actions into state action.

22. The lower courts failed to analyze whether the state's delegation of authority and enforcement of Ms. Washburn's decisions constituted state action under § 1983 (A.P.0011;A.P..0003). This oversight is especially egregious given Vermont's history of tolerating constitutional deprivations in family court cases, as illustrated by Knutsen v. Cegalis, 2016 VT 2, and 2017 VT 62, where courts allowed 5 years-long deprivations of parental rights with "no credible factual basis" or adequate enforcement of reunification orders.

3. Resolving the Misinterpretation of § 1985

23. Interpretation of §1985 should shift to accommodate the change in 14th Amendment interpretation, which includes "class of one" protection since Willowbrook v. Olech, 528 U.S. 562 (2000). The statute relies on the Constitution to establish the elements of the claim, and the plain language has always supported "class of one" claims.The "class-based animus" requirement is unsupported by the text, and was predicated on Griffin's interpretation of "**The constitutional shoals that would lie in the path of interpreting § 1985"**, and a view of the limits of "equal protection" claims, which has since been supreseded by Willowbrook.

24. This case offers an opportunity to align §1985 with modern equal protection jurisprudence under the Fourteenth Amendment and unify the plain language of §1985 to protect any "persons **or** class of persons" rather than the unsupported interpretation of "persons [within a protected] class of persons"

25. Dismissal of Mr. Dasler's §1985 claims ignored this precedent/argument(Comp. Pg.14-18, Brief Pg.39-41).

26. Petitioner's interpretation unifies the plain language of §1985 with the "class of one" protection available under the 14th Amendment.

A. 4. Ensuring Accountability for Third-Party Tortious Conduct in Family Law Contexts

27. This case raises important questions about third-party liability in cases where medical providers interfere with parental rights or harm the child in ways that directly or indirectly injure the parent. The increasing prevalence of shared parenting arrangements and court-ordered medical providers highlights the urgent need for clarity on liability.

28. Care Providers have been found to have liability to 3rd parties in;

1. 17 Cal.3d 425 (1976), 146 Vt. 61 (1985), Restatement (Third) of Torts § 43, 2021 VT 71, P43, 215 Vt. 432,
2. In Cegalis v. Trauma, 2020 U.S. Dist. LEXIS 76316, the District of Vermont acknowledged the potential for tortious interference by therapists to cause substantial harm. These principles demand that courts hold medical providers accountable when they breach their obligations, harm their patients, and interfere with the rights of parents, particularly where the parent has a vested interest in the decisionmaking for the child.

29. This Court's intervention is needed to clarify the boundaries of third-party liability particularly where a parent is forced into compliance with a medical provider, yet that provider's actions can harm both the parent and child's interests without an indigent parent being able to advance the child's interests withotu counsel and where the parent retains a protected interest in decision making for the child.

30. Both parents and children should be entitled to protection from abuses of power by state-designated providers.

31. Cegalis v. Trauma Inst., 2020 U.S. Dist is a continuation of a decade long saga starting in Vermont Family Court(see Knutsen v. Cegalis VT 2016 and 2017) that left the child on the verge of suicide due to the weaponization of the court and private therapist and lack of enforcement by the Vermont Family Court. By the time the therapist was professionally disciplined through independent action(Cegalis v. .Trauma 2020 US) the damage had long since been done.

32. Mr. Dasler's requested injunction to stop a medical provider from providing care that violates the child and parent's rights under Family Court orders would not obstruct such orders, and would only stop an Unconstitutional deprivation of rights backed by state power. In no way would it interfere with state court orders by simply ordering a provider not to provide care that deprived the child or parent of their lawful access under state court orders.

Argument

1. Whether the Federal Court's "virtually unflagging obligation" to exercise jurisdiction prohibits Domestic Relations or Younger abstention when:

A. State remedies for the civil claims in the federal suit are inadequate;

B. Allegedly parallel litigation lacks remedies for the same claims raised; and

C. Federal abstention would prejudice the rights of the plaintiff.

I. Federal Courts Have a "Virtually Unflagging Obligation" to Exercise Jurisdiction

33. Federal courts have a "virtually unflagging obligation" to exercise their jurisdiction(see Colorado,424 U.S. 800, 817(1976)). Abstention remains permissible only in exceptional circumstances and requires a showing that state remedies are both adequate and available. In this case, the District Court and Second Circuit erroneously applied abstention doctrines, depriving the Petitioner of a forum to address federal and state claims for which there is no adequate remedy in state court.(11/29/21 Pg.19-29, 8/8/23 throughout, Brief Pg.23-33 Reply Pg. 17-24)

34. Abstention in this case represents a stark departure from these principles. By invoking Domestic Relations Abstention and Younger doctrines, the lower courts disregarded the fact that the state Family Court had already resolved the underlying domestic issues and explicitly

rejected efforts by the child's mother to block the Federal Litigation(9/16/21 Motion 74-6-17Oedm and 11/5/21 Order(A.P.0043)Raised/preserved- Brief Pg.16, P.C.0043; Reply Pg.13, P.C.0102) 11/29/21 Motion Pg.48). Further, Vermont law precludes the adjudication of tort claims in Family Court, making the state forum inadequate for the claims raised here.(Raised/preserved; 2/7/22 Resp. Pg.8-12, Brief Pg.20-25)

35. In denying Ms. Knapp's motion for contempt and enforcement to block the federal suit, the Family Court preserved Mr. Dasler's rights and removed any pretense that federal jurisdiction over these claims would infringe upon state court interests.

A. Abstention Requires Adequate State Remedies

36. The foundational requirement of availability of adequate remedies was ignored

37. Vermont law explicitly precludes joinder of tort claims with Family Court proceedings. In Ward(Infra Pg.18), the Vermont Supreme Court held that tort claims are "entirely distinct" from family law matters and must be resolved in a separate proceeding to preserve the right to a jury trial.

38. The Vermont Family Court does not have jurisdiction over tort claims.

39. The federal claims at issue cannot be heard or remedied in any existing/pending state proceedings.(argued/preserved; 11/29/21 Response Pg.21, 8/8/23 Pg. 1-2, Reply Brief Pg.24)).

*"**efficient administration of dissolution cases requires their insulation from the peculiarities of matters at law**. The joinder of marriage dissolution actions with claims sounding in tort or, for instance, contract **would require trial courts to address many extraneous issues, including trial by jury**, and the difference between the amicable settlement of disputes that have arisen between parties to a marriage, and the adversarial nature of other types of civil cases..."a civil action in tort is fundamentally different from a divorce proceeding, and that **the respective issues involved are entirely distinct.**"*

Ward v. Ward, 155 Vt. 242, 583 A.2d 577(1990)(emphasis added)

40. Therefore, Family Court poceedings cannot preclude a related tort case because doing so would deprive the Plaintiff of his right to a jury trial

41. Further, Vermont's standard for reviewing fact-finding in civil cases falls far short of federal due process standards, and has abrogated the application of standards of evidence by requiring only 'any evidence' rather than the preponderance.

> *"Factual findings are viewed in a light most favorable to the prevailing party, disregarding modifying evidence....A finding will not be disturbed merely because it is contradicted by substantial evidence; rather, an appellant must show there is no credible evidence to support the finding."* Mullin v. Phelps, 162 Vt. 250, 260, 647 A.2d 714, 720 (1994)

42. Any Evidence is enough to support any standard of evidence regardless of their plausibility in light of the entire record because no finding is erroneous if evidence exists to support it(while all "modifying evidence" is excluded).

43. Although appeal is not a right in the Civil context, when it exists the court must uphold Constitutional Minimums of Due Process. The SCOV could hold that findings are not reviewable if any evidence exists, however, they would lose preclusion without review.

44. By affirming findings WITHOUT meaningful review and holding that the standards need not be reasonably applied if any evidence exists to support them, the court clearly circumvents the Constitutional Rights of litigants.

45. This standard creates an inarguably lower standard in state proceedings, even if this court held that the state need not uphold the Federal standards. Forcing a litigant into a venue with lower standards is prejudicial, and presents a barrier to meaningful relief for Federal claims in Vermont courts

46. The Federal courts' failure to assess these inadequacies directly conflicts with this Court's precedent requiring adequate remedies before abstention can be justified(see Sprint v. Jacobs, 571 U.S. 69 (2013)).(Procedual inadequacies argued/preserved; 2/23/22 Response Pg.10-14, 12/19/22 Comp.19-29, 42, Brief Pg. 22-30)

47. Subsequent to the District Court's dismissal, a new statute(§1181-1185) in Vermont was used to dismiss additional filings by Mr. Dasler "with prejudice" without considering the merits,

instead based dismissal upon vague allegations of conduct pre-dating the statute's 9/1/23 implementation.

48. This resulted in the 12/4/23 Abusive Litigation Orders in the state court(introduced in Appellee's Brief and Supplemental Papers()A.P.0035)(argued/preserved in Reply Brief Pg.20-24)

49. Subsequent to the Circuit Court Decision, the Vermont Supreme Court affirmed the 12/4/23 Orders, making the first interpretation of the newly implemented Abusive Litigation Statute(15 V.S.A. §1181-§1185) in its 10/25/24 Decision(A.P.0036) affirming punitive dismissal of litigation "with prejudice and without addressing the merits" based upon the allegation that separate filings were found to be abusve(even if they predate the statue and the accuser had previously been denied sanctions under previous law)

50. Examples of what the court callse "abusive litigation" includes Mr. Dasler's Motion to Clarify(A.P.0039) asking whether the court requires him to serve opposing counsel a copy of Pre-filing Applications pursuant to the Order and other procedural concerns about compliance with the new law. The court's response..."DISMISSED WITH PREJUDICE, as there are no reasonable and legitimate grounds upon which the notions are based, if permitted, would constitute abusive litigations"(A.P.0038)

51. According to SCOV interpretation, this would justify dismissal of unrelated filings because the court "shall dismiss WITH PREJUDICE...is mandatory"(A.P.0036) including any remaining filings in the case "without addressing the merits as contemplated by §1184(a)"

52. Mr. Dasler runs the risk of any and every filing being dismissed indiscriminatly "with prejudice" in the same fashion.

53. The SCOV decision underscores the futility of seeking remedies in Vermont courts.

54. The statute has been applied so broadly that it encompasses satellite litigation not directly

involving the protected party, Ms. Knapp. For example, filings against Ms. Washburn and the school were cited as Abusive, suggesting such litigation may also be dismissed 'with prejudice' as part of a broader pattern allegedly involving Ms. Knapp's interests, despite their tenuous connection to her(10/25/24 SCOV Decision 74-6-17Oedm)(Reply Brief Pg.20-24).

1. The SCOV did not require pleading specific "abusive" filings by statutory terms, did not require adequate time to respond to the allegations, and did not require that the court's findings identify specific violations by statutory terms as opposed to a vague 'hollistic' view of the litigation.

2. The court further held that because Sanctions were theoretically possible before, Mr. Dasler had fair notice, justifying retroactive application that allowed her to relitigtae filings after being denied sanctions under previous law, thus she was able to relitigate with a presumption in her favor, without safe harbor protection for Mr. Dasler, and with nothing more than conclusory allegations in the pleading that failed to give fair notice before trial.

3. Although Mr. Dasler prevailed in the 10/5/23 Enforcement Hearing(A.P.0034), by the SCOV reasoning, if the 12/4/23 Abusive Litigation Order were issued BEFORE that hearing took place, the court would have been obligated to dismiss the Enforcement action "with prejudice" without addressing the Merits as requested by Ms. Knapp.

55. Moreover, Mr. Dasler's Motion for Sanctions pointed out that requesting "any and all" litigation be dismissed without identifying ANY existing litigation as abusive is sanctionworthy, yet ironically the court dismissed the Motion for Sancitons "with prejudice" without reaching the merits as allegedly abusive, precisely the opposite of what justice would command.(A.P.0035-0037)

56. The argument of inadequate remedies and the Abusive Litigation Order was not acknowledged by the District or Circuit Courts, thus without instructions on remand, the court

would likely not consider this alarming and eggregious violation of Due Process that risks dismissal of this suit "with prejudice" without reaching the merits if it is refiled in the state court.

B. The Claims Raised in Federal Court Are Not Parallel to State Proceedings

57. State proceedings are neither "ongoing" nor "parallel" because;

1. Custody/visitation issues were resolved in final orders(2/23/18 and 8/17/18 Orders A.P.0009-0010, A.P.0044-46).
2. Vermont Family Court explicitly rejected efforts by Ms. Knapp to block this litigation, finding that the federal suit does not interfere with its jurisdiction or orders(A.P.0043, P.C.0102).
3. The Federal Court should respect the Vermont Court's decision to leave jurisdiction to the Federal Court
4. No Family Court rulings are challenged, but instead seeks redress for tortious and unconstitutional interference with rights under those orders by a nonparty.
5. Abstention is inappropriate in this case.

*"**abstention is inappropriate in a case**--such as one involving a woman's tort claim against her former husband and his female companion, which claim is based on the defendants' alleged sexual and physical abuse of two daughters of the plaintiff and the former husband--**where the status of the domestic relationship has been determined as a matter of state law and, in any event, has no bearing on the underlying torts alleged**; moreover, should Burford abstention be relevant in other circumstances, it may be appropriate for the federal court to retain jurisdiction to insure prompt and just disposition of the matter upon the determination by the state court of the relevant issue.*

Ankenbrandt v. Richards, 504 U.S. 689, 691, 112 S. Ct. 2206, 2208(emphasis added)

58. The federal courts' reasoning here contradicts the principles of Ankenbrandt and Marshall v. Marshall, 547 U.S. 293 (2006), which prohibits broad applications of abstention doctrines in cases involving torts or distinct legal claims that do not depend on the resolution of domestic

relations issues. Reliance on a "verge of being matrimonial" standard(Deem v. Dimella-Deem, 941 F.3d 618 (2d Cir. 2019)) expands abstention far beyond what this Court has ever authorized

C. Federal Abstention Prejudices Plaintiff's Rights

59. Without overlapping claims, there is no truly "ongoing" state proceeding to which Younger would apply.

60. Martinez v. Martinez, 2010 U.S. Dist. LEXIS 38109(D.N.M. 2010) emphasizes that the mere ability to modify a state court order does not render the underlying proceeding "ongoing" for abstention purposes. The proceedings must remain genuinely unresolved and closely intertwined with the federal claims.

61. In this case, the federal claims involve neither the same Defendant, nor available claims in Family Court proceedings. Ms. Washburn's conduct lies entirely outside the jurisdiction of the Family Court.

State Proceedings Are Not "Ongoing"

62. The Final Divorce Order issued on 8/17/18 resolved the custody and visitation issues between Mr. Dasler and Ms. Knapp. Later motions to modify/enforce issues are "entirely distinct" from tort claims against Ms. Washburn in the federal suit(see Ward Supra Pg.18).

63. While Mr. Dasler's 2020 Motion to Modify was pending in Family Court(but resolved on 9/30/22), the state court also resolved the question of interference in favor of Federal Jurisdiction(A.P.0043) rejecting Ms. Knapp's motion to block this federal litigation.

64. Future modifications to custody/visitation orders would not retroactively address past violations or negate Mr. Dasler's entitlement to damages and injunctive relief against Ms. Washburn.

65. As Martinez clarifies, only unresolved legal questions arising in state proceedings can render them "ongoing" under Younger, and if courts held that the possibility of modification required

abstention, then abstention would become the rule rather than the exception as anything can be reopened via Rule 60, for example.

66. Vermont Family Court orders have already defined Mr. Dasler's rights to medical access and decision-making. His federal claims merely seek to enforce those rights and remedy violations by Ms. Washburn, a third party. These claims remain entirely outside the scope of Family Court jurisdiction under Vermont law, which excludes tort claims from family proceedings(see Ward Supra Pg.18).

67. The SCOTUS *"sanctioned the exercise of federal jurisdiction over the enforcement" of a divorce decree "that had been properly obtained in a state court of competent jurisdiction."(Ankenbrandt and Marshall 547 U.S. 293)*

State Practices and Procedure Prejudice Plaintiff's Rights

68. The SCOV's reasoning as to what process is due is fatally flawed. Precedent in the state as well as the Dasler Family Court case highlight the futility of seeking redress of deprivation of Parental visitation/rights within that system.

69. Some of the worst precedent, which are considered good law in Vermont, include;

1. Knutsen v. Cegalis, 2016 VT 2 allowing the custodial parent to prevail on the fruits rather than the merits of an ex-parte order with "no credible factual basis" and continue the ex-parte suspension for another 18 months even after the non-custodial parent prevailed in disproving abuse allegations.
2. Knutsen v. Cegalis, 2017 VT 62 allowing the custodial parent to prevail on the fruits of their misconduct and obstruction of reunification orders, thus extending the total suspension of parental visitation to 5 years without meaningful enforcement. The SCOV remanded only to order the prevailing party to pay the attorney fees of the

losing party as a consolation prize in lieu of Due Process

70. In stark contrast to the SCOV, the 4th Circuit held that a deprivation of even a few days could be Unconstitutional(15 F.3d 333 (4th Cir. 1994))

71. Such delays and inadequacies highlight the futility of relying on Vermont's Court system to redress violations of federal rights, especially when the fail to uphold Constitutional Minimums for Due Process, and have nullified the application of standards of evidence(Mullin supra Pg.19)

72. There is no just reason to force a litigant into a venue with a lower standard than the Federal Court or to deny a right to a jury trial by allowing bench trials in Family Court proceedings to preclude tort claims that were unavailable in those proceedings.

73. The refusal to enforce orders or provide timely remedies, as seen in Knutsen, underscores why federal intervention is necessary to ensure Mr. Dasler's constitutional rights are upheld. Federal courts must not abdicate their duty to provide a forum for the enforcement of federal rights when state remedies are inadequate.

Federal Courts' Failure to Exercise Jurisdiction Harms Plaintiffs

74. State Court Orders are not challenged by this suit for Tort damages and injunctive relief for Ms. Washburn's violations of Mr. Dasler's rights under existing orders. These claims have no effect on the substance of the Family Court orders and only address Ms. Washburn's independent conduct that is beyond the jurisdiction of the Family Court. The refusal of the federal courts to exercise jurisdiction effectively leaves Mr. Dasler without a remedy for harms that Vermont law precludes the Family Court from addressing.

75. As illustrated in Knutsen(supra Pg.24), even a total deprivation of parental visitation/rights for 5 years at the hands of a private actor violating state court orders is not viewed as a Due Process violation by the SCOV. The futility of that venue is clear.

76. Overbroad application of abstention principles undermines this Court's directive in

The Federal Question of Due Process

77. This case also raises broader federal concerns about the adequacy of state remedies when parental rights are at stake. As cases such as Troxel v. Granville, 530 U.S. 57(2000), Stanley v. Illinois, 405 U.S. 645(1972), and Santosky v. Kramer, 455 U.S. 745(1982) emphasize, questions about the standards and processes required to disturb parental rights are federal questions. Vermont refuses to apply the same evidentiary standards, as seen in Knutsen(supra Pg.24) and Mullin(Pg.19). Federal courts must remain a forum for ensuring that constitutional due process standards are met, especially when state systems fail to provide meaningful protection.

D. The Second Circuit's Misapplication of Abstention Doctrine Contravenes Supreme Court Precedent

1. Federal Courts as Guardians of Federal Rights

78. Abstention doctrines, while intended to balance federal and state systems, must not operate as a obstacle to prevent vindication of federal rights:

> *"The doctrine of abstention...is an* ***extraordinary and narrow exception to the duty of a District Court to adjudicate a controversy properly before it. Abdication of the obligation to decide cases can be justified under this doctrine only in the exceptional circumstances where the order to the parties to repair to the state court would clearly serve an important countervailing interest.*** *" (Colorado River v. US, 424 U.S. 800, 813(1976); Sprint v. Jacobs, 571 U.S. 69, 78 (2013)(emphasis added)*

79. The Federal Suit neither effects state interests(A.P.0043) nor does the state court provide an adequate forum for these federal claims. Custody/visitation matters are resolved and claims against Ms. Washburn are "entirely distinct" and outside the jurisdiction of Family Court. Furthermore, as shown in Knutsen v. Cegalis and Ward(Supra Pg.18), Vermont courts are structurally and procedurally incapable of adjudicating these Civil claims adequately.

2. Prejudice from Misapplication of Abstention Doctrines

80. The Supreme Court has emphasized that abstention is inappropriate where there is no ongoing state proceeding closely tied to the federal claims.(see also analasys in Martinez U.S. Dist. LEXIS 38109(D.N.M. 2010)). The potential for modifying an order does not render state proceedings "ongoing"(id.)

81. Abstention under these circumstances prejudices Mr. Dasler by compelling him to litigate in a state system ill-equipped to adjudicate his claims, and enforce his rights, as demonstrated in Knutsen and Ward(Supra Pg.18).

3. Futility of Relying on Vermont's State System

82. The futility of Vermont's Family Court system in protecting parental rights is exemplified by Knutsen and Mullin(Discussed supra Pg.24)

83. Where a therapist can be weaponized as in Knutsen and Cegalis v. Trauma, the Vermont Courts are not just inadequate, but actively weaponized, particularly in light of the development of the Abusive Litigation Statute interpretation

84. All forms of abstention doctrine require adequate state remedies. The procedural deficiencies in Vermont courts create systemic barriers to justice for litigants like Mr. Dasler.

Abusive Litigation

85. The "Abusive Litigation"(supra) order highlights deficiency, illustrating the Vermont judiciary's systemic failure to provide meaningful redress for violations of fundamental rights.

86. When the judicial system itself can be weaponized against a litigatnt to obstruct vindication of Constitutional Rights "Among the most dangerous things an injured party can do is to appeal to justice."(407 U.S. 225, 241, 92 S. Ct. 2151(1972))

87. While a statute designed to protect victims could serve a positive purpose, the combintion of retroactive application, reinterpreting what was meand to be a "temporary" relief from abuse order(which Mr. Dasler was unable to defend against due to parallel proceedings that resolved

without a finding of abuse), yet the VT Court did not allow collateral attack of the old RFA in spite of new evidence and incentive to litigate. While heavily wieghting the scales such that Ms. Knapp is not considered to be in the wrong for filing 170 pages of filings in 6 months with multipe ex-parte suspensions of visition(on which she did not prevail on the merits), yet Mr. Dasler asking for clarification of a new statute is "abusive"(A.P.0038-0042)

4. Federal Courts' Duty to Prevent Prejudice

88. In Troxel v. Granville and Stanley v. Illinois, the Supreme Court underscored the federal courts' obligation to uphold constitutional standards in matters affecting parental rights. When the Federal Courts refuse to acknowledge the concerns of adequecy of remedies they cannot be said to have exercised discretion.

89. The prejudice to Mr. Dasler in this case is threefold:

1. Deprivation of a Jury Trial: Vermont's Family Court structure inherently excludes jury trials for tort claims, as required under federal law.
2. Failure to Enforce Constitutional Rights: Vermont's procedural deficiencies, as demonstrated in Knutsen and Mullin, make it impossible to obtain meaningful relief for federal claims in state proceedings.
3. The Vermont Courts have interpreted the new statute §1181-1185 to allow dismissal of fiilngs "with prejudice" without reaching the merits based upon allegations of abusive filings predating the statute, and an interpretation of Abusive that encompasses nearly everything.
4. Given that the SCOV ALSO applied the 'existance of evidence' standard even to an inquiry as to whether any legal basis for a filing exists, it has simply allowed courts to invent any set of facts without need to adhere to evidentiary standards(A.P.0036)

Conclusion for Question I

90. Misapplication of Abstenton was thoroughly raised and argued(Brief 15-33, Reply 17-24) and with the lower court(11/29/21 Pg.24, 8/8/23 generally). This case exemplifies the urgent need for this Court to clarify the limits of abstention doctrines and to ensure that federal courts do not abdicate their duty to protect constitutional rights. The Second Circuit's decision conflicts with this Court's precedents, misapplies abstention principles, and denies Mr. Dasler a meaningful remedy for the harms he has suffered. Certiorari should be granted to restore the proper balance between federal and state jurisdiction and to reaffirm the paramount importance of safeguarding federal rights.

2. Whether private discretion becomes state action under § 1983 when a state creates a hierarchy that delegates power to a private party, allowing that party to act as the gatekeeper of another's constitutional rights, and state power enforces the private discretion to sever those rights without due process of law.

Introduction

91. Federal courts have long held that private parties may be deemed state actors under § 1983 when their discretion is enforced/supported by state power(see Lugar, 457 U.S. 922, 937 (1982)).

92. In this case, Vermont narrowed Plaintiff's access to his parental rights such that Ms. Knapp and Ms. Washburn become gatekeepers of those rights.

93. State court orders conferred this authority and insulated it from challenge replacing judicial discretion with private discretion to sever that right, elevating her private actions into state action under §1983.

94. Much like the Knutsen cases, the court lacked authority to sever Mr. Dasler's parental rights without meeting the requisite judicial standards, and Ms. Knapp and Ms. Washburn lacked the power to achieve the severance of rights they sought in the 2018 action.

95. Once they became the gatekeepers, however, they were able to use that discretion to achieve

what the court lacked the authority to do, and use state power to achieve what they otherwise lacked the power to achieve.

96. The Gatekeeper empowerd by the state is the heart of §1983 state action.

A. State Action Requires Delegation, Authorization, or Enforcement by the State

97. This Court has articulated that state action may exist when the government delegates authority, explicitly authorizes actions, or enforces the private actor's decisions (West v. Atkins, 487 U.S. 42, 54 (1988); Edmonson v. Leesville Concrete Co., 500 U.S. 614, 620 (1991)).

98. Delegating Ms. Washburn as the sole provider of a medical service meets these criteria.

Delegation of Authority:

99. The Vermont Family Court explicitly ordered both parents to use Ms. Washburn as the child's medical provider and vested Ms. Knapp with Primary Parental Rights and Responsibilities including a tie-breaking vote to required to change providers(2/23/18 and 8/17/18 Orders, A.P.0009-10, A.P.0044-46).

100. Thus, they are the gatekeepers through which Mr. Dasler must access his rights to access his child's medical information and participate in medical decision-making.

101. When they enter into a private agreement to sever his rights, their joint participation creates joint liability.

"Under Vermont law, "[a]ll who aid in the commission of a tort by another, or who approve of it after it is done, if done for their benefit, are liable in the same manner as they would be if they had done it with their own hands." Montgomery v. Devoid, 181 Vt. 154, 164, 915 A.2d 270(2006)

Authorization of Private Discretion:

102. Ms. Washburn abused that power to exclude Mr. Dasler from accessing medical records and decision-making, violating state orders that guaranteed him equal access and a meaningful opportunity for input (8/17/18 Order, A.P.0044-46). By permitting Ms. Knapp and Ms. Washburn to act outside the court's established framework, the state authorized private discretion that infringed upon Plaintiff's constitutional rights.

State Enforcement:

103. The enforcement of Ms. Washburn's discretion through state mechanisms without due process further demonstrates state action. Although delegated by the court as the provider of therapy for the child, her actions were shielded by the Family Court's lack of personal jurisdiction over Ms. Washburn.

104. Ms. Knapp avoided Enforcement in Family Court by blaming Ms. Washburn, a non-party, for the severance of rights, and Ms. Knapp in turn sought to use Primary PRR to obstruct Mr. Dasler's civil suit against Ms. Washburn(A.P.0043)(Argued/preserved in Brief Pg.37, Reply Brief Pg. 13-17, 12/19/22 Comp. Pg. 5, 13, 16-18, 11/29/21 Pg.48)

105. Meanwhile the obstacle to access Mr. Dasler's rights remains state power that prevent him from either obtaining a different care provider or otherwise enforcing his rights to access the state delegated care provider.

B. Private Discretion Becomes State Action When It Violates Fundamental Rights

106. This Court has recognized that private parties may be deemed state actors when their actions, under color of state law, deprive individuals of fundamental rights;

1. In Shelley v. Kraemer, 334 U.S. 1 (1948), the Court found state action in the judicial enforcement of racially restrictive covenants.
2. In Lugar, a private creditor's use of an ex parte attachment procedure constituted state action because private discretion was backed by state power.
3. Private medical providers become State Actors when state power selects the provider a party must use(West v. Atkins, 487 U.S. 42, 108 S. Ct. 2250(1988))
4. When duty to provide medical care to a child was outsourced to a private party, State Power limited access to medical care, thus backed the discretion of the medical provider creating State Action(Roberson v. Dakota Ranch, 42 F.4th 924, 929-930, 2022 U.S. App.

107. Infringement of Parental Rights: Parental rights are fundamental and protected

under the Fourteenth Amendment (Troxel v. Granville, 530 U.S. 57 (2000)). By obstructing Plaintiff's access to medical records and excluding him from decision-making, Ms. Washburn deprived him of these rights. Her actions, enabled by state delegation and enforcement, constitute state action under §1983.

Obstruction Without Due Process:

108. Defendant's actions deprived Plaintiff of his rights without the procedural safeguards required by Mathews v. Eldridge, 424 U.S. 319 (1976). The Vermont Family Court's orders, which allowed Ms. Washburn to act as a gatekeeper, provided no meaningful opportunity for Plaintiff to challenge her decisions or obtain judicial review of her actions.

C. The Second Circuit Misapplied State Action Doctrine

109. The appellate court did not address:

1. Delegation of Power: The court overlooked the Family Court's role in empowering Ms. Washburn to act as a gatekeeper, depriving Plaintiff of his constitutional rights. This delegation is analogous to the state-endorsed actions found to constitute state action in West and Edmondson.
2. Failure to Remedy Violations: Despite Plaintiff raising these issues in his filings(Brief Pg.23-35, 11/29/21 Response Pg. 7, 19, 28, 35-40), the court failed to address how the Family Court's refusal to enforce its own orders exacerbated the deprivation of Plaintiff's rights.
3. Precedent Ignored: The Second Circuit's reasoning conflicts with this Court's holdings in Lugar, Shelley, and Troxel, which recognize state action where private conduct is empowered or enforced by the state. The lower court's decision effectively shields private actors from accountability when their actions are enabled by state authority.

Question 2 Conclusion

110. This case raises significant questions about the limits of state action under § 1983.

The delegation of decision-making authority to Ms. Washburn, combined with the state's enforcement of her discretion, demonstrates state action under this Court's precedents. The Second Circuit's failure to properly apply these principles underscores the need for this Court's review to clarify the boundaries of state action and ensure that constitutional rights are not circumvented through improper delegation of authority.(§1983 interpretation argued/preserved in 12/19/22 Complaint, 11/29/21 Pg.7, 19, 28-40 and Appellate Brief Pg. 21, 36-41

3. Whether the "Class of One" protection under the Fourteenth Amendment, as established in Village of Willowbrook v. Olech, 528 U.S. 562 (2000), extends to § 1985 claims, unifying the statutory language "person or class of persons" with evolving equal protection jurisprudence and rejecting the requirement for "class-based animus" when the plain language protects "a person" or "class of persons."

111. The District and Circuit Court did not recognize the origins of the "class based animus" interpretation of §1985, which is rooted in a 14th Amendment interpretation in Griffin, which is superseded by Willowbrook's "Class of One" interpretation available when;

"the plaintiff alleges that she has been intentionally treated differently from others similarly situated and that there is no rational basis for the difference in treatment." Willowbrook v. Olech, 528 U.S. 562, 563, 120 S. Ct. 1073, 1074 (2000)

112. Even if the State Action theory under §1983 were rejected, Ms. Knapp and Ms. Washburn's conspiracy to sever Mr. Dasler's Constitutional Rights is actionable as a Class of One claim under Willowbrook and the plain language of §1985

113.

A. The Plain Language of § 1985(3) permits class of one claims

114. Section 1985(3) protects against conspiracies that deprive "any person or

class of persons" of the equal protection of the laws or equal privileges and immunities. It should never have been read to mean "Persons" [within a protected] "class of persons"

115. In Griffin, the court justified the "class based animus" interpretation because;

> "**The constitutional shoals that would lie in the path of interpreting § 1985**(3)...**requiring, as an element of the cause of action, the kind of invidiously discriminatory motivation** stressed by the sponsors of the limiting amendment...**The language requiring intent to deprive of equal protection, or equal privileges and immunities, means that there must be some racial, or perhaps otherwise class-based, invidiously discriminatory animus** behind the conspirators' action. 9 [****26] The conspiracy, in other words, must aim at a deprivation of the equal enjoyment of rights secured by the law to all."
>
> Griffin v. Breckenridge, 403 U.S. 88, 102(1971)(emphasis added)

116. The statute's text opens protection to "any person OR Class of persons", and there is no such "constitutional shoal" according to modern precedent.

117. Willowbrook, supersedes Griffin's interpretation of Equal Rights(argued/preserved Appellate Brief Pg. 39-41, 11/29/21 Pg.14-18)

B. Evolution of Equal Protection and the "Class of One" Doctrine

118. A "class of one" claim under the Equal Protection Clause protects individuals can demonstrate unconstitutional discrimination even without being part of a broader class.(528 U.S. 562, 564 (2000)).

119. Although Willowbrook claims this interpretation was supported by precedent, it certainly is impossible to square with Griffin, and Richard Posner's 2018 article below illustrates how Willowbrook was a significant deviation from prior case law, and why that warrants a rethinking of Griffin and United Brotherhood, particularly given the inconsistencies with the last 20 years of "class of one" precedent(see Marcelle v. Brown Cty. Corp., 680 F.3d 887, 891-93(2012) citing many cases in trying to make sense of the

"class of one")

"the Court insisted that "Our cases have recognized successful equal protection claims brought by a 'class of one.'"[19] In making this assertion, ***the Court purported to put the Olech case within the mainstream of equal protection jurisprudence. This claim required an extraordinary reworking of existing Supreme Court precedents, first, straining to identify supporting cases, and then, willfully ignoring a substantial amount of contradictory precedent..***

In almost all of its equal protection decisions, the Court has viewed the Equal Protection Clause as...a limit on the ability of government to identify a trait that puts people into a class, and then treat that class differently from everyone else.[23] *Thus equal protection cases almost always involve a claim that one group has been treated differently from a second group, and that there is no justification for the difference in treatment...*

This focus on equal protection as a limitation on governmental classification leaves little room for a focus on individuals who are harmed by an appropriate classification. *For example, in Kimel v. Florida Board of Regents,[528 U.S. 62, 80-90 (2000)] decided the same year as Olech, the Court was concerned with the limits of Congressional power to enforce the Fourteenth Amendment through appropriate legislation as a source of support for the Age Discrimination in Employment Act. In finding that Congress had exceeded its powers, the Court stated:[*1046]*

Under the Fourteenth Amendment, a State may rely on age as a proxy for other qualities, abilities, or characteristics that are relevant to the State's legitimate interests. The Constitution does not preclude reliance on such generalizations. That age proves to be an inaccurate proxy in any individual case is irrelevant.[27]

Thus, the constitutionality of age classifications was not to be determined "on a person by person basis."[28] ***Additional Supreme Court precedents confirm this class-based focus of the Equal Protection Clause and its lack of concern for harm to an individual.*** *[422 U.S. 749, 785 (1975), 441 U.S. 347, 358 (1979)]"*
ARTICLE: Richard Posner: A Class of One, 71 SMU L. Rev. 1041, 1046(emphasis added)

120. Federal courts are confused in the wake of Willowbrook as referenced in

Marcelle, which cites dozens of Federal cases, and at least 7 articles all of which authoritatively construe "diverse strains of class of one jurisprudence", reiterating the modern phenomena, which post-dates Griffin and United. Bros

121. To continue requiring "class-based animus" under §1985(3) creates an unjustifiable disparity between constitutional rights and statutory remedies.

C. Aligning § 1985(3) with Modern Equal Protection Principles

122. By revisiting Griffin in light of Willowbrook, this Court can restore §1985(3) to its plain language—protecting "any person or class of persons"—and ensuring that individual victims of unconstitutional discrimination have access to remedies under federal law. Such an interpretation avoids the risk of perpetuating distinctions unsupported by the law.

Question 3 Conclusion

123. Reliance on Dolan v. Connelly, 794 F.3d 290 (2d Cir. 2015), to dismiss Mr. Dasler's §1985(3) claim misinterprets the statute in light of modern equal protection jurisprudence. The plain language of the statute aligns with Willowbrook. Certiorari is warranted to unify § 1985(3) with modern equal protection principles and ensure consistent application of federal law.(Issues in this section argued/preserved un 12/19/22 Complaint Pg. 18-20, 11/29/21 Response Pg. 14-18, Brief Pg.. 39-41

4. Whether medical providers have third-party liability to parents when their actions interfere with the parent's constitutional rights to direct their child's medical care or when tortious conduct during medical treatment harms the child and injures the parent directly or indirectly, and whether such actions are

actionable.

Introduction

124. This case raises critical questions about the liability of medical providers who interfere with a parent's constitutional rights and cause harm during the course of medical treatment. Parental rights to direct the upbringing, care, and education of their children, including medical decisions, are well established as fundamental rights under the Fourteenth Amendment (see Troxel v. Granville, 530 U.S. 57, 65(2000)). When state power compels the use of a specific medical provider, and that provider's conduct harms the child and violates the parent's rights, federal and state law must provide remedies.

125. This Court's review is essential to address the intersection of parental rights, third-party liability, and constitutional protections.

A. The Fundamental Right to Direct Medical Decisions

126. Troxel emphasized that parents have a constitutionally protected interest in making decisions concerning the care, custody, and control of their children, which requires Clear and Convincing Evidence to disturb.

Interference by State-Mandated Providers:

127. When the state compels a parent to use a specific medical provider, that provider's actions inherently carry the weight of state authority. Conduct by such a provider that obstructs a parent's ability to make informed decisions or access medical information violates the parent's constitutional rights.

Harm to Parents and Children:

128. In this case, the provider, Ms. Washburn, not only excluded the parent from medical decisions but also directly harmed the child, causing lasting injury and emotional distress to both the child and parent(12/19/22 Complaint, 11/29/21 Response, Brief Pg.36-40 Reply Brief Pg. 9-11). Such actions demand accountability under both federal and state law.

B. Third-Party Liability Under Federal and State Law

129. Federal Claims Under §1983: When a state delegates authority to a private actor who then becomes a gatekeeper of constitutional rights, that actor's conduct constitutes state action under Lugar et all... Ms. Washburn's conduct, backed by state power, obstructed the Plaintiff's access to his child's medical records and decisions, violating his due process and equal protection rights.

State Tort Law and Direct Harms:

130. Under Vermont law, medical providers are liable for harm caused to 3rd parties by negligence or intentional misconduct during the course of treatment(2016 VT 54A, ¶ 80, 203 Vt. 328, 156 A.3d 436, superseded on other grounds by statute); Restatement (Third) of Torts: § 43 cmt. D;2014 VT 25, ¶ 28, 196 Vt. 92, 95 A.3d 985; 2020 VT 50, P10.

131. Parents have standing to bring claims for harm caused to their children when it directly or indirectly injures the parent, particularly in cases where the provider's conduct interferes with the parent's established rights

"minor children lack a liberty interest in directing their own medical care. Instead, children must instead rely on parents or legal guardians to do so until they reach the age of competency. Accordingly, any substantive due process rights related to directing the medical care of children devolve upon the parents or legal guardians of the children, rather than the children themselves.*(HHS, 927 F.3d 396, 403, 2019 U.S. App.)*

Overlap With Constitutional Rights:

132. The interference by a state-mandated provider extends beyond typical medical negligence, implicating fundamental constitutional rights. The combined violation of federal constitutional and state tort rights underscores the need for federal jurisdiction to address the full scope of harm.

C. Failure to Address Third-Party Liability

Dismissal Without Substantive Review:

133. The Second Circuit dismissed Plaintiff's claims without addressing the unique role of state-mandated providers in facilitating constitutional violations. By treating Ms. Washburn's actions as a private matter, the court ignored her role as an enforcer of state-backed decisions.

134. Ignoring Established Precedent: This Court has recognized the liability of private actors who exercise state-delegated authority to violate constitutional rights(see Lugar, supra). The Second Circuit's failure to engage with this precedent represents a significant oversight.

135. The courts' failure to address these arguments leaves unresolved questions of national importance.

D. The Need for This Court's Review

Clarifying Parental Rights in Shared Custody Arrangements:

136. In an era of increasingly complex parenting arrangements, the Court's guidance is necessary to delineate the rights of parents and liabilities of third-party actors who interfere with those rights.

Addressing the Role of State-Mandated Providers:

137. This case highlights the risks of delegating authority to private actors without sufficient safeguards to prevent constitutional violations and ensure accountability.

Ensuring Remedies for Harm:

138. Federal and state law must provide meaningful remedies for parents and children harmed by the conduct of state-mandated providers. This Court's intervention is critical to ensure that constitutional protections are upheld and tortious misconduct is addressed.

Question 4 Conclusion

139. This case provides an opportunity for the Court to clarify the scope of third-party liability when private actors, empowered by state authority, interfere with parental rights and harm children. By addressing these issues, the Court can ensure that constitutional protections are meaningful and that parents and children have avenues for redress against providers who

abuse their roles. (Arguments in this section raisd and preserved(Complaint General and Pg. 43, 11/29/21 Response, Brief Pg. 36-40, Reply Brief Pg.9-11)

Conclusion

140. For the foregoing reasons, the petition for a writ of certiorari should be granted, the lower court orders vacated and remanded for consideration of the Complaint consistent with this court's answers to questions presented.

141. Given the lower court's broad misunderstandings and exclusion of subject matter, it is appropriate to vacate and consider the issues with a clean slate guided by this court's remand.

142. This case presents questions of exceptional importance concerning the scope of federal jurisdiction, the protection of constitutional rights, and the interpretation of pivotal statutes like 42 U.S.C. §§ 1983 and 1985. The decisions below contravene this Court's clear precedent, expand abstention doctrines beyond permissible boundaries, and leave litigants without adequate remedies for violations of fundamental rights.

143. This Court's intervention is essential to resolve circuit splits, clarify the application of abstention doctrines, unify interpretations of federal statutes, and ensure that constitutional rights—particularly those of parents and children—are protected against systemic erosion. Only by granting certiorari can this Court correct the serious misapplications of law in this case and provide the guidance necessary to prevent similar injustices in the future.

CERTIFICATE OF COMPLIANCE

I, Timothy Dasler certify that this brief contains fewer than 8,636 words

_____11/22/24_____ _____

Date Signature