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Supreme Court, U.S.
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No. 25-210

In The
Supreme Court of the United States

James Synnott
Petitioner,
v.
Paul Burgermeister
and Ian Northrup,
et al
Respondents:

On Petition for A Writ of Certiorari to the United States Court of Appeals for the Seventh Circuit

PETITION FOR REHEARING

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Reasons For Granting Rehearing

I. This Court's Intervening Ruling in *Mahmoud v. Taylor*, 145 S. Ct. 2332 (2025) Compels Rehearing

Mahmoud mandates strict scrutiny for reviewing government action that infringe on parental religious rights. "For many people of faith... there are few religious acts more important than the religious education of their children." *Id.* at 2351. To fulfill this "sacred obligation," a parent requires both **Legitimacy** (legal authority) and **Opportunity** (meaningful time).

The federal courts erred and compounded state error by denying access to the courts to consider these issues. Under *Mahmoud*, Petitioner, his child, and children like her, were and are due **declaratory and injunctive relief**.

A. Strict Scrutiny Applies

Mahmoud holds that when the government "substantially interferes" with a parent's right to direct religious upbringing, it must satisfy strict scrutiny. *Id.* at 2351. The State cannot override these rights merely by claiming a general interest in "best interests" or avoiding conflict. The action must be "narrowly tailored" to an interest of the "highest order." *Id.* at 2361.

B. Facial Challenge: 750 ILCS 5/602.5 and 5/602.7 Fail Strict Scrutiny

On their face, Illinois statutes 750 ILCS 5/602.5 and 5/602.7 are unconstitutional under *Mahmoud* because they empower the State to sever religious authority and curtail parenting time based on a subjective "best interests" standard rather than a finding of unfitness required to satisfy strict scrutiny, thereby substantially interfering with the other parent's right to direct the religious upbringing and development of the child. Reliance on the "democratic process" to cure defects is futile where the State, incentivized by federal funding, "tanked" necessary reform. *Id.* at 2360; C.Pet.xiii). The statutes treat "Religion" as a divisible commodity:

i. Legitimacy

By authorizing a judge to assign sole decision-making without clear and convincing evidence of unfitness, the statute conditions access to the legal system on surrender of a fundamental First Amendment right. *Id.* at 2359; *Boddie v. Connecticut*, 401 U.S. 371 (1971) (invoked by Petitioner regarding substantial visitation interference).

ii. Opportunity

750 ILCS 5/602.7 allows courts to award unequal parenting time. Because religious exercise occurs in "daily life," unequal time creates an environment "hostile" to the minority parent's faith "pressure to conform." *Id.* at 2352. To survive strict scrutiny, "substantial parenting time" must be interpreted as presumptive equal time.

C. As-Applied Challenge: Legitimacy and Opportunity Stripped

Mother's petition explicitly raised religion—to sever joint custody/restrict time (sealed.C.872). This malicious strike targeted the "sacred obligation" Petitioner(s) held most dear. The State's willing invasion of this sphere, absent the "compelling interest of the highest order" required to cross the jurisdictional barrier, constitutes the rampant "blunt instrument" violation *Mahmoud* prohibits. 145 S. Ct. at 2361.

i. Lack of Justiciable Matter

"Removal of a child from his parents' care... was not known to common law... therefore, was not a justiciable matter over which the courts had original jurisdiction." *In re A.H.*, 748 N.E.2d 183, 188-89 (Ill.2001). In statutorily created proceedings, jurisdiction is invoked solely by the pleadings, which function to "frame the issues... and circumscribe the relief the court is empowered to order." *Ligon v. Williams*, 637 N.E.2d 633, 638 (Ill.App.Ct. 1994). Orders entered absent a justiciable question properly presented are void. *Id.*

Bad faith and contrived crisis aside, GAL's motion requested only "supervised visitation." Court *sua sponte* severed all contact(APP.6SA;7SA). By granting relief that exceeded the scope of relief circumscribed by the pleadings, the Court acted without subject matter jurisdiction. "Any action taken by the circuit court that exceeds its jurisdiction is void and may be attacked at any time." *In re A.H.* at 189.

ii. Targeted Religious Interference

Petitioner's "sacred obligation" was decisively targeted. Exploiting child's hesitation to seek permission—a natural struggle to reconcile religious standards with conflicting social pressures—GAL buried developmental need amidst misrepresentations and fabricated crises, leading the Court to sua sponte exclude Petitioner from guiding religious development on key matters such as dating, effectively permanently, despite admitting Petitioner acted in the child's "best interest" (APP.12SA,9SA). This "substantially interfere[d]" with and "burden[ed] religious exercise," causing "irreparable injury" identified in *Mahmoud*. 145 S. Ct. at 2350-51, 2358, 2364.

iii. Violation of Statutory Mandates

Under 735 ILCS 5/11-101, *ex parte* restrictions must expire within 10 days. The statute commands that if the movant fails to proceed on the hearing date, the court "shall dissolve" the order (APP.44a,46a). Here, movant(s) failed to proceed, yet the Court refused to dissolve the restriction. This violation of statutory mandate created a de facto permanent injunction, bypassing Due Process to strip Petitioner/child of religious rights without strict scrutiny demanded by *Mahmoud* (APP.17SA:19SA,22SA,30SA,32SA,34-36SA).

D. Extrinsic Fraud

Federal courts de facto ratified the unconstitutional application compounded by extrinsic

fraud, rendering the orders void ab initio under *United States v. Throckmorton*, 98 U.S. 61,66 (1878). Petitioner was "prevented from exhibiting fully his case" by fraudulent concealment of proximity, used to manufacture a "logistical conflict":

i. North Cluster Concealment

Mother's husband worked just 2 miles north (Lisle) of Petitioner's house (App.28a). Counsel's pivot to "office location" (App.26a) elicited a deceptive "Tinley Park" (south nearer to Indiana), concealing Mother worked 4 to 7.5 miles north (Downers Grove/Oakbrook/Elmhurst).

ii. South "Indiana" Pretext

They cited a residence 62 miles away (Indiana), without removal permission, while daily economic life occurred in Petitioner's backyard.

State proceedings exemplify *Younger's* 'bad faith' exception: court incarcerated Petitioner for asserting due process mandatory procedural bars to a harassing motion, while shielding Respondent's refusal to tender mandatory L.R.15.05 disclosures.

Disparate enforcement concealed extrinsic fraud—that at all operative times Respondent's household employment remained in Petitioner's immediate vicinity (with her spouse working two miles away)—exposing the "interstate removal" as a pretextual fabrication designed to sever rights.

Beyond inter alia due process violations and resulting nonfinal void order (nondelegation

violations App.13SA;PCApp.viiia)— extrinsic fraud foreclosed Petitioner's right to present evidence that would have secured equal time and religious opportunity mandated by *Mahmoud*.

II. Seventh Circuit Published Intervening Authority in *Grunt Style LLC v TWD, LLC*, No. 25-1305 & 25-1341 June 12, (7th Cir. 2025) that Mandates the Result Requested, Resolving in Significant Part One of the Questions Presented.

Grunt Style clarified the strict jurisdictional requirements of a final judgment under 28 U.S.C. § 1291. *Grunt* sharply distinguishes between judgments with clerical omissions ("Category B"), which allow for a limited remand to correct the record, and judgments that are non-final because claims remain pending ("Category A"), which deprive the appellate court of jurisdiction entirely.

A. Judgment is Non-Final: "Category A"

Judgment falls squarely into "Category A." Unlike *Grunt Style*, where omitted claims had been explicitly dismissed by prior judge, District Court here never adjudicated them. *Grunt Style* holds a *nunc pro tunc* correction cannot be used "to rewrite history". Because the District Court never rendered a decision on these omitted matters, a clerical correction is legally impossible—there is no decision to record retroactively. The judgment was, and remains, non-final.

B. The Seventh Circuit Lacked Jurisdiction Ab Initio

Under clarified *Grunt Style* standard, the Seventh Circuit lacked subject-matter jurisdiction to hear the appeal. The appellate court cannot "retain jurisdiction" over a non-final order where "Category A" defects exist. Consequently, the proper remedy is not a limited remand for correction, but a vacatur of the appellate judgment and a dismissal of the appeal. This is the only remedy that adheres to the statutory limits of 28 U.S.C. § 1291.

III. This Courts Further Intervening Rulings Commands Federal Rule of Civil Procedure 17(C) Be Followed

A. Intervening: *Smith v. Spizzirri*, 601 U.S. 472, 478 (2024) & *Bufkin v. Collins* 145 S.Ct. 728, 737 (2025)

Twice recently, this Court confirmed that mandatory text overrides "inherent powers." Rule 17(c) commands that a court "must appoint...or issue an appropriate order—to protect a minor... unrepresented in an action" As held, "shall means must" and "imposes and mandatory command," *Bufkin* at 737 and "creates an obligation impervious to judicial discretion". *Smith* at 478

District Court violated this "impervious" obligation. By failing to issue any such order, the court exposed the child to time-sensitive, irreparable harm and effectively concealed the loss of rights from the child, magnifying harm. Courts in protecting children

should explicitly include ensuring no harm is at risk by the delay or silencing of their claims.

This error was dispositive because the District prohibits pro se parents from filing appeals. By dismissing without appointing counsel or issuing a protective order, the court locked the child out of the justice system entirely. Under *Smith*, the court had no discretion to leave the child voiceless. Accord *Davis v. Walker*, 745 F.3d 1303,1310-1 (9th Cir. 2014).

B. Intervening: *Trump v. CASA, INC.*, 606 U.S. (2025)

"It is an elementary principle that a court cannot adjudicate directly upon a person's right without having him either actually or constructively before it." *Id.* Dismissing fundamental rights claims instead/before protecting an unrepresented child via Rule 17(c) is improper.

As *CASA* admonished: "[E]veryone... is bound by law. That goes for judges too." *Id.* 2561. *CASA* preserves "suits to restrain the actions of particular officers against particular plaintiffs." *Id.* Dismissing indispensable parties including specific judges—"particular officers" from whom Petitioner(s) sought declaratory/injunctive relief—was error.

Unlike speculative harm (*O'Shea v. Littleton*, 414 U.S. 488 (1974)), or pre-enforcement against neutral judges (*Whole Woman's Health v. Jackson*, 595 U.S. 30 (2021)), Petitioner(s) suffers concrete harm from willful judges acting *sua sponte*, e.g., outside pleadings (App.7SA). *O'Shea* permits equitable intervention for "immediate irreparable injury," "continuing, present adverse effects" and "inadequacy of remedies at law",

(*id.*496, 502), noting official immunity does not shield willful constitutional deprivations (*id.* 503-04). §1983 remains express exception to the Anti-Injunction Act, *Mitchum v. Foster*, 407 U.S. 225 (1972) making these officers indispensable. See *Drollinger v. Milligan*, 552 F.2d 1220,1226(7th Cir. 1977).

Further, dismissal(s) shielded non-delegation violations, quasi-trials severing rights on unsworn summaries without cross-examination—absolutely required (*Goldberg v. Kelly*, 397 U.S. 254, 260 (1970))—improperly foreclosing issue-class certification, exact vehicle for systemic relief endorsed by *CASA*.

IV. Additional Intervening Authority Warrants Reinstatement of Claims

Ames v. Ohio Dep't of Youth Servs., 605 U.S. 303 (2025), unanimously rejected any heightened "background circumstances" burden on majority-group plaintiffs under Title VII. The district court erroneously dismissed the §1985(3) claim rejecting reverse sex-discrimination as actionable class-based animus. *Ames* mandates uniform treatment of all plaintiffs.

Medical Marijuana, Inc. v. Horn, 604 U.S. ___ (2025) expanded civil RICO standing for economic losses from personal injury refutes district's dismissal.

These decisions underscore the viability of claims/damages (including disgorgement of defendants' ill-gotten gains into trust for his child see complaint e.g. R131-1) and prospective relief.

V. *Pro Se* Parents and 17(c)

This Petition comes from the only known circuit whose precedent completely bars the doors to an appeal for all children's claims absent an attorney at the district level—holding such pro se parent notices of appeal invalid—the Seventh Circuit. *Navin v. Park Ridge School Dist.* 64, 270 F.3d 1147, 1149 (7th Cir. 2001).

At initial presentment, Illinois AAG Michael Arnold appeared informally, stated he would wait to file until represented, no other defendants appeared—Petitioner apprised court of pursuit of representation (his child e.g. FRCP 17(a)(1)(c)), self, and issue class), inquired on possibility of recruitment if unsuccessful—did not mention "GAL"—as, *inter alia*, challenging Illinois' GAL statute undermines rights both hold, and protections parent provides. The court set status for three weeks—before which *sua sponte* applied §1915(e)(2). (APP.15a, 21a)

Seventh Circuit rejected the brief for not meeting circuits rules despite substantive arguments and citations—while petitioner's child faced immediate exposure risks, family faced harassment e.g. sheriff. No published federal appellate decision strikes a *pro se* brief in such circumstances, especially amid duress. Rule 47 states local rules "imposing a requirement of form must not be enforced in a manner that causes a party to lose rights because of a nonwillful failure to comply." FRAP 47(a)(2) (emphasis added).

A. Additional Cases Deepen Lower Court Conflict

W.J. v. Sec'y of Health & Hum. Servs., 93 F.4th 1228, 1243 (Fed. Cir. 2024) (pro se parent allowed to represent child in Vaccine injury case "Doing so is, at present, expressly authorized by the Rules of the Court of Federal Claims RCFC 83.1(a)(3) ("An individual who is not an attorney may represent oneself or a member of one's immediate family."; circuit appointed amicus counsel on appeal no additional steps taken by district regarding rule 17(c))

Interceding filed petitions for writ of certiorari:

i. *Grizzell v. San Elijo Elementary Sch.*, 110 F.4th 1177 (9th Cir. 2024) 24-812

ii. *Blake Warner v. School Board of Hillsborough County, Florida* Nos. 23-12408 & 23-12411 (11th Cir. 2024) 24-718,

§1654 and Rule 17(c)(2), form the critical tandem: courts must either hear the parent or appoint counsel—not silence both.

VI. Recent Appellate Decisions Have Further Entrenched the Circuit Abstention Conflict

Since petition was filed, circuit decisions have sharpened the conflict on abstention's scope in non-final family cases where state process is unavailable:

i. *Miroth v. County of Trinity*, No. 23-15759 (9th Cir. May 8, 2025) reversed Rooker-Feldman dismissal of §1983 claims alleging fraud and procedural failures preceding custody orders, holding such claims independent and not barred.

ii. *Bellinsky v. Galan* Nos. 24-1351, 24-1352 (10th Cir. July 22, 2025) reversed overly broad Younger/comity abstention in a custody-related civil-rights suit, strictly enforcing this Court's Sprint gatekeeping.

The Seventh Circuit's categorical approach now stands in acknowledged tension with the Ninth and Tenth Circuits.

There are pending petition for writ of certiorari regarding substantially similar issues

i. *T. M., Petitioner v. University of Maryland Medical System Corporation, et al.* 25-197 **(cert granted)**

VII. Recent Statement by Justice Gorsuch *Thomas V. Humboldt County* 607 U.S. (2025) on Seventh Amendment Applying to States and *SEC V. Jarkesy* 603 U.S. ____ (2024)

Thomas signals "civil" labels cannot excuse stripping jury rights underscoring *Jarkesy* prohibition of "abdicat[ing] judicial power"—realized here and systemically in state custody proceedings. Shuman (36 Fam.L.Q. 135,154,161(2002)) identifies "absence of juries" resulted in system that "effectively delegates judicial power without formal legislative approval," transforming the professional "to expert as judge." Hess (54 Vand. Law Rev. 547,558(2001)) warns this constitutes an "abdication of judicial power" through "excessive delegation of authority to court-appointed experts." Fabricius reports (App.30a), standards remain scientifically infirm—system operates as the precise constitutional violation *Jarkesy* condemns.

VIII. Intervening Authority: *Clark v. Sweeney*, 607 U. S. ___ (2025).

In our system, parties "frame the issues for decision"; courts serve as neutral arbiters. *Id.* (citing *United States v. Sineneng-Smith, 590 U. S. 371, 375 (2020). Greenlaw v. United States, 554 U. S. 237, 243 (2008)*).

Clark was remanded as the court "transgress[ed] the party-presentation principle." *Id.* at 3. So too here. District committed a "reverse" *Clark* error: dismissing claims on defenses the defendants never raised. Without notice, the court invoked without § 1915(e) jurisdiction triggered—filing fee paid/no IFP pending/R17(c) mandates circumvented—to strike claims and deny Rule 15 amendments. This error persisted on appeal, where the court dismissed a timely brief *sua sponte,* absent any motion from Appellees (PCPApp111a, PCPApp104a, 120a, 91a, 49a) PR.APP.15a;21a. By taking a "turn at bat" rather than calling "balls and strikes,"*Lomax v. Ortiz-Marquez*, 590 U. S. 595, 599 (2020)." *Clark at* 3 the courts abandoned their neutral role. These transgressions mandate summary vacatur.

IX. This is an Appropriate Case for Rehearing

Petitioner and his child have faced crippling, unjustifiable deprivation of their fundamental rights for over a decade, desperate to be liberated from devastating intrusions and violations of their God given rights. Denial here means the evisceration of their family and families like theirs.

They were denied due process and rights stripped through void orders involving malicious intent, extensive fraud and a prolonged scheme of harassment, threats, extortion, and violence—yet have received no meaningful relief.

Discrimination is exposed from entrenched state divides, to Article III, non-delegation and separation of powers violations. So extensive it underlies separation of powers violations rooted in each state's constitutionally infirm laws' inception, and current policies and practices of courts—plural—state and federal (encompassing all violations, as applicable). All tied to, even if only—the poor, or most vulnerable—the children. Coupled with court created havoc, institutionalized intergenerational harm on top of his child's over a decade-long trauma reveals significant stakes of national importance.

Petitioner's child's and her father's circumstances are by far, outrageous in facts and in the courts' devastating mistreatment of their rights in a torrent of ways. It cost her—her father—imagine what that does to a child.

Petitioner's child was forced upon her a world of crazy, trapped and twisted—surrounded by those willing to let her pay any price no matter how significant, if felt they would gain some benefit, regardless how insignificant, or even for nothing at all—deprived of her fundamental rights and the chance to defend them. She faced layered discrimination: her minor status, biased laws and policies, her father's gender stigmatized as the disposable parent or worse, 'deadbeat,' and her father's pro se status, blocking justice. Undeserved suffering, descending layer after layer into Dante's

inferno of treachery, the final circle for the ultimate betrayal of trust—the one owed to all children.

Conclusion

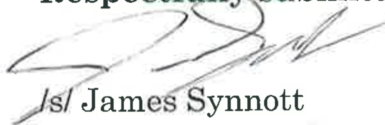
The Petition for Rehearing, and Petition for Writ of Certiorari should be granted. The court should consider this case in conjunction with *Grizzell* and *Warner*.

Alternatively, the Court should:

1. GVR with instructions to apply *Mahmoud* and *Clark*
2. GVR per *Grunt Style* with instructions that the Seventh Circuit dismiss the appeal for lack of jurisdiction, returning the case to the District Court to resolve the pending claims, Or
3. Hold the petition pending resolution of *T. M., Petitioner v. University of Maryland Medical System Corporation, et al.* 25-197, and

Protective Measures: Petitioner requests the Court reconsider using of pseudonyms to protect his child. Alternatively, if no other relief is granted, Petitioner prays the Court remove these filings from the court's online publication to shield his child from further harm. So she may have the functional obscurity known to petitioners up until last decade. Petitioner endured to help his child not hurt her – at least if no help is to come, let this not hurt her more.

Respectfully submitted,



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December 5, 2025

Certificate of Compliance

I hereby certify that this petition for rehearing is presented in good faith and not for delay and is restricted to the grounds specified in Rule 44.2

/s/ James Synnott

James Synnott

In the
United States Court of Appeals
For the Seventh Circuit

Nos. 25-1305 & 25-1341

GRUNT STYLE LLC, an Illinois limited liability company,

Plaintiff-Appellee,

v.

TWD, LLC, a California limited liability company,

Defendant-Appellant.

Appeals from the United States District Court for the Northern District of Illinois, Eastern Division.
No. 1:18-cv-07695 — LaShonda A. Hunt, Judge.

SUBMITTED APRIL 9, 2025 — DECIDED JUNE 12, 2025

Before HAMILTON, KIRSCH, and LEE, Circuit Judges.

PER CURIAM. We address in this opinion recurring issues that arise in civil appeals when a district court's final judgment is silent on the disposition of some claims in the case. The district court's final judgment here was silent about the disposition of the defendant's counterclaims. After

that omission was identified, the parties and the district court proposed four separate solutions. That number suggests some clarification might be helpful to parties and district courts.

We agree with the district court's solution: we will remand the case for correction of what amounts to a clerical mistake in the judgment, and we will retain jurisdiction. No new notice of appeal will be needed as long as the district court only corrects the clerical mistake.

I. Procedural Background

In 2018, TWD, LLC, filed a complaint against Grunt Style LLC alleging trademark infringement. Both parties sell goods with trademarks related to the military and appealing to patriotic feelings, including a mark, "This We'll Defend." Grunt Style answered with counterclaims asserting that TWD was infringing Grunt Style's prior trademark. The district court (Judge Kocoras) granted Grunt Style's motion for partial summary judgment in April 2022, concluding that all of TWD's claims failed as a matter of law. With only Grunt Style's counterclaims remaining, in March 2023, Judge Kocoras sensibly redesignated Grunt Style as the plaintiff, and that is how the case has been framed ever since.

In June 2023, the case was then assigned to Judge Hunt, who held a bench trial in 2024. The district court entered judgment ordering TWD to pay Grunt Style $739,500 without interest. Grunt Style promptly moved to amend the judgment to include interest and permanent injunctive relief. On January 28, 2025, the district court granted that motion and set out the injunction in a separate document consistent with our

case law. See *Miller Coors LLC v. Anheuser-Busch Companies, LLC*,940 F.3d 922, 922 (7th Cir. 2019). The same day the district court entered a separate amended judgment including the added interest. See Fed. R. Civ. P. 58. Within thirty days, TWD filed a notice of appeal from the amended judgment "and all orders now appealable, including but not limited to" five specified orders. We docketed it as appeal No. 25-1305.

Shortly after an appeal is docketed, this court conducts a preliminary review of the record for potential jurisdictional problems. See *Barrow v. Falck,* 977 F.2d 1100, 1102–03 (7th Cir.1992) (describing procedure). This review begins with the judgment, which Rule 58 requires to be set out in a separate document precisely because it "keeps jurisdictional lines clear." *Wisconsin Cent. Ltd. v. TiEnergy, LLC*, 894 F.3d 851, 854(7th Cir. 2018). The entry of judgment in a separate document starts clocks on several critical appellate deadlines. See 28U.S.C. § 2107(a); Fed. R. App. P. 4; Fed. R. Civ. P. 59.

Beyond just timing of an appeal, our appellate jurisdiction is ordinarily limited to final decisions, 28 U.S.C. § 1291, which typically means a district court has resolved all claims against all parties—including any counterclaims. See, e.g., *Chessie Logistics Co. v. Krinos Holdings, Inc.*, 867 F.3d 852, 856 (7th Cir.2017). The judgment should be a self-contained document stating who won what relief and allowing anyone to see that all claims have been resolved and how. See *Reytblatt v. Denton*,812 F.2d 1042, 1043–44 (7th Cir. 1987). If a judgment falls short of this standard, lawyers should alert the district court so it

may make corrections. See *Philadelphia Indemnity Ins. Co. v. Chicago Trust Co.,* 930 F.3d 910, 912 (7th Cir. 2019).

Potential pitfalls of jurisdiction can be identified from the judgment. For example, a judgment "in favor of" a plaintiff without specifying a remedy suggests the case is not over. E.g., *Cooke v. Jackson Nat'l Life Ins. Co.*, 882 F.3d 630, 631–32(7th Cir. 2018). For another example, a judgment dismissing Counts I, II, and IV leaves us to wonder whether Count III is still out there. E.g., *Thornton v. M7 Aerospace LP,* 796 F.3d 757, 763–64 (7th Cir. 2015). More to the point here, a judgment entered on one side's claims looks incomplete if there was a counterclaim. E.g., *Sterling Nat'l Bank v. Block*, 984 F.3d 1210, 1216–17 (7th Cir. 2021).

The amended judgment here provides that judgment was entered "in favor of plaintiff Grunt Style LLC and against defendant TWD, LLC in the amount of $739,500.00, plus$229,235.38 in pre-judgment interest; post-judgment interest, which shall accrue at a rate of $115.45 per day; and permanent injunctive relief, as set forth in the separate Order of Permanent Injunction." The judgment does not reflect that TWD, as the original plaintiff, would take nothing from its original complaint. It was therefore not clear from the judgment alone that TWD's claims had been resolved. We directed the parties to file memoranda addressing whether the judgment was deficient and whether we should either dismiss for lack of jurisdiction or remand for correction of the judgment.

Critically, a deficiency in a Rule 58 judgment is only evidence of a possible jurisdictional problem. It

does not necessarily show conclusively that there is a jurisdictional problem. See *American Int'l Specialty Lines Ins. Co. v. Electronic Data Sys. Corp.*, 347 F.3d 665, 669 (7th Cir. 2003). For purposes of ensuring that we have a final decision under § 1291, "[t]he test is not the adequacy of the judgment but whether the district court has finished with the case." *Chase Manhattan Mortg. Corp. v. Moore,* 446 F.3d 725, 726 (7th Cir. 2006). Even the absence of a Rule 58 judgment docs not preclude appeal if the district court has in fact reached a final decision, but that situation is far from ideal and creates avoidable uncertainty and expense. See Fed. R. App. P. 4(a)(7)(B); *Bankers Trust Co. v. Mallis,* 435 U.S. 381, 384 (1978); *Calumet River Fleeting, Inc. v. Int'l Union of Operating Eng'rs, Loc. 150, AFL-CIO,* 824 F.3d 645,650 (7th Cir. 2016). The parties are entitled to waive a deficiency in the judgment, though not the absence of a final decision within our appellate jurisdiction. But to avoid confusion, this court directs parties to address a deficiency early, before they brief an appeal that could end up being dismissed because of a jurisdictional defect.

TWD's attempt to waive the defect in this judgment has created its own set of problems. Rather than filing a memorandum, TWD filed an amended notice of appeal saying that it intended to appeal regardless of any deficiency consistent with Rule 4(a)(7)(B). The amended notice also added more orders to the list of those being appealed. The amended notice was docketed as a new appeal, No. 25-1341, and a fee was assessed, though TWD suggests that it did not intend to open a new docket and that it should owe no additional fee. See Fed.R. App. P. 4(a)(4)(B)(iii).

In addition to identifying jurisdictional problems, we try to keep our docket free of duplicative appeals. Each party needs only one appeal to seek relief from any given judgment or order. See *Harris v. Bellin Mem'l Hosp.*, 13 F.3d 1082, 1083(7th Cir. 1994). Redundant appeals can breed confusion. Documents can wind up filed in the wrong case, or one can get the mistaken impression that there are separate appellants or appealable decisions. Unless there is some risk a party would be prejudiced, we invite litigants to dismiss extra appeals, and we will dismiss them ourselves at the outset if they are unnecessary.

We thus asked the parties in an order dated March 3, 2025, whether this second appeal was necessary. TWD had been invited to make its position known in a memorandum, not a6 Nos. 25-1305 & 25-1341new notice of appeal, and the 2021 amendments to the Federal Rules of Appellate Procedure abolished any need to enumerate orders preceding the judgment designated in a notice of appeal. Fed. R. App. P. 3(c).

After this order, TWD changed tack and asked the district court to correct its judgment. Grunt Style opposed; it thought the judgment accurately reflected that judgment had been entered in its favor—on both its own claims and on TWD's. The district court agreed with TWD and granted the motion to correct the judgment. Before correcting the judgment on the docket, however, it determined that it lacked the authority to do so while these two appeals were pending. The district court therefore entered an indicative ruling to signal its intent to correct the judgment if we remanded. Fed. R. Civ. P. 62.1.

TWD then filed a memorandum. It argued that the district court did not need this court's permission

to correct the judgment. TWD also acknowledged that its second notice of appeal was unnecessary, but TWD explained that it had wanted to avoid any risk of waiving its rights. Grunt Style, for its part, stands on the amended judgment, though it agrees the second appeal is duplicative.

II. *Analysis*

At this stage we have been offered four proposed responses to the apparent omission of counterclaims in the judgment. Grunt Style insists there is no deficiency. TWD first said it wanted to waive the deficiency. Then it argued that the district court should correct the judgment without a remand. Finally, the district court said it cannot correct the judgment unless and until we remand for it to do so. We believe the district court's solution is the cleanest and most correct, so we remand for correction of what is best deemed a clerical mistake in the judgment. See Fed. R. Civ. P. 60(a); Fed. R. App. P.12.1(b).We will also dismiss TWD's amended notice of appeal (docketed as No. 25-1341) as unnecessary without collecting a fee for that appeal.

A. *Remand for Correction of the Judgment*

The amended judgment is deficient, though we can understand Grunt Style's position that it is accurate enough. Judgment seems to have been entered in Grunt Style's favor on all claims, not just its own. But the purpose of the separate Rule58 judgment is to make appellate jurisdiction clear, not just discernible. See *Reytblatt*, 812 F.2d at 1043. Standing alone, the judgment in Grunt Style's favor awarding damages is consistent with several possibilities: (a) that TWD's claims remain pending,

which would prevent finality; or (b) that TWD was awarded its own damages that were simply omitted by mistake; or (c) as in this case, that another district judge had dismissed those claims years earlier and they were omitted from this judgment as an oversight.

By reviewing the docket here, it is possible to confirm that option (c) is correct and that the district court was indeed finished with the case. But the need for that extra step is precisely the problem. The rules are designed to make the Rule 58 judgment crystal clear, without requiring anyone to study the district court's docket to figure out its intended meaning. That requires district courts to draft their judgments carefully, looking for earlier dismissals of parties and claims (especially where a case has been transferred among judges). See Philadelphia Indemnity, 930 F.3d at 912 (with limited exceptions, Rule 58(b) requires judge herself to inspect and approve judgments). Now that we know the underlying meaning, we could still proceed in this case if the parties agreed. But TWD has withdrawn its request that we do so. Given that shift and the district court's effort to clear up the record, we decline now to let the case proceed as is.

Is a remand needed to correct the judgment? TWD argues that the district court should be free to correct the judgment without a remand, relying on Rule 4(a)(2) of the Federal Rules of Appellate Procedure. Titled "Filing Before Entry of Judgment," that rule provides: "A notice of appeal filed after the court announces a decision or order—but before the entry of the judgment or order—is treated as filed on the date of and after the entry." In addition to dealing with a simply delayed entry of judgment on a separate document, this rule also governs an appeal filed after

a ruling that was reasonably but mistakenly believed to have been final. See *FirsTier Mortg. Co. v. Investors Mortg. Ins. Co.,* 498 U.S. 269, 277 (1991); *Brown v. Columbia Sussex Corp.*, 664 F.3d 182, 189–90 (7th Cir. 2011).

Here the notice of appeal was filed after the district court had entered a document it called a final judgment; the judgment it entered was just incomplete. We think that, for purposes of Rule 4, a deficient judgment is still a judgment—at least if there is little doubt about finality. A contrary rule would undermine the clarity the separate document is intended to provide. In a case like this one, it would mean the time to appeal did not start until 150 days after the court finished with the case—or here June 27, 2025. See Fed. R. App. P.4(a)(7). TWD was right to appeal when it did. It could not wait another five months simply because the judgment did not tell it explicitly what it already knew—that its own claims had been resolved years ago. See *Thornton*, 796 F.3d at 763–64; *Dalev. Lappin*, 376 F.3d 652, 654 (7th Cir. 2004). A party in doubt about whether a judgment is actually final can file an appropriate motion to suspend the time to appeal under Rule 4(a)(4)until the district court clarifies the matter. We are wary of instead inviting every party who makes a calendaring mistake to quibble with the judgment's precision in an attempt to make a late appeal seem early. Cf. *Selective Ins. Co. of South Carolina v. City of Paris*, 769 F.3d 501, 509 (7th Cir. 2014) (holding omission in judgment did not allow timely motion to reconsider three years later).

Contrary to TWD's theory, then, the district court could not act unilaterally to correct the judgment

while these timely appeals were pending. While it is true that premature appeals do not limit the court's power to tie up loose ends and enter judgment, see *INTL FCStone Fin. Inc. v. Jacobson*, 950 F.3d 491,502 (7th Cir. 2020), the general rule applies to these timely appeals: a proper appeal "divests the district court of its control over those aspects of the case involved in the appeal." *Griggs v. Provident Consumer Disc. Co.*, 459 U.S. 56, 58 (1982). The district court recognized correctly that the pending appeal required it instead to offer only an indicative ruling. Fed. R. Civ.P. 62.1(a)(3).

The deficiency here—silence as to TWD's counterclaims—is a clerical mistake that can be corrected under Federal Rule of Civil Procedure 60(a). Correction of a clerical mistake changes nothing of substance but is used to "restore the original meaning of the judgment." *Shuffle Tech Int'l, LLC v. Wolff Gaming, Inc.*, 757 F.3d 708, 711 (7th Cir. 2014). Both parties understand that TWD received no relief on its claims; the judgment just needs to reflect that fact. A clerical mistake may be corrected "at any time," but consistent with the *Griggs* principle, "after an appeal has been docketed in the appellate court and while it is pending, such a mistake may be corrected only with the appellate court's leave." Fed. R. Civ. P. 60(a). One way we may provide that leave is with a remand—with or without the district court's indication—for the limited purpose of having the district court correct the judgment to implement fully its decisions. E.g., *Philadelphia Indemnity*, 930F.3d at 912 (remanding without indicative ruling). Because the flaw with the judgment is only clerical and does not affect finality, we have jurisdiction over the appeal and retain that jurisdiction during the remand. See Fed. R. App. P.

12.1(b); *Mosley v. Atchison*, 689 F.3d 838, 843 (7th Cir. 2012).

B. Dismissal of Duplicative Appeal

We will, however, retain jurisdiction over only one of TWD's appeals. Appeal No. 25-1341 is unnecessary. All the issues we have discussed were subjects of the first appeal. An amendment to identify additional orders predating the judgment is not necessary.

The Federal Rules of Appellate Procedure acknowledge the concept of amended notices of appeal but say little about how they operate. Commentators have noted a lack of case law providing further guidance. See 16A Wright & Miller, Federal Practice & Procedure § 3949.4 n.52 (5th ed.). Rule 4(a)(4) governs the effect of certain post-judgment motions on appellate deadlines. If a party appeals the judgment while one of these post-judgment motions is pending, Rule 4(a)(4)(B)(ii) provides that a party intending to challenge the later order disposing of that motion must file a notice of appeal or an amended notice of appeal. Otherwise, all the Rules say about an amended notice of appeal is that "No additional fee is required to file an amended notice." Fed. R. App. P.4(a)(4)(B)(iii).

TWD insists that it never intended to open a new appellate docket, but the Rules do not otherwise distinguish between amended notices of appeal and ordinary notices. See *Nocula v. UGS Corp.,* 520 F.3d 719, 724 (7th Cir. 2008) (holding amended notice of appeal must be filed within time to appeal). The district court clerk transmits any notice of appeal—amended or otherwise—to our clerk, who dockets that appeal as a new case. Fed. R. App. P. 3(d)(1), 12(a).

In contrast to the post-judgment orders governed by Rule 4(a)(4), an amendment is only rarely needed to appeal additional pre-judgment orders. Since 2021, Rule 3(c)(4) has provided that a "notice of appeal encompasses all orders that, for purposes of appeal, merge into the designated judgment or appealable order. It is not necessary to designate those orders in the notice of appeal." Rule 3(c)(6) further clarifies: "An appellant may designate only part of a judgment or appealable order by expressly stating that the notice of appeal is so limited. Without such an express statement, specific designations do not limit the scope of the notice of appeal." In other words, designating the final judgment in the notice of appeal will bring up all then-appealable orders unless the appellant clearly intends to limit its rights. (Even designating the judgment is not always necessary. Fed. R. App. P. 3(c)(5).) This case is not the rare exception to the general rule. TWD said expressly in its notice that its appeal included but was not limited to specified orders. Any other reviewable orders were thus brought along by operation of Rule 3(c).

We also agree with TWD that it should not be required to pay a fee for the duplicative appeal. Rule 4(a)(4)(B)(iii) is written in categorical terms that no fee is owed for an amended notice—not just those relating to the post-judgment motions in Rule 4. See *Owen v. Harris County*, 617 F.3d 361, 363 (5th Cir.2010). Independent judgments require independent appeals and fees. See *Ammons v. Gerlinger,* 547 F.3d 724, 726 (7th Cir.2008). But a litigant does not owe multiple fees if there is a single judgment that could have been appealed with a single notice. That is true whether because a post-judgment motion suspends the finality of the judgment until the

motion is denied under Rule 4(a)(4) or because, as here, the two notices encompass the same orders from the beginning.

Having dismissed its second appeal, we stop to explain why TWD should not need to file a third. The mere correction of a clerical mistake (which is all we are remanding to be done) is made nunc pro tunc—Latin meaning "now for then"—because it "changes the records to reflect what actually happened." Mosley, 689 F.3d at 842–43. (The nunc pro tunc maneuver should not be used, however, to rewrite history. See, e.g., *Monroe v. Bowman*, 122 F.4th 688, 690–91 (7thCir. 2024) (district court could not convert earlier preliminary injunction into a permanent injunction "nunc pro tunc").) Such a proper use of a nunc pro tunc change has retroactive legal effect back to the entry of the judgment that was deemed deficient and allows a prior appeal to proceed from the corrected judgment without a subsequent or amended notice of appeal. See *Mosley*, 689 F.3d at 843–44; Local 1545, *United Mine Workers of Am. v. Inland Steel Coal Co.*, 876 F.2d 1288, 1291 n.4 (7th Cir. 1989); accord, e.g., *Philadelphia Indemnity*, 930 F.3d at912.

Grunt Style's request to alter the judgment to include prejudgment interest, for example, did not address a clerical mistake. The district court had originally declined to award interest—a portion of Grunt Style's damages, see *Dual-Temp of Illinois, Inc. v. Hench Central, Inc.*, 777 F.3d 429, 430 (7th Cir.2015)—but then reconsidered. The amended judgment was anew judgment, triggering a new time to appeal. Litigants in doubt whether the court merely corrected a clerical mistake or did something more can file a second notice of appeal out of caution, and in the

face of ambiguity we will consolidate the appeals. But we do not foresee that being necessary here.

Conclusion

We DISMISS appeal No. 25-1341 as unnecessary. No fee shall be collected for that appeal. We REMAND appeal No. 25-1305 to the district court for the limited purpose of correcting its judgment to include the resolution of TWD's claims. We will retain jurisdiction over No. 25-1305. TWD shall file a status report within one week of this opinion informing us whether the district court has entered a corrected judgment.

DR_ 1/19/2017 Transcripts of DR15

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

JAMES SYNNOTT,	) Docket No. 16 C 9098
Plaintiff,	)
vs.	)
OFFICER	)
BURGERMEISTER,	) Chicago, Illinois
et al.,	)
Defendants.	)

January 19, 2017   10:00 o'clock a.m.

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE MATTHEW F.
KENNELLY

APPEARANCES:

Pro Se: MR. JAMES SYNNOTT
25W150 Brandywine Court
Naperville, IL 60540

For the
Defendants: DuPAGE COUNTY STATE'S
ATTORNEY'S OFFICE
BY: MR. WILLIAM R. ROBERTS
503 North County Farm Road
Wheaton, IL 60187

(630) 407-8200

Court Reporter: MS. CAROLYN R. COX, CSR, RPR, CRR, FCRR
Official Court Reporter
219 S. Dearborn Street, Suite 2102
Chicago, Illinois 60604
(312) 435-5639

(The following proceedings were had in open court:)

THE CLERK: Case number 16 C 9098, John Doe v. Burgermeister.

MR. SYNNOTT: Good morning, your Honor. James Synnott, pro se.

THE COURT: So the ball is in your court. So I've said you can't proceed on these claims, you can proceed on these, but the case -- the case has to -- it can't be under a pseudonym at this point. It's going to have to be in your name. So you have a choice. What's the choice?

MR. SYNNOTT: Well, sir, first I would like a chance to file a motion to reconsider.

THE COURT: Go ahead and file a motion to reconsider, but you are making this choice now. I spent a lot of time thinking about this.

MR. SYNNOTT: I understand.

THE COURT: Basically what you're trying to do is you're trying to overturn a state court judgment and you can't do that. Okay? So go ahead and file whatever you're going to file, but I told you that you were going to have to answer a question today and you're going to have to do it. What's the answer?

MR. SYNNOTT: **There's a consideration for how it affects my daughter that I'm concerned about.** There's other things, incidents that are happening.

THE COURT: You can file a revised version – the parts of the complaint that I have said can proceed don't have anything to do with any of that. It's the parts that have to do with -- largely, it has to do with your encounter with the sheriff out in DuPage County at the courthouse.

MR. SYNNOTT: Right.

THE COURT: So that would require a complaint, a revised complaint that just talked about that. It doesn't require naming the daughter, your spouse or anybody. It's a lawsuit against two sheriff's officers and the sheriff.

MR. SYNNOTT: Well, if I could back up for a minute. Last time that we were here, I was expecting at least the state to show or some of the other parties to show up, so I did not want to speak I believe the term is ex parte without the other parties being present. I did inform the state that I was looking for an attorney.

THE COURT: You haven't served anybody with a summons. Why would they know to be here?

MR. SYNNOTT: For today?

THE COURT: It's not enough to file a lawsuit. You have to serve the other side with the summons.

MR. SYNNOTT: I believe that I had. The state had appeared on the first date.

THE COURT: **I understand, but they don't have to respond to the lawsuit until you serve them with a summons.**
That's another problem with the case is the time for doing that is now expired. It can be extended. **You paid the filing fee in this case** and you sued, you know, a whole bunch of people. You have to serve them all with a summons. Not at this point because I have dismissed most of them, but it's down to -- so you can't serve them with summons unless you
somehow convince me to revisit that ruling. There is no reason why any of those people would be here or would need to be here.

MR. SYNNOTT: Today, I understand. Before that was my concern, and I realize that as you mentioned there is a list of people that I am suing. This is mostly about policy and preventing what had happened to me and my child from happening to others. That was the largest fact of what this
was about. I realized that finding an attorney was going to be difficult. That was what I was finding thus far with having to file the amended complaint. That,

obviously, I was not able to do over the holidays. Again, I realized it was going to be very difficult to find anyone. **Finding an attorney that wants to address these issues** with attorney,
judges, and **constitutionality of family law or domestic relations statutes is no easy task**.

THE COURT: Somewhere in here, we are going to get to the question I told you you were going to have to come in here and answer today.

MR. SYNNOTT: I was hoping that we could preserve that until after I file it. I haven't filed -- **sua sponte orders make me nervous, your Honor**.

THE COURT: What do you mean by a sua sponte order?
You are the only party in the lawsuit because you haven't served anybody; so that's where we are. I have to make – I have to make judgments about whether there's federal jurisdiction over your claims and whether you've got viable claims, and you filed this sprawling complaint that basically is trying to sue judges, lawyers, other litigants all about
stuff that has been litigated in state court. **So I've done what I am going to do. If you disagree with me, some day you will have the opportunity to take it upstairs and appeal it** to
the Court of Appeals. But we are going to proceed here right now. Okay?

Here's the deal. If you want to file a motion to reconsider, you've got a week to do that. You had the order now for 16 days. I entered it 16 days ago.

MR. SYNNOTT: I have had it –

THE COURT: **You have another week to do it**.

MR. SYNNOTT: -- for about eight days -- or ten days. It was last Monday.

THE COURT: It was entered on the 3rd of January. If you want to file a motion to reconsider, you have a week to do that. A week is the 26th of January. **You're to notice it up for presentment by no later than the 2nd of February. If I don't get it by then, I won't entertain it, period**.

MR. SYNNOTT: Thank you, your Honor.

THE COURT: Okay. And just figure that on that date, you really are going to have to answer the question that I told you you were going to have to answer today.

MR. SYNNOTT: I understand.

THE COURT: All right. Take care.
(Which were all the proceedings had in the above-entitled cause on the day and date aforesaid.)
I certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter.

/s/ Carolyn R. Cox, CSR, RPR, F/CRR October 5, 2023
Official Court Reporter
United States District Court
Northern District of Illinois
Eastern Division

DR164: 4/18/2019 Transcript Page 10, lines 8-25,
through page 13, lines 1-14,
(Full text available at DR164)

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

JAMES SYNNOTT,	) Docket No.
	) 16 C 9098
Plaintiff,	)
vs.	)
OFFICER BURGERMEISTER,	) Chicago, Illinois
et al.,	) April 18, 2019
Defendants.	) 3:40 o'clock p.m.

TRANSCRIPT OF PROCEEDINGS - PRETRIAL CONFERENCE
BEFORE THE HONORABLE MATTHEW F. KENNELLY

APPEARANCES:

Pro Se
Plaintiff: MR. JAMES SYNNOTT
25 W. 150 Brandywine Court
Naperville, IL 60540

For the
Defendants: DuPAGE COUNTY
STATE'S ATTORNEY'S OFFICE
BY: MR. GREGORY E. VACI
MS. LISA ANN SMITH

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Court
Reporter: MS. CAROLYN R. COX,
CSR, RPR, CRR, FCRR
Official Court Reporter
219 S. Dearborn Street, Suite 2102
Chicago, Illinois 60604
(312) 435-5639

... ...

THE COURT: ....

The case was originally filed on September the 19th, 2016. I don't recall who it was originally assigned to, but it was assigned to me three days later, the 22nd of September.

On October the 21st of 2016, I did – because Mr. Synnott had moved to proceed in forma pauperis, I did an initial review of the complaint under 28 United States Code Section 1915(e)(2), and I dismissed the claim for reasons that were stated in an order, so I don't need to repeat them.

Mr. Synnott filed an amended complaint, which I had given him permission to do. On January the 3rd of 2017**, I reviewed that complaint, again, under Section 1915(e)(2)**. It had 18 claims in it. I dismissed 15 of them, leaving three.

Again, there is an order that explains what claims were dismissed and what claims were not dismissed. The claims that were not dismissed were three claims that all relate to the January 5, 2017 --

2015 incident. I might have the year wrong on that. January 5 of whatever year.

It was a claim under the Fourth Amendment for unlawful entry. There was a parallel state law claim, which I believe was a claim for intentional infliction of emotional distress, and there was a claim against the county for indemnification of the officers. Those were the three claims that remained in the case at that point.

That order, that same order, January 3rd of 2017, directed the plaintiff to serve the defendants. **Mr. Synnott filed a motion to reconsider. I denied that on February the 2nd of 2017.**

I had directed him to file a redacted amended complaint that just included the claims that I had allowed to proceed because I didn't think it was appropriate to serve the defendants with a whole bunch of stuff that they weren't going to have to answer.

... ...

Mr. Synnott filed a redacted amended complaint. It didn't comply with the order, so I struck it, gave him a chance to do it again. March the 20th he filed another one called second amended complaint. Again, didn't comply with what I had told him to do. I struck it on the 23rd of March
of 2017.

On April the 3rd of 2017, that's a significant date,
Mr. Synnott filed -- finally filed a compliant -- by "compliant" I mean complying with my orders -- I think that may have been the third amended complaint. I entered an order on April the 25th advising the defendant -- the plaintiff to
serve the defendants.

I wasn't told that the defendants had already been served. There is nothing on the docket that states that the defendants had been served. Typically people file a return of service. I understand that Mr. Synnott is pro se. I'm not faulting him for not filing it. There is no evidence on the docket of when the defendants were served. All I know is that
there wasn't a proper complaint on file in this case until April the 3rd. The defendants ultimately answered it on August the 9th. That's not a year. That's not 11 months.
It's not ten months. It's four months and one week. So the statement that the defendants were allowed to file roughly one year after they had been served is not true.

Now, it is true that I believe it was Mr. Roberts, from the State's Attorney's Office of DuPage County, was in the courtroom at least on some of the earlier court hearings.
He wasn't obligated to respond to the complaint. The Rules of Civil Procedure provide that summons is what tells – summons being served is what tells a person they have to respond to the complaint. I don't have any evidence in the docket because you didn't file any on when that happened, but I know that there wasn't a compliant amended complaint that you could serve until April the 3rd of 2017. So it's a four-month delay. And it's true that the defendants didn't file an answer on time. So here's what happened after that.

On June the 28th, the case had been set for status.
Mr. Synnott failed to appear. I issued an order to show cause why the case shouldn't be dismissed for want of prosecution.

On August the 2nd, Mr. Synnott did appear. At that point it came to my attention that the defendants hadn't responded to the complaint. I ordered them to show cause why they shouldn't be held in default, and they responded a week
later, August the 9th.
So that statement is incorrect about the one-year thing.

MR. SYNNOTT: May I?

THE COURT: No. I've got your motion. I am ruling on it. Okay?

MR. SYNNOTT: Thank you.

THE COURT: So you are going to wait.

MR. SYNNOTT: Yeah.

THE COURT: All right. So paragraph 3, it says,

among other things: "The plaintiff contends he should be allowed the time he needs to do what's necessary to have matters fairly ruled upon by their merits and have input into time lines and due dates. The defendants filed their response to the complaint on August the 9th of 2017. That is one year
and eight months ago plus a little bit."

[ROP261 Transcript 9/11/2013 excerpt pg.37]

Miss Gumina, do you have another witness to call?

MS. GUMINA: Beth Ceh Cunningham.

THE COURT: Miss Cunningham, if you'll come forward, please, and before being seated if you'd also raise your right hand for me.

(The oath was duly administered to the witness by the court.)

THE COURT: Please be seated.

ELIZABETH CUNNINGHAM,

called as a witness herein, having been first duly sworn, was examined and testified as follows:

D I R E C T E X A M I N A T I O N

by MS. GUMINA:

Q Please state your name.

A **Elizabeth Cunningham.**

***

[ROP 263 Transcripts 9/11/2013 pg. 39]

Q: Are you employed?

A: I am.

Q: Where are you employed

A: Providence Life Services.

Q: What do you do for them?

A: Executive assistant to the CEO, and I also served as the board liaison.

Q: What type of company is that?

A: We provide senior services.

Q: And where are you -- where is your office located?

A: Tinley Park, Illinois.

Q: How long have you been employed at that company?

A: 12 years.

Q: Are you a W2 wage earner?

A: Yes.

Q: Do you have any ownership interest in that company?

A: No.

Q: How is your health?

A: Very good.

Q: I'm going to direct your attention to Defendant's Exhibit 12. Do you recognize that document?

A: Yes, I do.

extenet SM
SYSTEMS

August 16th, 2017

Letter of Recommendation: Coy Potts
Reference: Joe Cunningham, Executive Director
Company: ExteNet Systems / 3030 Warrenville Road, Suite 340 / Lisle, IL 60532

I lead the Network Planning, Presales Engineering, Fiber Design, and Network Cost Analysis activities for outdoor networks at ExteNet Systems. As part of those responsibilities, I also manage our GIS and cost analysis groups. Coy Potts is currently a Sr. GIS Specialist at ExteNet and is leading our GIS Infrastructure and Architecture team. The GIS Infrastructure and Architecture team is responsible for managing our network assets and inventory within the GIS environment, developing and implementing tools and scripts for GIS automation, and maintaining the overall GIS system architecture and software.

Coy has been with ExteNet since 2014 and has been a member of my team since January 2015. Coy is a highly talented GIS professional and does excellent work for ExteNet. Coy leads a team of 4 other GIS professionals, has strong communication skills, and exhibits strong leadership qualities.

Coy continues to hone his craft and develop his GIS skills and capabilities. For the last 2 years he has represented ExteNet at the ESRI User Conference in San Diego, CA and has attended numerous training

programs and professional GIS associated conferences. Coy continues to exhibit an insatiable curiosity about GIS, the telecom and wireless industries, and figuring out ways to complete objectives more effectively and efficiently. Over the course of the last 2 years, I have encouraged Coy to think long-term about his career goals and objectives. Coy has expressed an interest in pursuing a specialized higher education curriculum in a GIS-related field and I think it is an excellent choice. Coy's career potential and trajectory are high and will only be limited by his desire and willingness to continue developing his craft and taking on new challenges. Coy is an extremely hard worker, highly talented, demonstrates excellent leadership potential, and is highly skilled in the GIS disciplines. The sky is the limit for Coy's career and professional growth.

It is my pleasure to highly recommend Coy for the graduate program at Elmhurst College. If there are any questions about this letter of recommendation, or Coy's performance at ExteNet, please feel free to contact me at your convenience.

Respectfully,
/c/ Joe Cunningham

Joe Cunningham | Executive Director, Network Planning
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SYSTEMS **Connectivity**
Everywhere

[DR304:99-121] Expert Report Fabricius Ph.D.

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS

IN RE: J. Synnott, PLAINTIFF v. DuPage Sheriff Deputy Burgermeister et al DEFENDANTS	Case No. **16 C 9098** Judge Kennelly

EXPERT WITNESS REPORT OF WILLIAM V. FABRICIUS, Ph.D.

I, William V. Fabricius, Ph.D., hereby declare and state as follows:

I. EXPERT BACKGROUND AND QUALIFICATIONS

1. I have been retained as an expert witness by counsel for plaintiffs in this matter. This declaration is based on my personal specialized knowledge, informed by my education and experience as a developmental psychologist, and by my familiarity with the relevant scholarly work on the topic of divorce and children's health. My background experience, and list of publications are summarized in my curriculum vitae, appended to this declaration as

Exhibit A. I have actual knowledge of the matters stated in this declaration, and I could and would so testify if called as a witness.

2. In 1971, I received a B. A. in Philosophy from Boston University (*magna cum laude*, Phi Beta Kappa), in 1976 a M. S. in Early Childhood Education from Wheelock College, and in 1984 a Ph.D. in developmental psychology from the University of Michigan. I have researched and taught graduate and undergraduate courses in the area of developmental psychology, in the Department of Psychology at the University of Georgia (1984 – 1990), and in the Department of Psychology at Arizona State University (1990 to present), where I am currently an Associate Professor, and Affiliate Faculty in the interdisciplinary Law and Psychology graduate program.

3. I have authored or co-authored 72 peer-reviewed empirical research articles and chapters in academic journals and publications in the areas of psychology and family law (see CV for complete citations). I am regularly asked by editors of top Child and Family Psychology journals to provide peer reviews of submitted research papers.

***

14. Given what appears to be then a precarious state of the custody proceedings and timing, documents indicate an appeal brief was due by the plaintiff and plaintiff represents he was erroneously prohibited from seeing his child and at risk of

permanent loss of joint custody, the January 2015 event would be expected to harm plaintiff's efforts in the child custody proceedings thus adversely impact the custody proceedings and thus extend harm to the child and parent. This is notable as in parent and child have not seen each other now in over 7 years and state court, as represented by plaintiff and appears to be supported by documents, has refused to set for hearing for example on issues of visitation. The plaintiff claims the appeal was dismissed as there was no final order, or language allowing appeal was not corrected, Mother's attorney on same day dismissed efforts to pursue Plaintiff's parents, and the state court subsequently refused to set matters for hearing in order to obtain final appealable order. The facts as represented and thus far known and supported by documents do strongly indicate there was no justifiable reason to prevent father and child from seeing each other. The prior state judge that had entered the most damaging orders effecting plaintiff's parent child relationship, which plaintiff asserts is void or non-final and would challenge on appeal once allowed, stated later on or about 12/20/2013 he did not find supervised visitation necessary... Instead of entering an order granting some visitation for Christmas holiday, suggested that mother and father come to agreement as to visitation where there was no indication Mother would agree as a root issue was allegations of significant visitation interference (unsurprisingly in response to plaintiff's request to do so, mother texted "No"). Tellingly in entering adverse orders restricting visitation, Judge stated "I think he is operating in from the best possible motivations about what he believes is in the best interests of his daughter" (6/7/2013 transcripts pg.10, line 16), and "I

am not saying [father] is doing anything wrong" (6/11/2013 transcript pg. 9, line 6). Further, for example, it appears incongruent and unjust for a parent seeking help from a court to resolve alleged severe visitation interference to spend years attempting to have matter heard, not be heard, and then instead loose both all visitation and joint custody in circumstances that appear dubious in fact and procedurally, and again be denied a needed hearing and thus ability to appeal.

***

Child custody policies and practice under the Best Interests Standard do not protect children's relationships with both parents.

17. Child custody policy in the United States is a mixture of state and federal laws formulated by the legislative branch and managed procedurally by the judicial branch. Federal laws have been intruding more and more into family law arena significantly impacting State Laws and even forcing changes is State constitutions see e.g. 42 U.S.C. § 666(a)(5)(I) (2006) (requiring elimination of jury trials in paternity cases). Prior to the legislation that added this requirement, a number of states recognized a constitutional right to a jury trial in paternity proceedings. See, e.g., B.J.Y. v. M.A., 617 So. 2d 1061 (Fla. 1993) (holding state statute that abolished jury trials in paternity cases was unconstitutional). See generally David M. Holliday, Paternity Proceedings: Right to Jury Trial, 51 A.L.R. 4th 565 (1987). The

jurisdiction of the courts for granting/entering of Child Custody orders is largely reserved as a state-level matter (Estin, 2009). Family law, including custody law, is inevitably affected by prevailing cultural values, possibly even more so than for many other areas of law. This influence can be demonstrated by examining the historical contexts during which shifts in the law occurred. Prior to around the second half of the 19th century, English family law was primarily concerned with the preservation of family estates, passed down through generations via the primogeniture rule favoring the eldest son (Glendon, 1981). During this time, married women also had very little independent voice of any kind. They could not vote, own property, earn wages, or sue in their own right. Coinciding with the societal interest in preserving family estates and a lack of women's rights, paternal rights ruled in custody disputes (Grossberg, 1985; Hartog, 2000). This legal tradition carried over to the American colonies and was the prevailing standard during the founding of the United States. Consequently, at America's founding child custody was commonly awarded to fathers.

***

19. The Best Interests of the Child Standard (BIS) is the fundamental structural reason for unnecessary restrictions, interference, and disruptions in children's relationships with their separated and divorced parents. It has come under sustained criticism at least since 1973 for its shortcomings *qua* standard; specifically, for its

inability to provide normative guidance to courts and the public, and its failure to achieve its goal of providing for children's developmental needs. The classic critique was offered by Hilary Rodham in *Harvard Educational Review* Vol. 43, No. 4, November 1973, motivated by "a common complaint about the exercise of discretion in neglect cases ... that alien values, usually middle-class, are used to judge a family's child-rearing practices" (p. 514). The critique focused in part on "*recognizing certain unique needs and interests of children as legally enforceable rights*" (p. 487). The critique is still oddly relevant over 45 years later, regarding how it applies specifically to the use of the BIS in child custody proceedings after parental separation and divorce.

20. Rodham noted that under the BIS, "There is an absence of fair, workable, and realistic standards for limiting parental discretion and guiding state intervention" (p. 505). The same absence of standards exists in custody proceedings today where local professionals weigh in regarding what "children need." These "needs" are variously described to courts as consistency of rules and routines, insulation from parent conflict, one primary parent, continuation of which parent has provided most of the child care, community resources available to the child, the "social capital" available from other family and community members, etc., with or without reference to children's need to maintain their relationships with both parents. Rodham famously concluded, "The best interests standard ... as the standard for adjudicating children's interests in proceedings evaluating parental care, is not properly a standard. Instead, it is a rationalization by decision- makers justifying their judgments about a child's future, like an empty vessel

into which adult perceptions and prejudices are poured. It does not offer guidelines for how adult powers should be exercised. Seductively, it implies that there is a best alternative for children deprived of their family" (p. 513). Many family law scholars since then have rendered the same judgment about the BIS as the standard in child custody proceedings after parental separation and divorce.

***

22. The inability of the BIS to provide normative guidance to courts opens the door to the biasing influence of gender ideology. Implicit gender bias is contrary to the explicitly gender- neutral BIS. Bias among judges for awarding physical custody to mothers has been found in several studies (Braver, Cookston, & Cohen, 2002; Stamps, 2002). Likewise, family courts are perceived by the public to have a maternal bias (Braver, Ellman, Vortuba, & Fabricius, 2011), undermining essential public trust. This is increasingly recognized as a problem. The Illinois Supreme Court recently sponsored a study of implicit bias among Illinois judges, developed and analyzed by the American Bar Foundation with researchers Dr. Andrea Miller and Dr. Robert Nelson, published in 2019 in Social Psychological and Personality Science, Vol. 10(2), pp. 227-234. "The results of the study demonstrate that judges are just like everyone else in that we are susceptible to influences which unconsciously affect our decisions. The Supreme Court is to be applauded for its courage in undertaking this endeavor. There is no shame in

admitting that we are all affected by implicit bias to some degree," said Hon. Joseph McGraw, Chair of the Equality Committee, in a press release (November 6, 2017). The results showed that judges were likely to award more parenting time to mothers than to fathers, whereas the comparison group of lay people, recruited from around the country, favored awarding equal parenting time to both parents (see also paragraph #24). Distressingly, the results also showed that having more expertise in terms of years on the bench did not buffer judges against the biasing influence of gender ideology, but appeared to make them more susceptible. In general, it is not known how best to combat implicit bias. However, in State family courts, Federal determination of parents' equal rights to their child and child's right to both parents in divorce proceedings, along with State custody statute reforms, would have a powerful norming influence to counteract implicit gender bias. Diminishing the effects of implicit gender bias in court decisions that allocate children's parenting time with each of their parents for the remainder of their childhood is essential to serving children's developmental needs to maintain their relationships with both parents.

***

33. When children abruptly lose the availability of a parent due to having a minimal amount of parenting time with that parent, they lose the ability to elicit that parent's attention, responsiveness, and proximity for long stretches of time. This interruption of their natural drive to maintain the relationship

causes "attachment anxiety," which recruits the human body's response to perceived threat, in this case, the threat of loss of the relationship. Children experience the unavailability of a parent as abandonment by that parent, and become vigilant and worried about the parent's return, which is the outward behavioral indication of a chronic state of stress. In response to this anxiety about the parent-child relationship, the child's physiological stress regulatory system releases chronic levels of stress hormones, which over time can harm both physical and mental health. Chronic exposure to stress hormones causes organ damage, including to the brain, and suppresses immune response, among other effects. It also interferes with cognitive and emotional development, leading to poor self-esteem, the insecure attachment pattern of expecting rejection from close others in the future, and unregulated anger and aggressive behaviors. Comanor and Phillips reported their findings from the National Longitudinal Survey of Youth on children growing up apart from their fathers, *including divorced fathers with "standard visitation,"* in the Journal of Applied Economics in 2002:

> "From this analysis, we conclude that the single most important factor affecting these measures of delinquency [i.e., contact with the criminal justice system between the ages of 14 and 22] is the presence of his father in the home. All other factors, including family income, are much less important ... These results, emphasizing the

> importance of fatherlessness, are confirmed in a recent paper by Harper and McLanahan (1998). In their analysis, the dependent variable is the likelihood of incarceration."

***

35. It should not be surprising, then, that young adults who have lived through their parents' divorce commonly express a desire to have had more parenting time with their fathers. It is surprising that divorce researchers over the decades have seldom studied the impact of divorce on parent-child relationships. One of the best researchers to have done so, Paul Amato, found in 2003 that the child outcome most strongly associated with parental divorce is damaged father-child relationships. Using sophisticated methodology, Amato was able to determine that approximately 35% of children of divorce have worsened relationships with their fathers than they likely would have, had their patents not divorced.

36. Any factor that negatively affected 35% of a population would be cause for alarm and action. In this case, it represents a substantial harm to individual families, and substantial public health costs to society. The health literature going back to the 1950s shows that if children exit adolescence with *insecure relationships with either* parent, they are at

risk for mental and physical health problems in mid- and later-life (e.g., Repetti, Taylor, & Seeman, 2002).

***

Intergenerational transmission of absent father relationships

40. The health literature shows Fathers' absence is a pattern that shows intergenerational continuity, most notably within disadvantaged populations. Analyses based on structural equation modeling revealed that men whose fathers were absent when they were children were more likely to become absent fathers, and women whose fathers were absent when they were children were more likely to have children with absent partners. Indirect pathways between fathers' absence in 2 generations through aggression, education, and substance abuse were illustrated for women. These findings add to the literature suggesting that fathers' absence during childhood has intergenerational effects (Pougnet, et al, 2012). A direct pathway has been illustrated between divorce in one generation and divorce in the next generation even after accounting for socioeconomic, demographic, parenting, and mental health factors (e.g., Amato & DeBoer, 2001). The absence of a reliably illustrated gender difference in the transmission of divorce might be explained by social learning theory, which suggests that children of both genders repeat the relationship roles that they observe from their parents; specifically, men whose

fathers are absent from their homes as children lack a model of what it is to be a present father, thus reproducing the cycle by becoming absent fathers themselves (see Edwards, 1987, for a review), and women whose fathers are absent from their homes as children hold less traditional gender-based family role attitudes because they were raised by single mothers, resulting in a greater likelihood of having children with an absent father (McHale, Crouter, & Whiteman, 2003). Young adult romantic relationships are influenced by their caregivers' relationship (Madsen & Collins, 2011). Dennison and colleagues (2014) found that there is a link between intergenerational transmission and relationship quality, especially among females. The quality of the relationship the parents have are strongly correlated to the next generations' romantic relationship quality (Dennison et al, 2014) See also intergenerational effect of trauma (Yehuda, et al, 2001). These matters have long lasting effects on children's future relationships, manifesting in either their role, or role of those they seek to partner up with, can be or often is detrimental to themselves and the children's resulting following generation(s)....

***

37. Reforms have stalled in other states. I have files of unsolicited communications with individuals and organizations in 34 States (as well as 19 countries) involved with custody policy reforms, and it is apparent that resistance from many family law communities and organizations in the United States to rebuttable presumptions for equal parenting time

has stiffened since the Arizona and Kentucky reforms. This leads me to conclude that Federal Constitutional review of children's separate, special interests and rights is necessary. A *right* in custody cases to maintain relationships with both parents would be unique to children; parents instead would have a *responsibility* to ensure the child's right, by maintaining their own relationship with the child, as well as not interfering with the other parent's relationship with the child. Under the BIS, the task of determining the exact proportion of time each child should spend with each parent that will be in their "best" interest is impossible, because the "empty vessel" BIS leaves courts and custody evaluators blind, and on their own to answer the question, "Best in terms of what?" A Constitutional right of children to maintain relationships with both parents could be well- founded on what is universally recognized as natural and fundamental to children's development. It would impose no culturally biased presumptions about how children should be raised. It would provide the missing focus for policy makers and practitioners in terms of parenting time (physical custody) and decision-making (legal custody). The empirical research showing the connections between custody (both physical and legal) and children's long-term relationships with parents would then provide the foundation for replacing the Best Interests of the Child standard with a rebuttable Equal Parenting Time and Decision-Making Presumption standard. A right of children to maintain relationships with both parents would also provide focus in terms of how courts should address and manage parent conflict, long and often manipulative delays in divorce proceedings, parental relocation both with and

without the child, and attempts by some parents to undermine the child's relationship with the other parent. Instead of entangling these issues with decisions about parenting time and decision-making, policy makers and practitioners would be redirected toward addressing these problems directly through parent education programs, counseling, mediation, and removing the current incentives to "win" custody by engaging in some of these behaviors.

***

/s/ William V. Fabricius, Ph.D.
Dated: April 12, 2022

(735 ILCS 5/Art. XI Pt. 1 heading) Part 1.

In General

(735 ILCS 5/11-101)

(from Ch. 110, par. 11-101)

Sec. 11-101.

Temporary restraining order.

No temporary restraining order shall be granted without notice to the adverse party unless it clearly appears from specific facts shown by affidavit or by the verified complaint that immediate and irreparable injury, loss, or damage will result to the applicant before notice can be served and a hearing had thereon. Every temporary restraining order granted without notice **shall** be indorsed with the date and hour of signing; shall be filed forthwith in the clerk's office; shall define the injury and state why it is irreparable and why the order was granted without notice; and shall expire by its terms within such time after the signing of the order, not to exceed 10 days, as the court fixes, unless within the time so fixed the order, for good cause shown, is extended for a like period or unless the party against whom the order is directed consents that it may be extended for a longer period. The reasons for the granting of the extension shall be stated in the written order of the court. **In case a temporary restraining order is granted without notice, the motion for a preliminary injunction shall be set for hearing at the earliest**

possible time and takes precedence over all matters except older matters of the same character; and when the motion comes on for hearing the party who obtained the temporary restraining order shall proceed with the application for a preliminary injunction and, if he or she does not do so, the court shall dissolve the temporary restraining order.

On 2 days' notice to the party who obtained the temporary restraining order without notice or on such shorter notice to that party as the court may prescribe, the adverse party may appear and move its dissolution or modification and in that event the court shall proceed to hear and determine such motion as expeditiously as the ends of justice require.

Every order granting an injunction and every restraining order shall set forth the reasons for its entry; shall be specific in terms; shall describe in reasonable detail, and not by reference to the complaint or other document, the act or acts sought to be restrained; and is binding only upon the parties to the action, their officers, agents, employees, and attorneys, and upon those persons in active concert or participation with them who receive actual notice of the order by personal service or otherwise.

(Source: P.A. 84-554.)

(735 ILCS 5/11-102)

(from Ch. 110, par. 11-102)

Sec. 11-102.

Preliminary injunction.

No court or judge shall grant a preliminary injunction without previous notice of the time and place of the application having been given the adverse party.

(Source: P.A. 84-282.)

No. 25-210

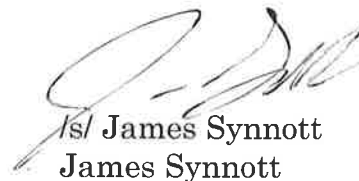
IN THE SUPREME COURT OF THE UNITED STATES

James Synnott
Requested to be
John Doe / alternatively JS,
Petitioner,
v.
Paul Burgermeister,
Ian Northrup,
et al
Respondents.

CERTIFICATE OF WORD COUNT

As required by Supreme Court Rule 33.1(h), I certify that the PETITION FOR REHEARING contains 2,996 words, excluding those parts exempted by Supreme Court Rule 33.1(d).

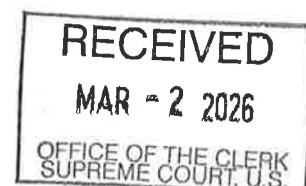
February 23, 2026



/s/ James Synnott
James Synnott

/s/ John Doe
John Doe

/s/ JS
JS



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James Synnott
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CERTIFICATE OF SERVICE

It is hereby certified that all parties, via the party's counsel if known, as known required to be served have been served with copies of the **Petition for Rehearing and Sealed Supplemental Appendix, and Motion to Seal Supplemental Appendix** via e-mail and/or first-class mail, or commercial postage service, postage prepaid, this 23rd day of February 2026.

[See Attached Service List]

/s/ James Synnott
James Synnott

/s/ John Doe / alternatively /s/ JS,
John Doe / alternatively JS

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No. 25-210

IN THE SUPREME COURT OF THE UNITED STATES

James Synnott / JS,

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Paul Burgermeister,
Ian Northrup,
et al

Respondents.

PETITION FOR REHEARING
&
SEALED SUPPLEMENTAL APPENDIX
&
MOTION TO SEAL SUPPLEMENTAL APPENDIX

DECLARATION IN COMPLIANCE

Pursuant to inter alia Supreme Court Rule 29.2 and 28 U. S. C. § 1746 it is hereby certified that both of the filed, the **PETITION FOR REHEARING AND SEALED SUPPLEMENTAL APPENDIX, AND MOTION TO SEAL SUPPLEMENTAL APPENDIX,** were tendered to the United States Post Office for delivery and delivery fees were paid, on the 23rd day of February 2026.

I certify under penalty of perjury that the foregoing is true and correct. Executed on February 23, 2026

James Synnott / JS,