25-852

ORIGINAL

No. 26 -

In the

SUPREME COURT OF THE UNITED STATES

KIMBERLY EDELSTEIN,

Petitioner

v.

ELIOTT EDELSTEIN,

Respondent

On Petition For Writ Of Certiorari
To Court of Appeals for the First District of Ohio

PETITION FOR WRIT OF CERTIORARI

Kimberly Edelstein, Pro se
13984 Hartley Dr.
Carey, OH 43316
(614) 975-2400

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QUESTIONS PRESENTED

1. Did the state court err and violate the Supremacy Clause and Petitioner's Fourteenth Amendment rights in reclassifying a federal civil rights verdict as divisible under state law when it engaged in extra-record fact-finding and judicial notice of disputed facts to deprive Petitioner of a vested property interest?

2. Whether Ohio's "best interest of the child" standard, Ohio Revised Code §3109.04(F)(1), as applied to deprive a parent of custody or meaningful parent-child contact, is vague, overly broad, and delegates discretion without standards in violation of the Fourteenth Amendment by permitting infringement of a parent's fundamental liberty interest without a clear and convincing evidentiary burden or strict scrutiny judicial review, in conflict with *Troxel v. Granville*, 530 U.S. 57 (2000).

3. Whether Fourteenth Amendment due process and equal protection are violated when state courts deprive a parent of custody or meaningful parent-child contact without any finding of parental unfitness, based on discretionary reports or recommendations of non-expert, quasi-judicial actors who apply no evidentiary standards and operate without constitutionally required safeguards.

4. Did the state court err in setting a visitation order that burdens protected religious exercise, fails to provide reasonable accommodation for disability, and then imposes coercive sanctions, including severing the parent-child bond and incarceration?

PARTIES TO THE PROCEEDING

All the parties in this proceeding are listed in the caption.

A corporate disclosure statement is not required because no parties are corporations, See, Sup. Ct. R. 29.6

STATEMENT OF RELATED CASES

Eliott Edelstein v. Kimberly Edelstein, No. DR2201279, Hamilton County Court of Common Pleas, Domestic Relations Division, Ohio. Final Divorce Decree entered January 31, 2024. Unpublished.

Eliott Edelstein v. Kimberly Edelstein, Nos. C-240044 & C-240127, Court of Appeals for the First District of Ohio. Judgment entered April 30, 2025. Published at 2025-Ohio-1514. Motion for Reconsideration denied June 11, 2025.

Eliott Edelstein v. Kimberly Edelstein, No. 2025-0845, Supreme Court of Ohio. Jurisdiction declined October 14, 2025. Published at 179 Ohio St.3d 1506, 2025-Ohio-4678.

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The unpublished Final Divorce Decree of the Hamilton County Court of Common Pleas, Domestic Relations Division, issued January 31, 2024 is reproduced at App. B.

The published opinion of the Ohio Supreme Court denying jurisdiction on October 14, 2025 is reproduced at App. C.

The unpublished entry denying reconsideration of the appeal by the Ohio Court of Appeals, First District, issued on June 11, 2025 and is reproduced at App. D.

BASIS FOR JURISDICTION

The decision of the Ohio Supreme Court denying jurisdiction was issue October 14, 2025. A copy of that decision appears at Appendix C.

This petition for writ of certiorari is filed on or before January 12, 2026.

The jurisdiction of this Court is invoked pursuant to 28 U.S.C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

U.S. Constitution, Article IV, Clause 2:

> This Constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be

made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding.

The First Amendment to the U.S. Constitution:

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances. *USCS Const. Amend. 1.*

The Fifth Amendment to the U.S. Constitution:

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, accepting cases arising in the land or Naval forces, or in the Militia, when an actual service in time of War or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation. *USCS Const. Amend. 5.*

The 14th Amendment to the U.S. Constitution, §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. *USCS Const. Amend. 14, Sec.1.*

Americans With Disabilities Act - 42 U.S.C.S. §12132:

Subject to the provisions of this title, no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity. *42 U.S.C.S. §12132.*

Ohio Revised Code §3109.04(F)(1)(a)-(j):

In determining the best interest of a child...the court shall consider all relevant factors, including, but not limited to:

(a) The wishes of the child's parents regarding the child's care;

(b) ...the wishes and concerns of the child, as expressed to the court;

(c) The child's interaction and interrelationship with the child's parents, siblings, and any other person who may significantly affect the child's best interest;

(d) The child's adjustment to the child's home, school, and community;

(e) The mental and physical health of all persons involved in the situation;

> (f) The parent more likely to honor and facilitate court-approved parenting time rights or visitation and companionship rights;
> (g) Whether either parent has failed to make all child support payments...
> (h) Whether either parent or any member of the household of either parent previously has been convicted of or pleaded guilty to any criminal offense involving any act that resulted in a child being an abused child or a neglected child...and whether there is reason to believe that either parent has acted in a manner resulting in a child being an abused child or a neglected child;
> (i) Whether the residential parent or one of the parents subject to a shared parenting decree has continuously and willfully denied the other parent's right to parenting time in accordance with an order of the court; and
> (j) Whether either parent has established a residence, or is planning to establish a residence, outside this state. *Oh. Rev. Code §3104.09(F)(1)(a)-(j).*

Oh. Rev. Code §3105.171(A)(6)(a)(vi), defines "separate property" as:

> Compensation to a spouse for the spouse's personal injury, except for loss of marital earnings and compensation for expenses paid from marital assets... *Oh. Rev. Code §3105.171(A)(6)(a)(vi).*

STATEMENT OF THE CASE

Petitioner's case involves anti-Semitism and political retaliation for a $1.12 million verdict award, played out in a domestic relations case. The retaliation resulted in significant violations of Petitioner's substantive and procedural due process rights, including (1) Petitioner's rights to a $1.12 million verdict that was reclassified by the trial court contrary to federal law to deprive Petitioner of her personal property; and (2) Petitioner's right to a parent-child bond with her teenage son. This case highlights the dangers inherent in the application of the "best interest of the child" ("BIC") without constitutional safeguards as set forth in *Troxel v. Granville*, 530 U.S. 57 (2000). Petitioner's case identifies the systemic failures associated with the BIC standard and it demonstrates that the scope of *Troxel v. Granville*, 530 U.S. 57 (2000) needs to be extended to family court proceedings in order to protect the parent-child bond. Procedural process in any court should be constitutionally compliant in accordance with the Fourteenth Amendment, regardless of the reach of federal review. This petition presents an appropriate vehicle for addressing whether such applications of the best-interest standard are consistent with the Fourteenth Amendment and whether a state can disregard constitutional protections and federal law to punitively deprive an individual his/her child and property.

I. Background

In February 2023, Kimberly Edelstein ("Petitioner"), an Orthodox Jew and former Butler County, Ohio Magistrate, prevailed, pro se, in a First Amendment lawsuit against her employer, a Butler

County judge and Southern Baptist Minister ("Stephens"). The jury awarded Petitioner the largest verdict against a sitting judge in the history of Ohio ($1.12 million) for a violation of her First Amendment right to practice her religion without retaliation. Before the EEOC, Stephens admitted to an animus towards Jews by testifying that people who do not accept Jesus as their savior (i.e. Jews and Muslims) are damned to a lake of fire in Hell.

Shortly after the verdict, Petitioner received credible information that a powerful Butler County Public Official ("Public Official"), who controls politics in Southern Ohio and was politically aligned with Stephens, was angry and embarrassed by the verdict. Petitioner learned that the Public Official bragged that the domestic relations judge over Petitioner's divorce was "in his pocket." Petitioner learned that she had become a target for retaliation and was warned by a state official that the Public Official was dangerous and that Petitioner's "life was in danger."

II. History in State Courts

During the ten months after the verdict, Petitioner brought her concerns to multiple officials, courts, and government agencies. Without recourse, Petitioner, an attorney, witnessed the domestic relations judge presiding over Petitioner's divorce, Judge Anne Flottman ("Flottman") initiate and promote a custody dispute when none existed between the parents for over 1 1/2 years. The record further reflects a pattern of due process and other constitutional violations and judicial errors (all occurring after the large verdict was issued in February 2023) that collectively demonstrate the dangers of a statutory regime that permits custody deprivations through vague standards, unbounded

discretion, and a lower appellate review standard. These actions included, inter alia: retaining venue contrary to governing civil rules; falsifying and manipulating the record; removing a Sabbath-observant child from his religious community and school; failing to administer oaths to trial witnesses on the record; interfering with the integrity of the appellate record; excluding evidence of alleged abuse of the child by Respondent; engaging in ex parte communications; conducting independent factual research outside the trial record; issuing punitive financial and custody orders; imposing visitation conditions that conflicted with religious observance and physical limitations; refusing reasonable accommodations; influencing clerk staff to refuse evidence; repeatedly submitting to the Ohio Supreme Court affidavits with false statements of court staff and for herself, to retain control over the case; instructing the court administrator to insert prejudicial exhibits into the official record that were never disclosed to Petitioner, introduced, or admitted at the trial level; issuing decisions when divested of jurisdiction; withholding trial exhibits to prevent a complete appellate record; ignoring the teenager's ("S.E.") testimony of abuse by Father and desire to live with Petitioner; and enforcing custody determinations through coercive orders without proper service or jurisdiction.

The appeal for the divorce decree (January 2024) and the ancillary DVCPO (November 2024) timely addressed all issues regarding venue, service, the failure to abide by the Ohio statutes, conducting research outside the trial record, and the punitive custody decision. The judges at the First District Court of Appeals (most of whom were members of the same political party as Flottman) affirmed both

decisions, ignoring all of the evidence of abuses of discretion (App. F).

In the protection order proceedings, the appellate court compounded the constitutional violations and errors by falsifying the record by claiming the Magistrate admitted exhibits at the ex parte hearing contrary to the transcript, and then admitting those exhibits into the record. Throughout this period, Petitioner sought disqualification of Flottman by filing, with the Ohio Supreme Court, seven Affidavits of Disqualification ("AOD's") based on prejudicial acts and violations to Petitioner's constitutional rights. Unfortunately, Chief Justice Kennedy, a former Butler County Judge and political friend of the Public Official, denied all seven AODs even though Flottman submitted affidavit responses with false statements and Petitioner submitted the recordings, documents, and transcript to prove the prejudice and an ex parte communication. Other efforts for a remedy from the Ohio Supreme Court were also dismissed. Petitioner also filed a federal lawsuit against Flottman for issuing a coercive visitation order that would force Petitioner to violate the Sabbath for visitations (See, *Edelstein v. Flottman*, 2023 U.S. Dist. LEXIS 206376 and 2025 U.S. App. LEXIS 570).

In April 2024, to silence Petitioner and prevent her from acting pro se, Flottman's attorney, the Hamilton County Prosecutor, then filed a baseless vexatious litigator claim against Petitioner. Another Hamilton County judge manipulated the case through the court (including denying an ADA accommodation to prevent Petitioner from defending against the claim and altering the court docket). That court then refused to allow Petitioner to proceed with her attempts to seek a return of custody of her son.

The course of these proceedings over the last three years demonstrate that existing state mechanisms fail to enforce constitutional protections and limits on family court discretion. The "best interest of the child" standard, as applied, permits arbitrary and unequal administration, shields constitutional violations from meaningful appellate correction, and allows the deprivation of a fundamental liberty interest without the procedural protections essential to justice.

III. Precedent for Review

Although federal courts traditionally abstain from routine domestic-relations matters, this Court has recognized that there may be rare instances where a substantial federal constitutional question transcends the family-law context and a bar to federal review is removed. *In re Burrus*, 136 U.S. 586 (1890); *Elk Grove Unified Sch. Dist. v. Newdow*, 542 U.S. 1 (2004). Notably, where state custody determinations implicate fundamental constitutional rights and are infected by discriminatory or arbitrary state action, this Court has not hesitated to intervene. In *Palmore v. Sidoti*, 466 U.S. 429 (1984), federal review was necessary of a custody decision based on Florida's BIC standard, where a child was taken from its natural mother. The *Palmore* Court held that the Fourteenth Amendment would not brook governmentally-imposed racial discrimination and that a "[p]ublic official sworn to uphold the Constitution may not avoid a constitutional duty..." *Id.* at 433. Similarly, the Fourteenth Amendment should not brook discrimination towards a Jewish individual by permitting a family court to wield power under a broadly arbitrary standard to punish her for pursuing her First Amendment rights in federal court, by

issuing coercive visitation orders ("75N Order") that violate a protected right, and by detaching Petitioner's teenager from his religious community and school. Flottman, sworn to uphold the Constitution, should also be prohibited from avoiding her constitutional duty. Clearly, retaliation by a public official colluding with a family court judge to take Petitioner's child and verdict and violate Petitioner's First Amendment right, for a second time, is one of those rare instances where Petitioner's constitutional rights and the constitutionality of the BIC standard must be reviewed despite the family court involvement. This case is an exception to *Burrus*.

This Court has also made clear that states and their officials have no discretion to violate constitutional rights because the Constitution's dictates are absolute and imperative. *Owen v. Independence*, 445 U.S. 622 (1980); *Howlett v. Rose*, 496 U.S. 356 (1990); *Missouri v. Jenkins*, 495 U.S. 33 (1990). This principle reinforces that constitutional rights cannot be subordinated to state or local discretionary authority. The Court's parental-rights jurisprudence further establishes that the best-interest standard cannot serve as the sole basis for overriding parental rights as that is contrary to the Due Process Clause. *Quillion*, 434 U.S. at 255. In *Santosky v. Kramer*, the Court required heightened evidentiary standards before the State may permanently sever parental rights, recognizing the profound risk of error when fundamental liberties are at stake. *Santosky*, 455 U.S. at 758–59. Yet, state courts
routinely apply best-interest standards in custody cases without requiring clear and convincing evidence, without findings of parental unfitness, and without appellate review applying heightened

scrutiny. In doing so, they effectively disregard this Court's precedent recognizing the parent-child relationship as a constitutionally protected fundamental liberty. As this Court has repeatedly held, only this Court may overrule its own precedents. *Wallace v. Jaffree*, 472 U.S. 38, 49 n.26 (1985); *Thurston Motor Lines, Inc. v. Jordan K. Rand, Ltd.*, 460 U.S. 533, 535 (1983).

Finally, this Court has stepped in to correct patterns of state abuses related to other constitutional rights such as speech, religion, criminal procedure, and equal protection committed by a variety of state actors. There are defining moments in this Court's history when constitutional violations were so widespread and structural that federal intervention into traditionally state-regulated domain is necessary. *Brown v. Board of Education*, 347 U.S. 483 (1954), which stands as the clearest example, declared segregation not just a southern state problem, but a national problem that required review of the application of the Fourteenth Amendment and a mandate to the states that segregation laws were unconstitutional. While family law is traditionally a matter of state concern, systemic deprivation of parental rights through constitutionally deficient standards presents a national problem requiring this Court's guidance. The BIC standard exists nationwide and it is a national problem that effects the core of the American family -- the parent-child bond.

One may argue that any constitutional questions may be addressed in the ongoing state court proceedings. However, over the past two years, Petitioner appealed decisions, filed writs of mandamus and prohibition, moved to have the judge recuse, filed a federal lawsuit, filed seven times with Ohio's Supreme Court to obtain disqualification, filed

grievances with state and federal civil rights offices, and even spoke with local, state, and federal law enforcement about criminal charges under a state civil rights statute. Petitioner could obtain no assistance or meaningful review of the constitutional violations she experienced.

A childhood only lasts a short time -- no child should receive lifetime scars from court decisions that disregard constitutional protections and no parent should have to fight their way through expensive court procedures just to preserve this God-given right. *Reno v. Flores*, 507 U.S. 292, 317 (1993).

REASONS FOR GRANTING THE PETITION

I. Classification of a 42 U.S.C.S. §1983 verdict is reserved for federal law and Ohio state courts cannot reclassified the verdict to deprive Petitioner of a vested property right

The federal verdict is for a violation of Petitioner's First Amendment rights under 42 U.S.C.S. §1983 and is her personal property under federal law. Likewise, under Ohio law, personal injury verdicts are the personal property of the injured party. Oh. Rev. Code §3105.171(A)(6)(a)(vi).

The Supremacy Clause (U.S. Const. Art.IV, cl.2) provides that state judges are bound by federal law. Under federal law, it is well-founded that §1983 claims provide "unique federal remedies" that result "from personal injury." *Wilson v. Garcia*, 47 U.S. 261, 272 & 278 (1985). Under federal precedent, the state is prohibited from imposing conditions to alter the remedy available under 42 U.S.C. §1983. Under *Felder v. Casey*, 487 U.S. 131, 151 (1988), "the Supremacy Clause imposes on state courts a

constitutional duty to proceed in such a manner that all the substantial rights of the parties under controlling federal law [are] protected." Although the *Wilson* Court addressed state statute of limitations and their effect on §1983 claims, the principle of the holding is sound that federal law characterizes §1983 claims as personal injury claims. "Congress surely did not intend to assign to state courts and legislatures a conclusive role in the formative function of defining and characterizing the essential elements of a federal cause of action." *Id.*, at 268-269 (Emphasis added). This Court has clearly held that, regarding §1983 claims, state court authority "does not extend so far as to permit States to place conditions on the vindication of a federal right." *Felder*, supra at 147. Under federal law, the verdict was personal property and Flottman was bound to treatment and characterization of the verdict as personal property.

In making a determination that the verdict was divisible property, Flottman violated Ohio Jud. Cond. R. 2.9(C), by investigating outside the trial record. At trial, the judgment entry was admitted into evidence showing that the $1.12 million verdict was for the First Amendment claim (personal injury damages) and not the employment claim (which had back pay as damages), which she lost. Flottman then researched outside the trial record and took judicial notice of a jury interrogatory that contained a duplication error, contrary to Ohio law, so she would have a basis to deem the personal injury verdict marital property to be divided. A court may not take judicial notice of facts underlying a judgment entry in a separate case. *DiVincenzo v. DiVincenzo*, 2022-Ohio-4457. Petitioner was denied the adversarial process to challenge the jury interrogatory.

Finally, at the time, the verdict was still on appeal (and subject to reversal) and the appeal included the issue of the error on the jury interrogatory. There was a stay on enforcement of the judgment pending appeal and no bond had been ordered to deposit funds pursuant to the verdict. The verdict was not an asset "currently owned" by Petitioner under Ohio law (Oh. Rev. Code §3105.171). "The concept of equal justice under law requires the State to govern impartially." *Lehr v. Robertson*, 463 U.S. 248 (1983). Coercive judicial power exercised by a non-neutral adjudicator is unconstitutional.

The appellate court affirmed this conduct (App. 26a; 92a) by ignoring the duplication error on the First Amendment interrogatory from the employment interrogatory and that this error was still on appeal. Currently, the federal court refuses, despite a mandate from the 6th Circuit, to release the verdict to Petitioner because of this trial decision. Without this Court's review, Petitioner shall be deprived of the verdict.

Individuals are entitled to reliable fact-finding and evidentiary protection. It is a violation of due process rights for a judge to become the fact-finder and source of evidence used to support his/her decision. In this instance, Flottman gathered evidence and tried to justify the reclassification of the verdict contrary to the supremacy of federal classification of a §1983 claim, to deprive Petitioner of her liberty interest and provide an advantage to Respondent, contrary to Petitioner's Fourteenth Amendment rights. The state court erred in reclassifying the verdict in defiance of the supremacy of federal law and engaging in conduct that violated due process to deprive Petitioner of the verdict.

II. The "Best Interest of the Child" Standard is Vague, Overly Broad, and Incompatible with Fourteenth Amendment Protections

While states may have an interest in child welfare (parens patriae), the state cannot interfere with fundamental parental rights without a compelling reason. The Court has repeatedly recognized parental rights as fundamental, protected by the Fourteenth Amendment, and has treated state attempts to usurp parental rights as a serious federal question. In fact, there are several cases where the state's interest yielded to a parent's fundamental rights under the Fourteenth Amendment. *Quillion v. Walcott*, 434 U.S. 246 (1978); *Wisconsin v. Yoder*, 406 U.S. 205 (1972); and *Santosky v. Kramer*, 455 U.S. 745 (1982). However, the Court has not addressed the pervasive and recurring constitutional problem affecting millions of families: the unchecked discretion exercised by family courts under broadly worded "best interest of the child" standards in custody and visitation determinations.

This Court declared 32 years ago that "[t]he 'best interest of the child,' a venerable phrase familiar from divorce proceedings, is a proper and feasible criterion for making the decision as to which of the two parents will be accorded custody of the child." *Reno*, 507 U.S. at 303-304. The Court went on to recognize, though, that the BIC standard "is not traditionally the sole criterion -- much less the sole *constitutional* criterion -- for other, less narrowly channeled judgments involving children..." *Id.* The Court declined, though, to resolve whether the best-interest standard, as applied, satisfies constitutional requirements when it is used to override fundamental parental rights.

Seven years after *Reno*, this Court reviewed, *Troxel v. Granville*, 530 U.S. 57 (2000), involving a Washington statute which allowed for third party visitation if it were in the "best interest of the child." The court struck down this statute which was based on the BIC standard, deeming it overly broad as it undermined the presumption that fit parents act in their children's best interest. The statutory language presumed that the parent's fundamental liberty interest in the care, custody, and control of their child aligned with the BIC standard. Thus, when the state attempted to override the parents' decision regarding the child's best interest and there was a conflict between the BIC standard and parent's Fourteenth Amendment rights, this Court favored the rights of the parent, indicating that their parental rights must be given special weight. *Id.*, at 70.

In *Reno* and *Troxel,* this Court operated on an implicit premise: that the "best interest of the child" standard, the institutional goals of family courts, and the Fourteenth Amendment's protections for parents generally align. Experience over the past quarter century has demonstrated that this premise is unsound. State family courts do not have as an important goal, the preservation of the constitutional rights of parents and children. Their goal is limited to setting an equitable custody/visitation arrangement and dividing the marital assets. When broad discretion is given to the judge without constitutional protections, prejudice, discrimination, and abuse of discretion are a reality for parents.

The court struck down the Washington statute because it was deemed "breathtakingly broad," allowing any person to petition for visitation based solely on the judge's determination of what was in the child's best interest. *Troxel,* 530 U.S. at 67. The court

reasoned that the statute unconstitutionally infringed on the parent's protected liberty interest because it permitted a court to override the parent's decision without giving deference to the parent's judgment. *Id.* This Court held that so long as a parent is fit, there is no basis for the state to question the parent's ability to make decisions about the child's upbringing. *Id.,* at 68. The court also clarified that the BIC standard cannot be applied in a way that disregards the Constitutional protections afforded to parents. *Id.,* at 65. The court concluded that the statute was unconstitutional because it placed a BIC determination completely in the judge's hands. *Id.,* at 67.

Notably, *Troxel's* presumption that fit parents act in their children's best interest is not negated simply because the parents have approached a family court for management of the end of their marriage. On the contrary, this is a difficult time for a family where good people are often at their worse and it is at this vulnerable time where the parents' and children's constitutional rights are more in need of protection. Instead, parents are faced suddenly with a standard to manage their relationship with their child that is breathtakingly broad and subject to wide abuses of discretion. *Troxel* set a high bar for state interference in the parent-child relationship and invalidated a state statute that made a presumption against fit parents. Family courts, contrary to *Troxel,* apply the BIC standard, which presumes that one parent is not fit and allows for discretionary review instead of protection for the critical parent-child bond. Thus, state BIC statutes, like Oh. Rev. Code §3109.04(F)(1)(a)-(j), do not comport with *Troxel* and it is time for parental rights to be re-visited.

Justice Kennedy warned in *Troxel* that

> "Our system must confront more often the reality that litigation can itself be so disruptive that constitutional protection may be required; and I do not discount the possibility that in some instances the best interests of the child standard may provide insufficient protection to the parent-child relationship."

Troxel, 530 U.S. at 101 (Kennedy, J., dissenting). In the twenty-five years since *Troxel*, increasing numbers of parents have lost custody or meaningful contact with their children through discretionary schemes that lack constitutional safeguards, demonstrating that the concerns identified in *Troxel* have materialized nationwide.

Family courts in this country use the BIC standard as a guideline to make judicial determinations related to children and most states have similar elements for judges to consider that are set forth in state statutes. Oh. Rev. Code §3109.04(F)(1)(a)-(j) includes elements for the judge to consider that may appear innocuous on their face, but invite prejudice and punitive conduct. For example, an Ohio parent who is not current on child support may have visitation taken from them as a punishment, even though making visitation contingent on child support payment is prohibited in Ohio. Judges are to consider "all relevant factors", including, but not limited to, the list in the statute. This makes discretion limitless because "relevant factors" are not defined, nor are constitutional rights identified as a relevant factor. Statutes such as Ohio's that enumerate a non-exhaustive list of factors without specifying an evidentiary burden, without requiring a finding of parental unfitness or danger, and without mandating heightened appellate scrutiny result is a regime that places the ultimate

determination of parental rights "completely in the judge's hands," which is precisely the defect *Troxel* condemned. *Troxel,* 530 U.S. at 67.

The danger of misapplication has transformed the best-interest standard from a child-centered guide into a constitutionally deficient mechanism for reallocating parental rights. Rather than presuming that fit parents act in their children's best interests, family courts frequently employ the standard to justify intrusive and punitive orders that sever or substantially burden the parent-child relationship without the procedural protections required by the Fourteenth Amendment. The consequences of this vagueness are substantial. Different judges apply the BIC standard in markedly different ways; similar families receive divergent outcomes; and parents are deprived of custody or meaningful contact based not on uniform constitutional criteria, but on individualized judicial preference. This variability produces unequal treatment of similarly situated parents in violation of the Equal Protection Clause and permits arbitrary deprivations of a fundamental liberty interest.

This Court has consistently refused to uphold vague standards which invite arbitrary enforcement, even when enacted to protect children. *Ginsberg v. New York*, 390 U.S. 629, 639–40 (1968). The BIC standard, the organizing principle of family law, is so vague, open-ended, and leaves state judges with boundless discretion that it should not be upheld, even where the justification is protecting children. There is no getting around the fact that the BIC standard is "breathtakingly broad."

A. The BIC Standard Creates A Lower Standard Of Review Contrary To Troxel

The BIC standard gives broad discretion to the trial judge, making the standard of review, at the appellate level, "abuse of discretion." That does not comport with *Troxel*, where the court concluded that strict scrutiny is the appropriate standard of review to apply when addressing infringements of fundamental rights. The statutory language in Ohio's BIC standard invites decisions based on nothing more than a judge's personal preference, even though such decisions infringe on a fundamental right.

Although Petitioner's case involved a state judge motivated by a quid pro quo with her position exchanged for taking Petitioner's verdict and child from her, it nonetheless illustrates the dangers of broad discretion, a lower standard of judicial review, and where constitutional protections are absent. Whether the judge is prejudicial, incompetent or deliberately abusing the process, the BIC standard lacks constitutional protections and thus, the damaging effect of decisions based on BIC discretion by such judges is significant, as in Petitioner's case.

At an impromptu hearing one month after the trial, Flottman removed the child from Petitioner's custody, de-stabilizing him and cutting him off from his religious community and school, by invoking the generalized notion that "father also has a right to raise his child," (App. 142a, ll. 19–22). The court did not engage in any best-interest analysis at that time and did not apply heightened scrutiny. The BIC standard was addressed later, retroactively, in a written decision. However, that review was inconsistent with evidence presented at trial (App.114a-120a). Flottman disregarded evidence that the child had been stable in Petitioner's care, that extended family and Respondent supported continued

placement with Petitioner (App. 211a), and multiple witnesses testified to Petitioner's fitness and caregiving (App. 137a-139a; 211a). The trial court further labeled Petitioner's Sabbath observance and inability to endure extended travel due to her disability as a "resist and refuse dynamic" (App. 178a, ll. 23–25), while ignoring evidence that Respondent declined equal transportation, failed to observe the child's birthday, and rejected communication from the child for extended periods (App. 208a). Even assuming a legitimate interest in reunification, removing a child from an established home and severing contact with that parent is not customary, is not narrowly tailored to serve that interest, and cannot satisfy strict scrutiny.

The child and family's wishes and testimony were also disregarded, along with photographic evidence of abuse by Respondent. Flottman used semantic deceit to state in the entry "[t]here was physical violence in the household," as if Petitioner could be the abuser and committed this violence, when she was actually the victim of the violence. (App. 220a-221a). Flottman also falsified the record on multiple facts to support her decision (App. 215a-216a; 143a-149a; 222a-224a). These false statements were repeated by the appellate court as if factually accurate and despite a trial record and exhibits to the contrary (see example, App.18a, where the court claimed Petitioner moved with S.E. from Ohio without notifying Respondent). The divorce decree was even issued when Flottman admitted to being deprived of jurisdiction and after incorrectly keeping venue in Hamilton County to control the case and effectuate retaliation. These distortions were insulated from correction because appellate review was confined to abuse of discretion analysis rather heightened

constitutional review. Without meaningful appellate review, Petitioer has been placed in a perpetual deprivation of rights protected by the Fourteenth Amendment that is "capable of repetition, yet evading review." *Turner v. Rogers*, 564 U.S. 431 (2011).

The BIC standard's breadth allowed the trial court to justify its actions by selectively emphasizing certain factors and disregarding others, creating the appearance of a legitimate decision, while obscuring unconstitutional decision-making, anti-Semitism, and a personal agenda. This is precisely the danger *Troxel* identified when it condemned placing parental rights "completely in the judge's hands." *Troxel,* 530 U.S. at 67.

The broadness of the BIC standard allows for a judge who harbor an implicit bias to hide their bias in the presentation of and weight given to the BIC elements in the same manner Flottman did. BIC discretion without constitutional deference invites a prejudicial application of the statutory elements and causes discrimination that would never be tolerated by this Court for speech, religion, or bodily liberty rights.

When the appellate court reviews the trial decision, their review is for an abuse of discretion, which is, in itself, largely subjective. If the standard were in accordance with *Troxel,* the appellate court would apply strict scrutiny and custody decisions based on hidden agendas and prejudice would not occur.

B. The BIC Standard Is Not Grounded In Clear And Convincing Evidence In Accordance With Troxel

This Court has held that before the State may sever or substantially burden the parent–child

relationship, due process requires proof by at least clear and convincing evidence. *Santosky*, 455 U.S. at 747–48. The Court emphasized that the private interest at stake is commanding, the risk of error under lesser standards is substantial, and the State's countervailing interest is comparatively slight. *Id.,* at 758–759. The *Santosky* Court noted, "[a] 'clear and convincing evidence' standard adequately conveys to the fact finder the level of subjective certainty about his factual conclusions necessary to satisfy due process." *Id.,* at 769 (Emphasis added). Yet custody, visitation, and protection orders are routinely issued under minimal evidentiary standards, and "no contact" orders are often imposed without any evidentiary showing at all (as in Petitioner's case).

In Petitioner's case, custody was taken from her without evidence of unfitness, undue influence, abuse, or neglect, and a "no contact" order was issued, indefinitely, based only on Flottman's personal opinion/agenda and completely unsupported by evidence. This order was also contrary to Oh. Rev. Code §3109.051 which promotes continuous contact between the non-residential parent and child, with a hearing to set visitation required to be held within 30 days of a determination of custody. Flottman ignored this requirement, claiming the appeal divested her of jurisdiction to preside over this hearing and continued the hearing until the appeal concluded almost a year later. Shortly after the "no contact" order, Flottman deemed it not in the best interest of the child for Petitioner to have access to her son's medical or school records, without evidentiary support and contrary to Oh. Rev. Code §3109.051(H)(1).

When Petitioner appealed these decisions, Respondent was encouraged to pursue a protection order for domestic violence to extend the deprivation

of Petitioner's parent-child bond. This proceeding also lacked constitutionally protected evidentiary standards. The judge and Respondent had an ex parte communication related to evidence to counter a change of custody motion from Petitioner that was caught on the court's recording system during the ex parte hearing. The trial court issued a two-year protection order based on allegations of mental distress to S.E. which were unsupported by expert testimony or evidence of harm, and contrary to the teenager's own testimony that a few incidental public encounters with his mother caused no distress. Petitioner was stripped of all parental rights, and the parent-child bond severed completely, without clear and convincing evidence to support the deprivation of a fundamental right. Although the appellate court later remanded for statutory noncompliance regarding the 30-day hearing (App. 39a), the trial court delayed further proceedings, extending the deprivation.

Without a clear and convincing evidentiary standard to support her BIC determination, Flottman was able to disregard positive facts of Petitioner's parenting (App. 167a-168a), apply half-truths, exclude evidence supportive of Petitioner, or make false statements to justify her conclusion (App. 163a-169a), disregard testimony and evidence of Respondent's abuse of the Mother and children (App. 166a; 172a; 171a-174a; 178a; 179a), and include testimony to support her conclusion despite a successfully challenge to the testimony at trial (App. 170a). Essentially, Flottman excluded pertinent evidence so there would be no record to prove her poor decision. A judges' manipulation of evidence and refusal to consider evidence when considering deprivation of parental rights denies the due process rights of the parent.

These actions demonstrate how low evidentiary thresholds and broad judicial discretion without constitutional guardrails under the BIC regime permit prolonged and severe infringements of parental rights with parents being deprived of their children for reasons that do not rise to a compelling or legitimate state interest.

One piece of clear and convincing evidence that would support a custody decision under the BIC standard would be a fitness finding. *Troxel* held that parents are presumed fit under the law. In order to establish a parent is not, to restrict the parent's right to bond with their child, there must be constitutional safeguards. Furthermore, there has to be a compelling state interest to warrant the extreme result of severing that parent-child bond. To satisfy *Troxel*, a finding of unfitness is one necessary precursor to state action.

This Court has found that in determining whether a person is mentally ill "turns on the *meaning* of the facts which must be interpreted by expert psychiatrists and psychologists" for "neither judges nor administrative hearing officers are better qualified than psychiatrists to render psychiatric judgments." *Parham v. J.R.*, 442 U.S. 584, 607 & 609 (1979).

In Petitioner's case, there was no clear and convincing evidence in the record, no expert opinion, and no determination that Petitioner was unfit to have a relationship with her son. A fitness determination would be consistent with the constitutional protection of the parent-child relationship under *Troxel*, would safeguard against BIC overreach, prevent constitutional violations by quasi-judicial decision-makers, and would naturally

require the heightened standards of judicial review and burden of proof from *Troxel* and *Santosky*.

In *Stanley v. Illinois*, 405 U.S. 645 (1972) and *Quillion*, supra, this Court recognized that to take custody from a parent who has not been deemed unfit is improper where the parent's interest in the "'companionship, care, custody, and management' of his children is 'cognizable and substantial,'...and, on the other hand, that the State's interest in caring for the children is 'de minimis' if the father is in fact a fit parent..." *Quillion*, supra at 248. Ultimately, *Lassiter* v. *Department of Social Services* is clear that "[a] parent's interest in the accuracy and justice of the decision to terminate his or her parental status is, therefore, a commanding one." *Lassiter v. Dept. of Social Services*, 452 U.S. 18, 27 (1981).

In Petitioner's case, Petitioner parented and managed home-schooling for three children over the course of 20 years without any allegations of abuse or neglect. Suddenly, the court takes her son from her home, orders "no contact" and Petitioner is treated as if she is not fit to parent the child she lived alone with for 14 months after Respondent abandoned the family, leaving the child in her care. Both Petitioner and child wanted this custody arrangement and Respondent was in agreement at the trial and until he was promised, post-trial, half of Petitioner's verdict. Parents in divorce proceedings have as great a right to constitutional protections as they do in traditional termination proceedings.

It is especially note-worthy that this custody change to punitively destroy the mother-child bond is contrary to this Court's prior recognition that "the Due Process Clause would be offended `[i]f a State were to attempt to force the breakup of a natural family, over the objections of the parents and their

children, without some showing of unfitness and for the sole reason that to do so was thought to be in the children's best interest" *Smith v. Organization of Foster Families*, 431 U.S. 816, 862 -863 (1977). See also, *Santosky*, supra, where this Court recognized that until an unfitness determination is made, the parent and child share a vital interest in preventing erroneous termination of their natural relationship. In Petitioner's case, this expert involvement was specifically avoided so there would be no record that Petitioner was the more stable and fit parent than Respondent. Petitioner's case highlights how *Troxel* is disregarded under a broad discretionary standard untethered to constitutional protections.

III. The BIC Framework Substitutes Discretion For Constitutional Scrutiny And, In The Absence of Structural Safeguards, It Exacerbates Constitutional Defects

Because the BIC statute does not rank factors, define relevance, or require that parental rights receive controlling weight, a judge may elevate one factor while disregarding others without violating any statutory constraint. The BIC framework invites decision-making based on subjective value judgments rather than objective constitutional standards. This is why significant due process violations occurs in the application of the BIC standard.

A primary "relevant factor" which is not listed in the BIC standard, but nonetheless carries considerable weight, is the evaulation of the child/family by quasi-judicial officials such as GALs and court social workers ("CSW"). Judges rely on these "officials" to alleviate their workflow, but they yield considerable unchecked power to effect

custody/visitation decisions. These actors are not medical/psychiatric professionals, even though a clear and convincing evidentiary standard requires expert analysis for removal of a child. These actors are not neutral due to their financial dependence on judicial appointments Moreover, these actors are simply not competent to render opinions on custody/visitation They provide merely another level of discretion to support the judge's discretion. As a result, their reports/recommendations regarding custody are arbitrary decision-making inconsistent with fundamental fairness and without constitutionally required procedural safeguards.

In Petitioner's case, the first GAL had a conflict, withdrew, and no substitute GAL was appointed for 2 years. Thus, S.E. was without an advocate. The second GAL failed to conduct interviews of Petitioner's therapists and witnesses.

The CSW who wrote a custody evaluation, lacked neutrality (App. 176a-177a), made false statements (App. 176a-178a), ignored facts from the case file (App. 175a; 176a; 177a), failed to investigate the truth of assertions made to her (App. 177a-178a), and failed to support conclusions with evidence (App. 178a-179a). Most egregious is the evidence of abuse was ignored before recommending the child be placed in his abuser's control (App. 174a; 178a). Petitioner was also blamed for S.E.'s inability to say anything positive about the Respondent, as the CSW concluded, without evidence, contrary to testimony, based solely on her opinion, that it was the result of Petitioner's "undue influence" and not the true fact that Respondent abused the child (App. 176a; 177a; 179a). Petitioner cited to 36 admissions by the CSW on the trial record where she failed to verify statements made by Respondent before including them in her

report and relying on them for her conclusions (App. 177a-178a).

There was never a diagnosis of mental health issues of Petitioner, an evaluation of "undue influence" by any expert, or an unfitness determination. In fact, there is no evidence in Petitioner's 57 years (including 9 years on the bench and 22 years as a practicing lawyer) of a negative mental health diagnosis. The custody evaluation was solely based on the personal opinion of the CSW after an admittedly incomplete review of the case file.

These "officials" are not bound by due process, evidentiary rules, neutrality requirements and their conclusions are based in unreviewable discretion. Their recommendations should at least consist of written findings that adopt only constitutionally reliable evidence since their report heavily weighs into the BIC determination. The BIC framework substitutes discretion for constitutional protection and the court process compounds the problem with reliance on the unchecked discretion of quasi-judicial decision-makers, resulting in a lack of protection of a fundamental right.

The constitutional defect of the BIC standard is exacerbated with a lack of structural safeguards. One of the most important structural safeguards is a civil jury, whose role is to protecting individual liberties and preventing governmental abuse. *Jacob v. New York City*, 315 U.S. 752; *Thomas v. Humboldt County*, 223 L. Ed. 2d 141. Despite involving rights as fundamental as those at issue in criminal and many civil cases, family courts are categorically exempt from this protection. There simply is no structural safeguard in family courts to check judicial overreach, assess credibility of quasi-judicial officials, or constrain arbitrary decision-making.

In Petitioner's case, Petitioner's five witnesses testified positively about her parenting. No witnesses, not even the adult children, gave positive testimony about Respondent's parenting. Flottman disregarded all of the evidence favorable to Petitioner, including photos proving physical abuse against her, and did not mention this evidence in her decision based on the BIC standard. In several instances, Flottman falsified the facts demonstrated through exhibits at trial to create a list of elements under the BIC standard that would support custody with Respondent. A jury would have evaluated and weighed the evidence in a more neutral and reliable manner, adhering to evidence standards provided to them in jury instructions.

In the protection order case, Flottman disregarded the testimony of Petitioner's 13-year old, after finding him competent to testify, reasoning that he was of "tender age" because his testimony supported Petitioner. Ohio's legal definition sets "tender age" at 7 years old. Again, a disinterested jury would not have been permitted to summarily dismiss sworn testimony in this manner. These examples underscore how the absence of this structural safeguard magnifies the risk of erroneous and punitive deprivations under a broad discretionary standard.

IV. Petitioner's Equal Protection, ADA, Fifth Amendment and First Amendment Rights Were Violated With Punitive And Coercive State Court Action Without Fundamental Fairness Protections

The touchstone of due process is protection of the individual against arbitrary action of government. *Dent* v. *West Virginia*, 129 U.S. 114, 123 (1889). This requires a neutral trier of fact (*Tumey v. Ohio* 273

U.S. 510 (1927)) and prohibits coercive or punitive action (*Yicks Wo v. Hopkins*, 118 U.S. 356, 373-374 (1886)). "Fundamental fairness" under the Fourteenth Amendment's procedural due process rights is a principle ensuring that state actions do not violate basic principles of justice and liberty and include procedural safeguards deemed essential to justice -- such as a neutral trier of fact.

Parents facing the forced dissolution of their parental rights "have a more critical need for procedural protections." *Santosky*, supra at 753. In fact, "[w]hen the State moves to destroy weakened familial bonds, it must provide the parents with fundamentally fair procedures. *Id.*, at 753-754. Due process requires hearings conducted in a "meaningful manner." *Armstrong v. Mango*, 380 US 545, 552 (1965).

This Court has long recognized that the Due Process Clause "guarantees more than fair process." *Washington v. Glucksberg*, 521 U.S. 702, 719 (1997). Yet, there are no procedural safeguards proportional to the gravity of the deprivation when it comes to custody/visitation/protection orders in family court. Parents have the right to expect that proceedings affecting their fundamental rights will be, not only fair, but conducted in accordance with constitutional requirements. The rulings should also be consistent across cases if the law and standards are equally applied. Yet, similar cases yield dissimilar results. "[P]rocedural due process rules are shaped by the risk of error inherent in the truthfinding process..." *Parham v. J.R.*, supra at 613.

The BIC standard operates in direct tension with constitutional requirements for fundamental fairness. Decisions affecting a fundamental liberty interest are thus insulated from meaningful appellate

review and upheld so long as the trial judge can articulate any plausible rationale—however vague or subjective—under the rubric of the child's "best interest." This framework permits outcomes driven by judicial preference rather than constitutional necessity and it invites discriminatory application. Furthermore, laws and court procedures that are "fair on their faces" but administered "with an evil eye and a heavy hand" (discriminatorily) are unconstitutional. *Yicks Wo*, supra at 373-374. Action that undermines neutral adjudication is unconstitutional.

Petitioner's case highlights the sweeping unfairness that occurs with broad discretion and a lack of constitutional and evidentiary standards. Flottman had ex parte communications with Respondent to direct the case in his favor. It is also unequivocally evil to take a happy child from his natural mother and place the child, against his will, with an abusive parent who has to forcibly medicate the child to make him submit to his new living conditions which include sleeping on a mattress on the floor in common living space for over 2 years (App. 168a).

Notably, the punitive and coercive 75N Order is a prime example of a lack of fundamental fairness that parents face when constitutional protections are absent from judicial action. Under Title II of the ADA, 2 U.S.C.§1331, and by definition of "public entity" under 42 U.S.C.S. §12131(1)(A), state and local governments, including county courts, must follow this federal law. Under 42 U.S.C.§12131(2), Petitioner is a "qualified individual with a disability" and there was a physical limitation that prohibited her from complying with Flottman's 75N Order for visitation as it inequitably burdened only Petitioner to travel 8 hours in a car every other weekend for Respondent's

visitation. Petitioner testified to her disability, included it in an Objection to the 75N Order, and submitted a physician's note. Under 42 U.S.C.§12132, "no qualified individual with a disability shall, by reason of such disability...be subjected to discrimination by any such entity." Thus, federal law mandated that Flottman provide reasonable accommodations and create an equitable 75N Order. Flottman was further prohibited from discriminating against Petitioner with a contempt charge, fine and jail time for being unable to comply with the 75N Order due to her disability.

Flottman's 75N Order also burdened Petitioner's sincere religious practice through action that was not neutral. *Kennedy v. Bremerton Sch. Dist.*, 597 U.S. 507 (2022). A strict scrutiny standard applies and Flottman would have had to show a compelling reason to order only Petitioner to shoulder the burden of the entire transportation, which violated her religious practice. *Wisconsin*, supra; *Carson v. Makin*, 596 U.S. 767. "[T]he human freedoms enumerated in the First Amendment and carried over into the Fourteenth Amendment are to be presumed to be invulnerable and any attempt to sweep away those freedoms is prima facie invalid. It follows that any restriction or prohibition must be justified by those who deny that the freedoms have been unlawfully invaded." *Prince v. Com. of Massachusetts*, 321 U.S. 158 (1944); see also, *Lyng v. Northwest Indian Cemetery Protective Ass'n.*, 485 U.S. 439 (1988), where an "incidental effect" that coerces an individual to act contrary to a religious belief violates the Free Exercise Clause. Petitioner was given a 75N order that stated the religious observance was protected, but, in practice, it was not (as Petitioner's rabbi attested to at trial). Petitioner

was also told the visitation order would be changed as Sabbath started earlier in the fall/winter months, but it never was. Flottman falsified the record by claiming that Petitioner did not address her religious limitation or request a different visitation schedule when Petitioner addressed this with the court mediator, in her Objection to the 75N Order, at a hearing with Flottman, and at trial (App. 117a; 124a; 170a-171a). Petitioner was coerced to follow it or be held in contempt, which eventually occurred in violation of Petitioner's Fifth Amendment right to Due Process. Again, Petitioner had no state remedy because the appellate court affirmed Flottman's anti-Semitic conduct, adopting Flottman's false statements contrary to the record (App. 4a-5a; 34a-36a). The state cannot condition parental rights on the surrender of constitutional rights.

Flottman issued eight contempt charges against Petitioner and gave her 90 days in jail for being unable to comply with the 75N Order. Flottman also used the inability to comply with the 75N Order as a basis for taking Petitioner's child from her, falsely claiming a "resist and refuse" dynamic. The impromptu hearing where Petitioner's son was taken from her was also inherently unfair as Petitioner was at the court for an in camera interview of her son. The in camera interview was a ruse, though, to get Petitioner to bring the child, an Indiana resident, to Ohio, as evidenced by the 11-page decision taking custody from Petitioner that Flottman had already written prior to the in camera interview. Therefore, Petitioner was given no notice of the court action taking her child, no opportunity for counsel, and no evidentiary hearing or finding of unfitness. Despite valid defenses, the appellate court would uphold the contempt charges and removal of the child from

Petitioner, affirming the discriminatory conduct. (App. 34a-36a). Both the trial and appellate courts disregarded the supremacy of federal law and Petitioner's Equal Protection and First Amendment rights.

CONCLUSION

The need for clarification from this Court is acute. Without a constitutional mandate requiring clear and convincing evidence before custody or meaningful parent-child contact is restricted, family courts remain free to impose the most severe burdens on parental rights using the least rigorous standards. The result is a regime in which fundamental liberties are subordinated to discretionary judgment, where discrimination against a protected class is permitted, and an outcome occurs which is squarely at odds with *Santosky*, *Troxel*, and this Court's broader due process jurisprudence. Petitioner is one of the most extreme examples of the consequences of broad discretion under the BIC standard and respectfully requests a finding that the trial court erred in issuing an unconstitutional visitation order that derived her of her child and that her son is returned to her.

The supremacy of federal law and the limit on states to impose burdens on §1983 claims results in protection for Petitioner's vested personal property. Petitioner's fundamental rights to equal protection under federal law and due process rights to a neutral adjudication were violated by the trial judge. The result was a court process that lacked constitutional protection. The deprivation of the verdict is indicative of how unchecked and broad judicial discretion is inconsistent with constitutional protection. Petitioner respectfully requests this Court's attention to address

the violations to her constitutional rights, as well as an extension of constitutional protections under *Troxel* to family courts and a finding that the BIC standard (Ohio Revised Code §3109.04(F)(1)(a)-(j)) is unconstitutional as applied.

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