

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF WISCONSIN

Jill Clark, for herself and as Class  
Representative, Jill Clark, P.A., for  
Itself and as class representative, and  
Jill Clark, LLC, for itself and as class  
Representative,

Plaintiffs,

v.

Craig Klausung, in his individual capacity,  
Martin Cole, in his individual capacity,  
Cassie Hanson, in her individual and official capacity,  
Lloyd B. Zimmerman in his individual and  
Official capacity,  
Lucy A. Wieland in her individual and official capacity,  
Robert A. Blaeser in his individual and official capacity,  
James T. Swenson in his official capacity as Chief Judge  
Of the Fourth Judicial District, Minnesota,  
Peter Cahill in his official capacity as Chief Judge  
Of the Fourth Judicial District, Minnesota,  
Tanya Bransford, in her individual and official capacity,  
Warren Sagstuen, in his individual capacity,  
George Soule, in his individual and official capacity,

Michael B. Miller as an individual and in his  
Individual and official capacity,  
Daniel Mabley in his individual and official capacity,  
Margaret Daly in her official capacity,  
Mark Wernick in his official capacity,  
Kay Logajan in her individual capacity,  
Merilee Johnson in her individual and official capacity,  
Tonia Harris in her individual and official capacity,  
Herbert Lefler in his official capacity,  
Lynn Fuchs in her individual and official capacity,  
Jean Burdorf as an individual, and in her individual and official capacity,  
Daniel Moreno in his individual and official capacity,  
Steven Z. Lange, as an individual and in his individual and official capacity,  
David Paull, in his individual capacity,  
Gary A. Larson in his individual and official capacity,  
John Kostorous in his individual capacity,  
Mark Thompson as an individual and in his individual and official capacity,  
Sue Dosal, in her individual and official capacity,  
Janice Redding in her official capacity,  
Thomas Connolly in his individual and official capacity,  
Thomas A. Wexler, in his individual and official capacity,  
Nancy Peters in her individual capacity,  
Fourth Judicial District, Minnesota,  
Minnesota Supreme Court,  
The SARS/SANE nurse program at

Hennepin County Medical Center, and

John Does 1-10.

MOTION FOR EX PARTE TEMPORARY RESTRAINING ORDER

Pursuant to Fed. R. Civ. P. 65, Plaintiffs seek an ex parte restraining order to freeze the situation in place until such time as this Court can review the matter.

Dated: September 2, 2012

ATTORNEYS FOR PLAINTIFFS

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Jill Clark, Esq. for Jill Clark

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Jill Clark, LLC for Jill Clark, P.A.

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Jill Clark for Jill Clark, LLC

2005 Aquila Av. N.

Golden Valley, MN 55427

(763-417-9102)

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF WISCONSIN

Jill Clark, for herself and as Class  
Representative, Jill Clark, P.A., for  
Itself and as class representative, and  
Jill Clark, LLC, for itself and as class  
Representative, and Trisha Farkarlun,  
for herself and as class representative,

Plaintiffs,

v.

Craig Klausning, in his individual capacity,  
Martin Cole, in his individual capacity,  
Cassie Hanson, in her individual and official capacity,  
Lloyd B. Zimmerman in his individual and  
Official capacity,  
Lucy A. Wieland in her individual and official capacity,  
Robert A. Blaeser in his individual and official capacity,  
James T. Swenson in his official capacity as Chief Judge  
Of the Fourth Judicial District, Minnesota,  
Peter Cahill in his official capacity as Chief Judge  
Of the Fourth Judicial District, Minnesota,  
Tanya Bransford, in her individual and official capacity,  
Warren Sagstuen, in his individual capacity,

George Soule, in his individual and official capacity,  
Michael B. Miller as an individual and in his  
Individual and official capacity,  
Daniel Mabley in his individual and official capacity,  
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Kay Logajan in her individual capacity,  
Merilee Johnson in her individual and official capacity,  
Tonia Harris in her individual and official capacity,  
Herbert Lefler in his official capacity,  
Lynn Fuchs in her individual and official capacity,  
Jean Burdorf as an individual, and in her individual and official capacity,  
Daniel Moreno in his individual and official capacity,  
Steven Z. Lange, as an individual and in his individual and official capacity,  
David Paull, in his individual capacity,  
Gary A. Larson in his individual and official capacity,  
John Kostorous in his individual capacity,  
Mark Thompson as an individual and in his individual and official capacity,  
Sue Dosal, in her individual and official capacity,  
Janice Redding in her official capacity,  
Thomas Connolly in his individual and official capacity,  
Thomas A. Wexler, in his individual and official capacity,  
Nancy Peters in her individual capacity,  
Fourth Judicial District, Minnesota,  
Minnesota Supreme Court,

The SARS/SANE nurse program at  
Hennepin County Medical Center, and  
John Does 1-10.

Plaintiffs, for their complaint state and allege as follows:

#### SUMMARY OF CASE

Plaintiffs are a Minnesota Attorney, a Minnesota professional corporation which litigated cases for clients and depended on the license of Attorney Clark, and a Minnesota limited liability company, which also litigated cases for clients and depended on the law license of Attorney Clark.

Plaintiffs bring this action for themselves and as class representatives.

#### PARTIES

Jill Clark is an Attorney who attended the University of Wisconsin Law School, Madison, Wisconsin, graduating in 1988. The same year, she obtained a Minnesota law license.

Jill Clark, P.A. is a Minnesota professional corporation which has its principal place of business in Minnesota. JCPA operated a law firm, utilizing the services of Attorney Clark and depending on her state law license. JCPA is a member of Jill Clark, LLC.

Jill Clark, LLC is a Minnesota multi-partner limited liability company which has its principal place of business in Minnesota. JCLLC operates a law firm, utilizing the services of Attorney Clark and depending on her state law license. JCLLC has two members, JCPA and Jill Clark.

Craig Klausung is an individual who has held the position of Assistant Director in the Minnesota Office of Lawyers Professional Responsibility, the prosecutorial arm of the Minnesota Lawyers Board. He is sued in his individual capacity.

Martin Cole is an individual who has held the position of Assistant Director and Director in the Minnesota Office of Lawyers Professional Responsibility, the prosecutorial arm of the Minnesota Lawyers Board. He is sued in his individual capacity.

Cassie Hanson is an individual who has held the position of Assistant Director in the Minnesota Office of Lawyers Professional Responsibility, the prosecutorial arm of the Minnesota Lawyers Board. She is sued in her individual and official capacity.

Lloyd B. Zimmerman is an individual who has held the position of Minnesota state court judge in the Fourth Judicial District. He is sued in his individual and official capacity.

Lucy A. Wieland is an individual who has held the position of Minnesota state court judge in the Fourth Judicial District, as well as the position of Chief Judge in that district, from 2004-2008. She is sued in her individual and official capacity.

Robert A. Blaeser is an individual who has held the position of Minnesota state court judge in the Fourth Judicial District. He is sued in his individual and official capacity as Chief Judge.

James T. Swenson is an individual who has held the position of Minnesota state court judge in the Fourth Judicial District, as well as the position of Chief Judge in that district, from 2008-2012. He is sued in his official capacity as Chief Judge.

Peter Cahill is an individual who has held the position of Minnesota state court judge in the Fourth Judicial District, as well as the position of Chief Judge in that district, from 2012 to present. He is sued in his official capacity as Chief Judge.

Tanya Bransford is an individual who has held the position of Minnesota state court judge in the Fourth Judicial District. She is sued in her individual and official capacity.

Warren Sagstuen is an individual who has held the position of Minnesota state court judge in the Fourth Judicial District. He is sued in his individual capacity.

George Soule is an individual who is a lawyer, served at one point as the Chair of the Minnesota Governor's Commission on Judicial Selection, who has written widely on the topic of selection of state court judges in Minnesota, and who is a member of a law firm, Bowman and Brooks.

Michael B. Miller as an individual who has held the position of Assistant Hennepin County Attorney. He is sued in his individual and official capacity.

Daniel Mabley is an individual who has held the position of Minnesota state court judge in the Fourth Judicial District. He is sued in his individual and official capacity.

Margaret Daly is an individual who has held the position of Minnesota state court judge in the Fourth Judicial District. She is sued in her official capacity.

Mark Wernick is an individual who has held the position of Minnesota state court judge in the Fourth Judicial District, and has served as the "Presiding Judge" of the criminal "division" within the Fourth Judicial District. He is sued in his official capacity.

Kay Logajan is an individual who has held the position of "judicial clerk" in the Fourth Judicial District. She is sued in her individual capacity.

Merilee Johnson is an individual who has held the position of supervisor or coordinator of the state-sponsored court reporters within the Fourth Judicial District. She is sued in her individual and official capacity.

Tonia Harris is an individual who has held the position of "official" court reporter in the Fourth Judicial District, although she also has her own business and has been permitted to conduct her own business within the court system, for financial gain. She is sued in her individual and official capacity.

Herbert Lefler is an individual who has held the position of Minnesota state court judge, as well as the position of "Presiding Judge" of the juvenile "division" of the Fourth Judicial District. He is sued in his official capacity.

Lynn Fuchs is an individual who has served in an administrative/clerk capacity for Court Administration at the Fourth Judicial District. She is sued in her individual and official capacity.

Jean Burdorf is an individual who has held the position of Assistant Hennepin County Attorney. She is sued as an individual, and in her individual and official capacity. She is married to Daniel Moreno.

Daniel Moreno is an individual who served as an Assistant Public Defender in Hennepin County, and has also served as a Minnesota state court judge in the Fourth Judicial District. He is sued in his individual and official capacity.

Steven Z. Lange is an individual who served as a Minnesota state court judge in the Fourth Judicial District, who retired before his then-six-year term had concluded so that the seat could be appointed by the Governor, and who has from time to time served as a private mediator, as well as a temporary judge for the Fourth Judicial District. He as an individual mediator, and in his individual and official capacity with regard to the courts.

David Paull is an individual who has held the position of Executive Director of the Minnesota Board of Judicial Standards. He is sued in his individual capacity.

Gary A. Larson who served as a Minnesota state court judge in the Fourth Judicial District, who retired, and now serves from time to time as a temporary judge in that district. He is sued in his individual and official capacity.

John Kostorous is an individual who has held a "public relations" position for the Minnesota Judicial Branch, p/k/a the Minnesota State Court System. He is sued in his individual capacity.

Mark Thompson is an individual who has served as the Court Administrator for the Fourth Judicial District. He is sued as an individual and in his individual and official capacity.

Sue Dosal is an individual who has held the position of State Court Administrator. She is sued in her individual and official capacity.

Janice Redding is an individual who has served as Minnesota state court judge. She has also held the position of "Presiding" Judge of the Family and Juvenile "divisions." Sue is sued in her official capacity.

Thomas Connolly is an individual who has served as a Minnesota state court judge in the Fourth Judicial District and on the Minnesota Court of Appeals. He is sued in his individual and official capacity.

Thomas A. Wexler is an individual who served as a Minnesota state court judge in the Fourth Judicial District, and who then retired. He is sued in his individual and official capacity.

Nancy Peters is an individual who has held an administrative position in the Court Administrator's office in the Fourth Judicial District (and whose duties include assisting Mark Thompson). She is sued in her individual capacity.

The Fourth Judicial District, Minnesota, is one of 10 judicial districts in the state of Minnesota. It has its own "bylaws," its own "Executive Committee," and it creates its own policies for operation, which include both administrative policies and policies on the substantive and procedural law.

The Supreme Court of the State of Minnesota manages the supreme court, the court of appeals, the district courts, court administration, the Lawyers Board and Office of Lawyers Professional Responsibility, and the Board of Judicial Standards. It is the responsibility of that Court to ensure that all of the sections of the Minnesota Judicial Branch are adhering to the law, particularly the US Constitution.

## FACTS

In around the year 2000, Clark began to vigorously represent people of color in state criminal court, calling it the 'final frontier' for civil rights.

In 2002, she ran for the public office of state judge, filing for a seat in the Hennepin County Court, also known as the Fourth Judicial District. Clark fared well in the election, particularly when it is considered that she was running against an "incumbent," and Minnesota permits what is essentially advertising on the ballot, by adding the word "incumbent" by that candidate's name.

Shortly thereafter, Clark received her first ever ethics complaint, filed by a judge who thought she was going to run against him in 2008. From that point forward, Clark was subjected to numerous forms of retaliation by the defendants herein.

Despite this adversity, Clark continued to practice, continued to attract clients. In fact, Attorney Clark attracted numerous clients who were interested in her vigorous defense strategies, and her willingness to advance to trial to vindicate the rights of her clients.

In 2010 Clark publicly stated in a legal pleading that she intended to run for the position of Chief Justice of the Minnesota Supreme Court if that position was opened.

Actions taken against Clark increased at that point, crescendo-ing into the 2012 election period. Since 2010, Clark's clients have suffered losses in every single case in which a judge made the decision.

This included district court cases, but also appeals to the Minnesota Court of Appeals, and the Minnesota Supreme Court.

On the other hand, when Clark's clients could get to a jury, the juries often rendered verdicts in their favor. In criminal cases, winning with the jury meant acquittal, which could not be appealed. However, in civil cases, even when a client of Clark's won with a jury, the Minnesota Court of Appeals broke with its long-standing tradition of upholding jury verdict, and ruled against Clark's client.

In 2012, things escalated. Precisely at the point state actors knew Clark was suffering from a disability, they pounced, striking her with a 'disciplinary action' so weak it should never have been brought. Not only was it brought, it was pushed ahead of all of Clark's clients' cases into a primacy position, dominating her limited time and resources and pushing clients into the background.

On June 5, 2012, Clark filed to run for the position of Chief Justice.

Completely opposite of the professed mission statement to protect the public, these state actors took advantage of Clark's disability, finally pushing her to the point where she could no longer function.

At this point, they sought to take advantage of a rule of statewide application, Minn.R.Prof.Resp. 28(c).

This rule, which is hopelessly vague, provides no process, and has devastating consequences for a lawyer and her business, was used in order to prevent Clark from defending herself. But it was also used to gather information against her. Clark was required by the Referee appointed by the Supreme Court, to divulge the names of her medical doctors. In order not to suffer an immediate suspension of her license, Clark felt she needed to supply additional information about her medical situation to the Referee.

Although the Referee indicated first that the proceedings were "sealed," that letter including detail about Clark's medical situation was attached as an exhibit to the Referee's order which he sent to the Supreme Court. Although a call to the Referee's chambers by Clark's team produced the response that he Referee "did not know" whether the exhibit-letter was confidential, someone released the letter, and it was used to thrash Clark in the blogosphere just before the August 14, 2012 primary election.

At this time, Clark still has her Minnesota state law license. However, time is of the essence.

Her and her firms' property rights, but also the federal constitutional rights of her clients, are being harmed.

Attorney Clark has represented Jill Clark. As a client of Attorney Clark, Jill Clark brings her claims for herself, but seeks to be designated as class representative for others similarly situated, that is, former and current clients of Attorney Clark.

JCPA has represented clients where cases are still pending (or need to be re-opened). The conduct complained of herein caused business loss to JCPA. And, JCPA could still benefit financially from re-opened cases being decided in the clients' favor. But JCPA has only one license attorney that has worked for the firm, Jill Clark, and without Jill Clark's state law license, JCPA will suffer irreparable harm.

JCLLC has represented clients where cases are still pending (or need to be re-opened). The conduct complained of herein caused business loss to JCLLC. And, JCLLC could still benefit financially from re-opened cases being decided in the clients' favor. But JCLLC has only one licensed attorney that

has worked for the firm, Jill Clark, and without Jill Clark's state law license, JCLLC will suffer irreparable harm.

In her disciplinary case, Clark became aware of her evidence that she believed could assist her clients either in pending cases, or which would support the re-opening of cases that had been closed.

Certain judges or their counsel claimed the evidence was "sealed," or otherwise confidential (meaning that Clark could not share it with her clients), and the issue consumed nearly all of the litigation time in the case.

The Referee did not rule on Clark's motion to make the evidence public.

Instead, the Referee ruled that the judges could prevent disclosure of the evidence under Minnesota Rule of Access to Records of the Judicial Branch 5(e), which permits judges to decide what "correspondence" to disclose or not disclose, even if the correspondence is about the case.

The Referee ruled that most of the numerous redactions would remain.

These rulings: a) made it difficult if not impossible for Clark to defend in the disciplinary action (for example, she could not issue a subpoena to someone whose name had been redacted from the evidence she was permitted to see, and the protective order she was required to sign to obtain the evidence prevented her from utilizing the evidence to determine which cases were at issue); and b) prevented Clark from sharing the evidence with her clients so that they could benefit from it.

The Referee's ruling also prevented Clark from seeing much of the evidence she did subpoena. Clark subpoena'd a number of documents relating to Clark's theory that the judicial election(s) had a bearing on the disciplinary case, but the Referee gathered most of the documents "in camera," and Clark was not permitted to see them.

The state disciplinary proceeding had inhibited Clark from tending to matters in federal court (judges who had been accommodating her disability), and outright prevented Clark from explaining what evidence she knew of that pertained to a particular case.

At one point the federal judge in that case indicated that Clark and her clients could be subjected to sanctions if she did not explain.

Clark promptly notified the Referee of this predicament, but the Referee declined to permit Clark to bring a motion seeking reconsideration of his ruling.

The Referee, however, did comment that if the evidence was evidence in a federal case, that a federal judge could trump any ruling he had made as to confidentiality.

At that point Clark wrote a fairly lengthy letter to the federal judge, which was served on the parties, and noted what she thought she could (given the strictures discussed herein), and attaching certain documents to support the chronology.

The parties in that case were given an opportunity to respond, although their responses were short and did not really begin to grapple with the numerous facts that Clark had recited in her letter.

On the day Clark delivered the letter, she also indicated she was filing to run for judge, which she also did.

Clark also expressed that she did not believe she was any longer the appropriate attorney in that case, given the overlap of the numerous facts (and her role as candidate) that were expressed in the letter.

Shortly after delivering that letter, Clark began to feel strangely.

Clark's "health" deteriorated at that point, fairly rapidly. Although she was still able to strategize, she was not able to implement those ideas in her usual lawyerly fashion.

As the disciplinary hearing moved closer, and Clark was attempting to field all of the various tasks that were on her plate, Clark began to suffer extreme insomnia and other symptoms that caused her not to function normally.

Just before the hearing, Clark was hospitalized.

A sealed hearing was conducted.

Clark was released on the day the hearing with the understanding that she had 'partial complex seizures' which required suppression medication, Depakote.

Clark has a deeply-held belief that as much as possible, bodies should be cured using natural substances and methods.

Clark did not believe that, given the pending disciplinary proceeding and the possible threat of a Rule 28(c) suspension of her license, that the courts would accept anything other than western, allopathic proof.

At the end of July, Clark-as-Respondent in the disciplinary action, filed evidence with the Minnesota Supreme Court, indicating that it was sealed, and attaching the order of the Referee which indicated such evidence could be filed as exhibits under seal. In several ways, Respondent indicated that if the Supreme Court did *not* file the exhibits/evidence under seal, that the Court intended the documents to be public.

When a federal judge remanded one of two removal case numbers to the Minnesota Supreme Court, that court issued a ruling which included a briefing schedule, but which did not state that the documents were under seal.

Given the several forms of prior communication from Respondent, the Supreme Court's non-action to state the documents were filed under seal with that Court can be interpreted as that Court's decision to make the documents public.

Clark improved for a time, but then began to worsen again.

In fact, just before Clark was to be released back to work, she began again to suffer symptoms of unknown origin, but which at that point she began to suspect had something to do with the Depakote.

At this point it also seemed that just when Clark was getting ready to prepare papers, or to testify against state court judges, that her health would fail.

The primary election was held August 14, 2012. According to the Secretary of State's "unofficial" results which Clark viewed on August 15, 2012, she had come in third in a three-way race.

Clark left Minnesota for a day, and felt better outside the house.

Although Clark's thinking was not clear at that point, she did believe there was something in the house that was causing harm. She left Minnesota again, fearing for her safety but still wanting to do something to assist her clients and others in combating judicial misconduct.

Eventually, Clark was able to express her distrust of pharmaco-therapy. At this point, to Clark's understanding, she did not have any neurological condition that would require the drug.

Although continuing to bear some symptoms, Clark has felt a duty to her clients and to herself and her companies, to attempt to protect them from harm. Clark has a reputation for loyalty to her clients, and takes seriously her ethical duty not to abandon them.

Before leaving the State, Clark had filed (by way of the 'new cases' email) a petition to remove a number of civil and criminal cases from the Fourth Judicial District. She had also served the notice of filing notice of removal on a number of state court administrators (mailed directly to the Chief Justice, the Fourth Judicial District Court Administrator, and two other court administrators), and filed the notice of filing notice of removal and a certificate of service with the District of Minnesota.

The petition communicated Clark's concern that the state courts were not accommodating Clark's disability, and that clients could be harmed.

When she returned, she received word that to receive a judge assignment and case number, the petition needed to be split into numerous documents, one-each for each criminal case. She was told a filing fee was owed, before a judge would be assigned.

She was also informed that the petitions to remove state criminal cases needed each to be in a separate document, but that there was no filing fee for those petitions. This was exactly the opposite of what Clark had been told when she had attempted to remove a number of state criminal cases to the US District Court for the District of Minnesota in June, at which point the document had been returned to her, indicating that a filing fee was needed before it would be filed.

Clark has also experienced problems with this ECF system of the District of Minnesota. These problems have manifested in various ways, but at this point, Clark cannot trust that what she e-files is actually filed, or that what others file (including orders) is coming through to her.

Clark has also experienced issues with the Eighth Circuit ECF system, including inconsistencies in what a staff person says occurred, when compared to what Clark is able to see on ECF, or in her email inbox.

In addition, in 2006, Attorney Clark filed on behalf of a client, a federal civil rights lawsuit that named the Minnesota State Court System as well as the Fourth Judicial District as defendants. The assigned judge quickly self-recused, and the case was eventually assigned to Judge Doty and then-Magistrate Judge Nelson.

Clark has assumed that those assignments were made because those federal judges had never been state court judges or that they did not have some type of disqualifying relationship with the state court system of a named-state-court defendant.

In June 2012, when Clark removed the state disciplinary action to US District Court for the District of Minnesota, the case was initially assigned to Judge Doty, but he self-recused.

At this time it appears to Clark that the District of Minnesota bench would recuse from this case or would otherwise be disqualified.

Clark is admitted in this district and this district has jurisdiction over the federal civil rights claims herein.

#### JURISDICTION

This court has original jurisdiction over the federal civil rights claims alleged herein pursuant to 28 USC 1331. This court may take jurisdiction over supplemental state claims pursuant to the doctrine of supplemental jurisdiction.

#### COUNT I

Against Craig Klausing, Martin Cole and the Minnesota Supreme Court

Violation of 42 USC 1983 and 1986

Craig Klausing was charged with 'investigation' whether or not Clark had violated any of the Minnesota Rules of Professional Conduct. Klausing's investigation was insufficient, and in bad faith.

Martin Cole was charged with supervising Craig Klausing, but he also took part in the so-called 'investigation' of Clark. Cole's supervision disregarded the federal civil rights of Clark, which are clearly-established.

Klausing and Cole both became aware that certain state court judges and others wished to use the disciplinary proceeding to impair Clark's federal civil rights.

Neither Klausing nor Cole did anything to stop the misuse of the process, or to alert Clark to what they knew.

As a result, Plaintiffs were harmed.

## COUNT II

Against Cassie Hanson, Lloyd Zimmerman, and Lucy Wieland

Violation of 42 USC 1983, 1985, 1986

Lloyd Zimmerman took actions to harm Jill Clark and Jill Clark, P.A. in order to impair Clark's federal civil rights, by sanctioning Clark (a sanction that was paid by JCPA), and by performing a botched investigation, and then acting as witness, prosecutor, judge and jury in a contempt action against Clark.

Cassie Hanson knew that Zimmerman was acting in violation of Clark's federal civil rights. Rather than alerting Clark to the improper conduct, Hanson joined in the improper conduct, further harming Clark.

Lucy Wieland, who was aware that Clark was a witness in a pending federal proceeding, also became aware that Zimmerman was acting in violation of Clark's federal civil rights, or at a minimum with reckless regard for Clark's federal civil rights. She failed to alert Clark, and she failed to take any steps to alert the authorities or otherwise cause the conduct to cease. At the time, Lucy Wieland was the Chief Judge of the Fourth Judicial District.

As a result, Plaintiffs were harmed.

## COUNT III

Against Herbert Lefler, Warren Sagstuen and Tanya Bransford

Violation of 42 USC 1986

These defendants became aware that Zimmerman in conjunction with others were violating Clark's federal civil rights, and did nothing to alert Clark, to report the conduct to the appropriate authorities, or to cause the conduct to cease.

Accordingly, Jill Clark, Jill Clark, P.A. and the clients of Jill Clark, P.A. were damaged.

## COUNT IV

Against Soule, Miller, Zimmerman, Paull and Burdorf Moreno?

Violation of 42 USC 1983, 1985, 1986

These defendants engaged in joint action to violate the federal civil rights of Clark, which also harmed Plaintiffs.

These defendants were aware that Clark was a witness in a pending federal civil rights proceeding.

These defendants also became aware of others who were seeking to harm Clark's federal civil rights, and did not alert Clark, did not alert the proper authorities (including but not limited to the federal judge presiding over the case in which Miller was a defense attorney), and did nothing to cause the improper conduct to cease.

Accordingly, Plaintiffs were harmed.

#### COUNT V

Against Swenson, Wieland, Daly, Mabley, Wernick, Larson, and Redding

Connolly, Dosal, Thompson, Peters, Kostouros, Wexler, Cahill and the Fourth Judicial District

Violation of 42 USC 1983, 1986

These defendants knew that the Fourth Judicial District had created its own bylaws, its own Executive Committee, and its own "division" committees, including but not limited to the Criminal Committee, the Civil Committee, and the Juvenile Committee.

These defendants knew or should have known that this organization of the Fourth Judicial District was not authorized by the State Constitution, the Legislature or the Supreme Court.

The organization created, then perpetuated, policies and other writings that varied from the sanctioned federal or state law on the subject, that created differing procedural rules, or that removed judicial discretion and told judges how to rule.

Clark began to learn that these documents existed (from Minutes that showed there had been discussions, and that policies existed), but when she requested copies, not only were they not provided to her, great effort was undertaken to ensure that Clark would not obtain the policies.

Clark put all of these judges on notice that in her view, the policies were suspect, citing to due process (writing that, "a 'hodgepodge' of allegedly binding 'preordained' standards denies due process). This did not solve the problem, and Clark and her clients remained unable to obtain the policies. Yet it became clear that judicial decisions were nonetheless being made based on those policies.

When Clark's client made a motion for the policies, Larson denied the motion, misleading the client and the Court of Appeals as to the truth of what was occurring behind the scenes at the Fourth Judicial District.

When another of Clark's clients made a motion to Redding, rather than ruling on the facts and the law, Redding contact Wieland to determine what she should do, and denied the motion.

In 2012, the Minnesota Court of Appeals decided a case that sharply called into question the "rule-making" of the Fourth Judicial District. After that case was decided, current Chief Judge Cahill continued to rule on the basis of unpublished, un-promulgated policy, rather than the law and the facts.

The failure to produce copies of the policies to Clark and her clients prejudiced the clients cases being heard before that Court (other attorneys such as public prosecutors, were not only provided copies, but were involved in the development of certain policies).

Eventually, Clark and her client were sanctioned for failing to comply with a policy that Clark had been trying around 5 years to obtain, but had not obtained before the alleged violation. Failure to follow the un-published, un-promulgated policy was also used against Clark in the disciplinary investigation and proceedings.

Connolly learned that Clark had become aware of a civil "recusal" policy of the Fourth Judicial District, which after a certain lapse of time required the assigned judge to consult with his "supervisor" judge before deciding whether to recuse. Connolly knew the policy existed. Connolly instead consulted Chief Judge Wieland about what to do. Connolly neither produced the policy to Clark or her client, or recused under the facts and the law.

At one point, Clark undertook great effort to work within the state court system to obtain copies of the policies. She filled out a Fourth Judicial District request form (which, ironically, differed from the Minnesota Rules of Access to Records of the Judicial Branch), and filed an official request. Thompson, rather than responding to the specific inquiries, wrote a "hate" letter to Clark, calling her names because she had requested the documents she viewed as public. Further, Thompson sent a 'blind' copy of that letter to then-Chief Judge Wieland, which Wieland included in her complaint about Clark to the Office of Lawyers Professional Responsibility. That use of the letter caused Clark to believe that it had been written for that purpose.

Clark complained about the tone of Thompson's letter, and attempted to seek process from the State Court Administrator, Dosal. Dosal asked that Clark detail why she thought her requests should be granted. Then Dosal denied each and every request. It was years later (in 2011 or 2012) that Clark learned that Thompson had communicated somehow with Dosal, and that she had agreed in advance to deny Clark's request before she even received Clark's letter.

Clark was eventually able to obtain some of the policies, and then obtained some more in the disciplinary case. A number of the policies that Clark became aware of show practices at the Fourth Judicial District which have been in practice for years, and which have or could seriously prejudice client rights.

For example, one policy appears to authorize bench warrants in civil cases, by requiring that judges rule a certain way in imposing said warrants.

Another policy requires that a corporation be represented by an attorney in Conciliation Court, but not in Housing Court.

One policy requires that 'hazardous' evidence be brought into the courtroom in certain ways, which either destroys the integrity of the evidence, or which does or could destroy its future use. For example, plastic packaging is required for blood-stained apparel. Sealing DNA evidence in plastic causes

it to degrade more quickly. Since post-conviction relief for "actual innocence" in Minnesota is only permitted if subsequent DNA testing exonerates the convicted, degraded DNA would either not be testable later, or the test could become impaired.

One standing order prevented jail residents with MRSA from being brought to court. This directly contravened the Department of Justice approved due process requirements for patients with MRSA.

Accordingly, Plaintiffs were harmed or there is risk of imminent irreparable harm.

#### COUNT VI

Against Zimmerman, Logajan, Harris and Johnson

Violation of 42 USC 1983, 1986

These defendants were aware that on behalf of a client and on behalf of herself, Clark exercised federal civil rights.

These defendants retaliated against Clark and the client, by taking various actions or non-actions, including but not limited to acting in concert to require Clark to pay a certain price for a transcript of proceedings that were needed by the client to be able to pursue his rights.

Merilee Johnson knew of the conduct, and both failed to prevent it, and also alerted other court reporters to engage in the same conduct.

Accordingly, Jill Clark and Jill Clark, P.A. were harmed.

#### COUNT VII

Against Blaeser, Fuchs

Violation of 42 USC 1983

These defendants engaged in joint action that was not disclosed to Clark or the clients, to manipulate the judge assignment system in order to determine which judge would preside over the case.

This was done utilizing their knowledge of the number of plaintiffs, as well as their knowledge of how certain judges felt about Clark or were likely to rule on Clark's cases.

Fuchs informed Blaeser of new filings by Clark so that he could track those cases for purposes of determining which judge would preside over the case.

Accordingly, Plaintiffs were harmed.

## COUNT VIII

Against Lange

Breach of duty of loyalty and fair dealing

Lange agreed to act as a private mediator for a client. In that context he knew or should have known that what was told to him was confidential.

Lange breached his duty of confidentiality and loyalty to the client by disclosing facts and procedure to Blaeser and Moreno. Lange took no actions to ensure that those individuals would not further disclose the information, for example, to the client's adversaries in the case. The facts disclosed related specifically to a mediated walk through of a building.

Further, Lange convinced the client to agree to a "mediated walk through" of a commercial building, with the understanding that it could not later be used against the client. At the end of the mediated walk through, Lange failed in his duty as mediator to prevent the use of the mediated walk through in litigation and against the client, and the client's case was severely prejudiced.

The client(s) was damaged, as were Jill Clark, P.A. and Jill Clark, LLC.

## COUNT IX

Against the Fourth Judicial District and the Supreme Court

Violation of the Rehabilitation Act

Plaintiffs demanded reasonable accommodation for Jill Clark, in 2011 and in 2012.

The state courts responded in various ways, changing what was required of Plaintiffs in order to request/effectuate accommodation, and changing their stated articulation of current policy.

Plaintiffs articulated that the entity is required to accommodate, and the courts responded that Plaintiffs needed to request continuances in each case. Plaintiffs articulated that this was an overwhelming task for the person who is disabled. Further, it became clear that computerized records were available to the courts at the touch of a finger, that could indicate all of Clark's scheduled cases, appearances and deadlines.

A staff attorney requested some type of documentation, although it was never clear what was being requested, or whether (if it were medical records) it would be kept confidential. Despite Dosal stating that the court follows the Rules of Access to Records of the Judicial Branch, given Clark's past experience in that area, she did not believe it, and further, no rule was being cited that would protect the confidentiality of Clark's medical records.

This was all occurring in the context of Clark awaiting some decision from the Minnesota Supreme Court on Referee Seibel's order recommending immediate disability suspension of Clark's license. In that context, it seemed that Referee Seibel had acted too quickly; that is, stating that no

medical records were in the Record, and yet not being willing to wait the brief time it would take to accomplish that. Plaintiff's request for reasonable accommodation, and the staff attorney's request for documents, threatened to put medical documentation into the Supreme Court disability case Record, in a way that could harm Clark. Plaintiffs felt they were on the horns of a dilemma, they could not go forward or back, and this increased stress.

Further, most of Clark's state cases are in the Fourth Judicial District, and Plaintiffs were told that for that District, Plaintiffs needed to make requests for continuances not only to the judge on the file, but also to the Chief Judge. This added an additional layer of complexity and work for the small firm. Further, although the Fourth Judicial District Chief Judge did not request medical documentation (he took Plaintiffs' assertion at face value), he did threaten and enforce "bench" warrants for Clark's clients, which is not in fact a continuance. In other words, the client was expected to appear without an attorney, which put the client in peril of being taken advantage of or other harm. Some clients had bench warrants issued against them, even though the Chief Judge admitted that before doing so he had not checked to determine whether the client had ever been ordered to appear in court. The Chief Judge ruled in some of those cases even though he was not assigned to the case, and on the basis of a Fourth Judicial District policy from 2011, with regard to the fact that the Minnesota Court of Appeals had since that time called that form of rule-making into sharp question.

Accordingly, Plaintiffs were not reasonably accommodated, and Plaintiffs were damaged.

#### COUNT X

Trisha Farkarlun reported to a nurse that she had been sexually assaulted by two police officers. In retaliation for that report she was charged with a crime of falsely reporting police misconduct.

She did not receive a fair trial, and she has been unable to obtain any appellate court review of those issues.

The SARS/SANE nurse program at Hennepin County Medical Center was called, and sent a nurse to Farkarlun's emergency room. The SARS/SANE nurse program botched the investigation or otherwise performed an insufficient investigation, in violation of Farkarlun's rights or in reckless disregard of her rights.

Accordingly, Farkarlun has been harmed.

#### RIGHTS VIOLATED (other than for Count IX)

These claims arise under Title 42 of the United States Code (Civil Rights Act of 1964, as amended), including but not limited to 1983, 1985 and 1986.

Defendants deprived Plaintiffs of their rights, privileges, and immunities secured by the United States Constitution (or other federal laws), and specifically the Fourteenth Amendment to the United States Constitution, in conjunction with other rights, including but not limited to the following clearly established rights:

First Amendment rights including freedom of expression, the freedom to associate, the right to petition, access to courts, and freedom of religion.

Second Amendment right to bear arms.

Fourth Amendment right to be free from unreasonable searches and seizures and to be free from excessive force.

Fifth Amendment right to counsel, to due process, and against self-incrimination.

Sixth Amendment right to counsel and the right to confront.

Seventh Amendment right to trial by jury and other seventh amendment rights.

Eighth Amendment right to bail, and freedom from cruel and unusual punishment.

Fourteenth Amendment rights, including but not limited to equal protection of the laws (which is not limited to protecting a class, or protecting a certain race), to procedural due process (including the right to a fair trial) and substantive due process (including the right to bodily integrity), to freedom from First Amendment retaliation, and all other federal constitutional rights made applicable to the state through this amendment.

Defendants knew they were violating the federal law and constitutional rights of Plaintiffs, or knew they had a duty to enforce the laws and were aware of the conduct of others and could have interceded to protect Plaintiffs, and acted with deliberate indifference or with malice to the rights of Plaintiffs noted above, and generally were indifferent to the rights of those who comprise the classes referenced above. The defendants acted under color of law and under statute, ordinance, regulation, policy, custom, usage, lack of training, lack of supervision and/or lack of supervision/discipline when they deprived Plaintiffs or their rights, privileges or immunities under federal law.

As a direct and proximate result of the Defendants' conduct, inaction, policy or customs as set forth in more detail above, Plaintiffs (and their classes) suffered the deprivation of their constitutional and/or federal statutory rights and suffered personal injuries and expenses, including injury to their bodies, medical bills, injuries to their reputations, loss of work, loss of wages, humiliation, mental anguish and suffering, and emotional distress.

By reason of the foregoing, Plaintiffs and the classes outlined below are entitled to the Relief set forth in the Prayer and as qualified above.

#### CLAIM FOR INJUNCTION

For Counts I through VIII, Plaintiffs seek to enjoin the conduct of those officials who are sued in their official capacity and seek mandatory, prohibitory and anticipatory relief.

#### CLAIM FOR DECLARATORY RELIEF

Plaintiffs seek a ruling from this Court that Minn. Stat. 609.505 is unconstitutional on its face.

The statute was recently interpreted by Minnesota's court of last resort, and is ripe for adjudication that is violates the US Constitution because it infringed upon First Amendment rights, including but not limited to chilling criticism of government officials, and perpetrating viewpoint discrimination.

Plaintiffs also seek a TRO, preliminary injunction and permanent injunction against the enforcement of Minn. Stat. 609.505.

#### CLASS ACTION ALLEGATIONS

Plaintiffs re-allege the above allegations as if hereinafter set forth in full and further state and allege:

The named plaintiffs bring this class action(s) pursuant to Rule 23 of the Federal Rules of Civil Procedure on behalf of themselves and all other persons similarly situated in the classes set forth above in the Counts above. These classes are so large that it is impractical to bring all of the Plaintiffs to Court. Further, the injunctive relief will benefit large numbers of Minneapolis, Hennepin County and Minnesota residents, and other Americans. Finally, because so many in the community fear intimidation or retaliation by government officials if they become public plaintiffs in this type of action, these plaintiffs are not only appropriate class representatives under 23(b)(2), but by allowing them to represent the large numbers contained in the class(es), the Court will reduce retaliation (which includes but is not limited to false criminal charges and other harm) and the risk thereof, by allowing these individuals who are willing to come forward to represent their class(es):

Class members may belong to more than one class.

The members of the plaintiff classes warrant class action treatment because they fulfill the certifying requirements under Rule 23(a) of the Federal Rules of Civil Procedure.

The proposed classes meet the numerosity requirement of Fed. R. Civ. P. 23(a)(1) because the members of each of the three classes are so numerous that joinder of all members is impractical. Each of the classes is in excess of 5,000-50,000 members.

The proposed classes meet the commonality requirement of Fed. R. Civ. P. 23(a)(2) because there are questions of law and fact common to the class. Common questions of law include: state court officials' duty to comply with the US Constitution and to protect the federal constitutional rights of those who use the state courts; whether the named defendants engaged in a botched or otherwise constitutionally infirm investigation; and whether the named defendants had authority to create policies or customs that deviated from statewide or federal law.

Common questions of fact include the training and supervision of officials regarding the US Constitution; methods, training and supervision of those who engage in investigations; and the location and content of the various un-published, un-promulgated policies, the manner in which they were utilized and enforced, unwritten customs of the Fourth Judicial District Court, and who was aware of those facts.

These are examples only and not a finite list. Further common facts and law will be elucidated upon the motion for class certification. Further, the class members have suffered the same injury, their claims depend upon a common contention which is of a nature that is capable of class-wide resolution, which means that determination of its truth or falsity will resolve an issue that is central to the validity of each one of the claims. The question of law linking the class members is substantially related to the resolution of the litigation even though the individuals are not identically situated. Jill Clark is a member of one or more classes and as such is not qualified to prosecute the class. Jill Clark is facilitating the filing of the case because significant risks exist, and time is of the essence.

The proposed classes meet the typicality requirement of Fed. R. Civ. P. 23(a)(3) because the claims of the named plaintiff are typical of the claims of each of the class members. The claims or defenses of the representatives and the members of the class stem from single event or are based on the same legal or remedial theory. The class action will be economical, and the named plaintiffs' claims and the class claims are so interrelated that the interests of the class members will be fairly and adequately protected in their absence. The claims are brought in the public interest and will benefit the public.

The named plaintiffs will fairly and adequately protect the interests of the classes as required by Fed. R. Civ. P. 23(a)(4) because their interests are identical to those of the other members of the classes. Both the named plaintiffs and the class members will benefit from the relief requested in this complaint. The named plaintiffs will therefore zealously protect the interests of the classes. Plaintiffs know of no conflict between their interests and those of the classes they seek to represent (or to the extent there is any conflict, members of the class are free to opt out).

Each representative's interests are sufficiently similar to those of the class that it is unlikely that their goals and viewpoints will diverge. The plaintiffs and their attorneys are able and willing to prosecute the action except that: a) both of the attorneys signing this initiating complaint are members of one or more classes; and b) neither of these attorneys have any significant experience litigating class action lawsuit. Therefore, plaintiffs request that, similar to the *Jesson* case decided in the District of Minnesota, that an attempt be made to locate an attorney(s) who can competently and vigorously prosecute the case.

The instant action should be maintained as a class action under Fed. R. Civ. P. 23(b)(2) because the Defendants have acted or refused to act on grounds generally applicable to the class(es), thereby making appropriate final prohibitory injunction relief (or mandamus) or corresponding declaratory judgment relief with respect to the class as a whole.

Furthermore, as contemplated by Fed. R. Civ. P. 23(b)(1), if the individual members of the classes were to bring separate suits to address the Defendants' policies, practices, actions and inactions, the Defendants may address the case of the named plaintiff but ignore the applications and concerns of the remaining class members, thereby exacerbating the Defendants' violation of the law. Resolving this matter as a class action would also serve judicial economy since the courts would not be burdened with lawsuits by many individual complainants.

WHEREFORE, Plaintiffs pray for the following relief:

Damages in an amount to be determined at trial in a reasonable amount in excess of \$75,000.

Punitive, presumed and exemplary damages.

Permit the case to proceed as a class action and certify the classes as and when requested by Plaintiffs.

Issue a declaratory judgment that: defendants are required to follow federal law including the US Constitution, and are required to enforce federal laws and the Constitution of the United States in the state courts, and that Minn. Stat. 609.505 is unconstitutional on its face.

Issue ex parte, temporary and permanent prohibitory injunctions and/or writs of mandamus:

Order the defendants to cease violating the Constitution of the United States.

Order the defendants to institute and maintain a meaningful and effective method for investigating public officials and holding them accountable which shall be monitored for its effectiveness in protecting the public and not public officials, and for retaliation against those who complain.

Order the defendants to institute and maintain a meaningful effective method for training police, prosecutors, court clerks, state judges and other defendants in the substantive law of the US Constitution and other federal laws.

Order the defendants to monitor and supervise public official adherence to federal law and the Constitution of the United States, and to this Court's order.

Order the defendants to equally enforce the criminal laws of the State of Minnesota.

Order the defendants to institute and maintain a meaningful and effective method of monitoring and investigatory agencies, boards, and management level public officials.

Awarding reasonable attorney fees and costs and disbursements incurred herein; and

Plaintiffs demand a trial by jury on all applicable counts.

Dated: September 2, 2012

ATTORNEYS FOR PLAINTIFFS

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Jill Clark, Esq. for Jill Clark

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Jill Clark, LLC for Jill Clark, P.A.

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Jill Clark for Jill Clark, LLC

2005 Aquila Av. N.

Golden Valley, MN 55427

(763-417-9102)