IN THE IOWA DISTRICT COURT POLK COUNTY

ALEXANDRA "SONDRA" WILSON, *Petitioner*, v. KIM REYNOLDS FOR IOWA and STATE OF IOWA, *Respondents*	CASE NO. 05771 LACL157953 PLAINTIFF ALEXANDRA WILSON'S (I) RESISTANCE TO STATE OF IOWA'S MOTION TO STRIKE JULY 23 AMENDED PETITION (II) MOTION TO AMEND TO PERMIT JULY 23 FILING TO STAND (III) in the alternative MOTION TO AMEND JULY 22 AMENDED PETITION (IV) NOTICE OF CONSTITUITONAL QUESTION (V) RESERVATION OF RIGHT TO FILM THE PROCEEDINGS (VI) REQUEST FOR ALL IN-PERSON PROCEEDINGS TO BE ACCESSIBLE VIA ZOOM

Pursuant to Iowa R. Civ. P. 1.431(4), I file this resistance to STATE OF IOWA's ("State's") July 26 motion to strike my "Amended Petition w/ minor corrections and additional remedies requested" ("July 23 filing").

Pursuant to Iowa R. Civ. P. 1.402, I file this motion to amend to request permission from the court to allow my July 23 filing to stand; in the alternative, I move to amend my July 22 Amended Petition, which would require less than a day to do. Thus, it would not affect the date of the scheduled August 9 hearing.

Pursuant to Iowa R. App. P. 6.901(3) I provide notice of constitutional question with regard to various parts of Iowa Codes §§ 669.14, 669.4(2).

I challenge the State's pleas of sovereign immunity as unconstitutional; a doctrine with no mention in the Iowa Constitution or US Constitution, contrived by King Edward I and derived

from the premise that “the King can do no wrong”, deserves no place in American law.

Pursuant to Iowa R. Civ. P. 1.431(4), I resist the State's motion to to dismiss the claims set forth in my July 22 Amended Petition filed. Granting the State's motion would create a miscarriage of justice. I reserve my right to a fair trial.

I reserve my right to film these proceedings, a right guaranteed by the First, Ninth, and Fourteenth Amendments of the U.S. Constitution. This lawsuit is of both statewide and national interest.

I request all in-person proceedings to be made available via Zoom or similar platform. There are elders in my congregation who want to attend the proceedings, as well as other interested supporters from my community and from across the state who want to attend but are unable to drive to Des Moines.

INTRODUCTION

1. After various STATE OF IOWA employees, Legislators, and the Governor performed a multitude of premeditated, malicious and discriminatory rights violations via related tortious acts and crimes, thereby causing numerous very serious personal injuries to me between 2006 and 2023, on July 6, 2023 I filed a tort claim against the STATE OF IOWA in the amount of $9,750,000. Due to eight years of homelessness I endured following an off-the-record warning I received from an Ames Police Officer to “leave the state for [my] safety”, the dollar amount of my claim is a meager amount to ask considering the years of suffering I have endured. There are many other torts performed by the State which are detailed throughout the claim, and throughout the Amended Petition I filed on July 23 this year. This suit is at both law and equity.

2. On September 27 I received a response to my claim from the State Appeals Board, who

wrote “Your claim is being referred to the Attorney General's Office who will investigate your claim and report back to the State Appeal's Board. Please answer all questions fully if further information is requested.... You will be notified in due time by the State Appeal Board on final disposition of your claim.” After not hearing any updates, I called and left a message, but to my knowledge never received a call back.

3. I filed a Petition to commence this civil action on February 8 prior to leaving for DMACC's London Abroad program the following day so that the limitations period would not lapse while I was overseas. Between Sept 27, when I filed the tort claim, and February 8 I was 100% focused on applying for scholarships, preparing to leave for Europe, focusing on my schoolwork and job at DMACC, making preparations to transfer to ISU this fall, and studying the beginning parts of the Iowa Rules of Civil Procedure enough so that I would know how to file the Petition on February 8 before I left and serve Original Notices upon my return within the 90 day limit. I did not notice the requirement within the ITCA to withdraw the claim after six months, nor was it mentioned in the letter from the State Appeals Board.

4. After returning to Iowa in April, finishing up finals, and then graduating in May, I paid the Polk County Sheriff's Office to serve Original Notice to Defendants STATE OF IOWA and KIM REYNOLDS FOR IOWA. On May 13 Deputy Adamovics filed a Return of Service with regard to the State, and he alerted the court that he was unable to serve KIM REYNOLDS FOR IOWA via her office or the State Attorney General's Office. Her Honorable Judge Gronewald issued the following order later that day:

- “Plaintiff shall within thirty (30) days of this Order, either:
    - File with the Clerk of Court the Return of Service or similar document which evidences service on the Defendants within ninety (90) days of filing of the

Petition as required by Iowa Rule of Civil Procedure 1.302(5) and deliver a copy to the assigned Judge; or

- In the event the Plaintiff has not served the Defendants within the ninety (90) days of filing of the Petition, or otherwise cannot file a Return of Service or similar document evidencing timely service, the Plaintiff or Plaintiff's attorney shall file a motion with supporting affidavit stating the good cause for Plaintiff's failure to timely serve the Defendants or inability to file a Return of Service or similar document, and requesting the Court to direct an alternate manner of service, or to extend the time for an appropriate period of service, or filing of the return. A copy of the motion shall be delivered to the assigned Judge."

5. On May 22 Assistant Attorney General Christopher J. Deist filed an appearance on behalf of the State, followed by a motion to dismiss.

6. On May 28 Judge Gronewald ordered a hearing for June 14 to discuss the State's motion to dismiss.

7. Also on May 28, I filed an omnibus motion which included a motion for Judge Gronewald to recuse herself as required by Iowa Code. Jud. Cond. 51:2.11 and a motion to continue this case after related case # LACV053674 has been resolved due to overlapping filing deadlines which have been causing me to be unable to keep up with both cases at the same time. Due to the fact that:

- I had been unable to find an address for KIM REYNOLDS FOR IOWA (the address listed on their DR-1 Statement of Organization does not appear to be accurate); and
- KIM REYNOLDS FOR IOWA has not responded to emails or phone calls;

I also requested assistance from the State in serving KIM REYNOLDS FOR IOWA via serving the campaign's Principal, Kim Reynolds. I wrote, "Due to the fact that I am unable to locate where Original Notice ought be served on Kim Reynolds for Iowa, and because the Iowa Attorney General may easily locate and provide a copy of my Petition to Governor Reynolds, I am requesting that the Attorney General do so for the sake of expediency and convenience, and

for Kim Reynolds for Iowa to accept service. In the alternative, I request a proper address for which Kim Reynolds for Iowa may be served."

8. On June 4 the State filed a resistance against all parts of my May 28 omnibus motion.

9. On June 7 Judge Gronewald set forth an order informing the parties that all three matters set forth in my May 28 motion would be discussed during the June 14 hearing, and that hearing for the Defendant's Motion to Dismiss would be reset for a later date and time in approximately 30 –45 days to allow for the above issues to first be addressed.

10. On June 10 I filed a motion to amend my petition and a motion to continue due to overlapping deadlines with case # LACV053674. I attached a copy of my previous petition with the address for KIM REYNOLDS FOR IOWA that had since been provided to me by the Iowa Ethics and Campaign Disclosure Board. I informed the court that due to strenuous overlapping deadlines I was not able to file a timely resistance to the State's motion to dismiss, and that my Amended Petition would address arguments raised within the State's motion.

11. On June 11 Judge Gronewald issued an order stating that my motion to amend would be discussed at the June 14 hearing.

12. Following attempted service on KIM REYNOLDS FOR IOWA on June 12 via the address provided to my by the Iowa Ethics and Campaign Disclosure Board, on June 13 Katoya Jepson filed a Return of Service stating that a "minor who answered the door stated Angie Hughes," the campaign committee's registered Chairman, "doesn't reside there anymore."

13. In accordance with Judge Gronewald's May 13 order (see line 4) wherein she wrote, "[T]he Plaintiff... shall file a motion with supporting affidavit stating the good cause for Plaintiff's failure to timely serve the Defendants or inability to file a Return of Service or similar

document, and requesting the Court to direct an alternate manner of service," on June 13 I filed an affidavit recounting the numerous ways I had attempted service and requested the Court to direct an alternate manner of service. I also filed a motion to estop the State from continuing to attempt to get the case dismissed prematurely in a manner which would violate my due process rights.

14. At the hearing on June 14:

- The State acknowledged my right to amend my Petition;
- I provided various reasons as to why Judge Gronewald was required to recuse; and
- Per my request for the Court to direct an alternate manner of service, Judge Gronewald asked if I had looked at the Iowa Rules of Civil Procedure having to do with service via the Secretary of State's Office. I told her I would look into it.

15. On July 19 Judge Gronewald:

- Granted my motion to amend, setting the deadline for July 12;
- Denied my motion to recuse;
- And wrote, "Petitioner has failed to demonstrate service cannot be had on [KIM REYNOLDS FOR IOWA]. Accordingly, her request for alternative service is DENIED at this time. However, to the extent Petitioner's affidavit is a request for additional time to serve, Petitioner's request is GRANTED. Petitioner shall have until August 1, 2024 to serve Kim Reynolds for Iowa."

16. On June 20 I filed a complaint against Judge Gronewald with the Iowa Judicial Qualifications Commission for being in violation of Iowa Code. Jud. Cond. 51:2.11.

17. On July 1 I filed a motion to reconsider not to recuse, a notice of necessity to serve KIM REYNOLDS FOR IOWA by publication in accordance with Iowa R. Civ. P. 1.310, and a request to the Defendants to serve each other electronically in accordance with Iowa R. Civ. P.

1.442(2).

18. On July 3 the State filed a resistance to my motion to reconsider order not to recuse.

19. On July 9 Judge Gronewald recused herself.

20. On July 12 I filed a motion to continue, writing "Due to the fact that Judge Gronewald did not recuse, instead of working on the Amended Petition between June 19 and July 1, I focused on drafting the motion to reconsider order not to recuse filed on July 1. This interrupted approximately ten days of work time needed to be able to finish the Amended Petition on time." I notified the court that service by publication for KIM REYNOLDS FOR IOWA had commenced."

21. On July 18 His Honorable Judge Michael D. Huppert was assigned to this case. He then granted my motion to continue, setting a deadline for July 22.

22. On July 22 I filed a 64 page Amended Petition.

23. The following day, July 23, I filed a 68 page "Amended Petititon w/ minor corrections and additional remedies requested". Due to the complexity of the lawsuit, I was unable to complete the Amended Petition to my satisfaction within the assigned deadline. I am hopeful the Court will permit my July 23 filing.

24. On July 26 the State filed two motions:

(i) A motion to strike my July 23 Amended Petition, arguing that this filing ought not be considered to have been properly filed because it was not within the July 22 deadline. The State did not properly caption their motion in that there was no mention of the motion to strike within the caption. The motion is located on page two within the first footnote.

(ii) A motion to dismiss the claims against the State contained within my July 22 Amended Petition.

25. In addition to the numerous filings which have been required of me for this lawsuit, I

have drafted 13 detailed filings for the related lawsuit, case # LACV053674, which is referenced largely in part 3 of my Amended Petition. I very much appreciate the court's patience and understanding thus far with regard to granting some of my motions to continue needed for this case, so that I could keep up with most filing deadlines for both cases. All of my motions to continue have been needs based upon the overlapping deadlines which have caused severe time constraints.

26. I request and appreciate any grace the court may offer with regard to any minor slip-ups and/or omissions I may make while attempting to adhere to the extremely complex Iowa R. Civ. P. and Iowa. R. Evid. to the best of my knowledge and ability. While writing this resistance I noticed that I also need to study the Iowa R. App. P. because Rule 6.901(3), for example, affects and can be cited within the original proceedings. I am doing my best not to miss any nuances and/or steps which could compromise my case and cause injustice if missed. If such instance should arise, I pray the spirit of the law prevails. No one should ever have to go through the horrible and traumatizing experiences the Defendants in this case have put me through. I am determined to continue pursuing justice so that I may be made whole, and so that others, including those of future generations, are not harmed by the Defendants in the manners in which I have been.

Resistance to State's motion to strike my July 23 Amended Petition

27. Footnoted within ¶ 1 of the State's motion to dismiss, the State wrote, “Based on an electronic comparison, the State has identified at nearly 400 changes from the July 22nd Amended Petition and her revised version, including over 250 replacements, over 80 insertions, and over 50 deletions. See Attachment A (Compare Report).” It is apparent when scrolling

through the Compare Report that the changes I made did in fact constitute “minor corrections and additional remedies requested”. Minor corrections mostly consisted of clarifications, page number corrections, inserting omitted words I intended to write into the original filing, and similar adjustments any editor might find. Additional remedies were relative to the case, and reasonable for the purpose of preventing others from being harmed in the same and/or similar manners in which the Defendants harmed me.

28. Within the same footnote, the State continued, “Plaintiff was given substantial time to draft her Amended Petition, including two extensions by the Court. See D0021; D0027.” Note, however, that my original and most crucial motion to continue, D0011, was denied; Id. D0013. Had that motion been granted by the previous judge, the other motions would not have been needed.

29. Within the same footnote, the State wrote “Iowa courts have consistently held that pro se litigants should not be held to a lower standard than attorneys in complying with court deadlines and the rules of procedure. See generally, *Kubik v. Burk*, 540 N.W.2d 60, 63 (Iowa Ct. App. 1995) ('The law does not judge by two standards, one for lawyers and another for lay persons. Rather all are expected to act with equal competence.'). As such, the State moves this Court to strike Plaintiff’s July 23, 2024 filing and proceed with the July 22, 2024 Amended Petition as the operative petition in this matter. See Iowa R. Civ. P. 1.434.” Although the State appears to have attempted to file a motion to strike here, the motion to strike is not named in the caption of the State's filing, as required by Iowa R. Civ. P. 1. 411(1), “Each... motion... shall be captioned... naming the... instrument.” Whereas the State argued:

(i) Pro se litigants must comply with the rules of procedure, lest they risk having their

filings struck, and

(ii) Pro se litigants must be held to the same standard of "equal competence",[1] Therefore the State ought be held to the same standard, and their motion to strike ought be denied for not being named within the caption of the filing, as required by Rule 1. 411(1).

30. Another error the State made occurs within footnote 1, "Plaintiff did not separately move to amend her July 22nd Amended Petition, as required under Iowa Rule of Civil Procedure 1.402(5)." Due to the fact that there is no reference to the requirement to move to amend within Rule 1.402(5), it appears the Defendant made an error here as well. It is apparent the Defendant intended to reference Rule 1.402(4), which sets forth, "[A] party may amend a pleading only by leave of court or by written consent of the adverse party. Leave to amend... shall be freely given when justice so requires."

31. I propose an alternative to the various litigants, the Defendants and myself, nitpicking each others' filings in search of minor procedural and/or grammatical errors we might find, and instead we focus on the substantive contents within the filings.

32. I move to deny the State's motion to strike, and, with the Court's permission, allow my July 23 filing to stand.

Motion to amend petition

33. Pursuant to Iowa. R. Civ. P. 1.402:

> (i) If the court finds that the July 23 filing was filed soon enough, with accurate changes specified in the caption, and that it is written in a cognizable manner which pleases the court, I request the court to accept my July 23 filing.
>
> (ii) In the alternative, I request permission to amend my July 22 Amended Petition in order to make changes which were made via the July 23 filing, and to

1 The State conceded that the "standard" is of "competence" – not the standard of having the same amount of legal knowledge as a professional, which would be unreasonable to expect.

format it so that it conforms to the following specifications noted in footnotes 1–3 on pages 1–2 within the Introduction of the State's July 6 motion to dismiss:

- "Plaintiff did not separately move to amend her July 22nd Amended Petition, as required under Iowa Rule of Civil Procedure 1.402(5)."
- "While Plaintiff has attempted to reformat her Amended Petition into numbered paragraphs, often, each paragraph contains several allegations."
- "Amended Petition... does not set out her legal claims in distinct clear counts."[2] [3]

34. Justice does in fact require that I am given leave to amend due to the facts that:

- The July 23 filing brings clarity to sections of the July 22 filing which may have otherwise appeared unclear; and
- The July 23 filing specifies additional auxiliary remedies which are needed to create a more just outcome for this suit.

Whereas Iowa R. Civ. P. 1.402(4) sets forth, "Leave to amend shall be freely given when justice so requires," therefore the court ought grant my motion to amend. The Rule does not specify that permission must be asked for ahead of time with regard to such filings. I thought it reasonable, and thus concluded, that my follow-up filing was performed soon enough that the court would find it permissible, however I would greatly appreciate the Court's permission now

2 In ¶ 1 Defendant wrote, "[Plaintiff did not] provide a redlined copy denoting what 'minor corrections' she has made," however I have not located any rule, including Iowa. R. Civ. P. 1.402,which sets forth this requirement.

3 In ¶ 1 Defendant wrote, "[T]he Amended Petition... contains numerous allegations and possible legal claims raised against various individuals and entities outside of the State. This includes allegations related to various local law enforcement officials (see Am. Pet., ¶¶ 19-26, 29), various private businesses or individuals (see id., ¶¶ 26, 30, 35, 37, 52-56), and unnamed alleged offenders completely outside the State of Iowa (see id., ¶ 33)." However, as written in ¶ 1 of my Amended Petition, "I have suffered over the years, caused by STATE OF IOWA employees and other parties whose tortious actions which harmed me were enabled and/or aided and abetted by the STATE OF IOWA." The "various local law enforcement officials, private businesses or individuals, and unnamed alleged offenders... outside the State of Iowa" include parties whose tortious acts harmed me as a result and/or with undue and unjust impunity as a result of negligence, neglect, misfeasance, nonfeasance, and/or reckless endangerment by the STATE OF IOWA. Those are the torts for which the State is liable with regard to these outside offenders.

that this part of the rule has been brought to our attention by the State.

LEGAL STANDARD

35. Pursuant to Iowa R. Evid. 5.201, I request the court to take notice of the fact that the purpose of the Iowa Tort Claims Act ("ITCA") is summarized within the first part of Iowa Code §669.3(2), "The state shall be liable in respect to such claims to the same claimants, in the same manner, and to the same extent as a private individual under like circumstances."

36. If the court takes notice of the fact that the purpose of the Iowa Tort Claims Act is summarized within the first part of Iowa Code §669.3(2), the court ought also take notice of the fact that, according to the spirit of the law doctrine (Id. D0030 ¶ 8), the court ought give effect to the first part of Iowa Code §669.3(2) whenever applying another section of the Iowa Code – including other sections within the ITCA – which, if applied, would result in absurdity, injustice, contradiction, and/or defeat of the plain purpose of the act..." I request the court to take notice of the fact that the purpose of the ITCA is to provide Citizens an avenue for redress for when our rights are violated by the State; the purpose is not to deny redress due to minor, harmless procedural errors nearly any person could make, especially in light of how overly-complex the ITCA, Iowa R. Civ. P., Iowa. R. Evid., and Iowa R. App. P. are. Note that there are so many rules and nuances within all these rules and the Iowa Code, that even the State's professional attorneys made errors while attempting to adhere (Id. ¶¶ 29, 30). This reinforces points made within my July 22 and 23 filings (Id. D0030 ¶¶ 60, 90), and establishes good cause for the Court to grant the auxiliary remedies listed on pages 65 and 66 of the July 23 filing, especially simplifying the court's rules of procedure into a simple step-by-step that Citizens will understand.

37. The State argued that the legal standard of this case ought be as follows: “Rule 1.421 provides for dismissing a petition that fails to state a claim upon which relief may be granted. See Iowa R. Civ. P. 1.421(1)(f). 'A motion to dismiss is sustainable only when it appears to a certainty that the plaintiff would not be entitled to relief under any state of facts that could be provided in support of the claims asserted.' *Mlynarik v. Bergantzel*, 675 N.W.2d 584, 586 (Iowa 2004) (quoting *Albrecht v. Gen. Motors Corp*., 648 N.W.2d 87, 89 (Iowa 2002)) (internal quotation marks omitted). A motion to dismiss is reviewed with the allegations of the petition viewed in the light most favorable to the plaintiff. See *Tate v. Derifield*, 510 N.W.2d 885, 887 (Iowa 1994).” According to this legal standard, with the claims I set forth in my Amended Petition “viewed in the light most favorable to the plaintiff”, it is apparent that I would be due redress if a private individual were to perform the same and/or similar torts in manner(s) which harmed me in the same way. Whereas the ITCA sets forth, “The state shall be liable in respect to such claims to the same claimants, in the same manner, and to the same extent as a private individual under like circumstances,” therefore the State is liable.

Notice of Constitutional Question

38. Iowa R. App. P. 6.901(3) provides an avenue for Iowa's Citizenry to have an integral role with regard to overturning unconstitutional legislative acts, “When the constitutionality of an act of the general assembly is drawn into question in an appeal or other proceeding to which the State of Iowa or an officer, agency, or employee thereof is not a party in an official capacity, the party raising the constitutional issue must, within 3 days after filing the party’s brief, provide the attorney general with written notice containing the supreme court case number, a reference to rule 6.901(3) identifying the act called into question, and the contact information of the

attorney(s) of record. The notice to the attorney general may be provided by regular mail or as directed by the attorney general. An informational copy of the notice must be filed with the clerk of the supreme court within 3 days after the filing of the party's brief." Rule 6.901(3) does not require external notice to the Attorney General's Office in cases wherein the State of Iowa is a party in an official capacity. The Attorney General's Office is hereby notified of two unconstitutional sections of the Iowa Code. See ¶¶ 39, 40, 41.

39. Although the first part of Iowa Code §669.3(2) appears to convey the plain purpose of the ITCA (¶¶ 35, 36), others parts of the ITCA appear unconstitutional (¶¶ 40, 41). If the unconstitutional parts of the ITCA were to be applied to this case or the cases of other Citizens harmed by the State in the future, doing so would cause absurdity and injustice, and would defeat the plain purpose of the ITCA. Remember that Iowa Courts do in fact uphold the spirit of the law doctrine: 14 N.W.2d 717,234 Iowa 869 *Case v. Olsen* held "The court should give effect to the spirit of the law rather than the letter, especially so where adherence to the letter would result in absurdity, or injustice, or would lead to contradiction, or would defeat the plain purpose of the act..." Unconstitutional provisions within the ITCA ought not take effect in this case, or they would cause absurdity, injustice, and they would serve to defeat of the plain purpose of the act.

40. Not only are some parts of the ITCA unconstitutional, they appear to be a blatant attempt by Iowa's Legislative and Executive Branches to perform extrinsic fraud against Iowa's Citizenry. Parts in question, followed by relevant facts which therein expose this type of fraud, are as follows:

1. §669.14 of the ITCA sets forth, "The provisions of this chapter shall not apply, with respect to any claim against the state, to:

1. Any claim based upon an act or omission of an employee of the state, exercising due care, in the execution of a statute or regulation, whether or not such statute or regulation be valid,[4] or based upon the exercise or performance or the failure to exercise or perform a discretionary function or duty on the part of a state agency or an employee of the state, whether or not the discretion be abused.[5]

2. Any claim arising in respect to the assessment or collection of any tax or fee, or the detention of any goods or merchandise by any law enforcement officer.[6]

3. Any claim for damages caused by the imposition or establishment of a quarantine by the state, whether such quarantine relates to persons or property.

4. Any claim arising out of assault, battery, false imprisonment, false arrest, malicious prosecution, abuse of process, libel, slander, misrepresentation, deceit, or interference with contract rights.[7]

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4 This provision, indicated in red, written of course by Iowa's Legislature, self-enables the Legislative Branch and authorized agencies, as well as county and municipal governments, to direct STATE OF IOWA employees to perform unconstitutional acts and abuses of power in a manner which, if were to harm a Citizen, would leave that Citizen without redress. This provision is unconstitutional. See ¶¶ 62, 64!

5 To allow state agencies and employees of the state to knowingly and willingly abuse their discretion, and <u>then</u> to deny redress to Citizens who are harmed by such abuses, is an abuse of power by the State. According to Black's Law Dictionary 10th Ed., an abuse of power is, "The misuse or improper exercise of one's authority; especially, the exercise of a statutorily or otherwise duly conferred authority in a way that is tortious, unlawful, or outside its proper scope." Either the State (i) provides immunity to state agencies and government employees, and assumes liability for harms in turn done to Citizens, or (ii) government employees must be held to a higher standard lest they be held personally liable. *The State cannot have both. <u>The State may not harm Citizens and then deny them redress</u>*. See ¶¶ 62, 64!

6 Detention of goods and merchandise, if later found to have been unaffiliated with any unlawful action by the owner(s), can cause severe harm to the owners, especially if their livelihood depends upon the retention and use of the items in question. The State must be held liable for losses and general damages, including undue stress, in such cases. The State must be held to a higher standard, lest future generations become subject to an abusive government much like the one the Founding Fathers sought to escape. See ¶¶ 62, 64!

7 §669.14(4) demonstrates the ruthlessness with which Iowa's Legislative and Executive Branches have allowed themselves to abuse Iowa's Citizenry in a manner which simultaneously denies Citizens redress when we become victims. The Legislative and

5. Any claim by an employee of the state which is covered by the Iowa workers' compensation law or the Iowa occupational disease law, chapter 85A.

6. Any claim by an inmate as defined in section 85.59.[8]

According to Black's Law Dictionary 10th Edition, extrinsic fraud is a type of fraud which bears two definitions which both apply to parts in question of the ITCA:

- "[D]eceptive behavior outside the transaction itself (whether a contract or a lawsuit), depriving one party of informed consent or full participation."
- "[T]hat prevents a person from knowing about or asserting certain rights."[9] [10]

According to Ballantine's Law Dictionary 3rd Edition, extrinsic fraud is, "[F]raud which has prevented a party from having a trial, from presenting all his case to the court, or has so affected the manner in which the judgment was taken that there has not been a fair submission of the controversy of the court. *Farley v Davi*s, 10 Wash 2d 62, 116 P2d 263, 155 ALR 1302."

Executive Branches have clearly granted themselves despotic powers which must be put into check by the Judicial Branch in order to be brought into balance. My filing of this notice of constitutional question brings much-needed, long-overdue checks and balances to the other branches. I beseech the Court to strike down these unconstitutional sections of the ITCA, and to compel Iowa's Legislature to amend the act accordingly. To do so is clearly within the powers and authority of the courts, as demonstrated by *Marbury v. Madison.*

8 To deny inmates redress, in context with the fact that, as indicated in above footnotes, innocent Citizens can be intentionally harmed by state agencies and government employees, including but not limited to false arrests and malicious prosecutions, is not only a horrendous overreach by Iowa's Legislative and Executive Branches, it is a means to deploy absolute despotism upon Iowa's Citizenry while attempting to, through fraudulent means (unconstitutional statutes), deny Citizens access to due process and therefore a means to obtain redress. See ¶¶ 62, 64!

9 Black's Law Dictionary Deluxe Tenth Edition by Henry Campbell Black & Editor in Chief Bryan A. Garner. ISBN: 978-0-314-62130-6

10 Rights which could be unjustly abrogated by the unconstitutional parts of the ITCA include the right to recovery, right to due process, right to redress, and other inalienable rights. See ¶¶ 62, 64!

41. Due to the fact that multiple parts of §669.14, especially (1) and (4), would unjustly affect the outcome of this case, if applied, I request the Court to issue a just ruling with regard to their unconstitutionality prior to performing any final judgments with regard to this case. No claim brought forth within my Amended Petition ought be dismissed on the grounds wherein these sections of the Iowa Code, or related rulings thereto, are given effect, as doing so would violate the spirit of the law.

42. Another unconstitutional section of the ITCA appears within the second part of §669.4(2), "The state shall be liable in respect to such claims to the same claimants, in the same manner, and to the same extent as a private individual under like circumstances, except that the state shall not be liable for interest prior to judgment or for punitive damages." In *BMW of North America, Inc. v. Gore*, 517 U.S. 559, 116 S.Ct. 1589 (1996), the Supreme Court held that three guidelines help determine whether a punitive-damages award violates constitutional due process:

> (1) the reprehensibility of the conduct being punished;
>
> (2) the reasonableness of the relationship between the harm and the award; and
>
> (3) the difference between the award and the civil penalties authorized in comparable cases."

The State ought be held liable for punitive damages when these three criteria are met, despite the Legislative and Executive Branches' flagrant overreach in attempting to bar Citizens from that which is due in such circumstances.

43. Whereas I have requested punitive damages within this suit (D0030 ¶¶ 15, 91, 92), therefore I request I request the Court to issue a just ruling with regard to the unconstitutionality the part in question with regard to §669.4(2) prior to performing any final judgments with regard

to this case. Punitive damages ought not be denied to me based upon this unconstitutional provision. The State cannot simply attempt to evaporate liability into thin air.

44. If the Court finds that I ought set forth these notices of constitutional question within my Petition, I request leave to allow time to amend my Petition accordingly, as justice requires. It appears, however, that Iowa R. App. P. 6.901(3) sets forth no such requirement.

ARGUMENT

45. The State listed counts brought forth in my Amended Petition as follows. I have added counts, indicated in red. If the Court finds that I must add these counts to my Petition and/or clarify any such counts with regard to the contents of my Petition, I respectfully request leave to allow time to amend my petition, as justice would thereby demand.

- Two counts of false arrest, two counts of malicious prosecution, two counts of discrimination, and two counts of harassment based on Officer Marshall's actions specified in Am. Pet. ¶¶ 19-22, 24.

- Negligence and reckless endangerment based on... deficiencies in the Iowa Rules of Professional Conduct. Id., ¶¶ 23, 67, 70, 71.

- "Abuse of power" and extrinsic fraud based on District Court Judge Steven Van Marel finding Plaintiff guilty during a bench trial on a misdemeanor case, as well as Judge Van Marel's alleged failure to recuse himself from the case. Id., ¶¶ 28, 69.

- Violation of 18 U.S.C. § 241, § 242, and the Iowa Civil Rights Act based on the Iowa Legislature passing an amendment to Iowa Code chapter 216 following the Iowa Supreme Court's decision in *Good v. Iowa Department of Human Services*, 924 N.W.2d 853 (Iowa 2019). Id., ¶¶ 39-44.

- Violation of 42 U.S.C. § 1983 based on alleged violation of Plaintiff's rights under the Ninth Amendment to the U.S. Constitution again related to the amendment to Iowa Code chapter 216 following the *Good* decision. Also violations of two rights secured by the Medicare and Medicaid Act and guaranteed by the Ninth Amendment. Id., ¶¶ 41-43.

- Violation of 18 U.S.C. § 241 and common law defamation based on statements by a spokesperson for Governor Kim Reynolds following the district court decision in *Vazquez v. Iowa Department of Human Services*, Polk County Case No. CVCV061729.

Id., ¶¶ 45-47. Violation of Iowa Code §729A.1 re: "threats". Id., ¶ 47.

- Violation of rights based on the State's decision to appeal the district court ruling in *Vasquez*. Id., ¶ 48.

- Violation of Iowa Code chapter 729A based on the amendment to Iowa Code chapter 216 and the State's appeal of the district court ruling in Vasquez. Id., ¶ 51.

- Fraudulent misrepresentation based on the Iowa Civil Rights Commission's ("ICRC") handling of her civil rights complaint against two Ames-based businesses. Id., ¶¶ 52- 57, 62–64. Reckless endangerment and neglect. Id., ¶¶ 59, 61.

- Violation of Plaintiff's due process rights based on the ICRC's procedures for requesting a right-to-sue letter and receiving a complainant's full case file. Id., ¶ 61.

- Denial of 14th Amendment right to "equal protection of the laws" by Ames Police and Story County Attorney. Id., ¶ 62.

- Defamation based on statements made by Governor Reynolds related to Bud Light cans featuring "real women." Id., ¶ 76.

- "Overt acts of furtherance" based on various legislative initiatives by the Governor and the Iowa Legislature, including aspects of the realignment of state government. Id., ¶¶ 77-80.

- Violation of Iowa Code § 706A.2 based on "continuous acts of misconduct, harassment of transgender persons in general, and malicious behavioral patterns which adversely impact transgender Iowans particularly—rights violations and defamation." Id., ¶¶ 77–83.

46. The State set forth the following arguments in its defense in order to attempt to skirt liability and avoid prosecution for the torts and crimes recounted in ¶ 44:

I. Plaintiff cannot bring a private cause of action based on alleged violations of federal criminal civil rights statutes.

II. Plaintiff has failed to plead valid claims under Iowa Code chapters 706A and 729A

III. Plaintiff's § 1983 claim fails because the State is not a proper party to such a claim.

IV. Plaintiff's tort claims are barred because Plaintiff failed to exhaust her administrative remedies under the Iowa Tort Claims Act.

V. Plaintiff's negligence claim is barred by the public-duty doctrine.

VI. Plaintiff's defamation, fraudulent misrepresentation, and due process claims are barred by the doctrine of sovereign immunity.

VII. Plaintiff's abuse of power claim is barred by judicial process immunity.

I shall controvert each of the State's arguments in turn, as follows:

I. I filed a valid penal action and am due punitive damages due to violations of federal criminal civil rights statutes by the State:

47. Defendant wrote (Id. D0031 p. 5), "[Plaintiff] challenges the State's decision to amend Iowa Code § 216.7 in response to the Iowa Supreme Court's ruling in *Good* and to appeal a ruling from the Iowa District Court for Polk County striking that amendment as unconstitutional. See Am. Pet., ¶¶ 39-40, 44. According to Plaintiff, these actions by the State constitute violations of 18 U.S.C. § 241 and § 242. Id., ¶ 39." The State incorrectly wrote "According to the Plaintiff". It is not according to me; it is according to what is clearly and concisely written in the statutes themselves:

- 18 U.S.C § 241 Conspiracy against rights, "If two or more persons conspire to injure, oppress, threaten, or intimidate any person in any State.... in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States[11].... They shall be fined under this title or imprisoned not more than ten years, or both...." The State knowingly and willingly, in a premeditated manner, violated the rights of a class of persons explicitly protected by the Iowa Civil Rights Act. The State chose to take a risk via violating standing rights, in hopes that a lawsuit would not follow. I suffered collateral damage, as did other transgender Iowans. This suit, which I have requested the Court to certify as a class action, is a result of a risk the State knowingly and willingly chose to take.

- 18 U.S.C § 242 Deprivation of rights under color of law, "Whoever, under color of any law, statute.... willfully subjects any person in any State... to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, or to different punishments, pains, or penalties, on account of such person being an alien, or by reason of his color, or race, than are prescribed for the punishment of citizens, shall be fined under this

11 The "Law of the United States" the STATE OF IOWA violated is the Medicare and Medicaid Act.

title or imprisoned not more than one year, or both...."

48. The State pointed out multiple case rulings wherein the the Courts have held that there is no private right of action under § 241, including:

- "The Courts repeatedly have held that there is no private right of action under § 241"; *Newcomb v. Ingle*, 827 F.2d 675, 677, n.1 (10th Cir. 1987);
- "Section 241 is a criminal statute prohibiting acts of conspiracy against the rights of citizens, and it does not provide for a private civil cause of action."; *Cok v. Consentino*, 876 F.3d 1, 2 (1st Cir. 1989);
- "Only the United States as prosecutor can bring a complaint under 18 U.S.C. §§ 241-42"; *Lang v. Quinlan*, 1993 WL 129675, at *4 (5th Cir. 1993);

The State used these rulings to argue that "Section 241, which criminalizes conspiracies to deprive a person of 'any right or privilege secured to him by the Constitution or laws of the United States,' does not give rise to a private cause of action. Because sections 241 and 242 do not contain a private right of action, Plaintiff cannot bring a cognizable claim under either section, and her claims must be dismissed." However, as written in D0030 ¶ 91, the reason various crimes were cited throughout my petition – crimes which were never prosecuted by the authorities – is because this lawsuit is in part a penal action, "A civil proceeding in which... a common informer sues to recover a penalty from a defendant who has violated a statute. Although civil in nature, a penal action resembles a criminal proceeding because the result of a successful action is a monetary penalty intended, like a fine, to punish the defendant."[12] After the Court strikes down the unconstitutional provision within Iowa Code §669.4(2) (Id. ¶¶ 41–43), the Court will likely find, due to blatant, malicious violations of the criminal statutes, that the State is in fact liable for punitive damages.

II. I plead valid claims under Iowa Code chapters 706A and 729A, and requested punitive

12 Black's Law Dictionary Deluxe Tenth Edition by Henry Campbell Black & Editor in Chief Bryan A. Garner. ISBN: 978-0-314-62130-6

damages and a protective order accordingly:

49. The State again argued that the State's violations of Iowa Code § 216.7, wherein the civil rights of transgender Iowans violated in a manner which also violated Iowa Code chapters 706A and 729A, "[Do not] afford civil remedies for victims against violators." Again, however, the purpose of indicating crimes violated by the State was done in context with the fact that this action is in part a penal action; the State is liable for punitive damages.

50. The State argued that the State did not violate Iowa Code § 729A because the code only sets forth, "Persons within the state of Iowa have the right to be free from any violence, or intimidation by threat of violence, committed against their persons or property because of their race, color, religion, ancestry, national origin, political affiliation, sex, sexual orientation, age, or disability." The State willfully omitted, however, the first line of the statute which is emboldened within the legislative text, "**Violations of individuals rights prohibited.**" Therefore I have alleged a cognizable violation of my rights under § 729A.1.

51. The State pointed out that Iowa Code § 706A.2 outlines violations for "specified unlawful activity," which are defined under § 706A.1 as "any act, including any preparatory or completed offense, committed for financial gain on a continuing basis, that is punishable as an indictable offense under the laws of the state in which it occurred and under the laws of this state." Iowa Code § 729A.1 is an indictable offense, as are 18 U.S.C §§ 241, 242! Although the State argued that "The Legislature amending a statute is not an indictable offense under Iowa law — it is, in fact, squarely within the constitutional authority of the Legislature." This argument by the State like arguing, "Pointing a gun and shooting is squarely within the authority of a police officer." *Of course it is,* however it is not within a police officer's authority to load and then shoot

a gun at an innocent Citizen without probable cause! That is essentially what the State did: they knowingly and willingly created a legislative act which targeted a class of persons explicitly protected by the Iowa Civil Rights Act. Judge Kelley already ruled that the HF766 was discriminatory, unconstitutional, and a violation of the Iowa Civil Rights Act. The Iowa Supreme Court held this righteous determination made by Judge Kelley in May 2023, when the Court did not issue a ruling. They had already issued a ruling in *Good.* The State knowingly and willingly violated standing rights at the time the Legislative and Executive Branches unlawfully passed HF766, thereby violating Iowa Code § 729A.1. The State continued its conspiracy and "ongoing criminal conduct" when they appealled Judge Kelley's ruling and simultaneously reinstated exclusions against transgender Iowans from accessing medically-necessary procedures, which personally harmed me because my appointments had to be canceled as a result. For these reasons, my state statutory claims must be not be dismissed, and the State is liable for punitive damages.

52. In D0030 ¶ 91 I requested the following equitable auxiliary remedies from the Court in order to prevent the State from continuing to knowingly and willingly violate the rights of transgender Iowans:

- **The Defendants must cease and desist any and all continued efforts to violate rights and/or strip legal protections for transgender Iowans, or else a default judgment may be rendered against them.** Prosecution and punitive damages for violating Iowa Code §720.2 and 18 U.S. Code § 1621 (perjury of oath) ought be considered with regard to the default judgment.

- **Order Kim Reynolds, both in her gubernatorial capacity as well as with any campaigns she is or may be come involved with, to cease and desist from making any direct and/or indirect defamatory statements about transgender people:** Any violation ought result in a default judgment against the Defendant(s).

According to the State's argument, the State is allowed to repeatedly knowingly and willingly violate the rights of Citizens with impunity. I am requesting a protective order for transgender Iowans from being knowingly and willingly maliciously harmed by Iowa's Legislative and Executive Branches again. *This* is checks and balances. In the words of Abraham Lincoln, "The people of these United States are the rightful masters of both congresses and courts, not to over-throw the Constitution, but to over-throw the men who pervert that Constitution." What Lincoln stated here is directly applicable to the State of Iowa as well. Iowa's Legislature cannot knowingly and willingly target a class of persons with legislature designed to violate that class of person's rights. When the Legislative and Executive Branches go rogue, it is through the Courts that Citizens may instituted needed checks and balances.

III. The State is a proper party with regard to my § 1983 claims:

53. The State argued here that "When § 1983 claims are brought in federal court, the State and its agencies are protected by Eleventh Amendment immunity. See *Will v. Mich. Dept. of State Police*, 491 U.S. 58, 68-69 (1989); *Quern v. Jordan*, 440 U.S. 332, 345 (1979); *Kruger v. Nebraska*, 820 F.3d 295, 302 (8th Cir. 2016)." The State here has argued that § 1983 claims may not be brought against states federal courts. Therefore, we must deduce that such claims must be brought in state courts, which I have done.

54. The State then argued, "The Eleventh Amendment is 'inapplicable to suits filed in state courts.'" *Harrington v. Schossow*, 457 N.W.2d 583, 586 (Iowa 1990). Therefore, according to the State's argument here, the Eleventh Amendment does not apply here.

55. The State continued, "[F]ederal courts have also held that "states are not 'persons' for purposes of section 1983 litigation." *Will*, 491 U.S. at 70. Iowa courts have adopted this

interpretation and applied it to shield the State from § 1983 claims when brought in Iowa state courts. See *Harrington*, 457 N.W.2d at 586." However, the State of Iowa is in fact a "person" when it comes to legal interpretation! According to Black's Law Dictionary 10th Ed., the State is a type of "artificial person" known as a body politic, "A term applied to a corporation, which is usually designated as a 'body corporate and politic.' The term is particularly appropriate to a public corporation invested with powers and duties of government. It is often used... to designate the state or nation or sovereign power, or the government of a county or municipality, without distinctly connoting any express and individual corporate character. *Munn v. Illinois*, 94 U. S. 124, 24 L. Ed. 77; *Coyle v. Mclntire*, 7 Houst. (Del.) 44, 30 Atl. 728, 40 Am. St. Itep. 109; *Warner v. Beers*, 23 Wend. (N. Y.) 122; *People v. Morris*, 13 Wend. (N. Y.) 334." There appears to be no mention of this legal definition and the fact that the State is in fact a suable "person" within legal filings associated with any of the cases cited by the State above! Therefore it appears that not all the facts were presented within those cases, and bunk rulings resulted! I hereby request the court to take notice of the fact that the State is in fact a body politic, and therefore is a type of "person", which in Black's Law Dictionary 10th Edition is defined, " [E]ither an individual or an organization; that is, either a human woman, man, or child (a natural person), or a corporation or other artificial person. Thus, depending upon the statutory or constitutional provision under consideration, a person may be, in addition to a human being or a corporation, a partnership, an association, a municipality, or a government, among other entities." Remember that the purpose of the ITCA is summarized within the first part of Iowa Code §669.3(2), "The state shall be liable in respect to such claims to the same claimants, in the same manner, and to the same extent as a private individual under like circumstances." The State is, by legal

definition, a “person”, and thus is suable. The above rulings appear to have been made without the judge having all the facts presented to them, thus the rulings were not accurate and ought be overturned.

56. I request the court to take notice of the fact that, based upon the above rulings cited by the defense, the State has completely barred § 1983 claims in general based on arguments that such claims are not suable in federal courts, nor are they permitted in state courts. If the court takes notice of this fact, I then request the court to take notice that persons suing under § 1983 are being denied redress by the State altogether. If this is the case, I request the court to take notice of the fact that the State is in fact a person, and that claims are in fact valid and suable within state courts.

57. The State went on to argue, “To the extent Plaintiff attempts to also wrap in various state law claims under her § 1983 claim, such claims also fail because § 1983 claims are limited to deprivation or violation of federal rights. See 42 U.S.C. § 1983 (providing cause of action for “the deprivation of rights, privileges, or immunities secured by the Constitution and laws” of the United States); *West v. Atkins*, 487 U.S. 42, 48 (1988) (holding a plaintiff “must allege the violation of a right secured by the Constitution and laws of the United States” to state a claim under § 1983); *Flynn v. Sandahl*, 58 F.3d 283, 290 (7th Cir. 1995).” The State was incorrect in their above statement, however, as I did not try to wrap all my claims within § 1983. Iowa Code §669.3(2) sets forth, “The state shall be liable in respect to such claims to the same claimants, in the same manner, and to the same extent as a private individual under like circumstances.” All torts listed in ¶ 45 are torts which naturally provide a right of recovery for an injured party, if such torts had been performed by a private individual under like circumstances, and therefore the

ITCA provides a right of recovery, unconstitutional provisions notwithstanding.

IV. My tort claims ought <u>not</u> be barred via the overly-complex structure for obtaining redress the State currently has in place:

58. Here the State argued that my claim against the State ought be barred because I missed a vital step required by Iowa Code § 669.5(1), "After six months, if the Attorney General has not made final disposition of the claim, the plaintiff can withdraw the claim from the State Appeal Board and proceed with suit in district court." However, this argument was thoroughly controverted in D0030 ¶¶ 4–9.

59. The State continued, "Plaintiff is not permitted to file a lawsuit in district court pending the completion of the administrative review.' *Rivera*, 830 N.W.2d at 728; see also *Bensley v. State*, 468 N.W.2d 444, 445-46 (Iowa 1991). Until and unless a plaintiff has exhausted his or her administrative remedies under the ITCA, the Court lacks subject matter jurisdiction over the claim. See *Anderson v. State*, 2 N.W.3d 807, 813 (Iowa 2024).... [C]ritically, to date, the Attorney General has yet to make a final disposition of Plaintiff's claim, nor has Plaintiff withdrawn her claim from administrative review. Indeed, Plaintiff concedes this point. Id., ¶ 5. Instead, Plaintiff argues that she should be excused for this procedural misstep solely because she is a pro se plaintiff. Id., ¶ 6. But the ITCA provides no such exception. See generally, Iowa Code ch. 669. Nor do Iowa courts 'utilize a deferential standard when persons choose to represent themselves.' *Kubik v. Burk*, 540 N.W.2d 60, 63 (Iowa Ct. App. 1995). 'The law does not judge by two standards, one for lawyers and another for lay persons. Rather all are expected to act with equal competence.' Id. 'If lay persons choose to proceed pro se, they do so at their own risk.' *Metro. Jacobsen Dev. Venture v. Bd. of Review of Des Moines*, 476 N.W.2d 726, 729 (Iowa Ct. App. 1991). Plaintiff concedes that the Attorney General has not yet made final disposition of her

pending tort claim and that she has not yet requested withdrawal of her tort claim from the State Appeal Board. As such, Plaintiff has failed to exhaust her administrative remedies, and her tort claims against the State must be dismissed as a matter of law." Within this set of arguments, the State made no mention of:

- The effect of the spirit of the law doctrine, referenced in D0030 ¶ 8, versus the "letter of the law", which the State seeks to persuade the Court into using in order to deny me redress in a manner which would create both absurdity and injustice. The spirit of the law doctrine sets forth that the letter of the law ought not be used in a manner which would create injustice. To dismiss this suit in its entirety based upon the letter of the law would cause further harm to me, and would create both absurdity and injustice. The procedural nuance the State leans into here (the requirement to withdraw prior to filing suit, even when the Plaintiff is out-of-state with their classmates and risks allowing the limitations to period to lapse if they were were wait until their return) is a perfect example of the over-complexity of Iowa's legal system which makes redress inaccessible to Iowa's Citizenry. The purpose of the ITCA is to provide Citizens with an avenue for redress. The purpose is not to deny Citizens redress due to inadvertently missing a nuanced step within an overly-complex system. The overly complex procedure the State has in place, the loopholes the State has used to see to deny Citizens redress, ¶¶ 38–43, and the case rulings wherein the State seeks to shirk liability via fraudulently not referring to itself as a "person" per se (¶ 55), are all perfect examples which expose the fact that the State abuses its Citizenry via hiding behind walls and walls of complexities. The State has given itself permission to harm its Citizenry (¶ 40), and then hidden justice behind numerous corridors of nuanced procedural "requirements" that no Iowa Citizen has time to decipher. The State has demonstrated why equitable remedies I have requested in D0030 ¶ 91 are desperately needed by Iowa's Citizens, especially with regard to simplifying the justice system to make it more accessible to Iowa's Citizenry: see Justice Accessibility Act in D0030 ¶ 91.

- The reasonable alternatives I offered in D0030 ¶ 9,

    - "I could file a motion for a new trial so that the Attorney General's Office and I could go through the required ITCA step, however that sounds expensive, tedious, and potentially unnecessary at this point. Now that six months have passed since the time I file the claim, I recommend that if the Attorney General's Office has reached a final disposition on my claim, that the Office make their disposition known. If:

- There is no final disposition, we then consider my claim then withdrawn, and we resume this lawsuit; or

- The Office confirms that I am in fact due, and that we should settle this matter; if this is the case then at least part of my lawsuit against the STATE OF IOWA will likely not be needed; or

- The Office reaches a conclusion that I am not due, and we resume this lawsuit."

I request the Court to grant one of the above reasonable alternatives I have proposed, or another solution which does not result in barring me from obtaining redress for the numerous injuries I have sustained.

V. My negligence claim is <u>not</u> barred by the public-duty doctrine, and the equitable remedy I requested ought be granted due to the irreparable-injury rule:

60. Here the State made several arguments which did not appear applicable to this case. It appears that the State attempted to draw a correlation between two points, but that they missed the point entirely so they did not make correlations between the correct points. Therefore I will argue the one point the State made which appears to have been somewhat relevant, "The provisions of the Iowa Rules of Professional Conduct are 'for the benefit of the public at large.'" It is for the benefit of the public at large, and applies directly to my case due to the fact that I was harmed (D0030 ¶¶ 23, 67, 70, 71), that the State ought amend the Iowa Rules of Professional Conduct to prevent others from being harmed in the same and/or similar manners which which I was. According to Black's Law Dictionary 10th Edition, the irreparable injury rule provides, "The principle that equitable relief is available only when no adequate legal remedy exists." Paying damages to me would not prevent others from being defrauded by their attorney in the same manner I was. Injunctive relief is in order. Black's Law states that an injunction is, "A court order commanding or preventing an action. To get an injunction, the complainant must show that there

is not plain, adequate, and complete remedy at law and that an irreparable injury will result unless the relief is granted." As written, the Iowa Rules of Professional Conduct will likely be abused in manners which will cause irreparable harm to others if the gaping holes within these rules are not patched up via an injunction compelling the State's legislature to do so.

VI. Plaintiff's defamation, fraudulent misrepresentation, and due process claims are barred by the doctrine of sovereign immunity:

61. Here the State uses it's "go-to" unconstitutional provision within Iowa Code § 669.14 in order to attempt to deny redress to the Citizens it knowingly and willingly, and thus maliciously, chooses to harm. After pointing to the unconstitutional provision in the ITCA, the State then asserted a "sovereign immunity" defense which does not hold up under constitutional or historical scrutiny. First, let's look to John Locke.

62. The American Revolution was largely fought over the right to access a just court system during a time when colonists were being unjustly denied redress through the courts. During the 1760s and 1770s, the Founding Fathers quoted John Locke more than any other political author .[13] Signer of the Declaration of Independence Richard Henry Lee once quipped that the Declaration had been largely "*copied from Locke's Treatise on Government.*[14] Locke's Second Treatise on Government, § 20. states, "… where an appeal to the law, and constituted judges, lies open, but the remedy is denied by a manifest perverting of justice, and a barefaced wresting of the laws to protect or indemnify the violence or injuries of some men, or party of men, there it is hard to imagine any thing but a state of war: for wherever violence is used, and injury done, though by hands appointed to administer justice, it is still violence and injury,

13 Donald Lutz, *The Origins of American Constitutionalism* (Baton Rouge: Louisiana State University, 1988), 143.

14 Thomas Jefferson to James Madison, August 30, 1823, *National Archives*.

however coloured with the name, pretences, or forms of law... war is made upon the sufferers, who having no appeal on earth to right them, they are left to the only remedy in such cases, an *appeal to heaven*." Locke's described circumstances here are not unlike that of Iowans (and myself) today. Notice, after I personally experienced numerous rights violations and years of undue suffering as a result of actions by State officials, how the State has not stepped forth to attempt to make thing right, but instead has attempted to shield itself from liability via hiding behind walls and walls of nuanced procedural "requirements" as well as a library of unjust case rulings which ought not apply to this case, lest injustice be the result. I am reminded of the story of Jesus and the Pharisees; the State in this case is acting like the Pharisees, and any onlooking lawyer who chooses not to help, when injustice has clearly occurred, "does not life a finger to lighten my load." Jesus of Nazareth is reported to have said, "Woe to you, scribes and Pharisees, you hypocrites! You shut the kingdom of heaven in men's faces. You yourselves do not enter, nor will you let in those who wish to enter (Matthew 23:13)." He is also reported to have said, "Woe to you as well, experts in the law! You weigh men down with heavy burdens, but you yourselves will not lift a finger to lighten their load (Luke 11:46)."

63. Now let us address the State's sovereign immunity defense. The following is derived from a document entitled "Against Sovereign Immunity" written by Erwin Chemerinskyout of Duke University.[15] "First instituted by King Edward I, the principle of sovereign immunity is derived from English law, which assumed that 'the King can do no wrong.' Throughout American history, United States courts have applied this principle, although they often have admitted that its justification in this country is unclear. The principle has never been discussed or the reasons

15 *Against Sovereign Immunity*, scholarship.law.duke.edu/cgi/viewcontent.cgi?article=1685&context=faculty_scholarship. Accessed 5 Aug. 2024.

for it given, but it has always been treated as an established doctrine. A doctrine derived from the premise that "the King can do no wrong" deserves no place in American law. The United States was founded on rejection of a monarchy and of royal prerogatives. American government is based on the fundamental recognition that the government and government officials can do wrong and must be held accountable. Sovereign immunity undermines that basic notion. The doctrine is inconsistent with the United States Constitution. Nowhere does the document mention or even imply that governments have complete immunity to suit. Sovereign immunity is a doctrine based on a common law principle borrowed from the English common law. However, Article VI of the Constitution states that the Constitution and laws made pursuant to them are the supreme law, and, as such, it should prevail over government claims of sovereign immunity. Sovereign immunity is inconsistent with a central maxim of American government: no one, not even the government, is above the law. The effect of sovereign immunity is to place the government above the law and to ensure that some individuals who have suffered egregious harms (such as myself, in this case!) will be unable to receive redress for their injuries. Sovereign immunity undermines the basic principle announced in *Marbury v. Madison*, that '[t]he very essence of civil liberty certainly consists in the right of every individual to claim the protection of the laws, whenever he receives an injury.' The text of the Constitution is silent about sovereign immunity. Not one clause of the first seven articles even remotely hints at the idea of governmental immunity from suits. No constitutional amendment has bestowed sovereign immunity on the federal government. Although the Eleventh Amendment is often cited as "clearly" providing sovereign immunity to state governments, a careful reading of the text does not support the claim. The Eleventh Amendment states, "The Judicial power of the United States

shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State, or by Citizens or Subjects of any foreign state." the Eleventh Amendment only restricts suits against states that are based on diversity of citizenship; it says that the federal judicial power does not extend to a suit against a state by a citizen of another state or of a foreign country. Nothing within it bars a suit against a state by its own citizens. The Constitution, of course, recognizes the existence of state governments, but that does not give any indication of the scope of state power or the existence of state immunity. There was no discussion of sovereign immunity at the Constitutional Convention in Philadelphia in 1787. The issue did arise in the state ratifying conventions. The dispute was over whether Article ill authorized suits against unconsenting states in federal court. Two of the clauses of Article ill, § 2, specifically deal with suits against state governments. These provisions permit suits "between a State and Citizens of another state" and "between a State … and foreign ... Citizens." There is nothing in the text regarding immunity of states from suits by their own Citizens!

64. Now, let us look to the Declaration of Independence, where the British Kings' *tool of injustice,* the concept of "sovereign immunity", was irrevocably cast from American shores by Thomas Jefferson himself, who wrote the following within the Declaration of Independence, in his admonition of the Crown's propensity toward exacting injustice upon its Citizenry in a manner which unjustly barred redress, "He has abdicated Government here, by declaring us out of his Protection and waging War against us... In every stage of these Oppressions We have Petitioned for Redress in the most humble terms: Our repeated Petitions have been answered only by repeated injury. A Prince whose character is thus marked by every act which may define

a Tyrant, is unfit to be the ruler of a free people.... We, therefore, the Representatives of the United States of America, in General Congress, Assembled, appealing to the Supreme Judge of the world for the rectitude of our intentions, do, in the Name, and by Authority of the good People of these Colonies, solemnly publish and declare, That these United Colonies are, and of Right ought to be Free and Independent States; that they are Absolved from all Allegiance to the British Crown, and that all political connection between them and the State of Great Britain, is and ought to be totally dissolved; and that as Free and Independent States, they have full Power to levy War, conclude Peace, contract Alliances, establish Commerce, and to do all other Acts and Things which Independent States may of right do. And for the support of this Declaration, with a firm reliance on the protection of divine Providence, we mutually pledge to each other our Lives, our Fortunes and our sacred Honor."

65. In the words of Alexander Hamilton from *The Farmer Refuted* (the irony of me being an Iowan out here in farmer country is not lost on me here), "The sacred rights of mankind are not to be rummaged for among old parchments or musty records. They are written, as with a sunbeam, in the whole volume of human nature, by the hand of the Divinity itself, and can never be erased or obscured by mortal power." This includes, irrevocably, the right to redress. I ought not be made to scour centuries of texts in order to be able to find access to the right to redress and the right to recovery. These inalienable rights may not be denied to me by a State's fraudulent defense of sovereign immunity, when such defense would be used to prevent justice and thereby further injustices done against me by the State. The court has the opportunity with this case I have file to right the course of history and get us on track to what was intended, lest future generations be doomed beneath the State's despotic denial of justice to Citizens it harms.

66. Another point with regard to legal infirmity of the State's sovereign immunity defense: crucially, it is “the people” from whom all authority invested in the State first derives, for it is not the the State which gives itself authority. As Lincoln stated, the people are the “rightful masters” of the courts and congress. Can a master sue their servant? *Absolutely!* Black's Law Dictionary defines master-servant relationship as, “The association between one in authority and a subordinate, especially between an employer and an employee.” The State is not immune to its superiors. The State enjoys its power under the condition it not abuse that power. The State bears no immunity to any of the claims I have set forth, no more than an employee is immune from lawsuit by their employer when the employee acts out of line.

VII. Plaintiff’s abuse of power claim is barred by judicial process immunity:

67. Finally, the State, in order to attempt to skirt liability and avoid prosecution, asserted the following, “Plaintiff raises a claim of 'abuse of power' based on Judge Van Marel’s handling of her criminal cases. See Am. Pet., ¶¶ 28, 69. But this claim is barred by the doctrine of judicial process immunity. Absolute judicial immunity also bars Plaintiff’s claim of fraud based on Judge Van Marel’s actions. The Iowa Supreme Court has unanimously stated that government officials are 'absolutely immune from suit and damages with respect to any claim arising out of the performance of any function intimately related to the judicial phase of the criminal process whether the claim arises at common law or under the state constitution.' *Venckus v. City of Iowa City,* 930 N.W.2d 792, 803 (Iowa 2019).... 'Few doctrines have been more well settled than the absolute immunity of judges from damages for acts committed within their judicial jurisdiction.” *Blanton v. Barrick*, 258 N.W.2d 306, 308 (Iowa 1977). Further, “[t]his immunity applies even when the judge is accused of acting maliciously and corruptly because as a matter of policy it is

in the public best interest that judges should exercise function without fear of consequences and with independence.' Based on the contents of Plaintiff's Amended Petition and as a matter of law, Judge Van Marel—and, by virtue, the State—is absolutely immune from Plaintiff's claims." Here the State argued that judges may not be directly sued. While judges in fact have been granted absolute immunity by the state, the State is not, as the State argued, "by virtue", also immune. If the State grants immunity to Judges – even for malicious acts, the State in such cases thereby assumes liability for such malicious acts, such as those performed by Judge Van Marel. In fact, "by virtue" the state is liable, for it would be without virtue to deny redress to individuals who are harmed by rights violations and crimes performed by judges. For the State to deny redress would be to exact despotism upon its Citizenry. I wholeheartedly reject and rebuke the State's frivolous defense here, regardless whether or not it be shrouded within the forms and pretenses of law.

Reservation of right to film the proceedings

68. On July 27 I reached out, on behalf of the organization I founded, Wild Willpower PAC, to Expanded News Media Coordinator Jannay Towne to request permission to film the proceedings for First Amendment purposes. She replied, "I do not believe a PAC qualifies as news media. At this time, I will not be filing ENMC. You have the right to appeal the matter before a presiding Judge."[16] It is true that Wild Willpower PAC might not qualify as news media and therefore does not qualify for an ENMC.

69. However, as a US Citizen, I do have a right to film public officials and to perform related First Amendment activity, such as broadcasting updates on this suit as it is of public

16 Attachment A – media request denied.

interest. A number of U.S. Courts of Appeals have held that, in such circumstances, the First Amendment protects the right to record audio and video regardless of whether the police/officials consent. This constitutional right would override any state or federal laws that would otherwise prohibit such recording. Here are some rulings which allow me to film and broadcast the proceedings in order to keep the public informed:

- First Circuit (with jurisdiction over Maine, Massachusetts, New Hampshire, Puerto Rico, and Rhode Island): see *Glik v. Cunniffe*, 655 F.3d 78, 85 (1st Cir. 2011) ("[A] citizen's right to film government officials, including law enforcement officers, in the discharge of their duties in a public space is a basic, vital, and well-established liberty safeguarded by the First Amendment.");

- *Iacobucci v. Boulter*, 193 F.3d 14 (1st Cir. 1999) (police lacked authority to prohibit citizen from recording commissioners in town hall "because [the citizen's] activities were peaceful, not performed in derogation of any law, and done in the exercise of his First Amendment rights[.]").

- Seventh Circuit (with jurisdiction over Illinois, Indiana, and Wisconsin): see *ACLU v. Alvarez*, 679 F.3d 583, 595 (7th Cir. 2012) ("The act of making an audio or audiovisual recording is necessarily included within the First Amendment's guarantee of speech and press rights as a corollary of the right to disseminate the resulting recording.").

- Ninth Circuit (with jurisdiction over Alaska, Arizona, California, Guam, Hawaii, Idaho, Montana, Nevada, the Northern Mariana Islands, Oregon, and Washington): see *Fordyce v. City of Seattle*, 55 F.3d 436, 438 (9th Cir. 1995) (assuming a First Amendment right to record the police).

- Eleventh Circuit (with jurisdiction over Alabama, Florida and Georgia): see Smith v. City of Cumming, 212 F.3d 1332, 1333 (11th Cir. 2000) ("The First Amendment protects the right to gather information about what public officials do on public property, and specifically, a right to record matters of public interest.").[17]

70. Your Honor, with due respect to you and to the Court, I request to Court to take notice of the fact that I have a right to film the proceedings, and disseminate the footage, prior to our August 9 hearing, so that I am not hindered from doing so by any public official or anyone

17 "Digital Media Law Project." Recording Police Officers and Public Officials | Digital Media Law Project, www.dmlp.org/legal-guide/recording-police-officers-and-public-officials. Accessed 5 Aug. 2024.

else during any of the upcoming proceedings.

Request for all in-person proceedings to be accessible via Zoom

71. Your Honor, I am honored to soon stand within the Polk County Historic Courthouse to present my case and finally have my day in court. It is my prayer that the outcome of this case – including the granting of the equitable remedies I have requested – to be of aid to all Iowans and to future generations. There are elders within my community, and people from across the country who provided me aid during my years of homelessness, with whom I became friends and am ever grateful to, who would like to attend and show support during the proceedings. I respectfully request that all in-person proceedings also be made available to witness via Zoom, if possible.

CONCLUSION

WHEREFORE, I, Sondra Wilson, request this Court to to deny the State's motion to dismiss, so that the spirit of the law – *justice, good will, & redress* – may prevail as a result of this suit in equity and at law.

Dated: 8/5/2024 *__/s/ Sondra Wilson_____*

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Pro Se Litigant, US Citizen, Citizen of the State of Iowa, all rights reserved.

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of this document will be served upon the persons listed on this document at the addresses indicated on EDMS by transmitting a copy via USPS or by email asap. I declare under penalty of perjury that the foregoing is true and correct.

__*/s/ Sondra Wilson*_____