April 21, 2010

R. Wayne Johnson
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Intake Department
ACLU of Colorado
400 Corona Street
Denver, CO 80218

RE: El Paso County District Court Case 96DR1112

Dear ACLU Representative:

I am well aware of the ACLU's policy regarding family law cases, and I understand your organization's reluctance to provide assistance in this area of law. However, I believe the extreme injustices in my case will convince you to consider making an exception.

The information being provided to you is taken from various documents filed with the El Paso County District Court and from my personal records. I have attempted to focus on civil rights violations, having already reported the judicial and professional misconduct in written form to State officials, including Governor Ritter, Attorney General Suthers and Colorado Department of Human Services Executive Director Beye, as well as justice system authorities, including the Colorado Judicial Commission and the Office of Attorney Regulation.

Please understand I am not asking for the ACLU's intervention in my action. Three petitions for review were filed on April 5th, 8th, and 9th pursuant to the Colorado Rules for Magistrates with an anticipated answer to the first petition on May 5th. I do not expect the reviewing judge or judges to uphold the final orders entered on March 26th because of gross misconduct. However should that not prove to be true, I will proceed to the Court of Appeals *pro se* as well.

Suffice it to say, I attribute the mishandling of my child support enforcement case at the company level to the failing economy that only worsened in 2009 and sharply impacted the company's collection rate – a key performance measure for TANF federal funding and its performance as a contracted service provider. And I attribute the mishandling of the child support modification action to my continued threats to file a federal lawsuit. I believe the State has its own special interests in the outcome of my case and this conflict has contributed to the silence of the Governor, Attorney General, CDHS, the Colorado Secretary of State, and the Colorado Collection Agency Board. I also believe the State's interests have contributed to the failure of all parties receiving requests pursuant to the Colorado Open Records Act on March 9th and 10th to give timely answers in writing as requested, at least until the filing of the first petition on April 5th.

The information that follows takes approximately 45 minutes to read and is arranged in four sections: Background, Policy Studies, Due Process, and Equal Treatment. Because of the conspiratorial and malicious nature of the prosecution of my child support modification action, the distinction between civil rights violations and criminal activity is blurred at best.

I have also enclosed copies of letters to the El Paso County District Court's Clerk's office from last week's efforts to correct court records and a time line that gives a good overview of my ongoing battle with CSEU and government officials.

Thank you for providing an alternate course of action in cases like mine where personal power is insufficient to overcome private interests and state power. I hope the ACLU will consider providing legal assistance in my threatened civil action.

Sincerely,

R. Wayne Johnson

Background

My name is Robert Wayne Johnson (Wayne). I am 56 years old. I am a retired Electric Transmission and Quality Control Specialist. I have one son. He was born August 6, 1991 and will be 19 years old this year.

My common law wife filed for divorce in April 1996. The final orders were entered September 25, 1997. Our case number is 96DR1112. She was granted sole physical custody of our son and received the house in the final settlement as well as temporary spousal support of $500 per month. She waived spousal support in September 1997, and I was ordered to pay $438.80 per month in child support and to provide our son's health insurance coverage.

I paid child support and provided healthcare insurance coverage from the first month due in October 1997 through June 2005 without fail, and six months after my son came to live with me in January 2005. At that time, my former wife and I agreed to change custody, and we transferred our son to the school district where I lived. We did not return to court to modify the child support order to reflect the change in custody. My child remained in my custody until he returned to live with her in January 2008. I, therefore, did not pay child support from July 2005 to January 2008 but continued to provide his health insurance.

Beginning in January 2008 after our son returned to live with his mother, I did not pay child support. My former wife said she was considering whether or not to add our son to her employee insurance plan. I asked her to tell me the cost of insuring him and agreed to add that amount to my monthly child support obligation. She did not get back with me. I, therefore, presumed she was not pursuing my offer because I did not receive child support the three years our son lived with me.

Sometime in September 2008, she contacted the El Paso County Child Support Enforcement Unit (CSEU) to collect alleged unpaid child support. I became aware of her application for

service after experiencing the first intercept on October 4, 2008. When I contacted her the next day, she apologized for my embarrassment and told me to take care of it.

On Monday, October 6, 2008, I spoke with a CSEU caseworker to discuss the "failure to give notice" because of the humiliation I experienced at the time of the intercept. However, she had no knowledge of the intercept and was unable to provide any information.

On October 7, 2008, another CSEU employee printed and mailed a personalized "form-like" letter on business-type letterhead acknowledging my request to discuss modification of the child support order. The return address was PSI/Child Support Services of Colorado, 30 East Pikes Peak Avenue, Suite 203, Colorado Springs, Colorado 80903, phone number 719-457-6330.

On October 10, 2008, I met with the CSEU employee that mailed the letter and was told I owed over $16,000 in back child support. I examined my former wife's Affidavit of Custody and Direct Support and learned child support was being claimed for 30 of the 36 months I had custody of my son and the nine months from January to September 2008.

On October 10, 2008, the CSEU employee printed and mailed another personalized "form-like" letter using a slightly different PSI/Child Support Services of Colorado letterhead and design logo telling me I owed $16,071.60 referencing the Colorado Fair Debt Collection Practices Act.

The events related to October 10, 2008 resulted in the primary dispute with CSEU. I believed CSEU had a responsibility to verify facts with my former wife since she opened the case, and I had immediately denied owing child support for the three year period at issue.

After October 10, 2008, I contacted my former wife. She said she was not trying to collect child support for the three years our son lived with me. So, I thought CSEU would correct the mistake I brought to its attention and the dispute would be resolved quickly. She also told me "they took the ball and ran with it." To me, her comment meant CSEU was in control and its employees were acting on their own.

After October 10, 2008 and through September 20, 2009, I tried to take the course of action explained by CSEU employees to resolve the dispute between us and follow their rules. I attempted to maintain continuity in the handling of my case, but it was impossible. I made numerous phone calls and visits but seldom spoke with the same employee. And despite several letters from the CSEU employee I met on October 10, 2008, I was only able to talk with her once during CSEU's handling of my case. I eventually had a total of three administrative reviews, two were at the El Paso County office and one was by phone to Mary Ann Hicks with the Colorado Division of Child Support Enforcement in Denver. I made numerous phone calls to CSEU that were never returned.

Initially, I believed CSEU was a government agency and would correct its mistake because it was a neutral party. When I found CSEU unwilling to recognize the change in custody for the

purposes of eliminating 30 of the 39 months originally claimed, I continued to withhold voluntary payments. I believed any payment made by me would be a form of admission to the alleged arrears and would be the same as admitting I was guilty of failing to support my son. I did continue paying $385 per month for my son's health insurance coverage. As the dispute lingered with CSEU, I discussed the child support enforcement case with various attorneys and family members. I was told by local attorneys defending myself against CSEU would be difficult.

On September 21, 2009, I moved my child support enforcement case to the El Paso County District Court by submitting a motion to modify child support on a self-help form. The filing was copied and provided to my former wife and CSEU's legal representative, the Law Offices of Belveal Eigel Rumans & Fredrickson LLC, the third party intervenor. My former wife did not respond in writing within 15 days as required by law and returned my envelope unopened, while CSEU's written response was filed with the Court on October 14, 2009 but six days past the required response time. In the response, CSEU's attorney stated CSEU had no knowledge of the time in question and did not know if my former wife disputed it. The attorney, therefore, suggested I set a hearing.

On October 22, 2009, Magistrate Evelyn H. Sulivan reviewed my action and vacated it. On November 19, former Magistrate John Paul Lyle reviewed the action and updated its status to "Held and continued." On November 24, he vacated it, then reopened it, and issued the Delay Prevention Order. According to the DPO, the purpose of the hearing was to determine if the motion was being diligently prosecuted. The hearing was set on December 7, 2009 and scheduled for January 13, 2010. My former wife and I appeared without counsel.

The prosecuting attorney representing CSEU prepared and mailed me the proposed Order from the hearing of January 13 on February 11, 2010. As I later learned, the proposed Order was mailed to me after former Magistrate Lyle's State contract was terminated on January 31, 2010 and one day before the incoming magistrate was sworn in.

After February 12, 2010, incoming Magistrate Jayne Candea-Ramsey reviewed the proposed Order and denied it and instructed CSEU's attorney to add arrears together. On February 25th, the attorney mailed the motion to approve and the proposed Amended Order to me with new "interest" language added. On March 2nd, I filed a motion for a hearing alleging a conflict of interest, citing discovery issues for good cause. The Magistrate never acknowledged the motion or acknowledged the second motion for a hearing filed on March 15, 2010.

On March 4th I filed the first motion for change of venue also alleging conflict of interest, then amended it on March 9th, and then filed the second motion for change of venue outside the Fourth Judicial District on March 10th. The Magistrate denied the motions on the same day she approved the Amended Order on March 26, 2010.

I appealed the final rulings on the Amended Order and the final rulings denying the motions to change venue and the new motion to modify child support filed on March 8th pursuant to Rule 7(a) of the Colorado Rules for Magistrates. The petitions for review were filed on April 5th, 8th, and 9th. The 42-page

transcript and my 34-page affidavit were filed with the April 9th petition. I have yet to receive an opposing brief by mail.

As of today's date, $16,409.80 has been seized through administrative child support enforcement actions through which, as of my last calculation, $5,517.16 in excess of child support due through March 31, 2010 has been collected using CSEU's newly determined stepped-up monthly child support awards. And my driver's license has been suspended since September 21, 2009.

Policy Studies

History

Policy Studies (PSI) is a privately-traded company headquartered in Denver that operates child support collection offices in El Paso and Teller counties under contract with the Colorado Department of Human Services in Denver. The registered trade name of the PSI office in El Paso County is El Paso County Child Support Enforcement Unit (CSEU). PSI operates more than 50 such programs across the United States. According to answers.com:

> PSI was founded in 1984 by Robert Williams, David Price, and Betty Schulte, PSI originated with Williams's participation in a national study to determine the appropriate level of court-ordered child support payments. As the chief researcher for the U.S. Health and Human Services' Office of Child Support Enforcement (OCSE), Williams provided research and technical consulting for the Child Support Guidelines Project beginning in 1983. Williams initiated the formation of PSI to provide similar theoretical research to human services programs, primarily in the areas of food stamps and aid to families with dependent children.
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> Williams' work with the OCSE culminated in the 1987 publication *Development Guidelines for Child Support Orders*, a seminal work which recommended the Income Shares model to determine court-ordered child support for non-custodial parents. Williams based the model on the idea that children should be supported in the same manner as they would if living in the household of an intact family. A portion of the non-custodial parent's after-tax income therefore applied to children's support in a single household through payment to the primary parent. With the intention of preventing child poverty, the Income Shares model increased child support obligations by as much as triple original court-ordered arrangements. When the Family Support Act of 1988 required states to adopt uniform guidelines for determining child support, by tying it to eligibility for federal welfare funding, OCSE recommended the Income Shares model, thus assisting PSI's entry into child support consulting. Eventually, more than 30 states adopted the Income Shares model.
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> PSI's shift toward child support enforcement developed from its participation in the study. Government agencies faced an increasing backlog of uncollected child support in the aftermath of high divorce rates during the 1970s, and the situation demanded more effective methods of addressing child support enforcement. In partnership with state and local agencies, PSI developed efficient methods for administering larger caseloads, which involved using every legal step allowed under a particular jurisdiction. PSI consulted on the application of new computer technologies which began to play a significant role in

administration. For instance, PSI initiated electronic funds transfer to facilitate collection and disbursement of child support payments and developed computer software to ease access to individual case information.

In 1991, as the company's innovations in child support collections came to national attention, PSI became the first company to be awarded a contract to provide child support enforcement administration. That year the Tennessee Tenth Judicial District hired PSI to handle cases for the cities of Cleveland and Athens and surrounding areas in southeast Tennessee. PSI received a fee, at 10 to 15 percent of money collected, declining over the term of the five-year contract (but not derived from child support funds).

PSI expanded as other county governments decided to outsource child support enforcement. PSI obtained a contract for the Tennessee 29th Judicial District for Dyer and Lake Counties in 1992. The following year Douglas County in Nebraska hired the company to manage its child support office for Omaha, the first urban program to be outsourced. In 1994 PSI obtained contracts for Fulton County, Georgia, covering the city of Atlanta, and for Yavapai and Santa Cruz Counties in Arizona.

Contracts effective January 1, 1995, covered Obion and Weakley Counties, and Union City, Tennessee. More than 5,000 cases accounted for potential collection of $2.5 million in court-ordered payments. In Wyoming PSI obtained contracts for the First, Second, and Third Judicial Districts, covering Cheyenne, Laramie, Green River, and Evanston. By the end of 1995 PSI operated with a staff of 280 lawyers, paralegals, clerks, and other employees. With outsourcing contracts in 5 states and consulting contracts in almost every state, PSI earned $12.9 million in revenues.

PSI had shown its child support enforcement methods to be effective by the end of 1995. During the first four years of its contract with the Tennessee Tenth Judicial District, from 1991 to 1995, PSI handled 130,000 cases of unpaid child support and alimony and increased collections 140 percent, a total of $63 million for all four years.

While child support services became the primary source of business, PSI continued to provide research and consulting services on other government issues. PSI conducted several studies on judicial process, involving structural and organizational assessment of judicial case flow. Landmark research resulted in the 1992 publication of *An Approach to Long Range Strategic Planning in the Courts*, along with curriculum for judicial educators and trainers. In 1995 PSI released *Strategic Planning in the Courts, Implementation Guide*, describing the outcomes of strategic planning programs instituted in nine jurisdictions. PSI published research on *Representing Indigent Parties in Civil Cases: An Analysis of State Practices.* The study on *Culturally Responsive Alternative Dispute Resolutions for Latinos* utilized information PSI obtained from research in Maricopa County's judicial system in Phoenix, Arizona.

PSI's range of services within child support enforcement expanded with the Personal Responsibility and Work Opportunities Reconciliation Act of 1996. Also know as the Welfare Reform Act, the federal legislation allowed for government agencies to obtain

overdue payments through federal income tax withholding, license restrictions, and other methods. The law required states to centralize case files for child support collection and disbursement, prompting PSI to increase its emphasis on high technology solutions to case management problems with the formation of PSI Technologies. For instance, the legislation required state participation in a National Directory of New Hires to assist in tracking delinquent child support obligors. The law required companies to report new employees within 20 days of hire. PSI implemented new-hire reporting systems for several states, primarily using electronic methods that easily transferred information to the national database.

Early paternity establishment became an essential aspect of rapidly initiating court-ordered child support for children of unwed mothers, in order to deter dependence on welfare. PSI instituted Paternity Opportunity Programs for state agencies in New Jersey, Iowa, Ohio, Massachusetts, and other states, involving both legal and technological solutions. The company emphasized obtaining voluntary acknowledgment. Approaching mothers in the maternity ward, they found fathers acknowledged paternity more readily at this time. PSI staff discovered they had more flexibility in this approach than a government agency, as hospital personnel perceived the company as a neutral third party. Technological concerns involved management of voluntary acknowledgments in a central database. PSI applied new software to provide imaging, storage, indexing, retrieval, and distribution of case file documents.

PSI continued to pursue child support enforcement outsourcing opportunities, bidding and winning several contracts during the late 1990s. PSI obtained child support enforcement contracts with Cobb County, Georgia, covering Marietta and Smyrna, and DeKalb County, covering cities east of Atlanta. A contract with Kanawha County in West Virginia covered the city of Charleston. The Tennessee 21st Judicial District, covering Franklin and Hohenwad, hired PSI to handle all aspects of child support enforcement. At the end of 1997 PSI operated 16 child support offices in five states. A five-year, $10 million contract with Chesapeake and Hampton Counties in Virginia, effective February 1, 1999, added two more offices.

PSI's research activities continued to focus on child support issues and judicial process. In 1997 PSI published its *Evaluation of the Child Access Demonstration Projects,* a report to the U.S. Congress which discussed and analyzed seven child support enforcement projects. Research conducted in four Wisconsin counties covered the judicial process in child abuse and neglect cases resulted in the 1998 publication *A Practical Guide to CHIPS Case Processing*. Other 1998 publications included *Continuous Quality Improvements in the Courts: A Practitioner's Handbook* and *A Judge's Guide to Culturally Competent Responses to Latino Family Violence.*

As computer technology improved, PSI Technologies developed and adapted state-of-the-art systems to address the needs of child support administration. In 2000 the company obtained a contract to establish the New Mexico Child Support Information Center, which responds to inquiries about the status of particular child support cases. Using proprietary PSI-Link software, the system simplified and quickened access to information stored on

mainframe computers, transferring only relevant data to desktop computers in a user-friendly format. PSI-Link provided a record of customer service calls, as well as related statistics. Effective technologies enabled customer service to staff to handle 1,200 to 1,500 calls per day.

As organizations of all kinds began to use the Internet for information dissemination, PSI began to offer web site development to government agencies. In 2001 PSI developed a web site for the Colorado Department of Human Services to improve access to general information by parents, employers, and child support staff. PSI further improved the site in 2002 to allow parents access to case file status. Iowa's Bureau of Collections hired PSI to design and build a web site that provided employers direct access to child support forms online. The Employers Partnering in Child Support (EPICS) system was recognized by the Council of State Governments for its innovation in resolving bureaucratic problems in state government. PSI applied a similar system for the State of Vermont as well.

PSI obtained a contract with the state of Vermont's Office of Child Support to install an electronic document management system that would facilitate access to case files from five regional offices, eliminating the need for mailing or faxing paper copies. PSI applied OnBase software solution, by Hyland Software, Inc., to provide imaging, storage, indexing, retrieval, and distribution of case file documents. The total system included Bar Code Recognition for indexing imaged documents and Applications Programming Interfaces for transferring data from the central system to staff desktop computers. Implementation of the system increased efficiency and improved customer service. Also, PSI transferred to the OnBase software documents for the state of New Jersey's Paternity Opportunity Program, implemented by PSI in 1995. OnBase allowed the documents to be accessed by a greater number of staff members at courts and human services agencies statewide.

PSI obtained successive contracts with the state of Michigan to overhaul its automated child support enforcement system to meet federal requirements. Contracts accumulated more than $200 million in revenues during the two-and-a-half year process. PSI converted nearly one million cases to the new system, involving offices of Family Independence Administration, prosecuting attorneys, and Friends of the Court in each of the state's 83 counties. The development, implementation, and federal certification process involved as many as 500 employees working in collaboration with state employees. The state of Michigan needed to implement the system rapidly, by September 30, 2003, in order to avoid several million dollars in federal penalties. PSI completed the system on time and the state received federal certification in November; however, several problems required high level of maintenance for which another company was hired at lower cost.

PSI continued to expand its child support reinforcement operations, obtaining contracts for the Eighth and Ninth Judicial Districts covering Douglas and Lander, Wyoming, in 2000. New contracts in 2001 involved jurisdictions covering Arlington and Alexandria, Virginia; Asheville, North Carolina, in Buncombe County; and neighboring Polk County. PSI obtained contracts with El Paso County in Colorado Springs and adjacent Teller County, both in Colorado, to collect back child support. The 5-year, $18.6 million contract with El Paso County involved hiring a staff of 22 employees who would operate the Parent

Opportunity Program, providing job training and placement for unemployed and underemployed parents.

Job training and placement and parenting support developed as new subjects requiring study and solutions. Activities in this area included a study conducted for the Annie E. Casey Foundation, entitled *Low-Income Fathers: Starting Off on the Right Track.* The report recommended actions for improving the treatment of low-income fathers in the child support enforcement system.

PSI entered the field of health care administration, research, and consulting through acquisition. In April 2002 PSI acquired Child Health Advocates. That company administered the federal Child Health Plan Plus to provide health care for children of low-income families for the state of Colorado. (The state did not renew the contract in 2002, however.) Through the acquisition PSI obtained proprietary Child Health Administration Management Program System (CHAMPS) software. The technology facilitated qualification processing by transforming state regulations into a matching system, based on age, family income, and other factors, which could easily be adapted to changing regulations. CHAMPS processed four to five applications per hour, in contrast to about two per hour manually. The system was implemented in Colorado and Virginia.

Arista Associates, acquired by PSI in June, provided research, consulting, and marketing services to the state health agencies through offices in Charlotte, North Carolina, Washington, D.C., and Chicago, Illinois. Renamed PSI Arista, the subsidiary formulated health education campaigns in Maine and Massachusetts to encourage the general public to be tested for sexually transmitted diseases and hepatitis C, respectively.

Through the acquisition of Dental Health Administration and Consulting Services, Inc. (DHACS), PSI took over outsourcing contracts for administration of Georgia PeachCare for Kids and Florida KidCare, both health insurance programs for children of low-income families. The company also processed premiums for Indiana's Hoosier Healthwise and MedWorks programs. PSI transferred a call center operated by DHACS in Lisle, Illinois, to the Palm Beach area in Florida. The call center handled customer service inquiries for children's health plans in Georgia, Florida, Indiana, and Michigan.

In July 1, 2003, PSI began fulfillment of a contract to administer the state of Missouri's Managed Care Program for Medicaid recipients. PSI to implement a new information system that would ease enrollment and improve customer service through access to a database of participating health care providers.

A contract held jointly with Health Management Systems for the Colorado Department of Human Services involved enforcement of medical support orders, whereby parents are required to extend health insurance benefits to dependents. Under the contract, HMS would identify parents with health coverage and PSI matched data with the Child Support Enforcement Office files of non-custodial parents.

During 2002 PSI began fulfillment of child support enforcement contracts for Cochise County, Arizona; Horry Region, South Carolina; Haskell and Pittsburgh Counties in Oklahoma; and the Tennessee Sixth Judicial District, covering the city of Knoxville. These were followed in 2003 by contracts for Onslow County, North Carolina, and the Tennessee 20th Judicial District, covering Davidson County and the city of Nashville. The Davidson County contract for $28.4 million involved a fee of 9.82 percent of amount collected during the first year of the contract, and 6.22 percent in the fifth year. On January 2, 2004 PSI began administration of child support enforcement programs for Baltimore City and Queen Anne's Counties, Maryland, contracts worth $10 to $15 million.[1]

El Paso County Child Support Enforcement Unit

PSI began providing collection services for unpaid court-ordered child support and State child-related debt to El Paso County in 2001. It also assists custodial parents in establishing paternity as well as establishing or modifying child support and medical support orders.

In 2009, PSI presented its annual report to the El Paso County Commissioners and reported for the second straight year the highest collection rate in Colorado with an increase of 6.5 percent over 2007 to $42.5 million for 2008.[2]

PSI IV-D Administrator Laura Davidson with CSEU in Colorado Springs said, "We're getting money to families that need it. Most custodial parents are women who struggle to pay their bills. If we help families stay self-sufficient and keep them from getting public assistance, we're doing our part."

PSI attributed its ability to increase collection rates to better customer service and training, improving its system to prove that non-custodial parents have the ability to pay child support, and increasing its attention on non-custodial parents that miss their first payments. Ms. Davidson also attributed PSI's 2008 success to its ability to intercept federal economic stimulus checks and changes in the Deficit Reduction Act that allowed PSI to intercept federal tax refunds for children that reached age 19, Colorado's statutory age of emancipation.

According to Ms. Davidson, PSI helped 190 non-custodial parents find jobs. She said, "Working parents are more likely to pay child support. If they don't, their wages, by law, can be garnisheed. About 79% of the money collected in El Paso County last year was through income-withholding methods."

"Statistics for the first quarter of 2009 show the impact of a weak economy. Child support collections through employers have dropped to 54%, and collections for unemployment compensation benefits are up 174% over last year," she said.

As Colorado's second most populous county of its 64, El Paso had an estimated 2007 population of 586,076 and, within its borders, has the State's second most populous city, Colorado Springs, the County seat.[3] Teller County ranks 22nd in the State in population, with an estimated 2007 population of 21,782.

[1] http://www.answers.com/topic/policy-studies-inc

[2] The facts and quotes are taken from the Colorado Springs newspaper, The Gazette, posted on gazette.com as written by Debbie Kelley, May 6, 2009.

[3] Colorado Department of Labor and Employment, April 14, 2010

Together El Paso and Teller counties make up the Colorado Springs Metropolitan Statistical Area, a key economic urban center in the State.

Therefore, PSI's success in El Paso and Teller counties contributes to Colorado's continued receipt of top federal funding for the State's TANF program when legislated targets are met under the welfare reform provisions initiated through the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 and the Child Support Performance Incentive Act of 1998.

The Code of Colorado Regulations Volume of Child Support Enforcement governs the Child Support Enforcement (CSE) Program and county CSE units or delegate units, including the application process.

Custodial parents seeking back child support or other services must complete an application packet and pay a $20 application processing fee unless the fee is waived because the applicant has applied for or is receiving TANF payments or Medicaid. The application packet includes various forms that disclose personal and financial information about the custodial and non-custodial parent. The online application forms currently include the CDHS CSE Income and Expense Affidavit and Affidavit of Arrears/Direct Payment.[4]

Due Process

Failure to adhere to state and federal law/suppression of constitutional rights

Prior to the entry of the final orders on March 26, 2010, I was mailed a copy of the proposed child support modification order on February 11, 2010; I did not respond. On February 25, 2010, I was mailed a copy of the motion to approve the proposed amended order and the proposed amended order. The proposed order mailed to me on February 11 had been changed to add arrears together. As a result, "interest" language now appeared in the proposed amended order. I filed the written response to the proposed amended order on March 2, 2010 titled, "Objection to Proposed Amended Order." The opening sentence stated the purpose very clearly: "to object to the entry of the proposed amended order as moved by EL Paso County CSE Unit, Third Party Intervenor, and request a hearing by the Court pursuant to C.R.S. §24-4-105." I alleged conflict of interest and raised specific discovery issues.

Attorney Eigel responded on March 11, 2010 and within the 30 days required by the Statute. Yet, the response purposefully did not address the issue of whether a hearing should be granted. She did not request the Court deny the motion for a hearing; instead, she moved a second time to have the proposed amended order entered. Her decision to ignore the intent of the motion was the same as denying my right to due process. I had a right to have my objection heard and to submit a motion to compel, as referenced in the motion for a hearing if necessary; I was being subjected to unknown financial liability and the forced sale of real property to satisfy the arrears judgment being sought.

[4] https://childsupport.state.co.us

On March 15, 2010, I filed a second motion for a hearing titled, "Continued Objection to Proposed Amended Order" following the receipt of attorney Eigel's three responses of March 11. I mailed copies as stated in the Affidavit of Service. Attorney Eigel did not respond to the motion mailed to her. However, on March 23, 2010, I learned the motion was not listed as an event on the El Paso County District Court's online system nor was it in my case file. On March 29, 2010, I notified Chief Judge Kirk Samelson the motion was missing through an ethics complaint packet indirectly hand-delivered to him and, then, on April 5, 2010, did likewise provide an ethics complaint packet to Judge Thomas Kane. On April 12, 2010, as court record irregularities continued to develop, I confirmed the missing motion had not been entered into the Register of Actions. On April 12, I submitted a letter of complaint pursuant to §13-1-103, C.R.S. to have the missing motion recorded in the ROA.

Notwithstanding my late efforts to affect the ROA, Attorney Eigel was aware from March 2, 2010 to the actual approval of the amended order on March 26th of my request to have my objection heard. The Attorney's obligations to existing codes of conduct governing her profession were severely compromised by the close relationship between her and her employer and, therefore, prevented the fair and orderly resolution of my modification action. Attorney Eigel has a special obligation and privilege to uphold the laws of this State that are formed upon the State's Constitution and framed by the Constitution of the United States. I allege that attorney Eigel did knowingly and willfully disobey the laws of this State and prevented me from enjoying my rights and privileges as a citizen of Colorado and the United States for corrupt purposes.

Discovery

The Response to Objection to Proposed Amended Order stated in part, "Respondent's objections relating to requests for discovery from the CSE Unit are not relevant to the proposed Amended Order. No issues of discovery were addressed at the January 13, 2010 hearing." Attorney Eigel's language is correct; no issues were "addressed." Discovery was an ongoing issue with CSEU and continued to be an issue when judicial proceedings began.

The excerpt that follows is taken from the petition filed on April 9, 2010. [5]

> The testimony given in court can be compared with the limited information provided to me by the CSEU through a copy of Ms. Dolbow's attached Affidavit of Direct Custody and Support (Affidavit) dated September 29, 2008. When it was first shown to me, I knew only that 30 of the 39 months marked with zeros corresponded with the three year change in custody. Then after talking with Ms. Dolbow, I confirmed she was not trying to collect child support for that period of time. Later, upon closer examination of the Affidavit, I noted Ms. Dolbow had placed a check mark next to the statement "[t]he child[ren] have been in my custody and resided with me at all times since the children's birth." I also noted she had

[5] TR is in reference to the original transcript filed with the Petition for Review on April 9, 2010

given me credit for paying child support for the first six months of 2005 after the change in custody occurred. Therefore, the outstanding balance in 2008 shown in the amendment to the Verified Motion was presumed by me to be paid.

On the date of the hearing, I also did not realize the Affidavit was signed 11 days after CSEU created Ms. Dolbow's Family Support Registry Account and assigned the child support enforcement case number to it. (See attached.) This irregularity was first cited in the first motion for change of venue on March 4, 2010 and was re-cited in the second motion for a hearing on March 15, 2010. Attorney Eigel did not take the opportunity to explain it in her March 11, 2010 response to my first motion for change of venue or choose to respond to it in the second motion for a hearing. In fact, attorney Eigel stopped responding on March 11, 2010 following CSEU's issuance of the levy to American National Bank stating the Order (Amended Order) had been entered January 13, 2010 commencing January 1, 2010.

In the first motion filed by me on March 2, 2010, I requested a hearing by raising the issue of self-dealing and alleging a conflict of interest and, then, provided six reasons to show good cause to grant a hearing. The first three reasons were issues of discovery, while the fourth and fifth were related to the existing discovery concerns and an anticipated discovery problem. The Magistrate's diligent review of my case file should have indicated I believed I was entitled to information used to seize my financial assets and suspend my driver's license, thereby restricting my personal freedom in two different ways.

In attorney Eigle's Response to Objection to Proposed Amended Order, Number 4 states: "Respondent's objections relating to requests for discovery from the CSE Unit are not relevant to the proposed Amended Order. No issues of discovery were addressed at the January 13, 2010 hearing." The record refutes this defense. I raised issues of discovery early in attorney Eigel's direct examination of me. "Well, my question has always been for 16 months, dealing with, uh, Child Support Enforcement here in town. Uh, it's more based on the information that they have, uh, that they won't release to me. I don't know what Ms. Dolbow came to CSE for. (What) did she come to CSE for?" [TR Page 7 lines 12-16]

Ms. Eigel's immediate response was comparable to CSEU's refusal to consider anything but child support payments during the three administrative reviews it conducted. Ms. Eigel said, "Let's - - let's focus on - - at this time I'm trying to focus on what are you asking the Court to do today? Are you asking the Court that you not owe child support for the three years that Marcus - - you're saying Marcus lived with you?"[TR Page 7 lines 17-20] I responded, "I'm asking to be heard by Policy Studies who runs Child Support Enforcement. I - - I need to be heard. I have, uh fought this battle for 16 months, okay. My issue is not with Ms. Dolbow, it never has been. This is the first contact, ma'am, I've had with you. After many calls to your office, okay. I've called Belveal, Rumans, and your name, I'm not sure." [TR Page 7 lines 21-25; TR Page 8 line 1]

I continued stating, "We - - this is my first contact with anyone outside of the caseworkers at CSE. And I've tried since October 4th of 2008. And I would like to know what prompted the enforcement actions against me and what Policy Studies knows. And that is all I've ever

wanted for the last 16 months. Ms. Dolbow has done nothing wrong." [TR Page 8 lines 7-11] She then immediately shifted to the motion to modify child support I filed on September 21, 2009. I then attempted to shift back to the ongoing dispute with CSEU/Policy Studies. District Magistrate John Paul Lyle then said, "Sir. You['re] on the witness stand and you're under oath. You're to be answering questions." [TR Page 9 lines 12-13]

Right to Examine Witness for Purpose of Diligently Prosecuting My Action/Discovery /Obstruction of Justice

I had a right to examine my former wife under oath and to ask questions. I intended to pursue her statement to me that she was not trying to collect child support for the three year period at issue and her statement to me "they took the ball and ran with it." Upon direct examination for this purpose, attorney Eigel immediately objected when I ask how many times she talked with CSEU. The record is as follows: "Objection. Relevance." Magistrate Lyle responded, "Objection is sustained. You don't need to answer the question. Anymore questions?" I responded, "Uh, I'm - - I guess, Your Honor, I need to have some clarification." Magistrate Lyle responded, "I'm not gonna ask questions for you, and I'm not allowed to give you legal advice. So if you've got other questions for this witness while she's under oath, go ahead and ask them. If you don't _ ." I said, "Uh, well, sir, I asked how many meetings she has she had with child _ ." Magistrate Lyle responded, "All right. Then I disallowed that question, so you need to move on_." I said, "I understand." Magistrate Lyle continued, " _ to something else." I said, "All of my questions, sir, have to do with the - - management of the case that has been enforced against me." Magistrate Lyle stated, "Which has nothing _." I continued, "And I feel like I am wasting your time." [TR Page 28 lines 2-20] The exchange continued briefly until Magistrate Lyle instructed my former wife to step down. [TR Page 28 lines 21-25]

Attorney Eigel did not adhere to the intent of the modification hearing, as stated in the Delay Prevention Order (DPO) issued by Magistrate Lyle on November 24, 2010. The purpose of setting the hearing was to ensure the action was being diligently prosecuted. I presumed attorney Eigel and the Court were interested in justice, not in obstructing it.

Violation of Income Verification Provisions Required to Determine the Equitable Contribution of Financial Support by Both Parents/Discovery

Attorney Eigel was unable to provide my former wife's verifiable income in violation of the DPO that required compliance to certain disclosure requirements, including the order to "file all disclosures as required by JDF Form 1125: Mandatory Disclosure Form 35.1." From September 21, 2009 to the hearing on January 13, 2010, I provided verified income information and a sworn financial statement that included disclosure of all personal and real property owned by me. My

former wife provided a CSEU affidavit form verifying income, child care expenses, medical insurance expenses, and miscellaneous child-related expenses.

The failure to produce verified income indicates CSEU's noncompliance with Code of Colorado Regulations for the Child Support Enforcement Program found in 9 CCR 2504-1. Because of the expertise of attorney Eigel it is inconceivable that she had no knowledge of CSEU's obligation to collect and verify my former wife's income; it is likewise impossible to believe the income and expense affidavit required as part of the application for service was never completed. It is also impossible to believe, as an expert in Colorado's Child Support Guidelines, attorney Eigel failed to understand the significance of income in determining the dollar amount of the new child support order.

The excerpt that follows is taken from the petition filed on April 9, 2010.

> There are two primary considerations for determining child support – the income of both parents and parenting time. As discussed under the Change in Custody heading, Ms. Dolbow reported no wages earned in 2005, she thought she earned $9.70 an hour in 2006, did not know what she earned in 2007. Then during attorney Eigel's continued direct examination, attorney Eigel agreed to estimate what she made in 2008 using her current hourly rate of $10.69 and Ms. Dolbow's statement that she had received small raises between 2006 and 2009.
>
> According to CSEU's online application guidelines, Ms. Dolbow was required to provide a verification of income (i.e. pay stubs, tax returns) at the time of her application for collection services. Based on Court testimony and the failure to provide me with the financial disclosures and other documents specified in the DPO issued by Magistrate John Paul Lyle on November 24, 2009, my only reference to Ms. Dolbow's income is the attached Affidavit with Respect to Child Support (Affidavit) that I believe was associated with attorney Tracy Rumans' October 14, 2009 response to my September 21, 2009 motion to modify child support. The Affidavit is divided into sections. The section to verify income is under Your Primary Employment. It has three places to mark an X to identify the source documents relied upon as proof of income: IRS tax forms for the last three years, pay stubs for the last three months, and various forms to prove income from self- employment. None of them were marked. Beneath this subsection, Ms. Dolbow stated that she started working for her current employer in September 2005 and presently earns $10.69 per hour.

<u>Malicious Prosecution - Custody, Imputation of Income, Unequal Treatment</u>

Attorney Eigel was unable to conduct a proper prosecution of my action because of the existing conflict of interest and related self-interest of her employer in the outcome of not only the child support modification case, but also the child support enforcement case. As a result, attorney

Eigel sought to modify child support in such a way to reach and exceed the amount of money already intercepted through administrative actions. In order to accomplish that objective, she pre-determined the necessity of using child support worksheet B showing mother having child and then imputed my income to cause stepped-up increases in child support for the last three months of 2009 and the first eight months of 2010. The inclusion of my former wife's inheritance gave the appearance of fairness. Attorney Eigel worked through calculations prior to the hearing in order to bring about the ten percent change required by §14-10-122 to modify child support.

The excerpt that follows is taken from the petition filed on April 9, 2010.

> During attorney Eigel's direct examination pertaining to my income, she established that I retired in 2005, I was not certified as disabled, my only source of income was my retirement through documents provided by me, and I received a cost of living increase each year between 3 and 3 [1/2]%. Attorney Eigel began the questioning by asking, "And your current financial indicate - - financial affidavit, excuse me, indicates you're receiving $5,291.00 per month in retirement. Is that correct?" [TR Page 10 lines 3-5]
>
> She then focused her attention on whether or not I intended to work during my retired years, in much the same manner as CSEU IV-D Administrator Laura Davidson. I told her I had three potential jobs but my driver's license was suspended and the jobs were out of town or out of the country. My interests in working again, and not in Iraq, was based on the uncertainty of the ongoing dispute with CSEU, and its continued impact on me financially.
>
> On direct examination, attorney Eigel asked, "And what type of job - - employment were the job offers for?" I responded, "It was for electrical work. I'm a member of, uh, the International Brotherhood of Electrical." Attorney Eigel then immediately asked, "Do you have an electrician's license?" I answered, "I have - - yes, ma'am, I'm registered with the State." [TR Page 11 lines 8-12] Through attorney Eigel's next series of questions, I told her, after complaining about answering questions about how much the jobs would have paid and being admonished by Magistrate Lyle to answer her questions, I said the job in Iraq paid $280,000, the job in California paid $190,000, and the job in Colorado was a contract job paying $38.00 per hour.
>
> Attorney Eigel and Magistrate Lyle then began discussing worksheets and imputing income. In the record for 2005, Attorney Eigel states, "One child. Mother's income, she indicated she was unemployed. I (inaudible) I believe at that time it was $893.00 month. This would show that - - I'm not imputing any additional income to Mr. Johnson - - child support would be $467.00, which is not a 10 per cent change. Does the Court want me to calculate it with imputation of income? Or just go forward to 2006?" District Magistrate Lyle responded, "I would like you to comment on why we don't impute in this case." Attorney Eigel answered, "And we would be asking the Court to impute. Mr. Johnson testified he has multiple job offers (inaudible) since he's been retired, from a high of $280,000.00 in Iraq to $190,000.00 in California. (Inaudible) Would not be requesting imputation of those amounts

> of money. He did indicate he's a licensed electrician, and that he had a job offer on the eastern plains of Colorado at $38.00 an hour, which would be an additional $6,857.00, which would give him 6,857, plus the 47-01, would be an income of 11,288. (Which means that) child support would increase in 2005, using the guidelines in effect at that time, to $1,045.00. Without the imputation, again there is no 10 per cent change. Using that same computed - - imputed income of father, plus we're now showing a three per cent increase, 48-42 (inaudible) gross income of 11, 429. [TR Page 32 lines 3-25]

The imputation of income was based on attorney Eigel's determination of my ability to earn after I retired in 2005, knowing my ability to work was adversely affected by my driver's license suspension. Attorney Eigel asked and I answered, "Do you have a disability that prevents you from being employed?" "No, ma'am." "Have you looked for employment since 2005?" "I have actually had several job offers." "Have you taken any of those job offers?" "I have been unable to, ma'am." "Why have you been unable to?" "My driver's license is suspended." "When did your driver's license get suspended?" "I believe it was September 21, 2009." "And were those job offers before or after September 21?" "Before." "Why were you – why were you unable to accept the job offers you received before September 21st?" "Three of them were out of state. And one was actually in Iraq." [TR Page 10 lines 16-25 through TR Page 11 lines 1-7]

Attorney Eigel's approach to the change of custody at dispute was likewise reliant on establishing the use of worksheet B, showing mother having child for years 2006 and 2007. In hindsight, the objection to my question to my former wife about her meetings with CSEU was likely attorney Eigel's concern I would inquire about her preparation for the hearing.

The excerpt that follows is taken from the petition filed on April 9, 2010.

> The ongoing dispute with CSEU centered on the three year change in custody that CSEU officially refused to recognize beginning October 10, 2008. The record shows attorney Eigel first framed this change in custody in her direct examination of Ms. Dolbow by asking her if there was a "voluntary change of physical care in January 2005." [TR Page 17 lines 1-2]. Ms. Dolbow responded in the affirmative, and Ms. Dolbow offered her explanation. "Um, I had asked Mr. Johnson if he could help me. Our son was not going to school, he wasn't, you know. And Mr. Johnson was retired. And I ask him if he could possibly start living with him. And, why - - as it turned out he had him half time and I had him half time." [TR Page 17 lines 5-9] After a detailed discussion of changing schools that included identifying school districts, Attorney Eigel asked Ms. Dolbow: "Lets start with January 2005 when Marcus was in Skyview Middle School, was he living primarily with Mr. Johnson?" Ms. Dolbow answered "Yes." (TR Page 18 lines 16-19) Then Ms. Eigel immediately asks, "And was he - did you have parenting time with Marcus?" "Yes" "And what was your parenting time?" "Thursday and Friday and Saturday and Sunday" "Four per week?" "Yes or other times Friday, Saturday, Sunday." [TR Page 18 lines 20-25] Attorney Eigel then asks the leading question, "So would you say it was about 50/50 parenting time?" Ms. Dolbow answered,

"Absolutely, Yeah." [TR Page 19 lines 1-2] From this point in the record and through the direct examination of Ms. Dolbow about custody during years 2006 and 2007, "50/50" is used by attorney Eigel four more times and given by Ms. Dolbow two more times. [TR Page 19 lines 14, 17, 23; TR Page 20 line 9; TR Page 21 line 18]

Malicious Prosecution - Summary Judgment

The March 2, 2010 motion for a hearing raised the allegation the "adding together of arrears" was in self-interest and not for the purpose of benefiting my former wife or my son. I stated among other things: "I allege that Third Party Intervenor – PSI intends to assess interest on the arrears added together by the amended proposed Order of February 18, 2010, at a future date with or without direction from Petitioner." "I contend that Third Party Intervenor – PSI has preserved claims to interest on the amendment to the proposed Order from January 13, 2010 which states: 'Wherefore, the El Paso County CSE Unit moves the Court to approve the attached Amended Order which includes the arrears balance owed by Respondent and reserves Petitioner's right to seek interest due on the support arrears.' 'Said preservation of claims to interest subjects me to potential unknown financial responsibility.'"

The reason for adding principal and interest language was, in my opinion, to set up a summary judgment for which attorney Eigel intended to force me to sell real property. This was discussed at length in my affidavit filed with the petition of April 9, 2010 with direct reference to §14-10-122, C.R.S., and more specifically to 1.5 that is dedicated to IV-D cases and discusses liens on personal and real property. Because of my anticipated continued refusal to make voluntary child support payments, attorney Eigel was prepared to force my cooperation using the continued suspension of my driver's license to incentivize me to cooperate and pay off the alleged arrears.

Criminal Misconduct/Obstruction of Justice

Attorney Eigel knowingly and willfully drafted an order that did not comply with court testimony by manipulating standard child support worksheets for corrupt purposes.

In the preceding section, my former wife stated our son lived with me in 2005. Yet attorney Eigel and Magistrate Lyle eventually determined no modification was permitted for 2005. Therefore, worksheet A showing mother having child remained in effect. The correct worksheet would have been worksheet A showing father having child, which would have determined my former wife should have paid child support to me. Secondly, after establishing a 50/50 parenting schedule with child living with me by covert means, attorney Eigel prepared the worksheets for years 2006 and 2007 stating, "This Worksheet is for one child living most of the time with Mother. Overnight parenting time with Father: 145 (39.726%)"

The final Amended Order stated in part:

THIS MATTER came before the Court on January 13, 2010, for a hearing regarding the issues of modification of child support. Present were Christina Eigel, Attorney for the El Paso County Child Support Enforcement Unit, Petitioner, pro se and Respondent pro se. The Court upon being advised in the premises.

FINDS THAT:

1. The Court has jurisdiction over the subject matter and personal jurisdiction over all parties.

2. A voluntary change in care occurred in 2005. The Court will, therefore, retroactively modify child support to January 2005. Child support will be based upon a worksheet B calculation for the years 2005 through 2007. Commencing 2008, child resided with Mother and child support shall be calculated based on worksheet A.

3. The Court will not impute income to Respondent until 2009. Commencing October 2009, the Court will impute income to Respondent based upon his ability to earn.

4. Respondent is presently under Court order to pay $438.80 per month as support for the minor child of this action.

    A. For year 2005, based upon child support worksheet (A or B?), no 10% change occurred and modification is, therefore, not warranted.
    B. Commencing January 1, 2006, the Court finds that a substantial and continuing change of circumstances has occurred resulting in a 10% or more change from the existing Court order. A modification of the child support order is therefore appropriate per the attached child support worksheets.

5. The Court finds that the financial circumstances of the parties are as reflected on the attached child support worksheets.

6. Respondent has medical or medical and dental insurance available through a present employer or private carrier.

7. Per the CSE Unit's attached calculation of the arrears principal owed in this matter, Respondent owes the sum of $13,128.20 as of January 31, 2010. Said balance is principal only and does not include interest owed pursuant to C.R.S. §14-14-106.

8. Respondent shall pay child support as follows:

    A. $346.00 per month, said payments to commence January 1, 2006, and to

continue on the 1st day of every month thereafter through December 31, 2006;

B. $355.00 per month, said payments to commence January 1, 2007, and to continue on the 1st day of every month thereafter through December 31, 2007;

C. $337.00 per month, said payments to commence January 1, 2008, and to continue on the 1st day of every month thereafter through December 31, 2008;

D. $369.00 per month, said payments to commence January 1, 2009, and to continue on the 1st day of every month thereafter through September 30, 2009;

E. $958.00 per month, said payments to commence October 1, 2009, and to continue on the 1st day of every month thereafter through December 31, 2009;

F. $1,357.00 per month, as current child support, said payments to commence January 1, 2010, and to continue on the 1st day of every month thereafter until said child reaches age 19 or until further order of the Court.

Criminal Misconduct - Providing Fraudulent Information to a Financial Institution

Attorney Eigel stopped responding after March 11, 2010, which coincided with the notice of lien and levy served on American National Bank. The notice contained information only known by Belveal Eigel Rumans & Fredrickson LLC and the N/CS Division, i.e. the effective date of the proposed Amended Order and the commencing date of the new order. A regular CSEU employee would not have established the lien. This is an excerpt from my affidavit:

> 116. On March 11, 2010, a letter was printed and served on the American National Bank at 3033 E. First Avenue, Denver, Colorado 80206, titled "Colorado Division of Child Support Enforcement Notice of Lien and Levy." The total amount due was $14,485.20 as of March 11, 2010. The letter was from the Colorado Division of Child Support Enforcement, State Enforcement Unit. It provided as before: "Once you have returned the remittance notice and/or surrendered any funds, the lien and levy automatically inactivates." "Please do not surrender funds under $25." However, when compared to the Ent Credit Union levy notice, it does not appear to be computer-generated. The first sentence reads: "The total amount of past-due child support is $14,485.20 as of 3/11/2010." The bottom portion of the letter states: "Date order entered: 1/13/2010." The last line was a form number. It reads: "CSE532 (8/09). Unlike the Ent Credit Union letter of January 19, 2009, it has a bar code along the right margin. The bar code may have been applied by the Bank for image-indexing purposes.

> 117. On March 12, 2010, a letter was prepared and mailed to me at my home address from American National Bank. The Bank sent a copy of the levy notice and debited a total of $50 from my account. It said, "The amount of $0.00 will be held for thirty days (30), after (30) days the funds will be sent to Colorado Division of Child Support Enforcement. The remaining amount of $50 will be applied towards our processing fee. If the funds in your account(s) were not sufficient to satisfy the levy, all of your funds have been removed." "If funds are unavailable at the time of a presentment, checks may be returned 'Refer to Maker' for two weeks. The normal Non-Sufficient Funds processing fee will still apply."

Until March 26, 2010, I presumed the Amended Order had been approved, and I had 15 days to appeal the decision. At the time, I did not understand the appellate process or know that magistrate final rulings were required to be reviewed in the district court prior to going to the appellate court. Therefore, I filed a Notice of Appeal that was presumed to be "giving notice of intent to appeal." The Notice was accepted by the clerk for the case file only. The accompanying affidavit was not accepted, and I was instructed to file the appeal with the Court of Appeals first and then file a Notice of Appeal.

Nevertheless, on March 26, 2010 while attempting to file the Notice of Appeal, I was told Magistrate Candea-Ramsey had just approved the Amended Order and it was placed in the mail. I received the Amended Order and the two other Orders on March 27th. Therefore, I know the lien and levy contained fraudulent information and was issued for corrupt purposes. I also noted the Magistrate did not sign the final Amended Order; it was stamped with an ordinary name stamp.

Violation of Right to Equal Treatment

On October 22, 2009, eight days after attorney Rumans' late response to my motion to modify child support, Magistrate Evelyn H. Sulivan reviewed my action and vacated it. On November 19, former Magistrate Lyle reviewed the action and updated its status to "Held and continued." On November 24, he vacated it, then reopened it, and issued the DPO with instructions to set a hearing within 30 days and submit certain disclosures and sworn financial statements prior to the hearing.

According to the DPO, the purpose of the hearing was to determine if the motion was being diligently prosecuted. Noncompliance with its requirements constituted a failure to diligently prosecute the case and was grounds for dismissal without prejudice by Minute Order without notice to parties. I set the hearing on December 7 to comply with the order and, at the request of my former wife, agreed to a hearing date of January 13, 2010. When I did not receive notice, I went to the El Paso District Court and it was delivered by hand. Had I failed to appear, my action would have been dismissed.

My former wife's financial disclosure did not comply with the DPO. The CSEU document titled "Affidavit with Respect to Child Support" was "generic" as previously discussed. The section for identifying income verification source documents, i.e. tax returns for the last three years, pay stubs for the last three months, or proof of income from self-employment, was not marked. The Affidavit also

indicated her current employment began in September 2005, the year the change in custody occurred, although in Court she testified she was unemployed in 2005.

As previously mentioned, former Magistrate Lyle readily accepted the lack of proven income and, then, listened without reservation as attorney Eigel estimated my former wife's income. Had I not submitted the required disclosures as ordered in the DPO, my motion to modify would have been dismissed for noncompliance, and the hearing would never have taken place.

When former Magistrate Lyle considered imputing income to 2005, attorney Eigel proposed to more than double it based on my current ability to earn. Yet there was never a similar discussion of imputing my former wife's income during 2005 or suggest she work an extra job or seek a better paying job in years 2006 and 2007 to increase her contribution to our son's physical support.

I was also not afforded the opportunity to pursue attorney Rumans' statement in her response stating, "The CSE Unit has no knowledge regarding the living arrangement of the minor child during the time period in question. The CSE Unit also does not know whether Petitioner disputes Respondent's motion." I maintain that, at all times, every party involved in the handling of both the child support enforcement case and modification case, treated me in an unfair way because I was an IV-D father and working age men are not normally recipients of TANF or other State public assistance.