Arizona Protection Order Record

Anna Catudal v. Chance Catudal | Case DO2011-00126

Superior Court of Arizona, Cochise County

Chronological reading packet with related same-day filings grouped together.

15 documents, 42 source pages. Privacy redactions are marked in black.

Page ranges below refer to this PDF. Dates reflect the hearing, document, service certificate or notarization; they are not assumed filing dates.

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IN THE SUPERIOR COURT IN AND FOR THE STATE OF ARIZONA IN AND FOR THE COUNTY OF COCHISE

IN THE MATTER OF: ANNA CATUDAL, Petitioner, and CHANCE CATUDAL, Respondent.	) DO2011-00126

COURT REPORTER'S TRANSCRIPT OF PETITION FOR ORDER OF PROTECTION

February 8th, 2011

BEFORE: THE HONORABLE CHARLES A. IRWIN

APPEARANCES:

THE PETITIONER:

IN PRO PER

THE RESPONDENT:

NOT PRESENT

BY: LESLIE A. BAIRD, CRP NO. 50568
DIVISION I, OFFICIAL COURT REPORTER
100 COLONIA DE SALUD, STE 203
SIERRA VISTA, AZ 85635

THE COURT: Thank you. Please be seated. This is in the matter of a petition for order of protection, DO2011-126, Anna Catudal.

MS. CATUDAL: Yes, sir.

THE COURT: Is that how you pronounce it?

MS. CATUDAL: That's correct, sir.

THE COURT: Catudal vs. Chance. You've filled out your petition for dissolution of marriage. If you would excuse me, petition for order of protection. Stand and the clerk will swear you in.

(The witness ANNA CATUDAL was duly sworn.)

BY THE COURT:

Q. Tell me your true name, please. You may be seated.

A. Anna Christine Catudal.

Q. You're married to whom?

A. Chance Catudal.

Q. Is Chance Catudal your current husband?

A. Yes.

Q. How long have you been married?

A. Almost two years.

Q. Do you have a minor child together?

A. Yes, sir.

Q. Haley?

A. Yes, sir.

Q. You've asked that the order of protection apply to Haley as well?

A. Yes.



Q. Are you intending to file a petition for dissolution of marriage?

A. It's already filed, sir, but it's in Ohio because he's from Ohio. Now he is, I found out, basically, he's in town. So --

Q. He was in Ohio when he filed a petition for dissolution of marriage?

A. In Ohio, sir.

Q. Have you been served?

A. Yes, sir.

Q. Okay. What is the status of that hearing or proceeding?

A. The next hearing is going to pretrial because it was continued but that is March 2nd.

Q. In Ohio?

A. Yes, sir.

Q. Now, you have responded and you're defending that

action in Ohio?

A. Yes, sir.

Q. Do you have an attorney there?

A. Yes, sir.

Q. Okay. Why do you feel you need an order of protection here in Arizona?

A. Because I found out that he's in town. He has been arrested for domestic violence back in 2008 when I lived in Ohio.

Q. Was he convicted of a charge?

A. No, the case was dismissed because I didn't show up.

Q. The instruction sheet that you were provided when you were filling this out, it indicated that you must state how an act of domestic violence has been either threatened or committed within the last year. Have there been any acts of domestic violence, either committed or threatened, by your husband?

A. Threatened, sir. We have been living apart for over a year.

Q. Okay. How has he threatened you within the last year?

A. He has threatened me, I guess, communication to come here.

Q. What has he said?

A. Um --

Q. All right. Take a moment. Would you care to add to your petition any of these threats and put it in writing? What was threatened over the last year?

A. I suppose that I need to; is that correct? Because it has to be within the past year.

Q. It really does need to be within the past year. The fact that there were acts of domestic violence about three years ago is problematic for me issuing your order. I've asked you what those threats are; you seem to have a difficult time telling me. I don't know if that means that there were things you perceived as threats or things that were actual threats. I don't know because I can't tell based on upon your nonresponse. What has been the form of your communication with him over the last year? Has it been in writing? Has it been verbal, over the phone?

A. Both verbal and e-mails.

Q. E-mails, no Facebook.

A. No.

Q. Did you save any of the e-mails?

A. Yes, sir.

Q. Do you have those with you now?

A. No, I don't.

Q. How do you feel those e-mails and the verbal conversations were threatening?

A. I mean, the same. Saying things, like, he's going to break my face.

Q. When did he say that he would break your face?

A. I mean, that was probably two months ago. I have since the divorce started, in December he filed, I told him to just talk to my lawyer, so, he hasn't talked to me. He sent e-mails, courtesy copy to me and to my family instead of talking to me since then.

Q. Okay. So, you believe was that an e-mail or verbal conversation where he said --

A. That was a verbal conversation, sir.

Q. The context of the conversation was, what? Were you in an argument?

A. No, we were talking about how I was going to file a divorce when I was here long enough because I wasn't here, I guess, long enough for the 90 days to be a resident of Arizona yet.

Q. Okay. How did that come up of the words that he used about breaking your face?

A. He started to get irate and trying to say that we could work things out. I said, There's no way we can work it out. So, then he started yelling and just using inappropriate language, so.

Q. In that content, he said what, exactly, regarding any harm to you? Do you remember his words?

A. He said exactly that. I know that he has done it before. I just don't want anything to happen, anything to do with domestic violence because that is what it would be if he tried to come to my house because he knows my address. [redacted]

Q. So, his words in that conversation were what?

A. Saying things like we were here face-to-face, then we know what would happen. He has been to Tucson before trying to come find where I am. I'm going to come there things like that.

Q. Did he use those words, I am going to break your face?

A. Yes, sir, he did.

(Pause in testimony; Petitioner is crying.)

Q. Other than that conversation, were there any other conversations over the last year where he has made threats either written or verbally?

A. Most of the threats that he makes that are written are very nonspecific, I guess.

Q. Give me an example, please.

A. Things like, you know, what I'm going to do or you know, what I'm going to do to you or I can't undo anything that I'm going to be prompted to do because he is very -- I

can't find the words I want to say. He doesn't say, specifically, in writing, obviously, it's in writing.

Q. Okay.

A. Most of the conversations, like, we had were verbal, but I don't remember any of the other ones well enough to say them word-for-word or anything like that.

Q. Okay. I will need you to add to your petition within the last two months the verbal threats that you just told me. I'm going to have Ken hand that back to you, if you would do that. Does he know your address?

A. Yes, sir.

Q. Okay. But you still want it to be confidential on this order?

A. Yes, sir.

Q. He knows your workplace but you still want the workplace confidential?

[redacted]

Q. Does he have any access to military installations? I guess if he signed in they would let him in.

A. Yes, sir.

[redacted]

Q. Go ahead and finish writing that if you would. Has he made any allegations or any threats regarding weapons when he has made these threats?

A. Yes, sir. He has a weapon. I don't know what kind it is. It's a gun. Again, he never says anything specific, I guess, in respect to that. He just says, I I know how to use it or you know what I would do, just very nonspecific threats things I would take as a threat.

Q. You've asked the order to also apply to your daughter. Is she in Arizona or Ohio?

[redacted]

Q. Has he made threats against her?

A. Not against her, but I would be very worried.

Q. Well, the Ohio divorce I am sure is dealing with the custody issue, correct?

A. Yes, sir.

Q. Is there anything else you want to tell me?

A. No, sir.

Q. You're applying for this because you believe he is either on his way or is already in Arizona?

A. I know he's in Sierra Vista.

Q. How do you know that?

A. Because he called me from this area phone number from a cell phone number and told me that he wants some of his furniture back for his apartment here, so, I know he

lives here somewhere, now.

Q. You have no idea as to where?

A. No, sir.

Q. You don't have any idea. How is law enforcement going to serve him this order?

A. I don't know.

Q. It is not effective until it is served; do you understand is that?

A. Yes, sir.

Q. I will let you have that discussion with law enforcement. Then based upon your testimony the Court will grant the order of protection in that the Court is finding that there has been threatened acts of domestic violence, within the last year, of physical harm to the Petitioner. Do you have an order of protection in Ohio?

A. No, sir.

Q. Also, that alleged weapons have been involved in these threats, so I will order and find that the defendant, proposed a credible threat of bodily injury to the plaintiff. I will order that he not possess, receive, or purchase any firearms or ammunition and shall surrender fully those items within 24 hours. So, you live in the city or in the county?

A. I live in Sierra Vista, the city.

Q. Okay. Those are Sierra Vista PD. As to your

request for confidential locations of workplace and residence, I will honor that, not include the (inaudible) near your residence. However, as to your daughter, I will delete her as there has been no evidence of any threat to your daughter. That matter is really between the Court that has custody over that child in Ohio. So, with that, I've issued the order of protection. It will not be effective until it is served. You will get copies of these in a few minutes. Once he is served and he requests a hearing, you'll need to be present at that hearing. If you fail to appear, the order of protection may be dismissed. You also should take a copy of the order of protection and provide it to Sierra Vista PD so that they will have it on file if need be. Do you have any questions?

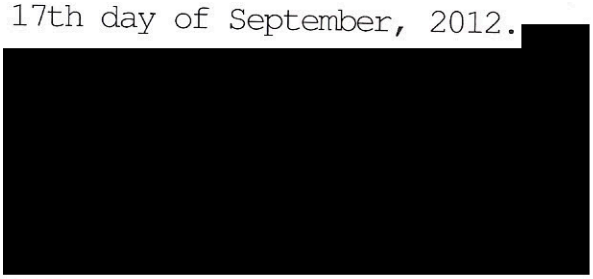
A. No, sir.

Q. So, in just a few minutes I'll have the order for you at the front desk. Note for the record that you have amended the petition to add the verbal threats in December of 2010. Okay. Stand adjourned.

C E R T I F I C A T E

I, LESLIE A. BAIRD, certify that I took the shorthand notes in the foregoing matter; that the same were transcribed under my direction; that the preceding pages of typewritten matter are a true, accurate, and complete transcript of all the matters adduced, to the best of my skill and ability.

Dated the 17th day of September, 2012.



LESLIE A. BAIRD, CRP #50568

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA,
COUNTY OF COCHISE

Anna Catudal, Plaintiff
[redacted]
[redacted] AZ [redacted]

Case # DO2011-00126

vs.

Judge Charles A. Irwin

Chance Catudal, Defendant
[redacted]
Dublin, Ohio 43017

DEFENDANT'S MOTION TO VACATE JUDGMENT

Defendant moves the Court to vacate its Judgment granting Plaintiff an Order of Protection on February 8, 2011.

This Motion is more fully supported by the Memorandum in Support that is attached and incorporated herein.

Respectfully submitted,
[redacted]
Chance Catudal, Defendant
[redacted]
Dublin, Ohio 43017
[redacted]

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA,
COUNTY OF COCHISE

MEMORANDUM IS SUPPORT

I. INTRODUCTION

Defendant was unaware of any proceeding regarding Plaintiff's Petition for an Order of Protection. Defendant learned of such towards the end of July 2012. Thereafter, Defendant filed/served a Request for Production of Documents on August 13, 2012. Defendant received a letter from Judge Ann R. Littrell on September 11, 2012 in response (See **Exhibit A**).

II. LAW & ARGUMENT

A. Super.Ct.Local Prac.Rules, Cochise County, Rule 25 – Failure to Prosecute.

Plaintiff failed to properly prosecute her Petition for an Order of Protection. Defendant was never served with a notice of a hearing.

B. State of Residence – Ohio.

Defendant has been a resident of Franklin County, Ohio for his entire life (See **Exhibit B**).

C. Arizona Residency Requirements Never Met by Defendant.

Defendant has never remained, nor planed to remain, in Arizona for seven months or more during any one calendar year.

Defendant has never worked in Arizona.

Defendant is not registered to vote in Arizona.

Defendant does not own any business interests with an office in Arizona that operate vehicles in the state, transports goods, or carries passengers.

Defendant has a child enrolled [redacted] however, the subject matter jurisdiction of residential and custodial parentage of said child is governed by the Domestic Relations Division of the Franklin County Common

Pleas Court.

D. Super.Ct.Local Prac.Rules, Cochise County, Rule 4.2(a). Extraterritorial Jurisdiction; Personal Service Out of State.

Due to Defendant's residency, he was not properly served according to the Arizona Rules of Civil Procedure.

E. Perjury.

Plaintiff is guilty of committing perjury to facilitate the Court granting her Petition for an Order of Protection. Furthermore, if her allegations had any merit, the appropriate remedy would have been to file a request for an Order of Protection in Franklin County, Ohio.

III. CONCLUSION

Defendant's right to due process and equal protection under law was inadvertently violated by the Court due to his being unable to defend against Plaintiff's ridiculous claim(s). Said injustice was facilitated by Plaintiff's commission of perjury.

IV. PRAYER FOR RELIEF

Defendant prays that the Judgment granting Plaintiff an Order of Protection be vacated. Defendant prays for the Court to initiate perjury charges against Plaintiff. Defendant prays for any other such relief that the interests of justice may require.

Respectfully submitted,

[redacted]

Chance Catudal, Defendant

V. CERTIFICATE OF SERVICE – ARIZONA

Defendant hereby certifies that a true and accurate copy of the foregoing Motion was mailed to Plaintiff via Regular Mail on the 16 day of Oct., 2012.

[redacted]
Chance Catudal, Defendant

VI. CERTIFICATE OF SERVICE – OHIO

Defendant hereby certifies that a true and accurate copy of the foregoing Motion was served upon Defendant's attorney in Ohio, Bryan Bowen, in person on the 16 day of Oct., 2012.

[redacted]
Chance Catudal, Defendant

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA,
COUNTY OF COCHISE

Anna Catudal, Plaintiff
[redacted]
[redacted] AZ [redacted]

Case # DO2011-00126

vs.

Judge Charles A. Irwin

Chance Catudal, Defendant
[redacted]
Dublin, Ohio 43017

DEFENDANT'S MOTION TO QUASH ORDER OF PROTECTION

Defendant moves the Court to quash the Order of Protection granted to Plaintiff on February 8, 2011.

This Motion is more fully supported by the Memorandum in Support that is attached and incorporated herein.

Respectfully submitted,
[redacted]
Chance Catudal, Defendant
[redacted]
Dublin, Ohio 43017
[redacted]

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA,
COUNTY OF COCHISE

MEMORANDUM IS SUPPORT

I. INTRODUCTION

Defendant was unaware of any proceeding regarding Plaintiff's Petition for an Order of Protection. Defendant learned of such towards the end of July 2012. Thereafter, Defendant filed/served a Request for Production of Documents on August 13, 2012. Defendant received a letter from Judge Ann R. Littrell on September 11, 2012 in response (See **Exhibit A**).

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Defendant has never worked in Arizona.

Defendant is not registered to vote in Arizona.

Defendant does not own any business interests with an office in Arizona that operate vehicles in the state, transports goods, or carries passengers.

Defendant has a child enrolled [redacted] however, the subject matter jurisdiction of residential and custodial parentage of said child is governed by the Domestic Relations Division of the Franklin County Common

Pleas Court.

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III. CONCLUSION

Defendant's right to due process and equal protection under law was inadvertently violated by the Court due to his being unable to defend against Plaintiff's ridiculous claim(s). Said injustice was facilitated by Plaintiff's commission of perjury.

IV. PRAYER FOR RELIEF

Defendant prays that the Judgment granting Plaintiff an Order of Protection be quashed. Defendant prays for the Court to initiate perjury charges against Plaintiff. Defendant prays for any other such relief that the interests of justice may require.

Respectfully submitted,

[redacted]

Chance Catudal, Defendant

V. CERTIFICATE OF SERVICE – ARIZONA

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[redacted]
Chance Catudal, Defendant

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[redacted]
Chance Catudal, Defendant

Anna Catudal, Plaintiff
[redacted]
[redacted] AZ [redacted]

Case # DO2011-00126

vs.

Judge Charles A. Irwin

Chance Catudal, Defendant
[redacted]
Dublin, Ohio 43017

DEFENDANT, CHANCE CATUDAL'S, AFFIDAVIT

STATE OF OHIO
COUNTY OF FRANKLIN, ss:

The undersigned, having personal knowledge of the same and being duly cautioned and sworn, deposes and states the following:

1. I, Chance Catudal, have lived in the State of Ohio for my entire life.
2. I, Chance Catudal, have never lived in Arizona.
3. I, Chance Catudal, have never told Anna Catudal that I lived in Arizona.
4. I, Chance Catudal, have never called Anna Catudal from a phone number that had an Arizona area code.
5. I, Chance Catudal, declare that I knew where Anna Catudal lived from the day that she moved to Arizona (See **Exhibit C**).
6. I, Chance Catudal, declare that when Anna Catudal moved to Arizona that I gave her all of my furniture, etc., to start her new life.
7. I, Chance Catudal, declare that during the entire month of February 2011 that I was on probation for a family related property dispute and that I was not legally allowed to leave the State of Ohio.
8. I, Chance Catudal, declare that I filed a pro se motion for release from probation on October 11, 2011.
9. I, Chance Catudal, declare that I received a Journal Entry dated November 23, 2011 that successfully released me from Community Control Sanctions.
10. I, Chance Catudal, declare that I have no intention of causing physical harm to Anna Catudal, nor have I threatened to do so.
11. I, Chance Catudal, declare that Anna Catudal filing the Petition for an

Order of Protection was the first of many of her efforts to conspire to alienate me from my daughter's life (i.e., Haley A. Catudal).

12. I, Chance Catudal, declare that I have only saw my daughter for a total of three (3) months in the past three years.

13. I, Chance Catudal, declare that I needed a judge to step in and enforce my Court Ordered 2012 Summer Break.

14. I, Chance Catudal, declare that Anna Catudal has twenty-two (22) counts of contempt of court against her going to trial on November 14 and November 15, 2012.

15. I, Chance Catudal, declare that after the contempt trial the Magistrate is going to set a trial date for my Motion to Modify Custody.

The undersigned further deposes and states that the above is true and correct to the best of his knowledge and that a photocopy of this affidavit shall have the same effect(s) as the original.

Further affiant sayeth naught.

[redacted]
Chance Catudal, Affiant

Sworn to before me and subscribed in my presence this 16 day of October, 2012.

[redacted]
Notary Public

[redacted]

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA,
COUNTY OF COCHISE

Anna Catudal, Plaintiff
[redacted]
[redacted] AZ [redacted]

Case # DO2011-00126

vs.

Judge Charles A. Irwin

Chance Catudal, Defendant
[redacted]
Dublin, Ohio 43017

DEFENDANT'S MOTION TO PRESENT ORAL ARGUMENT VIA TELEPHONE

Defendant moves the Court to allow him to present oral argument at a hearing of his Motion to Vacate or Quash Judgment via telephone.

This Motion is more fully supported by the Memorandum in Support that is attached and incorporated herein.

Respectfully submitted,
[redacted]
Chance Catudal, Defendant
[redacted]
Dublin, Ohio 43017
[redacted]

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA,
COUNTY OF COCHISE

MEMORANDUM IS SUPPORT

I. LAW & ARGUMENT

A. Super.Ct.Local Prac.Rules, Cochise County, Rule 14 – Oral Argument by Telephone.

Rule 14 provides Defendant the ability to present oral argument via telephone.

B. State of Residence – Ohio.

Defendant resides in Ohio. It would be an undue burden for the Court to require that Defendant travel to Arizona to defend himself.

II. CONCLUSION

Justice and equity require that Defendant be permitted to present oral argument at a hearing of his Motion to Vacate or Quash Judgment via telephone.

III. PRAYER FOR RELIEF

Defendant prays that the Court permit him to present oral argument at a hearing of his Motion to Vacate or Quash Judgment via telephone. Defendant prays for any other such relief that the interests of justice may require.

Respectfully submitted,

[redacted]

Chance Catudal, Defendant

IV. CERTIFICATE OF SERVICE – ARIZONA

Defendant hereby certifies that a true and accurate copy of the foregoing Motion was mailed to Plaintiff via Regular Mail on the 16 day of Oct., 2012.

[redacted]
Chance Catudal, Defendant

V. CERTIFICATE OF SERVICE – OHIO

Defendant hereby certifies that a true and accurate copy of the foregoing Motion was served upon Defendant's attorney in Ohio, Bryan Bowen, in person on the 16 day of Oct., 2012.

[redacted]
Chance Catudal, Defendant

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA, In and for the County of Cochise

file stamp only

FILED

2012 DEC -4 PM 2:07

MARY ELLEN DUNLAP
CLERK OF SU[redacted]R COURT
BY [redacted]

Anna C. Catudal, Plaintiff,

vs

Chance Catudal, Defendant.

CASE NO. D0201[redacted]26

Division ☐ One ☐ Two ☐ Three ☑ Four ☐ Five ☐ Six DATE: December 4, 2012

☐ HON. CHARLES A. IRWIN
☐ HON. JOHN F. KELLIHER, JR.
☐ HON. WALLACE R. HOGGATT
☑ HON. ANN LITTRELL
☐ HON. JAMES L. CONLOGUE
☐ HON. DONNA M. BEUMLER

MARY ELLEN DUNLAP, CLERK

By: [redacted], Deputy

COURT REPORTER Penny Nyander
INTERPRETER ---

☐ Plaintiff present ☑ duly sworn ☐ Defendant present ☐ duly sworn

MINUTE ENTRY RE: ORDER OF PROTECTION

☑ **(686)** Hearing on Petition for Order of Protection
  ☐ Petition GRANTED by Court; Order of Protection signed by Judge; issued by Clerk
☐ **(629)** Petition DENIED
☑ **(686)** Hearing on Request to Amend/Modify or Quash/Dismiss Order of Protection, based upon Plaintiff's request.
☐ **(207)** Request to Amend/Modify GRANTED by Court; Order signed by Judge; issued by Clerk
☑ **(700)** Request to Quash/Dismiss GRANTED by Court; Order signed by Judge; issued by Clerk

☐ **OTHER:**

[redacted]

Disbributed/mailed: 12/4/12 BG

xc: ☐ Plaintiff xc: ☑ Defendant

OOP form (Rev 05/04/07)

December 19, 2012

Arizona Superior Court, County of Cochise
Attn: Clerk of Courts
Re: Case # DO201100126 – Motions, etc.
100 Quality Hill
Bisbee, Arizona 85603

Clerk of Courts:

Please find the following enclosed:

1. Defendant's Notice to the Court as to his not Having Been Properly Served;
2. Defendant's Motion to Amend Minute Entry;
3. Defendant's Request for an Oral Hearing;
4. Defendant's Motion to Present Oral Argument via Telephone;
5. Defendant's Motion to Amend Hearing Order;
6. Defendant's Request for an Oral Hearing;
7. Defendant's Motion to Present Oral Argument via Telephone.

I would like to have all of the enclosed Motions, etc., mailed back to me once they have been time stamped. I have enclosed a SASE to facilitate such.

If you have any questions or concerns, feel free to send me an email or to give me a call. My contact information is below.

Thank you for your time.

Respectfully,

[redacted]
Chance Catudal
[redacted]
Dublin, Ohio 4301[redacted]
[redacted]
[redacted]

[Mailed To]

Anna Catudal
[redacted]
[redacted] Arizona [redacted]

Bryan Bowen (0069158)
338 South High Street
Columbus, Ohio 43215

Chris Heckert (0072281)
503 South High Street, Suite 102
Columbus, Ohio 43215

Dirken D. Winkler (0068826)
1007A South High Street
Columbus, Ohio 43206

Officer Nick Lamay
1011 North Coronado Drive
Sierra Vista, Arizona 85635

Tawanna Gordon
[redacted]
Columbus, Ohio 43224

Tom & Nancy Catudal
[redacted]
Haymarket, Virginia 20169

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA,
COUNTY OF COCHISE

Anna Catudal, Plaintiff
[redacted]
[redacted] AZ [redacted]

Case # DO2011-00126

vs.

Judge Ann Littrell

Chance Catudal, Defendant
[redacted]
Dublin, Ohio 43017

DEFENDANT'S NOTICE TO THE COURT AS TO HIS NOT HAVING BEEN PROPERLY SERVED

Defendant moves the Court to acknowledge that he was not properly served with its Minute Entry or Hearing Order that were filed on December 4, 2012.

WHEREFORE, Defendant prays for any relief that the interest of justice may require.

Respectfully submitted,
[redacted]
Chance Catudal, Defendant
[redacted]
Dublin, Ohio 43017
[redacted]

CERTIFICATE OF SERVICE

Defendant hereby certifies that a true and accurate copy of the foregoing was mailed to Plaintiff via Regular Mail on the *19th* day of *December*, 2012.

[redacted]
Chance Catudal, Defendant

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA,
COUNTY OF COCHISE

Anna Catudal, Plaintiff
[redacted]
[redacted] AZ [redacted]

Case # DO2011-00126

vs.

Judge Ann Littrell

Chance Catudal, Defendant
[redacted]
Dublin, Ohio 43017

DEFENDANT'S MOTION TO AMEND MINUTE ENTRY

Defendant moves the Court to amend the Minute Entry that was filed on December 4, 2012.

This Motion is more fully supported by the Memorandum in Support that is attached and incorporated herein.

Respectfully submitted,
[redacted]
Chance Catudal, Defendant
[redacted]
Dublin, Ohio 43017
[redacted]

MEMORANDUM IS SUPPORT

I. FACTS

Defendant was granted a hearing in response to his Motion to Vacate Judgment on October 30, 2012.

Defendant was granted leave to appear telephonically to the hearing that was scheduled for December 4, 2012.

Defendant appeared telephonically to the hearing that was held on December 4, 2012.

II. LAW & ARGUMENT

A. Arizona Superior Court, County of Cochise ("ASC") Spoke Through its Minute Entry.

It has been well established in the U.S. that courts speak through the journal. ASC's Minute Entry incorrectly reflects that the Hearing on Request to Amend/Modify or Quash/Dismiss Order of Protection was, "***based upon Plaintiff's request***." (Emphasis added.) See *Minute Entry* file *December 4, 2012*.

B. Clear Legal Right to Requested Relief.

The Fourteenth Amendment to the U.S. Constitution states that no state shall "deny to any person within its jurisdiction the equal protection of the laws."

Article I, Section 2, of the Ohio Constitution states, "All political power is inherent in the people. Government is instituted for their equal protection and benefit..."

Hagar v. Reclamation Dist., 111 U.S. 701, 708 (1884). "Due process of law is [process which], following the forms of law, is appropriate to the case and just to the parties affected. It must be pursued in the ordinary mode prescribed by law; it must be adapted to the end to be attained; and whenever necessary to the protection of the parties, it must give them an opportunity to be heard respecting

the justice of the judgment sought. Any legal proceeding enforced by public authority, whether sanctioned by age or custom or newly devised in the discretion of the legislative power, which regards and preserves these principles of liberty and justice, must be held to be due process of law." Id. at 708; *Accord*, *Hurtado v. California, 110 U.S. 516, 537(1884)*.

Due process of law is violated when the government vindictively attempts to penalize a person for exercising a protected statutory or constitutional right. See *U.S. v. Conkins, 9 F.3d 1377, 1382 (9th Cir. 1993)*.

III. CONCLUSION

Defendant's right to due process and equal protection under law was inadvertently violated by the Court not correctly reflecting in its Minute Entry who motioned the Court for relief.

IV. PRAYER FOR RELIEF

Defendant prays for the Court to amend its Minute Entry. Defendant prays for any other such relief that the interests of justice may require.

Respectfully submitted,

[redacted]

Chance Catudal, Defendant

V. CERTIFICATE OF SERVICE

Defendant hereby certifies that a true and accurate copy of the foregoing was mailed to Plaintiff via Regular Mail on the *19th* day of *December*, *2012*.

[redacted]

Chance Catudal, Defendant

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA,
COUNTY OF COCHISE

Anna Catudal, Plaintiff
[redacted]
[redacted] AZ [redacted]

Case # DO2011-00126

vs.

Judge Ann Littrell

Chance Catudal, Defendant
[redacted]
Dublin, Ohio 43017

DEFENDANT'S REQUEST FOR AN ORAL HEARING

Defendant moves the Court for an oral hearing of his Motion to Amend Minute Entry.

WHEREFORE, Defendant prays for an oral hearing.

Respectfully submitted,
[redacted]
Chance Catudal, Defendant
[redacted]
Dublin, Ohio 43017
[redacted]

CERTIFICATE OF SERVICE

Defendant hereby certifies that a true and accurate copy of the foregoing was mailed to Plaintiff via Regular Mail on the *19th* day of *December*, 2012.

[redacted]
Chance Catudal, Defendant

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA,
COUNTY OF COCHISE

Anna Catudal, Plaintiff
[redacted]
[redacted] AZ [redacted]

Case # DO2011-00126

vs.

Judge Ann Littrell

Chance Catudal, Defendant
[redacted]
Dublin, Ohio 43017

DEFENDANT'S MOTION TO PRESENT ORAL ARGUMENT VIA TELEPHONE

Defendant moves the Court to allow him to present oral argument at a hearing of his Motion to Amend Minute Entry via telephone.

This Motion is more fully supported by the Memorandum in Support that is attached and incorporated herein.

Respectfully submitted,
[redacted]
Chance Catudal, Defendant
[redacted]
Dublin, Ohio 43017
[redacted]

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA,
COUNTY OF COCHISE

MEMORANDUM IS SUPPORT

I. LAW & ARGUMENT

A. Super.Ct.Local Prac.Rules, Cochise County, Rule 14 – Oral Argument by Telephone.

Rule 14 provides Defendant the ability to present oral argument via telephone.

B. State of Residence – Ohio.

Defendant resides in Ohio. It would be an undue burden for the Court to require that Defendant travel to Arizona to defend himself.

II. CONCLUSION

Justice and equity require that Defendant be permitted to present oral argument at a hearing of his Motion to Amend Minute Entry via telephone.

III. PRAYER FOR RELIEF

Defendant prays that the Court permit him to present oral argument at a hearing of his Motion to Amend Minute Entry via telephone. Defendant prays for any other such relief that the interests of justice may require.

Respectfully submitted,

[redacted]

Chance Catudal, Defendant

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[redacted]

Chance Catudal, Defendant

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA,
COUNTY OF COCHISE

Anna Catudal, Plaintiff
[redacted] AZ [redacted]

Case # DO2011-00126

vs.

Judge Ann Littrell

Chance Catudal, Defendant
[redacted]
Dublin, Ohio 43017

DEFENDANT'S MOTION TO AMEND HEARING ORDER

Defendant moves the Court to amend the Hearing Order that was filed on December 4, 2012.

This Motion is more fully supported by the Memorandum in Support that is attached and incorporated herein.

Respectfully submitted,
[redacted]
Chance Catudal, Defendant
[redacted]
Dublin, Ohio 43017
[redacted]

MEMORANDUM IS SUPPORT

I. FACTS

Defendant was granted a hearing in response to his Motion to Vacate Judgment on October 30, 2012.

Defendant was granted leave to appear telephonically to the hearing that was scheduled for December 4, 2012.

Defendant appeared telephonically to the hearing that was held on December 4, 2012.

II. LAW & ARGUMENT

A. Arizona Superior Court, County of Cochise ("ASC") Spoke Through its Minute Entry.

It has been well established in the U.S. that courts speak through the journal. ASC's Hearing Order incorrectly states, "***On Plaintiff's Motion***, the Court dismisses the protective order listed above." (Emphasis added.) See *Hearing Order* filed *December 4, 2012*.

B. Clear Legal Right to Requested Relief.

The Fourteenth Amendment to the U.S. Constitution states that no state shall "deny to any person within its jurisdiction the equal protection of the laws."

Article I, Section 2, of the Ohio Constitution states, "All political power is inherent in the people. Government is instituted for their equal protection and benefit..."

Hagar v. Reclamation Dist., 111 U.S. 701, 708 (1884). "Due process of law is [process which], following the forms of law, is appropriate to the case and just to the parties affected. It must be pursued in the ordinary mode prescribed by law; it must be adapted to the end to be attained; and whenever necessary to the protection of the parties, it must give them an opportunity to be heard respecting

the justice of the judgment sought. Any legal proceeding enforced by public authority, whether sanctioned by age or custom or newly devised in the discretion of the legislative power, which regards and preserves these principles of liberty and justice, must be held to be due process of law." Id. at 708; *Accord*, *Hurtado v. California, 110 U.S. 516, 537(1884)*.

Due process of law is violated when the government vindictively attempts to penalize a person for exercising a protected statutory or constitutional right. See *U.S. v. Conkins, 9 F.3d 1377, 1382 (9th Cir. 1993)*.

III. CONCLUSION

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IV. PRAYER FOR RELIEF

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Respectfully submitted,

[redacted]

Chance Catudal, Defendant

V. CERTIFICATE OF SERVICE

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[redacted]

Chance Catudal, Defendant

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA,
COUNTY OF COCHISE

Anna Catudal, Plaintiff
[redacted]
[redacted] AZ [redacted]

Case # DO2011-00126

vs.

Judge Ann Littrell

Chance Catudal, Defendant
[redacted]
Dublin, Ohio 43017

DEFENDANT'S REQUEST FOR AN ORAL HEARING

Defendant moves the Court for an oral hearing of his Motion to Amend Hearing Order.

WHEREFORE, Defendant prays for an oral hearing.

Respectfully submitted,
[redacted]
Chance Catudal, Defendant
[redacted]
Dublin, Ohio 43017
[redacted]

CERTIFICATE OF SERVICE

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[redacted]
Chance Catudal, Defendant

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA,
COUNTY OF COCHISE

Anna Catudal, Plaintiff
[redacted]
[redacted] AZ [redacted]

Case # DO2011-00126

vs.

Judge Ann Littrell

Chance Catudal, Defendant
[redacted]
Dublin, Ohio 43017

DEFENDANT'S MOTION TO PRESENT ORAL ARGUMENT VIA TELEPHONE

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This Motion is more fully supported by the Memorandum in Support that is attached and incorporated herein.

Respectfully submitted,
[redacted]
Chance Catudal, Defendant
[redacted]
Dublin, Ohio 43017
[redacted]

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA,
COUNTY OF COCHISE

MEMORANDUM IS SUPPORT

I. LAW & ARGUMENT

A. Super.Ct.Local Prac.Rules, Cochise County, Rule 14 – Oral Argument by Telephone.

Rule 14 provides Defendant the ability to present oral argument via telephone.

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Defendant resides in Ohio. It would be an undue burden for the Court to require that Defendant travel to Arizona to defend himself.

II. CONCLUSION

Justice and equity require that Defendant be permitted to present oral argument at a hearing of his Motion to Amend Hearing Order via telephone.

III. PRAYER FOR RELIEF

Defendant prays that the Court permit him to present oral argument at a hearing of his Motion to Amend Hearing Order via telephone. Defendant prays for any other such relief that the interests of justice may require.

Respectfully submitted,

[redacted]

Chance Catudal, Defendant

IV. CERTIFICATE OF SERVICE

Defendant hereby certifies that a true and accurate copy of the foregoing was mailed to Plaintiff via Regular Mail on the *19th* day of *December, 2012*.

[redacted]

Chance Catudal, Defendant

SUPERIOR COURT, STATE OF ARIZONA, In and for the County of Cochise

ANNA CATUDAL, **Plaintiff,** **vs.** **CHANCE CATUDAL,** **Defendant.**	**Case No. DO201100126** **ORDER**	file stamp only FILED 2013 JAN -8 PM 4:56 MARY ELLEN DUNLAP CLERK OF SUPERIOR COURT BY _____ DEPUTY

HONORABLE KARL D. ELLEDGE **DIVISION FOUR** **By: Debbee Watkins (01/08/13)**
Judicial Administrative Assistant

This matter having come on before the Court on the Defendant's Motion to Amend Minute Entry, and Defendant's Motion to Amend Hearing Order; the Court having reviewed the entire file in this matter;

The Court FINDS that on December 4, 2012, and following a hearing on the Defendant's Motion to Quash Order of Protection ("Motion"), the Honorable Ann R. Littrell entered a Hearing Order granting the Defendant's Motion.

Based on this Court's FINDINGS,

IT IS ORDERED that the Hearing Order entered on December 4, 2012, is amended to read:

"On Defendant's motion, the Court dismisses the protective order listed above."

IT IS FURTHER ORDERED that the Minute Entry Re: Order of Protection is amended to reflect that the Defendant's motion to quash was granted.

DATED this 8R day of January, 2013.

[redacted]

KARL D. ELLEDGE
JUDGE OF THE SUPERIOR COURT

mailed/distributed: (date)(initials) 1-9-13

cc: Anna Catudal, [redacted] AZ [redacted]
Chance Catudal, [redacted] Dublin, OH 43017