UNITED STATES COURTS

EASTERN DISTRICT OF WISCONSIN IN THE 7TH DISTRICT

Plaintiff

Bernard Tocholke **COMPLAINT**

Vs.

Defendant

Wisconsin Case number #_____

HERE COMES NOW, the Plaintiff, Bernard Tocholke, to file a complaint with the allegations that follow, against the state of Wisconsin. The Plaintiff alleges that the judicial actions of the Wisconsin State Courts erred in decisions and actions which are in violation to the United States **Constitution**, the Statutes, and the laws of this land. The **Judicial Misconduct**, the **Abuse of Process**, and the **Malicious Prosecution** in this case, became a disgrace to the Constitutional right of acceptable **Due Process of Law.**

Establish Jurisdiction

1) Plaintiff understands that in order for this court to hear any case, the court must have Jurisdiction over it. This court DOES have jurisdiction and is as follows:

   a) **Subject matter jurisdiction**: The Federal Courts have automatic jurisdiction when contents of the United States Constitution has been violated. Also the Plaintiff has appealed up the authority levels of the State Courts and has exhausted ALL available options for remedies from the State of Wisconsin.

   b) **Territorial jurisdiction**: The Constitutional violations were committed in Kenosha County of Wisconsin. The case was also rejected for appeal at the Wisconsin Court of Appeals for the same District, and has also been rejected for review at the Wisconsin Supreme Court. Every one of these courts fall into this Federal Court of the Eastern Wisconsin District's jurisdiction. If an appeal is taken, it would advance to the 7th

District Court of Appeals, in the United States Courthouse, 219 South Dearborn Street, Chicago, Illinois 60604.

c) **Personal jurisdiction**: The entire case evolved in Kenosha, Wisconsin. The plaintiff has moved to Minnesota and ordinarily would not be subjected under this court's jurisdiction. However, since the plaintiff is bringing the action to this court, he is submitting to their jurisdiction.

Federal and Constitutional right and privilege:

2) The United States Constitution allows the parties of a judicial procedure to demand for the **RIGHT TO A TRIAL BEFORE A JURY**. The plaintiff now requests that right to be made known and secured upon demand.

3) The plaintiff is not an attorney, cannot afford an attorney, has been denied an attorney, and already feels threatened at not getting a **fair and public hearing** since he must do everything ***pro se***, (on his own). Due to that fact, he feels already defeated **without due process of law** when he has to rely on his lack of education and unlearned knowledge in law, and therewith **pit against** the most knowledgeable attorneys, DA's, and judges of the state of Wisconsin.

He suspects that the combined effort and intelligence of all of them put together will control the outcome of the case before it could even be heard before a jury. Plaintiff believes that the defendants will try to use an **Affirmative Defense** to stop this action before it even has a chance to be heard in the court room. THEREFORE, plaintiff will fully address the suspected action of defense later on in this Complaint, and just a short explanation now.

a) **Statute of limitations**; is suspected to be used by the defendant. Read the entire **Complaint** in order to get the issues of this case, and then we can analyze at which time the case stood still from action to determine when the statute of limitation went in affect.

b) **Defenses in General**: will be not applicable since the plaintiff suffered GREAT financial, physical, and emotional harm. The Kenosha Judicial System is the proximate cause for the trauma experienced by the plaintiff.

c) **Estoppel**: might be an attempt by defendant claiming that the plaintiff is at fault by his actions and neglect of obeying the court's orders. This **Complaint** will explain the erroneous concept of such a defense.

d) **Not stating an actionable claim**: The common citizen, (as in the typical jury), will easily comprehend and understand the complaint and allegation stated here. It should not confuse the highly educated defendant attorneys of what the cause of action is in this case, and therefore should be a reproof of intelligence if they claim this defense.

4) Plaintiff bases his allegations on his understanding that, The Constitution of the United States is the highest Law of this Country and that all states must abide by the rules contained within it.

5) Amendment XIV, (second half), "No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State **deprive any person of life, liberty, or property, without due process of law;** nor deny to any person within its jurisdiction **the equal protection of the laws."**

6) In the, **Universal Declaration of Human Rights, Article 9,** states- "No one shall be subjected to **arbitrary arrest, detention**, or exile.

a) Merriam-Webster's Dictionary and Thesaurus (2007) 39,- **arbitrary**= "marked by or resulting from the unrestrained and often tyrannical exercise of power".

7) In the, **Universal Declaration of Human Rights, Article 10,** reads, "Everyone is entitled in full equality to a **fair and public hearing** by an independent and **IMPARTIAL** tribunal, in the determination of his rights and obligations and of any criminal charge against him.

8) Plaintiff declares that these rights have been deprived him by the courts of Wisconsin. His **life**, **liberty**, and **property**, have been extremely affected because of the violation of **the due process of law.** Instead the Wisconsin judicial system has erred by using **abuse of process** and **malicious prosecution** to gratify their bias motives and agenda which is **Judicial misconduct**.

9) The plaintiff became the victim of tyrant and bias judges who maliciously and deliberately shunned the Constitution and Human Rights mentioned above. Because of their bias and under handed behavior, Mr. Tocholke became the target for their animosity. The Plaintiff will try to explain in this Complaint on how **he was wrongfully incarcerated for an entire year** by their unconstitutional practices.

10) Amendment VI, addresses the issue of a criminal having the right to counsel. How can a common citizen, unlearned in the area of law, even have a chance at a fair trial, if he does not retain help by an attorney? Mr. Tocholke has been deprived representation by the Public Defender's office of Wisconsin several times. The excuse for Wisconsin is that it is a Family case which does not get representation from them.

    a) But what if a victim of a family case becomes threatened with jail, and he is getting criminalized without getting the Constitutional benefits of a criminal?

    b) Even though he gets criminalized, arrested, and incarcerated, he does not get read his Miranda Rights, because in that "reading" it states that he "has the right to an attorney", which is not true if he is a family case victim.

    c) In a family case, the victim gets deprived "**the equal protection of the law**". If this is true that a family case victim does not get a public defender, the **"equal protection"** is only for the rich of this country that can afford an attorney, the criminal that gets a public defender, the attorney, or the citizen educated in law. The poor unlearned family court victim will just become slaughtered in the judicial stockyard system. The appellant Tocholke has suffered this type of anarchy amongst the American court system.

11) As already mentioned, Tocholke is NOT an attorney, and does not have anything above a high school diploma. He has worked his entire life as a plain laborer with practically zero knowledge in regards to the legal areas or law before he was pushed into the legal arena.

12) Even though, the plaintiff has practically no knowledge of the computer or the skill of typing, he had to make the attempt at filing an appeal at the Court of Appeals. Not knowing how to make an appeal, he was obviously rejected because of content and form.

13) Depriving poor ignorant people that cannot hire an attorney, nor can secure a public defender because it stems from a family case, nor know how to file a proper appeal with all the legal jargon of rules and formats, will get deprived from the **Universal Declaration of Human Rights** that the laws of this Country has established and are also in the Constitution.

NOTE: To understand the issues in this case a person MUST know the foundation that everything is established upon. This case has been extremely influenced by a fanatical religious group often regarded as a cult by many identities. The defendant would love to strike this next section since the State of Wisconsin is not responsible for the beliefs and actions of certain groups. HOWEVER, this section should not be stricken from the contents, since it establishes the base issues of much of the case. Plaintiff does not demand this court to make rulings for or against this group, for they are not the defendant. However, many harmful decisions have been made because the Wisconsin courts have ruled that it "was in the best interest of the child" to give primary placement to the party that is actively involved with this group. Plaintiff is not asking the court to determine if the Wisconsin court decided properly, but instead if the courts had decided from a bias or ulterior motive which hindered due process of law, and resulted in the malicious prosecution and the abuse of process.

14) Please consider these issues for the basic foundational evaluation if there was bias in the courts. Before the Tocholke family became involved with the court system of this Country, they were a large family with seven children. They lived a conservative life with homeschooling and attended this very conservative church. However, Mr. Tocholke started getting concerned when the direction of the church was beginning to show signs of transmuting into a cult with many fanatical ways. Here are some of the examples:

a) This group does not believe in doctors or any form of medicine. Any member that violates this belief is regarded as a person that is a poor example of a Saint, which the other members claim that they are and call themselves.

b) One young married couple of this group allowed their 11 month old baby to die when it was sick. Once the baby was dead, the members of the church waited a while before calling the ambulance. The wait would prevent medical intervention.

c) A young family man fell twenty feet and landed on concrete which caused him to acquire a hernia the size of a volley ball. No doctor or medicine was ever given, except for two of their church "brothers" which were allowed in trying to push this man's hernia back in. A blood vessel was ruptured and he hemorrhaged to death leaving behind his wife and six children, the youngest only eight days old!

d) The plaintiff witnessed how an eighty year old man in this group, had a stroke. The man was taken care of by the church members of Kenosha, Wisconsin. However, after about two weeks with no medical attention, this old man dehydrated and died in the middle of the night while the pastor of this congregation sat and watched it happen. After the old man was dead, he called the other members together. The plaintiff was there that night and witnessed how that pastor called the top-dog pastor in California, and agreed to let the body cool down so that CPR could NOT be done when the 911 medics were called an entire hour later. The group literally waited that hour before calling emergency!

e) That procedure of this cult has a purpose. If 911 was called immediately, the ambulance would perform CPR which is medical intervention, which is a violation of the group's beliefs. If the body is cooled down, the threat of CPR being done then is eliminated. The other issue is that calling 911 is still a necessity for legal reasons. If this cult would just call the police or the mortician, they could get arrested with legal issues. So from prior experiences, they learned that it is mandatory to call 911, even though they intentionally allowed the body to cool down!

f) The group taught from the pulpit that the members must discipline their children according to their teachings. The teachings consisted of breaking the child's will with established forms of beatings. The child that violates any of the church rules must willfully lie across the bed or chair and receive their beating without moving away. Any wrestling to get them into that position or to keep them there, is still not part of

the beating. Unless the child can control his actions of submission, they might get a tremendous amount of swats.

g) Plaintiff witnessed many children getting abused and acquiring black and blue bruises. He witnessed one of his own children receive between three to four hundred swats with a stick before the child could force himself to lie still enough to get his original designated spanking. The next day, the plaintiff (father) had to give his abused son a bath and saw the massive bruise of every color imaginable covering his entire back side from his belt area all the way down to the back of his knees.

h) The plaintiff published a book on the details mentioned above and with many other horrors that he witnessed while in this cult. It is published by Authorhouse.com, and the name of the book is, "TORN ASUNDER, In The Jaws Of A Cult".

i) When the Plaintiff (and father), started witnessing some of these issues mentioned, he started making decisions of not following all of this group's teachings. His troubles began when he secretly bought an inhaler for his oldest son that had asthma. He was tired of watching his child suffer and struggle to get air. The (wife/mother, and defendant) of the Wisconsin court case, found out what her husband had done which violated the church's teachings, and told the pastor.

j) It was shortly thereafter that she was ordered to leave her husband who refused to follow the church's teachings. She did leave her husband and moved in with the pastor.

To understand this case, the reader MUST know how the events transpired.

15) March 2002, Mrs. Tocholke abandons her husband and her oldest two boys which had been abused by the pastor**.** She however left with the youngest five children which she hid from her husband (Plaintiff) for over a month.

16) Plaintiff seeks counsel and sells things plus borrows to retain Attorney John Anthony Ward. Once again, this section stands the risk of being stricken by the defendant. It should NOT be stricken since it covers the background on how some of the issues were

established.

This section is not for the Plaintiff to degrade the attorney that he hired. <u>However, what happened within this business relationship, had the greatest horrific negative affect on this case.</u>

17) The ABA, American Bar Association, has so many rules that were violated in Tocholke's case. Here is an overview of what happened.

a) Attorney Ward was out of town when Plaintiff entered his office. The secretary indicated that he is out of town, but handed Tocholke several sheets to fill out which he did. She then announced a fee of what his service would cost. Violation?

b) When Ward was back in town, Tocholke met with him. Plaintiff told him that he wants some kind of action that would give him legal right to see his children. Ward told him that he MUST file for divorce. Tocholke stated that he does not want a divorce. Ward then insists that there is nothing anybody, (not any attorney), that can do anything for him unless he filed for divorce. Lie! He was not Competent- Rule 1.1

c) Ward then declared to Tocholke that he will not fight for partial custody as he had filled out on the form, but will fight for full custody because of the cult. Since he acted as a fighter, Tocholke went with him borrowing money and also sold things to get the retainer fee.

d) Shortly after that it appeared that Tocholke could never reach his attorney on the phone and Ward would not return his phone calls. Rule 1.4 One time the plaintiff dropped into the office and witnessed a call that the secretary took. She stated that, "He is not in right now, can I leave a message for him?" Plaintiff just assumed that the inquirer on the other end of the line was referring to Ward who was standing right there.

e) About two months into the case, Ward gave Tocholke an urgent day time call requesting him to come to his office. At the office, Ward informed him that "we" no longer will fight the defendants with issues of cults and religious issues. Ward continued by saying, "Who is to determine which group has right philosophies and

which group does not? Let it go, and be content with seeing your children every Saturday for a few hours." In shock, confused, and ignorant Tocholke did not know what to do.

f) For the Plaintiff (Tocholke) it seemed like he was left in darkness throughout several court hearings without knowing what is happening next. Wrong calculations and outrageous amounts of child support was placed upon him. Ward argued that Plaintiff must stop paying rent and all other payments, just so long as he pays the erroneous support.

g) Plaintiff pays his accountant to simplify his income which is compatible with the IRS's interpretation, and then to write it out into a document. He gave the document to Ward and mentioned that the accountant is expecting a phone call from him. Ward never called the accountant but charged Tocholke $90 to read this one page document without ever doing anything about it!

h) Then at one court hearing, Tocholke was ordered to sign a multi-page document which Ward placed in front of him. At the top it read, "Marital Settlement Agreement". Ignorant he started reading it. In it was listed everything he once had owned and how it was going to be divided. Tocholke never provided the information of what he owned to Ward, and yet here it was all listed! The only way Ward could have known it, is if he worked on it with Mrs. Tocholke and her attorney, and totally left him out. Violations?

i) In that Settlement it stated that Mr. Tocholke would only get his other five children that were taken by Mrs. Tocholke, only one day a month for placement!! When he resisted signing anything like that, Ward added pressure by telling him that if he did not sign that document that he will lose the two boys that are in his primary placement, and will be turned over to the cult also that had abused them. Ward also stated that if Tocholke would just sign it, that "we" could fight it later. Later? That gave him an idea. Out of fear, Mr. Tocholke signed the paper with the intent that "he will fight it later" but with a different attorney. Ignorantly he did not know it will be locked in forever.

j) Everything was prearranged and Tocholke was threatened that he will lose the oldest two boys in his care if he did not sign. The judges thereafter always branded him with the signature that he made, and accused him of being a liar if he backed out of the agreement. The judges never allowed him to back out even after the two year limit.

18) As already stated, the case was pushed through the circuit court at high speed like a hurricane and it also left the Plaintiff in the dark. He did not know that the divorce was final until he sat in the court and was forced to sign the papers.

Plaintiff does understand that the Federal court does not provide any remedy for his allegations against the cult or his poor quality attorney. Let us now turn our attention to the errors of the court, the malicious prosecution, and the abuse of process. <u>How are the Wisconsin courts in violation of Due Process of Law?</u> Most of the court bias actions and abuse of process happened after the divorce was final.

19) Commissioner Plous, who is not an accountant, and who does not have a license to practice accounting established the erroneous income. Instead of calculating Adjusted Gross Income and adding standard depreciation, he took numbers that reflected closer to gross receipts and added accelerated depreciation, which is error according to the IRS. Once an income of double of what the IRS accepted the plaintiff at making, the Kenosha courts have consistently refused to correct their mistake. Plaintiff provided the IRS 1040 forms but he had nothing to do with how it was calculated in the courts.

20) Judge Mary K. Wagner refused to ever recalculate the error after that, even though the plaintiff brought the issue up at every hearing. Typical example:

On January 5, 2004 (almost two years after divorce started), Judge Wagner ridiculed the plaintiff when he asked the court to recalculate his income based on his tax forms from the IRS, which is a legal right and provision in the laws. She however, became contentious when he stated that he never made the $40,000 a year income that the court framed him with. She vehemently declared, “Well, then you lied. I can’t—You either lied then or you lied now. I don’t know. But you said we will set this support at about $200 a week and we’ll call it fair. And now because you don’t want to consider it fair or you’re having some trouble with it, you’re saying, you know, it was all based on lies. Your lies, not mine. I didn’t make up the $40,000.” Plaintiff than stated, “I didn’t either.”

The judge continued her point, "Well, where do you think that came from?"

Mr. Tocholke's response, "It originated from Judge/Commissioner Plous." (who does not have a degree or license in accounting and made mistakes according to accountants and IRS)

Judge's response, "No, he didn't make up the number."

Plaintiff objected to that by saying, "He made up the $430 (a week) with him."

Judge finished with, "He made up the support order, but he didn't make up the $40,000. Somebody told him that. You." *Transcript dated Jan. 5, 2004, p 14. – Reality is that Tocholke only provided the 1040 IRS forms, and Commissioner Plous did calibrate the $40,000 a year income using them which is about double of what accountants calculate the correct income. Also Tocholke never created the calculations or said what was fair. All he did was sign the Settlement agreement, OUT OF FEAR IN LOSING HIS TWO BOYS!!*

21) Even after five years and with a different judge, the Plaintiff still could not change what had been signed out of fear and ignorance.

On May 25, 2007, **FIVE YEARS after the divorce started**, Judge Bruce E. Schroeder refused to even consider the Statutes and modifications allowed in § 767.59 which addresses **revision of support,** and **substantial change in circumstances.** There were **errors in calculations** made in the very beginning that never were corrected. However, Judge Schroeder said, "As I said, I don't want to talk about the past. I want to talk about the future. Let's not talk about the past. This case has kind of an ugly past and I don't want to get into that. I want to look at a bright and promising future." *Transcript May 25, 2007, p 15. Plaintiff was supposed to just suffer under the error of double the IRS accepted income, which is double the child support from the time of calculation.*

22) Even the opposing attorney, Tommy Anderson, Jr., **admitted that the calculation could be wrong**, by saying, "I don't disagree with hardly anything he says, you know, but really it's neither here nor there at the present time. As the Court has already indicated, because we're talking about a stipulated agreement, choices that Mr. Tocholke made to leave his employment." ***Reread this entry again after you get past #28***.

Continue with change of events of how things happened.

23) Tocholke was constantly pressured to pay according to the error in calculation. The courts intercepted every tax return and then also threatened with jail to gain the erroneous amount of support.

24) The court refused to listen to the plaintiff when he tried explaining the error in calculation. Instead they gave the plaintiff just a few hours to secure $5,000 that same day or check into jail that evening for six months. He borrowed some more money.

25) September 2003, Judge Mary K. Wagner once again threatened plaintiff with jail. A friend offered to borrow him $6,000 if that would keep him out of jail. The court accepted that agreement, but Judge Wagner ordered plaintiff **3 options.** She vehemently expressed her opinion on Tocholke's job situation and stated that even a job at McDonald's was better than what he was doing.

   a) She ordered that if Tocholke chose to keep working at what he was doing he would have to be current on support at the next hearing, or…

   b) He must have documentation of five job searches for every week until the next hearing if he is still behind, or…

   c) Have another job! Plaintiff asked what type of job is required. She angrily stated that ANY job is better than what he was doing!

26) What was mentioned in that courtroom, was altered and eliminated from the transcripts. The proof for that is found in later transcripts where it was mentioned and the stipulation talked about. **Changing transcripts and eliminating things that were said in the courtroom, is that legal?**

27) Tocholke secures himself a meat cutting job in Minnesota after job searching for several weeks. He sent about 40% of his income for child support. Plaintiff struggled at keeping food and shelter supplied for his two boys and himself.

28) January 2004, Judge Wagner reproved plaintiff for quitting his “lucrative business”. She referred to it as Tocholke did it out of spite to change his obligations. She angrily refused to change anything and ordered him to find two or three more jobs. **Please read #22 again.**

29) March 2004, Judge Wagner ordered Tocholke to six months of Kenosha County jail. Plaintiff had paid approximately $18,000 from the time the divorce began, about 22 months earlier. Judge Wagner **slandered** him by saying he was over $11,000 in arrears when actually he was only about $7,000, and that was according to the **error in calculation** contrary to IRS.

30) Because their father was wrongfully incarcerated, the two minor boys which were in Tocholke’s primary placement, had to fend for themselves. The seventeen year old had to quit his Senior year of school so he could work to provide for himself and his 16 year old brother. Their hardship and emotional trauma was the direct result of the vindictive and bias decisions of Judge Wagner. She said that the boys were old enough and that they could take care of themselves while their father went to jail!

31) While in jail, Plaintiff immediately filed for an appeal to the Wisconsin Court of Appeals. As already mentioned, Plaintiff did not have any knowledge at how to do that appeal. His next requirement was to file a Brief which has a strict and unforgiving format. However, in jail the prisoner must get tolerance since it would be impossible to follow those requirements.

32) June 28, 2004, after completing only about half of the six months ordered sentence, Wagner released Tocholke on the pretense that he could work and pay support. However, there were several strange issues.

    a) The first issue was that Judge Wagner had incarcerated Tocholke because he had worked the meat cutting for a few months, and it did NOT qualify for her standard of employment. Ironic how now a lesser paying job is approved by her and she immediately released him.

b) Ironic too was the situation that she never even called the employer to see if the employment was legit.

c) Plaintiff wondered if it was legal for her to change her own ruling and order of the six months of incarceration. Was it legal?

d) It appeared that there was a much greater hidden and malicious **abuse of process** reason for the release. Once released and not a prisoner, the plaintiff had to abide to all the technicalities of filing the Brief.

33) As already mentioned, Plaintiff is NOT an attorney, and could NOT afford an attorney. He already had been rejected by the Public Defenders office also. Since he did not have the knowledge and skill to file the appeal according to the Court of Appeal's standard, it was evident that he would be denied the appeal due to technicalities. **Due Process of Law must only be to the elite of financial resource or knowledge, or in a criminal case.**

34) Immediately upon release, Tocholke also filed in the Kenosha Court an Order to Show Cause, in order to adjust the **error in calculation, change of circumstances, child placement,** and several other issues.

35) August 2004, Commissioner Fitzgerald, denied any changes to be made. Even though jail had destroyed Tocholke financially, and everything was either defaulted or repossessed, he declared that there still was no change of circumstance.

36) Tocholke immediately filed for a DeNovo hearing.

37) September 2004, Tocholke drove over 7 hours to get to his hearing. Plaintiff walked toward the courthouse and notices a "sentry" on the steps looking around. Suddenly sentry did a very obvious and dramatic double take when he spotted Tocholke approaching the building. The sentry spun around and raced into the courthouse. Plaintiff determined that this reaction was not good and he better catch up to find out the reason.

Tocholke ran for the door, and bolted through it with the stairway heading up in front of him. He could hear the sentry already about two floors above him heading for the third floor. Tocholke took two and three steps at a time and as fast as he could run. When he

reached the last set of stairs at the 2 ½ floor level, the sentry had arrived at the top and barged into Judge Wagner's courtroom. Tocholke could hear him yell, "He is here, he is here!"

The door was still swinging back and forth when Tocholke also barged through the door into the courtroom. He was in time to still see Judge Wagner making her last fleeing steps at running out of the courtroom. She not only ran out of the courtroom as the plaintiff entered it but also deprived him of his hearing. He has NEVER received that scheduled hearing and technically it is still pending! Just moments after her hasty departure, the sheriff entered the room and arrested Tocholke to finish his six month sentence.

38) Tocholke was totally bankrupted by the time he was released from jail. Everything he once had owned was gone or repossessed. There were many collection agencies harassing him when they found a way to get a hold of him. They even started calling his relatives. His phones had been disconnected and the numbers given to another individual. Without his number that former customers knew, even the tree cutting option was gone. His credit rating after release was 430!! Plaintiff was practically homeless.

39) When the Plaintiff came to the hearing which the Judge ran out on, he was wearing just a summer shirt for it was warm outside. However, when he was released it was just a few days before Thanksgiving and it was extremely cold.

The jail releases their prisoners which have served their time, around 1:00 am. Plaintiff lived in Minnesota and had his vehicle repossessed while he was in jail. Regardless, he was kicked out into the street, in the middle of the night, with no transportation, and just a shirt on his back, and then into below freezing temperatures. He went to the nearest 24hr. filling station to keep from freezing to death. Loitering was not allowed and the Police was called. Plaintiff explained the situation to the officer. He was told that he could stay at the Police station over night, but that he must walk that far. The officer said that he will call ahead.

After arriving at the station, he was allowed only in the front foyer area. There on the cold tile floor, without a pillow or a blanket to stay warm, he fell asleep and slept like a

dog. But then dogs often get mats from their owners to sleep on. Tocholke was not that lucky!!

40) The year of 2005 was very difficult. Plaintiff eventually got another job as a logger in northern Wisconsin. He did not have enough money to be able to go home every night, across the border just into Minnesota. He had no option but to sleep in his vehicle or in a tent all week right there in the woods.

He had no way of taking a bath all week. He ate the cheapest food that he could afford, which was cold beans right out of the can for nearly every meal. Living under that type of conditions, he got infected with Lyme Disease. When he became extremely sick and hurting, he went to the hospital and was treated with medication. However, by the spring of 2006, he got Lyme Disease again. He was treated again.

41) September 2006, Minnesota contacted plaintiff and told him that they will take his drivers license from him unless he could pay the arrears which have multiplied over the years. Tocholke had still not recovered from the financial disaster which developed from going to jail. After talking to the support agency, they told him that the only way that he could keep his license is if he had an action pending in the courts. He was allowed two days to have proof that he had filed another Order to Show Cause.

42) Plaintiff found out that Judge Wagner had recused herself from off of his case.

43) Commissioner Plous that originally made the error in calculation, who does not have an accounting degree, recused himself from Tocholke's case. Commissioner Fitzgerald also followed the same and recused himself also!

44) Finally November 2006, Judge Anthony Milisaukas was ordered to take the case. Elusive as a frightened prey, the judge avoided making any decisions. Instead right of way he rescheduled the hearing into February 2007.

45) Ironic though was that after he rescheduled the hearing for February, he too recused himself in December of 2006.

46) The Kenosha Court never notified the plaintiff that Judge Milisaukas had recused himself, or that he would be assigned a different judge.

47) January 2007, the case was ordered into Judge Bruce E. Schroeder's jurisdiction.

48) Ironic how the Kenosha court system had all the judges sign an agreement of assignment rotation every two years. Each judge was assigned a Specific task or Jurisdiction. Judge Schroeder was a criminal judge, doing criminal cases, and did NOT have jurisdiction over FAMILY LAW! However, Kenosha's version of **Due Process of Law**, required that this criminal judge was supposed to do the Plaintiff's family case.

49) Once again, Kenosha still did NOT inform Plaintiff that he had a different judge. They also did NOT notify him that the scheduled hearing that Judge Milisaukas had established was void. Plaintiff spent time and money to arrive at a hearing that did not exist!

50) May 2007, Judge Schroeder finally held the first hearing, which the Plaintiff filed for in September of 2006!

51) Is there a statute that outlines when a case MUST be heard after the filing? Is it within 60 or 90 days? Even if the time started ticking from January 2007 (when it was placed into Judge Schroeder's department), the court would be in contempt. However, the Order to Show Cause was filed in September 2006, **EIGHT MONTHS AGO!**

52) May 2007 was the only hearing that Judge Schroeder ridiculed both Mr. and Mrs. Tocholke for their actions. There was a definite one sided change after that. In this hearing however, Judge Schroeder did ridicule the private schooling that the cult was doing under the false impression to the state that they were just homeschooling. Homeschooling is legal, while private schooling requires certified teachers which the cult did not have. The hearing got postponed again and a GAL is appointed.

53) Plaintiff does not remember if it was at this hearing or if it happened at an earlier one. When the guardian ad litem (GAL) was supposed to be appointed, the judge asked plaintiff's opposing counsel, of who he recommends. That attorney requested Nicole Beddigs since "she did such a fine job last time"! Plaintiff believed she has had very bias attitudes and objected to allowing her. The judge immediately declared that the party does not have that choice of choosing of who they want. Was it proper **Due Process of Law** in

allowing the opposing attorney to make that choice of who he wants and then denying Tocholke any input?

54) July 2007, plaintiff arrived on time to his hearing. However, the sound system in the courtroom was being worked on. Everything was delayed for probably an hour. It was finally decided to hold a hearing in the private back room chambers. This room had an extremely long table with the judge sitting at the far end. His secretary was on his right side, while his stenographer (with machine) was on his left.

Around the other end of this long table, the plaintiff, Mrs. Tocholke, Nicole Beddigs, and opposing counsel-Attorney Anderson, was asked to be seated. Immediately it started with a contrast of what the May hearing contributed. Judge Bruce E. Schroeder immediately told his stenographer to shut everything down, for everything will be off record. **Was that illegal?** It seemed as if in these last two months that the Judge and Attorney Anderson had talked. Mr. Tocholke could not say one thing that would allow the judge to act positively toward him.

Plaintiff remembers how irate the judge had been with the issue of the illegal homeschooling, and he had ordered the children to be tested. Therefore, Tocholke made the attempt of addressing an issue to get the judge on his side. However, when it was brought up, the judge simply dismissed it with, if the state is satisfied with it, then he would not object!

It was then that Tocholke made a desperate attempt by bringing up the child abuse in the cult. Immediately Judge Bruce Schroeder elaborated on that topic.

"What abuse? You see I went to school too, and I got in trouble also, and it was not for laughing in class like your sons had. The principle also did not use a paddle like the pastor used, he used <u>sawed-off golf clubs!</u> He pounded the dust out of my pants, if you know what I am talking about!" He laughed and several in the room laughed along with him. He continued his story;

"But you know? Of all the students that received that kind of discipline, none of them had any lasting affects. So do not bring up this situation of child abuse to me. I will not accept it!

55) Plaintiff was appalled by that speech. Was it proper **Due Process of Law** to be in total opposition of what the rest of the country and laws of the land proclaim? This country has jailed many individuals for spanking their children, and here the Judge has basically endorsed that a non-relative can beat someone else's child with sawed-off golf clubs! **Was this speech and action an <u>abuse of process</u>?**

56) Plaintiff knew that this case was sold out to bias attitudes and that he must figure a way how to get a fair trial. He pursued to bring this case before the federal courts, even though he did not know how to do it. He filled out the paperwork to the best of his understanding by suing the judges, the attorneys, GAL, the courthouse, the mayor, the city hall, and everyone else that he thought would be the responsible party for these violations of laws and Constitution. Later he realized that this attempt was a mistake, but yet he did not know what else to do.

57) To provoke the judge to recuse, Tocholke wore a bright orange shirt with a cartoon on it that depicts the malicious prosecution that the judge was doing. He wore it into the courtroom for the September 2007 hearing. It did get the judge extremely angry. **<u>Even if the judge had not been bias before that time, he definitely was not going to be FAIR AND IMPARTIAL now!</u> Legally by law he would have to recuse himself now.**

58) Plaintiff had requested the judge to recuse himself. Plaintiff had filed for his very first time a change of venue. He was denied with every attempt he tried! It was illegal for the judge to insist to keep Tocholke as his jurisdiction, when the judge was filled with rage, spite, and animosity against him.

59) **Malicious prosecution**, **abuse of process**, and the violation of **Due Process of Law** was so obvious at the next hearing in November 2007.

a) At the September hearing, Judge Schroeder was angry and ordered an unreasonable demand. He declared that Tocholke must either,…

i) Be current on his support, with an additional $5,000 toward his arrears, *which was impossible because he was drowning in poverty and debt.* Or,

ii) Sign up for disability because of health issues. *Plaintiff has had Lyme Disease and suffered painful joints, which limited but <u>NOT prevented</u> him from work. Plaintiff knew that he would not qualify. He also preferred working to the best capacity that he could.* Or…

iii) Tocholke must provide by November, documentation and proof that he did **<u>5 job searches a day</u>** until the November hearing! **<u>That is a full time job in itself!!</u>** That was an **<u>abuse of process</u>** and **<u>malicious prosecution</u>!**

b) Tocholke did apply himself all the way to comply with that last option. With the economy so pathetic, it was impossible to acquire copies of five job applications a day. After businesses rejected him constantly, plaintiff typed up a one page questionnaire to take to businesses. "Are you hiring? If you hired me, what would the starting pay be? Would you ever have a position that would pay $30,000 to an individual that does not have any schooling above a high school education?" These were question that Tocholke had on that sheet.

It was only because of that sheet that he could even come close to acquiring the demanded task. He spent days going from business to business, just to fulfill the Judge's order. He could only work a minimal part time, and fell even further behind financially.

c) It seemed predetermined that Judge Schroeder would simply throw Tocholke into jail. With restrictions or orders so extreme, it was inevitable that Tocholke would NOT be able to comply with the orders.

d) Another indication that it was predetermined was because Mrs. Tocholke did not even drive from Ohio. She must have already known that the hearing was simply to arrest Mr. Tocholke. The September's hearing with the court's threatening attitude, scared plaintiff into allowing Mrs. Tocholke to move to Ohio, "to improve her life" amongst a larger congregation of the cult. In return, Mr. Tocholke would receive added placement of his minor children of five full weeks scattered throughout the year. *That happened for one week in June 2008, and plaintiff has not been with his children since then.* ***<u>It has almost been a year and half since he saw them!</u>***

60) Judge Schroeder went down the list of demands. He seemed surprised that Tocholke had proof of about 250 job searches. Irate with the papers of documentation, he rejected the papers, and still ordered six months incarceration! Plaintiff declares that it was done out of animosity, anger, bias, and with **malicious prosecution** and **abuse of process.** (Tocholke dared to come into his courtroom wearing that orange shirt, and now it was time to retaliate!)

61) During the entire time that the plaintiff was forced in the jurisdiction of Judge Schroeder, the judge never made a firm decision on any of the issues that were in the Order to Show Cause filed over a year earlier! The Plaintiff had waited an entire year to find a decision that he could make an appeal on.

62) Tocholke sent another Motion to Judge Schroeder, persuading him to address the issues mentioned in the OTSC. It was then that the Judge started to respond improperly by writing a one line response on the photocopy of the motion that was sent to him, and then without signing it. The response for the Motion dated Dec. 10, 2007, was returned December 14, 2007, with just the few words, "**All of his motions have been denied except those which were stricken."** Judge Schroeder made a habit of never signing his response.

63) He allowed Huber or work release for Tocholke to be able to be released from jail during the day time. Judge Schroeder knew that plaintiff worked in northern Wisconsin. He responded several times throughout the winter that it was ok for plaintiff to be able to work, and then to transfer, but would never give his signature. Without the signature, the entire agreement is moot and worthless. Plaintiff alleges that the judge knew what he was doing, and doing it out of spite and animosity against him. Because of the vindictive behavior of the judge, Tocholke was never allowed work release and became the **proximate cause** that he lost that job.

64) Another devastated blow was when Tocholke came to his hearing. He parked his van in a public parking lot. When the judge ordered him incarcerated, plaintiff asked if he could first move his van into storage and then check into jail. The judge asked him if he had any writing on the van that would inform others about this case. When Tocholke admitted that

there was, the judge said no, and had him arrested right there. Plaintiff had a website where he placed all the documents that were judicially twisted. Anybody could google search his name to find the site which angered the judge fiercely.

65) The vehicle sat in the parking lot a few days. Friends and family made at least two attempts at getting the vehicle moved, but each time the Kenosha jail refused to give them the keys because they did not have authorization from Tocholke. However, while incarcerated, the jail gave the keys without Tocholke's authorization to the tow truck that impounded his van. Because Tocholke was in jail, he could not pick up his vehicle and take it out of impound. The place sold his vehicle out from under him. Tocholke's loss of his vehicle is the direct proximate cause of the animosity and malicious conduct of the judge.

66) Now address the situation of number #61, when Judge Schroeder finally rejecting all Plaintiff's motions and issues on the Order to Show Cause, the case could finally be appealed to the Court of Appeals. Therefore, Tocholke takes the action of appealing to the higher court which was in December 2007.

67) An incarcerated prisoner is not required to type his court documents in the proper or required format that the common citizen is required to do. In the early months of 2008, Tocholke did his best at complying with the time limits, and sent the Brief and other documents in the best hand written approach that he could.

68) Approximately around February 2008 (?), the Eastern District of Wisconsin, 7th District of the United States Federal Court, gave the plaintiff the hearing that he filed for in September 2007. While the prisoner is incarcerated, he has limited resources or ways that he can prepare for a hearing like this. Like already mentioned, Tocholke is NOT an attorney and ignorant in the area of law.

Since he did not know what he was doing, the Federal Court judge very politely explained how the plaintiff did not have a case. He elaborated on the facts that Tocholke did not list the proper Defendant. Instead Tocholke tried suing every identity from the judge who has immunity, to the Mayor who has nothing to do with the case. Tocholke had not listed the correct party for a lawsuit.

Another situation was that as long as there was a case pending in the State court somewhere, the federal court does not have jurisdiction like the Plaintiff was asking them to do. He would have to exhaust the state options first, and get their FINAL answer first before he could bring it in front of the Federal Court. **For this present case Now, that IS the situation!** All State options have been exhausted.

69) April 2008, Judge Schroeder scheduled a hearing. In that hearing, while the plaintiff is in bright orange jail clothes and in hand and ankle cuffs chained together, the judge made a statement that was ironic. He stated that the plaintiff's opposing counsel, Attorney Anderson, is doing some legal work for Schroeder's family now. In a situation like that, it could be unethical for the judge to rule on this case, since there could be a conflict of interest. Because of that, the judge called the hearing to address the situation.

He stated that Tocholke should know by now how he would rule on the issues that would be presented before him concerning this case. The judge also laughed when he stated that he also knew the opinions of Mr. Tocholke toward him, and what he believed. So in the light of that information of knowing how the judge would continue to rule, Tocholke has an option of requesting Judge Schroeder to recuse himself from this case. However, if Tocholke chooses to keep Judge Schroeder, he has that option but must accept his "bias, established views".

a) Is it ironic for a judge to somewhat admit that he has an established agenda that is predictable and preplanned "bias"?

b) If he admitted that Attorney Anderson worked for him and his family, when did it start? Had it been during 2007 before Tocholke was incarcerated? Did the Judge knowingly sit on this case while he had a partiality and bias conflict of interest? What business dealings did the judge have with Anderson prior to the Tocholke case? **Abuse of Process?**

70) Because of this information, Tocholke definitely requested his recusal. He had requested for his recusal in 2007, but Schroeder rejected it, but now offered it on his own. Plaintiff alleges and believes that the entire case is permeated with judicial foul play and violations of the 14th Amendment, **Due Process of Law.**

71) May 2008, Tocholke finished his six months of jail. Once again he is homeless.

a) The vehicle which he used to drive to Kenosha, was impounded and sold from underneath him. The towing service did hold some of his personal possessions within the van for Tocholke. However, the cash that he hid inside the van which he intended to use for the return trip was gone. He also had other things that were missing too.

b) He had about $500 in his checking account when he came to the court hearing. It was supposed to have been to pay for his rent. However, upon release he discovered that the collection agencies had drained it dry during the first two or three months. They continued to charge against it until plaintiff had several overdrafts. With no response from the plaintiff that is sitting in jail, the bank closed the account. Instead of Tocholke having $500 to go back home to Minnesota, he had a closed account with a debt, overdraft judgment against him of over $200.

c) His cell phone that he had used for business was disconnected, and the number that the prior customers knew was already given to someone else. To even get another phone, plaintiff would have to pay about $500 in breaking contract violations first.

d) Tocholke had rented a house before he had been incarcerated. It had a flat rubber roof which ripped and blew off while he was in jail. Because nobody was there to cover it again, it rained into the house and destroyed all his belongings. The interior ceiling and structural damage also cost the landlord thousands of dollars.

e) Every loan that the plaintiff had prior to jail was in collection. The collection departments were constantly calling relatives in trying to locate him. Having credit scores in the 400's was normal for him. The **proximate cause** for all of this was what was mentioned in the **first three pages of this Complaint**.

72) Once released from jail, Plaintiff typed up the Brief using the hand written version that he had filed while in jail to his best understanding of format.

73) The Court of Appeals responded that it did not qualify to the requirements needed for format. They stated that if the plaintiff did not meet the requirements, that his case would be dismissed without prejudice.

74) Plaintiff returned the argument that if they rejected the typed version, that they must accept the handwritten version that he drafted while in jail. It WAS according to the time limit requirements, and according to the laws and rules for format, and it must be tolerated since plaintiff was in jail with limited capabilities. After sending that response, the case became an attic case where it was like it went into permanent storage for a year. No responses, **nothing!!**

75) June 2008, Plaintiff started working again for his former employer. That employer needed him during the winter, but Judge Schroeder prevented that from happening. It was because the judge never signed his responses so that the jail (KCDC) could get Tocholke transferred to Washburn County for work release.

76) Because there was extreme limited exercise in KCDC, inmates lose a lot of muscle or strength while in jail. Tocholke was exhausted after only one hour of work when he first started working again. Therefore, the employer decided to sell his equipment and get out of business. Tocholke lost his job basically because he had physically deteriorated in jail. The **proximate cause** for losing his job was once again because of the **malicious prosecution** and the violation of **Due Process of Law**. If Tocholke had not been wrongfully incarcerated he would not have lost that job.

77) For September 2007, it was already mentioned that the court applied pressure to allow Mrs. Tocholke to move the five minor children to Ohio. From that time until June 2008, Mr. Tocholke had been incarcerated most of that time and had not seen his children for that entire time. That in itself is an emotional trauma that the court is guilty of.

78) Plaintiff had the enjoyment of having an entire week placement with his children, June 2008. However, when Plaintiff drove to Ohio for his July court ordered placement, the minor children had refused to go with the father (plaintiff). It was witnessed and documented by the Greenville, Ohio Sheriff Department.

79) Plaintiff believes that Mrs. Tocholke had persuaded the children to refuse to go with their father. If that is true she is indirectly in contempt for alienating the children against their father to break the orders of the court.

80) However, when the plaintiff filed the complaint and motion in the Kenosha court, Judge Wilk ruled that Tocholke did not have just cause to bring the matter before the court. Therefore, Mr. Tocholke was denied every way possible to see his children. He was denied by the courts a hearing in hopes to secure placement. **Final situation is that Tocholke has NOT seen his children since July 2008, or spent time with them since June 2008.**

81) Tocholke has not been with his children for over a year and a half, and the direct **proximate cause** is because of the rulings of the judges in the Kenosha court.

82) When Tocholke had taken this action to the federal court the first time (already mentioned), the judge politely explained that if there was a case pending in any of the State courts, the Federal courts is not able to establish a hearing for either party.

83) Because of that circumstance, Tocholke was prevented from filing the present action (in this Complaint) when the Court of Appeals just "sat" on his appeal. Even though the appeal was filed over a year earlier, the court still did not do anything with it. It was still pending and therefore, Tocholke was kept in judicial stale mate shackles.

84) January 2009, Plaintiff makes a decision to take up college. He was approved for a government loan, and he therefore started pursuing an Associates Degree in Paralegal. He has been a full-time student since March 2009, and usually uses up about forty hours a week for the schooling.

85) **Regardless that he spent an entire year in jail, jobless when he got out, and now a college student that lives in poverty; the Kenosha court has continuously ruled that "there is no change of circumstance", and that plaintiff willfully and defiantly refuses to pay. Even though plaintiff did not make even a penny while in jail, support and arrearages kept increasing. Most of the time since his first incarceration, the support was more than his Gross Receipts. Even though plaintiff requested the judges to stop the increasing support while he was in jail, they vindictively refused.**

86) Finally August 25, 2009, the clerk for the Court of Appeals responded to the appeal filed in December 2007. It appeared that the appeal was rejected by him without ever getting viewed by the judges.

87) Within 30 days, Tocholke filed a Petition for Review in the Wisconsin Supreme Court.

88) November 2009, decision was made by the Wisconsin Supreme Court to reject his Petition.

89) Another issue which is against the state is that the plaintiff did contact the Attorney Bar Association, and complained about Attorney John Anthony Ward. That organization did nothing about it but defended the attorney.

90) The Plaintiff also contacted the Judicial Commission and told them about the problem with the judge. They responded that they cannot do anything about a decision a judge made, but can only investigate in judicial misconduct of a judge. The plaintiff immediately responded back and asked if running out of the courtroom is not misconduct. They never responded which finalizes another violation of a State operated organization.

Tocholke's predicament

91) If plaintiff did nothing, but just went about life like the common citizen, he will be incarcerated again within the next few months. Minnesota has already contacted him recently and threatened to suspend his driver's license in thirty days if he is not current on support.

92) Plaintiff is barely employed, making hardly enough to support himself. He is also a college student full time, so that he cannot employ himself full time even if it was available.

93) The economy is very poor and there is not a good job anywhere for a fifty year old person that has nothing (yet) above a high school diploma. The only jobs available which are hiring are technical jobs, with skills or education that Tocholke does not have.

94) The logging industry that Tocholke has been employed at for most of his life is nearly dead. Certain mills are not buying anything. Others mills are on restricted intake and then only from certain loggers. The final issue is that Tocholke cannot find a logger that wants to hire a man that is almost fifty years old.

95) The Kenosha judges have branded Tocholke with a $40,000 a year income which he NEVER made in his life. They made their statements based on their bias assumptions.

96) Support increased over $10,000 while plaintiff was incarcerated. It increased thousands of dollars while he first got out of jail (three different times) and he was jobless. It still is increasing faster now than what he is making while being a full time college student. Currently he is almost $70,000 in arrears, even though he had paid nearly $30,000. He would have had paid much more than that if he had not been falsely incarcerated after he had paid $18,000 in 22 months, and was jailed anyway. That is when he was destroyed with no recovery in sight. If the federal court rejects his case, he would be better off diseased.

97) Plaintiff is financially destroyed. He has no credit to get any loan. He can't even buy a reliable vehicle to secure reliable transportation to Minneapolis if he could find work there.

AFFIMATIVE DEFENSE OF STATUTE OF LIMITATION

98) Plaintiff believes that the Defendant will try to use Statute of Limitations as a way to stop this case. This statute or defense could be used if there was inactivity in the case. If the court just "sits" on a case, should the plaintiff/victim get punished for their violation? The Federal Court judge explained that the plaintiff could NOT bring an action to them, if the case is still pending in the State Court. Let us go backwards now to find **INACTIVITY** after final decision. If there was inactivity, the statute could be applied.

a) This Complaint is filed less than 30 days after Wisconsin Supreme Court rejection.

b) Plaintiff had to wait for Supreme Courts decision, before he could go federal.

c) Less than 30 days after Wisconsin Court of Appeal made decision, plaintiff filed at the Supreme Court.

d) Plaintiff had to wait <u>over</u> an entire year to receive the answer of rejection back from the WI Court of Appeals.

e) After the plaintiff was wrongfully incarcerated Nov. 2007, he had to wait for the judge to make his final decision on the issues still outstanding, for him to be able to appeal his case before the WI Court of Appeals.

f) Judge wrongfully jailed plaintiff without addressing issues stated in the September 2006, Order to Show Cause filing. For over an entire year the court NEVER made an appealable decision but rather postponed hearings, or did as the first judge who recused himself.

g) Here is where the biggest argument will be. Plaintiff officially had gone through all the proper procedures to schedule a hearing which was supposed to be held September 2004. However, Judge Mary K. Wagner ran out of the courtroom as the plaintiff entered it. He was deprived that hearing. While he was in jail, and for the next two years he sent numerous requests to get that hearing. **Plaintiff had NOTHING to appeal on, and the hearing was not given him yet. Does the plaintiff become the victim from the violations of the court? Technically his case was still pending through the entire time, and therefore should not be labeled Statute of Limitations. <u>The case has been active and continued with procedures pending the entire time from before 2003.</u>**

<u>RELIEF REQUESTED</u>

99) It is difficult to place all the losses down on a piece of paper of what happened across nearly a decade of a person's life. It affected the financial, emotional, and the psychological areas of life. Plaintiff will try to list a few areas.

a) He had a home at one time that he built and which had a lot of sentimental value in it. A baby boy had been buried on that property. His grandmother had invested in it as a

memory keepsake. However, the attorneys and Judges demanded that he MUST sell that place so that he could pay the $430 a week in support. The buildings and 20 acres had been appraised at $130,000. Out of cult influenced vindictiveness, Mrs. Tocholke listed it with a realtor before he could do anything.

It was listed cheap at the debt level still owed on it. The Tocholke's had to include the realtor fee and the closing cost into the sale. It sold for $90,000. The purchaser invested $20,000 into it and then resold it for $190,000.

b) What price tag does a person place on getting wrongfully put in jail? Plaintiff believes that the traumas suffered in jail are NOT recoverable even if the victim was to receive $2,000 a day for each day he had to suffer being away from the people he loves. Plaintiff spent an entire year in jail, which according to jail terms is 360 days.

c) What price tag does a person place on getting their credit destroyed to 430? What price would be acceptable to lose everything that he once owned? Is it even attractive to trade financial stability for the grief and stress if they knew that in 8 years they would get paid $100,000 or more for doing it?

d) What price is acceptable for losing your health in the process of the malicious abuse? The reason for the Lyme Disease was because the plaintiff was too financially destroyed after his jail term to drive back home every night. He was forced to spend the entire week in the woods and sleep in the wilderness with the deer ticks. It was after infection that he was incarcerated again. In jail it was agony, when KCDC rejected giving the Plaintiff pain killers for his pain. They said Tylenol can be purchased on the weekly commissary. However, plaintiff did not have any money to do that. He just had to endure the agonizing pain.

e) And finally on the greatest traumatic issue, how much money does it take to ease the pain within the heart of not seeing their children? What price tag would a loving parent place on each year, if they were told that they would get the money but ONLY if they got totally cut off from seeing their child? Plaintiff had nightmares while in jail from the trauma of getting his children ripped from him. He did not see his children the entire year he was in jail. Because of the **abuse of process** and the **malicious**

prosecution in this case, he has not been with his children since June 2008. If plaintiff could have had the choice before of either accepting one million dollars or keeping his children, the children are far greater in value. So what amount will fill the void and pain of missing seeing his children grow up? He lost eight years of their life!

f) What price is acceptable to suffer the psychological torment of never knowing from day to day of if they will go to jail that week again? A person can not make any plans like borrowing money from a friend or relative, because they can never know if they will get arrested the next day. Plaintiff has experienced a few times the horror of a nightmare, and then wake up in a cold sweat finding that he is not in jail like he had dreamed. What price tag is sufficient as a bandage for the wound caused by that experience?

g) Consideration must also be given to the tax affect on the relief. Plaintiff thinks that 50% of the relief will immediately be taken for taxes. Therefore, a victim MUST request double of what he suffered and lost in order to break even.

h) Another issue is the **error in calculation** that the court made. If the mistake is not corrected and the relief is just granted, the erroneous amount of arrearages must still be paid by the plaintiff. Considering all of these issues, the plaintiff declares that,….

IT IS THEREFORE <u>not</u> outrageous to request $1,000,000 for the financial loss, and the emotional and psychological trauma that the plaintiff had to endure from the violation of Due Process of Law, the abuse of process, and the malicious prosecution inflicted by the hands of the Wisconsin judicial system. Plaintiff prays that his request would be accepted by the Federal Courts.

Signed this _____day of December 2009, Bernard Tocholke _____

41391 Little Sand Rd.

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