

FILED  
U.S. DISTRICT COURT  
DISTRICT OF COLORADO

2003 APR 25 AM 10:14

JAMES R. HIGGINS SPEAKER  
CLERK

BY \_\_\_\_\_ DEP. CLK

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No.

~~03-B2-0743 (mjw)~~

SUZANNE SHELL  
APRIL FIELDS, by and through her agent, Suzanne Shell  
Plaintiffs

v.

ROCCO E. MECONI, Individually and Officially  
FREMONT COUNTY DEPARTMENT OF HUMAN SERVICES, Officially  
STEVE CLIFTON, Individually and Officially  
DAWN RIVAS , Individually and Officially  
TODD HANENBERG, Individually and Officially  
DAN C. KENDER, Individually  
ANNA HALL OWEN, Individually and Officially  
DISTRICT COURTS, FREMONT COUNTY Officially  
Defendants

COMPLAINT and MOTION FOR DECLARATORY AND INJUNCTIVE RELIEF AND  
DAMAGES

COMES NOW, Plaintiff Suzanne Shell, *pro se*, and plaintiff April Fields, by and through her agent under power of attorney, for a complaint and injunction and damages against the Defendants, states as follows:

JURISDICTION

This court has jurisdiction under the laws of the United States of America, 42 U.S.C.

1983, and 1985(3) and for injunctive and declaratory relief pursuant to 28 U.S.C. Section 2201 and 2202, to redress the deprivation under color of state law of rights, privileges, and immunities guaranteed by the U.S. Constitution. Jurisdiction is conferred by 28 U.S.C. section 1331 and 1343, as this is an action arising under the Constitutions and laws of the United States and Colorado; and over the state claims pursuant to the doctrine of pendant, or supplemental, jurisdiction pursuant to 28 U.S.C. section 1367(a).

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#### VENUE

Venue is proper pursuant to 28 U.S.C. section 1391(b) because the claims arise in the district, and because individual parties are residents and citizens of the State of Colorado and the United States. Defendant Fremont County is located in Colorado, United States.

#### PARTIES

##### Named Plaintiffs

Plaintiff SUZANNE SHELL (hereinafter Shell) is a writer, journalist, publisher, expert consultant and independent documentary video producer engaged in qualitative research, news gathering, activism and advocacy, and publishing information concerning practices by child protection agencies, guardians ad litem, courts, attorneys, and service providers and their conformance with constitutional, statutory and procedural mandates. Shell is the holder of two press passes, one issued by People for Equal Protection - A Civil Rights Media Group and the other issued by Rocky Mountain Media Collective, both nonprofit organizations. Shell has had

numerous articles published, publishes a comprehensive Web site, and has three books published on the issue of child protective services. Because the major media outlets are not interested in reporting on this issue, Shell invested the effort and expense to obtain film school training in order to facilitate her ability to produce documentary videos on the subject. Shell is the duly appointed agent for April Fields, under a properly executed power of attorney pursuant to Colorado Revised Statutes 15-1-1300 et. seq. and brings this petition in that capacity.

Shell's news gathering performs the important function of injecting public scrutiny into the activities surrounding child protection proceedings. This is exactly the scrutiny that the defendants are hoping to avoid by having the court grant their motion to issue orders preventing Shell from engaging in legitimate news gathering on this case and in Fremont County . Shell maintains a particular interest in Fremont County because the reports emanating from Fremont County indicate that this County is one of the worst counties in Colorado regarding wholesale corruption, routine violations of rights and rampant abuses permeating every aspect of Fremont County child protection. Media and public scrutiny of this County's child protection activities is warranted.

Plaintiff APRIL FIELDS (hereinafter Fields) is the mother of a child who is the subject of a dependency and neglect investigation and petition which has not yet been adjudicated. The child was removed from the mother's home on allegations that she had lice which the mother allegedly did not treat. Fields has ample evidence to support her denial of the allegations and has requested a jury trial for adjudication. Fields initiated contact with Shell and hired her as an expert consultant to assist with the preparation and presentation of her case. To facilitate Shell's services, Fields executed a power of attorney naming Shell as her agent. Fields' case is also

included in Shell's documentary video project. Fields desires to communicate and associate with Shell, in her capacity as a documentary film producer, for the purposes of exposing government abuses and violations surrounding her case.

Named Defendants

Defendant ROCCO MECONI (hereinafter Meconi) is the County Attorney representing the Fremont County Department of Human Services. He is acting in that capacity under contract with Fremont County. He is responsible for all legal decisions, actions and recommendations surrounding any child protection proceeding, including insuring their conformance with federal and state Constitutions, statutes and policy.

Defendant FREMONT COUNTY DEPT . OF HUMAN SERVICES (hereinafter DHS), is the agency responsible for child protection in Fremont County, and is authorized by Colorado statute to receive reports of child abuse and neglect, to investigate said reports, and to provide services consistent with the statutes and policies and procedures, and to initiate dependency and neglect petitions through the court in order to protect abused or neglected children.

Defendant STEVE CLIFTON (hereinafter Clifton) is the director of Fremont County DHS. He is responsible for the actual implementation of Fremont County's child welfare system by and through the agency's numerous caseworkers, for devising and enforcing County policy, exercising oversight and providing training, and verifying compliance with constitutional provisions, statutes and procedures. He has actual, rather than constructive, knowledge of the facts and circumstances surrounding the Fields case.

Defendant DAWN RIVAS (hereinafter Rivas) is the current caseworker assigned to the

Fields case. This caseworker exercises discretion in the course of her duties, which discretion is mandated to conform with constitutional provisions, statutes, established law and policy. She has the discretion and responsibility to make recommendations to the court regarding the placement of the child, for reporting Field's compliance with court orders pertaining to the pending cases, for the provision of appropriate services, is required to maintain accurate records on the case, and is responsible for advising the court when and if the Fields' home is safe and appropriate for the return of the subject child.

Defendant TODD HANNENBERG (hereinafter Hannenberg) is the supervisor over caseworker Rivas. He exercises direct supervision over Rivas, and approves or denies her recommendations, and supervises her practices on the Fields case. He has the authority to override her recommendations and practices if necessary.

Defendant DAN C. KENDER (hereinafter Kender) is the court-appointed attorney representing Fields. Kender operates under contract with Fremont County court. He is professionally mandated to abide by the Rules of Professional Conduct and established law, including but not limited to providing Fields with a vigorous defense in her dependency and neglect case and to protect all privileged communication between attorney and client. Kender is properly joined as a defendant under the established law that private attorneys who are alleged to have conspired to deny their client due process of law may be sued under 42 U.S.C. section 1983.

Defendant ANNA HALL OWEN (hereinafter Owen) is the guardian ad litem on this case charged with representing the best interests of the subject child under court appointment pursuant to a contract with Fremont County court. Owen is properly joined as a defendant under the

established law that private attorneys who are alleged to have conspired to deny a plaintiff due process of law may be sued under 42 U.S.C. section 1983.

\_\_\_\_\_ Defendant DISTRICT COURTS, FREMONT COUNTY (hereinafter District Court) exercises jurisdiction over Dependency and Neglect proceedings and is the Court where the subject motion is pending. Plaintiffs are only seeking declaratory and injunctive relief in regards to this defendant.

#### FACTUAL ALLEGATIONS REGARDING PLAINTIFFS

1. The following actions were committed under the color of law, which actions violate clearly established law, and thereby severs any defendant protected by statutory immunity from said immunity protections.
2. January 6, 2003, 4 PM, Fields' daughter, Ashley, did not get off the bus after school. Fields calls the school attempting to locate Ashley. DHS caseworker Jennifer Cox spoke with Fields and told her that Rick Cross, a deputy sheriff, was taking custody of Ashley on neglect charges.
3. January 9<sup>th</sup>, 2003, Preliminary Protective Placement Hearing. Owen was appointed as guardian ad litem for Ashley, who remained in foster care.
4. Feb. 2nd, 2003 Fields and her mother, Christine Korn (hereinafter Korn) contact Shell and hire her as an expert consultant on the pending case. Shell advises them that if anyone in Fremont County were to know that she was involved in Fields' case in any way, that the agency, parties and court would retaliate against Fields because of their association. The plaintiffs and Korn agreed that Shell's participation in the case would strictly be behind the scenes, and would be

concealed from all parties except Kender. Shell also stated her interest in including their story in her documentary video project also. Korn and Fields agree to their inclusion in her project. The inclusion of the Fields case in a documentary video project was not revealed to anybody for fear of retaliation against Fields.

5. Feb. 3<sup>rd</sup> 2003, Fields executes a power of attorney assigning Shell as her agent for the purposes of Claims and Litigation pursuant to Colorado Rev. Stat. 15-1-1300 et. seq.

6. February 13, 2003 Fields initiates a series of administrative grievances against DHS.

7. Feb. 26, 2003 Shell sends three faxes to Kender, the first one advising him that she has been hired by Fields as an expert consultant on the case, and offers her services to him at no charge. Using the authority granted by the power of attorney, she also gives him several instructions with regard to his representation of Fields. He is also instructed in this letter to treat this communication as privileged under the authority of the power of attorney. Shell faxes him a copy of the power of attorney, and another brief note requesting that he instruct the guardian ad litem and caseworkers that if they wish to communicate with Fields, that they should do so through him. Shell copies this communication to Fields. Kender never responds to Shell.

8. Fields and Korn continue to advise Shell of the developments in the case. Not having received a response from Kender, Shell's only participation in the case includes the gathering of information for inclusion in her documentary video project. As of April 24, 2003, there has been no in-person contact between Shell and Fields, Korn or the subject child.

9. March 6, 2003 Korn places a newspaper advertisement seeking other families who have been abused by DHS. The ad is published, and the response is overwhelming.

10. March 13, 2003 Fields files a grievance with the Attorney Regulation Counsel against Kender.

11. March 13<sup>th</sup>, 2003 Rivas advises Korn that she was curious if the advertisement in the newspaper was placed there by Korn, and stated that she investigated it with AOL. She retracted that saying she didn't mean to say that but that she had checked with member services at AOL.

12. Apr. 14<sup>th</sup>, 2003 Notice sent by Fields to Rivas and Owens regarding violations of rights and offering opportunity to correct or prevent violations.

13. Apr. 15, 2003 Owen called Fields and was absolutely livid. She said she didn't appreciate being threatened, and that if she showed that [notice of violation of rights] to the judge, it would be proof positive that Fields is refusing to co-operate, and is being difficult. She stated her intent to call the judge to discuss this letter with her. Owen advised Fields that Korn making all this noise about rights violations and making all these demands was "just making things worse" and that Korn should "butt out" and let Fields handle her own case. Owens insinuated that Fields' attitude would delay Ashley's reunification.

14. Apr. 15, 2003 hearing in Fremont District Court, contents of which is unknown to the plaintiffs, but said hearing is referenced on motion mentioned in paragraph 15.

15. Apr. 16<sup>th</sup>, 2003 at exactly 3:52 PM (the clerk's office closes at 4 PM) Shell sends an open records request to Fremont County Court regarding another case that is included in her video documentary project. She mistakenly attaches Fields power of attorney to this request.

16. Apr. 16<sup>th</sup>, 2003 Meconi files a motion in the Fields case to request "adding Suzanne Shell as a Special Respondent in the above captioned case for limited purposes of entering orders that prevents [sic] her from contacting the minor child or the Respondent mother in any way and from

otherwise being involved in the proceedings in this case, including, but not limited to, acting as counsel for the Respondent mother or otherwise engaging in the unauthorized practice of law.” As grounds, Meconi asserts, “said individual has involved herself in this case in such inappropriate and unauthorized ways. The statements of record made at the hearing conducted on April 15<sup>th</sup>, 2003 are incorporated herein by reference,” and “such conduct and contact our inappropriate and contrary to the best interest of the minor child,” and “upon information and belief, unless deterred by this court, the proposed Special Respondent will continue to engage conduct which is detrimental to the best interest of the child.” By this act, Meconi requests the District Court to assume a jurisdiction which is not authorized to assume; e.g. Unauthorized Practice of Law, and restraining First Amendment protected activities.

17. On or about April 21st, 2003 Shell receives Owen’s Response to Support Motion to Add Special Respondent dated April 18<sup>th</sup>, 2003.

18. Apr. 22nd, 2003 Shell receives a response to her open records request in the other case. Clerk of court, Stringari, advises Shell, that even if she were allowed to have access to these records, that her request for an audio copy of the electronic recording will not be facilitated, and that she must pay for transcripts. Shell had requested a copy of the audio recording because transcripts would be too cost prohibitive, and she does not need certified transcripts, the audio recording will suffice.

19. Apr. 23rd, 2003 Shell is served with the motion by El Paso County Sheriff Deputy C. French. Shell has no knowledge of the “statements of record made at the hearing conducted on April 15<sup>th</sup>, 2003,” referenced by said motion. Korn and Fields also have no knowledge of the contents of this

ex parte and/or secret hearing.

20. PRIOR HISTORY: On June 16, 1999, Defendant Meconi served Plaintiff Shell a motion to add her as a special respondent on Fremont County case number 97JV000019. This motion contained the false report that Shell had attempted to contact the children in that case. The intent and effect of this motion was to make Shell subject to court orders without justifiable cause or proper jurisdiction. These orders restricted her ability to gather information on the case for inclusion in a proposed documentary video project. Since this incident, Shell's news gathering abilities in Fremont County have been severely curtailed and chilled. Based on the past history of Meconi and DHS and DHS employees, and their prior activities before the Fremont County courts involving Shell, it is a foregone conclusion that Meconi's motion will be granted and orders will issue violating the plaintiffs' freedom of the press rights and establishing a precedent that would effectively stop all news gathering on this issue in Fremont County.

#### CAUSE OF ACTION

##### First Cause of Action - Freedom of Association

21. As a result of the foregoing actions and inactions of the defendants, under the color of law and/or conspiring to act with the defendants who are acting under the color of law, the plaintiffs are being deprived of the First Amendment protected right to freedom of association, which association is legal and peaceful, and which association is for purposes of advocacy and education on an issue of great societal importance, specifically child protection practices; and for other reasons, which right is clearly established in law. Said actions or inactions violate clearly established law; and consist of the willful, wanton with deliberate indifference, and malicious

withholding and impairment of other rights, harassment, retaliation, retribution and recrimination, malicious use of process, and defamation against the plaintiffs' for their exercise of a constitutionally protected right and constitutes actions or inactions, under the color of law, to impair or deny the plaintiffs' rights to free association with each other and with other similarly situated persons. All such rights are guaranteed and promulgated through the 14<sup>th</sup> amendment to the U.S. Constitution.

Second Cause of Action - Right to Contract

22. The aforementioned cause of action is hereby incorporated by reference. As a result of the foregoing actions and inactions of the defendants, under the color of law and/or conspiring to act with the defendants who are acting under the color of law, the plaintiffs are being deprived of the right to contract, and that said contract is being impaired or abrogated without the consent of, or against the wishes of, the contracting parties. The defendants are acting under the color of law, or are conspiring with defendants who are acting under the color of law, to render the plaintiffs' contract invalid by employing the District Court to restrain them from contacting each other, by restraining them from fulfilling the obligations of the contract, and by restraining Shell from "*otherwise being involved in the proceedings on this case.*" Said actions or inactions violate clearly established law; and consist of the willful, wanton with deliberate indifference, and malicious withholding and impairment of other rights, harassment, retaliation, retribution and recrimination, malicious use of process, and defamation against the plaintiffs' for their exercise of a constitutionally protected right; and constitutes actions or inactions, under the color of law, to impair or deny the plaintiffs' rights to contract. All such rights are guaranteed and promulgated

through the 14<sup>th</sup> amendment to the U.S. Constitution.

Third Cause of Action - Freedom of the Press

23. The aforementioned causes of action are hereby incorporated by reference. As a result of the foregoing actions and inactions of the defendants, under the color of law and/or conspiring to act with the defendants who are acting under the color of law, the plaintiffs are being deprived of the First Amendment and Colorado Constitution protected right to freedom of the press. Said actions or inactions violate clearly established law; and consist of the willful, wanton with deliberate indifference, and malicious withholding and impairment of other rights, harassment, retaliation, retribution and recrimination, malicious use of process, and defamation against the plaintiffs' for their exercise of a constitutionally protected right to freedom of the press; and constitutes actions or inactions, under the color of law, to impair or deny the plaintiffs' rights to freedom of the press. All such rights are guaranteed and promulgated through the 14<sup>th</sup> amendment to the U.S. Constitution.

Sixth Cause of Action- Due Process

24. The aforementioned causes of action are hereby incorporated by reference. As a result of the foregoing actions and inactions of the defendants, under the color of law and/or conspiring to act with the defendants who are acting under the color of law, the plaintiffs are being deprived of due process under the United States and Colorado Constitution. Said actions or inactions violate clearly established law; and consist of the willful, wanton with deliberate indifference, and malicious withholding and impairment of other rights including but not limited to the right to a fair hearing by an impartial judge, the right to present all the evidence for adversarial testing and the

right to cross examine evidence and witnesses, the right to effective assistance of counsel; filing false pleadings to assume a false jurisdiction, harassment, retaliation, retribution and recrimination, malicious use of process, defamation, against the plaintiffs' for their exercise of the constitutionally protected right to due process; and constitutes actions or inactions, under the color of law, to impair or deny the plaintiffs' rights to due process. All such rights are guaranteed and promulgated through the 14<sup>th</sup> amendment to the U.S. Constitution.

Seventh Cause of Action - Viewpoint Discrimination as to Plaintiff Shell

25. The aforementioned causes of action are hereby incorporated by reference. As a result of the foregoing actions and inactions of the defendants, under the color of law and/or conspiring to act with the defendants who are acting under the color of law, the plaintiff is being discriminated against based on her viewpoint, which is protected under the United States and Colorado Constitutions. Said actions or inactions violate clearly established law; and consist of the willful, wanton with deliberate indifference, malicious withholding and impairment of other rights, filing false pleadings, harassment, retaliation, retribution and recrimination, malicious use of process, and defamation against the plaintiff for her viewpoint, which actions are not committed by the defendants against other similarly situated news gathering organizations or individuals; and constitutes actions or inactions, under the color of law, to impair or deny the plaintiffs rights against viewpoint discrimination. All such rights are guaranteed and promulgated through the 14<sup>th</sup> amendment to the U.S. Constitution.

CLAIM FOR RELIEF

WHEREFORE, the plaintiffs respectfully request that the court grant the following relief:

First Claim for Relief

Assume jurisdiction over this action.

Third Claim for Relief

Enter declaratory and injunctive relief restraining defendants from conducting any hearing on the subject motion to join Shell as a Special Respondent on this case as a Deprivation of the Plaintiffs' Rights and privileges pursuant to established law, under Article I section 10 and under the 1<sup>st</sup>, 6<sup>th</sup>, 9<sup>th</sup> and 14<sup>th</sup> amendments to the U.S. Constitution, under Article II Sections 3, 6, 7, 10, 11, 24, 25, and 28 of the Colorado Constitution, and as a violation of the Colorado Children's Code, and the Colorado Open Records Act.

Fourth Claim for Relief

Enter declaratory and injunctive relief necessary and appropriate to remedy the defendants' violations of the plaintiffs' rights, as enumerated in the third claim for relief, prohibiting the defendants from engaging in any future conduct which would impair or deny plaintiffs' rights to freedom of association, freedom to contract, freedom of the press, due process and freedom from viewpoint discrimination.

Fifth Claim for Relief

Enter declaratory and injunctive relief necessary and appropriate to ensure the fair and appropriate handling of the Fields dependency and neglect case: 1. change the venue to other than Fremont District Court, and 2. to be administrated by a county DHS agency other than Fremont County DHS, and 3. to replace the GAL with another GAL from the jurisdiction the case is assigned to.

Sixth Claim for Relief

Plaintiffs move this court for judgment against Defendants in an amount to be determined by a jury, to compensate them for their damages, costs, expenses and fees, and for such other relief as this court deems just and proper.

Seventh Claim for Relief

Enter such additional relief as the court may deem necessary and appropriate.

Respectfully Submitted:

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Suzanne Shell  
14053 Eastonville Rd.  
Elbert, CO 80106

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April Fields  
226 G Street  
Penrose, CO 81240

Agent

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. \_\_\_\_\_

SUZANNE SHELL  
APRIL FIELDS, by and through her agent, Suzanne Shell  
Plaintiffs

v.

ROCCO F. MECONI, Individually and Officially  
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ANNA HALL OWEN, Individually and Officially  
DISTRICT COURTS, FREMONT COUNTY Officially  
Defendants

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EMERGENCY MOTION FOR INJUNCTIVE RELIEF

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COMES NOW, Plaintiff Suzanne Shell, *pro se*, and Plaintiff April Fields, by and through her agent, Suzanne Shell, pursuant to F.R.Civ.P. 65, motions for an injunction against the Defendants, and states as follows: Rule 65 provides

A temporary restraining order may be granted without written or oral notice to the adverse party or that party's attorney only if (1) it clearly appears from specific facts shown by affidavit or by the verified complaint that immediate and irreparable injury, loss, or damage will result to the applicant before the adverse party or that

party's attorney can be heard in opposition, and (2) the applicant's attorney certifies to the court in writing the efforts, if any, which have been made to give the notice and the reasons supporting the claim that notice should not be required.

#### AFFIDAVIT

1. The defendants have persisted in harassing Plaintiff Shell by filing motions to prevent Shell from exercising her protected rights and privileges as a journalist and documentary video producer, by imposing an obligation for Shell to respond to frivolous pleadings, by interfering with contracts between Shell and individuals with whom she associates for the purposes of advocacy, education and journalism. Such actions deprive Shell, and those associates, of their rights to freedom of speech, freedom of the press, freedom of association, the right to assemble in a public place; the right to be secure in person, papers and effects. All such rights are guaranteed and promulgated through the 14<sup>th</sup> Amendment to the U.S. Constitution.

2. On June 16, 1999, Defendant Meconi, served Plaintiff Shell a motion to add her as a Special Respondent on Fremont County case number 97JV000019, even though Shell did not meet the statutory requirements to be joined as a special respondent. This motion also contained the false report that Shell had attempted to contact the children in that case. The intent and effect of this motion was to make Shell subject to court orders without justifiable cause or proper jurisdiction and thereby limit Shell's news gathering ability.

3. Fremont District Court Judge Julie Marshall, who possesses extreme prejudice and bias against Shell, joined Shell as a Special Respondent against Shell's wishes.

4. On or about April 16<sup>th</sup> 2003, Meconi filed a similar falsified motion on Fremont District Court case number 03JV3, to be heard, once again, in front of Judge Julie Marshall.

5. The filing of this motion constitutes a pattern of harassment and retaliation, through the malicious use of process, against Shell.

6. The intent and effect of these motions is to prevent Shell from exercising her aforementioned constitutionally protected rights or privileges; to institute prior restraints on her news gathering activities; to restrict her freedom of association with client families of DHS; to gag her freedom of speech and the freedom of speech of those who wish to associate with Shell; to impair or deny her right to contract with client families of DHS; and to deny due process to Shell by bringing these petitions before a judge who is not fair and impartial.

**7. Irreparable harm will occur if this motion is denied because** Shell is faced with the prospect of appearing before a Judge who has expressed an intense aversion to Shell's work, news gathering, associations, and advocacy; and who has historically treated Shell with contempt and courtesy in her courtroom; and who has allowed her dislike for Shell to be transferred to respondent parents who appear before her, thereby affecting her ability to judge impartially. Based on this history, there is no chance that Shell will prevail when this motion is heard in the Fremont District Court on April 29, 2003, which will result in a manifest injustice.

8. Furthermore, Shell has invested significant time and expense engaged in news gathering in Fremont County, which she has had to conduct covertly out of fear of this very legal action which has taken place. Now that Shell has been discovered, the defendants are endeavoring to shut down her access. If Shell is subjected to any prior restraint, or any restraint on her free

association with Fields, or any restraint on her work in Fremont County, she will suffer the irreplaceable loss of information necessary for her documentary video project. She will literally be denied access to any information which is available to the public or the mother, (and through the authority of the power of attorney, legally available to Shell) by virtue of any Fremont County court order adding her as a Special Respondent on the Fields case.

9. Fremont County DHS and defendants are likely to prevail if the subject motion is heard in Fremont District Court, which will set the precedent for future conduct by the defendants and will adversely affect any news gathering related to child protection issues; will chill any free speech on the subject; will prevent any Fremont County resident from contacting Shell or other similarly situated individuals for fear of the withholding of other rights, retaliation, retribution and recrimination by virtue of their association with Shell; and will effectively isolate Fremont County from any public scrutiny into their child protection practices.

10. If the defendants are advised in advance of this motion, there is a very real likelihood of retaliation against plaintiffs, especially Fields. The defendants have physical and legal custody of Fields young daughter, and can attempt to influence Fields through the withholding of visitation, moving the child to a distant foster placement, making derogatory and negative reports to the court regarding Fields' parenting abilities and other coercive measures which they have exercised in the past. Additionally, despite the fact that DHS and Fields are adversaries in a pending dependency and neglect proceeding, they have continuously harassed Fields with their demands that she admit to the petition and accept their services against her will prior to an adjudication. To give the defendants advance notice of this hearing, without enjoining them from contacting Fields

regarding this petition, would place Fields at risk of increased coercion, threats and retaliation from the defendants, and would increase the risk of additional trauma to her young daughter in foster care.

11. In the plaintiff's experience, and based on the content of the motion (whereby the defendants are using a legal process to assume an illegal jurisdiction e.g. to issue orders related to the unauthorized practice of law, and to issue orders impairing or preventing the constitutionally protected rights of Fields and Shell) the defendants have exhibited little conscience regarding rules or laws and have no respect for the rights of the individuals they come into contact with. The defendants have a history of working in concert to accomplish their agenda(s), regardless of the consequences to the individuals who are affected. Additionally, the defendants possess an abundant budget, resources and influence. The plaintiffs, on the other hand, possess extremely limited resources and no influence, which cannot hope to match whatever the defendants would bring to bear against them if they were to have advance notice of this request.

12. Further affiant sayeth not.

#### RELIEF

WHEREFORE, plaintiffs respectfully request this court to issue a Temporary Restraining Order against the defendants barring them from holding a hearing on the Motion to Add Special Respondent in Fremont District Court on April 29, 2003, at 3 PM or at any other time and date; and to restrain the defendants from in any way contacting or harassing or coercing or threatening or in any other way retaliating against Fields, or her daughter, for the filing of this motion and

petition.

FURTHERMORE, Plaintiffs respectfully request this court to set a hearing to extend the Temporary Restraining Order into a Permanent Restraining Order.

Respectfully submitted and sworn to under the penalty of perjury.

  
Suzanne Shell  
14053 Eastonville Rd.  
Elbert, CO 80106

  
April Fields  
226 G Street  
Penrose, CO 81240  
agent

## POWER OF ATTORNEY

NOTICE: UNLESS YOU LIMIT THE POWER IN THIS DOCUMENT, THIS DOCUMENT GIVES YOUR AGENT THE POWER TO ACT FOR YOU, WITHOUT YOUR CONSENT, IN ANY WAY THAT YOU COULD ACT FOR YOURSELF. THE POWERS GRANTED BY THIS DOCUMENT ARE BROAD AND SWEEPING. IF YOU HAVE ANY QUESTIONS ABOUT THESE POWERS, OBTAIN COMPETENT LEGAL ADVICE. THIS DOCUMENT DOES NOT AUTHORIZE ANYONE TO MAKE MEDICAL OR OTHER HEALTH-CARE DECISIONS FOR YOU. YOU MAY REVOKE THIS POWER OF ATTORNEY IF YOU LATER WISH TO DO SO.

THE PURPOSE OF THIS POWER OF ATTORNEY IS TO GIVE THE PERSON YOU DESIGNATE (YOUR "AGENT") BROAD POWERS TO HANDLE YOUR AFFAIRS. THIS FORM DOES NOT IMPOSE A DUTY ON YOUR AGENT TO EXERCISE GRANTED POWERS; BUT WHEN POWERS ARE EXERCISED, YOUR AGENT MUST USE DUE CARE TO ACT FOR YOUR BENEFIT AND IN ACCORDANCE WITH THE PROVISIONS OF THIS FORM AND MUST KEEP A RECORD OF RECEIPTS, DISBURSEMENTS, AND SIGNIFICANT ACTIONS TAKEN AS AGENT. YOU MAY NAME SUCCESSOR AGENTS UNDER THIS FORM BUT NOT CO-AGENTS. UNTIL YOU REVOKE THIS POWER OF ATTORNEY OR A COURT ACTING ON YOUR BEHALF TERMINATES IT, YOUR AGENT MAY EXERCISE THE POWERS GIVEN HERE THROUGHOUT YOUR LIFETIME, EVEN AFTER YOU MAY BECOME DISABLED, UNLESS YOU EXPRESSLY LIMIT THE DURATION OF THIS POWER IN THE MANNER PROVIDED BELOW.

YOU MAY HAVE OTHER RIGHTS OR POWERS UNDER COLORADO LAW NOT SPECIFIED IN THIS FORM.

I, APRIL JOYCE FIELDS, appoint  
Suzanne Shell, 14053 Eastonville Rd. Elbert, CO as my agent (attorney-in-fact) to act for me in and in my name, place and stead, and for my sole use and benefit, with full power and authority to do and perform each and every act necessary, as fully as I might do if personally present, and to accomplish and complete any act in any lawful way with respect to the following:

**Claims and litigation as defined herein:** (a) Demand, receive, and obtain by litigation or otherwise, money or other thing of value to which the principal is, may become, or claims to be entitled; and conserve, invest, disburse, or use anything so received for the purposes intended;

- (b) Contract in any manner with any person, on terms agreeable to the agent, to accomplish a purpose of a transaction, and perform, rescind, reform, release, or modify the contract or another contract made by or on behalf of the principal;
- (d) Prosecute, defend, submit to arbitration, settle, and propose or accept a compromise with respect to, a claim existing in favor of or against the principal or intervene in litigation relating to the claim;
- (e) Seek on the principal's behalf the assistance of a court to carry out an act authorized by the power of attorney;
- (f) Engage, compensate, and discharge an attorney, accountant, expert witness, or other assistant;
- (g) Keep appropriate records of each transaction, including an accounting of receipts and disbursements;
- (h) Prepare, execute, and file a record, report, or other document the agent considers desirable to safeguard or promote the principal's interest under a statute or governmental regulation;
- (i) Reimburse the agent for expenditures properly made by the agent in exercising the powers granted by the power of attorney; and
- (j) In general, do any other lawful act with respect to the subject.
- (k) Assert and prosecute before a court or administrative agency a claim, claim for relief, cause of action, counterclaim, offset, and defend against an individual, a legal entity, or government, including suits to recover property or other thing of value, to recover damages sustained by the principal, to eliminate or modify tax liability, or to seek an injunction, specific performance, or other relief;
- (l) Bring an action to determine adverse claims, intervene in litigation, and act as amicus curiae;
- (m) In connection with litigation, procure an attachment, garnishment, libel, order of arrest, or other preliminary, provisional, or intermediate relief and use an available procedure to effect or satisfy a judgment, order, or decree;
- (n) In connection with litigation, perform any lawful act, including acceptance of tender, offer of judgment, admission of facts, submission of a controversy on an agreed statement of facts, consent to examination before trial, and binding the principal in litigation;
- (o) Submit to arbitration, settle, and propose or accept a compromise with respect to a claim or litigation;
- (p) Waive the issuance and service of process upon the principal, accept service of process, appear for the principal, designate persons upon whom process directed to the principal may be served, execute and file or deliver stipulations on the principal's behalf, verify pleadings, seek appellate review, procure and give surety and indemnity bonds, contract and pay for the preparation and printing of records and briefs, receive and execute and file or deliver a consent, waiver, release, confession of judgment, satisfaction of judgment, notice, agreement, or other instrument in connection with the prosecution, settlement, or defense of a claim or litigation;

UNLESS YOU DIRECT OTHERWISE, THIS POWER OF ATTORNEY IS EFFECTIVE IMMEDIATELY AND WILL CONTINUE UNTIL IT IS REVOKED OR TERMINATED AS SPECIFIED BELOW. STRIKE THROUGH AND WRITE YOUR INITIALS TO THE LEFT OF THE FOLLOWING SENTENCE IF YOU DO NOT WANT THIS POWER OF ATTORNEY TO CONTINUE IF YOU BECOME DISABLED, INCAPACITATED, OR INCOMPETENT.

1. ( XX ) This power of attorney will continue to be effective even though I become disabled, incapacitated, or incompetent.

2. The powers granted above shall not include the following powers or shall be modified or limited in the following manner: **N/A**

3. In addition to the powers granted above, I grant my agent the following powers: **Suzanne Shell, shall have the authority to appoint or designate an agent to perform limited specified acts on her behalf to facilitate her endeavors on my behalf. Suzanne Shell, on her own behalf or by and through her appointed agent, shall have complete and unlimited access to all records, files, notes, histories, transcripts, interviews and evaluations, and any other form of documentation, recordings, or any other form of information kept about me by or from any public or private agency, attorney, service provider, or any other entity that holds or possess such information pertaining to me.** Failure of any custodian of records to comply with this provision shall be presumed to be an act of bad faith.

4. SPECIAL INSTRUCTIONS. ON THE FOLLOWING LINES YOU MAY GIVE SPECIAL INSTRUCTIONS TO YOUR AGENT: **N/A**

5. My agent is entitled to reasonable compensation for services rendered as agent under this power of attorney.

THIS POWER OF ATTORNEY MAY BE AMENDED IN ANY MANNER OR REVOKED BY YOU AT ANY TIME. ABSENT AMENDMENT OR REVOCATION, THE AUTHORITY GRANTED IN THIS POWER OF ATTORNEY IS EFFECTIVE WHEN THIS POWER OF ATTORNEY IS SIGNED AND CONTINUES IN EFFECT UNTIL YOUR DEATH, UNLESS YOU MAKE A LIMITATION ON DURATION BY COMPLETING THE FOLLOWING:

6. This power of attorney terminates when rescinded in writing by me.

8. If any agent named by me shall die, become incapacitated, resign, or refuse to accept the office of agent, I name the following each to act alone and successively, in the order named, as successor to such agent:

**N/A**

For purposes of this paragraph 8, a person is considered to be incapacitated if and while the person is a minor or a person adjudicated incapacitated or if the person is unable to give prompt and intelligent consideration to business matters, as certified by a licensed physician.

I agree that any third party who receives a copy of this document may act under it. Revocation of the power of attorney is not effective as to a third party until the third party learns of the revocation. I agree to indemnify the third party for any claims that arise against the third party because of reliance on this power of attorney.

Signed on 2/3/03, 1999 nunc pro tunc \_\_\_\_\_ ( ) initial

IF THERE IS ANYTHING ABOUT THIS FORM THAT YOU DO NOT UNDERSTAND, IT MAY BE IN YOUR BEST INTEREST TO CONSULT A COLORADO LAWYER RATHER THAN SIGN THIS FORM.

April J. Fields 522-04-7083  
Signature Social Security Number

YOU MAY, BUT ARE NOT REQUIRED TO, REQUEST YOUR AGENT AND SUCCESSOR AGENTS TO PROVIDE SPECIMEN SIGNATURES BELOW. IF YOU INCLUDE SPECIMEN SIGNATURES IN THIS POWER OF ATTORNEY, YOU

MUST COMPLETE THE CERTIFICATION OPPOSITE THE SIGNATURES OF THE AGENTS.

NOTICE TO AGENTS: BY EXERCISING POWERS UNDER THIS DOCUMENT, THE AGENT ASSUMES THE FIDUCIARY AND OTHER LEGAL RESPONSIBILITIES OF AN AGENT UNDER COLORADO LAW.

STATE OF COLORADO  
COUNTY OF FREMONT

THIS INSTRUMENT WAS ACKNOWLEDGED BEFORE ME ON THIS 5TH DAY OF FEBRUARY 2003 BY  
APRIL JOYCE FIELDS.

WITNESS MY HAND AND OFFICIAL SEAL.  
MY COMMISSION EXPIRES 7-14-2005

Sandra Hatch  
NOTARY PUBLIC

State of Colorado  
Notary Public  
Commission Expires 7-14-2005

District Court, Fremont County, Colorado 136 Justice Center Road, Cañon City, Colorado 81212 Phone Number: (719) 269-0100	
THE PEOPLE OF THE STATE OF COLORADO IN THE INTEREST OF:	
ASHLEY FIELDS, a Child,	
And Concerning:	▲ COURT USE ONLY ▲
APRIL FIELDS (Mother), Respondent.	
Rocco F. Meconi, Rocco F. Meconi, P.C. 718 Main Street, Cañon City, CO 81212 Phone Number: (719) 275-7551; Atty. Reg. #: 5164	Case Number 03 JV 3 Div. I Courtroom 302
MOTION TO ADD SPECIAL RESPONDENT	

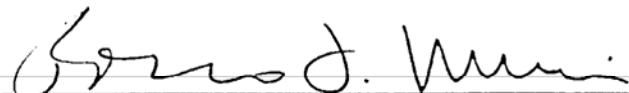
THE PEOPLE OF THE STATE OF COLORADO, by and through the Fremont County Department of Human Services, moves this court for its order adding Suzanne Shell as a Special Respondent in the above-captioned case for the limited purposes of entering orders that prevents her from contacting the minor child or the Respondent mother in any way and from otherwise being involved in the proceedings in this case, including, but not limited to, acting as counsel for the Respondent mother or otherwise engaging in the unauthorized practice of law.

AS GROUNDS THEREFORE it is shown unto the court as follows:

1. Said individual has involved herself in this case in such inappropriate and unauthorized ways. The statements of record made at the hearing conducted on April 15, 2003 are incorporated herein by reference.
2. Such conduct and contact are inappropriate and contrary to the best interest of the minor child.
3. Upon information and belief, unless deterred by this court, the proposed Special Respondent will continue to engage in conduct which is detrimental to the best interest of the child.
4. The court is authorized to name Ms. Shell as a special respondent pursuant to the provisions of §19-3-503(4), CRS, which authorizes the court to join any person it deems necessary to the action. See *People v. District Court*, 731 P.2d 652 (Colo. 1987).

WHEREFORE, the People pray for the above-requested relief.

Dated this 15<sup>th</sup> day of April, 2003.



Attorneys for the Fremont County Department of Human Services

CERTIFICATE OF SERVICE

I hereby certify that on April 16<sup>th</sup>, 2003, a true and correct copy of the above and foregoing was served as follows:

NAME AND ADDRESS	US MAIL	COURT BOX
Anna Hall-Owen, Esq., 417 Main St., Cañon City, CO 81212		X
Dan Kender, 131 S. Union Ave., Pueblo, CO 81003	X	
Suzanne Shell, 14053 Eastonville Rd., Elbert, CO 80103	X	



Leslie Sluder

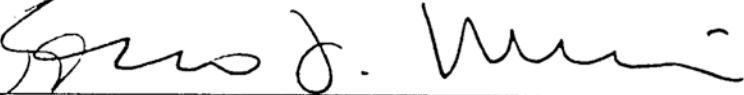
Legal Assistant

District Court, Fremont County, Colorado 136 Justice Center Road, Cañon City, Colorado 81212 Phone Number: (719) 269-0100	
THE PEOPLE OF THE STATE OF COLORADO IN THE INTEREST OF:	
ASHLEY FIELDS, a Child,	
And Concerning:	
APRIL FIELDS (Mother), Respondent.	▲ COURT USE ONLY ▲
Rocco F. Meconi, Rocco F. Meconi, P.C. 718 Main Street, Cañon City, CO 81212 Phone Number: (719) 275-7551; Atty. Reg. #: 5164	Case Number 03 JV 3 Div. I Courtroom 302
NOTICE OF HEARING	

TO: Anna Hall-Owen, Esq., Dan Kender, Esq., and Suzanne Shell

YOU ARE HEREBY NOTIFIED that the undersigned attorney on behalf of the People will appear April 29, 2003 commencing at 3:00 o'clock p.m., or as soon thereafter as counsel may be heard, in the District Court within and for Fremont County located at 136 Justice Center Road, Canon City, Colorado 81212, and call up for immediate hearing and determination the People's Motion to Add Special Respondent at which time and place you may be present.

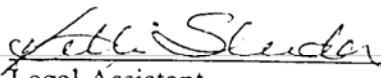
Date: April 16, 2003

  
\_\_\_\_\_  
Attorneys for the Fremont County Department of Human Services

#### CERTIFICATE OF SERVICE

I hereby certify that on April 16, 2003, a true and correct of the above and foregoing Notice of Hearing was served as follows:

NAME AND ADDRESS	US MAIL	COURIER BOX
Anna Hall-Owen, Esq., 417 Main St., Cañon City, CO 81212 Dan Kender, Esq., 131 S. Union Ave., Pueblo, CO 81003 Suzanne Shell, 14053 Eastonville Rd., Elbert, CO 80103	X X	X

  
\_\_\_\_\_  
Legal Assistant

District Court, Fremont County, Colorado  
136 Justice Center Road, Canon City, CO 81212  
Telephone: (719) 269-0100

THE PEOPLE OF THE STATE OF  
COLORADO IN THE INTEREST OF:

ASHLEY FIELDS, a Child,

And Concerning,

APRIL FIELDS (Mother), Respondent.

▲ COURT USE ONLY ▲

Anna Hall Owen, Esq.  
Anna Hall-Owen, Attorney at Law, L.L.C.  
417 Main Street, Canon City, CO 81212  
Telephone: (719) 275-2899  
Fax: (719) 275-3292  
Atty. Reg. #: 22002

Case No.: 03 JV 3

Division: 1

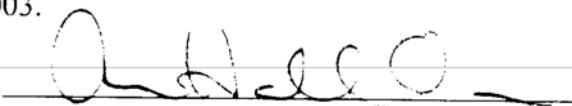
Courtroom: 302

**RESPONSE IN SUPPORT OF MOTION TO ADD SPECIAL RESPONDENT**

COMES NOW Anna Hall Owen, Esq., the Court-appointed Guardian ad Litem for the Child herein, and files this Response in Support of Motion to Add Special Respondent and, in support thereof, states as follows:

1. The Guardian ad Litem agrees with the People as Suzanne Shell's interference and encouragement of the Respondent/Mother to refuse to cooperate to the extent of violating Court Orders is not in the best interests of the child.
2. The Guardian ad Litem further agrees with the other allegations of the Department and supports their motion.

Respectfully submitted this 18<sup>th</sup> day of April, 2003.

  
Anna Hall Owen, Esq., #22002  
Guardian ad Litem  
417 Main Street  
Canon City, CO 81212  
Telephone: 719/275-2899  
Fax: 719/275-3292