

PETITION 11  
PETITION FOR REDRESS OF GRIEVANCE

**TO:** The Honorable House of Representatives  
**FROM:** Petitioner Representative Jeffrey D. Oigny, Rockingham 8  
**DATE:** January 4, 2012  
**SUBJECT:** Grievance of Dr. David D. Vandenberg, Hot Springs National Park, Arkansas, formerly of Portsmouth, New Hampshire

Your Petitioner Representative Oigny on behalf of Dr. David D. Vandenberg, Hot Springs National Park, Arkansas, formerly of Portsmouth, hereinafter presents the following summary of his grievance and invokes the constitutional authority and duty of the Honorable House of Representatives pursuant to Articles 31 and 32 to bring about redress:

Grievance involving a Superior Court Justice which allowed the guardian ad litem (GAL) to move the Court (ex-parte motion to suspend parenting plan--a modification of a permanent plan) when a guardian has no standing to move a court in such a matter, only parents do. Granting this authority is contrary to: family division administrative order 2001-01, at No. 4; family division Rule 2.30(a), modification of final decree; Superior Court Administrative Order 17, appointment and payment of guardians ad litem; *Muchmore v. Jaycox*, 159 N.H. 470, 986 A.2d 456.

The Court, by issuing its ex parte order to suspend parenting, denied the father and his daughter their rights to the free exercise of their Christian faith and mutual free association for almost 2 years. The order cited said practice of religious freedom as a cause of potential harm without evidence and is contrary to the New Hampshire Constitution: Art. 15, Right of Due Process; Art. 5, Right of Religious Freedom; Art. 14, Legal Remedies to be Free, Complete and Prompt; and the US Constitution: 1st Amendment, Freedom of Speech and Exercise of Religion; 5th Amendment, Due Process; 14th Amendment, Due Process and Rights of Citizens; 9th Amendment, Unenumerated Rights of Citizens; and 10th Amendment, Reservation of Right. The Court failed to schedule and hold an evidentiary hearing in this matter, in spite of the father's motion to do so, which the Court has held in abeyance for over 2 years. The Court created a conflict of interest by allowing the GAL to become a party to the case and initiate legal action against a parent, thus eliminating GAL independence and objectivity and receiving financial incentives from prolonging court litigation. The Court failed to provide the required statutory citations to modify the parenting plan as required: *In the Matter of James J. Miller and Janet S. Todd*, Docket No. 2009-806 (2011); *Muchmore v. Jaycox*, 159 N.H. 470, 986 A.2d 456 (2009). The Court failed to provide the requisite findings of harm or affirmative showing of immediate harm in order to modify the parenting plan as required in: *Chandler v. Bishop*, 142 NH 404 (1997); *In the Matter of Choy & Choy*, 154 N.H. 707, 713 (2007). The court ruled, in modifying the parenting plan, absent evidence of harm, absent offers of proof of harm, and contrary to expert testimony as to the importance of father-child association, contrary to Rule 187, Rules of the Superior Court of New Hampshire. The Court improperly ordered the father to pay GAL fees without requisite hearings and contrary to maximum payment cap: Superior Court Administrative Order 17; thereby, forcing the father to pay his accuser for his denial of due process, contrary to law. The Court allowed a private person without standing before the Court to move the Court, modify the permanent parenting plan for six months, enter six additional motions, move the Court to give the child into therapy of the non-litigant's choosing and against the father's Objection, said therapist being deemed incompetent and impaired at the time by the Board of Mental Health Practice. The Court then retroactively ordered appointment as GAL and fees in the amount of \$ 7,369.49, in violation of Superior Court Administrative Order 17, as the Order was made retroactively and without hearing while the father was overseas and received no notice of the proposed Order.

The father filed a motion to resume the parenting plan in March 2009 to resolve this issue of illegal parenting plan modification, which the Court still has not scheduled to hear over 2 years later, while scheduling multiple hearings on collateral matters on a monthly basis. Moreover, the father's motion to vacate order, suggested by the New Hampshire Supreme Court as a remedy to this situation, also remains unscheduled for 3 months with Court personnel. Since the Court is refusing to schedule the father's proposed remedies to the situation for years, the father is being denied due process. Without a hearing, he cannot remedy this matter, nor can the Court's decision be appealed.

**Wherefore**, your Petitioner prays that the House of Representatives consider this proposed remedy:

I. Submit legislation to amend New Hampshire statutes to require that family law courts adopt rules of evidence and that judges make definitive rulings according to said evidence and in a timely manner;

II. Submit legislation to amend New Hampshire statutes to prevent future public injury, in particular to clarify the role of guardians ad litem criminally for unauthorized and unstipulated actions, and to define deadlines for the hearing of motions of aggrieved parties;

III. Pursue impeachment of said Superior Court Justice for failure to uphold the laws and Constitution of the State of New Hampshire and the Constitution of the United States, for improperly assuming a legislative role in judicial proceedings, and for harming the daughter by ignoring expert testimony warning his order would do so, *Miller & Todd*;

IV. Instruct the Attorney General to criminally prosecute the Guardian *ad Litem* for the kidnapping of the daughter, RSA 633:1; and

V. Refer this matter to the guardian ad litem board for investigation to determine if a complaint against the guardian ad litem should be filed.

**Respectfully submitted by Petitioner Representative Oligny on Behalf of Dr. David D. Vandenberg.**