

## SPECIAL DECLARATION

The Plaintiff, Thomas J. Ball, has a mailing address of PO Box 180, Holden, MA, 01520-0180. The plaintiff currently resides at 54 Salisbury Street, Holden, MA, 01520.

The Defendant, Monadnock Family Services, has corporate offices at 17 93<sup>rd</sup> Street, Keene, NH, 03431.

That somewhere between April 1997 and August 1999, the plaintiff employed the defendant to provide services for one of the plaintiff's children who was suffering from a mental illness.

That the plaintiff and his then wife purchased a house at 138 Main St., Jaffrey, NH in August 1999. The plaintiff, his wife, and their three children, Sara J., Melissa A., and Kevin T. Ball moved in and occupied the house at 138 main St., Jaffrey, NH in September 1999.

That in the Spring of 2000 the oldest child went to the nurse's office at Rindge Memorial School to receive her medications. The nurse noticed a bruise on the child's neck. When asked how she received the bruise, the child reply that she received it from her father, the Plaintiff. The nurse called Monadnock Family Services for guidance. Monadnock Family Services informed the nurse that she was required by law to inform the New Hampshire Division of Children, Youth and Families (DCYF) of suspected child abuse or neglect. The nurse called DCYF and reported the bruise.

6. DCYF immediately launched an investigation. DCYF determined that the father probably caused the bruise by employing a crossed-arm restraint while the child attempted to assault her younger sibling. DCYF filed an Unfounded Report. A meeting was held with DCYF, Monadnock Family Services and the parents in an effort to find more services for the family that DCYF labeled in the Unfounded Report as clearly stressed due to the child's mental illness.
7. On April 9, 2001 while put his daughters to bed, the youngest one began licking the plaintiff's hand. After giving her numerous verbal warnings to stop, the plaintiff slapped his daughter resulting in a cut lip. Plaintiff's then wife asked the plaintiff to leave the house.
8. After the plaintiff left the house, his wife called Monadnock Family Services for advice. Plaintiff's wife was informed by Monadnock Family Services that if she did not call the police regarding her husband, then she would be arrested for child abuse. Concerned that the children would end up in the custody of the state of New Hampshire should both parents be arrest, plaintiff's wife called the Jaffrey Police.
9. The Jaffrey Police Department arrived roughly an hour after the incident. The police 'inaccurately' labeled the incident Domestic Violence. The Jaffrey Police Department's policy and procedure manual requires a mandatory, pro-arrest in any Domestic Violence situation whenever probable cause exists. The Jaffrey Police swore out a warrant for the arrest of the plaintiff. Plaintiff was arrested at his place of employment the next day.
10. Plaintiff's wife filed a request for a Domestic Violence Protective Order with the Jaffrey/Peterborough District Court on April 10, 2001. The order was denied by the court. Corporal punishment of a minor child is not Domestic Violence. And then only other incident the plaintiff's wife could recall in the 13 years they were together is that the plaintiff once threw a plate into the kitchen sink from a distance of two feet. That was not enough for a Domestic Violence Restraining Order even in today's legal climate.
11. On April 12, 2001 an ex parte hearing was held. An ex parte protective order was issued against the plaintiff due to his arrest for the slapping incident of April 9, 2001.

12. On December 17, 2001 the New Hampshire Division of Children, Youth and Families issued an Unfounded Report regarding plaintiff's actions on April 9, 2001. The allegations of child abuse or neglect was Unfounded.
13. On December 19, 2001 plaintiff was found guilty of simple assault in Jaffrey/Peterborough District Court. Plaintiff appealed.
14. On July 11, 2002 in Cheshire Superior Court plaintiff was found not guilty.
15. In December of 2002 at a divorce hearing in Cheshire Superior Court, Maureen Lafortune a therapist with Monadnock Family Services testified that she would not have anything to do with plaintiff's reconciliation between plaintiff and his two daughters unless plaintiff changed his attitude. Plaintiff thought he made it clear to the court, the ex wife and Monadnock Family Services that Maureen Lafortune would have no say in the reconciliation between the plaintiff and his two daughters.
16. A divorce decree was issued late February 2003. In the decree plaintiff was granted immediate visitation with his youngest child. The court ordered that the plaintiff engage in joint counseling with his two daughters and Monadnock Family Services. The court's ruling was not consistent with the constitution or the common law rulings from the high court. But this passing the buck was consistent with the court's Domestic Violence Protocols and Domestic Violence Rules. Plaintiff has still said no to this counseling. As such, there has been no visitation between plaintiff and his two daughters.
17. In March 2004, plaintiff filed a civil suit against the Town of Jaffrey New Hampshire over his arrest. At present, the case rests with the New Hampshire Supreme Court over the issue is it a tort by violating the Elements of the Offense while obeying the Domestic Violence policies, procedures and protocols.
18. That of January 2006 that the plaintiff still does not have care, custody or visitation with the two oldest of his three children.

19. Paragraphs 1-18 are hereby incorporated as if fully set forth herein
20. That the plaintiff's then wife called Monadnock Family Services on the night of April 9, 2001.
21. That the plaintiff's then wife reach an unnamed social worker from Monadnock Family Services.
22. The employee from Monadnock Family Services threatened to arrest plaintiff's wife unless she called the police on the plaintiff.
23. Concerned that the three children would end up in the state's custody should both parents be arrested, the plaintiff's wife called the police.

## **COUNT 2 DISPENSING INACCURATE LEGAL ADVICE**

24. Paragraphs 1-23 are hereby incorporated as if fully set forth herein
25. According to the Child Protection Act 169-C:29 people are required by the RSA to report suspected neglect and abuse of a child to the New Hampshire Division of Children, Youth and Families (DCYF).
26. Under RSA 169-C:30 people and organization are immune from liability when they report suspected neglect or abuse of a child to the New Hampshire Division of Children, Youth and Families.
27. The Division of Children, Youth and Families has wide legal latitude to investigate allegation of child abuse or neglect. DCYF has the authority to report a crime to law enforcement. DCYF does not have the authority to arrest a citizen.
28. That RSA 169-C:2, 1, (b) states that one of the goals of the Child Protective Act 169-C is to try to keep families intact.

COUNT 3 INTERFERENCE WITH PLAINTIFF'S  
CUSTODY AND VISITATION WITH  
PLAINTIFF'S CHILDREN

29. Paragraph 1-38 are hereby incorporated as if fully set forth herein.
30. In response to a summons to a divorce hearing in December 2002, Maureen Lafortune, an employee of Monadnock Family Services, testified under oath that she would not have anything to do with the plaintiff reconciling with two of his three children unless plaintiff changed his attitude.
31. Plaintiff informed all parties at that time that Maureen Lafortune would have no say in the matter, with or without the attitude change.
32. In a second divorce hearing in January the plaintiff's wife attorney informed the court that Maureen Lafortune would offer her office for reconciliation without preconditions. Maureen Lafortune was not present in the court at that second hearing.
33. Plaintiff again informed all parties that Maureen Lafortune would have no say in the matter.
34. Plaintiff has had no visitation with his two daughters since April 9, 2001. Plaintiff has Sunday visitation with his youngest child weekly.
35. Defendants interference is a violation of plaintiff's privacy under Part 1 Article 2 of the New Hampshire Constitution.

COUNT 4 MISDIAGNOSIS

36. Paragraph 1-35 are hereby incorporated as if fully set forth herein.
37. Maureen Lafortune has informed plaintiff on numerous occasions that plaintiff's daughter Melissa has been traumatized by plaintiff slapping his daughter that resulted in a cut lip.
38. Plaintiff was arrested the next day after the slapping incident. Bail conditions prevented plaintiff from contacting his daughter. Bail conditions were lifted with a not guilty finding on July 11, 2002.

39. On April 12, 2001 an ex parte protective order was issued against plaintiff barring him from any contact with his wife, children, their teachers or therapists. That protective order was not removed until the divorce decree was issued in February 2003.
40. Plaintiff was barred any contact with his two oldest children for the first six months after his arrest. Plaintiff has only had telephone contact with his two daughters since.
41. Plaintiff believes his two daughters were traumatized by having their father ripped out of their lives without so much as a good bye, don't worry, Daddy loves you and you are safe. Plaintiff believes this is akin to having a parent die for a small child. Plaintiff also believe the youngest daughter is blaming herself for the loss of their father due to the licking she was doing that provoked the parental slap.
42. Melissa's therapist, Maureen Lafortune, has made no mention of the loss of the father to these two children.
43. Plaintiff filed a demand letter with Maureen Lafortune on October 19, 2005 in an effort to settle this matter. Plaintiff's efforts were rebuffed by a letter from Cook and Molan, P.A. of Concord, NH.
44. That the defendant's refusal to get out of plaintiff's relationship with his minor children has damaged the plaintiff's children.

WHEREFORE the plaintiff seeks judgment in an amount within the judicial  
s of the court

PLAINTIFF DEMANDS A TRIAL BY JURY.