

**CUYAHOGA COUNTY COURT OF COMMON PLEAS
DOMESTIC REALTIONS DIVISION
CLEVELAND, OHIO**

Paul Neumann)
[REDACTED])
[REDACTED])

Paul Neumann, on behalf of his minor)
child, Grace Neumann)
PLAINTIFFS)

vs.)

The State of Ohio)
c/o Nancy Rogers, Attorney General)
30 East Broad Street, 17th Floor)
Columbus, Ohio 43215,)

Pamela Neumann)
[REDACTED])
[REDACTED])

Cuyahoga County Common)
Pleas Court)
1200 Ontario Street)
Cleveland, Ohio 44113-1678)

Judge Cheryl S Karner)
c/o Cuyahoga County Common)
Pleas Court)
Domestic Relations Division)
One West Lakeside Avenue)
Cleveland, Ohio 44113)

Heather Corso)
1220 West 6th Street, Suite 502)
The Bradley Building)
Cleveland, Ohio 44113)

Cuyahoga County CSEA)
1640 Superior Ave. East)
P.O. Box 93318)
Cleveland, Ohio 44101)

DEFENDANTS, et al.)

CASE NO.
Judge

Jury Trial Endorsed Hereon

COMPLAINT
FOR DECLARATORY JUDGMENT
JURISDICTION

1. The jurisdiction of the Court is invoked pursuant to applicable sections of Ohio Revised Code §2721.01 - §2721.16, which provide declaratory judgment for persons affected by the declaration.
2. The jurisdiction of the Court is invoked pursuant to applicable sections of Ohio Revised Code §2721.01 - §2721.16 which provide declaratory judgment of the validity of a statute and/or procedural rule that impinges upon fundamental rights *and* is alleged to be unconstitutional; where a copy of the complaint shall be served upon the Attorney General.
3. An adequate state remedy requires that in order to be effective, time is of the essence and prompt judicial action is essential.
4. Ohio Civil Rule of Procedure 57 provides for the Court to advance the hearing of an action for a declaratory judgment on the trial list.
5. Plaintiff Neumann filed a Motion to Advance this action on the trial list on March 26, 2010.
6. The jurisdiction of the Court is invoked where Ohio Revised Code §3109.04; Ohio Revised Code §3109.043; and Ohio Rule of Civil Procedure 75(N) {hereinafter "Ohio's statutory scheme"}; jointly, severally and in *pari material*, caused, and continues to cause, Plaintiff Paul Neumann and Plaintiff Grace Neumann born May 5, 2005 {hereinafter "Plaintiffs"} irreparable harm and the denial and deprivation of his fundamental parental and due process rights.

7. Plaintiffs rights, privileges, and immunities implicated under Ohio's statutory scheme are fundamental rights, privileges, and immunities secured by the Constitution of the United States and the Constitution of the State of Ohio, and specifically; the right to "freedom of association" pursuant to the First Amendment; the right to "autonomy and privacy" pursuant to the Ninth and Fourteenth Amendments; and the protection of privileges and immunities, due process, and equal protection pursuant to the Fifth and Fourteenth Amendments of the Constitution of the United States of America.
8. The jurisdiction of the Court is invoked pursuant to the Supremacy Clause, Article IV of the U.S. Constitution, where Ohio's statutory scheme: must comport with federal law; must contain express requirements of due process that are constitutionally compliant with federal law and precedent, and where state law must be narrowly construed on its face to protect unconstitutional deprivations of fundamental parental rights.
9. R.C. §2721.07 is not applicable where declaratory judgment of Ohio's statutory scheme will terminate the controversy giving rise to this action.

PARTIES

10. Plaintiff Paul Neumann is an individual, whose legal mailing address is 24243 Lebern Drive, North Olmsted, OH 44070; a resident of Cuyahoga County, Ohio; and a citizen of Ohio; and the legal parent of Grace Neumann and the defendant in a pending divorce action in Cuyahoga County Domestic Relations Court; Case No. **DR-09-328194**, *Neumann v Neumann*.
11. Plaintiff Grace Neumann is the minor child of Plaintiff Paul Neumann and Defendant Pamela Neumann.

12. The State of Ohio exercises sovereign authority in the enactment and enforcement of the Ohio Revised Code and the Ohio Rules of Civil Procedure.
13. Defendant Pamela Neumann is an individual, whose last known address is 27668 B Caroline Circle, Westlake, OH 44145, a citizen of Ohio; and the legal parent of Grace Neumann. Defendant Neumann's fundamental rights are also implicated under Ohio's statutory scheme.
14. Defendant State of Ohio has conspired to deprive the Plaintiff Paul Neumann of his constitutional right to custody, free association with his child, equal custody and "to financially enrich themselves and the state" under color of law by coercion, extortion, and perjury.
15. Defendant Cuyahoga County Court of Common pleas has conspired to deprive the Plaintiff Paul Neumann of his constitutional right to custody, free association with his child, equal custody and "to financially enrich themselves and the state" under color of law by coercion, extortion, and perjury.
16. Defendant Judge Cheryl S. Karner has conspired to deprive the Plaintiff Paul Neumann of his constitutional right to custody, free association with his child, equal custody and "to financially enrich themselves and the state" under color of law by coercion, extortion, and perjury.
17. Defendant Cuyahoga County Child Support Enforcement Agency has conspired to deprive the Plaintiff Paul Neumann of his constitutional right to custody, free association with his child, equal custody and "to financially enrich themselves and the state" under color of law by coercion, extortion, and perjury.
18. Defendant Pamela Neumann has conspired to deprive the Plaintiff Paul Neumann of his constitutional right to custody, free association with his child, equal custody and "to financially enrich herself " under color of law by coercion, extortion, and perjury.

19. Defendant Heather Corso has conspired to deprive the Plaintiff Paul Neumann of his constitutional right to custody, free association with his child, equal custody and “to financially enrich herself” under color of law by coercion, extortion, and perjury.

RELEVANT RIGHTS

20. Parental rights are inherent and fundamentally protected by the U.S. Constitution.

21. Defendant State of Ohio’s enforcement of state-enacted legislation cannot abridge federal privileges and immunities conferred by the U.S. Constitution.

22. The right to conceive, raise, and retain custody, care, and companionship of one’s child is a right deemed precious, essential, inherent, and is fundamentally protected.

23. The freedom of personal choice in matters of custody, companionship, marriage, procreation, individual parental autonomy, family life, the right to raise and care for one’s child, and the child’s reciprocal right to an autonomous parental relationship, are fundamental privacy and liberty rights protected by the First, Ninth and Fourteenth Amendments of the U.S. Constitution.

24. Individual autonomy is recognized in privacy, where the roots of the privacy right exists in the First Amendment; in the Fourth and Fifth Amendments; in the penumbras of the Bill of Rights; in the Ninth Amendment; in the concept of liberty guaranteed by the Fourteenth Amendment; and in the equal application and protection of the law guaranteed by the Fourteenth Amendment.

25. Freedom of association derives from the First Amendment and protects the unencumbered right of a parent and child to a reciprocal associational relationship free from interference.

26. Due Process protections, where loss of property is involved, are inherent and fundamentally protected by the U.S. Constitution.
27. The Supremacy Clause; Article IV, provides that state interference of federal rights cannot be compromised by improper state actions.
28. Where fundamental rights are secured by the U.S. Constitution, the Supremacy Clause requires that state law comport with federal law.
29. The fundamental presumption of a parent's right to legal custody, care, and association, and companionship of minor children is constitutionally protected.
30. Ohio's statutory scheme must be construed under federal law where fundamental parental rights are implicated.
31. Ohio's statutory scheme must be construed under federal law where fundamental due process rights are implicated.
32. Ohio's statutory scheme must be narrowly construed on its face to protect unconstitutional deprivations of fundamental parental rights.
33. Ohio's statutory scheme must be narrowly construed on its face to protect unconstitutional deprivations of fundamental due process rights and protections in the loss of property.
34. Ohio's statutory scheme must contain express requirements of due process that are constitutionally compliant with federal law and precedent.
35. Parenthood is an inherent right of surpassing value and is protected from deprivation without due process of law.
36. There is no adequate remedy for liberty deprivations under Ohio's statutory scheme.
37. There is no adequate remedy for loss of property deprivations under Ohio's statutory scheme.

38. There is no adequate remedy for loss of personal liberty under Ohio's statutory scheme and with the current scheme allowing for loss of license and freedom through administrative process without due process of law.
39. There is no prospective constitutional remedy in Ohio's statutory scheme where Plaintiff Paul Neumann and all Ohio parents are subjected to the same statutory scheme.
40. A direct appeal is neither a timely statutory post-deprivation remedy nor a constitutional remedy for relief.
41. Where both parents are suitable, the parents are similarly situated.
42. Where both parents are similarly situated, the minor child is entitled to an unencumbered associative parent-child relationship and a reciprocal and autonomous relationship with both parents.
43. Similarly situated parents are a gender-neutral classification.
44. Where both parents are similarly situated, the application and enforcement of the law must be **equally** applied. Impingement upon the prospective **equal** application of the law of similarly situated autonomous parents is unconstitutional.
45. The immediate abridgment and subsequent termination upon order or decree of legal custody for members of the suspect class violates equal protection.
46. Where both parents are similarly situated, the child(ren) at issue have a fundamental and associative right to an autonomous reciprocal parent-child relationship that cannot be pierced.
47. The minor children of an Ohio divorce are entitled to an unencumbered associative parent-child relationship and a reciprocal and autonomous relationship with both parents.
48. The competing interests of the child, the state, the mother, and the father are distinct.

49. The parental rights and interests of the father and mother are not subordinate to the child's best interests where the child's welfare is protected by each parent's autonomous suitability.
50. Defendant State of Ohio's *parens patriae* interests in children of divorce are in the welfare of its minor citizens.
51. Defendant State of Ohio must have a compelling reason to intervene and implicate fundamental parental rights of both parents where the parents are suitable and similarly situated and the best interests of minor children are not in jeopardy.
52. While the competing interests of the parents may be different, the state has no compelling reason to intervene, regardless of the interests of each parent, when both parents are suitable and similarly situated.
53. Defendant State of Ohio has no *parens patriae* interest in a divorce where both parents are suitable and where similarly situated parental rights must be equally protected.
54. There is neither a legal basis nor any governmental objective to interfere in the abridgment of parental rights through an *ex parte* order achieved under color of state law where there is no remedy and no ability to achieve a post-deprivation hearing.
55. Statutes and rules, on their face and as applied, that impinge on constitutionally protected liberty and property rights of a statutorily designated individual are subject to constitutional strict scrutiny pursuant to the Fourteenth Amendment.
56. To state a cause of action to challenge the facial validity of the law, there must be some prospect where the affected party faces having their constitutional right violated in the future. The affected party has standing to prospectively challenge the constitutionality of the law.

57. Statutes and rules, on their face and as applied, which abridge fundamental procedural due process pursuant to the Fourteenth Amendment, are flagrantly unconstitutional.
58. Deprivation of an underlying liberty right is of the highest order.
59. An express and constitutionally compliant pre-deprivation hearing is required on the face of Ohio's statutory scheme upon implication of parental/legal custodial rights.
60. Post-deprivation statutory remedies for liberty right deprivations are not constitutional remedies.
61. An official action violates every Ohio parent's fundamental due process right if not rationally related to a legitimate government interest.
62. Defendant State of Ohio has a rationally related interest in allegations affecting the welfare/best interests of minor children.
63. Defendant State of Ohio has a compelling interest in the welfare/best interests and custody of minor children **only** upon a particularized finding of unsuitability of one or both parents.
64. Defendant State of Ohio enacts and enforces current criminal and juvenile procedures and laws to protect the welfare/best interests of minor children.
65. Defendant State of Ohio has no rationally related interest, and certainly no compelling interest, in matters of child custody where both parents are implicitly presumed to be suitable and similarly situated.
66. The express state procedure required for challenging deprivations of fundamental liberty and property rights must satisfy requirements of federal due process.
67. Due process requires:
 - a) The court to set forth alleged parental misconduct with particularity.
 - b) The right to a hearing and notice of said hearing.
 - c) The legal standard of "clear and convincing" evidence as the standard of proof.

- d) A particularized showing of advantage.
- e) The least restrictive means to achieve the desired objective.

FACTS

- 68. Defendant State of Ohio implicitly presumes that both parents are fit and suitable parents.
- 69. Suitable parents protect the welfare, *i.e.*, best interests, of their children.
- 70. Ohio Revised Code §3109.03 states that both parents shall stand on an equality as to their parental rights and responsibilities.
- 71. Where parents are presumed suitable, Defendant State of Ohio has no compelling reason to intervene in the deprivation of Plaintiff Paul Neumann's parental rights or any other parent's rights.
- 72. There has been no evidentiary hearing in Cuyahoga County Domestic Relations Court; Case No. **DR-09-328194**, *Neumann v Neumann* nor has one been scheduled.
- 73. Where there has been no evidentiary hearing in Case No. **DR-09-328194**, there has been no finding to deny Plaintiff Paul Neumann his parental and associative rights with his child.
- 74. Defendant State of Ohio has made no particularized finding in Case No. **DR-09-328194**, *Neumann v Neumann*.
- 75. Plaintiff Paul Neumann was denied his fundamental parental and associative rights without notice; without a pre-deprivation hearing; without an evidentiary hearing; without the right to confront witnesses; without the opportunity to cross-examine witnesses; without a constitutionally compliant evidentiary standard; without a finding

of fact; without the state court instituting the least restrictive means; and without a post-deprivation remedy.

76. Plaintiff Paul Neumann was denied his fundamental property rights without notice; without a pre-deprivation hearing; without an evidentiary hearing; without the right to confront witnesses; without the opportunity to cross-examine witnesses; without a constitutionally compliant evidentiary standard; without a finding of fact; without the state court instituting the least restrictive means; and without a post-deprivation remedy.

77. Plaintiff Paul Neumann was designated a non-custodial/non-residential parent which unconstitutionally deprives Plaintiff Paul Neumann of his parental rights and unconstitutionally restricts Plaintiff of his autonomous and reciprocal familial rights, associative rights, and privacy rights.

78. Where Defendant State of Ohio had no compelling reason to intervene in Plaintiff Paul Neumann's legal custody of Plaintiff Grace Neumann, Defendant State of Ohio has no compelling reason to unconstitutionally restrict Plaintiff's reciprocal associative and parental rights.

79. Plaintiff Paul Neumann was penalized with the most restrictive means pursuant to visitation in the ongoing deprivation of Plaintiff's parental rights by allowing Defendant Pamela Neumann to control his access to his child.

80. Defendant State of Ohio's statutory scheme expressly fails to provide a constitutionally compliant remedy where parental rights are implicated.

81. Defendant State of Ohio's statutory scheme expressly fails to provide:

- a) a pre-deprivation procedure;
- b) a post-deprivation remedy upon the expiration of statutory time requirements;
- c) a constitutionally-compliant remedy;
- d) a constitutionally compliant evidentiary standard;

- e) a hearing requirement {expressly omitted on the face of R.C .§3109.043 & Ohio Civ.R 75(N)};
 - f) a particularized showing of advantage;
 - g) the least restrictive means when intervention is required.
82. Defendant State of Ohio's statutory scheme fails constitutional scrutiny where the facial language of Ohio's statutory scheme expressly denies due process one hundred percent (100%) of the time.
83. Defendant State of Ohio's statutory scheme "best interests" evidentiary standard is discretionary and arbitrary on its face.
84. Defendant State of Ohio's application of the child's best interests evidentiary standard is arbitrary, discretionary, and subjective pursuant to a listing of indefinable factors.
85. Defendant State of Ohio's statutory scheme "best interests" evidentiary scheme is vague as written and without definition.
86. Defendant State of Ohio's statutory scheme "best interests" evidentiary standard can never be uniformly applied in any Ohio divorce with children.
87. Defendant State of Ohio's statutory scheme fails to expressly provide all Ohio parents notice of the consequences of their actions.
88. Defendant State of Ohio's statutory scheme fails to expressly provide a constitutionally compliant evidentiary standard.
89. Defendant State of Ohio's application of the statutory scheme is arbitrary, discretionary and subjective pursuant to a listing of indefinable factors.
90. Defendant State of Ohio invidiously discriminates against all Ohio parents where it designates classes of parents pursuant to custodial designation.
91. Defendant State of Ohio has no personal or subject matter jurisdiction to adjudicate legal custody of minor children to one parent/legal guardian where both parents are presumed fit and suitable under Ohio law.

92. Defendant State of Ohio has no compelling reason to intervene in decreeing the custody of children to one parent/legal guardian where both parents are fit and suitable.
93. Defendant State of Ohio's statutory scheme denies Plaintiff Paul Neumann and all Ohio parents a presumption of equality.
94. Plaintiff Paul Neumann's statutory classification violates equal protection by placing Plaintiff in a suspect class. The invidious discrimination and deprivation of constitutional rights impacts one hundred percent (100%) of the "suspect" class.
95. Plaintiff Paul Neumann and every designated non-custodial/non-residential parent, is denied legal custody of their children without a legitimate governmental objective compelling Defendant State of Ohio to intervene.
96. Plaintiff Paul Neumann was designated a non-custodial/non-residential parent.
97. Defendant State of Ohio's classification of non-custodial/non-residential is gender neutral.
98. Statutory classification of a "suspect" class requires constitutional/strict scrutiny where Defendant State of Ohio *prospectively* deprives Plaintiff Paul Neumann and the suspect class, due process and equal protection of parental rights in the future.
99. Defendant State of Ohio's statutory scheme fails constitutional scrutiny where the facial language of Ohio's statutory scheme expressly denies due process one hundred percent (100%) of the time.
100. Defendant State of Ohio's statutory scheme allows the designation of spousal support, child support, and custody ***pendente lite*** where the evidentiary standard is discretionary and arbitrary on its face.
101. Defendant State of Ohio's application of the statute is unconstitutional in the allowance of spousal support, child support, and custody ***pendente lite*** where the

evidentiary standard is arbitrary, discretionary, and subjective pursuant to a listing of indefinable factors.

102. Defendant State of Ohio's statutory scheme is unconstitutional in the allowance of spousal support, child support, and custody *pendente lite* where the evidentiary scheme is vague as written.
103. Defendant State of Ohio's statutory scheme is unconstitutional in the allowance of spousal support, child support, and custody *pendente lite* where the evidentiary standard can never be uniformly applied in any Ohio divorce with children.
104. Defendant State of Ohio's statutory scheme is unconstitutional where the allowance of spousal support, child support, and custody *pendente lite*, fails to expressly provide all Ohio parents notice of the consequences of their actions.
105. Defendant State of Ohio's statutory scheme is unconstitutional where the allowance of spousal support, child support, and custody *pendente lite* fails to expressly provide a constitutionally compliant evidentiary standard.
106. Defendant State of Ohio's application of the statutory scheme is unconstitutional in the allowance of spousal support, child support, and custody *pendente lite* where the evidentiary standard is arbitrary, discretionary and subjective pursuant to a listing of indefinable factors.
107. Defendant State of Ohio invidiously discriminates against all Ohio parents in the allowance of spousal support, child support, and custody *pendente lite* where it designates classes of parents pursuant to custodial designation.
108. Defendant State of Ohio's statutory scheme permits the arbitrary conversion of underlying custody deprivations into permanent custody terminations of the designated non-custodial/non-residential parent.
109. Defendant State of Ohio permits the conversion of temporary orders of suitable and similarly situated Ohio parents, achieved without express constitutionally

compliant procedures on the face of Ohio's statutory scheme, into permanent custody deprivations without personal and subject matter jurisdiction.

110. Defendant State of Ohio's statutory scheme is expressly unconstitutional where Plaintiff Paul Neumann and **all** Ohio parents can **never** achieve a constitutional outcome under **any** set of circumstances.

111. Plaintiff Paul Neumann was denied his parental rights and unconstitutionally designated a non-custodial/non-residential parent under the same Ohio statutory scheme in a previous Ohio divorce.

112. Plaintiff Paul Neumann was denied his due process rights and unconstitutionally deprived of this property under the same Ohio statutory scheme in a previous Ohio divorce.

113. Defendant State of Ohio's prospective selective treatment of Plaintiff Paul Neumann has continued without remedy and Defendants will violate his rights in the future.

114. Plaintiff Paul Neumann has standing where Ohio's statutory scheme is capable of repetition and continues to evade review.

115. Defendant State of Ohio's statutory scheme has irreparably deprived Plaintiff Paul Neumann of his parental rights, right of association with his child, and privacy where **time can never be recovered**.

116. Time cannot be replaced by Defendant State of Ohio where both Plaintiffs were unconstitutionally deprived of their reciprocal and autonomous familial and associational rights.

117. Time between Plaintiff Paul Neumann and Plaintiff Grace Neumann cannot be replaced by Defendants Pamela Neumann, Cuyahoga County Common Pleas Court, Judge Cheryl S Karner, Heather Corso or Cuyahoga County CSEA where both

Plaintiffs were unconstitutionally deprived of their reciprocal and autonomous familial and associational rights.

REQUEST FOR DECLARATORY RELIEF

118. Plaintiffs request Ohio Revised Code §3109.04; Ohio Revised Code §3109.043; and Ohio Rule of Civil Procedure 75(N); jointly, severally, and in *pari materia*, be declared facially unconstitutional.
119. Plaintiffs request Defendant State of Ohio's statutory scheme be declared unconstitutional as written and as applied.
120. Plaintiffs Paul and Grace Neumann request the Court enjoin the Defendants, jointly and severally from further violation of Plaintiffs civil and constitutional rights.
121. Plaintiffs request any actual and punitive damages which the court may find appropriate.
122. Plaintiffs request the recovery of all attorney fees and all costs of this action as permitted.
123. The aforesaid encompasses the entirety of the Complaint.

Respectfully submitted,

Paul Neumann, *pro se*

PROOF OF SERVICE

A copy of the foregoing Motion was delivered by Personal Service, Certified or Regular U.S. Mail Service, this ____ day of March, 2010 to:

The State of Ohio
c/o Nancy Rogers, Attorney General
30 East Broad Street, 17th Floor
Columbus, Ohio 43215,

Pamela Neumann
27668 B Caroline Circle
Westlake, OH 44145

Cuyahoga County Common
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1200 Ontario Street
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