UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF WASHINGTON

AARON SURINA, The Surina Family et al;,

Plaintiff,

Case No. 2:26-cv-00048-RLP

V.

SIRINYA SURINA (also known as **SIRINYA POLARJ**);
STANLEY ALLAN KEMPNER JR., in his individual capacity;
JUDGE K.P. PALUBICKI, in his individual capacity for non-judicial acts and official capacity for prospective relief only;
KIM KILHAM, Superior Court Administrator, in her individual and official capacities;
KIMBERLY BRADEN, Judicial Assistant, in her individual and official capacities;
LEAH M. HILL, Assistant to Presiding Judge, in her individual and official capacities;
SPOKANE COUNTY SUPERIOR COURT CLERK, in official capacity;
COMMISSIONER TAMI CHAVEZ, in her official capacity;
SPOKANE COUNTY, WASHINGTON;
JOHN DOES 1-10;

Defendants.

EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION

EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION

(Federal Rule of Civil Procedure 65)

⚠️ EMERGENCY - CHILDREN AT IMMEDIATE RISK ⚠️

14% OF CHILDREN TAKEN TO THAILAND NEVER RECOVERED

Per NCMEC International Affidavit ***(Exhibit A)***

I. RELIEF REQUESTED

This Court must issue an emergency Temporary Restraining Order **immediately** to prevent:

1. **International parental kidnapping** of minor children (ages 13 and 9);
2. **Enforcement of void state court order** (January 28, 2026 hearing);
3. **Irreparable constitutional harm** to Plaintiff and children;

CRITICAL TIMELINE:

- **October 27, 2025**: Mother's SECRET passport application attempt (only alert system prevented fraud);
- **January 28, 2026**: VOID hearing - Father removed from Zoom without warning, order compelling passport signature issued;
- **TODAY**: Children at immediate risk of removal to Thailand;

II. STANDARD FOR TRO

Under *Winter v. Natural Resources Defense Council*, 555 U.S. 7, 20 (2008), a party seeking a TRO must establish:

1. **Likelihood of success** on the merits;
2. **Irreparable harm** absent injunctive relief;
3. **Balance of equities** favors the moving party; and
4. **Public interest** favors injunctive relief.

Constitutional deprivations constitute irreparable harm *per se*. *Elrod v. Burns*, 427 U.S. 347, 373 (1976).

Plaintiff satisfies all four *Winter* factors.

III. LIKELIHOOD OF SUCCESS ON THE MERITS

Plaintiff demonstrates likelihood of success on **THREE INDEPENDENT CONSTITUTIONAL GROUNDS**.

Any one ground alone warrants emergency relief.

A. GROUND 1: STATE-CREATED DANGER (42 U.S.C. § 1983)

Legal Standard

Under *Kennedy v. City of Ridgefield*, 439 F.3d 1055, 1062-64 (9th Cir. 2006), state actors are liable when they:

1. Engage in **affirmative conduct**;
2. That **creates or increases danger** to plaintiff; and
3. Plaintiff would not otherwise have faced that danger.

See also *Doe v. Lebbos*, 348 F.3d 820, 825-27 (9th Cir. 2003) (liability where officials ignore credible child-abuse indicators and facilitate continued exposure).

The Costco Video: Near-Lethal Child Strangulation

On **June 15, 2024**, Costco surveillance cameras captured the **violent strangulation** of Plaintiff's **seven-year-old son** (now 9) by the children's mother's boyfriend.

(Exhibit G - Subpoena Duces Tecum, signed by Judge Palubicki)

On **October 31, 2024**, during an evidentiary hearing, **the state court personally reviewed this video** and **commented on the record regarding the severity of the assault**.

Medical Evidence: Sacred Heart Pediatric ER

On **June 16, 2024** (the day after the Costco incident), Stella Bear of DCYF/CPS directed Plaintiff to bring the children to **Sacred Heart Medical Center** for a **"surprise" well-child check**.

The children disclosed information that was **"extremely concerning"** to the pediatric ER nurse.

Plaintiff and children left Sacred Heart with **discharge instructions WARNING against returning the children to their mother**.

Pediatric abuse specialists at Sacred Heart Medical Center, acting with DCYF, advised that the children should NOT return to their mother's care pending investigation.

The court disregarded these medical findings and recommendations.

RCW 26.09.191: Mandatory Protection Statute VIOLATED

RCW 26.09.191 imposes a **mandatory, non-discretionary duty** on courts to restrict residential time upon **credible evidence of child abuse**. The statute uses imperative language: courts **"shall restrict"** custody.

The court had:

- ✓ **Video evidence** of violent strangulation (personally reviewed);
- ✓ **Medical recommendations** from Sacred Heart pediatric specialists;
- ✓ **DCYF involvement** and investigation;
- ✓ **Discharge instructions** warning against return to mother;
- ✓ **Prior criminal charges** (February 2018 - 2nd degree child assault against mother);

Despite this overwhelming evidence, the court:

- ✗ **REFUSED to apply the mandatory protection statute**;
- ✗ **LEFT the children in the offending household** with the violent boyfriend;
- ✗ **CONTINUED enforcement actions against the protective parent** (Plaintiff);
- ✗ **DISREGARDED medical findings and recommendations**;

This is **not discretion** — this is **willful violation** of a mandatory protection law.

Evidence Tampering by Judicial Officer

After reviewing the Costco video evidence, **Judge Palubicki personally altered the evidence-custody directive** by **crossing out "Clerk of Court"** as the recipient of the evidence and **initialing the alteration**.

(Exhibit G - Subpoena showing cross-out and initials)

This is the SAME JUDGE who SIGNED the subpoena requesting the evidence in the first place.

This judicially-initialed alteration:

- **Prevented Clerk custody** of child abuse evidence;
- **Disrupted chain of custody** for evidence of near-homicidal child abuse;
- **Foreclosed independent preservation and verification**;
- Was done **without motion, findings, or adversarial process**;

Additional Evidence Tampering by Defendant Kempner

Defendant Kempner **admitted in affidavit** to tampering with the video provided by Costco:

- Original: **Avigilon 5K Ultra High Definition at 30 frames per second**;
- Kempner **reduced it to 8 frames per second**;
- He **exported it to AVI format** ("**90s era lowest resolution format possible**" on that software);
- The video was made **small enough for CPS in Idaho to email** to Plaintiff's attorney;

This deliberate degradation of **evidence of near-lethal child abuse** constitutes spoliation and obstruction of justice.

Defective Subpoena Compliance

A lawful subpoena to Costco sought:

- Native video with metadata;
- Logs;
- Correspondence;
- Policies;

Costco produced **only a converted file**, impairing verification and forensic review. **No correspondence, no native video, no items responsive to subpoena**.

State-Created Danger Analysis

The court's **affirmative acts** (refusing to apply mandatory protection statute, tampering with evidence custody, leaving children with documented abuser) **INCREASED the danger** to children who would not otherwise face this danger.

This is textbook state-created danger. *Kennedy*, 439 F.3d at 1062-64.

B. GROUND 2: PROCEDURAL DUE PROCESS (14th Amendment)

January 28, 2026 Hearing = VOID AB INITIO

The January 28, 2026 hearing suffers from **SIX INDEPENDENT FATAL DEFECTS**. Any one voids the hearing. Together, they demonstrate systematic constitutional deprivation.

DEFECT 1: Lack of Subject Matter Jurisdiction (Appellate Stay in Effect)

- **Appellate stay was in effect** (Court of Appeals confirmed);
- **December 19, 2024**: Judge Palubicki **DENIED Motion to Lift Stay** *(Exhibit Y)*;
- Order issued **IN SECRET** - no notice to Plaintiff;
- Stay **remained in effect** through January 28 hearing;
- **Trial court lacked jurisdiction** to proceed;

A court without jurisdiction cannot act. *United States v. Cotton*, 535 U.S. 625, 630 (2002).

DEFECT 2: Mandatory Recusal Violated (RCW 4.12.060)

- **January 28, 2026, 12:22 PM**: Plaintiff filed **Notice of Disqualification** under RCW 4.12 *(Exhibit M)*;
- Hearing scheduled for **1:00 PM** (38 minutes later);
- **RCW 4.12.060**: Judge **"shall forthwith"** transfer case;
- Palubicki **PROCEEDED ANYWAY** = **willful violation of mandatory statute**;

"Shall forthwith" is mandatory, not discretionary. The statute provides NO exception for timing.

DEFECT 3: Defective Service

- Kempner served documents to: **15000 Stinson, Hayden, ID 83835**;
- Plaintiff's actual address: **12000 N Stinson Dr, Hayden, ID 83835**;
- **Wrong address = not service at all**;
- Plaintiff **never received pleadings** until AFTER hearing;

(Exhibit M - Email stating "I don't know where that is. My address is 12000 n stinson dr.")

DEFECT 4: Denied Continuance Despite Explicit Notice

- **January 14, 2026**: Plaintiff notified court January 28 won't work;
- **January 27, 2026, 10:14 AM**: Plaintiff emails **"I cannot attend a hearing tomorrow"** *(Exhibit I.2)*;
- Email also cited **18 U.S.C. §§ 241 and 242** (deprivation of rights under color of law);
- Request **met with silence**;
- **January 27, 2026, 1:15 PM**: Kim Kilham email - hearing proceeding anyway *(Exhibit I)*;
- **Less than 24 hours notice**;

DEFECT 5: Removed from Hearing Without Warning

- Plaintiff appeared via court-provided Zoom;
- **Removed from Zoom without warning or consent**;
- **Hearing continued in Plaintiff's absence**;
- Orders issued compelling passport signature and authorizing Thailand travel;
- **Did not disconnect voluntarily**;
- **Not afforded opportunity to be heard** at critical stage;

(Exhibit M - Filed immediately after removal, stating objection)

DEFECT 6: Pattern of Secret Orders

- December 19, 2024 denial *(Exhibit Y)* - no notice;
- January 30, 2026 vacation of denial - no notice, too late;
- Pattern of judicial action **without due process**;

Due Process Violation

ANY ONE of these defects voids the hearing. **Together**, they demonstrate **systematic deprivation of procedural due process**.

Mullane v. Central Hanover Bank & Trust Co., 339 U.S. 306, 314 (1950): Due process requires "notice reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action."

Plaintiff had no notice, no opportunity to be heard, and participated before a judge required by statute to transfer the case.

C. GROUND 3: CONSPIRACY (42 U.S.C. § 1985)

Personal Misconduct by Kempner (Not Protected by Attorney Immunity)

Defendant Kempner engaged in **personal misconduct outside his representative capacity**:

1. Evidence Tampering

Admitted in affidavit to reducing Costco video from **5K/30fps to 8fps AVI** ("90s era lowest resolution");

2. Wrong Address Service

Documents served to 15000 Stinson vs 12000 N Stinson Dr;

3. Drafted Orders for Hearings He Didn't Attend that remain inaccurate and changed the rulings of the court

- June 23, 2023 (Kempner absent, drafted order);
- September 14, 2023 (Kempner absent, drafted order);
- Orders **don't reflect what happened**, **change court's rulings**;

4. October 27, 2025: Mother's SECRET Passport Application Attempt

- No discussion with Plaintiff;
- Plaintiff's consent required;
- Plaintiff did not consent;
- DSS Crime Tips investigation along with
- Spokane County Sheriff's investigation
- Where there is concealment, there can be no trust.
- Currently Pending passport applications to complete without consent.
- **Only passport alert system prevented fraud**;

5. January 28, 2026: Conspiracy Culminates

Void hearing compelling signature under threat of contempt;

Joint Action Under Color of Law

Kempner conspired with Defendant Sirinya Surina to facilitate international child abduction through:

- Secret passport attempt (Oct 27, 2025);
- Wrong address service (preventing notice);
- Evidence tampering (degrading abuse evidence);
- False Restraining order obtained through judicial privilege
- Granted DARVO without any credible insults, imminent harm or even a threat.
- Palubicki watched the protected party of his restraining order strangle plaintiff's 7 year old boy in the evidentiary hearing on Mr. Kempner's laptop
- This denial of rights did cause emotional distress through intentional defamation of character, destruction of financial stability and deprivation of rights to fair and impartial proceeding and due process.
- No contact between the parties had been made. Used to force Plaintiff out of employment and to reference in abduction attempt / passport fraud.
- Used for the purpose of obsolving United States jurisdiction over the children allowing total total silencing of parent child bond and total removal of the relationship with the children's strongest bond, same sex parent that nurtures patiently, the parent who does not abuse, attack, criticize or harm them and whom they feel safe around.
- Void hearing (Jan 28);

This is conspiracy to deprive constitutional rights. *Dennis v. Sparks*, 449 U.S. 24, 27-28 (1980) (private parties conspiring with state officials act under color of law).

Attorney immunity does not extend to conspiracy. *Ashelman v. Pope*, 793 F.2d 1072, 1078 (9th Cir. 1986).

IV. IRREPARABLE HARM - PERMANENT LOSS OF CHILDREN

14% NEVER RECOVERED (NCMEC Thailand Affidavit - Exhibit A)

NCMEC International Affidavit - Thailand (April 2020):

- **14%** of children taken US→Thailand **NEVER RECOVERED**;
- **50%** recovered only through **voluntary return** (not legal enforcement);
- Thailand Central Authority **does not represent** left-behind parents;
- Must retain **private Thai counsel** at own expense;
- **Plaintiff has ZERO INCOME** - cannot afford Thai attorney;

Risk Factors - Mother Matches ALL

✓ Previously attempted abduction (2017, Oct 2025);
✓ Strong ties to Thailand (Thai national, family support);
✓ Financially independent (operates two restaurants);
✓ Family support network in Thailand;
✓ History of non-cooperation;
✓ Ending mixed-culture marriage;
✓ **NCMEC Profile 5 match**;

The Parenting Plan: Jurisdictional Trap

The parenting plan **prohibits children from contacting parent not exercising residential time**.

Once children enter Thailand during mother's residential time:

- **No contact allowed** (parenting plan provision);
- **Immediately strips all parental rights** the moment children enter Thai territory;

- Children are **dual Thai nationals** by birthright;
- Thailand will treat as **Thai sovereign nationals**;
- Mother can claim "fabricated danger in America" (fraudulent restraining orders);
- **No U.S. jurisdiction** once children in Thailand;

Compelled Signature Voids International Remedies

- **Hague Convention**: Parental "consent" weakens wrongful retention claims;
- Thai authorities will see signature + court order = **Plaintiff consented**;
- Mother can claim: "He agreed, court approved, he consented";
- International framework doesn't account for **compelled signatures**;
- With **zero income**, Plaintiff cannot fight in Thai courts;

Prevention is the ONLY effective remedy.

Irreparable vs. Temporary Harm Analysis

If TRO GRANTED:

- Children safe;
- Travel can be permitted LATER with safeguards;
- Nothing lost;
- Review proceeds;

If TRO DENIED:

- **14% never recovered** = permanent loss;
- **50% depend on voluntary return** = mother won't cooperate (8-year pattern);
- **Plaintiff has no resources** for Thai counsel;
- **Parenting plan strips all rights** once in Thailand;
- **EVERYTHING LOST**;

This is the definition of irreparable harm.

V. BALANCE OF EQUITIES & PUBLIC INTEREST

Equities Overwhelmingly Favor Plaintiff

Plaintiff's Interest:

- Fundamental parental rights (*Troxel v. Granville*, 530 U.S. 57 (2000));
- Children's safety (documented abuse);
- Prevention of permanent loss (14% never recovered);

Mother's Interest:

- Temporary delay of vacation;
- Can travel later with proper safeguards;
- NOT foreclosed, merely delayed;

Public Interest Strongly Favors TRO

1. **Child Safety** - Protecting children from documented abuser;
2. **Constitutional Integrity** - Preventing void orders from being enforced;
3. **Evidence Preservation** - Chain of custody for child abuse evidence;
4. **Mandatory Law Enforcement** - RCW 26.09.191 must be applied;
5. **Due Process** - State courts cannot operate lawlessly;
6. **Federal Criminal Law** - Preventing 18 USC § 1204 violations (IPKCA);

VI. REQUESTED RELIEF

Plaintiff respectfully requests this Court **IMMEDIATELY** issue a Temporary Restraining Order:

A. ENJOIN ENFORCEMENT

1. **ENJOIN** enforcement of January 28, 2026 state court order compelling passport signatures and authorizing Thailand travel;
2. **DECLARE** January 28, 2026 order **VOID AB INITIO** for lack of jurisdiction and due process violations;

B. PREVENT REMOVAL

1. **ENJOIN** Defendants from:
    - Removing or attempting to remove minor children from United States;
    - Applying for or obtaining passports for children;
    - Taking any action to facilitate international travel;
2. **ORDER** Defendant Sirinya Surina to:
    - Surrender any passports already obtained;
    - Provide sworn statement she has not obtained passports;

C. EVIDENCE PRESERVATION

1. **ORDER** Spokane County Superior Court Clerk to:
    - Assume custody of Costco video evidence;
    - Preserve chain of custody;
    - Prevent further tampering or alteration;
2. **ENJOIN** further evidence tampering or destruction;

D. PRESERVE STATUS QUO

- Children remain in United States pending resolution;
- No international travel;
- Current custody arrangement continues;

E. EXPEDITED PRELIMINARY INJUNCTION HEARING

- Set hearing within 14 days;
- Briefing schedule;

VII. DECLARATION OF EMERGENCY

Plaintiff declares under penalty of perjury:

1. **Imminent Harm**: Children at immediate risk of removal to Thailand;
2. **No Adequate Remedy**: Once children removed:
    - 14% never recovered;
    - Plaintiff cannot afford Thai counsel ($0 income);
    - Parenting plan strips all rights;
    - Loss is PERMANENT;
3. **Notice Impractical**: *Ex parte* relief necessary because:
    - Notice would allow passport applications to proceed;
    - Mother already attempted secret passport procurement (Oct 27);
    - Risk of immediate flight;
4. **Good Faith**: This motion brought in good faith to protect children;

VIII. CONCLUSION

The facts are overwhelming:

- Court reviewed video of **near-lethal child strangulation**;
- **Mandatory protection law VIOLATED**;
- **Evidence tampering by judge** (same judge who signed subpoena);
- **SIX independent grounds** for void hearing;
- **14% never recovered** if children taken;
- **Mother matches ALL abduction risk factors**;

The law is clear:

- Constitutional violations = irreparable harm;
- State-created danger liability;
- Void orders cannot be enforced;

The choice is binary:

- **Grant TRO**: Children safe, nothing lost, review proceeds;
- **Deny TRO**: 14% never recovered, everything lost, permanent harm;

This Court is the failsafe.

Children ages **13 and 9** cannot protect themselves. Their father has **zero income** and cannot defend against abduction once it occurs. The lower court has **systematically violated** his constitutional rights for nearly a decade.

Prevention is the only effective remedy.

Plaintiff respectfully requests this Court grant emergency relief **immediately**.

Dated: February 10, 2026

Respectfully submitted,

/s/ Aaron Michael Surina
Aaron Michael Surina, *Pro Se*
12000 North Stinson Dr
Hayden, Idaho 83835
ams@surina.org
707-200-4372

EXHIBIT LIST

- **Exhibit A**: NCMEC International Affidavit - Thailand (Caroline Teague email + affidavit) - 14% never recovered
- **Exhibit B**: 18 U.S.C. § 242 (Deprivation of Rights Under Color of Law - full statute text)
- **Exhibit C**: RCW 26.09.191 (mandatory protection statute)
- **Exhibit D**: RCW 9A.60.030 (obtaining signature by duress - Class C Felony)
- **Exhibit E**: RCW 9A.40.060 (custodial interference 1st degree - Class C Felony)
- **Exhibit F**: RCW 9A.36.130 (assault of child 2nd degree - what Sirinya charged with Feb 2018)
- **Exhibit G**: Subpoena Duces Tecum (signed by Palubicki, showing cross-out of Clerk custody and initials)
- **Exhibit H**: Sacred Heart Medical Center discharge instructions (June 16, 2024)
- **Exhibit I**: Jan 27, 2026 1:15 PM email from Kim Kilham re hearing Jan 28 at 1:00 PM (less than 24 hours notice)
- **Exhibit I.2**: Jan 27, 2026 10:14 AM email from Plaintiff: "I cannot attend a hearing tomorrow" + citing 18 USC 241 & 242

- **Exhibit J**: Jan 28, 2026 9:17 AM email - correspondence re hearing at 1:00 PM
- **Exhibit K**: Jan 28, 2026 Passport Order (compelling signature)
- **Exhibit M**: Jan 28, 2026 12:22 PM Notice of Disqualification / Motion for Recusal (filed 38 minutes before hearing)
- **Exhibit N**: Email from Kempner transmitting passport order ("inviting me to sign my kids' lives away")
- **Exhibit Y**: Palubicki secret denial of Motion to Lift Stay (Dec 19, 2024 - no notice to Plaintiff)

CERTIFICATE OF SERVICE

I certify that on February ____ , 2026, I served a true and correct copy of the foregoing Emergency Motion for Temporary Restraining Order upon all parties of record by the methods permitted under Federal Rule of Civil Procedure 5.

Dated: February ___, 2026

/s/ Aaron Michael Surina

Aaron Michael Surina, *Pro Se*