

1 **Andrea C. Wood**
2 **40 Hilldale Court**
3 **Orinda, Cal. 94563**
4 **Tel.: 415-375-1686**
5 **dreacwood@gmail.com**

FILED

NOV 27 2019

SUSAN Y. SOONG
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

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SUSAN Y. SOONG
CLERK, U.S. DISTRICT COURT
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8 **IN THE UNITED STATES DISTRICT COURT**
9 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
10 **SAN FRANCISCO DIVISION**

13 **ANDREA C. WOOD**

14 **Plaintiff**

15 **v.**

16 **COUNTY OF CONTRA COSTA, et al.**

17 **Defendants**

18 **JURY TRIAL DEMANDED**

DKT No. 19-cv-7124-MMC

20 **ORDER TO SHOW CAUSE**

21 Upon the annexed affidavit of Andrea C. Wood, Plaintiff, dated November
22 27, 2019, LET the Federal defendants show cause at a Term of the United
23 States District Court for the Northern District of California and before the
24 **HON. MAXINE M. CHESNEY**, at the Courthouse thereof, located at 450
25 Golden Gate Avenue San Francisco, CA 94102, on the 6th day of December
26 2019, at 9:00 A.M. in the morning, or as soon as counsel can be heard, why

an order should not be entered dismissing the Complaint. And it is therefore
ORDERED, that service of this Order to Show Cause, and the papers upon
which it is granted, be made upon the counsel to the Federal defendants, who
businesses are domiciled at 651 Pine Street, Martinez, Cal. 94553 and 400
Ellinwood Way Pleasant Hill, Cal. 94563 on or before the 2nd day of
December 2019, shall be deemed good and sufficient service thereof. It is
further **ORDERED**, that a declaration shall be filed with the Court on or
before the return date fixed in this Order to Show Cause.

Dated: November 27, 2019
Orinda, Cal.

ENTER:

Hon. Maxine M. Chesney

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

ANDREA C. WOOD

Plaintiff

v.

COUNTY OF CONTRA COSTA, et al.

Defendants

JURY TRIAL DEMANDED

DKT No. 19-cv-7124-MMC

1. Andrea C. Wood, being duly sworn, deposes and says: That she is the Plaintiff in the within action. On November 8, 2019, the District Court issued an Order directing Plaintiff to show cause why the Complaint should not be dismissed.
2. Plaintiff alleges that according to 18 U.S.C. 1961, et seq. (the "RICO Statute"), and shows by a preponderance of the evidence, that there exists a racketeering Enterprise in the County of Contra Costa, California that consists of: County of Contra Costa, Department of Family and Child Services ("DFCS"), Superior Court of California County of Contra Costa, Family Court Judges, Preferred Attorneys in Family Court, the County Attorney's

Office, and Attorneys for Children. Plaintiff alleges and shows with a preponderance of the evidence that caseworkers, judges, and lawyers conspire and collaborate to concoct fictitious instances of child neglect contrary to the legal standard for profit.

3. Traditional RICO Statute predicate acts are contained herein and include: (i) witness tampering; (ii) obstruction of justice; (iii) extortion; and (iv), a civil conspiracy to cover up witness tampering and obstruction of justice. These predicate acts are pled with specificity in the instant action.
4. The RICO Statute contains a provision that allows for the commencement of a civil action by a private party to recover damages sustained as a result of the commission of a RICO predicate offense(s). The RICO Statute also permits a private individual "damaged in his business or property" by a "racketeer" to file a civil suit. The plaintiff must prove the existence of an "enterprise", and Plaintiff proves with a preponderance of the evidence of the existence of such an enterprise among the County of Contra Costa, DFCS, Superior Court of California County of Contra Costa, Court Judges, Preferred Attorneys in Family Court, the County Attorney's Office, and Attorneys for Children. As pled elsewhere in the instant action, the connections among these parties proves the existence of an "enterprise."

5. Plaintiff shows with specificity at least one of four specified relationships between the defendant(s) and the Enterprise: when the Superior court assigned a “preferred attorney” to a private paying respondent at a cost of \$75,000, the defendant(s) invested the proceeds of the pattern of racketeering activity into the Enterprise (18 U.S.C. § 1962(a)) and the Complaint should not be dismissed (the Superior Court racketeering); when the Superior Court dragged the proceedings through a Jurisdictional Trial, a Dispositional Trial, and as of September 4, 2019 a trial to terminate the Plaintiff’s parental rights on the basis of a false police report filed by Federal defendant Erica Bains (attached herein as Exhibit “A”) the defendant(s) acquired or maintained an interest in, or control of, the Enterprise through the pattern of racketeering activity (subsection (b)) and the Complaint should not be dismissed (the Erica Bains/Superior Court racketeering); when Federal defendant Kellie Case arrived at Plaintiff’s home unannounced and stated “you are to pay court costs in the amount of SEVEN HUNDRED THOUSAND DOLLARS (\$700,000) you will never see your children again” or words to that effect the Federal defendant(s) conducted or participated in the affairs of the Enterprise “through” the pattern of racketeering activity (subsection (c)) and the Complaint should not be dismissed (the DFCS racketeering); the record now shows that the Federal defendants Judge Lois Haight, preferred attorney Mary

P. Carey, Eric Bains, DFCS conspired to do one of the above (subsection (d)) and the Complaint should not be dismissed. A Civil RICO action can be filed in Federal court.

Predicate Act: Witness Tampering

6. When Federal defendant Bains coached TP to tell untruths about Plaintiff and that she hit HP, Bains tampers with a witness, violates the Statute and the Complaint should not be dismissed (the first instance of racketeering in a ten-year period).
7. HP reported that the Enterprise coached him to say bad things about Plaintiff - under threats of escalated care - commonly known as Juvenile Hall, violates the Statute and the Complaint should not be dismissed (the second instance of racketeering in a ten-year period).
8. Federal defendant Case recanted when testifying that HP was hit from "not that I recall" to "Yes, he did" under the watchful eye of Federal defendant Haight violates the Statute and the Complaint should not be dismissed (the third instance of racketeering in a ten year period).
9. Federal defendant Bains coached TP to report that the Plaintiff hit HP, wrongly blaming Plaintiff for striking the child when in fact it was the nanny, Steffi Guggenbichler, who hit HP violates the Statute and the Complaint

should not be dismissed (the first fourth instance of racketeering in a ten year period); Guggenbichler concealed this to Plaintiff.

10. An unidentified member of the Enterprise, coached KP to say she was hit with a whip, only KP said in testimony said "what whip," or words to that effect violates the Statute and the Complaint should not be dismissed (the fifth instance of racketeering in a ten year period).

Discussion

11. The facts of the instant action make it abundantly clear that Federal defendants Haight, Case, and Lawrence knowingly, corruptly persuaded TP, HP and KP and attempted to do so, to engage in false statements that persuaded TP, HP, and KP with the intent to (1) influence, delay, or prevent the testimony of witnesses to aid in the defense of Plaintiff in an official proceeding. Federal defendant's Haight, Case, and Lawrence committed witness tampering under 18 U.S.C. §1512, a violation of the Statute and the Complaint should not be dismissed (the sixth instance of racketeering in a ten year period).

12. Federal defendants Haight, Case, and Lawrence simply asked TP, HP, and KP to tell less than the whole truth and TP, HP, and KP knew that they were being asked to tell less than the whole truth, therefore Federal defendants Haight, Case, and Lawrence corruptly persuaded the witness and is a violation

of the laws, *res ipsa loquitur*, and has harmed Plaintiff and the injury was caused by the violation of 18 U.S.C. §§ 1961, et seq., and the Complaint should not be dismissed.

Predicate Act: Obstruction of Justice

13. In the Jurisdictional trial, all Federal defendants in this action, especially each of Haight, Case, and Carey began the conspiratorial act of obstructing justice by coaching TP, HP, and KP which is a violation of the Statute and the Complaint should not be dismissed (the seventh instance of racketeering in a ten year period).

14. Federal defendant Gutierrez filed a fictitious, malicious detention report, without evidence, and based on the incorrect standard of the preponderance of the evidence as opposed to the standard of clear and convincing required by the U.S. Supreme Court which is a violation of the Statute and the Complaint should not be dismissed (the eighth instance of racketeering in a ten year period)

15. Federal defendant Haight obstructed justice, and in violation of Sixth Amendment when she denied Plaintiff the right to seek the counsel of her choice that allowed the Federal defendant(s) to invest the proceeds of the pattern of racketeering activity into and fund the Enterprise (see 18 U.S.C. §1962(a)).

172 16. In fact, by implication in the instant action, the Federal defendants meet all
173 four of the specified relationships of par. 61 of the Complaint: they funded the
174 Enterprise; the Federal defendants acquired and maintained an interest in the
175 Enterprise through the pattern of racketeering activity; the Federal defendants
176 conducted or participated in the affairs of the Enterprise through the pattern
177 of racketeering activity; and conspired to do one of the aforementioned, *res*
178 *ipsa loquitur* are violations of the Statute and the Complaint should not be
179 dismissed.

180 17. Plaintiff was removed from the courtroom during the direct examination of
181 HP and KP. Federal defendant Haight refused to allow the cross examination
182 of KP and threatened Plaintiff; Federal defendant Carey corroborated the
183 position of Haight which is a violation of the Statute and the Complaint should
184 not be dismissed (the ninth instance of racketeering in a ten-year period).

185 18. Federal defendant Williams, on numerous occasions, committed perjury
186 under oath that cast an unwarranted negative light upon Plaintiff, thereby
187 usurping the power of the courts, and resulted in obstruction of justice is a
188 violation of the Statute and the Complaint should not be dismissed (the tenth
189 instance of racketeering in a ten year period).

190 19. On May 23, 2019, Federal defendant Maddock denied Plaintiff's request for
191 transcripts that would have implicated him in a violation of the First

Amendment and is a violation of the Statute (the eleventh instance of racketeering in a ten-year period).

Discussion

20. Plaintiff states, by the facts of the instant action make it abundantly clear that Federal defendants Haight, Carey, and Lawrence coached HP, at all times relevant thereto, a 12 year old, to untruthfully testify about Plaintiff's sex life that did corruptly endeavor to influence, obstructs, or impedes, or endeavors to influence, obstruct, or impede, the due administration of justice. In doing so, Federal defendants Haight, Case, Carey, and Lawrence committed obstruction of justice under Section 1503 which is a violation of the Statute and the Complaint should not be dismissed.

21. Federal defendants Haight, Carey, and Lawrence simply asked HP to tell less than the whole truth and HP knew that he was being asked to tell less than the whole truth, therefore Federal defendants Haight, Case, Carey, and Lawrence corruptly influenced, obstructed, impeded, and endeavored to influence, obstruct, or impede, the due administration of justice and is a violation of the statute, *res ipsa loquitur*, and has harmed Plaintiff and the injury was caused by the violation of 18 U.S.C.A. §§ 1961 .

Predicate Act: Extortion

211 22. On or about March 2018, Federal defendant Case entered Plaintiff's
212 home and laid claims to \$700,000 in courts costs payable by Plaintiff who
213 believe such costs have risen to between \$1 million to \$2 million. Federal
214 defendant Case made it perfectly clear that either Plaintiff would pay the court
215 costs or risk never seeing Plaintiff's kids again which is a violation of the
216 Statute and the Complaint should not be dismissed (the twelfth instance of
217 racketeering in a ten-year period).

218 23. Unfortunately, under California law, court costs are limited to reimbursing the
219 State for the cost of a court appointed attorney; As Plaintiff never used a court
220 appointed attorney, purported \$700,000 in costs allowed the Enterprise to
221 invest such sums in the proceeds of the pattern of racketeering activity into
222 and fund the Enterprise (see 18 U.S.C. § 1962(a)).

223 Discussion

224 24. Plaintiff alleges that the Enterprise is in possession of property of the Plaintiff,
225 purported court costs of at least \$700,000 or she will never see her children,
226 HP and KP again which is a violation of the Statute and the Complaint should
227 not be dismissed.

228 25. Federal defendant Case induces Plaintiff to provide that property under color
229 of official right; Plaintiff has not paid it yet.

Predicate Act: Conspiracy to Cover-up Witness Tampering and Obstruction
of Justice

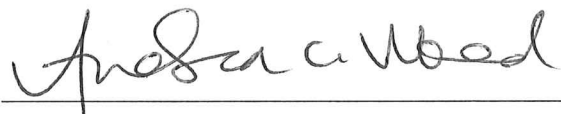
26. It will be established during Discovery that the Federal defendants, *inter alia*, Haight, Carey, Lawrence, and Williams persuaded TP, HP, and KP to make statements of falsehood in certified transcripts that do not lie.

27. In doing so, Haight inspired and provided a mechanism to the Federal defendants to create a conspiracy to cover up witness tampering and obstruction of justice in her trial proceedings which is a violation of the Statute and the Complaint should not be dismissed (the thirteenth instance of racketeering in a ten year period).

WHEREFORE, Plaintiff respectfully requests a ruling that the Complaint should not be dismissed and such further relief as this Court deems appropriate.

Dated: November 27, 2019
Orinda, Cal. 94563

For Respondent

A handwritten signature in cursive script, appearing to read "Andrea C. Wood", is written over a horizontal line.

Andrea C. Wood

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EXHIBIT "A"

1. Witness Tampering, lines 10-19, p 75
2. Fraudulent Police Report
3. 2/7/2018 Motion

1 MS. LAWRENCE: We're not coming back
2 tomorrow morning.

3 THE COURT: I thought --

4 MS. LOWE: Friday.

5 MS. LAWRENCE: Friday.

6 MS. RAMIREZ: Friday at 9:00.

7 MS. LAWRENCE: Tomorrow is not Friday.

8 THE COURT: That's right. I'm hoping the
9 week was almost finished.

10 MS. CAREY: Q. Did Hayden ever tell you
11 that his mother hit him on more than one occasion?

12 A. Not that I recall.!

13 Can I correct that?

14 THE COURT: What? Yes.!

15 THE SOCIAL WORKER: Yes, he did.!

16 MS. CAREY: Q. What did he tell you?

17 A. He told me that she had hit him on
18 more than one occasion.

19 Q. When was that? When did he tel' you
20 that?

21 THE COURT: If you can remember.

22 THE SOCIAL WORKER: October 6th, 2017.

23 MS. CAREY: Q. Was that in a home visit
24 that you were having with him?

25 A. That was in a meeting with myself,
26 Hayden, and Ms. Lawrence here at the courthouse.

27 Q. What did he say?

28 MS. LOWE: Asked and answered.



DR No: 170010639

Sup No: 0003

Page 3 of 4

OFFICE OF THE SHERIFF, CONTRA COSTA COUNTY

CA0070000

P.O. BOX 391, Martinez, California 94553-0039

Beat: 82

DV: No

ARREST: No

eventually answered one of the phone calls and it was Stefanie. Stefanie wanted to meet with [REDACTED] and Stefanie met at a restaurant she believed was called the Royal Thai in Moraga (possibly Royal Siam). [REDACTED] met with Stefanie on 9-21-17 at the restaurant between 1215 and 1230 hours. [REDACTED] provided me a copy of a handwritten letter she told me Stefanie gave her. [REDACTED] also gave me a letter she told me Stefanie gave her for Kingsley on 8-11-17.

[REDACTED] told me during her meeting with Stefanie, Stefanie told her she had received several emails from O-Paul Sumner. Stefanie believed the children were at [REDACTED]'s residence, because Sumner had sent her an email telling her the children had been taken and were with [REDACTED]. [REDACTED] had thought that Stefanie had gone back to Austria, because Stefanie said she was going back to care for her grandmother. Stefanie told [REDACTED] she had been doing odd jobs and staying with friends to save up money to return to Austria. Stefanie told [REDACTED] she had to get back to Austria soon because her uncle was in a coma in Austria. Stefanie gave [REDACTED] the letter telling [REDACTED] she believed it would help the children. [REDACTED] said she read a portion of the letter and stopped reading it after becoming upset.

[REDACTED] told me while she spoke with Stefanie, Stefanie was very upset and was crying. [REDACTED] told me Stefanie was extremely afraid of Andrea and believed Andrea may try to harm her. Stefanie had not emailed Sumner back because Stefanie told [REDACTED] that she believed Sumner would try to get her to meet with him so Andrea could do something to her. [REDACTED] told me she had no contact information for Stefanie. I left a business card with [REDACTED] and told her to have Stefanie contact me so I could speak with her. [REDACTED] also said she would try to find an email address for Stefanie and would let me know if she found it.

I later scanned and attached the copies of the letters [REDACTED] provided to me that she had received from Stefanie.

I received an email from [REDACTED] later in the evening with a forwarded email address for Stefanie. The forwarded email from [REDACTED] was from 6-6-17 and in it Stefanie told [REDACTED], "Please help me I need now every support that I can get." [REDACTED] explained in her email to me that she had forgotten she had received the email. [REDACTED] explained in the email in June that Stefanie was almost held as a "human slave" at times by Andrea. [REDACTED] also explained in the email, Stefanie had been told in June "she will be deported unless she did as she was told - to shut up, work, take care of kids with no pay." I later scanned and attached the email I received from [REDACTED] to this report.

The letter [REDACTED] provided me a copy of from Stefanie, makes several allegations concerning Andrea. In the letter Stefanie describes Andrea using Kingsley as a pawn to lure men to spend time with Andrea. Stefanie alleges in the letter that Andrea would take Kingsley out late to bars and restaurants. Stefanie also stated in the letter, Andrea was providing Kingsley and Hayden with the password to her cellular phone so that Kingsley and Hayden could watch pornographic videos. The letter also states that the children watched inappropriate messages/videos that Andrea was texting/receiving from her boyfriends. In the letter, Stefanie stated Andrea often had men stay at the residence and the children had to listen to Andrea moaning from her bedroom. Stefanie described in the letter how Kingsley was disturbed by Andrea's lifestyle and how Andrea did not have money for the children due to spending money on men. The letter also points out that Andrea had put Jeremy James Packwood on the birth documents of all of her children as

Distribution

Additional Routing

Reporting Deputy (Print) Terrill, Levi	Date / Time Written 9/27/2017 21:13:57	Disposition Case active
Approving Supervisor(Print) Chestnut, Lucky	Supervisor No. 68548	Date 10/4/2017

LAW OFFICES OF MARY P. CAREY
MARY P. CAREY, State Bar #121366
1850 Mount Diablo Blvd. Suite 670
Walnut Creek, California 94596
Telephone: (925) 943-1843

Attorney for Andrea Wood

FILED

2018 FEB -7 P 2:51

STEPHEN H. NASH
CLERK OF THE SUPERIOR COURT
COUNTY OF CONTRA COSTA, CA

BY _____
DEPUTY CLERK

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF CONTRA COSTA
JUVENILE DIVISION

IN RE

No. J17-00914

HAYDEN PACKWOOD

MOTION TO STRIKE
TESTIMONY OF MINOR
HAYDEN PACKWOOD AND TO
EXCLUDE PRE TRIAL
STATEMENTS TO POLICE,
SOCIAL SERVICE WORKERS
AND CIC.

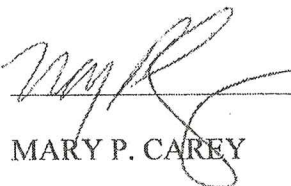
TO COUNSEL FOR HAYDEN PACKWOOD, COUNSEL FOR CONTRA COSTA
COUNTY CHILD AND FAMILY SERVICE BUREAU:

PLEASE TAKE NOTE THAT ON February 16, 2018, AT 9:00 M OR AS SOON AS
THIS MATTER MAY BE HEARD IN D-10 OF THE SUPERIOR COURT, Respondent
Andrea Wood, through counsel will move this court for an order striking the testimony of
Hayden Packwood, as well as previously admitted Pre-Trial Statements to social workers, the
Orinda Police Department and Children's Interview Center investigators, on the basis that
Hayden Packwood's statements are inadmissible; because they are the result and unlawful
product of his involuntary statements to the police and it's agents and such pretrial coercion
has affected the reliability of the evidence presented at the trial on this matter.

1 This motion is based upon the laws of the State of California and the Federal law of the
2 United States, as well as the Constitutional rights guaranteed under the U.S. and California
3 Constitutions, the attached supporting memorandum, all papers filed, all records in this action,
4 evidence taken at the contested Jurisdiction hearing, and argument at that hearing.
5

6
7 Date: February 2018

Respectfully Submitted,

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10 MARY P. CAREY

11 ATTORNEY FOR ANDREA WOOD
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2 **STATEMENT OF FACTS**

3 Hayden Packwood is 12 years old and the biological son of Andrea Wood, and Jeremy
 4 Packwood (deceased 2007). On August 18, 2017, petitions alleging parental abuse and
 5 neglect under W & I Section 300 (a), (b), (c) and (j) involving Hayden and his two siblings
 6 were filed in the Contra Costa County Juvenile Court. Prior to the Petition being filed; Hayden
 7 Packwood answered questions regarding alleged physical abuse by his mother posed by Erica
 8 Bains, a neighbor and estranged friend of his mother; whom he alleges provided him with much
 9 needed nutrition and meals on a daily basis. His 7 year old sister Kingsley was present while
 10 Hayden spoke with Erica Bains. After Bains contacted the Orinda Police, and Contra Costa
 11 Child and Family Services workers, he again recounted alleged abuse by his mother. He and
 12 his siblings were removed from their home and placed with the next door neighbor, Erica
 13 Bains. In the past, Bains had provided Hayden and Kingsley with snack food which they
 14 preferred to meals served at home by their mother. 14 year old Taylor Packwood testified at
 15 trial that Erica Bains instructed him to report that he saw Andrea Wood strike Hayden with an
 16 iron rod. Taylor further testified that this was not true. **However, Hayden's trial testimony**
 17 **suggests he believed that if he provided false statements about not feeling safe at home,**
 18 **alleged neglect by his mother; not having enough food to eat, and physical abuse; that he**
 19 **would be able to stop his mother from business travel; and consequently spend more time**
 20 **at home whereupon he could live with his siblings and mother under more favorable**
 21 **conditions.**

22 After little more than a week, the children were inexplicably removed from the Bains
 23 household, their excellent schools, and were placed in 2 separate foster homes in San Joaquin
 24 County. Days later, on August 29, 2017 in a forensic child abuse interview at the Children's
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1 Interview Center, Hayden unequivocally stated that “when he talked to the police I didn’t know
2 I would end up here and I’m not going to make the same mistake...**I never planned on ending**
3 **up in a foster home...and anything that I say will try to get me out. And anything that**
4 **relates into what I think is a bad idea I’m not gonna say”.** TX Interview Hayden Packwood
5 p. 12: 600-619). Nevertheless, Hayden had continuing lengthy weekly unsupervised contact
6 with Erica Bains, (in the absence of a court order for Bains or the foster mother not to discuss
7 the case).

9 Hayden’s 14 year old brother Taylor was removed from the San Joaquin foster home after
10 approximately 6 weeks. Taylor’s third placement in 3 months consisted of a group home shelter
11 in Alameda County. Trial testimony revealed that Hayden and his foster parent Wendy
12 discussed Hayden’s worry about Taylor’s numerous relocations and different schools. Hayden
13 believed that placement changes were punishment; and that any move away from home or a
14 foster home were punishment: involving a “higher level of care and supervision”; meaning a
15 dangerous placement such as juvenile hall. This was in direct opposition to his stated interest
16 in returning to family.

18 In response to Ms. Wood’s request for visitation with the minor the following occurred:
19 After a lengthy in camera settlement conference on October 6, 2017, (the date originally set for
20 contested Jurisdiction) for counsel and the Court; all parties went on the record in the
21 courtroom with their clients. Present were: Hayden Packwood, and counsel Ms. Lawrence,
22 Taylor Packwood and counsel Chris Judge, Andrea Wood and counsel Mary P. Carey, Araceli
23 Ramirez for Kingsley and Patricia Lowe, county counsel representing the Bureau of Child and
24 Family Services. While on the record during the hearing, while sitting inches from the child
25 Hayden, and in full view and earshot of teenager Taylor Packwood, and a cluster of attorneys
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1 waiting for their own cases to be called; the minor's attorney loudly disparaged the minor's
2 mother as follows:

3 Minor's Lawyer: "I don't think the mother has very much mothering in her. I think she's so
4 cruel—she denies my client the right to the one stable thing in his life—which is his cat. *I*
5 *think she dresses horribly for court. It's so inappropriate.*

6
7 Court: Ms. Lawrence; please, just focus on whether or not visits would be in your client's best
8 interest.

9 Minor's Lawyer: And my client definitely does not want contact with her at this time. *She's*
10 *done enough damage to him.*" RT 10/6/2017 p. 18:26-28, 19:1-9.

11 While testifying at trial during the Jurisdictional hearing Hayden recounted that **everyone**
12 **told him that what his mother did was wrong**, and he was going to court to resolve it.

13
14 The minor, Hayden Packwood continues to be assured that prompt placement with his
15 family (instead of a foster home) is being sought. The child has claimed repeatedly in emails to
16 his social worker and foster mother, in October 2017, prior to trial, that that the Bureau has
17 ruined his life, by not placing him with family, and is not doing their job, and that he is not
18 going to let the social worker "give him to some idiot", nor will he tolerate the Bureau ruining
19 his life. **Hayden continues to repeatedly express continuing duress, and singular desire to**
20 **be placed with family despite being compelled to return to the home of a stranger in an**
21 **out of county foster home placement after each court hearing and testimony.**

22 MEMORANDUM OF POINTS AND AUTHORITIES

23 1. Andrea Wood Has Standing to Assert a Denial Due Process and Fair Trial by the Use 24 of Coerced Statements and Trial Testimony from Her Son Hayden Packwood

25 In *People v. Badgett* (1995) 10 Cal.4th 339, the California Supreme Court states that "*In*
26 *deciding whether defendants had standing to bring their motion, it is important to recall that*
27
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defendants must allege a violation of their own rights in order to have standing to argue that testimony of a third party should be excluded because it is coerced. It is settled that the accused has no standing to object to a violation of another's Fifth Amendment privilege against self-incrimination. (*People v. Douglas* (1990) 50 Cal. 3d 468, 501 [268 Cal. Rptr. 126, 788 P.2d 640] [hereafter *Douglas*].) Similarly, a defendant has no standing to complain of violations of another's Fourth Amendment rights. (*United States v. Payner* (1980) 447 U.S. 727, 731, 735 [65 L. Ed. 2d 468, 473-474, 476-477, 100 S. Ct. 2439]; *In re Lance W.* (1985) 37 Cal. 3d 873, 896 [210 Cal. Rptr. 631, 694 P.2d 744] [state vicarious exclusionary rule abrogated by Cal. Const., art. I, § 28, subd. (d)]). It is also the rule that defendants lack standing to complain of the violation of another's Sixth Amendment right to counsel. The right to counsel is a personal right (*Faretta v. California* (1975) 422 U.S. 806, 819-821 [45 L. Ed. 2d 562, 572-574, 95 S.Ct. 2525]), and a violation of that right cannot ordinarily be [10 Cal. 4th 344] asserted vicariously. (See *People v. Varnum* (1967) 66 Cal. 2d 808, 812-813 [59 Cal. Rptr. 108, 427 P.2d 772]; *United States v. Sims* (11th Cir. 1988) 845 F.2d 1564, 1568; *United States v. Partin* (9th Cir. 1979) 601 F.2d 1000, 1006.)

The present motion does NOT assert a 5th or 6th Amendment violation and consequent exclusion under the U.S. Constitution; and related California Constitutional provision. The asserted grounds for exclusion are that the minor's extrajudicial statements and in court testimony were ***both involuntary and coerced*** and have directly affected Ms. Wood's right to a fair trial. The conditions that created the coercion **remain extant**; in the midst of trial, profoundly affecting the ***reliability of testimony*** offered by Hayden Packwood and due process afforded to his mother. In relevant part the Court states standing to assert this issue is available to the person on trial:

1 “Because the exclusion is based on the idea that coerced testimony is inherently unreliable,
 2 and that its admission therefore violates a defendant's right to a fair trial, this exclusion
 3 necessarily focuses only on whether the evidence actually admitted was coerced.... [D]efendant
 4 can prevail on his suppression claim only if he can show that the trial testimony given by [the
 third party] was involuntary at the time it was given.” (Ibid., italics added, italics in original
 omitted.)

5 The purpose of exclusion of evidence pursuant to a due process claim such as defendants' is
 6 adequately served by focusing on the evidence to be presented at trial, and asking whether that
 7 evidence is made unreliable by ongoing coercion, rather than assuming that pressures that may
 8 have been brought to bear at an earlier point ordinarily will taint the witness's testimony.”
 People v. Badgett (1995) 10 Cal.4th 348.

9 **2. Hayden Packwood's Statements Are Involuntary as Defined by Law.**

10 **Admission of Hayden Packwood's Statements, Which Are The Product of Official**
 11 **Inducements, Promises Of Reward, Punishment, and Improper Professional Conduct,**
 12 **Constitute Coercion, Rendering The Statements Involuntary and Most Importantly**
 13 **Unreliable, and Thereby Deny Andrea Wood a Fair Trial.**

14 Implausible trial testimony from the minor indicated that he was, of necessity, forced to seek
 15 food and nourishment from a next door neighbor, Ms. Bains, on nearly a daily basis. Indicating
 16 that his mother didn't feed him and was a terrible cook, with beans as a mainstay of her menu;
 17 he was regularly provided by Ms. Baines with pizza and tasty snacks to supplement the austere
 18 comestibles from his mother. In contrast Taylor Packwood testified that the kitchen was
 19 always fully stocked with cheese, butter, beans, eggs, and cereal; but that his brother and
 20 younger sister were very picky eaters.

21 The minor has claimed that he was relegated to the care of a physically and emotionally
 22 abusive nanny, Steffi Guggenbichler, when his mother was engaged with work, and running her
 23 business while away from the home. He claims to have wanted to live with Ms. Bains. At the
 24 urging of Ms. Bains, and in the presence of his younger sister, and recently fired nanny, the
 25 minor reported that his mother “beat him with an iron rod”. This statement was reported to the
 26 police and county social workers on or approximately August 15, 2017. Further investigation
 27
 28

1 revealed an extremely cluttered home with profuse amounts of damp laundry in baskets
2 needing to be dried; folded and properly stored.

3 Paul Sumner testified that Hayden Packwood tells lies, tries to manipulate others and
4 threatens CPS action in an effort to get what he wants. This is evidenced by Hayden's forensic
5 interview at the Childrens Interview Center after Ms. Bains no longer wished to offer care to
6 Hayden and his siblings; and he was placed into foster care. Hayden unequivocally stated that
7 his decision to report abuse was a mistake; based upon representations by powerful officials
8 and adults which were untrue. He stated that his strategy had backfired; that all future
9 statements will be with an eye to getting out of foster care; and anything and all future
10 statements would be dictated by the principle that he was unwilling to say anything that was not
11 going to advance his own perceived interest. He had seen what had happened to his brother
12 Taylor who did not continue to assert "the lie"; he ended up in a children's shelter. Hayden
13 was aware of punishment regulated for non compliance with the directive to assert physical
14 abuse by Andrea Wood.
15

16 In addition to the pressure placed upon him (however inadvertent by Bains, the foster
17 mother and social workers,) Hayden was subject to continuing undue influence and
18 disparagement of his mother by counsel, which has affected the reliability of the testimony
19 offered about his mother Andrea Wood. At a Pre trial conference hearing on October 6, 2017,
20 while sitting inches from the child Hayden, and in full view and earshot of teenager Taylor
21 Packwood, and a cluster of attorneys waiting for their own cases to be called; the minor's
22 attorney loudly disparaged the minor's mother as follows:
23

24 "I don't think the mother has very much mothering in her. I think she's so cruel—she
25 denies my client the right to the one stable thing in his life—which is his cat. *I think she*
26 *dresses horribly for court. It's so inappropriate.*"
27
28

1 Court: Ms. Lawrence; please, just focus on whether or not visits would be in your client's best
2 interest.

3 Lawrence: And my client definitely does not want contact with her at this time. *She's done*
4 *enough damage to him.*" RT 10/6/2017 p. 18:26-28, 19:1-9

5
6 In addition, the children's counsel and the Court engaged in a discussion in front of the
7 children questioning the established paternity of Kingsley. This discussion implied that Ms.
8 Wood had numerous sexual partners; loose morals, and that Kingsley's paternity was uncertain.
9 After Ms. Wood demanded that any further questions occur outside the presence of her
10 children, they were removed from court and a DNA test of the children was ordered. (The order
11 was subsequently rescinded by the Court.)

12 California Attorney Guidelines of Civility and Professionalism *Section 4* states in relevant
13 part "

14
15 c. An attorney should not disparage the intelligence, integrity, ethics, morals or
16 behavior of the court or other counsel, parties or participants when those characteristics
17 are not at issue.

18 d. An attorney should refrain from conduct that inappropriately demeans another
19 person.

20 While appearing in court, an attorney should demonstrate sensitivity to any party,
21 witness or attorney who has requested, or may need, accommodation as a person with
22 physical or mental impairment, so as to foster full and fair access of all persons to the
23 court. "

24
25 SECTION 19 an additional provision for family law practitioners states
26 "In addition to other applicable Sections of these Guidelines, in family law proceedings an
27 attorney should seek to reduce emotional tension and trauma and encourage the parties and
28

1 attorneys to interact in a cooperative atmosphere, and keep the best interest of the children in
2 mind.”

3 b. An attorney should treat all participants with courtesy and respect in order to minimize
4 the emotional intensity of a family dispute.

5 Hayden’s subsequent trial testimony was profoundly affected by the improper actions of his
6 attorney which consisted of being bullying, demeaning, uncivil, discourteous and abusive to his
7 mother in court.

8
9 Welfare and Institution Code Section 317 (c)(2) charges minors counsel with the critically
10 important responsibility of advocating for the protection, safety, and physical and emotional
11 well-being of the child. Humiliating, demeaning, and derogatory statements about Andrea
12 Wood’s jersey wraparound dress and low heeled black leather pumps, undermined her
13 children’s well being, and served no legitimate purpose. Negative and demeaning comments
14 about his mother, from a trusted authority figure; who held his future in her hands, to a 12 year
15 old child, vulnerable, desperately unhappy and impressionable in foster care, reasonably can be
16 found to have negatively affected the attitude of the minor toward his mother; and showed him
17 that if he wanted to get what *he wanted, he’d* better conform his testimony to the views
18 expressed by the powerful authorities surrounding him. Just as the court expressed the need to
19 prevent any improper influence upon the minor’s testimony via contact with their mother, and
20 prohibited any visitation; such highly improper comments by minor’s counsel prior to his
21 testimony, has likely instilled antipathy and prejudice in Hayden against his mother. These
22 statements have undermined confidence in the testimony of the child as being free of improper
23 influences. Perhaps more importantly than any testimonial effect, Andrea Wood, in the eyes of
24 her son Hayden, has been maligned by a powerful person in court, a person who holds his
25
26
27
28


1 future in her hands, and upon whom he is dependent to communicate with the Court. In
 2 addition, his perception of his mother has been inalterably affected.

3 Recognizing the potential effect of improper influence occasioned by improper conduct by
 4 counsel for the minor, Ms. Wood sought appointment of new counsel for the minor on October
 5 17, 2017 via Motion to Remove Minor's Counsel. The motion was not heard by the Court.
 6 Two formal complaints and requests to substitute a new lawyer were filed by Ms. Woods; with
 7 no change in counsel for the minor.
 8

9 CONCLUSION

10 In the present case, Andrea Wood is entitled to assert the exclusion of a third party's
 11 involuntary statement on the ground that it is inherently unreliable and denies her Due Process
 12 under the 14th Amendment and the U.S. and California Constitutions. *People v. Badgett*, Id.
 13 Hayden Packwood's testimony at trial, and his statements made from August 13, 2017 to the
 14 present, demonstrate that they are the product of coercion, inducements, and ad hominem
 15 attacks against his mother and unlawful influence by his counsel. Statements offered under
 16 such circumstances are inherently unreliable, and under established law, must be excluded from
 17 evidence at the Jurisdictional Hearing.
 18
 19
 20
 21

22 Dated: January 29, 2018


 MARY P. CAREY

Attorney for Andrea Wood