TABLE OF AUTHORITIES

CASES

STATUTES

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I. ISSUES PRESENTED

1. Whether the District Court Decision is causing a gross injustice in direct conflict with O'Connells' constitutional rights of state-wide importance; involving O'Connell's self-defense statement covered under the free speech doctrine; and Liberty & Property rights & due process doctrine right to Fair & Impartial Hearing.

2. Whether the District Court Decision is proceeding based upon a mistake of law causing a gross injustice for erroneously interpreting the stalking statute (45-5-220, MCA) absent necessary elements therein; and failure to consider all available evidence contrary to 45-5-220 MCA; & failed to give summary judgement on matters outside Protection pleadings contrary to M.R.C.P. Rule 12.

II. STATEMENT OF THE CASE

Plaintiffs and Petitioners— Daniel and Valery O'Connell are retired landowners, voting members, and partial owners of the GLA Corporation for the past 17 years. Defendants are all Directors of the GLA non-profit corporation Board: Dennis Riley—GLA President, Dan Kehoe—GLA Vice President, Charlene Murphy—GLA Secretary, Gerald Dubiel, Richard Johnson, Leo Keeler, Kevin Newby, and Mark Seaver. Four GLA Directors who refused to sign the Petition for Temporary Order of Protection are Charlette Mizzi, Regina Wunch—GLA Treasurer, Paul Rantallo, Newman Brozovski.

All GLA Board Defendants & O'Connells live in Emigrant, MT. GLA Board maintains several common properties partially owned and used by O'Connells, and

roads cross over O'Connells' private property traversed by every GLA Board member. GLA testified they had no personal interactions with the O'Connells outside of GLA Board meetings held once a month; and O'Connells contend that the 2year Court Order of Protection infringes upon the O'Connells' constitutional issue involves right to life, Liberty, and Property. O'Connells also contend they can not avoid violating the Order and jail time, especially since the GLA Board work and live within 300 feet of every road that O'Connells travel in Emigrant rural subdivision having one gas station, store, one post office where all mail is delivered.

Note: All hearing testimony cited herein is attached as Exhibit 6 CD:

At August 14, 2017 GLA Board meeting, Dennis Riley hearing testimony said he "approached towards where Val was sitting" after Riley "lost his temper" "banged his fist on the table" and "was angry at Val for calling him a liar." Witness Charles Barker testified he turned Riley away from Val "I guess to stop him" and said, "no Dennis, no Dennis…" Deputy Dykstra testified that Val O'Connell filed a report claiming Riley "tried to physically assault her;" and two prior reports of assaults against Val at GLA meetings. District Court Orders (Dec. 22, 2017 pp. 6-7 ***Exhibit 5***) said, Daniel O'Connell came to the (Sept. 2017) GLA Board meeting a month later to tell Dennis Riley "…IF YOU COME AGAINST MY WIFE, YOU COME TO MY WIFE AGAIN, YOUR GONNA HAVE TO COME AGAINST ME. AND I WILL DEFEND AND PROTECT…my territory. I SAID IF."

The Order (pp. 7) also said Deputy Dykstra testified Daniel's statement included "a fairly well know quote by a famous general [Mattis]. It is a defensive statement. The reference is to what he (Mr. O'Connell) would do if his wife was threatened in the future."

Subsequently 24 days later, GLA Board Defendants filed a Petition for an Order of protection against Daniel and Valery O'Connell; which GLA Petition (pp. 2) said the reasons were, "Their [O'Connells'] stalking behavior includes threatening the [GLA] Board constantly with lawsuits, threatening the members attending with lawsuits, and on September 11, 2017, threatening the Petitioners with death." Daniel's statement was thus the primary reason given in GLA's Petition for the Protection Order.

On November 8, 2017, a hearing on GLA's Petition was held. On Dec. 22, 2017, the District Judge issued a two year Order of Protection against both O'Connells for stalking the GLA Board at meetings. However, under a mistake of law, the District Court erroneously interpreted stalking behavior "harassing, threatening and intimidating" (per MCA §45-5-220) to be equivalent to O'Connells behavior at GLA Board meetings (held once a month) of "interrupting others at meetings" "threats of lawsuits" and Daniel's self-defense statement; which shows no threat of "bodily injury or death" as the stalking statute requires (per 45-5-220 MCA).

Furthermore, in direct conflict with O'Connells' constitutional rights, the District Judge failed to conduct a fair and impartial hearing; and erroneously interpreted Daniel's constitutionally protected free speech and self-defense statement as "reasonable apprehension of bodily injury or death" merely because GLA "petitioners interpreted it as threatening." Orders (pp. 7) also said the Judge somehow divined "From observing the demeanor of the witnesses testifying on behalf of the Petitioners,...that the Petitioners have experienced reasonable apprehension of bodily harm." This Order, under a mistake of law, also failed to consider all available evidence at the hearing, such as Deputy Dykstra's testimony that factually refutes this stalking claim.

III. ARGUMENT

A. Supervisory Control Standards

This Court has general supervisory control over all other courts and may supervise another court by way of a writ of supervisory control. See Mont. Const. art. VII, § 2(2); M. R. App. P. 14(3).

This Court will assume supervisory control of a district court to direct the course of litigation where the district court is proceeding based upon a mistake of law, which if uncorrected, would cause significant injustice for which an appeal is an inadequate remedy. *Truman v. Montana Eleventh Judicial District Court*, 2003 MT 91, ¶ 13, 315 Mont. 165, 68 P.3d 654.

Supervisory control is an extraordinary remedy that is sometimes justified when (1) urgency or emergency factors exist making the normal appeal process inadequate, (2) the case involves purely legal questions, and (3) the trial court is proceeding under a mistake of law and is causing a gross injustice, or constitutional issues of state-wide importance are involved. (M. R. App. P. 14(3).)

Petitions for supervisory control are considered on a case-by-case basis, taking into consideration the presence of extraordinary circumstances and the particular need to prevent injustice. *Park v. Sixth Jud. Dist. Ct.*, 1998 MT 164, ¶ 13, 289 Mont. 367, 961 P.2d 1267.

B. The District Court Decision is Contrary to the Constitutional Rights of Free Speech, Liberty & Property rights, and a Fair and Impartial Hearing:

ISSUE 1: The District Court Decision is causing a gross injustice in direct conflict with O'Connells' constitutional rights of state-wide importance involving O'Connell's self-defense statement covered under the free speech doctrine; and Liberty & Property rights & due process doctrine right to Fair & Impartial Hearing.

1) Constitutional issue involves the Court Decision infringing upon the O'Connells' right of Free Speech, and Self-defense.

This court's Opinion, *SJL Assocs. Ltd. P'ship v. City of Billings*, 263 Mont. 142, 147, 867 P.2d 1084, 1087 (1993) said, "statutory interpretations will not be elevated over the protection found within the Constitution."

This Opinion supports O'Connells' three constitutional claims that follow. First, O'Connells contend the District Court Orders of Protection (attached *Exhibit 5*, Dec. 22, 2017) regarding a "stalking" charge, was granted based primarily on constitutionally protected free speech and self-defense statement made by Daniel O'Connell. The Order (Dec. 22, 2017, pp.6-7) yet erroneously interpreted Daniel's "defensive statement" to mean a "reasonable apprehension of bodily injury or death" because GLA "petitioners interpreted it as threatening."

O'Connells contend this was not a reasonable statutory interpretation, nor a threat, but constitutionally protected free speech, and self-defense.

In the seminal case of *Watts v. United States*, 394 U.S. 705 (1969), United States Supreme Court overturned the conviction of a defendant convicted of "threatening the life of the President of the United States." At a political rally, the defendant said "[i]f they ever make me carry a rifle the first man I want to get in my sights is [Lyndon B. Johnson]." *Id.* at 706. Even though this statement could be viewed or interpreted as threatening, the Supreme Court said it was not a "true threat" since a reasonable recipient would not regard it as serious expression of harm; and Mr. Watts could therefore not be criminally punished for his free speech described as "political hyperbole."

Also, section 45-8-403(6), MCA requires a reasonable threat to mean, "the speech itself threatened violence against a specific person, [&] that the defendant had the apparent ability to carry out the threat, and that physical harm was imminently likely to occur." Obviously, no physical harm was imminent or likely to occur, since Daniel qualified his statement saying "if" Dennis Riley came at his wife again, he would merely "defend and protect" his property. Nor is it a threat of violence "to defend and protect his property" and wife.

The best standard of proof for what constitutes a threat of injury or death is taken from section 53-21-126(2), MCA that requires, "Imminent threat of self-inflicted injury or injury to others must be proved by overt acts or omissions, sufficiently recent in time as to be material and relevant as to the respondent's present condition." Daniel quoting General Mattis apparently is not an overt act or

omission of violence. It was an informative statement of a plan to kill only upon the condition of self-defense "to defend and protect his property" and wife. Nor was it relevant to the present time, because this condition also depended upon Riley's future action "if" he "comes at his wife again." This self-defense condition and condition that Riley act first, dispels any notion of imminent threat; and excluded all other GLA Directors. These authorities therefore show Daniel's statement was not a "reasonable apprehension of bodily injury or death," but constitutionally protected free speech, self-defense statement only to Riley.

2) Constitutional issue involves the Court Decision infringing upon the O'Connells' right to Liberty, and Property:

The stalking statute underlying the two year Order of Protection says O'Connells' "first offense" against coming within 300ft of the GLA Board (Petitioners) "under the protection of a restraining order" "the offender shall be imprisoned in the state prison for a term not to exceed 5 years or fined an amount not to exceed $10,000, or both." The Dec. 2017 Court Order thus requires O'Connells both stay 300 feet away from eight GLA Board Petitioners, or risk long jail time.

Appeal of the final judgment could not undo and prolongs O'Connells severe emotional pain, suffering and anxiety associated with them being made a virtual prisoner of their home, because they can not otherwise avoid jail time for involuntarily violating the two year Order of Protection requirement to remain 300

feet from eight GLA Board Petitioners. To explain, all GLA Plaintiffs and O'Connells live in Emigrant, MT., and the GLA Board maintains common roads that cross over O'Connells' private property traversed by every GLA Board member; and common properties like the park partially owned and used by O'Connells and the GLA. In fact, the GLA Board work, live, play, and shop in the subdivision of Emigrant having one store, one bakery, one park, one gas station, restaurant, bakery, and one post office (where all mail is delivered). They often see GLA Board members at the post office, store, bank, bakery, restaurant, gas station, or common owned parkland; making it impossible to avoid the GLA Board, since there is no other store, park, or place to go to eat, or gas up within a 30 mile radius.

O'Connells contend the Court Order infringes upon the O'Connells' constitutional right to Liberty, and Property, because it is impossible to avoid running into eight GLA Board members and avoid jail time; unless giving up use of O'Connells' common owned park property, and give up property rights as part owners of the GLA Corporation (explained below); thus suffer loss of Liberty by remaining a prisoner in their own home, else travel 30-60 miles outside of rural Emigrant just to shop, go to a park, bakery, restaurant, send mail, gas up, ect…

3) Constitutional issue involves the Court Decision is contrary to Chapter 35, section 2, of the MT. Non-Profit Corporation Act Statutes, since O'Connells' as Property owners, are also part owners of the GLA Corporation

The Order infringes upon O'Connells' constitutional right to use their property where they live, and also infringes upon their GLA Corporate property

rights protected by Chapter 35, section 2, of the MT. Non-Profit Corporation Act. O'Connells own property in the GLA subdivision, and O'Connells are also part owners and voting members of the GLA Non-Profit Corporation. However, O'Connells can no longer attend GLA Corporate meetings, nor speak (except limited times by phone), "nor have any contact whatsoever" regarding GLA Board who conduct all Corporate meetings, as Dec. 2017 Orders (pp. 9-10) demanded. This Order demand thus denies O'Connells' fair use of Corporate property rights.

To further explain, Emigrant Hall has no phone line where GLA Corporate meetings are held. Charlette Mizzi's hearing testimony described cell phone reception as spotty, problematic to hear GLA meetings, requiring a cell phone be "close enough" to a speaker when "discussing an issue." This situation makes it impossible for O'Connells' to hear all 12 GLA Board members (as elected representatives), much less audience members further away.

Orders thereby provide O'Connells no meaningful way to participate in any GLA Corporate activities, including: GLA annual elections; right to be elected to the Board; committee member activities; member meetings; special and emergency meetings of the Board; or participation at monthly GLA Corporate Board meetings that discuss and decide matters of great importance impacting all O'Connells' properties, roads, and their property rights thereof.

Furthermore, Orders (pp. 9) said, GLA's "Petition should be denied …to the extent the Petition for an Order of Protection seeks protection for the Association, a

Montana Non-Profit Corporation ..." Yet as explained above, this Order does in effect protect the Association," because Orders forbid O'Connells from almost all GLA Corporate activities, which completely shuts O'Connells out of all meaningful participation in their GLA Corporation as partial owners of the Corporation. Orders thereby infringes upon O'Connells use of properties and infringes on all property rights as afforded to them under Chapter 35, section 2, of the MT. Non-Profit Corporation Act; and Orders therefore harms O'Connells right to protect its properties from oppressive GLA Board rules and actions.

4) Constitutional issue involves the Court Decision infringing upon the O'Connells' right to due process for a fair and impartial hearing:

On Nov. 8, 2017, the District Court conducted a hearing on GLA's Petition for a Protection Order. O'Connells contend, in direct conflict with their constitutional due process rights, the District Court Judge failed to conduct a fair and impartial Petition hearing, because:

a) Val O'Connell's objection was overruled that the Court allowed Michelle McCowan's surprise witness as a non-party to testify on matters outside the Petition, & not pertinent to threatening or stalking GLA Board Petitioners. For example, McCowen's testimony was used and cited extensively in the Order (pp. 4-5) as to how McCowan herself "felt threatened" by the O'Connells at "the September 2017" Board meeting, absent any actual proof. In fact, McCowan admits she only ever attended three GLA meetings, and was angry at Val due to

defending Mizzi's alleged trespass. McCowen's testimony obviously biased the Judge as surprise testimony on matters outside the Petition. In other words, McCowan was not a Petitioner, and she did not witness to the stalking claim involving GLA Board. The Court used her surprise testimony anyway in the Order; which denied O'Connells any way to defend against this surprise testimony on matters outside the Petition; thus denied O'Connells a fair and impartial hearing.

In fact, O'Connells contend that McCowan's testimony was only added to falsely incriminate Valery, because all GLA witnesses said Valery never threatened anyone on the Board!

b) Furthermore, O'Connells were denied a fair and impartial hearing by this District Judge to allow much of the hearing testimony to be given "on behalf of the Association…[or] Corporation." In fact the hearing testimony proves this, starting when Alanah Griffith said at the hearing (beginning) that the Order of Protection "was on behalf of the [GLA] Corporation…and the named individuals" of the Corporation. Then Judge Gilbert added: "This is the time set for a hearing on the Order of Protection filed by the Association against the O'Connells."

c) Another example, Val O'Connell's objection was overruled that allowed two GLA Board Petitioners—Riley and Kehoe to repeatedly give heresay testimony on behalf of six other GLA Board Petitioners who made no appearance and were absent from the hearing; and hearsay testimony on behalf of the GLA Corporation. The hearing transcript proves this, especially when overruled by the Court, (at ~~time~~ page

D.J. ok) Val did yet object it was 'hearsay for Dennis Riley to speak for the rest of the Board, and landowners' who attended meetings of the Board; which are also matters outside the stalking Petition. In fact, towards the end of Val' O'Connell's one hour allotted hearing time to defend against the Petition, she asked the District Judge to "bump" (remove) the six GLA Board Petitioners, because they were absent and did not testify; thus unable to prove or disprove GLA Petition statements; which unfairly denied O'Connells their due process constitutional right to confront six out of eight of their accusers.

d) Another example, O'Connells were denied a fair and impartial hearing by this District Judge when Val O'Connell's objection was overruled that allowed GLA Board Petitioners—Riley and Kehoe to give heresay testimony on behalf of one GLA "employee" absent from the hearing. In fact, this hearsay testimony obviously bias and prejudicial, was yet added to Orders (pp. 2) that said,

"Mr. Riley testified that he and other board members and attendees at the Association meetings feel threatened. He further testified that the Association has one part-time employee who is very shaken by these events [namely Daniel's self-defense statement] and is afraid to come to meetings."

Such hearsay testimony throughout the hearing was repeated in the Order as highly bias and prejudicial against O'Connells; who yet objected to this at the hearing; and had no way to refute this false and surprise hearsay testimony used against them in the Order. For the record, this "employee" refutes this hearsay testimony about herself; and Val does not "yell and scream" at meetings according

to Mizzi; and Mizzi and Riley's own testimony refutes this Order, saying they "never felt threatened by the O'Connells." Even Kehoe's testimony said the only "threat" was Val "interrupting" and Daniel's self-defense statement. See Transcript pg. 26

None the less, O'Connells were denied due process of a fair and impartial hearing by this District Judge to allow much **hearsay** testimony to be given "on behalf of the Association…[or] Corporation" **hearsay** testimony on behalf of six Board Petitioners absent from the hearing. Of the two GLA Petitioners that did testify (Riley & Kehoe), their testimony factually refutes most of their Petition.

All together, these many examples of hearsay testimony, contradictory testimony, and surprise testimony on matters outside the Petition, are in direct conflict with O'Connells' constitutional right of due process for a fair and impartial hearing; including six GLA Petitioners who did not make an appearance at their own hearing preventing fair examination of their Petition statements.

O'Connells therefore contend that supervisory control is appropriate, because the District Court's order caused a gross injustice in direct conflict with O'Connells' constitutional rights: of self-defense, free speech, Liberty and property, and right to a fair and impartial hearing. Supervisory control is also appropriate, because resolution of the issues will avoid the "costs and delay associated with the full re-trial almost certain to result if the district court's interpretation of the statute is set aside." Stokes, ¶ 8 (*Stokes v. Montana Thirteenth Judicial District Court*, 2011 MT 182, ¶ 5, 361 Mont. 279, 259 P.3d 754).

C. The District Court Decision, under a mistake of law, cause significant injustice to O'Connells statutory rights 45-5-220, MCA.

Issue 2: The District Court Decision is proceeding based upon a mistake of law causing a gross injustice for erroneously interpreting the stalking statute (45-5-220, MCA) absent necessary elements therein; and failure to consider all available evidence contrary to 45-5-220, MCA; and failed to allow summary judgement on matters outside the Petition pleadings contrary to M.R.C.P. Rule 12.

Under mistake of law, the District Court Orders erroneously interpreted the stalking statute absent any threat of "bodily injury or death" as the stalking statute requires (per 45-5-220, MCA). Specifically, Orders erroneously interpreted the stalking behavior "harassing, threatening and intimidating" (within MCA §45-5-220) to be equivalent to O'Connells behavior described at the hearing (& in Petition) to be "interrupting others at meetings" "threats of lawsuits" and Daniel's Sept. 11th self-defense statement. However as argued above, this behavior does not equate to a threat of "bodily injury or death" as the stalking statute requires (per 45-5-220, MCA:

§45-5-220, MCA. (in part says): "the offense of stalking…. [is] purposely or knowingly caus[ing] another person substantial emotional distress or reasonable apprehension of bodily injury or death by repeatedly…following…(b) harassing, threatening, or intimidating the stalked person, in person or by mail, electronic communication, as defined in 45-8-213, or any other action, device, or method." Mont. Code Ann. §45-5-220."

The stalking statute above also requires stalking behavior to "purposely or knowingly" cause another "substantial emotional distress or reasonable apprehension of bodily injury or death." However this requirement was also never mentioned nor met in the Order (pp.9) nor ever mentioned in the GLA Petition:

GLA's Petition requesting an Order of protection (pp. 2) said the reasons were, "Their [O'Connells'] stalking behavior includes threatening the [GLA] Petitioners constantly with lawsuits, threatening the members attending with lawsuits, and on September 11, 2017, threatening the Petitioners with death" (as Daniel statement).

This necessary element of "purposely or knowingly" & "repeatedly" causing fear is absent (never mentioned) in GLA's Petition and hearing testimony. In fact, GLA Petitioners only objected to O'Connells' conduct at GLA meetings, regarding "threat of lawsuits," "interruptions" and Daniel's self-defense statement, nothing more. (Mizzi testified many people interrupt GLA meetings.) But none of these things are actual threats nor "purposely or knowingly" and "repeatedly" cause fear.

Thus Orders (pp.9) operated under a mistake law failing to "established" any threat of harm was "purposely or knowingly made" and repeated to cause fear; which mistake of law (under 45-5-220, MCA) caused gross injustice.

Furthermore, Dec. 2017 Orders under mistake of law (45-5-220, MCA), failed to consider all available evidence at the hearing which factually refute this stalking claim, including:

a) Deputy Dykstra testified that he told the GLA Board (prior to their Petition) that Daniel's statement "was not an incident that would be a criminal threat" & "not" a threat of death; which shows no threat of "bodily injury or death" as the stalking statute requires (per 45-5-220, MCA).

b) Orders also failed to consider Kehoe's testimony erroneously describing O'Connells stalking "behavior" at Board meetings to be "Interrupting, and

approaching, and interrupting people that came to the meetings;" which shows O'Connells never threatened anyone with "bodily injury or death" as the stalking statute requires (per 45-5-220, MCA).

c) Order also failed to consider Riley's testimony who answered "No" when asked "did he feel threatened by Daniel and Valery;" and Riley: "I'm personally not afraid of either one of them [O'Connells]. But if they have guns, I'm concerned;" all of which shows Riley did not have a "reasonable apprehension of bodily injury or death," as the stalking statute requires (per 45-5-220, MCA).

d) Orders also failed to consider GLA Director—Charlette Mizzi's testimony who attending GLA meetings with O'Connells the past 11 years, and said, "O'Connells "never stalked" "never threaten anyone with harm" at meetings; which shows O'Connells never threatened anyone with "bodily injury or death" as the stalking statute requires (per 45-5-220, MCA).

e) Order also failed to consider the three GLA Board members testify that "Val never threatened anyone;" which shows she never threatened anyone with "bodily injury or death" as the stalking statute requires (per 45-5-220, MCA).

f) Orders repeatedly failed to consider all available evidence showing GLA Board falsely swore and misrepresented the facts eleven times (as cited in O'Connells motion to terminate the TOP Petition (see attached **Exhibit 1**) "as fraud on the court" and "false swearing" in the GLA Petition the "Board had knowledge the O'Connells have firearms in their home;" refuted by O'Connells

two motion affidavits and Riley's hearing testimony above that questioned this.

g) Orders erroneously found (pp. 7) "the conduct of the O'Connells that led to the Petitioners filing their petition…is both long-standing and escalating." This is absolutely false, because Orders failed to consider the Cybulski Order (March 2017 attached to the GLA Petition, pp. 12) describing O'Connells Behavior at [GLA] Association Meetings O'Connells as merely "disruptive" and "threaten[ing] …with lawsuits;" which shows no "substantial [fearful] emotional distress" & no threat of "bodily injury or death" as stalking statute requires (per 45-5-220, MCA).

However, Dec. 2017 Order of Protection (pp. 6) was unfairly biased by Cybulski's Order (attached to the GLA Petition) regarding a "vexatious litigation" claim. Thus, Judge Gilbert, under a mistake of law, failed to dismiss the inclusion of Cybulski's Order on summary judgement, "as matters presented outside the [case] pleadings," per MT.R.Civ.P, Rule 12(d). In fact, O'Connells Oct. 2017 motion pleading for "emergency hearing" said as much (pp. 2):

attaching this outside decision to GLA's Petition "was NOT "good cause" since they have no affidavit nor evidence to prove whether or not prior facts involved in [prior O'Connell] cases are important to the upcoming hearing."

O'Connells prior eight cases were settled and never deemed vexatious before Cybulski's Order; which also illegally declared O'Connells' MINOR AGE children to be "vexatious litigants. (Note Cybulski's Order is almost ripe for appeal.)

All together, the Order, is a clear mistake of law: 1) repeatedly failed to consider all available evidence above factually refuting the Petition & Order; 2)

erroneously interpreted the stalking statute to be equivalent to O'Connells behavior, absent necessary element of "purposely or knowingly" and "repeatedly" causing fear or threat of "bodily injury or death" as the stalking statute requires (per 45-5-220, MCA); 3) and failed to give summary judgement on matters outside GLA Petition pleadings. The Order, thus as a mistake of law, is in direct conflict with testimony and facts above, and contrary to the MCA §45-5-220 requirements; and contrary to MT.R.Civ.P, Rule 12..

"This Court will assume supervisory control of a district court to direct the course of litigation where the district court is proceeding based upon a mistake of law, which if uncorrected, would cause significant injustice for which an appeal is an inadequate remedy." (*Truman v. Montana Eleventh Judicial District Court*, 2003 MT 91, ¶ 13, 315 Mont. 165, 68 P.3d 654.) "Judicial economy and inevitable procedural entanglements are appropriate reasons to exercise supervisory control where a mistake of law will affect virtually all aspects of the case: the costs…, discovery, and the hearing itself." (Truman, ¶ 15; Stokes, ¶ 6.) "In such cases, any verdict rendered would be "questionable" and would inevitably lead to further costs and litigation." (Truman, ¶ 15.)

Overall, judicial economy and inevitable procedural entanglements are appropriate reasons to exercise supervisory control in this case, where mistake of law has affected virtually all aspects of the case: after Judge Gilbert's failure to consider all available evidence; and Orders absence stalking statute requirements

(per 45-5-220); and rule 12 violation; and Orders causing numerous violations of constitutional rights (to liberty and property rights, free speech/self-defense, and right to a fair and impartial hearing); especially considering the mistake of law can not be undone that allowed GLA Directors to file their Petition "on behalf of the Association," then gave hearsay testify on behalf of the Corporation and spoke for absent GLA Petitioners, when only two out of eight GLA Petitioners testified (despite O'Connells objections & request to "bump" (remove) these six Petitioners.

IV. CONCLUSION

Supervisory control is an extraordinary remedy that is justified in this case, because, (1) urgency or emergency factors exist making the normal appeal process inadequate, (2) the case involves purely legal questions, and (3) the trial court is proceeding under a mistake of law and is causing a gross injustice, and several constitutional issues of state-wide importance are involved. (M. R. App. P. 14(3))

O'Connells' are entitled to the relief requested, as all three prerequisites for supervisory control have been established; along with judicial economy to avoid more costs, and a retrial, and the inevitable procedural entanglements are also appropriate reasons to exercise supervisory control. Also appeal of the final judgment could not undo the gross injustice inflicted by the District Court's ongoing mistake of law & constitutional right violations (of Liberty, property, free speech, and fair hearing). Not to mention O'Connells have ongoing emotional fear and distress to avoid jail and avoid GLA Petitioners (as virtually impossible in

O'Connells' rural environment). These ongoing damages place O'Connells at a significant disadvantage in litigating the merits of the case any further.

Dated this 2nd day of January, 2018.

By: Daniel K. O'Connell
Defendant—Daniel O'Connell

By: Valery O'Connell
Defendant—Val O'Connell

CERTIFICATE OF COMPLIANCE

Pursuant to Rule 27 of the Montana Rules of Appellate Procedure, I certify that this Petition for Supervisory Control is printed with a proportionately spaced Times New Roman text typeface of 14 points; is double spaced; and the word count calculated by Microsoft Word 2004 for Mac is 4,622, not averaging more than 280 words per page, excluding caption, certificate of compliance, and certificate of service.

By: Valery O'Connell
Val O'Connell

CERTIFICATE OF SERVICE

I certify that on January 2nd 2018, a true and correct copy of the foregoing was served by U.S. mail, first class postage prepaid, or hand-delivered to the following:

Alannah Griffith
PO Box 160748
Big Sky, Mt. 59716

Hon. Breda Gilbert
414 East Calendar St.
Livingston, MT. 59041

By: Valery O'Connell
Val O'Connell

EXHIBIT APPENDIX

Exhibit 1	Motion & Affidavit to Terminate the "Exparte Order of Protection"
Exhibit 2	Temporary Exparte Order of Protection
Exhibit 3	GLA's Sworn Petition for Temporary Order of Protection
Exhibit 4	Judge Cybulski's Order DV-11-114 on Motion to Have Plaintiffs and their [minor age] Children declared Vexatious Litigants (attached and filed with the above GLA TOP Petition)
Exhibit 5	Judge Griffith's Interim Order of Protection (December 22, 2017)
Exhibit 6	Official Transcript of Nov. 8, 2017 Hearing on GLA's Petition for Order of Protection (attatched to original copy)