VIRGINIA: IN THE CIRCUIT COURT FOR PRINCE WILLIAM COUNTY

DAVID B. BRIGGMAN, :

Petitioner :

v. : Case No.: ______________

COMMONWEALTH OF VIRGINIA, :

and :

CHRISTINA R. PITTMAN, :

and :

THE 31st JUDICIAL DISTRICT JUVENILE :
AND DOMESTIC RELATIONS COURT, :

Respondents. :

SERVE: PAUL EBERT
Commonwealth Attorney
9311 Lee Avenue, Suite 200
Manassas, Virginia 20110

CHRISTINA R. PITTMAN
8248 Holly Grove Court
Manassas, Virginia 20110

JAMES B. ROBESON, CHIEF JUDGE
JUVENILE AND DOMESTIC RELATIONS COURT
9311 Lee Avenue, 1st Floor
Manassas, Virginia 20110

BILL OF COMPLAINT FOR DECLARATORY RELIEF

COMES NOW THE PETITIONER, David B. Briggman, *Pro Se,* and pursuant to Sections 8.01-184 *et seq.* and 8.01-428(D) of the Code of Virginia, 1950, as amended, files this Bill of Complaint for Declaratory Relief and in support thereof, respectfully states as follows:

1. This is a declaratory judgment action brought pursuant to Section 8.01-184 *et seq.* of the Code of Virginia, 1950, as amended and an independent civil action pursuant to Section 8.01-428(D) of the Code of Virginia, 1950, as amended.

2. That the petitioner, David B. Briggman, was at all times relevant to this matter, a citizen and resident of Rockingham County and the former husband of respondent Pittman.

3. That the respondent, the Commonwealth of Virginia, was at all times relevant to this matter represented by Paul Ebert, the duly elected Commonwealth Attorney for Prince William County.

4. That the respondent, Christina R. Pittman, was at all times relevant to this matter, a citizen and resident of the City of Manassas and the former wife of the petitioner.

5. That the respondent, the 31st Judicial District Juvenile and Domestic Relations Court, was at all times relevant to this matter, the Court having jurisdiction over matters of custody, visitation and support of Jennifer Lee Briggman (now 18 years of age), daughter of the petitioner and respondent Pittman.

BACKGROUND

6. That the petitioner and respondent Pittman were divorced by Decree in the mid-1980s issued by the Circuit Court

of Arlington County, said Decree was last amended on October 22, 1988, which provided that the petitioner would have visitation every other weekend and alternating holidays and that respondent Pittman would receive approximately $300 in current child support and in repayment for an accrued arrearage. Said Decree provided for notification to the petitioner or the Department of Social Services of any relocation.

7. That almost immediately after the entry of the October 1988 Decree, respondent Pittman took Jennifer and left her residence, moving in with the man who would become her second husband, Robert A. Shannon, and until 1994, the petitioner had no idea of Pittman’s location. In fact, Pittman moved at least four times between 1988 and 1994 and at no time up until 1994 provided either the petitioner or the Department of Social Services with a current address.

8. In approximately Spring of 1994, the petitioner located Robert Shannon because of an article which originally appeared in the Washington Post on June 12, 1992 but which had just become archived and available in the Lexis database in the Spring 1994 timeframe, however, the petitioner did not acquire the location of Pittman in the City of Manassas until approximately January of 1996.

9. In approximately May of 1997, the petitioner moved the Juvenile and Domestic Relations Court of Arlington County to

transfer venue of the matter to Prince William County on grounds that neither the petitioner nor Pittman lived in Arlington County any longer. Such motion was granted and the matter was received by the respondent, the Clerk's Office of the 31st Judicial District Juvenile and Domestic Relations Court.

10. Almost immediately after receipt, Pittman, through former counsel, James B. Pittman, filed a motion for a rule to show cause, seeking that the petitioner be punished for an alleged failure to obey the 1988 Decree of Arlington County. Said motion was received by the Clerk's Office and without the intervention of a Judge, was read and interpreted by a Clerk of the Court to be sufficient in allegations to issue a show cause summons and that such show cause summons should be criminal in nature and issued a criminal show cause summons charging the petitioner with an alleged violation of Section 18.2-456 of the Code of Virginia, as amended.

11. That the petitioner was tried by Judge Brice, a Judge of the 31st Judicial District Juvenile and Domestic Relations Court, who allowed counsel for respondent Pittman to initiate and prosecute the petitioner for a criminal charge arising out of a civil matter in which he concurrently represented Pittman without the knowledge or the participation of the Commonwealth. The petitioner was found guilty of criminal contempt of court on June 16, 1998 at which time Brice modified the child support

provisions of the October 1988 Decree without notice to the petitioner and without a pending motion to modify child support by either the petitioner or respondent Pittman. The Record of Proceedings shows that Brice failed to follow the procedures outlined Section 20-108.2 of the Code of Virginia, 1950, as amended (also known as the Virginia Child Support Guidelines), concerning the crafting of a child support order in that during this contempt proceeding, Brice failed to even inquire as to the income of respondent Pittman, which had just been imputed to the amount of approximately $31,000 by this Court in *Shannon v. Shannon,* Chancery 33028, which inquiry is necessary to the arrival at a "guideline amount" from which the court may deviate if it feels necessary to do so. Instead, Brice inquired of the petitioner of his gross income from a position that the petitioner had already been terminated from because of the numerous court appearances, looked at that amount under the "Guidelines" for one child and determined that would be the amount the petitioner would pay in child support. Brice then slapped an approximately $40,000 Appeal Bond ensuring the petitioner could not appeal her order. As jurisdiction to modify support is granted by statute, Brice clearly failed to follow the mandatory procedures outlined in Section 20-108.2(B). Additionally, Brice retroactively modified the October 1988 Decree by ordering the petitioner to pay $102 for approximately

sixty months of time when Brice said petitioner should have been providing child support for a child whose location was unknown to the petitioner, violating both Virginia and federal law. Brice, however, failed to punish respondent Pittman for repeatedly failing to obey the notification and visitation provisions of the October 1988 Decree. After having been found guilty of criminal contempt, Brice also imposed a purge clause of well over $40,000, the payment of which would purge the petitioner of contempt of court.

12. On appeal to this Court's Criminal Division, the Commonwealth intervened in the prosecution (as the petitioner asserts they are required to do pursuant to Section 16.1-232 of the Code of Virginia, 1950, as amended) and dismissed the prosecution against the petitioner citing lack of probable cause to even charge the petitioner, however, the Circuit Court refused at that time, to "undo" what Brice had done in the lower court.

13. That because the petitioner's child support obligation was raised to approximately twice what the "Guidelines" should have called for, the petitioner was unable to sustain the required payments, causing respondent Pittman to file two additional motions for a rule to show cause with the Clerk's Office of the Court, which again, without the intervention of a Judge, caused the Clerk's Office to utter two additional

criminal show cause summons charging the petitioner with alleged violation of two criminal statutes, specifically Sections 16.1-278.16 and 18.2-456 of the Code of Virginia.

14. That after initiating the first of the two criminal show cause summons, and over the objection of the petitioner, counsel for respondent Pittman was allowed to initiate, prosecute and then engage in "plea bargain" discussions with the petitioner, opting to dismiss the first show cause summons only after extorting approximately $3,204 in back support payments in exchange for dismissal of the criminal contempt charge, which was done. Because the petitioner still didn't have the income to sustain the payments Ordered by Brice, respondent Pittman, through Stambaugh, filed another "verified motion for a rule to show cause" on or about July 19, 1999, which caused the Clerk's Office – without the intervention of a Judge – to read, interpret and make a legal determination that the allegations in the motion were not only sufficient to issue a show cause summons for the petitioner, but that the show cause summons should be criminal, as opposed to civil in nature. On August 5, 1999, the Clerk's Office issued a criminal show cause summons charging the petitioner with alleged violation of Sections 16.1-278.16 and 18.2-456 of the Code of Virginia, 1950, as amended.

15. That the matter was again brought before Brice and at the preliminary hearing, Brice advised the petitioner that the

charges against him were criminal in nature, thus providing the petitioner with certain rights under Virginia and federal law, including but not limited to the right to an attorney. Brice set the matter for trial on October 7, 1999.

16. That on October 7, 1999, the petitioner through counsel, Doreen S. Williams, moved the Court to have a Commonwealth Attorney come in to prosecute the matters against the petitioner and provided two cases, *Cantrell v. Commonwealth,* 229 Va. 387, 392 S.E.2d 22(1985) (reaffirmed in *Adkins v. Commonwealth,* 26 Va. App. 14, 492 S.E.2d 833 (1997)) as well as a West Virginia case *State ex rel. Koppers Co., Inc., etc. v. International Union of Oil, Chemical and Atomic Workers, etc., et al.*, 171 W. Va. 290, 298 S.E.2d 827 (1982), which deals specifically with private prosecutors and their use in criminal contempt cases. Nonetheless, Brice overruled the objection and Stambaugh was again, allowed to prosecute the matter without the knowledge or assistance of the Commonwealth of Virginia. This time, the petitioner was found guilty of criminal contempt and the court sentenced the petitioner to twelve months in jail (suspended) and ordered the petitioner to pay to Stambaugh, a sum of $500 in attorney fees, and ordered that the petitioner pay to respondent Pittman a sum of $1,000 for four months, continuing the matter for review to January 31, 2000.

17. That the petitioner filed for Chapter Seven Bankruptcy protection in the United States Bankruptcy Court for the Western District of Virginia on or about October 14, 1999.

18. That on January 31, 2000, the matter was reviewed and Stambaugh argued to the Court that notwithstanding the present bankruptcy proceedings involving the petitioner, the $1,000 per months should continue, and Brice so ordered and continued the matter for review to June 12, 2000.

19. That on June 12, 2000, because the petitioner was unable to sustain the $1,000 payments, Brice imposed the previously suspended twelve month jail sentence without providing any notice to the petitioner of her intent to do so. The Disposition Notice accomplished by a Deputy Clerk indicates convictions for both statutes and indicate the convictions were "misdemeanor" in nature, however, the sentence of twelve months did not show how much of the sentence was for violation of Section 16.1-278.16 and how much was for violating Section 18.2-456. The Record of Proceedings on that date indicates a $25,000 Appeal Bond.

20. That on June 15, 2000, the petitioner filed a Notice of Appeal, seeking a bifurcated appeal of only the conviction for criminal contempt, which should have secured the release of the petitioner, however, Joan Hughes, Chief Deputy Clerk of the Juvenile and Domestic Relations Court, without the intervention

of a Judge “converted” the bond from that of an appeal bond (not required for a bifurcated appeal of criminal contempt) into an appearance bond, which had not been ordered by the Court. This “conversion” required the petitioner to pay $2,500 to a bondsman in order to secure his release from the Adult Detention Center. An “Amended” Disposition Notice was accomplished identical to the original with the exception that the “Amended” Disposition Notice indicated a $25,000 bond “if appealed”. The petitioner, eager to fight the appeal, paid the $2,500 and was released from jail.

21. Because the bond amount to release the petitioner was ten times what it previously had been, the petitioner inquired on June 16, 2000 of the Clerk’s Office as to the reason. It was at this time, that the petitioner noticed that his Notice of Appealed had been altered (i.e. “whited-out”) where the intent of the petitioner to appeal only the finding of criminal contempt had been indicated and that the type of bond the petitioner was under had been changed. Hughes, Chief Deputy Clerk of that Court admitted that she had directed the alteration of the Notice of Appeal and it was she that had changed the type of bond the petitioner had been under and that she did so without the intervention of a judge to do the petitioner “a favor”.

22. That the petitioner requested an investigation of the alteration of his Notice of Appeal by the Bureau of Criminal Investigation of the Virginia State Police, and while the Clerk's Office admitted the alteration and erasure, the Commonwealth Attorney refused to prosecute the Clerks involved citing "no criminal intent", however, in response to the investigation, the Clerk, Francis H. Hedrick, composed a document entitled "Memorandum to file regarding June 15, 2000 Appeal" in which she outlines the details around the alteration of the Notice of Appeal and the changing of the type of bond by Hughes. Most importantly, because of the confusion of the Clerk's Office, Hughes sought clarification from Brice as to the nature of the conviction of the petitioner in which Brice responded that the conviction was for criminal contempt. The Clerk's Office sent the case up to this Court's Criminal Division on or about July 12, 2000 – without the "Memorandum" authored by Hedrick which remains in a sealed manila envelope in the Juvenile and Domestic Relations Court case file.

23. That on or about July 12, 2000, this Court's Criminal Division received the case from the Clerk's Office of the Juvenile and Domestic Relations Court and assigned the matter criminal case number CR-48377 where it retained the style of "Commonwealth v. David Briggman".

24. That because counsel for the petitioner refused to return numerous telephone calls from the petitioner and his wife, the petitioner filed numerous pretrial motions in preparation for an eventual trial. The most important of these motions was a "motion to compel the commonwealth attorney to intervene and prosecute the matter" against the petitioner. Said motion was served on the respondent, Paul Ebert, and in response he sent an Assistant Commonwealth Attorney who argued that the Court had no legal authority to order the Office of the Commonwealth Attorney to intervene – even though they had intervened two year's previously in an identical case. The Assistant admitted that it was a criminal matter, but advised the Court that it was the policy of their office not to intervene in criminal contempt matters arising out of a failure to pay child support. It was at this motion hearing that the Commonwealth appeared – notwithstanding the fact that the Commonwealth was the only other named party in case number CR-48377. The matter was set for trial on December 5, 2000.

25. That the petitioner was represented by counsel, John D. Primeau, at trial on December 5, 2000. At trial, the Court advised the petitioner that he would not be receiving a de novo trial, as was his right, because he didn't appeal the October 7, 1999 Order (the matter was continued for review to January 31, 2000 and then to June 12, 2000 at which time the final order was

entered) and further that the Court was going to hear the matter as civil contempt although the petitioner had not been charged with or convicted of civil contempt in the Juvenile and Domestic Relations Court. Further, respondent Pittman had not filed papers in Circuit Court charging the petitioner with civil contempt. Primeau preserved both matters for appeal. Ultimately, the petitioner was found guilty of civil contempt, sentenced to twelve months in jail (suspended) and was ordered to pay $500 to Pittman. The petitioner appealed to the Court of Appeals, however, he missed a filing deadline, thus depriving the Court of jurisdiction to hear the appeal.

26. That the petitioner filed a motion to declare this Court’s April 4, 2001 Order in criminal case number CR-48377 as void ab initio with the Juvenile and Domestic Relations Court, which denied the motion on jurisdictional ground on April 4, 2002. Stambaugh immediately thereafter filed another motion for a rule to show cause and/or impose the previously-suspended sentence of this Court, which caused the Clerk’s Office to issue – without the intervention of a Judge – a civil show cause summons. Ultimately, the petitioner paid Stambaugh the $500 in attorney fees given to him for prosecuting the matter and the matter was dismissed.

PETITIONER'S RIGHTS WERE VIOLATED WHEN CLERKS OF THE JUVENILE AND DOMESTIC RELATIONS COURT READ AND INTERPRETED THE MOTIONS SUBMITTED BY COUNSEL FOR RESPONDENT PITTMAN, MAKING LEGAL DETERMINATIONS THAT MOTIONS WERE SUFFICIENT TO ISSUE SHOW CAUSE SUMMONS AND WHETHER SHOW CAUSE SUMMONS SHOULD BE CRIMINAL OR CIVIL IN NATURE.

27. The petitioner incorporates by reference the allegations in paragraphs one through twenty-six, above, as if fully rewritten herein.

28. The respondent, The 31st Judicial District Juvenile and Domestic Relations Court, denied the petitioner of due process rights when the Clerk's of that Court exceeded their authority pursuant to Section 16.1-69.40 of Virginia, 1950, as amended, by receiving motions and without the intervention of a Judge, interpreting those motions making a legal determination that the allegations either are or are not sufficient to merit the issuance of process and whether said process should be for a criminal of civil offense.

PETITIONER'S RIGHTS WERE DENIED WHEN COUNSEL FOR RESPONDENT PITTMAN WAS ALLOWED TO REPEATEDLY INITIATE, PLEA BARGAIN AND PROSECUTE THE PETITIONER FOR CRIMINAL CHARGES ARISING OUT OF A CIVIL MATTER IN WHICH HE REPRESENTS THE ALLEGED VICTIM

29. The petitioner incorporates by reference the allegations in paragraphs one through twenty-eight, above, as if fully rewritten herein.

30. The respondent, The 31st Judicial District Juvenile and Domestic Relations Court denied the petitioner of the right to a

fair and unbiased prosecution by engaging in the practice of allowing private prosecutors who concurrently represent the alleged victim in related civil matters to prosecute criminal matters arising out of those civil matters, specifically criminal contempt of court. Such representation is specifically forbidden under the Code of Professional Responsibility (aka the Rule of Professional Conduct) and well-settled case law.

PETITIONER'S AS WELL AS COUNTESS OTHER'S DUE PROCESS RIGHTS WERE DENIED BY THE PRACTICE OF THE 31st JUDICIAL DISTRICT JUVENILE AND DOMESTIC RELATIONS COURT TO IMPOSE PURGE CLAUSE IN CASES OF CRIMINAL CONTEMPT.

31. The petitioner incorporates by reference the allegations in paragraphs one through thirty, above, as if fully rewritten herein.

32. The petitioner alleges that the respondent, The 31st Judicial District Juvenile and Domestic Relations Court, by engaging in the practice of the illegal imposition of a purge clause in matters of criminal contempt, denied due process rights to the petitioner and other similarly-situated parties. Further, the petitioner spoke with a substitute Judge of this Court who stated that all of the Judges in this Court engage in the practice.

PETITIONER'S AS WELL AS COUNTESS OTHER'S DUE PROCESS RIGHTS WERE DENIED BY THE PRACTICE OF THE 31st JUDICIAL DISTRICT JUVENILE AND

DOMESTIC RELATIONS COURT TO IMPOSE PURGE CLAUSES WITHOUT FIRST DETERMINING THAT THE CONTEMNOR HAS THE PRESENT ABILITY OF HIS OWN ESTATE, TO PAY THE PURGE CLAUSE AND PURGE HIMSELF OF CONTEMPT

33. The petitioner incorporates by reference the allegations in paragraphs one through thirty-two, above, as if fully rewritten herein.

34. The petitioner alleges that the respondent, The 31st Judicial District Juvenile and Domestic Relations Court, by engaging in the practice of the imposition of a purge clause where the Court makes no determination that the contemnor has the present ability of his own estate to pay with the purge clause and purge himself of contempt.

35. The petitioner's own experience and his own observations have witnessed at least one Judge of this Court, Janice J. Brice, suggests that contemnors seek money from friends, relatives or banks to pay the purge clause and thus, purge themselves of contempt. This makes one's ability to purge dependent upon a third-party, which is not the purpose of civil contempt. Further, the petitioner spoke with a substitute Judge of this Court who stated that all of the Judges in this Court engage in the practice.

PETITIONER'S AS WELL AS COUNTESS OTHER'S DUE PROCESS RIGHTS WERE DENIED BY THE PRACTICE OF THE 31st JUDICIAL DISTRICT JUVENILE AND DOMESTIC RELATIONS COURT TO MODIFY CHILD SUPPORT ORDERS WITHOUT NOTICE AND WITHOUT A PENDING MOTION TO MODIFY

36. The petitioner incorporates by reference the allegations in paragraphs one through thirty-five, above, as if fully rewritten herein.

37. The petitioner alleges that the petitioner’s due process rights were denied by the practice of the 31st Judicial District Juvenile and Domestic Relations Court of modifying child support orders of contemnors before the Court without notice to the contemnor and without a pending motion to modify before the Court.

PETITIONER’S DUE PROCESS RIGHTS WERE DENIED BY THE PRACTICE OF CLERK’S OFFICE OF THE 31st JUDICIAL DISTRICT JUVENILE AND DOMESTIC RELATIONS COURT TO CHANGE THE TYPE OF BOND THE PETITIONER WAS UNDER, WHICH ULTIMATELY REQUIRED THE PETITIONER TO PAY $2,500 TO A BAIL BONDSMAN IN ORDER TO SECURE HIS RELEASE FROM CUSTODY PENDING APPEAL

38. The petitioner incorporates by reference the allegations in paragraphs one through thirty-seven, above, as if fully rewritten herein.

39. The petitioner asserts that Section 16.1-69.40 of the Code of Virginia clearly defines the duties of the Clerk’s Office of the Juvenile and Domestic Relations Court and that such duties do not changing an “appeal” bond into an “appearance bond when no Court has required an “appearance” bond of a defendant. The Chief Deputy Clerk, Joan Hughes, was on June 15, 2000 apparently of the opinion that the appeal bond, appearance

bond and accrual bond were equivalent, if not interchangeable bonds.

THE APRIL 4, 2001 ORDER OF THIS COURT IS VOID AB INITIO BECAUSE THE COURT DENIED THE PETITIONER A DE NOVO HEARING OF HIS APPEAL OF THE JUVENILE COURT'S FINDING OF CRIMINAL CONTEMPT, THUS DEPRIVING THE COURT OF SUBJECT MATTER JURISDICTION

40. The petitioner incorporates by reference the allegations in paragraphs one through thirty-nine, above, as if fully rewritten herein.

41. This Court's Order of April 4, 2001 is void because this Court acquires its jurisdiction by statute. In this instance, jurisdiction is invoked under Section 16.1-136 of the Code of Virginia, 1950, as amended, which provides that "Any appeal taken under the provisions of this chapter shall be heard de novo in the appellate court…."

42. The trial court's argument that the petitioner was only appealing the June 12, 2000 Order imposing the previously-suspended sentence and that the petitioner should have appealed the October 7, 1999 Order where the twelve-month jail sentence was suspended is flawed in that the lower court, upon suspending the sentence, continued the matter for review to January 31, 2000 and ultimately to June 12, 2000 where the suspended sentence was imposed. While the petitioner could have appealed

the October 7, 1999 Order, he was not required to appeal the Order until it became final, which was on June 12, 2000.

43. Because the petitioner timely appealed a final Order, he was entitled to a de novo hearing, which the Court denied, thus losing subject matter jurisdiction. Any Order issued by a Court without the Court having subject matter jurisdiction is void ab initio as is all actions flowing from the Order.

THE APRIL 4, 2001 ORDER OF THIS COURT IS VOID AB INITIO BECAUSE THE COURT CHANGE THE NATURE OF THE MATTER FROM CRIMINAL TO CIVIL, THUS DEPRIVING THE COURT OF SUBJECT MATTER JURISDICTION

44. The petitioner incorporates by reference the allegations in paragraphs one through forty-three, above, as if fully rewritten herein.

45. That when the Commonwealth of Virginia opted not to intervene in this matter at a pretrial hearing, the Court was left without a legal prosecutor to pursue the matter. Instead of dismissing the matter, which the petitioner had previously moved for, the Court continued the matter and on December 5, 2000, the Court advised the parties (the Commonwealth of Virginia was not present) that the matter would be heard as civil contempt.

46. That the petitioner was charged with and convicted of criminal contempt of court in the lower court, thus, his appeal could only have been heard as civil contempt in this Court. To support his position the petitioner looks to *Walthall v.*

Commonwealth, 3 Va. App. 674, 353 S.E.2d 169 (1987) where the Court of Appeals said "This case was treated as a civil proceeding in the juvenile and domestic relations court and the appeal to the circuit court was, therefore, also civil in nature." With no pending civil contempt proceedings, this Court could not find the petitioner in civil contempt of court, let alone convert the proceedings from criminal to civil in nature.

THE RESPONDENT, THE COMMONWEALTH OF VIRGINIA, WAS MANDATED BY VIRGINIA STATE TO INTERVENE AND PROSECUTE OR DISMISS THE MATTER APPEALED BY THE PETITIONER TO THIS COURT

47. The petitioner incorporates by reference the allegations in paragraphs one through forty-six, above, as if fully rewritten herein.

48. The Commonwealth of Virginia, by her attorney, was incorrect when it chose not to intervene and prosecute the matter upon appeal from the juvenile and domestic relations court. Section 16.1-232 of the Code of Virginia is plainly clear on the matter by stating that "The Commonwealth's attorney shall represent the State in all cases (criminal) appealed from the juvenile and domestic relations court to the circuit court. Once again, petitioner looks to *Walthall v. Commonwealth,* 3 Va. App. 674, 353 S.E.2d 169 (1987) for support of his position. The Commonwealth had the choice of either intervening and

prosecuting or intervening and dismissing the matter as they had done about two years previously.

WHEREFORE, the petitioner, prays that this Court enter a judgment declaring that:

1. The petitioner's due process rights were violated when the Clerk's Office of the 31st Judicial District Juvenile and Domestic Relations Court issued multiple criminal and civil show cause summons against the petitioner without the intervention of a judge.

2. The petitioner's due process rights were violated when the respondent, the 31st Judicial District Juvenile and Domestic Relations Court allowed counsel for respondent Pittman, James B. Pattison and Gregory E. Stambaugh, to initiate, prosecute and plea bargain in criminal matters in which they concurrently represented the alleged "victim" in related civil matters of child custody, visitation and support.

3. The petitioner's due process rights were violated by the practice of the respondent, the 31st Judicial District Juvenile and Domestic Relations Court, of imposing purge clauses in findings of criminal contempt of court.

4. The petitioner's due process rights were violated by the practice of the respondent, the 31st Judicial District Juvenile and Domestic Relations Court, of imposing a purge

clause against contemnors without determining whether or not the contemnor has the present ability of his own estate to pay the purge clause. Further, that the practice of the court to suggest to certain contemnors to borrow the money from third parties makes the contemnor's ability to purge themselves of civil contempt dependent upon a third party, thus denying the contemnors of due process rights.

5. The modification of the petitioner's child support Order issued on October 22, 1988 done by Judge Brice on June 16, 1988 during contempt of court hearings and without notice to the petitioner and without a pending motion to modify deprived the petitioner of due process rights. Further, in modifying the child support order, Brice failed to comply with mandatory, statutory procedures necessary to ascertain a child support order pursuant to Section 20-108.2 of the Code of Virginia, 1950, as amended. Further, Brice's award to respondent Pittman of $102 per month (totaling $6,160) for past medical insurance constitutes a retroactive modification of a child support order, which no court under Virginia or federal law has the authority to do. As such, Brice's modification and retroactive modification are declared as void ab initio.

6. The petitioner's due process rights were violated with the Chief Deputy Clerk of the 31st Judicial District Juvenile and Domestic Relations Court, Joan Hughes, changed the type of bond

the petitioner was under from an "appeal" bond to an "appearance" bond; that such change exceeded her authority pursuant to Section 16.1-69.40 of the Code of Virginia, 1950, as amended; that such change caused the petitioner to have to pay to a bail bondsman, the sum of $2,500 in order to secure his release from jail pending his appeal.

7. This court was deprived of subject matter jurisdiction when this court denied the petitioner with a de novo hearing of his appeal of his conviction of criminal contempt from the juvenile and domestic relations court and such deprivation rendered the April 4, 2001 Order in criminal case number CR-48377 void ab initio.

8. This court was deprived of subject matter jurisdiction when it changed the nature of the petitioner's appeal from that of a criminal nature into a civil matter and such deprivation rendered the April 4, 2001 Order in criminal case number CR-48377 void ab initio.

9. Pittman is hereby ordered to refund the petitioner the $500 in attorney fees paid to her counsel in July of 2002.

10. The petitioner recover his costs and fees incurred in this matter.

11. That the respondent, the Commonwealth of Virginia, is required under Section 16.1-232 of the Code of Virginia, 1950, as amended, to intervene and prosecute or intervene and dismiss

the charge appealed by the petitioner to this court and should the Commonwealth choose to dismiss the charge, petitioner, pursuant to Section 17.1-280 of the Code of Virginia, 1950, as amended, is hereby granted $3,000 in attorney fees to be paid by respondent Pittman to compensate petitioner for fees paid to counsel in defense of the matter now declared as void ab initio.

I ask for this,

David B. Briggman, Petitioner, *Pro Se*
7556 Mountain Valley Road
Keezletown, Virginia 22832
(540) 269-4122