No. 10 - _____

IN THE

Supreme Court of the United States

DAVID J. BEATTY,
Petitioner,

v.

DEBORAH KERIVAN,
Respondent.

Upon Petition for Writ of Certiorari
to the Maine Supreme Judicial Court
sitting in capacity as the Law Court

FIRST AMENDED PETITION FOR WRIT OF CERTIORARI

For the Petitioner:

David J. Beatty*
8 King Edward Court
Post Office Box # 7
Boxford, MA 01921
[phone redacted]
attorney pro se

June 7th, 2010

*Party of Record

QUESTIONS PRESENTED

Introduction:

This nation has thousands of state courts processing family law matters on a daily basis. The federal due process rights of at least 50 million parent citizens are currently implicated at any given moment, along with the related rights of some 30 million or more children.

In addition to the many millions as currently affected, there are at least 5-7 million more citizens added into this increasing demographic pool on an annual basis.

Questions:

1) Whether state family courts, within the context of enforcement of secondary matters, particularly various financial issues as between the parties, are limited by Article I, Section 10 of the Federal Constitution's prohibition against the any impairment of contractual obligations existing amongst the parties and/or others?

2) What constitutes "disposable income", if any, for the purposes of enforcement of federal and state CCPA laws within any typical family court, when an obligor parent has documented status as 100% medically disabled and is also living at or below the federal poverty guidelines?

3) Whether, in view of the recent passage of Health Care Reform, this Court should now issue its any application guidelines for the States to reasonably allocate medical expenses of children, as between divorced or separated parents, in order to save immeasurable amounts of state judicial resources, and to prevent most future confusion?

LIST OF PARTIES

All parties appear in the caption
of the case on the cover page.

DISCLOSURE STATEMENT

Comes now the Petitioner, David J. Beatty, and provides notice to the Court and all parties of the following in close regards as to any personal, corporate and/or other disclosures, to diligently add prevention to any known, perceived or potential conflicts of interest, to-wit:

To the best of my personal knowledge and belief, there are no known or otherwise identified corporate entities within the direct play of this case, or any raised therein.

To the best of my knowledge and belief, this Petitioner has no known personal relations or interests with any of the listed Justices of the United States Supreme Court, nor with any other person or entity involved herein, save the issues in play via the Petition for Writ of Certiorari.

I declare under penalty of perjury that the foregoing is true and correct.

/s/ David J. Beatty

_____

David J. Beatty
8 King Edward Court
Post Office Box # 7
Boxford, MA 01921
[phone redacted]

TABLE OF CONTENTS

APPENDIX

Springvale District Court

Appendix A – Mar 13, 2009: Stipulated Partial Amended Divorce Judgment
Appendix B – Mar 17, 2009: Stipulated Partial Amended Divorce Judgment
Appendix C – Mar 27, 2009: Finding of Non-Compliance of Order for Contempt
Appendix D – Apr 10, 2009: Amended Judgment and Finding of Non-Compliance on Order for Contempt

Maine Supreme Court

Appendix E – Feb 2, 2010: order affirming trial court
Appendix F – Mar 4, 2010: order denying rehearing

TABLE OF AUTHORITIES

Cases

Federal Constitution

United States Code

Other Authorities

OPINIONS BELOW

The March 4, 2010 denial of rehearing by the Maine Supreme Judicial Court (*infra*, "Appendix F") is not reported. The February 2, 2010, ruling and opinion of the Maine Supreme Judicial Court (*infra*, "Appendix E") is NOT DESIGNATED FOR PUBLICATION, and is available as 2010 Me. Unpub. LEXIS 2. The rulings of the lower Maine trial court, Family Division, Springvale District Court, County of York, State of Maine (*infra*, "Appendix A" through "Appendix D"), are not reported.

JURISDICTION

The Maine Supreme Judicial Court ruled on February 2, 2010, and then denied rehearing on March 4, 2010. The jurisdiction of this Court is vested by 28 U.S.C. § 1257. 28 U.S.C. § 2403(b) may apply, and notification is made.

"The issue of whether a federal question was sufficiently and properly raised in the state courts is itself ultimately a federal question, as to which this Court is not bound by the decision of the state courts." *Street v. New York*, 394 U.S. 576, 583 (1969). See also *Black v. Cutter Labs.*, 351 U.S. 292, 298 (1956) (this Court has a "duty to ... determine for ourselves precisely the ground on which the judgment rests"). Accordingly, state courts cannot evade this Court's review by failing to discuss federal questions in its opinion. *Chapman v. Goodnow's Adm'r.*, 123 U.S. 540, 548 (1887) ("If a federal question is fairly presented by the record, and its decision is actually necessary to the determination of the case, a judgment which rejects a claim, but avoids all reference to it, is as much against the right ... as if it has been specifically referred to and the right directly refused.").

CONSTITUTIONAL PROVISIONS AND STATUTES INVOLVED

Federal Constitution

Article I, Section 10:

No state shall enter into any treaty, alliance, or confederation; grant letters of marque and reprisal; coin money, emit bills of credit; make anything but gold and silver coin a tender in payment of debts, pass any bill of attainder, ex post facto law, or law impairing the obligations of contracts, or grant any title of nobility.

Article IV, Section 2:

The citizens of each state shall be entitled to all privileges and immunities of citizens in the several states.

Article VI:

This constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the constitution or laws of any state to the contrary notwithstanding.

Amendment IV:

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures shall not be violated, and no

warrants shall issue but upon probable cause, supported by oath or affirmation and particularly describing the place to be searched and the persons or things to be seized.

Amendment V:

No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger, nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.

Amendment VI:

In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and caused of the accusation, to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

Amendment VII:

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury

shall be preserved, and no fact tried by a jury shall be otherwise reexamined in any court of the United States than according to the rules of the common law.

Amendment VIII:

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

Amendment IX:

The enumeration in the constitution of certain rights shall not be construed to deny or disparage others retained by the people.

Amendment X:

The powers not delegated to the United States by the constitution, nor prohibited by it to the states, are reserved to the states, respectively, or to the people.

Amendment XIV, Section 1:

All persons born or naturalized in the United States, and subject to the jurisdiction thereof; are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life liberty, or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

United States Code

15 U.S.C. § 1673:

§ 1673. Restriction on garnishment

(a) Maximum allowable garnishment

Except as provided in subsection (b) of this section and in section 1675 of this title, the maximum part of the aggregate disposable earnings of an individual for any workweek which is subjected to garnishment may not exceed

(1) 25 per centum of his disposable earnings for that week, or

(2) the amount by which his disposable earnings for that week exceed thirty times the Federal minimum hourly wage prescribed by section 206 (a)(1) of title 29 in effect at the time the earnings are payable,

whichever is less. In the case of earnings for any pay period other than a week, the Secretary of Labor shall by regulation prescribe a multiple of the Federal minimum hourly wage equivalent in effect to that set forth in paragraph (2).

(b) Exceptions

(1) The restrictions of subsection (a) of this section do not apply in the case of

(A) any order for the support of any person issued by a court of competent jurisdiction or in accordance with an administrative procedure, which is established by State law, which affords substantial due process, and which is subject to judicial review.

(B) any order of any court of the United States having jurisdiction over cases under chapter 13 of title 11.

(C) any debt due for any State or Federal tax.

(2) The maximum part of the aggregate disposable earnings of an individual for any workweek which is subject to garnishment to enforce any order for the support of any person shall not exceed—

(A) where such individual is supporting his spouse or dependent child (other than a spouse or child with respect to whose support such order is used), 50 per centum of such individual's disposable earnings for that week; and

(B) where such individual is not supporting such a spouse or dependent child described in clause (A), 60 per centum of such individual's disposable earnings for that week;

except that, with respect to the disposable earnings of any individual for any workweek, the 50 per centum specified in clause (A) shall be deemed to be 55 per centum and the 60 per centum specified in clause (B) shall be deemed to be 65 per centum, if and to the extent that such earnings are subject to garnishment to enforce a support order with respect to a period which is prior to the twelve-week period which ends with the beginning of such workweek.

(c) Execution or enforcement of garnishment order or process prohibited

No court of the United States or any State, and no State (or officer or agency thereof), may make, execute, or enforce any order or process in violation of this section.

15 U.S.C. § 1675:

§ 1675. Exemption for State-regulated garnishments

The Secretary of Labor may by regulation exempt from the provisions of section 1673 (a) and (b)(2) of this title garnishments issued under the laws of any State if he determines that the laws of that State provide

restrictions on garnishment which are substantially similar to those provided in section 1673 (a) and (b)(2) of this title.

Health Care Reform enactments of 2010

The actual text of the 2010 Health Care Reform Bills – H.R. 3590 & H.R. 4872 – is so voluminous that it was not thought prudent, nor feasible, to include a verbatim copy of the two entire new realms of statutory language.

The Patient Protection & Affordable Care Act (PPAC) is the main "health care bill." The Health Care & Education Reconciliation Act was subsequently passed as an enhancement to the PPAC.

• Patient Protection & Affordable Care Act (H.R. 3590)

Passed by the Senate in December 2009, then by the House of Representatives in March 2010. Signed into law by President Barack Obama on March 23, 2010.

The full text is available online at the following location: http://thomas.loc.gov/cgi-bin/bdquery/z?d111:h.r.03590:

• Health Care & Education Reconciliation Act of 2010 (H.R. 4872)

Passed by the House of Representatives and the Senate, both in March 2010. Signed into law by President Barack Obama on March 30, 2010.

The full text is available online at the following location: http://thomas.loc.gov/cgi-bin/bdquery/z?d111:h.r.04872:

Other Authorities

Maine Revised Statutes, Title 9-A, § 5-105:

§5-105. Limitation on garnishment

1. For the purposes of this Part:

A. "Disposable earnings" means that part of the earnings of an individual remaining after the deduction from those earnings of amounts required by law to be withheld; and

B. "Garnishment" means an installment payment order under Title 14, chapter 502.

2. The maximum part of the aggregate disposable earnings of an individual for any workweek that is subjected to garnishment to enforce payment of a judgment arising from a consumer credit transaction may not exceed the lesser of:

[*sic:*] C. The maximum part of the aggregate disposable earnings of an individual for any workweek that is subjected to garnishment to enforce payment of a judgment arising from a consumer credit transaction may not exceed the lesser of:

A. **[*sic:*]** Twenty-five percent of the individual's disposable earnings for that week;

Twenty-five percent of the individual's disposable earnings for that week; and

B. The amount by which the individual's disposable earnings for that week exceed 40 times the Federal minimum hourly wage prescribed by Section 6(a)(I) of the Fair Labor Standards Act of 1938, U.S.C. tit. 29, § 206(a)(I), in effect at the time the earnings are payable; or

The amount by which the individual's disposable earnings for that week exceed 40 times the federal minimum hourly wage prescribed by Section 6(a)(I) of

the Fair Labor Standards Act of 1938, 29 United States Code, Section 206(a)(I), or the state minimum wage prescribed by Title 26, section 664, whichever is higher, in effect at the time the earnings are payable.

In the case of earnings for a pay period other than a week, the administrator shall prescribe by rule a multiple of the minimum hourly wage equivalent in effect to that set forth in this paragraph.

3. No court may make, execute or enforce an order or process in violation of this section.

Maine Revised Statutes, Title 19-A, § 2002:

§2002. Application

Notwithstanding any other provisions of law, this chapter applies to a court action or administrative proceeding in which a child support order is issued or modified under Title 18-A, section 5-204, this Title or Title 22 and to any court action or administrative proceeding in which past support is awarded.

Maine Revised Statutes, Title 19-A, § 2006:

§2006. Support guidelines

1. Determination of basic support entitlement. After the court or hearing officer determines the annual gross income of both parties, the 2 incomes must be added together to provide a combined annual gross income and applied to the child support table to determine the basic support entitlement for each child.

When there is a child within each age category, the court or hearing officer shall refer to the table and locate the figure in the left-hand column that is closest to the parents' combined annual gross income. In each age category the court or hearing officer shall determine the

dollar figure for the total number of children for whom support is being determined, multiply the dollar figure in each age category by the number of children in that category and add the 2 products. The resulting dollar amount represents the basic support entitlement.

2. Past support. This chapter applies to an award of past support. Past support is calculated by applying the current support guidelines to the period for which past support is owed.

3. Total basic support obligation. The total basic support obligation is determined by adding the child care costs, health insurance premiums and extraordinary medical expenses to the basic support entitlement as follows.

A. When each child is under the age of 12 years, the sums actually being expended for child care costs must be added to the basic support entitlement to determine the total basic support obligation.

B. If a child is incurring extraordinary medical expenses, the future incidence of which is determinable because of the permanent, chronic or recurring nature of the illness or disorder, the sums actually being expended for the medical expenses must be added to the basic support entitlement to determine the total basic support obligation.

C. If private health insurance for the child is available at reasonable cost, the cost of private health insurance must be added to the basic support entitlement to determine the total basic support obligation. For the purposes of this paragraph, "the cost of private health insurance" is the cost of adding the child to existing coverage or the difference between self-only and family coverage.

4. Computation of parental support obligation. The total basic support obligation must be divided between the

parties in proportion to their respective gross incomes. The court or hearing officer shall order the party not providing primary residential care to pay, in money, that party's share of the total basic support obligation to the party providing primary residential care. The primary residential care provider is presumed to spend the primary care provider's share directly on each child. If the court or hearing officer determines that the parties provide substantially equal care for a child for whom support is sought, presumptive support must be calculated in accordance with subsection 5, paragraph D-1. Both parents are responsible for child support if a caretaker relative provides primary residential care for the child. The caretaker relative's income may not be considered in determining the parents' child support obligation.

5. Special circumstances. The court or hearing officer shall consider the following special circumstances in determining child support.

A. When the parent who is not the primary care provider is legally obligated to support a child in that party's household other than the child for whom a support order is being sought, an adjustment must be made to that party's parental support obligation. The adjustment is made by using the nonprimary residential care provider's annual gross income to compute a theoretical support obligation under the support guidelines for each child in that household. Neither the child support received by nor the financial contributions of the other parent of each child in the household are considered in the theoretical support calculation. The obligation is then subtracted from the annual gross income, and the adjusted income is the amount used to calculate support. The adjustment is used in all appropriate

cases, except when the result would be a reduction in an award previously established.

B. When the parties' combined annual gross income exceeds $400,000, the child support table is not applicable, except that the basic weekly child support entitlement of a child is presumed to be not less than that set forth in the table for a combined annual gross income of $400,000.

C. The subsistence needs of the nonprimary care provider must be taken into account when establishing the parental support obligation. If the annual gross income of the nonprimary care provider is less than the federal poverty guideline, the nonprimary care provider's weekly parental support obligation for each child for whom a support award is being established or modified may not exceed 10% of the nonprimary care provider's weekly gross income, regardless of the amount of the parties' combined annual gross income. The child support table includes a self-support reserve for obligors earning $22,800 or less per year. If, within an age category, the nonprimary care provider's annual gross income, without adjustments, is in the self-support reserve for the total number of children for whom support is being determined, the amount listed in the self-support reserve multiplied by the number of children in the age category is the nonprimary care provider's support obligation for the children in that age category, regardless of the parties' combined annual gross income. The nonprimary care provider's proportional share of childcare, health insurance premiums and extraordinary medical expenses are added to this basic support obligation. This paragraph does not apply if its application would result in a

greater support obligation than a support obligation determined without application of this paragraph.

D. When the parties have equal annual gross incomes and provide substantially equal care for each child for whom support is being determined, neither party is required to pay the other a parental support obligation. The parties shall share equally the child care costs, health insurance premiums and uninsured medical expenses.

D-1. When the parties do not have equal annual gross incomes but provide substantially equal care for each child for whom support is being determined, the presumptive parental support obligation must be determined as follows.

(1) The enhanced support entitlement for each child must be determined.

(2) Using the enhanced support entitlement, a parental support obligation for each child must be determined by dividing the total enhanced support obligation between the parties in proportion to their respective gross incomes.

(3) The party with the higher annual gross income has a presumptive obligation to pay the other party the lower of:

(a) The difference between their parental support obligations as calculated in subparagraph (2); and

(b) The presumptive parental support obligation determined for the payor party using the basic support entitlement under the support guidelines as though the other party provided primary residential care of the child.

(4) The parties shall share the child care costs, health insurance premiums and uninsured medical expenses in proportion to their incomes.

E. When each party is the primary residential care provider for at least one of the children involved, a child support obligation must first be computed separately for each party for each child residing primarily with the other party, based on a calculation pursuant to the support guidelines, and using as input in each calculation the number of children in each household, rather than the total number of children. The amounts determined in this manner represent the theoretical support obligation due each party for support of each child for whom the party has primary residential responsibility. Each party's proportionate share of child care costs and health insurance premiums is added to the amounts calculated, and the party owing the greater amount of child support shall pay the difference between the 2 amounts as a parental support obligation.

6. Prospective child support award. An order establishing a child support award for a child who has attained 10 years of age must also establish an award for the child as if the child were 12 years of age. The prospective award becomes effective on the child's 12th birthday without further order or decision of the court or hearing officer, and the order establishing or modifying the prospective award must state this fact.

7. Incorporated findings. As part of its current child support order, the court or hearing officer shall make the following findings:

A. The names and dates of birth of each child for whom support is being sought;

B. The annual gross income of each party and the combined annual income of both parties;

C. The amount of the basic weekly support entitlement attributable to each child under 12 years

of age, as indicated per child per week on the child support table;

D. The amount of the basic weekly support entitlement attributable to each child 12 years of age and over, as indicated per child per week on the child support table;

E. The name and date of birth of each child for whom work-related day care expenses are paid and the amount of those expenses;

F. The name and date of birth of each child for whom extraordinary medical expenses are paid and the amount of those expenses;

G. The parental support obligation of the party ordered to pay child support; and

H. The name and date of birth of each child for whom health insurance premiums are paid and the amount of those premiums.

These findings are made by incorporating the completed child support worksheet into the order for current support.

8. Requirements of support provisions. To assist in a formal review proceeding, and to enable the parties to reduce the incidence of formal modification procedures, an order establishing parental support obligation must include:

A. The name of each child;

B. A beginning date for the parental support obligation;

C. A breakdown of the parental support obligation, including:

(1) The amount for basic support entitlements and the amount for enhanced support entitlements, if applicable;

(2) The amount for child care costs;

(3) The amount for extraordinary medical expenses;

(4) The percentage of the total child care costs and extraordinary medical expenses included in the parental support obligation, if applicable; and

(5) The amount for health insurance premiums;

D. For each child who has attained 10 years of age, a prospective award under subsection 6;

E. If each child for whom a parental support obligation is being established has attained 12 years of age, a specific sum to be paid depending on the number of minor children remaining with the primary care provider. Because the support guidelines are based on the actual costs of raising a given number of children in a household, the order must provide a specific dollar amount for every combination of minor children. Except as provided in paragraph G, the court or hearing officer may not apportion support between the parents by determining the parental support obligation amount and dividing by the total number of children;

F. If the court or hearing officer ultimately determines that the order for current support is to be set under section 2007, the written findings of the court or hearing officer in support of the deviation;

G. With regard to any initial or modified child support order that affects more than one child and that was entered before January 18, 2005, unless that order states the manner in which the order must be modified upon the events listed in subparagraphs (1) to (4), that the order be automatically modified pursuant to this paragraph to address any of the following events:

(1) Any child reaches 18 years of age and has graduated from secondary school;

(2) Any child reaches 19 years of age without having graduated from secondary school;

(3) Any child obtains an order of emancipation; or

(4) Any child dies.

As of the date of an event listed in subparagraphs (1) to (4), the total child support amount stated in the order must be decreased by the child support amount assigned to that child in the worksheets accompanying the child support order or as set forth in the order; and

H. A requirement that private health insurance must be provided for the benefit of the child, if private health insurance for the child is available at reasonable cost. If private health insurance for the child is not available at reasonable cost at the time of the hearing, a requirement that private health insurance for the child must be provided effective immediately upon being available at reasonable cost.

9. Notice of right to review. A judicial order or administrative order issued or modified in this State that includes an order for child support must include a statement that advises parents of the right to request the issuing authority to review and, if appropriate, modify the child support order according to the State's child support guidelines.

10. Disclosure and recording of social security numbers. A person who is a party to an action to establish or modify a support order shall disclose that person's social security number to the court or the department, whichever conducts the proceeding. The social security number of a person who is subject to a support order must be placed in the records relating to the support order. The record of a person's social security number is confidential and is not open to the public. The court

shall disclose a person's social security number to the department for child support enforcement purposes.

Maine Revised Statutes, Title 19-A, § 2251:

§2251. Purpose

With this article, the Legislature intends to provide additional remedies for the enforcement of support for dependent children and spouses and former spouses caring for dependent children by establishing an alternative method directed to the real and personal property of the responsible parents. These remedies are in addition to, not in lieu of, existing law.

Maine Revised Statutes, Title 19-A, § 2356:

§2356. Exemptions

The following exemptions apply to weekly earnings. The maximum part of the aggregate disposable earnings of a responsible parent for any workweek that is subject to garnishment or income withholding may not exceed:

1. Supporting spouse or dependent child. When the individual is supporting that individual's spouse or dependent child, other than a spouse or child with respect to whose support that order is used, 50% of that individual's disposable earnings for that week; or

2. Not supporting spouse or dependent child. When the individual is not supporting such a spouse or dependent child described in subsection 1, 60% of that individual's disposable earnings for that week.

With respect to the disposable earnings of any individual for any workweek, the 50% specified in subsection 1 is deemed to be 55% and the 60% specified in subsection 2 is deemed to be 65% if and to the extent that such earnings are subject to garnishment to enforce

a support order with respect to a period that is prior to the 12-week period that ends with the beginning of that workweek. In no event may the amount withheld exceed the limitations imposed by 15 United States Code, Section 1673.

Indiana Code, Title 24, Art. 4.5, Chap. 5, § 105:

Sec. 105. Limitation on garnishment and proceedings supplemental to execution; employer's fee
(1) For the purposes of IC 24-4.5-5-101 through IC 24-4.5-5-108:

(a) "disposable earnings" means that part of the earnings of an individual, including wages, commissions, income, rents, or profits remaining after the deduction from those earnings of amounts required by law to be withheld;

(b) "garnishment" means any legal or equitable proceedings through which the earnings of an individual are required to be withheld by a garnishee, by the individual debtor, or by any other person for the payment of a judgment; and

(c) "support withholding" means that part of the earnings that are withheld from an individual for child support in accordance with the laws of this state.

(2) Except as provided in subsection (8), the maximum part of the aggregate disposable earnings of an individual for any workweek which is subjected to garnishment to enforce the payment of one (1) or more judgments against him may not exceed:

(a) twenty-five percent (25%) of his disposable earnings for that week; or

(b) the amount by which his disposable earnings for that week exceed thirty (30) times the federal

minimum hourly wage prescribed by 29 U.S.C. 206(a)(1) in effect at the time the earnings are payable;

whichever is less. In the case of earnings for a pay period other than a week, the earnings shall be computed upon a multiple of the federal minimum hourly wage equivalent to thirty (30) times the federal minimum hourly wage as prescribed in this section.

(3) The maximum part of the aggregate disposable earnings of an individual for any workweek which is subject to garnishment or support withholding to enforce any order for the support of any person shall not exceed:

(a) where such individual is supporting his spouse or dependent child (other than a spouse or child with respect to whose support such order is used), fifty percent (50%) of such individual's disposable earnings for that week; and

(b) where such individual is not supporting such a spouse or dependent child described in subdivision (a), sixty percent (60%) of such individual's disposable earnings for that week;

except that, with respect to the disposable earnings of any individual for any workweek, the fifty percent (50%) specified in subdivision (a) shall be deemed to be fifty-five percent (55%) and the sixty percent (60%) specified in subdivision (b) shall be deemed to be sixty-five percent (65%), if and to the extent that such earnings are subject to garnishment or support withholding to enforce a support order with respect to a period which is prior to the twelve (12) week period which ends with the beginning of such workweek.

(4) No court may make, execute, or enforce an order or process in violation of this section.

(5) An employer who is required to make deductions from an individual's disposable earnings pursuant to a garnishment order or series of orders arising out of the same judgment debt (excluding a judgment for payment of child support) may collect, as a fee to compensate the employer for making these deductions, an amount equal to the greater of twelve dollars ($12) or three percent (3%) of the total amount required to be deducted by the garnishment order or series of orders arising out of the same judgment debt. If the employer chooses to impose a fee, the fee shall be allocated as follows:

(a) One-half (1/2) of the fee shall be borne by the debtor, and that amount may be deducted by the employer directly from the employee's disposable earnings.

(b) One-half (1/2) of the fee shall be borne by the creditor, and that amount may be retained by the employer from the amount otherwise due the creditor.

The deductions made under this subsection for a collection fee do not increase the amount of the judgment debt for which the fee is collected for the purpose of calculating or collecting judgment interest. This fee may be collected by an employer only once for each garnishment order or series of orders arising out of the same judgment debt. The employer may collect the entire fee from one (1) or more of the initial deductions from the employee's disposable earnings. Alternatively, the employer may collect the fee ratably over the number of pay periods during which deductions from the employee's disposable earnings are required.

(6) The deduction of the garnishment collection fee under subsection (5)(a) or subsection (7) is not an assignment of wages under IC 22-2-6.

(7) An employer who is required to make a deduction from an individual's disposable earnings in accordance

with a judgment for payment of child support may collect a fee of two dollars ($2) each time the employer is required to make the deduction. The fee may be deducted by the employer from the individual's disposable earnings each time the employer makes the deduction for support. If the employer elects to deduct such a fee, the amount to be deducted for the payment of support must be reduced accordingly if necessary to avoid exceeding the maximum amount permitted to be deducted under subsection (3).

(8) A support withholding order takes priority over a garnishment order irrespective of their dates of entry or activation. If a person is subject to a support withholding order and a garnishment order, the garnishment order shall be honored only to the extent that disposable earnings withheld under the support withholding order do not exceed the maximum amount subject to garnishment as computed under subsection (2).

Virginia Code, Title 34, Chap. 4, § 34-29:

§ 34-29. Maximum portion of disposable earnings subject to garnishment.

(a) Except as provided in subsections (b) and (b1), the maximum part of the aggregate disposable earnings of an individual for any workweek which is subjected to garnishment may not exceed the lesser of the following amounts:

(1) Twenty-five percent of his disposable earnings for that week, or

(2) The amount by which his disposable earnings for that week exceed 40 times the federal minimum hourly wage prescribed by § 206 (a) (1) of Title 29 of

the United States Code in effect at the time earnings are payable.

In the case of earnings for any pay period other than a week, the State Commissioner of Labor and Industry shall by regulation prescribe a multiple of the federal minimum hourly wage equivalent in effect to that set forth in this section.

(b) The restrictions of subsection (a) do not apply in the case of:

(1) Any order for the support of any person issued by a court of competent jurisdiction or in accordance with an administrative procedure, which is established by state law, which affords substantial due process, and which is subject to judicial review.

(2) Any order of any court of bankruptcy under Chapter XIII of the Bankruptcy Act.

(3) Any debt due for any state or federal tax.

(b1) The maximum part of the aggregate disposable earnings of an individual for any workweek which is subject to garnishment to enforce any order for the support of any person shall not exceed:

(1) Sixty percent of such individual's disposable earnings for that week; or

(2) If such individual is supporting a spouse or dependent child other than the spouse or child with respect to whose support such order was issued, 50 percent of such individual's disposable earnings for that week.

The 50 percent specified in subdivision (b1) (2) shall be 55 percent and the 60 percent specified in subdivision (b1) (1) shall be 65 percent if and to the extent that such earnings are subject to garnishment to enforce an order for support for a period which is more than 12 weeks prior to the beginning of such workweek.

(c) No court of the Commonwealth and no state agency or officer may make, execute, or enforce any order or process in violation of this section.

The exemptions allowed herein shall be granted to any person so entitled without any further proceedings.

(d) For the purposes of this section:

(1) The term "earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus, payments to an independent contractor, or otherwise, whether paid directly to the individual or deposited with another entity or person on behalf of and traceable to the individual, and includes periodic payments pursuant to a pension or retirement program,

(2) The term "disposable earnings" means that part of the earnings of any individual remaining after the deduction from those earnings of any amounts required by law to be withheld, and

(3) The term "garnishment" means any legal or equitable procedure through which the earnings of any individual are required to be withheld for payment of any debt.

(e) Every assignment, sale, transfer, pledge or mortgage of the wages or salary of an individual which is exempted by this section, to the extent of the exemption provided by this section, shall be void and unenforceable by any process of law.

(f) No employer may discharge any employee by reason of the fact that his earnings have been subjected to garnishment for any one indebtedness.

(g) A depository wherein earnings have been deposited on behalf of and traceable to an individual shall not be required to determine the portion of such earnings which are subject to garnishment.

STATEMENT OF THE CASE

A. Facts Giving Rise To This Case

When his own father died unexpectedly, your Petitioner, David Beatty, (hereinafter "David") left high school at the age of 16 years old, and spared his mother the extra burden of providing for his needs, let alone those of his six (6) siblings also under her care, by convincing her to sign a waiver for David's age to let him join the United States Navy, which both insisted and assisted David in obtaining his GED. Subsequent to his term of service in the Navy, David became employed as a handyman in the field of general maintenance, and had a modest income.

Respondent Deborah Kerivan (hereinafter "Deborah") is a high school graduate from Natick, Massachusetts, who delivered pizzas and cleaned houses as her daily source of income. When Deborah met David, she was fully aware and accepting of David's education status and ability to earn income. They began a new life together.

Later, David and Deborah conceived two children out of wedlock, got married, and, after that, had a third child.

Deborah then took a vocational course and obtained her Real Estate Certificate in late March of 2004. In April of 2004, approximately one (1) week after completing the real estate training, she then informed David that they were getting a divorce, regardless of his any own wishes.

B. Springvale District Court Proceedings

During the ongoing, very lengthy trial court proceedings of divorce with children involved, Deborah has used the

services of several different attorneys, who have helped her to obtain various successive rulings that often also defied logic and common sense, let alone even basic due process rights, in regards to David or his three children.

Examples of the sheer ridiculousness occurring within and by the Springvale District trial court have included:

(a) awarding Deborah the family home worth $250,000 while later admonishing David to not exercise visitation time with his children in his vehicle (forced to live in a van), since David had been ordered to pay, and had been paying, some $1689/month towards *Deborah's* mortgage;

(b) also awarding Deborah over $18,500 in annual child support and spousal support from David, amounts that exceeded the maximum limitations of both federal and state CCPA laws, since David's *gross* income was only at about $30,000 annually, and his *net* income was **far** less;

(c) repeatedly ordering David to appear and be found in contempt for not paying a myriad of tacked-on attorneys fees, for support arrearages falsely accruing in violation of both federal and state CCPA laws, plus upon medical bills unnecessarily incurred by the unilateral whim of Deborah on behalf of the children, without providing any reasonable good cause, without providing any notice, at all, and further without even providing documentation;

(d) subsequent to David's own bodily medical condition deteriorating to the point of 100% disability, increasing the strength, threat, intimidation factor, and abuse of power, by the trial court to demand, under punishment of jailings, and with *actual jail time inflicted* on David, a progressive *accrual* of monetary transfers ordered into

Deborah's favor, even though, by then, David was also physically unable to continue working to earn income...

(e) even while notwithstanding that the federal CCPA, the Maine CCPA, **and** various Maine domestic relations statutes – all of them, in fact – actually *required* the trial court to very dramatically *reduce*, and under some statutes, very most probably *do away with*, his entire ongoing support obligation, given his new life condition;

and, further...

(f) refusing, in flagrant and ongoing violations of equal protection, as well as repeated commissions of gender discrimination, to hold Deborah accountable for any of over four hundred (400) documented denials of David's parenting time rights with his children and ignoring the obvious need to compel even a portion of the lost times.

See, Appendix items "A" through "D" for some examples of the most recent such said erroneous judicial activity committed within and by the Springvale District Court.

David does not bring this petition for writ of certiorari in regards to any direct challenge to the primary matters of divorce or child custody, but for the secondary financial matters under trial court enforcement in violation of his due process rights found expressly under both federal and state statutory laws, and via the U.S. Constitution.

In particular, David renews his personal victimization as general challenge to the routine negligence of typical American family courts in failing to obey or abide by the expressly written statutory mandates of both federal **and** state Consumer Credit Protection Act (CCPA) laws,

i.e., to abide by expressly written mandated calculation parameters, and to not exceed the statutory limits of law in processing of child and spousal support obligations, as well as adding general challenge to the legal interplay(s) between the above and the Constitution, Art. I, Sec. 10, specifically upon impairment of contractual obligations.

Additionally, David raises claim that this Court should grant review, even independently, to address the future application of federalized Health Care Reform laws upon the family court systems of the several sister States, due to being suddenly thrust into jail on "contempt" for bills under Deborah's unilateral, elective choice for having a series of cosmetic treatments performed on behalf of the children, and for what constitutes "reasonable" medical expenditures by the obligee parent, whenever the obligor parent might be later ordered to pay for those services.

The results of such a commissioned assistance to this Court might prove useful in other Health Care lawsuits, at any stage of federal proceedings both now and future, and could serve as the guidelines for state family courts.

C. Maine Supreme Court Proceedings

Despite the solid facts that David is and had been placed on 100% medical disability, and with his Social Security benefits being explored even further at present, and also despite the clear errors in large financial differentials being played out within the trial court to a highly biased and prejudicial level, the Supreme Judicial Court of Maine, sitting in appellate capacity as the Law Court, did flatly and curtly deny relief to David on February 2, 2010 (*see* Appendix E) and denied rehearing on March 4, 2010, without further explanation (*see* Appendix F).

REASONS WHY CERTIORARI SHOULD BE GRANTED

Introduction for all Reasons:

Since the 1970's, introduction of "no-fault" divorce laws, the federalization of certain family law components and processes, and also a noticeable decay in general societal norms and morals, regarding what once was prevalent as the traditional nuclear family unit, have all helped induce a progressive breakdown in the stability of marriages and families, combining to now consist of at least 80 million American mothers, fathers, and their children who had their former family "pass through" a state run court system, in order to decide the new lives upon the processing of a divorce or similar separation.

The estimate is very conservative, using only an older estimate of at least 25 million so-called "noncustodial" parents, plus their direct 25 million counterparts, i.e., the so-called "custodial" parents, and with each of the separated pairs of parents having at least one (1) or more minor children currently involved, all per data that is easily obtained from the federal Department of Health and Human Services[1] and/or the U.S. Census[2].

This very conservative estimate of well over 80 million directly affected United States citizens also does *not* include the many more millions of extended family members, who are indirectly affected in regards to their own familial time loss ratios, regarding the children in question, on the order of a weekly or monthly basis loss.

---

[1] http://www.hhs.gov/children/index.html
[2] http://www.census.gov/population/www/socdemo/hh-fam.html

This total, larger number is conservatively calculated to be inclusive of **at least 155 million** American citizens who are affected by state family court rulings on either a daily, weekly or monthly basis. It may be much higher.

I. *The proper application of Article I, Section 10, of the Federal Constitution within the nation's family courts is imperative for ensuring basic due process rights of over 80 million American citizens currently affected, and in view of that another 5-7 million are affected annually.*

Article I, Section 10 of the Federal Constitution includes a prohibition against any impairment of the obligations of contracts by state mechanisms. Within the privacy and protected sphere of the family and individual, and of the personal, moral, ethical and financial relationships found amongst family members, those such obligations may be, and sometimes are, impaired by the actions of a state's family court – possibly constituting one or more Constitutional violations, as against Art. I, Section 10.

Indeed, sometimes the state family court can create the paradoxical quandary, *itself*, by first decreeing a divorce and/or child custody decree with its various financial parameters between and amongst the parties and/or even third parties, then later "changing the game" suddenly upon the parties, by radical altering of the previous financial parameters, or by refusing to alter the parameters, when financial situations of the American economy at large, or of one or both of the parent parties to a given case, would otherwise compel any reasonable jurist to adjust for and accommodate the new conditions.

For example, within the instant case at bar, the state trial court ordered an entire set of financial conditions at and upon both temporary and permanent time points, as between the two parental parties, and in regards to the three minor children involved, then, when David's body deteriorated to the extreme point of 100% disability, of being physically unable to work, the trial court refused to adjust for the new life conditions of the parties, and, in effect, impaired the contractual parameters between the parties' financial aspects, as various statutory laws did, in fact, ***require*** new consideration of David's status.

Thus, the trial court violated Article I, Section 10 of the Federal Constitution, by preventing or impairing the newly required adjustments, by contract with The Law, itself. The trial court independently violated its own implied or express contract with the federal government, for another example, by failing to afford David, a clearly indigent defendant litigant, with his well established right to have appointment of counsel in defense of any and all child support enforcement and sanction actions, and to further advise David of his same said right, prior to proceeding with such enforcement or sanction action[3].

---

[3] See, e.g., Walker v. McLain, 768 F.2d 1181, 1185 (10th Cir. 1985) (due process requires appointment of counsel for indigent defendant incarcerated in civil contempt proceeding for nonsupport), cert. denied, 474 U.S. 1061 (1986); Servier v. Turner, 742 F.2d 262, 267 (6th Cir. 1984) (same); Ridgway v. Baker, 720 F.2d 1409, 1415 (5th Cir. 1983) (same); Henkel v. Bradshaw, 483 F.2d 1386, 1389 (9th Cir. 1973) (same); see also United States v. Bobart Travel Agency, Inc., 699 F.2d 618, 620-21 (2d Cir. 1983) (defendant entitled to counsel in civil contempt proceeding for failure to produce records that resulted in his incarceration); United States v. Anderson, 553 F.2d 1154, 1156 (8th Cir. 1977) (same). And the vast majority of state courts have reached the same result. See, e.g., McNabb v. Osmundson, 315 N.W.2d 9, 14 (Iowa 1982); Mead v. Batchlor, 460 N.W.2d 493, 504 (Mich. 1990); McBride v. McBride, 431 S.E.2d 14, 18 n.2, 20 (N.C. 1993) (listing other state courts).

With at least 80 million American citizens as directly affected by these kinds of violations against Article I, Section 10 of the United States Constitution, routinely occurring within the nation's system of family courts, it would appear incumbent upon this Court to "take the bull by the horns" and distinguish unto the state courts some basic reminders about their various limitations to be considered in context of processing family matters.

II. *The proper application of federal and state CCPA laws within the nation's family courts is imperative for ensuring basic due process rights for over 50 million American citizens as are already implicated, and with approximately another 4-5 million implicated annually.*

As part of yet another federal funding scheme, all of the States again took "a bite of the apple" in cooperating with the national promulgation of the Consumer Credit Protection Act (CCPA) laws. The main federal CCPA protection statute, 15 U.S.C. § 1673 (*supra*, at 5), like virtually all of its many State counterparts (as required by 15 U.S.C. § 1675, see *supra*, at 6), provides mandated protection against the issuance of any family support or garnishment order that violates certain maximum limits of an obligor's "disposable" income, and so is directly relevant, and also directly applicable, to every American action for dissolution of marriage, separation, or similar, regardless of whether any minor children are involved.

The CCPA laws also cover protection regarding issuance of all orders and garnishments that are not related to family law, i.e., in regards to "regular" judgments and collections of debt from commercial and other sources.

However, within the enactment and promulgation of said CCPA laws by the States, the Federal Government never instructed or directed the States on *where* to put these laws that are *also* particularly relevant and critical to the development and processing of family law, in addition to the parameters about "normal" debts and garnishments for non-family judgments, so the States have *rarely* included them within their own family law Titles, but, instead, generally placed them in other areas of law, i.e., Titles devoted to Credit, Commerce, Labor, Professions, Trade, and other **non-family** areas.

The State of Indiana, upon its own promulgation of the CCPA enactment, mirrored the federal version virtually verbatim, within its own Ind. Code § 24-4.5-5-105 (*supra* at 19), by including both "parts", i.e., protections about orders and garnishments for *both* non-family *and* family related debt, by statutorily defining "disposable" income, by including reference to an obligor's federal self-support reserve, and by also including the distinguishing feature essential to all properly implemented CCPA law – the statutory prohibition against validity of anything not in compliance with said same CCPA law – in its paragraph numbered (4), to-wit: "***No court may make, execute, or enforce an order or process in violation of this section.***" [4]

Yet, the above Indiana statute is not found even close to its family law area, Title 31 ("Family Law and Juvenile Law"), but is, instead, located clear over within Title 24

---

[4] Cf. to the federal standard, 15 U.S.C. § 1673(c), which mandates: "***No court of the United States or any State, and no State (or officer or agency thereof), may make, execute, or enforce any order or process in violation of this section.***" See *supra*, at 6. The individual 'equal or better protection' requirement was statutorily applied, through the enactment of 15 U.S.C. § 1675 (*supra*, at 6-7), unto all the several States – including unto Maine.

("Trade Regulation"), under Uniform Consumer Credit, giving the reader absolutely no indication of relevancy for family law matters involving child support issues…

The Commonwealth of Virginia, in its CCPA provisions for protection against issuances of excessive orders and garnishments, is very similar to Indiana's version, and to those within most of the States, in likewise combining language regarding both non-family and family debt, in also referencing "disposable" income, by also including reference to an obligor's federal self-support reserve, and by also including the distinguishing feature essential to all properly implemented CCPA law – the statutory prohibition against validity of anything that is not in compliance with said same CCPA law – in its paragraph letter (c), to-wit: "***No court of the Commonwealth and no state agency or officer may make, execute, or enforce any order or process in violation of this section.***" [5] *See* Va. Code § 34-29 (*supra*, at 22-24).

Yet, like Indiana and most others, the Commonwealth of Virginia has its own main CCPA law not under family law (Title 20, "Domestic Relations"), but under another completely different area of law that is also highly unlikely to *ever* become well known within family law circles of judges and attorneys, being located under Title 34 ("Homestead and Other Exemptions") – again, with absolutely no facial indications of any relevancy unto the daily, routine matters of family law and child support.

---

[5] Cf. to the federal standard, 15 U.S.C. § 1673(c), which mandates: "***No court of the United States or any State, and no State (or officer or agency thereof), may make, execute, or enforce any order or process in violation of this section.***" See *supra*, at 6. The individual 'equal or better protection' requirement was statutorily applied, through the enactment of 15 U.S.C. § 1675 (*supra*, at 6-7), unto all the several States – including unto Maine.

However, the State of Maine is a rarer exception, as its own CCPA promulgation apparently *was* divided into separate Titles of law, but the key provisions *still* did *not* get placed or duplicated into its family law area, Title 19-A ("Domestic Relations"), but *were* retained in Title 9-A, i.e., Maine's Consumer Credit Protection Code.

Fully protecting the federal directives and limitations as directly applicable in all non-family debt collections, i.e., in full compliance with federal law as to CCPA aspects for collection of non-family debt, the State of Maine has, indeed, provided the required full and key provisions of CCPA within its own Consumer Credit Protection Code, at Title 9-A, § 5-105, *supra* at 8, referencing "disposable" income and an obligor's federal self-support reserve, and by also including the distinguishing feature essential to all properly implemented CCPA law – the statutory prohibition against validity of anything that is not in compliance with said same CCPA law – in its paragraph numbered (3), to-wit: "***No court may make, execute or enforce an order or process in violation of this section***." See *supra*, at 9. Cf. footnotes #4 and #5, *supra*, at 34-35.

But, that's *only* for non-family law… For the processing and application into family law matters, i.e., *for spousal and child support issues*, the State of Maine has failed, (like its sister States also in non-compliance), to include certain key required provisions into the version of CCPA that is found within its own **family law** area, Title 19-A.

The State of Maine's Domestic Relations law, Title 19-A, has four (4) distinct Parts, including General Provisions, Married Persons, Parents and Children, and, Protection from Abuse. Chapter 29 ("Divorce") of Part 2 ("Married Persons") includes an assortment of brief, perfunctory

references to the ability of a family court to issue orders regarding spousal and/or child support, but contains no details or elements of CCPA provisions and limitations.

Part 3 ("Parents and Children") of Title 19-A contains several generally odd-numbered Chapters. The first three Chapters (51, 53 and 55), again, include brief and perfunctory language indicating the authority of a state court to issue spousal and/or child support orders, but do not mention anything about the CCPA. Another one of the Chapters deals solely with grandparent visitation, and four (4) of the other Chapters deal with the various "Uniform Acts" concerning federalization of family laws, i.e., UCCJA, UCCJEA, UIFSA, and UCLSA, as enacted.

It is the remaining two (2) Chapters that come into focus here, Chapter 63 ("Child Support Guidelines"), which is the detailed application in *creation and implementation* of all Maine-issued child support orders against obligor parents, and Chapter 65 ("Support Enforcement"), which is the detailed application in *enforcements* of both child and spousal support orders against the obligor litigants.

Chapter 63, Me. Code 19-A § 2002 essentially declares that all possible creations or modifications of any child support obligations within a state court of Maine are to have applied the details of Me. Code 19-A § 2006, which is the statute describing all calculations involved, the use of child support worksheets, and so forth and so on.

The rest of Chapter 63 describes forms, deviations from normal calculations, rebuttable presumptions, medical amounts, stipulations, and etc.… However, within this entire Chapter, there is **still not** even one single, solitary mention of CCPA provisions and limitations – not a one.

Moreover, Chapter 63's verbose language includes great and lengthy descriptions and definitions as to all "gross income" – *as if gross income was, in any way, applicable under CCPA, in the first place* – but, revealing its own non-compliances with CCPA, also **still does not** provide even one single, solitary reference to the critical and key term, "disposable income" (for the purposes thereunder).

In fact, NOWHERE, within **any** provision of Chapter 63, the chapter that controls creation of ALL child support orders within **all** Maine state courts, is there *any* even one (1) remote suggestion that CCPA not only exists, but actually *controls* and *mandates* absolute limitations and requirements in financial calculations to be applied.

In other words, the ONLY upward limitation to a given child support monetary award and judgment, mentioned *anywhere* within Chapter 63, the chapter responsible for the creation, modification and/or implementation of ALL Maine child support orders, is merely that, at $400,000 of combined gross income of the two parental parties, that the child support worksheet/tables no longer apply directly in linear/curved aggregate calculation, and also that the amount of child support calculated at that level of income, or higher, is presumed correct as a *minimum*.

Under Maine's statutory schemes for family (child and spousal) support **enforcement**, Chapter 65 of Title 19-A, there are four (4) Subchapters: the General Provisions; the mere processing details of Income Withholding; the various procedures for Enforcement By Court; and, the *only* Subchapter with any mention of CCPA provisions, whatsoever, Enforcement By Department, Subchapter 3. Yet, *even this* mention of CCPA is affirmatively 'hidden' from use by obligors and/or by their any defense counsel.

Again, this Subchapter is **expressly** entitled as *only for enforcement by the Department*, and is the **only** place, under all the entirety of the State of Maine's Title 19-A, i.e., under *all* of Maine's domestic relations code, that republishes even a **partial** set of key CCPA provisions as are required for compliance with debt calculations and debt enforcements. But, it's even *worse*.., as the key law is found *only* by further deeper inspection, within Article 3 thereunder, plainly titled as an "Alternative" method of support enforcement, with absolutely no indications of anything in reference to statutory protections or limits.

Indeed, Me. Code 19-A § 2251 clearly and expressly says that this entire "Alternative" method of Article 3 is:

> "*to provide* ***additional*** *remedies for the* ***enforcement*** *of support for dependent children and spouses and former spouses caring for dependent children by establishing* ***an alternative method directed to the real and personal property*** *of the responsible parents. These remedies are* ***in addition to, not in lieu of,*** *existing law*." (emphasis added)

And, then, *only* under the finally-relevant Subarticle 3 (referenced only as "Collection"…) of this "Alternative" Article 3, of Subchapter 2, of Chapter 65, of Title 19-A, do we *eventually* find two more CCPA key provisions for all the entirety of Maine's domestic relations code, under Me. Code 19-A § 2356, Exemptions, including the fact of using "disposable" income, instead of "gross" income, to calculate support, and *only* also, of amounts "withheld" or "subject to garnishment or income withholding" – **without** any mention, *whatsoever*, of the unlawfulness of any court even **making or executing** such an excessive support order, in the first place.. absolutely no mention.

This helps explain portions of the constitutional errors in what happened to David, in that the entire portions of Maine's domestic relations laws authorizing *the creation and implementation* of family support orders **have no limits**, i.e., none of the key provisions of the CCPA that mandate Maine's family courts cannot 'make or execute', *in the first place*, any family support order in violation of the protections in CCPA provisions of maximum limits.

The "main" areas of Maine's domestic relations laws allow any amount of child support to be "reasonably" calculated in favor of an obligee, and uses "gross" income and support worksheets, like all the sister States do, to figure an obligation of child support, as a percentage of the parents' combined incomes. The higher the obligee's income is, in comparison to the obligor's income, *also* the higher the obligor's presumed obligation is, and is also ordered as such, under Maine law as it currently exists.

However, when the "custodial", or obligee, parent has an income substantially surpassing the "noncustodial", or "obligor", parent's income, then the statutory calculation ***always results*** in a court-ordered amount that violates both federal and state CCPA maximum limits, violating the obligee's due process and Constitutional rights, also.

Hence, David was subjected to capricious and arbitrary calculations that, albeit *appearing* as "presumptively reasonable" under state law, also therefore directly and exceedingly violated the CCPA maximum limits, and his otherwise guaranteed due process and Constitutional rights found under at least Article I § 10, Article IV § 2, Article VI, Amendment IV, Amendment V, Amendment VI, Amendment VII, Amendment VIII, Amendment IX, Amendment X, and Amendment XIV § 1.

The vast majority of States mirror the pattern of CCPA as implemented by Indiana and Virginia, i.e., most or all key statutory provisions and protections are found in an entirely unrelated Title of their own corresponding law, instead of being properly found, or, at least duplicated, within their own domestic relations / family law Title(s).

However, in NONE of the fifty (50) sister States, does it appear that compliance with the intent of CCPA is fully upheld, i.e., in that, within any given state's family law, is there found CCPA protections *actually within the area of law that specifies details of calculations* for the "making or executing" of a **lawful** family support order.

As demonstrated above, the State of Maine is certainly no exception to the widespread non-compliance of CCPA.

Accordingly, most modern family law judges *are simply not aware* of the CCPA federal and state laws, and neither are most modern family law attorneys aware of this financial information, critical for their own clients…

As a direct consequence, **millions** of state court cases are being incorrectly handled, year after year, with most all family court judges and most family court attorneys *as not even aware* of these mandated statutory parameters, resulting in countless violations of due process against untold numbers of obligors, by utilizing enforcements of excessively-calculated debts above statutory maximums.

This Court should now grant review of this petition for certiorari, for at least the purpose of judicially correcting in what Congress neglected to do – instruction unto the States about including their required CCPA laws within their own family law Title, and not (only) in other Titles.

III. *In view of the recent passage of Health Care Reform, some proper application guidelines as promulgated by this Court, for the reasonable allocations of medical expenses of children, as between divorced or separated parents, will save immeasurable amounts of state judicial resources and prevent future confusion.*

As previously mentioned, David was suddenly jailed for "contempt" upon a non-noticed and unilateral decision by Deborah to implement otherwise-unnecessary and cosmetic treatment on behalf of their minor children.

Within the context of thousands of American family courts, the issues of allocating medical costs of minor children are handled by a corresponding nearly-infinite array of findings and decisions based upon a matching supply of nearly-infinite conditions and parameters that may or may not exist within a given prior family unit.

With the advent of nationalized health care, and that impact upon the medical services industry, creating a new set of financial parameters for both individuals and family courts to soon being considering as part of the properly obtained results of child and spousal support awards, this Court should also be now considering the impact that all of that will have upon the family courts of the several sister States, and wisely consider issuing some level of application guidelines for the same courts to utilize and enhance within their own family actions.

Such forethought by this Court, employed now, will of no doubt provide for an immeasurable savings in time, cost, and resources that would otherwise be expended by the state courts, and even by the federal District and higher

courts, if otherwise left for a chaotic and widespread number of conflicting rulings and opinions at later date.

Accordingly, this Court should independently grant the review of this petition for certiorari, possibly commission a non-partisan study to assist its goals, and issue ruling.

CONCLUSION

This petition for certiorari should be granted for review and opinion by this Court, upon the question of state family court compliances with Article I, Section 10 of the Federal Constitution, also upon the need for compliance with the full intent of CCPA promulgations, and upon the approach of Health Care Reform as it will apply to state family courts, with further suggestion that the Court may desire to commission an independent, non-partisan study, in order to help achieve, obtain and arrive at a reasonable set of promulgated guidelines for the family court systems of the several States to utilize in approaching the future full implementation of the recently-enacted, large sets of Health Care Reform laws.

Respectfully submitted,

/s/ David J. Beatty

_____

David J. Beatty
8 King Edward Court
Post Office Box # 7
Boxford, MA 01921
[phone redacted]

June 7, 2010