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(FORM UPDATED: 08/11/2010)

**WISCONSIN STATE LEGISLATURE ...  
PUBLIC HEARING - COMMITTEE RECORDS**

**2003-04**

(session year)

**Assembly**

(Assembly, Senate or Joint)

**Committee on ... Children and Families (AC-CF)**

**COMMITTEE NOTICES ...**

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

**INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL**

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)  
(**ab** = Assembly Bill)                      (**ar** = Assembly Resolution)                      (**ajr** = Assembly Joint Resolution)  
(**sb** = Senate Bill)                              (**sr** = Senate Resolution)                              (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

\* Contents organized for archiving by: Stefanie Rose (LRB) (May 2012)

\* (This is a Copy of what I sent to)  
Dear (the Supreme Court/office of Lawyer Regulation) Aug. 4/2003

I sent you a letter with a lot of other literature in a package a few days or weeks ago. Looking over the information I sent you I need to make some minor corrections. I enclosed the original letter and highlighted the mistake. I also have the documents or forms where it differs.

By memory in the back room court setting under intense pressure, I thought Ward was pressuring me to accept and sign for just Saturday from 8:00 AM to 8:00 PM, one time a month placement with my 5 children. I was wrong. Looking at the copy of that original form you can see the original pressure he was giving me is to sign from 5 pm on Friday to Sat. 8:00 pm. only one time a month. Ridiculous! Note: her arrangements B and 1.)

After a lot of resistance from me they changed it to Friday noon, I gained five hours but then Ward pressured me harder that "I'm out of money, I'm going to lose the two boys," he used fear on my ignorance. And he did say we could fight it later, just never told me the law says no sooner than 2 years later.

Not even a year has gone by, and already I see the eroding of the close relationship from month to month. How am I going to last the two full years. Ward still has his children.

Please help me if you can.

Sincerely

## There is **NO** Justice in Kenosha, Wisconsin.

**If** you beat somebody else's children in Kenosha with a bread board like a Kenosha pastor and his wife beat my two children, nothing happens. They don't get punished in any way. Absolutely no penalty!

**If** you beat your own children with dowels across their hands or wherever, the way the pastor's wife did on her children, once again you get no punishment. Go ahead abuse your children in Kenosha and nothing will happen to you.

**If** after you abuse my two boys, you still want the right to harass and verbally badger them, you can do it in Kenosha. The Kenosha courts will enforce my two boys to be vexed & pestered by the cult. The constitutional rights in Kenosha is for the harasser and not for the harassed. In other parts of this country teenagers have choices and rights but not in Kenosha. My boys are victims with **NO** rights! What kind of violent behavior will the boys be badgered into first before the courts will give them rights? Does Kenosha (so called) Justice first have to make Juveniles out of my two boys before their wishes will be listened to? Kenosha Justice?

**If** you want to beat your own children (like my Ex. did) with shoes, clotheshangers, sticks, woodenspoons, dowels, and hairbrushes, ... go ahead. In Kenosha you can even hit your children on their head, and keep the children, and even withhold them from their father who thought it to be abuse. I only get to see my abused children 1 1/2 days a month, because I wouldn't support abuse.

**If** you lock your child or even an animal into a hot car for only 5 minutes, you go to jail, **BUT** if the Kenosha Police falsely arrests you and throws you into a hot police car for about 45 minutes; you get dehydrated and then get an ambulance ride to the hospital ... that is O.K.! You just become a victim. All ambulance and hospital debts are yours too. And it all started with a off-balance much more female superior right pressing fake charges in Kenosha.

**If** you want to illegally home school in Kenosha, go ahead. Nothing gets enforced or looked into. My children are right now illegally taught with no consequences in Kenosha.

**BUT** if you can't figure out how to pay 134% of your Gross Income for child support, and still feed and clothe your two boys and yourself, you go to jail, Justice?

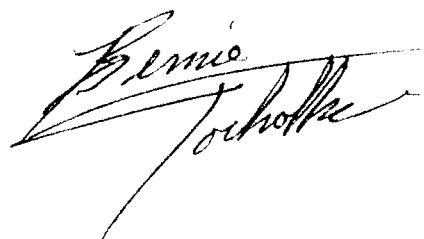
"On September 20, 2002 before the child support was lowered to 134%, I was ordered to pay an amount of 178% of my Income. Judge Mary K. Wagner of Kenosha demanded jail time or with the same day/pay up option. I borrowed \$5000. From my Dad and got deeper in debt. She absolutely refused to look at any numbers of my Income. Since then I have showed all the numbers to several other attorneys ... they all say that I got screwed. If you are reading this and it is after July 11, 2003, ... it is probably because she once again refused to look at facts & figures and sent me to jail for not knowing how to live, feed my 2 boys, and pay 134% of my Income.

If I owe you, or your agency money, I'm sorry, but it's the Kenosha Justice System that claims that I can take the money that is supposed to go to you, and instead pay child support with it, so that my Ex-wife can underemploy herself and sit at home. Where else am I supposed to get the other 34% over my 100% Gross Income? And if I am in Jail ask Judge Mary K. Wagner how I am supposed to pay anything then.

If you are a politician you know the fragile economy that our country is in. Wouldn't it be a ridiculous burden for the economy and the tax payer to "criminalize" and put someone in jail because they only paid 68% of their Income and didn't know how to pay 134% of their Income, Why can my Ex. who abandoned my 2 boys and myself; moved in with the pastor; she has a college education for being a teacher; she taught a few years; ... how can she just underemploy herself and ride the welfare and food stamp system? She absolutely does not need to pay a penny in child support for her two boys which are in my custody. Not a penny is required of her. Why? Who will support them when I'm in Jail?

Up to Now, there is NO Justice in Kenosha!

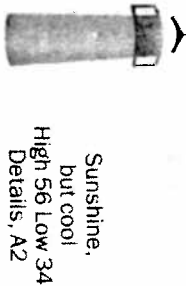
July 2003



Bernie Tocholke  
2226 - 55 street  
Kenosha, WI 53140  
(262) 945-3961

# KENOSHA NEWS

## Today Weather



Sunshine,  
but cool  
High 56 Low 34  
Details, A2

## Commentary



**Molly Ivins**  
on recent  
comments  
from the Bush  
administration:

"Is this really the face of America we want to show the rest of the world? Are there any grown-ups in this administration?"

**Page A4**  
Other columnists today:  
■ Joel McNally  
■ George Will  
**Pages A4, 5**

## Letters

"We have not repaired the damage that our invasions did to Afghanistan and Iraq, and already we are threatening other countries."

Vera Boone  
**Page A4**

## Scores

NBA playoffs  
Rookie RB Nate RR

# Unified shapes referendum

**BY TERRY FLORES**  
KENOSHA NEWS

A new comprehensive high school on the Indian Trail Academy property and an elementary school in the WhiteCaps subdivision will comprise the bulk of a \$65.2 million referendum Kenosha Unified voters will face in the fall.

At a special meeting of the School Board on Tuesday, members approved a plan for the single-question referendum that would incorporate the two new schools. The referendum vote will be Nov. 4 at a cost of

between \$40,000 and \$45,000 since no other elections are scheduled for this fall.

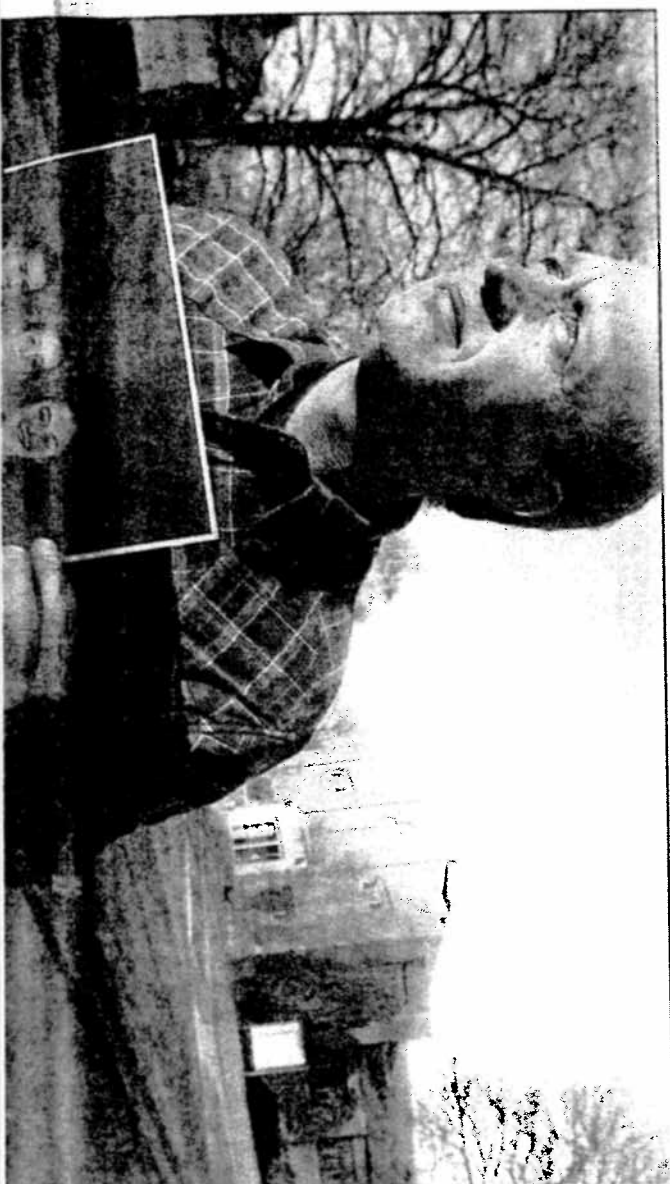
Also included in the referendum are an addition to Prairie Lane Elementary, the renovation of athletic facilities at Bradford and Tremper high schools and major maintenance projects, including boiler and roofing repairs throughout the district.

Regarding the new high school, the board reviewed five sites before deciding that land in the district already owns next to Indian Trail Academy would be

suitable for construction. The board voted 5-1 to build the new school there at a cost not to exceed \$42 million. Board member Yolanda Adams cast the dissenting vote.

The proposed high school would include a pool, a football stadium and auditorium — all amenities considered to be consistent with comprehensive high schools. The new school would be built to accommodate about 1,600 students who would share facilities with the nearby academy. Board members initially con-

*Longing for happier days*



## Unified referendum

The following are proposed construction costs for a \$65.2 million referendum that the Kenosha Unified School Board decided on Tuesday. Go before the voters for approval on Nov. 4:

New high school on Indian Trail Academy property	\$42 million
New elementary in the WhiteCaps subdivision	\$10.4 million
Athletic facilities renovation (Bradford and Tremper)	\$6.4 million
Addition to Prairie Lane Elementary	\$4.5 million
Major maintenance projects	\$1.9 million
<b>TOTAL</b>	<b>\$65.2 million</b>

SOURCE: KENOSHA UNIFIED SCHOOL BOARD

sidered expanding the academy, while keeping its educational

## France: Suspend sanctions on Iraq

Proposal surprises U.S.  
Russia and Germany

**THE WASHINGTON**  
**NATIONS**

France Tuesday propose immediate suspension of civilian United Nations sanctions against Iraq insisted that the 13-year embargo could not be lifted until U.N. inspector. The French initiative, caught U.S. officials by surprise, reflected mounting concern by Paris that it could

be overturned as a result of the

### Deaths

Isabel E. Carlan, 72, of Florida  
**Sue Glymer**, 61, Kenosha  
**Marc P. Dupuis**, 50, Kenosha  
**Joseph Stephen Petrik**, 79, Kenosha  
**Margaret F. Ploske**, 90, Kenosha  
**Kein Williams**, stillborn, Kenosha  
**Charles H. Zoerner**, 66, Camden, Ark.

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### Markets

Dow Jones Industrials  
 Up 156.09  
 Closes at 8,484.99

S&P 500  
 Up 19.36  
 Closes at 911.37

NASDAQ  
 Up 26.99  
 Closes at 1,451.36

### Pages

ADVICE C7  
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 DEATHS C2  
 ENTERTAINMENT C6  
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 LOTTERY A8  
 NATION/WORLD A3,6,7



KENOSHA NEWS PHOTO BY PATRICK L. PYSZKA

**Bernie Tocholke holds a picture of his now-divided family, outside the Church of God Restoration, 1910 75th St. He blames the church for "brainwashing" his wife and dominating his younger children.**

# Faith tears family apart

## Man blames church teachings; pastor calls it a vendetta

BY DENISE SMITH  
 KENOSHA NEWS

A little more than three years ago, Bernie Tocholke left his northwestern Wisconsin home and brought his wife and seven children south to Kenosha and to become part of a small congregation called the Church of God Restoration.

Already born-again Christians who home-schooled their children in rural Stone Lake, the couple was attracted to the church's deeply conservative philosophy and had decided to center their lives around its leaders and their teachings.

But within two years the family had splintered amid divided loyalties and allegations of abuse. The marriage had broken apart, the children were scattered and Bernie Tocholke was left waging an angry public battle against what he now calls a cult.

"I want other people warned because they are out there evangelizing," Tocholke said. "I want other people warned about what they are all about."

It's a battle that the church's pastor, Patrick O'Shea, calls a vendetta.

But other former church members and visitors portray the Kenosha church as controlling and having a troubling focus on the corporal punishment of children. They report children as young as 1 being hit with dowels for infractions such as squirming or falling asleep in church.

"You have to make your kids submit to you, because if you don't they are going to go to hell," former member Crystal Ertrner said she was taught by the church. "And you don't want them to go to hell and burn for all eternity."

In Kenosha, the Church of God Restoration is a small congregation that operates from a large brick church at 75th Street and 20th Avenue. Outside, a sign announces the times of weekly services, but, according to former members, only a few core families attend.

For outsiders, the church members are notable for their style of dress — conservative, plain clothing with long sleeves, dresses and severe, pulled-back hairstyles for the women.

The church has operated in the city quietly and largely without notice since O'Shea and his family moved here from Illinois to start the congregation eight years ago.

### Focus of controversy

Across the nation and in Canada, the Church of God Restoration has been the focus of controversy, including allegations of extreme corporal punishment of children and a reliance on "divine healing," that has led to the prosecution of parents whose children have died from untreated medical conditions.

One of the most highly publicized incidents occurred in 2001 in Ayrmer, Ontario, when seven children were removed from a Church of God Restoration home by local children's welfare officials who suspected that

See **FAMILY**, Back page

### decade of sanctions.

The proposal would be a key French objective by anteing international control over Iraq's oil revenue internationally. Iraq government is in Paris. And it set Paris at odds Washington over the pe sanctions relief and the U.N. inspectors in Iraq.

In Washington, mean President Bush told a group of business reporters has no plans for any more tary conflicts. In response question about the war of for, the president said, "I no specific operation in m this point in time," accord a report Tuesday on New magazine's Web site.

The French pit appeared to take the Russians and Germans, their allies in opposing the war. Neither embraced and both strongly support the return of U.N. inspectors to verify Iraq's mammoth before sanction lifted - which the United opposes.

France's U.N. ambassador Jean-Marc de la Saie announced the plan to the Security Council on a day when U.N.'s chief weapons inspector Hans Blix, criticized the United States for making its case military action against Iraq the basis of sometimes intelligence and U.S. officials the field acknowledged have found no weapons or destruction in Iraq.

"It is conspicuous that they have not stumbled anything, evidence," Bli

See **SANCTIONS**, 1

From Page One

# Disagreement over church teachings causes rift, divorce

## FAMILY: Corporal punishment a major issue

From Page A1

they were being beaten. The children were later returned to their family, which had agreed to be monitored by the child welfare agency. But the incident sparked protests by church members and, according to published reports, dozens of families affiliated with the church left Canada with about 100 children. They reportedly resettled in Ohio and Indiana, where laws on corporal punishment, as in Wisconsin, do not ban striking children with objects.

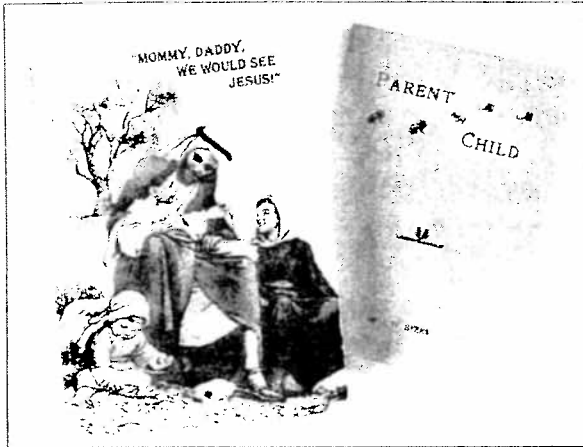
At about the same time, a California couple who were members of the church were charged with manslaughter when their 11-month-old daughter died of meningitis after they declined to seek medical care.

O'Shea said that while his church is associated with those involved in the controversies, he said his church does not have strict rules about medical care and that members are able to go to doctors if they choose. Several former members agreed, saying they were discouraged from seeking medical care, but that it was not banned.

He also argued that his church does not encourage the use of sticks and other objects to punish children, saying he would not allow that. "We believe in spanking children; yes, we sure do," he said. "But we do not believe in abusing children; we do not believe in leaving marks."

### From drugs to God

The Church of God Restoration, including the congregation in Kenosha, operates under the leadership of founder Danny Layne. Now based in California, Layne is an acknowledged former drug addict who reportedly found God in the early 1980s and



KENOSHA NEWS PHOTO

These books were given to Church of God Restoration members to guide them in how to raise and discipline their children.

became involved with the Church of God in Guthrie, Okla. He later split with that church and formed his own group.

His church now has branches in Canada, California, Ohio, Indiana and Mexico as well as Kenosha, with members gathering regularly for camp meetings at the different sites. Estimates of the church's worldwide membership range from 500 to 1,500.

Tocholke said his family became involved with the Church of God Restoration when O'Shea came to Stone Lake to visit the family's church there. "They came across as so nice, so helpful," he said.

When the family moved to Kenosha, they moved into the home of another church member, and Tocholke, a logger in northern Wisconsin, found work in the Kenosha area as a self-employed tree trimmer. His wife, Shereen, stayed home with their seven children, sharing home-schooling duties with O'Shea's wife, Suzanne, who also has seven children.

After the move, Bernie Tocholke said, the church began to impose more and more rules and more strict controls on members. There were clothing restrictions. Watching television, listening to the radio and reading newspapers were forbidden. Going to the doctor was discouraged.

According to Tocholke, even visits to family members out-

side the church were subject to approval by church leaders.

Tocholke said he was not opposed to the corporal punishment of children, something many faithful say is prescribed by biblical teachings. But he contends the Church of God Restoration goes too far by teaching that children must submit to punishment in prescribed ways that mandate the spanking must continue if the child struggles.

### 'That's torture'

After one incident, in which he says he held his then-5-year-old son while his wife hit the child repeatedly with a rod until he was welted and black and blue, Bernie Tocholke said he became convinced the church was wrong.

"That's torture," he said. "The next day I realized how cruel it was when I saw he was black and blue from his waist to his knees... and I said I will not abide by these rules again."

Tocholke said he began to increasingly go against church dictates, although his wife remained convinced that the church was "the most wholesome thing there is."

The struggle between the couple and the church continued until last April when Tocholke was working along with his two oldest sons, then 14 and 15 years old. While at work, he received

a call on his cell phone from one of his daughters. "I don't know what's happening," he said the girl told him, "but Mom is packing."

He said he and the two boys returned home to find the rest of the family gone.

Eventually, Kenosha police located Shereen Tocholke and the children at the O'Shea home. Bernie Tocholke said she would not speak to him or allow him to see the children. Eventually he filed for divorce.

After the couple separated, Bernie Tocholke said his two oldest sons told him that both Patrick and Suzanne O'Shea had struck them with paddles. He reported the incident to police, who investigated but found there was not enough evidence to substantiate charges.

In the divorce, Shereen Tocholke retained custody of the five youngest children, while the two oldest boys stayed with Bernie Tocholke and now live with his brother and attend public school in a rural area north of Minneapolis. Bernie Tocholke, who has been threatened with jail for failure to keep up with his child support payments, divides his time between Kenosha and his brother's home.

He has become obsessed with discrediting the church, which he feels has "brainwashed" his wife and is dominating his younger children.

### Pastor defends church

Patrick O'Shea calls Bernie Tocholke's charges ridiculous, contending that Tocholke is an abusive man who has paid little attention to his children. O'Shea accuses Tocholke of vandalizing his house and spreading lies about the church among the O'Sheas' neighbors.

O'Shea maintains the church, which he likens to the Mennonites in philosophy, does not have any rules for its members. "I don't believe in rules," he said. "If people want (to follow church teachings) they want it and if they don't, they don't," he said.

O'Shea adamantly denied that the church encourages corporal punishment of children, saying his family and other church members would never

strike children with objects.

"Never, never, never," O'Shea said. "If I saw one of those (a stick being used on a child), I would cut it up and throw it away."

But in a Kenosha police report made during the investigation of Tocholke's child abuse accusations, Suzanne O'Shea admitted striking children with sticks and even showed investigators the sticks the family used.

"We spoke with Sue O'Shea who admitted that they do spank children with instruments other than a hand because of religious beliefs," the report states.

Several former church members or visitors — in interviews with the Kenosha News or in documents prepared for the Tocholkes' divorce — stated that they had seen children being hit with dowels and "spanking sticks" during church services.

In a document obtained by the Kenosha News, a Racine pastor told a private investigator hired by Bernie Tocholke's former attorney that he had "concerns (about) physical discipline of very young children, from under a year to 1 to 2 years of age. Subject explained he saw mothers sitting next to their young children, and the mothers would be holding a 'stick' about a foot long and a couple inches wide. When children would make a noise, or not pay attention, the mothers would strike the young children."

In a similar document, another former church member said she was "particularly appalled at parents striking very small children falling asleep."

### Book guides members

Former church member Crystal Ertmer said members were instructed in such practices. A 190-page book called "Mommy, Daddy We Would See Jesus!" that Ertmer said was given to her by the church outlines such practices, even giving advice on what size dowel to use depending on the age of the child.

In chapters "The Beauty of the Rod" and "Tough but Tender" the book advises that "babies under the age of 12 to 15

# orce

months" can be trained to sit quietly in church by practicing at home, striking the child with a rod every time he squirms or wiggles during a training session. "You will be amazed at how well he behaves in church once you have trained him in this way," the book says.

The book advises that such punishment must always be administered in love, not anger, and gives standard parenting advice, including telling parents they should hug their children every day.

In other areas of the book, the author advises what infractions deserve application of the rod, including not lying quietly during diaper changes. It also advises not to use such practices in public, saying it would be seen as abusive.

Ertmer joined the church with her husband, Jason, in the late 1990s. Along with their three young children, they were members for more than two years. She said she tried to follow the church, but struggled with the rules, which she said dictated that children had to submit to their parents' authority or be spanked with a rod. She admitted she sometimes beat the children until they were black and blue.

"We did it and we were wrong for doing it," Crystal Ertmer said. "But we thought that if you get it into them now when they are young ... if you train them young in the ways of the Lord, then they will follow. I got to the point that I said, 'I am not doing this to my kid anymore.'"

After the couple left the church, their children attended public school. When school officials saw bruising on one child, they notified child welfare authorities. Jason Ertmer, who had a previous arrest for domestic violence, was arrested on child abuse charges and spent six months in jail last year.

Initially, he said he didn't believe he had done anything wrong. But he said the time in jail, along with subsequent parenting and anger management classes, has made him believe the discipline practices he and his wife used were wrong.

"I've learned a lot in the past year," he said. "I've learned what love really is, and it wasn't there. It wasn't in that church."



# CHURCH OF GOD RESTORATION --Bylaws

Church at 75th street & 20th ave.

Pastor Patrick O'Shea  
6634--20th ave/652--7517

- NO Alcohol - even fish in wine sauce or beer brats
- NO Supper Clubs - they serve alcohol
- NO Jewelry - that includes wedding rings
- NO Gold color anywhere - belts, buttons, shoes, glasses, watches, on cars, etc.
- NO Circuses, NO Carnivals - rides, Six flags
- NO Parades, NO Rodeos, NO Truck/Tractor pulls
- NO Ball games - football, baseball, basketball, hockey, etc.
- NO Beaches, YMCA, Swimming lessons, Public Bathing - unless remote and fully clothed
- NO Sport workout gym
- NO Watching Olympics ... definitely not on TV
- NO TV or VCR - for pleasure or educational
- NO Ice skate performances ... Ice Capades, World on Ice, Disney on Ice, etc.
- NO Disneyland involvement ... absolute no trace of cartoon characters in children's toy box, clothing, pictures, wall decor, etc.
- NO Bush Gardens and such like
- NO Truck, Car, or Animal Shows
- NO Karate, Boxing, or Wrestling events
- NO Movie or Play Theatre - NO Plays/passion plays included-NO Acting!
- NO Concerts - does not matter what type of music
- NO Festivals
- NO State or local Fairs
- NO Ocean Cruises - 'alcohol & riotous living'
- NO Hawaii - very immodest place
- NO Casinos - 'gambling, bar'
- NO Races - car, horse, dog (Indy 500), NO Derbies
- NO Arcades, NO Computer Games
- NO Fairy Tales - Red Riding Hood, 3 Bears, etc.
- NO Internet - unless job demands it and then only with Pastor's permission
- NO Dancing, not even in your own home
- NO Dating, NO Boyfriends/Girlfriends, Pastors arrange marriages
- NO non-sibling children (boys/girls) playing together - boys & girls play separate
- NO Sport cars, NO Sport pickup trucks, NO fancy cars (Cadillac is out), NO bright colored (like red or yellow) automobiles, NO Limousines, NO Spoke Wheels anytime
- NO Red Clothing - Danny Layne condemned hunting clothes
- NO Sandals
- NO Embroidery, NO Lace (even on women's underwear), NO Emblems or Lettering which includes on hats
- NO Monopoly, NO Games using dice, NO Card Games (Old Maid is next to sin), NO Pool, NO Bowling, NO Golf, NO Bingo
- NO Tuxedos, NO Ties "only the fallen churches allow them"
- NO Cowboy attire - boots, hats, snap button shirts are wrong
- NO Belt buckles - only the smooth dress belt type is permissible
- NO Squirr guns, NO western toy guns, NO toy soldiers/military men
- NO Teenage daughter sitting on her dad's lap
- Non-permissible jobs: - Policeman, Political party office, TV repairmen, Selling TV's or VCR's, doctor, nurse, pharmacist, distant trucker, military, attorney or judge, anyone in sports, Stock Market, NO having a job in any of the "NO Places" (Example- waitress in a casino or supper club), beauty parlor & tanning places
- WOMEN always wear dresses to the ankle, sleeves to the wrist, vest, Hair NEVER cut or trimmed and always put up in a bun, never any lace including on their underwear, only white underwear. Pajamas are the same level of 'modesty' ... No frills, lace, or skin exposed. Girls abide by the same rules.
- NO Birth Control ... only abstinence.
- MEN: always long dark pants, shirts to the wrist - collar button shut, tee shirt mandatory, vest or suit for service (no tie), for church white shirt required but not enforced...you have rebellion if you don't. NO Jeans.
- EVERYONE obeys the Pastor (or should)
- VISITING any other church is forbidden
- NO Skipping church service (need pastor's permission)
- NO Christmas...NO Tree, NO Lights, NO Manger scene, etc.
- NO Easter... not even a resurrection sermon
- NO Cross, when the local church got the pre-owned building, they chopped the front cross apart and threw it away!
- NO U.S. FLAG . Once again when they got the building they threw the flag away. They have preached against the flag several times. "You never pledge allegiance to the flag but only to God!"

NO Clowns NO Valentines NO Jokes  
NO Caffeine NO Musical Instruments in Church  
NO Christmas Carols/Songs NO Air Shows  
Extreme limits of time spent with relatives that are not part of this group....avoid them! Avoid other associations too!  
NO Harley- Other street cycles discouraged.  
NO Public School/ College discouraged  
NO Doctors, hospitals, or Medicine (Many in this group including children have died because of this belief)

More information:  
[www.rickross.com](http://www.rickross.com)

# AGH PROFESSIONAL INVESTIGATIONS

P.O. BOX 1571, Kenosha, WI 53141-1571

(262) 697-9933

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## REPORT OF INVESTIGATIONS

**SUBJECT:** BERNIE TOCHOLKE INV.  
**CO. or FIRM:** ATTORNEY JOHN WARD  
**FILE #:** DIVORCE/CUSTODY  
**DATE:** SEPT. 24, 2002  
**ATTN:** ATTY. WARD

*The following is a confidential report prepared especially for Attorney Ward and contains the MENTAL IMPRESSIONS that this writer has derived from statements, memorandums, correspondence, legal & factual research & was written under the GUIDELINES OF A WORK PRODUCT as defined in WI cases State Ex Rel Dudek, Circuit Court v. Reynolds & other applicable WI case law & Federal Cite Hichman v. Taylor, 329 US 495, & also this was written in anticipation of litigation.*

On Sept. 23, 2002, this investigator interviewed Linda Anderson, 312 Summerset Dr., Racine, WI, 884-3543. I informed subject I am a legal investigator working with Attorney Ward on behalf of Bernie Tocholke.

Subject was very cooperative, and stated she is familiar with client, client's wife, and the Church of God in Kenosha. Linda and her husband John are currently members of Tom Rivers' congregation in Racine.

Linda explained she and her husband attended numerous services at the Church of God in Kenosha in late '98 and early '99. Subject stated a number of issues concerned her. The biggest issue was the practice of parents holding sticks, about a foot long and a couple inches wide. When children would misbehave, not pay attention, or fall asleep, the parents would strike the children with the sticks. She observed this on numerous occasions. Linda was particularly appalled at parents striking very small children falling asleep.

Linda stated she observed Susan O'Shea at a church service strike one of her small children. She is not sure if it was Catlin or Daniel.

Linda checked with her husband, John, concerning Susan striking one of her children. Investigator spoke with her by phone this date. Linda stated John also recalled Susan hitting her child with the stick. John believed it was Daniel.

Respectfully Submitted,

Art Herbst  
AGH Professional Investigations

# AGH PROFESSIONAL INVESTIGATIONS

P.O. BOX 1571, Kenosha, WI 53141-1571

(262) 697-9933

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## REPORT OF INVESTIGATIONS

**SUBJECT:** BERNIE TOCHOLKE INV.  
**CO. or FIRM:** ATTORNEY JOHN WARD  
**FILE #:** DIVORCE/CUSTODY  
**DATE:** SEPT. 27, 2002  
**ATTN:** ATTY. WARD

*The following is a confidential report prepared especially for Attorney Ward and contains the MENTAL IMPRESSIONS that this writer has derived from statements, memorandums, correspondence, legal & factual research & was written under the GUIDELINES OF A WORK PRODUCT as defined in WI cases State Ex Rel Dudek, Circuit Court v. Reynolds & other applicable WI case law & Federal Cite Hichman v. Taylor, 329 US 495, & also this was written in anticipation of litigation.*

On Sept. 26, 2002, this investigator interviewed George Hammond, 222 S 55th St., Kenosha, WI, 654-1741. I informed subject I am a legal investigator working with Attorney Ward on behalf of Bernie Tocholke.

Subject was cooperative and stated he began to work with Patrick O'Shea and the Church of God in IL in '93. O'Shea came to Kenosha and started the church here in '95-'96. Geo. was involved with the church from '96 to 09/01. Subject has been acquainted with client since '96-'97.

Geo. explained he witnessed parents' using sticks to strike the children when they misbehave, or do not pay attention.

Subject lives downstairs from client and stated he observed Shareen lock children in the bathroom when they misbehaved. She would then wait for client to return home to discipline the children. Geo. stated many times the children would be crying in the bathroom.

Geo. explained sometime after client's separation from his wife, he was approached by Patrick O'Shea. O'Shea asked subject to sign a letter. Subject stated the letter had some statements in regarding Shareen and the children. He could not recall exactly what Geo. refused to sign.

Geo. explained he didn't think there were any small children left in the congregation, except those of client's. He also felt people at services would be suspicious of strangers attending services, as the church has had recent vandalism problems.

Respectfully Submitted,

Art Herbst, AGH Professional Investigations

# AGH PROFESSIONAL INVESTIGATIONS

P.O. BOX 1571, Kenosha, WI 53141-1571

(262) 697-9933

## REPORT OF INVESTIGATIONS

**SUBJECT:** BERNIE TOCHOLKE INV.  
**CO. or FIRM:** ATTORNEY JOHN WARD  
**FILE #:** DIVORCE/CUSTODY  
**DATE:** JULY 27, 2002  
**ATTN:** ATTY. WARD

CONFIDENTIAL

*The following is a confidential report prepared especially for Attorney Ward and contains the MENTAL IMPRESSIONS that this writer has derived from statements, memorandums, correspondence, legal & factual research & was written under the GUIDELINES OF A WORK PRODUCT as defined in WI cases State Ex Rel Dudek, Circuit Court v. Reynolds & other applicable WI case law & Federal Cite Hickman v. Taylor, 329 US 495, & also this was written in anticipation of litigation.*

On today's date, this investigator interviewed Tom Rivers, 4929 N. Fairway Dr., Racine, WI, 752-9747. I informed subject I am a legal investigator working with Attorney Ward on behalf of Bernie Tocholke.

Mr. Rivers was very cooperative, and stated he is one of the leaders of a Church of God congregation in Racine. One of his church members saw a flyer in Kenosha regarding a Church of God there. Consequently, Mr. Rivers attended a number of meetings at the Kenosha church.

Mr. Rivers explained he had grave concerns for the safety of children in this congregation due to what he observed at these meetings. Tom stated one of his concerns was physical discipline of very young children, from under a year, to 1-2 years of age. Subject explained he saw mothers sitting next to their young children, and the mothers would be holding a "stick", about a foot long, and a couple of inches wide. When children would make noise, or not pay attention, the mothers would strike the young children. Tom observed this from the rear of the church, and therefore behind those involved. Subject stated he believes the mothers were striking the children on the hands, arms, or legs.

Tom explained when this did not succeed in making the child obey, the mothers would take them out of the meeting to the bathroom. From his position at the rear of the meeting, subject could easily hear the sounds of a paddling going on.

Another situation that bothered Tom was he observed a very young boy who was falling asleep. When the boy would begin to nod off, the mother would strike him to keep him awake.

Subject explained the Kenosha church has very strict rules regarding clothing to be worn. Although this generally does not bother Tom, this creates situations of danger for the children. Children, as well as adults, are expected to wear long sleeve shirts, buttoned at the sleeves and collar, as well as vests. Some of the meetings Tom attended were very hot in the church. Tom observed many children in real distress over the heat and clothing.

Tom is not opposed to corporal punishment in general philosophy, and some standards of type of clothing to be worn. However, Tom explained that the Kenosha church has too rigid standards and lack common sense. As a result, there are real safety concerns for the children of the church.

Respectfully Submitted,

Art Herbst  
AGH Professional Investigations

# AGH PROFESSIONAL INVESTIGATIONS

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## REPORT OF INVESTIGATIONS

**SUBJECT:** BERNIE TOCHOLKE INV.  
**CO. or FIRM:** ATTORNEY JOHN WARD  
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On today's date, this investigator interviewed Crystal Ertmer, 6924 13th Av., Kenosha, WI. 657-8334. I informed subject I am a legal investigator working with Attorney Ward on behalf of Bernie Tocholke. Also present was Jason Ertmer, husband, who agreed with Crystal on these issues.

Crystal was very cooperative, and stated she was familiar with the Church of God in Kenosha. Subject stated she is a former member, and had children attend the church school. Crystal explained she left the church over concerns for the safety of children in the congregation.

Crystal explained she observed parents take their very young children out of meetings if they were being noisy or not paying attention. The parent would take them into the bathrooms. Subject was able to clearly hear the sounds of a paddling, and the children crying.

Crystal added her son, Josh, 5 YOA at the time attended the church school. Subject stated Josh came home and told her that he had been severely spanked at the school.

Subject explained they were given detailed instruction at the church in how to beat children, and what to do afterwards to hide it from authorities.

Crystal stated the church instructed them in what kind of leaning over position they were to put the children in. Then they were to stand to one side and beat the children with their "stick." They were instructed to beat the child until they were quiet, so that the child would learn to take a beating with out making any noise.

They were told if the beating left any marks or bruising, they were to have the child soak in the bathtub with Epson salts to quickly get rid of the evidence of the punishment.

Crystal informed investigator there was a time when she was in a auto accident, and somewhat disabled. Jason was gone at the time, and people from the church helped her out a great deal. Recently, about 2-3 weeks ago, some church members, including client's wife, came to her. They told her that she owed them a favor for helping her out. Client's wife had written out a letter, and they told Crystal to copy the letter in her own handwriting. They explained that client was seeking custody of the children, and they wanted the letter to help their case. Crystal felt somewhat pressured, but did the letter. The letter basically stated that she had never directly observed client's wife beat the children, which is true.

Crystal provided investigator with a book and a pamphlet given to her by church people. The writings detail the use of corporal punishment. Copies given to attorney

Respectfully Submitted,

Art Herbst  
AGH Professional Investigations

In re the Marriage of:

Case No.: 02-FA-365

**BERNARD TOCHOLKE,**

Petitioner.

Case Code: 40101

-and-

**SHEREEN TOCHOLKE,**

Respondent.

Hon. Mary K. Wagner

**MARITAL SETTLEMENT AGREEMENT**

This Marital Settlement Agreement is between **Bernard Tocholke**, Petitioner, and **Shereen Tocholke**, Respondent. In consideration of the mutual terms and provisions as hereinafter stated, both parties agree that the terms and provisions of this agreement may be incorporated by the court in the pending divorce action between the parties in the conclusions of law and judgment to be entered therein; however, this agreement shall independently survive any such judgment; and in that respect the parties agree as follows:

**I. CUSTODY AND PHYSICAL PLACEMENT**

A. Both parents are fit and proper persons to have the joint legal custody of the minor children.

1. It is in the present best interests of the minor children that The Father be granted sole legal custody of the minor children whose names and dates of birth are as follows:

**Randall J. Tocholke**

dob: 07/18/86

**David P. Tocholke**

02/09/88

2. It is in the present best interests of the minor children that The Mother be granted sole legal custody of the minor children whose names and dates of birth are as follows:

**Rachel G. Tocholke**

10/17/89



Who? Who typed this up before I even got to the court room? I had no say or right to request of anything on it. After a long struggle (c.i.) got extended but only 5 hours longer. Who is at fault? Did I pay them?

Suzanna R. Tocholke	10/26/92
Stephen M Tocholke	05/16/94
Joel B. Tocholke	09/25/95
Bethany M. Tocholke	11/20/97

B. The petitioner, Bernard Tocholke, shall be designated the primary caretaker and shall have primary physical placement of Randall J. Tocholke and David P. Tocholke at all times and hours except the respondent, Shereen Tocholke, shall have physical placement of the minor children as follows:

1. On the Second weekend of each month commencing Friday at ~~8:00 p.m.~~ through Sunday at 9:00 a.m. 8:00 PM  
BTI
2. 1 week of uninterrupted placement each summer.

C. The respondent, Shereen Tocholke, shall be designated the primary caretaker and shall have primary physical placement of Rachel G. Tocholke, Suzanna R. Tocholke, Stephen M Tocholke, Joel B. Tocholke and Bethany M. Tocholke at all times and hours except the petitioner, Bernard Tocholke, shall have physical placement of the minor children as follows:

1. The Fourth weekend of each month commencing Friday at ~~3:00 p.m.~~ through Saturday at 8:00 p.m. 12  
BTI
2. 1 weeks of uninterrupted placement each summer.

D. Weekend placement in a way to provide that all children shall be in the same household each weekend.

E. In the event any disputes arise as to custody or physical placement, either party may request the Family Court Commissioner to refer the matter to the director of family court counseling services for mediation and a legal custody and physical placement study. Both parties shall cooperate with the mediator and counseling service.

F. Both parties shall have access to a child's medical, dental, and school records, as well as to the child's court or treatment records and the child's records relating to protective services.

6. Father will provide transportation both ways for secondary placement (including mom's). BTI

**II. CHILD SUPPORT**

A. The Petitioner shall pay \$192.00 weekly to the Respondent toward the support of the minor children. Said sum represents the difference between the Petitioner's income and the Respondents imputed income.

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B. The Petitioner shall be responsible to withhold **\$192.00 weekly** and send payment to the **Wisconsin Support Collection Trust Fund, Box 74200 Milwaukee, Wisconsin 53274-0200**, for transmittal to the Respondent.

C. Child support shall continue until the youngest child reaches eighteen (18) or is earlier emancipated, or until the youngest child reaches 19, if he/she is pursuing an accredited course of

D. Both parties shall notify the clerk of circuit court and the other party in writing of any change of address within 10 days of such change pursuant to sec. 767.263, Stats. Further, the petitioner shall notify the clerk of court and the other party within 10 days of any change of employer and of any substantial change in the amount of her income such that her ability to pay child support, is affected.

E. The petitioner shall pay simple interest at the rate of 1.5 percent per month on any amount unpaid, commencing the first day of the second month after the month in which the amount was due.

### III. MEDICAL HEALTH CARE EXPENSES

A. Both parties shall maintain the minor children on his or her comprehensive medical and hospitalization insurance policy, if such a policy is offered through their respective place of employment, and shall maintain the same until said minor children reach the age of majority, or until said minor children have reached the age of nineteen (19) so long as the child is pursuing an accredited course of instruction leading to the acquisition of a high school diploma or its equivalent.

B. Both of the parties shall be equally responsible for all hospital, medical, dental, and related expenses that are not covered by insurance of said minor children.

### IV. LIFE INSURANCE

Both parties shall maintain the minor children as beneficiaries on any existing group life insurance policy if such a policy is offered through their respective place of employment until said minor children reaches the age of majority, or until said minor children have reached the age of nineteen (19) so long as said children are pursuing an accredited course of instruction leading to the acquisition of a high school diploma or its equivalent.

### V. MAINTENANCE

Maintenance to both parties is waived and shall be denied pursuant to sec. 767.32, Stats.

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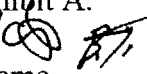
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## VI. PROPERTY DIVISION

As a full, final, complete and equitable property division (and in lieu of any and all maintenance, maintenance being specifically denied and terminated to both parties), each party is awarded the following property:

### **Petitioner**

1. Household items and personal effects in his possession at the time of trial except those items listed in Exhibit A.
2. Business ~~property~~ *equity* 
3. Life insurance policies in his name.
4. Ford Van.
5. Cash and deposit accounts in his name.

### **Respondent**

1. Household items and personal effects in her possession at the time of trial plus the items listed in Exhibit A.
2. Life insurance policies in her name.
3. 1988 Toyota Tercel.
4. Cash and deposit accounts in her name.

## VII. DISPOSITION OF MARITAL RESIDENCE

The parties' marital residence located at **6656 Metcalf Road, Stone Lake, Wisconsin**, shall be immediately listed for sale. The proceeds will be divided equally between the parties.

## VIII. DEBTS AND FINANCIAL OBLIGATIONS

A. Each of the parties shall pay and be responsible for his or her own debts incurred after the commencement of this action and shall hold the other party harmless for any payment thereon. Neither party shall contract any indebtedness or incur any liability for which the other party may be held liable. Neither party shall charge upon the credit of the other except as specifically agreed upon.

B. Each of the parties shall be responsible for the following debts and liabilities, and each shall hold the other harmless for the payment thereof:

<b>Creditor</b>	<b>Debt</b>	<b>Approx. Balance</b>	<b>Responsible Party</b>
Ed Meister	Loan	\$ 5,000.00	H
Shell Lake Bank	Mortgage	\$80,000.00	H



Community First Bank		\$ 1,200.00	H
Menards	Misc.	\$ 1,600.00	H
Stone Lake County	Property Taxes	\$ 6,000.00	H
Ameritech	Business	\$ 5,000.00	H
Ed Tocholke	Business	\$ 2,000.00	H
John Deere	Business	\$	H
Lori Tocholke		\$ 200.00	H
Joe & Helen Neubauer	Truck		H
District Rewards MC	Misc.	\$ 1,600.00	<del>W</del>
John Degraffenreid	Loan	\$ 1,000.00	<del>W</del>
James Degraffenreid	Loan	\$ 1,000.00	<del>W</del>
William O'Shea	1.5 months wages		<del>W</del>
James Degraffenreid	Truck		<del>W</del>

C. Each party warrants that he or she has not incurred any debts/liabilities that are unpaid. Any outstanding debt/liability not disclosed above shall be the obligation of the party who incurred it, and that party shall hold the other harmless for its payment.

D. Each party shall hold the other harmless from any claim by any of the above creditors, and each shall hold the other harmless from any claim by the creditors against any security for any of the obligations.

**IX. TAXES**

A. The parties agree to declare only their personal income, claim their own personal tax withholding, and file a return claiming a separate status for the year 2002. The parties agree that all income earned during the year in which the divorce judgment is granted is the individual property of the party who earned said income for the purpose of determining federal and state income tax liability, as a result of the I.R.S.'s classification of Wisconsin as a community property state. The party who actually earned the income shall reimburse the other party for any additional tax if any is incurred.

B. Each party has agreed to consider the income received through employment from January 1, 2002, through the date of the granting of divorce as individual property, and agrees to indemnify the other party for any taxes owed to the Wisconsin Department of Revenue or the Internal Revenue Service for that individual income property. Further, each party shall be entitled to any refund of withholding arising out of the declaration of their income as individual property with no contribution to the other. Each party further agrees that they are individually responsible for any federal and/or state tax liability, with no contribution from the other. However, the parties recognize that they are unable to re-characterize income already received under marital property rights and therefore, must report income on that basis up until the time of the divorce decree.

C. In the handling of their individual personal income tax matters, the parties agree

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that all of their income tax matters shall be handled as though they reside in a common law state. They, therefore, agree to the following:

1. All compensation and income generated by whatever means, i.e., services, labor or any other activity, shall be considered the separate property of the party earning the funds or contributing the effort.

2. All income arising from self employment, retirement benefits, deferred compensation benefits, or any other benefit arising from self employment activity shall be considered the income of the individual engaged in the self employment activity.

D. This Paragraph VIII is only applicable to federal income tax matters and does not govern the inclusion in, or the taxability of property for federal estate tax purposes.

E. The Petitioner shall have the right to claim the minor children as dependants and exemption on his federal and state income tax returns providing that he is current on any Ordered child support payments throughout the appropriate calender year and at the time of filing the tax returns. The Respondent shall sign and deliver all necessary tax return forms, including IRS Form 8332.

#### X. ATTORNEY FEES

Each of the parties shall be responsible for his or her own attorney fees, with no contribution being required by either party.

#### XI. LEGAL SURNAME RESTORATION

The Respondent shall have the right forthwith to resume the use of her former legal surname of **Solinger**, if she so chooses.

#### XII. EXECUTION OF DOCUMENTS

Now or in the future, on demand, the parties agree to execute and deliver any and all documents that may be necessary to carry out the terms and conditions of this stipulation.

#### XIII. VOLUNTARY EXECUTION/NATURE OF AGREEMENT

Both parties acknowledge that they have entered into this marital settlement agreement of their own volition with full knowledge and information, including tax consequences. In some instances, the agreement represents a compromise of disputed issues. Both parties assume equal responsibility for the entire contents of the agreement. Each believes the terms and conditions to be fair and reasonable. No coercion or undue influence has been used by or against either party

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in making this agreement. All of the agreement's terms are intertwined and interconnected and shall not be severed or modified. It is agreed that the terms and provisions are interdependent.

#### XIV. DIVESTING OF PROPERTY RIGHTS

Except as otherwise provided for in this agreement, each party shall be divested of and each party waives, renounces, and gives up pursuant to sec. 767.255, Stats., all right, title, and interest in and to the property awarded to the other. All property and money received and retained by the parties shall be the separate property of the respective parties, free and clear of any right, title, interest, or claim of the other party, and each party shall have the right to deal with and dispose of his or her separate property as fully and effectively as if the parties had never been married.

#### XV. MUTUAL/GENERAL RELEASE

Each party releases the other from any claim of any nature whatsoever that may exist on the date of the execution of this document. Neither party may, at any time hereafter, sue the other, or his or her heirs, personal representative, and assigns, for the purpose of enforcing any or all of the rights relinquished and/or waived under this agreement. Both parties also agree that in the event any suit shall be commenced, this release, when pleaded, shall constitute a complete defense to any such claim or suit so instituted by either party.

#### XVI. FULL DISCLOSURE AND RELIANCE

Pursuant to sec. 767.27, Stats., each party warrants to the other that there has been an accurate, complete, and current disclosure of all income, assets, debts, and liabilities. Both parties understand and agree that deliberate failure to provide complete disclosure constitutes perjury. The property referred to in this agreement represents all the property that either party has any interest in or right to, whether legal or equitable, owned in full or in part by either party, separately or by the parties jointly. This agreement is founded on a financial disclosure statement of each party, an exhibit at trial, which documents are incorporated by reference herein. Both parties relied on these financial representations when entering into this agreement.

#### XVII. SURVIVAL OF AGREEMENT AFTER JUDGMENT

Both parties agree that the provisions of this agreement shall survive any subsequent judgment of divorce and shall have independent legal significance. This agreement is a legally binding contract, entered into for good and valuable consideration. It is contemplated that in the future either party may enforce this agreement in this or any other court of competent jurisdiction.

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A handwritten signature in black ink that reads "Bernard Tocholke".

**Bernard Tocholke**  
Petitioner

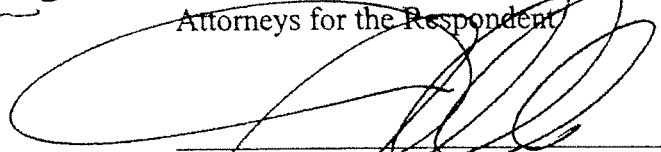
A handwritten signature in black ink that reads "Shereen Tocholke".

**Shereen Tocholke**  
Respondent

approved by:  
*Nicole L Bedding*  
*guardian ad litem*

Approved as to form: October 4th, 2002.

**Anderson & Anderson, S.C.**  
Attorneys for the Respondent



**Thomas W. Anderson, Jr.**  
State Bar No. 01001284

Approved: \_\_\_\_\_, 2002.

Approved: \_\_\_\_\_, 2002.

**Mary K. Wagner**  
Circuit Court Judge - Branch 6

**James E. Fitzgerald**  
Family Court Commissioner

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Dear (This is a copy of what I sent to the) Supreme Court / Office of Lawyer Regulation July 15, 2003

I want to beg for some help from you. Can you help me? I am a victim from a combination of having a very bad attorney, a unjust - bias judge, and fighting against a very good attorney. I am innocently going to jail on September 5<sup>th</sup> for 6 months if you can't help me. I will be totally destroyed for life. Please see if you can help me.

I despise and regret ever using John Anthony Ward of Kenosha for my Attorney. He seemed to start very aggressively in the beginning but something happened just a few weeks after the case began. In the beginning it was his idea to fight for full custody. In the end he forced me to sign for 1/2 days a month with my children. He accepted almost anything that the "system" proposed. It seemed he was fighting for them.

The day my Income and child support was established I didn't have all the facts and figures with me, and was wrongfully labeled for 3 times my income. I went to my accountant and paid for all the information I needed and gave them to Ward. Not once did Ward call my accountant for some explanation on the forms that my accountant wanted to make. And he never corrected the false income. The figures were set by Commissioner Plous. Judge Mary K. Wagner has absolutely refused to even look at the facts on my Tax Forms. She just demands that I have to pay what is 134% of my Income. She doesn't even know or care about my Income Facts with the IRS.

I am extremely sick of the consequences that took place Oct. 4, 2002. Ward was trying at first to have me sign for only a 1 day (12 hours) a month placement with my five children. After a long struggle they extended it to 1/2 days a month. Ward was demanding me to sign it, saying it's the best we can do. Only after he said that we can fight it later did I reluctantly sign it under intense pressure. He didn't tell me later meant 2 years later. I found that law restriction out from another attorney days later. He deceived me there or else I would never have signed it. It also was right in the middle of all that intense pressure when I first questioned and he admitted that this was the DAY, the final Divorce. I didn't know before that. He never told me. I was also given All the debt.

Since then I went to several attorneys. ALL said I got screwed. One of them refused to even take this case now since Ward messed it up so much. Every one asked why did I sign it? Its because Ward forced it upon me under intense pressure and deception and also my ignorance. I despise Ward for ruining my life. It could have been a lot better with an attorney that would have worked for me instead of them. Since then I witnessed Ward and her attorney laughing and talking and having a good time. They are buddies. It grieves me to think that I paid Ward to work for them. If I got the money back atleast it would put a bandage on the wound.

And now with a unjust Judge that refuses to even look at my IRS Forms, and a Ex-attorney that messed things up in the first place, and the 6 months of jail during which I won't see my children at all, I am ready to give up. Can you give me some hope to keep living? If there is no justice, I want to get off of this merry-go-round they call life. Please let me see justice so that I might want to live again. I would rather die then go to jail for some "false crimes" that I didn't commit.

Please, Help!

Im mad at Attorney Ward.

Im disappointed at Judge Mary K. Wagner

Bernie Tocholke

2226 - 55<sup>st</sup>

Kenosha, WI 53140

(262) 945-3961

## The church of god restoration- The exposed cult

Look at the sheet of most of their do's and don'ts.

The cult will deny immediately these contents, that it is "My" Bernie's sheet that I made it up, and that they don't have these rules. Before you accept their explanation and agree that I made it up, please just take one more step and ask them which parts are false.

1. Ask them if they do watch television or have VCR's.
  2. Ask them when is the last time they went to a ball game?
  3. Ask them where is their U.S. flag or do they believe in one.
- When they first got their church building they had one but they threw it away. They preached against it.

4. Ask them when or if they will ever take their children to a circus or Disney land, parade, or anything else on the sheet.
5. Ask them when are the girls allowed to go swimming with anything else besides their long dresses, which are down to their ankles.
6. Does anyone boys or girls go swimming in a swimming suit?
7. Do they allow mixed bathing even when fully clothed?

All of the items were either preached from the pulpit or talked about in bible studies, or in men's or women's meetings. All I did is put them on paper. Any item which they deny, Ask them when have they participated in it. If they say that we don't have rules against fairs, ask them which ones they have gone to, or which ones they will attend. That list is true! They preached it!

1. They don't believe in medicine or doctors, people including children in this group have died because of their belief. On the Internet look up Rick Ross.com next type in Church of god restoration. You will then see about 35 articles about this group.

A. Several articles are written about a small child that died in California in their group. I know some information about that happening. Danny Layne the California minister, who was Wiebe's pastor, was holding revival meeting in Kenosha, WI when the child got sick. Danny Layne requested prayer on Monday for the child, on Tuesday he asked for urgent prayer on behalf of the child. He said "the child could even die unless we reached god with our prayers". That is the only medication the baby ever got. By the weekend the child was dead. The group says that nobody is forced to trust god, everybody can make the choice for themselves. Ask them when did the baby make that choice.

B. Now look at the specific article titled "A child's death raises questions about faith". Read the seventh paragraph from the end of the article. It states that after the baby died, 911 was called. Now read the last sentence about that the baby appeared to have been dead for a couple of hours already. Ponder that while you look at my experience, ( Not, I heard but I

experienced this) about 3 years ago. You then decide if you think that the baby could have been dead for 2 hours before 911 was called.

C. Ralph Salz was an old man living in the assistant pastor's house in Kenosha, WI. Pat O'Shea is the pastor and lives next door. Ralph Salz had a stroke one day and was found lying on the floor. The cult put him in bed and took care of him for about 2 weeks. One night my wife and I where awoken and where told that Salz just passed away. Pat O'Shea called Danny Layne in California and asked him what to do next. They decided that if paramedics arrived now, that a lot of medical procedures would be done that they didn't believe in. I will never forget how after an hour, Pat O'shea had one hand on the forehead of the cooled down dead man and his other hand on the phone as he talked with Danny Layne. Not until after my sleeping children where carried next door into O'shea house, was 911 called. Why 911? Emergency? After the body was dead for at least 1 hour? Why not the morgue? Isn't that deception? Especially for a couple of pastors? Where was the dead man's choice? Now what about the baby? Do you think that 911 was called immediately? Or do you think the baby was dead for a while also?

D. Now the cult got pressure from the law for the child's death. The group called a minister's meeting. They quickly made some modified rules, they smoothly worded that they will not "withhold" medicine from children anymore. What does that mean? Before you buy that line, ask Pat or Sue O'shea for their children's medical records. If they changed their beliefs on medicine and doctors they should have records. If they say all their children have been healthy for a year, ask them when has their daughter received her corrective cross eyed eye surgery? Are they still withholding from doctors?

2. Their form and teachings of discipline is extremely cruel. They preached and taught that children need to bend over a chair, a bed, or grab their ankles on their own to receive their discipline. Any wrestling with the child to get them into that position, and beatings they receive to get them to "surrender" is not part of their discipline yet. They might receive a hundred or many more swats extra before they bend over willfully, and get their spanking.

A. Once again read some of those rickross articles dealing with child abuse. The cults cruel teachings got them there. You probably read the child abuse case in Elmer, Ontario. I personally went there for the first court hearing. I remember conveying from the church to a parking lot a few blocks from the court. We where told from the cult members to hide all the sticks, to lock them inside the cars out of sight. Also don't talk to anyone... "They might be reporters", you will be in trouble with the ministry if you talk!



I had a private investigator do a few interviews with people. Read them especially the interview with Crystal Erimer. Note the bribery the cult did.

(3)

B. I remember being in church service usually sitting 2 rows behind Sue O'Shea the pastors wife. I witnessed the abuse she would give her little children. It was very common occurrence to see her take a stick and smack it across the top of her child's hand. Wee unto the child if they screamed out in pain. They would be taken down into the basement for a worse treatment. Hitting across the back of the hand with a stick is not discipline but abuse. My wife had occasionally changed the O'Shea children's diapers. She told me several times that the children had black and blue marks which was no surprise to me.

C. About 2-3 years ago my marriage was already hanging in a very thin thread, because I wasn't following all the cults teachings. Pat O'Shea could sever my marriage anytime he chose to destroy it. Out of trying to be reasonable with the church, I gave permission for Pat or Sue O'Shea to discipline my children. The home schooling had been already taken out of my control and put into the church and run more like a private school. Sue O'Shea was teaching my older children. It was recently found out what kind of "Discipline" my oldest two received. They were beaten with an 18" paddle that resembled a breadboard that Pat O'Shea made. Randy and David my boys received several spankings with that "club" from both Pat and Sue O'Shea for not doing their school work on time. One time Randy couldn't keep his composure from something funny that happened and laughed out loud in class. Sue made him put his hands against the black board and then struck him several times with the "club". That is not discipline, but abuse! The Kenosha police said they couldn't do a thing, because I gave permission and that one year had gone by before it was found out. Yes, I did give permission when needed, but a potential bone breaking club is abuse, not discipline. Also I never gave permission for even discipline for something like when Randy couldn't keep from laughing out loud. And why is one year to long for this case, while a priest in New York goes to jail for something he did 20 years ago?

D. The worst case of child abuse I ever witnessed was when my boy Steven was 5 years old. My family was at the Ohio camp meeting. A church service had just started when I noticed my wife and Steve had left. About 20 minutes had gone by before my wife came back alone. She said she needed help spanking Steve, that he is not laying across the bed on his own. I said, "Did you spank him some already?" She said "Yes, but he still isn't submitting like the church teaches", she said if I don't go with her back to our cabin she will go to the ministry. That got me scared because that meant my marriage was over, I reluctantly went with her to

our cabin. I could easily see that Steve had already been beaten enough, For about the next 1.5 hours I wrestled with Steve into position, Shereen then spanked, I then released him, and still Steve couldn't submit to the cults teaching of how to discipline, so I had to wrestle him again, Shereen spanked, and I released. These steps went over and over again for about an hour and a half before he finally broke according to the teaching of the cult. It still grieves me to remember what the bruises on the child looked like that next day when I gave him a shower. He was black and blue from his waist down to his knees, and I was blackmailed to take part in it.

(4)

E. I remember several times coming home from work in the evening and one of my children was locked up in the bathroom waiting for me to come home. The child (usually Suzy) couldn't submit to mom by lying over the toilet, so she was left in the bathroom for half of the day. I go in the bathroom and find out that she did get a spanking already just not the way the cult teaches. I also found out it was for not eating her food at noon. It is anywhere from 5:00-7:00 P.M., and she has sat in the bathroom all this time. I told her to scream while I very softly "spanked" out her age.

F. It was common to see other ministers spank other people's children. I personally seen Pat O'shea spank the Erimer children if Crystal Erimer (mother) was busy doing something else. I also seen Danny Layne spank the Mckinzie boy while the father was preaching and couldn't deal with the disruptive son.

G. Shereen (my wife) has spanked and sometimes abused our children by hitting them with wooden spoons, dowels, sticks, shoes, and clothes hangers. I seen her take wooden hairbrushes and hit the children on the head.

2. The pastor of the Church of God Restoration, Pat O'shea, will deny that he tried to control anybody including me. He will say he never forced me to do anything and that I always had a choice. He will deny that I was forced into living under his convictions. I disagree on all of that but I will let you be the judge.

A. July-August 2001. The children and I wanted to go up North to my relatives for the weekend. Before we were packed to go Shereen has already contacted O'shea's and Pat came into our house before we can leave. One by one my children were interrogated by him in front of me if I wasn't there. He asked them if they really wanted the north county more than they wanted god. If they didn't stay here to be in church on Sunday then they couldn't consider themselves to be saved. If they left up

north for the weekend that they would be on the way to hell! The intrusion lasted for about one hour until Pat O'Shea finally had them promise to him that they wouldn't go. I watched our plans be destroyed. I decided next time I can't let Shereen know my plans until it would be too late for Pat O'Shea to destroy them. (5)

B. September 2001, I needed to go up north to fix my equipment. I only intended to be gone from Friday and be back for Sunday service, but there was a problem because Pat O'Shea said there was a mandatory church workday for Saturday. I said I have to leave to fix my equipment. He finely said o.k. but I go alone, all my children stay here. Well, I didn't obey. I took my five oldest children and left town. Once I was on the interstate I called Shereen and told her that we were heading north and plan on being back for Sunday. When we got back Sunday, Pat O'Shea interrogated my five children into tears, for at least one hour. They where told that all 6 of us, especially me, was not saved anymore. My children were in tears, traumatized by this cult leader. Next it was my turn into the office. For at least the next half hour he yelled into my face. I was lost, no more a brother. Shereen is going to get the children, he is going to destroy me. I am going to die a miserable death, and that he will fight to the finish. The whole time he had his finger pointing in my face with a spit just a flying, He doesn't push anybody?

1. He said it was impossible for me to be saved, because I didn't give Shereen all the information of where I was taking the children until after I left. Not giving all the information, is deception. And deception is a lie. And lies make a liar. And liars go to hell.

2. If that is the way to analyze it, then lets look at the sheet sent from the Wisconsin Department of Instruction. Every home school family gets and needs to sign one of these forms in Wisconsin. On that form it clearly states that home school is a one family unit ONLY. The cult is violating that. They are and have been for 3 years, been running a more than one family school, which would be a private school. But nobody signed for a private school and nobody there is certified to be a private school teacher. The cult is not only being deceptive and lying when they sign the form, but also breaking the law. Question: Is a judge that allows the cult to illegally continue private schooling, guilty of embracing this illegal activity?

3. If deception is a lie, which makes a liar, which goes to hell, would not Pat O'Shea be guilty of that when he intentionally allowed Ralph Salz's body temperature cool down for at least an hour, before calling 911? That is deception is it not?

C. My oldest son has asthma, I watched him suffer without any medication for several years. Now if there is so much freedom in this group, and no one pressures, then why did Pat call me into his office and reprove me when I bought Randy an inhaler? He claims he would take Randy himself to the

hospital if I chose that, but when I buy him an inhaler he reproves me? Why? He doesn't push? (6)

D. December 2001 A conviction is something that you would rather die for then violate. I don't have a conviction against alcohol, just a strong preference against it. I have never been drunk in my life, and for that at least 15 years had no (zero) alcohol. At Christmas time 2001, my family attended Shereen's relatives Christmas party. Many of her aunts offered me wine which I turned down the entire evening. Finally my daughter Suzy came to me with her little plastic dixie cup. She accidentally went to the wrong punch bowl and discovered she had wine instead. I told her not everything this group says is true, this swallow of wine is not sin. I drank that swallow of wine to empty her cup and told her to not make that mistake again, I will not empty it the next time. Suzy told Shereen, who told Pat O'Shea what happened. Once again I was called in the office, yelled at with his finger pointed in my face for about an hour, "You are not saved, you need to stand up in front of the whole congregation and admit and apologize that you sinned". Basically I violated his convictions, and now I must pay what HE sees fit. And he says that everyone can live under their own convictions?

E. The cult believes in wearing vests. It is almost 90 degrees outside and I refuse to wear that hot black vest. My two oldest boys ask if they could remove their vests too, and I told them yes. Shereen demands them to wear it, and asks me to tell them to wear it, why should they? Within a few hours I was called in the office again. Pat yelled at me again for not supporting my wife's wishes. Unless I start backing her up she needs to leave me. Pat O'Shea don't push? Nobody is forced to wear a vest?

F. Pat O'Shea argued with me several times about watching t.v. or v.c.r.'s I disagreed with him on the absolute abstinence. My children never seen any motion of the falling of the twin towers. However while traveling we seen at a truck stop on t.v., some of the clean up that was taking place. Once again Shereen got me in trouble for allowing my children to stand there and watch t.v.

G. The cult believes that after somebody gets excommunicated from their group that none of their members should have any contact with them. Read the Pauletta Tinsman Willis - "Broken Faith, several lives" article, also her excommunication letter, (two of her preacher brothers signed it too). My landlord got excommunicated by Pat O'Shea, and ordered everyone to shun him. I continued to talk to my landlord as I used to, and got called into the office again. In fact Danny Layne also confronted me on it. Where is the freedom they talk about? Is restricting on who you can and can't talk to, freedom? Pat doesn't control lives?

H. Another thing I got called in the office for is that I wasn't spanking anymore the way the cult teaches. Either I submit to this "proven method" or I'm going to lose my children and wife.

(7)

I. Shereen got in an argument with my two oldest boys on a Sunday morning. She told them their Daddy isn't saved, that he needs to repent of drinking the wine. They told her daddy thought it would be worse to waste and throw the wine away then just drink that swallow. She said Dad didn't consider that, then they told her that she was lying for she could never know what someone else was thinking. By noon that same Sunday Pat O'shea had Shereen, my two boys and me in the office. After yelling at me and the boys for awhile, he told me to make the boys say that she wasn't lying. I said that is precisely what I was thinking about when I took that swallow of wine, and the boys were telling the truth that Shereen was lying if she says I wasn't think of that. At that moment Pat O'shea flew into a fit of rage. He said he tried keeping this marriage together but now it is over. He then ordered Shereen to leave to his house right now....She did. In fear that my marriage is finally destroyed by him, I argued with him for about the next three hours. I somehow managed for him to tell Shereen to come back home with me, but then still on a very shaky basis. Do you think he was controlling my life? Marriage? Was he a good pastor? Tell her to leave?

J. Just a few days later I came home from work, and my wife verbally attacked me again, I need to get saved, etc... I told her I didn't believe in everything this group preaches and practices. She ran for the phone. I told her don't call him. I don't want to talk to him. I am going upstairs. Within 5 minutes Pat O'shea was at my door. Shereen let him in and told him I'm upstairs and I don't want to talk to him. He then said that he will just come and see me and uninvited came upstairs into my own bedroom. Then we argued and he didn't leave until after midnight. He doesn't push people? Everybody has freedom?

K. I wasn't submitting to Pat O'shea so he made another stab at me. Since I wasn't submitting to him or the church, Shereen needed to sleep separate from me. She obeyed him for over a week until I appealed to Danny Layne to get that stopped. Infamy though? Forget it! Pat O'shea says he doesn't push anybody? He never forces?

3. If this church or cult doesn't break up marriages can you explain this. There are six marriages in the Church of God in Kenosha. Three of those are either separated or divorced because of this cult. The teaching of this group destroyed each one of those marriages. My wife was told to leave

me, destroying our marriage. That is 50% of the Kenosha group, separated because of this. The fact is that if one of the couple wants this cult while the spouse does not, the ministry councils them to separate. That is a fact! And that is not forced control?

(8)

4. Finally lets see what I lived like from 2001

- Christmas 2001. Drank that one swallow of alcohol, got rejection from Shereen. Definitely no intimacy. Got called in the office by Pat O'shea.. Yelled at!
- Feb.14,2002. My mom died. I took my family to Minnesota. Helped dig grave Feb.16; helped buried her Feb17; talked in German to my dad about how good and a submissive wife he had.
- Feb.19,2002. Shereen picks a fight with me and says so I think I have a bad wife. She misunderstood the German, all I said in German was that Shereen was not as submissive as mom had been.
- Pat O'shea tells her that she needs to leave me on several different occasions.
- I started keeping records from the first part of February.
- Of all the available days (together and home) I took Shereen out to eat once every 3.7 days.
- March11,2002. Randy and David (my boys) are forced on their way to the cults California camp meeting against their or my wishes.
- March16,2002. The rest of my children and wife leave for the camp meeting against my wants or wishes. Return the following Sunday.
- March 24,2002.After 16 days Randy and David get returned from the cult.
- March29,2002. My dad and my siblings plan on getting together for Easter in memory of my mom. I ask my children if they would like to go, they say yes!

- March 30, 2002. My dad contacted me again about noon for my response. I said I will go in the house and ask Shereen. I went in and asked her if we could leave up north in a few hours to be with my family for Easter. She said NO because we would miss church service. I said you were just gone for 9 days and the boys for 16 days, and now I can't even take my family for 1 day? In memory of my mom? The first time Grandpa gets to see my children since the funeral? She said it's stupid to miss service for that! I told her I needed to work for another couple of hours and I need to get the decision later. I came home at 3:30p.m. Shereen and the younger children were gone ( I didn't see them for the next 35 days). She wouldn't answer the cell phone, I looked for her. O'shea's house looked abandoned...Drapes pulled shut. Finally Randy & David and I left for up north alone, I left messages on my home phone. She never answered any phone intentionally.

- March 31, 2002. Tried contacting her several times...No answer.

- April 1, 2002. Got back to Kenosha about 7:00 am. She is not home. The home phone messages had been listened to, so she had stopped by sometime. Tried her cell phone again... She won't answer it! Went to the police to find out my rights. Has to file a missing family report. That night two detectives dropped by my house to tell me, my family is living at O'shea's house, but they can't bring them back...I need an attorney.

- April 2, 2002. I called O'shea. Patrick Jr. said I need to talk to the assistant pastor and hung up, I then called the Ass. Pastor, James DeGraffenreid, I asked him why can't I talk with Shereen and my children. He said I violated the ministers rules by missing or trying to miss Sunday service without permission, I will never be able to see my family until I get some serious spiritual help.

- April 3, 2002. Tried again to contact my family at O'shea's. Sue O'shea once again tells me to deal with James and hangs up. I call again, now they won't even pick up the phone. I decided then to go straight to O'shea's house. I knock on the door, door opens, Sue sees that it is me, and then I get the door slammed in my face. Lovely people!

- April 5, 2002. I see a worthless attorney. I asked him what actions I can take to see my children. He said file a divorce. I said I don't

(9)

want a divorce. He says then there is nothing to be done. If I don't do something the cult will ship my family across the country where I can't find them in another congregation families home until I submit. The cult does that a lot. Read about what happened to the Canadian families hiding in Indiana, or the secret romance in Kenosha you will have to ask me about. The girl got shipped off to some home in California. There was police investigation on that case. I realized that I am forced into divorce IF I want to ever see my 5 children again.

(10)

- April 8, 2002. I sign papers with attorney.

- April 21, 2002. First time ever that I found out what kind of abuse Pat O'shea did to my boys. I called O'shea's house and left a message on their machine that I will go to the police if Shereen doesn't call me. On a speakerphone with the cult whispering things to her in how to respond. I didn't know I was on the speakerphone till later.

- May 3, 2002 First court day. I get to see my children tomorrow!

- May 4, 2002. First time in 35 days that I got to see my children. The battle continued until my worthless attorney told me on October 4<sup>th</sup> to sign the final papers. "It's the best I can do!" What is the best?

- The best he could do is let me see my children. 1.5 days a month, ( the 4<sup>th</sup> weekend from Friday noon until Saturday evening). That is it! No evenings...nothing else. I would like to have them full time but that can only be a wish. Reality though would be nice to have them from Friday afternoon, after they got out from PUBLIC school, until Sunday night, every other weekend. Right now I only have them 1 week in the summer. I would like to have them ½ the time. I would like to also have them Wednesday and Thursday evenings for 6:00pm until 8:00pm.

- I also was forced to sell my Stone Lake WI, house. I built every building on the place. I was emotionally attached to it but had to be sold. There was a \$ 600,000 equity in it- that's it, I couldn't buy her out. I also got all the debts. She was given the master card debt but hasn't paid anything on it. I was forced to pay already several hundred dollars on it.

My child support is really messed up. I pay or supposed to pay \$420.00 a week and yet I have the two abused boys, that don't want to be with her, in my custody. That figure is about 184% of my gross income. They just took some figure off of my gross receipts. Another thing that Shereen doesn't even need is a full-time job. She lives probably rent free in the Church house. Sue O'shea was teaching our older children. I want that stopped. Where is the justice? Even if the group stops their barbaric discipline methods, does that put my family together again? I never cheated on Shereen to this day, I have never been drunk in my life...she has. I never used any drugs,(never even touched any) but she has used some. And yet I'm deprived from my children, who tried to deflect some abuse they could have had, Where is the Justice?

The information above was written before October 4, 2002. Divorce was finalized that day and child support reduced to \$192.00/week.

From May 10, 2002 to May 10, 2003... total amount of child support - \$16,408.50

My Total adjusted Gross Income - \$12,262.00

That is 134% - How am I supposed to do that? I also have my 2 boys.

During that Fiscal year I paid \$8,065.00 That is 66%, and I still supported my 2 boys and myself. But the so-called

"Justice System" demands that I am still over \$9,000.00 behind in child support presently.

I am possibly facing jail for not being able to figure out how to pay 134%.

She doesn't pay a penny for my boys. Why?

Department of the Treasury - Internal Revenue Service  
**Form 1040 U.S. Individual Income Tax Return** 2002 (99) (Do not write or stamp in this space.)  
 For the year: Jan. 1 - Dec. 31, 2002, or other tax year beginning 2002, ending 2002  
 OMB No. 1545-0047  
 Your social security number 169-86-2838  
 Spouse's social security no. [blank]  
 You must enter your SSN on Form 1040-ES.

Name: Bernard Tocholke  
 Address: 2225 55th St, Herosha WI 53143  
 Presidential Election Campaign: [blank]

Filing Status:  Single  
 Married filing jointly (even if only one had income)  
 Married filing separately. Enter spouse's SSN above and full name here: [blank]  
 Qualifying widow(er) with dependent child (see instructions)

Exemptions:  Yourself, if your parent (or someone else) can claim you as a dependent on his or her tax return, do not check box 6a  
 Spouse  
 Dependent: if more than five dependents, see first table

(1) First name	Last name	(2) Dependents' social security number	(3) Dependent's relationship to you	(4) If more than one child, enter child's name here	(5) If more than one child, enter child's SSN here
Randall	Tocholke	389-08-1998	Son		
David	Tocholke	389-08-2505	Son		
Rachel	Tocholke	892-11-1248	Daughter		
Suzanna	Tocholke	389-08-3182	Daughter		

SEE STATEMENT

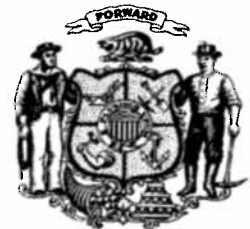
Total number of exemptions claimed: 7  
 Attach Form W-2 and W-2G here. Also attach Form 1099-R if tax was withheld.  
 If you did not get a W-2, see instructions.  
 Attach Form 1099-R if you received a pension or annuity.  
 Attach Form 1099-DIV if you received a dividend.  
 Attach Form 1099-INT if you received interest.  
 Attach Form 1099-ORD if you received other income.  
 Attach Form 1099-NEC if you received non-employee compensation.  
 Attach Form 1099-SP if you received a scholarship or fellowship grant.  
 Attach Form 1099-SS if you received Social Security benefits.  
 Attach Form 1099-VA if you received a veterans benefit.  
 Attach Form 1099-VA if you received a veterans benefit.  
 Attach Form 1099-VA if you received a veterans benefit.

Adjusted Gross Income	23	24	25	26	27	28	29	30	31	32	33a	34	35
Adjusted Gross Income	23	24	25	26	27	28	29	30	31	32	33a	34	35
23	24	25	26	27	28	29	30	31	32	33a	34	35	36
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2 104012  
 TUE 2:58  
 2/10/02  
 34 Add lines 23 through 33a  
 35 Subtract line 34 from line 23. This is your adjusted gross income.  
 For Disclosure, Privacy Act, and Paperwork Reduction Act Notice, see Instructions.  
 Preparer's Edition  
 Form 1040 (2002)



# WISCONSIN STATE LEGISLATURE



**Kestell, Steve**

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**From:** William F. Fale [wffale@ffhlawoffices.com]  
**Sent:** Tuesday, August 05, 2003 2:29 PM  
**To:** rep.kestell@legis.state.wi.us  
**Subject:** Clearinghouse Rule 03-022 and Assembly Bill 250

August 5, 2003 @ 2:10 p.m.

Steve:

I didn't want to bother you at home since I know what a hassle that can be, so I thought it best (and most professional) to contact you at work.

The Clearinghouse Rule 03-022 seems to eliminate many problems dealing with the low-income payers, high-income payers and shared time arrangements. You are obviously familiar with the testimony heard from national experts as well as the materials you have probably had to sift through.

As you realize, I practice primarily in the family law arena and the issue of support is one of the areas that causes the most dispute. The courts in one county sometimes have different approaches. It appears that this Rule is making efforts to be more specific which, in turn, eliminates the abilities of the attorneys to be "creative" in their approach because an established standard does not exist. There is often too much litigation in trying to make a point in one of these three areas so it is imperative to make sure we make life easier for the litigants and (at the risk of sounding patronizing) we should not create more opportunities for attorneys. I pride myself in being a problem solver and trying to avoid conflict. This rule appears to be pro litigant and I urge your support.

Conversely, I (along with my Family Law Section colleagues) oppose strongly Assembly Bill 250. This bill seems to dramatically change what you'd be addressing by supporting Rule 03-022. Many families would be dramatically affected by the new criteria in that support could be significantly reduced. The definition of "high income" is a joke, especially by today's standards.

We have established "guidelines", over the years by cases that dealt with the existing standards for calculating support. To drastically change that system now would open the floodgates of litigation because as drastic as some of these changes are, we are seemingly forced back to square one in determining support.

I have tried to follow AB250 and I am comfortable in stating that I don't see it as the product of consensus. The child support advisory committee considered AB250's approach and (wisely) rejected it.

I encourage you to support Clearinghouse Rule 03-022 and to allow it to go forward. Assembly Bill should not be allowed to go anywhere but to a swift and prompt death.

Thanks for hearing me out, Steve, and please acknowledge receipt of this email so I know you will see it before the upcoming action.

8/5/2003







**WISCONSIN  
LAWYERS**  
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## MEMORANDUM

**To:** Members, Assembly Committee on Children and Families  
**From:** John Short, Board Chair  
Family Law Section of the State Bar of Wisconsin  
**Date:** August 5, 2003  
**Re:** Family Law Section Opposition to Assembly Bill 250, relating to  
changing the way child support is calculated.

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The Family Law Section of the State Bar **strongly opposes** Assembly Bill 250 for several reasons, including:

- 1) if AB 250 were enacted, child support payments would be immediately and dramatically reduced in the vast majority of cases;
- 2) if AB 250 were enacted, it would take away much of the discretion that courts have under current law (and under the proposed DWD 40 rule change currently pending before the Legislature) to take into account the special circumstances of each case; and
- 3) if AB 250 were enacted, it would effectively thwart the review process that began with the Department of Workforce Development forming a Child Support Guidelines Review Committee. That review process produced a strong consensus that the child support formula should be revised through the rulemaking process and recommended Clearinghouse Rule 03-022, which is currently before you.

The Family Law Section strongly **supports** completing the work begun by the review committee, as all the “stakeholders” or major groups interested in seeing Wisconsin’s child support standards updated were a part of that process.

### Background

Currently, the method of calculating child support is set by administrative rule through chapter DWD 40, Wis. Admin. Code. The current child support guidelines have not been updated for several years.

In the spring of 2001, with input from members of the Legislature, DWD Secretary Reinert appointed an advisory committee to provide guidance to the Department on revisions to the state policy regarding the guidelines used to determine child support payments.

### **State Bar of Wisconsin**

5302 Eastpark Blvd. ♦ P.O. Box 7158 ♦ Madison, WI 53707-7158  
(800) 728-7788 ♦ (608) 257-3838 ♦ Fax (608) 257-5502 ♦ Internet: [www.wisbar.org](http://www.wisbar.org) ♦ Email: [service@wisbar.org](mailto:service@wisbar.org)

That Committee was composed of representatives from the judiciary (both judges and family court commissioners), public interest groups (including the Family Law Section of the State Bar), the Wisconsin Fathers for Children and Families, Wisconsin Legislation for Kids and Dads, Legal Action of Wisconsin, Wisconsin Family Court Commissioner's Association, Wisconsin Council on Children and Families, Wisconsin Women's Council, Wisconsin Coalition Against Domestic Violence and Wisconsin Child Support Enforcement Association, among others. These groups represented the major stakeholders in the debate over updating Wisconsin's child support guidelines.

After numerous meetings over the course of eleven months, the committee recommended a set of changes be made to Chapter DWD 40. Virtually every group represented on the committee endorsed the changes. The changes were then put into the form of a proposed rule and submitted to public hearing. In late June 2003, as modified in response to comments from the public at a series of hearings around the state, the proposed changes were submitted to the Legislature as Clearinghouse Rule 03-022.

The Family Law Section **supports** Clearinghouse Rule 03-022, both as recommended by the Child Support Guidelines Review Advisory Committee and as modified in response to public comment. Further, the Family Law Section **supports** the Department of Workforce Development process used to revise the child support guidelines.

Why should changes to the child support formula be made by rule? There are several reasons but at least two stand out:

- 1) The rulemaking process that is well underway is a consensus process. The Advisory Committee process was a consensus process. It drew from all the involved groups with various and competing interests and produced a set of common agreed-upon recommendations. The proposed rules were the subject of public hearings in three Wisconsin cities—Madison, Milwaukee and Stevens Point. The proposed rules were modified in response to the testimony received in those three hearings. Again, a consensus process with input from interested parties was at work in developing Clearinghouse Rule 03-022. Why would we ignore the hard work of all the dedicated volunteers who spent hours and hours reviewing our child support formula?
- 2) Setting the standards in administrative rules can serve to insulate legislators from having to deal directly with every child support constituent problem and react to it with legislation. When a uniform rule is established, it has the force and effect of law. It is not necessary that everything be set in statute. Section 49.22(9), Wis. Stats., directs DWD to

“... promulgate rules that provide a standard for courts to use in determining a child support obligation based upon a percentage of the gross income and assets of either or both parents. The rules shall provide for consideration of the income of each parent and the amount of physical placement with each parent in determining a child support obligation in cases in which a child has substantial periods of physical placement with each parent.”

The current system of rulemaking has worked well in the past. The current rules are in need of updating and Clearinghouse Rule CR 03-022 in the appropriate way to accomplish this. There is no need to scrap the current system and substitute a system that sets the formula in statute. In other words, if Clearinghouse Rule 03-022 is adopted, there is no need for Assembly Bill 250.

The Family Law Section believes the approach set forth in the proposed rule is preferable and **supports** Clearinghouse Rule 03-022. The approach set forth in the proposed rule was the product of a careful yearlong review by the Guidelines Review Committee and a consensus building process. To ignore that consensus product in favor of bill that advances the goals and agenda of only one committee participant (and locks the changes in statute) would be a mistake and a disservice to the dedicated volunteers who devoted so much time to the guidelines review process and worked so hard to develop a product that nearly all could agree upon.

The Family Law Section **strongly opposes** AB 250. We look forward to the opportunity to testify to present a more detailed analysis of the bill and the reasons for our opposition to it.

If you have any questions or if you would like additional information, please feel free to contact Dan Rossmiller, State Bar Public Affairs Director, by phone at (608) 250-6140 or by email at [drossmiller@wisbar.org](mailto:drossmiller@wisbar.org).

Accompanying this memo is a memo you should have received earlier. The memo outlines the Family Law Section's support for Clearinghouse Rule 03-022.



**PAUL E. BARKHAUS, M.D.**

Diplomate, American Board of Psychiatry & Neurology (Neurology)  
Diplomate, American Board of Electrodiagnostic Medicine

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August 6, 2003

To: Rep. Steve Kestell, Children & Families Committee  
Sen. Roessler, Senate Comm Health, Children, Families, Aging & Long Term Care  
Sen. Zien, Sen Judiciary Comm  
Rep. Terry Musser  
Rep. Sheldon Wasserman, M.D.

Re: DWD Task Force Recommendations & Child Support Reform (AB 250)

By way of introduction I would offer my personal perspective:

- 1) I am a divorced father of two for the past almost 4 years,
- 2) I am a Professor at a Medical School, making a comfortable but not excessive salary. I am not a "rich" doctor- I am in academic medicine and do a lot of community- or as the lawyers say, *pro bono* work,
- 3) I am a parent- a *father*, who is very involved at all levels of my children's lives because that's what I want to do- School, Church/Teaching Sunday School, Scouts, "Dads and Daughters", etc.
- 4) I have never defaulted on any support payment
- 5) Under present measures I lack the resources to do a lot of things with my children that I would like to do- and here I am not proposing anything extravagant. As to myself, I am living at a significantly lower standard than before the divorce because the amount of child support that I pay is in excess of their basic needs.
- 6) ***In this present issue, I am specifically directing my comments to what the proposal defines as "High-Income Payers".***

With respect to the DWD Task Force Recommendations I have made comments already to them directly. Since then they have made some revisions. I would like to make a few points:

- 1) The Task Force was primarily composed of females with almost no representation from payers or payees.
- 2) To the best of my knowledge, they based their guidelines for higher income earners on no objective data. I understand that some data was available, but not utilized.
- 3) Consequent to the hearings they held, they made some modifications to higher income payments, but again it is too little and not based on any data.
- 4) Their attitude remains punitive toward payers, reflecting the composition of the Task Force.

**Accountability: not addressed by AB250:** The definitions and implementation of child support in Wisconsin is very much "Payer driven" and minimal, if any, attention is given to the payee with respect to responsibility. I find this to be bad policy, particularly when AB250 makes the correct move to hold both parents accountable for payment of child support. Despite the formulae arrived at for various child support scenarios, once a minimum necessary amount is reached based on economic data, child support over that amount must be justified. For higher income earners in particular, there is very often a definite and often large margin between what is needed to very comfortably support children and what is automatically awarded based on formulae. To me this is unbalanced policy and perpetuates hidden maintenance awards. I urge the Committee to add an important provision of accountability: see section 8 below.

I have reviewed the AB 250 and would offer the following comments:

- 1) I favor AB 250 if they require the Court to impute income to both parents based on a 40 hour week, commensurate with their level of training, education, skills, etc. Even for those with highly specialized training, there must not be any assumption that "equivalent" work cannot be found at a relatively similar level of pay.
- 2) **Section 11. 49.22 (10)** (a) The Committee should not only be required to consider existing data, but have the ability to authorize prospective collection of data in areas where this is deficient, such as in *High-Income Payers*. (b) Child Support Committee: I endorse the broad representation on such a committee to include payers and payees, at both high and low income levels.
- 3) **Section 24. 767.25 (4m)** (b): **Health care expenses:** In my opinion these should be shared equally, not in proportion to monthly income. The higher earner is already paying child support which the payee would appropriately use for such expenses. My rationale is that high support awards, even when modified by formula, are still excessive to basic needs and there is ample funding available within the basic support payment to offset wage disparity. Therefore I urge an equal shared medical expense cost. In parallel and for similar reasons, **child care** should be treated in a similar manner. For the lower income families, this adds more support payment and stress to an already maximized payer. Both these items should remain within basic child support and **NOT** be treated differently. This makes support payments unduly complex in formulation and implementation.
- 4) **Section 767.251 (1) Gross Income:** If a parent is working a basic 40 hour week and that salary is their predominant income source, then other income such as overtime, part-time second job income, and other income such as interest from savings accounts, royalties, etc. should be excluded so as not to penalize those parents willing to generate additional income. The latter should have some ceiling, such as not exceeding 1/3 of their basic income. I believe this would tend to decrease attempts by individuals to divert or conceal income. At higher income levels, it serves no purpose to push the window of gross income for child support higher than what is truly necessary to raise children. Currently in Child Support situations in higher income situations, the awards far exceed what intact families expend on children. This discrepancy opens up another area that the legislature must consider in terms of accountability (see below).

- 5) **Section 767.251 (1) Gross Income (4) (f)** All parents should be considered able to work a 40 hour week and I endorse the Court being required to impute income of both payer and payee.
- 6) **Section 767.251 (2) Amount of Physical Placement:** In contemporary society fathers are much more involved with their children. Research has shown that it is important that both parents have a significant presence in their child's life. Therefore I feel that the Court should always start with the premise of 50:50 placement so that fathers have the traditional bias of primary placement with the mother removed. *There should also be no bias regarding the child's age.*
- 7) **Section 767.251 (3) Gross Monthly Child Support Obligations.** I think AB250's formulae for support calculations are more equitable and sensible than the DWD proposal. The latter is regrettable, without foundation, and should be discarded.
- 8) **Accountability:** Because ideal "intact" families do not spend the amounts on children as calculated under the various formulae (both extant and proposed) at higher income levels, I would advocate that the Committee qualify the formulae as representing a ceiling or maximum for child support. Each case should then be considered on an individual basis with child support needs set forth. The reasons are straightforward: there is no accountability for child support. Once awarded, the payee has no obligation for how the support is utilized. At the time a support payment is being assessed, both parties should submit worksheets similar to those currently used to show their assets and costs to show their child support costs. This should represent the Child Support required, not a statutory hypothetical. The support payment ordered should not exceed what is reasonably estimated for needs with respect to the payee.

I also advocate the requirement for payees to account for support funds received. Child Support is defined as child support to a marital or non-marital child by statute. A payer has the right to know how support is utilized. At higher support awards, there is basically a "hidden maintenance" that is inappropriate and contradicts the intent of child support. There should be no assumption of absolute financial equality of life style between parents even if there is significant income disparity. There should be no presumption that the Court must significantly penalize the higher income earner such that his/her standard of living is unduly compromised to artificially elevate the lower income earner's standard of living. Payee's must be expressly forbidden to use child support for personal expenses of living including such things as using child support for business expenses, etc.

While the State may wish to avoid "micro-managing" a payee's use of child support payments, they concurrently avoid their fiduciary duty to the payer. The key to the quality of life for a child is their parent's time and emotional commitment to them, less so the financial. I certainly do not oppose what is reasonable child support, but the Committee must appreciate the broader spectrum of what truly counts for the emotional and physical health of our children.

Thank you for your efforts in these important issues.  
Paul E. Barkhaus, M.D.





August 6, 2003

My name is Jacquelyn Boggess legal analyst for the Center on Fathers, Families, and Public Policy. The Center is a policy organization that focuses on the impact of national and state welfare and child support policy on never-married, low-income parents and their children. Our center was created, in part, to provide public education and information on the plight of very poor families who are attempting to negotiate these systems. Because of the inadequacy of legal advocacy or policy analysis of these issues from the perspective of very low-income and unemployed poor fathers, our mission has been to concentrate on that perspective.

Our organization was represented on the Department of Workforce Development's Child Support Guidelines Advisory Committee which after a series of productive and educational meetings provided the Department with a report which suggested changes in Wisconsin's current guideline structure for low-income families.

From conversations and focus groups with low-income mothers and fathers in Wisconsin, our experience is that for these parents current guidelines, enforcement tools (such as incarceration), and interest and reimbursement policies can be impossible to withstand and counterproductive to low-income non-custodial parents' efforts to sustain their ability to pay bills owed to the state as reimbursement, support their children, and maintain themselves so that they can work.

There are families in poverty all over the state of Wisconsin. However, eight counties in southeastern Wisconsin, including Milwaukee county and Dane County, have over 88% of the total state TANF (W2) caseload;<sup>1</sup> in 6 of the counties, over 20% of the population earned less than 200% of the federal poverty level in 1999;<sup>2</sup> 65 of the 72 school districts in the state that failed to meet Federal Leave No Child Behind requirements in 2003 are in this region;<sup>3</sup> the state has the highest poverty rate for Asian-American children and the second highest rate for African-American children in the country<sup>4</sup>, and the region includes 95% of the total African-American population in the state<sup>5</sup>; the region includes 5 of the 6 cities in the state with the largest population of homeless children and youth.<sup>6</sup>

Residents of the region are among the most disadvantaged of the state, and what is especially germane to this hearing today is that in 7 of the 8 counties, over 20% of births in 1999 were to single mothers, and in Milwaukee the figure is close to 50%.<sup>7</sup> All of these statistics reflect the serious poverty and disadvantage of men, women, and children in Wisconsin.

We are in complete agreement with those who say that welfare reform has removed the safety net for women, and that mothers need financial support to supplement their very best effort at providing for their children. However, we do not believe that for

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<sup>1</sup> WI Department of Workforce Development (figures from May 2003 total caseloads)

<sup>2</sup> WI 2000 census

<sup>3</sup> Wisconsin State Journal 7/14/03

<sup>4</sup> WisKids Count 2001

<sup>5</sup> Oliver & Yocom 2003

<sup>6</sup> Milwaukee Journal Sentinel, December 2002

<sup>7</sup> WisKids Count 2001

the individual child and her parents—who live in poverty in the communities described above—the existence of a higher child support order will change the reality of the life in those communities. Ordering (or even wishing) that a non-custodial parent command an adequate income to keep themselves alive, and their children out of poverty, will not make it so.

Moreover, in order to make an informed decision about the mathematical formula for the calculation of the amount necessary for them responsibly care for their children, legislators and the people of this state should at the very least be advised (or reminded) that for some (many? most? a few? ....that is what it is important to find out) poor parents the amount of the current support order and the amount the child support enforcement agency and the state of Wisconsin expect them to pay can be completely different.

We believe that it is important to be mindful of the difference between the money custodial parents need to provide for the food, clothing, shelter, and other essential needs of their children, and the amount of the monthly child support bill.

We attended the Guidelines committee meetings with a particular concern about the burdens of the extras; mounting arrears and interest, fees, birth costs, (and about incarceration) for families in this area in particular. These concerns were voiced in the committee meetings, however, we were reminded that the purpose of those meetings was to address ourselves to the guidelines for setting current child support orders. I will take the opportunity today to suggest that some research, some counting some knowing on the

part of those of us who are interested in making sure kids are taken care of, about the actual amounts of money expected of very low-income parents is vital.

As to the matter at hand, of course, lower, more reasonable child support orders which are reflective of a parent's actual ability to pay would, at the very least, decrease the rate at which arrears and interest charges build, and would, therefore, reduce the overall burden on low-income parents.

We understand that individuals and representatives of various groups and agencies in the state strongly disagree with a policy reform that—in their perception—reduces a fathers obligation to provide support for his children and unfairly discounts the overwhelming burden and effort of mothers to provide support. However, given the charge to use our expertise to provide advice on guidelines for current support amounts, the committee recommended a reduction in the guideline amounts for low-income non-custodial parents.

It is also important to point out here that non-custodial parents (or shared placement parents) in Wisconsin are both mothers and fathers. The burden of imputing income against a parent who has extraordinary difficulty (because of lack of skills, substandard education, felony record, or discrimination) securing that income will weigh heavily on mothers as well as fathers in Wisconsin.

We understand that for some children, a reduction of their non-custodial parent's child support obligation will result in less money than there would have been with a higher order. We also understand and share in the concern for those children. We would, however, suggest that the most positive child support policy outcome at this point would be a reduction of the guideline amounts for low-income parents. This is generally, the most responsive to the needs of low-income children and their parents because it acknowledges the realities of life for some of the very poorest, most disconnected families in Wisconsin.



**Matzen, David**

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**From:** Kestell, Steve  
**Sent:** Wednesday, August 06, 2003 9:27  
**To:** Matzen, David  
**Subject:** FW: Children and Families committee

-----Original Message-----

**From:** Marilyn Henrich [mailto:marilynhenrich@earthlink.net]  
**Sent:** Monday, August 04, 2003 2:15 PM  
**To:** rep.kestell@legis.state.wi.us  
**Subject:** Children and Families committee

Dear Sir;

I read that tomorrow there will be a meeting regarding a bill regarding child support. I am unsure as to what the bill is going to do, but wanted to give my input. My husband has one child from a previous marriage. We have two more together. He pays 17% of his gross income (before taxes, insurance, etc.) to child support for Sabrina. Neither one of us has an issue with him paying child support. We both believe he has a financial as well as emotional responsibility for his daughter. Our concern, however, is that the child support does not seem to be going to support Sabrina. Jack's child support is a little less than \$500.00 per month. We live in Dane County. His ex wife and daughter live in Lincoln County. We sat in a hearing where we discovered that he pays 2 to 3 times as much child support as other people in Lincoln County. Linda (his ex wife) does absolutely no transporting of Sabrina, although the court order says she's suppose to meet us half way. She calls collect and has Sabrina do the same. She states she can not afford to meet us halfway. Sabrina gets free lunch at school. Linda's trailer and land payment are about \$300.00 a month. Figuring in Sabrina's share of groceries, utilities, etc. We come up with about \$450.00 total. Are we mistaken or is Sabrina's mom responsible for half of that? That would mean Linda is getting an extra \$225.00 a month for what? Linda continually tells Sabrina she can't afford this and that and has Sabrina ask us for anything "extra" IE; extra curricular activities, school clothes, etc. Linda does own approximately 12 horses. She works about 6-12 hours a week. She states she can't work more than that because of her back. Yet she still rides horses? Sabrina is Linda's youngest child. Her two older boys are 17 1/2 and 20 years of age. Their father pays no child support, the last several years because he's been in prison. Most recently Sabrina told us that she and her mom "made a deal" instead of getting her \$7.00 a week allowance for caring for the horses, cows, chickens, cats, dogs, doing laundry, dishes, house cleaning her mom would keep it and then give her one of her dad's child support checks to go "school shopping" with. In other words, Sabrina is paying for her own school clothes. I realize the vast majority of women use the child support responsibly and probably don't get enough. I believe, however, that there should be some type of safety net in place for women like Sabrina's mom. Linda should be allowed to use a portion of the money for household not "horsehold" expenses and ensure that Sabrina's needs are being met. She is on Medical Assistance and receives other monies from the gov't, yet she can afford a 20 acre hobby farm? I hope that your bill will look at the fact the cost of living differences in various municipalities as well as some type of mechanism to stop people like Linda from essentially stealing from her child. I haven't heard her do it in a long time, but she use to refer to the child support as "her salary". Yes we have tried the courts, but apparently there is no mechanism in place to fix this. We don't have the money to pay for a lengthy child support or child custody battle. Please ensure that when you examine the issues regarding child support that the needs of the child are first and foremost, placement and non placement parents treated fairly and equally. Thank you for your time. Marilyn Henrich, 201 Vintage Lane, Cottage Grove, WI 53527

Marilyn Henrich  
[marilynhenrich@earthlink.net](mailto:marilynhenrich@earthlink.net)  
Why Wait? Move to EarthLink.

08/06/2003

Marc B. Kotz  
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August 6, 2003

Representative Steve Kestell, Chair  
Committee on Children and Families  
P.O. Box 8952  
Madison, 53708-7882

Dear Representative Kestell:

I am writing you in lieu of personal appearance at hearings for the proposed DWD 40 changes as well as AB250/SB1556, scheduled for Thursday August 7, 2003. I request that my testimony be included in consideration for this administrative rule change and legislative bills.

I urge you to press for alterations to the proposed DWD rule changes, and support the passage of AB250/SB1556 consistent with the following observations of how current child support regulations affect myself and countless other parents of secondary placement (usually fathers).

Despite changes in Wisconsin child custody/support laws implemented in the year 2000, there persists unequal advantage and preference towards parents of primary placement in the Family Court System. And because being the parent of primary placement is often inequitably rewarded financially, there is added incentive to litigate in order to receive that preferential position. I can not say to you strongly enough that this kind of financial incentive is destructive to the well being of our children, and does not protect individual rights of either child or parent. It is simply unconscionable that state law officially advocates cooperation of both parents as being in the "best interest" of the child, while actually promoting adversity and litigation in divorce. Perhaps a parent who chooses to not be involved with their child is dealt with fairly under current laws, but the majority of parents of secondary placement that wish to be active in their children's lives continually encounter hurdles and discouragement from doing so if it is against the parent of primary placement's wishes.

I am one such parent who has struggled to stay in my (now) seven year-old daughter's life due to work circumstances that have prevented me from living full-time in her community of residence. Finally, I am in a position where I no longer have to travel hundreds of miles each week, maintain two residences, and pay standard child support for the privilege to parent her. Seven years of these conditions has devastated my financial status, shattered me emotional life and strained all other resources I have to the limit. Fortunately, I have established an excellent (if limited) relationship with my daughter. I am realistic that the struggle is not over, however. Simply by virtue of the fact that my daughter's mother (my ex-wife) wishes to maintain control and enjoy the economic advantages, I will have an uphill battle in recovering from the position of being a "marginalized" parent. Unfortunately, there are various legal inequities as well as ingrained prejudice in the court that my ex-wife can play to her advantage. This will make it doubly hard for me to recover a reasonable financial status and participate fully in my daughter's upbringing.



These are areas in which the national campaign against "deadbeat" parents (i.e., "dads") has done a huge disservice to the objective of equal parenting. I implore you to be ever vigilant in ferreting out the remaining inequities in state policy, whether they are of legislative or administrative nature. Below are specific revisions to the proposed DWD administrative rule changes that I request you introduce, and I hope that you will support the passage of AB250/SB1556 as well.

### **CR03-022: DWD 40 Child Support Percentage of Income Standard**

The following modifications to the proposed rule are requested:

A. SECTION 1: EFFECT OF RULE CHANGE: *In some shared placement cases, this standard corrects significant unfairness problems resulting from the use of the current standard, however this proposal does not allow a parent to easily correct an existing unfair order. This section should be modified to allow a phase in plan to easily correct these problems and should read:*

*"After 33 months from the effective date of the last child support order, if the amount of child support under the revised order by using the method of calculating child support under this chapter will differ from the amount under the last order by at least 20% of the amount under the last order or by at least \$60 per month, shall constitute a substantial change of circumstances sufficient to justify a revision of a judgment or order under s. 767.32, Stats.*

B. SECTION 7: item 10: "All other income, whether taxable or not": *This is a broad and vague definition which could result in unnecessary litigation in some cases. This section should be modified to read:*

*"All other income considered as income for income tax purposes"*

C. SECTION 27 Item (6) DETERMINE CHILD SUPPORT BEFORE MAINTENANCE: *This provision is inconsistent with IRS definition of maintenance income. Maintenance is considered the income of the person who receives it, not the person who is obligated to pay it to an ex-spouse. This will present significant unfairness issues in some cases. This section should be modified to read:*

(6) MAINTENANCE INCOME: *The court shall subtract all court ordered maintenance payments from the income of the person ordered to pay them, and shall include this as income of the parent that receives these payments, before calculating the child support order.*

D. SECTION 29, 30, 31, 32, *include provisions for special circumstances, however, these allow the court to use these provisions, rather than requiring the courts to use them. Thus a court can arbitrarily use them or not, without giving any reason for doing so. This may result in significantly different orders in similar cases and fails to meet an important purpose of this standard, namely to have uniformity and predictability. This will lead to unnecessary litigation. The MAY in these provisions should be changed to SHALL.*

Thank you for your consideration and attention.

Sincerely, Marc B. Kotz