

IN THE IOWA DISTRICT COURT FOR HARDIN COUNTY

<p>KASEY HILPIPRE as next friend and natural guardian of R.H., a minor, and INDIVIDUALLY on her own behalf,</p> <p>Plaintiffs,</p> <p>v.</p> <p>DEAN HILPIPRE,</p> <p>Defendant.</p>	<p>CASE No.</p> <p><u>AMENDED</u> MOTION FOR TEMPORARY INJUNCTION</p>
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COME NOW Plaintiffs, by and through counsel, and hereby submit their Amended Motion for Temporary Injunction, stating to the Court as follows:

1. Plaintiff R.H. has suffered irreparable damage as a result of having been molested by her paternal grandfather, as outlined in her Petition and Jury Demand.
2. Plaintiff brings her claims against Defendant Dean Hilpipre under the common law theories of sexual assault, assault and battery, false imprisonment, and tortious infliction of emotional distress.
3. As a result of his abuse of Plaintiff R.H., Defendant Hilpipre was criminally charged with two counts of Sexual Abuse in the Second Degree. His charges were later reduced as part of a plea deal with the State to one count of Lascivious Acts with a Child in violation of Iowa Code Section 709.8(1).
4. As a part of his plea deal, Defendant Hilpipre was required to admit to committing the acts outlined in Plaintiff's Petition in open court.
5. The law which Defendant Hilpipre admits to violating, "Lascivious acts with a child," prohibits the following actions with a child:

- (1) Fondle or touch the pubes or genitals of a child.
- (2) Permit or cause a child to fondle or touch the person's genitals or pubes.
- (3) Cause the touching of the person's genitals to any part of the body of a child.
- (4) Solicit the child to engage in a sex act or solicit a person to arrange a sex act with a child.
- (5) Inflict pain or discomfort upon a child or permit a child to inflict pain or discomfort on the person. Iowa Code 709.8 (2017).

6. Plaintiff believes that she has a high likelihood of prevailing on the claims made in her Petition.

7. Defendant was given probation after pleading to molesting Plaintiff repeatedly and causing her enormous ongoing permanent harm on purpose and with illegal intent.

8. Plaintiff has a right to have her abuser punished in some way for his intentional tortious conduct.

9. The criminal justice system did virtually nothing to punish him and Plaintiff can never recover if her abuser is not made to pay for his intentional torts against her.

10. In a civil action at law, the only remedy for injuries suffered are monetary damages.

11. Plaintiff has suffered emotional and psychological injuries which her counsel believes entitles her to a damage award well in excess of \$1,000,000. *See* Affidavit of Roxanne Barton Conlin.

12. While normally judgment proof, Defendant Hilpipre currently has at least \$100,000 in his possession as a result of recently winning the Iowa Lottery. *See* Attachment A.

13. On information and belief, Defendant Hilpipre has plans to move out of the town of Alden, Iowa, and to use his lottery winnings to purchase a home in another part of the state. *See* Attachment A; Affidavit of Kasey Hilpipre.

14. Under Iowa Rule of Civil Procedure 1.502(1)-(3), the court may grant a temporary injunction under any of the following circumstances:

- (1) When the petition, supported by an affidavit, shows the plaintiff is entitled to relief which includes restraining the commission or continuance of some act which would greatly or irreparably injure the plaintiff.
- (2) Where, during the litigation, it appears that a party is doing, procuring or suffering to be done, or threatens or is about to do, an act violating the other party's right respecting the subject of the action and tending to make the judgment ineffectual.
- (3) In any case specially authorized by statute.

15. Under Iowa Rule of Civil Procedure 1.1506, a temporary injunction may be granted by the judge of the court in which the action is or will be pending.

16. As such, Plaintiff moves this court to grant a temporary injunction which would prevent Defendant Hilpipe from purchasing a house with the \$100,000 in Iowa Lottery winnings that he currently has in his possession, or taking any other action to reduce or expend any of his lottery winnings pending the outcome of Plaintiff's civil action.

17. Traditionally, it may be said "that whenever one person has in his hands money equitably belonging to another, that other person may recover it by an action for money had and received, and the remedy at law is adequate and complete." *Berry Seed Co. v. Hutchings*, 74 N.W.2d 233, 236-37 (Iowa 1956). While this may be true in most actions at law, a substantial injustice arises when a Plaintiff is grievously wronged and her only path forward is to bring an action against a judgment-proof defendant.

18. If Defendant Hilpipre is permitted to spend the money in his possession and to once again become judgment-proof, Plaintiff would suffer a great and irreparable injury as the only remedy available to her will have been extinguished. *See* I.R.C.P. 1.1502(1).

19. Under Iowa Rule of Civil Procedure 1.1507, the court may require reasonable notice be given to the party to be enjoined. Plaintiff requests that the court waive this notice requirement, given the potential for Defendant Hilpipre to spend the aforementioned money prior to the court's grant of a temporary injunction.

WHEREFORE, Plaintiffs pray the court grant their Motion for Temporary Injunction and waive the notice requirement under I.R.C.P. 1.1507.

Respectfully submitted,

/s/ Roxanne Conlin
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