

**FILED**  
AUG 28 2023  
KITSAP COUNTY CLERK  
DAVID T. LEWIS III

Superior Court of Washington, County of Kitsap

In re the parenting & support of:  
Adeline Marylynn Feulner, (child)

Petitioner/s (*person/s who started this case*):

Heather Lynn Wood (mother)

And Respondent/s (*other party/parties*):

Lenard Ray Feulner (father)

No. 07-3-01713-1

Emergency Ex Parte Motion to Recuse  
Heather Wood

RE: Void/Vacate/Recuse Commissioner  
Clucas

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**Motion to Recuse & Objections**

**TO: The Kitsap County Superior Court Clerk, 614 Division St #202, Port Orchard, WA 98366, (360) 337-716; AND**

**Lenard Feulner, Respondent, 4101 Anderson Hill Rd. SW, Port Orchard, WA 98367, lilmissarries@yahoo.com**

**I Identity of the Parties & Jurisdiction**

**COMES now, Heather Wood, pro se of necessity, without counsel, indigent, in Forma Pauperis to make the Objections noted here and seek the following relief:**

**JURISDICTION & VENUE**

**While the instant case is properly within Kitsap County's Family Court subject matter and in personum jurisdiction due to the minor child's birth and both litigant's residency in Washington State, the kangaroo unlawfully held impromptu hearing on 8-15-23 before Commissioner Clucas, without a scintilla of due process after the regularly scheduled MTSC hearing was disposed of and Lenard Feulner's motion dismissed, it had no such jurisdiction nor authority when it subsequently lured the parties back into the courtroom with no notice in collusion with two non-participating attorneys who observed a commotion/altercation between Heather Wood, mother, and Adeline, her child, OUTSIDE the courtroom in the hallway/lobby where it ensued.**

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XP Motion of Heather Wood to  
Recuse Commissioner Clucas

& OBJECTIONS

p. 1 of 15

Heather L Wood, hrwoodo  
9129 James Rd, SW, Rocl

07-3-01713-1  
MT 27  
Motion  
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**(1) OBJECTION 1: Commissioner Clucas was subsequently privately contracted by these two women, local attorneys, Amanda Williams and Laura Yelish, who manipulated the court into unlawfully recalling the case w/o due process, notice, an opportunity to confront the litigants' accusers, and taking statements from the two attorneys on the record w/o swearing them in: i.e. with NO testimony as a basis, and an illegally held hearing at that. Heather Wood takes exception on the record to this outrage and lawless Kangaroo hearing.**

**Heather Wood, the complaining mother in this instance takes exception to this violation of her civil rights and the kidnapping of her child under the pretext of the Court's authority without even the color of State law.**

### **Judicial & Professional Code of Conduct Mandates**

**In Washington State, the recusal (disqualification) of a court commissioner is typically governed by the Washington Code of Judicial Conduct, which sets out ethical standards for judges and court commissioners. Specifically, Canon 3E(1) of the Code of Judicial Conduct addresses the disqualification of judges and court commissioners. This Canon states:**

**"A judge shall disqualify himself or herself in any proceeding in which the judge's impartiality might reasonably be questioned, including but not limited to instances where: (a) the judge has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding; (b) the judge served as a lawyer in the matter in controversy, or a lawyer with whom the judge previously practiced law served during such association as a lawyer concerning the matter, or the judge or lawyer has been a material witness; (c) the judge knows that the judge, the judge's spouse or domestic partner, or a person within the third degree of relationship to either of them, or the spouse or domestic partner of such a person is: (i) a party to the proceeding, or an officer, director, general partner, managing member, or trustee of a party; (ii) acting as a lawyer in the proceeding; (iii) known by the judge to have more than a de minimis interest that could be substantially affected by the proceeding; or (iv) to the judge's knowledge likely to be a material witness in the proceeding."**

**This Canon emphasizes the importance of avoiding situations where a judge or court commissioner's impartiality could be questioned. If a party believes that a court commissioner should be recused due to a conflict of interest, bias, or any other reason mentioned in the Canon, they can typically file a motion requesting the court commissioner's disqualification from the case. The specific procedures and requirements for making such a motion may vary depending on the court's rules and local practices.**

### **II RELIEF SOUGHT**

1. In recognition of the egregious conduct and irregularities cited above, void/vacate, Nunc Pro Tunc, any order depriving/interfering w/Heather Wood's (Mother) ONLY child, Adeline, a 16 year old minor.
2. Commissioner Clucas to recuse himself immediately from this cause and any other litigation involving Heather Wood, the true Petitioner in this case, now or in the future.
3. Enter a finding of fact, and a conclusion of law Commissioner Clucas had no lawful authority to do what he did as cited above during the impromptu hearing culminating in the punishment of Heather Wood for a commotion she did not cause outside the courtroom and had no opportunity to defend herself or participate before being stripped of her parental rights for even 5 seconds in the Kangaroo hearing

### **III Material & Relevant Facts**

1. Contrary to recent Court check boxes marked on the mandatory pattern forms/orders, Heather Wood and Lenard never lived together.
2. Heather Wood and Lenard Feulner had a child in common born in Washington State on 6-2-07 where both resided and continue to today.
3. A Parentage action was filed in WA. State v. Lenad Feulner and Heather Wood, 07-5-00352-8, in which a judgment entered required Mr. Feulner to pay child support for his daughter, Adeline – a fact and order Feulner has resented ever since.
4. Lenard Feulner has threatened Heather Wood on several occasions when she contemplated filing for adjustments in the amount ordered, despite having the ability to pay, and working under the table.

5. On 7-20-23, alarmed by newly discovered evidence of her underage daughter's delinquency and drug use, Heather Wood transported her daughter to the Providence hospital in Chehalis for drug testing.  
.
6. Adeline, Heather's daughter, bridled out of resentment and embarrassment, refusing to return home w/her mother upon discharge.
7. Adeline's father agreed to pick up Adeline and drove her to his 93 year old mother's residence in Port Orchard where Adeline remained for over 15 days. No emergency existed during this entire time, or ever, justifying the stripping of the mother's parental rights and bond w/her daughter.
8. During the above described fortnight, Adeline and Lenad Feulner colluded to file an emergency ex parte show cause hearing in the instant case to strip Heather of her parental rights and property, including insurance proceeds.
9. Judge Houser entered an emergency ex parte order stripping the mother of her parental rights w/o sufficient evidence/proof of an imminent irreversible threat to Adeline or her father's safety/welfare.
10. Judge Houser allowed Lenard Feulner to have his minor daughter, Adeline (the subject of a heated custody battle between the parents, and alienation by the father) to appear in court as a witness testifying against her mother for the most self serving purposes. It is not certain Adeline was sworn in, given Commissioner Clucas' failure to do so for two non-participant local attorneys well known to him and in collusion with the commissioner to pervert court rules, due process, and the laws of Washington State and its code of judicial conduct.
11. The following is a transcript from the audio of the impromptu Kangaroo hearing conducted by Commissioner Clucas on 8-15-23 conducted AFTER this cause had been disposed of earlier the same morning, MTSC denied:

**Clerk: Do you want me to tell them to come in?**

**Clucas: Please.**

**Clucas: Great we're back in the record of the Feulner/Wood case number:**

**07-3-01713-1.**

After the parties stepped out into the hallway I heard a lot of yelling and screaming coming down the hallway and I've been told that there's been a lot of activity including someone calling the police. Miss Yelish is an of - an attorney who is not a part of the \_\_\_ in this matter, and so is Miss Williamson, and apparently they were out there and saw what happened.

Miss Yelish, can you give the court a brief description of what you saw?

Yelish: Um, Yes your honor. I will provide the first half of the incident, and I believe Miss Williamson has some additional information.

Clucas: 'kay

Yelish: But I was in courtroom 210 and I heard elevated voices/raised voices, the mother had a raised voice, yelling at the child and kind of encroached upon the child while she was sitting on the bench. She [mother] indicated the child was coming with her 'cause she had full custody. Child indicated that she did not want to leave. Um, then got up, stood up and the mother was blocking her way at the top of the stairs. They then walked downstairs, security was called. At that point, the mother was still blocking the child from her being able to move out the exit. The child appeared to be telegraphing that she was going to be running, or at least try and get away from the mother. At that point the father was threatened by the male individual with the mother, stating that there was custodial interference of the 1st degree, that he was going to have, you apparently have some kind of charge for that.

Father stepped back and did not participate in the conflict, merely watched.

The child kept edging toward the door.

**Mom became very verbally aggressive, was standing in the child's space.**

**Child then made a run, ran out the door, then immediately out the front door then turned to the right. Father did indicate that she had his car keys on her. So he was concerned that she had keys to the car but security did asked the father to stay back, so he did stay back in there. By the time, time that I walked toward where the child was, it appeared that the child had gotten into the driver's side and pulled the car up onto the sidewalk.**

**Clucas: Pulled the car up into the sidewalk?**

**Yelish: yes, Your Honor. The mother and the male individual who was with her were still there. There still appeared to be some heated conversation going on, however I was not close enough to overhear anything that was happening. At that point I, um, walked back, spoke to the father and then, just kind of um made sure that he was staying back, and at that point, law enforcement had already arrived. There were police on the scene, they were speaking to everybody. At that point I came in to ask Miss Loki if perhaps it would be possible for the parties to supplement the record that something had happened with this child who was, uh, indicating by all intents and purposes that she did not want to be with the mother.**

**Clucas: Miss Wiliamson, is there anything else too that you would like to add?**

**Williamson: I um, oh I was within the same vicinity of Miss Yelish, so I witnessed all of the same things, um, Miss Yelish and I had a discussion.**

**She came by here to ask if you could recall the case, I stayed, um, at the scene**

and I asked the officers if I could speak to the child and I let the officers know that I was a guardian ad litem for children, so I thought that maybe I could be helpful in speaking to the child, and I did have the opportunity to do that and talked with her while we determined if you could recall the case, and while they were talking to the mother, I will..at one point I asked, um, the mother if she could not speak so loudly because the child was hearing everything the mother was reporting to the police, and it was upsetting her. I'll tell the court the child seems genuinely afraid to go home, well, I won't give my opinion, but she did seem genuinely afraid to go home. She did walk back to the courthouse with Miss Yelish and when she was

outside she indicated that she could have spoken to you herself, but we told her, well, I told her that that's not normally what happens. She seemed very upset, so...

Clucas: Court's signing an order today that states the following: Pending further order of the court, the child shall remain with the father on a temporary basis.

The child shall have visits with the mother at the child's discretion. The court shall review this on September 1, 2023 at 1:30. So pending for the order of the court, sir, the child shall reside with you.

Ma'am you are not to call or reach out to your child unless she reaches out to you. I will see you both back here. Ma'am if ,you had followed that At Risk Youth petition as I told you to do, versus trying to cause a scene in the courthouse requiring law enforcement to come, you could do so, and I will

**review the status on September 1st.**

**Will you please make copies for these folks, get them copies here, and**

**Officer, if you will please help them find their way out of the court house  
safely.**

**Thank you all. We're at recess.**

**12. Contrary to the above claim at the bottom of page 5, I did NOT yell at my child, Adeline, nor was I ever given an opportunity to confront/cross-examine the mistaken statements of the unsworn attorney manipulating the court in violation of her Professional Code of ethics and the most fundamental of my civil rights.**

**13. Commissioner Clucas broke every code of ethics and due process in the books when he elected to convene his Kangaroo hearing after disposing of the case earlier and denying Feulner's motion. The above transcript of the audio from the Kangaroo hearing session is replete with admissions of collusion between the 2 local non-participant lawyers named and Commissioner Clucas. Regardless of his decision to recuse himself (discretionary) It is anticipated Clucas will be subpoenaed as a witness in their lawsuit for damages against the two attorneys, personally. Having not been sworn in publicly on the record, they are not immune to such a lawsuit for damages, nor is the Commissioner immune from responding to process—the very element he egregiously ignored in the impromptu Kangaroo hearing referenced above on the record.**

**I declare under penalty of perjury of the laws of the State of Washington and pursuant to GENERAL Court RULE 13 and RCW 9A.72.085 that the foregoing is true and correct.**

**DATED this 27th day of August , 2023, in the County of Thurston, WA.**

A handwritten signature in black ink that reads "Heather Wood". The signature is written in a cursive, flowing style.



#### IV Argument, Points & Authorities

1. **Although, under Washington State law and U.S. Supreme Court precedent, recusals are discretionary, under the circumstances so egregious in this case as described above, a refusal to recuse himself by Commissioner Clucass would be construed as an abuse of discretion because no reasonable competent jurist/judge in America would see the Commissioner's action and punishment of Heather Wood, the mother in this case, as reasonable or anything other than vindictive, capricious, oppressive, and arbitrary. Commissioner Clucas chose to preside over a lawless hearing of his own making out of pique. The audio, referenced above speaks for itself and is an embarrassment to the Family Court of Kitsap County, save for Judge Houser. It is more than likely Heather Wood cannot receive a fair hearing in that venue.**
2. RCW 4.12.050 - Disqualification of Judge: This statute outlines the circumstances under which a judge must disqualify themselves from a case due to personal bias, prejudice, or other grounds for disqualification. It's important to note that this statute might have been updated or revised after my last knowledge update.
3. Code of Judicial Conduct:  
The Washington State Code of Judicial Conduct sets forth ethical guidelines and rules for judges. Canon 3E(1) of the Code specifically addresses disqualification and recusal. It states that a judge shall disqualify themselves in any proceeding in which the judge's impartiality might reasonably be questioned, including situations where the judge has a personal bias or prejudice concerning a party or a personal interest in the case.
4. **It is inherently within the power of the court to grant the relief sought as well as the right thing to do. Lawless pique carried out in Family Court without even so much as the color of State law should not and cannot be tolerated.**

#### Grounds for Motion to Recuse Judge

5. **While the grounds for a finding of abuse of judicial discretion are high, they have been more than met in the instant case as described and recorded**

above. No competent reasonable judge would have conducted the impromptu ad hoc sua sponte hearing Commissioner Clucas did on 8-15-23 subsequent to this cause being disposed of earlier on the same morning. The denial of Heather Wood's civil and parental rights wasn't a close call, but complete.

6. All parties are entitled to a fair trial, which requires that the judge overseeing the trial be completely impartial. See *Caperton v. A.T. Massey Coal Co.*, 556 U.S. 868 (2009); *Hope v. Charlotte-Mecklenburg Bd. of Educ.*, 110 N.C. App. 599 (1993). If either the state or the defendant believe that circumstances exist that would prevent the trial judge from carrying out his or her duties in an impartial manner, the party may move the court for recusal on the following grounds:

7. Statutory

Per G.S. 15A-1223(b) and (e), a party may move that the trial judge disqualify himself or herself from a hearing or trial on the grounds that the judge is:

- a. Prejudiced against either party;
- b. Closely related by blood or marriage to the defendant;
- c. A witness for or against one of the parties in the case; or
- d. Unable to perform the duties required of him or her for any other reason.

**Washington's Code of Judicial Conduct provides that upon the motion of any party, a judge should disqualify himself or herself in a proceeding in which his or her impartiality may reasonably be questioned, including but not limited to instances where he or she has a personal bias or prejudice concerning a party.**

8. Due Process

**Although it will apply "only in the most extreme of cases," such as here, a party may also move for a judge's recusal on due process grounds if one or more of the following circumstances exist:**

- a. The judge has a direct, personal, and substantial pecuniary interest in the outcome of the case;
  - b. The court is structured such that the judge may be tempted to impose a fine because the judge's governmental entity would benefit (e.g., where judge was also the mayor, and imposing fines would benefit the town's budget);
  - c. The judge trying the criminal case was responsible for initially bringing the criminal charges, or in contempt cases where judge has a strong personal interest in the outcome; and/or
  - d. One party has made a campaign contribution to the judge that was large enough to have likely affected the outcome, and knowing that the party's case would come before that judge.
  - e. See *Caperton v. A.T. Massey Coal Co.*, 556 U.S. 868 (2009) (key inquiry for due process analysis is whether there exists a "constitutionally intolerable probability of actual bias"); *Aetna Life Ins. Co. v. Lavoie*, 475 U.S. 813 (1986) (allegations of judge's bias based on "general frustration with insurance companies" were "insufficient to establish any constitutional violation"); *Ward v. Monroeville*, 409 U.S. 57 (1972) (finding due process violation where mayor also sat as judge hearing traffic violations, and thus stood to benefit financially from fines, costs, and fees collected in court).
9. While not a criminal case as outlined in 'c' (ibid), here, Commissioner Clucas in collusion with the 2 local non-participant attorneys cited above in III(11), well known to Clucas by his own admission, was completely responsible for reconvening what amounted to a Kangaroo hearing completely devoid of any due process, notice, consent, swearing of putative witnesses, confrontation of the mother's accusers, or recourse before being stripped of her parental rights w/o representation. Commissioner's glib instructions to the mother about pursuing an ARY remedy were stonewalled by the agency due to the Commissioner's unlawful removal of the at risk child from the mother's custody—Catch 22! Having cruelly set up the mother for failure, the Commissioner added insult to injury by prohibiting any contact by he mother with her delinquent child except pursuant to the child's largesse. JFK said in his inaugural address to Congress, "The rights of man do not flow from the largess of government, but are endowed upon us by our Creator."
10. Standing alone, "a mere allegation of bias or prejudice is inadequate to compel recusal." *State v. Moffitt*, 185 N.C. App. 308 (2007).

See *State v. Kennedy*, 110 N.C. App. 302, 305 (1993) (allegation that the judge's wife had been seriously injured by an impaired driver, without more, did not show the requisite bias or prejudice and did not disqualify superior court judge from presiding over trial); *State v. Honaker*, 111 N.C. App. 216 (1993) (defendant who alleged that judge made biased comment, necessitating recusal, has burden of producing record or other evidence proving that judge made the remark and context of remark).

11. Instead, the party moving to disqualify a judge must "demonstrate objectively that grounds for disqualification actually exist. Such a showing must consist of substantial evidence that there exists such a personal bias, prejudice or interest on the part of the judge that the judge would be unable to rule impartially." *State v. Fie*, 320 N.C. 626, 627 (1987); accord *State v. Honaker*, 111 N.C. App. 216 (1993); *In re Nakell*, 104 N.C. App. 638 (1991) (stating that where judge is embroiled in personal dispute with defendant, maintaining appearance of absolute impartiality and fairness may require judge to recuse himself).
12. Here, there can be no doubt as to the evidence for it issues from Commissioner Clucas' own mouth as reflected in the transcript of the audio from the impromptu Kangaroo hearing he orchestrated.
13. As noted above, the standard for ordering recusal is whether there are reasonable grounds to question the judge's objectivity. The judge is only required to order recusal (or refer the matter over to another judge to decide whether recusal is necessary) if a reasonable person, knowing all the facts, would have doubts about the judge's ability to be impartial in the case.
14. The general rule is that, to warrant recusal, a judge's expression of an opinion about the merits of a case, or his familiarity with the facts or the parties, must have originated in a source outside the case itself. This is referred to in the United States as the "extrajudicial source rule" and was recognized as a general presumption, although not an invariable one, in the 1994 U.S. Supreme Court decision in *Liteky v. United States*.
15. At times justices or judges will recuse themselves *sua sponte* (on their own motion), recognizing that facts leading to their disqualification are present. However, where such facts exist, a party to the case may suggest recusal. Generally, each judge is the arbiter of a motion for the judge's recusal, which is addressed to the judge's conscience and discretion. However, where lower courts are concerned, an erroneous refusal to recuse in a

clear case can be reviewed on appeal or, under extreme circumstances, by a petition for a writ of prohibition.

16. A judge who has grounds to recuse himself is expected to do so. If a judge does not know that grounds exist to recuse themselves the error is harmless. If a judge does not recuse themselves when they should have known to do so, they may be subject to sanctions, which vary by jurisdiction. Depending on the jurisdiction, if an appellate court finds a judgment to have been made when the judge in question should have been recused, it may set aside the judgment and return the case for retrial.

17. In re the Honorable Mary Ann Ottinger

CJC No. 4475-F-119

May 5, 2006

The Commission conducted a public hearing on allegations that Judge Mary Ann Ottinger of the King County District Court violated Canons 1, 2(A), and 3(A)(1) by routinely failing to adequately advise unrepresented criminal defendants of their constitutional due process rights. The Commission found that the misconduct occurred and was compounded by the fact that Respondent was previously censured by the Commission for similar behavior (CJC 3811-F-110). The Commission censured Judge Ottinger and recommended to the Washington State Supreme Court that she be suspended from office for thirty days without pay. The State Supreme Court affirmed the Commission's decision and suspended Judge Ottinger for thirty days.

Supreme Court Order In re Ottinger, No. 200,389-3 filed 7/20/2006.

Commission Decision filed 5/5/2006.

Answer to Statement of Charges filed 6/30/2005.

Statement of Charges filed 6/14/2005.

18. In re the Honorable Rudolph J. Tollefson

CJC No. 2699-F-81

August 21, 2000

On December 16, 1999, the Commission filed a Statement of Charges alleging that Judge Rudolph J. Tollefson of the Pierce County Superior Court violated the Code of Judicial Conduct by using intemperate and abusive language and behavior towards court staff and another judge; engaging in improper conduct by entering ex parte orders when he was a district court judge; engaging in ex parte contacts and failing to maintain his impartiality in

a child custody matter pending before him; including undertaking an ex parte investigation outside the courtroom; and failing to maintain, enforce, and observe high standards of judicial conduct so that the integrity and independence of the judiciary would be preserved.

Judge Tollefson agreed that there was sufficient evidence to establish his described conduct and that such conduct violated Canons 1, 2 (A), 2 (B), 3 (A)(1, 2, 3, 4, 5 and 7), 3 (B)(1), 3 (B)(3), and 3 (D)(1) of the Code of Judicial Conduct. The judge agreed to a censure, to take a course in judicial ethics, and to participate in anger management therapy. The judge further agreed to a five-month suspension without pay. The State Supreme Court approved the stipulation and suspended Judge Tollefson for five months without pay.

Certification and Order of Completion filed 2/2/2001.

Supreme Court Order In re Honorable Rudolph J. Tollefson In re Tollefson, 70051-6 filed 8/30/2000.

Stipulation, Agreement and Order of Censure, and Recommendation for Suspension filed 8/21/2000.

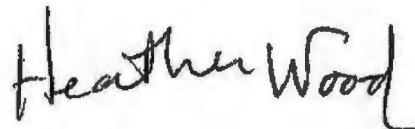
Stipulated Amendment to the Statement of Charges filed 1/31/2000.

Answer to Statement of Charges filed 1/6/2000.

Statement of Charges filed 12/16/1999.

I declare under penalty of perjury of the laws of the State of Washington and pursuant to GENERAL Court RULE 13 and RCW 9A.72.085 that the foregoing is true and correct.

DATED this 27th day of August, 2023, in the County of Thurston, WA.



(Signature)

**Heather Lynn Wood**

(Printed Name)

9129 James Rd, SW

(Address)

Rochester, WA 98579

(City & State)

(Zip Code)