

IN THE 11TH JUDICIAL CIRCUIT COURT OF ST. CHARLES COUNTY, MISSOURI

ANTHONY R. FRIEDMAN, Petitioner,

v.

ALBERT B. PEPPER, Respondent.

Case No.: 2611-PN00554

RESPONDENT’S MOTION TO DISMISS PETITION FOR ORDER OF PROTECTION WITH PREJUDICE, OR IN THE ALTERNATIVE, MOTION FOR CONTINUANCE

COMES NOW Respondent, Albert B. Pepper Jr., and respectfully moves this Court to dismiss the Petition for Order of Protection **with prejudice**. In the alternative, if the Court declines to grant dismissal, Respondent moves for a continuance (20 days). In support thereof, Respondent states as follows:

I. THE PETITION SHOULD BE DISMISSED BECAUSE PETITIONER VIOLATED RULE 4-3.3(d) BY OMITTING MATERIAL ADVERSE FACTS IN THE EX PARTE PROCEEDING.

Missouri Rule of Professional Conduct 4-3.3(d) mandates that: “In an ex parte proceeding, a lawyer shall inform the tribunal of all material facts known to the lawyer that will enable the tribunal to make an informed decision, whether or not the facts are adverse.”

In this matter, Petitioner—a licensed attorney—knowingly deprived the Court of material facts essential to determining whether an “emergency” or “**immediate and present danger**” existed.

Specifically:

1. **Motive of Retaliation:** Petitioner failed to disclose that Respondent is the complainant in an active OCDC investigation against him opened Feb. 17, 2026. (File #25-2531-X). *see:* **exhibit - 1**

2. **Pending Civil Litigation:** Petitioner failed to disclose the Spoliation Demand/Notice of forthcoming malpractice tort delivered to him on Oct. 16, 2025. *see: exhibit - 2, 2a*
3. **Prior Administrative Rejections:** Petitioner failed to disclose the disposition of two prior law enforcement agencies, The St. Louis Metropolitan Police Department followed by The St. Charles County Police Department. Both agencies reviewed these identical allegations in early 2025 and declined to find a basis for charges. *see: exhibit - 3, 3a, 3b, 3c, 3d*
4. **Physical Impossibility:** Petitioner failed to disclose Respondent's severe physical limitations and the 95-mile geographic separation, which render the claim of "**immediate and present danger**" a physical impossibility. *see: exhibit - 4*

Because Petitioner breached his professional duty of candor, the Court was induced to issue an Order based on material omissions and false premises. Had these adverse facts been disclosed as required by Rule 4-3.3(d), this Court would have recognized the Petition as a retaliatory business dispute having no **basis in fact** rather than a safety emergency. Therefore, the Petition should be dismissed with prejudice.

II. THE PETITION SHOULD BE DISMISSED BECAUSE NO IMMEDIATE AND PRESENT DANGER EXISTS (RSMo § 455.035)

A. Physical Impossibility of Any Threat

1. Respondent is 64 years old and suffers from a spinal cord injury.
2. Respondent ambulates only with the assistance of a cane. Walking even short distances causes significant fatigue.

3. Respondent resides in a supervised residential care facility on a 500-acre cattle ranch in Doe Run, Missouri (zip 63637), approximately 95 miles from Petitioner's location in St. Charles County. *see: exhibit - 4*
4. Respondent has no vehicle and no valid driver's license.
5. Respondent has not been physically present in St. Charles County for approximately eight years.
6. Respondent only leaves the facility on rare occasions, and only with his parents or under facility staff supervision, with all such outings limited to St. Francois County.
7. Respondent does not own any firearm or weapon of any kind.
8. **Petitioner affirmatively misrepresented to the Court** that Respondent carries, owns or has access to a weapon or firearm by checking the corresponding box on the Petition, with no supporting facts or evidence provided.

Petitioner knew these facts (at minimum points 1,2,3,4,8) at the time of filing. These facts are independently corroborated by:

- Letter/Affidavit from Dennis Crawford, Owner/Licensed Nursing Home Administrator, Crawford Ranch Residential Care, who observes Respondent's conduct, behavior, and state of mind daily. (Three years residency, strict no drug, alcohol, firearms policy, no violent episodes) *see: exhibit - 5*
- Character witness Jennifer Cook, Certified Med Technician [and Licensed Phlebotomist], who also observes Respondent's conduct, behavior, and state of mind daily. Ms. Cook will be appearing at hearing and trial to render character witness testimony.

B. Stale Evidence and No Recent Trigger

1. Petitioner alleges an “ongoing issue” beginning in spring 2024. The timeline is not in dispute. However, the alleged “ongoing issue” ceased in March/April 2025 following Respondent’s commitment to law enforcement “Cease and Desist” instructions. *see: exhibit - 3, 3a, 3b, 3c, 3d*
2. Petitioner’s submitted exhibits contain no identifiable recent trigger or new incident in April 2026 that would suggest a threat of bodily harm. Instead, the exhibits reveal a clear retaliatory motive for seeking an emergency ex parte order with “additional relief sought” to deplatform Respondent's consumer advocacy, citizen journalism. *see: Petitioners exhibit A re-numbered as Respondents exhibit - 6 , Academic, citizen journalist, consumer advocacy exhibits. see: exhibit - 7, 7a, 7b, 7c, 7d, 7e*
3. A vast preponderance of the screenshots are four to twelve months old, with some dating back as much as two years. These screenshots constitute an aggregate lacking context—a recognizable “data dump” submitted to “overwhelm” the issuing court.
4. This stale evidence cannot support a finding of “**immediate and present danger**” under **RSMo § 455.035**. An ex parte order requires a showing of an immediate and present danger. Stale allegations regarding past conduct do not meet the jurisdictional threshold.

See Wallace v. Van Pelt, 969 S.W.2d 380, 382 (Mo. App. W.D. 1998),

CONCLUSION TO II: The Petition should be dismissed because Petitioner failed to establish the statutory foundation for an actual immediate and present danger.

III. PETITIONER’S EVIDENCE LACKS CREDIBILITY AND FAILS TO ESTABLISH HARASSMENT OR STALKING

The screenshots submitted by Petitioner are unreliable because:

1. Many lack timestamps, metadata, URLs, or any proper chain of custody.

2. Prominent screenshots appear manipulated, altered, or negligently captured.
3. The vast preponderance are irrelevant or benign.
4. Even assuming authenticity, the screenshots constitute constitutionally protected citizen journalism and consumer advocacy regarding Petitioner's professional conduct.

Such activity is expressly excluded from the definitions of "harassment" and "stalking" under

RSMo § 455.010, which require a course of conduct that "serves no legitimate purpose."

Respondent's activities in professional accountability and consumer advocacy serve a clear legitimate purpose and are therefore statutorily excluded. *See George v. McLuckie*, 227 S.W.3d 503 (Mo. App. W.D. 2007).

IV. PROCEDURAL NOTICE FOR HEARING

Should this matter proceed to hearing on May 13, 2026 or thereafter:

1. Respondent will not consent to any order and will require a full evidentiary hearing.
2. Respondent requests that Petitioner be ordered to provide clear, unredacted, and timestamped copies of all intended exhibits no later than 48 hours prior to the hearing to ensure judicial economy and prevent trial by ambush. In the alternative, request a brief recess to conduct examination of Petitioner's screenshots to determine which, if any, can be properly authenticated and are relevant under Missouri Rules of Evidence Rule 901.
3. Respondent has no objection to addressing the substance of any properly authenticated and relevant evidence and requests the recess solely for judicial economy and to omit evidence that has been presented for a collateral purpose.

V. ALTERNATIVE MOTION FOR CONTINUANCE

In the alternative, should the Court decline to dismiss the Petition, Respondent moves for a continuance of twenty (20) days. Grounds include:

1. The need to obtain official disposition reports from the 2025 St. Louis Metropolitan Police and St. Charles County Police complaints based on the same allegations.
2. The need to make necessary travel and transportation arrangements due to Respondent's disability and supervised residential care facility residency.
3. Coordinate the schedule of character witness Jennifer Cook with her employment obligations.
4. Respondent renders all assurances that he will continue to fully abide by the existing ex parte Order of Protection during any continuance period.

VI. AFFIRMATIVE DEFENSES

1. Respondent's documented physical disabilities and extreme geographical distance (95 miles) render the Petitioner's allegation of 'immediate and present danger' objectively unreasonable. No reasonable person could find a credible threat of imminent physical harm under these conditions, as such harm is a physical impossibility.
2. Similar allegations were previously investigated by law enforcement in 2025 with no charges filed.
3. Respondent's conduct for which Petitioner is seeking relief constitutes constitutionally protected activity under the First Amendment, **Article I, Section 8 of the Missouri Constitution, and RSMo § 455.010**, and cannot support a finding of harassment or stalking.
4. "During Petitioner's tenure at the Simon Law Firm P.C., and concurrent with his representation of the Respondent, said firm utilized its significant marketing

infrastructure to elevate the Petitioner to a **'limited celebrity use status.'** This public-facing persona, enriched by 'Top-Rated' and 'Rising Star' accolades and professionally created and curated 'info-mercials' continues to serve as the Petitioner's primary commercial identity. Consequently, the Petitioner's professional conduct is a matter of significant public concern, and the Respondent's reporting serves the legitimate purpose of providing a necessary counter-narrative to this enriched persona that creates unjustified expectation of competent representation in an unsophisticated consumer practicing due diligence."

5. The Petition was filed for a retaliatory purpose related to the pending OCDC investigation and was conspicuously applied for at the very time the Complainant, herein Respondent is awaiting Petitioners answers to the O.C.D.C. complaint for review and rebuttal.

Missouri courts have long recognized that the power to issue injunctions or protection orders cannot be used as a **prior restraint** to silence alleged libel or consumer criticism before a full trial on the merits of a defamation claim. *See Overcast v. Billings*, 752 S.W.2d 87 (Mo. App. E.D. 1988); *Wallace v. Van Pelt*, 969 S.W.2d 380 (Mo. App. W.D. 1998) (emphasizing the Adult Abuse Act is not to be lightly invoked given the serious stigma involved).

VII. THE PETITION CONSTITUTES AN ABUSE OF PROCESS

Petitioner's filing is not a good-faith request for protection but a tactical maneuver to achieve a collateral advantage. By seeking an Order of Protection based on stale, non-threatening citizen journalism, Petitioner is attempting to:

1. Effectuate a prior restraint and silence Respondent's constitutionally protected investigations into Petitioner's professional conduct.
2. Retaliate for the OCDC Complaint (File #25-2531-X).
3. Avoid the rigorous standards of a defamation tort—where Petitioner would bear the burden of proving falsity—by misusing the summary nature of an ex parte proceeding under the Adult Abuse Act.
4. Retaliate against Respondent for filing legitimate regulatory and consumer complaints against Petitioner's law practice, including a complaint with the St. Charles County Planning and Zoning Department regarding Petitioner's operation of his law practice from his home without the required home occupation permit. Although these matters have been resolved or are now moot, they illustrate Petitioner's strong retaliatory motive and his pattern of responding to accountability efforts with aggressive legal countermeasures.*see: exhibit - 8, 8a*

These facts, taken together, reveal that Petitioner is improperly weaponizing the Adult Abuse Act—not to address any immediate and present danger of physical harm, but to suppress criticism, investigations, and regulatory scrutiny of his professional conduct. The Adult Abuse Act was designed to prevent domestic violence, stalking, and harassment that serves no legitimate purpose—not to provide an attorney with a convenient shortcut to silence consumer advocacy and citizen journalism. See *Wallace v. Van Pelt*, 969 S.W.2d 380 (Mo. App. W.D. 1998). Such misuse of the Court's process for an ulterior, retaliatory purpose constitutes a clear **abuse of process** and justifies dismissal with prejudice.

On its face, the evidence submitted by Petitioner was insufficient to warrant an ex parte order due to the omission of material facts and the impeachable nature of the stale, manipulated, and

context-lacking screenshots. Petitioner’s own narrative (particularly the request for “Additional Relief” in Petitioner’s **Exhibit A, herein AEOP-1**) *see: exhibit - 6* reveals that any purported fear or stress stems not from bodily harm but from the OCDC investigation and Respondent’s citizen journalism, which Petitioner perceives as an existential threat to his professional license and practice.

The proper mechanism for any defamation concerns is a civil tort action under Missouri law, not an ex parte Order of Protection. As a licensed attorney and officer of the Court, Petitioner is fully aware of the appropriate avenues for relief but has instead chosen this proceeding as a convenient, low-cost anti-SLAPP workaround and abuse of process.

VIII. FORMAL OBJECTION TO USE OF PROCEEDING FOR COLLATERAL DISCOVERY

Respondent hereby objects to the use of this ex parte proceeding as a “pro bono” discovery tool or de facto deposition for collateral civil litigation. Petitioner’s own narrative in Section B of the Application explicitly reveals his true motive: complaints of **“defamatory... statements” and “coordinated efforts to damage [his] professional reputation and interfere with [his] business relationships.”** These are hallmarks of a commercial tort dispute, not a safety emergency.

Examples of the use of collateral discovery may be;

- a) My continued participation in the discovery phase of the O.C.D.C. complaint and the credibility of my witness testimony should the investigation lead to an “information” to be forwarded to the Supreme Court of Missouri.
- b) Testimony and evidence in a defamation tort complaint.

- c) Testimony and evidence in a forthcoming legal malpractice tort complaint naming the Petitioner as defendant as indicated by the delivery of a spoliation demand / letter to preserve evidence. *see: exhibit - 2, 2a*

This Court sits as a tribunal of safety, not a commercial discovery referee. Respondent moves the Court to strike or disregard any line of questioning or evidence that departs from the narrow jurisdictional threshold of “**immediate and present danger**” (RSMo § 455.035) and enters the realm of reputation management. Respondent will not consent to being deposed for Petitioner’s collateral commercial benefit under the guise of a safety petition.

IX. PETITIONER COMES TO THIS COURT WITH UNCLEAN HANDS AND IS BARRED FROM EQUITABLE RELIEF

Under the equitable maxim that “he who comes into equity must come with clean hands,” a petitioner seeking injunctive relief—such as an Order of Protection—must not have engaged in misconduct directly related to the subject matter of the petition. *See, e.g., Precision Investments, LLC v. Mistele*, 498 S.W.3d 100 (Mo. App. W.D. 2016).

Here, Petitioner—a licensed attorney—filed a facially baseless Petition and caused it to be served upon a Respondent who, due to severe documented physical disabilities, advanced age, cane-dependent ambulation, supervised residential care placement, lack of transportation, and 95-mile geographic separation, is physically incapable of engaging in the conduct alleged. This filing and service, viewed in light of the active OCDC disciplinary investigation (File #25-2531-X) in which Respondent is the complainant, the prior Spoliation Demand, and Respondent’s protected consumer advocacy and citizen journalism regarding Petitioner’s professional conduct, constitutes retaliation and harassment.

Petitioner's misuse of the ex parte process to obtain emergency relief, while knowingly omitting material facts in violation of Rule 4-3.3(d), demonstrates bad faith and an improper purpose.

Respondent acknowledges that the clean hands doctrine is an equitable principle, not a statutory command, and its application rests within the broad discretion of the Court. In consideration of the foregoing, Respondent respectfully requests that this Court exercise its discretion to apply the clean hands maxim and dismiss the Petition for Order of Protection with prejudice, while dissolving the Ex Parte Order entered on April 9, 2026.

WHEREFORE, Respondent respectfully prays that this Court:

- a. **Dismiss** the Petition for Order of Protection with prejudice;
- b. **Dissolve** the ex parte Order of Protection entered on April 9, 2026;
- c. **Enter a Finding of Fact** that Petitioner's filing was made in bad faith and for an improper retaliatory purpose;
- d. **Impose Sanctions** against Petitioner pursuant to **Rule 55.03**, in an amount deemed reasonable by this Court to deter further such conduct and to compensate the Court for the misuse of judicial resources; and e. **Grant** such other relief as the Court deems just and proper.

Dated: _____

Respectfully submitted,

/s/ Albert B. Pepper

Albert B. Pepper Jr, Respondent pro se

% Crawford Residential Care
2200 Varvera Rd.

Doe Run, MO 63637

Phone: 314-580-1684

Email: litigant.pro.se.advocate@gmail.com

CERTIFICATE OF SERVICE I hereby certify that on **this 5th day of May, 2026**, a true and correct copy of the foregoing Respondent's Motion to Dismiss was filed with the Court and served upon Petitioner Anthony R. Friedman via Certified U.S. Mail at the following address: 6209 Mid Rivers Mall Dr. Ste. 204 St. Charles, Mo. 63304.

/s/ Albert B. Pepper Albert B. Pepper Jr., Respondent pro se