

FILED

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
CHARLESTON DIVISION

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JULIE J. STRONG  
CLERK OF COURT  
BY: [Signature]

CONSTANCE MILLS,  
a/k/a Constance Mills Haeseley  
Plaintiff (Petitioner, former Wife)

v

Civil Case No:

Assigned to:

DALE WAYNE MILLS,  
Defendant, pro se (Respondent, former husband)

**VERIFIED COMPLAINT**

SOUTH CAROLINA STATUTES PERMANENT ALIMONY SECTIONS  
( § 20-3-120, 130 et al) IMPERMISSIBLY INFRINGE  
THE FEDERAL RIGHT TO PRIVACY, INTER ALIA

"The judicial branch has only one duty --- to lay the article of the  
Constitution which is involved beside the statute which is challenged and to  
decide whether the latter squares with the former. . .the only power it (the  
Court) has. . .is the power of judgement." U.S. v. Butler, 297 US 1 (1936)

**INTRODUCTORY STATEMENT**

- 1) Now comes DALE WAYNE MILLS, through counsel, who asserts, pursuant to 42 U.S.C. 1983, 28 U.S.C. 1441 (a)(b) and (c), 28 U.S.C.1331, 28 U.S.C. 2201, and 28 U.S.C. 1446 that South Carolina Statutes Title 20 Chapter 3 "Divorce" permanent alimony sections § 20-3-120 and 130,

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**INTRODUCTORY STATEMENT**

- 1) Now comes DALE WAYNE MILLS, through counsel, who asserts, pursuant to 42 U.S.C. 1983, 28 U.S.C. 1441 (a)(b) and (c), 28 U.S.C.1331, 28 U.S.C. 2201, and 28 U.S.C. 1446 that South Carolina Statutes Title 20 Chapter 3 "Divorce" permanent alimony sections § 20-3-120 and 130,

- a. impermissibly infringe the U.S. Constitution, Fourteenth Amendment Due Process Clause, Section 2, Liberty interest and fundamental Federal Right to Privacy in the Privacy Protected Zone of “Personal Decisions Relating to Marriage,” i.e. divorce;
- b. impermissibly infringe the U. S. Constitution, Fourteenth Amendment, Section 2, fundamental U.S. Constitution Equal Protection Clause;
- c. impermissibly infringe U.S. Constitution, Thirteenth Amendment as state imposed legal coercion to effect involuntary servitude;
- d. impermissibly infringe the South Carolina Constitution Article I Section 10, Privacy Amendment in the Privacy Protected Zone of “Personal Decisions Relating to Marriage,” i.e. divorce;
- e. enforced, at the voluntary request of CONSTANCE MILLS HAESELEY, through legally insufficient and defective procedures by the Honorable J.P. Segars-Andrews and the Ninth Judicial Circuit Court of South Carolina, in their ministerial capacity, against DALE WAYNE MILLS deprived him of his civil rights in the area of federal Liberty Interest, U.S. Constitution 13<sup>th</sup> and 14<sup>th</sup> Amendment procedural due process and substantive due process Right to Privacy in countervention of 42 U.S.C. 1983.
- f. CONSTANCE MILLS HAESELEY, in concert with the the Honorable J. P. Segars-Andrews and the Ninth Judicial Circuit Court of South Carolina utilized the coercive process of law and legal process related to Title 20 Chapter 3 “Divorce” to deny DALE WAYNE MILLS of his federal Liberty Interest, 13<sup>th</sup> Amendment rights, 14<sup>th</sup> Amendment due process and substantive due process Right to Privacy and Right to property in violation of 42 U.S.C. 1983.

2. DALE WAYNE MILLS also seeks a declaratory judgment under 28 USC 2201 from this court on the above Federal and State question issues as well as a declaratory judgment against Third Party Defendants under 42 USC 1983.
3. This action arises because the Plaintiff has suffered an injury in fact; i.e., his titled property and monies have been assigned to his former spouse by the State of South Carolina, because of the challenged “Divorce” statute permanent alimony sections §20-3-120, 130 inter alia.

Further, because of the challenged statutes, he has been improperly held in contempt, with threat of imprisonment, by the State of South Carolina for failure to fully comply with the challenged statutes.

He has been deprived of his federal Liberty Interest, fundamental Right to Privacy, Property Rights, and Equal Protection Rights under the Fourteenth Amendment of the U.S. Constitution, his Thirteenth Amendment right to be free of involuntary servitude, and his South Carolina Constitution Right to Privacy, Equal Protection and Inalienable Rights to enjoy life and liberty, pursue happiness, and to enjoy the rewards of his industry.

4. The United States Supreme Court has long held that “personal decisions relating to marriage” are fundamental rights (Right to Privacy) protected by the U.S. Constitution, Fourteenth Amendment.
5. The decision of a South Carolinian to divorce is a personal decision relating to marriage.
6. The Defendant asserts that by exercising his fundamental Right to Privacy to divorce, i.e. a “personal decision relating to marriage” South Carolina ‘s “Divorce” statute permanent alimony sections deny him his property rights and permanently enslave him to labor for the benefit of his former spouse or be held in contempt and imprisoned contrary to the U.S.

Constitution Fourteenth Amendment and Thirteenth Amendment, and South Carolina Constitution Article I Section 10 (Right to Privacy).

7. The State of South Carolina is not permitted to intrude upon these fundamental Federal and State Constitutional Rights without proving a compelling state interest is applied in the least intrusive manner and that the interest is substantially furthered by the legislation, i.e. strict scrutiny analysis.
8. South Carolina Statutes §§ 20-3-120,130 mandate that the State has wide discretionary power through its judiciary, with only a judicial standard of equity, to forever strip DALE WAYNE MILLS of his property rights in his earnings and deny him his here enumerated Federal and State Constitutional Rights.
9. The State of South Carolina does not mandate that all South Carolinians who exercise their fundamental Right to Privacy of a “personal decision relating to marriage”, i.e. to divorce, be mandated forever to support their former spouses nor does it require married spouses to support their spouses to the “lifestyle of the marriage” as it mandates spouses dissolving their marriage.
10. A “personal decision relating to marriage”, i.e. to get married, stay married or to divorce, is a recognized Federal and State Liberty Interest and a fundamental Right to Privacy.

### **STANDING, JURISDICTION and VENUE**

11. The jurisdiction of this Court is invoked pursuant to federal question subject matter and the provisions of 28 U.S.C. 1331, 28 U.S.C. 1441 (a) (b) (c) and 28 U.S.C. 1446.

12. The jurisdiction of this Court is invoked pursuant to Article III Section 2 of the U.S.

Constitution; an actual “case or controversy” exists because the Plaintiff is currently subject to jurisdiction of the Defendants and the laws of the State of South Carolina. The challenged statutes of the State of South Carolina have been exercised by the Plaintiff against DALE WAYNE MILLS. DALE WAYNE MILLS has been injured, and continues to be injured, by the challenged statutes and the Plaintiff.

DALE WAYNE MILLS alleges that such a personal stake in the outcome of the controversy assures that “concrete adverseness” which sharpens the presentation of issues upon which the court so largely depends for illumination of difficult constitutional questions.

13. The jurisdiction of this Court is invoked where the federal subject matter is an independent federal question and where the independent question is not inextricably intertwined with any state court judgment.

14. The jurisdiction of this Court is invoked where a federal question exists and the relief requested is prospective declaratory judgment relief and injunctive relief pursuant under 42 USC 1983.

15. Separately, and in addition to, DALE WAYNE MILLS presents a general challenge to the constitutionality of South Carolina Statutes Title 20 Chapter 3 “Divorce” permanent alimony sections §§ 20-3-120,130.

16. DALE WAYNE MILLS is not requesting a divorce decree, alimony, child custody, or other family law decision from this Court.

17. DALE WAYNE MILLS is not requesting that a state court judgment be overturned, altered, modified, or entered by this Court.

18. DALE WAYNE MILLS is requesting declaratory judgment relief and injunctive relief challenging the constitutionality of sections of a state statute as impermissibly infringing the US Constitution Thirteenth and Fourteenth Amendments, 42 USC 1983, and South Carolina Constitution Article I Section 10.
19. There is no bar to declaratory relief and injunctive relief of independent federal questions and/or to a general constitutional challenge of state law.
20. The authority of this Court is further invoked pursuant to the Federal Declaratory Judgment Act and the provisions of 28 U.S.C. 2201.
21. The jurisdiction of this Court is invoked pursuant to the provisions of applicable sections of the U.S. Code that are not specifically asserted and/or are inadvertently omitted in this action that pertain to declaratory relief and the jurisdiction of this court.
22. The jurisdiction of this Court is invoked where the merits of the instant matter are capable of repetition but evade meritorious review.
23. Subject matter jurisdiction of this action is proper because an actual controversy exists among the parties, as well as adverse interests, as to which a declaratory judgment setting forth their rights and obligations under Federal law is necessary and will resolve the active issue, i.e. whether South Carolina Title 20 Chapter 3 “Divorce” permanent alimony sections §120,130 impermissibly infringe the U.S. Constitution 13<sup>th</sup> and 14th Amendment Section 1 Due Process Clause, Right to Privacy, in the Privacy Protected Zone of a “personal decision relating to marriage” as well as impermissibly infringing the South Carolina Constitution, Article I Section 10, Right to Privacy, inter alia (see causes of action).
24. Subject matter jurisdiction is proper under 42 U.S.C. 1983.

## PARTIES

25. DALE WAYNE MILLS, is a Clark County, Indiana resident. DALE WAYNE MILLS is subject to the challenged statute (S.C. §§20-3-120,130) pursuant to a Final Judgment of Dissolution entered 19<sup>th</sup> December, 1996 by the Ninth Judicial Circuit Court of South Carolina and is subject to the enforcement power authorised in Title 20 Chapter 3 to the Ninth Judicial Circuit Court of South Carolina and the South Carolina Department of Revenue.
26. CONSTANCE MILLS HAESELEY, is the former Wife named in the Divorce Proceeding in the Ninth Judicial Circuit Court of South Carolina.
27. The Ninth Judicial Circuit Court of South Carolina is the designated state official to enforce §+20-3-120, 130 sections and as the state official acted, not as a neutral adjudicator but, as an enforcer of the challenged statute against DALE WAYNE MILLS.
28. Burnet R. Maybank, III , in his official capacity, is the Director of the South Carolina Department of Revenue, the state agent directing the agency (State Disbursement Unit) whose mission is, inter alia, the collection of alimony and the enforcement of §§20-3-120, 130 sections.
29. “Under the Supreme Court precedent, when a plaintiff challenges the constitutionality of a rule of law, it is the state official designated to enforce that rule who is the proper defendant, even when that party has made no attempt to enforce the rule. Diamond v. Charles, 476 U.S.54, 64, 106 S. Ct. 1697, 1704, 90 I.Ed. 2d 48 (1986).”
30. Notice is given to the Attorney General of the State of South Carolina because of the declaratory judgment claim challenging the constitutionality of South Carolina Statutes Title 20 Chapter 3 “Divorce” permanent alimony sections (20-3-120,130).

## RELEVANT LAW

“Our law affords constitutional protection to *personal decisions relating to marriage, procreation, contraception, family relationships, child rearing, and education. ... ..* Our precedents ‘have respected the private realm of family life which the state cannot enter.’ These matters, involving the most intimate and personal choices a person may make in a lifetime, choices central to personal dignity and autonomy, are central to the liberty protected by the Fourteenth Amendment. At the heart of liberty is the right to define one’s own concept of existence, of meaning, of the universe, and of the mystery of human life. Beliefs about these matters could not define the attributes of personhood were they formed under compulsion of the State.” (Emphasis Supplied) Planned Parenthood v. Casey, 505 U.S. 833, 859 (1992),

### Federal Right to Privacy

31. The Liberty Interest of the Federal and South Carolina Right to Privacy has currently moved to the forefront of fundamental constitutional rights rulings.
32. The Federal Right to Privacy (U.S. Constitution Fourteenth Amendment Due Process clause) has a long recognized Privacy Protected Zone of “Personal Decisions Relating to Marriage” Carey v. Population Serv. Int’l., 431 U.S. 678, 684-685 (1977), Loving v. Virginia, 388 U.S. 1, 12, 87 S.Ct. 1817 (1967); Zablocki v. Redhail, 434 US 374 (1978)and; Planned Parenthood v. Casey, 505 U.S. 833, 859 (1992), Roe v. Wade, 410 U.S. 113, (1973); Griswold v. Connecticut, 381 U.S. 479 (1965)
33. DALE WAYNE MILLS asserts that the challenged alimony sections (§ 120, 130) are part of the “Divorce” Statute. This Statute is written intruding in the long recognized Privacy Protected Zone of a “personal decision relating to marriage,” i.e. a South Carolinian’s personal decision to divorce.
34. The Right to Privacy attaches to the state statute “Divorce” because its title plainly relates to a South Carolinian’s “personal decision relating to marriage,” i.e. to divorce.
35. Daily South Carolinians make the personal decision relating to their marriage to divorce.

36. Any State statute to which the Federal Right to Privacy attaches is presumed unconstitutional unless the State proves a compelling interest applied in the least intrusive manner, i.e. strict scrutiny. The challenged alimony provisions are thus presumed unconstitutional unless the State of South Carolina proves its burden of the statute having a compelling state interest and that the statute is applied with the least intrusive manner and that the interest is substantially furthered by the legislation.

### **§§20-3-120, 130 Alimony Sections**

37. The alimony sections (§§20-3-120,130) mandate that the state of South Carolina invade a South Carolinian's family, through the judiciary, to examine, evaluate, determine and conclude the terms and nature of the interpersonal relationship, spousal roles, spousal conduct, parental decision making, parenting conduct, parental spending, economic standard of living, occupations, education, savings, assets, charitable contributions and most importantly the intimate emotional, psychological and physical details of the parties and family during their marriage granting the judiciary a broad range of discretion to apply a property stripping statute with a standard of equity, with a threat of contempt and imprisonment.

38. The State of South Carolina has never exhorted or proved a compelling state interest for the permanent alimony sections.

39. § 130 annunciates over 2<sup>20</sup> permutations then includes the phrase “ (13) such other factors the court considers relevant.” from which the State of South Carolina may choose as reasons to burden a South Carolinian with lifetime alimony.

### **Alimony**

40. There is no common law basis for alimony. It is merely a statute and as such must comport with the Federal and State Constitutions.<sup>1</sup>

41. Coverture, the rationale for alimony is dead as a legal doctrine.

### **Federal Equal Protection**

42. §20-3-120, 130 constructed as noted above cannot facially nor as applied be implemented equally among all South Carolinians exercising their fundamental privacy protected right to divorce.

43. Marriage has achieved the status of a suspect class. Federal statutes routinely classify marital status along with suspect classes. See, e.g., 12 U.S.C. § 3106a (1) (b)(foreign banks must conduct operations in compliance with laws prohibiting discrimination on the basis of race, national origin, marital status); 5 U.S.C. § 7204(b) (“...[D]iscrimination because of race, color, creed, sex, or marital status is prohibited with respect to an individual or a position held by an individual”); 15 U.S.C. § 1691(a)(1)(unlawful for creditor to discriminate on the basis of sex, race, religion, national origin, or marital status); 20 U.S.C. § 1087tt(c)(unlawful to discriminate in loaning money on basis of sex, race, religion, national origin, or marital status); 20 U.S.C. § 1071(a)(2)(same, for credit or insurance).

44. The State of South Carolina does not intrude in the Privacy Protected Zone of economic, private, intimate, and personal areas of South Carolinians who plan to marry or who are married as it does with South Carolinians divorcing.

45. The State of South Carolina does not intrude and mandate that a South Carolinian in an intact marriage provide the same level of economic support—“lifestyle of the marriage”— that the

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<sup>1</sup> “At common law there was no right to alimony at all. Divorce was not a function of the judiciary... The so-called 'right' to alimony does not exist as an incident to divorce A vinculo unless it is granted by statute.” *Pacheco v. Pacheco*, 246 So.2d 778, 780 (Fla.1971).

State of South Carolina mandates an unmarried former spouse provide after exercising his personal decision relating to marriage to divorce.

46. The State of South Carolina does not subject all South Carolinians who wish to divorce to §§ 20-3-120,130. It only applies the statute for the benefit of those South Carolinians who plead for alimony when divorcing.

47. The State of South Carolina, as relates to permanent alimony, treats differently South Carolinians starting a marriage versus those dissolving a marriage; treats differently, as relates to alimony, some South Carolinians divorcing compared with other South Carolinians divorcing; treats differently, as relates to alimony, South Carolinians during a marriage compared with the same South Carolinians after they divorce.

48. DALE WAYNE MILLS asserts the state has no compelling state interest nor even a rationally related interest for such variability in stripping property rights from South Carolinians and permanently enslaving only some of them to work for a former spouse.

49. The State of South Carolina never has, and cannot articulate a compelling state interest applied in the least intrusive manner, and that the interest is substantially furthered by the legislation, to satisfy the strict scrutiny test to validate the alimony statute on equal protection grounds.

50. The State of South Carolina never has, and cannot even articulate a rationally related interest for the statute. A rationally related interest should be evident and found in the purposes of the statute. It should apply to all South Carolinians divorcing, contested or uncontested, §§20-3-120, 130 permanent alimony pled or not pled.

### **Thirteenth Amendment**

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51. Involuntary servitude is prohibited by the Thirteenth Amendment to the U.S. Constitution. While the term is easily definable, the “exact range of conditions it prohibits” is not so evident. In a fairly recent case, United States v. Kozminski, 487 U.S. 931, 942 (1998) the Supreme Court defined the term as a compulsory condition “in which a person lacks liberty especially to determine one’s course of action or way of life.”
52. The Kozminski Court held that involuntary servitude “necessarily means a condition...in which the victim is forced to work for [another] by the use or threat of physical restraint or physical injury, or by the use or threat of coercion through law or the legal process.”
53. The use of law or the threat of legal coercion by a South Carolinian to induce involuntary servitude is thus a recognized violation of the Thirteenth Amendment. United States v. Kozminski, 487 U.S. 931, (1998).
54. “...the Amendment’s drafters thought that involuntary servitude generally includes situations in which the victim is compelled to work by law.” United States v. Kozminski, 487 U.S. 931, 931 (1998).
55. S.C. Title 20 Chapter 3 “Divorce” permanent alimony sections, when entered against a South Carolinian compels him to work by law and with further coercion by law of contempt proceedings and imprisonment.

### **South Carolina Privacy Amendment**

56. South Carolina’s Right of Privacy is contained in South Carolina Constitution Article I Section 10.
57. Singleton v. State, 437 SE.2d 53 (SC 1993) defined the scope of the South Carolina Right of Privacy to include autonomous decision making in privacy protected zones.

## **42 U.S.C. 1983**

58. 42 USC 1983 provides a private right of action against parties acting "under color of any statute, ordinance, regulation, custom, or usage, of any State" to redress the deprivation of rights secured by the United States Constitution or federal law.
59. 42 USC 1983, despite 1996 Congressional changes to the statute, permits a judge to be sued without a defense of judicial immunity when the judge is not a neutral adjudicator, but has statutorily granted enforcement power and as such is an enforcer of the challenged statutes, and the only relief requested is declaratory judgment. (Brandon E. Ex Rel. Listenbee v. Reynolds, 201 F. 3d 194 (3<sup>rd</sup> Cir. 2000).
60. DALE WAYNE MILLS has had difficulty obtaining counsel to remove his case and raise the federal questions entered here.

## **FACTS**

61. DALE WAYNE MILLS is a 52 year old Sales Manager.
62. CONSTANCE MILLS HAESELEY is a 52 year old woman with a cosmetology degree.
63. DALE WAYNE MILLS, and CONSTANCE MILLS HAESELEY were married June 10, 1971, in Floyds Knobs, Indiana. They have been blessed with two children of the marriage. All children are adults, professional, healthy and economically independent. A Final Judgment of Dissolution of Marriage was entered in the Ninth Judicial Circuit Court, Charleston, South Carolina on December 19, 1996.
64. Prior to issuing its December 9<sup>th</sup>, 1996 Order the State of South Carolina, through the Ninth Judicial Circuit Court of South Carolina, invaded and examined the intimate details of the Privacy Protected Zone of the marriage of DALE WAYNE MILLS.

65. After its invasion and examination of the intimate details of the Privacy Protected Zone of DALE WAYNE MILLS's marriage, the State of South Carolina, through the Ninth Judicial Circuit Court of South Carolina reassigned the property rights between DALE WAYNE MILLS and CONSTANCE MILLS HAESELEY.
66. The State of South Carolina, through the Ninth Judicial Circuit Court of South Carolina, redistributed the property of DALE WAYNE MILLS and CONSTANCE MILLS HAESELEY pursuant to South Carolina Statutes Title 20 Chapter 3.
67. CONSTANCE MILLS HAESELEY has no impediments to economic independence. She is currently an employee at Environmental Express 490 Wando Park Blvd., Mt. Pleasant, S.C.
68. The State of South Carolina, through the Ninth Judicial Circuit Court of South Carolina, in its Final Judgment of Dissolution of Marriage mandated DALE WAYNE MILLS pay permanent alimony until he or his former wife die or she remarries.
69. DALE WAYNE MILLS has continuously met his alimony obligation to the best of his physical, mental, emotional, and economic capacity.
70. DALE WAYNE MILLS has not presented these federal claims to state court. He has not had these federal claims adjudicated there.

**CAUSE OF ACTION**

**Count I**

**Federal Question**

SOUTH CAROLINA STATUTES TITLE 20 CHAPTER 3 “DIVORCE” PERMANENT ALIMONY SECTIONS (120,130) IMPERMISSIBLY INFRINGE THE RIGHT TO PRIVACY (U.S. CONSTITUTION FOURTEENTH AMENDMENT DUE PROCESS) IN THE PRIVACY PROTECTED ZONE OF PERSONAL DECISIONS RELATING TO MARRIAGE, i.e. DIVORCE

71. DALE WAYNE MILLS incorporates 1 to 70 above.
72. DALE WAYNE MILLS asserts South Carolina Statutes Title 20 Chapter 3 permanent alimony sections (§120, 130) sections impermissibly infringe the Right to Privacy (U.S. Constitution Fourteenth Amendment Due Process) in the Privacy Protected Zone of Personal Decisions Relating to Marriage, i.e. the personal decision of South Carolinians to dissolve their marriage.
73. DALE WAYNE MILLS asserts that a Liberty Interest and the fundamental Right to Privacy, has been infringed and that the strict scrutiny standard applies. Further DALE WAYNE MILLS asserts that strict scrutiny applying, the statute is presumed unconstitutional unless the State of South Carolina and the Defendants fulfill their burden under strict scrutiny.
74. DALE WAYNE MILLS asserts the State of South Carolina nor any of the Defendants have ever exhorted or proven a compelling state interest that is applied in the least intrusive manner and that the interest is substantially furthered by the legislation to validate the alimony sections, § 120, 130.

75. DALE WAYNE MILLS asserts that the state interest is at its weakest in the facts asserted herein.

76. Therefore, this Court must adjudge the challenged statute ( “Divorce”) permanent alimony sections, §120, 130, impermissibly infringe the Federal Right to Privacy and are null and void.

## **Count II**

### **Federal Question**

SOUTH CAROLINA STATUTES TITLE 20 CHAPTER 3 “DIVORCE” PERMANENT  
ALIMONY SECTIONS IMPERMISSIBLY INFRINGE THE EQUAL PROTECTION  
CLAUSE (U.S. CONSTITUTION FOURTEENTH AMENDMENT EQUAL PROTECTION)

77. DALE WAYNE MILLS incorporates 1 to 70 above.

78. DALE WAYNE MILLS asserts South Carolina Statutes Chapter 3 “Divorce” permanent alimony sections (§120,130) impermissibly infringe the Equal Protection Clause, U.S. Constitution Fourteenth Amendment.

79. DALE WAYNE MILLS asserts that not all similarly situated married South Carolinians who decide to dissolve their marriage are burdened with alimony per §120,130—only those of contested dissolutions whose spouses plead for alimony.

80. DALE WAYNE MILLS asserts that the criteria for burdening a spouse with permanent alimony annunciate over 2<sup>20</sup> permutations then includes the phrase “ (13) such other factors the court considers relevant.” They are applied in a court of chancery with a standard of equity by a judiciary given wide discretion such that similarly situated South Carolinians could not conceivably be equally treated under the alimony provision.

81. DALE WAYNE MILLS asserts no compelling state interest nor even a rationally related state interest exists for permanent alimony which forever enslaves a South Carolinian former spouse and denies him his future property rights in the rewards of his industry.
82. DALE WAYNE MILLS asserts that the state interest is at its weakest in the facts asserted herein.
83. Therefore, this Court must adjudge the challenged statute, “Divorce” permanent alimony provisions, § 120,130, impermissibly infringe the U.S. Constitution Amendment XIV Section 1 Equal Protection clause and are null and void.

### **Count III**

#### **Federal Question**

SOUTH CAROLINA STATUTES TITLE 20 CHAPTER 3 “DIVORCE” PERMANENT  
ALIMONY SECTIONS IMPERMISSIBLY INFRINGE THE U. S. CONSTITUTION  
THIRTEENTH AMENDMENT

84. DALE WAYNE MILLS incorporates 1 to 70 above.
85. The U.S Constitution, Thirteenth Amendment, ensures the right of citizens to be free of involuntary servitude.
86. Involuntary Servitude has been defined by the U.S. Supreme Court as “a condition of servitude in which the victim is forced to work for [another] ...by the use of threat of coercion through law or the legal process. U.S. v Kozminski.”

87. Some South Carolinians divorcing, for their own benefit, choose to ask the State of South Carolina to apply § 120, 130 permanent alimony sections against their spouses.
88. The only method a South Carolinian has to compel a spouse to forever work for her benefit is to make the personal decision to divorce and request the State of South Carolina apply § 120,130 permanent alimony provisions against him. There is no common law right to alimony.
89. The State of South Carolina at the request of a South Carolinian can have the permanent alimony sections §120, 130 applied against her spouse in a court of chancery, with a standard of equity, granted wide discretionary powers.
90. A South Carolinian can compel her spouse to involuntarily work for her forever through the law and legal process of utilizing the Divorce Statute and it alimony sections, § 120,130 against him with the threat of coercion through law and the legal process to wit, contempt proceedings and imprisonment.
91. A South Carolinian is placed by § 120, 130 in a situation where he is compelled to work by law.
92. DALE WAYNE MILLS asserts the challenged statute permanent alimony sections create a situation of involuntary servitude that impermissibly infringes the U. S. Constitution Thirteenth Amendment right of a South Carolinian to be free from involuntary servitude.
93. Therefore, this Court must adjudge the challenged statute, “Divorce” permanent alimony sections §120, 130, impermissibly infringe the U.S. Constitution Thirteenth Amendment prohibiting involuntary servitude and are null and void.

**Count IV**

**Federal Question**

SOUTH CAROLINA STATUTES TITLE 20 CHAPTER 3 “DIVORCE” PERMANENT ALIMONY SECTIONS IMPERMISSIBLY INFRINGE THE U. S. CONSTITUTION FOURTEENTH AMENDMENT RIGHT TO PRIVACY, FOURTEENTH AMENDMENT EQUAL PROTECTION AND THIRTEENTH AMENDMENT AS A 42 USC 1983 CLAIM

94. DALE WAYNE MILLS incorporates 1 to 93 above.
95. Sections of South Carolina Statutes authorize the Department of Revenue to enforce § 20-3-120,130 sections.
96. DALE WAYNE MILLS asserts that CONSTANCE MILLS HAESELEY acted in concert with the Ninth Judicial Circuit Court of South Carolina and the Honorable J.P. Segars-Andrews, and under color of state law to deprive him of his civil rights, i.e. Liberty Interest, Right to Privacy, and Equal Protection and to be free of involuntary servitude when she sought to apply and enforce §120, 130 against him.
97. No bar exists to DALE WAYNE MILLS’s request for prospective declaratory relief and injunctive relief of whether the applied and enforced statute §§20-3- 120, 130 sections, impermissibly infringe his above stated U.S. Constitutional fundamental rights.
98. No bar exists to a monetary award of damages pursuant to 42 U.S.C. 1983.
- 99.** Therefore this court must declare §§20-3-120, 130 unconstitutional, grant injunctive relief against all parties enforcing §§20-3-120, 130 against DALE WAYNE MILLS and order CONSTANCE MILLS HAESELEY restore the monetary benefits she has received to her from

DALE WAYNE MILLS as a consequence of her utilizing the coercive force of §§20-3-120 , 130with its enforcement powers against him.

**Count V**

ALL DEFENDANTS ACTED IN CONCERT TO DENY DALE WAYNE MILLS HIS CIVIL  
RIGHTS UNDER 42 U.S.C. 1983

100. DALE WAYNE MILLS incorporates 1 to 70 above.
101. DALE WAYNE MILLS asserts that CONSTANCE MILLS HAESELEY utilized S.C. 20-3-120, 130 to deprive him of his Liberty Interest and 13<sup>th</sup> Amendment rights by requesting the application of §§20-3-120, 130 against him and by demanding the Honorable J.P. Segars-Andrews and the Ninth Judicial Circuit Court of South Carolina enforce §§20-3-120, 130 against him with the coercive threat of imprisonment for non compliance.
102. DALE WAYNE MILLS asserts that CONSTANCE MILLS HAESELEY utilized the coercive effect of the law to have him work for her benefit.
103. DALE WAYNE MILLS asserts that these actions by CONSTANCE MILLS HAESELEY denied his liberty especially to determine his course of action and way of life.
104. DALE WAYNE MILLS asserts the actions of CONSTANCE MILLS HAESELEY requesting the Honorable J.P. Segars-Andrews and the Ninth Judicial Circuit Court of South Carolina enforce §§20-3-120, 130 against him compels him to work by law by way of threat of the legal process and coercion by law.
105. DALE WAYNE MILLS asserts that CONSTANCE MILLS HAESELEY utilized S.C. §§20-3-120, 130 to deprive him of his Liberty Interest and fundamental Right to Privacy in the Privacy Protected Zone of “personal decision relating to marriage” to divorce.

106. DALE WAYNE MILLS asserts that CONSTANCE MILLS HAESELEY's persistence acting in concert with the Honorable JP. Segars-Andrews and the Ninth Judicial Circuit Court of South Carolina to improperly enforce their Order predicated on §§20-3-120, 130 against him has deprived him of his 14<sup>th</sup> Amendment Property rights in his earnings.
107. These actions by CONSTANCE MILLS HAESELEY have resulted in significant monetary losses to DALE WAYNE MILLS.
108. Therefore this court must declare S.C. §§20-3-120,130 unconstitutional, grant injunctive relief against all parties enforcing §§20-3-120, 130 against DALWE WAYNE MILLS and order CONSTANCE MILLS HAESELEY restore the monetary benefits she has received to her from DALE WAYNE MILLS as a consequence of her utilizing §§20-3-120, 130 against him.

### **Count VI**

### **State Claim**

SOUTH CAROLINA STATUTES TITLE 20 CHAPTER 3 "DIVORCE" PERMANENT ALIMONY SECTIONS IMPERMISSIBLY INFRINGE THE SOUTH CAROLINA CONSTITUTION ARTICLE I SECTION 10 RIGHT TO PRIVACY IN THE PRIVACY PROTECTED ZONE OF PERSONAL DECISIONS RELATING TO MARRIAGE

109. DALE WAYNE MILLS incorporates 1 to 93 above.
110. Thousands of South Carolinians annually exercise their Federal and State Liberty interest in their Right to Privacy in the Privacy Protected Zone of personal decisions relating to their marriage to divorce.
111. The State of South Carolina, when asked, applies the "Divorce" permanent alimony sections against some South Carolinians forever enslaving them for the benefit of their former spouse.

112. DALE WAYNE MILLS asserts South Carolina Statutes Title 20 Chapter 3 “Divorce” permanent alimony sections impermissibly infringe the South Carolina Constitution Article I Section 10, Right to Privacy in the Privacy Protected Zone of Personal Decisions Relating to Marriage, i.e. South Carolinians personal decision to divorce.

DALE WAYNE MILLS asserts that a Liberty Interest and the fundamental Right to Privacy, has been infringed and that the strict scrutiny standard applies.

113. DALE WAYNE MILLS asserts the State of South Carolina have never exhorted or proven a compelling state interest that is applied in the least intrusive manner and that the interest is substantially further by the legislation.

114. DALE WAYNE MILLS asserts that the state interest is at its weakest in the facts asserted herein.

115. Therefore, this Court must adjudge the challenged statute, “Divorce” permanent alimony sections, impermissibly infringe the South Carolina Constitution Article I Section 10 Right to Privacy and are null and void.

## PRAYER FOR RELIEF

“It is revolting to have no better reason for a rule of law than that so it was laid down in the time of Henry IV. It is still more revolting if the grounds upon which it was laid down have vanished long since, and the rule simply persists from blind imitation of the past.” O.W. Holmes. The Path of the Law. 10 Harvard Law Review 457 (1897)

Wherefore DALE WAYNE MILLS, prays that the Court take jurisdiction over this matter, enter such orders as are appropriate to expedite consideration of this motion, and:

116. Enter a declaratory judgment that South Carolina Statutes Title 20 Chapter 3 “Divorce” permanent alimony sections (§ 20-3-120,130)

- a) impermissibly infringe the U.S. Constitution Fourteenth Amendment Due Process clause, Liberty interest and fundamental Right to Privacy, and as such are null and void; and
- b) impermissibly infringe the U.S. Constitution Fourteenth Amendment Equal Protection clause and as such are null and void; and
- c) impermissibly infringe the U. S. Constitution Thirteenth Amendment prohibiting involuntary servitude and as such are null and void; and
- d) impermissibly infringe the South Carolina Constitution Article I Section 10 Right to Privacy and as such are null and void;
- e) grant injunctive relief against the Ninth Judicial Circuit Court of South Carolina, and any other court in South Carolina from enforcing any order predicated upon F.S. §120,130 against DALE WAYNE MILLS until such time as this court rules on the constitutionality of S.C. §§22-3-120,130; and
- f) declare CONSTANCE MILLS HAESELEY, under color of state law, deprived DALE WAYNE MILLS of his 13<sup>th</sup> Amendment, 14<sup>th</sup> Amendment procedural due process and

substantive due process Right to Privacy and Right to Property pursuant to 42 U.S. C. 1983 ;  
and

g) award monetary damages from CONSTANCE MILLS HAESELEY commensurate with the monetary benefits she has accrued from the property of DALE WAYNE MILLS under the challenged statute §20-3-120, 130.

162. As DALE WAYNE MILLS, despite being pro se, has incurred costs and attorney fees to prosecute this action he requests an award for all costs and reasonable attorney fees incurred;

163. Provide any other relief appropriate.

Respectfully submitted,

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DATED this 11th day of December, 2004

**VERIFICATION**

DALE WAYNE MILLS, being duly sworn, deposes and says:

That deponent is the Defendant in the above-entitled action; that deponent has read the foregoing **VERIFIED COMPLAINT** and knows the contents thereof; that the same is true to deponent's own knowledge; except as to matters therein stated to be alleged on information and belief, and that as to those matters deponent believes them to be true.

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STATE OF INDIANA

COUNTY OF \_\_\_\_\_

Sworn to before me  
December , 2004

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Notary Public

**CERTIFICATE OF SERVICE**

This is to certify that a true and correct copy of the foregoing motion has been served via U.S. mail this 11th day of December, 2004 to

Clerk of the Ninth Judicial Circuit Court of South Carolina  
Judicial Center  
100 Broad Street, Suite 106  
Charleston, S.C. 29401

The Honorable Henry McMaster  
S.C. Attorney General  
P.O. Box 11549,  
Columbia, S.C. 29211,

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Attorney for Constance Mills Haeseley  
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