No. 24-718

In The

Supreme Court of the United States

BLAKE ANDREW WARNER,

Petitioner,

v.

HILLSBOROUGH COUNTY SCHOOL BOARD,

Respondent.

On Petition for Writ of Certiorari
to the United States Court of Appeals
for the Eleventh Circuit

BRIEF OF AMICUS CURIAE MANHATTAN INSTITUTE IN SUPPORT OF PETITIONER

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IDENTITY & INTEREST OF AMICUS CURIAE[1]

The Manhattan Institute ("MI") is a nonprofit public-policy research foundation whose mission is to develop and spread new ideas that foster economic choice, individual responsibility, and lead urban areas in the United States into prosperity. To that end, it serves as a think tank in areas including education and law. It has historically sponsored scholarship supporting constitutional principles, the Fourteenth Amendment, rule of law, and opposing government overreach.

This case interests MI because it implicates parental choice over educational opportunities and the rights of students (and families) to select and attend quality schools.

INTRODUCTION & SUMMARY OF THE ARGUMENT

Since 1789, every individual—including minors—has held the right to litigate *pro se* in federal court. *See* Judiciary Act of 1789; 1 Stat. 73, 92 (providing that "*parties* may plead and manage their own causes personally or by the assistance of . . . counsel" (emphasis added)). Recodified as 28 U.S.C. § 1654, this statute now protects an indigent litigant's fundamental right to access courts *pro per*.

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[1] Pursuant to Supreme Court Rule 37.6, no counsel for any party authored this brief in whole or in part. No person or entity other than Amicus and the counsel below contributed the costs associated with the preparation and submission of this brief.

According to the Eleventh Circuit, however, an indigent minor must obtain counsel to sue a school district for unconstitutional redistricting practices based on race. *Warner v. Sch. Bd. of Hillsborough Cnty., Fla.*, 2024 WL 2053698, at *2 (11th Cir. May 8, 2024). Yet, if the minor is indigent, he cannot afford counsel. The indigent minor, therefore, has no means to access the court system. This is the catch-22: sue with counsel, or don't sue at all.

The Second, Fifth, Seventh, and Ninth Circuits have expressed reticence about the harmful "counsel mandate" and await this Court to correct its "unyielding" application. *See Grizzell v. San Elijo Elementary Sch.*, 110 F.4th 1177, 1181 (9th Cir. 2024) (hesitating to apply the counsel mandate and explaining it "unquestionably raises concerns with grave implications for children's access to justice"); *Raskin on behalf of JD v. Dallas Indep. Sch. Dist.*, 69 F.4th 280, 286 (5th Cir. 2023) (stating that "the absolute bar may not protect children's rights at all" and "is inconsistent with § 1654, which allows a *pro se* parent to proceed on behalf of her child in federal court when the child's case is the parent's 'own'" (internal quotation omitted); *Elustra v. Mineo*, 595 F.3d 699, 705–06 (7th Cir. 2010) (observing that the counsel mandate is "not ironclad" and "giv[ing] effect" to a mother's narrow *pro se* motion as consistent with the purpose of the rule: "to protect the rights" of the minor); *Tindall v. Poultney High Sch. Dist.*, 414 F.3d 281, 286 (2d Cir. 2005) (explaining that the counsel mandate may "force minors out of court altogether" where "counsel is as a practical matter unavailable").

The counsel mandate violates the Equal Protection and Due Process Clauses because it denies an indigent minor equal access to the court system and his right to self-representation. When an indigent person seeks court access to redress a violation of a fundamental right, this Court applies "heightened scrutiny"—"examin[ing] closely and contextually the importance of the governmental interest advanced in defense of the intrusion" denying the indigent access. *E.g., M.L.B. v. S.L.J.*, 519 U.S. 102, 116, 120 (1996). This Court has also considered whether there are less restrictive "reliable alternatives" in striking down a rule restricting court access for the indigent. *Boddie v. Connecticut*, 401 U.S. 371, 381–82 (1971).

The counsel mandate fails heightened scrutiny because it is an absolute restriction on *every minor* (even mature minors with capacity to consent) and *every parent* — regardless of whether the minor will lose his claim altogether if he is not represented by a parent. In short, this type of exclusion is not "substantially related" to the government's interest in protecting minors. *E.g.*, *Raskin*, 69 F.4th at 286 (stating that "the absolute bar may not protect children's rights at all").

It is time for this Court to narrow the counsel mandate. Instead, courts should evaluate each request for parental representation according to: (1) the minor's demonstrated maturity and capacity; (2) the parent's demonstrated understanding of the case; and (3) the nature of the litigation before it—*i.e.* the claim's complexity, the statute of limitations, and whether the minor will reach the age of majority during the litigation.

ARGUMENT

I. ACCESS TO THE COURTS IS PROTECTED BY THE EQUAL PROTECTION AND DUE PROCESS CLAUSES.

The counsel mandate has the practical effect of denying indigent minors access to the courts. This type of invidious discrimination offends the right to court access, which is a fundamental right guaranteed by the Equal Protection and Due Process Clauses. Typically, a law cannot impose a blanket ban on a fundamental right under the Due Process and Equal Protection Clauses. *Tennessee v. Lane*, 541 U.S. 509, 533 (2004) (explaining that the right to court access is fundamental). The counsel mandate is no exception.

A. The Counsel Mandate Violates the Right to Access Courts.

The ability to bring a lawsuit is "the right conservative of all other rights, and lies at the foundation of orderly government. It is one of the highest and most essential privileges of citizenship." *Chambers v. Baltimore & O.R. Co.*, 207 U.S. 142, 148 (1907). The right to court access is a tool for protecting *other* rights, "tak[ing] its specific importance and coloration from the right or interest it is being used to protect." See Gary S. Goodpaster, *The Integration of Equal Protection, Due Process Standards, and the Indigent's Right of Free Access to the Courts*, 56 Iowa L. Rev. 223 (1970); *see also e.g., See Bill Johnson's Restaurants, Inc. v. N.L.R.B.*, 461 U.S. 731, 741 (1983) ("The right of *access to the courts* is an aspect of the First Amendment right to petition the Government for redress of grievances." (emphasis added)).

1. J.W. Seeks to Protect a Fundamental Right.

At the outset, it is crucial to recognize that J.W. seeks access to the courts to protect a fundamental right — his Due Process and Equal Protection right to attend a non-racially segregated school. *E.g., Alexander v. Holmes Cnty. Bd. of Ed.*, 396 U.S. 19, 20, (1969) ("[T]he denial of fundamental rights to many thousands of school children, [through requiring them to] attend[] Mississippi schools under segregated conditions."); *Brown v. Bd. of Ed.*, 347 U.S. 483, 493 (1954) ("[An education], where the state has undertaken to provide it, is a right which must be made available to all on equal terms.").

As shown below, when a litigant tries to bring a claim for a violation of a fundamental right, this Court is skeptical of rules that bar indigent people from the courts. Specifically, this Court applies heightened scrutiny to such rules, examining whether there is an important government interest advanced by the rule, as well as whether there are less restrictive "reliable alternatives." *Infra*, p. 6–10. *M.L.B.*, 519 U.S. at 115 ("examin[ing] closely and contextually the importance of the governmental interest advanced in defense of the intrusion" denying the indigent access); *Boddie*, 401 U.S. at 381–82 (analyzing less restrictive "reliable alternatives" to the fees restricting court access for indigent persons).

Here, J.W. attempts to rectify a school board's violation of his fundamental right to attend an unsegregated school under § 1983—a quintessential fundamental right. *E.g.*, *Alexander*, 396 U.S. at 20.

His claim is based on race — a classification attracting "heightened scrutiny." *M.L.B.*, 519 U.S. at 116.

2. The Due Process Clause Protects Access to the Courts.

In civil cases, due process requires that litigants have a "meaningful opportunity to be heard" by removing obstacles to their full participation in judicial proceedings. *Boddie*, 401 U.S. at 379; *M.L.B.*, 519 U.S. at 115.

Boddie is the landmark case applying the Due Process Clause to economic barriers to court access. There, this Court held that court fees for divorce actions barred indigent parties as an "exclusive precondition" to pursuing a divorce and violated the Due Process Clause. *Boddie*, 401 U.S. at 789. The Court's analysis rested on two essential principles: (1) that marriage is "fundamental"; and (2) that the state required the plaintiffs to "resort to the judicial process" for the adjustment of this fundamental relationship. *Id.* at 383.

The rule from *Boddie* is clear: the Due Process Clause requires court access to vindicate "fundamental rights," and it requires a court to consider "reliable alternatives" to such restrictions. *Id.*

Two years later, this Court fortified the *Boddie* rule in *United States v. Kras,* 409 U.S. 434, 446 (1973). Although *Kras* chose not to waive fees for an indigent party in a civil bankruptcy proceeding, *Kras* clarified that its decision rested on the *lack* of a constitutional

right to discharge debts through bankruptcy. *Id.* The Court explained:

> Bankruptcy is hardly akin to free speech or marriage or to those other rights, so many of which are imbedded in the First Amendment, that the Court has come to regard as fundamental and that demand the lofty requirement of a compelling governmental interest before they may be significantly regulated. . . *Neither does it touch upon what have been said to be the suspect criteria of race*, nationality, or alienage.

Id. at 446 (emphasis added) (internal citations removed).

Kras, therefore, is consistent with *Boddie* and distinguishable from J.W.'s case. J.W. seeks to protect a fundamental right; *Kras* did not. *Id.*

Since *Kras*, this Court has reiterated that heightened scrutiny applies to the government's denial of court access where the litigant seeks to vindicate fundamental rights. *M.L.B.*., 519 U.S. at 116 (explaining that a "fundamental interest or classification attract[s] heightened scrutiny" in the adjudication of termination of parental rights).

3. The Equal Protection Clause Also Protects Court Access.

The counsel mandate also violates the Equal Protection Clause, which ensures that indigent minors "*have like access to the courts* of the country for

the protection of their persons and property [and] the prevention and redress of wrongs. . . ." *Barbier v. Connolly*, 113 U.S. 37, 31 (1884) (emphasis added). Indeed, this Court has repeatedly held that every person is entitled to "*equal* access to the courts of the country for the protection of their persons and property, the prevention and redress of wrongs, and the enforcement of contracts." *Barbier v. Connolly*, 113 U.S. 27, 31 (1885); *see also Griffin v. Illinois*, 351 U.S. 12, 19 (1956) ("There can be no equal justice where the kind of trial a man gets depends on the amount of money he has.")

In *Griffin*, this Court relied on the Equal Protection Clause to strike down an Illinois rule requiring an appellant facing a criminal conviction to pay for and obtain a transcript to appeal. *Id.* at 18, 24. The Court reasoned that the transcript requirement, based on a person's ability to pay, blocked access to the judicial process. *Id.* at 13. Although the Court held that there is no due process right to an appeal, the Court reasoned that *if* the state affords that right, it cannot "bolt the door to equal justice" according to the ability to pay. *Id.* at 24.

Likewise, in *Lindsey v. Normet*, this Court invalidated an Oregon law that required tenants to post a double bond when appealing a judgement for forcible entry and detainer. 405 U.S. 56, 77, 79 (1972). Similar double bonds were not required in other actions, and the state provided no acceptable rational for the extra bond against tenants. Thus, this Court held that the law arbitrarily discriminated against tenants as a class-based distinction in violation of the Equal Protection Clause. This Court reasoned: "The discrimination against the poor . . . is particularly

obvious. For them, as a practical matter, appeal is foreclosed, no matter how meritorious their case may be." *Id.* at 79.

In many different contexts, this Court has repeatedly struck down financial barriers that discriminate against the poor when other fundamental rights are at stake. *Shapiro v. Thompson*, 394 U.S. 618 (1969) (protecting the right to travel); *Harper v. Virginia Bd. of Elec.*, 383 U.S. 663 (1966) (protecting against financial barriers imposed on the right to vote); *Gardner v. Calif.*, 393 U.S. 367 (1969) (prohibiting financial barriers imposed on the right to present a criminal defense); *Burns v. Ohio*, 360 U.S. 252 (1959) (same); *Griffin*, 351 U.S. at 26 (same).

Thus, financial barriers to court access—such as fees and bonds—run afoul of the Due Process and Equal Protection Clauses by discriminating against indigent litigants based on their lack of resources. Mandatory appointment of counsel is no different.

B. The Counsel Mandate Cannot Survive Heightened Scrutiny Under the Due Process and Equal Protection Clauses.

Under heightened scrutiny, this Court must "examine[] closely and contextually the importance of the governmental interest advanced in defense of the intrusion" denying the indigent access, *as well as less restrictive alternatives. E.g.*, *M.L.B.*, 519 U.S. at 116 (using the phrase "heightened scrutiny"); *see also Boddie*, 401 U.S. at 381–82 (analyzing less restrictive "reliable alternatives" to the fees restricting court access).

Here, there is no substantial relation justifying a blanket ban prohibiting *all* parents from representing *all* minors in *every* case. *Boddie*, 401 U.S. at 381–82. This Court, therefore, should consider the specific nature of J.W.'s request, and narrow the counsel mandate accordingly. Many indigent minors, like J.W., may possess sufficient maturity and capacity to consent to parental representation. Likewise, many parents may, depending on the factual and legal complexity of the case, be able to effectively advocate and represent their children. In short, a case-by-case analysis is required, not a blanket ban. And here, Mr. Warner has already demonstrated his ability to effectively represent J.W. *Infra*, p. 18.

Courts sometimes justify the counsel mandate, in part, by claiming it protects the judicial system against potentially ill-prepared and vexatious parent-litigants. *See Jones v. Niagara Frontier Transp. Auth.*, 722 F.2d 20, 22 (2d Cir. 1983). But this government interest does not justify a *categorical* denial of due process to minors and the poor. *E.g. Boddie*, 401 U.S. at 382 (striking down fee requirement to court access in part because "the State invariably imposes the costs as a measure of allocating its judicial resources," which was a "rejected" state interest).

II. TO ACCESS COURTS, LITIGANTS HOLD A SEPARATE RIGHT TO SELF-REPRESENTATION.

In addition to failing heightened scrutiny (which is dispositive) the counsel mandate also violates the right to self-representation as a means to access the courts.

A. The Right to Self-Representation Is Embedded in Our Nation's History and § 1654.

To ensure equal access to the courts, indigent parties must be able to represent themselves. "The Founders believed that self-representation was a basic right of a free people," protected by statute since "the beginnings of our Nation." *Farretta v. California*, 422 U.S. 806, 826–30 (1975); *see also Adams v. United States ex rel McCann*, 317 U.S. 269, 279 (1942) ("The right to assistance of counsel . . . correlate[es] [to the] right to *dispense* with a lawyer's help . . .").

Self-representation is deeply rooted into our common law and Anglo-American traditions, dating back centuries to the notorious and secretive English court—the Star Chamber—where defendants subject to politically-motivated allegations were forced to accept gratuitous and ineffective state representation. *See* Lisa V. Martin, *No Right to Counsel, No Access Without: The Poor Child's Unconstitutional Catch-22*, 71 Fla. L. Rev. 831, 846 (2019); *see also Faretta*, 422 U.S. at 826 ("In the American Colonies the insistence upon a right of self-representation was, if anything, more fervent than in England.").

The Founders also supported the right to self-representation out of distrust for lawyers. *Id.*; *see also, e.g.*, *Conte v. Flota Mercante del Estado*, 277 F.2d 664, 672 (2d Cir.1960) (explaining that the Founders "deliberate[ly] depart[ed] from the English practice" of fee awards from colonists' "distrust of lawyers"); *Iannaccone v. L.*, 142 F.3d 553, 557 (2d Cir. 1998) ("[T]he Massachusetts Body of Liberties of 1641 expressly permitted every litigant to plead his own

cause and provided, if forced to employ counsel, the litigant would pay counsel *no fee* for his services." (emphasis added)).

For more than thirty years, this Court has held the Sixth Amendment right to the effective assistance of counsel also encompasses the right to self-representation. *See Faretta*, 422 U.S. at 816–20. *Faretta* could not have been clearer: "We confront here a nearly universal conviction, on the part of our people as well as our courts, that *forcing a lawyer* upon an unwilling defendant is contrary to his basic right to defend himself if he truly wants to do so." *Id.* at 817 (emphasis added).

Although *Faretta* focuses on the rights of criminal defendants under the Sixth Amendment, there can be no doubt that the right of self-representation transcends to civil cases via statute. 28 U.S.C. § 1654 (mirroring the choice of an individual citizen to plead his or her own cause in civil matters). Time and again, courts have explained the importance of self-representation in civil cases under § 35 of the Judiciary Act of 1789. *E.g., O'Reilly v. New York Times Co.*, 692 F.2d 863, 867 (2d Cir. 1982) ("The right to self-representation . . . is a right of high standing, not simply a practice to be honored or dishonored by a court depending on its assessment of the desiderata of a particular case.").

B. For the Indigent Minor, Self-Representation is Indispensable to Court Access.

Respondent will reason that the indigent minor can pursue other avenues (*i.e.* securing court-

appointed counsel or *pro bono* legal services). This argument denies reality.

This Court needs no primer on the lack of legal services available to indigent people. *E.g.*, *Cooper v. A. Sargenti Co., Inc.,* 877 F.2d 170, 172–73 (2d Cir. 1989) (describing volunteer lawyers as a "precious commodity" of volunteer lawyers for those litigants who truly need a lawyer's assistance); *Colon-Reyes v. Fegs Health & Hum. Servs. Sys.*, 2012 WL 2353732, at *1 (S.D.N.Y. June 13, 2012) ("Because this Court does not have a panel of attorneys who can be compelled to take on civil cases pro bono, and does not have the resources to pay counsel in civil matters, the appointment of counsel is a rare event."); Martin, *No Right to Counsel, No Access Without: The Poor Child's Unconstitutional Catch-22*, p. 357 ("On average, '[l]ow income Americans receive inadequate or no professional legal help for eighty-six percent of the civil legal problems they face in a given year.'").

In fact, the lack of viable alternatives justifies parental representation on behalf of indigent minors in the context of supplemental security income ("SSI") appeals. *E.g.*, *Maldonado ex rel. Maldonado v. Apfel*, 55 F. Supp. 2d 296, 306, 308 (S.D.N.Y. 1999) ("As a policy matter, it is not reasonable or practical for the Court to appoint counsel in all of these [minor-SSI appeal] cases."). The district court continued:

> Unfortunately, these social security appeals often 'are not very attractive cases' to non-volunteer private attorneys. . . . [A]ttorneys in private practice . . . will not accept children's SSI cases.' . . . Further, legal services

> organizations cannot be expected to accept all of the children's SSI cases. Due to lack of funding, the loss of staff positions, and other responsibilities, most organizations are operating at or near capacity. . . [P]rivate funding for legal services for low-income persons is *woefully inadequate* to meet the pressing legal need.").

Id. at 306–07 (internal citations omitted) (cleaned up) (emphasis added). The unfortunate truth is that *pro bono* representation for a minor—regardless of whether it is a civil case or SSI appeal—is rare indeed.

And minors like J.W. will rarely, if ever, receive court-appointed counsel. *See id.* at 307 ("When a court orders that counsel be appointed in a civil case in this district, the case is added to a list of other cases in which counsel has been requested.")

Moreover, minors cannot always rely on tolling of the statute of limitations to preserve their claims. *See Mills v. Habluetzel*, 456 U.S. 91, 104 (1982) (recognizing that states are free to impose various limitations periods for different actions). Even where a statute of limitations is tolled, a high school graduate may face separate standing hurdles in suing a school district for wrongs that have long-since passed. *Cf. Bd. of Educ. v. Nathan R.*, 199 F.3d 377, 380–381 (7th Cir. 2000) (applying the mootness doctrine to a plaintiff who graduated from high school where no action from the court could affect the plaintiff's rights under the Individuals with Disabilities Education Action); *see Ripple v. Marble*

Falls Indep. Sch. Dist., 99 F. Supp. 3d 662, 687 (W.D. Tex. 2015) (explaining same effect).

Thus, for many claims, an indigent minor has *no option* beyond allowing his parent to represent him.

III. CHILDREN HAVE THE SAME CONSTITUTIONAL PROTECTIONS AS ADULTS AND J.W.'S CIRCUMSTANCES DO NOT WARRANT NARROWING THEM.

Respondent will contend that minors are exempted from § 1654, and, in any event, minors do not enjoy the same fundamental rights to court access and self-representation. These arguments are wrong.

Congress was unequivocal—nothing in §1654 imposes a blanket ban against minors on the right to proceed *pro se*. Unless context dictates otherwise, congressional enactments generally treat adults and minors as equal "persons." 1 U.S.C. § 8(a). Section 1654 includes nothing to the contrary.

Moreover, this Court has held that children have the same fundamental constitutional protections as adults. *Bellotti v. Baird*, 443 U.S. 622, 633 (1979) ("A child, merely on account of his minority, is not beyond the protection of the Constitution."); *In re Gault,* 387 U.S. 1, 13 (1967) ("[W]hatever may be their precise impact, neither the Fourteenth Amendment nor the Bill of Rights is for adults alone."). Indeed, "[c]onstitutional rights do not mature and come into being magically only when one attains the state-defined age of majority. Minors, as well as adults, are protected by the Constitution and possess

constitutional rights." *Planned Parenthood of Central Missouri v. Danforth*, 428 U.S. 52, 74 (1976).

In fact, this Court has reasoned that although the "legal system" can *sometimes* be "adjust[ed]" to account for "children's vulnerability," such adjustments should only serve three narrow reasons. *Bellotti*, 443 U.S. at 634. Specifically, *Bellotti* held that narrowing minors' rights should occur to serve: (1) "the peculiar vulnerability of children;" (2) "their inability to make critical decisions in an informed, mature manner;" and (3) the importance of the parental role in child rearing." *Id.*

None of the reasons articulated by *Belloti* are served by the counsel mandate. Although *certain* minors may be vulnerable through an immature understanding of the legal system, the blanket counsel mandate does not practically work to serve those interests. As set forth below, *infra* p. 17–18, the counsel mandate sweeps far too wide and encompasses mature minors who have nearly reached the age of majority, as well as parents possessing sufficient legal acumen and seeking to bring basic claims. And the counsel mandate ignores the "importance of the parental role in child rearing" altogether. *Id.*

In short, for indigent minors, there is no good option. Either a capable parent pleads a straightforward case for a competent minor, or the minor has no chance to access the justice system.

IV. INSTEAD OF THE COUNSEL MANDATE, COURTS SHOULD EVALUATE WHETHER THE MINOR'S CONSTITUTIONAL INTERESTS WILL BE SERVED BY DENYING PARENTAL REPRESENTATION.

The blanket counsel mandate could be easily tailored. Instead of rejecting every request for parental representation, courts should evaluate: (1) the minor's capacity; (2) the parent's apparent ability to serve as an advocate; and (3) the complexity of the relevant claim, applicability of a statute of limitations, and future standing problems if the request is denied. *Tindall*, 414 F.3d at 285 ("In our view, the rule that a parent may not represent her child should be applied gingerly.").

First, many minors have sufficient age, maturity, and capacity to comprehend the risks of *pro se* litigation. For years, courts have evaluated minors' maturity and capacity to consent to weightier decisions, such as obtaining abortions without parental knowledge, seeking emancipation and military enlistment (set by state law), and receiving (or foregoing) medical treatments. *See Ohio v. Akron Center for Reproductive Health*, 497 U.S. 502 (1990) (abortions); *Foe v. Vanderhoof*, 389 F. Supp. 947 (D. Colorado 1975) (discussing scenarios in which minors can consent to medical treatment according to demonstrable maturity). Courts can undoubtedly do so here too.

Second, many parents could serve as effective advocates and submit pleadings that are cogent and legally reasoned. Under this factor, courts should consider the parent's ability to present law and argument, as well as the time and resources of the

family. Petitioner's work to date demonstrates necessary legal acumen through his Verified Complaint [Doc. 1]. Moreover, in many cases, a parent may be a more passionate and effective advocate than a pro bono or court-appointed attorney. "Parents naturally take an interest in the welfare of their children"—an interest that cannot be duplicated by the care of a non-parent lawyer. *Bellotti*, 443 U.S. at 648.

Third, not all claims pose the same complexity. Courts can evaluate whether the minor's claim will require expert testimony, application of complicated procedural rules and statutory provisions, and the development of a complex factual record.

For example, as mentioned above, non-attorney parents represent minors in the SSI context. *E.g.*, *Harris v. Apfel*, 209 F.3d 413, 417 (5th Cir. 2000); *Maldonado v. Apfel*, 55 F. Supp. 2d 296, 308 (S.D.N.Y. 1999) (explaining that SSI appeals are less "involved" than other statutory causes of action and impose less "burden on litigants"); G*allo v. United States*, 331 F. Supp. 2d 446 (E.D. Va. 2004) (rejecting parent's attempt to litigate on behalf of child for personal injury in a medical malpractice case); *Brown v. Ortho Diagnostic Sys., Inc.*, 868 F. Supp. 168 (E.D. Va. 1994) (same, as to products liability case).

In short, courts hold a sufficient repository of tools to evaluate whether the counsel mandate serves the rights of each indigent minor on a case-by-case basis. The Equal Protection and Due Process Clauses demand this nuanced approach.

CONCLUSION

The counsel mandate blocks relief for indigent minors who can only proceed by a *pro se* parent. This Court should correct the unyielding counsel mandate and grant the Petition for Review submitted by Petitioner Blake Warner.

Respectfully Submitted,

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