



**PRIVATE  
FILED TPRS**

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**WAIT, WHAT? THERE'S NO SOCIAL  
WORKER?**



## THE Grunion

Antagonist Social Worker from

Mr. Peabody and Sherman

(If you haven't seen it, totally worth  
watching)

## YOUR NEMESIS



- Welcome to the world of family law. Most of the time, the petitioner will be the other parent, or a lawyer for the other parent.
- Many of the lawyers typically practice family law. They will likely not be familiar with the criminal standards—PROBABLE CAUSE being a big one. Remember that PROBABLE CAUSE for a petition is the same as for a criminal complaint—conclusions are not enough:

A petition for termination of parental rights must set forth facts and circumstances to establish probable cause that the grounds alleged therein are true. The same level of probable cause required for a criminal complaint is required in a petition seeking to terminate a parent's rights regarding his child. In Interest of Courtney E., 184 Wis.2d 592, 601, 516 N.W.2d 422 (1994); In Interest of L.A.T., 167 Wis.2d 276, 283, 481 N.W.2d 493 (App. 1992). Conclusions are insufficient to form a basis for a finding of probable cause. A petition is not sufficient where it merely restates the statutory grounds for termination. More facts are required to establish a basis for alleged grounds for termination of parental rights.



## DON'T BE LURED INTO LAZINESS

- File a discovery demand—and make sure to ask for the kitchen sink, since you never know what's out there. I still request DHS/Bureau records, in case they EVER existed.
- Discovery will likely be minimal—that doesn't mean you don't have issues to argue.
- Depositions of the other parents are huge in these cases—try to get to the heart of why they are trying to terminate your parent. Remember that lots of people have bad, nasty divorces or break-ups. Being a bad boyfriend does not mean you're a bad dad.
- Know the grounds—petitioners can get creative in these.
- Remember money is an issue in these—having a lawyer file a TPR for you is not free, and jury trials are expensive. As are motion hearings, etc.



## COMMON GROUND(S) AND THINGS TO LOOK FOR



- **Abandonment: 48.415 (1)**
  - Did the other parent make it difficult or impossible for the respondent to contact the child?
  - Was there a court-order (aka a restraining order, etc.) that said your client couldn't contact the other party?
- **Failure to Assume: 48.415 (6)**
  - Did your parent ever have a relationship with the kid?
  - Again, did the other parent make it difficult or impossible for the respondent to be involved?
- **Continual Denial of Periods of Physical Placement or Visitation—one year 48.415 (4)**
  - There is a constitutional challenge that can be made if the court-order was in a family law case, and not a CHIPS case. Motion is on the web-site.
  - Get a copy of the court-order that prohibited the visitation. Try to attack that order (either in the family court or CHIPS court)—I've seen many orders are have no conditions for reinstatement or at most, very vague conditions.
- **Child conceived as a result of sexual assault: 48.415(9)**
  - Only recently seen this. There was no criminal case.