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Note

KHALIFA v. SHANNON: HOW MUCH INTERFERENCE IS TOO MUCH WHEN IT COMES TO A TORT FOR INTERFERING WITH THE PARENT-CHILD RELATIONSHIP?

BETH ROSENBERG*

In *Khalifa v. Shannon*,¹ the Maryland Court of Appeals considered whether Maryland recognizes a cause of action in tort for intentional interference with the parent-child relationship and whether a claimant must show that the interference caused an economic loss to maintain a viable cause of action.² The court held that a tort claim exists for intentional interference with custodial and visitation rights and that an economic loss of services is not necessary for a viable claim.³ In so holding, the court improperly based its decision on *Hixon v. Buchberger*⁴ by concluding that Maryland had recognized a cause of action for interference with the parent-child relationship in that case.⁵ Although allowing a cause of action for interference with custodial rights is in accordance with policy considerations and the national trend,⁶ the court failed to consider the significant negative policy implications raised by its unnecessarily broad decision.⁷ Thus, although the court correctly decided the case at issue given the severity of the facts, it should have restricted the scope of its holding to only allow recovery in tort for intentional interference with custodial rights.⁸

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1. 404 Md. 107, 945 A.2d 1244 (2008).
2. *Id.* at 115, 945 A.2d at 1248.
3. *Id.* at 111, 945 A.2d at 1246.
4. 306 Md. 72, 507 A.2d 607 (1986).
5. *See infra* Part IV.A.
6. *See infra* Part IV.B.
7. *See infra* Part IV.C.
8. *See infra* Part IV.C.

I. THE CASE

Michael Shannon and Nermeen Khalifa Shannon were married in 1996 and had a child, Adam Osama Shannon, in 1997.⁹ In January 2000, Michael and Nermeen separated.¹⁰ After reconciling, they had another son, Jason Osama Khalifa.¹¹ Michael and Nermeen separated again in February 2001, and on February 27, 2001, a circuit court granted Michael “legal and primary physical care and custody of Adam” and granted Nermeen “legal and primary physical care and custody of Jason.”¹² The court granted both parents reasonable visitation rights with their non-custodial children.¹³

In August 2001, Michael allowed Nermeen and her mother, Afaf Nassar Khalifa, to take Adam and Jason to New York to visit relatives on the condition that Nermeen returned both boys to him by August 26, 2001.¹⁴ Nermeen, Afaf, Adam, and Jason arrived in New York on Friday, August 24, 2001.¹⁵ On August 25, 2001, without Michael’s consent or knowledge, Nermeen and Afaf took both boys to Egypt instead of returning them to Michael.¹⁶

Petitioner Afaf Khalifa, the boys’ grandmother, was extradited to Maryland from Egypt.¹⁷ The trial court found Afaf guilty of violating Family Law Article, section 9-305 and its amended version.¹⁸ Afaf was sentenced to three years in prison with a \$5,000 fine.¹⁹ Both the Court of Special Appeals and the Court of Appeals of Maryland affirmed Afaf’s conviction.²⁰

9. *Khalifa v. Shannon*, 404 Md. 107, 111, 945 A.2d 1244, 1246 (2008). Nermeen, a citizen of Egypt, moved to Maryland in 1989 when she turned twenty-one. *Khalifa v. State*, 382 Md. 400, 408, 855 A.2d 1175, 1179–80 (2004).

10. *Khalifa*, 404 Md. at 111, 945 A.2d at 1246.

11. *Khalifa*, 382 Md. at 409, 855 A.2d at 1180.

12. *Id.*

13. *Id.*

14. *Khalifa*, 404 Md. at 112, 945 A.2d at 1246. Afaf Nassar Khalifa came to Washington, D.C. from Egypt on August 18, 2001 and stayed with Nermeen temporarily. *Id.*

15. *Khalifa*, 382 Md. at 410, 855 A.2d at 1181.

16. *Khalifa*, 404 Md. at 112, 945 A.2d at 1246.

17. *Id.*, 945 A.2d at 1247. Afaf Khalifa is also an Egyptian citizen. *Khalifa*, 382 Md. at 408, 855 A.2d at 1179–80.

18. *Khalifa*, 382 Md. at 407, 855 A.2d at 1179. Afaf Khalifa was convicted of ten counts of harboring; being an accessory to abduction and detaining; and conspiring to abduct, detain, and harbor a child outside of the state and outside of the United States. *Id.* at 413–14, 855 A.2d at 1182–83.

19. *Id.* at 414, 855 A.2d at 1183. A three-judge sentence review panel decreased Afaf’s fine from \$15,000 to \$5,000 and reduced her total prison sentence from ten years to three years by ordering her sentences to run concurrently instead of consecutively. *Id.*

20. *Id.* at 414, 416, 855 A.2d at 1183–84.

The civil case against Petitioners Nermeen and Afaf for the abduction of Adam and Jason went to trial in December 2006.²¹ The jury awarded Michael Shannon \$17,500 in attorney fees and costs, \$1,000,000 in compensatory damages, and \$2,000,000 in punitive damages.²² Afaf and Nermeen appealed to the Maryland Court of Special Appeals.²³ Before the Court of Special Appeals heard the case, however, the Court of Appeals of Maryland granted certiorari to decide whether a cause of action existed for intentional interference with custody and visitation rights and whether an economic loss of services was required for a viable abduction claim.²⁴

II. LEGAL BACKGROUND

At common law, tort remedies for interference with the parent-child relationship were limited to child abduction cases that conceptualized children as property.²⁵ Thus, courts required a loss of services to bring a valid abduction claim at common law.²⁶ However, the loss of services requirement faded in modern jurisprudence as courts recognized the important relationship between a parent and child.²⁷ The current national trend favors adopting a civil cause of action for interference with the custodial parent-child relationship that is more inclusive than the tort for child abduction.²⁸ Despite the trend to adopt a new tort for intentional interference with custodial relationships, most courts have refused to extend the tort to intentional interference with visitation rights.²⁹ Prior to *Khalifa*, Maryland had not followed this trend because no appropriate case had presented itself.³⁰

A. *The Evolution of Tort Remedies for Child Abduction Claims*

At common law, there was no tort remedy for the abduction of a child unless the plaintiff was the father and the child was the father's heir.³¹ This rule was exemplified in the English case, *Barnum v. Dennis*,³² where the

21. *Khalifa*, 404 Md. at 113, 945 A.2d at 1247. The complaints against Mohammad Osama Khalifa, Michael's father-in-law, and Dahlia Khalifa, Michael's sister-in-law, were dismissed. *Id.*

22. *Id.*

23. *Id.*

24. *Id.* at 113–15, 945 A.2d at 1247–48.

25. See *infra* notes 31–33 and accompanying text.

26. See *infra* note 34 and accompanying text.

27. See *infra* notes 35–44 and accompanying text.

28. See *infra* Part II.B.

29. See *infra* Part II.C.

30. See *infra* Part II.D.

31. *Barham v. Dennis*, (1600) 78 Eng. Rep. 1001, 1001 (K.B.). Daughters generally were not considered heirs because a father did not have rights to them upon marriage. *Id.*

32. 78 Eng. Rep. 1001.

court explained that an heir-son was viewed as the father's property, and thus deprivation of the property required compensation.³³ In tandem with equating children to property, damages were limited to the father's economic "loss of services" of the child, requiring a father to plead the loss of some economic benefit from the child to bring a viable claim.³⁴

American courts slowly began disposing of the "loss of services" requirement in favor of a more modern approach, recognizing the need for recovery in tort for the loss of society and companionship of a family member.³⁵ In the 1913 case *Howell v. Howell*,³⁶ a mother abducted her child to avoid relinquishing custody to the child's father.³⁷ The Supreme Court of North Carolina concluded that the loss of services requirement was "an outworn fiction," and an abduction action could be brought instead on the basis of compensation for any expenses incurred and "punitive damages for the wrong done him in his affections and the destruction of his household."³⁸ Likewise, in the 1930 case *Pickle v. Page*,³⁹ the New York Court of Appeals found that it was against public policy to require the loss of services of a child to recover in an abduction action because the injury is directly inflicted on the parent.⁴⁰

More recently, courts have clarified that the loss of services concept is outdated and no longer required for a viable abduction claim.⁴¹ For example, in *Murphy v. I.S.K.Con. of New England, Inc.*,⁴² the Supreme Judicial Court of Massachusetts explained that the basis for a claim of tortious interference with a parent-child relationship is "the loss of filial consortium," not the loss of services.⁴³ Indeed, many jurisdictions have

33. *Id.* at 1001.

34. *See id.* Even as early as *Barham*, some judges espoused the idea that a father had an interest in all of his children because he receives comfort and society from them, thus finding that courts should grant recovery regardless of whether the father lost his child's services. *Id.* at 1002 (Glanville, J., dissenting).

35. *See, e.g., Politte v. Politte*, 727 S.W.2d 198, 199 (Mo. Ct. App. 1987) ("Under the so-called modern view, the essence of the claim is the interference with the parent's custodial rights, not the loss of the child's services."); *Howell v. Howell*, 78 S.E. 222, 224 (N.C. 1913) ("[T]he modern authorities . . . have advanced, and now the parent can recover damages for the unlawful taking away or concealment of a minor child, and [the damages are] not limited to . . . the fiction of 'loss of services.'").

36. 78 S.E. 222.

37. *Id.* at 223.

38. *Id.* at 224 (citations and internal quotation marks omitted).

39. 169 N.E. 650 (N.Y. 1930).

40. *Id.* at 653.

41. *See infra* notes 42–44 and accompanying text.

42. 571 N.E.2d 340 (Mass. 1991).

43. *Id.* at 352. Filial consortium is similar to marital consortium and includes loss of "society, affection, [and] companionship." *See Diaz v. Eli Lilly & Co.*, 302 N.E.2d 555, 556 (Mass. 1973) (defining consortium to include "services, society, affection [and] companionship").

adopted comment d to section 700 of the *Restatement (Second) of Torts*, which maintains that “loss of service or impairment of ability to perform service is not a necessary element of a cause of action [for an abduction claim].”⁴⁴

Maryland first considered whether to recognize a tort claim for the abduction of a child in *Baumgartner v. Eigenbrot*.⁴⁵ There, the aunt and uncle of a minor child, looking to raise the child as their own, abducted the child from her other aunt, who was the child’s court-appointed guardian.⁴⁶ The plaintiff based her desired damages claim on the loss of society and affection of the child.⁴⁷ Although the Maryland Court of Appeals ultimately held that the plaintiff did not have a viable claim because there was no evidence that the defendant used force, fraud, open violence, or persuasion to abduct the child,⁴⁸ the court implicitly recognized a cause of action for abduction by enumerating the necessary elements for a viable abduction claim and concluding that the elements were not present in the case.⁴⁹

*B. There is a National Trend to Recognize a Cause of Action for
Tortious Interference with the Custodial Parent-Child Relationship*

The tort of intentional interference with the parent-child relationship is the modern interpretation of the tort for abduction and harboring of a child from a parent.⁵⁰ The tort of intentional interference with the parent-child relationship is broader than its ancestor, allowing recovery in more instances than the tort of abduction of a child.⁵¹

44. RESTATEMENT (SECOND) OF TORTS § 700 (1977); see also *Wood v. Wood*, 338 N.W.2d 123, 127 (Iowa 1983) (finding that § 700 is recognized and applied by a majority of jurisdictions).

45. 100 Md. 508, 60 A. 601 (1905).

46. *Id.* at 509–10, 60 A. at 601.

47. *Id.*, 60 A. at 601–02.

48. *Id.* at 516, 60 A. at 604.

49. *Id.* at 513, 60 A. at 603–04. The court defined abduction as the “unlawful taking or detention by force, fraud or persuasion of a person, as a wife, a child or a ward from the possession, custody or control of the person legally entitled thereto” and harboring as “to receive clandestinely or without legal authority, a person for the purpose of so concealing him that another having the right to the legal custody of such person shall be deprived thereof.” *Id.* (citations and internal quotation marks omitted).

50. *Murphy v. I.S.K.Con. of New England, Inc.*, 571 N.E.2d 340, 352 (Mass. 1991). See also *Stone v. Wall*, 734 So. 2d 1038, 1041 (Fla. 1999) (“A cause of action for interference with a custodial parent-child relationship has its roots in English common law . . .”).

51. See *Zaharias v. Gammill*, 844 P.2d 137, 138–39 (Okla. 1993). Generally, the tort of abduction requires a showing of force, fraud or concealment. *Baumgartner v. Eigenbrot*, 100 Md. 508, 513, 60 A. 601, 603 (1905). The tort of intentional interference with the parent-child relationship, however, may require only a showing of a parental or custodial relationship with the child, third party interference with the relationship without the consent of the parent, and damages as a result of such interference. *Kessel v. Leavitt*, 511 S.E.2d 720, 765–66 (W. Va. 1998).

The current trend among states is to recognize a cause of action for the tort of intentional interference with the parent-child relationship when the interference is with a parent's custodial rights.⁵² For example, in *Kessel v. Leavitt*,⁵³ the West Virginia Supreme Court of Appeals recognized a tort claim for intentional interference with the custodial relationship, basing its decision on the court's previous recognition of other tortious interference claims, the state's criminal statutes that punish such interference, and the recognized importance of custodial rights.⁵⁴ Many jurisdictions support their decisions to adopt such a tort claim with the *Restatement (Second) of Torts* conclusion that there is a viable claim when a person abducts, compels, or induces a minor child to leave a parent's custody knowing that the parent does not consent.⁵⁵ For example, in *Politte v. Politte*,⁵⁶ the Missouri Court of Appeals found it clear under the *Restatement* that only a custodial parent can sue for interference with the parent-child relationship, recognizing the tort claim for a custodial parent but declining to extend the right to parties with visitation rights.⁵⁷ Only a few courts have rejected this cause of action on policy and precedent-related grounds.⁵⁸ As part of this minority, the court in *Larson v. Dunn*⁵⁹ relied on the policy rationales that (1) the burden on children from additional litigation is too great to adopt the new tort, (2) other remedies such as contempt actions are available, and (3) the tort may not adequately deter parental abduction.⁶⁰

52. See, e.g., *Murphy*, 571 N.E.2d at 350–51 (recognizing a cause of action for tortious interference with custodial rights); see also *DiRuggiero v. Rodgers*, 743 F.2d 1009, 1018 (3d Cir. 1984) (same); *Lloyd v. Loeffler*, 694 F.2d 489, 496 (7th Cir. 1982) (same); *Anonymous v. Anonymous*, 672 So. 2d 787, 790 (Ala. 1995) (same); *Surina v. Lucey*, 214 Cal. Rptr. 509, 511–12 (Cal. Ct. App. 1985) (same); *Stone*, 734 So. 2d at 1039 (same); *Wood v. Wood*, 338 N.W.2d 123, 127 (Iowa 1983) (same); *Politte v. Politte*, 727 S.W.2d 198, 200 (Mo. Ct. App. 1987) (same); *Plante v. Engel*, 469 A.2d 1299, 1300 (N.H. 1983) (same); *Kessel*, 511 S.E.2d at 765 (same).

53. 511 S.E.2d 720.

54. *Id.* at 765.

55. See, e.g., *DiRuggiero*, 743 F.2d at 1018 (following the *Restatement's* view of a tort claim for interference with the parent-child relationship); *Anonymous*, 627 So. 2d at 789 (same); *Surina*, 214 Cal. Rptr. 509 at 512–13 (same); *Stone*, 734 So. 2d at 1041–42 (same); *Wood*, 338 N.W.2d at 127 (same); *Murphy*, 571 N.E.2d at 351 (same); *Kessel*, 511 S.E.2d at 760–61 (same).

56. 727 S.W.2d 198.

57. *Id.* at 200.

58. See *Marshak v. Marshak*, 628 A.2d 964, 969, 971 (Conn. 1993) (refusing to recognize a cause of action for interference with the parent-child relationship where parents have joint legal custody); *Larson v. Dunn*, 460 N.W.2d 39, 45, 47 (Minn. 1990) (refusing to recognize a cause of action for interference with the parent-child relationship because doing so would not be in the best interests of children); *Zaharias v. Gammill*, 844 P.2d 137, 138 (Okla. 1993) (refusing to recognize a cause of action for interference with the parent-child relationship because the court had never recognized the tort before).

59. 460 N.W.2d 39.

60. *Id.* at 45–47.

C. Although Courts Have Recognized a Cause of Action for Interference with the Custodial Parent-Child Relationship, There Is No National Trend to Adopt a Cause of Action for Interference with Visitation Rights

Although the trend among courts is to recognize a cause of action for intentional interference with the custodial parent-child relationship,⁶¹ few states recognize a cause of action for interference with visitation rights.⁶² In *Ruffalo v. United States*,⁶³ the United States District Court for the Western District of Missouri made an “educated guess” about the state law in Missouri and concluded that the court would likely recognize a damages claim for interference with visitation rights.⁶⁴ Three years later, however, in *Politte v. Politte*,⁶⁵ the Missouri Court of Appeals found no valid claim for interference with temporary custody and visitation rights.⁶⁶ In *Politte*, the father of three children brought a claim for money damages against his ex-wife for refusing to allow him to exercise his visitation rights.⁶⁷ In declining to recognize a cause of action for interference with visitation rights, the court concluded that there are other adequate remedies in place to address this wrong, the best interests of the child would not be served by further court action, and the *Restatement* did not provide relief in this instance.⁶⁸

Jurisdictions that have refused to recognize a tort claim for interference with visitation rights have done so because they view visitation rights as lesser than custodial rights,⁶⁹ and because policy favors a narrower scope for the tort of intentional interference with the parent-child relationship.⁷⁰ For instance, in *Gleiss v. Newman*,⁷¹ the Court of Appeals

61. See *supra* Part II.B.

62. See, e.g., *Owens v. Owens*, 471 So. 2d 920, 921 (La. Ct. App. 1985) (refusing to recognize a cause of action for interference with visitation rights); *Gleiss v. Newman*, 415 N.W.2d 845, 846 (Wis. Ct. App. 1987) (same); *Cosner v. Ridinger*, 882 P.2d 1243, 1247 (Wyo. 1994) (same). *Contra* *Ruffalo v. United States*, 590 F. Supp. 706, 713 (W.D. Mo. 1984) (finding that Missouri state law would likely recognize a cause of action for interference with visitation rights). *But see* *Politte*, 727 S.W.2d at 200–01 (restricting the application of the *Ruffalo* decision).

63. 590 F. Supp. 706.

64. *Id.* at 713.

65. 727 S.W.2d 198.

66. *Id.* at 198.

67. *Id.* at 198–99.

68. *Id.* at 200–01.

69. See *id.* at 200 (discussing *Kipper v. Vokolek*, 546 S.W.2d 521 (Mo. Ct. App. 1977) (“[V]isitation rights or right to temporary custody [are] not significant enough to be protected by this tort.”); *Cosner v. Ridinger*, 882 P.2d 1243, 1247 (Wyo. 1994) (commenting that, unlike custody rights, “visitation rights of a parent are not sufficiently significant to be protected by this court”).

70. See *Politte*, 727 S.W.2d at 200–01 (finding that the tort is not in the best interests of children and that there are other available remedies for a complaint of interference with visitation

of Wisconsin expressed concern that allowing a tort for interference with visitation rights would open the door for “a host of actions” that would burden courts when there are already other adequate remedies available.⁷² Furthermore, the court found that recognizing the claim would be contrary to the best interests of children because it would shift the court’s focus to parental compensation.⁷³

D. Prior to Khalifa, Maryland Refused to Adopt a Tort Claim for Intentional Interference with the Parent-Child Relationship

The Maryland Court of Appeals first discussed whether to adopt a cause of action for intentional interference with the parent-child relationship in the 1986 case *Hixon v. Buchberger*.⁷⁴ In *Hixon*, a minor child’s biological father with visitation rights complained of “belligerent and hostile statements” made towards him by the defendant,⁷⁵ making it difficult for him to physically take his child during court-ordered visitation sessions.⁷⁶ The court found that Maryland had never expressed a substantive right to non-custodial parent visitation, given the tenuous nature of the right.⁷⁷ Moreover, the court concluded that the actual interference in this instance was relatively minor.⁷⁸ The court explicitly stated that it was not deciding whether, or under what circumstances, a cause of action in tort would exist for interference with visitation rights.⁷⁹ The court narrowly held that when “a parent or that parent’s ally who, without committing any tort presently recognized in Maryland, speaks hostilely to the other parent about that parent’s exercise of custody or visitation rights does not thereby become liable in damages.”⁸⁰

Following *Hixon*, the Maryland Court of Special Appeals and Court of Appeals respectively decided *Lapides v. Trabbic*⁸¹ and *Gaver v. Harrant*.⁸²

rights); *Cosner*, 882 P.2d at 1247 (refusing to extend the tort to visitation rights based on evidence demonstrating that it is not in the best interest of children). See also *Boswell v. Boswell*, 352 Md. 204, 219, 721 A.2d 662, 669 (1998) (explaining that the “best interests of the child standard” is the principal consideration in Maryland family law decisions); *Ross v. Hoffman*, 280 Md. 172, 174–75, 372 A.2d 582, 585 (1977) (same).

71. 415 N.W.2d 845 (Wis. Ct. App. 1987).

72. *Id.* at 846.

73. *Id.* at 846–47.

74. 306 Md. 72, 507 A.2d 607 (1986).

75. *Id.* at 74, 507 A.2d at 608. The defendant was the child’s biological mother’s fiancée.

76. *Id.*

77. *Id.* at 82–83, 507 A.2d at 612.

78. *Id.* at 83, 507 A.2d at 612.

79. *Id.*

80. *Id.*

81. 134 Md. App. 51, 758 A.2d 1114 (2000).

82. 316 Md. 17, 557 A.2d 210 (1989).

The Court of Special Appeals in *Lapides* declined to recognize a cause of action for interference with the parent-child relationship where the mother allegedly interfered with the father's ability to communicate and spend time with the child.⁸³ Because the parents' custody agreement allowed the minor child to "choose the location where she resides on any given day," neither parent had superior physical custody rights to the child, and the court stated that it would not extend a tort remedy to such a claim, given the equal custody and lack of severe circumstances.⁸⁴ In *Gaver*, the Court of Appeals similarly refused to recognize a minor child's cause of action for loss of parental society and affection where the minor child's father was severely injured in a construction accident because no precedent recognized such a tort and there were no pressing circumstances or societal need to recognize the new tort.⁸⁵

III. THE COURT'S REASONING

In *Khalifa v. Shannon*,⁸⁶ the Court of Appeals of Maryland held that a parent may bring a civil claim for tortious interference with custody and visitation rights regardless of whether the parent loses the services of the child.⁸⁷ The court further held that the damages awarded to Michael Shannon for this claim were not excessive.⁸⁸ Writing for the majority, Judge Battaglia began by explaining that Maryland first acknowledged a tort for abduction and harboring of a child from a parent in 1905.⁸⁹ The court traced the common law origin of the tort of abduction, explaining that an action in trespass was historically maintainable at common law only by a father where the abducted child was his son and heir.⁹⁰

The court commented that it had first addressed whether abduction and harboring could be the basis of a cause of action for interference with the

83. *Lapides*, 134 Md. App. at 54–55, 65, 758 A.2d at 1115, 1121.

84. *Id.* at 64–65, 758 A.2d at 1120–21 (finding that absent enticement or abduction of a child from the home, the adverse consequences of refusing to add a tort action for interference with parental rights were mitigated by the adequate remedies currently in place in the family court system).

85. *Gaver*, 316 Md. at 18, 33, 557 A.2d at 211, 218.

86. 404 Md. 107, 945 A.2d 1244 (2008).

87. *Id.* at 111, 945 A.2d at 1246.

88. *Id.*

89. *Id.* at 116, 945 A.2d at 1249 (citing *Baumgartner v. Eigenbrot*, 100 Md. 508, 60 A. 601 (1905)).

90. *Id.* at 119–21, 945 A.2d at 1251–52. This is because an heir-son "belonged" to the father, whereas there was no property interest imputed to the father for daughters and non-heir sons in marriage. See *id.* at 119–20, 945 A.2d at 1251 (discussing *Barham v. Dennis*, (1600) 78 Eng. Rep. 1001 (K.B.)).

parent-child relationship in *Hixon v. Buchberger*.⁹¹ In *Hixon*, the majority noted, the court held that the petitioner's allegations were insufficient to prove interference with the parent-child relationship.⁹² By holding that the claim was insufficient to prove the tort, the *Khalifa* court concluded that the *Hixon* court implicitly recognized the tort's existence.⁹³ The majority stated that the *Hixon* court defined the necessary elements to prove interference with the parent-child relationship by asserting that "belligerent words" were insufficient to prove an interference with the parent-child relationship.⁹⁴ Unlike the petitioner in *Hixon*, the majority found here that Michael Shannon sufficiently alleged the elements for the tort of interference with the parent-child relationship because Nermeen Shannon and Afaf Khalifa knowingly, intentionally, and severely interfered with Michael's custody rights by planning and executing the abduction and harboring of the two children.⁹⁵

The majority then explained that it was not necessary for a parent to allege an economic loss of services to maintain an action for interference with the parent-child relationship.⁹⁶ The court averred that loss of services was never an element of the tort of abduction itself, but instead was an arcane common law pleading requirement.⁹⁷

The court then addressed whether a non-custodial parent could bring a claim for interference with the parent-child relationship based on a loss of visitation rights.⁹⁸ Because the *Hixon* court distinguished minor from

91. *Id.* at 124, 945 A.2d at 1254 (citing *Hixon v. Buchberger*, 306 Md. 72, 507 A.2d 607 (1986)).

92. *Id.* at 126, 945 A.2d at 1255 (citing *Hixon*, 306 Md. at 83, 507 A.2d at 612).

93. *Id.* at 126–27, 945 A.2d at 1255 (citing *Hixon*, 306 Md. at 83, 507 A.2d at 612).

94. *Id.* (citation and internal quotation marks omitted).

95. *Id.* at 127, 945 A.2d at 1256.

96. *Id.* at 138–39, 945 A.2d at 1262.

97. *Id.* at 128, 945 A.2d at 1256. The court explained that, at common law, a plaintiff was required to plead one of two subcategories of trespass for a tort claim: trespass on the case, also known as the "case," or trespass *vi et armis*, also known simply as "trespass." *Id.* (internal quotation marks omitted). When on the case, a viable claim for interference with a parent-child relationship required loss of services because the claim was based on "injury to the master consequent from the injury to the servant . . ." *Id.* at 129, 945 A.2d at 1257. Conversely, in some states, when a plaintiff brought an action for trespass alleging direct injury to a father, no loss of services was required and a father could receive both pecuniary and emotional compensation. *Id.* at 121–23, 945 A.2d at 1252–53. An action could be brought for trespass without a loss of services because the father was deprived of the comfort and society of a child to which he was entitled as a guardian. *Id.* at 132–33, 945 A.2d at 1259. Although the Maryland Court of Appeals had not determined whether an abduction action would lie in trespass, several other states at common law found that a loss of services was not required and an action in trespass could be brought for an abduction claim. *Id.* at 132, 945 A.2d at 1258–59. The *Khalifa* court thus found that because an abduction action, which was the precursor to an action for interference with the parent-child relationship, could be brought on the case *or* in trespass at common law, loss of services was not required to maintain the cause of action. *Id.* at 138, 945 A.2d at 1262.

98. *Id.* at 139, 945 A.2d at 1262–63.

major interferences with visitation rights, the court determined that Maryland recognized a cause of action for interference with visitation rights, with the threshold requirement that the interference not be minor.⁹⁹

Last, the court concluded that the damages awarded to Michael Shannon were not excessive or disproportionate because the factors for determining a punitive damages award weighed in favor of upholding the judgment of damages against Nermeen Shannon and Afaf Khalifa.¹⁰⁰

Judge Raker concurred in the judgment because, while she agreed that the court could create a new cause of action in tort,¹⁰¹ she believed that the court should have announced that it was creating a new tort for intentional interference with the parent-child relationship rather than straining to interpret *Hixon v. Buchberger* as adopting the tort in 1986.¹⁰² Judge Raker read *Hixon* as holding only that minor custody interferences did not interfere with custody rights.¹⁰³

IV. ANALYSIS

In *Khalifa v. Shannon*,¹⁰⁴ the Maryland Court of Appeals held that there is a cognizable claim for tortious interference with the parent-child relationship when there is an obstruction of custodial or visitation rights.¹⁰⁵ Furthermore, the court abolished the common law requirement that the claimant prove a loss of services caused by the interference.¹⁰⁶ In so holding, the court based its decision on a questionable interpretation of *Hixon v. Buchberger*.¹⁰⁷ Although the *Khalifa* court correctly followed the national trend in adopting a new tort for interference with the parent-child relationship,¹⁰⁸ the court adopted an overly broad rule that failed to account for significant policy implications that favor a rule limited to protecting

99. *Id.* at 141, 945 A.2d at 1264.

100. *Id.* at 149, 945 A.2d at 1269. The court determined whether punitive damages were excessive by looking to “(1) the defendant’s ability to pay; (2) the relationship of the award to statutorily imposed criminal fines; (3) the amount of the award in comparison to other final punitive damage awards in the jurisdiction . . . ; (4) the gravity of the defendant’s conduct; (5) the deterrent value of the award both with respect to the defendant and the general public; (6) whether compensatory damages . . . sufficiently compensate the plaintiff; and (7) whether a reasonable relationship exists between compensatory and punitive damages.” *Id.* at 142–43, 945 A.2d at 1265.

101. *Id.* at 149–50, 945 A.2d at 1269 (Raker, J., concurring) (commenting that the court should have either stated that it was adopting a new tort and given the reasons why, or left policy decisions up to the legislature).

102. *Id.*

103. *Id.*

104. 404 Md. 107, 945 A.2d 1244.

105. *Id.* at 111, 945 A.2d at 1246 (majority opinion).

106. *Id.* at 138–39, 945 A.2d at 1262.

107. *See infra* Part IV.A.

108. *See infra* Part IV.B.

against interference with custodial rights, and not visitation rights.¹⁰⁹ Although the court properly decided *Khalifa* given the severity of the circumstances, the court should have limited its new tort to interference with custodial rights.¹¹⁰

A. *The Court Improperly Applied Precedent by Concluding that Maryland Already Adopted a Cause of Action for Intentional Interference with the Parent-Child Relationship in Hixon v. Buchberger*

The court's analysis in *Khalifa* improperly rested on the premise that Maryland previously adopted a cause of action for intentional interference with the parent-child relationship in *Hixon v. Buchberger*.¹¹¹ In *Hixon*, the court explicitly stated that it did not decide whether or under what circumstances a cause of action would lie for interference with visitation rights.¹¹² The *Hixon* court simply articulated the narrow holding that "a parent or that parent's ally who, without committing any tort presently recognized in Maryland, speaks hostilely to the other parent about that parent's exercise of *custody or visitation rights* does not thereby become liable in damages."¹¹³ By restricting its holding to the specific facts of the case and stating that it was not deciding whether to adopt the tort claim, the *Hixon* court only declined to implement a completely new tort under those circumstances.¹¹⁴ Thus, the *Khalifa* court incorrectly concluded that *Hixon*'s holding implicitly recognized a tort remedy for interference with the parent-child relationship.¹¹⁵

By relying primarily on the faulty presumption that Maryland recognized the tort of interference with custody and visitation rights in *Hixon*,¹¹⁶ the *Khalifa* court failed to consider the policy implications of its new tort. Thus, this Note examines the gaping hole in the court's reasoning by examining the legal and policy justifications that the court failed to address in adopting the new tort.¹¹⁷

109. See *infra* Part IV.B–C.

110. See *infra* Part IV.C.

111. See *Khalifa*, 404 Md. at 149–50, 945 A.2d at 1269 (Raker, J., concurring) (arguing that *Hixon* did not recognize a cause of action for interference with the parent-child relationship because the court stated *only* that the interference in *Hixon* was relatively minor and would not amount to a tortious interference with custody rights in most jurisdictions).

112. *Hixon v. Buchberger*, 306 Md. 72, 83, 507 A.2d 607, 612 (1986).

113. *Id.* (emphasis added).

114. *Khalifa*, 404 Md. at 149–50, 945 A.2d at 1269.

115. See *id.* (disagreeing with the *Khalifa* majority's reading of the *Hixon* holding).

116. See *id.* at 126–27, 945 A.2d at 1255–56 (majority opinion) (finding that the court in *Hixon* recognized the tort of interference with the parent-child relationship and that Shannon sufficiently alleged the necessary facts to win the case under *Hixon*).

117. See *infra* Part IV.B–C.

B. The Khalifa Court Correctly Adopted a Tort for Intentional Interference with Custodial Rights that Follows the National Trend and Addresses Policy Concerns

Although the *Khalifa* court based its analysis on a faulty reading of *Hixon* when it adopted the new tort,¹¹⁸ the court correctly adopted a cause of action for interference with the parent-child custodial relationship.¹¹⁹ In adopting this new tort, the *Khalifa* court properly followed the national trend by recognizing a cause of action for interference with custodial rights and refusing to require a loss of services to bring the claim.¹²⁰

First, the *Khalifa* court properly followed the national trend by adopting a cause of action for interference with custodial rights, recognizing that the problem of child abduction by family members is serious, and joining its sister states in attempting to curb the problem.¹²¹ Family member child abduction cases are very common—in 1999, an estimated 203,900 children were victims of a family abduction.¹²² The predominant motive for such abduction is to permanently interfere with *custodial* rights.¹²³ By adopting this new tort, states have shown that they recognize the volume of child abduction cases in the custodial context, as well as the need for a broad, comprehensive claim to address the issue.¹²⁴ Thus, the

118. See *supra* Part IV.A.

119. See *infra* notes 121–127 and accompanying text. Maryland precedent supports the adoption of the new tort for intentional interference with the parent-child relationship because this tort is the modern application of the tort of abduction, which Maryland recognized in *Baumgartner v. Eigenbrot*, 100 Md. 508, 60 A. 601 (1905). See *supra* notes 45–50 and accompanying text.

120. See *infra* notes 121–127 and accompanying text.

121. See, e.g., *Stone v. Wall*, 734 So. 2d 1038, 1042 (Fla. 1999) (“[T]he majority of states . . . have recognized a cause of action for intentional interference with the custodial parent-child relationship.”); *Wood v. Wood*, 338 N.W.2d 123, 126–27 (Iowa 1983) (following the majority of jurisdictions in recognizing a tort claim for intentional interference with the custodial parent-child relationship because a tort claim is the most effective remedy to prevent kidnapping and to provide sanctions if kidnapping does occur).

122. HEATHER HAMMER ET AL., NAT’L INCIDENCE STUDIES OF MISSING, ABDUCTED, RUNAWAY, AND THROWN AWAY CHILDREN, CHILDREN ABDUCTED BY FAMILY MEMBERS: NATIONAL ESTIMATES AND CHARACTERISTICS 2 (2002), available at <http://www.ncjrs.gov/pdffiles1/ojjdp/196466.pdf>. The study defined family abduction as “the taking or keeping of a child by a family member in violation of a custody order, a decree, or other legitimate custodial rights, where the taking or keeping involved some element of concealment, flight, or intent to deprive a lawful custodian indefinitely of custodial privileges.” *Id.*

123. *Id.* at 6. The study found that this was the most common serious element in 82% of cases. *Id.* The children abducted tended to be under six years old, and abductions overwhelmingly occurred when the child was not living with both parents. *Id.* at 4.

124. See, e.g., *Wood*, 338 N.W.2d at 127 (following the majority of jurisdictions in recognizing a claim for interference with the custodial parent-child relationship and finding that a tort claim “will be more likely to effect a speedy return of the child; . . . will result in better cooperation by potential third-party defendants seeking to avoid the suit; and increased knowledge of a child’s whereabouts will result through the broad scope of civil-case discovery”).

prevalence and seriousness of interference with the custodial relationship supports providing a tort remedy.¹²⁵

Second, the court properly followed the modern trend among states by confirming that the Maryland tort does not require the archaic loss of services element established by old, common law abduction cases.¹²⁶ In doing so, the *Khalifa* court, like its sister courts, recognized the importance of emotional bonds between parents and their children.¹²⁷ Therefore, the Maryland Court of Appeals, consistent with the national trend of adopting the tort of intentional interference with the custodial parent-child relationship, correctly concluded that Maryland should recognize the claim.

C. The Court of Appeals Failed to Consider Policy Implications that Favored Restricting the New Tort to Interference with Custodial Rights and Instead Adopted an Overly Inclusive Tort Action for Interference with Custodial and Visitation Rights

The *Khalifa* court strayed from the national trend by adopting an overly expansive tort of intentional interference with the parent-child relationship that includes interference with visitation rights.¹²⁸ Instead, considering that most other jurisdictions have refused to extend the tort claim to interference with visitation rights,¹²⁹ the court should have carefully weighed policy concerns before adopting this new tort.

125. See Kristin A. Wentzel, Note, *In the Best Interests of the Child? Minnesota's Refusal to Recognize the Tort of Intentional Interference with Custodial Rights: Larson v. Dunn*, 460 N.W.2d 39 (Minn. 1990), 14 HAMLINE L. REV. 257, 257-58 (1990) (arguing that child kidnapping by family members is a serious concern and that courts should adopt a tort remedy to combat the problem).

126. See, e.g., *Murphy v. I.S.K. Con. of New England, Inc.*, 571 N.E.2d 340, 352 (Mass. 1991) (finding that a tort claim for interfering with the parent-child relationship is based on a loss of comfort and society of a child, not a loss of services); *Howell v. Howell*, 78 S.E. 222, 224 (N.C. 1913) (“[T]he modern authorities . . . have advanced, and now the parent can recover damages for the unlawful taking away or concealment of a minor child, and [the damages are] not limited to . . . the fiction of ‘loss of services.’”); RESTATEMENT (SECOND) OF TORTS § 700(d) (1977) (“Under the rule stated in this section, loss of services or impairment of ability to perform services is not a necessary element of a cause of action.”).

127. See *Hodge v. Carroll County Dep’t of Soc. Servs.*, 812 F. Supp. 593, 600 (D. Md. 1992) (agreeing with the Eighth Circuit Court of Appeals and explaining that there is “no more important relationship, no more basic bond in American society, than the tie between parent and child”); see also *Plante v. Engel*, 469 A.2d 1299, 1301 (N.H. 1983) (“The high place accorded filiation stems not from the material bond whereby services are provided to each other by parent and child but from a recognition that there is a sanctity in the union of parent and child that transcends economics and deserves the utmost respect.”).

128. See *Khalifa v. Shannon*, 404 Md. 107, 111, 945 A.2d 1244, 1246 (2008) (recognizing the tort of intentional interference with the parent-child relationship for interference with both custody and visitation rights).

129. See *Cosner v. Ridinger*, 882 P.2d 1243, 1246 (Wyo. 1994) (“The jurisdictions recognizing this tort [for intentional interference with the parent-child relationship] have limited the cause of

Persuasive policy considerations weigh against extending the tort of interference with parent-child relationships to encompass interference with visitation rights.¹³⁰ First, by adopting a tort for interference with visitation rights, the court failed to keep the best interests of the child at the forefront of its decision.¹³¹ The controlling standard in Maryland family law cases involving children is always, above everything else, what is in the best interests of the child.¹³² It is in a child's best interest to minimize court battles because such litigation has a detrimental effect on a child's emotional well-being.¹³³ Indeed, the primary goal of this tort is financial compensation for one parent against another, which does not serve a child's best interests.¹³⁴ Protection of a parent's visitation rights is better achieved through other means available through the court system, including contempt actions, criminal sanctions, and actions for modification of visitation rights.¹³⁵

Second, although many of these policy concerns can also apply in the context of interference with custodial rights, courts routinely recognize that custodial rights are entitled to greater protection than visitation rights. A parent with custodial rights is the primary care provider for the child while a parent with visitation rights has significantly lesser obligations to the child.¹³⁶ Thus, interference with custodial rights affects the best interests of

action to the custodial parent and have not extended it to a non-custodial parent who is somehow deprived of visitation privileges.”).

130. See *infra* notes 131–152 and accompanying text.

131. Cf. *Gleiss v. Newman*, 415 N.W.2d 845, 846 (Wis. Ct. App. 1987) (“[T]he recognition of [interfering with a non-custodial parent’s visitation rights] would not be in the child’s best interests.”).

132. See *Boswell v. Boswell*, 352 Md. 204, 219, 721 A.2d 662, 669 (1998) (“The best interests of the child standard has long been applied by Maryland courts to resolve family law disputes.”); *Ross v. Hoffman*, 280 Md. 172, 174–75, 372 A.2d 582, 585 (1977) (stating that the best interest of the child standard is “firmly entrenched in Maryland” and is “of transcendent importance”).

133. Research indicates that the events following the separation of spouses and the degree of conflict between spouses lead to significant adjustment problems in the children of the divorced couple. See, e.g., John H. Grych & Frank D. Fincham, *Interventions for Children and Divorce: Toward Greater Integration of Research and Action*, 111 PSYCHOL. BULL. 434, 436 (1992). See also *Larson v. Dunn*, 460 N.W.2d 39, 45–46 (Minn. 1990) (declining to adopt a cause of action for interference with the parent-child relationship because this new tort would place an undue burden on children).

134. See *Politte v. Politte*, 727 S.W.2d 198, 200 (Mo. Ct. App. 1987) (finding that the goal of this tort is “the vindication of one parent against the other”). Unfortunately, divorcing couples may try to leverage their bargaining power for alimony or property allocation by using the child to their advantage. See *id.* at 201 (noting that parents could use this tort to drain the finances of the other parent).

135. See *Gleiss*, 415 N.W.2d at 846 (finding that there are other adequate remedies available to enforce visitation rights); see also *Larson*, 460 N.W.2d at 46 (“[T]he proper remedy for such violation of the court’s integrity lies in contempt and other such sanctions; not in providing the other party with compensation.”).

136. A parent with visitation rights can have varying degrees of access to the child. See *Boswell*, 352 Md. at 220, 721 A.2d at 669 (“[A] parent whose child is placed in the custody of

the child more severely than interference with visitation rights, and therefore the custodial relationship needs additional protection.¹³⁷ Moreover, although the *Khalifa* court limited the new tort to “substantial interferences” with visitation rights by its reliance on *Hixon*, this fails to consider situations where the court orders visitation for infrequent periods, for example once or twice a week, or when the interference is with third party visitation rights.¹³⁸ A narrowly tailored tort remedy for interference with custodial rights, but excluding interference with visitation rights, would have more efficiently addressed concerns of family member abduction within this legal framework.

Finally, the Court of Appeals should have carefully considered the policy implications of extending a new tort to interference with visitation rights because allowing such a broad cause of action will significantly burden the court system and produce a flood of lawsuits.¹³⁹ Because the *Khalifa* court established a very broad scope for the tort of intentional interference with the parent-child relationship,¹⁴⁰ this unclear standard will likely invite a tremendous number of lawsuits over the next few years.¹⁴¹

The *Khalifa* court appropriately found intentional interference with the parent-child relationship because this case involved an extreme instance of interference with parental rights.¹⁴² In *Khalifa*, the children were not

another person has a right of access to the child at *reasonable times*.” (emphasis in original) (quoting 2 WILLIAM T. NELSON, *DIVORCE AND ANNULMENT* § 15.26, at 274–75 (1961))). A non-custodial parent may have rights to liberal visitation with their child “at reasonable times and under reasonable conditions, but this right is not absolute” and can be limited. *Id.* (quoting *Myers v. Butler*, 10 Md. App. 315, 317, 270 A.2d 341, 342 (1970)).

137. Interference with the obligations of a custodial parent affects significant decisions about the child’s life and future. *Taylor v. Taylor*, 306 Md. 290, 296, 508 A.2d 964, 967 (1986). Interference with visitation, however, only interferes with the interaction between a non-custodial parent and his or her child. *See supra* note 136.

138. *See, e.g., Khalifa v. Shannon*, 404 Md. 107, 140–41, 945 A.2d 1244, 1264 (2008) (holding only that interference with visitation rights cannot be “less than a major or substantial interference”).

139. *See Gleiss*, 415 N.W.2d at 846 (finding that if a tort action for interference with visitation rights is recognized, “a host of actions would follow”). *See also infra* notes 140–152 and accompanying text.

140. The *Khalifa* court identified the inner limits—what will not constitute a cause of action for interference with the parent-child relationship—based on *Hixon*’s holding that a parent speaking hostilely to another parent is not sufficient. *Khalifa*, 404 Md. at 126–27, 945 A.2d at 1255. The court also identified the extreme outer limits of the action by explaining that a parent interfering with visitation and custodial rights by abducting children and harboring a child in a foreign country will create a viable cause of action for interference with parental rights. *Id.* at 141, 945 A.2d at 1264.

141. *See Larson v. Dunn*, 460 N.W.2d 39, 46 (Minn. 1990) (acknowledging the potential for serious abuse of the court system where this type of litigation already results in “bitter accusations and contradictory affidavits”).

142. *See Khalifa*, 404 Md. at 127, 945 A.2d at 1256 (noting that Nermeen Shannon abducted the children to Egypt by telling her former husband she was going to visit family in New York and refused to allow them to return to the United States).

involved in the lawsuit because they remained in Egypt throughout the process;¹⁴³ thus, only the kidnapping had a detrimental impact on the children, not the civil suit. However, most cases involve less drastic situations, more like the circumstances in *Hixon* and *Politte*.¹⁴⁴ In *Hixon* and *Politte*, parents disputed interference with visitation rights, but the parties' whereabouts were known and the situations could be remedied through ordinary court procedures.¹⁴⁵ With the *Khalifa* court's broad holding that defines only the outer and inner limits of a very broad tort for intentional interference with the parent-child relationship,¹⁴⁶ parents can bring viable actions in significantly less severe cases than *Khalifa* under this tort.¹⁴⁷ By failing to set narrower limits for the new tort, the court may not only jeopardize its ability to act in the best interests of the child but also waste court resources by hearing frivolous suits.¹⁴⁸

The opportunity for additional litigation in this area is precisely the result that the *Khalifa* court should have discouraged—as the Missouri Court of Appeals eloquently stated in *Politte*, “[d]isarmament is needed to limit post-marital warfare, not additional armament to increase it.”¹⁴⁹ Moreover, this new tort remedy for interference with visitation rights will not likely deter child abductions because family relationships and disputes often involve emotional situations where potential sanctions are incomparable to the threat of losing a child.¹⁵⁰ These emotions often outweigh any rational consideration of economic penalties when a parent

143. *Id.* at 112, 945 A.2d at 1247.

144. In *Hixon*, a minor child's biological father complained of “belligerent and hostile statements” that made it difficult for him to physically take his child during court-ordered visitation sessions. *Hixon v. Buchberger*, 306 Md. 72, 74, 507 A.2d 607, 608 (1986). In *Politte*, the child's biological father complained that the mother subjected the children to “an unfit moral atmosphere” and tried to turn the children against him, which had a detrimental effect on his relationship with the children. *Politte v. Politte*, 727 S.W.2d 198, 198–99 (Mo. Ct. App. 1987).

145. See *Hixon*, 306 Md. at 83, 507 A.2d at 612 (finding no claim for interference with the parent-child relationship where the allegedly tortious action involved only hostile remarks from one parent to the other); *Politte*, 727 S.W.2d at 201 (finding other routes to remedy the situation of interference with visitation rights where the mother did not allow the father to exercise his visitation rights).

146. See *Khalifa*, 404 Md. at 126–27, 945 A.2d at 1255–56 (finding the “belligerent words” in *Hixon* too minor for a tortious interference with the parent-child relationship claim but the facts of *Khalifa* severe enough to bring a viable claim).

147. See *supra* note 138 and accompanying text.

148. See, e.g., *Gleiss v. Newman*, 415 N.W.2d 845, 846 (Wis. Ct. App. 1987) (“[A]llowing this type of tort could encourage claims for petty infractions.”).

149. *Politte*, 727 S.W.2d at 201.

150. See, e.g., *Larson v. Dunn*, 460 N.W.2d 39, 46–47 (Minn. 1990) (noting that “[f]amily ties are normally stronger than the fear of money damages,” that studies show parents believe they are saving their child from abuse when abducting them, and that these fears, though sometimes misplaced, are often genuine).

fears losing his or her child.¹⁵¹ The Maryland Court of Appeals should have adequately weighed the policy considerations of adopting a broad new tort for intentional interference with the parent-child relationship.¹⁵² While a tort action for intentional interference with the parent-child relationship is justified, the *Khalifa* court's inclusion of interference with visitation rights resulted in an overbroad rule that opposes the best interests of children and increases burdens on the court system.

V. CONCLUSION

In *Khalifa v. Shannon*, the Maryland Court of Appeals relied on a faulty interpretation of precedent in adopting a new tort for intentional interference with the parent-child relationship that is overly broad in light of the trend among other states as well as the policy implications of adopting the tort.¹⁵³ Although the court correctly decided *Khalifa* given the circumstances of the case, it should have narrowed the scope of its holding and more clearly defined the boundaries for the tort of intentional interference with the parent-child relationship.¹⁵⁴ The best interests of children should always be at the forefront of court decisions involving family law matters.¹⁵⁵ Therefore, because limiting the opportunities for parents to engage in court battles is in the best interest of children and because parents have other adequate means by which to protect their visitation rights, the *Khalifa* court should have limited its new cause of action in tort for intentional interference with the parent-child relationship to protect only custody rights.¹⁵⁶

151. *See id.* at 46 (arguing that the tort of intentional interference with the parent-child relationship will not deter abductors).

152. *See id.* at 45–47 (considering the best interests of the child, the possibility of frivolous lawsuits and the other adequate remedies in place when deciding not to adopt a tort for intentional interference with visitation rights). *See also* Gleiss v. Newman, 415 N.W.2d 845, 846 (Wis. Ct. App. 1987) (refusing to adopt a tort remedy for intentional interference with visitation rights because it would encourage petty lawsuits, would not be in the best interests of children, and because there are other remedies available to enforce the rights).

153. *See supra* Part IV.

154. *See supra* Part IV.C.

155. *See supra* notes 132–134 and accompanying text.

156. *See supra* notes 130–152 and accompanying text.