

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN**

PARENT OF THREE,

Plaintiff,

v.

Case No. 26-CV-123

MINOR CHILDREN,

Defendants.

**ORDER GRANTING IN PART AND DENYING IN PART PLAINTIFF'S
MOTION FOR TEMPORARY RESTRAINING ORDER**

This matter comes before the court on Plaintiff's motion for a temporary restraining order seeking relief from several recurring household annoyances. Plaintiff asks the court to enjoin Defendants from (1) demanding assistance putting on full winter gear only to, after five minutes spent outdoors, plead to come back inside because it's "too cold"; (2) enthusiastically devouring particular snack foods until those foods are purchased in bulk from Costco, at which point the same snacks immediately become "gross"; and (3) repeatedly changing their food orders while Plaintiff is actively placing an order in the drive-through line at Culver's.

Although these grievances are not typically the subject of federal litigation, the court reluctantly concludes that traditional parental enforcement mechanisms—including bribery, yelling, and promises of extra screen time—have proven ineffective. Accordingly, injunctive relief is warranted.

I. FACTS

Plaintiff is the mother of the three minor Defendants, all of whom reside in the household and collectively appear responsible for much of the home's untidiness, occasional marital strife, and the household's general state of chaos.

During winter months, Defendants routinely request permission to play outside in the snow. While Defendants are old enough to play in the backyard without

continuous supervision,¹ they are not yet capable of putting on their winter gear without assistance. Preparing Defendants for outdoor play is not easy. The process requires locating coats, hats, mittens, snowpants, scarves, and boots, which are often scattered throughout the home, left in backpacks, abandoned in the minivan, or draped over radiators. Occasionally, the search for a missing hat consumes ten minutes before the hatless Defendant suddenly remembers he “definitely left it at school.” Or perhaps on the bus.

Disputes frequently arise regarding ownership of hats and gloves. These disputes typically begin when one Defendant possesses blue gloves while another possesses green gloves—which becomes intolerably unjust once the latter Defendant declares, with no supporting history, that blue is now his favorite color.

Once all winter gear is located, Defendants insist they can put on their boots and zip their coats themselves. This confidence generally lasts until several minutes of visible struggling convinces them otherwise, at which point they begin loudly commanding Plaintiff to hurry up and help them. One Defendant routinely refuses to wear a winter coat in sub-freezing temperatures. When Plaintiff explains he will be cold without one, the Defendant calmly stares Plaintiff in the eyes and insists that he “loves coldness.”

Despite this elaborate process, Defendants frequently remain outdoors for only a matter of minutes before returning to the door, demanding immediate reentry because they are “too cold.” This includes the Defendant who previously professed his love of coldness. Plaintiff must then assist in removing, drying, and storing the same winter gear that required considerable effort to assemble moments earlier.

Plaintiff has also, on multiple occasions, purchased snack foods in bulk from Costco after Defendants expressed strong enthusiasm for the snacks earlier in the week. Before the Costco trip, Defendants described the snack as their “favorite” and consumed it with enough frequency to persuade Plaintiff that purchasing the snack in bulk was economical and prudent.

Shortly after the bulk purchase is made, however, Defendants abruptly reverse course. The very snack that was their “favorite” days earlier is now “gross.” As a result, the pantry now contains multiple Costco-sized boxes of individually wrapped snacks that Defendants once enthusiastically consumed but now categorically refuse to eat. Nevertheless, Defendants continue to make frequent trips to the pantry, stepping over these boxes while loudly complaining they are “starving” and there is “literally nothing to eat in the house.”

¹ Plaintiff makes this determination because Defendants remain mostly visible from the kitchen window and Plaintiff has become adept at distinguishing routine yelling from yelling that indicates imminent danger.

Finally, the Court finds that, no matter how extensively Defendants' orders from Culver's are discussed, negotiated, and confirmed in advance—usually multiple times during the drive—Defendants routinely change their selections while Plaintiff is actively attempting to place the order.

Even when their orders have not changed, Defendants nevertheless shout their orders from the back seat while Plaintiff is placing the order. These shouted reminders appear motivated by a concern—unsupported by evidence in the record²—that Plaintiff might otherwise forget their orders. This inevitably triggers a chain reaction. Upon hearing one Defendant loudly repeat an order, the remaining Defendants, apparently fearing they will be left to starve, begin shouting their orders as well. The resulting chorus of competing food requests invariably occurs at the precise moment Plaintiff is attempting to communicate with the drive-through employee.

II. DISCUSSION

A temporary restraining order is an extraordinary remedy that should only be granted when the movant makes a clear showing she is entitled to relief. The court is persuaded that the severity of Defendants' household infractions warrants relief. Plaintiff has demonstrated a likelihood of success on the merits and, absent relief, faces irreparable harm to her sanity. For the following reasons, Plaintiff's motion is granted in part and denied in part.

As to winter attire, the court finds Plaintiff will suffer irreparable harm absent a temporary restraining order requiring Defendants to remain outdoors for a reasonable period of time. The time required to prepare Defendants for winter play routinely exceeds the time actually spent outdoors. Under these circumstances, the harm to Plaintiff—the gradual erosion of her sanity—far outweighs the potential harm to Defendants.

The court is particularly persuaded by the un rebutted evidence concerning one Defendant's repeated assertion that he "loves coldness." While the court does not doubt Defendant's sincerity when making this claim, the record demonstrates that his enthusiasm for cold weather dissipates within minutes of actual exposure. Accordingly, injunctive relief is warranted to ensure that the considerable effort required to outfit Defendants for winter play results in at least some measurable amount of outdoor recreation.

As to Defendants' snacking habits, the court is sympathetic to Plaintiff's arguments. The record shows Defendants routinely bypass towering boxes of bulk

² Defendants did produce evidence that, on one occasion, Plaintiff forgot to order sides of cheese sauce. While the court does not minimize the seriousness of this omission, the record reflects this was an isolated incident and does not justify Defendants' drive-through conduct.

snacks in the pantry while complaining they are starving and there is “nothing to eat.” It appears the most desirable quality in a children’s snack is its scarcity.

However, Defendants raise a defense the court cannot ignore. A declaration from Plaintiff’s husband suggests Plaintiff’s Costco trips are often motivated, not by a desire to procure snacks for Defendants, but by a more self-serving impulse: the \$1.50 hot dog and soda combination available at Costco’s food court. After reviewing the record—including an alarming collection of “selfies” of Plaintiff at said food court—the court finds Plaintiff is, in fact, using Defendants’ snack preferences as a pretext for acquiring a cheap hot dog. Accordingly, while the court does not condone Defendants’ pantry theatrics, it declines to require them to eat snacks they now consider “gross,” particularly where Plaintiff’s purchase of the Costco snacks appears to be largely self-motivated.

Finally, the court is satisfied that Plaintiff provides Defendants ample opportunity to consider and finalize their orders before reaching the Culver’s drive-through. Accordingly, there is no sound justification for mid-order revisions or shouting of food orders from the back seat. The harm to Plaintiff is compounded by the unique pressures inherent to the drive-through environment—the limited time to place an order, the growing line of vehicles, and the awareness that the employee on the other end of the microphone can almost certainly hear the chaos unfolding inside the vehicle.

Nonetheless, the court takes judicial notice of a technological development seemingly designed to resolve this exact dispute: the Culver’s mobile ordering app. The app allows customers to order in advance, thereby eliminating the need for live negotiations at the drive-through speaker. In light of this readily available technology, the court will enjoin Defendants from changing or shouting their orders only if Plaintiff was reasonably unable to use the mobile app to place the order in advance. If the app was available and Plaintiff simply declined to use it, the Court will not intervene to rescue Plaintiff from her failure to take reasonable steps to avoid a situation that she alleges is “causing [her] to lose [her] mind.”³

III. ORDER

For the foregoing reasons, Plaintiff’s motion for a temporary restraining order is granted in part and denied in part. Defendants are enjoined from returning indoors after less than 30 minutes of winter play once Plaintiff has assisted in putting on their full winter gear. Defendants are also enjoined from modifying or changing their food orders while Plaintiff is placing an order at the Culver’s drive-through speaker,

³ The court recognizes that the mobile ordering system may present its own difficulties, such as the inevitability that Defendants will seek to change their orders after Plaintiff has already pressed the submit button. Such problems, while entirely foreseeable, are beyond the scope of the present motion.

but only if Plaintiff reasonably could not have used the Culver's mobile app to place the order in advance. Defendants are not enjoined from refusing to eat Costco snacks purchased in bulk, as Plaintiff has failed to prove harm given her apparent benefit from the \$1.50 jumbo hot dog and soda combination.⁴

#

⁴ The Court is under no illusion that Defendants will carefully review this order and modify their future conduct accordingly. Experience suggests that compliance will last approximately one afternoon. In the life of a parent of minor children, however, even an afternoon of relief qualifies as a significant victory.