

STATE OF ILLINOIS
IN THE CIRCUIT COURT OF THE 17TH JUDICIAL CIRCUIT
COUNTY OF WINNEBAGO

THE PEOPLE OF THE STATE OF ILLINOIS)	
)	Judge: J. Edward Prochaska
Plaintiff,)	
)	Case Nos. 01-CF-2701
vs.)	01-CM 8121
)	02-CM-637
Clarence L. Vance,)	02-CM-3066
)	02-CM-6438
Defendant,)	

**AFFIDAVIT AND PETITION FOR SUBSTITUTION OF JUDGE
AND PROSECUTOR FOR CAUSE AND FOR CHANGE OF VENUE**

Now comes Clarence L. Vance, the above named as Defendant in the above styled matters, and herein deposes and states, under the pains and penalties of perjury, as follows:

1. This AFFIDAVIT AND PETITION is filed pursuant to the provisions set forth in 725 ILCS 5/114-5(d) and 725 ILCS 5/114-6.

2. Pursuant to the Constitutions of both the United States of America and the State of Illinois, said Defendant is guaranteed the Right to Due Process of Law and the Right to Equal Protection of the Laws and also the Right to a fair and impartial trial that is: (A) Conducted by a fair and impartial judge presiding over a court vested with the lawful jurisdiction to conduct such a trial; (B) Prosecuted by ". . . a public prosecutor or other government lawyer (whose duty) is to seek justice, not merely to convict" (Illinois Rules of Professional Conduct, Article VIII, Rule 3.8(a)); and (C) Heard by a fair and impartial jury.

3. In the utter disregard of said Constitutional Rights, said Defendant has been unjustly prosecuted by Winnebago County State's Attorney Paul A. Logli and Assistants thereof, and purportedly convicted on April 24, 2007 by persons selected to be jurors in a trial conducted in the absence of jurisdiction by Judge Prochaska.

4. Said prosecution and said trial and said conviction being based entire on what said Paul Logli and Assistant State's Attorney Charles J. Prorok and Judge Prochaska each has reason to know, pursuant to well established and settled Law, to be an invalid and void document, as is hereinafter set forth.

5. On or about July 3, 2000, Clarence L. Vance served a PRIVATE CITIZEN CRIMINAL COMPLAINT, dated July 1, 2000, upon said Paul Logli. Documents in support of the statements set

forth in said Complaint were attached thereto.

6. Said Complaint stated that "*The purpose of this Complaint is to . . . make known*", pursuant to 18 U.S.C. 4, "*the actual commission of a felony being actively committed under the color of law*" in "*the United States Bankruptcy Court for the Northern District of Illinois, Western Division, at Rockford, Illinois*" in an effort to affect the unjust obtaining of Title to the subject real estate in a transaction defined, by 18 U.S.C. 1951(A)(2), as "*extortion*", to wit:

"The term 'extortion' means the obtaining of property from another, with his consent, induced by wrongful use of actual or threatened force, violence, or fear, or under color of official right."

7. Said Complaint also stated that the said effort was being perpetrated in the utter disregard of the fact that claims of ownership of said real estate asserted to effect said transaction were contrary both to the pertinent Winnebago County Recorder's Office Public Title Records and the prior state-court FINAL JUDGMENT ORDER.

8. Said state-court FINAL JUDGMENT ORDER, previously rendered in Winnebago County Case 97-ED-1 on October 27, 1998, conclusively adjudicated the ownership of said real estate and thereby so confirmed said Title Records establishing said Clarence L. Vance to be a non-owner of the said real estate since 1983.

9. Said Paul Logli failed to investigate said efforts or, in the alternative, practiced willful blindness to said efforts and thereby allowed said transaction to continue to fruition.

10. The Record in the above styled matters also establishes that the lawful owner of the said real estate, having been so adjudicated and confirmed to being such by said prior state-court judgment, did serve Complaints, by its Trustee, directly on said Paul Logli, on or about October 9, 2000, November 3, 2000, and March 28, 2001, respectively, and therein alleged, with supporting documentation, that, based entire upon a fraudulent claim of ownership contrary both to said Public Title Records and to said prior state-court judgment, that the said Bankruptcy Court, "*under color of official right*", "*authorized*" both a transaction pertaining to said real estate to be conducted and the document entitled "TRUSTEE'S DEED", and dated September 26, 2000, to be so issued to Complainant Alan F. Miller.

11. Those said Complaints do allege that said transaction was being perpetrated, with the assistance of others, by:

(A) Daniel M. Donahue, a partner in the law firm of McGreevy, Johnson & Williams, P.C.. Said law firm being Counsel for the State Bank of Davis which appeared in the Bankruptcy Case of Clarence L. Vance (97-B-50687) as a "*secured creditor*" only and was granted relief from the automatic stay, on April 25, 1997, "*in order to pursue its State Court remedies*" against said Debtor. Also, said Daniel M. Donahue was appointed to be the Trustee of the Bankruptcy Estate of Clarence L. Vance on April 25, 1997 and declined that

appointment, by letter dated May 2, 1997, "*due to a conflict*". Said Daniel M. Donahue was "*authorized*", by an order dated July 18, 1997, to be employed to assist "*THOMAS J. LESTER, Trustee of the Bankruptcy Estate of Clarence L. Vance, Case No. 97 B 50687*" as being "*in the best interest of the estate*".

(B) Said Thomas J. Lester, a partner in the law firm of Hinshaw & Culbertson L.L.P., was appointed to be the Trustee of said Bankruptcy Estate on May 5, 1997. The website of said Hinshaw & Culbertson states that their "*attorneys have served as United States Attorneys, Assistant United States Attorneys, State's Attorneys and counsel to federal and state members of government*" and also "*serve as Special Assistant Attorneys General, Special Assistant State's Attorneys and Special Assistant Corporation Counsel*". Said website also states that "*Hinshaw is highly experienced in all aspects of local government organization and operations, including conflict of interest laws applicable to local government officers . . .*"

12. In utter disregard of the allegations set forth in those said three (3) additional Complaints and supported by the said documents attached thereto, said Paul Logli either failed entire to investigate said allegations or practiced willful blindness thereto.

13. Illinois Rules of Professional Conduct, Article VIII, Rule 3.8, addressing "*Special Responsibilities of a Prosecutor*", states in pertinent part, that:

"(a) The duty of a public prosecutor or other government lawyer is to seek justice, not merely to convict.

(b) A public prosecutor or other government lawyer shall not institute or cause to be instituted criminal charges when such prosecutor or lawyer knows or reasonably should know that the charges are not supported by probable cause.

(c) A public prosecutor or other government lawyer in criminal litigation shall make timely disclosure to . . . the defendant if the defendant is not represented by a lawyer, of the existence of evidence, known to the prosecutor or other government lawyer, that tends to negate the guilt of the accused or mitigate the degree of the offense."

14. In support thereof, the Illinois Supreme Court has stated:

"The State's attorney in his official capacity is the representative of all the people, including the defendant, and it (is) as much his duty to safeguard the constitutional rights of the defendant as those of any other citizen." People v. Cochran, 313 Ill. 508, 526 (1924)

15. The United States Supreme Court has described the duty of a prosecutor as follows:

"The (Illinois) States Attorney is the representative not of an ordinary party to a controversy, but of a sovereignty whose obligation to govern impartially is as compelling as

its obligation to govern at all; and whose interest, therefore, in a criminal prosecution is not that it shall win a case, but that justice shall be done. As such, he is in a peculiar and very definite sense the servant of the law, the twofold aim of which is that guilt shall not escape or innocence suffer. He may prosecute with earnestness and vigor—indeed he should do so. But, while he may strike hard blows, he is not at liberty to strike foul ones. It is as much his duty to refrain from improper methods calculated to produce a wrongful conviction as it is to use every legitimate means to bring about a just one." Berger v. United States, 79 L.Ed 1314, 1321 (1935)

16. Said Paul Logli has reason to know that he has a statutory duty to "*not institute or cause to be instituted criminal charges when such prosecutor or lawyer knows or reasonably should know that the charges are not supported by probable cause*" (said Rule 3.8(b)).

17. Contrariwise, said Record establishes that, in utter disregard of said Complaints and said evidence in his possession and also in disregard of his said statutory duty, said Paul Logli instituted said ongoing criminal charges against said Defendant despite his having prior reason to know that said "*charges are not supported by probable cause*" (said Rule 3.8(b)).

18. Furthermore, said Paul Logli, by his Assistant F. James Brun V, appeared *ex parte* before the Grand Jury on December 5, 2001, without Notice to said Defendant, and obtained an INDICTMENT against said Defendant, in said Case 01-CF-2701, based entire on the said document so issued by said Thomas J. Lester to said Alan F. Miller and dated September 26, 2000, and the hearsay testimony, pertaining thereto, of Illinois State Trooper Mark Nytko.

19. Said Paul Logli has reason to know that the evidence of Record, in the above styled matters, establishes categorically that the said document, upon which said charges and said INDICTMENT and said conviction are each based entire, were so obtained as a direct result of the failure of said Paul Logli to investigate the allegations set forth in said Complaints or his practice of willful blindness thereto.

20. Said Paul Logli also has reason to know that his said failure to investigate or his said willful blindness constitutes an ongoing malfeasance of the statutory duty of his office "*to seek justice*" (said Rule 3.8(a)).

21. Nevertheless, in disregard of his said duties and his having prior reason to know that the of Record "*evidence known to the prosecutor or other government lawyer, . (which) . tends to negate the guilt of the accused*" (said Rule 3.8(c)), said Paul Logli instituted the said charges and obtained the said INDICTMENT and the said conviction of said Defendant.

22. Said Paul Logli, by his said failure, has demonstrated a disregard of pertinent and established Law and the statutory duty of his Office "*to seek justice*" (said Rule 3.8(a)) and in so doing has obstructed justice by instituting said charges and by seeking "*merely to convict*" (Rule 3.8(a)) said Defendant on those said charges in disregard of said Complaints.

23. If not but for the fact that said Paul Logli failed his statutory duty "*to seek justice*", said Defendant would not have been so charged or so indicted or so convicted.

24. Yet another PRIVATE CITIZENS CRIMINAL COMPLAINT, with supporting documents attached thereto and dated July 1, 2002, was served upon said Paul Logli on or about July 3, 2002, which Complaint contained more recently discovered and additional evidence both concerning said transaction and the fact that said transaction was perpetrated solely for the unjust enrichment of said Thomas J. Lester and his law firm and all those who assisted him therein.

25. Again, in the utter disregard of said July 1, 2002 Complaint and the evidence attached thereto which further documents both said transaction as well as the purpose of said transaction, said Paul Logli, despite having reason to know that evidence of Record "*tends to negate the guilt of the accused*" (said Rule 3.8(c)), continued his failure to investigate said transaction or his said practice of willful blindness and in his ongoing and unjust prosecution of said Defendant.

26. Said Paul Logli, by his said ongoing conduct, has continued to knowingly and willfully employ improper methods calculated to produce a wrongful and unjust conviction of said Defendant on said charges, in utter disregard of both the evidence in his possession and "*his duty to safeguard the constitutional rights of the defendant*" (People v. Cochran, supra).

27. Said Paul Logli, by his said conduct, has demonstrated a disregard of pertinent and long established Law and, in so doing, has knowingly violated the Constitutional Rights to Due Process and Equal Protection of the Laws so guaranteed to said Defendant.

28. Despite the ongoing efforts of said Paul Logli to unjustly prosecute said charges and to obtain said conviction, said Record establishes a discord in his said Office in that numerous of his Assistants have effectively acknowledged, of Record, that neither the said charges so instituted nor the said INDICTMENT so obtained against said Defendant are supported by probable cause, as follows:

A. Assistant State's Attorney Welsh, pursuant to Winnebago County Sheriff's Police Case No. 01-062130 dated December 15, 2001, advised the reporting Deputy Sheriff that said Alan Miller was to be advised "*to obtain an Injunction on the property via **civil court***". (Emphasis added)

B. Assistant State's Attorney David M. Gill asked Judge Pumilia to dismiss the criminal charge in Case 01-CM 9555, also based entire on the said document so issued to said Alan F. Miller, on the premise that said charge is the result of a civil Title dispute and is not criminal in nature. Judge Pumilia granted said request and dismissed said charge on February 11, 2002.

C. Assistant State's Attorney Wendy Larson stated of Record, during an April 28, 2004 hearing in said matters, that:

"Actually, Judge, it's my understanding that this stems from a proceeding from 20 years ago started by the bank trying to obtain title to property."

D. Said Wendy Larson, thereafter during said hearing, acknowledged, of Record, that said Defendant has had no Title or ownership interest in the said real estate since 1983.

29. Said Wendy Larson, by her said statements, succinctly acknowledged, of Record, the fact and the purpose of said transaction as well as both the fact that said Defendant had no Title or ownership interest in the said real estate in 2000 and the fact that said document, so issued to said Alan F. Miller by said Thomas J. Lester as if said Defendant was the owner in 2000, is invalid and void, ab initio, and is a nullity and of no lawful force or effect.

30. Said Wendy Larson, by her said statements, effectively acknowledged, of Record, that the said document so issued to said Alan F. Miller, by said Thomas J. Lester and dated September 26, 2000, was so issued in disregard of the fact of Record that said judicially confirmed Public Title Records established said Debtor to be a non-owner of said real estate.

31. Consequently, said Wendy Larson effectively acknowledged that said document is invalid and void, ab initio and is a nullity and of no lawful force or effect.

32. Said Defendant respectively submits that it would be impossible for said Thomas J. Lester to lawfully transfer Title in said real estate to said Alan F. Miller, which the State has so acknowledge that, of Record, said Defendant did not own.

33. Shortly after the said Wendy Larson acknowledgements, she was replaced by Assistant State's Attorney Charles J. Prorok who became the current public prosecutor in said matters. Upon information and belief, said Charles Prorok is the Number One Assistant to said Paul Logli and, based on published reports, anticipates being appointed Winnebago County State's Attorney in the near future.

34. In an apparent attempt to conceal said acknowledgements of said Assistant State's Attorneys Welsh, Gill and Larson, said Charles Prorok filed a pleading on August 23, 2004, and therein stated, in pertinent part, as follows:

"5. The only issue as to the ownership of the property that is the subject of these proceedings is that it belongs to someone other than the Defendant.

6. The Defendant admitted in open court on April 28, 2004 that he has not owned the property in question since 1983."

35. Said Charles Prorok, by his said statement that *"The Defendant . . . has not owned the property in question since 1983"*, effectively acknowledged the fact of Record that *"The Defendant"* had NO Title or ownership interest in said real estate in 2000, when said Thomas J. Lester conducted said transaction with said Alan F. Miller.

36. Despite the evidence of Record establishing that said charges "*are not supported by probable cause*" (said Rule 3.8(b)) and so to deprive the jury of knowledge as to the evidence presented to the Grand Jury concerning said transaction and to thereby deprive said Defendant of a fair and impartial trial, said Charles Prorok filed the PEOPLE'S FIRST MOTION IN LIMINE, on or about September 10, 2004, and therein stated:

"6. That the issue of whether the United State's Bankruptcy Court had the authority to sell the land in question is irrelevant and immaterial to any of the issues before the court in this case." (Emphasis added)

and, on that premise, asked the Court to:

" . . . grant this motion and enter an order preventing the Defendant from offering evidence in any form and from making any comments in the presence of the jury regarding his belief that the land upon which the soy beans were growing was obtained by (said Alan F. Miller) improperly."

37. Contrariwise, "*the issue of whether the United State's Bankruptcy Court had the authority to sell the land in question is*" manifestly applicable, relevant, material and the most pertinent issue before this court in said matters.

38. It is well settled in the Law, pursuant to said 28 U.S.C. 1257 and said *Rooker-Feldman* doctrine, that said Bankruptcy Court lacks the lawful authority to entertain said ownership claims, contrary to said prior state-court judgment, or to authorize either said transaction or the issuing of said document, consequently, said charges and said INDICTMENT and said conviction, based entire upon said document, have no basis either in law or in fact.

39. Nevertheless, the said Motion in Limine was granted by an Order dated October 15, 2004 (gag-order), which therein stated, in pertinent part, that:

"2) The Motion in Limine is granted to the extent that the Defendant is not permitted to comment on or present evidence concerning the bankruptcy proceeding."

40. It appears that the initiation and ongoing prosecution of said criminal charges and the obtaining of both said "INDICTMENT" and said gag order are a contrivance executed at the direction of, or with the full knowledge of, said Paul Logli so to conceal said transaction and to protect the perpetrators thereof and also to facilitate the obtaining of said conviction by depriving the jury of evidence concerning said transaction and said malfeasance of said Paul Logli.

41. Said Defendant filed a MOTION TO DISMISS INVALID CRIMINAL CHARGES on October 16, 2006, based upon the 28 U.S.C 1257 absence of subject matter jurisdiction of the said Bankruptcy Court to reverse or modify the said prior state-court judgment to which said State Bank of Davis was a losing party. Said Motion is herein incorporated by reference as though stated in the

entirety herein.

42. As is set forth in earlier pleadings, said Defendant did not become aware of the pertinency of 28 U.S.C. 1257 or of the existence of said *Rooker-Feldman* doctrine until September, 2004.

43. It is well settled in long established Law that said document, so issued in said statutory absence of subject matter jurisdiction, is invalid and void, ab initio, in that:

"The validity of an order of a federal court depends upon that court's having jurisdiction over both the subject matter and the parties." Stoll v. Gottlieb, 305 U.S. 165, 171-172 (1938); Thompson v. Whitman, 18 Wall. 457, 465 (1874)

44. In response to said Motion, said Charles Prorok filed a RESPONSE TO DEFENDANT'S MOTION TO DISMISS on October 30, 2006, and therein alleged that:

"11. The Rooker-Feldman doctrine is inapplicable when the plaintiff is not attacking a state court judgment. See Exxon Mobil Corp. v. Saudi Basic Industries Corp., 544 U.S. 280, 291-94 (2005)."

45. Contrariwise, as is set forth in said Motion to Dismiss, the said *Exxon Mobil* decision explicitly states, in regards to the federal complaint filed by said Daniel M. Donahue as Case 99-A-5023 on behalf of said State Bank of Davis on February 24, 1999, that said federal complaint:

" . . . essentially invited (a) federal court() of first instance to review and reverse (said) unfavorable state-court judgment(). We declared such suits out of bounds, i.e., properly dismissed for want of subject matter jurisdiction. . . . Among federal courts . . . Congress had empowered only this Court to exercise appellate authority 'to reverse or modify' a state-court judgment." (161 L.Ed.2d 454, 461)

"Rooker-Feldman bars a losing party in state court (i.e., said State Bank of Davis) 'from seeking what in substance would be appellate review of the state judgment in a United States (bankruptcy) court . . .'" (at 463)

46. Contrary to said *Exxon Mobil* decision, said Motion to Dismiss was denied by an Order dated December 1, 2006, which therein reiterated, in part, said Charles Prorok claim by stating, in pertinent part without explanation or substantiation, that:

"3) The Rooker-Feldman is inapplicable to these state court proceedings."

47. Presiding Judge J. Edward Prochaska was elected to his position in the 2006 elections and installed as a Winnebago County Judge on or about December 1, 2006.

48. Said Defendant timely filed a MOTION FOR ORDER CONSISTENT WITH THE EVIDENCE AND SUPPORTED BY PERTINENT ESTABLISHED LAW on December 29, 2006.

Said Motion, being directed against said December 1, 2006 Order, is hereby incorporated by reference as though stated in the entirety herein.

49. Said Motion set forth facts of Record establishing categorically that both the above styled criminal charges and the said INDICTMENT, obtained by said Paul Logli in Case 01-CF-2701 on December 5, 2001, are based entire on the document entitled "TRUSTEE'S DEED" so issued by said Thomas J. Lester to said Alan F. Miller and dated September 26, 2000.

50. Said December 29, 2006 Motion also set forth that said December 1, 2006 Order draws in question the validity of said 28 U.S.C. 1257 statute of the United States (originally enacted by the Congress of the United States in 1789) which is supported by the *Rooker-Feldman* doctrine of the United States Supreme Court.

51. During the January 10, 2007 hearing in said matters, Judge Prochaska appeared very irritated by said Motion and stated that said Defendant is wasting the time and resources of this Court by continuing to file Motions.

52. By said comments, Judge Prochaska gave said Defendant the impression that his attempts to exercise his said Constitutional Rights is considered to be a waste of time by Judge Prochaska.

53. Judge Prochaska, in the utter disregard both of pertinent law cited in said Motion and the evidence of Record referenced in said Motion, summarily denied said Motion and set the matter for a trial to be conducted on April 23, 2007.

54. Said Defendant timely filed a Notice of Appeal of said December 1, 2006 Order on March 13, 2007, as is provided for by Supreme Court Rule 603. Said Appeal is identified as Illinois Supreme Court No. 104564.

55. The 4th District Appellate Court has held that such an: ". . . *order denying the relief sought was a final and appealable order.*" People v. Dinora, 1973, 13 Ill.App.3rd 99, 105, 106.

56. It is well established in the Law that, upon the filing of said Notice of Appeal, any and all jurisdiction, and color of jurisdiction, in the above styled matters was transferred to the Illinois Supreme Court.

57. In Disregard of said Appeal and in disregard of the said Rights, Privileges and Immunities guaranteed to said Defendant by the Constitutions of both the United States of America and the State of Illinois, Judge Prochaska stated, during what was styled as a "Pre-Trial Conference" conducted on April 12, 2007, that, no matter what, he was going to finally resolve the above styled criminal charges by the conducting of a trial of said Defendant on April 23, 2007 and that he was going to enforce said gag-order which granted said Motion in Limine.

58. At the close of the said April 12, 2007 hearing, said Defendant asked Judge Prochaska to sign an order and therein clearly specify what he was actually requiring and the dates pertinent

thereto.

59. Upon said request, Judge Prochaska became very agitated and forcefully scribbled on a piece of notebook paper and then thrust said paper towards said Defendant which states as follows:

"FRIDAY 4/19 MOTIONS IN LIMINE DUE" (see copy attached)

60. Judge Prochaska, by his conduct to date in the above styled matters, has demonstrated a personal bias or prejudice against said Defendant.

61. Illinois Judicial Code of Conduct Rule 63 - Canon 3A requires, in pertinent part, as follows:

"(1) A judge should be faithful to the law and maintain professional competence in it. A judge should be unswayed by partisan interests, public clamor, or fear of criticism.

(4) A judge shall accord to every person who has a legal interest in a proceeding, or that persons lawyer, the right to be heard according to law. . . .

(8) A judge shall perform judicial duties without bias or prejudice. . . ."

62. Illinois Judicial Code of Conduct Rule 63 - Canon 3C requires, in pertinent part, as follows:

"(1) A judge shall disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned, including but not limited to instances where:

(a) the judge has a personal bias or prejudice concerning a party . . . ;

(2) A judge shall keep informed about the judge's personal and fiduciary economic interests"

63. Illinois Judicial Code of Conduct Rule 65 - Canon 5C(4) requires, in pertinent part, as follows:

". a judge . . should (not) accept a gift, bequest, favor, or loan from . . (c) . . a party or other person whose interests . . are likely to come before the judge . . ."

64. Alarmed by said conduct, said Defendant did research and discovered that Judge Prochaska had accepted monetary contributions to his said 2006 election campaign from attorneys and partners of said Hinshaw & Culbertson law firm, which law firm was actively engaged in the issuing of the said document upon which the said criminal charges and said INDICTMENT are based entire.

65. Given the fact that said document was so issued by said Thomas J. Lester, "*under color of official right*" of said Bankruptcy Court, said law firm has a vested and ongoing interest in the obtaining of a conviction of said Defendant on said criminal charge(s).

66. Judge Prochaska has reason to know that his presiding over the above styled matters, after having accepted said contributions from said vested interest, constitutes both a conflict of interest and a disregard of Canon 5C(4) of the Code of Judicial Conduct, (cited supra), and ostensibly causes his impartiality to reasonably be questioned.

67. Said Defendant also recently discovered that said Charles Prorok accepted contributions to his unsuccessful campaign to be elected to a position as a Winnebago County Circuit Judge in 2000, from attorneys and partners of said Hinshaw & Culbertson law firm so engaged in the issuing of the said document by said Thomas J. Lester.

68. As a consequence of said contributions, said Charles Prorok also has a conflict of interest which appears to have caused him to commit a malfeasance of his statutory "*duty . . . to seek justice, not merely to convict*" (Said Rule 3.8(a)).

69. The manner in which the state has proceeded, in the above styled matters, has deprived said Defendant of his Constitutional Right to Due Process and Equal Protection of the Laws and his Right to present exculpatory evidence to a jury in defense against said charge(s).

70. Upon discovery of said conflicts of interest, said Defendant prepared and filed a BILL QUIA TIMET and a REQUEST TO TAKE JUDICIAL NOTICE on April 20, 2007. Said BILL QUIA TIMET and said REQUEST TO TAKE JUDICIAL NOTICE are herein incorporated by reference as though stated in their respective entirety herein.

71. Said BILL QUIA TIMET and said REQUEST TO TAKE JUDICIAL NOTICE set forth the fact that Judge Prochaska has reason to know that, because of his said conflict of interest, he is required by the Code of Judicial Conduct to disqualify himself in said matters.

72. Immediately prior to said April 23, 2007 trial and despite said noted conflict of interest, which conflict does cause his impartiality to be reasonably questioned, Judge Prochaska summarily denied said REQUEST TO TAKE JUDICIAL NOTICE and stated that he did not understand or know what to do with said BILL QUIA TIMET so he was going to disregard it and then declined to disqualify himself.

73. Nevertheless, said Paul Logli and said Charles Prorok and Judge Prochaska each has reason to know that the said charges were so instituted, and said INDICTMENT so obtained, despite evidence of Record establishing categorically that said charges are based on said invalid and void document and that, consequently, said "*charges are not supported by probable cause*" (said Rule 3.8(b)).

74. Judge Prochaska then asked said Defendant if he ever had entered a plea.

75. In response to said inquiry, said Defendant informed Judge Prochaska that he never has entered a plea to the charge set forth in said "INDICTMENT" due to the fact that he never has been asked to enter a plea to said charge and also that he never has been asked if he needed or wanted a Public Defender to represent or assist him in his defense against said charges and that NO Public Defender ever has spoken to him in regards to said charge or in regard to any of the other above styled charges.

76. It is well settled in the Law that no court has any jurisdiction in a criminal matter until a plea is entered.

77. Said Defendant also informed Judge Prochaska that a supposed plea, of Record, is the result of a contrivance between said Paul Logli and the person who fraudulently represented himself, albeit momentarily, to be an attorney for said Defendant, despite the noted fact that said Defendant has never talked to said person and, as of this date, is not certain as to his name.

78. Nevertheless, Judge Prochaska and said Paul Logli and said Charles Prorok proceeded to conduct a purported trial of said Defendant on said 01-CF-2701 charge on April 23 and 24, 2007, in disregard of the evidence of Record and despite the point of Law that jurisdiction, or the color of jurisdiction presumed by this Court, was vested in the Illinois Supreme Court by said Notice of Appeal filed on March 13, 2007.

79. Judge Prochaska and said Paul Logli and said Charles Prorok did conduct said trial of said Defendant and did therein enforce the said gag-order and thereby knowingly deprived the jury of knowledge as to the evidence upon which the said charge and said INDICTMENT are based and also deprived said Defendant of his Constitutional Right to Due Process of Law and Equal Protection of the Laws and his Right to present exculpatory evidence, in his defense against said charge, to the jury.

80. By his said conduct, Judge Prochaska has demonstrated his said bias or prejudice against said Defendant.

81. 725 ILCS 114-6(a) states, to wit:

"A defendant may move the court for a change of place of trial on the ground that there exists in the county in which the charge is pending such prejudice against him on the part of the inhabitants that he cannot receive a fair trial in such county."

82. As noted hereinbefore, a purported trial of said Defendant was conducted before a jury on April 23 and 24, 2007, in disregard of all of the above noted evidence of Record.

83. During said trial, some jurors, despite having previously stated that they would be impartial, nodded their heads in agreement with statements made, or answers elicited from witnesses, by said Charles Prorok.

84. Said nodding indicated that said jurors were not impartial and that their respective decision had already been established in their mind. One such juror became the jury foreman.

85. Said Jurors, in a period of about thirty (30) minutes, elected a jury foreman and purportedly discussed and considered the evidence and decided on a verdict of guilty.

86. If not but for the fact that said Paul Logli and said Charles Prorok obtained said gag-order and Judge Prochaska and said Charles Prorok so exercised said gag-order, the jury may have reach a decision other than the one they reached.

87. Upon entering the court room after said verdict was so decided, several jurors gave the appearance of being under duress.

88. Said Defendant has filed a MOTION FOR JUDGMENT ON THE PLEADINGS NOTWITHSTANDING THE VERDICT and therein asked that, based on the evidence of Record, said charges either be dismissed or that said Defendant be granted a new trial that is conducted by a fair and impartial tribunal before a fair and impartial jury as is required by Law.

89. Due Process requires that said Motion be heard by a fair and impartial judge and the above named as Plaintiff must be represented by an attorney who is able and willing "*to seek justice, not merely to convict*" (said Rule 3.8(a)) and, if said Motion is granted and said Defendant is granted a new trial, he is entitled to a new trial before a fair and impartial jury.

90. Further, the Affiant sayeth not.

THEREFORE, in consideration of the premises and the Constitutional Right of said Defendant to a fair and impartial trial by a fair and impartial tribunal, that is not conflicted by special or vested interests, before a fair and impartial jury, asks this Court to enter an Order and thereby remove the above styled matters to a courthouse outside this Judicial Circuit so to obtain a fair and impartial hearing on said Motion and, if said charges and said INDICTMENT are not dismissed and a new trial is granted, said new trial be conducted by a fair and impartial judge from outside said Circuit, the prosecution being represented by a government attorney from outside said Circuit that is not conflicted, and heard by a fair and impartial jury.

Dated: June 20, 2007

Respectfully submitted,

Clarence L. Vance
Named as Defendant

2203 Halsted Rd.
Rockford, IL 61103

AFFIDAVIT

Pursuant to 735 ILCS 1-109, the undersigned certifies that the statements set forth in the foregoing AFFIDAVIT AND PETITION are true and correct and that, on this date, he will serve, either personally or by depositing in the U.S. Mail with postage prepaid, a true and correct copy of said AFFIDAVIT AND PETITION as follows:

Paul A. Logli
Winnebago County State's Attorney
400 West State Street
Rockford, IL 61101

Lisa Madigan
Illinois Attorney General
100 West Randolph Street
Chicago, IL 60601

Executed: June 20, 2007

Clarence L. Vance

FRIDAY

4/19

MOTIONS

IN

LIMITS

DUES