

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

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

**MOTION FOR ORDER CONSISTENT WITH THE EVIDENCE
AND SUPPORTED BY PERTINENT ESTABLISHED LAW**

Now comes the above named as Defendant, Clarence L. Vance, and states to this Court as follows:

1. For purposes of explanation and clarification, paragraphs 1 through 21 of DEFENDANT'S RESPONSE TO PLAINTIFF'S RESPONSES TO DEFENDANT'S MOTION TO DISMISS INVALID CRIMINAL CHARGES, filed by said Defendant on November 29, 2006 as so allowed by Judge Vidal, are hereby incorporated by reference as though stated in the entirety herein.

2. As is set forth in said MOTION TO DISMISS, the charge in each of the above styled matters is based solely on the "TRUSTEE'S DEED" issued in the Adversary Proceeding initiated by the filing of the subject Adversary Complaint, on February 24, 1999, as Adversary Case 99-A-5023 in Bankruptcy Case 97-B-50687.

3. Evidence of Record in the above styled matters establishes that said Adversary Complaint alleged a claim that "Mr. Vance" owned an "*undivided one-half interest*" in the subject real estate.

4. Evidence of Record also establishes that said "*undivided one-half interest*" claim, being the very same claim the Bankruptcy Court initially entertained and subsequently adopted, was a demonstrably false claim and manifestly contrary to the "*effective and conclusive adjudication*" (Exxon, supra) set forth in the previously rendered Winnebago County Circuit Court 97-ED-1 October 27, 1998 state-court FINAL JUDGMENT ORDER which said ORDER also "*hereby confirmed*" the 97-ED-1 October 27, 1998 state-court ORDER VESTING TITLE.

5. Said FINAL JUDGMENT ORDER and said ORDER VESTING TITLE conclusively confirmed, judicially, the accuracy of the Winnebago County Public Title Records as to the sole and

lawful Title to, and ownership of, both:

A. The "*TOTAL AREA REQ'D 2.782 AC.*" (ORDER VESTING TITLE - OVT, Page "7 of 9") portion of said real estate taken; and

B. The entire of said real estate consisting of the "*TOTAL AREA 181.400 AC.*" (OVT, Page "7 of 9") prior to the taking of the subject portion and the "*AREA REMAINING 178.618 AC.*" (OVT, Page "7 of 9") after the taking of the said "2.782 AC." (OVT, supra) portion, to be vested, since 1993, solely in:

"4. *The remaining interested party . . . Harriet P. Vance as Trustee under a Declaration of Trust dated October 22, 1993, known as the Thousand Hills Trust No. 1.*" (FINAL JUDGMENT ORDER - FJO, Page "3 of 8").

6. A copy of pertinent pages of said FINAL JUDGMENT ORDER (FJO) is attached hereto as EXHIBIT A and a copy of pertinent pages of said ORDER VESTING TITLE (OVT) is attached hereto as EXHIBIT B.

7. As is set forth in said MOTION TO DISMISS, the State Bank of Davis: (A) Was a named Party Defendant in said 97-ED-1 state-court Complaint for Condemnation; (B) Was a named Party Defendant to said 97-ED-1 state-court FINAL JUDGMENT ORDER; (C) Was a loser in said state-court 97-ED-1 action due to the fact, of Record, that said FINAL JUDGMENT ORDER disposed of the issue as to the ownership of the said real estate adversely to the said State Bank of Davis; and (D) Failed entire to seek any state-court review or modification of said FINAL JUDGMENT ORDER.

8. Evidence of Record establishes categorically that, in consequence of the said precluding adjudication and confirmation as to the lawful ownership of the entire "*TOTAL AREA 181.400 AC*" (OVT) of the said real estate, said October 27, 1998 state-court FINAL JUDGMENT ORDER, therein explicitly directed that:

" 1. . . *The Winnebago County Treasurer shall pay the sum (specified) to Harriet P. Vance as Trustee under a Declaration of Trust dated October 22, 1993, known as the Thousand Hills Trust No. 1 upon presentation of a certified copy of the instant Final Judgment Order.*" (FJO, Page "4 of 8")

9. Evidence of Record also establishes categorically that, in accord with said directive, said Trustee for said Thousand Hills Trust was subsequently so compensated, for the said "2.782 AC." (OVT) portion of the said real estate taken from the said original "*TOTAL AREA 181.400 AC.*" (OVT), by the Winnebago County Treasurer in the form of Check No. "4063" dated "10/28/1998" (FJO, Pages "7 of 8" and "8 of 8").

10. As set forth with specificity in said MOTION TO DISMISS, McGreevy, Johnson & Williams, P.C. attorney Daniel M. Donahue, by a letter addressed to the Clerk of the Bankruptcy Court dated "May 2, 1997" and pertaining to the "*Assignment of Case No. 97 B 50687*", declined the

appointment to be the Trustee for the Bankruptcy Estate of Clarence L. Vance, Debtor, on his stated basis that "*I am unable to accept this appointment due to a conflict*", said conflict being self-evident in that said Daniel M. Donahue was, at that same time, both a member of the said law firm representing the said State Bank of Davis as "*a secured creditor of this estate*" (Adversary Complaint, Para.13) and also being under appointment to be the Bankruptcy Trustee "*. . . of this estate*".

11. Nevertheless, as is set forth with specificity in said MOTION TO DISMISS, said Daniel M. Donahue drafted an order, signed in Bankruptcy Case 97-B-50687 by Judge Richard DeGunther and dated "7/18,1997", which therein "*authorized*" Thomas J. Lester, being the subsequently appointed Bankruptcy Trustee for said Bankruptcy Estate, "*. . . to employ the law firm of NcGreevy, Johnson & Williams, P.C. generally as attorneys for the estate and for the Trustee . . .*".

12. Consequently, as is also set forth with specificity in said MOTION TO DISMISS, the subject Adversary Complaint, from which the subject "TRUSTEE'S DEED" proceeded, was prepared and filed, as Case 99-A-5023 on February 24, 1999, by said Daniel M. Donahue, who was, at that very same time, both an attorney for said State Bank of Davis and the attorney for said Bankruptcy Estate Trustee.

13. Evidence of Record in the above styled matters establishes categorically that previous to the February 24, 1999 filing of said Adversary Complaint the said state-court FINAL JUDGMENT ORDER had been rendered and the 97-ED-1 state-court proceedings had been concluded and the said State Bank of Davis, as said losing named Party Defendant to said state-court FINAL JUDGMENT ORDER, "*. . . had an adequate remedy for review of the (said) State Court determination() by appeal . . .*" (Reich, supra) and had failed to timely seek such a remedy.

14. Evidence of Record also establishes that said federal Adversary Complaint, so prepared and filed by said Daniel M. Donahue on behalf of said state-court loser, invited the Bankruptcy Court "*to entertain a claim . . . inextricably intertwined with the*" (Ritter, supra) ownership issue conclusively adjudicated, as to the parties, by said FINAL JUDGMENT ORDER and also invited the Bankruptcy Court to conduct "*what in substance would be appellate review of the (said FINAL JUDGMENT ORDER) in (said) United States (Bankruptcy) Court*" (Exxon, supra).

15. As is set forth in said Motion to Dismiss, pursuant to established Law pertinent to United States Statute 28 U.S.C. 1257, "*. . . claims for relief are barred by Rooker-Feldman if upholding the claims and granting relief would effectively void the state court ruling.*" (Levin, supra).

16. Evidence of Record establishes categorically that said Daniel M. Donahue so filed the said Adversary Complaint and therein requested the Bankruptcy Court "*to enter an order authorizing the Trustee to sell the Farm Property*".

17. Said request "*to sell the Farm Property*" was based solely upon said contrary and demonstrably false ownership claim, as set forth in said Adversary Complaint, that "*Mr. Vance*" then owned an "*undivided one-half interest in*" the said real estate.

18. Evidence of Record establishes that, although said Bankruptcy Estate had no unsecured creditors to benefit from such a sale, said Daniel M. Donahue, nevertheless, prepared and filed said Adversary Complaint for said Bankruptcy Trustee while at the very same time he was an attorney for the said State Bank of Davis when, in point of fact, said State Bank of Davis was both a loser in said state-court 97-ED-1 action and also "*a secured creditor of (said Bankruptcy) estate*".

19. Evidence of Record establishes that the said state-court FINAL JUDGMENT ORDER confirmed the Title interest in, and the ownership of, the said real estate to be lawfully vested in the Trustee for the Thousand Hills Trust since 1993.

20. Contrariwise, said Bankruptcy Trustee, together with his said State Bank of Davis attorney, knowingly and falsely alleged, in said Adversary Complaint, a "*fraudulent transfer*" of said "*undivided one-half interest*" ownership claim despite said claim being "*inextricably intertwined with the state court*" (Levin, supra) FINAL JUDGMENT ORDER, so to invite the Bankruptcy Court to engage in an "*impermissible appellate review*" of the ownership of the said real estate in an attempt to "*effectively void*" (Levin, supra) said FINAL JUDGMENT ORDER and thereby bring about an actual "*fraudulent transfer*" as to the ownership of the said real estate "*under color of official right*" (18 U.S.C. 1951 (A)(2)) of the Bankruptcy Court.

21. Evidence of Record establishes categorically that the Bankruptcy Court did entertain and did also adopt said contrary "*undivided one-half interest*" ownership claim, and based thereupon, entered an order in said Adversary Proceeding, drafted by said Daniel M. Donahue and signed and dated "*NOV 24 1999*" by Judge Manuel Barbosa, that stated in pertinent part as follows:

"WHEREFORE, this Court orders that: . . .

2. Any attempted pre-petition or post petition conveyance of the real property is hereby voided.

3. The Trustee is authorized to sell the Farm Property . . .

4. The mechanics of said sale shall be determined by this Court upon proper motion and further order.

5. The Defendants are hereby required to execute all documents necessary to vest title to the Farm Property in the name of the Trustee or his assignee, as this Court may direct."

22. Said November 24, 1999 Order, albeit impermissible pursuant to 28 U.S.C. 1257 as is supported by the *Rooker-Feldman* doctrine, purportedly "*voided*" the subject 1983 Quit Claim Deed, albeit said Deed signed by "*Clarence L. Vance*" was so confirmed by said previously rendered state-court FINAL JUDGMENT ORDER, and also purportedly "*voided*" that said state-court FINAL JUDGMENT ORDER.

23. Consequently, the said issuing of the said November 24, 1999 Bankruptcy Court Order

has drawn in question the validity of United States Statute 28 U.S.C. 1257.

24. Evidence of Record establishes that, despite said November 24, 1999 order: (A) Said named as Defendants in said Adversary Proceeding, albeit being "*hereby required*" by said order, refused entire, for various and obvious reasons, "*to execute (any) documents necessary to vest title to the Farm Property in the name of the Trustee or his assignee*"; and (B) NO such documents were ever executed by said Defendants.

25. Evidence of Record establishes categorically that, subsequent to the said impermissible issuing of the said November 24, 1999 order and the subsequent refusal of "*The Defendants . . . to execute (any such) documents in the name of the Trustee*", other additional documents entitled "*COMMITMENT FOR TITLE INSURANCE*", respectively dated June 23, 2000 and August 24, 2000 and pertaining to each of the three "*Parcels*" of the "*Farm Property*" which the Bankruptcy Court "*authorized*" the said real estate to be "*divided*" into, were contrived thereafter, being "*Prepared For: HINSHAW AND CULBERTSON*" (the law firm of which said Bankruptcy Trustee is a member) and became the primary, albeit unlawful and fraudulent, basis for the subsequent issuing of said "*TRUSTEE'S DEED*".

26. Each said "*COMMITMENT FOR TITLE INSURANCE*" materially misrepresented the lawful ownership of the said real estate by therein explicitly stating, as if Clarence L. Vance was the sole owner of the said real estate, that:

"4. Title to the Fee simple estate or interest in said land is at the effective date hereof vested in:

*THOMAS LESTER, TRUSTEE IN BANKRUPTCY FOR CLARENCE L. VANCE,
BANKRUPT"*

27. Evidence of Record establishes categorically that said subsequent "*COMMITMENT FOR TITLE INSURANCE*" claim, as to the purported ownership of the said real estate, is demonstrably false, being contrary to the established ownership of the subject real estate as set forth in said Winnebago County Public Title Records and so confirmed, judicially, by said 97-ED-1 October 27, 1998 state-court FINAL JUDGMENT ORDER.

28. Furthermore, evidence of Record establishes categorically that Clarence L. Vance has NEVER, in any capacity, been a sole owner of the said real estate as was materially so misrepresented to, and adopted by, the Bankruptcy Court in said "*Bankruptcy proceeding*", so to lend colorable support to, and bring to effect, the said "*fraudulent transfer*" of the ownership of the said real estate by the said issuing of said "*TRUSTEE'S DEED*" "*under color of official right*" (18 U.S.C. 1951 (A)(2)) of the Bankruptcy Court.

29. Based solely on said contrary and demonstrably false "*COMMITMENT FOR TITLE INSURANCE*" ownership claim, Judge Manuel Barbosa signed an "*ORDER APPROVING REPORT OF SALE*", dated "*AUG 16 2000*", and therein "*authorized*" the Bankruptcy Trustee to "*conclude the sales of the property*" and "*to execute all appropriate deeds and other documents to transfer the*

property", which said order therein "*authorized*" the Bankruptcy Trustee to so issue the said "TRUSTEE'S DEED".

30. Nevertheless, 28 U.S.C. 1257, as is supported by the *Rooker-Feldman* doctrine and other pertinent established Law, barred the Bankruptcy Court from entertaining said subsequent ownership claim, upon which the said "TRUSTEE'S DEED" is based, "*if upholding the claims and granting relief would effectively void the (said) state court (FINAL JUDGMENT ORDER)*" (Levin, supra).

31. Evidence of Record establishes that the Bankruptcy Court not only entertained said fraudulent ownership claims, being demonstrably contrary to that ownership of the said real estate so confirmed by said previously rendered state-court FINAL JUDGMENT ORDER, but thereupon adopted and purported to grant the relief requested by said Daniel M. Donahue, which granting of said relief did "*effectively void*" (Levin, supra) said state-court FINAL JUDGMENT ORDER.

32. Consequently, the said issuing of the said August 16, 2000 Bankruptcy Court Order and the subsequent issuing of the said "TRUSTEE'S DEED" pursuant to said Order, has further drawn in question the validity of said 28 U.S.C. 1257.

33. Subsequent to the November 30, 2006 hearing conducted in the above styled matters, said Defendant received an ORDER "*Dated: 12/1/06*" and signed by now retired Judge Richard W. Vidal.

34. A copy of said ORDER is attached hereto as EXHIBIT C.

35. Said ORDER fails entire to address or to acknowledge the pertinent issue as to whether said 28 U.S.C. 1257 is applicable to the said issuing of said "TRUSTEE'S DEED", as is set forth hereinafter.

36. Judge Vidal, in said ORDER states that: "*As to the Defendant's Motion to Dismiss, the Court finds as follows:*".

37. Judge Vidal thereafter "*finds*" in Paragraph "1)" of said ORDER that:

"The ownership interest of Alan Miller is irrelevant to the issue of whether damage was done to property belonging to Craig Dummer."

38. Contrariwise, Judge Vidal, in rendering said *finding*, failed entire either to address or to acknowledge the evidence of Record which establishes that the only lawful "*property belonging to Craig Dummer*", in this instance, was the soybean seed which "*property*" Craig Dummer abandoned, having relinquished ownership thereof when he planted that said seed unlawfully, and as a trespasser, upon the said real estate owned exclusively by said Thousand Hills Trust, as established by the Winnebago County Public Title Records as so confirmed by said 97-ED-1 October 27, 1998 state-court FINAL JUDGMENT ORDER.

39. Consequently, the *finding* of Judge Vidal that "*The ownership interest of Alan Miller is*

irrelevant to the issue of whether damage was done to property (said soybean seed) belonging to Craig Dummer", in and of itself, "is irrelevant" to the pertinent issue as to whether said 28 U.S.C. 1257 is applicable to the said issuing of the said "TRUSTEE'S DEED".

40. Additionally, *"The ownership interest of Alan Miller . . ."*, in point of fact, IS demonstrably NOT *"irrelevant"* to the above styled matters but rather is the salient issue and IS manifestly RELEVANT to the validity of the criminal charge set forth in each of the above styled matters.

41. Evidence of Record establishes that, by Law, the said "TRUSTEE'S DEED" which said *"Alan Miller"* did receive from said Bankruptcy Trustee did NOT, and could NOT, convey lawful Title to, or lawful ownership of, the said real estate to said *"Alan Miller"*.

42. Contrariwise, the said real estate, in actuality, was stolen ". . . *under color of official right*" (18 U.S.C. 1951(A)(2)) of the Bankruptcy Court, due to the fact that said "TRUSTEE'S DEED" is based on an ownership claim being both fraudulent and demonstrably contrary to the ownership of the said real estate established by said Winnebago County Public Title Records as so confirmed, judicially, by said previously rendered state-court 97-ED-1 FINAL JUDGMENT ORDER.

43. Furthermore, evidence of Record establishes categorically that, by Law, said "TRUSTEE'S DEED" conveyed only colorable Title to, or colorable ownership of, the said real estate to said *"Alan Miller"* due to the fact that said document was issued in the statutory absence of subject matter jurisdiction of the Bankruptcy Court to so act, as was originally established by the Congress of the United States in 1789 and as is now set forth in said 28 U.S.C. 1257.

44. In point of fact, evidence of Record establishes that Said "TRUSTEE'S DEED", issued in said 28 U.S.C. 1257 absence of subject matter jurisdiction, is invalid and void and, consequently, Complainant *"Alan Miller"*, with respect to the said real estate, had no lawful ownership capacity or standing to so employ Complainant Craig Dummer to plant the said soybean seed on the said real estate.

45. Consequently, said *"Alan Miller"* and said Craig Dummer had NO lawful capacity or standing to complain as to the disposition of the said soybean plants on the said real estate owned exclusively and lawfully by said Thousand Hills Trust, as being so confirmed, judicially, by the said state-court FINAL JUDGMENT ORDER.

46. Judge Vidal, in rendering said Paragraph "1)" *finding*, failed entire either to address or to acknowledge the pertinent, substantial and material issue as to whether said 28 U.S.C. 1257 is applicable to the issuing of said "TRUSTEE'S DEED" upon which the criminal charge in each of the above styled matters is based.

47. Judge Vidal thereafter *"finds"* in Paragraph "2)" of said ORDER that:

"The issue raised by the Defendant are res judicata as already determined by the action in 97 ED 1, and the Bankruptcy proceeding."

48. Said paragraph appears to suggest that the decisions previously "*determined by the action in 97 ED 1, and the Bankruptcy proceeding*" are in agreement and mutually consistent and also appears to suggest further that, purportedly being so, are also contrary to "*The issue raised by the Defendant . . .*"

49. Nevertheless, Judge Vidal rendered said *finding* and failed entire to address or to acknowledge the evidence of Record, set forth in said MOTION TO DISMISS, which establishes categorically that the said "TRUSTEE'S DEED" was issued in "*the Bankruptcy proceeding*" on the basis of an ownership claim that was both: (A) Contrary to the ownership established by the Winnebago County Public Title Records and so confirmed by said previously rendered state-court 97-ED-1 FINAL JUDGMENT ORDER; and (B) Barred from the Bankruptcy Court's consideration by said 28 U.S.C. 1257 as is supported by the *Rooker-Feldman* doctrine.

50. Said *finding* of Judge Vidal failed entire to address or to acknowledge the pertinent issue as to whether said 28 U.S.C. 1257 is applicable to the said issuing of said "TRUSTEE'S DEED".

51. Judge Vidal thereupon "*finds*" in Paragraph "3)" of said ORDER that:

"The Rooker-Feldman is in-applicable to these state court proceedings.

52. Contrariwise, Judge Vidal, in rendering said *finding*, failed entire to address or to acknowledge the evidence of Record which establishes that said 28 U.S.C. 1257, as is supported by "*The Rooker-Feldman*" doctrine, IS applicable "*to these state court proceedings*", due to the fact that: (A) The said State Bank of Davis was an actual named Party Defendant to the said state-court FINAL JUDGMENT ORDER rendered in said 97-ED-1 state-court Case; (B) Both the said Bankruptcy Trustee and his said attorney were in privity with said State Bank of Davis due to the issue and the parties being involved in both of said actions; (C) The ownership claims raised in said Adversary Complaint were inextricably intertwined with said state-court FINAL JUDGMENT ORDER as to both the ownership issue and the parties involved therein; (D) The said State Bank of Davis was a loser in said 97-ED-1 state-court action which loser failed entire to seek relief in any State Court from said state-court FINAL JUDGMENT ORDER; (E) Said Adversary Complaint invited the Bankruptcy Court to engage in "*an impermissible appellate review*" (Levin, supra) and to thereupon "*effectively void*" (Levin, supra) said state-court FINAL JUDGMENT ORDER on behalf of said state-court loser; and (F) The ownership claims entertained and adopted by the Bankruptcy Court in said "*Bankruptcy proceeding*" were contrary to, and filed subsequent to the rendering of, said state-court FINAL JUDGMENT ORDER and, consequently, the Bankruptcy Court was barred from entertaining said contrary ownership claims by both said 28 U.S.C. 1257 as is supported by the *Rooker-Feldman* doctrine.

53. Evidence of Record establishes the ownership claims entertained and adopted in "*the Bankruptcy proceeding*" did fall within the parameters of said 28 U.S.C. 1257, as is supported by the *Rooker-Feldman* doctrine, and, in further support thereof, the Supreme Court of the United States has recently:

". . . declared such suits out of bounds, i.e., properly dismissed for want of subject matter jurisdiction." (Exxon, supra).

54. Evidence of Record establishes categorically that the said State Bank of Davis lost in said 97-ED-1 proceedings and, pursuant to said 28 U.S.C. 1257 as is supported by the *Rooker-Feldman* doctrine, the Bankruptcy Court does NOT have the jurisdictional authority to change that loss.

55. Consequently, the Bankruptcy Court, being a federal court of first instance empowered with original jurisdiction only and NOT with appellate jurisdiction, was barred by said 28 U.S.C. 1257, as is supported by the *Rooker-Feldman* doctrine, from entertaining either of said contrary ownership claims, brought in said "*Bankruptcy proceeding*" by said attorney for both the said State Bank of Davis and the said Bankruptcy Trustee, which ownership claims invited the Bankruptcy Court to "*effectively void*" (Levin, supra) said previously rendered and precluding state-court FINAL JUDGMENT ORDER that was adverse to that said state-court loser.

56. Judge Vidal failed entire to substantiate his said *finding*.

57. Furthermore, said *finding* of Judge Vidal failed entire to address or to acknowledge the pertinent issue as to whether said 28 U.S.C. 1257 is applicable to the issuing of said "TRUSTEE'S DEED".

58. The validity of said 28 U.S.C. 1257 continues to be drawn in question by the said *findings* of Judge Vidal, as are set forth in said December 1, 2006 ORDER.

THEREFORE, in consideration of the premises and in the interest of justice and in the interest of the Rule of Law and also in the interest of judicial economy, said Defendant asks this Court to enter an Order, that is consistent with the evidence and supported by pertinent established Law, and therein:

A. Address and substantiate, with pertinent established Law, as to whether said 28 U.S.C. 1257 is applicable or is "*in-applicable*" to the said issuing of said "TRUSTEE'S DEED" upon which each of the criminal charges in the above styled matters is based;

OR, IN THE ALTERNATIVE;

B. Vacate said ORDER and also grant said MOTION TO DISMISS and thereby dismiss, WITH PREJUDICE, each of the above styled criminal charges which continue to draw in question the validity of said 28 U.S.C. 1257.

Dated: December 29, 2006

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 MOTION are true and correct and that he will, on this date, serve, either personally or by depositing in the U.S. Mail with postage prepaid, a true and correct copy of said MOTION upon each of the following:

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: December 29, 2006

Clarence L. Vance

[Handwritten signature]

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

THE DEPARTMENT OF TRANSPORTATION,)
STATE OF ILLINOIS, BY ILLINOIS)
ATTORNEY GENERAL JAMES E. RYAN,)

Plaintiff,)

vs.)

CASE NO. 97-ED-1

MOLLY SCHWARTZ TARBERT, LUANN)
SCHWARTZ DESMOND, AUDREY SCHWARTZ)
KELLY, KIM SCHWARTZ, JON SCHWARTZ,)
all heirs at law of OLGA SCHWARTZ,)
deceased; CLARENCE L. VANCE; HARRIET P.)
VANCE; HARRIET P. VANCE as Trustee)
under a Declaration of Trust dated)
October 22, 1993, known as the Thousand)
Hills Trust No. 1; STATE BANK OF DAVIS;)
GENERAL CASUALTY; and ROBERT CLAIR,)

Defendants.)

FILED
Date 10 / 27 / 98
MARC A. GASPARINI
Clerk of the Circuit Court
WINNEBAGO COUNTY, ILLINOIS

FINAL JUDGMENT ORDER

THE MATTER coming on to be heard on the Complaint for Condemnation of the Department of Transportation, State of Illinois, to ascertain the just compensation for taking the property sought to be taken for highway purposes, as more fully set forth in said complaint, Plaintiff having appeared by James E. Ryan, Attorney General, State of Illinois, through Mary J. Gaziano, Special Assistant Attorney General, and Harriet P. Vance as Trustee under a Declaration of Trust dated October 22, 1993, known as the Thousand Hills Trust No. 1, having appeared pro se, and with the Court having been presented with the original Stipulation for Final Judgment Order duly executed by the parties, **THIS COURT FINDS:**

1. All defendants other than Harriet P. Vance as Trustee under a Declaration of Trust dated October 22, 1993, known as the Thousand Hills Trust No. 1, have been dismissed with

EXHIBIT A

prejudice or defaulted pursuant to prior court orders. Harriet P. Vance as Trustee under a Declaration of Trust dated October 22, 1993, known as the Thousand Hills Trust No. 1, has entered her appearance, and this Court has jurisdiction of the subject matter of this proceeding and all parties.

2. Due notice of this hearing has been given, and the demand for trial by jury has been waived by the plaintiff and the remaining defendant.

3. The parties have entered into a Stipulation for Final Judgment Order which was duly filed and is a part of the Court record.

4. The remaining interested party in Parcel No. 291YY11/6 which is legally described in Exhibit "A-1", which is attached hereto and incorporated by reference, is Harriet P. Vance as Trustee under a Declaration of Trust dated October 22, 1993, known as the Thousand Hills Trust No. 1.

5. Said party is entitled to receive the total sum of Eight thousand forty-three and no/100 dollars (\$8,043.00), being Seven thousand one hundred and no/100 dollars (7,100.00) for the fair market value of the property taken in fee simple and Nine hundred forty-three and no/100 dollars (\$943.00) for damages to the remainder, as full and just compensation for the fee simple title to Parcel No. 291YY11/6 and for damage to the remainder.

6. On or about October 9, 1998, Plaintiff deposited with the Winnebago County Treasurer the preliminary just compensation amount of Eight thousand forty-three and no/100 dollars (\$8,043.00). The parties agree that Eight thousand forty-three and no/100 dollars (\$8,043.00) is the total amount to be paid to settle this case.

IT IS THEREFORE, ORDERED AND ADJUDGED AS FOLLOWS:

1. Since the parties have agreed that Eight thousand forty-three and no/100 dollars (\$8,043.00) is the final judgment amount, the Plaintiff shall not be required to deposit any

[Handwritten signature]

additional funds with the Winnebago County Treasurer beyond the Eight thousand forty-three and no/100 dollars (\$8,043.00) deposited on October 9, 1998 as the preliminary just compensation amount. Accordingly, no judgment for any monetary amount shall be entered as all amounts due to be paid by the Plaintiff have already been deposited with the Winnebago County Treasurer's Office. The Winnebago County Treasurer shall pay the sum of Eight thousand forty-three and no/100 dollars (\$8,043.00) to Harriet P. Vance as Trustee under a Declaration of Trust dated October 22, 1993, known as the Thousand Hills Trust No. 1 upon presentation of a certified copy of the instant Final Judgment Order.

2. The terms of the Stipulation for Final Judgment Order entered into between the parties shall be incorporated into and made a part of the instant order.

3. The order of October 27, 1998, vesting the plaintiff with fee simple title to Parcel No. 291YY11/6 is hereby confirmed.

DATED: 10/27/98

ENTER: *[Handwritten Signature]*

JUDGE

APPROVED AS TO FORM:

[Handwritten Signature]
Harriet P. Vance as Trustee under a Declaration of Trust dated October 22, 1993, known as the Thousand Hills Trust No. 1

I hereby certify that this document is a true, perfect and complete copy of the original on file in my office.
[Handwritten Signature]
Clerk of the Circuit Court
Winnebago County, Illinois
By *[Handwritten Signature]*
Deputy Clerk
Date 10/31/98

PREPARED BY:
Attorney Mary J. Gaziano - #281
One Court Place, Suite 200
Rockford, Illinois 61101
(815) 962-6800
Attorney for Plaintiff

[Handwritten signature]



WINNEBAGO COUNTY TREASURER
DOUGLAS R. AURAND, COUNTY TREASURER
TRUST ACCOUNT

10/28

19 98

70-2188/719

4063

PAY Eight Thousand Forty-Three and no/100
OF TO THE ORDER

Harriet P. Vance
Trustee

	97-ED-1	

THIS CHECK IS GUARANTEED FOR PAYMENT
BY FIRST OF AMERICA BANK, N.A.
MEMBER FDIC
FOR THE FOLLOWING ACCOUNTS

-----DOLLARS \$ 8,043.00

⑆004083⑆ ⑆109192189⑆ 0109999798⑆

⑆0000804300⑆

[Handwritten signature]

000001-187

[Handwritten signature]

ENDORSE HERE

James P. Vance
Trustee

DO NOT WRITE, STAMP OR SIGN BELOW THIS LINE
RESERVED FOR FINANCIAL INSTITUTION USE *

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EASTONE
433 W. 1ST STREET
INDIANAPOLIS, IN 46207

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James H. Gray 08
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STATE OF ILLINOIS
IN THE CIRCUIT COURT OF THE 17TH JUDICIAL CIRCUIT
COUNTY OF WINNEBAGO

THE DEPARTMENT OF TRANSPORTATION,
STATE OF ILLINOIS, BY ILLINOIS
ATTORNEY GENERAL JAMES E. RYAN,

Plaintiff,

vs.

MOLLY SCHWARTZ TARBERT, LUANN
SCHWARTZ DESMOND, AUDREY SCHWARTZ
KELLY, KIM SCHWARTZ, JON SCHWARTZ,
all heirs at law of OLGA SCHWARTZ,
deceased; CLARENCE L. VANCE; HARRIET P.
VANCE; HARRIET P. VANCE as Trustee
under a Declaration of Trust dated
October 22, 1993, known as the Thousand
Hills Trust No. 1; STATE BANK OF DAVIS;
GENERAL CASUALTY; and ROBERT CLAIR,

Defendants.

CASE NO. 97-ED-1

ORDER VESTING TITLE

THIS CAUSE coming on for hearing this 27th day of October, 1998, upon the Plaintiff's Motion for Entry of Order Vesting Title, due notice having been given to all Defendants, and with the Court being duly advised in the premises,

IT IS, THEREFORE, ORDERED AND ADJUDGED AS FOLLOWS:

Plaintiff shall be and hereby is vested with fee simple title to Parcel 291YY1176, and Plaintiff shall be authorized to take immediate possession of the above-mentioned

EXHIBIT B

Ken Staaf

Parcel 291YY11/6, which parcel is legally described on the attached Exhibit "A-1".

ENTERED: 10/27/98

Jack Kump
JUDGE

APPROVED AS TO FORM:

Nanuet P. Jones, Leticia

AFTER RECORDING, RETURN TO:
ILLINOIS DEPARTMENT OF TRANSPORTATION
819 DEPOT AVENUE
DIXON IL 61021

PREPARED BY:
Attorney Mary J. Gaziano - #281
One Court Place, Suite 200
Rockford, Illinois 61101
(815) 962-6800
Attorney for Plaintiff

CIRCUIT COURT
I hereby certify that this document is
a true, perfect and complete copy of
the original on file in my office.
John A. Hoffmann
Clerk of the Circuit Court
Winnebago County, Illinois
By *Joyce Rayburn*
Deputy Clerk
Date *October 7, 1998*

**HARRIET P. VANCE, TRUSTEE,
THOUSAND HILLS TRUST NO. 1
PARCEL 011/6 1.162 AC.**
PART OF THE NORTH HALF OF
THE SOUTHWEST QUARTER AND
THE SOUTHWEST QUARTER OF THE
SOUTHWEST QUARTER OF SECTION
9, T. 27 N., R. 10 E. OF THE
FOURTH PRINCIPAL MERIDIAN

TOTAL AREA	181.400 AC.
TOTAL AREA REQ'D	2.782 AC.
AREA IN EX. ROWY.	1.620 AC.
NET AREA REQ'D	1.162 AC.
AREA REMAINING	178.618 AC.

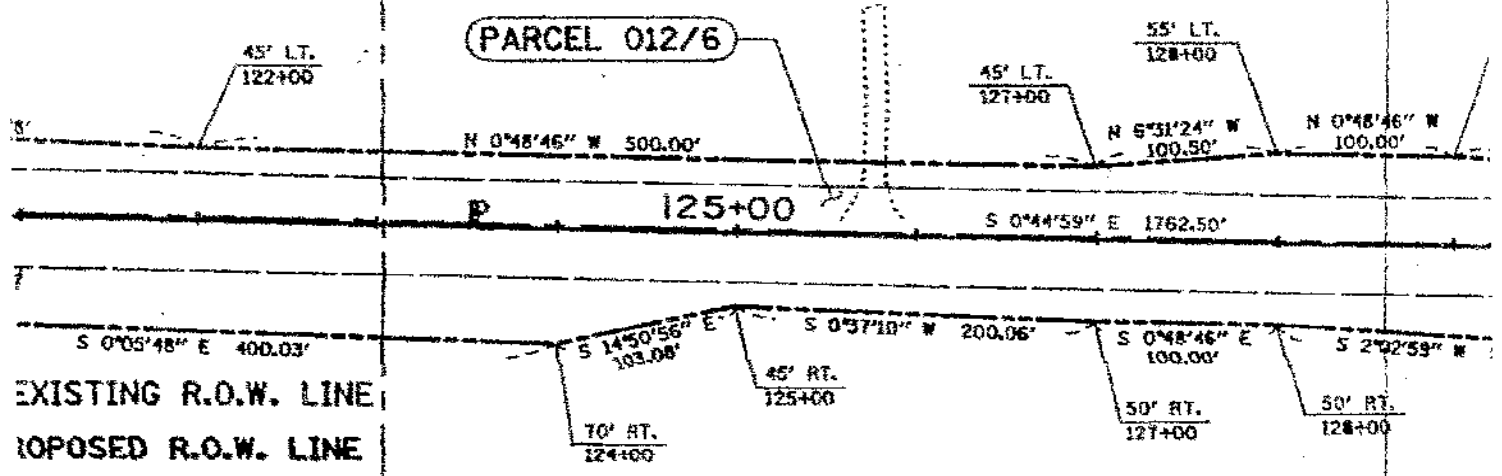
SET MONUMENT
16' LT.
3482.59
P.O.B.
PARCEL 009/6

0.00' RT.
109482.59
110+00

"A"
SCALE

1/4 SECTION LINE

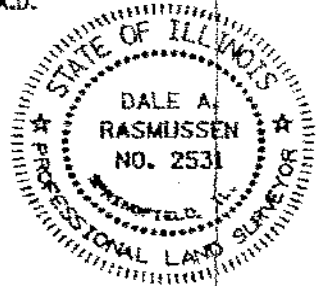
F.A.S. RT



SURVEYOR'S STATEMENT

I HEREBY STATE THAT I AM A PROFESSIONAL LAND SURVEYOR IN THE STATE OF ILLINOIS; THAT THIS RIGHT-OF-WAY SURVEY FOR F.A.S., ROUTE 49 WAS MADE UNDER MY DIRECTION; AND THAT THIS PLAN IS PREPARED IN ACCORDANCE WITH THE LAND ACQUISITION POLICIES AND PROCEDURES OF THE ILLINOIS DEPARTMENT OF TRANSPORTATION, DATED THIS 21 DAY OF MARCH 1994 A.D.

Dale A. Rasmussen
DALE A. RASMUSSEN, IL PLS NO. 2531



MTA, Incorporated
6420 SOUTH 6TH STREET
FRONTAGE ROAD
SPRINGFIELD, ILLINOIS 62707
(217) 529-8027 PHONE
(217) 529-4543 FAX

1/6
by Warranty Deed
August 24, 1995
6. 9533979

and Pamela S.
y Deed recorded

9870197-11/06/1998 12:48P 7 of 9
Ken Steaf, Winnebago County Recorder

[Signature]

CIRCUIT COURT OF THE 17th JUDICIAL CIRCUIT

WINNEBAGO COUNTY

 People

 -vs-

 Clarence Vance

Case No. 01 CF 2701
 01 CM 8121
02 CM 637
 02 CM 3066
 02 CM 6438

ORDER

As to the Defendant's Motion to Dismiss, the Court finds as follows:

- 1) The ownership interest of Alan Miller is irrelevant to the issue of whether damage was done to property belonging to Craig Dummer.
- 2) The issue raised by the Defendant are res judicata as already determined by the action in 97 ED 1, and the Bankruptcy proceeding.
- 3) The Rooker-Feldman isⁿ applicable to these state court proceedings.

Accordingly, the Defendant's Mo. to Dismiss is Denied, and the case set for status and further proceedings on January 10, 2007 at 1:30 pm.

Dated: 12/1/06

Rubina Miller
 JUDGE

EXHIBIT C