

STATE OF WASHINGTON  
SUPERIOR COURT  
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BY RONALD L. CLARK, CLERK  
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Supreme Court No. 84758-4  
Cowlitz Superior Court Cause No. 10-2-00211-2  
Skamania Superior Court Cause No. 09-2-00161-0 / Clark County Superior Court Cause No. 08-2-09112-4

**SUPREME COURT  
STATE OF WASHINGTON**

Lance W. Burton, Pro Se  
Petitioner,

**CORRECTED COPY**

Vs.

Honorable Superior Court Judge Robert L. Harris  
and Mary Jo Harris, husband and wife,  
and their marital community.

The Board of the Clark County Commissioners  
(Betty Sue Morris, Mark Boldt and Steve Stuart)  
for and on the behalf of Clark County.

Respondents

**OPENING BRIEF OF LANCE BURTON**

Lance W. Burton, Petitioner  
13819 SE 19<sup>TH</sup> STREET  
Vancouver, WA 98683  
360-513-0251

Clark County Prosecuting Attorney  
Civil Division  
Mr. Christopher Horne, Bar # 12557  
1013 Franklin St.  
PO BOX 5000  
Vancouver, WA 98666-5000  
360-397-2478  
Attorney for Respondent

My apology to the Court and the Clerk,  
and Counsel, unfortunately the initial  
'Brief' was typed in 10 point font.

Please accept this corrected version that  
has been reproduced in 12 point. This of  
course changes the page length and page  
numberings.

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2. ORDER ON MOTION FOR RECONSIDERATION CLERK’S PAPER NO. 25
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“ADDITIONAL” CERTIFIED EXHIBITS- ‘BRIEF’

1. BANKRUPTCY FILING
2. ABANDONMENT
3. CIVIL RULE 60, VACATE MOTION
4. CLERK’S NO. 9, AFFIDAVIT OF PREJUDICE / NOTICE OF SWORN STATEMENTS

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1. AUGUST 25, 2004 ‘THE COLUMBIAN NEWSPAPER

## I. NATURE OF CASE

Judge Robert L. Harris had been assigned to preside over a professional malpractice case. A case that Petitioner had started against his former lawyer (Mark Erikson) who had failed him earlier and lost.

Such loss was Erikson's fault, but instead of accepting responsibility Erikson, placed the blame on another lawyer. Both lawyers engaged grievances against each other, the "W.S.B.A" would find no wrong-doing against one, but in another incident against the other, (Erikson) resulting in his two year probation.

Erikson's earlier employment had rendered a verdict for Petitioner in the superior court room of the Honorable Judge Thomas Lodge as the result of the Clark County governmental taking of Petitioner's land in the early 90's. *Burton v. Clark County*, 91 Wn. App. 505, 19, 958 P. 2d 343 (1998). Because of the later loss of events Petitioner was forced into bankruptcy, but through the cooperation of the Trustee and the Bankruptcy Court, (Certified Exhibit 1, page 6, line 20 & Cert. Exhibit 2) who abandoned their claims against Mark Erikson, Petitioner would and prior to the statute of limits time passing, filed the above cause of action.

The Petitioner secured counsel from a Seattle, Washington, Attorney, Mr. Mike Watson, who, during the pre-trial Hearing, attempted on eight (8) occasions to introduce testimony, affidavit's, declarations and evidence, but Judge Harris would ignore each request, thus keeping the record devoid of facts for the higher Courts to consider.

Then after Harris's dismissal of Petitioner's case, frustrated Watkins withdrew, leaving the Petitioner to fend alone.

Petitioner filed a CR 60 motion (Certified Exhibit 3) seeking to introduce evidence to secure a reversal of Harris's decision. Harris after conducting a hearing, agreed to render a decision after the Appellate Court rendered theirs, but he did not. The Petitioner as a permitted, and as a reminder, then filed a "local" Civil Rule 59 motion, essentially for the same reasons as the CR 60 motion, but Harris would ignore that also.

These aversions ultimately caused Harris to pass the 90-day time line, thus violating Article 4, Section 20 of the Washington State Constitution and (1)RCW 2.08.240 resulted in Harris's forfeiture of office. Nevertheless, Harris sent Petitioner a letter after such facts to end Petitioner's litigation status against Erikson and to confuse the time-line of motion's submitted to him.

Petitioner no longer able to pursue his case against Erikson, filed suit against Harris and Respondent filed a Motion for Protective Order in Clark County.

-----  
(1)This law was re-enforced by the opinions of our Governor Chistine Gregorie's legal assistant Mr. Marty Brown and Chief Justice of the Washington Supreme Court, the Honorable Gerry Alexander in which both gentlemen by email affirmed petitioner that RCW 2.08.240 was a standing law.  
-----

But the order became merritless in Clark County. The Respondent then filed the same in Skamania County and scheduled a hearing date, it was cancelled due to the Honorable Judge E. Thompson's Reynold's recusal on the day of such hearing. The Court Administrator, Ms. Elizabeth Hermansen attempted to arrange the appointment of Klickitat County Judge Brian Altman, to hear the case but he too would recuse himself, leaving no other.

Petitioner suggested to the Respondents and Ms. Hermansen, that Judge Thomas Lodge be contacted. To assist, Petitioner contacted Ms. Suzy Cheffler of the Court Administration office in Olympia, Washington to acquire of Judge Lodge's address, but it was denied due to Petitioners pro se standing.

Petitioner contacted Ms. Hermansen and requested her assistance, but it was never provided either.

Instead, Hermansen and the Respondent colluded against the Petitioner's objections to move it to Cowlitz County on January 28, 2010 after Respondent's then lawyer, Mr. Bernard F. Velljacic, former employee of the Clark County Prosecutors Office, drafted certain documents, which included an order that would be signed by Judge Stephen Warning, an order, that moved the Petitioner's case unlawfully from Skamania to Pierce County, Washington, (CP-27, page 2 of 2, line 2).

This Order, also commanded the Clerk of the Superior Court of Skamania County, Ms. Sharon K. Vance, to transfer this case, its files, and certified transcript of all records to the Court of Pierce County, she however would not!

The Respondent who had filed a motion for summary judgment in Skamania County but cancelled; would file a "supplement" in Cowlitz County to the same motion, and scheduled a hearing.

The hearing was held and summary judgment was granted. The Petitioner sought discretionary review.

## **II. ASSIGNMENT OF ERRORS**

1. Judge E. Thompson Reynold's recusal (CP-7) and loss of judicial authority under RCW 2.28.030(2); loss of power under 2.28.010 and under Art. 4, Sect.7 of the Washington Constitution failed to request another superior court judge, that stalled Petitioners proceedings, (Art. 1, Sect. 10 WA Const.).

This was further advanced when Judge Brian Altman, also would recuse himself (CP-15), leaving no other.

2. The Court Administrator of Skamania County, Respondent's lawyer, and Judge Stephen Warning, erred when they departed from acceptable and usual course of judicial proceedings under Rule 2.3(b)(3) to move and permit Judge Stephen Warning's acquisition of this case, over Petitioner's written objections.

Judge Warning's engagement and failure to recognize t hat the corrupted order for which he had signed, also commanded the Clerk of Skamania County to send all files, records and transcripts to Pierce County (CP-23 and 27 of Skamania County). Such commands were never complied with, and violated RCW 4.12.100 and 42.20.080 and (.100). The record contains no amendment to the motion to change venue either.

3. The Court erred when it issued a dismissal based upon the respondent's motion for summary judgement.

4. Once Judge Warning captured by the ambiguous order this case, he then capture Petitioners fees from the first change of venue under RCW 4.12.090(1), which was an obvious and probable error under Rule 2.3(b)(1)(2).

5. Judge Warnings “crowding” into the judicial line ahead of Judge Thomas Lodge’s lawful and Constitutional right to have heard this case before he, was also a violation of the *Washington Constitution of Article 4, Section 7*, due to Lodge’s previously issued discretionary rulings.

Such actions were an obvious and probable error under Rule 2.3(b)(1) and (2) and a departure under Rule 2.3(b)(3).

6. Petitioner filed a request for a change of judge under Article 4, Section 7 of the Washington State Constitution and *Supreme Court Rule*, but was denied. Such denial became an obvious and probable error under Rule 2.3(b)(1)(2).

7. Petitioner also sought a change of judge, by filing a motion under RCW 4.12.050 “*Affidavit of Prejudice and Notice of Sworn Statements*” against Judge Warning that contained certified public records (Certified Exhibit 4), which indicated his methods of unlawful treatment and bias against others, unrelated to this case. Such affidavit and requests was also denied and became an obvious and probable error under Rule 2.3(b)(1)(2).

8. Judge Stephen Warning Abused his Discretion i.e. Due Process, Page 2; 9 @ 7.

9. Judge Stephen Warning Abused the Process, i.e. Due Process, Page 2; 9 @ 3<sup>rd</sup> ¶ and (8).

10. Judge Stephen Warning failed Supremacy and Due Process, 5<sup>th</sup> and 14<sup>th</sup> Amendment and @ 5,

11. Page 6, 1<sup>st</sup> ¶ and footnote (3) as well as the abuse of discretion and process became an obvious and probable errors under Rule 2.3(b)(1)(2).

### Other Possible Assignment of Errors.

12<sup>th</sup> Assignment that under RCW 42.52.040(a) as the result of Ms. Cheffler being a state employee, she (1) failed a duty to assist the Petitioner.

13<sup>th</sup> Assignment with Skamania County Court having no Court Commissioner under RCW 2.24.010(1) to handle judicial affairs when Judge's are off the bench left the Skamania County Administrator to perform those tasks, tasks that CR 53 prohibits from them being done, especially when the presiding and only Judge has recessed himself.

14<sup>th</sup> Assignment, the Administration's of Justice or other proper authority should have established a procedure that would have allowed a pro se, to deliver a requesting letter of involvement to a retired Judge (Lodge), with the administration delivering such letter on behalf of either one or both litigants.

### **III. ISSUES PERTAINING TO ASSIGNMENT OF ERROR**

1. Did Judge Reynold's recusal under RCW 2.28.030(2) and loss of his power under 2.28.010 and Art. 4, Sect.7 of the Washington Constitution delay Petitioners proceedings?
2. (a) Did the Court Administrator of Skamania County, Respondent's lawyer, and Judge Stephen Warning under Rule 2.3(b)(3) depart from acceptable and usual course of judicial proceedings to acquire Petitioners case?  
  
(b) Was it the failure of the Clerk of Skamania County in not sending all files, records and transcripts to Pierce County, as instructed by Judge Warning. a failure of the duty of office?

3. Did Judge Stephen Warning error when he approved Respondents motion for summary Judgement when material evidence did not support doing so?
4. Was Judge Warning’s capture of Petitioners “fees” a violation of RCW 4.12.090(1) an obvious and probable error under Rule 2.3(b)(1)(2).
5. Did Judge Warning “crowd” into the judicial line ahead of Judge Thomas Lodge’s lawful and Constitutional right to have heard this case, become a violation of the *Washington Constitution of Article 4, Section 7*?
6. Was Petitioner’s request for a new judge under Article 4, Section 7 of the Washington State Constitution a proper judicial function for his doing so?
7. Did Petitioner’s requested change of judge, based upon an “Affidavit of Prejudice,” demonstrate a pattern of bias, unrelated to others, become an obvious and probable error under Rule 2.3(b)(1)(2) against Judge Warning?
8. Did Petitioners change of judge, based upon the application of the *Supreme Court Rule* also become an obvious and probable error under Rule 2.3(b)(1)(2) against Warning?
9. Is the abuse of process; the abuse of discretion and issues of Due Process protected by certain laws of this nation and state for which Warning has violated?

#### **IV. STATEMENT OF THE CASE**

The Petitioners citing of this case began with his Notice of Discretionary Rule as filed on June 23, 2010. This “Notice” was captioned under Rule **(2.3 and 4.2)**.

Petitioner's request for justice required his payment of various fees. The approval to move this case against Judge Harris, to another venue i.e. Skamania County Court, in order to avoid possible bias from and within Clark County, also required Petitioner to pay the fees again, and did.

Unexpectedly, Superior Court Judge E. Thompson Reynold's and later Klickitat County Judge Brian Altman would recuse themselves leaving no other, and for over 90-days the Petitioner's grievance languished without a judicial officer to dispose of the matters, a violation of Art. 1, Sect 10 of the Washington State Constitution.

Petitioner suggested the engagement of previous discretionary rule maker, Judge Thomas Lodge to hear this case under the rules of this state's Constitution. But, **no law exist to force anyone to make contact** with Retired Judge Lodge to do so.

Petitioner, a pro se, realizing that his right to have Judge Lodge, and Judge Lodge's right to hear and decide this case was not being acted upon by either Skamania County, or the Respondent, then contacted Ms. Suzy Cheffler of the Court Administration office in Olympia.

If the Petitioner would have had, the financial resources to acquire another lawyer, such information then could have been easily obtained. Thus, Petitioner was denied a *fundamental* process as a pro se that resulted in the reign of another judge, over Petitioner's written objections.

This matter is now before this Court for lack of a jurist to examine the facts of the case.

A. STATEMENT OF FACTS.

Petitioner's original case against lawyer Mark Erikson, drew "Presiding" Judge Robert L. Harris, who was also the President of the Washington State Judge's Association, and the eldest Superior Court Judge for the State of Washington. Unbeknownst to Petitioner, within several weeks after dismissing Petitioner's case, Petitioner would read in the August 25, 2004, Vancouver Columbian newspaper, Judge Harris's comments after Clark County Commissioner's announced that a ninth judge of this county would be approved, Harris publicly remarked... *The addition of a ninth judge will speed cases along particularly civil and domestic filings. I see a real ability to knock those down. That criminal cases take precedence because defendants have constitutional rights*, presumably, citizens who seek civil or domestic resolutions in court, don't!

Harris on several occasion's during the Erikson matter was offered evidence, testimony, declarations and affidavit's by Petitioner's attorney, but each time, Harris would ignore Petitioner's offering. Yet, Harris would admit, that his decision to dismiss the Petitioner's case (See Burton v. Erikson, Supreme Court Case No.: 79854-1, Motion to Modify of May 19, 2007, page 6, first paragraph) was done even though he *lacked specific information* about said case.

Petitioner would eventually and timely submit CR 60 and later LCR 59 motions in order to bolster cts, vacate his decision, and to inform the trial Court of the (1)*Supremacy Clause*, a clause that granted Petitioner a two-year extension of time as the result of Petitioner's previous federal bankruptcy filing.

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(1)State of Michigan, v. The United States, 317, U.S. 338 (1943), the laws of Congress enacted pursuant to the Constitution are by Article VI of the Constitution declared to be 'the supreme Law of the Land; and the Judges in every state shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.'  
-----

Harris now made aware of the federal law, was obligated to succeed to the laws of the U.S. Constitution and its federal statues. Harris's refusal energized Art. 4, Section 20 of this state's Constitution and RCW 2.08.240.

Harris, after this fact, then sent the Petitioner a letter stating that any litigation status towards Erikson was over. Harris's letter also revealed his awareness of several pending motions, neither for which Harris would entered a decision upon.

Petitioner filed suit against Harris, moved it to another county where it ran aground because of Skamania County's Judge Reynold's and Klickitat County's Judge Altman decision to recuse themselves.

Petitioner recommendation and request for applicability of laws for another, was ignored in favor of Judge Warning even though Petitioner objected, in writing.

Respondent's sought a (1)summary judgment hearing with Judge Warning...

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(1) Motions for Summary Judgment must include the following: In order to lead to judgment. "the Material facts must be shown to be an occurrence, event or information that is sufficiently significant to influence an individual into acting in a certain way or tending to establish a point, Anderson v. Liberty Lobby Inc. 477 U.S. 242,248 (1986).  
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but offered only a supplement to a cancelled motion that was set forth in Skamania County. Since Respondents motion for protective order was never properly filed in Cowlitz or Pierce County, and acted upon, it was unable to provide evidence to support materiality for a decision. Yet, as expected, Warning would issue a decision that ended Petitioner's search of judicial resolution, that adds still more delay and costs. Furthermore, the Respondents have refused to answer Interrogatories and provide Production of Things. Summary Judgment should be reversed.

**The matter now before this Court, should focus on the justiciability of Cowlitz or Pierce County and Judge Stephen Warning's authority unearned who has (1)failed the duties of office under the laws of the Washington Constitution in Art. 4, Sect. 7, where the *Supreme Court Rule* was to apply; when Petitioner requested Warning to step down, in favor of another. Or, stepping in front of Judge Thomas Lodge's right under Art. 4, Section 7 Washington's Constitutional right to hear and decide this case, before Warning, was ignored.**

This resulted in this matter now before this Court for lack of a jurist to examine the facts of the case.

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(1)In *U.S. v. Will*, 449 U.S. 200 (1980) citing F. Pollack, *A first Book of Jurisprudence* 271 (6<sup>th</sup> ed 1929) and *Philadelphia v. Fox*, 64 Pa. 169, 185 (1870)@215, the **absolute duty** of judges to hear and decide cases within their jurisdiction.  
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## V. ARGUMENTS

### Standard for Review

In a matter such as this the standard for review before this court is established law:

(1) This court exercises plenary power in matters of judicial authority as provided under the Constitution of the State of Washington by Article Four, Section Four and as declared under the United States Constitution as Article Three, Section one.
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### What Is To Be Reviewed In This Matter

1. **Petitioner asserts that justiciability is the main component of the petition before this court as the merits of the Burton vs. Harris case have not been fully explored and resolved!**

3. Issues of Petitioner's and Judge Thomas Lodge's loss of certain Constitutional rights, and the avoidance of Judge Warnings failure to not heed the application of the *Supreme Court Rule*; the intake of the Respondent's "supplement" to a non-existent motions for Protective Order to Summary Judgment; the refusal to examine the facts in which lead to materiality of evidence for the Petitioner, when the Respondent did admit (Part of CP-22) in writing a failure to render a decision as required by law; the loss of Due Process under the fifth (5) and fourteenth (14) Amendments in the U.S. Constitution; the violation of Article One, Section Ten (10) of the Washington State Constitution "Administration of Justice;" the unnecessary and constant delay imposed upon the Petitioner; the application of Petitioners funds to transfer again when the Respondent was required; the unwillingness or directive of the Court Administrative Assistant to assist the pro se Petitioner in contacting Judge Lodge have all hindered justice.

## **VI. ATTORNEY'S FEES AND EXPENSES: RAP 18.1**

As permitted under RAP 18.1(a), the Petitioner cites RCW 4.84.010;030;170;19. Furthermore he cites RCW 7.21.010(3) as a basis for sanctions and requests this Court to grant and allow a determination for such fees, expenses and sanctionable amounts.

In addition, the Respondents having admitted (RCW 4.60.040) in their Second Requests for Admission, question number 25, (CP-27) their failure to issue a written decision, such written confession justifies judgment for any amount not exceeding that demanded in the complaint RCW 4.60.010. The Petitioner seeks and prays for such amount.

## **VII. CONCLUSION**

Petitioner Burton, is fully cognizant that this Court is asked to address inflammatory issues of the judiciary. Burton believes that the rights bestowed upon all of us, come often from the blood of others. Please consider the trials that I have been through in protecting and preserving our heritage and justice.

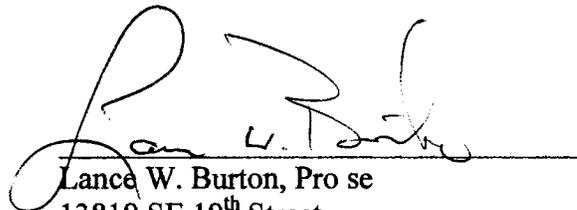
The Court may find fault in Burton's delivery of documents to justify the dismissal of this case, should they, the facts still remain, citizen's are still being treated unfairly and unjustly, which includes Judge Thomas constitutional right to have decided the case, first!

How can this Court impose sanctions, suspensions or disablement on lawyers and other judges for lessor violation's and not see the harm that Burton has endured?

Petitioner ask to have this case removed from Cowlitz County, the Order of Dismissal reversed, the case be delivered or at least offered to Retired Judge Thomas Lodge or this Court for resolution and to grant the Petitioner his costs, fees and sanctioned amounts, plus a short period of time to compile those costs.

Respectfully submitted under the laws of perjury for the State of Washington, for which I declare the statements made herein are based upon the laws of this nation and state, that are believable and Certified legal documents as stated.

Dated August 30, 2010

A handwritten signature in black ink, appearing to read "Lance W. Burton", is written over a horizontal line.

Lance W. Burton, Pro se  
13819 SE 19<sup>th</sup> Street  
Vancouver, WA 98683  
360-513-0251

///  
///  
///

STATE OF WASHINGTON  
SUPERIOR COURT  
BY BONNIE L. ADDESTER

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'ADDITIONAL'

**CERTIFICATE OF DELIVERY AND MAILING**

I Lance W. Burton, do hereby declare under the laws of perjury for the State of Washington that on this day of August 30, 2010 the following document...

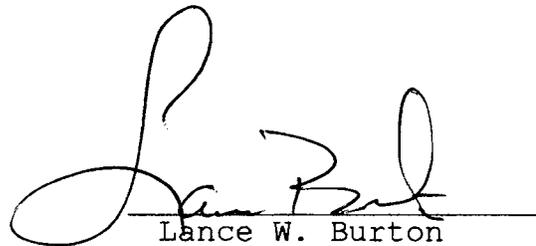
"Corrected" Opening Brief to Supreme Court in Case No.: 84758-4, was delivered to the Clark County Prosecutors Office C/O Mr. Christopher Horne and sent to the Washington State Supreme Court Clerk, Ms. Susan L. Carlson, C/O the Temple of Justice, PO BOX 40929, Olympia, Washington, 98504-0929 by Certified Mail as 7009 2250 0002 0855 0656.

Dated this 30<sup>th</sup> day of August, 2010

**RECEIVED**

**AUG 30 2010**

Prosecuting Attorney  
Civil Division



Lance W. Burton  
13819 SE 19th.  
Street  
Vancouver, WA 98683  
360-513-0251

## VIII. EPILOGUE

I request the Court's forgiveness with this last comment.

I intended to include an argument concerning the allegation of the abuse of process, but without having to tear apart the document before you, at a great deal of effort, I ask that you consider my argument hear.

To be brief...

According to the Restatement (Second) of Torts, § 682 cmt. (1977) which provides that the gravaman of an action for abuse of process is the **"misuse" of legal process for some purpose other than that which it was designed to accomplish.**" Citing *Gore v. Taylor*, 792 p.2d 432 436, (Okla.App. 1990).

Clearly, the transition of the Burton matter to Cowlitz County was done simply to dismiss the Petitioner's action.

Judge Warning ignored the rules of law, ignored Burton's request for judicial procedures and ignored the Respondents admission to not issuing a written decision.

**Clark County did not WANT Judge Lodge to hear this case for fear as before, from a long drawn out battle with the same characters, he would find for the plaintiff!**

Please accept this page as part of the record and your decision making process.

Thank you, Lance Burton, Petitioner v. Robert L, Harris et all  
Case No. 84758-4

**CERTIFICATE OF EXHIBIT**

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Honorable Paul B. Snyder  
Chapter 7  
Hearing Date: August 7, 2003  
Hearing Time: 9:00 a.m.  
Hearing Location: 500 W. 12<sup>th</sup> Street  
2<sup>nd</sup> Floor  
Vancouver, WA  
Response Date: July 31, 2003



**Case: 03-40494 DocType: ORDER**

IN THE UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF WASHINGTON AT TACOMA

In re	)	Case No. 03-40494-PBS7
LANCE WINFIELD BURTON,	}	ORDER APPROVING SETTLEMENT BETWEEN DEBTOR, TRUSTEE, AND IVAN AND SYLVIA GUIRADO
Debtor.	}	

This case came before the court for hearing on August 7, 2003 on the follow matters:

1. Trustee's Precautionary Objection to Debtor's Homestead Exemption;
  2. Ivan and Sylvia Guirados' Objection to Debtor's Claim of Exemption in Camas Real Property;
  3. Debtor's Motion to Vacate/Dismiss Ivan & Silva Guirados Claim by Attorney Russell Garret of March 27, 2003;
  4. Debtor's Notice of Objection and Motion to Dismiss Precautionary Hearing, Including Testimony, Evidence and "Opinions" of Plaintiff's Attorney Mr. Russell Garrett;
  5. Debtor's Motion to Settle, Permission to Intervene
- (collectively the "Pending Matters").

ORDER APPROVING SETTLEMENT BETWEEN DEBTOR, TRUSTEE, AND IVAN AND SYLVIA GUIRADO  
- Page 1

**THIS IS TO CERTIFY** that the foregoing is a true and correct copy of an instrument filed in our office.  
Dated this 27 day of October

20 03  
Bankruptcy Court  
ROSSMAN SPANK LLP  
ATTORNEYS AT LAW  
1000 SW BROADWAY, SUITE 1400  
PORTLAND, OREGON 97204  
TELEPHONE 503.241.1111  
By:

1 The Court having considered all pleadings filed with the court regarding the  
2 Pending Matters, all evidence presented to the court at all prior hearings on the Pending  
3 Matters, and the Debtor's, the Trustee's, and Ivan and Sylvia Guirado's (the "Guirados")  
4 stipulation for settlement of the Pending Matters as reported in open court on August 7,  
5 2003, and as set forth on the official transcript attached hereto as Exhibit "1" (the  
6 "Transcript"), it is:

7 ORDERED:

8 1. Settlement of the Pending Matters as reported to the Court and set forth in  
9 the Transcript is approved;

10 2. The Debtor, the Trustee, and the Guirados shall be bound by the terms of the  
11 settlement as reported to the Court as set forth in the Transcript;

12 3. Each of the Pending Matters shall be deemed concluded without further order  
13 of the Court; and,

14 4. Upon obtaining the agreement of the United States Trustee to dismissal of the  
15 Trustee's complaint objecting to the Debtor's discharge (Adversary Proceeding No.  
16 A03-4086), the Trustee shall submit an order dismissing such adversary proceeding  
17 with prejudice and without costs or fees to either party.

18 DATED this 13 day of August, 2003.

19  
20  
21

  
\_\_\_\_\_  
Hon. Paul B. Snyder  
United States Bankruptcy Judge

22 PRESENTED BY:

23 SUSSMAN SHANK LLP

24  
25 By   
\_\_\_\_\_  
Thomas W. Stille, WSBA# 21718  
26 Attorneys for Trustee

F:\CLIENTS\163911003\UP-ORDER AUTHORIZING SETTLEMENT (BURTONGUIRADO).DOC  
ORDER APPROVING SETTLEMENT BETWEEN  
DEBTOR, TRUSTEE, AND IVAN AND SYLVIA GUIRADO  
- Page 2

SUSSMAN SHANK LLP  
ATTORNEYS AT LAW  
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CERTIFICATE OF MAILING

THE UNDERSIGNED certifies:

1. My name is Sue Carver. I am a citizen of Washington County, State of Oregon, over the age of eighteen (18) years and not a party to this action.

2. On August 11, 2003, I caused to be delivered via **first-class U.S. Mail, postage prepaid**, a copy of: **ORDER APPROVING SETTLEMENT BETWEEN DEBTOR, TRUSTEE, AND IVAN AND SYLVIA GUIRADO** to the interested parties of record, addressed as follows:

Lance Winfield Burton  
PO Box 683  
Brush Prairie, WA 98606

Don Thacker  
1115 Esther St #B  
Vancouver, WA 98660  
Chapter 7 Trustee

Russell D. Garrett  
805 Broadway Street, #400  
Vancouver, WA 98660  
Attorneys for Ivan and Sylvia Guirado

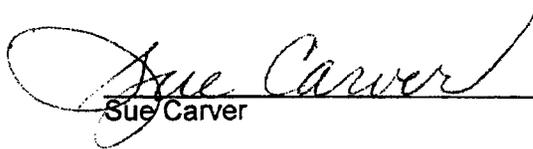
Marjorie Raleigh  
Office of the United States Trustee  
Park Place Building, Ste. 600  
1200 Sixth Avenue  
Seattle, WA 98101

Michael P. Higgins  
Suite 200, 1112 Daniels St.  
PO Box 54  
Vancouver, WA 98666  
Attorney for William Hughes

Dale Schofield PC  
1515 SW Fifth Avenue, Suite 1020  
Portland, OR 97201  
Attorney for Penni Tursi

1 Robert C. Russell  
Morse & Bratt  
2 1111 Main Street  
PO Box 61566  
3 Vancouver, WA 98666  
Attorney for Carla Weber  
4

5 I SWEAR UNDER PENALTY OF PERJURY that the foregoing is true and correct  
6 to the best of my knowledge, information, and belief.  
7

8   
9 Sue Carver

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Certificate of Mailing - Page 2

SUSSMAN SHANK LLP  
ATTORNEYS AT LAW  
1000 SW BROADWAY, SUITE 1400  
PORTLAND, OREGON 97205-3089  
TELEPHONE (503) 227-1111

**CERTIFICATE  
EXHIBIT  
2**

1 UNITED STATES BANKRUPTCY COURT RECEIVED

2 WESTERN DISTRICT OF WASHINGTON 2003 AUG 13 AM 10:15

3 IN VANCOUVER

4 M.L. HATCHER, CLK.  
U.S. BANKRUPTCY COURT  
W.D. OF WA AT TACOMA  
BY \_\_\_\_\_ DEP. CLK.

6 In re: \_\_\_\_\_ )  
7 LANCE WINFIELD BURTON, )  
8 Debtor. )  
9 \_\_\_\_\_ )

Case No. 03-40494

10 COPY

14 EXCERPT TRANSCRIPT OF THE PROCEEDINGS  
15 BY THE HONORABLE PAUL B. SNYDER  
16 THURSDAY, AUGUST 7, 2003



21 Case: 03-40494 DocType: EXH

24 Reported by: Roseanna Bryan  
25 CSR #BR-YA-NR-J305BT

23 THIS IS TO CERTIFY that the fore-  
going is a true and correct copy of  
an instrument filed in our office.  
Dated this 8th day of October

20 03

Bankruptcy Court

AHEARN & ASSOCIATES, INC.  
(206) 405-3812

By \_\_\_\_\_  
Deputy Clerk

APPEARANCES

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FOR THE DEBTOR:

Pro Se

FOR THE TRUSTEE:

Mr. Thomas Stilley

Attorney at Law

1000 SW Broadway, 1400

Portland, Oregon 97205

Mr. Donald Thacker

Attorney at Law

1115 Esther, Suite B

Vancouver, Washington 98660

FOR THE CREDITOR:

Mr. Russell Garrett

Attorney at Law

805 Broadway, 400

Vancouver, Washington 98660

AHEARN & ASSOCIATES, INC.  
(206) 405-3812

1 VANCOUVER, WASHINGTON; THURSDAY, AUGUST 7, 2003

2 9:00 A.M. SESSION

3 --ooOoo--

4 THE COURT: Mr. Stilley, can you put the settlement on  
5 the record one more time?

6 MR. STILLEY: Your Honor, the way I understand the  
7 settlement to be is that we will list the house for sale at  
8 \$117,900. The Guirado's lien will be allowed in the amount of  
9 \$20,000 and will not accrue any interest or other fees or  
10 changes, will retain the same priority under state law as the  
11 Guirado's lien had on the petition date.

12 Mr. Burton will get a release from his brother of his  
13 lien claim in the house that we will be selling. Mr. Burton  
14 will be entitled to a homestead exemption in the property for  
15 \$12,500. Mr. Burton will take responsibility for challenging  
16 the IRS's lien claim in the green house, which is what we call  
17 the house.

18 THE COURT: And that's also the homestead property?

19 MR. STILLEY: That's the homestead property.

20 He'll hire a CPA or whatever professionals he needs to  
21 do that and will attempt to settle that with the IRS. If he is  
22 successful in doing so, he'll take a portion of the proceeds  
23 that's attributable to that lien claim and pay his expenses out  
24 of that and then the remainder of the lien claim will be split  
25 60 percent to Mr. Burton and 40 percent to the estate.

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1           If he's unsuccessful in doing so through a settlement  
2 with the IRS, then he'll get the trustee involved, who will  
3 bring it before the Court here for the Court to decide whether  
4 the IRS is entitled to that or not. And after payment of fees  
5 and expenses for Mr. Burton and the trustee, the estate and  
6 Mr. Burton will split the remaining proceeds 50/50.

7           The trustee will dismiss the 727 action against  
8 Mr. Burton. There will be a general release of all claims  
9 between the parties, that being the Guirados, the trustee and  
10 Mr. Burton.

11           And if the property sells for an insufficient amount  
12 to pay the Guirados their full \$20,000 and Mr. Burton his  
13 \$12,500 homestead exemption, then the Court will later decide  
14 who takes the shortfall in that.

15           THE COURT: But it will not be an issue as to 522 lien  
16 avoidance?

17           MR. STILLEY: There will be no -- Mr. Burton will not  
18 have the opportunity to bring a claim under 522(f)(2).

19           THE COURT: Mr. Garrett, do you agree to that  
20 settlement?

21           MR. GARRETT: Yes, on behalf of the Guirados.

22           THE COURT: Mr. Burton, do you agree to that  
23 settlement?

24           MR. BURTON: To this point, yes.

25           THE COURT: I don't want qualifications. To what

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1 point?

2 MR. BURTON: Well, the issues regarding the IRS, we  
3 have talked about, provided that we would -- in event of the  
4 sale of house, hold that money until the IRS issue was  
5 resolved. That hasn't been discussed yet.

6 THE COURT: The idea --

7 MR. THACKER: Your Honor, we would sell the property  
8 free and clear. This would essentially be the road map for the  
9 closing.

10 THE COURT: Correct. And this would be held --

11 MR. THACKER: And then we would hold back the IRS  
12 money pending whether we can put together some sort of a deal.

13 THE COURT: Supplementing Mr. Stilley's with the idea  
14 that you're going to hold the lien claim of the IRS until it's  
15 resolved one way or the other, do you agree to this  
16 settlement?

17 MR. BURTON: That's fine.

18 THE COURT: Mr. Thacker, do you agree to the  
19 settlement?

20 MR. THACKER: I do.

21 THE COURT: I'm going to accept the settlement. I am  
22 going to ask that this be transcribed.

23 And I'm going to ask Mr. Stilley, all I want from you  
24 is an order that just says these issues are approved. We're  
25 going to attach this settlement as outlined with further

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1 clarifications. So all I need transcribed would be just from  
2 Mr. Stilley on with Mr. Burton's last comments and the  
3 agreement of all of the parties on it.

4 THE COURT: Is there anything else to come before the  
5 Court? Thank you.

6 MR. GARRETT: Thank you.

7 THE COURT: I think this is --

8 MR. THACKER: Your Honor, there is one other issue,  
9 and that was that we would abandon his litigation.

10 MR. STILLEY: Oh, I'm sorry, Your Honor. Let me add  
11 one more thing to the settlement. I forgot to add that. We  
12 discussed it earlier.

13 THE COURT: Let's put this also in there, Mr. --

14 MR. STILLEY: This goes back on. Mr. Burton has two  
15 claims. He has a personal injury claim against Progressive  
16 Insurance that he listed in his schedules for, I think --

17 MR. THACKER: Value of 5 --

18 MR. STILLEY: He listed it at \$5,000, he claimed an  
19 exemption in it for like \$16,000. He also has a claim that he  
20 had asserted in the past for malpractice against an attorney  
21 named Mark Erikson. The estate will abandon any interest in  
22 those claims to Mr. Burton.

23 THE COURT: With that, is there anything else?

24 MR. THACKER: No.

25 MR. GARRETT: Nothing else.

## C E R T I F I C A T E

Ahearn & Associates, Inc., Certified Court Reporters, hereby certifies that:

The foregoing pages represent an accurate and complete excerpt transcription of the proceedings before the Honorable U.S. Bankruptcy Judge presiding in the aforementioned matter; and

that these pages constitute the original or a true copy of the excerpt transcript of the proceedings

Signed and dated this 10th day of August, 2003.

AHEARN & ASSOCIATES, INC.,  
Certified Court Reporters

by:

**COPY**

Roseanna Bryan  
Court Reporter  
CSR #BR-YA-NR-J305BT

AHEARN & ASSOCIATES, INC.  
(206) 405-3812

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THE COURT: Thank you. Since I was ready to rule, I think you all did yourself a good favor in not getting my decision. I don't think anybody would have been happy.

MR. BURTON: Thank you.

MR. THACKER: Thank you.

MR. STILLEY: Thank you.

MR. GARRETT: Thank you.

THE COURT: We're at recess.

(PROCEEDINGS CONCLUDED AT 10:32 A.M.)

AHEARN & ASSOCIATES, INC.  
(206) 405-3812

**CERTIFIED EXHIBIT 3**

SUPERIOR COURT OF WASHINGTON  
COUNTY OF CLARK

FILED

JUN 10 2005

JoAnne McBride, Clerk, Clark Co.

In re

Burton

Petitioner,

and

Erickson

Respondent.

NO. 03-204903-8

CITATION Hearing - Pertaining  
to motion of vacation by  
papers as filed on May 19,  
2005.

To: Honorable Judge Robert Harris

PLEASE NOTE the above-mentioned case is set forth to be heard:

DATE: June 24- 2005

TIME: 9<sup>00</sup> AM

DEPT: 5

CAUSE OF ACTION: To vacate motion / New Discov. of Facts  
on Judgment of Law.

DATED this 10 day of June, 2005

Submitted by:

Ran Paul  
Petitioner / Respondent

13819 SE. 19<sup>th</sup>  
Address

Vancouver, WA 98603  
City, State, Zip Code

360-513-0251  
Daytime Phone

107

KO

6

**FILED**

**JUN 16 2005**

HONORABLE JUDGE ROBERT L. HARRIS  
JoAnne McBride, Clerk, Clark Co.

LANCE W. BURTON  
13819 SE 19th STREET  
VANCOUVER, WA 98683  
360-513-0251

IN THE SUPERIOR COURT FOR THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF CLARK

Lance W. Burton,  
Plaintiff,

vs.

Mark A. Erikson, Attorney at Law,  
Defendant

Case No.: 03-204903-8 and  
APPEALS No. 32087-8-II

PERMISSION TO REAPPEAR- APPLY  
NEW FACTS OF LAW RE:  
VACATATION OF JUDGMENT

PART ONE

On May 18, 2005 Defendant Mark A. Erikson, Attorney at Law, his legal counsel Mr. James Talbot of Hutson, O'Brian and Boe were properly served the necessary papers regarding Burton's Motion to Vacate a Judgment under CR 60(b) as determined on June 1, and June 22, 2004.

On May 27, 2005, a hearing was held by Judge Robert L. Harris, who unilaterally deemed that such hearing could not be held, because Plaintiff Burton supposedly did not have authority from the Court of Appeals to conduct such hearing.

108-A  
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PART TWO

Section - 1, Differences of Opinion

Mark Erikson erroneously argued that Lance Burton was not entitled to bring forth his motion to vacate before the trial court.

Burton responded by stating that he did have the authority to do so, and that if the trial court were to decide in Burton's favor, Burton would then have to obtain the Appeals Court's permission to allow the vacation to be entered upon.

Section - 2,

Mark Erikson had no standing to raise arguments before the trial court...

Plaintiff Burton also argued that Erikson's presentation of arguments before the trial court should not be permitted. Burton cited the Verbatim Report of Proceedings of the May 21, 2004, hearing. At this hearing, Erikson wanted to act as co-counsel, but after lengthy discussion he eventually STIPULATED on page 2, line 3 that he would "**only argue as to attorney fees** and the court concurred with a "**yeah.**" Thus, Erikson's opinions and arguments were not only a violation of RPC 3.7, but should not have been allowed to be presented to the court, and the court having previously affirmed Erikson's stipulation should not have listened or acted upon Erikson's arguments.

Section - 3,

Mark Erikson did not oppose Burton's Motion to Vacate properly; thus he has abandoned his defenses...

1 On May 18, 2005 Burton, through Ms. Michele Hicks, under sworn oath has stated  
3 that she hand delivered all pertaining documents to the Erikson office and in doing  
5 obtained a stamped acknowledgment of this act from the Erikson office. (These  
7 copies were then filed May 19, 2005).

9  
11 On June 7, 2005, Lance Burton received a United States Postal Notice indicating  
13 that the defendant had attempted to deliver a "Certified" piece of mail, which  
15 Burton on June 8, subsequently obtained from the postal service office.  
17 Upon opening the letter Burton found a 3-page affidavit from Nealy Evans, a 2-page  
19 Certificate of Service and a single page waybill of DHL delivery service.

21  
23 PROBLEM: 1

25 Nealy Evans swears that on May 24, 2005 he/she caused to be delivered by DHL  
27 delivery service, an opposition to Burton's Motion to Vacate, when in fact it was not  
29 delivered, nor has Burton ever received it!

31  
33 PROBLEM: 2

35 Once DHL delivery service notified Nealy Evans on May 26 that such execution did  
37 not take place, Evans TOOK NO FURTHER ACTION to insure proper notification of  
39 opposition to Burton' Motion.

41 PROBLEM: 3

43 Lack of Dilligence...

45 Burton throughout this ordeal has retained the same residence.

47 The defendant and his legal representative Mr. James Talbot/Nealy Evans on  
49 numerous occasions have sent other pieces of correspondence by mail or by  
51 process WITHOUT difficulty. Why now?

53 Certain Civil Rules require proper and adequate service. Burton wonders, "why were  
55 these procedures not followed?"

1  
3 Burton believes and cites numerous reasons...

5  
7 REASON - 1

9 Erikson cannot defend against the causes as demonstrated by Burton in his Motion  
11 to Vacate. Thus trickery was employed to corrupt Burton's pursuit – procedurally.

13  
15 REASON - 2

17 Erikson's attorney, Mr. James Talbot, called Burton by telephone on the 26<sup>th</sup> of May  
19 (day before the hearing) and indicated that he was unable to attend the next day's  
21 hearing and requested that Burton reschedule the hearing until the 10<sup>th</sup> of June.  
23 Yet, he failed to acknowledge delivery failure or a request of address confirmation.

25  
27 REASON - 3

29 Erikson's arguments to the trial court on the following day were a sham!

31  
33 Erikson used his influence to mislead the trial court by stating that Burton was  
35 required to have the Appeals Court approval prior to his pursuit of his Motion to  
37 Vacate. Erikson as a "*skillful lawyer*", having been before the Court of Appeals  
39 previously "**should**" have known better!

41 It's Burton's opinion that in doing so, several violations of RPC 3.3 (a)(1)(3)(4) and  
43 still continues with (c), 3.5(a)(c) and 8.4 have now occurred.

45  
47 Burton also believes that if he had granted James Talbot a change of date, such  
49 extension of time would have jeopardized Burton's time-line to seek legal recourse  
51 with the Court of Appeals and the trial court as he has now demonstrated.

REASON – 4

Erikson's incompetence, lack of skill and negligence...

If this court should come to the conclusion that Burton's above remarks are without merit, then they are requested to consider the following...

The "Certified Letter" sent to Burton on June 7, 2005 clearly demonstrates carelessness, and negligence on Erikson's behalf. Their letter was mailed to the **wrong** address! (Exhibit 1)

Section – 4,

Trial Court's erroneous decisions.

According to the Columbian newspaper account of August 25, 2004, Judge Robert L. Harris has served on the bench for 25 years but still took the time to research the Rules of Appellate procedure. In doing so, he concluded that Erikson's arguments were valid, that Burton needed the Court of Appeals' permission first, and thus abruptly ended the hearing without making any further discovery or findings. Burton objected and repeatedly requested a continuance, but the Court refused to respond to those requests.

On May 27, 2005, Burton submitted a "Request for Court of Appeals Approval" concerning his Motion to Vacate. Copies were delivered to defendant Erikson and his legal representative, Mr. James Talbot. On June 7, 2005 the Court of Appeals delivered a ruling to Lance Burton, Mark Erikson and Mr. James Talbot from Commissioner Skerlic, which affirmed Lance Burton's arguments. The ruling stated that the Appeals Court does NOT require advanced approval!

1 Burton requests that the trial court now award a decision to vacate the motion for  
3 the following reasons AND requested fees...

5  
7 1. Erikson did not have standing to argue before the trial court and because  
9 there was **no legal representation on his behalf**, Erikson has  
11 abandoned his defenses.

13  
15 2. Erikson did not properly oppose Burton's Motion to Vacate and when given  
17 notice of undelivery, failed to take further action to protect his interest or  
19 comply with Superior Court Rules.

21  
23 3. The merits of the "Motion to Vacate" speak clearly for themselves,  
25 offering valid reasons for approval, in the interest of justice.

27  
29  
31  
33 I declare under penalty of perjury under the laws of the state of Washington  
35 that the foregoing is true and correct.

37  
39  
41 Signed at Vancouver, Washington on June 16, 2005.

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LANCE W. BURTON  
13819 SE 19<sup>th</sup> Street  
Vancouver, Washington 98683  
360-513-0251

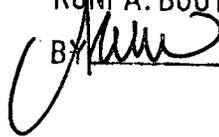
**4-1-B-H-EXE-D-E-F-F-I-R-M-C**

FILED  
SUPERIOR COURT

2010 MAR 15 A 10:43

Lance W. Burton  
13819 SE 19<sup>th</sup> Street  
Vancouver, WA 98683  
360-513-0251

COWLITZ COUNTY  
RONI A. BOOTH, CLERK

BY 

IN THE SUPERIOR COURT FOR THE STATE OF WASHINGTON  
IN AND FOR COWLITZ COUNTY

Lance W. Burton, Pro se, A single man

Plaintiff

v.

Robert L. Harris, Mary Jo Harris and  
their marital community and the  
Clark County Board of County  
Commissioners et al.

Defendant's

Case No.: 10-2-00211-2

**AFFIDAVIT OF PREJUDICE  
AND  
NOTICE OF  
SWORN STATEMENTS**

Pursuant to: RCW 4.12.050

*(1) Any party to or any attorney appearing in any action or proceeding in a superior court, may establish such prejudice by motion, supported by affidavit that the judge before whom the action is pending is prejudice against such party or attorney, so that such party or attorney cannot, or believes that he cannot, have a fair and impartial trial before such judge...*

(2) The Plaintiff, who now submits this affidavit and who has previously submitted other documents, to this Court of March 1 and 8<sup>th</sup> 2010, has become the defendant by arguing that Cowlitz County Superior Court has no legal jurisdiction. That Skamania County Case No. 09-2-00161-0 was transferred unlawfully to Cowlitz County and in direct opposition and violation of numerous laws.

(3) Plaintiff's forced defense of his First Amendment Right under the U.S. Constitution and of Article 1, Section 4 of the Washington State Constitution by petitioning the government for a redressing of his grievances has been an excessive burden of time, effort, and expense.

9

Scanned

(4) Burton believes that Clark County and its defendant's Retired Judge Robert L. Harris, et al, its lawyers, the Court Administrator's and Clerk's of Skamania, Clark and Cowlitz County's have coalesced into forming an alliance to oppress plaintiff and to end his legal pursuits unlawfully, in violation of state laws (1).

(5) The Plaintiff does hereby provide "Sworn Statements" made by others, under perjury for the laws of the United States of America and of the State of Washington.

(6) **To Wit:** Mr. Donald E. Rallsback, to the United States District Court at Tacoma as:

Case No.: CO1-5052 FDB.

(7) Demonstrates a similar conduct by defendant Robert L. Harris when willingly he failed or refused to render a decision when duty of office and law required him to do so. Pg11/20

(8) That case also alleges many and serious wrong-doings, Pg. 11/Ln.16 and demonstrates what is believed by Rallsback, a willingness to sacrifice his constitutional rights, Pg. 25/Ln.15 by the defendant.

(9) It also reveals Rallsback's futile search for one honest judge in Southwest Washington, Pg. 26/Ln 20.

(10) Rallsback's statement then announces at Pg. 28/Ln. 9, a letter from Judge E. Thompson Reynolds of Skamania County to Judge Stephen Warning of Cowlitz County...

*"to personally take care of this case."*

(11) Rallsback at line 18 states that he *"thought that Reynolds and Harris were arrogantly corrupt, but compared to Warning, they are pikers."* Rallsback at Pg. 31/Ln. 17, exclaims *that Judge Warning committed perjury in the first degree.*

(12) **To Wit:** Mr. Donald E. Rallsback, in the Superior Court of Washington for Clark County as:

Case No.: 00-2-03930-5

(13) In October 12, 2000, visiting Judge Stephen Warning from Cowlitz County at the direction of the Washington State Supreme Court Chief Justice, Richard Guy was asked to appear.

(14) In the opening session of Court, Rallsback argued that certain declarations had not been served upon him in accordance to law. According to the Sworn declarative statement as filed on October 20, 2000 by Rallsback, Judge Warning during the Court session had checked the file, and stated that *he saw a Certificate/declaration indicating documents had been filed, page 2/Ln. 3, and then overruled Rallsback's objection.*

---

(1) Copies served upon all parties as filed on March 1 and 10, 2010, that included Notice of Service, Motion for Direct Review, Affidavit of Excerpts, Exhibits A, Notice of Disapproval B, Order and Motion signed by Judge Warning, and C, Notice of Serving and Non-Response by the defense and Notice to All Judicial Officers. Pg. 2 of 5-Affidavit- Burton/Harris

(15) Railsback declares that he then checked the court file the following week, Pg. 2/Ln 21 and found that NO certificate of mailing was in the file.

(16) A few days later, Railsback sought and received a copy of the videotape recording of that day's Court hearing and then sought a professional to examine the videotape. It was determined that tampering of the videotape had occurred, Pg. 3/Ln 18. Railsback first accuses Judge Harris and his assistant Leanne on pg. 4/Ln 9, but also suggest others, including Judge Stephen Warning could have been responsible.

(17) **To Wit:** Mr. Robert O. Birdwell and Ms. Christine M. Birdwell, in the Superior Court of Washington for Clark County as:

Case No.: 06-2-03370-5

(18) Did hereby file in the Clark County Courthouse on September 11, 2006 a Notice of Appeal to the Court of Appeals, of Division II, stemming from a civil action as filed on June 30, 2006 against a Clark County District Court Judge John P. Haggenson and attorney Randall B. Fritzler.

(19) The issues of Fritzler hinges upon court records where the plaintiff's alleges that Fritzler used his power, education and lawful standing as "a financial opportunist" against the Birdwell's by suggesting that he represented Southwest Washington Medical Center. Fritzler, used his position to extrapolate funds owed by Birdwell who had acquired a sizable balance with SWWMD due to a heart attack near September 2004. According to the records Fritzler, had acquired the balance rights from the hospital and then created an unlicensed business entity to lend credence to his efforts in collecting funds from the Birdwell's

(20) The scheme also charges that Judge Haggenson knew full well that the defendant Fritzler operated a business in an unlawful and corrupt manner. Yet, Haggenson took no action to stem such corruption.

(21) The Sworn Statements signed by the Birdwell's was signed under penalty of perjury and of the laws for the State of Washington.

(22) The Commission on Judicial Conduct for the State of Washington had filed an Agreement (3933-F-107) by Stipulation of Censure against Fritzler, who had been a judge for 17 years in Clark County. The Commission asserted numerous violations of the Cannon's of Ethics that would cause Fritzler to resign his post on January 5, 2004. With the terms of the Agreement being signed on February 6, 2004.

(23) It is reasonable to believe that Judge Haggenson "looked" the other way, because he knew that had he reported even a slightest suggestion that now attorney Fritzler, was perpetrating a clandestine act, it could have resulted in severe consequences against Fritzler. Particularly since this was not Fritzler's first violation.

**\*\*\*NOTE\*\*\***

**This plaintiff recognizes a similar pattern of conduct between judges and their protege's.**

**Plaintiff Burton filed his many count malpractice action against lawyer Mark Erikson in late 2003 and drew Judge Harris for whom refused Burton the right to introduce evidence etc. and then dismissed Burton's case.**

**Harris at that time was a 25-year veteran and the "Presiding Judge" of judge's of Clark County which required his supervision of other judges. Burton contends that Harris had to or should have known of the above circumstances and not only condoned it, but employed the same tactics to suit his own resolution of circumstances when needed.**

**In March of 2002 the Washington State Bar Association concluded an investigation into allegations against Mark Erikson that may have began in 1999. Their conclusion ended with Mr. Erikson's agreement to the Bar's imposition of a 2-year probationary period.**

**Plaintiff contends that Harris like Haggenson, avoided legal responsibility that protected both Fritzler and Erikson, from stiffer penalties or even suspension!**

**\*\*\***

**(24) Other issues raised by the Birdwell's, suggests that Judge John Nichols had engineered a circumstance that had injured then, Pg. 2/Ln 17. Notice of Appeal. And to eliminate a measure that that would have allowed the Birdwell's the lawful right to eliminate a biased judge, Pg. 3/Ln 13.**

**(25) Birdwell's statement's suggests that the bench of Clark County had become disqualified, Pg. 4/Ln 4. And, that the judges of Clark County ostensibly had requested a visiting judge be sent from Cowlitz County, Pg. 4/Ln 5. And of the COWLITZ COUNTY ADMINISTRATOR who changed the venue from Clark County to Cowlitz County without the consent of the plaintiffs, Pg. 4/Ln 10.**

**(26) That Judge, would be Judge Stephen Warning.**

**(27) The Birdwell's allege that Warning had committed felonies in Clark and Cowlitz Counties with criminal complaints on file with the Kelso police department. Pg. 4/Ln 17.**

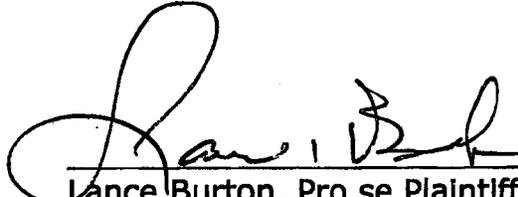
**(28) Plaintiff Burton cannot allow Judge Warning to proceed and rebukes the administration of justice in Southwest Washington while insisting that this matter be returned to the State Supreme Court.**

**\*\*\***

**(29) The information presented herein comes from "Certified" documents from government records. That those certified copies bearing a blue seal of the Superior Court of Clark County and serve as a testament to their reproduction from true and correct copies by the signature of Clark County Deputy Clerk, Pat Cross.**

(30) Lance Burton has shown these original certified copies to the Notary Clerk for her complete review and affirmation that now bears her seal and signature here upon.

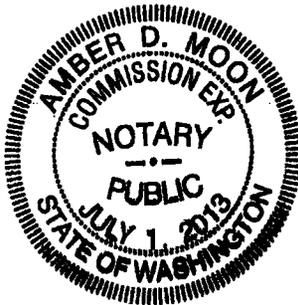
RESPECTFULLY SUBMITTED, on this 12 day, of March 2010.

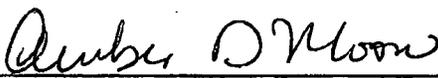
  
Lance Burton, Pro se Plaintiff

STATE OF WASHINGTON } ss.  
COUNTY OF CLARK

On this day personally appeared before me Lance W Burton,  
to me known to me the individual described in and who executed the  
within and foregoing instrument and acknowledges that he/she have  
signed this as their own free and voluntary act and for the uses and  
purposes therein mentioned.

Given under my hand this 12<sup>th</sup>, day of March, 2010.



  
Notary Public, State of Washington

July 1, 2013  
Expiration Date

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Lance W. Burton  
13819 SE 19<sup>th</sup> Street  
Vancouver, WA 98683  
360-513-0251

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF COWLITZ COUNTY

) Case No. 10-2-00211-2

)  
) Lance W. Burton, A single man,  
)  
) Plaintiff,

) MOTION  
) FOR NEW JUDGE AND REMOVAL TO  
) SKAMAINIA COUNTY OR TO  
) THE WASHINGTON STATE SUPREME  
) COURT

) v.  
)

) Superior Court Judge Robert L. Harris and  
) Mary Jo Harris, husband and wife, and  
) their marital community.  
)

) Defendant's  
)

) And  
)

) The Board of the Clark County  
) Commissioners (Betty Sue Morris, Mark  
) Boldt and Steve Stuart) for and on the  
) behalf of Clark County.  
)

) Defendant's  
)

\_\_\_\_\_  
PURSUANT TO RCW 4.12.050...

Any party to or any attorney appearing in any action or proceeding in a superior court, may establish such prejudice by motion, supported by affidavit that the judge before whom the action is pending is prejudice against such party or attorney, so that such party or attorney cannot, or believes that he cannot, have a fair and impartial trial before such judge.

1 Plaintiff declares that this motion is also supported by a five-page notarized  
3 Affidavit and Order.

5  
7 Plaintiff also gives notice that its useage of RCW 4.12.050 to obtain a new judge is  
9 un-justified due to his belief that Cowlitz County has no jurisdiction. That such  
11 jurisdiction belongs to Skamainia County Court and/or to the Washington State  
13 Supreme Court under Article 4, Section 4 of the Washington State Constitution. And  
15 that this state's Legislature under Article 4, Section 1 granted this state's Supreme  
17 Court power. Whereby such power was granted to this state's legislature from the  
19 U.S. Constitution under Article 6, Cl. 2

21  
23 I declare under penalty of perjury under the laws of the state of Washington  
25 that the foregoing is true and correct.

27  
29 Signed at Vancouver, Washington on March, 12, 2010.

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LANCE W. BURTON  
13819 SE 19<sup>th</sup> Street  
Vancouver, Washington 98683  
360-513-0251



1 LANCE W. BURTON, moves the Court for an Order to replace existing judge, Stephen Warming,  
2 and to withdraw from this case and return this matter back to Skamania County where jurisdiction lies or  
3 in the alternative send this case to the State Supreme Court for which the plaintiff has shown legal  
4 justification to do so under the Motion, Affidavit and other Documents as submitted to this and other  
5 court's on March 1<sup>st</sup> and the 10<sup>th</sup> of 2010.

6 Plaintiff has shown this Court and the opposing parties that NO legal justification exists to allow this court  
7 to render any Judgment or Order(s) now pending before this Court. And, even if it did, plaintiff has by  
8 exhibits and evidence submitted shown that no legal justification exist that would allow granting of  
9 defendant's motions, especially when the defendant has refused to comply with discovery requests.

10  
11 The court must consider the facts in the light most favorable to the nonmoving party; if from all the  
12 evidence, a reasonable persons could reach another conclusion defendant's summary judgment motion  
13 must be denied.

14  
15 The Court having considered the Request for Action under RCW 4.12.050 and other matters hereby  
16 directs and orders the following:  
17  
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20  
21

22 DATED \_\_\_\_\_

23  
24 \_\_\_\_\_  
25 Superior Court Judge

Lance W. Burton, Pro se

all: 011  
issued  
R. rpt 01184  
amended to # 501687 (see)  
summons Not Issed

FILED  
RECEIVED  
LODGED  
JAN 24 2001  
CLERK U.S. DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON AT TACOMA  
DEPUTY  
BY

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

C 01 - 50 52 FDB

DONALD E. RAILSBACK

Plaintiffs,

ROBERT L. HARRIS, Individually, and as to his marital community; LEEANNE KUNZE, Individually, and as to her marital community; E. THOMPSON REYNOLDS, Individually, and as to his marital community; STEPHEN WARNING, Individually, and as to his marital community; ROGER A. BENNETT, Individually, and as to his marital community; JAMES E. RULLI, Individually, and as to his marital community; BARBARA D. JOHNSON, Individually, and as to her marital community; RICHARD GUY, Individually, and as to his marital community; GERRY ALEXANDER, Individually, and as to his marital community; C. J. MERRITT, Individually, and as to his marital community; RONALD R. CARPENTER, Individually, and as to his marital community; GEOFFREY CROOKS, Individually, and as to his marital community; GARY LOCKE, Individually, and as to his marital community  
EVERETT BILLINGSLEA, Individually, and as to his marital community; CHRISTINE GREGOIRE, Individually, and as to her marital community; SCOTT BLONIEN, Individually, and as to his marital community; DAVID W. MEYER, Individually, and as to his marital community  
DAVID W. CHRISTEL, Individually, and as to his

No.

VERIFIED COMPLAINT FOR VIOLATIONS OF TITLE 18 U.S.C. §§ 1961-1968 (RICO); TITLE 42 U.S.C. §§ 1981-1988 (CIVIL RIGHTS).

**PALINTIFF DEMANDS JURY TRIAL**

CERTIFIED TRUE COPY  
ATTEST: BRUCE RIFKIN  
Clerk, U.S. District Court  
Western District of Washington  
By Mary Walsh  
Deputy Clerk

1 marital community; BRIAN H. WOLFE,  
2 Individually, and as to his marital community  
3 BANK OF AMERICA, a Corporation under  
4 Washington Law; JAMES T. RAYBURN,  
5 Individually, and as to his marital community  
6 CRYSTAL RAMSTEAD, Individually, and as to  
7 her marital community; BRADLEY ANDERSON,  
8 Individually, and as to his marital community  
9 LORENA HOLLIS, Individually, and as to her  
10 marital community; JESS AMRAN, Individually,  
11 and as to his marital community; GARRY  
12 LUCAS, Individually, and as to his marital  
13 community; DAVID MCKAY, Individually, and  
14 as to his marital community; JANE JOHNSON,  
15 Individually, and as to her marital community;  
16 MIKE EVANS, Individually, and as to his marital  
17 community; ART CURTIS, Individually, and as to  
18 his marital property; SCOTT ANDERS,  
19 Individually, and as to his marital community;  
20 CURT WYRICK, Individually, and as to his  
21 marital community; DENNIS HUNTER,  
22 Individually, and as to his marital community;  
23 ROBERT SHANNON, Individually, and as to his  
24 marital community; MIKE DELL, Individually,  
25 and as to his marital community; RICK  
26 BUCKNER, Individually, and as to his marital  
community; MARY MCQUEEN, Individually,  
and as to her marital community; GIL AUSTIN,  
Individually, and as to his marital community;  
C.C. BRIDGEWATER, Individually, and as to his  
marital community; DAVID PONZOHA,  
Individually, and as to his marital community;  
DONALD G. MEATH, Individually, and as to his  
marital community; BETTY SUE MORRIS,  
Individually and as to her marital property; CRAIG  
PRIDEMORE, Individually and as to his marital  
property; JUDIE STANTON, Individually and as  
to her marital property; CLARK COUNTY WA, a  
political subdivision of the STATE OF  
WASHINGTON; THE STATE OF  
WASHINGTON: and JOHN DOES 1-150;  
Defendants.

## INTRODUCTION

1 This RICO and Civil Rights action had its birth in a relatively simple action to confirm/deny an  
2 arbitration award in a civil matter over approximately \$40,000 and what one could only describe  
3 as another game of "Let's screw the pro se" played by Defendants Judge Robert L. Harris and  
4 opposing counsel, Defendant David W. Meyer. These two and all the other individuals listed as  
5 defendants were or became associates-in-fact in a RICO enterprise in a conspiracy to deny  
6 plaintiff Donald E. Railsback ("Railsback") of his Constitutional Rights under the Constitutions  
7 of the United States and the State of Washington in order to protect Judge Harris and other  
8 associates-in-fact from both the civil and criminal consequences of their crimes in an effort to  
9 maintain control of the various courts and governments within the State of Washington. All  
10 defendants, through their actions and control of various government enterprises in violation of  
11 Title 18 U.S.C. §§ 1961-1968, and in violation of Railsback's Constitutional Rights and are  
12 causes of action under Title 42 U.S.C. §§ 1981-1988. The associates-in-fact range from private  
13 attorneys, local superior court judges, county commissioners, a county sheriff, county  
14 prosecutors; reach all the way to the offices of the Governor and Attorney General of the State of  
15 Washington; and even to the Supreme Court of the State of Washington, including the current  
16 and recently retired Chief Justices, as well as more than one associate Justice, the Clerk and his  
17 assistant, and a Supreme Court commissioner, a position for which there is absolutely no  
18 constitutional or statutory authority and is used by the associates-in-fact to obstruct justice and  
19 cover-up criminal conduct by its members so as to hide the criminal acts from public notice or  
20 accountability. The associates-in-fact have been able to maintain their control of the enterprises  
21 only through their numerous violations of the federal and state RICO states and by constitutional  
22 rights of the citizens of the State of Washington, and specifically those of Donald E. Railsback,  
23 and pose a long-term ongoing threat to the citizens of the State of Washington through their  
24 tyrannical control of two of the three branches of the government of the State of Washington.

25         Unfortunately for these defendants, their associate-in-fact RICO enterprise never took  
26 into account for the possibility of a mere citizen to be able to comprehend the law and rules of  
procedure so thoroughly, and to have the courage to confront them in such an open fashion. The

1 arrogance of the defendants in this case led them to make numerous legal and procedural errors  
2 from which they can no longer recover, because to do so would be an admission by that  
3 individual that they were an associate-in-fact RICO enterprise.

4 One must only read the Declaration of Independence to recognize that it is a citizen's  
5 right, and indeed, duty to confront the tyranny of enemies, both foreign and domestic. Donald E.  
6 Railsback, a citizen of the United States of American, and of the State of Washington, will not  
7 standby not tolerate tyranny in the government and courts of the State of Washington and allow  
8 this tyranny to continue unchallenged.

9 These tyrants were warned on numerous occasions, offered many opportunities to do  
10 what was just, and in each instance; chose to proceed with their criminal conduct.

11 These RACKETEERS "Have done messed with the wrong boy, this time!"

### 12 13 JURISDICTIONAL BASIS

- 14 1. This court has subject matter jurisdiction pursuant to Title 18 U.S.C. §§ 1964(c) for (RICO)  
15 causes of action, and 28 U.S.C 1343 – Civil Rights and Elective Franchise for violations  
16 U.S.C. § 1981 et. seq.
- 17 2. Venue is proper pursuant to 18 U.S.C. § 1965(a) and (b) and is supplemented by 28 U.S.C. §  
18 1931(b) for RICO causes of action and Title 42 U.S.C. § 1983 for the Civil Rights causes of  
19 action.
- 20 3. Plaintiff alleges that all defendants are residents or otherwise subject to the personal  
21 jurisdiction of the U.S. District Court for Western Washington

### 22 PARTIES

- 23 4. Plaintiff Donald E. Railsback is a resident within the jurisdiction of the U.S. District Court  
24 for Western Washington, Tacoma Division.
- 25 5. All defendants are residents within the jurisdiction of The U.S. District Court for Western  
26 Washington, Tacoma Division or other wise subject to the jurisdiction and venue of this  
court.

1 6. All of the following defendants are, and were, at all times material, occupants of the positions  
2 listed immediately after their names unless other wise stated. The names of all defendants  
3 and their addresses are attached to this complaint as addendum "A" and is incorporated into  
4 this complaint by this mention.

5 7. Defendant ROBERT L. HARRIS ("Harris"), Superior Court Judge, Clark County (WA)  
6 Superior Court, Department 5.

7 8. Defendant LeeAnn Kunze ("Kunze"), Judicial Assistant to defendant Harris.

8 9. Defendant E. THOMPSON REYNOLDS ("Reynolds"), Superior Court Judge, Skamania  
9 County Superior Court, WA.

10 10. Defendant STEPHEN WARNING ("Warning"), Superior Court Judge, Cowlitz County,  
11 WA.

12 11. Defendant ROGER A. BENNETT ("Bennett"), Superior Court Judge, Clark County (WA)  
13 Superior Court, Department 1.

14 12. Defendant JAMES E. RULLI, ("Rulli"), Superior Court Judge, Clark County (WA) Superior  
15 Court, Department 7.

16 13. Defendant BARBARA D. JOHNSON, ("Judge Johnson"), Superior Court Judge, Clark  
17 County (WA) Superior Court, Department 6.

18 14. Defendant RICHARD GUY ("Guy") Chief Justice, now retired, Supreme Court of the State  
19 of Washington.

20 15. Defendant GERRY ALEXANDER ("Alexander"), former Justice and now Chief Justice of  
21 the Supreme Court of the State of Washington

22 16. Defendant C. J. MERRITT ("Merritt"), Clerk of the Supreme Court of the State of  
23 Washington.

24 17. Defendant RONALD R. CARPENTER ("Carpenter"), Deputy Clerk of the Supreme Court  
25 of the State of Washington.

26 18. Defendant GEOFFREY CROOKS ("Crooks"), holds the position of a "commissioner" of the  
Supreme Court of the State of Washington. There is no constitutional or statutory provision

1 for the position of "Supreme Court Commissioner" and therefore Crooks is not a "judicial  
2 officer" under the Constitution or statutes of the State of Washington.

3 19. Defendant GARY LOCKE ("Locke"), Governor of the State of Washington.

4 20. Defendant EVERETT BILLINGSLEA ("Billingslea"), General Counsel to the Governor of  
5 the State of Washington, Gary Locke.

6 21. Defendant Defendant CHRISTINE GREGOIRE ("Gregoire"), Attorney General of the State  
7 of Washington.

8 22. Defendant SCOTT BLONIEN ("Blonien"), Sr. Assistant Attorney General, Chief, Criminal  
9 Justice Division for the State of Washington.

10 23. Defendant DAVID W. MEYER ("Meyer"), Attorney for Dale and Casey Hackett, and a  
11 member of the Washington State Bar Association ("WSBA")

12 24. Defendant DAVID W. CHRISTEL ("Christel"), outside counsel to Bank of America, a  
13 member of the WSBA, and a member of the Vancouver, WA, law firm of Blair Schaefer  
14 Hutchinson and Wolfe.

15 25. Defendant BRIAN H. WOLFE ("Wolfe"), outside counsel to Bank of America, a member of  
16 the WSBA, and a partner in the Vancouver, WA, law firm of Blair Schaefer Hutchinson and  
17 Wolfe.

18 26. Defendant BANK OF AMERICA, a Corporation or Foreign Corporation under Washington  
19 Law and a resident of Washington;

20 27. Defendant JAMES T. RAYBURN ("Rayburn"), Assistant General Counsel to Bank of  
21 America.

22 28. Defendant CRYSTAL RAMSTEAD ("Ramstead"), head of Bank of America's garnishment  
23 department, Seattle, WA.

24 29. Defendant BRADLEY ANDERSON ("Anderson"), Prosecuting Attorney for Skamania  
25 County, WA, to Skamania County Clerk, Lorena Hollis in her official capacity, and attorney  
26 for Reynolds in a mandamus action in the Supreme Court of the State of Washington.

- 1 30. Defendant LORENA HOLLIS ("Hollis"), Clerk of the Superior Court for Skamania County,  
2 WA.
- 3 31. Defendant JESS AMRAN ("Amran"), Superior Court Administrator for the Clark County,  
4 WA, Superior Court.
- 5 32. Defendant GARRY LUCAS ("Lucas"), Sheriff of Clark County, WA.
- 6 33. Defendant DAVID MCKAY ("McKay"), Deputy Sheriff (Sgt.) of Clark County, WA.
- 7 34. Defendant JANE JOHNSON ("Jane Johnson"), Undersheriff for Clark County, WA
- 8 35. Defendant Defendant MIKE EVANS ("Evans"), Chief Criminal Deputy Sheriff for Clark  
9 County, WA.
- 10 36. Defendant ART CURTIS ("Curtis")
- 11 37. Defendant SCOTT ANDERS ("Anders"), Deputy Clark County Prosecutor, selected by the  
12 Clark County Board of Commissioners to a position as District Court Judge in the Clark  
13 County, WA, Court and should be sworn in on or about January 31, 2001.
- 14 38. Defendant CURT WYRICK ("Wyrick"), Chief Deputy Prosecutor – Civil, Office of the  
15 Clark County (WA) Prosecuting Attorney's office, Clark County, WA.
- 16 39. Defendant DENNIS HUNTER ("Hunter"), Deputy Prosecutor – Civil, Clark County (WA)  
17 Prosecutor, and legal representative for the Clark County Sheriff.
- 18 40. Defendant ROBERT SHANNON ("Shannon"), Deputy Prosecutor – Criminal, Clark County  
19 (WA) Prosecutor's office.
- 20 41. Defendant MIKE DELL ("Dell"), Clark County (WA) Deputy Sheriff.
- 21 42. Defendant RICK BUCKNER ("Buckner"), Deputy - Detective, Clark County (WA) Sheriff
- 22 43. Defendant MARY MCQUEEN ("McQueen"), Administrator, Office of the Amisistrator for  
23 the Courts ("OAC"), was supervised by Guy, prior to his retirement, and is now supervised  
24 by Alexander.
- 25 44. Defendant GIL AUSTIN ("Austin"), Manager, Court Services, Judicial Services Division,  
26 OAC.

1 45. Defendant C.C. BRIDGEWATER (“Bridgewater”), Chief Judge, Washington State Court of  
2 Appeals), Division II. (“COA”)

3 46. Defendant DAVID PONZOHA (“Ponzoha”), Clerk , COA.

4 47. Defendant DONALD G. MEATH (“Meath”), holds the position of a “commissioner” of  
5 COA. There is no constitutional or statutory provision for the position of “Appellate Court  
6 Commissioner” and therefore Meath is not a “judicial officer” under the Constitution or  
7 statutes of the State of Washington.

8 48. Defendant BETTY SUE MORRIS (“Morris”), Member of Board of Commissioners for Clark  
9 County, WA, a political subdivision of the State of Washington.

10 49. Defendant CRAIG PRIDEMORE (“Pridemore”), Member of Board of Commissioners for  
11 Clark County, WA, a political subdivision of the State of Washington.

12 50. Defendant JUDIE STANTON (“Stanton”), Member of Board of Commissioners for Clark  
13 County, WA, a political subdivision of the State of Washington.

14 RICO CLAIM

15 51. ENTERPRISE – State of Washington Executive Branch of Government, specifically the  
16 offices of the Governor of the State of Washington, the Office of the Attorney General for  
17 the State of Washington; The Judicial Branch of the State of Washington, specifically the  
18 Supreme Court of Washington, The Court of Appeals for the State of Washington – Division  
19 II, the Clark County Superior Court, the Skamania County Superior Court, WA, the Cowlitz  
20 County Superior Court, WA; the Office of County Prosecutor for Skamania County, WA; the  
21 Office of County Prosecutor for Clark County, WA, the Offices of the Board of  
22 Commissioners of Clark County, WA, and the Office of Sheriff for Clark County, WA.

23 52. All defendants, other than Clark County, WA, and the State of Washington, which have  
24 liability under the doctrine of respondent superior; are associates-in-fact of one or more  
25 Racketeering Influenced Corrupt Organizations as defined by 18 U.S.C. §§ 1961 et seq. and  
26 are each and everyone of them liable for the crimes and acts of each and every other  
individual person that is a part of the associate-in-fact enterprise in that they knew or should

1 have know that the acts committed by each and every member of the enterprise would be  
2 required, and therefore they agreed that they would be committed, in the furtherance of the  
3 maintenance and control of the enterprise.

4 53. Whether the enterprise(s) controlled and maintained by the defendants in a fraudulent manner  
5 for their individual and collective benefits consists of one or more legitimate enterprises are  
6 mere parts of a single all-encompassing enterprise, the enterprise element under 18 U.S.C. §  
7 1961(4) is satisfied.

8 54. The enterprise(s) alleged are separate and distinct from the associates-in-fact enterprises and  
9 the defendants are able to maintain their positions and control of the enterprise(s) as a result  
10 of the fact that they hold and maintain positions in the enterprise(s) in violation of 18 U.S.C.  
11 §1962 (a), (b), (c) and (d).

12 55. The one or more enterprises affect interstate commerce in that plaintiff's business and the  
13 enterprise(s) make purchases from supplies and/or vendors located outside the State of  
14 Washington and the minimal impact on interstate commerce RICO element is met.

15 56. The defendants committed more than two predicate acts, to be set out with specificity  
16 required in compliance with FRCP 9(b) as required to meet this element to sustain a federal  
17 RICO action. Virtually all the evidence in support of the RICO and Civil Rights causes of  
18 action are contained in a number of court files in the Clark County Superior Court, Skamania  
19 County Superior Court, the Court of Appeals – Division II, and the Supreme court of the  
20 State of Washington. Plaintiff alleges that all defendants knew that the U.S. Mail would be  
21 used in furtherance of the scheme and artifice to defraud Railsback, and that each document  
22 mailed or that could have been mailed act by all defendants was in violation of both 18  
23 U.S.C. § 1341 – Mail Fraud and deprived Railsback of his intangible right to honest service  
24 under 18 U.S.C. § 1346.

#### 25 CIVIL RIGHTS CLAIM

26 57. All defendants are alleged to have denied Railsback his constitutional rights under the  
Fourth, Fifth, and Fourteenth amendments to the Constitution of the United States of

1 America in that they each and everyone of them deprived Railsback of these rights under  
2 color of the laws of the United States and the State of Washington, the facts of which will be  
3 laid out later in this complaint. The blatant denial of Railsback's Civil Rights under the  
4 Constitution of the United States was in furtherance of the maintenance and control of the  
5 associates-in-fact criminal enterprise as defined by 18 U.S.C. 1961 et seq.

6 **FACTUAL ALLEGATIONS**

7 **ARBITRATION/GARNISHMENT PROCEEDINGS**

8 58. On 2/5/99, Harris entered an order confirming an arbitration award against Railsback and in  
9 favor of Dale and Casey Hackett, in Clark County Superior Case. No. 99-2-00334-2.

10 59. On 2/18/99, Meyer obtained order from Harris to appear at a debtor's examine on 3/5/99.

11 This order was obtained in an improper ex parte between Harris and Meyer and furthermore  
12 was improperly served on Railsback.

13 60. On 3/5/99, a hearing on Railsback's timely motion to vacate the arbitration award was heard.

14 Harris continually interrupted Railsback in an attempt to prevent Railsback for arguing his  
15 motion and presenting evidence warranting vacation of the arbitration award. Meyer  
16 presented no argument nor did Meyer file a responsive pleading. Harris denied the motion to  
17 vacate even when presented evidence from a deposition of Hackett that entitled Railsback to  
18 an offset in the arbitration award. This was obstruction of justice and a denial of Railsback's  
19 Constitutional Right to due process under the 14<sup>th</sup> Amendment to the U.S. Constitution and a  
20 violation of 42 U.S.C. 1961 et seq.

21 61. During the 3/5/99 hearing, Meyer stipulated that if Railsback were to obtain a judgment  
22 against D&D Corporation, a jointly held corporation of Hackett and Railsback, Railsback  
23 would be entitled to an offset in the amount of any judgement Railsback was able to obtain.

24 62. On 3/11/99, Railsback obtained the judgment stipulated to in the amount of approximately  
25 \$62,000.

26 63. On 3/18/99, during an improperly noticed and ordered debtor's exam, Railsback raised the  
issue of the offsets, whereupon Harris and Meyer looked at one another and then claimed that

1 the judgment was "likely not valid" even though it was from a court of coordinate  
2 jurisdiction. Harris refused to enter an order related to the offsets to which Railsback was  
3 entitled to as a matter of law.

4 64. On 3/26/99, Harris refused to consider Railsback's motion regarding the offsets because  
5 Railsback had not signed the motion and Harris declined to offer Railsback the opportunity to  
6 sign the pleading as required by CR 11.

7 65. On 4/9/99, at a properly noticed hearing, Harris once again refused to enter the order related  
8 to the offsets to which Railsback was entitled and stated that Railsback needed to "pierce a  
9 corporate veil" even though neither the law nor the stipulation agreed to in open court made  
10 any reference to such a requirement.

11 66. On 4/30/99, Harris entered an order denying Railsback's motion for the offsets to which  
12 Railsback was entitled. Harris further ordered that Meyer was not required to respond to any  
13 further pleadings or motions filed by Railsback, an order for which Harris had no authority  
14 but did so in an effort to obstruct justice by discouraging Railsback from pursuing justice in  
15 the courts of Clark County.

16 67. On 5/3/99, Railsback filed and served a motion on Meyer for a motion to reconsider Harris's  
17 order of 4/30/99 denying Railsback's motion on the stipulation and also for an order either  
18 denying or granting Railsback's motion to vacate the arbitration award, which had not been  
19 entered previously.

20 68. On 5/7/99, a hearing was held on the motion filed by Railsback on 5/3/99. Meyer did not  
21 attend the hearing and Harris refused to enter any order based on Railsback's 5/3/99 motion.  
22 As of 5/7/99, there was no final judgment or order on either the arbitration award or the  
23 stipulation, and to this date, there is still none. Railsback also moved for Harris to recuse  
24 himself as required by the Code of Judicial Conduct based on his ex parte contact with Meyer  
25 on 2/18/99. Harris refused to disqualify himself as required.

26 69. On or about 5/10/99, Meyer filed writs of garnishment against two of Railsback's personal;  
checking accounts and against Railsback's employer (Railsback is self-employed). Railsback

1 filed and served timely claims of exemption on 5/17/99. Railsback also filed a Chapter 13  
2 Bankruptcy action on 5/24/99 in order to protect his assets. After a short time, Railsback  
3 realized that Hackett had failed to timely file objections to Railsback's claims of exemption,  
4 the time for which expired prior to Railsback filing for the Chapter 13. In other words, there  
5 was no need for Railsback to have filed for a Chapter 13, because the time limitation period  
6 for Hackett to object to Railsback's claims of exemption had already expired and as a matter  
7 of law, the court was required to dismiss the garnishments with prejudice.

8 70. On 6/18/99, because Hackett had failed to file timely objections to Railsback's claims of  
9 exemptions, Railsback prepared and Harris signed orders vacating the writs of garnishment.  
10 Railsback then had his Chapter 13 Bankruptcy petition dismissed as it was no longer  
11 necessary. Railsback waited until after the writs of garnishment were dismissed because of  
12 past experience with Harris intentionally violating Railsback's constitutional right to both  
13 substantive and procedural due process.

14 71. After delivering copies of the orders dismissing, the writs of garnishment, Bank of America  
15 refused to return the property to which Railsback was entitled, and instead, contacted Meyer  
16 to let him know that orders dismissing the writs had been entered. During this time,  
17 defendants Ramstead, Christel and Meyer conspired with Harris to deny Railsback his  
18 property to which is was entitled and in doing so, committed theft-1 pursuant to RCW  
19 9A.56.030, a Class-B felony.

20 72. On 7/2/99, a hearing was held concerning the orders vacating the writs of garnishment in  
21 which Harris vacated his the orders in violation of CR 60.

22 73. On 7/5/99, Meyer served Railsback with an untimely motion for a hearing to be held on  
23 7/9/99 on objections to Railsback's claims of exemptions. Railsback objected to sufficiency  
24 of service and his motion was granted. There was no hearing on the claims of exemption on  
25 7/9/99, and in fact, there was never a required hearing on the claims of exemption.

26 74. Over the next few weeks there were hearing related to the writs of garnishments and case law  
in reference to how federal bankruptcy law affected the garnishment procedure, even though

1 it was clear that Hackett's failure to timely object to the claims of exemption mooted the  
2 entire bankruptcy issue. During these hearings, Meyer and Harris were continually caught off  
3 guard as to the law and cases related to bankruptcy and garnishments, but obviously the law  
4 did not matter.

5 75. On 7/30/99, during a hearing on another of Railsback's motions to vacate the arbitration  
6 award, Harris, after thumbing through the court file at least twice, stated that his order dated  
7 4/30/99 was a final order denying the vacation of the arbitration award even though the order  
8 makes no mention of it and the pleadings leading up to the 4/30 hearing were solely about the  
9 offsets stipulated to, and on top of that, Railsback had filed a motion to reconsider the order  
10 on the stipulation, which has still not been acted upon. Harris, once again refused to enter an  
11 order either granting or denying the motion to vacate the arbitration award. He knew he and  
12 Meyer had be caught in a criminal conspiracy and theft-1 at that time.

13 76. On 8/30/99, Harris mailed or caused to be mailed a MEMORANDUM OF OPINION in  
14 which he caused to be mailed to Railsback an Meyer in furtherance of their conspiracy and in  
15 violation of the CR 52 requirement for the court to notify the defeated party five days in  
16 advance of entering a judgment or order against them, facts pointed out to Harris at a  
17 previously scheduled hearing on 9/3/99. This is mail fraud and obstruction of justice.

18 77. On 9/17/99, Harris entered a final judgment on the garnishment action even though Hackett  
19 had failed to timely object to Railsback's claims of exemption, there had been no required  
20 hearing on the claims of exemption and not even a final judgment on the arbitration award  
21 underlying the garnishment action.

22 78. Throughout the entire arbitration award proceedings and the garnishment proceedings,  
23 Defendants Harris, Meyer, Christel, Wolfe, Bank of America, and Ramstead, conspired to  
24 deny Railsback his constitutional rights to substantive and procedural due process through  
25 the use of the Clark County Superior Court in violation of 18 U.S.C. §§ 1961 -1968 as  
26 associates-in-fact in a RICO enterprise, though numerous acts of obstruction of justice and  
mail fraud related to the placing of documents in the U.S. Mail in furtherance of their scheme

1 and artifice to defraud Railsback of his property in the amount of \$43,000, the predicate acts  
2 for which will be listed in an addendum to this complaint and incorporated into this  
3 complaint by this mention.

4 79. Throughout the arbitration award confirmation process and the garnishment, the defendants  
5 named in paragraph 78 mailed or caused to be mailed documents related to the court  
6 proceedings such as motions, citations, declarations/certificates of mailing, letters, proposed  
7 orders, and other related documents as required by law or court rules.

8  
9 APPEAL OF GARNISHMENT JUDGMENT AND  
UNDERLYING ARBITRATION MATTER

10 80. On 9/7/99, Railsback filed a Notice of Appeal on the Garnishment Judgment and underlying  
11 arbitration matter for which there had been no final judgment entered.

12 81. On 10/7/99 defendant Ponzoha mailed a letter to Railsback regarding the appealability of the  
13 garnishment judgment, setting into motion an extensive series of motions, briefs and rulings  
14 regarding the appealability of the garnishment judgment and the underlying arbitration award  
15 matter. All the documentation for this portion of the RICO allegations and Civil Rights  
16 allegations are contained in Washington Court of Appeals- Division II, Case No. 25025-0-II,  
17 and Washington Supreme Court Case No. 69261-1 – Railsback v. Hackett.

18 82. By way of summary, defendant Meath, without authority of law and jurisdiction made a  
19 ruling that the garnishment judgment was appealable and the arbitration matter was not  
20 appealable. Railsback filed what the COA terms a motion to modify a ruling of the COA  
21 commissioner, and without being provided with an opportunity to be heard or provide with a  
22 written decision from a constitutionally authorized panel of judges, was denied appealability  
23 of the arbitration matter even though there was no final order entered on the arbitration  
24 award, The order denying the Motion to Modify was signed only by Bridgewater even  
25 though the matter was supposed to be heard by a three-judge panel. Railsback then filed a  
26 Petition for Review of an Interlocutory Decision of the COA with the Washington Supreme  
Court in which defendant Crooks, a supreme court “commissioner”, who also has no

1 authority to make rulings or enter orders, entered an order denying the appealability of the  
2 arbitration matter despite Meyer conceding that Railsback's argument "had some merit".  
3 Railsback then filed a motion to modify the commissioner's ruling, which was summarily  
4 denied without explanation by a panel of five Washington Supreme Court Justices in an order  
5 that was signed only by Guy, so there is no evidence in the record that a five-justice panel  
6 even considered the matter.

7 83. During this action in the COA and the Supreme Court, defendants Guy, Crooks, Bridgewater,  
8 Meath, Ponzoha, and Meyer conspired to deny Railsback his constitutional rights to  
9 substantive and procedural due process and through their use of the U.S. Mails, committed  
10 mail fraud in their scheme to defraud Railsback of a \$3,500 illegally entered garnishment  
11 judgment and \$40,000 in the arbitration matter.

12 84. The defendants named in paragraph 86 mailed or caused to be mailed documents, pleadings,  
13 briefs, rulings, orders, declarations/certificates of mailing, letters and other documents related  
14 to COA Case No. 25025-0-II and Supreme Court Case No. 69261-1.

#### 15 LAWSUIT AGAINST CLARK COUNTY

16 85. On 3/2/00, Railsback went to the Central Precinct of the Clark County Sheriff's Department  
17 and attempted to file a complaint, in the form of a declaration signed under the penalty of  
18 perjury, alleging criminal conduct by defendants Judge Harris, Meyer, Christel, Wolfe, and  
19 Bank of America. A copy of that DECLARATION is attached as addendum "B", and  
20 incorporated into this complaint by this mention.

21 86. Defendant McKay, a Sergeant and a Clark County Deputy Sheriff, refused to accept the  
22 complaint and stated that there was no basis for any allegations of criminal conduct by Judge  
23 Harris and that he would not, under any circumstances accept a complaint, investigate it, or  
24 assign a case number. McKay stated specifically that he would not investigate a superior  
25 court judge, because "He's a judge." McKay made these statement before he even read the  
26 complaint. Mc Kay claimed that he was making this decision on his own. At the end of a  
rather heated discussion, McKay did take the declaration after Railsback's considerable

1 efforts, but did not assign a case number. As of 1/23/00, a case number has still not been  
2 assigned.

3 87. Over the next several days, Railsback made several calls and faxed several letters and other  
4 documents to defendants Lucas, Jane Johnson, and Evans, inquiring as to when a case  
5 number would be assigned and a time for Railsback to review the evidence with an  
6 investigator. Defendant Evans mailed two letters to Railsback during this time in an effort to  
7 mislead Railsback into thinking there was no basis for the allegations and stating that he  
8 would not be conducting any investigation into the allegations related to Harris, Meyer,  
9 Wolfe, Christel, Rayburn and Bank of America. Defendant Evans somehow thought it was  
10 appropriate to send Harris copies of his correspondence to Railsback. This was certainly done  
11 in an effort to intimidate Railsback into dropping the matter. It didn't work.

12 88. On 3/20/00, after realizing that defendants Lucas, Jane Johnson, Evans and McKay, were not  
13 going to investigate the allegations in Railsback's 3/2/00 declaration, Railsback filed a tort  
14 claim against the county for damages in the amount of \$1.2 million (\$1,200,000.00) based on  
15 the Sheriff's refuse to perform duties imposed upon him by law and the obvious conspiracy  
16 to shield Harris, Meyer, Wolfe, Christel, Rayburn and Bank of America from the criminal  
17 and civil consequences of their actions.

18 89. Approximately two months later, defendant Pavone cause a letter to be mailed to Railsback  
19 denying the claim, stating there was no basis for Railsback's tort claim. This letter was sent  
20 despite the fact that no one at the county had reviewed the evidence in Clark County Superior  
21 Court Case No. 99-2-00334-2 or viewed the video tapes of hearings related to that case.

22 90. On 6/1/00, Railsback faxed a memo to defendant Dennis Hunter, who admitted on that date  
23 in a phone call that he had not reviewed the video tapes, to which was attached a summary of  
24 all the hearing related to Case No. 99-2-00334-2. Railsback notified that if there was no  
25 resolution of the claim by 6/6/00, Railsback would be starting a lawsuit against Clark County  
26 shortly thereafter.

1 91. On 6/9/00, Railsback, in compliance with CR 4 caused a summons and complaint to be  
2 served on the Clark County Auditor claiming damages in the amount of \$1.2 million.

3 92. On 6/30/00, Railsback filed the summons, complaint, and proof of service in Skamania  
4 County Superior Court as pursuant to RCW 36.01.050, a proper jurisdiction and venue for a  
5 lawsuit against Clark County. Railsback filed motions an affidavits for default judgment,  
6 along with a proposed judgment so the court could enter the judgment as required by CR  
7 55(b)(1) because Clark County had failed to appear, answer or otherwise defend the action  
8 within the statutory time limitation period of 20 days. Entry of a default judgment when the  
9 claim is for a sum certain, or can by calculation be made certain, when the defendant has  
10 failed to appear, answer or otherwise defend, is a ministerial duty the court is required to  
11 perform.

12 93. Even though defendant Judge Reynolds was available, on 6/30/00, to enter the default  
13 judgment as he knew the law required, he refused to perform his duty imposed upon him by  
14 law.

15 94. On 7/10/00, Railsback returned to Skamania County in another effort to obtain entry of the  
16 default judgment from Reynolds. After a discussion with the Clerk's office, and after a lady  
17 went to see Reynolds, Railsback was told that he would have to docket the motion and  
18 affidavit for a motion docket, even though Clark County was not entitled to notice of entry of  
19 a default judgment because they had failed to appear or otherwise defend prior to the  
20 statutory time limitation period or before the motion and affidavit for default judgment were  
21 filed. After getting nowhere with this reasoning, Railsback proceeded to make a written  
22 request to get on the 7/13/00 motion docket, to which the clerk said was impossible because I  
23 would have to give Clark County at least five days notice. I told her Clark County was not  
24 entitled to notice and I would not give them notice. She then stated that I was still to late to  
25 get on the 7/13/00 docket. At that point, I went to the law library downstairs to read the local  
26 court rules, and low and behold, Railsback had until 5:00 p.m. on 3/10/00, to get on the  
7/13/00 docket. After filing the written request to get on the 7/13/00 docket, I was told that

1 Reynolds would see me immediately in his chambers. During this meeting in Reynolds's  
2 chambers, he told Railsback that he "felt uncomfortable entering this judgment without Clark  
3 County having been given notice" and that he would refuse to enter it until Clark County was  
4 noticed for a hearing. Railsback read the relevant portion of CR 55 concerning the  
5 requirements for notice in default cases and informed Reynolds that under no circumstances  
6 would Railsback give Clark County notice, because to do so would jeopardize Railsback's  
7 "right to the judgment". Railsback further told Reynolds that he had no authority to require  
8 that notice be given to Clark County. Reynolds's only duty was to enter the judgment.  
9 Reynolds again refused to enter it and Railsback said he would be back on 7/13/00.

10 95. On 7/13/00, Reynolds once again refused to enter the judgment as required by law, and again  
11 ordered Railsback to give Clark County notice of a hearing on the matter. Railsback told  
12 Reynolds that he would not, under any circumstances give Clark county notice to which it  
13 was not entitled, and especially since I had no doubt that Clark county and the court would  
14 use that as an excuse to claim Railsback had waived his right to a default judgment.  
15 Railsback, once again reminder Reynolds that he was required to enter the judgment as a  
16 matter of law.

17 96. 7/14/00, Railsback fax what could be considered a terse letter demanding that Reynolds  
18 enter the default judgment as the law required and that Railsback would not give Clark  
19 County notice under any circumstances. To put it mildly, I was not the least bit interested in  
20 Reynolds "comfort" level, just that he obey the law whether he liked it or not. Later on the  
21 same day, I received a fax from Lizbeth Hermansen, who intercepted my fax, attached it to a  
22 letter addressed to Clark County and sent it that day to defendant Curt Wyrick in the Clark  
23 County Prosecutor's office. Ms. Hermansen's letter stated that she would not deliver the  
24 letter to Reynolds because she considered it to be an improper ex parte contact, but it was  
25 OK to send it to Clark County.

26 97. On 7/14/00, Clark County mailed a pleading to the court with what it termed to be an  
"Answer", the gist of which was "we did nothing wrong and even if we did, our actions were

1 in good faith". Aside from the fact that "good faith" is not an available defense to a tort  
2 claim and a mere general denial is no defense at all, Clark County failed to obtain leave of  
3 the court to file an answer as required by CR 55(a)(2). Basically, Clark County had no  
4 defense. Furthermore, the "Answer" failed to 1. present a meritorious defense supported by  
5 affidavits; 2. demonstrate good cause, which requires both excusable neglect and due  
6 diligence; 3. Irregularity; and, 4. No prejudice to the non-defaulting party. Clark County  
7 argued none of this in their "Answer".

8 98. On 7/19/00, Railsback travelled to Goldendale, WA, with yet another proposed default  
9 judgment, because after looking over the Clark County "Answer", Railsback realized that  
10 even if the answer were permitted. Railsback was still entitled to the default judgment. For a  
11 variety of excuses, Reynolds once again refused to enter the judgment as required by law.

12 99. After leaving the Clerk's office, Railsback was seated on a bench in a public hallway in the  
13 Klickitat County Courthouse reading the court rules when he was approached by a deputy  
14 Tallmnan, and another unknown deputy. In summary, they informed me that Judge Reynolds  
15 ordered then to arrest Railsback if he did not immediately leave the courthouse,efven though  
16 Railsback was not disturbing anyone or anything. This is unlawful imprisonment under  
17 Washington law and the minute I got up to leave was a clear violation of my Constitutional  
18 Rights under the 4<sup>th</sup> Amendment to the U.S. Constitution. The fact that Reynolds was the  
19 source of this order was confirmed on 7/20 or 7/21, in phone calls by Railsback to Sandra  
20 Olson, Clerk of the Klickitat County Superior Court and Klickitat County deputy sheriff,  
21 Sgt. Keffler, Deputy Tallman's supervisor.

22 100. On 7/20/00, Railsback faxed another proposed judgment to Reynolds, and attached to it, a  
23 memorandum of law regarding the failings in the Clark County "Answer", including Clark  
24 County's failure to request leave of the court to appear. So what does Reynolds do; he faxes  
25 copies of my documents to Clark County so they can respond.

26 101. On 7/20/00, and 7/21/00, at the earliest, Clark County mailed pleadings and other  
documents to the court and Railsback in an attempt to cover their deficiencies in their

1 pleadings. This of course was done at, as Clark County put it, an "invitation" of the court.  
2 Clark County and some individuals have a real problem with the pleadings and other  
3 documents "dated" on the 19<sup>th</sup> of July, 2000. They are as follows: 1) The envelope these  
4 documents were mailed in has a postage meter date of "July 20'00" from Salem, OR;  
5 2) A postage meter date does not provide proof of when anything is mailed; 3) If this  
6 envelope was actually mailed from Salem on "July 20'00", Mindy Lamberton has a perjury  
7 problem since certificate of mailing said it was mailed from Vancouver, WA, on July 20,  
8 2000; 4) One would hope that if Ms. Lamberton mailed it from Salem, that she can prove  
9 she was there and identify the location of the postage meter so the meter number can be  
10 checked against the envelope; 5) Under the best of circumstances, one would have to  
11 conclude that the mailing was made no earlier than July 20, 2000, but that is not likely since  
12 it was not received until July 25, 2000. 6) I suppose it is possible that the Clark County  
13 Prosecutor's Civil division has two postage meters, one with a place of origin being "Salem".

14 102. A reasonable person would have to conclude that Reynolds conspired with Clark County  
15 in an effort to obstruct justice by engaging in such blatant acts of fraud in an effort by  
16 Reynolds to protect Harris and other defendants from the exposure of and accountability for  
17 their crimes.

18 103. On 7/25/00, Railsback, in a public meeting of the Clark County Board of Commissioners,  
19 put defendants Morris and Stanton on notice that defendants Anders, Wyrick, Harris, Lucas,  
20 McKay, Evans, Jane Johnson, Anderson, and Reynolds were conspiring to obstruct justice  
21 and cover-up crimes committed by Harris and others from exposure and accountability by  
22 denying Railsback his right, as a matter of law, to the default judgment. Morris and Stanton  
23 were advised to seek independent outside counsel for the protection of the citizens of Clark  
24 County and themselves. This warning has been repeated to defendants Morris, Stanton, and  
25 Pridemore on several additional occasions in person and in writing.

26 104. On 7/27/00, a hearing improperly noticed by Clark County was conducted, and as a  
result, Reynolds entered an order allowing Clark County to answer, appear and defend the

1 action, in spite of the fact that Railsback established that Reynolds would be committing, as  
2 a minimum, the crime of official misconduct if he failed to enter the default judgment as  
3 required by law. Even when confronted with his criminal conduct, Reynolds still refused to  
4 enter the judgment.

5 105. On 7/27/00, immediately after the hearing, Railsback went to the Skamania County  
6 Sheriff's office and filed a criminal complaint against Reynolds for official misconduct with  
7 Undersheriff Ed Powell, who attended the hearing at my request. Powell took a report,  
8 assigned a case number, and early the next week, referred it to the Skamania County  
9 prosecutor, defendant Anderson.

10 106. On 7/28/00, Railsback called defendant Anderson to give him a heads-up that he would  
11 be getting a criminal referral against Reynolds from the Skamania County Sheriff in the next  
12 few days and that Railsback expected Anderson to act on the complaint. Anderson stated  
13 that under no circumstances would he ever investigate or file charges against Judge  
14 Reynolds. I informed him that should he fail to do so, he would also be subject to a criminal  
15 complaint for official misconduct, as well. Anderson then told Railsback that Railsback was  
16 threatening him. Railsback was merely informing Anderson about a duty imposed upon him  
17 by law, which could not possibly be construed as a threat by a reasonable person.

18 107. On 7/28/00, Anderson mailed a letter to Railsback stating that Railsback had threatened  
19 him. Railsback informed Anderson that he should look up the legal definition of "threat".  
20 This letter mailed by Anderson is a RICO predicate act of mail fraud.

21 108. On 7/28/00, defendants Anderson, Reynolds, Anders, Lucas, and Dell, caused a criminal  
22 referral to be made to the Clark County Prosecutor, alleging that Railsback committed the  
23 crime of intimidation of public officials, a Class B felony, without any reasonable basis or  
24 probable cause. There were no affidavits filed at the time and almost six months later, there  
25 are still no affidavits and no charge has been filed against Railsback. This was a blatant  
26 attempt at intimidation, obstruction of justice, extortion, criminal conspiracy, hindering a  
criminal investigation.

1 109. Defendant Bob Shannon, Deputy Criminal Prosecutor has refused to dismiss this  
2 complaint even though he has positive knowledge that there is no basis for it and with full  
3 knowledge that the individuals who attempted to have Railsback prosecuted for a crime they  
4 knew he did not commit are probably guilty of malicious prosecution. If found guilty, they  
5 would be subject to imprisonment for up to five years. Railsback alleges that the reason the  
6 charge against him has not been dismissed even though the time for trial has expired is  
7 because a dismissal would more readily expose the perpetrators of the malicious prosecution  
8 to criminal and civil liability. Thus, defendant Shannon has joined the associates-in-fact  
9 RICO enterprise.

10 110. On 7/30/00, Railsback was informed by Pastor Mitchell Burch and Deputy Michael  
11 Harris (no relation to Judge Harris), that Mike Harris had been told, or heard, that if Lucas  
12 got one more phone call about Railsback, then Railsback would be arrested. This was an  
13 implied or direct threat in an attempt to extort Railsback into dropping his right to a  
14 judgment to which Railsback was entitled.

15 111. On 7/31/00, Railsback faxed a letter to Sheriff Lucas that in summary stated, "If you  
16 think you have enough evidence to arrest me, just give me a call and I will come down to the  
17 Sheriff's Department, but you will find yourself on the wrong end of a lawsuit that just  
18 would not stop."

19 112. On 8/6/00, Deputy Hackett came to Railsback's house to "talk to Don Railsback".  
20 Railsback was not a home, but left a message for Railsback to give him a call. Based on  
21 Railsback's discussions concerning Lucas, there was a real basis for being very worried  
22 about what Lucas may try to do.

23 113. On 8/7/00, Railsback met with Deputy Hackett, who tried to convince Railsback that  
24 Lucas, the sheriff's department, or anyone else were not trying to threaten or intimidate.  
25 Railsback informed Deputy Hackett, that when Sheriff Lucas states, "If I get one more call  
26 about Railsback, I will have him arrested", is clearly a threat and attempt at intimidation.  
Railsback also informed Deputy Hackett that Railsback was not a physical threat to anyone;

1 definitely a legal threat, but not a physical one. Railsback asked if there was a sheriff's  
2 report or any referral to the prosecutor. Hackett said there was no report nor a criminal  
3 referral. Deputy Hackett, as we can clearly see, lied.

#### 4 MANDAMUS ACTION

5 114. On 8/9/00, Railsback filed an amended summons and petition for a writ of mandamus  
6 against Judge Reynolds pursuant to Wash. Const. Art. 4, Sect. 4, RCW 7.16.150, and RAP  
7 16.2 in the Supreme Court of Washington. Supreme Court No. 69896-1 – Railsback v.  
8 Reynolds.

9 115. On 8/15/00, Reynolds entered an order recusing himself from Skamania County Superior  
10 Court Case No. 00-2-00090-3, which created a mistrial and supposedly vacated the order  
11 permitting Clark County to appear and defend. Railsback received a copy of this recusal on  
12 8/18 in an envelope postmarked 8/17/00.

13 116. On 8/16/00, defendant Anderson mailed a notice of appearance on behalf of Reynolds,  
14 which arrived on 8/17/00. This seemed rather odd since if Reynolds recused himself, why  
15 does he need representation.

16 117. On 8/24/00 Reynolds signed an affidavit which admitted to all the facts that would  
17 require the Supreme Court to grant the mandate.

18 118. On 8/24/00, Railsback filed a \$10.25 million dollar tort claim against the State of  
19 Washington because the Governor, the AG and individuals within their offices who had  
20 been put on notice, on several occasions, regarding government and judicial corrupt, refused  
21 to take actions or meet with Railsback to go over the evidence. As I was told by defendants  
22 Bilingslea and Blonien on several occasions, they claimed that they had no authority or  
23 power to investigate allegations of criminal conduct by judges or public officials in political  
24 subdivisions of the State of Washington. As recently as mid January, 2001, both Mr. Blonien  
25 and Mr. Billingslea stated that they were either too busy or that they had no authority to take  
26 any action, even after Railsback pointed to the statutes and Constitutional provisions that  
required them to take action. They were even too busy to walk across a parking lot to look at

1 one Supreme Court file. They both specifically stated they were not going to take any action  
2 to investigate. Both of these individuals have place letters in the mail in furtherance of the  
3 scheme and artifice to defraud.

4 119. On 8/25/00, Anderson mailed an answer to Railsback's petition in which he admitted that  
5 the facts were as Railsback alleged, but made some of the most blatant contortions of the law  
6 regarding default judgments one could possibly imagine in an effort to argue that  
7 Railsback was not entitled to the default judgment. Other than generalized arguments that  
8 did not address the facts of this case, Anderson made no attempt to attack Railsback's well  
9 founded arguments. Anderson had no authority to file an answer, since one would think that  
10 if everything was on the up-and-up, he and Reynolds would have had no vested interest in  
11 mandamus action. Obviously this was not the case.

12 120. On 8/28/00, Railsback filed his reply, which addressed each and every contention of  
13 Anderson's with cites to the applicable case, statutes and court rules.

14 121. On 8/31/00, Clark county filed a MOTION TO INTERVENE in the mandamus action,  
15 along with what Clark County called an "Answer". Obviously, Anderson, Reynolds or  
16 someone at the Supreme Court had informed Clark County about the petition for a writ of  
17 mandamus. Railsback sure didn't, because Clark County was not entitled to notice of any  
18 subsequent proceedings after being in default.

19 122. The Supreme Court has original jurisdiction for petitions against a state officer in the  
20 nature of mandamus. (See RAP 16.2(a)).

21 123. The Assistant Clerk of the Supreme Court, defendant Carpenter even recognized that it  
22 was a RAP 16.2 action when he sent Railsback a letter date August 1, 2000, stating that it  
23 was an action filed pursuant to RAP 16.2.

24 124. Once individuals in the Supreme Court realized the implications for defendants Harris,  
25 Reynolds, and many of the other defendants if the Supreme Court were to comply with the  
26 requirements of RAP 16.2, hear oral arguments, and be required to publish an opinion in the  
Washington Reports, things changed dramatically. All defendants then embarked on a

1 mission to obstruct justice and deny Railsback his constitutional rights to procedural and  
2 substantive due process. All of a sudden, what was a RAP 16.2 action became a mere motion  
3 to the Supreme court Commissioner under RAP 17. The only problem is that RAP 17.1(a)  
4 states, "A person may seek relief, other than a decision of the case on the merits, by motion  
5 as provided in Title 17. Since a RAP 16.2 action requires a decision on the merits, the only  
6 way for the members of the Supreme Court of the State of Washington to prevent the  
7 exposure of judicial corruption in Southwest Washington and exposure of the  
8 unconstitutionality of appellate court commissioners, was to make a malicious, intentional  
9 attempt, and without regard to the rights of Railsback, to hide these facts from the public in  
10 any way possible. In doing so, defendants Guy, Alexander, Merritt, Carpenter, Crooks,  
11 possibly other justices of the Washington Supreme Court, and all other defendants named in  
12 this lawsuit determined that in order to maintain their associates-in-fact RICO enterprise  
13 control of the executive and judicial branches of the government of the State of Washington,  
14 as well as the legislative branch of Clark County government, they would have to, and were  
15 willing to, sacrifice Railsback's Constitutional Rights. This could only be done if Railsback  
16 was denied a constitutionally required hearing and written decision based on the law and,  
17 substantive and procedural due process, and that is exactly what they have attempted to do.  
18 They will not succeed.

19 125. Defendant Crooks, without any authority under the Constitution of the United States nor  
20 the Constitution or laws of Washington entered a ruling on September 19, 2000, dismissing  
21 Railsback's Petition for a writ of mandamus, even though the RAP he cited for justification  
22 also stated that that particular rule does not apply to RAP 16.2 actions.

23 126. After numerous efforts by Railsback to obtain a hearing as required by the Constitutions  
24 of the State of Washington and the United States, the Washington Court Chief Justice,  
25 Richard Guy entered an order that simply denied a motion to modify a ruling by a court  
26 commissioner. Railsback has no way of knowing if there was actually a five-justice panel

1 that considered the petition for a writ of mandamus, even if it were proper to do so, because  
2 only Chief Justice Guy signed the order.

3 127. Since that time, Railsback has made numerous attempts to seek answer to questions for  
4 which the Supreme Court, the Governor, the Attorney General, or anyone else have no good  
5 answers. The actions of all defendants in the mandamus action conspired in a corrupt  
6 manner in their attempt to maintain control of the enterprise(s) consisting of the Executive  
7 and Judicial branches of government for their own benefit and the benefit of their associates-  
8 in fact and in doing so used the United States Mail in furtherance of their scheme and  
9 artifice to defraud Railsback and untold numbers of other citizens of the State of  
10 Washington. The conclusive evidence of these and other crimes are contained in the court  
11 files and video tapes of the cases mentioned in this complaint.

12 128. Railsback's efforts included several letters directed to the attention of each of the Justices  
13 and even put all nine justices on notice that the failure of any one of them to take corrective  
14 action to ensure Railsback's constitutional right to due process was protected would likely  
15 expose them to some liability under the federal RICO and Civil Rights statutes. Based on the  
16 fact that no Justice responded, one can only conclude that each one of them agreed with the  
17 corrupt goals of the enterprise and became associates-in-fact of the criminal enterprise.

18 **MEANWHILE, BACK AT THE RANCH**

19 129. While the Supreme Court was busy committing a wide variety of RICO predicate acts  
20 related to the mandamus action, since Reynolds's recusal created a mistrial, Railsback  
21 embarked on what became a futile search for even one honest Superior Court Judge in SW  
22 Washington. When Reynolds recused himself, a copy of the order of recusal was sent to the  
23 Clark County Clerk, so Railsback proceeded to look for an honest Clark County Superior  
24 Court Judge.

25 130. Railsback first presented the required documents to defendant Judges Bennett, who  
26 happened to be the ex parte judge that week, on two occasions, September 12 & 13, 2000. On  
the first occasion, Bennett called Skamania County to discuss the case with someone, at least

1 that is what his assistant said was taking so long. Bennett refused to enter the judgment  
2 because, "Judge Reynolds's order denying the default judgment was still valid" and he would  
3 not enter an order on that basis. Railsback knew that this made no sense at all, but did not  
4 have any cases to the contrary immediately available. Not to worry, Railsback found 2-3  
5 cases that basically agree that Bennett's excuse was a crock. When the same documents were  
6 presented for entry of the default judgment the very next day, and after a bit of a delay,  
7 Bennett's assistant appears with the unsigned default judgment and a letter stating that  
8 defendant Judge Harris, whose criminal conduct got all this stuff started in the first place,  
9 would assign a judge to the case. Included in the documents was a memorandum of law that  
10 stated that if he refused to enter the judgment, he would be at minimum, committing the  
11 crime of official misconduct.

12 131. Next up was defendant Judge Rulli. Railsback showed up at Rulli's motion docket on  
13 Friday, September 15, 2000. Railsback has the video tape of that hearing, which involved a  
14 bit of verbal jousting concerning the law, during which Rulli commented, "Mr. Railsback,  
15 I'm sure you know the law better than most judges", maybe not expecting Railsback to come  
16 back with, "When it comes to the law on default judgments, I certainly do!". Railsback also  
17 remarked that he knew the rules of Civil and Appellate procedure, too. After successfully  
18 discounting all of Rulli's lame excuses for not entering the default judgment, Rulli stated that  
19 he was recusing himself. Railsback pointed out that entry of a default judgment under the  
20 circumstances involved no discretion and that the court had a duty to enter the default  
21 judgment. Where there is no discretion involved, there is no excuse for not performing a duty  
22 imposed by law, and that his refusal to do so would also be official misconduct. When Rulli  
23 mentioned that other judges refused to enter the judgment, Railsback stated that other judges  
24 committing a crime is no defense to his criminal conduct. In the end, and as expected, Rulli  
25 refused to enter the judgment.

26 132. Next on the list was defendant Judge Barbara Johnson on September 18, 2000. This was  
and interesting situation, because as soon as I presented the documents to Judge Johnsons

1 assistant, a lady comes up to her and says there is an emergency in Judge Ladley's chambers,  
2 but they go straight across the hall to Judge Poyfair's chambers. This could have been a  
3 coincidence, but the net result was that Judge Johnson refused to enter the default judgment  
4 and she committed official misconduct. She also committed a predicate act of mail fraud by  
5 mailing the documents back to Railsback though the U.S. Mails. Railsback still has the  
6 envelope to prove it.

7 133. Apparently, Judge Harris and his associates-in-fact defendant judges in the Clark County  
8 Superior Court did not care for Railsback's efforts in trying to locate another judge, because  
9 a few days later, Railsback gets a copy of a letter (mail fraud) from Judge Reynolds to Judge  
10 Stephen Warning asking Warning to personally take care of this case. At this point,  
11 Railsback figured "what the heck", the worst thing that could happen was to identify one  
12 more RICO defendant, and that is exactly what happened. Railsback attempted to file a  
13 proposed judgment, along with a memorandum of law that basically said if he didn't enter  
14 the judgment as required by law, he too would be committing official misconduct. The Clerk  
15 of the Cowlitz County superior Court refused to file it (obstruction of justice, extortion under  
16 color of law), so I then gave these documents directly to Judge Warning so he could file with  
17 the Skamania County Superior Court.

18 134. Railsback had thought that Reynolds and Harris were arrogantly corrupt, but compared to  
19 Warning, they are pikers. On September 27, 2000, Warning enters an order that not only  
20 denied entry of the default judgment, but imposed sanctions of \$200 against Railsback for  
21 CR 11 sanctions. Warning's reasoning was that Railsback had presented the default judgment  
22 to other superior court judges who had declined to enter the judgment, as if their criminal  
23 conduct was a valid excuse to impose sanctions against Railsback. Warning had another  
24 problem in that Reynolds's letter specifically stated that all the Clark County Superior Court  
25 Judges had recused themselves (there are no notices of recusal from any Clark County  
26 judge), and if that was the case, each of their recusals created another mistrial. Based on the  
rules of procedure, this would make, in essence, the first time the judgment was presented. If

1 this weren't enough, already, Warning threw away the documents presented by Railsback for  
2 consideration in the entry of the default judgement, so there is no documentation in the court  
3 file that Railsback even presented Warning with a motion and affidavit for default judgment.  
4 This is a RICO predicate act of obstruction of justice. Warning placed a copy of his  
5 fraudulent order in the mail addressed to Railsback and thus committed the RICO predicate  
6 act of mail fraud.

7 135. Since the time of this so-called order of Warning, defendant Hollis, clerk of the Skamania  
8 County Superior Court has refused to file a motion to disqualify Warning for cause until  
9 Railsback pays the fraudulently imposed sanctions of \$200. This is obstruction of justice and  
10 official misconduct since a Clerk is required by law to file all documents that are delivered to  
11 the Clerk's office. Railsback, Hollis, and Anderson had an extended "discussion" about this  
12 matter. At the end of this discussion, Railsback informed Anderson and Hollis that the refusal  
13 to file the motion was obstruction of justice and extortion under the color of law.

14 136. The Office of the Administrator for the Courts, and specifically defendants McQueen and  
15 Austin, have obstructed justice in that they have refused to locate a superior court in which  
16 Railsback can go to enter the default judgment to which he is entitled by law, even though  
17 they have the authority to go to the Supreme Court to accomplish this task. This, of course  
18 has not been in the best interest of the recently retire Chief Justice Guy and the Current Chief  
19 Justice Alexander, so of course they weren't going to do this. This is obstruction of justice  
20 and a RICO predicate act. Their latest excuse is that Railsback has to pay the \$200 in  
21 fraudulently imposed sanctions. Railsback will use the money to file a RICO and Civil  
22 Rights complaint in U.S. District Court since giving \$200 to a Washington superior court  
23 would simply be throwing money away.

24 PETITION TO RECALL SHERIFF GARRY LUCAS

25 137. Railsback filed a petition to recall Sheriff Garry Lucas (Clark County Superior Court No.  
26 00-2-03930-5) on September 19, 2000, Railsback's 27<sup>th</sup> wedding anniversary, and hopefully  
not his last, but time will tell. The main reason for filing the recall petition was because

1 Lucas was covering up the crimes of Harris, Reynolds, Anders, Wyrick, Anderson, etc.

2 Lucas also attempted to intimidate Railsback in late July, 2000, into abandoning his quest to  
3 obtain the default judgment to which he was entitled by law.

4 138. On 9/20/00, one day later, at the request of defendant Hunter or someone else, a copy of  
5 the Clark County Sheriff's Case No. 00009219 was faxed to defendant Hunter, obviously  
6 with the intent to use the contents to discredit Railsback in his effort to recall Lucas. This is  
7 the file mentioned earlier in this complaint and alleged that Railsback had attempted to  
8 intimidate Reynolds and Anderson. There were no declarations or affidavits in the file, yet  
9 the sheriff's office had made a criminal referral to the prosecuting attorney on the day this  
10 alleged complaint was received. I guess the Sheriff office can work quickly when they want  
11 to, but if they don't want to do their job in any particular case, they get real busy with almost  
12 anything else.

13 139. Apparently after much discussion, of which I was kept in the dark, but not Lucas's  
14 attorney; a proposed three judge panel of Clark County Superior Court Judges to hear the  
15 petition was discarded. Judge Harris was "in control" of the case and made statements to this  
16 effect to the media. Apparently, Harris did not think that his active involvement in this  
17 process was a problem even though his criminal conduct got this entire mess started and he  
18 had a very personal interest in seeing that the petition to recall Lucas was dismissed.

19 140. Guess what? Harris requested that the Administrator for the Courts locate a judge from  
20 another county to conduct this recall hearing in a letter dated October 4, 2000. This letter was  
21 received by the Administrator for the Courts on October 6, 2000, yet Chief Justice Guy  
22 signed an order that was filed on October 5, 2000. Obviously, Harris and Austin had  
23 discussed this matter in advance and undoubtedly decided that Warning would fit the bill if  
24 the outcome of the hearing was going to be to the satisfaction of the enterprise. Warning  
25 accepted this assignment even though he knew that he was at that time a current subject of a  
26 criminal investigation by the Cowlitz County Sheriff's office for obstruction of justice and

1 official misconduct related to the default judgment matter. Apparently, that was of no  
2 concern since the enterprise probably has "control" of that case as well.

3 141. Warning was supposedly appointed to hear this matter pursuant to RCW 2.56.030, which  
4 construed with the Washington constitution, required that five justices must agree on a judge  
5 when one is requested for a particular case. That is not a problem, because when Warning  
6 shows up for the hearing, he said he was there pursuant to RCW 4.12.040 or .050. Go figure.

7 142. This hearing was fixed from the get go, which worked out just fine, because in the  
8 process, Lucas admitted through a declaration and his attorney that there had never been an  
9 investigation of the allegations in neither Railsback's 3/2/00 declaration, the tort claim, nor in  
10 the Skamania County Case No. 00-2-00090-3 – Railsback v. Clark County. The fact that the  
11 sheriff nor the prosecutor's office ever looked into Railsback's allegations of criminal  
12 conduct was confirmed by Lucas's attorney, Joseph Quinn, a few weeks after the hearing.

13 143. For some reason, the Clark County Superior Court did not see a need to notify Railsback  
14 of the date and time of the hearing, although every one else seemed to know well in advance.  
15 Railsback learned about it in the newspaper two days before the hearing. This among other  
16 reasons is why Amran is a defendant.

17 144. On top of all this good fortune, Judge Warning committed perjury in the first degree  
18 during the hearing, the facts which support this crime are contained in Clark County  
19 Prosecutor's Case No. 2000-11811. Currently, the Clark County Prosecutor does not seem to  
20 think perjury by a judge is a crime worthy of any attention, and is why defendant Curtis is a  
21 defendant in this action. He has been put on notice, on several occasions regarding the  
22 criminal conduct of Judge Harris, Lucas, Reynolds and others, but must have more important  
23 things to do than prosecute public officials who commit crimes.

24 145. Defendant Buckner has been named as a defendant because he is totally disinterested in  
25 meeting with Railsback to go over evidence that connects Warning's perjury to all the other  
26 criminal conduct by members of the RICO enterprise. This is hindering a criminal  
investigation.

1 146. This is keeping in line with the opinions and level of concern clearly expressed by  
2 Governor Locke and AG Gregoire and their staffs, which is why they are named as well.  
3 Locke and Gregoire had been put on notice as to public and judicial corruption in SW  
4 Washington as early as March, 2000, and have done nothing to address it or investigate it.  
5 Quite frankly, this comes as no surprise.

6 147. All allegations in paragraphs 1-146 are re-alleged under each cause of action below as if  
7 alleged in each cause of action.

8 FIRST CAUSE OF ACTION

9 148. Violation of 18 U.S.C. §1962(a) against all defendants. All defendants are associates in  
10 fact of an enterprise as defined in 18 USC 1961(4), have invested moneys through the  
11 collection of taxes, fees, and committed more than two RICO predicate acts, including mail  
12 fraud and extortion under color of law (18 USC 1451(b)) which have affected interstate  
13 commerce and have committed these crimes in order to acquire control of the Clark County  
14 Government, the Judiciary of the State of Washington, the Offices of Washington Attorney  
15 General and Office of the Governor of the State of Washington. Direct evidence establishing  
16 the RICO predicate acts of mail fraud can be found in Supreme Court Case Nos. 69261 -1 -  
17 Railsback v. Hackett and 69896-1 - Railsback v. Reynolds; Court of Appeals Case No.  
18 25025-0-II; Clark County Superior Court Case Nos. 99-2-00334-2 - Hackett v. Railsback  
19 and 00-2-03930-5 In Re: The Recall of Garry Lucas, Clark County Sheriff; Skamania County  
20 Superior Court Case No. 00-2-00090-3 - Railsback v. Clark County. Every pleading, order,  
21 or other document filed in each of these cases was part of a scheme and artifice to defraud  
22 Railsback in violation on 18 USC 1961(a) that provided funds to invest in the various  
23 enterprise(s) necessary to obtain and maintain control of them, specifically the \$1.2 million  
24 default judgment to which Railsback is entitled to as a matter of law. The associate in fact  
25 enterprise is an ongoing threat to the citizens of Clark County and the State of Washington.

26 SECOND CAUSE OF ACTION

1 149. Violation of 18 USC 1962(b) by all defendants. All defendants are associates in fact of an  
2 enterprise as defined in 18 USC 1961(4), have directly or indirectly acquired or maintained  
3 an interest in or control of an enterprise that affects interstate commerce through a pattern of  
4 racketeering activity in that the associates in fact enterprise has committed more than two  
5 RICO predicate acts, including mail fraud and extortion under color of law (18 USC 1451(b))  
6 which have affected interstate commerce and have committed these crimes in order to  
7 acquire control of the Clark County Government, the Judiciary of the State of Washington,  
8 the Offices of Washington Attorney General and Office of the Governor of the State of  
9 Washington. Direct evidence establishing the RICO predicate acts of mail fraud can be found  
10 in Supreme Court Case Nos. 69261 -1 - Railsback v. Hackett and 69896-1 - Railsback v.  
11 Reynolds; Court of Appeals Case No. 25025-0-II; Clark County Superior Court Case Nos.  
12 99-2-00334-2 - Hackett v. Railsback and 00-2-03930-5 In Re: The Recall of Garry Lucas,  
13 Clark County Sheriff; Skamania County Superior Court Case No. 00-2-00090-3 - Railsback  
14 v. Clark County. Every pleading, order, or other document filed in each of these cases was  
15 part of a scheme and artifice to defraud Railsback in violation on 18 USC 1961(b) that  
16 provided funds to invest in the various enterprise(s) necessary to obtain and maintain control  
17 of them, specifically the \$1.2 million default judgment to which Railsback is entitled to as a  
18 matter of law. The associate in fact enterprise is an ongoing continuous threat to the citizens  
19 of Clark County and the State of Washington.

### 20 THIRD CAUSE OF ACTION

21 150. Violation of 18 USC 1962(c) by all defendants. All defendants are associates in fact of an  
22 enterprise as defined in 18 USC 1961(4), are persons employed by or associated with an  
23 enterprise(s) affecting interstate commerce conducted or participated in the affairs of  
24 racketeering activity or collection of an unlawful debt in that the associates in fact enterprise  
25 has committed more than two RICO predicate acts, including mail fraud and extortion under  
26 color of law (18 USC 1451(b)) which have affected interstate commerce and have committed  
these crimes in order to acquire control of the Clark County Government, the Judiciary of the

1 State of Washington, the Offices of Washington Attorney General and Office of the  
2 Governor of the State of Washington and if it were not for the positions in these enterprises,  
3 the defendants would not be in a position to control them through a pattern of racketeering  
4 activity or collection of unlawful debts. Direct evidence establishing the RICO predicate acts  
5 of mail fraud can be found in Supreme Court Case Nos. 69261 -1 - Railsback v. Hackett and  
6 69896-1 - Railsback v. Reynolds; Court of Appeals Case No. 25025-0-II; Clark County  
7 Superior Court Case Nos. 99-2-00334-2 - Hackett v. Railsback and 00-2-03930-5 In Re: The  
8 Recall of Garry Lucas, Clark County Sheriff; Skamania County Superior Court Case No. 00-  
9 2-00090-3 - Railsback v. Clark County. Every pleading, order, or other document filed in  
10 each of these cases was part of a scheme and artifice to defraud Railsback in violation on 18  
11 USC 1962(c) that provided funds to invest in the various enterprise(s) necessary to obtain  
12 and maintain control of them, specifically the \$1.2 million default judgment to which  
13 Railsback is entitled to as a matter of law. The associate in fact enterprise is an ongoing  
14 threat to the citizens of Clark County and the State of Washington.

#### 15 FOURTH CAUSE OF ACTION

16 151. Violation of 18 USC 1962(d) against all defendants. All defendants have conspired to  
17 violate 18 USC 1962(a),(b), and (c) in that all defendants actually agreed to commit at least  
18 two predicate acts or agreed that others would commit the predicates to further the affairs of  
19 the enterprise, affected interstate commerce and are a continuing threat to the citizens of  
20 Clark County and the State of Washington; and specifically, Railsback.

#### 21 FIFTH CAUSE OF ACTION

22 152. Violation of Railsback's rights secured by the Fourth Amendment to the United States  
23 Constitution by all defendants.

#### 24 SIXTH CAUSE OF ACTION

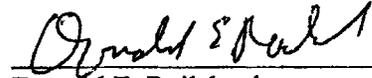
25 153. Violation of Railsback' right to due process secured by the Fourteenth Amendment to  
26 the United States Constitution.

#### RELIEF REQUESTED

- 1 154. \$40,000.00 for violation of 18 USC 1962(d) associated with the arbitration action against  
2 all defendants, and trebled pursuant to 18 USC 1964(c)
- 3 155. \$3,500.00 for violation of 18 USC 1962(a), (b),(c) and (d); 42 USC 1983, 1985, against  
4 all defendants related to the fraudulently obtained garnishment judgment, and trebled  
5 pursuant to 18 USC 1964(c).
- 6 156. \$1.2 million against all defendants for default judgment in Skamania County Case No.  
7 00-2-00090-3 to which Railsback is entitled to by law pursuant to Washington Rule of Civil  
8 Procedure(CR) 55 against.
- 9 157. \$2.4 million for the trebled amount of the \$1.2 million default judgment for violation of  
10 18 USC 1962(a),(b),(c) and (d) pursuant to 18 USC 1964(c)
- 11 158. \$300,000 for damage to business and lost income as a direct result of the time and money  
12 required to litigate actions against all defendants, to be trebled pursuant to 18 USC 1964(c).
- 13 159. \$1.5 million against all defendants for damage to reputation resulting negative publicity  
14 and ridicule by family, friends, associates, and the general public initiated in an intentional  
15 and malicious manner by all defendants.
- 16 160. \$10.0 million for numerous violations of Railsback' s constitutional right to procedural  
17 and substantive due process, and especially outrageous because of the malicious and  
18 intentional nature of the violations by the very branch of government entrusted to protect the  
19 rights of the citizens of the State of Washington.
- 20 161. \$2.0 million against all defendants for malicious prosecution in Clark County Sheriff's  
21 Case No. 00-9219.
- 22 162. \$1.3 million, against all defendants for unlawful imprisonment of Railsback on July 19,  
23 2000 on the order of defendant Judge Reynolds at the Klickitat County Courthouse rights  
24 under the Fourth Amendment to the United States Constitution.
- 25 163. \$5.0 million against all defendants in punitive damages for violations of Railsback's  
26 constitutional rights secured under the Fourth and Fourteenth Amendments to the United  
States Constitution.

1 164. All other relief to which the Court deems to be appropriate in law and equity.

2 Dated this 24 day of January, 2001

3 

4 Donald E. Railsback  
5 Pro Se for Plaintiff  
6 10721 NW 11<sup>th</sup> Ave  
7 Vancouver, WA 98685  
8 (360) 573-8520

9 **Statement of verification**

10 I declare under the penalty of perjury under the laws of the United States of America and the  
11 laws of the State of Washington that the foregoing is true and correct:

12 Vernonia, Washington on January, 2000.

13 

14 Donald E. Railsback

FILED  
OCT 20 2000  
JoAnne McBride, Clerk, Clark Co.

IN THE STATE OF WASHINGTON IN THE SUPERIOR COURT  
FOR THE COUNTY OF CLARK

DONALD E RAILSBACK

Plaintiff,

vs

GARRY LUCAS

Clark County Sheriff

Defendant

No 00-2-03930-5

PLAINTIFF'S DECLARATION RE:  
TAMPERING WITH VIDEO TAPE OF  
HEARING TO RECALL SHERIFF LUCAS

Plaintiff Donald E Railsback (Railsback?), on oath says

1 The hearing on the sufficiency of the PETITION to RECALL CLARK COUNTY SHERIFF  
2 GARRY LUCAS was conducted on October 12, 2000 at approximately 9 00 a.m. in the  
3 Clark County Superior Court, Department 7, by Judge Stephen Warning, a visiting judge  
4 from Cowlitz County, appointed by Washington Supreme Court Chief Justice Richard Guy

5 Railsback stated near the very beginning of the hearing that he had not been served with  
6 copies of signed declarations in support of Gary Lucas by four individuals Railsback also  
7 objected to the declarations on the basis of hearsay since the individuals were not available to  
8 defend their declarations at the hearing Judge Warning over ruled Railsback's objection on  
9 the hearsay issue How much more blatant and obvious could an abuse of discretion be?

Railsback asked to be given copies of the signed declarations at that time

10 In response to Railsback's request, both Mr. Quinn, Counsel for Sheriff Lucas, and Judge  
11 Warning asked if I had checked the court file to which I responded, "It is not my



1 Plaintiff's declaration

DONALD E RAILSBACK  
10720 NW 11th Ave  
Vancouver, WA 98684  
(360) 573-8522

responsibility to check the court file, it is the opposing counsel's responsibility to have them properly served " I then restated my request to have copies of the signed declarations

4 In response to this very reasonable request, Judge Warning, while actually looking in the file, stated that there was a certificate or declaration of mailing dated October 6, he was satisfied that they had been properly served and closed the file I repeated my statement that I had not received copies of the signed declarations, but to no avail I was still not given copies of the signed declarations.

5 At the conclusion of the hearing, Judge Warning ruled that the petition was legally and factually insufficient and emphasized repeatedly his view that the petition was totally frivolous and without any merit whatsoever, etc This was in spite of the fact that Sheriff Lucas did not attempt to controvert even one factual allegation made by Railsback that clearly established a personal knowledge of the facts supporting the charges in the petition 6 This seems a bit ironic since the Prosecutor who drafted the proposed ballot language did not seem to have any trouble figuring out the charges, even if his wording was not quite a correct reflection of the charges alleged in the petition The charges can hardly be considered legally or factually insufficient

7 Having been exposed to what one might very graciously call judicial and procedural irregularities in the Courts of SW Washington, I decided to look at the court file on Friday, Oct 13, 2000, to see exactly what was in it I also procured a copy of the complete file through the order of Judge Warning dismissing the petition to recall Sheriff Lucas

8 As I suspected, there was no certificate of mailing in the file for the declarations dated on Oct 6, 2000 There was not a certificate of mailing for the notice of the hearing on the petition to recall Sheriff Lucas. I found out about the date and time of the hearing from reading the newspaper and a call from Mr. Quinn who informed me that Judge Warning would be hearing the matter Mr. Quinn also stated that the Clark County Superior Court had

1 considered having a three-judge panel of Clark County Judges conduct the hearing on the  
2 petition This does create some serious doubt as to what exactly and who was orchestrating  
3 the hearing on the petition Seems like Railsback was the last to know what was going on  
4 every step of the way

5 9 Not only was there no certificate of mailing regarding the declarations dated on October 6,  
6 there was no certificate of mailing regarding the petition for any date. On top of this obvious  
7 procedural problem, the declarations were signed and filed on October 9, 2000 If they were  
8 mailed on that date, they would not have been served on Railsback until October 12, 2000,  
9 the date of the hearing Obviously Judge Warning, Mr Lucas, Mr Quinn and others had a  
10 serious problem. Judge Warning and Mr Quinn committed obvious first-degree perjury  
11 based on the evidence in the file and what should have been on the videotape These are  
12 serious crimes, and combined with everything else that has gone on between Railsback and  
13 the Courts of SW Washington, numerous Superior Court Judges (including Judge Warning),  
14 prosecutors in two counties, and the Clark County Sheriff, the video tape of the perjury  
15 committed by Judge Warning and Mr. Quinn would be devastating to the conspiracy to deny  
16 Railsback his due process right to entry of a \$1 2 million default judgment which could not  
17 possibly be vacated for numerous reasons

18 10 Railsback ordered a copy of the videotape and picked it up early the week of October 16,  
19 2000 Upon viewing the tape it was obvious that a portion of the hearing was missing After  
20 having a professional examine the tape, it was clear that someone had tampered with the tape  
21 by cutting out the first part of the hearing in which Judge Warning and Mr Quinn committed  
22 perjury regarding the certificate of mailing and Judge Warning's outrageous overruling of my  
23 objection to the declarations based on hearsay and lack of service This perjury was so blatant  
24 that anyone could see it

1 11 The first thing one sees on the videotape is Judge Warning sitting upright on the bench with  
2 file folders opened. The copy of the videotape in Railsback's possession does not include the  
3 start of a hearing. It does not include the judge walking into the courtroom, the "All Rise",  
4 "Please be seated", or even an announcement from the bench regarding the subject matter or  
5 case that was before the court in the hearing, none of it! Based on my discussion with the  
6 expert, who reviewed the tape, they have never seen a video of a courtroom proceeding that  
7 did not show these events. Obviously, the tape has been tampered with, and there are plenty  
8 of motives for all the individuals who had access to it to do the tampering. Some of the  
9 individuals would be Judge Robert L. Harris and his assistant Lianne, who did the video  
10 taping. I don't think anyone could view this as a coincidence. Others who would have a  
11 definite motive to have the tape tampered with are Sheriff Lucas, Mr. Quinn, Judge Warning,  
12 Skamania County Superior Court Judge E. Thompson Reynolds, individuals within the Clark  
13 County Prosecutor's Civil Division, Clark County Judges Rulli, Bennett, and Barbara  
14 Johnson, the Skamania County Prosecutor Bradley Anderson, and who knows how many  
15 others.

16 12 In addition to the circumstantial evidence in the court file, the obvious motives of many  
17 individuals with access to the video tape, and the highly irregular circumstances surrounding  
18 the missing of the beginning portion of the hearing, there is also the circumstantial evidence  
19 within the remaining portion of the video tape of the hearing that Railsback was provided.  
20 There is at least one reference by Judge Warning, and possibly 1-3 more, to the existence of a  
21 certificate of mailing being in the file regarding the declarations. These occurred when  
22 Railsback either objected to declaration on the basis of hearsay or that Railsback did not have  
23 copies of declarations. One such statement by Judge Warning is at approximately 10:27 a.m.  
24 on the videotape in which Judge Warning states, "There is a certificate in the file" when  
25 Railsback stated he did not have a particular declaration. There are other indirect references  
26

1 to the alleged certificate of mailing, but this particular reference is quite definite. If this had  
2 been the first time Judge Reynolds would have said there was a certificate of mailing in the  
3 court file, he would have opened the file to make sure there was one, and he didn't

4 13 When the expert I had consulted suggested I go back to the court to request a copy of the  
5 complete video of the hearing, Leanne insisted that my copy was a complete record of the  
6 proceeding. She also stated that the judges are the individuals who turn on the video  
7 recording equipment and that Judge Warning determined when to start the tape. This is  
8 suspicious since Judge Warning does not normally sit in the Clark County Superior Court, so  
9 one would think that this could not possibly be the case. Even if it was, this does not explain  
10 how Judge Warning could possibly turn on two sets of recording equipment, which he  
11 probably would not be familiar with, and return to a full upright and seated position with  
12 opened files and not be seen getting into that position by at least one of the video taping  
13 machines. Even with a possible 2-second delay, this is impossible. If Judge Reynolds were  
14 not extremely familiar with the equipment, he certainly would have checked to make sure  
15 everything was turned on. Leanne is obviously lying in order to cover up her involvement in  
16 tampering with the tape, along with others, since she certified the tape as being a complete  
17 record of the proceedings.

18 14 Based on the court file and the video tape in Railsback's possession, a reasonable person  
19 must conclude that the court record of the hearing on October 12, 2000, is incomplete and  
20 there is probable cause to conclude the copy of the tape provided to Railsback is incomplete  
21 and that the original tapes were tampered with. It is impossible for a reasonable person to  
22 conclude that both copies of the original were missing the exact same portion at the very  
23 beginning of the recordings, especially when the contents would be so devastating for a  
24 number of individuals.

1 15 Deputy Prosecutor Rich Lowery was at the hearing and would be able to confirm the events  
2 at the beginning of the hearing, but somehow I suspect Mr. Lowery will say something along  
3 the lines of "I don't recall that happening" I assume Mr Lucas and Mr Quinn will have  
4 similar responses The evidence would require a reasonable person to conclude there was  
5 something funny going on with both the hearing and the videotape

6 16 There is certainly more than enough evidence to support a finding of probable cause,  
7 especially when these events are construed with all the other acts of individuals in underlying  
8 the petition to recall Garry Lucas.

9 17 Should the Clark County Prosecutor fail to conduct a complete and thorough investigation of  
10 this matter, Ralsback will view this refusal as a violation of an implied duty that a prosecutor  
11 investigate serious allegations of criminal conduct supported by facts and circumstantial  
12 evidence directly related to the petition to recall Garry Lucas and all the other related  
13 litigation The Prosecutor cannot simply stick his head in the sand, because to do so after all  
14 that has happened over the past several months would cause a reasonable person to suspect  
15 the motives of the Clark County Prosecutor

16 18. This declaration also serves to put the Clark County Prosecutor, Art Curtis, on notice that  
17 significant crimes have been committed against Donald E Ralsback by a number of public  
18 servants in an effort to deny Ralsback his Constitutional rights to due process and equal  
19 protection under the law and avoid public exposure of their criminal conduct that satisfies all  
20 the requirements to be considered a RICO enterprise under Federal and State laws The acts  
21 of many of these same individuals against other individuals establish a pattern of engaging in  
22 a pattern of corrupt activity The evidence is there The only question I have, is the Clark  
23 County Prosecutor a part of the criminal enterprise The actions taken by the Clark County  
24 Prosecutor, Art Curtis, regarding the crimes committed against Ralsback by judges, assistant  
25  
26

1 prosecutors and the Sheriff of Clark County will provide a clear indication if Art Curtis is a  
2 part of a RICO enterprise

3 19. Time will tell!

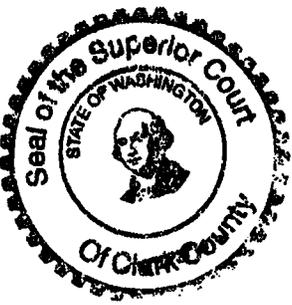
4  
5 DATED this 20 day of October, 2000

6  
7 Donald E. Railsback  
8 Donald E. Railsback  
9 Petitioner

10 I declare under penalty of perjury under the laws of the State of Washington that the  
11 foregoing is true and correct

12 Dated July 18, 2000  
13 Vancouver, WA

14 Donald E. Railsback  
15 Donald E. Railsback



16  
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18  
19  
20 STATE OF WASHINGTON } ss.  
21 COUNTY OF CLARK }  
22 I, Sherry W. Parker, County Clerk and Clerk of the Superior Court of  
23 Clark County, Washington, DO HEREBY CERTIFY that this  
24 document, consisting of 7 page(s), is a true and correct  
25 copy of the original now on file and of record in my office and, as  
26 County Clerk, I am the legal custodian thereof.  
Signed and sealed at Vancouver, Washington this date:  
December 29, 2009  
Sherry W. Parker, County Clerk  
By Paul Cross Deputy

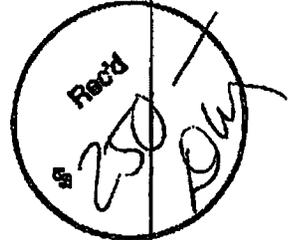
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**FILED**

**SEP 11 2006**

JoAnne McBride, Clerk, Clark Co.

Robert and Christine Birdwell, Plaintiff/Appellants, *pro se*  
813 NE 133<sup>rd</sup> Street  
Vancouver, WA 98685  
Phone: (360) 566-8153



**IN THE SUPERIOR COURT OF WASHINGTON  
IN AND FOR CLARK COUNTY**

Robert O. Birdwell and  
Christine M. Birdwell,  
Husband and Wife,

CIVIL CASE NO. 06 2 03370 5

Plaintiffs

Randal B. Fritzler, individually,  
John P. Hagensen, individually,  
DCS FINANCIAL, INC.;  
DBA DIVERSIFIED  
CREDITORS SERVICE;  
Collette Eddings, individually;  
Steve Holt, individually;  
Southwest Washington Medical Center  
(SWWMC), a Washington Corporation,  
UBI Number 600 250 191; SWMC  
REFERRAL LABS, an fictional DBA  
of SWWMC,

**NOTICE OF APPEAL TO  
COURT OF APPEALS  
DIVISION II**

**CLERK'S ACTION REQUIRED**

Defendants

COMES NOW PLAINTIFFS Robert O. Birdwell and Christine M. Birdwell who timely  
file this NOTICE OF APPEAL, as a matter of Right, under RAP 5.1; 5.2;  
5.3(a)(1)(2)(3)(4); RAP 2.2 (a) (1), (3), (9), (10), (13), and any and all other applicable  
rules and statutes not cited herein.

1

NOTICE OF APPEAL

Robert and Christine Birdwell,  
Plaintiff/Appellants, *pro se*  
813 NE 133<sup>rd</sup> Street  
Vancouver, WA 98685  
Phone: (360) 566-8153

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RULE 5.3

CONTENT OF NOTICE--FILING

(a) Content of Notice of Appeal. A notice of appeal must (1) be titled a notice of appeal, (2) specify the party or parties seeking the review, (3) designate the decision or part of decision which the party wants reviewed, and (4) name the appellate court to which the review is taken.

There are numerous issues, mistakes, irregularities, and unlawful conduct appealed by plaintiffs Robert and Christine Birdwell herein. The appellate court should *sua sponte* address any and all irregularities and unlawful actions by judges Nichols and Barbara Johnson; the court administrators of Clark and Cowlitz Counties, that may have been inadvertently overlooked by plaintiffs herein <sup>1</sup>:

**ISSUES HEREIN ON APPEAL**

- 1.) THE FALSELY CLAIMED, FRAUDULENTLY ASSUMED, AND DISPUTED JURISDICTION of Clark County Superior Court Judge John Nichols who on or before August 10, 2006, engineered a circumstance designed to injure plaintiffs herein, after he was made fully aware, by persons unknown to plaintiffs herein,

---

<sup>1</sup> RULE 7.3

AUTHORITY OF APPELLATE COURT

The appellate court has the authority to determine whether a matter is properly before it, and to perform all acts necessary or appropriate to secure the fair and orderly review of a case.. The Court of Appeals retains authority to act in a case pending before it until review is accepted by the Supreme Court, unless the Supreme Court directs otherwise.

1 having hacked into plaintiffs primary computer, knew in advance that plaintiffs  
2 herein had prepared an affidavit of prejudice to serve on judge Nichols. He,  
3 without lawful authority, assigned the case to Clark County Superior Court Judge  
4 Barbara Johnson on or about August 10, 2006, who, upon her clerk contacting  
5 plaintiff by telephone Thursday, August 10, 2006 at approximately 4:00 PM, was  
6 then made fully aware that: (A) An affidavit of prejudice was ready to be served  
7 upon Judge Nichols, August 11, 2006; (B) That an affidavit of prejudice would be  
8 served upon her; (C) Whereas, August 11, 2006 at approximately 8:55 AM. Judge  
9 Barbara Johnson immediately sent the case back to Judge Nichols to effect the  
10 scheme.

11  
12 2.) THE SCHEME which was intended to give the appearance that plaintiffs had  
13 "used up," what Judge Nichols would falsely claim August 11, 2006, at  
14 approximately 9:45 AM was plaintiff's one and only lawful opportunity to  
15 eliminate a biased, prejudiced, and hostile judge. Where in fact any and all judges  
16 with any such disability are barred from hearing a case. (See the verbatim  
17 transcript of the void hearing of August 11, 2006)

18 3.) THE PREJUDICED, VOID, ORDER filed September 1, 2006 which is void as a  
19 matter of law and for lack of jurisdiction where, from the beginning, the case  
20 required that a "qualified, unbiased, visiting judge be seated in pursuance of RCW  
21 2.08.140 through RCW 2.08.170. (See the verbatim transcript of the void hearing  
22 of September 1, 2006)

- 1 4.) Issue on Appeal, to compel lawful action by the judges of the Clark County  
2 Superior Court to correct any and all deficiencies in their complying with RCW  
3 2.08.150. The fact that the entire Clark County Superior Court bench was  
4 knowingly, and admittedly "disqualified; biased, and prejudiced against plaintiffs  
5 herein," the judges ostensibly requested a visiting judge be sent from Cowlitz  
6 County in pursuance of RCW 2.08.150, the appealable issue being the fact that  
7 there is no evidence in the record of the majority of the superior court judges of  
8 Clark County having actually complied with RCW 2.08.150;
- 9 5.) Plaintiff's herein appeal actions of the Cowlitz County Administrator who  
10 arbitrarily and capriciously, wholly without lawful authority, changed the venue  
11 from Clark County to Cowlitz County for hearings - wherein plaintiffs herein  
12 would never give their consent to such a change -- in violation of RCW 4.12.010,  
13 RCW 4.12.020, RCW 4.12.030, RCW 4.12.040;
- 14 6.) Appeal the assignment of a Cowlitz County Superior Court Judge to this case who  
15 is clearly biased against plaintiffs; a judge who plaintiffs are fully aware has sat as  
16 an unlawfully seated visiting judge; a judge who has committed felonies in Clark  
17 (Perjury) and Cowlitz (Theft of Records) Counties (See the criminal complaint  
18 against Stephen Warning filed with the Kelso police by plaintiff herein Robert O.  
19 Birdwell and the criminal complaint filed by the Kelso police against Stephen  
20 Warning to the Cowlitz County Prosecutor's office (See RCW 4.12.140 - 050).
- 21 7.) This issue on appeal being the conflicting, confusing, and undecipherable mess  
22 which has been created between the knowing, willful, unlawful, and conflicted  
23  
24

4

25 NOTICE OF APPEAL

26 Robert and Christine Birdwell,  
Plaintiff/Appellants, *pro se*  
813 NE 133<sup>rd</sup> Street  
Vancouver, WA 98683  
Phone: (360) 566-8153

1 actions of Judges Nichols, and Barbara Johnson; the conflicted actions of the  
2 court administrators of Clark and Cowlitz Counties, all done to carry into effect a  
3 scheme to injure plaintiff / appellants herein by denying plaintiffs our right to our  
4 Fourteenth Amendment Rights to due process of law; the equal protection of the  
5 law, and to deny plaintiffs herein our intangible right to honest services, 18 U.S.C.  
6 § 1346.

7  
8 **PLAINTIFF / APPELLANT'S HAVING COMPLIED WITH RULE 5.3**  
9 **CONTENT OF NOTICE—FILING,**

10 RULE 5.3(a) Content of Notice of Appeal. A notice of appeal must (1) be  
11 titled a notice of appeal, (2) specify the party or parties seeking  
12 the review, (3) designate the decision or part of decision which the  
13 party wants reviewed, and (4) name the appellate court to which the  
14 review is taken.

15 **THUS, APPELLANTS PLACE NOTICE OF CLERK'S ACTION**  
16 **REQUIRED PURSUANT TO RULE 9.7**

17 **RULE 9.7 PREPARING CLERK'S PAPERS AND EXHIBITS FOR APPELLATE COURT**

18 (a) Clerk's Papers. The clerk of the trial court shall  
19 make copies at cost, not to exceed 50 cents a page, of those  
20 portions of the clerk's papers designated by the parties and  
21 prepare them for transmission to the appellate court. The  
22 clerk shall assemble the copies and number each page of the  
23 clerk's papers in chronological order of filing, and bind in  
24 volumes of no more than 200 pages. The clerk shall prepare a  
25 cover sheet for the papers with the title "Clerk's Papers"  
26 and prepare an alphabetical index to the papers. The clerk  
shall promptly send a copy of the index to each party. The  
reproduction costs must be paid to the trial court clerk  
within 14 days of receipt of the index. Failure to do so may  
result in sanctions under rule 18.9. Upon receipt of  
payment, the clerk shall forward the clerk's papers to the  
appellate court.

(b) Exhibits. The clerk of the trial court shall  
assemble those exhibits designated by the parties and  
prepare them for transmission to the appellate court.  
Exhibits which are papers should be assembled in the order  
the exhibits are numbered with a cover sheet which lists the

5

NOTICE OF APPEAL

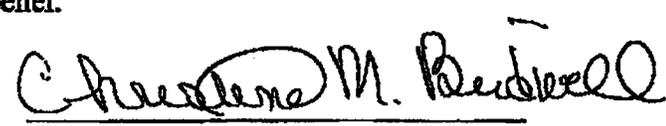
Robert and Christine Birdwell,  
Plaintiff/Appellants, *pro se*  
813 NE 133<sup>rd</sup> Street  
Vancouver, WA 98685  
Phone: (360) 566-8153

1 exhibits and is titled "Exhibits."

2 (c) Certified Record of Administrative Adjudicative  
3 Orders. When an administrative agency has certified the  
4 record of an administrative order for review by the superior  
5 court, the clerk of the superior court shall transmit to the  
6 appellate court the original record certified by the  
7 administrative agency.

8 Signed and filed this 11<sup>th</sup> Day of September 2006, under penalty of perjury under the  
9 laws of the state of Washington that the foregoing is true and correct to the best of  
10 plaintiffs / appellant's knowledge and belief.

11   
12 \_\_\_\_\_  
13 Robert O. Birdwell, Appellant

14   
15 \_\_\_\_\_  
16 Christine M. Birdwell, Appellant

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**COPY ORIGINAL FILED**

**SEP 01 2006**

**FILED**

**SEP 11 2006**

JoAnne McBride, Clerk, Clark Co.

JoAnne McBride, Clerk, Clark Co.

**SUPERIOR COURT OF WASHINGTON FOR CLARK COUNTY**

**ROBERT O. BIRDWELL and CHRISTINE M. BIRDWELL, Husband and Wife,**

**Plaintiffs,**

**v.**

**RANDAL B. FRITZLER, individually, JOHN P. HAGENSEN, individually, DCS FINANCIAL, INC.; DBA DIVERSIFIED CREDITORS SERVICE; COLLETTE EDDINGS, individually, STEVE HOLT, individually, SOUTHWEST WASHINGTON MEDICAL CENTER (SWWMC), a Washington corporation, UBI Number 600 250 191; SWMC REFERRAL LABS, a fictional DBA of SWWMC,**

**Defendants.**

**Case No. 06 2 03370 5**

**CR 54(b) JUDGMENT**

Based on the Court's Order granting the Motion to Dismiss filed on behalf of Defendants Southwest Washington Medical Center, Steve Holt, and Collette Eddings entered in this case and it appearing that there is no just reason for delay of entry of judgment as to Defendants Southwest Washington Medical Center, Steve Holt, and Collette Eddings, it is hereby

**ADJUDGED that judgment be entered in favor of Defendants Southwest Washington Medical Center, Steve Holt, and Collette Eddings, and against Plaintiffs Robert Birdwell and Christine Birdwell.**  
**CR 54(b) JUDGMENT**

VANDOC5:50065286.1

**MILLER NASH LLP**  
ATTORNEYS AT LAW  
TELEPHONE (360) 899-4771  
500 E. BROADWAY, SUITE 400  
POST OFFICE BOX 954, VANCOUVER, WASHINGTON 98662-1054

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The trial court clerk is directed to immediately enter this judgment.

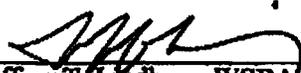
DATED this 1<sup>st</sup> <sup>September</sup> day of August, 2006.

**/s/ JOHN F. NICHOLS**

---

Honorable John F. Nichols  
Superior Court Judge

Submitted by:

---

Jeffrey T. Lindberg, WSBA # 32444  
Attorney for Defendants Southwest  
Washington Medical Center,  
Steve Holt, and Collette Eddings

CR 54(b) JUDGMENT - 2

VANDOC5:50068286.1

**MILLER NASH LLP**  
ATTORNEYS AT LAW  
TELEPHONE: 360-699-3771  
102 E BROADWAY, SUITE 400  
POST OFFICE BOX 644, VANCOUVER, WASHINGTON 98144-0644

1 I hereby certify that I served the foregoing CR 54(B) JUDGMENT on:

2 Robert O. Birdwell  
3 813 N.E. 133rd Street  
4 Vancouver, Washington 98685

Christine M. Birdwell  
813 N.E. 133rd Street  
Vancouver, Washington 98685

4 Pro-Se Plaintiff

Pro-Se Plaintiff

5 *VIA FAX*

*VIA FAX*

6 Curt Wyrick  
7 Clark County Prosecuting Attorney's Office  
8 Post Office Box 5000  
9 Vancouver, Washington 98666-5000  
10 Fax: 360-397-2230

Randal Fritzier  
Fax: 360-992-4135  
Pro-Se Defendant

10 Attorney for Defendant John P.  
11 Hagensen

11 *VIA FAX*

12 Mr. Daniel Stahnke  
13 English Lane et al  
14 12204 SE Mill Plain Blvd. #200  
15 Vancouver, WA 98684-6026  
16 Fax: 360-449-6111

16 by the following indicated method or methods:

- 17  by faxing full, true, and correct copies thereof to the attorneys at the fax numbers shown above, which are the last-known fax numbers for the attorneys' offices, and by mailing full, true, and correct copies thereof in a sealed, first-class postage-prepaid envelope, addressed to the attorneys as shown above, the last-known office addresses of the attorneys, and deposited with the United States Postal Service at Portland, Oregon, on the date set forth below.
- 20  by mailing full, true, and correct copies thereof in sealed, first-class postage-prepaid envelopes, addressed to the attorneys as shown above, the last-known office addresses of the attorneys, and deposited with the United States Postal Service at Portland, Oregon, on the date set forth below.
- 23  by sending full, true, and correct copies thereof via overnight courier in sealed, prepaid envelopes, addressed to the attorneys as shown above, the last-known office addresses of the attorneys, on the date set forth below.

26 Certificate of Service

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by causing full, true, and correct copies thereof to be hand-delivered to the attorneys at the attorneys' last-known office addresses listed above on the date set forth below.

Under the laws of the state of Washington, the undersigned hereby declares, under the penalty of perjury, that the foregoing statements are true and correct to the best of my knowledge.

Executed at Vancouver, Washington, this 18th day of August, 2006.

  
\_\_\_\_\_  
Jeffrey T. Lindberg

Of Attorneys for Defendants

Certificate of Service - 2

MILLER NASH LLP  
ATTORNEYS AT LAW  
TELEPHONE (206) 498-7771  
100 S BROADWAY, SUITE 400  
POST OFFICE BOX 944, VANCOUVER, WASHINGTON 98108-0944



STATE OF WASHINGTON } ss.  
COUNTY OF CLARK

I, Sherry W. Parker, County Clerk and Clerk of the Superior Court of Clark County, Washington, DO HEREBY CERTIFY that this document, consisting of 10 page(s), is a true and correct copy of the original now on file and of record in my office and, as County Clerk, I am the legal custodian thereof.

Signed and sealed at Vancouver, Washington this date:

1-28-10

Sherry W. Parker, County Clerk

By g Karalich Deputy

20

**FILED**

**JUN 30 2006**

JaAnne McBride, Clerk, Clark Co.

1 Robert O. and Christine M Birdwell  
2 813 NE 133<sup>rd</sup> Street  
3 Vancouver, WA 98685  
4 Phone: (360) 566-8153

5 **IN THE SUPERIOR COURT OF WASHINGTON**  
6 **IN AND FOR CLARK COUNTY**

8 Robert O. Birdwell and  
9 Christine M. Birdwell,  
10 Husband and Wife,

11 **Plaintiffs**

**CIVIL CASE NO.**

**06 2 03370 5**

**COMPLAINT FOR DAMAGES**

12 Randal B. Fritzler, individually,  
13 John P. Hagensen, individually,  
14 DCS FINANCIAL, INC.;  
15 DBA DIVERSIFIED  
16 CREDITORS SERVICE;  
17 Collette Eddings, individually;  
18 Steve Holt, individually;  
19 Southwest Washington Medical Center  
20 (SWWMC), a Washington Corporation,  
21 UBI Number 600 250 191; SWMC  
22 REFERRAL LABS, an fictional DBA  
23 of SWWMC,

24 **Defendants**

**DEMAND FOR JURY TRIAL**

25 **1.**

26 Comes now plaintiffs by and through Robert O. Birdwell, lead plaintiff, pro se,  
and Christine M. Birdwell, pro se, first, to state that venue is proper in this court.

*Handwritten signature*

I RONI A. BOOTH, Clerk of the Superior Court of Cowlitz County, State of Washington, hereby certify that this instrument is a true and correct copy of the original on file in my office. **AUG 25 2010**

RONI A. BOOTH

By *Tracy McLean* Deputy



STATE OF WASHINGTON }  
COUNTY OF CLARK } ss.

I, Sherry W. Parker, County Clerk and Clerk of the Superior Court of Clark County, Washington, DO HEREBY CERTIFY that this document, consisting of 20 page(s), is a true and correct copy of the original now on file and of record in my office and, as County Clerk, I am the legal custodian thereof.

Signed and sealed at Vancouver, Washington this date:

1-28-10

Sherry W. Parker, County Clerk

By *R. Knoll* Deputy

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# Clark County *and the region*

WEDNESDAY, AUGUST 25, 2004

## Ballot delivery arrives in voters' mailboxes

"We're getting swamped with calls, for sure," county Auditor Greg Kimsey said.

"A majority of people want to reassure themselves that they're eligible to vote in the primary and after that people are dismayed they can no longer vote for a candidate of their choice without regard to the candidate's party affiliation."

All registered voters are eligible to participate in the Sept. 14 primary. But for the first time in

70 years, they must limit their choices to the candidates of only one party.

No records will be kept of a voter's choice. The Legislature and Gov. Gary Locke adopted the new system after a federal court ruled Washington's blanket primary unconstitutional.

The Secretary of State's Office has been receiving 1,000 phone calls a day and an e-mail every couple of minutes from upset voters since mailing pamphlets

last week to voters advising them of the changes.

"We've been inundated," office spokeswoman Trova Hutchins said.

Clark County elections workers will mail 116,409 ballots today to the 62 percent of the county electorate that votes by mail in all elections. Kimsey said mail-in voters should call the auditor's office at 360-397-2345 if they haven't received a ballot by Sept. 3.

Whether by mail or at the polls, voters will receive three separate ballots listing candidates from the Democratic, Republican and Libertarian parties. To vote in partisan elections, voters must choose one ballot and discard the others.

Nonpartisan offices and measures will be listed on each ballot.

There will be a fourth ballot

*"We're getting swamped with calls, for sure."*

County Auditor Greg Kimsey reacts to new primary

BALLOTS, page C8

## Superior Court to get ninth judge

Additional personnel expected to speed civil, domestic cases

By STEPHANIE RICE  
*Columbian staff writer*

When Robert Harris was named to the Clark County Superior Court bench in 1979, boosting the number of judges to five, there were about 4,500 civil and criminal filings a year.

On Tuesday, Harris was in the audience as Clark County commissioners gave their blessing for a ninth judge. The addition will help his bench keep pace with filings that have quadrupled since the presiding judge took his oath of office 25 years ago.

"I'll go call the governor," he told commissioners.

Jennifer Joly, Gov. Gary Locke's legal counsel, said she has not set a timeline for the appointment process but will begin accepting applications immediately.

Harris said he hopes to have the new judge sworn in by Nov. 1.

He's been waiting to expand his bench for two years. The state, which pays half of a Superior Court judge's annual \$124,411 salary, approved the creation of the position last year.

Harris said the addition of a ninth judge will speed cases along, particularly civil and domestic filings.

"I see a real ability to knock those down," Harris said. Criminal cases take precedence because defendants have constitutional rights.

The law of the land doesn't grant the right to a speedy divorce, however, and so estranged couples have had to wait.

Even with one judge dedicated to family law, there's still a backlog. More than 200 estranged couples are waiting for a trial to settle their differences, Harris said.

In the civil arena, there are currently 60 cases that have been waiting at least nine months to go to trial.

"After you cite them ready for trial, you should get them to trial in six months," he said.

At least three attorneys have said they will apply to become the county's first Dept. 9 judge.

Superior Court Commissioner Scott Collier, Camas attorney Robert Lewis and Vancouver attorney Mark Baum all said they will apply.

Lewis was a finalist in 2000, when Locke appointed Diane Woolard to the newly created eighth position.

Baum applied in 2000 and ran in 2002 for an open seat that went to John Wulle.

As a court commissioner, Collier primarily does family law and juvenile hearings.

Clark County Prosecutor Art Curtis, the county's top prosecutor since 1981, said he's considering applying but has not decided.

Curtis' current term as prosecutor does not expire until 2006.

The new judge will have to run in 2005 to keep the position for the full four-year term.

None of the Superior Court judges are up for re-election this year, but none has an opponent.

STEPHANIE RICE covers the courts. She can be reached at 360-759-8004 or [stephanie.rice@columbian.com](mailto:stephanie.rice@columbian.com).



JEREMIAH COUGHLAN/The Columbian

Passengers from a prospective rider on the Skamania County route Tuesday at the Fisher's Landing to-Vancouver line, funded by a state grant, began operating in January, and ridership has

## Experience in the driver's seat

DURBIN  
*Staff writer*

is of Stevenson considered "a big city lady." Chicago taught special education history at UCLA, then moved north to travel agency design in the Seattle area. She's Portland-Vancouver too, where she now organizes tours. Many things she appreciates in cities is their access to transit. She'd rather read and enjoy the scenery behind the wheel. She landed in Skamania County a year ago, drawn by the



Avis Dunas  
Gets special award from state

low housing prices and the expansive gorge views, she wanted to make sure she didn't become isolated from city life. "The port commissioners here told me there would be both bus and train service" once Skamania Lodge opened, she recalls. She waited. And waited. When nothing happened, she got busy. Today, thanks largely to her

BUS, page C5

### Update

■ **Previously:** Skamania County began weekday bus service to Clark County in January.

■ **What's new:** Ridership climbed from 250 in January to 860 in July.

■ **What's next:** A grant that supports the program expires in June 2005. Skamania County residents must decide whether to support the service through a local taxing district.

## Woman against Iraq war takes on Baird

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Friday, August 14, 2009 8:42 AM

"Alexander, Justice Gerry" <J\_G.Alexander@courts.wa.gov>  
[Add sender to Contacts](#)

"Brown, Marty (GOV)" <Marty.Brown@GOV.WA.GOV>, "Lance Burton" <fordtblb@yahoo.com>

"Alexander, Justice Gerry" <J\_G.Alexander@courts.wa.gov>

**From:**

**To:**

**Cc:**

Dear Mr. Burton,

Marty Brown from the Governor's Office has referred your e-mail of August 11 to me for comment. I really can't add much to what Mr. Brown has indicated. RCW 2.08.240 is still on the books. It is generally consistent with a provision in the State Constitution, article IV, §20, except that the constitutional provision does not mention forfeiture of office.

Gerry L. Alexander

Chief Justice

WA State Supreme Court

**From:** Brown, Marty (GOV) [mailto:Marty.Brown@GOV.WA.GOV]  
**Sent:** Tuesday, August 11, 2009 1:45 PM  
**To:** Lance Burton  
**Cc:** Alexander, Justice Gerry  
**Subject:** RE: RCW 2.08.240 ?

It is still in force and has not been amended. Our constitution (Art. 4, Sec. 20) also has a similar provision. I am not aware that any judge has ever lost his or her job for violating the section but I am forwarding your email to our Chief Justice Gerry Alexander who may be able to shed additional light on the subject.

**Marty Brown**  
Legislative Director  
Governor Christine Gregoire  
360 902-0390  
360 239-2841 (c)

**From:** Lance Burton [mailto:fordtblb@yahoo.com]  
**Sent:** Tuesday, August 11, 2009 1:30 PM

  
8-27-2010

1  
2  
3 **CERTIFICATE OF DELIVERY AND MAILING**  
4

5 I Lance W. Burton, do hereby declare under the laws of  
6 perjury for the State of Washington that on this day of August  
7 27, 2010 the following documents...

8 Opening Brief to Supreme Court Case No.: 84758-4; copies of  
9 Certified Bankruptcy filings, "Supplemental" Civil Rule 60  
10 Motion in the Burton v. Erikson Case No.: 03-204903-8;  
11 "Affidavit of Prejudice / Notice of Sworn Statements and the  
12 August 25, 2004 uncertified copy of the Columbian newspaper were  
13 delivered to the Clark County Prosecutors Office C/O Mr.  
14 Christopher Horne. *Also, email response from Hon. B. Alexander.*

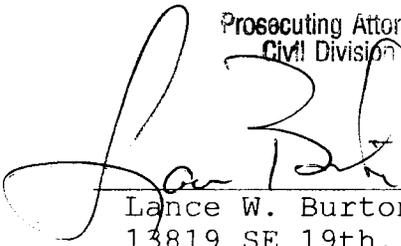
15  
16 Furthermore, Burton declares that the above documents were also  
17 sent to the Clerk Of The Supreme Court, C/O the Temple of  
18 Justice, PO BOX 40929, Olympia, Washington, 98504-0029 by  
19 Certified Mail as 7007 0710 0001 1628 5594.

20  
21 Dated this 27<sup>th</sup> day of August, 2010

RECEIVED

AUG 27 2010

Prosecuting Attorney,  
Civil Division

22  
23   
24 Lance W. Burton  
25 13819 SE 19th.  
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