

Louise B. Gohmert, Jr., and states as follows:

NATURE OF THE ACTION

1. This action arises out of a scheme by which Defendants (Parrish, Scott, Kimble, McGregor, Petersen, Sipes, Cluck, and Price) deprived Plaintiff of his Constitutional rights under the Fourth and Fourteenth Amendments by conspiring and/or performing an unlawful search and seizure under color of law without probable cause.

2. This action also arises out of a scheme by which Defendants (Wallace, B. Davis, Fugate, Dixon, Parrish, Scott, Kimble, McGregor, Petersen, Sipes, Cluck, Currin, R.Davis, Van Cleef, Conner, Winslet and Gohmert) conspired to and/or did deprive Plaintiff of his constitutional right of proper and honest judicial administration in Plaintiff's divorce and other legal proceedings and Defendants did conspire and/or did obstruct justice by keeping Plaintiff tied up in court, by failing to address or respond to his motions properly filed with the court, and filing and mailing fraudulent notices of trial and/or hearing settings with the intention that Plaintiff would not have proper notice to appear timely for the requisite setting.

3. In reliance upon numerous misrepresentations and omissions of the Defendants, Plaintiff failed to receive proper and due administration of justice in his legal proceedings.

4. As a consequence of Defendants' unlawful conduct, Plaintiff suffered directly in his business and was deprived of his business and personal property. Plaintiff now seeks relief, including actual, punitive, and treble damages, along with Plaintiff's costs in investigating and prosecuting this action.

5. Through their conduct, as detailed below, Defendants conducted, participated, directly or indirectly, in the affairs of an enterprise through a pattern of racketeering activity, and/or

conspired to do so, in violation of the Racketeer Influenced and Corrupt Organizations Act ("RICO"), 18 U.S.C. § 1961 *et seq.*

6. Defendants committed common law fraud through their misrepresentations, omissions, and concealment of material facts from Plaintiff upon which Plaintiff relied to his detriment.

7. Defendants also breached their duties as fiduciaries. Defendants Cluck, Currin and Conner owed Plaintiff the fiduciary duties of loyalty, of utmost good faith and integrity, to make full and accurate disclosure of material facts, to abstain from self-dealing at the expense of Plaintiff, and to exercise the care, skill and diligence toward Plaintiff's rights and assets that a reasonably prudent person would exercise in regard to his own property. Defendants Cluck, Currin and Conner's misrepresentations, failure to disclose, and concealment of material facts further constituted a breach of the duty of loyalty in the Defendants' interests in the legal proceedings were adverse to those of Plaintiff. Defendants Cluck, Currin and Conner took advantage of the trust place by Plaintiff in them.

PARTIES

8. Plaintiff Jerry Michael Collins is an individual who, after being illegally evicted from his home in September 1995, has continued to reside through out Texas, staying in roadside parks, State Parks, vacant parking lots, farms, and has night watched at public storage facilities in exchange for a safer place to sleep, and anywhere else he could stay while attending to litigation regarding this matter. Collins' current mailing address is P. O. Box 5464, Gun Barrel City, Texas 75147.

9. To accomplish the goal of "the enterprise", Defendants:

(a) JOHN PARRISH, ("Parrish"), formerly a constable of Van Zandt County being

sued in both his official and individual capacities;

(b) TRUMAN PRICE, (“Price”), formerly Sheriff of Van Zandt County, Texas being sue in both his official and individual capacities;

(c) ROXIE CLUCK, (“Cluck”), an attorney whose principal office is in Van Zandt County, Texas is being sued in her individual capacity;

(d) DORIS SIPES, (“Sipes”), an attorney practicing in El Paso County, Texas is being sued in her individual capacity;

(e) MALCOLM MCGREGOR, (“McGregor”), an attorney practicing in El Paso County, Texas is being sued in his individual capacity;

(f) TOMMY W. WALLACE, (“Wallace”), is a district judge of the 294th Judicial District Court of Van Zandt County, Texas and is being sued in his both official and individual capacities;

(g) JENNA L. SCOTT, (“Scott”), is an individual who is being sued in her individual capacity;

(h) PATRICIA KIMBLE, (“Kimble”), is an individual who is being sued in her individual capacity;

(i) HARRY TOM PETERSEN, (“Petersen”), an attorney practicing in El Paso County, Texas is being sued in his individual capacity;

(j) LESLIE P. DIXON, (“Dixon”), is a district attorney of Van Zandt County, Texas and is being sued in both her official and individual capacities;

(k) BETTY DAVIS, (“B. Davis”), a court coordinator in the 294th Judicial District Court who is being sued in both her official and individual capacities;

(l) RICHARD CURRIN, ("Currin"), an attorney in Van Zandt County, Texas and is being sued in his individual capacity;

(m) ROBERT DAVIS, ("R. Davis"), an attorney in Smith County, Texas who is being sued in his individual capacity;

(n) JOYCE FUGATE, ("Fugate"), the Van Zandt County Tax Assessor and Collector who is being sued in both her official and individual capacities;

(o) CHARLES VAN CLEEF, ("Van Cleef"), an attorney in Smith County, Texas who is being sued in his individual capacity;

(p) COYE CONNER, JR., ("Conner"), an attorney in Smith County, Texas who is being sued in his individual capacity;

(q) GREG K. WINSLETT, ("Winslett"), an attorney in Dallas County, Texas who is being sued in his individual capacity;

(r) LOUIS B. GOHMERT, JR., ("Gohmert"), the District Judge in the 7th Judicial District and is being sued in both his official and individual capacity;

(s) and perhaps others became members of the group of conspirators who agreed among themselves to, directly or indirectly, participate in repeated acts of deception by knowingly and willfully making misleading statements, preparing court documents they knew were false, filing documents with the court which they knew were false, knowingly refusing to set hearing dates, concealing evidence, committing perjury and aggravated perjury, permitting perjury and aggravated perjury to be committed, committing common law fraud, committing mail fraud, permitting common law fraud and mail fraud to be committed, negligence, and breaching fiduciary duties in the affairs of their enterprise, through a pattern of racketeering activity, and/or

conspiring to do so, in violation of the Racketeer Influenced and Corrupt Organizations Act (“RICO”) 18 U.S.C. §1961 *et seq.*

JURISDICTION AND VENUE

10. This Court has subject matter jurisdiction pursuant to Title 28, United States Code, Section 1331, *et seq.* (The Racketeering Influenced and Corrupt Organizations Act), the Fourth and Fourteenth Amendments to the Constitution of the United States, 42 U.S.C. Section 1983 and applicable principles of supplemental jurisdiction under 28 U.S.C. section 1367(a), because such claims arise under the laws of the United States, namely Title 18, United States Code, Section 1962(d) and 1964. Pursuant to Title 28, United States Code, Section 1367, this Court has subject matter jurisdiction over the state common law fraud claim alleged in Count number one because it is so related to the RICO claims it forms part of the case or controversy. Pursuant to Title 28, United States Code, Section 1332(a), this Court also has subject matter jurisdiction over the state common law fraud claim alleged in Count number two because the amount in controversy exceeds \$75,000, exclusive of interest and costs, and there is complete diversity of citizenship in that Collins is a citizen and resident of the State of Texas, and Defendants are citizens and residents of this District and various other Districts in Texas.

11. Venue is proper in this District pursuant to Title 28, United States Code, Sections 1391.

EVENTS PRECEDING THE RACKETEERING SCHEME

12. From 1979 until September 1995 Collins provided courtroom documentation services for people experiencing various tragedies that ultimately lead to litigation.

13. In 1991, while providing his documentation service in southern New Mexico, Collins recognized that a lawyer was arranging to “steal” hundreds of thousands of dollars from his client who was an uneducated, uninformed, paraplegic individual resulting from a car/truck collision.

14. After informing the tragedy victim’s family of their lawyer’s obvious intent, Collins’ home and all of his property, including all of his business tools and records were illegally seized by New Mexico law enforcement officers.

15. Unable to recover his property on his own, Collins employed an El Paso lawyer and after one year of litigation Collins accepted an out of court settlement from those who participated in the actual illegal seizure of his property. Then, Collins returned to Dallas to have his services professionally marketed throughout Texas.

16. During his last trip to El Paso in November 1992 to complete his last courtroom exhibit service there, an El Paso law firm employee introduced him to Jenna Scott, who claimed to be a “marketing expert” interested in marketing Collins’ services in the DFW/Houston areas.

17. In December 1992, Collins and Scott entered into a marketing agreement and on January 1, 1993 Scott moved from El Paso to Dallas to begin marketing Collins services. Scott appeared eager to know every aspect of Collins’ unique services, including all files of every former and current client. Scott agreed to handle the day to day office matters for no salary from Collins and agreed to handle the office functions in an assumed name she had registered. Scott did not purchase nor did she own any of the 15 year collection of materials, supplies and records belonging to Collins.

18. Seven months after Scott moved to Dallas, Collins moved the operations of his of courtroom exhibits to a small, rural farm house in Van Zandt County. Scott remained in her Las

Colinas condo, supposedly “*developing a marketing plan for Collins’ services*”.

19. In August 1993 Scott moved from her Las Colinas condo into the small, farm house in Van Zandt County where Collins and Scott lived together as husband and wife, but were not married.

20. Shortly thereafter, Collins learned Scott had told several persons in El Paso, including her own lawyer, Noel Gage, the State Bar of Texas, and others that Collins was her husband.

21. In March 1994 the Canton Herald newspaper published a lengthy article about Collins and his unique services.

22. In May 1994, upon Scott’s return from one of her frequent trips to El Paso, surprised Collins by expressing her desire to purchase an insurance policy on Collins life. On May 13, 1994, Scott personally paid for a \$200,000 insurance policy on Collins’ life, naming herself beneficiary and his wife.

23. In the fall of 1994 Collins began being asked to speak to various Houston Bar Associations and even State Bar seminars on his unique services which generated new and higher dollar clients for him in the Houston area. Collins began planning to create a school to teach others his skills.

24. In November 1994 Scott began making more frequent and extended trips to El Paso, including a month long visit with “her family” through December 1994. Scott then announced she needed to move back to El Paso but wanted to continue her relationship with Collins.

25. After more trips to El Paso, in February 1995 Scott personally came to Collins home in Van Zandt County, asked for and got Collins’ help in loading the U-Haul rented in her name and with her credit card and moved all of her property back to El Paso except a couch and one

television.

26. Before moving to Van Zandt County in July 1993, Plaintiff had established a profitable business in Forensic Documentation in El Paso and Southern New Mexico, providing innovative ways for professionals and non-professionals to effectively communicate to decision makers (i.e.: juries) the sequence of events in an occurrence, crime or act such as: arson, burglary, motor vehicle wrecks, child abuse, defective products, divorce, industrial accidents, legal and medical malpractice, murder, rape, train collisions, white collar crimes and other types of events that might lead to litigation.

27. This action arises out of a scheme designed for one purpose - to put an end to a unique service Collins created for a specific group of people. The uniqueness of the service Collins created was: (a) The specific group of people Collins' served were tragedy victims. (b) No two of the services Collins provided were alike. (c) The primary market for Collins' services was very small, only those lawyers who were dedicated to providing the best legal representation possible. (d) Over the 15 years Collins provided his service to over 600 tragedies with over 98% achieving their goal. And, (e) should a bunch of lazy, insecure, unethical, lying lawyers ever want to destroy Collins' service, they wouldn't have to go outside their own, local industry to find a hitman to destroy it.

28. The latter uniqueness is what happened to Collins in "*the free state*" of Van Zandt County, Texas. All it took to achieve "the scheme" to destroy Collins' service was some El Paso lawyers, who conspired with 2 women from El Paso, who conspired with at least one east Texas lawyers, who conspired with Van Zandt County law enforcement officers, the 294th district court's coordinator, district judges, the county tax collector, and every lawyers Collins hired to

represent him or attempted to hire to represent him.

Jurisdiction and Venue

29. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 (federal question), 18 U.S.C. § 1961, *et seq.* (the Racketeer Influenced and Corrupt Organizations Act), the Fourth and Fourteenth Amendments to the Constitution of the United States, 42 U.S.C. § 1983 and applicable principles of supplemental jurisdiction under 28 U.S.C. § 1367(a).

30. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391.

FACTUAL BASIS FOR CLAIMS

Introduction

31. Before moving to Edom, Texas in Van Zandt County in 1993, Plaintiff had established a profitable business in Forensic Documentation in El Paso, providing innovative ways for professionals and non-professionals to effectively communicate to decision makers (ie: jury) the sequence of events in an occurrence, crime or act such as: arson, burglary, automobile accidents, child abuse, defective products, divorce, industrial accidents, legal malpractice, medical malpractice, murder, rape, train collisions, white collar crimes and any other type of event that might lead to litigation.

32. Collins' business in El Paso had proved to be quite successful. Upon leaving town, he had a dispute with one lawyer concerning a settlement agreement about which he was consulted by both the attorney and the client. It was clear to him that the settlement was structured so as to excessively compensated the attorney for the work completed in the case, while under compensating the victim(s)/client for injuries/damages sustained. When Collins indicated his opinion about the proposed settlement agreement to the attorney and the client (as requested by

both), the attorney was displeased and refused to pay his fee of several thousand dollars.

33. Collins also had a dispute with another El Paso attorney who failed to pay his fee upon his completion of the work because she had chosen to leave her law practice and take an administrative position with a nationwide hospital chain.

34. Collins is of the opinion that these attorneys (one of which was employed by Defendant Jenna Scott) did contact or through a straw man to cause to be contacted certain if not all Defendants in the above styled cause and explain that a great deal of money was at stake, so that if certain files, documents, videos, reports and the like were obtained from Collins, they would likely benefit.

Beginning of Fraudulent Scheme

35. As Collins was departing from El Paso, Jenna Scott just happened to bump into him in the elevator and explain that she would be of great assistance in a business such as his since she had a court reporting business. As result of that initial meeting Collins and Scott decided to join forces and in fact moved and did reside together at a property in Edom, Texas in Van Zandt County. Their relationship extended beyond a professional one and became personal in nature.

36. During Collins and Scott's stint together in Edom, Jenna Scott made frequent visits to El Paso. Collins thought nothing of it as her family and prior business was there. Finally in February 1995 she told him that their personal relationship was not working and that she wanted to move back to El Paso.

37. Collins agreed and even helped Scott pack her personal belongings from the Edom residence. Scott spent one last night and they parted on what Collins thought was congenial terms. They had agreed that Collins would purchase the Edom property from her and Collins

employed Roxie Cluck to prepare the legal documents for them to sign. In April 1995 Cluck informed Collins that she could not prepare the closing papers because there was a sickness in her office. Collins notified Scott and she said that she would have one of her El Paso lawyer friends prepare the closing papers.

38. After several months without any contact from Jenna Scott's lawyer friend Malcolm McGregor, Collins called McGregor's office to check on the paperwork he was doing for Collins and Scott. The legal assistant asked Collins, "Oh, you mean the divorce?"

39. Collins was not aware of any divorce proceedings but knew he did not want to be tied up in legal proceedings in El Paso, so as a preemptive strike to have venue in his county, he filed a petition for divorce in Van Zandt County, Texas and promptly had Jenna Scott served.

40. The divorce proceedings should have been relatively simple in that there were no children from the relationship and there was no property to be divided. Despite these facts and that fact that Defendant Scott's attorney (Defendant Roxie Cluck) had only filed an Answer and entered an appearance on behalf of her client, she was paid \$20,000 for her legal services in the matter.

Illegal Search and Seizure

41. Plaintiff brings this case against Defendants for violations of the federal RICO statute, obstruction of justice, common law fraud, and for breach of fiduciary duty. Defendants were participants/part of an enterprise in a scheme to deprive Plaintiff of his intangible right to honest and fair judicial service and process and other constitutional rights which resulted directly in the loss of his home, business and personal property, business reputation and income.

42. On July 17, 1995 Van Zandt County Constable John Parrish, in the above styled cause, entered Plaintiff's home unlawfully, or at the very least stood by and allowed Defendants Jenna

Scott and Patricia Kimble to unlawfully enter, search and seize personal and business belongings of Plaintiff in and from Plaintiff's residence. During the search, the Plaintiff's personal and business files, containing client's private papers, were searched. After their search, Parrish, Scott and Kimble jointly made numerous seizures from Plaintiff's residence in violation of Plaintiff's constitutional rights under the Fourth and Fourteenth Amendments.

43. There was no probable cause. There was no search warrant. There was no court order authorizing any of these acts.

44. Although Scott later explained in legal proceedings that she needed copies of her tax returns, it is not reasonable or even plausible for a woman who could obtain copies from the IRS with relative ease for a small fee would enlist a friend (Patricia Kimble) to fly from El Paso and rent a car and drive to Edom, Texas and then enlist the aid of a constable (Parrish) to unlawfully enter someone else's residence without their permission simply to obtain copies of tax returns. As previously mentioned the separation/ending of the relationship was on relatively congenial terms and Collins and Scott had had at least two reasonable telephone conversations since her move from the residence.

45. Among the Plaintiff's business property stolen and never returned was videotape(s) of State Bar Investigators concerning an investigation of Collins, construction materials and supplies, and records in El Paso.

46. On September 10, 1995 Plaintiff was at home working when he was interrupted by the insistent barking of his dog. He went outside to find a stranger behind some trees just over the property fence about 150 feet from his home. Plaintiff recognized the man as Parrish and noticed something in Parrish's hand that looked like a gun. Afraid Plaintiff retreated inside, but Plaintiff

decided to face Parrish without anything to defend himself. When he went back outside and yelled to Parrish, Parrish ran to his car and sped off.

47. Served with a notice to appear and show cause on Friday, September 8, 1995 at approximately 8:30 p.m. by Roxie Cluck's paralegal to appear on Monday, September 11, 1995 at 9:00 a.m.

Pattern of Fraudulent Conduct and Manipulation of the Judicial System

48. The fraudulent acts committed by the Defendants as part of their dealings with Plaintiff in legal proceedings are not isolated but rather are part of a fraudulent pattern of conduct through which Defendants illegally manipulated the judicial system in such a way to deprive Plaintiff of his constitutional rights under the Fourth and Fourteenth Amendments and his intangible right to honest judicial administration.

49. Through an enterprise comprised of individuals, Defendants conspired to and/or did deprive Plaintiff of his intangible right to due process and honest judicial administration through a scheme by which Defendants intentionally and wilfully made misrepresentations, omissions and concealment of material facts that caused:

- (1) Plaintiff to be tied up in court despite the relative simplistic nature of the divorce proceedings and Plaintiff's outstanding Motions to Dismiss and for NonSuit;
- (2) hearings to be continued for which Plaintiff appeared in order to delay and prolong his legal proceedings; and
- (3) obstruction of justice where Defendants failed to notify or actively concealed hearing dates and trial dates from Plaintiff with the

intention that Plaintiff would not and/or could not appear for these hearings without proper and/or timely notice; and Defendants would have the hearing in Plaintiff's absence.

50. Attached hereto and incorporated herein by reference for all purposes is a chronology of events which refers to various facts and exhibits.

COUNT I - RICO

51. Plaintiff repeats and realleges each of the allegations contained in paragraphs 1-50 as if fully set forth herein.

52. At all relevant times, each of the Defendants was a "person" within the meaning of RICO, 18 U.S.C. §§ 1961(3), 1962^o and (d) and 1964(c).

53. At all relevant times, Defendants formed an association-in-fact for the purpose of defrauding Plaintiff. This association-in-fact was an "enterprise" within the meaning of RICO, 18 U.S.C. § 1961(4).

54. At all relevant times, this enterprise was engaged in, and its activities affected, interstate and foreign commerce, within the meaning of RICO, 18 U.S.C. § 1962 (c).

55. At all relevant times, Defendants associated with this enterprise conducted or participated, directly or indirectly, in the conduct of the enterprise's affairs through a "pattern of racketeering activity" within the meaning of RICO, 18 U.S.C. § 1961 (5), in violation of RICO, 18 U.S.C. § 1962 (c).

56. Specifically, at all relevant times, Defendants engaged in "racketeering activity" within the meaning of 18 U.S.C. § 1961 (1) by engaging in the acts set forth above. The acts set forth above constituted a violation of one or more the following statutes: 18 U.S.C. § 1341 (mail fraud) and

18 U.S.C. § 1343 (wire fraud). Defendants and other Conspirators each committed and/or aided and abetted the commission of two or more of these acts of racketeering activity.

57. The acts of racketeering activity referred to in the previous paragraph constituted a "pattern of racketeering activity" within the meaning of 18 U.S.C. § 1961 (5). The acts alleged were related to each other by virtue of common participants, a common victim (Plaintiff), a common method of commission, and the common purpose and common result of depriving Plaintiff of his constitutional rights of due process, against unlawful search and seizure, right of honest judicial administration, and statutory right of proper judicial administration (by Defendants manipulating the judicial system and obstructing justice) at Plaintiff's expense while concealing the Defendants'/Conspirators' fraudulent activities. The fraudulent scheme continued for over 4 years and threatens to continue longer but for the institution of this case.

58. As a result of Defendants and the other Conspirators' violation of 18 U.S.C. § 1962 (c), the Plaintiff lost his home, business reputation, income from the business, business property and personal property that was never returned to him because of the fraudulent scheme.

59. As a result of their misconduct, Defendants are liable to Plaintiff for his losses and damages in an amount to be determined at trial.

60. Pursuant to RICO, 18 U.S.C. § 1964 (c), Plaintiff is entitled to recover threefold his damages plus costs and attorneys' fees from Defendants.

61. The pattern of racketeering engaged in by the Defendants involved fraudulent acts in support of the above schemes constituting mail fraud (18 U.S.C. § 1341) and wire fraud (18 U.S.C. § 1343), all of which is "racketeering activity" as defined in 18 U.S.C. § 1961(1)(B).

62. There are numerous predicate acts of mail and wire fraud related to Plaintiff. These

predicate acts include mailings containing misrepresentations or omissions made in furtherance of the schemes, telephone calls containing misrepresentations or omissions made in furtherance of the schemes and facsimile transmissions containing misrepresentations or omissions in furtherance of the schemes. These predicate acts and evidence of the schemes constituting the pattern of racketeering, include, but are not limited to, the following mail fraud and wire fraud.

63. As result of the pattern of racketeering activity, Plaintiff and others? Suffered damages to business and property.

64. The predicate acts committed by Defendants relating to the Plaintiff include, but are not limited to, those described earlier in this complaint.

65. Plaintiff relied upon the misrepresentations and omissions directed at Plaintiff by Defendants as part of their pattern of racketeering activity and as direct result suffered damage to his business and property.

COUNT II - RICO CONSPIRACY

66. Plaintiff repeats and realleges paragraphs 1 through 65 as if fully set forth herein.

67. At all relevant times, Plaintiff was a "person" within the meaning of RICO, 18 U.S.C. §§ 1961(3) and 1964(c).

68. At all relevant times, Defendants and the Conspirators were each a "person" within the meaning of RICO, 18 U.S.C. §§ 1961 (3) and 1962(d).

69. At all relevant times, Defendants formed an association-in-fact for the purpose of defrauding Plaintiff. This association-in-fact was an "enterprise" within the meaning of RICO, 18 U.S.C. § 1961(4).

70. At all relevant times, this enterprise was engaged in, and its activities affected, interstate and foreign commerce, within the meaning of RICO, 18 U.S.C. § 1962(c).

71. As set forth in Count One, Defendants and each of the other Conspirators associated with this enterprise conducted or participated, directly or indirectly, in the conduct of the enterprise's affairs through a "pattern of racketeering activity" within the meaning of RICO, 18 U.S.C. § 1961(5), in violation of 18 U.S.C. § 1962(c).

72. At all relevant times, Defendants and other Conspirators each were associated with the enterprise and agreed and conspired to violate 18 U.S.C. § 1962(c), that is agreed to conduct and participate, directly and indirectly, in the conduct of the affairs of the enterprise through a pattern of racketeering activity, in violation of 18 U.S.C. § 1962(d).

73. Defendants and other Conspirators committed and cause to be committed a series of overt acts in furtherance of the Conspiracy and to affect the objects thereof, including but not limited to the acts set forth above.

74. As a result of Defendants and the other Conspirators' violations of 18 U.S.C. § 1962(d), Plaintiff lost his business and personal property, income from his business, and was deprived of his constitutional rights of due process, honest judicial administration where Defendants illegally manipulated the judicial system to obstruct justice.

75. As result of the Conspiracy, Defendants are liable to Plaintiff for his losses in an amount to be determined at trial.

76. Pursuant to RICO, 18 U.S.C. § 1964(c), Plaintiff is entitled to recover threefold his damages plus costs and attorneys' fees from Defendants.

77. At all times relevant to this Complaint, Defendants were an association-in-fact enterprise

84. Defendants conduct was knowing, intentional, with malice, demonstrated a complete lack of care, and was in conscious disregard for the rights of Plaintiff. Plaintiff is therefore entitled to an award of punitive damages from Defendants.

COUNT IV - BREACH OF FIDUCIARY DUTIES

85. Plaintiff repeats and realleges each of the allegations contained in paragraphs 1 through 84 as if fully set forth herein.

86. Defendant Roxie Cluck undertook to act as Plaintiff's attorney to prepare an earnest money contract concerning the property in Edom (Van Zandt County), Texas. Plaintiff paid her with a check in the amount of \$100.

87. Plaintiff reasonably relied on Defendant Cluck's representations and promise that she would independently and objectively advise Plaintiff concerning the earnest money deed in a manner that would primarily serve the interests of Plaintiff that Plaintiff had divulged to Cluck in confidence. Plaintiff reasonably placed confidence in Cluck, due in part to her expressed expertise in such transactions and her attorney-client relationship, and Defendant Cluck thereby acquired influence over Plaintiff's decisions concerning the earnest money deed. The representations and promises of Cluck and Plaintiff's foreseeable and reasonable reliance on them gave rise to a fiduciary relationship between Defendant Cluck and Plaintiff.

88. Defendants Cluck, Currin and Conner owed Plaintiff fiduciary duties of loyalty, of utmost good faith and integrity, to make full and accurate disclosure of material facts, to abstain from self-dealing at the expense of Plaintiff, and to exercise the care, skill and diligence towards Plaintiff's rights and assets that a reasonably prudent person would exercise in regard to his own property. Defendants Cluck, Currin and Conner owed Plaintiff the duty to disclose fully and all

material risks inherent in legal proceedings. Defendants' misrepresentations and failure to disclose further constituted a breach of the duty of loyalty in that Defendants' interest in the transaction were adverse to those of Plaintiff. Defendants took advantage of the trust placed by Plaintiff in Defendants.

89. As a proximate result of such breaches of duty, Plaintiff has been damages as previously alleged. Moreover, such breaches of duty violated attorney-client privileges and Plaintiff's civil rights and intangible entitlement to honest judicial service.

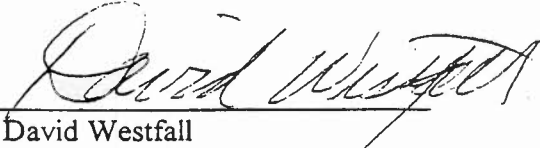
90. Defendants' conduct was reckless, willful and wanton, with malice, demonstrated a complete want of care and attention to duty, and was in conscious disregard of Plaintiff's rights. Plaintiff is therefore entitled to an award of punitive damages from Defendants.

WHEREFORE, Plaintiff respectfully prays that this Court enter Judgment in his favor and against Defendants, jointly and severly, as follows:

1. Awarding Plaintiff's actual and compensatory damages;
2. Awarding Plaintiff treble damages;
3. Awarding Plaintiff punitive damages;
4. Prejudgment and postjudgment interest in the maximum amount allowed by law;
5. Ordering Defendants to produce and to deliver to Plaintiff any and all of Plaintiff's business and/or personal property they still maintain;
6. Awarding Plaintiff his costs, expenses and attorney's fees incurred in prosecuting this action; and
7. Granting such other relief as may be appropriate.

Respectfully submitted,

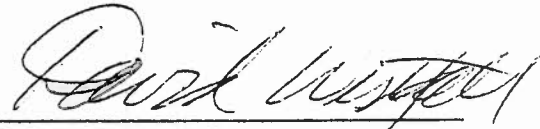
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By: 
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ATTORNEY FOR PLAINTIFF

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been served upon opposing counsel via pdf/Class mail on this the 7th day of July, 1999.


G. David Westfall

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

JERRY MICHAEL COLLINS,

Plaintiff,

VS.

RICHARD LAWRENCE, et al.

Defendants.

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CIVIL ACTION NUMBER 399CV0641-P

**BRIEF IN SUPPORT OF PLAINTIFF'S
RESPONSE TO DEFENDANTS' WALLACE, ZIMMERMAN AND DIXON'S
MOTION FOR SUMMARY JUDGMENT**

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42 U.S.C. § 1983 14

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

JERRY MICHAEL COLLINS,

Plaintiff,

VS.

RICHARD LAWRENCE, et al.

Defendants.

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CIVIL ACTION NUMBER 399CV0641-P

**BRIEF IN SUPPORT OF PLAINTIFF'S
RESPONSE TO DEFENDANTS' WALLACE, ZIMMERMAN AND DIXON'S
MOTION FOR SUMMARY JUDGMENT**

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

COMES NOW, Jerry Michael Collins, Plaintiff in the above-numbered and styled cause, pursuant to Federal Rule of Civil Procedure 56 and hereby submits Plaintiff's Brief in Support of Plaintiff's Response to Defendants Tommy Wallace, James Zimmerman, and Leslie Dixon's, Motion for Summary Judgment and in support thereof would show the Court as follows:

In support of Plaintiff's Response and Brief in Support of Plaintiff's Response to Defendants' Motions for Summary Judgment, Plaintiff relies on all supporting documents, affidavits, briefs, etc. filed in response to the other Defendants' motions for summary judgment.

STATEMENT OF THE GENUINE ISSUES OF FACT

1. Whether Defendants conspired to and/or did deprive Plaintiff of his constitutional rights of due process of law and honest judicial administration.
2. Whether Defendants conspired to and/or did obstruct justice with regard to Plaintiff.
3. Whether Defendant Wallace is entitled to judicial immunity based on acts that Plaintiff asserts did not constitute “judicial acts” and deviated from Defendant’s judicial capacity.
4. Whether Defendant Dixon was acting in a prosecutorial role, entitling her to prosecutorial immunity.

REQUIREMENTS OF CIVIL RICO

A. Plaintiff’s claims are not time barred

Defendants argue that the racketeering actions dating back to 1994, alleged in Plaintiff’s original complaint, are outside the four year statute of limitations since Plaintiff filed his complaint on March 30, 1999. Plaintiff does not dispute the well established rule that civil RICO claims are subject to a four year statute of limitations. *Agency Holding Corp. v. Malley-Duff & Assocs.*, 483 U.S. 143, 156, 107 S.Ct. 2759, 97 L.Ed.2d 121 (1987).

The United States Supreme Court acknowledged a split among the circuits regarding whether a RICO cause of action accrues upon discovery of the injury alone or upon the discovery of both the injury and the pattern of racketeering activity. *Klehr v. A.O. Smith Corp.*, ___ U.S. ___, 117 S. Ct. 1984, 1989, 138 L.Ed.2d 373, 384 (1997). The Fifth Circuit then expressly established that a RICO cause of action accrues upon the discovery of the injury in question.

Rotella v. Wood, 147 F.3d 438, 440 (5th Cir. 1998).

At issue is when Plaintiff discovered the injury he sustained, *not* when the racketeering activity began. The beginning of Plaintiff's discovery was on or about July 17, 1995 when his residence was unlawfully searched and numerous business and personal files (among other things) were seized from his home. This was when Plaintiff first discovered the injury. Applying the four year statute of limitations for civil RICO claims, Plaintiff's complaint was timely filed on March 30, 1999. Plaintiff's civil RICO claims are not barred by the statute of limitations.

Having filed his complaint on March 30, 1999, Plaintiff timely and properly filed his complaint within the four year statute of limitations.

B. Conspiracy Allegations sufficient to withstand Motion for Summary Judgment

Plaintiff's First Amended Complaint contains numerous fact specific allegations of conspiracy, active cooperation and joint conduct of Defendants. The allegations contained in Plaintiff's First Amended Complaint in addition to the fact specific affidavit of Plaintiff, attached hereto as Exhibit A and incorporated herein by reference for all purposes as if set forth fully herein, are sufficiently specific conspiracy allegations to withstand a motion to dismiss and in the case at bar a motion for summary judgment where there are, as Plaintiff demonstrates, facts that show genuine issues of material and disputed facts.

There is ample basis for contending that there was joint conduct and a conspiracy to deprive the Plaintiff of his rights and property:

Defendant Wallace

Wallace acted in concert with Betty Davis his Court Coordinator, Leslie Dixon the District Attorney for Van Zandt County, Roxie Cluck (attorney for Jenna Scott) and others with the intention and scheme in mind to deprive Plaintiff of his constitutional rights of due process,

against unlawful search and seizure, for honest and due judicial administration, in violation of statutory provisions prohibiting obstruction of justice. The scheme involved keeping Plaintiff tied up in court, delaying and denying Plaintiff's motions, misrepresenting and concealing material facts from Plaintiff concerning hearing and trial dates for his legal proceedings with the intent that Plaintiff would not be able to appear timely for certain hearings and other settings improperly noticed.

Plaintiff wrote Wallace letters on two occasions describing an assault upon Plaintiff at Wallace's courthouse, just outside his courtroom, just prior to the September 11, 1995 hearing (which was continued). Wallace did nothing. Wallace did not respond. When Plaintiff physically went to the courthouse to speak with Wallace, Wallace's bailiff explained that the Judge said to take the matter to Dixon. (See Exhibits A and 18.)

On the September 21, 1995 hearing Wallace was visibly angry with Plaintiff, despite the fact that this was Plaintiff's first appearance before Wallace. It was clear to Collins that Wallace knew who Collins was and knew a great deal of information about him before Plaintiff ever set foot in Wallace's courtroom.¹ Wallace's demeanor and comments in the courtroom evidenced his bias and evident partiality. He raised his voice saying "Hurry up," admonishing Plaintiff, "you get you a lawyer." He stood up from the bench after granting temporary injunction against Plaintiff, and as he was storming off, he continued talking to Plaintiff and pointing his finger at Plaintiff saying "you have until tomorrow to get your things." (See Exhibit A.)

¹Wallace had been notified that the County was a Defendant in a separate civil legal proceeding filed by Collins against the County and other County officials for violations of his civil rights. Furthermore, there had been more than one front page newspaper article in the local newspapers about Collins' lawsuit against the County. (See Exhibit 2.)

Wallace intentionally denied Plaintiff's requests for dismissal and/or nonsuit, and it was clear that such denials were for no other reason than part of a conspiracy to keep Plaintiff in court, as evidenced by Wallace's comment, "I'm sure Mr. Collins would have withdrawn earlier if he could have." (See Exhibits A and 23.)

Joyce Fugate the County Tax Collector refused to provide Plaintiff appropriately requested tax information on his registered van, saying she would not furnish the information without a court order from Wallace. (See Exhibit A.) Wallace obviously contacted Fugate and warned her not to provide the information to Plaintiff.

Wallace never responded to Plaintiff's requests and motions for a copy of the September 21, 1995 statement of facts. Neither he nor his court coordinator ever responded. When Plaintiff called and requested to speak with Wallace, Betty Davis once said he was not there; and once he was tied up. She never returned the calls Plaintiff placed to the Judge or those made to her. It is clear that Wallace did not want Plaintiff to obtain a copy of the statement of facts because of his comments and demeanor. (See Exhibit A.)

Wallace conspired with Betty Davis, and Roxie Cluck to have a hearing in Plaintiff's absence on the Motion for NonSuit and did have a hearing on June 23, 1997 in Plaintiff's absence without notifying Plaintiff of such a hearing and without making a record of the proceeding. (See Exhibit A.) The court reporter Linda Bragg stated, "...I was the reporter for that day, but I did not report anything having to do with your case." (See Exhibit 39.)

Roxie Cluck (opposing counsel in the divorce proceeding) filed the Motion for NonSuit in February 1997 and mailed it to Plaintiff at an address which she knew was not Plaintiff's current address. Plaintiff had notified Cluck and the court in writing of his current address in Galveston.

Neither the court nor opposing counsel ever notified Plaintiff of the hearing date on the Motion for NonSuit. (See Exhibit A.) The copy Plaintiff received contained blanks to be filled in under the fiat. (See Exhibit 32.)

Wallace conspired with Betty Davis and others to conceal from Plaintiff the trial setting of another legal proceeding I had filed against Wallace and the County (Cause No. 97-109 in Wallace's court). Wallace and B. Davis never granted Plaintiff any of his requests for hearings in cause number 97-109. (See Exhibit 40.) On May 9, 1998 Plaintiff requested the Wallace Court via Betty Davis set the Collins v. Cluck, et al. matter for trial. (See Exhibit 40.) Wallace and B. Davis conspired to and prepared a jury trial notice dated May 14, 1998, but waited six days to mail it. (It was postmarked May 20.) (See Exhibit 41.) May 20 is one day after the deadline for the parties to submit their list of exhibits, depositions, jury instructions, etc. The notice required submission no later than May 19, 1998. Because of the Memorial Day Holiday, Wallace and B. Davis expected that Plaintiff would not receive the jury trial notice on Tuesday, May 26.

Knowing that Plaintiff would not receive proper or timely notice of the Collins v. Cluck et al. Jury trial, Wallace expected that Plaintiff would not know to appear for trial on May 26, 1998, so Zimmerman was assigned to the case. (See Exhibit 38.)

On one occasion when Plaintiff visited the Wallace court and spoke with B. Davis about a setting Plaintiff needed in order to be ready for the summary judgment hearing on August 28, 1998. B. Davis told Plaintiff that Wallace said to set everything on the same day. Plaintiff explained to B. Davis that it was not fair because there was information that hr needed in order to be prepared for the Motion for Summary Judgment hearing. Before she could reply, a man's voice behind Plaintiff said, "It sounds fair to me." It was Judge Wallace standing behind Plaintiff

in the Court Coordinator's office in his street clothes.

Defendant Dixon

Dixon conspired and/or did participate in a scheme by which Defendants deprived Plaintiff of his constitutional right of due process, unlawful search and seizure, right to due process unfettered and without obstruction of justice. There is ample evidence of her active participation in the conspiracy as follows.

Plaintiff complained on more than one occasion to Dixon about Defendant Parrish (a Van Zandt County Constable) and others breaking into his home and stealing his business and personal property. (See Exhibits A and 13.) Despite Plaintiff's repeated requests for help to Dixon, she refused to act on, investigate, or even involve her office with complaints and criminal allegations Plaintiff made against county officials and others.

When Wallace's bailiff informed Plaintiff that the Judge said to take the assault matter (that occurred in September 1995) to Dixon, Plaintiff immediately went to Dixon's office and was referred to an investigator named Sullivan. Sullivan took Plaintiff's letter to the copy machine. While Plaintiff was standing only 10 feet away from Sullivan, Plaintiff saw Dixon bump into Sullivan and ask him what he was doing. She told him, "Our office is not getting involved in that matter." (See Exhibit A.) The entire encounter between Sullivan and Dixon did not take more than 5 to 10 seconds.

C. Circumstantial evidence is sufficient to establish conspiracy

Circumstantial evidence alone can establish the existence of a conspiracy and just because the Defendants deny the existence of the conspiracy does not entitle them to a judgment.

Conspirators rarely formulate their plans in ways susceptible of proof by evidence. *Crowe v.*

Lucas, 595 F.2d 985, 993 (5th Cir. 1979). If there is evidence of a circumstantial nature that would allow a jury to find that a conspiracy existed, then the Court cannot remove the case from a jury to prevent a trial over the claims of conspiracy. The United States Supreme Court made this clear in *Adickes v. S.H. Kress & Co.*, 398 U.S. 144 (1970).² In *Adickes* the Supreme Court said it was error to grant a summary judgment and not allow a claim of conspiracy to go to the jury. The Supreme Court in *Celotex v. Catrett*, 477 U.S. 317 (1986) said *Adickes* was still good law and did not reverse the holdings in *Adickes v. S.H. Kress & Co.*

To have an actionable conspiracy claim, the Plaintiff must establish (1) the existence of any express or implied agreement among the Defendants to deprive them of their constitutional rights, and (2) an actual deprivation of those rights resulting from that agreement. *Ting v. United States*, 927 F.2d 1504, 1512 (9th Cir. 1991); *see also, Pfannstiel v. Marion*, 918 F.2d 1178, 1187 (5th Cir. 1990). A conspiracy does not require an overt act. *United States v. Skillman*, 922 F.2d 1370, 1373 n.2 (9th Cir. 1990). Once a conspiracy is established, the Defendant must only have a slight connection to link him with the conspiracy. *United States v. Skillman*, 922 F.2d 1370, 1373

²The Plaintiff in *Adickes* was a “white” civil rights worker. Ms. Adickes, after being refused service at a lunch counter, was arrested when she left the store. She was arrested for the groundless charge of vagrancy. In a suit against the arresting officers and Kress, S.H. Kress and Company filed summary judgment and submitted an affidavit from its manager saying that the decision to arrest the Plaintiff Adickes was made solely by a police officer without any direction, etc. from Kress’s store manager or employees. In response to this Adickes demonstrated, through the use of circumstantial evidence, that S.H. Kress & Co.’s manager and employees had consulted with one another and the police, presumably about her arrest, before the arrest occurred. Adickes said that because Kress had not demonstrated that the arresting police officer was not present when she was refused service while she was in the company of her black friends, that Kress was not entitled to a summary judgment. The Supreme Court agreed and said in order to be entitled to summary judgment that it was incumbent for Kress to demonstrate that there was no policeman in the store when Adickes was refused service.

(9th Cir. 1990) (citing *United States v. Hernandez*, 876 F.2d 774, 770 (9th Cir. ___), *cert. denied*, 493 U.S. 863, 110 S.Ct. 179, 107 L.Ed.2d 135 (1989)). Anyone who commands, directs, advises, encourages, procures, instigates promotes, controls, aids, or abets a wrongful act by another, is regarded by the law as being just as responsible for the wrongful act as the one who actually committed it. *Grandstaff v. City of Borger*, 767 F.2d 161, 168 (5th Cir. 1985).

ALLEGED IMMUNITIES

A. Absolute Judicial Immunity

The United States Supreme Court established that judge's actions enjoyed absolute judicial immunity for "judicial acts." *Stump v. Sparkman*, 435 U.S. 349 (1978). *Stump* cited *McAlester v. Brown*, 469 F.2d 1280 (5th Cir. 1972) approvingly for the factors taken into consideration in determining whether a "judicial act" was involved.

The four factors *McAlester* outlined are whether (1) the precise act complained of is a normal judicial function; (2) the acts/events occurred in the courtroom or in chambers; (3) controversy centered around the case pending before the court; and (4) acts arose directly out of a visit to the judge in his official capacity.

As Plaintiff has alleged in his complaint (See Plaintiff's First Amended Complaint) and detailed in his Affidavit, attached hereto and incorporated herein as if set forth fully, one of his encounters with Wallace occurred on or about August 21, 1998 when Plaintiff went to the court and asked Betty Davits to schedule a hearing prior to August 21, 1998 pursuant to Plaintiff's previously filed Motion to Order Production of the Statement of Facts. She responded that the judge told her to set everything for August 28, 1998 so Plaintiff's hearing on his Motion would be on that date. Plaintiff protested, explaining that in order to be prepared for the hearing set for

August 28, he needed a hearing on his motion. He felt that it was not fair. A man's voice from behind Plaintiff replied, "It sounds fair to me." It was Wallace speaking; he was in his street clothes (not in his robe). This exchange occurred not in the courtroom or in chambers but in Betty Davis' office.

Plaintiff asserts that Wallace and Betty Davis' denial and refusal to set Plaintiff's Motion for hearing was part of a scheme and conspiracy to deprive Plaintiff of his constitutional right of due process, honest judicial administration, and as retribution for filing a claim against the Van Zandt County.

...[W]hen it is beyond reasonable dispute that a judge acted out of personal motivation and has used his judicial office as an offensive weapon to vindicate personal objectives, and it further appears that no party has invoked the judicial machinery for any purpose at all, then the judge's actions do not amount to "judicial acts." These nonjudicial acts...are not cloaked with judicial immunity from suit under [42 U.S.C.A.] § 1983.

Harper v. Merckle, 638 F.2d 848, 859 (5th Cir. 1981).

The Court in *Harper* held that a county judge was not able to assert absolute immunity where although the court found the judge was performing a normal judicial function of swearing in Plaintiff and the actions clearly took place in the judges chambers. The court found that the controversy leading to Plaintiff's incarceration did not center around the matter pending before the judge, but rather around domestic problems of one of the Judge's friends (Plaintiff's former wife). The problems were brought to the judge's attention in a social, not judicial forum. And finally the Court found Plaintiff did not visit the judge in his official capacity.

Plaintiff in the case at bar asserts that the encounter with Wallace described above was a nonjudicial act because it took place outside the courtroom and outside chambers in Betty Davis'

office, because Plaintiff was not visiting the judge in his official capacity, because the judge was wearing street clothes, and not his robe, because the controversy centered around what was “fair” and Wallace’s personal involvement in an unrelated legal proceeding as a Defendant clouded his judgment causing bias and evident partiality and caused Wallace to use his judicial office as an offensive weapon to vindicate personal objectives.

B. Prosecutorial Immunity

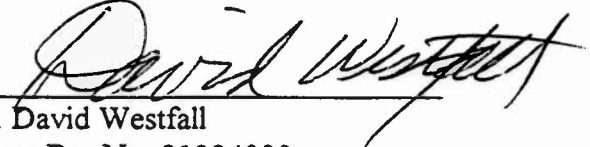
Plaintiff does not dispute Defendants’ proposition that a prosecutor enjoys absolute immunity from civil suit from initiating and pursuing a criminal prosecution. *Imbler v. Pachtman*, 424 U.S. 409, 430, 96 S.Ct. 984, 47 L.Ed.2d 128 (1976). However, a prosecutor does not enjoy absolute immunity for acts of investigation or administration. *Hart v. O’Brien*, 127 F.3d 424, 439 (5th Cir. 1997)(citing *Buckley v. Fitzsimmons*, 509 U.S. 259, 273, 113 S.Ct. 2606, 2615, 125 L.Ed.2d 209 (1993)).

Plaintiff’s allegations concerning Dixon never assert a cause of action for her initiation or prosecution of criminal complaints. In fact, Plaintiff’s cause of action is for Dixon’s failure to prosecute, failure to investigate his criminal complaints against Parrish and others as part of her participation in a conspiracy to deprive Plaintiff of his constitutional right of due process under color of law.

Plaintiff made requests to Dixon on more than one occasion for her to investigate Parrish and others regarding the illegal search of his home and illegal seizure of his personal and business property. (See Exhibits A and 13.) Dixon refused to investigate Plaintiff’s claims and before any true consideration was given to Plaintiff’s complaints, Dixon told an investigator in her office named Sullivan, “We are not getting involved with that matter.” (See Exhibit A.)

Respectfully submitted,

LAW OFFICES OF G. DAVID WESTFALL, P.C.
714 Jackson Street
700 Renaissance Place
Dallas, Texas 75202
(214) 741-4741
(214) 741-4746 Facsimile

By: 
G. David Westfall
State Bar No. 21224000

ATTORNEY FOR PLAINTIFF

CERTIFICATE OF SERVICE

I, G. David Westfall, hereby certify that a true and correct copy of the foregoing Plaintiff's Brief in Support of his Response to Defendants' Motion for Summary Judgment has been served upon:

Daniel E. Maeso
Assistant Attorney General
P.O. Box 12548, Capitol Station
Austin, Texas 78711

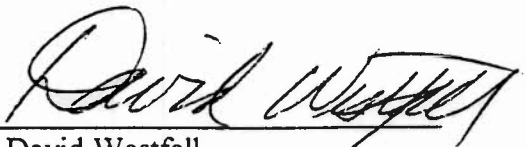
Leslie B. Vance
Assistant Attorney General
P.O. Box 12548, Capitol Station
Austin, Texas 78711

via:

Certified Mail/Return Receipt
Requested
 Facsimile Transfer
 First Class Mail

Federal Express
 Courier
 Hand-delivery

on this the ___ day of July, 1999.


G. David Westfall

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

JERRY MICHAEL COLLINS,

Plaintiff,

VS.

RICHARD LAWRENCE, et al.

Defendants.

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CIVIL ACTION NUMBER 399CV0641-P

AFFIDAVIT OF JERRY MICHAEL COLLINS

STATE OF TEXAS §
COUNTY OF DALLAS §

BEFORE ME, the undersigned authority, personally appeared Jerry Michael Collins, who, being by me duly sworn, deposed as follows:

"My name is Jerry Michael Collins. I am over the age of 21 and have never been convicted of a felony or misdemeanor I this state or any other state, or in the United States, and am competent to make this affidavit. I have personal knowledge of the facts stated herein.

"I am of the opinion that Defendants conspired to and/or did deprive me of my constitutional right to due process under color of law and my intangible right of honest and judicial service in a scheme to keep me tied up in court delaying and denying my motions, misrepresenting and concealing material facts from me concerning hearing and trial dates with the intent that I would not be able to appear timely for hearings and other settings improperly noticed.

"Although Wallace states in his affidavit in very vague language that he has difficulty remembering me and anything about my case, I know that he remembers me. In August 1995



there was substantial media coverage in the local newspapers of my lawsuit against Van Zandt County. The front-page articles would be difficult for local citizens to miss. (See Exhibit 2.) My divorce proceedings had been filed but not yet begun. Judge Tommy Wallace was the presiding judge during my divorce in the 294th District Court (Cause No. 95-385). My initial hearing was set to be heard on September 11, 1995.

“Immediately before the hearing began, I was confronted by a large, imposing man named Tom Chivers, who began accosting and assaulting me by poking me in the chest and yelling loudly at me. My lawyer (Barry Bilger) appeared at the September 11, 1995 hearing and had the matter continued to September 21, 1995. Barry Bilger and I saw Roxie Cluck (opposing counsel in the divorce proceeding) and Tom Chivers talking in the hall right before the September 11, 1995 hearing that was continued. Bilger asked her why she had invited Chivers down here to the hearing. The presence of Tom Chivers and his assault against me made me very afraid, so much so that I terminated my grandchildren's visits to my home in Edom from that day until September 21, 1995 (when I was no longer residing there).

“I know that Judge Wallace remembers me because I hand delivered a four page letter to him on September 12, 1995 concerning the above described assault one day after it occurred. (See Exhibit 18.) Judge Wallace did nothing. Approximately one week later I made a visit to Judge Wallace and told the bailiff that I wanted to speak with Judge Wallace about the incident about which I had written to him. The bailiff came back and said, ‘The Judge said take the matter to Dixon.’ (the Van Zandt County District Attorney.) I immediately went to her office and was referred to an investigator named Sullivan, who took my letter to the copy machine. As I was only standing 10 feet away from Mr. Sullivan, I saw Dixon and she recognized me and went

directly to Sullivan and asked him, 'What are you doing?' When he showed her my written complaint (that he was copying) and pointed to me, Dixon told him, 'Our office is not getting involved in that matter.'

"Dixon never acted as a District Attorney by initiating or pursuing any criminal prosecutions by virtue of any complaints I submitted to her office nor did she initiate or pursue any criminal prosecution of me individually. Dixon failed to investigate my criminal complaints against Parrish and others as part of her participation in the conspiracy and scheme to deprive me of my constitutional right of due process under color of law. I made requests to Dixon on more than one occasion for her to investigate Parrish and others regarding the illegal search of my home and illegal seizure of my personal and business property. (See Exhibit 13).

"When she told the investigator Sullivan that, 'our office is not getting involved in that matter,' I inferred from that and am of the opinion based upon that encounter, that she knew something other than what Mr. Sullivan had shown and told her. I am of the opinion that Wallace and Dixon spoke about me and my complaints and conspired to and/or did deprive me of my constitutional right of due process under color of law. The entire encounter between Dixon and Sullivan did not take more than 5 to 10 seconds. I wrote Judge Wallace again on November 4, 1996 for help concerning the assault against me, and he never responded. (See Exhibit 18.) Despite my repeated requests for help to Ms. Dixon, she refused to act on or investigate the criminal acts I alleged. (See Exhibit 13.) I complained on more than one occasion to Dixon about Parrish and others breaking into my home and stealing my property. (See Exhibit 13)

"I am of the opinion that Judge Wallace knew who I was and a considerable information about me before I ever set foot in his courtroom. He knew about me from the newspaper articles

and about my lawsuit against the county. (See Exhibit 2). The hearing on September 21, 1995 was the first hearing I ever had before Judge Wallace, and he was visibly angry with me. His demeanor and attitude in the courtroom demonstrated to me that there was evident partiality and that it was not in my favor. The Judge was so angry, so bitter, so pushy that I was absolutely astonished. After he made his ruling I asked him, 'How long I was going to have to get my property?' He said, 'Til tomorrow. I ain't going to give you anymore time!' During all of this time he was pointing his finger at me. He never required or even allowed a court reporter to produce the statement of facts of this hearing. It is clear to me that he did not do so because it would show his bias, prejudice, favoritism and evident partiality against me.

"During the hearing, when I was attempting to testify, Wallace raised his voice saying, 'Hurry up!', 'Is that all?', 'Is that your point?', 'Hurry up!', 'Move along!' admonishing me. He stood up from the bench, after granting a temporary injunction against me, and as he was storming off, he continued talking to me and pointing his finger at me saying, 'You have until tomorrow to get a lawyer, get your things and get out.'

"Judge Wallace intentionally denied my requests for dismissal/nonsuit, and it was clear to me that such denial was for no other reason than part of a conspiracy to keep me in court, as evidenced by his statement at the November 21, 1995 hearing: '**I'm sure Mr. Collins would have withdrawn earlier if he could have.**' (See Exhibit 23.)(Emphasis added.)

"Joyce Fugate the County Tax Collector refused to provide me appropriately requested tax information on my registered van, saying she would not furnish the information without a court order from Wallace. Wallace or one of his co-conspirators obviously contacted Fugate and warned her not to provide the information to me since I did not tell her why I needed the records.

“Wallace never responded to my requests and motions for a copy of the September 21, 1995 statement of facts. Neither he nor his court coordinator ever responded. When I called and requested to speak with Wallace, Betty Davis once said he was not there; and once said he was tied up. She never returned the calls I placed to the Judge or those made to her. It is clear that Wallace did not want me to obtain a copy of the statement of facts because of his comments and demeanor.

“Wallace conspired with Betty Davis, and Roxie Cluck to have a hearing in my absence on the Motion for NonSuit and did have a hearing on June 23, 1997 in my absence without notifying me of the hearing and without making a record of the proceeding. The court reporter Linda Bragg stated, ‘...I was the reporter for that day, but I did not report anything having to do with your case.’” (See Exhibit 39.)

“Roxie Cluck (opposing counsel in the divorce proceeding) filed the Motion for NonSuit in February 1997 and mailed it to me at an address which she knew was not my current address. Since I was pro se, I had notified Cluck and the court in writing of my current address in Galveston. (See Exhibit 30) Neither the court nor opposing counsel ever notified me of the hearing date on the Motion for NonSuit. The copy I received contained blanks to be filled in under the fiat. (See Exhibit 32.)

“Wallace conspired with Betty Davis and others to conceal from me the trial setting of another legal proceeding I had filed against Wallace and the County (Cause No. 97-109 in Wallace’s court). Wallace and B. Davis never granted me any of my requests for hearings in cause number 97-109. (See Exhibit 40.) On May 9, 1998 I requested the Wallace Court via Betty Davis to set the Collins v. Cluck, et al. matter for trial. (See Exhibit 40.) Wallace and B.

Davis conspired to and prepared a jury trial notice dated May 14, 1998, but waited six days to mail it. (It was postmarked May 20.) (See Exhibit 41.) May 20 is one day after the deadline for the parties to submit their list of exhibits, depositions, jury instructions, etc. The notice required submission no later than May 19, 1998. Because of the Memorial Day Holiday, Wallace and B. Davis expected that I would not receive the jury trial notice on Tuesday, May 26.

“Knowing that I would not receive proper or timely notice of the Collins v. Cluck et al. jury trial, Wallace expected that I would not know to appear for trial on May 26, 1998, so Zimmerman was assigned to the case. (See Exhibit 38.)

“On one occasion when I visited the Wallace court and spoke with B. Davis about a setting I needed in order to be ready for the summary judgment hearing on August 28, 1998. B. Davis told me that Wallace said to set everything on the same day. I explained to B. Davis that it was not fair because there was information that I needed in order to be prepared for the Motion for Summary Judgment hearing. Before she could reply, a man's voice behind me said, ‘It sounds fair to me.’ It was Judge Wallace standing behind me in the Court Coordinator's office in his street clothes.

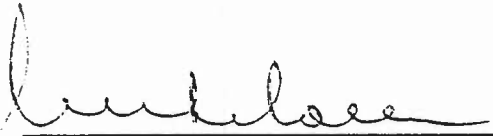
“I made requests in-person by phone to Wallace's court, attempting to obtain a copy of the statement of facts from the September 21 hearing. Neither Judge Wallace nor his court coordinator ever responded. On two occasions, while speaking with Betty Davis (Judge Wallace's court coordinator), I requested to speak with Judge Wallace about the statement of facts. Once he was not there; and once he was tied up. She never returned the calls I placed to the Judge or those I made to her.

“I sent a letter dated August 6, 1998 to three court reporters who were represented to me

to work for Judge Wallace and his court, asking each of them to verify whether or not they transcribed a hearing on the Motion for Nonsuit on June 23, 1997. (See Exhibit 39) All three court reporters stated that they did not report a hearing on that date for a Motion for Nonsuit in my divorce proceeding cause number 95-385. One of them, however, Linda Bragg responded, '...I was the reporter for that day, but I did not report anything having to do with your case.' (See Exhibit 39.)

Further affiant sayeth not.

Signed this 7th day of July, 1999.

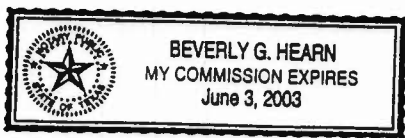

Jerry Michael Collins

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

Before me, a notary public, on this day personally appeared Jerry Michael Collins, known to me to be the person whose name is subscribed to the foregoing document and, being by me first duly sworn, declared that the statements therein contained are true and correct.

Given under my hand and seal of office this 7th day of July, 1999.


Notary



for deposit only

1560097

1560097

** TOTAL PAGE.03 **

Roxie W. Cloak

3-8-95
\$100

ONE Hundred AND NO/100

[Signature]

⑆11000025⑆ 5890293274

⑆000000⑆

Aug. 29 '95 15:10

ROXIE W. CLUCK

TEL 903-567-2863

P.

Roxie W. Cluck

ATTORNEY AT LAW

657 SOUTH HIGHWAY 18
P.O. BOX 998
CANTON, TEXAS 75103-0338
TEL 903-567-2136
FAX 903-567-2803

August 29, 1995

VIA TELECOPIER NO. (903) 833-5729
AND
U.S. MAIL

Jerry Michael Collins
Route 3, Box 3096-B
Edom, Texas 75754

Re: Cause No. 95-385; In the Matter of the Marriage of JERRY
MICHAEL COLLINS and JENNA LOUISE SCOTT; In the 294th Judicial
District Court of Van Zandt County, Texas

Dear Mr. Collins:

In reply to your faxed correspondence of August 27, 1995, requesting records, please note the following. This office previously prepared a residential earnest money contract between Jenna L. Scott as Seller and Michael Collins as Buyer covering approximately 1.00 acres of land, more or less, situated in the James Smith Survey, Abstract No. 825, Van Zandt County, Texas at the request of both parties. The document was picked up by both parties. It was not signed in this office, and I do not have any signed copy of the original contract of sale as none was ever returned to this office to my knowledge.

Please note further that I do not have any letter signed by Jenna Scott as referred to in Item 3 of your request.

I am enclosing a copy of the original proposed contract of sale drafted by this office along with a copy of the check from NationsBank indicating payment for the service.

I have no knowledge of any bank records allegedly taken from your home by my client and she specifically denies taking any of your bank records.

Any additional information or documents, if any, that might have been in the possession of this in regard to the proposed contract of sale were returned to you at your request on or about April 7, 1995.

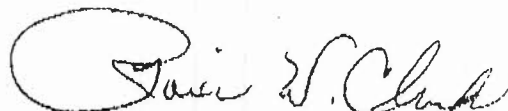
Aug. 29 '95 15:11

ROXIE W. CLUCK

TEL 903-567-2867

Jerry Michael Collins
August 29, 1995
Page 2

Sincerely,



Roxie W. Cluck

RWC/djt

Encls.

Aug. 29 '95 15:10

ROXIE W. CLUCK

TEL 903-567-2863

NationsBank | USA
Member FDIC
One of America's Largest Banks
NationsBank of Texas, N.A.
Tyler, TX

Pay
to the
order of

Roxie W. Cluck

ONE HUNDRED AND NO/100

\$100

3-8-95

1005
22-2/111
95

⑆11000025⑆ ⑆589029327⑆

Bank of



B

1001
32-2/1110
589

Courtroom Exhibit Experts
Special Account
AR3 Box 3026-A
San Wheeler, TX 75754

3-8-85 25.00

Pay to the order of Roxie W. Cloutier

ONE HUNDRED AND NO/100

Dollars
Roxie W. Cloutier

⑈00000100000⑈
⑈722620985⑈
⑈11000025⑈
⑈589029327⑈
⑈00000100000⑈

NationsBank USA
Member FDIC
National Bank of Texas, N.A.
Tyler, TX

Roxie W. Cloutier

for deposit only
acct # 7732

68 0 9 9 7

Return to 589-10829327-4
00-3/31/85
3 = MAR 31 1985

FBI DALLAS
-1110-0003-8
3/24/85 CWE

1708521

2-3 weeks)

(903-595-5555

KAREN

Docket as of September 22, 1999 5:42 pm

Web PACER (v1.2)

U.S. District Court
Northern District of Texas (Dallas)
CIVIL DOCKET FOR CASE #: 99-CV-641

Collins v. Lawrence, et al

Filed: 03/24/99
Assigned to: Judge Jorge A Solis
Jury demand: Both
Demand: \$0,000
Nature of Suit: 470
Lead Docket: None
Jurisdiction: Federal Question
Dkt# in other court: None
Cause: 18:1964 Racketeering (RICO) Act

JERRY MICHAEL COLLINS
plaintiff

G David Westfall, Attorney at
Law
214/741-4746 FAX
[COR LD NTC ret]
Law Office of G David Westfall
714 Jackson St
Suite 700
Dallas, TX 75202
USA
214/741-4741

v.

RICHARD LAWRENCE
defendant

Robert Scott Davis, Attorney at
Law
903/534-1650 FAX
[COR LD NTC ret]
L Charles Van Cleef, Attorney
at Law
903/534-1650 FAX
[COR ret]
Cooper Flowers Davis Frasier &
Derryberry
815 Rice Rd
Tyler, TX 75703
USA
903/534-8063

JOHN PARRISH
defendant

Robert Scott Davis, Attorney at
Law
(See above)
[COR LD NTC ret]
L Charles Van Cleef, Attorney

TRUMAN PRICE defendant	at Law (See above) [COR ret] Robert Scott Davis, Attorney at Law (See above) [COR LD NTC ret] L Charles Van Cleef, Attorney at Law (See above) [COR ret]
ROXIE CLUCK defendant	Roxie W Cluck, Attorney at Law 903/567-2863 FAX [COR LD NTC pse] Law Office of Roxie W Cluck PO Box 338 Canton, TX 75103-0338 USA 903/567-2136
DORIS SIPES defendant	Doris Sipes [COR LD NTC pse] [PRO SE] 1011 North Mesa El Paso, TX 79902 915/544-5236
MALCOLM MCGREGOR defendant	Malcolm McGregor [COR LD NTC pse] [PRO SE] 1011 N Mesa St El Paso, TX 79902 915/544-5230
TOMMY W WALLACE defendant	Daniel E Maeso, Attorney at Law [COR LD NTC ret] Leslie B Vance [COR ret] Attorney General of Texas Capitol Station PO Box 12548 Austin, TX 78711-2548 USA 512/463-2100
JENNA L SCOTT defendant	Jenna L Scott [COR LD NTC pse] [PRO SE] 4120 Rio Bravo #115 El Paso, TX 79902
PATRICIA KIMBLE defendant	Boyd Wray Naylor, Attorney at Law [COR LD NTC ret] Dudley Dudley Windle & Stevens 2501 North Mesa Suite 200 El Paso, TX 79902 USA 915/544-3090
HARRY TOM PETERSEN defendant	Harry Tom Petersen [COR LD NTC pse] [PRO SE] 1011 North Mesa St El Paso, TX 79902 915/544-5235
LESLIE P DIXON defendant	Daniel E Maeso, Attorney at Law (See above) [COR LD NTC ret] Leslie B Vance (See above)

BETTY DAVIS
defendant
[COR ret]
L Charles Van Cleef, Attorney
at Law
(See above)

RICHARD CURRIN
defendant
[COR LD NTC ret]
Richard Currin
[COR LD NTC pse] [PRO SE]
580 N 4th St
Wills Point, TX 75169
903/873-2889

JAMES B ZIMMERMANN
defendant
Daniel E Maeso, Attorney at Law
(See above)
[COR LD NTC ret]
Leslie B Vance
(See above)

ROBERT DAVIS
defendant
[COR ret]
Daryl Lee Derryberry, Attorney
at Law
[COR LD NTC ret]
Cooper Flowers Davis Frasier &
Derryberry
815 Rice Rd
Tyler, TX 75703
USA
903/534-8063

JOYCE FUGATE
defendant
Robert Scott Davis, Attorney at
Law
(See above)
[COR LD NTC ret]
L Charles Van Cleef, Attorney
at Law
(See above)

CHARLES VAN CLEEF
defendant
[COR ret]
Daryl Lee Derryberry, Attorney
at Law
(See above)

COYE CONNER, JR
defendant
[COR LD NTC ret]
David Michael Taylor, Attorney
at Law
214/871-8209 FAX
[COR LD NTC ret]
Thomas Archibald Culpepper,
Attorney at Law
[COR ret]
Thompson Coe Cousins & Irons
Crescent Office Tower
200 Crescent Court
Suite 1100
Dallas, TX 75201-1840
USA
214/871-8200

GREG K WINSLETT
defendant
Rowland B Foster, Attorney at
Law
214/651-4330 FAX
[COR LD NTC ret]
Strasburger & Price
Bank of America
901 Main Street
Suite 4300
Dallas, TX 75202
USA
214/651-4300

JOHN DOE

defendant
 MARY DOE
 defendant
 LOUIS B GOHMERT, JR
 defendant
 COYE CONNER, JR
 counter-claimant

David Michael Taylor, Attorney
 at Law
 214/871-8209 FAX
 [COR LD NTC ret]
 Thomas Archibald Culpepper,
 Attorney at Law
 [COR ret]
 Thompson Coe Cousins & Irons
 Crescent Office Tower
 200 Crescent Court
 Suite 1100
 Dallas, TX 75201-1840
 USA
 214/871-8200

v.
 JERRY MICHAEL COLLINS
 counter-defendant

G David Westfall, Attorney at
 Law
 214/741-4746 FAX
 [COR LD NTC ret]
 Law Office of G David Westfall
 714 Jackson St
 Suite 700
 Dallas, TX 75202
 USA
 214/741-4741

DOCKET PROCEEDINGS

DATE	#	DOCKET ENTRY
3/24/99	1	COMPLAINT filed; Filing Fee \$ 150.00 Receipt # 111104 (15+) (mlh) [Entry date 03/25/99]
3/24/99	2	WITHHOLDANCE OF SUMMONS as to defendant Richard Lawrence, defendant John Parrish, defendant Truman Price, defendant Roxie Cluck, defendant Doris Sipes, defendant Malcolm McGregor, defendant Tommy W Wallace, defendant Jenna L Scott, defendant Patricia Kimble, defendant Harry Tom Petersen, defendant Leslie P Dixon, defendant Betty Davis, defendant Richard Currin, defendant James B Zimmermann, defendant Robert Davis, defendant Joyce Fugate, defendant Charles Van Cleef, defendant Coye Conner Jr, defendant Greg K Winslett, defendant Louise B Gohmert Jr (mlh) [Entry date 03/25/99]
3/24/99	1	DEMAND for jury trial by plaintiff Jerry Michael Collins (mlh) [Entry date 03/25/99]
3/24/99	--	PRELIMINARY ASSIGNMENT TO Magistrate Judge Paul Stickney

(mlh) [Entry date 03/25/99]

- 3/31/99 3 WAIVER OF SERVICE Returned Executed as to Richard Lawrence
3/26/99 Answer due on 5/25/99 for Richard Lawrence (mlh)
[Entry date 04/01/99] [Edit date 04/02/99]
- 4/7/99 4 SUMMONS(ES) issued for defendant Louise B Gohmert Jr,
defendant Malcolm McGregor, defendant Leslie P Dixon,
defendant Patricia Kimble, defendant Jenna L Scott,
defendant Truman Price, defendant John Parrish, defendant
Joyce Fugate, defendant Harry Tom Petersen, defendant James
B Zimmermann, defendant Robert Davis, defendant Richard
Lawrence, defendant Coye Conner Jr, defendant Charles Van
Cleef, defendant Richard Currin, defendant Greg K Winslett,
defendant Doris Sipes, defendant Betty Davis, defendant
Roxie Cluck, defendant Tommy W Wallace (ISS-20) (lag)
[Entry date 04/08/99]
- 4/23/99 5 RETURN OF SERVICE executed as to defendant James B
Zimmermann 4/13/99 via personal service; Answer due on
5/3/99 for James B Zimmermann (mlh) [Entry date 04/26/99]
- 4/23/99 6 RETURN OF SERVICE executed as to defendant Betty Davis
4/13/99 via personal service; Answer due on 5/3/99 for
Betty Davis (mlh) [Entry date 04/26/99]
- 4/23/99 7 RETURN OF SERVICE executed as to defendant Coye Conner Jr
4/15/99 via personal service; Answer due on 5/5/99 for
Coye Conner Jr (mlh) [Entry date 04/26/99]
- 4/23/99 8 RETURN OF SERVICE executed as to defendant Richard Currin
4/14/99 via personal service; Answer due on 5/4/99 for
Richard Currin (mlh) [Entry date 04/26/99]
- 4/23/99 9 RETURN OF SERVICE executed as to defendant Roxie Cluck
4/14/99 via personal service; Answer due on 5/4/99 for
Roxie Cluck (mlh) [Entry date 04/26/99]
- 4/23/99 10 RETURN OF SERVICE executed as to defendant Truman Price
4/17/99 via personal service to atty Charles Van Cleef
Answer due on 5/7/99 for Truman Price (mlh)
[Entry date 04/26/99]
- 4/23/99 11 RETURN OF SERVICE executed as to defendant John Parrish
4/16/99 via personal service to atty Charles Van Cleef;
Answer due on 5/6/99 for John Parrish (mlh)
[Entry date 04/26/99]
- 4/23/99 12 RETURN OF SERVICE executed as to defendant Richard Lawrence
4/16/99 via personal service; Answer due on 5/6/99 for
Richard Lawrence (mlh) [Entry date 04/26/99]
- 4/23/99 13 RETURN OF SERVICE executed as to defendant Leslie P Dixon
4/14/99 via personal service; Answer due on 5/4/99 for
Leslie P Dixon (mlh) [Entry date 04/26/99]
- 4/23/99 14 RETURN OF SERVICE executed as to defendant Joyce Fugate
4/14/99 via personal service; Answer due on 5/4/99 for
Joyce Fugate (mlh) [Entry date 04/26/99]
- 4/23/99 15 RETURN OF SERVICE executed as to defendant Doris Sipes
4/14/99 via certified mail; Answer due on 5/4/99 for Doris
Sipes (mlh) [Entry date 04/26/99]

4/23/99 16 RETURN OF SERVICE executed as to defendant Tommy W Wallace 4/20/99 via personal service; Answer due on 5/10/99 for Tommy W Wallace (mlh) [Entry date 04/26/99]

4/23/99 17 RETURN OF SERVICE executed as to defendant Robert Davis 4/19/99 via personal service; Answer due on 5/10/99 for Robert Davis (mlh) [Entry date 04/26/99]

4/23/99 18 ANSWER to Complaint by defendant Truman Price, defendant Richard Lawrence, defendant Joyce Fugate, defendant John Parrish (Attorney Robert Scott Davis, L Charles Van Cleef) (7) (mlh) [Entry date 04/26/99]

4/23/99 19 MOTION by defendant Richard Lawrence, defendant John Parrish, defendant Truman Price, defendant Joyce Fugate to proceed without local counsel (3) (mlh) [Entry date 04/26/99]

4/23/99 20 RETURN OF SERVICE executed as to defendant Louis B Gohmert Jr 4/15/99 via personal service; Answer due on 5/5/99 for Louise B Gohmert Jr (mlh) [Entry date 04/26/99]

4/26/99 21 MOTION by defendant James B Zimmermann, defendant Leslie P Dixon, defendant Tommy W Wallace to dismiss under Rule 12(b)(6) alternatively for abatement of action including discovery by plf (11) (mlh) [Entry date 04/27/99]

4/27/99 22 ORDER granting [19-1] motion to proceed without local counsel (signed by jas) Copies to counsel: 4.28.99 Page(s) 1 (mlh) [Entry date 04/28/99]

4/27/99 23 SUMMARY JUDGMENT BRIEFING SCHEDULE...See order for specifics (signed by jas) Copies to counsel: 4.28.99 Page(s) 1 (mlh) [Entry date 04/28/99]

4/28/99 24 RETURN OF SERVICE executed as to defendant Charles Van Cleef 4/22/99 via certified mail; Answer due on 5/12/99 for Charles Van Cleef (mlh) [Entry date 04/29/99]

4/28/99 25 RETURN OF SERVICE executed as to defendant Greg K Winslett 4/21/99 via certified mail; Answer due on 5/11/99 for Greg K Winslett (mlh) [Entry date 04/29/99]

4/29/99 26 ANSWER to Complaint by defendant Betty Davis (Attorney L Charles Van Cleef), (7) (mlh) [Entry date 04/30/99]

4/29/99 27 MOTION by defendant Betty Davis for leave to proceed without local counsel (3) (mlh) [Entry date 04/30/99]

4/30/99 28 ANSWER to Complaint by defendant Doris Sipes, defendant Malcolm McGregor, defendant Harry Tom Petersen (10) (mlh)

4/30/99 29 MOTION by defendant Robert Davis, defendant Charles Van Cleef for leave to proceed without local counsel (3) (mlh)

4/30/99 30 ANSWER to Complaint by defendant Robert Davis, defendant Charles Van Cleef (7) (mlh)

5/3/99 31 MOTION by defendant Louis B Gohmert Jr to dismiss under Rule 12(b)(6) and to abate discovery and in the alternative original answer of Judge Louis B Gohmert Jr (4) (mlh) [Entry date 05/04/99]

5/3/99 32 MOTION by defendant Louise B Gohmert Jr for sanctions under Rule 11(b) (15+) (mlh) [Entry date 05/04/99]

5/3/99 33 MOTION by defendant Richard Currin for leave to proceed without local counsel (3) (mlh) [Entry date 05/04/99]

5/3/99 34 ANSWER to Complaint by defendant Richard Currin (7) (mlh) [Entry date 05/04/99]

5/3/99 35 ANSWER to Complaint by defendant Roxie Cluck (Attorney Roxie W Cluck), (9) (mlh) [Entry date 05/04/99]

5/3/99 36 MOTION by defendant Coye Conner Jr to dismiss or alternatively motion for summary judgment (3) (mlh) [Entry date 05/04/99]

5/3/99 37 MEMORANDUM by defendant Coye Conner Jr in support of [36-1] motion to dismiss or alternatively motion for summary judgment (15+) (mlh) [Entry date 05/04/99]

5/4/99 38 MOTION by defendant Coye Conner Jr for judicial notice (15+) (mlh) [Entry date 05/05/99]

5/4/99 39 MOTION by defendant Betty Davis to dismiss under Rule 12(b)(6), alternatively under Rule 7(a) FRCP "Shultea" for abatement of this action including discovery by plf until plf complies with the rules of pleading and the court has determined the issue of derived absolute judicial immunity as raised in dfts' motion for dismissal on the plf's pleadings (13) (mlh) [Entry date 05/05/99]

5/5/99 40 ANSWER to Complaint by defendant Greg K Winslett (Attorney Rowland B Foster), (6) (mlh) [Entry date 05/06/99]

5/10/99 41 CERTIFICATE OF CONFERENCE by defendant Charles Van Cleef, defendant Robert Davis Re: [29-1] motion for leave to proceed without local counsel (2) (mlh) [Entry date 05/11/99]

5/10/99 42 CERTIFICATE OF CONFERENCE by defendant Betty Davis Re: [27-1] motion for leave to proceed without local counsel (3) (mlh) [Entry date 05/11/99]

5/10/99 43 ORDER granting [27-1] motion for leave to proceed without local counsel (signed by jas) Copies to counsel: 5.11.99 Page(s) 1 (mlh) [Entry date 05/11/99]

5/10/99 44 ORDER granting [29-1] motion for leave to proceed without local counsel (signed by jas) Copies to counsel: 5.11.99 Page(s) 1 (mlh) [Entry date 05/11/99]

5/17/99 45 NOTICE of attorney appearance for plaintiff Jerry Michael Collins by G David Westfall (2) (mlh) [Entry date 05/18/99]

5/18/99 46 MOTION by plaintiff Jerry Michael Collins to extend time to respond to dft Gohmert's Rule 11b and 12b motions (6) (mlh) [Entry date 05/19/99]

5/19/99 47 STIPULATION by plaintiff Jerry Michael Collins, defendant Roxie Cluck to enlarge time for plf to respond to dft Cluck's 12B motion to dismiss (2) (mlh) [Entry date 05/20/99]

- 5/21/99 48 ORDER on the parties' stipulation to enlarge time Response to motion reset to 7/19/99 for [39-1] motion to dismiss under Rule 12(b)(6), alternatively under Rule 7(a) FRCP "Shultea" for abatement of this action including discovery by plf until plf complies with the rules of pleading and the court has determined the issue of derived absolute judicial immunity as raised in dfts' motion for dismissal on the plf's pleadings (signed by jas) Copies to counsel: 5.21.99 Page(s) 1 (mlh)
- 5/24/99 49 STIPULATION TO ENLARGE TIME for plf to respond to dft Conner's motion to dismiss, alternatively motion for summary judgment by plaintiff Jerry Michael Collins, defendant Coye Conner Jr (2) (mlh) [Entry date 05/25/99]
- 5/24/99 50 STIPULATION by plaintiff Jerry Michael Collins, defendant Doris Sipes to enlarge time for plf to respond to dft Sipes' 12B motion to dismiss (2) (mlh) [Entry date 05/25/99]
- 5/25/99 51 ORDER ON THE PARTIES' STIPULATION TO ENLARGE TIME...Time to respond to dfts motion to dismiss enlarged until 7/19/99 (signed by jas) Copies to counsel: 5.26.99 Page(s) 1 (mlh) [Entry date 05/26/99]
- 5/25/99 52 ORDER ON PARTIES' STIPULATION TO ENLARGE TIME...Time to respond to dft's Rule 12b motion to dismiss enlarged to 7/19/99 (signed by jas) Copies to counsel: 5.26.99 Page(s) 1 (mlh) [Entry date 05/26/99]
- 6/1/99 53 MOTION by plaintiff Jerry Michael Collins to extend time to respond to dfts Wallace, Zimmermann, Dixon's 12b motions (8) (mlh) [Entry date 06/02/99]
- 6/1/99 54 MOTION by defendant James B Zimmermann, defendant Tommy W Wallace, defendant Leslie P Dixon for summary judgment (4) (mlh) [Entry date 06/02/99]
- 6/1/99 55 MEMORANDUM by defendant James B Zimmermann, defendant Tommy W Wallace, defendant Leslie P Dixon in support of [54-1] motion for summary judgment (15+) (mlh) [Entry date 06/02/99]
- 6/1/99 56 APPENDIX by defendant Tommy W Wallace, defendant Leslie P Dixon, defendant James B Zimmermann in support of [54-1] motion for summary judgment (8) (mlh) [Entry date 06/02/99]
- 6/2/99 57 MOTION by defendant Joyce Fugate, defendant Richard Lawrence, defendant John Parrish, defendant Truman Price for summary judgment (4) (mlh)
- 6/2/99 58 MEMORANDUM by defendant Joyce Fugate, defendant Richard Lawrence, defendant John Parrish, defendant Truman Price in support of [57-1] motion for summary judgment (15+) (mlh)
- 6/3/99 59 MOTION by defendant Richard Lawrence, defendant John Parrish, defendant Truman Price, defendant Betty Davis, defendant Joyce Fugate, defendant Robert Davis, defendant Charles Van Cleef to extend time to file dfts' motion for summary judgment (4) (mlh)
- 6/3/99 60 APPENDIX by defendant Richard Lawrence, defendant John Parrish, defendant Truman Price, defendant Betty Davis,

defendant Robert Davis, defendant Joyce Fugate, defendant Charles Van Cleef in support of [57-1] motion for summary judgment (15+) (USC) (mlh)

- 6/9/99 61 ORDER granting [59-1] motion to extend time to file dfts' motion for summary judgment; Dfts have until 6/4/99 in which to file their motion for summary judgment (signed by jas) Copies to counsel: 6.10.99 Page(s) 1 (mlh) [Entry date 06/10/99]
- 6/23/99 62 SUMMONS(ES) issued for defendant Jenna L Scott (iss 1) (tsp) [Entry date 06/24/99]
- 7/8/99 63 MOTION by plaintiff Jerry Michael Collins to amend [1-1] complaint (2) (mlh) [Entry date 07/09/99]
- 7/8/99 64 RESPONSE by plaintiff Jerry Michael Collins to [54-1] motion for summary judgment (15+) (USC) (mlh) [Entry date 07/09/99] *AG.*
- 7/16/99 65 MOTION by defendant Betty Davis, defendant Richard Lawrence, defendant John Parrish, defendant Truman Price, defendant Joyce Fugate to stay discovery and disclosure (3) (mlh) [Entry date 07/19/99]
- 7/19/99 66 SUPPLEMENTAL MOTION *Gohmert* to dismiss and for sanctions by referring to [32-1] motion for sanctions under Rule 11(b), [31-1] motion to dismiss under Rule 12(b)(6) and to abate discovery and in the alternative original answer of Judge Louis B Gohmert Jr (7) (mlh) [Entry date 07/20/99]
- 7/19/99 67 MOTION by plaintiff Jerry Michael Collins to extend time to respond to dfts Parrish, Fugate, B Davis, Price, Van Cleef & R Davis' motion for summary judgment (2) (mlh) [Entry date 07/20/99]
- 7/19/99 68 CERTIFICATE OF CONFERENCE by plaintiff Jerry Michael Collins Re: [53-1] motion to extend time to respond to dfts Wallace, Zimmermann, Dixon's 12b motions (2) (mlh) [Entry date 07/20/99]
- 7/19/99 69 AMENDED CERTIFICATE OF CONFERENCE by plaintiff Jerry Michael Collins Re: [63-1] motion to amend [1-1] complaint (2) (mlh) [Entry date 07/20/99]
- 7/19/99 70 AFFIDAVIT by plaintiff Jerry Michael Collins (15) (mlh) [Entry date 07/20/99] *Court*
- 7/19/99 71 RESPONSE by plaintiff Jerry Michael Collins to [57-1] motion for summary judgment (2) (mlh) [Entry date 07/20/99]
- 7/19/99 72 MEMORANDUM by plaintiff Jerry Michael Collins in support of [71-1] motion response (15+) (mlh) [Entry date 07/20/99]
- 7/19/99 73 APPENDIX by plaintiff Jerry Michael Collins in support of [71-1] motion response (15+) (mlh) [Entry date 07/20/99]
- 7/20/99 74 ORDER granting [67-1] motion to extend time to respond to dfts Parrish, Fugate, B Davis, Price, Van Cleef & R Davis' motion for summary judgment; time extended until 7/19/99 (signed by jas) Copies to counsel: 7.21.99 Page(s) 1 (mlh) [Entry date 07/21/99]

- 7/21/99 75 MEMORANDUM by plaintiff Jerry Michael Collins in support of plf's response to dfts' motions to dismiss under Rule 12(b)(6), alternatively under Rule 7(a) FRCP "Shultea" for abatement in this action (15+) (mlh) [Entry date 07/22/99]
- 7/26/99 76 AMENDED MOTION for summary judgment by defendant Tommy W Wallace, defendant Leslie P Dixon, defendant James B Zimmermann referring to [54-1] motion for summary judgment (15) (mlh) [Entry date 07/27/99]
- 7/28/99 77 MOTION by defendant Richard Lawrence, defendant John Parrish, defendant Truman Price, defendant Betty Davis, defendant Joyce Fugate to quash subpoenas duces tecum and for protective order (15+) (mlh) [Entry date 07/29/99]
- 7/28/99 78 FIRST AMENDED COMPLAINT by plaintiff Jerry Michael Collins, (Answer due 8/9/99 for Greg K Winslett, for Coye Conner Jr, for Charles Van Cleef, for Joyce Fugate, for Robert Davis, for Richard Currin, for Betty Davis, for Leslie P Dixon, for Harry Tom Petersen, for Patricia Kimble, for Jenna L Scott, for Tommy W Wallace, for Malcolm McGregor, for Doris Sipes, for Roxie Cluck, for Truman Price, for John Parrish) amending [1-1] complaint against Louis B Gohmert Jr (15+) (USC) (mlh) [Entrydate 07/29/99]
- 7/28/99 79 ORDER granting [63-1] motion to amend [1-1] complaint (signed by jas) Copies to counsel: 7.29.99 Page(s) 1 (mlh) [Entry date 07/29/99]
- 7/29/99 80 ORDER granting [33-1] motion for leave to proceed without local counsel (signed by JAS) Copies to counsel: Page(s) 1 (cxj) [Entry date 07/30/99]
- 7/29/99 81 ORDER granting [53-1] motion to extend time to respond to dfts Wallace, Zimmermann, Dixon's 12b motions Response to motion reset to 7/21/99 for [21-1] motion to dismiss under Rule 12(b)(6) alternatively for abatement of action including discovery by plf (signed by JAS) Copies to counsel: 07/30/99 Page(s) 1 (cxj) [Entry date 07/30/99]
- 7/29/99 82 ORDER granting [46-1] motion to extend time to respond to dft Gohmert's Rule 11b and 12b motions Response to motion reset to 8/6/99 for [32-1] motion for sanctions under Rule 11(b), reset to 8/6/99 for [31-1] motion to dismiss under Rule 12(b)(6) and to abate discovery and in the alternative original answer of Judge Louis B Gohmert Jr (signed by JAS) Copies to counsel: 07/30/99 Page(s) 1 (cxj) [Entry date 07/30/99]
- 8/3/99 83 ANSWER by defendant Greg K Winslett to first amended complaint (11) (mlh) [Entry date 08/04/99]
- 8/9/99 84 AMENDED ANSWER to Complaint by defendant Doris Sipes, defendant Malcolm McGregor, defendant Harry Tom Petersen : amends [28-1] answer (15+) (mlh) [Entry date 08/10/99]
- 8/11/99 85 REISSUED SUMMONS for defendant Patricia Kimble (reiss 1) (mlh)
- 8/11/99 86 ORDER granting [65-1] motion to stay discovery and disclosure; Discovery in this suit is stayed pending further Order of this Court (signed by jas) Copies to counsel: 8.11.99 Page(s) 1 (mlh)

- 8/16/99 87 ANSWER by defendant Roxie Cluck to first amended complaint (15+) (mlh) [Entry date 08/17/99]
- 8/16/99 88 ANSWER by defendant John Parrish, defendant Truman Price, defendant Betty Davis, defendant Joyce Fugate (Attorney) to amended complaint; jury demand (12) (mlh) [Entry date 08/17/99]
- 8/16/99 89 ANSWER by defendant Robert Davis, defendant Charles Van Cleef to amended complaint; jury demand (11) (mlh) [Entry date 08/17/99]
- 8/16/99 90 SUPPLEMENTAL MOTION to dismiss by defendant Coye Conner Jr referring to motion to dismiss filed 5/3/99 (13) (mlh) [Entry date 08/17/99]
- 8/16/99 90 ANSWER by defendant Coye Conner Jr to first amended complaint subject to Conner's supplemental motion to dismiss (13) (mlh) [Entry date 08/17/99]
- 8/16/99 90 COUNTERCLAIM by defendant Coye Conner Jr against plaintiff Jerry Michael Collins (13) (mlh) [Entry date 08/17/99]
- 8/23/99 91 ANSWER to Complaint by defendant Jenna L Scott (11) (mlh) [Entry date 08/24/99]
- 9/20/99 92 ANSWER to Complaint by defendant James B Zimmermann ;jury demand (3) (mlh) [Entry date 09/21/99]
- 9/20/99 93 RETURN OF SERVICE executed as to defendant Patricia Kimble 8/31/99 via personal service; Answer due on 9/20/99 for Patricia Kimble (mlh) [Entry date 09/21/99]
- 9/21/99 94 ANSWER by defendant Patricia Kimble (Attorney Boyd Wray Naylor) to first amended complaint (15) (mlh) [Entry date 09/22/99]

Case Flags:
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JURY

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3-24-99

Mot. Den 4-26-99

4-26-99

Summary judgment —

6-1-99

Amend. Compl. 7-19-99

Resp. S.J. 7-8-99 ← Resp. Judges
Dep. S.J. → 7-19-99 ← Resp. others.
Amended Compl. 7-28-99

Findings 9-7-99

Ans. 21m. 9-20-99

Judgment 9-21-99