NOT RECOMMENDED FOR FULL-TEXT PUBLICATION

No. 18-5296

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

DOUGLAS WALTER GREENE, Plaintiff-Appellant, v. INDEPENDENT PILOTS ASSOCIATION, et al., Defendants-Appellees.	)	ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF KENTUCKY

ORDER

(Filed Oct. 4, 2018)

Before: NORRIS, SILER, and SUTTON, Circuit Judges.

Douglas Walter Greene, a pro se plaintiff, appeals the district court's order imposing monetary sanctions against him and denying his cross-motion for sanctions against the Independent Pilots Association (IPA). This case has been referred to a panel of the court that, upon examination, unanimously agrees that oral argument is not needed. *See* Fed. R. App. P. 34(a).

Greene was a pilot for United Parcel Service (UPS) and a member of the IPA, the collective bargaining unit for UPS's pilots. UPS terminated Greene in 2013 after

he refused to undergo a medical examination to determine whether he was fit to safely function as a crewmember. An arbitrator upheld Greene's termination, concluding that Greene's erratic behavior provided sufficient grounds under the collective bargaining agreement for UPS to order Greene to undergo a non-routine medical evaluation, and that Greene's refusal to submit to the examination provided just cause for UPS to terminate him for insubordination. *See Greene v. Frost Brown Todd, LLC*, Nos. 16-6761/6763/6772, 2017 WL 6210784, at *1 (6th Cir. Dec. 4, 2017). Greene sued the IPA under the Railway Labor Act, for allegedly violating its duty of fair representation to him, and the Labor-Management Reporting and Disclosure Act, for allegedly retaliating against him because he had supported an opposition candidate for union president. The district court granted summary judgment to the IPA on both claims, and we affirmed. *See id.* at * 2-3.

The district court granted Greene's attorney leave to withdraw in December 2015, and Greene represented himself from then on. In August 2016, the IPA moved for a restraining order and for sanctions against Greene, claiming that he had threatened and tried to intimidate a witness who provided a declaration in support of its motion for summary judgment. The district court concluded that Greene's conduct in litigating the case was "unacceptable," but it declined to grant the motion for sanctions because it had concluded that the IPA was entitled to summary judgment on the merits of Greene's claims. The district court,

however, "caution[ed] Greene that by denying the IPA's motion, the Court is not condoning his behavior" and it "warned [Greene] that in any future litigation, the Court will not hesitate to impose appropriate sanctions."

The IPA filed another motion for sanctions against Greene while his appeal of the district court's summary judgment order was pending in this court. The first basis for this motion was an email that Greene sent to UPS pilot Michael Starnes in August 2017. Starnes testified in Greene's arbitration hearing about a flight from Anchorage, Alaska to Louisville, Kentucky, during which Greene talked at length about his problems with UPS, UPS's assistant chief pilot, and the Kentucky Department of Revenue. Starnes thought that Greene's excessive focus on these issues distracted him from flying the aircraft and created a safety risk.

In his email to Starnes, under the subject line "Truthful Testimony," Greene claimed that UPS was leveraging an undisclosed drunk driving incident to coerce Starnes into helping it "target" other pilots, and he told Starnes that Starnes needed to come forward with the truth. Greene reminded Starnes that Starnes needed to demonstrate good moral character to maintain an airline transport pilot (ATP) certificate, *see* 14 C.F.R. § 61.153(c), and pointed out that falsification of documents and acting in a malicious manner towards others were grounds to revoke an ATP certificate. Greene claimed that UPS and the IPA were violating federal criminal law by "protecting" Starnes, and he

suggested that under the collective bargaining agreement UPS would not be required to reimburse Starnes if he were fined by the Federal Aviation Administration (FAA). Greene urged Starnes to "set yourself free from the bondage that UPS has shackled you with by reaching out to me as soon as possible." Starnes felt that Greene's email was a threat to initiate legal proceedings against him unless he contacted Greene. Greene sent a similar letter to Starnes in 2015, as well as to two other witnesses in the case.

The second basis for the sanctions motion was a July 2017 email that Greene sent to the IPA's attorney when Greene served his appellate brief on the IPA. In the email, Greene demanded a monetary settlement from "**ALL** the complicit players" in order to "alleviate the necessity to pursue criminal charges of **ALL** those involved and exposing this criminal endeavor to the Court of Public Opinion next."

The IPA argued that the district court had inherent authority to sanction Greene for attempting to influence a witness's testimony, harassing witnesses and potential witnesses, and threatening to initiate baseless criminal and bar disciplinary proceedings. The IPA asked the district court to enjoin Greene from threatening witnesses and opposing counsel with criminal prosecution and engaging in threatening, abusive, or intimidating communications, and to award it the attorney's fees and costs it incurred in bringing the motion.

Greene responded and filed a cross-motion for sanctions against the IPA. Much of Greene's response was devoted to relitigating the merits of his termination, and he continued to assert that UPS, the IPA, opposing counsel, and others were involved in a criminal conspiracy against him and that the district judge was biased against him. Greene, however, did argue that the district court lost jurisdiction to sanction him once he filed his notice of appeal and that his actions in contacting witnesses were protected by 18 U.S.C. § 1512(e), which provides an affirmative defense to a charge of witness tampering if "the defendant's sole intention was to encourage, induce, or cause the other person to testify truthfully." Greene claimed that counsel for the IPA made false statements about him and defamed him in its motion for sanctions and engaged in other alleged fraudulent activities before the district court. Greene asserted counter-charges of witness tampering by counsel, and he sought sanctions of his own against the IPA in the amount of $50 million.

After we affirmed the district court's order granting summary judgment to the IPA, the district court issued an order granting the IPA's motion for sanctions and denying Greene's motion for sanctions. The district court found that Greene acted in bad faith, vexatiously, wantonly, and for oppressive reasons throughout the case, and that as a result it had authority to sanction Greene for his misconduct pursuant to its inherent authority to protect the integrity of the proceedings. The district court first revisited Greene's misbehavior that generated the IPA's first motion for sanctions and its

decision to caution Greene about his conduct, which included Greene's use of foul language, his derogatory comments about individuals involved in or associated with the case, and his inappropriate contacts with witnesses in the case. The court then found that despite its warning, Greene continued to engage in misconduct with his inappropriate and threatening emails to Starnes and opposing counsel. And sealing the district court's decision to sanction Greene was his response to the IPA's motion for sanctions, which the court found was replete with insults and baseless accusations of conspiratorial and other criminal conduct by UPS, the IPA, opposing counsel, and the court itself. The district court concluded that "Greene's conduct, both with respect to his contacting individuals via email with thinly-veiled, and sometimes outright, threats of criminal prosecution, coupled with his insistence that witnesses change their statements" fell squarely within its inherent authority to sanction him. The court therefore awarded the IPA the attorney's fees and costs it incurred in bringing its sanctions motion, which was approximately $9300. In light of its decision to grant the IPA's motion for sanctions, the court denied Greene's cross-motion for sanctions, concluding that his allegations of misconduct against opposing counsel were unfounded.

We review a district court's decision to sanction a party pursuant to its inherent authority for an abuse of discretion. *See Metz v. Unizan Bank*, 655 F.3d 485, 489 (6th Cir. 2011). A district court abuses its discretion if it bases its decision on an erroneous view of the

law or on clearly erroneous findings of fact. *See United States v. Llanez-Garcia*, 735 F.3d 483, 497-98 (6th Cir. 2013); *First Bank of Marietta v. Hartford Underwriters Ins. Co.*, 307 F.3d 501, 510 (6th Cir. 2002). A district court may assess an award of attorney's fees under its inherent powers if a party has acted in bad faith, vexatiously, wantonly, or for oppressive reasons. *See Metz*, 655 F.3d at 491-92. "Because inherent powers are shielded from direct democratic controls, they must be exercised with restraint and discretion." *Roadway Exp., Inc. v. Piper*, 447 U.S. 752, 764 (1980).

First, the district court retained ancillary jurisdiction to sanction Greene for misconduct even though his appeal was pending in this court because the IPA's sanctions motion was a collateral matter that was not related to the merits of the case. *See Kallok v. Boardman Local Sch. Dist. Bd. of Educ.*, 24 F. App'x 496, 498 (6th Cir. 2001); *see also Mitan v. Int'l Fid. Ins. Co.*, 23 F. App'x 292, 298 (6th Cir. 2001) ("The federal courts' inherent power to protect the orderly administration of justice and to maintain the authority and dignity of the court extends to a full range of litigation abuses.").

Second, the district court reasonably interpreted Greene's emails to Starnes and the IPA's counsel as threats to initiate unfounded legal proceedings against them if they did not comply with his demands. And the district court was rightfully concerned that Greene's email to Starnes was an attempt to intimidate Starnes into providing testimony that complied with Greene's view of UPS's decision to terminate his employment. Indeed, Greene's email insinuated that he would see

that the FAA would revoke Starnes's pilot's license if Starnes did not "reach out" to him. The district court therefore did not clearly err in finding that Greene's correspondence with Starnes and opposing counsel was not sent in good faith, particularly in view of its previous admonition to Greene to cease this behavior. Consequently, the district court did not abuse its discretion in sanctioning Greene for his misconduct. *Cf. Kelly v. Panama Canal Comm'n*, 26 F.3d 597, 603 (5th Cir. 1994) (affirming the district court's award of monetary sanctions against an attorney who threatened a witness with criminal sanctions if he testified).

Third, Greene's motion for sanctions against the IPA's counsel and his demand for $50 million dollars in damages were patently frivolous, and the district court did not abuse its discretion in rejecting it. *Cf. Runfola & Assocs., Inc. v. Spectrum Reporting II, Inc.*, 88 F.3d 368, 375 (6th Cir. 1996) (stating that a district court is not required to explain its reasons for denying sanctions).

Accordingly, we **AFFIRM** the district court's order granting the IPA's motion for sanctions and denying Greene's motion for sanctions.

ENTERED BY ORDER OF
THE COURT

/s/ Deb S. Hunt
Deborah S. Hunt, Clerk

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
AT LOUISVILLE
CIVIL ACTION NO. 3:14-CV-628-TBR

DOUGLAS GREENE, PLAINTIFF

v.

INDEPENDENT PILOTS ASSOCIATION, et al., DEFENDANTS

Memorandum Opinion & Order

(Filed Feb. 22, 2018)

This matter comes before the Court upon two Motions. First, Defendants, the Independent Pilots Association and its officers, (hereinafter referred to collectively as "IPA"), have filed a Motion for sanctions and a protective order against *pro se* Plaintiff Douglas Greene ("Greene"). [DN 83.] Second, Greene has filed a Motion for sanctions against IPA. [DN 84.] Therein, Greene also seeks a protective order. [*Id.*]

These matters are ripe for adjudication. For the following reasons, IPA's Motion [DN 83] is **GRANTED in part and DISMISSED in part**, and Greene's Motion [DN 84] is **DENIED in part and DISMISSED in part.**

I. Factual Background

A.

A detailed history of the facts of this case was provided by the Court in its Memorandum Opinion granting IPA summary judgment. [*See* DN 78.] A summarized version of that factual background section is included below:

Greene was formerly employed by United Parcel Service ("UPS") from 1994 to November 2013 when he was terminated. During the course of his employment, IPA filed a grievance on his behalf in 2011, stemming from an apparent first attempt by UPS to terminate Greene's employment with the company. Thereafter, Greene allegedly made unsavory comments regarding IPA, despite their success in 2011, because IPA refused to publish his anonymous letter to the editor in its bi-weekly newsletter, *Flight Times*. [DN 50-3, at 3-4.] After Greene's comments, IPA designated the law firm Wyatt, Tarrant & Combs as Greene's point of contact for any further matters concerning IPA. [*Id.*]

In early 2013, Greene received a notation in his file for carrying a prohibited item onto a FedEx flight on which he was hitching a ride. The item was a pair of toiletry scissors. [*See* DN 50-47.] As a result of this, Greene spent the 2013 summer lobbying UPS and IPA officials in an attempt to have the notation removed from his file. Under the UPS-IPA collective bargaining agreement, these types of notations are not disciplinary, and therefore may not be the subject of an employment grievance. [DN 50-9, at 43.] Thus, IPA did not

file a grievance concerning the notation, but individual officials from IPA were successful in lobbying UPS to add a paragraph indicating that Greene was courteous under the circumstances. [DN 50-55, at 3.] Greene did not feel that this was a successful result. [DN 50-54.]

After the toiletry scissors incident, Greene's behavior, and his statements to other pilots that fall, caused UPS to become concerned with Greene's ability to safely function as a pilot. Consequently, UPS removed him from flight status in August 2013 and notified IPA that it was investigating Greene's conduct. [DN 50-3, at 5.] Pursuant to Article 7.B.2, when UPS removes a pilot from flight duty, the pilot is entitled to a disciplinary hearing, at which he may be represented by IPA. [DN 50-9, at 43.] Because of Greene's acrimonious history with the association, IPA made the decision to hire outside counsel to represent Greene on its behalf. [DN 50-3, at 5.] Attorney Irwin Cutler, ("Cutler"), was chosen for this task.

Around the time of the disciplinary hearings, Michael Starnes, ("Starnes"), one of Greene's then-co-pilots at UPS, emailed Jennifer Robbins, ("Robbins"), a UPS investigator, telling her that in his opinion Greene's behavior towards other UPS employees constituted personal attacks, and that Greene's "paranoia ha[d] extend[ed] to him carrying a recording device onto UPS property and keeping files of paper with him in order to document anything that Jim [Psiones, Greene's supervisor at the Anchorage duty station,] says or does. This to me sounds like someone who is more interested in revenge than coming to work to fly

airplanes." [DN 50-51, at 1.] Similarly, Captain Peyton Cook, ("Cook"), emailed Psiones on September 23 and stated that "Captain Greene's hostile and volatile personality towards fellow crew members and UPS management jeopardizes the conduct of safe flight operations." [DN 50-52, at 1.]

Another pilot, Marc McDermont, ("McDermont"), stated that in his first encounter with Greene, during a layover in Hong Kong in July 2013, "Greene spoke quite vociferously and at great length about his interactions with the company and the Kentucky Department of Revenue. He stated that there was conspiracy between UPS and the Kentucky Department of Revenue to harm him financially and to impeach his character." [DN 50-53.] McDermont also stated that, during their time in Hong Kong, Greene "said that UPS had hired several hit men who were associated with UPS' attorney. . . . Captain Greene then stated that he had developed so much evidence of their plot to kill him that it had made it impossible for UPS to carry through with the assassination." [*Id.*] Following the internal investigation and the two disciplinary hearings, UPS decided to require Greene to submit to an additional medical examination, in accordance with the collective bargaining agreement. Greene failed to attend the first exam, came to the doctor's office for the second scheduled exam, but refused to be examined, and failed to attend the third scheduled appointment. Thereafter, his employment with UPS was terminated on November 22, 2013. [DN 50-28, at 2.]

Following Greene's termination, IPA filed a grievance on his behalf. [DN 50-18, at 6.] The ensuing arbitration was delayed until September 2014 due to changes in attorneys and arbitrators, as well as scheduling conflicts. In the days leading up to the arbitration, Arnold Feldman, ("Feldman"), Greene's personal attorney at that time, requested that IPA completely withdraw itself from active participation in Greene's case. [DN 50-48.] Moreover, Feldman asked that Greene, rather than IPA, be allowed to appoint the two union representatives to sit on the System Board. [*Id.* at 2.] In response, Cutler agreed to allow Feldman to "represent Captain Greene at the hearing, to make an opening statement and closing statement or brief, present witnesses, cross-examine witnesses, make objections and motions and otherwise fully participate in the hearing." [DN 50-49, at 1.] However, Cutler reserved IPA's right to "participate fully in the hearing and the proceedings leading up to the hearing," and made the note that turning complete control of the arbitration over to Greene "would be an abdication of [IPA's] obligation to the membership as a whole." [*Id.*] Pursuant to the collective bargaining agreement, IPA declined to allow Greene to appoint the two union representatives. Thereafter, Greene moved unsuccessfully to have IPA excluded completely from the arbitration proceedings. [DN 50-50, at 2.]

This lawsuit followed and, generally speaking, Greene claimed that in handling his termination grievance, IPA violated both its duty of fair representation and certain provisions of the Labor-Management

Reporting and Disclosure Act. [DN 1.] It is unclear whether IPA knew of the filing of this lawsuit days before the arbitration hearing, but Cutler nevertheless attended that hearing. [DN 50-18, at 15.] In a vote of 3-2, Greene's termination was upheld. [DN 50-47.] Among other findings, the arbitrator noted Greene's "fixation" on the notation, stating that it "raised a legitimate medical issue about his judgment and focus." [*Id.* at 51.] The arbitrator further described Greene's conduct as "occupational self-destruction beyond the remedial authority of [the System Board.]" [*Id.* at 55.] Finally, the arbitrator found "no evidence of collusion between the Company and the Union." [*Id.* at 56.]

When Greene initially filed this lawsuit, he was still being represented by Feldman, but Feldman eventually moved to withdraw in November 2015. [DN 25.] Since that time, Greene has represented himself, *pro se*. On November 21, 2016, this Court granted summary judgment in favor of IPA on all of Greene's claims. [*See* DN 78, 79.] Greene appealed, [DN 80], and the Sixth Circuit Court of Appeals affirmed this Court's decision. [DN 87.] In the interim period between Greene filing his notice of appeal and the Sixth Circuit's affirmation of this Court's previous decision, IPA filed the instant Motion for sanctions against Greene and for a protective order.

B.

In addition to filing a Motion for summary judgment, IPA also filed an original Motion for sanctions on

August 5, 2016. [DN 54.] This Court granted IPA's Motion for summary judgment and denied its Motion for sanctions. [DN 78.] In that initial Motion for sanctions, IPA claimed that on July 26, 2016, the day after it filed its Motion for summary judgment, Greene sent Christopher Harper, ("Harper"), one of IPA's witnesses, a "threatening and intimidating email." [DN 54-1, at 2.] IPA had previously submitted Harper's declaration in support of its Motion for summary judgment. [*See* DN 50-62.] In his declaration, Harper described the efforts he took to have Greene's notation corrected or removed, and stated that IPA did not attempt to hinder his assistance of Greene. [*Id.*] The July 26 email sent from Greene to Harper states [sic throughout]:

> Dear Chris,
>
> Here's some great questions that have been already crafted for you to answer in a Federal Court of law under a lie detector. Thought it might be helpful to give you a head start on how to formulate your answers:
>
> The one question I have is who wrote Harper's declaration? It wasn't him. Looks like the IPA had their hand in this. Most people do not know how to write a declaration much less the format used.
>
> . . .
>
> What a terrible shame to think you were coerced to aid and abet in a Federal Crime. It's very clear you do not realize the magnitude of what you are implicating yourself in, with UPS & IPA efforts trying to thrown you under

> the bus to give them an alibi with your false and fraudulent "declaration," which is not even an affidavit. You have blatantly committed perjury in your falsely alleged true & correct words.
>
> We will be quite anxious to get you under lie detector, as like you "*I believe*" you will be going to jail before this is all over. Your only hope to save yourself is with your truthful testimony as to who we both know put you up to this act of obstructing justice by knowingly aiding and abetting in a Federal Crime. *(This is certainly no way to run an Airline.)*
>
> You should think long and hard about your conduct because it is already defeated with overwhelming evidence. The whole thing wreaks with the stench of vile filth and pathetic shame . . . I am very disappointed in you Chris Harper . . . My family and I will forgive you and hold you harmless for your complicity in this criminal attack against us as long as you come forward with your truthful testimony while you still can.
>
> God Bless ..... Doug Greene & Family

[DN 54-3, at 4.] In this Court's Memorandum Opinion denying IPA's Motion for sanctions, this Court noted that this email was consistent with what the Court had come to expect from Greene throughout the course of this litigation: insults and inappropriate language such as calling individuals "incompetent," "paranoid," "senile," "intoxicated," "literally insane," "uneducated thugs," "a sadistic liar," "guilty of perjury," "a cabal of

tyrants who think they are above the law," "UPS' errand boys, moles, bitches, whatever word you want to use in describing a traitor . . . Benedict Arnold," among many, many other childish and unbecoming insults. [*See* DN 78, at 48 (Court listing language used by Greene compiling from docketed filings in this case).] At the conclusion of that Memorandum Opinion, this Court noted that, although it chose at that time not to sanction Greene, it was not condoning his behavior and warned him that, setting aside his strong convictions regarding his case, it would not hesitate to sanction him in the future for similar behavior.

In its instant Motion, IPA has included more information concerning Greene's behavior in this case. IPA notes that, on the same day Greene sent the above email to Harper, he also sent an email to Cutler. [*See* DN 83-1.] Attached to this Motion is a signed affidavit, ("Cutler Affidavit"), from Cutler attesting to the validity of the email. The email, dated August 5, 2016, states in pertinent part as follows [sic throughout]:

> Mr. Cutler,
>
> Thanks for your help, just more evidence to use against you for your criminal behavior that I will be forwarding to the Federal Authorities with everything else they have been given and more to follow. This is no threat either, it's a promise to help ensure that the law is enforced as you are not above the law, nor is the IPA, UPS, FBT [Frost Brown Todd law firm] or any other victims you mislead into aiding & abetting in your criminal actions.

I've also carbon copied others to this E-Mail in the blind as witnesses to the truth of its content and the documents you provided to assist me in exposing your criminal conduct in further harassing me through threats and intimidation for defending myself against your crimes.

Your fraud is almost funny Cutler, as you just keep digging a deeper and deeper whole for yourself . . . Now you are in too deep and believe the only way out is to sustain the blatant trail of criminal RICO Act fraud. . . . Good luck with that one Cutler. . . . It's just so sad that you, the IPA GC & IPA ED are fraudulently implicating other pilots like Chris Harper that aren't smart enough to know any better. It's obvious you people don't care & have no conscience when it comes to hurting other people to conceal your RICO Act fraud at any cost. . . .

. . .

Are you afraid of an Affidavit of Truth, Cutler and why did you commit further Fraud Upon the Court in your filings on the docket calling Declarations of Fraud an Affidavit of Truth? Sorry Buddy Ole Pal, you just dug your hole even deeper with yet another lie that you are going to have to find your way out. We can't wait to see how you try to explain away all the truth of the perjury. . . .

Seek the face of God Irwin Cutler as it's your only hope to find forgiveness for your gross malfeasant & criminal behavior. . . .

My family is praying for you.....Doug Greene

[DN 83-4, at 2-3.] In addition to this email directed at Cutler, IPA in its instant Motion also notes that Greene allegedly "threatened the three pilots who testified against him at the arbitration hearing, including Michael Starnes who is the object of Greene's most recent threat." [DN 83-1, at 3.] IPA has filed an affidavit from Starnes, ("Starnes Affidavit"), wherein he attests to the truth of the attached email from Greene to himself. [*See* DN 83-7.] The substance of this email is as follows:

> Michael,
>
> I'm so sorry UPS has abused you with Workplace Violence holding your career over your head for so many years now since 21 Nov 2009, by coercing you into terrible acts against other pilots.
>
> You should be advised that we know about the other pilots you were coerced by UPS into targeting. We know that you were purposely inserted on my flight to help UPS stage there unlawful attack against me.
>
> . . .
>
> I'm sure it must be extremely difficult to live with the pain & suffering you have caused so many victims of UPS/IPA Workplace Violence. Like the good Lord, there is forgiveness but only when you reconcile your actions with the truth.

We've been working around the clock for what comes next that is outside the "Citizens United" UPS sphere of undue influence. Coming forward with the truth of what UPS forced upon you is the only logical answer for you now so as to minimize the consequences of your [intentional misconduct]. The transcripts of the actual cockpit recording & witness testimony defeats your untruthful statements. Not to mention all the countless E-Mails between you and Robbins. This evidence & more, [Beyond Reasonable Doubt], that was formerly "suppressed" is now In The Record for a Trier of Fact to see.

Also per 14 CFR 61.153(c) candidates for a ATP license MUST "Be of Good Moral Character." This is not an option Michael, it is a MANDATORY requirement.

Lacking Good Moral Character Defined:

"[Falsification of documents], embezzlement, and [acting in a malicious manner towards others] are cited as reasons that ATP certificates have been denied or revoked."

. . .

Michael, I'm sure you must realize by now we will see that justice runs its course until realized, which is finally on the horizon. We have recruited assistance of those that share in finding this matter deplorable beyond comprehension. Acting as a Pro Se Attorney on my own behalf, I have become an attorney within my own rights. Please set yourself free from

> the bondage that UPS has shackled you with by reaching out to me as soon as possible.
>
> We both know deep down in your heart this is the only way for the necessary healing of everyone. As I'm sure you know my family has already suffered far too long.
>
> May God guide you the right way as he guided me to reach out to you.
>
> Doug Greene Attorney
> Pro Se

[DN 83-8, at 2-4.] In the Starnes Affidavit, a second letter Greene wrote to Starnes is referenced, and IPA has also attached it to the instant Motion. This earlier letter, dated November 4, 2015, provides in pertinent part as follows [sic throughout]:

> Dear Michael Starnes,
>
> I'm sending this E-Mail to inform you that your conduct to have been implicated in perjury and Racketeering Influenced Corrupt Organization (RICO) Actions have been submitted to a United States Senator and an investigation is now underway which will involve the United States Department of Justice (DOJ). Despite the fact your actions having caused irreparable damages to my family and career, you are being afforded the opportunity to come forward with immunity to tell the truth of UPS and IPA influence to solicit your false statements to assist them in fraudulent retaliatory targeting of my career. You should know that we have witnesses that

have already come forward, in confidentiality, testifying to your illicit actions. In addition we are aware of the threats UPS posed against you as a result of your DUI on 21 November 2009 resulting in your being coerced to participate in this crime, that has yet to be determined if it was properly disclosed to the Federal Aviation Administration. . . .

Please be advised that the [FAA] will be involved in this investigation and in accordance with the following **U.S. CODE OF FEDERAL REGULATIONS** should you choose to continue in sustaining the fraud that you have committed on behalf of UPS and the IPA, you will be putting your Airline Transport Pilot Certification at risk not to mention being subject to imprisonment. . . .

. . .

I would encourage you to give careful consideration in taking advantage of the opportunity to come forward with your truthful testimony. My family will extend to you forgiveness for your actions and will not seek further legal action against you. . . . I would caution that you should keep this opportunity in the strictest of confidence as should you disclose this information to anyone allowing UPS or the IPA to become aware of this action you will be further implicating yourself in these RICO Act crimes that will be subject to violations of U.S. Code of Federal Regulations (CFR) which are punishable by fines up to and including imprisonment.

> . . .
>
> This letter will be sent to you via certified return receipt to your home of record, which has also been provided to the officials investigating these crimes. You can contact me for further instructions to contact the United States Senators Office so as to provide your sworn statement. . . .
>
> Fraternally,
>
> Captain Douglas W. Greene

[DN 83-9.] Finally, Greene contacted Cutler again in an email dated July 14, 2017 where, in addition to attaching a copy of his appeal brief, he stated the following:

> Be advised your direct & indirect UPS employer proffering a combined settlement offer on behalf of ***ALL*** the complicit players, in the amount formally stated, will be *considered* to compensate my family and I for the malicious & enormous damages inflicted. This will be mandatory to alleviate the necessity to pursue criminal charges of ***ALL*** those involved and exposing this criminal endeavor to the Court of Public Opinion next.

[DN 83-3.] It is the sum of these interactions that Greene has had with various individuals involved with this case, both before it was instituted and after its inception, that IPA now seeks to have sanctions levied on Greene, as well as a protective order entered to prevent this type of conduct from Greene directed at witnesses,

opposing counsel, parties, and their employees and agents going forward. [*See* DN 83.] In his Response to the instant Motion, Greene, of course, argues that sanctions should not be imposed, and also asks for sanctions against IPA and a protective order of his own. [*See* DN 84.] The merits of these Motions are discussed below.

II. Legal Standard

"It has long been understood that '[c]ertain implied powers must necessarily result to our Courts of justice from the nature of their institution,' powers 'which cannot be dispensed with in a Court, because they are necessary to the exercise of all others.'" *Chambers v. NASCO, Inc.*, 501 U.S. 32, 43 (1991) (quoting *United States v. Hudson*, 7 Cranch 32, 34 (1812)). "A primary aspect of that [inherent] discretion is the ability to fashion an appropriate sanction for conduct which abuses the judicial process." *Id.* at 44-45. As the Sixth Circuit Court of Appeals has noted, "[a] district court has the inherent power to sanction a party when that party exhibits bad faith, including the party's refusal to comply with the court's orders. *Dell, Inc. v. Elles*, No. 07-2082, 2008 WL 4613978, at *2 (6th Cir. Jun. 10, 2008) (citing *Chambers*, 501 U.S. at 43-50). This inherent power extends further, though, to "conduct 'tantamount to bad faith.'" *Id.* (quoting *Railway Express, Inc. v. Piper*, 447 U.S. 752, 767 (1980)) This "inherent authority to sanction derives from [the court's] equitable power to control the litigants before it and to

guarantee the integrity of the court and its proceedings." *Id.* (citing *Chambers*, 501 U.S. at 43).

III. Discussion

A. IPA's Motion

As noted above, IPA seeks with its present Motion two things: first, a protective order, and second, sanctions. The Court must at this time dismiss the Motion insofar as it pertains to the protective order, as this case is closed and the Sixth Circuit Court of Appeals has issued its opinion affirming this Court's grant of summary judgment in favor of IPA. [*See* DN 87.] This leaves the issue of IPA's appeal to this Court for sanctions against Greene stemming from his continued pattern of uncouth behavior, both before and after this Court's grant of summary judgment. As IPA has correctly pointed out, "[t]his Court continues to possess th[e] inherent power even after final judgment [to issue sanctions] because [a] motion for sanctions raises issues collateral to the main cause of action." [DN 83-1, at 7 (citing *White v. N.H. Dept. of Employment Sec.*, 455 U.S. 445, 450 (1982)).]

1.

It is a clearly established maxim in American jurisprudence that "the power to punish for contempts is inherent in all courts." *Chambers*, 501 U.S. at 44 (internal citations omitted). "This power reaches both conduct before the court and that beyond the court's confines, for '[t]he underlying concern that gave rise to

the contempt power was not . . . merely the disruption of court proceedings. Rather it was disobedience to the orders of the Judiciary, regardless of whether such disobedience interfered with the conduct of trial.'" *Id.* (quoting *Young v. United States ex rel. Vuitton et Fils S.A.*, 481 U.S. 787, 798 (1987)). Relatedly, a court, consistent with the inherent powers bestowed upon it, "may assess attorney's fees when a party has 'acted in bad faith, vexatiously, wantonly, or for oppressive reasons.'" *Id.* at 46 (quoting *Alyeska Pipeline Serv. Co. v. Wilderness Soc'y*, 421 U.S. 240, 258-59 (1975)).

This means that, "if a court finds 'that fraud has been practiced upon it, or that the very temple of justice has been defiled,' it may assess attorney's fees against the responsible party," the same way "it may when a party 'shows bad faith by delaying or disrupting the litigation or by hampering enforcement of a court order.'" *Id.* (quoting *Universal Oil Prods. Co. v. Roof Refining Co.*, 328 U.S. 575, 580 (1946) and *Hutto v. Finney*, 437 U.S. 678, 689 n. 14 (1978), respectively). To be sure, "[t]he imposition of sanctions in this instance transcends a court's equitable power concerning relations between the parties and reaches a court's inherent power to police itself, thus serving the dual purpose of 'vindicating judicial authority without resort to the more drastic sanctions available for contempt of court and mak[ing] the prevailing party whole for expenses caused by his opponent's obstinacy.'" *Id.* (quoting *Hutto*, 437 U.S. at 689 n. 14).

Importantly, the promulgation of Fed. R. Civ. P. 11 did not eliminate or otherwise supersede this Court's

inherent authority in this realm. As the Supreme Court explained in *Chambers*, "Rule 11 d[id] not repeal or modify existing authority of federal courts to deal with abuses . . . under the court's inherent power." *Id.* at 48-49 (internal citations omitted). Indeed, "the inherent power of a court can be invoked even if procedural rules exist which sanction the same conduct." *Id.* at 49. Consequently, "[t]here is . . . nothing in other sanctioning mechanisms or prior cases interpreting them that warrants a conclusion that a federal court may not, as a matter of law, resort to its inherent power to impose attorney's fees as a sanction for bad-faith conduct." *Id.* at 50. Thus, "if in the informed discretion of the court, neither the statute nor the Rules are up to the task," or neither the statute nor the Rules are applicable, "the court may safely rely on its inherent power" to sanction a party. *See id.*

2.

It is this Court's inherent authority upon which it relies in reaching its conclusion that sanctions are warranted in the present case in the form of IPA's attorney's fees and costs in bringing the instant Motion. Greene's conduct throughout the life of this case, both in the time leading up to this Court's grant of summary judgment in November 2016, as well as while the case was pending on appeal before the Sixth Circuit, has led this Court to the conclusion that he has "acted in bad faith, vexatiously, wantonly, or for oppressive reasons," under the meaning of the Supreme Court's rationale in *Chambers*, 501 U.S. at 46. Greene's interactions and

correspondence with witnesses and opposing counsel have left this Court with no other option but to sanction him.

"A federal court's authority to protect the integrity of its proceedings encompasses the authority to take reasonable actions to avoid intimidation or coercion of witnesses." *United States v. Vasilakos*, 508 F.3d 401, 411 (6th Cir. 2007) (citing *United States v. Wind*, 527 F.2d 672, 674-75 (6th Cir. 1975)). "Trying improperly to influence a witness is fraud on the court and on the opposing party. . . ." *Ty Inc. v. Softbelly's. Inc.*, 517 F.3d 494, 498 (7th Cir. 2008). Stated succinctly by the District Court for the Southern District of Illinois, "[l]itigants that attempt to coerce witness[es] into giving false testimony abuse the truth-seeking function of the courts and obstruct the courts' ability to solve disputes accurately and efficiently." *Ramsey v. Broy*, No. 08-cv-0290, 2010 WL 1251199, at *4 (S.D. Ill. Mar. 24, 2010); *see also* 18 U.S.C. § 1512(b) explaining that

> Whoever knowingly uses intimidation, threatens, or corruptly persuades another person, or attempts to do so, or engages in misleading conduct toward another person with intent to (1) influence, delay, or prevent the testimony of any person in an official proceeding; (2) cause or induce any person to (A) withhold testimony, or withhold a record, document, or other object, from an official proceeding . . . shall be fined under this title or imprisoned not more than 20 years, or both.

"[C]ourts have broad discretion under their inherent powers to fashion punitive sanctions." *Williamson v. Recovery Limited Partnership*, 826 F.3d 297, 306 (6th Cir. 2016)

Greene's inappropriate behavior began at the inception of this case. As discussed above, Greene consistently engaged in reckless name-calling, often utilizing foul language to disparage witnesses, opposing counsel, and the Court. This Court documented many of the terms used by Greene above, and also in its Memorandum Opinion granting IPA summary judgment. [*See* DN 78, at 48.] He has used derogatory words to describe individuals as incompetent, paranoid, senile, intoxicated, literally insane, uneducated thugs, sadistic liars, he has said people were guilty of perjury, he has called people UPS errand boys, moles, bitches, Benedict Arnold, and more. [*See id.*] While this language was uncalled-for and unbecoming of an individual presenting a civil action to a federal court, this Court chose not to sanction him in November 2016 when it granted IPA summary judgment. [*Id.*] Indeed, at this time Greene had already made inappropriate contact with Harper via email, indicating that Harper would be required in federal court to take a lie detector test, accusing him of aiding and abetting a federal crime, committing perjury, and stating that he believed Harper would eventually be sent to prison. [*See* DN 54-3, at 2.] He ended the email to Harper by stating that he would forgive Harper for his criminal activities if Harper would come forth with "truthful testimony." [*Id.*] In other words, the email laid out criminal

accusations (*i.e.*, threats of criminal prosecution) followed by an attempt to get a witness to change their statement.

Prior to this Court's grant of summary judgment to IPA, Greene also sent similar emails to Cutler and Starnes. With respect to Cutler, as noted above, Greene accused him of aiding and abetting criminal acts, engaging in fraud, being implicated in a RICO action, committing fraud against the court, and perjuring himself. [DN 83-4, at 2-3.] He concluded by telling Cutler to "seek the face of God. . . ." [*Id.* at 3.] The email to Starnes, who is not a lawyer by trade, is even more disturbing. Greene explicitly stated that Starnes' actions constituted perjury and implicated him in a RICO action that Greene allegedly submitted to an anonymous United States Senator and the DOJ. [DN 83-9.] After going on to accuse Starnes of committing fraud and indicating that Starnes could face imprisonment, Greene urged him to take "advantage of the opportunity to come forward with your truthful testimony," and, in exchange Greene would cease seeking legal action against him. [*Id.*] And while the Court did not sanction Greene in 2016, it made specific note of the fact that it would not hesitate to sanction him in the future should he refuse to cease his inappropriate conduct. We have reached that point in the road.

Greene has not heeded this Court's advice and warnings, and has continued to engage in seriously inappropriate conduct. IPA has brought to the Court's attention two such additional instances which, when coupled with Greene's previous behavior, give this

Court no choice but to sanction him. First, Greene contacted Cutler again via email, indicating that he wished to be paid a settlement and that, in return for this "mandatory" sum, the necessity of pursuing criminal charges against everyone involved would be alleviated. [DN 83-3.] Second, Greene sent another email to Starnes, in which he used religion and God as a means by which to apparently try and convince Starnes to come forward with a statement more to Greene's liking and benefit. [*See* DN 83-8, at 2-4.] He implored Starnes to reach out to him as soon as possible, indicating that this was the best way to avoid criminal consequences to Starnes who, again, is not a lawyer by trade and therefore has no expertise in legal matters. [*Id.*] Finally, he concluded by using religion another time: "May God guide you the right way as he guided me to reach out to you." [*Id.*] These emails, sent both during this case's time in this Court, as well as while the case was on appeal before the Sixth Circuit, manifest blatant bad faith and oppressive means on the part of Greene, consistent with the Supreme Court's ruling in *Chambers*, 501 U.S. at 46, thereby permitting this Court to act in its inherent authority to impose sanctions against Greene.

However, if these specific findings by the Court were, by themselves, insufficient, Greene's Response and Counter-Motion to the instant Motion remove all doubt. [*See* DN 84.] It is captioned as "Greene's Response to Independent Pilots Association, et al. Fraudulent Motion for Sanctions & Protective Order with Greene's Counter Motion for Sanctions of Fifty Million

Dollars for Insurmountable Damages of Independent Pilots Association, et al. Fraudulent Attacks of Workplace Violence & RICO Act Fraud," and it contains much of what the Court has come to expect from Greene throughout the life of this case.

Greene chooses to fill in a great deal of the Response and Counter Motion with insults and accusations directed at UPS, IPA, opposing counsel, witnesses, and the Court. Indeed, much of the Response is dedicated solely to this exercise in finger-pointing. He accuses Cutler of engaging in bad faith conduct throughout the course of litigation, [*id.* at 4], of being "knowingly complicit with UPS in RICO Act fraud willfully, knowingly, & continuing to target Greene's career," [*id.*], that Cutler has violated numerous federal statutory provisions including 18 U.S.C. § 4 (misprision of felony), 18 U.S.C. § 1001 (false statements, concealment), 18 U.S.C. § 1505 (obstruction), 18 U.S.C. § 1512 (tampering with a witness, victim, or an informant), among others, [*id.* at 5], that he, Greene, has suffered acts of "domestic terrorism," presumably at the hands of UPS and/or IPA, [*id.* at 7], that Cutler committed fraud upon the Court, [*id.* at 14], that Cutler, on behalf of IPA and UPS, "has established grounds for his criminal prosecution, sanctions, and the disbarring from ever practicing law again for knowingly sustaining criminal acts on behalf of IPA against Greene," [*id.* at 16], that Cutler and his law firm have abused the legal system and are attempting to cover up the truth of what happened, [*id.* at 17], that the instant Motion for sanctions filed by Cutler is "fictitious,

fraudulent, & threatening," and that Cutler has abused the justice system in bringing it, [*id.* at 32], he accuses Cutler of slander and libel, as well as abusive and threatening behavior, [*id.* at 32-33], of sustaining corporate fraud by UPS and "exercis[ing] damage control for committing gross acts of fraud to evade the legal consequences that he knows are forthcoming," [*id.* at 33], among many, many other insults and accusations.

At one point, Greene states that he is "[n]ow faced with having to initiate criminal charges against the parties involved," and has made "one last professional attempt to *encourage the truthful testimony* of Starnes again in exchange for Greene to hold Starnes harmless with the proven acts of Starnes['] *intentional misconduct* that both UPS & IPA coerced him into." [*Id.* at 38 (emphasis in original).] He then accuses Starnes again of perjury. [*Id.*] Later, he goes on at length regarding his accusations that Cutler, UPS, and IPA committed "blatant acts of witness tampering/retaliation" with respect to this case. [*Id.* at 49.] The Court could go on, *ad nauseam*, describing the various criminal acts Greene accuses Cutler, UPS and IPA of, as well as various witnesses, but the Court finds it sufficient to state that the majority of the 77-page Response is dedicated to such accusations of misconduct. As a final detail, though, the Court makes specific note of the vast conspiracy Greene alleges to have been constructed by UPS, IPA, Cutler, this Court, United States Senator Mitch McConnell, and United States Secretary of Transportation Elaine Chao. Greene calls this Court "the 'Mitch

McConnell' controlled U.S. District Court," which "puts UPS/IPA interests ahead of justice;" he claims that this Court has "sustained acts of ***Domestic Terrorism*** against Greene," has encouraged fraud in this case, and has "demonstrated an appearance of impropriety, lacking honesty, integrity, impartiality, temperament, and fitness to serve as a judge during these proceedings."

Apparently, Greene has determined that Senator McConnell, of Kentucky, exercises complete political control over the United States District Court system within this State and, [*id.* at 32], more specifically, that his "control" over the federal courts in Kentucky has resulted in the rule of law being thrown out the window in favor of corporate interests and a specific intent to, apparently, do him harm. Finally, he appears to implicate Chao, who is married to McConnell, of influencing and ordering thrown out a Department of Labor investigation into wrongdoing against him in this case. [*Id.* at 40-41.] He does not elaborate on this accusation, nor present any evidence concerning it.

In sum, Greene's continued disrespect, inappropriate behavior, disregard for rules, and failure to heed warnings from the Court, has led to this point, at which time sanctions must be levied against him. Greene's conduct, both with respect to his contacting individuals via email with thinly-veiled, and sometimes outright, threats of criminal prosecution, coupled with his insistence that witnesses change their statements, falls squarely within what the Sixth Circuit and the Supreme Court have classified as "litigat[ing] in bad

faith, vexatiously, wantonly, or for oppressive reasons." *First Bank of Marietta v. Hartford Underwriters Ins. Co.*, 307 F.3d 501, 512 (6th Cir. 2002) (citing *Big Yank Corp. v. Liberty Mutual Fire Ins. Co.*, 125 F.3d 308, 313 (6th Cir. 1997) and *Alyeska Pipeline Serv. Co.*, 421 U.S. at 247). IPA is hereby awarded attorney's fees and costs incurred in bringing the instant Motion. [DN 83.]

B. Greene's Motion

In filing his Response to IPA's Motion for Sanctions and a Protective Order, Greene moved for sanctions and a protective order of his own. [DN 84.] As explained above, though, this Court no longer has the jurisdiction to grant a protective order, and so that portion of Greene's Motion must be dismissed. Additionally, the Court will deny Greene's Motion insofar as he has requested that the Court levy sanctions against any of Cutler, his law firm, IPA, and/or UPS. The Court has already determined that Greene's misconduct has warranted the imposition of sanctions against him. It therefore follows that the Court will not reward Greene by issuing sanctions against Cutler, his law firm, IPA, or UPS.

Even setting aside the fact that Greene has already been sanctioned by the Court, his 77-page Response spans 37 pages beyond the 40-page limitation imposed by Local Rule 7.1(d). Pursuant to LR 7.1(d), "[m]otions and responses may not exceed 40 pages without leave of Court." Greene did not receive leave

to exceed the page limitation and, consequently, the Court only considers the first 40 pages of his Response. These first 40 pages (and the 37 remaining pages) are dedicated largely to unfounded accusations of criminal conduct, none of which are backed up by actual evidence. The Court will not lay out these accusations here, as sufficient detail was provided in the Factual Background Section and the Discussion section dealing with IPA's Motion for sanctions. Put simply, Greene has not proffered any substantiated reason as to why Cutler, his law firm, IPA, or UPS should be sanctioned, instead relying upon these aforementioned and unfounded theories and accusations. This Motion must be denied.

IV. Conclusion

For the reasons stated herein, **IT IS HEREBY ORDERED** as follows:

1. IPA's Motion for Sanctions and a Protective Order [DN 83] is **GRANTED in part and DISMISSED in part**. The Court will grant the Motion insofar as it pertains to sanctioning Greene and dismiss the Motion insofar as it requests a protective order.

2. Greene's Motion for Sanctions and a Protective Order [DN 84] is **DENIED in part and DISMISSED in part**. The Court will deny the Motion insofar as it pertains to sanctioning UPS, IPA, Cutler, or his law firm and dismiss the Motion insofar as it requests a protective order.

3. Mr. Cutler is **HEREBY ORDERED** to file with the Court an itemized statement of costs and an itemized billing statement evidencing all costs and fees directly associated with bringing the instant Motion for sanctions within **thirty (30) days** of the publication of this Memorandum Opinion and Order.

IT IS SO ORDERED.

/s/ Thomas B. Russell
[SEAL]
Thomas B. Russell, Senior Judge
United States District Court
February 22, 2018

cc: Counsel of Record
Douglas Greene, *pro se* plaintiff

No. 18-5296

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

DOUGLAS WALTER GREENE, Plaintiff-Appellant, v. INDEPENDENT PILOTS ASSOCIATION, ET AL., Defendants-Appellees.	)	ORDER (Filed Nov. 26, 2018)

BEFORE: NORRIS, SILER, and SUTTON, Circuit Judges.

The court received a petition for rehearing en banc. The original panel has reviewed the petition for rehearing and concludes that the issues raised in the petition were fully considered upon the original submission and decision of the case. The petition then was circulated to the full court. No judge has requested a vote on the suggestion for rehearing en banc.

Therefore, the petition is denied.

ENTERED BY ORDER OF THE COURT

/s/ Deborah S. Hunt
Deborah S. Hunt, Clerk

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
LOUISVILLE DIVISION

DOUGLAS W. GREENE	)	
Plaintiff	)	Case No: 3:14-cv-00628-TBR
v.	)	
INDEPENDENT PILOTS ASSOCIATION, et al.	)	
Defendants	)	

PLAINTIFF'S NOTICE OF APPEALING THE DISTRICT COURT'S UNLAWFUL & FRAUDULENT SANCTIONS ORDER

(Filed Mar. 16, 2018)

Comes the Plaintiff, Douglas W. Greene in my capacity as a law abiding citizen of the United States of America and in pursuant to the Federal Rules of Civil Procedure so stating this is my Notice of Appeal in the above unlawful actions of an oppressive Sanctions order by the United States District Court, Western District of Kentucky, Louisville Division being used as a vexatious attempt to threaten and silence the Plaintiff from receiving honest adjudication.

The District Court Fabricated Falsely Alleged Facts:

Countless ignored disputes in material facts to include UPS/IPA actions of Workplace Violence and targeting.

Attorney, Irwin Cutler criminally targeted me on behalf of sustaining IPA/UPS RICO Act crimes against PLAINTIFF for exercising Federal Rights of RLA/LMRDA collectivity, and Union activism to expose UPS & IPA fraud against the pilot membership. We now have two 26-Year old law clerks (Colton W. Givens & Andrew T. Hagerman) tasked to dispose of Greene's cases who have manufactured additional fabrications of falsely alleged facts to sustain corporate fraud. Greene is a 57-Year old accomplished airline Captain & 22-Year Veteran of the United States Air Force now fighting *Domestic Enemies* blatantly defiling their oath of office and the judicial machinery itself of which both clerks should be disbarred. The most recent District Court Order DN-88 establishes evidence "***Beyond Reasonable Doubt***" of misconduct demanding independent judicial review outside of the compromised influence of Judge Thomas B. Russell and his politically motivated benefactors sphere of undue influence to continue obstructing justice (**18 USC § 1503 – Obstruction of justice**) compromising the judicial machinery itself:

In Bulloch v. United States, the 10th Circuit Court of Appeals ruled: "Fraud upon the court is fraud which is directed to the judicial machinery itself and is not fraud between the parties or fraudulent documents, false statements or perjury . . . It is where the court or a member is corrupted or influenced or influence is attempted or where the judge has not performed his judicial

function—thus where the impartial functions of the court have been directly corrupted."

The District Court Tampered with Evidence: Andrew T. Hagerman ("Hagerman") fraudulently tampered with evidence in DN-88 purposely leaving sentences, up to and including whole paragraphs changing the meaning and intent of evidence showing blatant acts of fraud. The following is a small highlight of Hagerman's fraudulent misconduct by removing the text of ***CAPTAIN*** Michael Starnes Undisclosed Driving while Under the Influence (DUI) that is unlawfully undisclosed to the Federal Aviation Administration (FAA) so as to conceal ***"WHY"*** Starnes succumbed to perjury in return for UPS covering up his DUI. Hagerman continued to fabricate additional erroneous facts and information too many to address in this Notice of Appeal that are absolutely untrue and never existed. Just one of many examples of Hagerman purposely violating **18 USC § 371 – Conspiracy to commit offense or to defraud United States**, Hagerman attempts to pass ***CAPTAIN*** Michael Starnes off as credible witness with the following false statement [3:14cv628 DN 88 *Id.* at 3533]:

> ***"Around the time of the disciplinary hearings, Michael Starnes, ("Starnes"), one of Greene's then-co-pilots at UPS, emailed Jennifer Robbins, ("Robbins"), a UPS investigator."***

Hagerman knows ***CAPTAIN*** Starnes was not "one of Greene's then Co-pilots" [multiple exhibits to include 3:14cv628 DN 83-7 Starnes declaration versus

Hagerman alleging an affidavit] but Hagerman phrases it ***"one of Greene's then-co-pilots"*** for a reason. Fact is Michael Starnes flew with Greene as an active crewmember only one time more than 8-years earlier on 11 April 2005. ***CAPTAIN STARNES*** was not even qualified to fly a B747 at the time Starnes was traveling exclusively as a passenger having small talk on Captain Greene's UPS 63 Flight Deck on 28 July 2013 [3:15cv234 DN 85-3]. Findings of fact with both oral and documentary evidence in the record shows Starnes did not E-Mail Robbins of his own volition over any alleged concerns about Greene versus being solicited/coerced to make a false statement by UPS managers Robbins & Psionses [3:14cv628 DN 84-29 to 30]. Hagerman also falsely alleged UPS Manager Psiones was Greene's supervisor, which was another false and manufactured purported fact by Hagerman. There are too many false Hagerman fabrications to address in this Notice of Appeal that will be covered in a full Appellant Brief with the 6th Circuit. Hagerman was directed to make these false statements of which such conduct is the essence of fraud on the court mandating a proper uninfluenced Department of Justice (DOJ) investigation/deposition (not tampered with by the undue influence of McConnell and Frost Brown Todd crony, newly confirmed U.S. Attorney, *Western District of Kentucky*, Russell Coleman, former McConnell Aid, FBT Attorney, & FBI Agent) is necessary to get to the bottom of Hagerman's illicit conduct not unlike Judge Russell, IPA Attorney, Irwin Cutler, and all UPS/IPA attorneys throughout these proceedings. Hagerman was ordered to make these false

claims just as the countless other Decisions crafted on behalf of Judge Russell by Colton W. Givens. Both clerks were recruited by Judge Russell to aid and abet in **18 USC § 4 – Misprision of felony, 18 USC § 371 – Conspiracy to commit offense or to defraud United States, 18 USC § 1503 – Obstruction of justice, 18 U.S. Code § 1519 – Destruction, alteration, or falsification of records in Federal investigations**, and their willingness in succumbing to **18 U.S. Code § 1622 – Subornation of perjury**. It's all in the Record with both law clerks falsely alleging countless times without proffering any evidentiary support that Greene simply made "accusations, nor presented any evidence." Similar statements were made too many times to count despite in Greene's DN-84 Response alone that provided 31 Docket Number entries with findings of fact in both oral and documentary evidence that have been unlawfully set aside purposely sequestered and denied to be heard before an independent & uninfluenced jury trial.

The conduct of the individuals involved shows a heinous trail of dishonesty and deceit rendering this entire triad case tainted with fraud mandating invocation of **Rule 60. Relief from a Judgment or Order** (b)(3) based on fraud, misrepresentation, or misconduct by an opposing party. This Notice of Appeal is a mere snippet of fraud drafted by Judge Russell's hand picked Law Clerk, Andrew Hagerman that will be elaborated on at greater length within the limitation of yet another Appellant Brief. Hagerman had the audacity to suggest [3:14cv628 DN 88 *Id.* at 3543]:

> ***"if a court finds 'that fraud has been practiced upon it, or that the very temple of justice has been defiled,' it may assess attorney's fees against the responsible party," the same way "it may when a party 'shows bad faith by delaying or disrupting the litigation or by hampering enforcement of a court order.'"***

This is the epitome of hypocrisy and rhetoric given **FRCP Rule 11. Signing Pleadings, Motions, and Other Papers; Representations to the Court; Sanctions**

(b) REPRESENTATIONS TO THE COURT. By presenting to the court a pleading, written motion, or other paper—whether by signing, filing, submitting, or later advocating it—an attorney or unrepresented party certifies that to the best of the person's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances:

(2) the claims, defenses, and other legal contentions are warranted by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law or for establishing new law;

(3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity

Greene's counter motion for sanctions was based on **Rule 11(b)(2) & (3)** as they are warranted by existing law and ***the factual contentions have evidentiary support*** that were completely ignored by Judge Russell unlawfully abandoning the Rule of Law. It

therefore follows that the gross misconduct of the District Court, IPA Attorney, Irwin Cutler, UPS Attorney, John Klages, & ALL other parties involved especially Officers of the Court, to include Law Clerks (*i.e. Givens & Hagerman*) who are knowingly holding factual findings of perjury that they continue to fraudulently sustain as truth can no longer be excused. ALL parties involved to include Judge Thomas B. Russell emphatically knows UPS witnesses (Captain Peyton Cook, Captain Michael Starnes, & First Officer, Marc McDermont) were coerced into lying claiming behavior and statements made by Greene that **NEVER** happened.

These Officers of the Court have positive knowledge of this irrefutable evidence yet he still sustains the lie in violation of Federal Law to commit fraud in violation of **18 U.S. Code § 1622 – Subornation of Perjury:** Whoever procures another to commit any perjury is guilty of subornation of perjury, and shall be fined under this title or imprisoned not more than five years, or both.

18 U.S.C. § 4 – Misprision of Felony

1. On September 6-8, 2016, Captain Greene submitted tape-recorded evidence to the UNITED STATES DISTRICT COURT WESTERN DISTRICT OF KENTUCKY, LOUISVILLE DIVISION as evidence of Perjury of UPS witnesses Captain Peyton Cook, Captain Michael Starnes, & First Officer Marc McDermont. Judge Thomas B. Russell accepted this evidence and placed this evidence in the record [3:15cv234 DN 88].

The Court ignored this crime in violation of **18 U.S.C. § 1621 – Perjury generally.** The Court continues to conceal and cover-up this crime on behalf of the Defendants in violation of **18 U.S.C. § 4 – Misprision of Felony**:

2. On September 8, 2016 United Parcel Service Attorneys were given this same tape-recorded evidence and also ignored this crime and continues to vehemently defend their witnesses Captain Peyton Cook, Captain Michael Starnes, & First Officer Marc McDermont. As of this date, UPS continues to conceal and cover-up this crime in violation of **18 U.S.C. § 4 – Misprision of Felony:**

3. Also on or around September 8, 2016 this same tape was given to the Independent Pilots Association Attorney Irwin Cutler who in turn continues to conceal and cover-up this crime in violation of **18 U.S.C. § 4 – Misprision of Felony:**

4. Judge Thomas B. Russell, Law Clerks Colton W. Givens & Andrew T. Hagerman UNITED STATES DISTRICT COURT WESTERN DISTRICT OF KENTUCKY, United Parcel Service, the Independent Pilots Association, their associated Attorneys, and UPS witnesses Captain Peyton Cook, Captain Michael Starnes, & First Officer Marc McDermont are co-conspirators in violation of **18 U.S. Code 371 – Conspiracy to commit offense or to defraud United States.**

Greene exercised solely lawful conduct with the sole intention to encourage, induce, or cause the known perjured witnesses to testify truthfully in accordance with

Greene's Rights as a Pro Se litigant under **18 U.S. Code § 1512** – Tampering with a witness, victim, or an informant:

(e) In a prosecution for an offense under this section, it is an affirmative defense, as to which the defendant has the burden of proof by a preponderance of the evidence, that the conduct consisted solely of lawful conduct and that the defendant's sole intention was to encourage, induce, or cause the other person to testify truthfully.

Judge Russell continues to ignore Greene's Rights IAW **18 U.S. Code § 1512(e)** – Tampering with a witness, victim, or an informant: To encourage, induce, or cause known perjured witnesses to come forward with their truthful testimony despite Judge Russell himself holding the very evidence of their perjury in the record. It appears that Judge Russell and his law clerks (*Givens & Hagerman*) believe if they ignore the ***TRUTH*** and unlawfully sets it aside then it just doesn't exist. This is textbook tyranny with a train of abuses & usurpations the founding fathers warned about that relinquish the people to shear despotism rendering freedom outlawed and only outlaws being free.

American Bar Association Center For Professional Responsibility Comment on Rule 3.3 Advocate Candor Toward The Tribunal – Comment

[1] This Rule governs the conduct of a lawyer who is representing a client in the proceedings of a tribunal. See Rule 1.0(m) for the definition of "tribunal." It also

applies when the lawyer is representing a client in an ancillary proceeding conducted pursuant to the tribunal's adjudicative authority, such as a deposition. Thus, for example, paragraph (a)(3) requires a lawyer to take reasonable remedial measures if the lawyer comes to know that a client who is testifying in a deposition has offered evidence that is false.

[2] This Rule sets forth the special duties of lawyers as officers of the court to avoid conduct that undermines the integrity of the adjudicative process. A lawyer acting as an advocate in an adjudicative proceeding has an obligation to present the client's case with persuasive force. Performance of that duty while maintaining confidences of the client, however, is qualified by the advocate's duty of candor to the tribunal.

Consequently, although a lawyer in an adversary proceeding is not required to present an impartial exposition of the law or to vouch for the evidence submitted in a cause, the lawyer must not allow the tribunal to be misled by false statements of law or fact or evidence that the lawyer knows to be false.

Offering Evidence

[5] Paragraph (a)(3) requires that the lawyer refuse to offer evidence that the lawyer knows to be false, regardless of the client's wishes. This duty is premised on the lawyer's obligation as an officer of the court to prevent the trier of fact from being misled by false evidence. A lawyer does not violate this Rule if the lawyer

offers the evidence for the purpose of establishing its falsity.

[6] If a lawyer knows that the client intends to testify falsely or wants the lawyer to introduce false evidence, the lawyer should seek to persuade the client that the evidence should not be offered. If the persuasion is ineffective and the lawyer continues to represent the client, the lawyer must refuse to offer the false evidence. If only a portion of a witness's testimony will be false, the lawyer may call the witness to testify but may not elicit or otherwise permit the witness to present the testimony that the lawyer knows is false.

Remedial Measures

[10] Having offered material evidence in the belief that it was true, a lawyer may subsequently come to know that the evidence is false. Or, a lawyer may be surprised when the lawyer's client, or another witness called by the lawyer, offers testimony the lawyer knows to be false, either during the lawyer's direct examination or in response to cross-examination by the opposing lawyer. In such situations or if the lawyer knows of the falsity of testimony elicited from the client during a deposition, the lawyer must take reasonable remedial measures.

The District Court Violated Multiple Counts of 18 USC to include (too many to list):

18 USC § 4 – Misprision of felony

18 USC § 371 – Conspiracy to commit offense or to defraud United States

18 U.S. Code § 372 – Conspiracy to impede or injure officer

18 U.S. Code § 1001 – Statements or entries generally

18 U.S. Code § 1016 – Acknowledgment of appearance or oath

18 USC § 1503 – Obstruction of justice

18 U.S. Code § 1512 – Tampering with a witness, victim, or an informant

18 U.S. Code § 1513 – Retaliating against a witness, victim, or an informant

18 U.S. Code § 1515 – Definitions for certain provisions; general provision

18 U.S. Code § 1519 – Destruction, alteration, or falsification of records in Federal investigations

18 U.S. Code § 1521 – Retaliating against a Federal judge or Federal law enforcement officer by false claim or slander of title

18 U.S. Code § 1621 – Perjury generally

18 U.S. Code § 1622 – Subornation of perjury

18 U.S. Code § 1623 – False declarations before grand jury or court

18 USC §§ 1961-1968 Racketeer Influenced and Corrupt Organizations Act (RICO)

18 USC §§ 2331(5)(A)(B)(C) – Domestic terrorism means "activities that –

(A) involve acts dangerous to human life that are a violation of the criminal laws of the United States or of any State;

(B) appear to be intended – (i) to intimidate or coerce a civilian population; (ii) to influence the policy of a government by intimidation or coercion; or.

(C) occur primarily within the territorial jurisdiction of the United States."(18 USC § 2331)

Additional District Court Violations of U.S. Code Provisions of Federal Law.

28 U.S. Code § 4101 – Defamation Definitions

29 U.S. Code § 666 – Civil and criminal penalties

(g) FALSE STATEMENTS, REPRESENTATIONS OR CERTIFICATION

29 CFR 2580.412-9 – Meaning of fraud or dishonesty

42 U.S.C. §1983 – Civil action for deprivation of rights

42 U.S. Code § 12112 – Discrimination, (d)(4)(A)

The District Court Mocks Their Blatant Acts of Domestic Terrorism Against The People in Violation of 18 USC §§ 2331(5)(A)(B)(C)

The District Court mocks Greene's claims that the Court has committed acts of Domestic Terrorism with Hagerman stating as follows:

> ***"He [Greene] claims that this Court has "sustained acts of Domestic Terrorism against Greene," has encouraged fraud in this case, and has "demonstrated an appearance of impropriety, lacking honesty, integrity, impartiality, temperament, and fitness to serve as a judge during these proceedings."***

What's interesting is that Hagerman just repeats what Greene believes to be true but doesn't deny the allegations. Hence by definition the ***TRUTH*** of the District Court's conduct sustains they indeed have committed acts of Domestic terrorism meaning "activities that –

(A) involve acts dangerous to human life that are a violation of the criminal laws of the United States or of any State;

(B) appear to be intended – (i) to intimidate or coerce a civilian population; (ii) to influence the policy of a government by intimidation or coercion; or.

(C) occur primarily within the territorial jurisdiction of the United States."(18 USCS § 2331)

My family and I have suffered for over five years defending blatant fraud by Domestic Enemies that is revealed in the record yet in violation of Federal Law has

unlawfully been set aside by the District Court to sustain fraud while appeasing their politically connected corporate benefactors.

The District Court Violated Multiple Federal Rules of Civil Procedure:

Rule 11. Signing Pleadings, Motions, and Other Papers; Representations to the Court; Sanctions

(b) REPRESENTATIONS TO THE COURT. By presenting to the court a pleading, written motion, or other paper—whether by signing, filing, submitting, or later advocating it—an attorney or unrepresented party certifies that to the best of the person's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances:

(2) the claims, defenses, and other legal contentions are warranted by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law or for establishing new law;

(3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(4) the denials of factual contentions are warranted on the evidence or, if specifically so identified, are reasonable based on belief or a lack of information.

On behalf of Judge Russell, Hagerman makes an OVERTLY defamatory statement exhibiting Russell's

outright contempt for the judicial mechanism itself wherein Hagerman falsely alleges the following [3:14cv628 DN 88 *Id.* at 3549]:

> ***"Greene's continued disrespect, inappropriate behavior"***

The above is just another biased attempt of Judge Russell to malign Greene's character conforming to both UPS & IPA's fraudulent modus operandi. Greene was a loyal UPS employee for 20-Years, after becoming aware of Union fraud and complicity by the Independent Pilots Association (IPA) with United Parcel Service (UPS) compromising the safety & security of the airline I was ordered by a Transportation Security Administration (TSA) Federal Air Marshal to file an incident report surrounding the terrible acts of Workplace Violence taken against me for simply doing my job. After the Union and UPS became aware of my TSA incident report their relentless & unlawful harassment intensified through November of 2013 culminating in false & fabricated claims by UPS & the IPA that resulted in the fraudulent & unlawful termination of my 20-Year airline career that I've been defending over the last 5-Years. This fraud has included countless years of painful defamation in both slander & libel by all parties involved to include the District Court and associated law clerk's fraudulent & one sided rhetoric against Greene for speaking the ***Truth*** while absolving the opposition's relentless acts of defamation with reckless name-calling & unbecoming statements against Greene with not one piece of evidentiary support to sustain this terrible litany of defamation

against Greene. Hagerman's blatant bias, on behalf of Judge Russell, ignoring the opposition's awful conduct in fraudulently maligning Greene's good name and character brings great discredit upon Hagerman and the justice system as a whole giving great concern for the future handing the baton of justice to the likes of Hagerman lacking good moral character in not being willing to sustain the benefit of corporate fraud.

This amounts to more Judge Russell tampering with evidence via purposeful omissions and paraphrasing throughout his vexatious DN 88, Decision drafted by Hagerman [3:14cv628 DN88 emphasis added *Id.* at 3536 & 3545]. Judge Russell alleges Greene consistently engaged in reckless name-calling, yet his bias in favor of the Defendants ignores their litany of name-calling fraudulently maligning Greene throughout their Pleadings that it almost encompasses two pages in this Notice of Appeal as follows:

Argumentative
Belligerent
Brinkmanship
Complainer
Conclusory
Conspiracy
Discrimination
Dishonesty
Disturbing Behavior
Fixated
"Fuck You" Klages falsely alleges statement made by Greene to UPS
Greene does not present ANY evidence (Docket exploits this syndicated lie)

Grossly Insubordinate
Harassing
Harassment
Hostile Behavior
Hostile Workplace Environment
Hysterical
Insubordinate
Intimidating
Judgment & Focus Concerns
Low Life
Lying
Not Forthcoming
Obsessed
Obsession
Occupational Self-Destruction
Paranoid
Panic Stricken
Rambling Ranting
Recalcitrant
Retaliation
Retribution
Security Breach/Risk

"So What?" Is Klages response to Captain Michael Starnes undisclosed DUI to the FAA in violation of Federal Law that Captain Michael Starnes never reported.

Special Performance
Stalking
Strange Behavior
Threatening Behavior
Troubling Behavior
Unacceptable Behavior
Unfounded Theories and Accusations
Unprofessional Behavior

Unprofessional Conduct
Unusual & Erratic Behavior
Violent Acts
Violations
Vociferously
Wildly Speculative
Workplace Violence

This is an outrage given UPS, IPA, their legal counsel (Cutler & Klages), & the Court (to include Givens & Hagerman) having positive knowledge of Starnes perjury and IPA's aiding & abetting to help Starnes, Cook, & McDermont craft their unqualified, unfounded, & false perjured statements alleging behavior concerns about Greene. Judge Russell sustained known fraud as truth while denying Greene's right to have an opinion. Russell's sanction of Greene is merely an effort to silence my voice, nothing less than a blatant violation of my basic First Amendment Right to Freedom of Speech & Freedom of Religion being silenced for asking a known perjurer to come forward with his truthful testimony in which Hagerman sensationalizes as [3:14cv628 DN 88 *Id.* at 3546]:

"SERIOUSLY INAPPROPRIATE CONDUCT"

Seriously Inappropriate Conduct Defined: "Conduct to a degree that is significant or worrying because of possible danger or risk of aggressive behaviors and violence which are among types of conduct that can be considered seriously inappropriate behavior."

This Hagerman lie on behalf of sustaining fraud on the court in maligning Greene's exemplary record as a true

American Hero ***goes too far*** with Judge Russell signing a fraudulent order crafted by a 26-Year old law clerk tasked to blatantly discriminate against a *Pro Se* litigant based on exercising my First Amendment Right to Freedom of Speech and Religious Freedom with Hagerman admitting of his own volition this attack on Free Speech Expressions of God & Religion [3:14cv628 DN 88 *Id.* at 3546]:

> ***"Second, Greene sent another email to Starnes, in which he used*** <u>religion and God</u> ***as a means by which to "apparently" try and convince Starnes to come forward with a statement more to Greene's liking and benefit."***

What's actually funny about the above statement is that both Greene and advocates for the ***TRUTH*** love Starnes perjured testimony as we don't need "*a statement more to Greene's liking and benefit*" as the findings of fact of both oral and documentary evidence in the record that have been unlawfully set aside by the District Court reveals the truth. Yet Hagerman knowingly & willfully commits fraud on the court sustaining a false statement as truth and should be sanctioned himself in accordance with applicable federal laws pertaining to false statements.

> ***"Specifically, anyone knowingly and willfully was to make any materially false, fictitious, or fraudulent statements or representation; or makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent***

> ***statements or entry may be subject to penalties under 18 U.S.C. 1001 and 29 U.S.C. 666. Penalties may involve a monetary fine, imprisonment, or both."***

Hagerman on behalf of Judge Russell, has clearly gone off the chart with the propagated lie in that he is sanctioning/discriminating against a *Pro Se* litigant's basic **First Amendment Right to FREEDOM OF SPEECH & RELIGIOUS FREEDOM** stating [3:14cv628 DN 88]:

> ***"Finally, he concluded by*** *using religion another time*: ***"May God guide you the right way as he guided me to reach out to you."***

I have been discriminated against and targeted by the U.S. Government through a blatantly corporate controlled Justice System. Judge Thomas B. Russell is denying my First Amendment Right to Freedom of Speech and the Right to Religious Freedom in freely exercising my belief in God as witnessed by the judicial misconduct of Judge Thomas B. Russell abandoning/abusing the rule of law in his recent DN-88 Order sanctioning my religious beliefs of God and expressions thereof on behalf of appeasing his benefactors. In accordance with Federal Rules of Civil Procedure, **Rule 11,** the United States Supreme Court stated the following:

> ***"Rule 11 [of the F.R.C.P.] imposes a duty on attorneys to certify that they have conducted a reasonable inquiry and have determined that any papers filed with the court are well***

> ***grounded in fact, legally tenable, and not interposed for any improper purpose."***

The United States Supreme Court has held that:

> ***"Rule 11, imposes on any party who signs a pleading, motion, or other paper—whether the party's signature is required by the Rule or is provided voluntarily—an affirmative duty to conduct a reasonable inquiry into the facts and the law before filing, and that the applicable standard is one of reasonableness under the circumstances."***

An examination of the offender and his duties is important because, as discussed below, violations of **Rule 26, Rule 11**, or even the rules of professional conduct may give rise to a fraud-on-the-court claim, even if those violations were not specifically directed to the court itself.

Rule 11, requires an attorney or unrepresented party to sign each discovery request, response, or objection. . . . Although the certification duty requires the lawyer to pause and consider the reasonableness of his request, response, or objection, it is not meant to discourage or restrict necessary and legitimate discovery. The rule simply requires that the attorney make a reasonable inquiry into the factual basis of his response, request, or objection. The duty to make a "reasonable inquiry" is satisfied if the investigation undertaken by the attorney and the conclusions drawn there from are reasonable under the circumstances. It is an objective standard similar to the one imposed by **Rule 11**. Cutler failed to comply with his duty to make a

"reasonable inquiry" because he was already armed with the Truth but instead chose to aid & abet in known crime with UPS/IPA to commit fraud on the court he knew would be sustained by Judge Thomas B. Russell. IPA Attorney, Irwin Cutler, UPS Attorney, John Klages, and now Western District Court Law Clerks, Andrew Hagerman & Colton Givens on behalf of Judge Thomas Russell have made countless misrepresentations & fraud not been grounded in any fact, legally tenable, and interposed exclusively for an improper purpose. More specifically in violation of **FRCP Rule 52(a)(5)**, there has never been a single piece of evidentiary support to sustain the misrepresentations and fraud.

UPS' *Star Witnesses* were all troubled pilots that Captain Greene never even flew with versus actual pilots that worked with Captain Greene that testified on my behalf at the rigged Arbitration defeating all of the lies falsely alleged by Captain Peyton Cook, Captain Michael Starnes, First Officer Marc McDermont, & Captain Matthew Subitch's false statements of perjury of which these findings of fact have been unlawfully set aside.

Yet Captain Douglas Greene has ***NEVER*** even been afforded an ***appearance in front of a trial court*** with or ***without*** a jury so as in accordance with FRCP Rule 52(a)(6) to be given due regard to the trial court's opportunity to judge the witnesses' credibility. **Greene asserted his Rule 38. Right to a Jury Trial Demand** to only be denied at all costs by UPS/IPA's undue monetary and political influences. This

Constitutional right has been unlawfully denied despite filing a motion for a **Rule 38 Jury Trial Demand** which is a basic Right that has been determined in just one of many United States Supreme Court Decisions as in TEAMSTERS v. TERRY in which JUSTICE MARSHALL delivered the opinion of the Court stating:

> ***"This case presents the question whether an employee who seeks relief in the form of back-pay for a union's alleged breach of its duty of fair representation has a right to trial by jury. We hold that the Seventh Amendment entitles such a plaintiff to a jury trial."***

Rule 52.(a)(5) & (6): Findings and Conclusion by the Court

(5) Questioning the Evidentiary Support. A party may later question the sufficiency of the evidence supporting the findings, whether or not the party requested findings, objected to them, or moved for partial findings.

The District Court not only tampered with evidence they refused to answer Greene's demands for Evidentiary Support of false findings that were based on known fraud.

(6) Setting Aside the Findings of fact and giving no trial court opportunity to judge the witnesses' credibility.

Rule 56. Summary Judgment. During recent Senate Judiciary Confirmation hearings Senator Sheldon Whitehouse asked adverse Attorney, Rebecca Grady Jennings a great question pertaining to FRCP 56 wherein a grant for summary judgment can only be made if the movant shows that there is no genuine dispute as to *any* material fact in a case asking Jennings:

> ***"Do you agree that determining whether there is a "genuine dispute as to any material fact" in a case requires a judge to make a subjective determination?"***

Jennings falsely alleged in her response trying to appease Senator Whitehouse with the hopes of confirmation by stating:

> ***"I do not. The determination of whether a fact is material and whether any issue of material fact is genuine should be made objectively. If the judge must make a subjective determination about the strength of the evidence, then the case is not one appropriate for summary judgment."***

Yet Rebecca Jennings knows in Greene v. FBT both herself and the other attorneys involved as the *movants* failed to show that there was no genuine dispute as to *any* material fact but Jennings continued to move the Court to grant motion for summary judgment so as to deny Greene's rights to be heard in a jury trial. Irwin Cutler's conduct is not unlike Rebecca Grady Jennings and others within the legal brethren of the cloth, in which upholding the truth in rendering honest adjudication in a court of law is now an immaterial

inconvenience versus appeasing the agenda of their corporate benefactors. Greene filed **Motion for FRCP Rule 56. Summary Judgment,** this was unlawfully ignored by the District Court granting summary judgment without the movant ever showing that there was no genuine dispute as to any material fact. Greene clearly supported factual positions that facts were genuinely disputed and the assertions were supported with materials of evidence ***"Beyond Reasonable Doubt"*** *In the Record* including depositions, documents, electronically stored information, affidavits, admissions, & other materials.

Greene's supported factual positions were thoroughly covered in countless pleadings providing factual findings of both oral and documentary evidence *In the Record* that were unlawfully set aside and ignored in violation of Federal Rules of Civil Procedure, Rule 5 6(a) (6) by both the Western District Court and the 6th Circuit Court of Appeals.

- **FRCP Rule 56. Summary Judgment,** Judge Russell did not have the jurisdiction to Grant Summary judgment on behalf of defendants based on countless Material Facts in Dispute not proven otherwise by the movant & ignored by the District & Appellate Courts.

Rule 60. Relief from a Judgment or Order (b)(3) Based on fraud, misrepresentation, or misconduct by an opposing party. It appears the new rule of law is based more on winning instead of finding the ***TRUTH*** and if an Officer of the Court is not *lying* then they are not *trying* to win.

Given the countless pleadings and evidence in the record of relentless acts of fraud and misrepresentations upon the court against Greene's honest adjudication I move this court for immediate Relief in accordance with **Rule 60. Relief from a Judgment or Order** (b)(3) Based on fraud.

The District Court Exceeded its Jurisdiction:

"SANCTION DEFINED: A provision of a law enacting a penalty for disobedience or a reward for obedience."

1. Judge Russell lacks jurisdiction to Order Sanctions based on Captain Michael Starnes ("Starnes") known fraud that the District Court is unlawfully and fraudulently sustaining as truth. During IPA Attorney, Irwin Cutler's relentless and vexatious efforts to silence Greene both IPA, Cutler, & now the District Court are unlawfully harboring known perjured witnesses and continue to commit fraud on the court sustaining Captain Michael Starnes perjured testimony as truth in a case that Starnes is not even a party to. Captain Michael Starnes was NEVER a party to the *Greene v. IPA et al* case wherein IPA Breached their Duty of Fair Representation of Greene in case number 3:14cv628 originally brought before the Western District Court of Kentucky. Starnes was UPS' perjured witness in the *Greene v. UPS/IPA System Board of Adjustment* case number 3:15cv234. Therefore, even if Judge Russell had jurisdiction he cannot sanction a U.S. Citizen for exercising their First Amendment

Right to Freedom of Speech & Freedom of Religion and expressions thereof for communication with another person in accordance with my rights under the Constitution.

2. Judge Russell lacks jurisdiction over this case as Judge Russell entered a final Judgment relinquishing jurisdiction with the case dismissed on Appeal to the 6th Circuit. Under similar circumstances of Appeal from the United States District Court for the Eastern District of Michigan at Detroit. No. 03-71258—Robert H. Cleland, District Judge:

The 6th Circuit stated: "We have appellate jurisdiction pursuant to 28 U.S.C. § 1291 because a final judgment has been entered." (*MARIO ANDRETTI v. BORLA PERFORMANCE INDUSTRIES, Nos. 04-1835/2404/2406 (6th Circuit 2005)*)

3. IPA, UPS, and the District Court are harboring a perjured witness in protecting Captain Michael Starnes through their trumped up Motion for Sanctions which is a violation under the Federal Law of the Collective Bargaining Agreement based on Starnes **"Intentional Misconduct."** UPS/IPA **CBA Article 5. P. Protection From Damage:**

> ***"The Company shall, at no expense to the crewmember, provide legal representation for a crewmember named as a defendant in any legal proceedings arising out of the crewmember's performance or nonperformance of his duties as a crewmember, so long as he was acting within the normal scope of his***

employment, and is not determined to have engaged in intentional misconduct. (UPS/IPA are unlawfully providing legal representation to 3 crewmembers (Cook, Starnes, & McDermont) that have knowingly engaged in intentional misconduct in committing perjury lying about another crewmember). IPA is sustaining this misconduct by aiding and abetting the crewmembers and UPS Breaching their DFR to the entire IPA membership."

"The Company agrees to indemnify and hold harmless a crewmember or his estate, for the full amount of any monetary judgment or awards rendered against a crewmember or the Company arising out of the crewmember's performance or non-performance of his duties as a crewmember, so long as he was acting within the normal scope of his employment and is not determined to have engaged in intentional misconduct."

"The Company will have no obligation under this Section to reimburse crewmembers for any fine or penalty imposed on a crewmember by the FAA or NTSB, or to provide representation before the FAA or NTSB. "

FRCP Rule 11. Signing Pleadings, Motions, and Other Papers; Representations to the Court; Sanctions

(b) REPRESENTATIONS TO THE COURT. By presenting to the court a pleading, written motion, or other paper—whether by signing, filing, submitting, or

later advocating it—an attorney or unrepresented party certifies that to the best of the person's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances:

(2) the claims, defenses, and other legal contentions are warranted by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law or for establishing new law;

(3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(4) the denials of factual contentions are warranted on the evidence or, if specifically so identified, are reasonable based on belief or a lack of information.

Rule 11 Review of District Court's Grant or Denial, the 6th Circuit Court Stated:

We review a district court's grant or denial of Rule 11 sanctions for abuse of discretion. Tahfs v. Proctor, 316 F.3d 584 (6th Cir. 2003). "A court necessarily abuses its discretion if it bases its ruling on an erroneous view of the law or a clearly erroneous assessment of the evidence."(Ridder, 109 F.3d at 293).

"A departure by a court from those recognized and established requirements of law, however close apparent adherence to mere form in method of procedure, which has the effect of depriving one of a constitutional right,

is an excess of jurisdiction." (*Wuest* v. *Wuest*, 127 P2d 934, 937.)

In *The Case of the Marshalsea*, 77 Eng. Rep. 1027 (K.B. 1613), Sir Edward Coke found that Article 39 of the Magna Carta restricted the power of judges to act outside of their jurisdiction such proceedings would be void, and actionable.

Thus, neither Judges nor Government attorneys are above the law. See *United States v. Isaacs*, 493 F. 2d 1124, 1143 (7th Cir. 1974). In our judicial system, few more serious threats to individual liberty can be imagined than a corrupt judge or judges acting in collusion outside of their judicial authority with the Executive Branch to deprive a citizen of his rights.

The District Court applied the wrong law and violated the following:

The District Court violated basic human & civil rights to include Constitutional law under the 1st, 5th, 7th, & 14th Amendment rights. Blatantly suppressing basic first Amendment Rights to Freedom of Speech and expressions of God and Religion:

> ***"Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech."***

The District Court continues to deny rights of Due Process and Equal Protection of the Law, including rights to a trial by jury being preserved versus

fraudulently denied via the District Court exceeding the scope & authority of their jurisdiction in abandoning the Rule of Law by ignoring blatant disputes in Material Facts that forbid granting a fraudulent Motion(s) for Summary Judgment. Greene has established additional violations of proper enforcement & interpretation of the Railway Labor Act (RLA) for Air Carrier's, the Labor Management Reporting and Disclosure Act (LMRDA), the Racketeer Influenced and Corrupt Organizations Act (RICO), USC Title 18 Crimes of False, Fictitious, & Fraudulent conduct, FRCP to include the admission of Relevant Evidence, & SCR of Professional Conduct, and Defendants not deny criminal charges.

Other reasons why the District Court's judgment was wrong:

A triad case of RICO Act fraud by UPS, their Company controlled Union, UPS/IPA Attorneys, and now a compromised system of injustice tasked to undermine Greene's career and life on behalf of sustaining and covering up UPS/IPA crimes of Workplace Violence and fraud making the victim pay for their crimes against the American Worker.

Case history shows never-ending evidence of biased rulings against labor by the Federal Western District Court of Kentucky ***Strongly Suggesting*** undue UPS political/monetary influence & unlawful bias against *Pro Se* litigant. Justice is supposed to be a level playing field, this has yet to be seen as evidenced by

Irwin Cutler's Exhibit 1 [3:14cv628 DN 89-1] showing an army of legal representatives & staff recruited by IPA against individual pilots that exercise their purported Labor Management Reporting Disclosure Act (LMRDA) Rights. LMRDA Rights to challenge a corrupt union (IPA) embezzling pilot membership dues used against them by vexatious acts of harassment and flagrant bias via political influence to silence the American Worker. Judge Thomas Russell commandeered these triad cases that were formerly under the jurisdiction of other Judges so as to ensure the State of Kentucky's number one constituent being UNITED PARCEL SERVICE and their Company controlled Union the Independent Pilots Association continue to be **GRANTED** a get out of jail free card while now trying to make the victims of their crimes pay for the audacity in defending my 22-Year airline career, enforcement of the Collective Bargaining Agreement (CBA), pay and benefits, healthcare, the future for retirement, and well being of our families like every other American is supposed to have such basic freedoms.

Specific issues I wish to raise on appeal:

District Court violations of Constitutional law regarding First Amendment Rights to Freedom of Speech and Religious Freedom, Due Process & Equal Protection of the law. Multiple violations of Federal Laws, including USC Title 18 crimes, Federal Rules of Civil Procedure, misinterpretation of Federal Law under the RLA, LMRDA, UPS/IPA Collective Bargaining Agreement (CBA), organized RICO Act crimes. The

sequestration and unlawfully setting aside findings of fact in both oral and documentary evidence of perjury, fraud, falsification of FAA records, abuse of the FAA medical process used by UPS/IPA, & associated attorneys to target vocal pilots in opposition to Company and Union corruption. Fraud Upon the Court that has been defined by the 7th Circuit Court of Appeals to:

> ***"embrace that species of fraud which does, or attempts to, defile the court itself, or is a fraud perpetrated by officers of the court so that the judicial machinery cannot perform in the usual manner its impartial task of adjudging cases that are presented for adjudication."***

As previously stated, the history of the Federal Western District Court of Kentucky sustains attacks of undue political influence against labor & the people (*"DORSEY v. UNITED PARCEL SERVICE" (6th Circuit 4 Nov 1999)*) exhibiting judicial misconduct while sustaining the benefit of corporate fraud rendering an UPSide down controlled system of justice that undermines the moral fabric of our Country.

The following action is requested before the Court of Appeals to be taken in this case:

Honest adjudication mandating this unlawful harassment cease and desist while at the same time Greene's right to honest adjudication of the three inextricably connected cases submitted before the 6th Circuit Court pending Petition for Rehearing En Banc be

GRANTED. I request that UPS/IPA's undue monetary & political influences on our system of justice come to a stop restoring a sense of decency and honor to what is supposed to be a sacred system of justice respected throughout the world. It's time to expose the truth that has been purposely sequestered by Irwin Cutler's vexatious and harassing litigation via unlawfully sustained bias of the District Court. Based on the aforementioned, I Douglas Greene also petition this court for sanctions against the IPA & Irwin Cutler as follows (1) to impose sanctions on Irwin Cutler and IPA for harboring and providing cover for known perjurers; (2) subverting the rule of law, failing to inform Judge Russell of:

> ***"the actual commission of a felony cognizable by a court of the United States, conceals and does not as soon as possible make known the same to some judge or any other person in civil or military authority . . . "***

(3) to enjoin Irwin Cutler and IPA from otherwise threatening, intimidating, & discriminating against a *Pro Se* plaintiff whereby preventing him from encouraging, inducing, or causing the other person to testify truthfully while Cutler engages in the very acts he accuses Douglas Greene of engaging in. It is indeed IPA Attorney, Irwin Cutler and IPA that have engaged in witness tampering against Douglas Greene.

> ***18 USC 1512 (e) In a prosecution for an offense under this section, it is an affirmative defense, as to which the defendant has the burden of proof by a preponderance of the***

evidence, that the conduct consisted solely of lawful conduct and that the defendant's sole intention was to encourage, induce, or cause the other person to testify truthfully

(4) to award *Pro Se* plaintiff attorney fees and costs in bringing this motion; and (5) For all the reasons set forth above and in Greene's Original Counter Motion for Sanctions of Fifty Million Dollars for insurmountable damages of Defendant's Fraudulent Attacks Of Workplace Violence & RICO Act fraud for the willful intent to inflict emotional, physical, and financial damages via relentless acts of Domestic Terrorism over the past five years against Douglas W. Greene and the entire Greene family.

Respectfully submitted

/s/ Doug Greene

Dated: 16 March 2018

/s/ Douglas W. Greene
304 S. Jones Blvd.,
Suite 2787
Las Vegas, NV 89107

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing will be served by operation of the Court's CM/ECF system on this 16th Day of March 2018 to the following:

Irwin H. Culter, Jr.
Springs River Office Park
2303 River Road, Suite 300
Louisville, KY 40206
cutler@pcnmlaw.com

Counsel for Independent Pilots Association (*Exclusively, IPA General Counsel William C. Trent and the IPA Executive Board Only*)

/s/ Doug Greene
/s/ Douglas W. Greene

No. 18-5296

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

DOUGLAS WALTER GREENE

Plaintiff - Appellant Case No: 18-5296

v.

INDEPENDENT PILOTS ASSOCIATION; ROBERT TRAVIS, in his capacity as President of the Independent Pilots Association; ERICK GERDES, in his capacity as Vice President of the Independent Pilots Association; THOMAS KALFAS, in his capacity as Secretary of the Independent Pilots Association; BILL CASON, in his capacity as Treasurer of the Independent Pilots Association; HARRY TREFES, in his capacity as At Large Representative of the Independent Pilots Association

Defendants - Appellees.

On Appeal from the United States District Court for the Western District of Kentucky at Louisville
Case No. 3:14-cv-00628-TBR
Thomas B. Russell, District Judge

PETITION FOR REHEARING AND DEMAND FOR REHEARING EN BANC

(Filed Oct. 17, 2018)

Endowed by my creator with unalienable rights to LIFE, LIBERTY, & the PURSUIT of HAPPINESS, I'm

a FREE MAN in accordance with **UNITED NATIONS Universal Declaration of Human Rights**, Articles 1 through 30:

> **Article 3**: Everyone has the right to life, liberty, and security of person.
>
> **Article 4**: No one shall be held in slavery or servitude.

United Nations International Covenant on Civil and Political Rights

> **Article 14**: I claim my Right to equality before courts and tribunals and to a fair trial as a procedural means to safeguard the Rule of Law. Which has been denied due to organized crime within the U.S. Justice System unlawfully abandoning the Rule of Law.

A legal Resident of the European Union (EU), I claim ALL RIGHTS under UNITED NATIONS Human Rights Committee International Covenant on Civil and Political Rights with an emphasis on pursuing justice in the United Nations World Court if necessary.

I don't give my consent to any jurisdiction of U.S. Federal or State Courts over my sovereignty as a free man. U.S. Federal and State Courts lack personal and subject matter jurisdiction making rulings in any case based on known fraud while not considering findings of facts in both oral & documentary evidence in the record. **FACTS are the FACTS and the LAW is the LAW**, it's unlawful and without jurisdiction ignoring the law."

Sixth Circuit Court (6thCC) has sustained fraud with their Affirmation of District Court Sanction Decision demanding filing Petition Rehearing En Banc which shows a paper trail of retaliation and injustice against a Pro Se Litigant. Legitimacy of District/Appellate courts has been defiled with "Unclean Hands." Their appearance is reproachable and it makes them incapable of seeking or rendering a judgment or a conviction against anyone else. An old Maxim of law says it all:

"FRAUD VITIATES EVERYTHING"

Addison "Mitch" McConnell has notoriously instituted McConnellism (synonymous with McCarthyism) by placing loyal individuals from his beloved regional law firms into Gatekeeper positions unduly influencing the judicial mechanism as we know it appeasing McConnell's "Dark Money" benefactors:

> ***"Power tends to corrupt, and absolute power corrupts absolutely".....Lord Acton***

My question to Mr. McConnell and his District/Appellate Court *Public Servants*:

> ***"You've done enough. Have you no sense of decency, sir, at long last? Have you left no sense of decency?***

This is ***Epic Dishonesty*** and ***Fraud*** by Corporate Infiltration of our American Democracy denying the American people Equal * Justice * Under * Law, mischievously interfering in people's personal lives sustaining Dark Money objectives in destroying their

victims at all costs to conceal their fraud. Greene requested unbiased judicial appointments but instead is faced with Judges like Eugene Siler, Jr., Louisville native that would never in a million years rule against UPS/IPA, UPS' Company controlled Union. This has been what the Appellant has come to expect when dealing with willful blindness of handpicked partisan Republican judges in District/Appellate McConnell controlled Courts.

Organized Crime Control Act of 1970 (OCCA)

In *United States v. Turkette*, the Turkette court properly reasoned that a broad interpretation of the term "enterprise" to include defendants associated to commit racketeering acts would render that term wholly synonymous with the statutory definition of "pattern of racketeering activity." This "pattern of racketeering activity" has manifested itself during these triad proceedings through undue influences of combined enterprises of the following regional law firms in coalition with District/Appellate Courts (*see Appendix for Steve Weyland interview*):

1. Frost Brown Todd
2. Priddy, Cutler, Naake, & Meade
3. Quarles & Brady
4. Middleton Reutlinger

In violation of the Organized Crime Control Act of 1970' (OCCA), the 6thCC has abandoned the Rule of Law by aiding & abetting partisan Republican Dark

Money donors through undue influence of Mitch McConnell using Dark Money and power to infiltrate and corrupt our democratic processes. Countless advocates for truth aware of these proceedings before this court have every expectation this will unlawfully continue as it appears Appellant pleadings have never left the McConnell U.K. Alumni, Clerk's Office of Deborah C. Hunt subjecting Greene to 6thCC willful blindness.

En Banc consideration is necessary to secure and maintain legitimacy of the Court's decisions as evolution of these proceedings involves a matter of exceptional importance to reestablish the compromised integrity of the courts. Panel decision conflicts with Decision of U.S. Supreme Court in *Goodyear Tire & Rubber Co. v. Haeger et al.* Federal District/Appellate Courts knowingly & purposely rendered a Decision based on overwhelming fraud in the record as its foundation while unlawfully ignoring exculpatory evidence establishing this fact.

At the same time American citizens are being denied their 1st, 5th, 7th, & 14th Amendment rights to due process and mandatory jury trial. Is it within the jurisdiction of the District/Appellate courts to abandon countless Rules of Law including FRCP Rules 5 2 (a) (6) & FRAP 10 unlawfully setting aside findings of fact and denying Appellant's rights to challenge/question the credibility of known perjured witnesses? Greene's never been afforded opportunity to be heard in a trial court. Do District/Appellate Courts have jurisdiction to manufacture false facts, tampering with evidence compromising the sanctity of the Judicial mechanism?

Bulloch v. United States 763 F.2d 1115 (1985) citing Wilkin v. Sunbeam Corp., 466 F.2d 714 (10th Cir.).

> ***"Findings of fact, whether based on oral or documentary evidence, shall not be set aside unless clearly erroneous, and due regard shall be given to the opportunity of the trial court to judge the credibility of the witnesses."***

We hold that these questions affect Constitutional Rights of all Americans under the Rule of Law having a direct impact on Public Policy.

These usurpations and train of abuses pose an enormous threat to the American people and their basic rights under the U.S. Constitution including Free Speech, Freedom of Religion Expressions Thereof, and Due Process. Consideration by the full court is mandatory to secure and maintain legitimacy of Court decisions.

Integrity of The Court Has Been Compromised

Just as our new McConnell confirmed Supreme Court Justice, Brett Kavanaugh stated during Senate Judiciary confirmation proceedings:

> ***"My family and my name have been totally and permanently destroyed by vicious and false additional accusations . . . this has destroyed my family and my good name. A good name built up through decades of very hard work and Public***

Service at the highest levels of the American Government."

Judge Kavanaugh stated, "***Due Process means listening to both sides***," he continued to say that his lengthy history of Public Service deserves better. I feel Judge Kavanaugh's pain, despite over a 22-year history of very hard work and service as a Veteran, my good name built up through decades of Military Service and devotion preserving the safety and security of the airline industry has totally and permanently destroyed my family and good name by vicious and false accusations. Like Judge Kavanaugh all Americans are entitled "***Due Process listening to both sides***," but Captain Greene has yet to be heard in a court of law, denied even an Oral Argument, question is WHY? District/Appellate Courts know the reason is their Dark Money McConnell Benefactors (IPA/UPS) have been allowed to commit fraud and don't have a case. District/Appellate courts and IPA/UPS know Greene has voluminous amounts of evidence in the record that when presented to an unbiased jury ends this RICO Act fraud in favor of Greene.

Greene Challenges Unlawful Jurisdiction of Sanctions

Greene challenged jurisdiction of the District Court, and now challenges the Appellate Court exceeding jurisdiction, AFFIRMING sanctions based on known fraud violating Greene's First Amendment Rights to Freedom of Speech, Freedom of Religion and

Expressions Thereof. U.S. Courts don't have jurisdiction making major decisions based on known fraud while attempting to silence their victims making them pay for the crimes committed against them. In doing so, as a matter of law and Due Process, ***Fraud Vitiates*** any such decision and it will not be recognized (*See Appendix for rule of law Authorities*):

- "A defense based upon the lack of jurisdiction cannot be waived and may be asserted at any time."
- "Jurisdiction, once challenged, is to be proven, not by the court, but by the party attempting to assert jurisdiction. The burden of proof of jurisdiction lies with the asserter."
- "Where a court failed to observe safeguards, it amounts to denial of due process of law, court is deprived of juris."
- "A judgment can be void . . . where the court acts in a manner contrary to due process."
- "The judgments were based on orders which were void because the court exceeded its jurisdiction in entering them. Where a court, after acquiring jurisdiction of a subject matter, as here, transcends the limits of the jurisdiction conferred, its judgment is void."
- "Moreover, all proceedings founded on the void judgment are themselves regarded as invalid."

- "In The Case of the Marshalsea, Sir Edward Coke found that Article 39 of the Magna Carta restricted the power of judges to act outside of their jurisdiction such proceedings would be void, and actionable."
- "A departure by a court from those recognized and established requirements of law, however close apparent adherence to mere form in method of procedure, which has the effect of depriving one of a constitutional right, is an excess of jurisdiction."
- "Neither Judges (law clerks included) nor Government attorneys are above the law:"

  "In our judicial system, few more serious threats to individual liberty can be imagined than a corrupt judge or judges acting in collusion outside of their judicial authority with the Executive Branch to deprive a citizen of his rights."

- "The Supreme Court confirmed the right to sue a judge for exercising authority beyond the jurisdiction authorized by statute. The Supreme Court confirmed that a judge would be immune from suit only if he didn't act outside of his judicial capacity and/or wasn't performing any act expressly prohibited by statute."

- "Judicial immunity may only extend to all judicial acts within the court's jurisdiction and judicial capacity, but it doesn't extend to either criminal acts, or acts outside of official capacity or in the 'clear absence of all jurisdiction."

Material Facts Clearly in Dispute

FRCP Rule 56, The District/Appellate Court erred in their Decisions tampering with evidence and manufacturing false facts while refusing to acknowledge exculpatory evidence in the record [18-5296 DN 8-1 *Id.* at pg.1]:

> ***"An arbitrator upheld Greene's termination, concluding that Greene's erratic behavior provided sufficient grounds under the collective bargaining agreement for UPS to order Greene to undergo a non-routine medical evaluation, and that Greene's refusal to submit to the examination provided just cause for UPS to terminate him for insubordination."***

With every single new Decision, the Courts have manufactured false facts assisting their Dark Money donors as nothing in the Arbitrator's Decision stated Greene had "ERRATIC BEHAVIOR" versus the 6thCC eliminating fraudulent arbitrator allegations of using drugs and the known false testimony of three perjured pilots (Starnes, Cook, & McDermont) that NEVER flew with Greene. Arbitrator's actual words about Greene based on testimony of pilots that *actually* flew with

Greene, were completely ignored by District/Appellate Courts and even Winograd himself in his fraudulently flawed Decision [3:15cv234 DN 52-7]:

> ***"No evidence of previous discipline was offered as a basis for progressive discipline to support the Company's dismissal of Captain Greene. . . . The weight of the evidence shows that Captain Greene is an accomplished, skilled pilot with substantial experience leading crews for the Company, including service on 747 aircraft along international routes. . . . Several witnesses spoke to Captain Greene's competence, character, and leadership, including his handling of stressful situations."***

Defendants never showed there was no genuine dispute to countless material facts. Greene supported all factual positions with findings of fact in evidence "***Beyond Reasonable Doubt***" including depositions, documents, audio tapes, electronically stored information, affidavits, admissions, transcripts and other materials. Countless Appellant pleadings/evidence were unlawfully ignored by District/Appellate courts. Judge Russell entered supplemental materials & audio tapes in the record then ignored the evidence as if it didn't exist [3:15cv234 DN 88].

Greene's evidence demonstrates the need for all ignored Motions heard, whereby demanding the invocation of FRCP Rules 38, 56, & 60. The panel judges unanimously set aside findings of facts not considering

any of the evidence *In the Record* in the inextricable cases before the District/Appellate courts (*see Appendix*) in which voluminous amounts of information clearly show Greene submitted countless unimpeachable and substantive evidence.

Sixth Circuit Abandoned Any Standard Review

Greene's pleadings/exhibits represent overwhelming findings of facts in oral and documentary evidence unlawfully set aside in violation of **FRCP Rule 52(a)(6)** & **FRAP 10**:

> ***"The court MUST find the facts specially and state its conclusions of law separately."***

UPS/IPA witnesses have no credibility, they perjured themselves under oath. The evidence in the record shows this fact. ***ALL*** courts know this to be true and have unlawfully sustained the fraud on behalf of UPS/IPA concealing & covering it up.

As a matter of law & in accordance with **FRCP Rule 52(a)(5)** Greene questions the sufficiency of the evidence *purportedly* supporting the findings of the District/Appellate Courts. I exercise my right under **FRCP 38 Jury Trial Demand** because there is no evidence *In the Record* that's been proffered by appellees that supports the countless false claims & fabrications of evidence submitted by the Defendants that has been parroted by the District/Appellate Courts in violation of the **Federal Rules of Evidence** and **18 U.S. Code § 4 – Misprision of felony**.

The District /Appellate Courts violated FRCP 52 (a)(6) in setting aside ***findings of fact*** and never presenting an opportunity to judge the credibility of UPS' perjured witness:

> *"A grant of judgment as a matter of law is reviewed de novo. Kusens v. Pascal Co., Inc., 448 F.3d 349, 360 (6th Cir. 2006). "In entertaining a motion for judgment as a matter of law,* ***the court is to review all evidence*** *and draw all reasonable inferences in the light most favorable to the non-moving party, without making credibility determinations or weighing the evidence." Jackson v. FedEx Corporate Servs., Inc., 518 F.3d 388, 392 (6th Cir. 2008).*

Judgment as a matter of law is appropriate when "a party has been fully heard on an issue during a jury trial and the court finds that a reasonable jury wouldn't have a legally sufficient evidentiary basis to find for the party on that issue[.]" Fed. R. Civ. P. 50(a)(1). B."

> ***"The failure to apply the law correctly in reaching a decision is always an abuse of discretion. Koon v. United States, 518 U.S. 81, 100 (1996) ("A district court by definition abuses its discretion when it makes an error of law.")."***

> ***"An appellate court will affirm the trial court's fact determinations unless, based on a review of the*** **entire** ***record, it's "left with the definite and firm conviction that a mistake has been committed."***

(Pullman-Standard v. Swint, 456 U.S. 273, 284-85 n.14 (1982))

6thCC Decision **AFFIRMING** the District Court's judgment reveals their failure to conduct any legitimate Standard of Review. Had the 6thCC done so, countless ***Material Facts in Dispute*** establish that factual determinations must be overturned given District/Appellate court rulings are based on false & fabricated evidence by the Defendants. Now compromised law clerks are tasked to craft false Decisions of bias and partiality appeasing McConnellism and his Dark Money benefactors against a Pro Se Litigant. Factual findings of both oral & documentary evidence *In the Record* show exponentially more than a scintilla of evidence in support of Greene's position such that any jury would reasonably find for Greene:

> ***"The mere existence of a scintilla of evidence in support of the plaintiff's position will be insufficient; there must be evidence on which the jury could reasonably find for the plaintiff"*** *(Anderson v. Liberty Lobby, Inc., 477 U.S. 242 (1986))*

<u>District/Appellate Court Decisions Demonstrates Court's Legitimacy Compromised</u>

Justice Elena Kagan said during a recent, Oct 2018 appearance with Justice Sonia Sotomayor at Princeton University:

> ***"Every single one of us has an obligation to think about what it is that provides the***

> ***court with its legitimacy, to think about how we can be not so politically divided as some of the other political institutions in the nation" . . .***

Justice Elena Kagan, said she feared that adding Kavanaugh to the Supreme Court might place it in danger of being perceived as a political body instead of a neutral institution for resolving disputes.

> ***"It's an incredibly important thing for the court to guard is this reputation of being impartial, being neutral and not being simply extension of a terribly polarizing process."***

At the same conference, Justice Sonia Sotomayor said it was key for the court's justices avoiding the type of partisan rancor seen in other sectors of public life.

> ***"We have to rise above partisanship and personal relationships, that we have to treat each other with respect and dignity and with a sense of amicability that the rest of the world doesn't share."***

Justice Kagan in her Princeton remarks said the court's middle ground, represented by Justices Kennedy and Sandra Day O'Connor for 30 years, was "***extremely important***," enabling the court "***to look as though it was not owned by one side or another***." Now, "***it's not so clear whether we'll have it***."

Senator Sheldon Whitehouse recently conveyed his grave concerns with our Nation's Courts:

> ***"The Court is flying all the warning flags of a captured agency, dancing to special interest tunes and rampaging through precedent and principle to get there. . . . The lawyers in the room will know the reverence with which Wigmore is cited as legal authority in Decisions across the Country and for decades. Beyond any doubt he wrote 'the greatest legal engine ever invented for the discovery of truth is cross examination' . . . and that greatest legal engine has been deliberately disabled. . . . Over time I expect the facts to come out, they have a way of doing that. . . . cover ups never last . . . Big Republican special interests funding so called friends of the Court offering constant instruction and encouragement to the five Republicans on the Supreme Court and Big Republican special interests on the winning side of those seventy 5-4 partisan victories, the fruits of their political labor. People are catching on, the record of this is undeniable."*** *(See Appendix for full quote)*

Had the Panel actually looked at Greene's evidence, as in *Philips Electronics N. Amer. Corp. v. BC Technical*, the Court would have found nothing less than an elaborate cover up sequestering evidence and blatant criminal perjury by IPA, UPS, and UPS witnesses (Starnes, Cook, & McDermont) warranting 6thCC terminating IPA Motion & Decision for sanctions against Greene coupled with a referral of these cases for criminal prosecution.

> ***"Starnes thought that Greene's excessive focus on these issues distracted him from flying the aircraft and created a safety risk."***

Another 6thCC fabrication, Starnes was solicited/coerced by UPS to lie, the record shows he never came forward of his own volition reporting any alleged "excessive focus being distracted from flying the aircraft and creating a safety risk" *(See Appendix Sanctions Decision Notes & Starnes Deposition excerpt).* Testimony in the record by my B747 qualified First Officer, Will Dickenson, confirmed Starnes was lying and these false allegations never occurred. Starnes' perjury is confirmed with him witnessing only a normal routine flight just as my B747 qualified/experienced instructor First Officer, Will Dickenson, testified during the September 2013 arbitration [3:15cv234 DN53-5 Id. at 417-430]. It's apparent by the 6thCC Decision, not one of the Appellant Briefs/Replies were reviewed and overwhelming evidence *In the Record* purposely ignored by the 6thCC violating Greene's Due Process rights, as ordered by McConnell and his Dark Money benefactors on behalf of UPS/IPA. Willful blindness of the 6thCC, mandates Greene's intent to report perjured witnesses' crimes to all associated Federal authorities to include the FAA, & the DOJ.

6thCC AFFIRMATION is without reason and logic given Appellant Brief/Reply and countless exhibits of evidence beyond reasonable doubt that IPA colluded with UPS terminating Greene's employment:

"Greene's motion for sanctions against the IPA's counsel and his demand for $50 million dollars in damages were patently frivolous, and the district court did not abuse its discretion in rejecting it."

Voluminous examples in Greene's pleadings show more than enough evidence warranting $50 Million in damages even without a trial jury showing IPA, UPS, and now District/Appellate courts at the scene of the crime:

1. IPA helped perjured witnesses (Starnes, Cook, & McDermont) draft false statements.
2. IPA unlawfully protects known perjured UPS witnesses Starnes, Cook, & McDermont.
3. IPA attorneys continue to conceal, cover up, protecting perjured witnesses. Irwin Cutler refuses to step before any judge to report a felony; perjury by UPS pilots Starnes, Cook, and McDermont, in violation of **Title 18 U.S. Code 4, Misprision of Felony**.
4. District/Appellate courts relied on fraud/ false statements from UPS/IPA, & UPS' perjured witnesses sustaining defamation in slander and libel against Greene's reputation and career. District/Appellate courts, IPA, and UPS continue to proffer these fraud and false statement to anyone within earshot.

$50 million damages demand is clearly established showing District court abused its discretion with bias and partiality in favor of sustaining Defendant's fraud by rejecting it:

- Damage to career and reputation, not unlike Judge Kavanaugh.
- Salary at almost $5,000,000.00 alone, approximately $400,000 times 12-years.
- Benefits to include healthcare and perks times 12 years.
- Loss of Pension Plan contributions and amount accrual times 12-years.
- Pain and suffering, to include divorce, and being forced overseas, moving away from family and loved ones.
- Loss of personal property, resources, and time resulting in enormous retirement stock market losses due complete attention devoted over five years defending fraud.
- Legal fees, plus thousands of hours over the last five years defending fraud.

Above claim by the 6thCC is another example the *Rule of Law* in conducting an appropriate Standard of Review didn't happen. Greene gave innumerable examples showing IPA acted arbitrarily, discriminatory, & in bad faith that was so far outside a range of reasonableness it was wholly irrational *(ALPA v. O'Neill, 499 U.S. 65 (1991))*.

In collusion with UPS, IPA violated the Discrimination Standard with actions based on "irrelevant, invidious or unfair" distinctions *(Vaca v. Sipes, 386 U.S. 171 (1967))*. During these proceeding there has been more than a "*scintilla*" of sufficient evidence favoring the nonmoving party for a jury to return a verdict for that party hence Greene's fundamental right to jury trial." *(See Appendix, Michael Tomick v. United Parcel Service et al., Superior Court of Connecticut. CV064008944, Decided: 2010)*.

All Courts have a duty and obligation to follow the *Rule of Law* ascertaining truth and securing a just determination. A judge must render Decisions grounded in principle and reasoned argument, not in power, manipulating and ignoring rules in order to advance political agendas. Declaration of Independence clearly describes epidemic dishonesty evincing a ***design*** of McConnellism reducing the people under absolute Despotism spreading like cancer compromising our Government agencies and sacred judicial institutions:

> ***"When a long train of abuses and usurpations, pursuing invariably the same Object evinces a design to reduce them under absolute Despotism, it is their right, it is their duty, to throw off such Government, and to provide new Guards for their future security."***

It's time to right this wrong taking affirmative action in **GRANTING** this Petition for Rehearing or En Banc Determination. Should access to Equal * Justice * Under * Law be underhandedly denied again, U.S. Supreme Court Petition for Extraordinary Writ of Mandamus shall be filed in conjunction with Writ of Certiorari Case number 18-330 for RICO Act fraud, persecution, and harassment with the sole intent Denying Access to Justice.

"When injustice becomes law, resistance becomes duty." – Thomas Jefferson

Respectfully submitted,

Dated: 10/17, 2018

/s/ Douglas W. Greene

/s/ Douglas W. Greene
304 S. Jones Blvd., Suite 2787
Las Vegas, NV 89107

"INJUSTICE anywhere is a threat to JUSTICE everywhere."

Martin Luther King

Form 6. Certificate of Compliance With Type-Volume Limit

Certificate of Compliance With Type-Volume Limit, Typeface Requirements, and Type-Style Requirements

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   /s/ **Douglas Walter Greene, Pro Se**

   Attorney for _____

   Dated: _____

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing will be served via E-Mail on this 17th day of October, 2018 to the following:

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/s/ Douglas W. Greene
/s/ Douglas W. Greene

APPENDIX

Greene Western District Court relevant pleadings of emphasis: **3:14cv619** DN 35 to 45; **3:14cv628** DN 63 to 70 DN 84-1 to 34, DN 86; **3:15cv234** DN 50 to 68, DN 76 to 77, DN 79 to 85, DN 88, DN 92, DN 95 TO 100, DN 102, DN 105, DN 106 to 118, DN 119 Appellee Suppression of Evidence Pleading, DN 122 & 125.

Greene Sixth Circuit Court relevant pleadings of evidence: **16-6761** DN 31, DN 33, **16-6763** DN 29, DN 34; **16-6772** DN 37, DN 43, **18-5296** DN 4-1,2, DN 7-1,2,3.

STARNES DEPOSITION SHOWS HE WAS NOT CONCERNED WITH SAFETY OF FLIGHT

STARNES NOT CONCERNED WITH THE SAFETY OF THE FLIGHT

Q. Okay. And while you were on that flight, did you ever voice any concern over the safety of the aircraft?

A. I did not say anything to Doug. Again, Doug sets the tone for his own cockpit.

Q. Uh-huh.

A. And I'm not a – I'm not – I'm a check [21] airman on the MD-11, but I'm not a check airman while I'm jump seating. I was actually out of duty time. I'm not allowed to continue to sit up there, and monitor, and point out things, and stuff like that. It's not my job.

So I did not – I did not say, hey, Doug, you know, you need to do this, or you need to do this, or stop talking, and pay attention to what you're doing. No, I never said anything like that.

Q. Okay. But, certainly, if you thought that your personal safety was at risk, you would – you would have said something?

A. I – I would have said something if I thought my personal safety was at risk. In other words, if we

were – had been told traffic was, you know, approaching us, or whatever, and he just continued to turn around, and not look forward, I would have – yeah, I would have said something.

STARNES DID NOT COME FORWARD OF HIS OWN VOLITION

Q. Isn't it true that you told him that you didn't know how UPS had gotten your name?

A. I don't recall saying that.

Q. And do you recall telling him that Psiones reached out to you?

A. Jim Psiones did reach out to me. I spoke to Jim, and then Jim didn't say anything about the incident. He ended up contacting me later, and asking if I would be willing to put all of what I said to him in writing.

Q. Okay. But if you had initially reported it to Jim Psiones, you would have known that's how UPS got your name to ask you to give a statement; correct?

[23] MR. KLAGES: I'm going to object. It's ambiguous. A confusing question.

A. Would you like –

Q. You still have to answer.

A. Okay. I said something to Jim. Jim didn't say anything to me, like, I'm still going to call UPS; UPS is going to make you say – have a statement about

this. Nothing like that. So me saying something to Jim, I am talking to management when I speak to Jim, so yes, they would have gotten my information by saying that.

Q. Okay. So when Jim Psiones had called you, and asked for a statement, you knew how Jim had got that information?

A. Sure. I told Jim. I told Jim of the incident on the jump seat.

ROBBINS INITIATES CONTACT WITH STARNES

Q. And then subsequently to the conversation with Mr. Psiones, you had a conversation with Ms. Robbins; correct?

[30] A. Yes.

Q. And did she call you, or did you call her?

A. She called me.

Q. Did you tell her that Mr. Greene had ranted about Jim Psiones for four hours?

A. Yes.

Q. Do you recall telling her that so much so, that the first officer on that flight said that's enough?

A. What he said was – I don't – on the topic of Jim Psiones, the first officer looked over at Doug, and I was sitting on the jump seat, and he [33] said, you know, I've flown with Jim several times, because Jim's

on the 747 as well. He said, I've flown with him several times, and I don't know him to be the way you're describing him to be, so let's just drop it. That's enough. I don't want to hear anymore.

Q. Uh-huh. And you're aware that the first – well, are you aware that the first officer testified under oath at the arbitration hearing regarding Mr. Greene?

A. I became aware of that yesterday.

Q. Okay. Are you aware that he denied ever making such statements?

Q. Okay. Are you aware that the first officer testified that he never made such comments as you just described?

A. No, I was not aware of that.

MR. KLAGES: And just an objection as to such comments. He's testified about a number of things.

BY MR. FETTER:

Q. I'm talking about the comments that you attribute to the first officer.

A. The comments that I attribute to the first officer, am I aware that I made those?

Q. Are you aware that the first officer denies making those statements?

A. I'm not aware of that.

Starnes was solicited by UPS. He did not come forward of his own volition to report a safety as the truth was revealed in his deposition excerpt below [3:15cv234 DN 55-11]. Starnes is guilty of perjury IAW the federal general perjury statute, and the model upon which state codes have been drafted, which reads as follows:

> ***"Whoever, having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed, is true, willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall, except as otherwise expressly provided by law, be fined not more than $2,000 or imprisoned not more than five years, or both. This section is applicable whether the statement or subscription is made within or without the United States."***

Organized Crime Control Act of 1970 (OCCA)

In violation of the Organized Crime Control Act of 1970' (OCCA), the 6th Circuit Court has abandoned the Rule of Law by aiding & abetting their Partisan Republican Dark Money donors through the undue influence of Mitch McConnell using this money and

power to infiltrate and corrupt our democratic processes;

The Organized Crime Control Act of 1970' (OCCA) contains twelve substantive titles 2 directed toward the eradication of organized crime in the United States:

3. Congressional Statement of Findings and Purpose, Organized Crime Control Act of 1970, Pub. L. No. 91-452, § 1, 84 Stat. 922 (1970), provides: The Congress finds that

(1) organized crime in the United States is highly sophisticated, diversified, and widespread activity that annually drains billions of dollars from America's economy by unlawful conduct and the illegal use of force, fraud, and corruption;

(3) this money and power are increasingly used to infiltrate and corrupt legitimate business and labor unions and to subvert and corrupt our democratic processes;

(4) organized crime activities in the United States weaken the stability of the nation's economic system, . . . threaten domestic security, and undermine the general welfare of the Nation and its citizens; and It is the purpose of this Act to seek the eradication of organized crime in the United States by strengthening the legal tools in the evidence-gathering process, by establishing new penal prohibitions, and by providing enhanced sanctions and new remedies to deal with the unlawful activities of those engaged in organized crime.

Steven Weyland Interview Establishes McConnell Regional Law Firms Pattern of RICO ACT FRAUD

In light of new information of a similar nature where a dispute involving Steven Weyland, and a client of Middleton Reutlinger, in which Mr. Weyland was also represented by Frost Brown Todd. When criminal evidence was discovered, his law firm, Frost Brown Todd failed to disclose, StockYards Bank and Middleton's client, a developer, not verbally or in writing which is required under the guidelines of the ABA.

Further evidence was discovered where Middleton Reutlinger's client and Frost Brown Todd's undisclosed client being the same was secretly paying Frost Brown Todd the same week Bob Webb and Chris Burnside of Frost Brown Todd was portraying as if he was assisting Mr. Weyland with a court complaint. FDIC and other Government entities to include the IRS have avoided proper investigations of false documents involving New Market Tax Credits. Members of the local FBI and local DOJ failed to recuse themselves due to their ties to Frost Brown Todd. The local DOJ has not properly elevated this illegal activity involving Frost Brown Todd and their undisclosed client appropriately.

Instead the department, assisted by attorney's filing items like this current case was used to intimidate Mr. Weyland to stay quiet. Both cases represent the protection of Corporate clients not adhering to strict Government guidelines and US code violations. Clear and convincing evidence, if appropriately reviewed by

unbiased Judges not tied to McConnell and the State along with a thorough investigation of the facts would yield many different results. Weyland went as far as hiring an attorney from North Carolina in collaboration with a Louisville, Ky attorney who now appears to be compromised. This attorney, William R. Turpening of Charlotte was explicitly hired to create and file a qui tam for Washington DC to avoid it being manipulated by the verified corrupt political system within the State of Ky and the natural conflicts due to the massive economic impact both of these cases would represent. This filing, however, was purposely written by Turpening with the intent of having it sent directly back to Ky DOJ by not pointing out Frost Brown Todd's involvement. Weyland stated at the time he wanted to include but was convinced by his attorney that the DOJ would discover during the investigation. The apparent collusion between members of the Kentucky bar to include judges, DOJ and FBI and others all point to a similar coverup by many involved in this case.

Quotes

Supreme Court Justice, Elena Kagan:

> ***"Every single one of us has an obligation to think about what it is that provides the court with its legitimacy, to think about how we can be not so politically divided as some of the other political institutions in the nation"...***
>
> ***"It's an incredibly important thing for the court to guard is this reputation of***

> ***being impartial, being neutral and not being simply extension of a terribly polarizing process."***

Supreme Court Justice Sonia Sotomayor:

> ***"We have to rise above partisanship and personal relationships, that we have to treat each other with respect and dignity and with a sense of amicability that the rest of the world doesn't share."***

Retired Supreme Court Justice, Stevens:

> ***"He has demonstrated a potential bias involving enough potential litigants before the Court that he would not be able to perform his full responsibilities. . . . I think there is merit in that criticism in that the Senators should really pay attention to it for the good of the Court it's not healthy to get a new Justice who can only do a part time job."***

Senator Sheldon Whitehouse:

"Judge Kavanaugh has an unpleasant record, both of associations with and rulings for a powerful array of activist Republican special interests to whom he gives a ninety percent win rate. The Supreme Court has an equally unpleasant record of 5-4 partisan rulings for those same big interests. Not three or four times, not even one or two dozen times but under Chief Justice, Roberts seventy times, all 5-4 partisan decisions. The Court is flying all the warning flags of a captured agency, dancing to special interest tunes and rampaging through precedent and principle to get there. This

will be a disaster to the Court and I believe Kavanaugh will contribute to that disaster.

His partisan screed yesterday was telling, as to yesterday let me be frank, I believe Doctor Ford, I may be wrong but I believed her and I believed Kavanaugh dodged and dissembled, ranted and raved, filibustered and prevaricated. I did not find him credible . . . if Doctor Ford's testimony is true, I hope we all can agree Kavanaugh has no business on the Court and I for one believed her. But set aside my own belief as a prosecutor I am horrified what the committee has done terminating the FBI background investigation before these new allegations were even considered. Doing partisan interviews by partisan staffers declaredly determined to force the nominee through . . . no testimony, no cross examination. The lawyers in the room will know the reverence with which Wigmore is cited as legal authority in Decisions across the Country and for decades. Beyond any doubt he wrote 'the greatest legal engine ever invented for the discovery of truth is cross examination' . . . and that greatest legal engine has been deliberately disabled in this matter.

Anybody who has done any serious investigation knows you don't stop just with witness statements of interested parties, you run down corroborating and impeaching evidence, you check and cross check, you ask and go back again, you do the basic blocking and tackling of investigation. Partisan interviews by political staff predetermined to clear the nominee just aren't the same as real investigators doing real investigation and corroboration . . . closing out the background

investigation without investigating new credible allegations . . . yet she was not given the most basic decent thing that a witness or victim could be given after they come forward, sincere or thorough investigation. . . . Do you think investigator Kavanaugh would have tolerated letters like this from the third person in the room, had there been one with Mr. Clinton & Ms. Lewinsky, never in a million years . . . It is preposterous to anyone who's ever done serious investigation yet this is what we are left with we have done a botch of an investigation.

Over time I expect the facts to come out, they have a way of doing that . . . cover ups never last . . . Setting aside this botch, we go back to a Supreme Court, far too often dancing to the tune of a handful of big Republican special interest. Big Republican special interests funding the federalist society that is now picking Supreme Court nominees. Big Republican special interests using the unlimited Dark Money power the Supreme Court gave them to mount TV add campaigns for Supreme Court nominees. Big Republican special interests funding so called friends of the Court offering constant instruction and encouragement to the five Republicans on the Supreme Court and Big Republican special interests on the winning side of those seventy 5-4 partisan victories, the fruits of their political labor. People are catching on, the record of this is undeniable and as I said, it will be a disaster for the Court."

Authorities and Citations

- **De novo review means that this court views the case from the same position as the district court.** *See* Lawrence v. Dep't of Interior, 525 F.3d 916, 920 (9th Cir. 2008);
- **The appellate court must consider the matter anew, as if no decision previously had been rendered.** *See* Freeman v. DirecTV, Inc., 457 F.3d 1001, 1004 (9th Cir. 2006).
- **Review is "independent,"** *see* Agyeman v. INS, 296 F.3d 871, 876 (9th Cir. 2002).
- **No deference is given to the district court.** *See* Barrientos v. Wells Fargo Bank, N.A., 633 F.3d 1186,1188 (9th Cir. 2011); ("When de novo review is compelled, no form of appellate deference is acceptable.").
- **Factual findings underlying the district court's ruling are reviewed for clear error."** *Straub*, 538 F.3d at 1156 (citing *United States v. Alvarez*, 358 F.3d 1194, 1216 (9th Cir.2004)).
- **District court does not apply the correct law or rests its decision on a clearly erroneous finding of a material fact.** See Jeff D. v. Otter, 643 f. 3d 278 (9th Cir. 2011) (citing Casey v. Albertson's Inc., 362 F.3d 1254,1257 (9th Cir. 2004)).
- **"A defense based upon the lack of jurisdiction cannot be waived and may be asserted at any time."** *Menna v New York, 423 US 61, 62-63 (1975) (citing People v Carpentier, 446 Mich 19; 521 NW2d 195 (1994) cf, Fox v Board of Regent of*

Michigan University, 375 Mich 238, 242; 134 NW2d 146 (1965).

- "**Jurisdiction, once challenged, is to be proven, not by the court, but by the party attempting to assert jurisdiction. The burden of proof of jurisdiction lies with the asserter.**" See *McNutt v. GMAC, 298 US 178.* The origins of this doctrine of law may be found in *Maxfield's Lessee v. Levy, 4 US 308.*).

- "**Where a court failed to observe safeguards, it amounts to denial of due process of law, court is deprived of juris.**" *See Merritt v. Hunter, C.A. Kansas 170 F2d 739.*

- "**A judgment can be void . . . where the court acts in a manner contrary to due process.**" *Am Jur 2d, §29 Void Judgments, p. 404.*

- "**The judgments were based on orders which were void because the court exceeded its jurisdiction in entering them. Where a court, after acquiring jurisdiction of a subject matter, as here, transcends the limits of the jurisdiction conferred, its judgment is void.**" *See Armstrong v. Obucino, 300 Ill. 140, 143, 133 N.E. 58 (1921).*

- "**Moreover, all proceedings founded on the void judgment are themselves regarded as invalid.**" *See Olson v. Leith 71 Wyo. 316, 257 P.2d 342.).*

- "**In The Case of the Marshalsea, Sir Edward Coke found that Article 39 of the Magna Carta restricted the power of judges to act outside of their jurisdiction such**

proceedings would be void, and actionable." *(77 Eng. Rep. 1027 (K.B. 1613))*

- **"A departure by a court from those recognized and established requirements of law, however close apparent adherence to mere form in method of procedure, which has the effect of depriving one of a constitutional right, is an excess of jurisdiction."** See *Wuest v. Wuest, 127 P2d 934, 937.*

- **"Neither Judges (law clerks included) nor Government attorneys are above the law."** *See United States v. Isaacs, 493 F. 2d 1124, 1143 (7th Cir. 1974)*:

  "In our judicial system, few more serious threats to individual liberty can be imagined than a corrupt judge or judges acting in collusion outside of their judicial authority with the Executive Branch to deprive a citizen of his rights."

- **"The Supreme Court confirmed the right to sue a judge for exercising authority beyond the jurisdiction authorized by statute. The Supreme Court confirmed that a judge would be immune from suit only if he did not act outside of his judicial capacity and/or was not performing any act expressly prohibited by statute."** See *Stump v. Sparkman, 435 U.S. 349 at 360 (1978).*

- **"Judicial immunity may only extend to all judicial acts within the court's jurisdiction and judicial capacity, but it does not extend to either criminal acts, or acts outside of**

official capacity or in the 'clear absence of all jurisdiction." *See Stump v. Sparkman 435 U.S. 349 (1978).*

- *Michael Tomick v. United Parcel Service et al., Superior Court of Connecticut. CV064008944, Decided: October 28, 2010):*

  "The right to a jury trial is fundamental in our judicial system, and that the right is one obviously immovable limitation on the legal discretion of the court to set aside a verdict, since the constitutional right of trial by jury includes the right to have issues of fact as to which there is room for a reasonable difference of opinion among fair-minded men passed upon by the jury and not by the court." *(See Michael Tomick v. United Parcel Service et al., Superior Court of Connecticut. CV064008944, Decided: October 28, 2010).*

- *Bulloch v. United States 763 F.2d 1115 (1985) citing Wilkin v. Sunbeam Corp., 466 F.2d 714 (10th Cir.).*

  "Findings of fact, whether based on oral or documentary evidence, shall not be set aside unless clearly erroneous, and due regard shall be given to the opportunity of the trial court to judge the credibility of the witnesses."

- *"A grant of judgment as a matter of law is reviewed de novo. Kusens v. Pascal Co., Inc., 448 F.3d 349, 360 (6th Cir. 2006). "In entertaining a motion for judgment as a matter of law,* ***the court is to***

review all evidence *and draw all reasonable inferences in the light most favorable to the non-moving party, without making credibility determinations or weighing the evidence." Jackson v. FedEx Corporate Servs., Inc., 518 F.3d 388, 392 (6th Cir. 2008).*

- ***"The failure to apply the law correctly in reaching a decision is always an abuse of discretion. Koon v. United States, 518 U.S. 81, 100 (1996) ("A district court by definition abuses its discretion when it makes an error of law.")."***

- ***"An appellate court will affirm the trials court's fact determinations unless, based on a review of the*** **entire** ***record, it's "left with the definite and firm conviction that a mistake has been committed."*** *(Pullman-Standard v. Swint, 456 U.S. 273, 284-85 n.14 (1982))*

- In *Philips Electronics N. Amer. Corp. v. BC Technical*, the Court found nothing less than an elaborate cover up with a referral of these cases for criminal prosecution.

- *United States Supreme Court in Anderson v. Liberty Lobby, Inc., 477 U.S. 242 (1986).*

  "The Court of Appeals did not apply the correct standard in reviewing the Court's grant of summary judgment. Pp. 477 U. S. 247-257.

  (a) Summary judgment will not lie if the dispute about a material fact is "genuine," that is, if the evidence is such that a reasonable jury could return a verdict for the nonmoving party. At the summary judgment stage, the trial

judge's function is not himself to weigh the evidence and Page 477 U. S. 243 determine the truth of the matter, but to determine whether there is a genuine issue for trial. There is no such issue unless there is sufficient evidence favoring the nonmoving party for a jury to return a verdict for that party. In essence, the inquiry is whether the evidence presents a sufficient disagreement to require submission to a jury, or whether it is so one-sided that one party must prevail as a matter of law. Pp. 477 U. S. 247-252.

b) A trial court ruling on a motion for summary judgment in a case such as this must be guided by the New York Times "clear and convincing" evidentiary in determining whether a genuine issue of actual malice exists, that is, whether the evidence is such that a reasonable jury might find that actual malice had been shown with convincing clarity. Pp. 477 U. S. 252-256."

The mere existence of a scintilla of evidence in support of the plaintiff's position will be insufficient; there must be evidence on which the jury could reasonably find for the plaintiff."

Federal Rules of Civil Procedure

FRCP Rule 52 (a)(5) & (6) Findings and Conclusions by the Court; Judgment on Partial Findings:

(5) Questioning the Evidentiary Support. A party may later question the

sufficiency of the evidence supporting the findings, whether or not the party requested findings, objected to them, moved to amend them, or moved for partial findings.

(6) Setting Aside the Findings. Findings of fact, whether based on oral or other evidence, must not be set aside unless clearly erroneous, and the reviewing court must give due regard to the trial court's opportunity to judge the witnesses' credibility.

Federal Rules of Appellate Procedure

FRAP 10 The Record on Appeal

(a) Composition of the Record on Appeal. The following items constitute the record on appeal:

(1) the original papers and exhibits filed in the district court;

(2) the transcript of proceedings, if any; and

(3) a certified copy of the docket entries prepared by the district clerk

14 June 2017, San Francisco, California Threatening UPS Corporate Culture Workplace Violence Deaths

1. Jimmy Lam 38, preventable UPS initiated workplace violence death.

2. Benson Louie 50, preventable UPS initiated workplace violence death.

3. Wayne Chan 56, preventable UPS initiated workplace violence death.

4. Michael Lefiti 46, preventable UPS initiated workplace violence death.

5. Xiao Chen, preventable UPS initiated workplace violence life threatening injury.

6. Edgar Perez, preventable UPS initiated workplace violence life threatening injury.

Victims of UPS's deadly drive for profit as reported by the Socialist Worker investigative reporting agency. A UPS worker reflects on the sources of violence at a hub that left four workers dead. Members of the Teamsters union who work at UPS are reminded daily of management's antagonistic relationship with us. In fact, many grievances are filed by workers every day at UPS. The problem is that many are blocked by management and take months, if not years, to resolve, if they ever are. This stalling by the company is specifically designed to discourage workers from filing grievances or otherwise challenging poor conditions or contract violations. Management also uses harassment to try to intimidate workers from filing.

This toxic work environment hurts not only union workers, but is visible on the faces of the low-level supervisors and managers who fear for their own jobs if they can't meet the targets devised by their bosses. That means they are constantly harassing workers and trying to force them to work faster than before.

23 Sept 2014, Birmingham, Alabama, Threatening UPS Corporate Culture Workplace Violence Deaths

1. Kerry Joe Tesney, preventable UPS initiated workplace violence death.

2. Brian Callans, preventable UPS initiated workplace violence death.

3. Doug Hutcheson, preventable UPS initiated workplace violence death.

Reporter, Joe Allen of the Socialist Worker investigative reporting agency tries to answer the questions left in the aftermath of UPS workplace violence, **Why isn't UPS on trial?** Allen's report found Kerry Joe Tesney left behind a wife and two daughters. His mother-in-law Wanda Binney told the media the following:

> ***"He was one of the best men I have ever known." Asked whether anyone could have predicted this violent act, Binney responded: "Anybody but Joe. He's never hurt anyone in his life."***

Allen asked, "then what is it about working at UPS that could do this?" Tesney was falsely accused of wrong doing, What "wrongdoing" was the article referring to? "They put him on the 'least best' or 'shit list' waiting for the opportunity to fire him, while subjecting him to constant auditing and other forms of harassment," one former union rep said. UPS is known as "Big Brown" not only because it's a ruthless competitor

in the shipping business, but because of its machine-like way of grinding down its workforce. The global shipping behemoth is notorious for brutal working conditions and militaristic, if not cult-like management and discipline. UPS has had four more decades to further perfect their methods of harassment and intimidation.

UPS will try to smother it all under a big brown blanket, to ensure that no one takes a deeper look at its workplace culture. UPS made $27 billion in revenue and over $4 billion in profits last year, despite the fiasco during the Christmas season. It did so by pushing its workers beyond all reasonable mental and physical limits. The deaths in Inglenook are a reminder of the toxic working conditions at UPS and the damage inflicted on working class people when they lose their livelihoods. Whether you believe that UPS "pulled the trigger" or not, maybe it's time that Big Brown was put on trial. It has a lot to answer for.

How many more people lives will UPS destroy until UPS' corporate culture of being above the law via their undue political and monetary influence through Dark Money donors come to a stop and hold UPS accountable?

UPS' Threatening Corporate Culture Compromising Safety Causes Aviation Mishaps & Deaths of Pilot Crewmembers

- 3 Sept 2010, UPS 6, B747 Mishap and hull loss (N571UP) resulting in **preventable deaths** of

Captain, Douglas Lampe & First Officer, Matthew Bell

- 14 August 2013, UPS 1354, A300 Mishap and hull loss (N155UP) resulting in **preventable deaths** Captain, Cerea Beal & First Officer, Shanda Fanning
- UPS 61,6 June 2016, UPS MD11 Mishap (N277UP) with **complete hull loss**.
- UPS 63, 21 May 2018, B747-800 Mishap (N605UP) resulting with **unprecedented termination** of Captain, Rick Derthick & First Officer, Antonin Sergelin.

McConnellism has helped UPS and their Company controlled Union commit heinous crimes against pilots and countless other vocal employees. During the 9 September 2014, National Transportation Safety Board (NTSB) meeting on the crash of UPS Flight 1354 NTSB Chairman, Robert Sumwalt remanded United Parcel Service by stating the following:

> ***"I want you people to listen to what this is telling you and go back and fix the culture of this Company!!"***

UPS ignored NTSB Chairman, Robert Sumwalt's remand to them as only nine days later, in a rigged arbitration, UPS continued to sustain their broken corporate culture of Workplace Violence against Captain Douglas Greene lying multiple times under oath. UPS coerced three troubled pilots to include Captain Michael Starnes that had and still has an unlawfully undisclosed DUI to the FAA (Capt Michael Starnes, Capt

Peyton Cook, & First Officer Marc McDermont). These pilots gave proven perjured testimony despite violating Federal law cited below by the U.S. Department of Labor (DOL) that demand a DOL Inspector General (IG) Investigation:

> ***"Please know that any submitted statement (written or oral), as well as any document, is subject to applicable federal laws pertaining to false statements. Specifically, anyone knowingly and willfully was to make any materially false, fictitious, or fraudulent statements or representation; or makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statements or entry may be subject to penalties under 18 U.S.C. 1001 and 29 U.S.C. 666. Penalties may involve a monetary fine, imprisonment, or both."***

I say again, how many more people lives will UPS destroy until UPS' corporate culture of being above the law via their undue political and monetary influence through Dark Money donors come to a stop and hold UPS accountable?

For The Record Rebuttal
Sanctions Decision Notes

Page 1:

"An arbitrator upheld Greene's termination, concluding that Greene's erratic behavior provided sufficient grounds under the collective bargaining agreement for

UPS to order Greene to undergo a non-routine medical evaluation, and that Greene's refusal to submit to the examination provided just cause for UPS to terminate him for insubordination. See Greene v. Frost Brown Todd, LLC, Nos 16-6761/6763/6772, 2017 WL 6210784, at *1 (6th Cir. Dec. 4, 2017)."

These are manufactured words by the 6thCC as nothing in the Arbitrator's Decision stated Greene had "ERRATIC BEHAVIOR" versus the 6thCC eliminating the false arbitrator's allegations of me using drugs and the known false testimony of the three perjured pilots (Starnes, Cook, & McDermont) that NEVER flew with Captain Greene.

Arbitrator Winograd's actual words about Captain Greene based on testimony of pilots that actually flew with Greene which was completely ignored by District/Appellate Courts and even Winograd himself in his fraudulently flawed Decision:

> ***"No evidence of previous discipline was offered as a basis for progressive discipline to support the Company's dismissal of Captain Greene. . . . The weight of the evidence shows that Captain Greene is an accomplished, skilled pilot with substantial experience leading crews for the Company, including service on 747 aircraft along international routes. . . . Several witnesses spoke to Captain Greene's competence, character, and leadership, including his handling of stressful situations."***

Page 2:

Note 1: The District/Appellate Court used the words alleged & claimed at least seven times despite hundreds of exhibits of evidence in the record with findings of fact in both oral & documentary evidence confirming every single allegation and claim by Greene in which a jury would rule in favor of the moving party yet unlawfully set aside by the lower courts in violation of FRCP 52. In Proving the Law, Lawson has defined a fact as "a reality that exists independent of its acknowledgement by the conscious mind of a perceiver."

Note 2: "In August 2016, the IPA moved for a restraining order and for sanctions against Greene, claiming that he had threatened and tried to intimidate a witness who provided a declaration in support of its motion for summary judgment."

This is not true as Starnes testimony was completely unrelated to the DFR and Starnes was not a party to this case. In addition, this is another FALSE FACT BY THE 6th Circuit as Starnes declaration was not even submitted in the record until 28 Sept 2017 [3:14cv628 DN 83-7].

Perjury provisions in the Organized Crime Control Act of 1970 departed from a strict deterrence philosophy. While this legislation made it easier for prosecutors to obtain perjury convictions by liberalizing proof and evidentiary standards, it provided that in some circumstances completed perjury may be recanted, thereby providing an inducement to tell the truth for witnesses who have already given false testimony.

Note 3: Greene solicited Starnes to tell the truth as Starnes testimony was & is adverse to Starnes and only Starnes as evidence clearly shows Starnes lied under oath at deposition & arbitration. Cutler himself acknowledged Starnes false statements in his firms Post Arbitration Hearing Briefs [3:15cv234 DN45-3,4]. Evidence of actual cockpit audio files in the record [3:15cv234 DN79-2] shows Starnes was the only one "RANTING" & talking about his "CONSPIRACY" theories.

Note 4: "Starnes thought that Greene's excessive focus on these issues distracted him from flying the aircraft and created a safety risk."

6thCC fabrication, Starnes was solicited/coerced by UPS to lie, the record shows he never came forward of his own volition to report any alleged "excessive focus and being distracted from flying the aircraft and creating a safety risk." *(See Appendix Starnes Deposition excerpt).*

Testimony in the record by my B747 qualified First Officer, Will Dickenson, confirmed Starnes was lying and these false allegations never occurred. Starnes witnessed nothing as it was a normal routine flight just as my B747 qualified & experienced instructor First Officer, Will Dickenson, testified during the 15-17 September Arbitration [3:15cv234 DN53-5 Id. at 417-430]. Starnes 21 Sept 2017 Declaration [3:14cv628 DN 83-7] Russell referred to as an affidavit in his DN 88 Decision with one of countless Russell lies in DN-88:

3. "Michael Starnes, ("Starnes"), one of Greene's then-co-pilots at UPS, emailed Jennifer Robbins, ("Robbins"), a UPS investigator telling her that in his opinion Greene's behavior towards other UPS employees constituted personal attacks."

Fact remains Starnes perjured himself again admitting in his own Declaration (versus Russell suggesting an Affidavit) that he was solicited versus the deception of Russell inferring just an arbitrary concern by Starnes as a falsely alleged Co-Pilot's observed safety concern:

"I was "ASKED" [WHO at UPS/IPA asked Starnes to report to Robbins] to report to Jennifer Robbins, a UPS security manager, about Capt Douglas Greene's behavior which was concerning me. Also, in September 2014, I testified at an arbitration hearing as a witness called by UPS over UPS's termination of Greene's employment. I testified about Greene's behavior in the cockpit which I believe created a safety concern. I stated my OPINION that Greene was not doing his job of flying the plane but instead was focused on other matters."

Findings of fact including both oral & documentary evidence of the actual cockpit voice recording and witness testimony by my actual Co-Pilot, Will Dickenson, reveals just the opposite and that Starnes was lying. This evidence was unlawfully set aside by Judge Russell.

Page 3:

Note 1: "He (Greene) suggested that under the collective bargaining agreement UPS would not be required to reimburse Starnes if he were fined by the Federal Aviation Administration (FAA)." GREENE emphasized the Federal Law of the CBA focusing on Starnes intentional misconduct. Article 5. P. Protection From Damage: The Company shall, at no expense to the crewmember, provide legal representation for a crewmember named as a defendant in any legal proceedings arising out of the crewmember's performance or nonperformance of his duties as a crewmember, so long as he was acting within the normal scope of his employment, and is not determined to have engaged in ***intentional misconduct***. (UPS is unlawfully providing legal representation to 3 crewmembers (Cook, Starnes, & McDermont) that have knowingly engaged in intentional misconduct in committing perjury lying about another crewmember).

IPA sustained this intentional misconduct by aiding and abetting the perjured crewmembers and UPS. Review of this statement shows my focus was on the CBA language forbidding to assist a crewmember legally that committed intentional misconduct.

Note 2: Cutler gives appearance of being a hypersensitive attorney again sensationalizing & abusing the word "THREAT" at least 3 times on page 12 of Appellee Response because Greene exercised rights IAW FRAP Rule-33 to proffer willingness to negotiate a settlement IAW doctrine of restitution for damages to my family's

life and career from heinous UPS/IPA crimes committed. This isn't a threat versus basic rights under Federal Law.

CUTLER'S CLEAR MESSAGE ARE LIES BY OMISSION

Cutler's clear message: lies by omission will be used at all costs leaving out almost an entire paragraph of Greene's willingness to negotiate a settlement with Cutler only using last sentence inserting his own understanding it was a [settlement offer]:

> ***"Be advised your direct & indirect UPS employer proffering a combined settlement offer on behalf of ALL the complicit players, in the amount formally stated, will be considered to compensate my family and I for the malicious & enormous damages inflicted."***
>
> ***"This [settlement offer] will be mandatory to alleviate the necessity to pursue criminal charges of ALL those involved and exposing this criminal endeavor to the Court of Public Opinion next."***

FRAP Rule 33. Appeal Conferences

The court may direct the attorneys—and, when appropriate, the parties—to participate in one or more conferences to address any matter that may aid in disposing of the proceedings, including simplifying the issues and discussing settlement.

A judge or other person designated by the court may preside over the conference, which may be conducted in person or by telephone. Before a settlement conference, the attorneys must consult with their clients and obtain as much authority as feasible to settle the case. The court may, as a result of the conference, enter an order controlling the course of the proceedings or implementing any settlement agreement. *(see DARWIN MOORE v. UNITED PARCEL SERVICE; TEAMSTERS, LOCAL 243, a Labor Organization & GREGORY LOWRAN, CA No 12-207, 6th Circuit (2014))*

Note 3: "Greene's response was devoted to relitigating the merits of his termination, and he continued to assert that UPS, the IPA, opposing counsel, and others were involved in a criminal conspiracy against him and that the district judge was biased against him."

The above statement is another cursory attempt to ignore the facts presented in both Greene's Sanctions Appellant Brief & Reply.

Perjury's a criminal offense, an affront to our judicial system. Because of the vital importance of ensuring the collection of truthful information during discovery process, Federal Rules of Civil Procedure as well as those of the 50-states should provide a direct sanction for the commission of perjury by a party during a deposition or any Federal proceeding.

Inherent authority of courts to impose sanctions for bad-faith conduct in combination with more specific power of courts to dismiss an action in whole or in part as a sanction for abuse of discovery process pursuant

to Rule-37(b), and its equivalent in rules of many states, provides grounds for dismissal of a suit in its entirety due to a party's commission of perjury.

Specifically, Michael Starnes, Peyton Cook, Marc McDermont aided & abetted UPS/IPA in committing known perjury with IPA Attorney, Carrie Grace James assisting these individuals in crafting their perjured statements. These heinous actions of IPA in collusion with a UPS to enforce the UPS/IPA labor containment program constitutes litigating in bad faith, vexatiously, wantonly, or for oppressive reasons.

Page 4:

Note 1: The District Court alleged Greene consistently engaged in reckless name-calling & now the Appellate Court shows further bias compromising the legitimacy of the court by falsely alleging Greene's conduct, which included Greene's use of "foul language," his derogatory comments about individuals involved in or associated with the case. Yet the lower courts bias in favor of Defendants ignores their litany of more than 50 defamatory adjectives & expletives of name-calling throughout Defendant pleadings as identified on Greene's Appellant Brief contained in the Appendix listing the unfounded defamation sustained by lower courts to further tarnish Greene's impeccable reputation on behalf of their Dark Money benefactors.

The District & Appellate Courts randomly state words without context in which they were used. Words Greene based on facts, many of the same words used by Appellees. Marc McDermont was legally

"intoxicated" on the night of his fantastical perjured story. All of UPS witnesses to include Starnes, Cook, and McDermont fraudulent statements have been irrefutably proven false with them "guilty of perjury." Findings of fact in both oral & documentary evidence beyond reasonable doubt in the record prove this fact to be true but this court unlawfully ignores & sets aside factual findings of truth berating Greene for citing FACTS. This again shows complete bias compromising the legitimacy of the courts.

Note 2: The following Sixth Circuit law clerk statement shows EXTREME bias & partiality in collusion with District Court & defendants against Greene as if reading their Motions for Summary Judgement, which is what the Appellant has come to expect throughout this mockery of Justice:

> ***"Sealing the district court's decision to sanction Greene was his response to the IPA's motion for sanctions, which the court found was replete with insults and baseless accusations of conspiratorial and other criminal conduct by UPS, the IPA, opposing counsel, and the court itself."***

Note 3: More statements of EXTREME bias & partiality against Greene by the lower courts falsely alleging unfounded allegations of misconduct against opposing counsel as findings of fact in both oral & documentary evidence in the record speaks otherwise:

> ***"The court denied Greene's cross-motion for sanctions, concluding that his***

> ***allegations of misconduct against opposing counsel were unfounded."***

Note 4: This inextricable sanctions case before this Court raises a question of constitutional interpretation of basic first amendment rights to free speech to include freedom of religion and expressions thereof. This Appellate Court Affirmed the District Court Decision sustaining targeting Greene's First Amendment Rights:

> ***"Greene has not heeded this Court's advice and warnings, and has continued to engage in seriously inappropriate conduct. . . . Greene sent another email to Starnes, in which he used religion and God as a means by which to apparently try and convince Starnes to come forward with a statement more to Greene's liking and benefit. . . . Finally, he concluded by using religion another time: 'May God guide you the right way as he guided me to reach out to you.'"*** [3:14cv628 DN 88 Id. at 3546]

These inextricable cases surround meaning of particular terms as used in statutes that raise a question of law pertaining to FRCP Rules 38, 52(a), 56, 60 etc. Questions of constitutional interpretation or the meaning of particular terms as used in a statute is a question of law rendering the lower court's ruling is a mistake of law.

The Standard of Review under these circumstances is clearly De Novo requiring the Appellate court to start

with a "clean slate" with no deference to the District Court. The rule of law as applied to the established facts is or is not violated." *Pullman-Standard, 456 U.S. at 289 n.19; see also Ornelas v. United States, 517 U.S. 690 (1996).* When a court must decide a mixed question of law and fact, it must progress through three distinct steps: 1) it must establish the basic, primary, or historical facts; 2) it must select the applicable rule of law; and 3) it must apply the law to the facts. The facts are reviewed under the clearly erroneous standard using FRCP Rule 52, the rule of law is reviewed de novo. When application of the facts to the law implicates constitutional rights, according to the Ninth Circuit the question will be reviewed de novo.

FDC ABUSES DISCRETION RENDERING DECISIONS BASED UPON FRAUD ON THE BASIS OF COUNTLESS MATERIAL FACTS IN DISPUTE.

Cutler falsely alleged "District Court acted clearly within its discretion and on basis of "Undisputed Facts." This statement is the epitome of fraud on the court, HUNDREDS OF MATERIAL FACTS IN DISPUTE with volumes of evidence FDC unlawfully set aside demonstrating clear Abuse of Discretion:

> ***"An abuse of discretion exists if the district court based its ruling on an erroneous view of the law or a clearly erroneous assessment of the evidence. Apostolic Pentecostal Church v. Colbert, 169 F.3d 409, 417 (6th Cir. 1999)."***

An appellate court can only affirm the trial court's fact determinations after a full review of the entire record, this NEVER HAPPENED!!! "Honest Adjudication" & Review of the entire record would leave an uncompromised Appellate Court with the definite and firm conviction that a mistake has been committed. *Pullman-Standard v. Swint, 456 U.S. 273, 284-85 n.14 (1982)* as the evidence in the record speaks loud and clear, but only when not purposely sequestered by a tainted and mischievously controlled judicial process.

Page 5:

Note 1: "A district court abuses its discretion if it bases its decision on an erroneous view of the law or on clearly erroneous findings of fact."

The Court's findings of fact were proven to be CLEARLY ERRONEOUS but the evidence was purposely ignored. Appellate courts have a duty to reexamine the entire evidentiary record. The 6th Circuit Court has consistently & indignantly abandoned the Rule of Law negating this obligation in all proceedings before this court defiling the legitimacy & sanctity of our courts.

Note 2: "The IPA's sanctions motion was a collateral matter that was not related to the merits of the case." This is the only true statement made in the Sixth Circuit Sanctions Decision as Starnes testimony was only related to Appellants filing his Petition to Vacate the arbitration Decision [3:15cv234] as Starnes was a party to fraud. Starnes testimony was completely unrelated to the Greene's Duty of Fair Representation

(DFR) filing [3:14cv628] as Starnes was not a party to this case. The IPA & Cutler fraudulently tried to make Starnes a party to Greene's DFR filing, trying to sequester Starnes' paranoia for aiding & abetting in a crime in the ancillary cases, by unlawfully harboring & protecting a known perjured witness.

This is also in violation of IPA's own negotiated language in the Federal Law of the UPS/IPA CBA Article 5.P., Protection From Damage. As both UPS/IPA are unlawfully providing legal representation to three crewmembers (Starnes, Cook, & McDermont) that have knowingly engaged in intentional misconduct in committing perjury lying about another crewmember.

IPA is sustaining this international misconduct by aiding and abetting the crewmembers and UPS, in violation of their own CBA, by protecting a crewmembers who willfully engaged in intentional misconduct.

Note 3: The Appellate Court once again shows their blatant bias changing facts and falsely alleging the following:

> ***"Greene's email to Starnes was an attempt to intimidate Starnes into providing testimony that complied with Greene's view of UPS's decision to terminate his employment."***

As cited in Greene's Appellant Brief: "What's actually funny about the above statement is that both Greene and advocates for TRUTH love Starnes perjured testimony as we don't need "a statement more to Greene's liking and benefit" as findings of fact in both oral and

documentary evidence in the record unlawfully set aside by the District/Appellate Courts reveals the truth.

But of course we are all aware both the District/ Appellate Courts know the truth that's in the record but the courts are more interested in appeasing their Dark Money benefactors on behalf of McConnellism (same as McCarthyism) by willfully committing fraud on the court sustaining false perjured statements as truth in violation of *BULLOCH v. United States* by compromising the judicial mechanism as we know it. The BULLOCH Court condemned this inherent fraud upon the court which has also been defined by 7th Circuit Court of Appeals to:

> ***"Embrace that species of fraud which does, or attempts to, defile the court itself, or is a fraud perpetrated by officers of the court so that the judicial machinery cannot perform in the usual manner its impartial task of adjudging cases that are presented for adjudication."***

Federal laws pertaining to false statements: "Specifically, anyone knowingly and willfully was to make any materially false, fictitious, or fraudulent statements or representation; or makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statements or entry may be subject to penalties under 18 U.S.C. 1001 and 29 U.S.C. 666. Penalties may involve a monetary fine, imprisonment, or both. Here's the actual District Court's biased rhetoric falsely alleging Greene tried to

convince Starnes to come forward with a statement more to Greene's liking and benefit:

> ***"Greene sent another email to Starnes, in which he used religion and God as a means by which to apparently try and convince Starnes to come forward with a statement more to Greene's liking and benefit. . . . Finally, he concluded by using religion another time: 'May God guide you the right way as he guided me to reach out to you.'"*** [3:14cv628 DN 88 Id. at 3546]

The record shows Starnes was clearly solicited by UPS and he did not come forward of his own volition to report a safety concern [3:15cv234 DN 00]. In United States Supreme case *Goodyear Tire & Rubber Co. v. Haeger et al.* the District Court found that Goodyear had engaged in an extended course of misconduct and awarded the plaintiffs all their legal fees and costs from the moment when Goodyear made its first dishonest discovery response.

Cutler & the lower courts have sustained dishonest discovery responses knowing there is evidence of perjury in the record. Yet the Court cites misplaced case law that has nothing to do with perjury that is in the record. The court and the attorneys involved have the perjury audio files/transcripts & associated depositions but refuse to act on it. Sanctions cannot be issued when there is no witness tampering versus the civic duty, and the need for truthful testimony.

FAR section 61.153, 14 C.F.R. Part 61.153
Eligibility requirements: General.

Provides, to be eligible for an airline transport pilot certificate, a person must:

* * *

(c) Be of good moral character;

The term "good moral character," as used in section 61.153(c), was first discussed at length by the Civil Aeronautics Board (CAB) (the Safety Board's predecessor in adjudicating air safety proceedings) in Administrator v. Roe, 45 CAB 969 (1966). In that case, the CAB explained:

"With regard to pilots, good moral character is established as a requirement only for the holders of airline transport pilot certificates. Only the holders of these certificates may act as pilots-in-command of common carrier aircraft, and it is evident that the requirement that such persons be of good moral character reflects the responsibilities and duties entrusted to them. . . . Section [61.153(c)] reflects the Administrator's determination that a person entrusted with these responsibilities must not merely comply with specific requirements of technical competence but also must display a firmness and stability of moral character that indicates his ability and willingness to assume such responsibilities. It is essential that he possess to a high degree an awareness of the responsibilities entrusted to him irrespective of his own desires."

The following case decision cites part of the Administrator v. Roe, 45 CAB 969 (1966) decision in Administrator vs. Saunders:

(http://www.ntsb.gov/legal/o_n_o/docs/Aviation/3672.pdf).

This is mandatory to hold an Airline Transport Pilots License (ATPL) and cannot be ignored by the lower courts and out of good moral character and civic duty will be disclosed to all related Federal authorities to include the FAA.

Note 4: Some states include language in Rule-4.4 specifically prohibiting a lawyer from threatening to present a criminal charge "for the purpose of obtaining advantage in a civil matter."

Most states allow the threat or use of criminal charges as long as they're proper bases for criminal charges and presented for a substantial purpose other to embarrass or burden the third person.

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Note 1: This Court alleges that Greene's motion for sanctions against the IPA's counsel and his demand for $50 million dollars in damages were patently frivolous, and the district court did not abuse its discretion in rejecting it:

The $50 million demand in damages is clearly established and the District court abused its discretion with bias and partiality in favor of the sustaining Defendant's fraud by rejecting it:

- Damage to career and reputation.
- Salary at almost $5,000,000.00 alone, approximately $400,000 times 12-years.
- Benefits to include healthcare and perks times 12 years.
- Loss of Pension Plan contributions and amount accrual times 12-years.
- Pain and suffering, to include divorce, and being forced overseas, moving away from family and loved ones.
- Loss of personal property, resources, and time resulting in enormous retirement stock market losses due complete attention devoted over five years defending fraud.
- Legal fees, plus thousands of hours over the last five years defending fraud.

Appellate courts have a duty to reexamine the entire evidentiary record. Instead the lower courts have sustained known free-wheeling perjury and misrepresentations by UPS/IPA attorneys, while at the same time taking a hard stance in defending know perjurers. The Sixth Circuit Court has consistently & indignantly abandoned the Rule of Law negating this Obligation in all proceedings before this court defiling the legitimacy & sanctity of our courts.

Note 2: Appellate judges are concerned primarily with correcting legal errors made by lower courts, developing the law and setting forth precedent that will guide future cases. Trial court judges, in contrast, are entrusted with the role of resolving relevant factual

disputes and making credibility determinations regarding the witnesses' testimony because they see and hear the witnesses testify.

In violation of FRCP 52(a), the trial court made a clear legal error in never providing the opportunity to judge the credibility of witnesses. The Appellate Court knows this to be true but allows compromised law clerks to abandon the Rule of Law ignoring the theory that three or more judges, acting as a unit, are less likely to make an error in judgment than one judge sitting alone. The inherent self-protection of the legal brethren of the cloth rises above the truth-seeking function of this court.

Note 3: 6thCC completely avoided Freedom of Speech & Religion yet this affirmation sustains violating my First Amendment Right to Freedom of Speech & Religion. This Appellate Court Affirmed the District Court Decision sustaining targeting Greene as follows:

"Greene has not heeded this Court's advice and warnings, and has continued to engage in seriously inappropriate conduct. . . . Greene sent another email to Starnes, in which he used religion and God as a means by which to apparently try and convince Starnes to come forward with a statement more to Greene's liking and benefit. . . . Finally, he concluded by using religion another time: "May God guide you the right way as he guided me to reach out to you." [3:14cv628 DN 88 Id. at 3546]

The rule of law as applied to the established facts is or is not violated." *Pullman-Standard, 456 U.S. at289 n.1*

9; see also Ornelas v. United States, 517 U.S. 690 (1996). When a court must decide a mixed question of law and fact, it must progress through three distinct steps: 1) it must establish the basic, primary, or historical facts; 2) it must select the applicable rule of law; and 3) it must apply the law to the facts.

The facts are reviewed under the clearly erroneous standard using FRCP Rule 52, the rule of law is reviewed de novo. When application of the facts to the law implicates constitutional rights, according to the Ninth Circuit the question will be reviewed de novo.
