

FEB 19 2019

OFFICE OF THE CLERK

18-9841

No. _____

In The

SUPREME COURT OF THE UNITED STATES *

JTH TAX, INC., dba Liberty Tax Services
Plaintiff/ Appellee/ Respondent

v.

CHARLES HINES, *Pro Se*
Defendant/ Appellant/ Petitioner

in Case Civil No. 2: 15cv558, Norfolk US District Court, 12/23/15 > 04/02/18
in Case Record No. 18-1501, Richmond US Court of Appeals, 05/03/18 > 11/28/18

On Petition for Certiorari to the United States Supreme Court,
in regard to the Norfolk U.S. District Court
and the Richmond Appeals Court of the Fourth Circuit,
as stated above, and the outcomes of Cases
Civil No. 2: 15cv558 and Case Record No. 18-1501,

PETITION FOR A WRIT OF CERTIORARI

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ORIGINAL

* I am a Pro Se and do not know any better. I find myself trying to work my way through to a **PETITION FOR A WRIT OF CERTIORARI, on the third try**. The format of this "Petition" is taken off of an internet example on "FindLaw". Therefore, thinking it is "proper", I've stuck myself on that format, as my guide.

RECEIVED

JUN 25 2019

OFFICE OF THE CLERK
SUPREME COURT, U.S.

The Constitutional Oath

By readings that I have made of late, isn't it true that "all federal officials must take an oath in support of the Constitution"? That's in support of the Constitution? THAT'S SUPPORT IT...NOT NEGLECT IT...NOT RESCIND IT...NOT ABOLISH IT...NOT TRAMPLE ON IT!?

"The Senators and Representatives before mentioned, and the Members of the several State Legislatures, *and all executive and judicial Officers, both of the United States and of the several States*, shall be bound by Oath or Affirmation, **to support the Constitution**;"

"I, _____, do solemnly swear (or affirm) that I will **support and defend the Constitution** of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to **the same**; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter, **So help me God.**"

Are these two "Oaths" representative of, or identical to, subscriptions which the District Court Judges and the Appeals Court Judges of both Norfolk and Richmond, respectively, would have taken and would have **had to have taken?? And shouldn't I have seen evidence of these Oaths or Subscriptions in existence and taking place in my "visits" to these two Courts?? Shouldn't I? Shouldn't I?? But.....**

THEY WERE NOT THERE!, especially in NORFOLK, AND THAT IS WHY I AM HERE, the Supreme Court, looking for a one chance in a hundred shot at an elusive JUSTICE, withheld and illegitimately Denied by Judges of two Virginia Courts!

THE BENCHMARK OF A CIVILIZATION IS THE QUALITY OF ITS JUSTICE!

expounded on "Law & Order"

or, how about THE BENCHMARK OF A
COURT SYSTEM IS THE QUALITY OF ITS
JUSTICE!

or, how about THE BENCHMARK AND MEASURE
OF A JUDGE IS IN THE QUALITY OF HIS OR HER
JUSTICE!

or, how about THE BENCHMARK AND MEASURE
OF A JUDGE IS IN THE MERE EXISTENCE,
OR NOT, OF HIS OR HER DEMONSTRATION OF
JUSTICE!

WE HOLD THESE
TRUTHS TO BE
SELF EVIDENT,

that all men are created
equal, that they are endowed
by their creator with certain
unalienable rights, that
among these are Life, Liberty
and the pursuit of Happiness.

That to secure these rights,
Governments are instituted
among Men,

testing whether that nation, or
any nation so conceived, and so
dedicated, can long endure.

I get **CHILLS** just reciting these words!

Let me get CHILLS again:

That to secure these rights,
Governments are instituted
among Men,
testing whether that nation, or
any nation so conceived, and so
dedicated, can long endure.

“instituted among Men”...Men; and therein can lie a problem, with the compulsions and vanities of (human beings...but of) Men! In pragmatism and in reality, I do not think that remark, ***“and therein can lie a problem”***, requires any explanation! World, American, and Local history are full of examples of lies and frauds and Misdeeds, and Crime, and Murders, and Wars born of the vanities, compulsions, and idiosyncrasies of various power hungry and schizophrenic, narcissistic, individual Men; and Men, that is, in power, in particular, certain kinds of Men, finding themselves in power, by being given power, or taking over power, of other individual's lives and affairs, as seen in Germany, 1929 through May, 1945, **resulting in cruel and wanton barbarity and the deaths of over twelve million “other” human beings, six million of which were Jews!** As the deeds of “those” kinds of Men and that “one” kind of man, in particular, in Germany from 1929 to 1945, are an extreme

example...nevertheless, sadly, to some extent and in one degree or another..."that kind of a Man" and "those kinds of Men" exist everywhere and in all phases of life, in all manner of uniforms and in the clothing of life, including Judicial Robes. In America we are taught to believe that we have a safeguard in place to guard against those "kinds of Men": a long standing and deeply rooted legal system which will prevent "that man" and "those kinds of men" from working their brand of deceit, treachery, and evil upon us as Citizens of these United States, restrained by the history, tradition, spirit, and a "Justice fabric", woven into our uniquely American legal practices and legal decisions, as being embodied in governing documents and the overarching CONSTITUTION of the United States of America, in particular, "guaranteeing us", in its 27 Amendments, and particularly the first ten Amendments, of my, our, and every American Citizen's Bill of Rights, which attempts to sweep away and "right" the accumulated misdeeds and misgivings of all of the known bad deeds of political and legal human history. What a Document!

I am borrowing and staging words from two of America's greatest documents [the "Declaration of Independence, 1776, and Lincoln's Gettysburg Address, 1863] as an introduction as to **WHY** I am "appealing" to the Supreme Court of my country, **to right an unsettling WRONG**, WHICH HAS BEEN PERPETRATED ON A UNITED STATES CITIZEN BY QUESTIONABLE LEGAL PROCESSES, TAKING PLACE IN, AND GOING THROUGH, TWO COURTS OF THE STATE OF VIRGINIA, in these United States, **supposedly under the auspices and the "divine providence" and guiding light of the overarching CONSTITUTION** of these "united" states. That is what I thought, before and until 12/23/2015!

These words I have just borrowed for this purpose, and their documents, have endured, guided, and nurtured this country through time and growth and change and good times and bad times and depressions and wars, all anchored to or tethered to an earlier, uniquely early America set of writings, called the Constitution of the United States of America, from 1791. Peoples have risked their lives at walls in Europe and pseudo walls on the US border and taking the risk of escaping murderous tyrants in Asia and Africa, to get to this Country, for the chance to come here and to live here for the Opportunities and the Rights and Freedoms we Americans Citizens enjoy as our **Birthright!** But, yet, *this Citizen*, Charles Hines, has found his personal two

hundred twenty-six year old **birthright** to be NEGLECTED, NEGATED, DENIED, REPUDIATED, VIOLATED, DISCARDED AND TRASHED... by two Virginia Courts, holding sway over John Hewitt's Liberty Tax Services "tax preparation" criminal enterprise, while presiding over, and in power over, a Court Case and the Defendant in that Case, Charles Hines, over a period beginning on 12/23/2015 and surprisingly and questionably cascading through the entire legal system of the United States, by 2019, to you "final stop" Justices, and, maybe, even beyond THAT!!

By experiencing these two Virginia Courts, from February, 2016, through June, 2018, I HAVE BEEN DENIED these birthright "TRUTHS" and "PROCESSES" by a series of steps which seemed to be a well-calculated, well-practiced, rehearsed path, and, equally, a planned progression, designed to assure that a Plaintiff in a Court Case, Liberty Tax Services, will come away from a Defendant's Counterclaims, in that Court Case, Charles Hines's, free from any harm, free of any responsibility, dismissed and discharged and absolved of the horrific financial and domestic damages perpetrated on a Franchisee Defendant, and - of utmost importance - free from facing a Constitutional accounting and reconciliation, under **the Constitution of the United States' "God Given" Defendant's Right to a Jury Trial of his Peers, found in its 7th Amendment!**

PETITION FOR WRIT OF CERTIORARI

NOW COMES Charles Hines (Hines, Defendant, Appellant, Vanquished, Victim, Supplicant?, Petitioner?) representing himself Pro Se and speaking in the first person most of the time; and for his PETITION FOR WRIT OF CERTIORARI, Hines will use sections and pieces of his previously written but completely applicable and to the point writings, beginning with the following, poised as if first written right here, and right now.

This, and the pages which follow, is my “RE-CORRECTED” PETITION FOR A WRIT OF CERTORARI, not much different from the Original, but with a few words, forms and an Appendix. My “original” PETITION was stamped in at the gate of the Supreme Court on February 20, 2019. Hopefully, this Petition will be delivered on Friday, 6/21, or Monday, 6/24. As said before, I would have liked to have submitted my PETITION sooner; but complicated health issues with my seventy-seven year old wife are, still, compromising my life, as to what, when, where, and on which I am able to spend my time. Over the last couple months, with my Wife’s situations, it became exceedingly difficult, if not, near impossible, to try to stay totally focused on this PETITION. My Wife of fifty-one years, as of 4/14(68), has had to come first; PLUS...by ambulance, I was taken to and spent the last week at Bon Secours Hospital, in Baltimore, being “tested”! I was found in a lawn chair on my front lawn, unresponsive. I DIDN’T KNOW MY Wife, three closest neighbors, or the President!

I thought I did a decent job with my INITIAL PETITION; and I feel that with my ORIGINAL, with CORRECTIONS and ADDITIONS, I still have a very sound and legitimate Document. Now I do NOT want that statement to come off as braggadocio, because it is NOT! But with NOT being a LAWYER, NOT going to law School, being INSOLVENT and, thusly, **HAVING TO BE** a Pro Se.....because I lived the above and I was there minute by minute for the last seven (7) years, I feel like everything I say is fact, true, relevant, salient and is like hitting a home run with each keystroke, IF I COULD GET ALL THAT I KNOW AND ALL THAT I HAVE EXPERIENCED, SINCE APRIL 2012, **IN....and have some august body, with Righteous Authority, ACTUALLY TAKE IT UP, MAYBE I WOULD SEE JUSTICE.....THAT, IN MY CASE, THE TWO VIRGINIA COURTS, SPENT SO MUCH TIME “SHELTERING” THE LOCAL, HOME TOWN CELEBRITY, JOHN HEWITT AND HIS LIBERTY TAX SERVICES TAX PREPARATION SCHEME, SCAM, AND FRAUD.....THEY DID NOT....“TAKE IT UP”!**

DID NOT.....NOT.....TAKE IT UP!

They were too busy ruling to give John Hewitt and his Liberty Tax a pass and to make sure **NONE of my allegations made it into the conversations or concerns of Civil No. 2:15cv558!**

NONE!

PRELIMINARY INFORMATION

Who Is CHARLES HINES

I have deleted this paragraph to try to save space to get "under 40", which is going to get dicey.

How did Charles Hines get to Today

As said in my resume piece, in my adult life, I was in Banking for ten years and Dry Ice for twenty-eight years, in two dry ice operation, one of which I owned. Thinking it was "time", I sold my operation in September, 2004; and for a couple weeks, I was a millionaire one time over. However, in short fashion, I "distributed over \$600,000" amongst four people who had been with me from the start, 1991, figuring I'd take off for a year or two and start another business. In this "off time", I re-activated my Real Estate license and passed the H&R Block tax course, potentially giving me sources of income for most of the months of a year, winter and warmer. I was with Block for four years, enjoyable years; and wanting to get back into business again - in tax preparation...to "jump-start" my effort, I went looking at Franchises on the internet, where I came upon ex-H&R Block John Hewitt's Liberty Tax Services. Thinking I was getting in on the ground floor of an up-and-coming tax preparation operation, I strongly committed to John Hewitt and his Liberty Tax! Unfortunately, with my personal positive feelings about H&R Block, I used Hewitt's time with Block, fifteen years, as my "due diligence" on him, which turned out to be a \$250,000 fraud, misrepresentation, misperception, and a horribly destructive MISTAKE!

Background: this Case in thirty-six pages, "The 36"

In my writings, I have proudly boasted as to how well the first thirty-six pages of my Amended Counterclaim lays out the road to FAILURE that has awaited five sixths of all of the individuals who have risked over a hundred thousand dollars - in Franchise Fees and initial Operating Costs - to try to be and become a "successful" John Hewitt Liberty Tax Franchisee, on a road - since John Hewitt came here from Canada - that has left over six thousand (>6,000)(>three fourths of all Liberty Tax Franchisees) of those individuals financially dead, broke, missing, off the road, and gone from the ranks of active Liberty Tax Franchisees. Euphemistically...that....or they...are what I call and refer to as the "missing 6,000"!

If possible and allowable, PLEASE find "THE 36" in Civil No. 2:15cv558 and read those 36 pages IMMEDIATELY!

TELLING ELEMENTS, BACKGROUND, AND SETTING THE STAGE FOR FAILURE

There are "telling elements" from the first thirty-six pages of my "Amended Counterclaim", which I MUST BRING UP AND SHOW! The first "telling element" is the first two pages of my 3/15/16 "Amended Counter Complaint", my "Declaration".

The second “telling element” is pages 22 to page 26, starting with a section called **“The Underlying Bedrock Fundamentals”**.

The third “telling element” is on page 28, citing the annual Liberty Tax “Company Store” Sale, which is **startling**!

The fourth “telling element” is out of pages 35 and 36, citing the **stunning** dollars differential between the sales dollars of average H&R Block Stores versus average Liberty Tax Stores, which is 1,500 returns versus 450, and \$352,000 in H&R Block sales dollars versus \$90,000, for the average Liberty Tax Office! That is a differential of over “a thousand” tax returns and “a quarter of a million dollars” in sales dollars, both in Block’s favor. Another way of looking at this and to say it is, “For your \$40,000 Franchise Fee, with Liberty Tax, a prospective business person pays a penalty of ‘a thousand’ tax returns of activity and forfeits ‘a quarter of a million dollars’ of INCOME, thereby, by being a Liberty Tax Franchisee in the ‘Tax Preparation’ Industry!” **Note**: the sales dollars are gross sales, NOT PROFITS; but the basic operating expenses for both Block and Liberty will be similar, as I know from being with both operations. PROFITS are the Sales Dollars less Operating Expenses. \$352,000 less expenses will yield a PROFIT. \$90,000 less expenses will probably yield low to no Profits, and, possibly, a LOSS, or a SIGNIFICANT LOSS!

Note: Liberty’s \$90,000 in sales is predicated on Liberty’s average tax office’s sales dollars of ALL Liberty Offices. But the MAJORITY of Liberty’s offices do NOT hit the National average of returns, but process a mean number of returns of around 343 returns, grossing about \$60,000, creating a significant loss for the majority of Liberty Tax Franchisee’s offices. This is how and why the fellow before me, in Eldersburg, Dwayne Carter Senior, in territory MD014, lost \$100,000 and lasted just ONE TAX SEASON, information which Liberty made sure I DID NOT FIND OUT ABOUT, IN SHEER AND FRAUDULENT VIOLATION OF THE FTC’S GOVERNING “RULE”!

The fifth “telling element” is on page 36, a wrap up of the Liberty Tax “Tax Preparation” fraudulent experience, ending with the word CRIMINAL!

In order to introduce this information, I am going to present a section called “Telling Elements” and state these five claims, which are seminal and fundamental to the rampant experience of FAILURE for a prospective business person, trying their hand in business as a Liberty Tax Services Franchisee. God Bless and God Help them and make the sign of the cross. They’ll need all of that and MORE, plus a hell of a lot of LUCK, in order to BE and BECOME “SUCCESSFUL” as a John Hewitt Liberty Tax Franchisee!

TELLING ELEMENTS

I have bragged about how strong the first thirty-six pages of my “Amended Counterclaim” is. Justifiably, they should be in this Petition, except that they’d take

up all the available 40 pages. There are “telling elements” from the first thirty-six pages of my “Amended Counterclaim”, which, somehow, I MUST BRING UP AND SHOW! So I’m going to do that here.

First Telling Element:

FIRST THINGS FIRST AND CONFUSIONS REIGNS

I, Charles Hines, the Defendant, believe I am the victim of a wide range of unfair, deceptive, and illegal practices perpetrated against me by Liberty Tax and individuals under the Liberty Umbrella, which, over the thirty-seven months I was involved with Liberty Tax, it has been extremely costly for me, in both my business and in my personal lives! The total cost to me over the four years I was a Liberty Tax Franchisee - in terms of related expenditures and business losses, while trying to: 1) establish my business; then 2) remain viable as a Liberty Tax Franchisee; and 3) to try to build on my business to try to create a Retirement Vehicle for my wife and myself, in the field of tax preparation, are around \$300,000. I will present my story; and I pray the Court will find in my favor, and through various damage awards, make my financial life whole again. But what the damages and results of Liberty Tax have been to my wife and to my married life go beyond retrieval, repair, renewal, and redemption, as my time with Liberty Tax is going to leave very deep scars on my wife, my WIFE'S HEALTH, my health, and potentially, on my marriage!

This is a Civil Action, No. 2:15cv558, wherein the Defendant, Charles Hines, is seeking compensatory damages, punitive damages, and restitution in the amount of \$619,735 from the Plaintiff, Liberty Tax Services, arising out of unfair, deceptive, unconscionable, and fraudulent trade practices and all other legal words of a similar orientation and implication, over the period of May 1, 2012, through June 3, 2015, my Termination from Liberty Tax, but which continues into the present day by Liberty's unlawful and unjust attempt to continue to defraud the Defendant, by this lawsuit.

Second Telling Element

The Underlying Bed-Rock Fundamentals

23. This is Monday, August 22, 2016. Thinking I will be submitting my Answer and my Counter-Complaint soon, and just going over this “condensed” document, after not looking at it for a while, I am now furious and frustrated at myself and wish I had the courage to file a Motion for Dismissal and ask the Court for a Declaratory Judgement, except that early on in this matter, I had read where that was a “death sentence” move for a Pro Se; and that has stuck with me!

24. But...**I SHOULD NOT BE IN THIS MESS, BY 16 CFR 436.5(t)(6)!**
That's a starting point for my frustration for now. I am not sure of myself and I do

not want to think I have come upon a Rosetta Stone in this matter, with 436.5(t)(6). So ignoring (t)(6) for now, there are still some matters which I think go to the gist of 558, whose “common sense” is almost as strong - I do believe - as (t)(6) is “in Law”! I’m going to call these matters “The Seminal and Fundamental Factors”; and I am going make sure I have put them in my Answer as “Affirmative Defenses”.

The Seminal and Fundamental Factors

1. It must be borne in mind that the Seminal Fact, the fundamental fact, at the bottom of ANY issue, as in this writing, between Liberty Tax and any individual who may be a Liberty franchisee, is this: on average, the Liberty Tax Brand **DOES NOT DRAW ENOUGH CUSTOMERS** to allow an average Liberty Tax Franchisee to generate sufficient cash flow to be able to satisfy both the attainment of the financial perquisites necessary for the on-going maintenance of a successful status and a “support your family” continued existence, plus the ability to meet the financial obligations of fee payment and debt service for Liberty Tax. THIS FACT CANNOT BE SAID ENOUGH TIMES AND SAID IN ENOUGH WAYS! The “Seminal and Fundamental Factors” become the first and obvious facts gleaned from the weekly “Standings Report”, and literally leap right off the pages at you!

2. The Collateral Fact of that fact and the resultant fact of the dire insufficiency of Brand Draw is that, for the “average” or “typical” Liberty Tax franchisee, they are going to undergo early, immediate, continuous, and decimating cash flow problems which, no matter the amount of the initial investment and any supplemental and additional cash infusions, the decimating cash flow problems will either quickly or eventually lead to a situation where the franchisee “business owner” will no longer be able to pay their employees, their rent, their utility bills, their payroll taxes, their personal taxes, their auto insurance, their transportation expenses - including gas and auto repairs, nor pay down their Royalty and Advertising fees nor service their franchise debt! This condition points to a business losing money; and when a business devolves to this juncture and is unable to accommodate these critical operational factors and costs, it is OUT OF BUSINESS, a result and condition of which occurs to Liberty franchisees with such a surprising and questionable regularity, that one can only be drawn to wonder how and why that is so! This becomes the first obvious fact gleaned in your first tax season with Liberty Tax; and second, it becomes an obvious fact from the “Standings

Report”! You will find that you cannot dodge those numbers leaping out at you! They’re trying to get your attention and tell you something..... except that when YOU are getting to see these telltale numbers, it’s too late to do anything about them! By then, you’re stuck in the Liberty Tax quicksand trap and tar pit and you are on your way to business losses and financial insolvency, oblivion, ruin, and a potential bankruptcy!

3. Here is the Alpha Truism, which frames, undergirds, underscores, accentuates and EXPLAINS literally everything that can go wrong and does go wrong to and for a Liberty Tax Franchisee: the average H&R Block tax office does 1,500 returns at a fee of around a \$235 average, or gross sales of around \$352,500 for the average H&R Block office...while the average Liberty Tax office does fewer than 450 returns at maybe a \$200 average fee, or a gross sales of around \$90,000. That is \$352,500 versus \$90,000, *“a quarter of a million dollars” difference*, \$262,500, for the *EXACT SAME one hundred and five day tax season!* *EVERY* tax preparer straddles that *EXACT SAME one hundred and five day tax season*, where you have to do well enough to get through those 105 days, first, then be able to sustain your operation for the remaining eight (8) months, that’s 260 days, out of the sales activity of that *105 day “selling season”*, to remain in business as a functioning and viable entity! The central fact of this matter is that, in those 105 days, the Liberty Tax “Brand” does NOT bring in enough tax return business for the average Liberty Tax office to survive on, for very long! Thus, the central, critical, and terminal “effect” of that fact is that a Liberty Tax, tax office, is preordained and predestined to fail, for a lack of a positive cash flow, operating capital, and profits, due to the insufficient income brought about by an inadequate Brand Draw, the base minimum draw necessary for financial success, as the comparison of the “average” H&R Block and Liberty Tax tax return counts, shockingly reveals! And John Hewitt and all of the John Hewitt and Liberty Tax following know these facts well, painfully and embarrassingly, I would think, but categorically dismiss them: as to acknowledge their existence would be to undermine the idea of the “legitimate and above board façade” of this entire John Hewitt and Liberty Tax “tax preparation scheme, scam, fraud, and spectacle”.

4. But Liberty gets around distasteful and indicting problems like this, with their creation of the counter-point expression, “You didn’t execute

properly”, meaning that your low return count and financial failure are a result of something you did not do “properly” in your Marketing and Advertising - which **YOU** have to do, because the International Outfit you are with, does **NOT** do any of! Whatever issues you may be having, drawing customers and paying bills, cannot have any bearing on John Hewitt or Liberty Tax. It has to be on you; cuz it just can’t be on John or Liberty! Can’t! Has to be You! *Cuz that’s “God” you’re talkin bout.*

5. But interestingly, and in contrast, opening your Liberty Tax Office as close to an H&R Block Tax Office as possible, is a staple of Hewitt’s, called “the Burger King Rule” - that is, Burger King opening as close to a McDonalds as possible, to tap into the stronger burger eater drawing power. Potentially, every Liberty Tax territory has an H&R Block office nearby, since Liberty wants you to open your office as close to a Block Office as you can. What is interesting about that is that in the five Liberty Tax territories out near my Eldersburg territory, what I call the Route 32 Corridor, all five Liberty Tax territories had a successful H&R Block office already in them, while each of the five Liberty Tax territories have had **TWO failed** Liberty Tax operations in them, open, close, and disappear - most in one season - consisting of five original territories and five **Re-Sales!!!!** There is one exception on the Route 32 Corridor: and that is that one of the two of Michael Okoye’s offices, in Westminster, Md., **did** make it. Funny, my Block Offices drew from 800 to over 1,400 returns, made money, and I did not have to spend \$21,000 out on the streets to try to bring in enough customers to pay the bills, which, as it turned out, I could NOT PAY at Liberty, no matter what I tried to do or what it cost me, to try to do it!

Third Telling Element:

And as mentioned in my “Two Year Assessment”, when Liberty Tax is selling offices at the end of the tax season, it even shows the local Block Office’s return counts:

Liberty Tax is offering 101 Company Stores for Sale, on a printout dated 5/7/2014; and there are 120 Franchisee Offices for Sale, on a printout dated 6/25/2014. The 6/25 printout shows the return count for the Liberty Office and the return count of the local Block Office, where applicable. On the 6/25 print out, the Liberty average return count is 372 returns, and the average Block return count is 1,954. Of 120 Franchisee Offices for Sale, only two did over 1,000 returns! Of the 75 Block offices, only 9 did less than 1,000 returns. So herein lies the root problem of all financial issues facing the majority of struggling

Liberty Franchisees: The Liberty Brand just does not pull the requisite numbers for success; and few Zees have the wherewithal and stamina, fiscally and physically, to last long enough to wait it out through years of a costly marketing effort - to gain profitability - when they are confronted by fee intercepts and are, otherwise, not "profitable enough" to pay Franchise Fees, Royalties, an evasive "Advertising Fee", and a compounding 18% interest charge on anything not, and unable, to be paid!

"Of 120 Liberty Tax Franchisee Offices for Sale, only two did over 1,000 returns - not even two percent (<2%)! Of the 75 Block offices thrown in by Liberty as a sales inducement, to prompt another Liberty Franchisee to buy that Liberty Franchisee's failed office, "near a Block Office", only 9 did less than 1,000 returns - 88% of the nearby H&R Block offices doing over Liberty Tax's 1,000 return marker and "default Terminator"!

25. That being the case, you have a clear and very convincing Brand to Brand competition and comparison in Liberty's own report. According to the Liberty Tax FDD and the Agreement, a Liberty Tax Franchisee must eventually be preparing 1,000 tax returns after five years and every year thereafter, making a Prospective Franchisee salivate at the thought! But, as so much with Liberty, that is more of the bombast and smoke that gets blown around. As shown in Liberty's own Office Sale bulletin, the one Brand dominates the return count, that's H&R Block, while the other Brand, that's Liberty Tax, shows offices for sale which come nowhere close to the Liberty break-even point of 450 returns, let alone a profitable return count, or Liberty Tax's "mandatory" 1,000 return count. The reader **MUST GRASP AND COMPREHEND THIS COMPARISON AND THESE DUPLICITES, LIES, AND FABRICATIONS IN THE LIBERTY TAX STORY LINE!** Read this paragraph two or three more times, please! The difference in the average return count here is 1,582 returns, in Block's favor ($1,954 - 372 = 1,582$). At a Liberty's \$200 average fee, if the Liberty Tax Office did Block's return count in Liberty's own statistics above, that average Liberty Tax office would realize another \$316,400 of gross income. Hell, I could potentially live on that one tax season of additional income, for the rest of my life! The return count information above, in Liberty's own Office Sale bulletin, is simply repeating, re-emphasizing, and validating the fact that the Liberty Tax BRAND, after sixteen years in the United States, DOES NOT DRAW ENOUGH CUSTOMERS TO "KEEP MOST OF ITS FRANCHISEE'S OFFICES IN BUSINESS", especially compared to John Hewitt's demon, H&R Block.

26. Other than "a few", maybe 16% max, of the Liberty Tax Franchisees, "Nobody" is doing a thousand returns at Liberty Tax; and it looks like "nobody" is even reaching the 450 return Break-Even point, either! Knowing the overwhelming majority of his franchisees and his franchisee's tax offices are in a deep state of chronic fatigue and stage four failure, my three years of losses as a Liberty Tax Franchisee, of "a quarter of a million dollars", can be boiled down to John Hewitt's thinly disguised attempts and futile and psychotic pursuit of the ghosts of Henry and Richard Block's notoriety, accomplishments, and fame! The Liberty Tax business plan, of pursuing Henry and Richard Block to the grave, and possibly more like a neurosis than a business plan, is the UNSOUND foundation and FLAWED basis upon which Liberty Tax, disguised as and impersonating an "authentic" tax

preparation franchisor, is lain over. And that is the most "charitable" explanation for Liberty's return count deficit and business threatening franchise failure trait, which could be given!

27. I need to ask, "What kind of a Franchisor, in a 'tax preparation business', will sell and Re-Sell territories, when the majority of its productive territories have long ago been taken up, but, nevertheless, continue to sell predictably unproductive territories, and then, Re-Sell failed, terminated, lifeless, and deceased territories, AGAIN, when it is KNOWN the average number of returns of its offices is BELOW, and SIGNIFICANTLY below, the Break-Even threshold, and that the number of returns prepared by a "New" and newer office will likely NOT cover Royalties and Advertising Fees nor Promissory Notes and Accounts Receivables payments, **the very foundation upon which I am being sued!**" As shown below in PROOF POINTS, the 2014 nationwide return average for ALL Liberty Tax locations is only "423 returns", while the average number of returns for the most average, or mean return count of the Liberty locations, is "343 returns", when the represented Break-Even for an average Liberty Office is 450 returns! At the average fee for my first year as a Liberty Tax Franchisee, of \$174, the average franchisee is BEHIND by \$18,618, BEFORE incurring any operating expenses! This is a certified sign of a "loser"! The average Liberty Franchisee and his or her office face the sure possibility of INSTANT FAILURE! Why is this kind of an ACT in this business ...or is allowed to REMAIN in this business? *[Court, to the extent that it makes any sense for you, or you are able to play any part in that thought, please "think" on that.]*

Fourth Telling Element:

In an e-mail I sent last year, called "Statistical Abstractions", I cited the information from the Reports I noted on the first page of this. These Reports covered the 2012 Tax Season, my first, ending in April 2013. I'm condensing thousands of words in this paragraph. In the Top 500 Offices (in Net Fees), only 198 did 1,000 returns or more. That's one out of every twenty-one offices, doing more than 1,000 returns - and older offices mostly, when the Disclosure Document warns that you must be doing 1,000 returns or more by your fifth year, or you will lose your Franchise, or some such like, dire consequence. One out of twenty-one, **less than five percent!** In the Top 100 Offices, 43 of them were, either, in LA or New York City. One of every four offices of the Top 500, are in either New York City, or LA, with NYC edging out LA for most offices in the Top 500, at 63. When you subtract the number of returns done by the Top 500, over 500,000, from the 1,805,000 reported by Darby Schoenfeld, on the Year End Report, ALL OF THE REST OF THE OFFICES ONLY AVERAGED 343 RETURNS! That's 3,700 offices, or 88% of all Liberty Tax Offices, averaging only 343 returns! As a fraction, 88% is seven eighths. The last four pages of the Top 500, were averaging returns in the 700s. That means the rest of Liberty's 4,200 offices - that's 3,700 of them - were likely to be doing from as few as 44 returns, or so, or less, to the upper 600's. Applying a standard bell curve to those numbers, then something like 2,000 Liberty Offices (1,850) are going to be doing from 343, up into the high 600s, with the other 1,850 doing less than 343! Sohby Soliman, in territory 005, had to fold in one year, with just 44 returns. Dwayne Carter Sr. had to also fold in one year, in office 14275 - that's my present territory, 014, with only 165 returns. Chuck Hines came close to folding in his first year, too, in territory 014, office 17216, doing only 168 or 169 returns by April, 2013. Chuck Hines, in his second year in territory 014, did 303 returns by April 18, 2014, and did not quite break

even, even with only a \$10,000 rent. The Disclosure Document cites a sample P&L showing an office breaking even on 315 returns, with a \$28,000 rent. So possibly, depending upon your rent, it is conceivable that the **majority of Liberty Tax Offices could not have made a profit in 2013; and 2,000 for sure, probably lost money** and went into the beginning of, or continued in, a potential death spiral. And I'm guessing for any of the offices taking a Walmart this past season, in 2014, the negative numbers might have even been greater - that's worse - than they were in 2013.

Fifth Telling Element:

Reader: PLEASE GRASP THE DESTRUCTIVE FORCE OF UNAVOIDABLE FAILURE WHICH THESE FACTS IMPART ON A STRUGGLING LIBERTY TAX FRANCHISEE, ESPECIALLY IN THE CRITICAL AREA OF H&R BLOCK TO LIBERTY TAX COMPARISON IN THE MOST VITAL RETURN COUNT.

- * 500 Franchisees, one of every four Liberty Tax Franchisees, cannot even make Liberty's "Standings Reports" at the 20th Percentile! 1:4, 20th
- * The Liberty Tax "reputed" break-even is 450 returns.
- * All the offices for Liberty Tax in 2013 averaged 423 returns per office, 27 RETURNS SHORT and \$5,000 SHORT of break-even.
- * If you take away the returns of the Top 500 Liberty offices, 12% of the offices, 1 of 8, the rest of the offices, 3,700, only average 343 returns, 107 returns SHORT and \$21,000 SHORT of Break-Even.
- * New and newer Liberty Franchisees will ONLY average around a lethal and fatal 265 returns, 185 returns SHORT and **\$32,000 SHORT** of "just Breaking-Even", at the 2013 average Liberty tax preparation fee of \$174!
- * **For a new franchisee...only a LETHAL and FATAL 265 returns!!**
- * You cannot even get to year two with this outcome in your lap in year one!

29. These facts show that a Liberty Tax Franchisee's chances of any success are abysmally low: so low, and so desperate, and so improbable, as to border on the edge of "Criminal"! Whatever a franchisee's tenure and situation: new, second year, third year...the statistics show most New Liberty Franchisee WILL NOT pull the number of returns to even break even, let alone be profitable. This data CLEARLY shows that it is almost IMPOSSIBLE to "make it" as a new Liberty Tax Franchisee! Statistically, unless you are bankrolled or dropped down into a "City" or lower level economic demographic, which locations, over the years, have already been taken up, **AS A NEW OR NEWER LIBERTY TAX FRANCHISEE, YOU CANNOT MAKE IT!**

30. **John Hewitt knows this!** Core Members of the Liberty Tax Cabal **know this!** The Liberty Area Developers (AD) **know this!** Tenured Corporate Employees **know this!** Liberty Tax Prospects, however, **DO NOT KNOW THIS!** Unfortunately, the majority of Liberty Tax Prospects, turned Franchisees, will fatally discover this fact within the first ninety days of their time, IF NOT within the first forty-five days of their first tax season, as a budding, then wilting, then dying, then disintegrating Liberty Tax Franchisee! But this does not stop **THIS Franchisor** from chasing after visions of money, fame, and notoriety, at the expense of the depleted time, emptied pockets, drained resources, shattered dreams, irreplaceable LOSSES, and broken and crushed Liberty Tax faithful and trusting Franchisee's LIVES! ...CRIMINAL!

With just these five “Telling Elements” A STORY IS TOLD, WHICH LEADS TO FAILURE! And, if you knew, there are other stories and other “Telling Elements” in the Liberty Tax Saga. Regardless of any other stories which a Petition for Writ of Certiorari requires a Petitioner to cover - with “COMPELLING QUESTIONS”, I would wonder, with a Question, “With all of the Court Cases Liberty Tax has been through, WHY and HOW COME is it that this outfit has escaped intact and largely unscathed, WITHOUT A THOROUGH Judicial Review, especially in the District Court of Norfolk, where, by the Liberty Tax Franchise Agreement, most Liberty Tax Court Cases will take place!? IT MAKES ONE “WONDER”! The ANSWER IS, as I have tried to advance for the last three years, is that unless one has experienced being a John Hewitt Liberty Tax Franchisee, for themselves.....one “DOES NOT KNOW ENOUGH TO ‘KNOW’!”! OR ELSE.....another answer could be that there is something “funny” going on down there in Norfolk!

Being a Liberty Tax Franchisee is like being in and experiencing COMBAT! Boys DIE in Combat; and in Liberty Tax, Boys AND Girls, Men and Women, DIE in tax Combat too, A FINANCIAL DEATH.....A SLOW.....PAINFUL.....and AGONIZING ONE, Tax Season after Tax Season, although so many Liberty Franchisees do not even last past their first Tax Season! This is why I have constantly asked those judging me, like Judges and opposing Lawyers, to e-mail me “*If you have ever been in business, for yourself, AND IF YOU HAVE PERSONALLY FINANCED YOUR SELF, in business?*” Interestingly, NO ONE, who I have asked that question to, has e'd me back that they HAVE! No One!

So...not said to, and asked, of the Supreme Court Justices and their helping “law school students”, is that question, that only an Answer to of “YES”, would qualify a person to understand and sit in judgement of a person like me, who HAS! Being in business for one’s self is like an inclusion and membership to a Special Society, like a brotherhood or sisterhood...a Band of Brothers who survived a Combat, that OUTSIDERS, who have not been in that combat, think that those who are and have been, ARE, already, and automatically DO GET RICH!! Some DO get Rich. But Others.....MOST.....LOSE THEIR ASSES! The “Outsiders” are still Virgins in that area of life and don’t know the fun that “WINNING” in business can bring.....WHICH I HAVE KNOWN OF, throughout my life - as my “Resume” details, UP UNTIL John Hewitt’s Liberty Tax Services SCHEME, SCAM, and FRAUD! Unfortunately and Sadly, only a slim percentage of the “poor bastards” who try to become “successful” business people through John’s Liberty Tax Services tax preparation, scheme, scam and fraud, will ever come to know that thrill!

STATEMENT OF THE CASE - Part I

I’m placing this issue early, as both of the two Courts that I have such angered doubts about, managed - over the last THREE YEARS - to NOT and to NEVER discuss this NUMBER ONE ORIGINATING, SEMINAL, BASIC,

CLEARLY EVIDENT, DEMONSTRABLY PROVABLE - AND PROVEN, and unchallenged seminal FACT of my two Cases.

The Federal Trade commission, the FTC, regulates the “Franchising Industry”. As a result of frauds and irregularities in that nascent Industry, the FTC introduced “procedures and steps” into that Sales Industry, designed to try to lessen or eliminate certain kinds of fraud - by Franchis ORS - in the SALE of “franchised territories”, through the RE-SALE of previously sold, occupied, vacated, and possibly FAILED franchised territories. Over time and usage, those steps and procedures became known as, first, the Uniform Franchise Offering Circular, UFOC. UFOC attempted to build “purchaser protections” into the purchase of a “Franchise”, enumerated in an Item 20. Item 20, in UFOC, was a Big Deal, much like the modern 436.5(t)(6). More recently, all of these Franchise RE-SALE Protections - that’s RE-SALE PROTECTIONS - became known as “The Rule” - that’s THE Rule; and the critical, key element and protection in THE RULE, that’s THE, was in a section numbered 436.5(t)(6). “(t)(6)” states:

(6) If a franchisor is selling a previously-owned franchised outlet now under its control, disclose the following additional information for that outlet for the last five fiscal years. This information may be attached as an addendum to a disclosure document, or, if disclosure has already been made, then in a supplement to the previously furnished disclosure document.

- (i) The name, city and state, current business telephone number, if unknown, last known home telephone number of each previous owner of the outlet;
- (ii) The time period when each previous owner controlled the outlet;
- (iii) The reason for each previous change in ownership (for example, termination, non-renewal, voluntary transfer, ceased operations); and if unknown, last known home telephone number of each previous owner of the outlet;
- (iv) The time period(s) when the franchisor retained control of the outlet (for example, after termination, non-renewal, or reacquisition).

- * “...a number of successive sales of a franchised outlet could indicate ‘churning’; the practice whereby a franchisor turns a blind eye to franchisee failures - or worse, encourages them - in order to sell the same outlet repeatedly.
- * “...a possible franchisor strategy to have the franchisee fail in order to resell the unit”

“Section 436.5(t)(6) of the final Amended Rule *extends the original Rule and UFOC Guidelines Item 20*, by addressing turnover at a specific outlet.”

The IDEA IS, that if a Prospective Franchisee is paying \$40,000 to a FranchisOR, for a franchised territory, which is nothing more than metes and bounds drawn on a map, if someone else had ever operated within those metes and bounds, a FranchisEE of the FranchisOR, **HOW DID THEY, the PREVIOUS and EARLIER FRANCHISEE - DO?** In Franchise Law, that is called real time “**Hands on experience operating that outlet**”, which a Prospect, purchasing an outlet, should have the benefit of meeting the previous owner(s), to **SEE HOW THEY DID**, so that there would not be any unanticipated, unexpected, unseen, “**SURPRISES**” or other “**SHOES TO DROP**”, when - to initially set this process in motion, the total dollar investment, FOR THE

NEW OWNER of that FranchisOR'S RE-SALE TERRITORY, is going to be the better part of \$100,000 to \$120,000! For that kind of money, the purchasing and acquiring NEW OWWNER of the "franchised territory" would have all **expectations** of a supposed valid business operation; and as a FRANCHISE, also, the delivery of customers, cash flow, and profits! This is the reason why a Franchis **OR** can demand a "fat" **Franchise FEE**. A "franchise" is **ALREADY** an "existing operation", a "Franchise", known to the public and having a reputation and a customer BASE! What a Franchise is **NOT** is, is that IT IS **NOT** A GROUND BREAKING START UP, WITH NO REPUTATION OR TRACK RECORD OR CUSTOMER BASE!!!.....WHICH IS WHAT A PROSPECT WILL FIND THEY RECEIVE AND ACQUIRE WITH HEWITT'S LIBERTY TAX SERVICES!.....A START-UP, in process of becoming, still, a START-UP!!

As will be stated along the way in this Petition, neither myself nor the other half dozen Prospects and Franchisees in my marketplace, NOR ANYWHERE ELSE IN AMERICA, were made aware that we ALL MAY HAVE BEEN PURCHASING A FAILED FRANCHISED TERRITORY, an EXTREME and EGREGIOUS violation of the most fundamental protections OF THE RULE! Many of us were paying \$40,000 for a FAILED OPERATION, which "John" and his Liberty Tax Cabal and its Area Developers FULL WELL KNEW ABOUT, ALSO AN EXTREME AND EGREGIOUS VIOLATION OF THE COMMON LAW DICTUM OF "THE IMPLIED COVENANT OF GOOD FAITH AND FAIR DEALINGS". Many Liberty Tax PROSPECTS and Franchisees WERE ALL SCREWED ON MULTIPLE LEVELS OF TRUST AND FAITH, all so **John Hewitt could keep putting money in his pocket, to feed his "habit" of "I've got money now, and I always will"**! That John Hewitt, his confidants, and the upper levels of Liberty Tax ALL knew **they were selling "FAILED LOSERS" as virgin territories, for good money, THROUGH A BUSINESS**, makes that action a RICO CASE!

THAT ^ - along with gross CONSTITUTIONAL and FRCP violations by the other side, IS/ARE THE "STATEMENT OF THE CASE", which neither court made itself acquainted with, nor inspected it, or made them a conversation piece of the suit, even though I tried hard to do that, in three Counter-Documents and thousands of pages of writings!! The last thing Hewitt, Liberty Tax, Willcox & Savage, and the two user friendly courts wanted, was for that news of franchise fraud to get out in a courtroom setting, as potential damages!

I EVENTUALLY FOUND THE FELLOW WHO WAS IN MY METES AND BOUNDS BEFORE ME, IN MD 014, ELDEERSBURG, MARYLAND. IF...I would have met this fellow first, Dwayne Carter Senior, as MANDATED BY THE RULE, with his \$100,000 of LOSSES and other serious complaints and his "Hands On" experiences, I WOULD HAVE NEVER SIGNED ON TO DO LIBERTY TAX! Thus, I would have probably stayed with Block doing taxes, at \$15,000 per tax season, and I would have stayed in possession of the \$300,000 I went through, trying to be, and become, a successful John Hewitt Liberty Tax Franchisee! Otherwise, I really do not know what I would have done; but I would have had \$300,000 to do it with, and I would NOT have LOST \$250,000 of that \$300,000, caught up in a John Hewitt Liberty Tax Services con game "tax preparation" scheme, scam, and fraud.

As a Pro Se, I am not going to cite anything other than that which I have actually lived through and experienced over the last six and a half years. I also have a 77 year old wife, who is not doing so well, by the circumstances of our involvement with John Hewitt's Liberty Tax Services and our business loss of "a quarter of a million dollars" as one of his Franchisees; and because of her conditions, **requiring my time**, to help her keep going, my time is limited. For now, I am BROKE and Money is VERY TIGHT! After a couple years with Liberty, losing money in large chunks, my credit is shot and Collection Calls never stop. My recently achieved "poor credit" has worked against me in a couple of situations where I was looking for full time employment, at \$86,000 a year, in an industry for which I was qualified. But...poor credit can quickly DISQUALIFY YOU, like in Banking! \$86,000! Ubering will not bring me that number, and neither will chauffeuring "old ladies" around and cleaning their houses, God bless them...which - with LOSING SO MUCH MONEY SO QUICKLY, I could not afford maintenance charges on my 2008 Saturn AND payments on my new 2014 Chevy Cruze! Thus, IMPOVERISHED, I have lost my Saturn, and the Cruze Uber Chariot has been repossessed!! But with my Chauffering and my cleaning routines.....they... these "old Gals", that is, are enabling me to keep my nose above water, for now, God Bless them again!

LIFE CAN BE HARD AND HARSH ON THE OTHER SIDE OF LOSING A QUARTER OF A MILLION DOLLARS TO A WELL-OILED CONFIDENCE SCHEME!

The \$300,000 which my wife and I had accumulated for when we "got old"..... thanks to John Hewitt's Liberty Tax Services FRAUD, and Virginia Court's

benevolence and near complicity, that old-age buffer is GONE, USED UP, by my trying desperately, and by the script, to FIND the course and to STAY THE COURSE to make it in the tax preparation field, to try to create a more steady and "Pension like" income for myself and my Wife, in our oldest and final stage of our lives, as a Liberty Tax Franchisee, with multiple Liberty Tax Services tax offices!

As the Judges would know, my "Case" has been going on for over three years, since 12/23/2015. Over that three years, no Judge, **that is NO Judge...** NO, has addressed the basic reason for my Counterclaims, which is that (a) the Plaintiff failed to inform me that two of the Franchised territories I chose and purchased for \$40,000 each, had already had a Franchisee in it who had failed, and that the territory I opened, in Eldersburg, MD014, had too, already had a Franchisee in it, Dwayne Carter Senior, (b) who had failed in one tax season AND HAD LOST \$100,000 IN DOING SO. (c) This Liberty Tax Failure, to PROPERLY NOTIFY ME of that situation, is a serious violation of the FTC's Franchising Rules, known as The Rule, and part "436.5(t)(6)" in particular; because, (d) if I had known of Carter, and had met with him, and heard his "Hands On" story, as Liberty should have orchestrated by the FTC's "Rule", I would have NEVER JOINED LIBERTY TAX! By my joining Liberty Tax Services (e) and wanting to be and become a successful John Hewitt Liberty Tax Franchisee, I expended over \$300,000 and lost "a quarter of a million dollars" over three tax seasons and four calendar years, 2012 through 2015.

(f) In my suing Liberty Tax, by Countersuit, for me to find a resolution of all of the issues I faced and alleged, and to repair Liberty's damages to my life and to try to make myself financially sound again, (g) AN **ANSWER** TO MY COUNTERCLAIM WAS REQUIRED.....and REQUIRED by the Federal Rules of Civil Procedure, FRCP, Rule 12(a)(1)(B)! However, by filing two and a half dozen nuisance Motions, the Plaintiff (h) has **NEVER ANSWERED ANY OF THE THREE (3) Counterclaims I filed. NOT ONE (1) ANSWER!**

Early in this Case, I filed a Motion for a Jury Trial, (i) but that Motion was DENIED by Norfolk District Court Judge, Robert J. Krask. That was after (j) Judge Krask had said that I was in line for a Jury Trial, in early 2016. I also filed a Motion (k) to ask the Court to force Liberty Tax to ANSWER my Counters, which such Motion was also DENIED - by Judge Krask! These two elements, an ANSWER to a Complaint and a Jury Trial are desired for Justice and the one is REQUIRED under the Federal Rules of Civil Procedure, FRCP, and the Federal Trade Commission's Rules GOVERNING Franchising, called The Rule. The individuals in charge of, and effecting, this process - which has been dragging on since June 3, 2015 - that is, opposition Lawyers and Judges have fulfilled their SWORN charges, by VOW, OATH, and LICENSE, in a

grossly IRRESPONSIBLE and Cavalier manner, bringing serious DAMAGES to this individual, essentially, through the rules of this legal process, under their influence, if not, under their “care”, and, as seen with Virginia Judges, absolutely subject to their “whims”!

My “legal issues” with this process are not limited ONLY to the 7th Amendment. The other side, including the Courts, meddled and muddled in my 1st and 5th Amendments also! The other side tried to shut my mouth with their “Gatekeeper Motion”, “abridging my freedom of speech” while limiting my ability to “petition the ‘government’” for “redress of my many grievances”. **Think about that!** If that sounds like a fantasy reach at first...it ISN’T! A Big Time Outfit would have a field day with what has gone on in my cases. Because I am a broke and pauperized Pro Se, my thoughts and grievances are dropped down to the kindergarten level, making it easy TO JUST GLOSS OVER ALMOST ANYTHING I AM PUTTING OUT. BUT I HAVE BEEN SERIOUSLY SCREWED ON MANY “CONSTITUTIONAL” LEVELS DOWN THERE, that if I had a Big guy behind me, Hewitt and Liberty would have been nailed to a bathroom wall down there! “Down There” has flushed my Justice - which I DESERVE - down the toilets of the Norfolk District Court. I’m hoping the Supreme Court can and will fish that Justice out from where ever it may have gone to and present it to me, on a platter! It doesn’t have to be a silver one. It can be fast-food cardboard, but just some kind of platter! The CONSTITUTIONAL and FRCP violations I have been subject to and have had to endure, in Virginia Courts, as a Persecution, scream out for JUSTICE to be served to me.

From my October 18, 2018 “NOTICE OF JUDGMENT” from the COURT OF APPEALS FOR THE FOURTH CIRCUIT, first paragraph, it states that “Review on writ of certiorari.....will be granted only for ‘compelling reasons’”. As a newly “legalized” citizen off the streets, as a Pro Se, I do not know enough about Law to feel sure if my reasons for appealing to the Supreme Court are “compelling” OR NOT! But, as a long term, life-long non-legalized citizen and ordinary guy off the streets, I KNOW DAMN WELL WHAT COMPELLING IS AND FEELS LIKE...IN AND FOR MY CASE! And what happened to me, in two Virginia Courts, goes so far beyond “Compelling”, to almost be on the level of the “Good Old Boys” Network shenanigans, which I am intimating I have been subjected to.....as a Criminal’s felonious way of doing business!!

Over the last six and a half years, by Liberty Tax Services, this Petitioner has been denied both business fulfillment and - over the last three years - in two Courtly processes down there in Virginia - he has

been DENIED legal fulfillment and JUSTICE, by the legal arm of John Hewitt's Liberty Tax Services, the U.S. District Court, in Norfolk, and the Fourth Circuit Court of Appeals, in Richmond; and by those two experiences, I have been left high and dry and wanting in my quest for both business success and the potential justice of a financial retribution through this U.S. Citizen's Constitutionally guaranteed 7th Amendment Right to a Jury Trial...of his peers! From these two experiences, I am ready to infer that the entire legal process, "down there", in Virginia, with this Supplicant/Petitioner losing "a quarter of a million dollars" under Liberty, while Liberty Tax just Slithered Away from the disaster it had imposed upon this individual.....which such a "slither" was an illicit and unconstitutional outcome that, I believe, was preordained all along, in the cards and in John Hewitt's and Liberty Tax's long history of suits, "spirited along" in their Home Boy's home state, home town, and **Home Court!** YES, I can believe in and envision "collusions" at that level!

As written in the Liberty Tax Franchise Agreement, all Liberty Tax suits will go through the Norfolk District Court of Judges Smith and Krask and the Willcox & Savage PC Law Firm. Liberty Tax has been a party to SO MANY SUITS that All of these people have to have more than just a token knowledge of each other. I think and am suggesting that they would almost have to be on a BFF basis, on their cell phones, and at least, know what each other looks like, if not know the individual habits and favorite dining and schmoozing places, and maybe even the chosen place of worship of each other. I'm suggesting they would almost be synchronized with each other, working together like teams of horses, pulling the John Hewitt/Liberty Tax Services Law Suit Wagon around, being so heavy and laden with so many suits, like MINE! After years of interacting, all of these disparate individuals have to have become "close", so close as to almost be like actors in a play.....regardless of the story line of that play, as long as John and Liberty come out on top, at the end of the story, ending in a Court, the US District Court in Norfolk - the end justifying the means!

But reaching that end could prove difficult facing an equivalent opponent; but reaching that end against a Pro Se, could be fun for everyone on Liberty's side, if not an "easy one-sided" victory. That...is the game I have played in, down there, over the last thirty-seven MONTHS, literally an UNACKNOWLEDGED and UNSPOKEN PERSECUTION! Your Honors, Please Review the Docket Sheets, especially the actions after ECF 65, which created a whirlwind of activity, swirling to the Plaintiff walking away from the Case and the Court SHUTTING IT DOWN, IN LOCKSTEPEXONERATING John Hewitt and Liberty Tax and saving them from facing up to the criminal nature of their tax preparation franchised territory RE-SALE "scheme, scam, and fraud" operation, in a Trial of MY Peers!

“COMPELLING”

The information piece from the Fourth Circuit Court of Appeals states, “Review on writ of certiorari is not a matter of right, but of judicial discretion, and will be granted only for **compelling** reasons.” Also, on the second page of that same notice, four factors are stated for a “REHEARING” at the Appeals Court. I believe three of those four factors are fundamental and relevant to my issues with the two Virginia Courts, through which my matters have traveled: (1) a material factual or legal matter was *[overlooked]*; (3) the opinion conflicts with a decision of the U.S. Supreme Court, or another court of appeals, and the conflict was *[not addressed]*; or (4) *[the case involves one or more questions of exceptional importance]*.

What is “Compelling”? The Norfolk Court DENIED me of my 7th Amendment Right to a Jury Trial of my peers! That...is much more than “Compelling”! That...is more like CRIMINAL! So, let’s start with a Constitutional infraction, supervised by Judge Krask of the Norfolk District Court. The 7TH Amendment of the Bill of Rights of the Constitution of the United States states, “In suits at common law, where the value in controversy shall exceed twenty dollars (*and was, in fact, in excess of a quarter of a million dollars* in 2015 money and value) the right of a trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise reexamined in any Court of the United States, than according to the rules of the common law.” Despite the clear and purposeful language of the CONSTITUTION of the United States, Judge Krask, of the Norfolk District Court, DENIED my Motion for a Jury Trial! Judge Krask, on his own, DENIED me of one of my Rights from the “Bill of Rights”, while overturning the U.S. Constitution, which expressly says, “the right of a trial by jury **shall be preserved**”! **PRESERVED**, it says, not irresponsibly Denied!

Also, quoting the Federal Rules of Civil Procedure, Rule 38, “Right to a Jury Trial; Demand” (a) **Right Preserved**.

The right of trial by jury as declared by the Seventh Amendment to the Constitution - or as provided by federal statute - is **preserved** to the parties inviolate.”

INVIOLATE, it says, not irresponsibly and conveniently Denied!

God bless the US Constitution. It preserved this jury trial Right for me, a U.S. citizen and a Defendant in a Case...it preserved it for me inviolate! Inviolate, the US Constitution says. **INVIOLATE!** But yet, apparently, Judge Krask, of the Norfolk District Court, on his own and unilaterally...apparently Judge Krask does NOT consider the 7th Amendment of the Constitution to be an inviolate right on MY behalf, for ME. Judge Krask, in ECF 50, summarily DENIED my Motion for a Jury Trial - as well as other significant “Constitutionally related” Motions, after claiming “I was in line” for a Jury Trial, in a comment in a very early R & R of his. By Judge Krask, I was unconstitutionally Denied A Jury Trial, A Constitutional Right!

Say What?!

Denied A Jury Trial, A Constitutional Right

Right there with Judge Krask DENYING me of my right to a Jury Trial - a Constitutional Issue - where the value in controversy shall exceed twenty dollars (*and did, in fact, exceed \$20, and was, in fact, in excess of "a quarter of a million dollars" in 2015 money and value, which looks like this, \$250,000*) the Plaintiff in my suit, and the Plaintiff's Lawyers and Law Firm, Willcox & Savage, P.C., neither of them ANSWERED my Counterclaims, three (3) of them. The Plaintiff in my suit not only failed to ANSWER my Counter documents.....but it blatantly REFUSED to ANSWER any of my Counters.....NOT ONLY IN THE REQUIRED TWENTY-ONE DAYS, BUT NOT EVEN IN THE PAST THIRTY-ONE MONTHS! thirty-one (31) **MONTHS!** NOT EVEN IN 31 MONTHS!!!!!!!!!!!!!!!!!!!!!! Count em! **MONTHS!**

TWO AND A HALF YEARS WITHOUT ANSWERING ANY OF THE THREE COUNTER-DOCUMENTS OF THE "DEFENDANT". The two Virginia Courts did, and have done, **NOTHING** about this, as it certainly appears as though the Defendant, Hines, must have been "scheduled" or "slated" to be the Vanquished by joint efforts of the "Virginia Network"! The two Virginia courts did **NOTHING** about obvious Plaintiff side failures - in adhering to the Constitution and the FRCP - but to accelerate the path of my programed demise, subsequent to Chief Judge Smith's ECF 65 04/05/2017 ORDER! This is a "HARD TO UNDERSTAND" Constitutional issue ...and A VERY SERIOUS Federal Rules of Civil Procedure (**FRCP**) infraction, TOO! Combine them, and IT IS **CRIMINAL**, no matter how the hell you look at it! I think the history of Liberty Tax and John Hewitt suits in these two Virginia Courts, should be "looked into" - by a troop of legally knowledgeable aides - to search for potentially criminal malfeasance! *Something is just not "right" with what has happened to me, "In Court", over the last three years, in Hewitt Country, down there in Virginia!!!*

Q! Can a Citizen Party to a suit enjoy the guarantee to a Right - of a trial by jury - if the "other side" does not provide - AND REFUSES TO PROVIDE, AN ANSWER to a complaint or Counterclaim, as instructed by the FRCP, which, one would think, "the Court" is there to monitor, protect, and enforce the procedures, Rules, and Mandates of the FRCP? **Can they?**

Q! Can a Citizen Party to a suit enjoy the fruits of JUSTICE - of a trial by jury - if the "other side" does not provide - AND REFUSES TO PROVIDE - AN ANSWER to a complaint or Counterclaim, as instructed by the Federal Rules of Civil Procedure, which, one would think, "the Court" is there to monitor, protect, and enforce the procedures, Rules, and Mandates of the FRCP? **Can they?**

Q! If the "other side" does not provide AN ANSWER to a complaint or Counterclaim, as instructed in the FRCP, and does **NOT** provide AN ANSWER, NOT IN TWENTY-ONE DAYS, BUT RATHER, **NOT EVEN IN THIRTY-ONE (31) MONTHS**...would that action, by INACTION, not qualify to be a DEFAULT?....which, one would think, "the Court" would certainly HAVE TO SEE "DEFAULT" IN THAT "INACTION" and

monitor, protect, and enforce the Federal Rules of Civil Procedure, in such a Case, by moving to GRANT a Motion FOR A DEFAULT JUDGEMENT, by the affected Party, having been deprived of Constitutional and Federal Procedural Rights?? **Huh?**

Q! But what does a Citizen Party do when they are confronted by an uncharted, unscheduled, unsettling situation - and a Court - where it seems as though the familiarity, geography, and the pedigree of the parties matters more than do the Facts, history, consequences, and the prevailing and **applicable** LAWS affecting the Matters at issue in that Court? What? **What!?**

Q! When the facts and words of a Citizen Party go unacknowledged in a suit and they are “shut out” and “The Court” seemingly “takes sides”, the OTHER SIDE..... and does so with sophomoric “citation gusto”, Who does the Citizen Party turn to?

Who, if not **YOU**?

INFRACTION...VIOLATION...OVERSIGHT...it's all the same “Down There” in Hewitt Country! CONSTITUTIONAL infraction, FEDERAL RULES (FRCP) infraction...OVERSIGHT, by not paying a damn bit of attention to, nor recognizing, any of the Defendant's valid and lawful written Complaints, in three (3) Counter-Documents...VIOLATIONS of the Professional Codes of Conduct of the States of Maryland and Virginia...ETHICAL VIOLAGTIONS all around.....they all just passed through the two Virginia Courts, without Notice or mention or any Corrective Action, a result apparently expected, waited on, and condoned by ALL on the other side of my Case: Lawyers, Law Firm, and Judges alike. That...is vintage “Good Ole Boy” Justice, for the “Good Ole Boy”, home town Homie, and local celebrity, John Hewitt! The treatment of this individual Defendant, at the Norfolk District Court, with minor variation, was almost out of the book of - excuse me...“Bull Connor”!

In short, here are matters which I experienced with the Norfolk District Court AND the Richmond Appeals Court, which easily fit into one or more of the following categories: “compelling, overlooked, not addressed, and of exceptional importance”. I am conflicted at this moment, as, in my original March 15, 2017, “Amended Counter-Complaint”, on pages 8 and 9, I listed sixty items or factors, which are integral to the 12/23/2015 suit, Civil No. 2:15cv558 RBS-RJK. **Sixty, with an additional 170 pages of explanations of them!** Those sixty factors were never 1) brought up, 2) inspected, or 3) addressed. They were all, only, en mass and with no other ruling or effect..... DISMISSED by Judge Krask, in the Court's frantic race to fabricate FRCP violations of Rules 6, 8, 10 and a to z, of the Defendant's pleading style, TO PREVENT THIS CASE FROM EVER OPENING IN COURT; to cultivate Rules 6, 8 and 10 violations, by the Defendant, to build a reason for Dismissal with a friendly, if not compliant Court; TO CLOSE OUT THIS CASE; and, as an “unintended” effect, to DEPRIVE THE DEFENDANT OF JUSTICE; and finally, to AWARD John Hewitt and Liberty

Tax with a “scheduled”, and CUSTOMARY AND UNEARNED WALK AWAY”!
Then, here, and more recently...

- * through two Courts, I have been CHEATED OUT OF A JURY TRIAL
- * through two Courts, I have been CHEATED OUT OF JUSTICE
- * 11/17/16 ECF 44 Motion for a Jury Trial by Hines
- * 01/18/17 ECF 50 Motion for a Jury Trial, by Hines, DENIED by Norfolk District Court Judge Robert J. Krask
- * Filing of Defendant Counterclaims, 02/08/17; 03/15/17; 08/28/17.
- * Not the Plaintiff, nor the Plaintiff's Lawyers or Law Firm have deigned to ANSWER **ANY** of Defendant's three (3) Pro Se Counter Documents!!!
- * 04/05/17 ECF 65 “ORDER denying 56 Motion to Dismiss; denying 62 Motion to Strike. Pursuant to Rule 15(a)(2), Hines' motion to amend is GRANTED. The Partial and Full Counter-Complaints, filed on February 8, 2017, are superseded by the Amended Counter-Complaint submitted to the Court on March 15, 2017, ECF NO. 60. Accordingly, Liberty's Motion to dismiss Hines' Partial and Full Counter-Complaints, ECF No. 56, and motion to strike untimely pleadings and dismiss counterclaim for failure to comply with Court's Order, ECF No. 62, are both DENIED as MOOT. Liberty is ORDERED to respond to the amended counterclaim, ECF No. 60, within twenty-one (21) days. Signed by Chief District Judge Rebecca Beach Smith and filed on 4/5/17.” [I think this ORDER has an importance that has been overlooked and swept aside in this matter; because even though Chief Judge Smith did not use the word ANSWER, I believe she would have thought her **ORDER** to “respond to the amended counterclaim, ECF No. 60”, in 21 days, would have logically and technically meant - AND ALSO BE TAKEN BY THE Plaintiff's side - to mean, for Liberty to ANSWER ECF No. 60! This is Chief Judge Smith speaking, instructing, and **ORDERING** a response, right out of the FRCP “in twenty-one (21) days”, and that is Rule 12(a)(1)(B) of the FRCP, which I will bring in and quote next.
- * Rule 12(a)(1)(B) states:
 - (a) Time to Serve a Responsive Pleading
 - (1) *In General.* Unless another time is specified by this Rule or a Federal statute, the time for serving a responsive pleading is as follow:
 - (B) A party must serve an answer to a counterclaim or crossclaim within 21 days being served with the pleading that states the counterclaim or crossclaim.

Note; Rule 12 and any sub number, such as a hypothetical and non-existent Rule 12(a)(5) DOES NOT SAY, “If you do not feel like serving an ANSWER BECAUSE OF THE DAMAGE THAT ANSWER COULD WROUGHT UPON YOUR CLIENT, serving a “timely filed Motion” under 12(a)(4) still does NOT mean you DO NOT have to ultimately come to an ANSWER. 12(a)(4) may postpone an ANSWER beyond twenty-one (21) days; but it DOES NOT SAY THAT A PARTY NEVER - AS IN NEVER EVER - HAS TO

SERVE AN ANSWER! IT DOES NOT SAY THAT. Going on, now, thirty-six MONTHS, not days, 36 MONTHS, without serving an ANSWER to any of three (3) Counterclaims, IS PREPOSTEROUS AND INTENTIONAL, and makes a joke out of the FRCP and a mockery of the other parties to the suit, including Judge Smith and her ORDER! This is a purposeful action, **which everyone in the Case can see through**, which deserves SANCTIONING!

- * 05/30/17 ECF 75 Defendant's Motion asking the Court to force Liberty to ANSWER, NOT RESPOND TO, BUT ANSWER Defendant's Counterclaim!
- * 06/02/17 ECF 76 Defendant's Motion asking the Court to force Liberty to ANSWER, NOT RESPOND TO, BUT ANSWER Defendant's Counterclaim DENIED by Judge Krask [this is Judge Krask speaking, *two days from 75*]
- * NONE of my three Counterclaims were ANSWERED in twenty-one (21) DAYS, in violation of the Rules of the FRCP, Rules 1,11,12 minimally
- * NONE of my three Counterclaims have been ANSWERED in thirty-one (31) MONTHS!!!!!!!!!!!!!!!!!!!!!! thirty-one...MONTHS...(31)...in a severe violation of the FRCP and obvious Constitutional issues as well, interfacing with the 7th, 5th, and the 1st Amendment of the Bill of Rights!! Yes...think about it! The other side has spared no effort to SILENCE MY SPEECH, BY not Answering me on any of my three (3) Counterclaims, ANSWERING ME, that is, as required by the FRCP, and on 10/20/17, with ECF 104, a childish MOTION for an Entry of Gatekeeping Order, an underhanded and Guilt-Ridden effort for trying to silence the Pro Se Defendant for disclosing John Hewitt's and Liberty Tax's fraudulence and endemic Unlawful violations of the FTC's 436.5(t)(6) Franchise RE-SALE Rule and procedures!
- * 07/13/17 MEMORANDUM OF "THE NEED TO SAY" AND "SHOW AND TELL"...DEFENDANT'S REACTION TO PLAINTIFFS FIFTEENTH (15TH) ATTEMPT TO DEFEAT DEFENDANT'S ECF 60. Think of that, fifteenth attempts to "DEFEAT" a Counterclaim Chief Justice Smith ORDERED to be responded to in twenty-one (21) days, **THREE MONTHS EARLIER**, ON 04/15/17, Just ANOTHER VIOLATION OF THE FRCP by the Plaintiff, Rules 1, 11, and 12. [I have to say it this way: Rather than following - what I believe to be is - the spirit of Chief Judge Smith's ORDER, these bastards spent ninety days filing nuisance Motions against ECF 60, KNOWING, THAT WITHOUT AN ANSWER, THE CASE COULD NOT GO FORWARD AND THAT A TRIAL, JUSTICE, AND THE 7TH AMENDMENT OF THE US CONSTITUTION AND MULTIPLE RULES OF THE FRCP WERE BEING MOCKED, BRUTALIZED, BURIED, AND NULLIFIED!
- * 10/13/17 ECF 102 DEFENDANT'S MOTION FOR SANCTIONS AGAINST WILLCOX & SAVAGE PC
- * 10/20/17 ECF 104 MOTION *for Entry of Gatekeeping Order* by Plaintiff, *an underhanded way for trying to silence the Pro Se Defendant*

- * 10/23/27 ECF 106 DEFENDANT'S MOTION FOR TRANSCRIPTS OF MAGISTRATE JUDGE KRASK'S CONFERENCE CALL OF 06/02/17
- * 11/08/17 ECF 111 ORDER **DENYING** DEFENDANT'S MOTION FOR TRANSCRIPTS
- * 12/04/17 ECF 116 DEFENDANT'S MOTION FOR DEFAULT JUDGEMENT AGAINST PLAINTIFF LIBERTY TAX.
- * 01/26/18 ECF 126 DEFENDANT'S MOTION TO MEET WITH THE COURT TO DISCUSS A POTENTIAL CLASS ACTION AND RICO
- * 02/23/18 ECF 129 Accordingly, defendant's Motion for Default Judgement is **denied**

- * As all of the "Legalized Individuals" of these two Cases, that is Lawyers, Law Firm, and Judges would know quickly and axiomatically...JUSTICE CANNOT be achieved and delivered in a Court Case, without Complaints **AND ANSWERS**, without all sides playing fairly, with none of the parties "working in concert around the 'ironclad Rules'" supposedly circumscribing the process and The Federal Rules of Civil Procedure, especially Rule 12!

- * The "Legalized Individuals" of these two Cases, that is Lawyers, Law Firm, and Judges, are bound by Maryland's and Virginia's Professional Codes of Conduct, **requiring an allegiance** to the Constitution of the United States and other High Sounding Principals and subscriptions on the part of all the parties acting in the two cases above, Lawyers and Judges, in particular. However, few of these ideas of "Professional Conduct" were in evidence or were followed, by the Virginia Courts, in many of the twists, turns, and instances of the two Cases! Especially, painfully, and strangely evident with these two Courts was the Case's failure to follow the dictates of the US Constitution and the mandates of the FRCP, resulting in the betrayal of the Defendant's availability to the Bill of Rights of the CONSTITUTION, and more specifically, the "INVOLATE" 7th Amendment to that document, **THE guaranteed Right of a Jury Trial of his peers!**

- * There is an FTC rule, 436.5(t)(6), which FranchisORS are required to follow, which Liberty Tax seems to have a history of sidetracking. This information is detailed in my three (3) Counterclaims and most of my other writings, and **IT** would be devastating to John Hewitt and his Liberty Tax; but yet **NONE OF THIS INFORMATION AND ITS TRACK RECORD** - BASICALLY **WHAT IS THIS ENTIRE CASE** - made it into **ANY CONVERSATION OF EITHER OF THE TWO COURTS IN QUESTION!**

- * The "gist" of much of the above paragraphs is this: The FTC, the Federal Trade Commission, oversees the fairly new and recent Franchising Industry; and because that industry had become rife with bad actors and fraudulent kinds of business transactions and questionable activities of

FranchisORS, the FTC came to put together guidelines for franchising which came to be called "The Rule", as in **THE Rule...the one and only RULE!** Part "436.5(t)(6)" of The Rule - **THE KEY AND OPERATIVE SECTION** - states:

"As explained below, again, this provision is designed to prevent fraud in the resale of a specific franchised outlet, by giving prospective purchasers of that outlet, sources of information with 'hands-on experience' operating the outlet". Here is an expanded version of this provision, (t)(6):

(6) If a franchisor is selling a previously-owned franchised outlet now under its control, disclose the following additional information for that outlet for the last five fiscal years. This information may be attached as an addendum to a disclosure document, or, if disclosure has already been made, then in a supplement to the previously furnished disclosure document.

- (i) The name, city and state, current business telephone number, if unknown, last known home telephone number of each previous owner of the outlet;
- (ii) The time period when each previous owner controlled the outlet;
- (iii) The reason for each previous change in ownership (for example, termination, non-renewal, voluntary transfer, ceased operations); and if unknown, last known home telephone number of each previous owner of the outlet;
- (iv) The time period(s) when the franchisor retained control of the outlet (for example, after termination, non-renewal, or reacquisition).

* "...a number of successive sales of a franchised outlet could indicate 'churning', the practice whereby a franchisor turns a blind eye to franchisee failures - or worse, encourages them - in order to sell the same outlet repeatedly.

* "...a possible franchisor strategy to have the franchisee fail in order to resell the unit"

"Section 436.5(t)(6) of the final Amended Rule extends the original Rule and UFOC Guidelines Item 20 by addressing turnover at a specific outlet."

"Item 20 requires the franchisor to disclose contact information for each previous owner of that outlet; the time period when the previous owner controlled the outlet; the reason for each previous ownership change; and the time period(s) when the franchisor retained control of the outlet."

* This provision was not made known to me, spoken of to me, written about to me, referenced to me, granted to me, "mind melded" to me, or provided to me by any other method or form of communication known to man, as required under the franchise law, by Addendum or Supplement to the Franchise Disclosure Document (FDD)! This provision was not only NOT provided by Liberty Tax or my AD, Area Developer, but when I found there had been a previous, Failed and TERMINATED Franchisee in my MD014 territory, my AD initially refused to comment on this fact and Liberty Tax refused to provide any information on the fact.

* Much to my chagrin, I found out about this other, former, failed, and Terminated franchisee when I began to do the rounds on the streets of Eldersburg, to introduce the local merchants to me and to Liberty Tax.

Shocked but undaunted, I quickly gathered what facts I could, to hunt down and find this former, failed, and Terminated Franchisee, Dwayne Carter Senior. And for what he had been through as a Liberty Tax Franchisee - as Carter also had multiple territories - and for what he had been through in his single tax season at MD014, and for what he had to say about Liberty Tax, the Area Developer, the Eldersburg Marketplace, and his "\$100,000" of LOSSES.....IF I WOULD HAVE MET DWAYNE CARTER SENIOR PRIOR TO BEGINNING MY OPERATIONS AT 014, ELDERSBURG, I WOULD HAVE NEVER BEGUN OPERATIONS THERE! But if Liberty would have facilitated a meeting with Dwayne Carter Senior before I signed franchise papers - which is the sole purpose and provision of 16 CFR 436.5(t)(6), **I WOULD HAVE NEVER SIGNED ON TO DO LIBERTY TAX! NEVER!**

STATEMENT OF THE CASE, PART II

B. The District Court Proceedings

There is little to say here, that has not been obliquely covered in what little I have written about herein. The courts made my Pro Se pleading style the entire CASE of 2:15cv558, by disingenuously allowing Willcox & Savage claim that my Counter-Documents COULD NOT BE ANSWERED because of how they were written. Garbage! Why even be in business and be claiming to be a bona fide top Law Firm. Obfuscation on top of bullshit; and the courts gladly went along with it, in Fact Finder Krask's R & Rs! Anything...to keep Hewitt's and Liberty's Unlawful and Fraudulent TERRITORIAL RE-SALE PRACTICES OUT OF COURT!

C. The Appellate Court Proceeding

Rather than say anything - and they didn't say much - the Appellate Court Judges should have just stayed asleep! They'd have lost less credibility that way.

REASONS WHY CERTIORARI SHOULD BE GRANTED

I. There is NO evidence of JUSTICE in these two Courts. I, an old man of 78, closing in on death, have lost my LIFE SAVINGS and forty years of EQUITY in my house, by way of the fraud, cheating, lies, and Misrepresentation of John Hewitt and his Liberty Tax Services tax preparation scheme and scam. Liberty BROKE THE LAW, the Franchise Law, THE KEY ELEMENT AND PROVISION OF FRANCHISE LAW, 436.5(T)(6), the Law under which it and all Franchisors operate, and which John Hewitt should certainly be ACUTELY aware of, that (t)(6) is a Prospective Franchisee's SPECIFIC Protection. And they knew it, and they know it; and they violate it every time they RE-SELL a FAILED FRANCHISED TERRITORY, AS EVIDENCED ALL OVER MY Route 32 Corridor.

II. I was Denied A Jury Trial Constitutional Right, in ECF 51, 01/18/17.

Regardless of the reasons given, in a “set-up”, if there is “no trial scheduled to take place”, on the horizon, is there any need, then, for AN ANSWER, despite the FRCP’s **MANDATE?** With no trial on the horizon, would it, then, be also true that there would be no DISCOVERY process to take place, asking questions like “How many RE-SALES of previously occupied Liberty Tax Franchised Territories, also, WERE NOT PROVIDED WITH THE 436.5(T)(6) INFORMATION, EITHER.....WHO THEN WENT ON TO ALSO FAIL? ...a GREAT “DISCOVERY” QUESTION!

III. The Plaintiff in my suit not only failed to ANSWER my Counterclaimsbut it blatantly REFUSED to ANSWER any of my Counters.....NOT ONLY IN THE REQUIRED TWENTY-ONE DAYS, BUT NOT EVEN IN THE PAST THIRTY-ONE MONTHS! Thirty-one MONTHS!!!!!!!!!!!!!!!!!!!!!! Count em! MONTHS! TWO AND A HALF YEARS WITHOUT ANSWERING ANY OF THREE COUNTER-DOCUMENTS OF THE “DEFENDANT”, soon, as can be clearly seen in a review of the Docket Sheets, “scheduled” to become the Vanquished.

IV. Liberty Tax BROKE THE LAW, Franchise Law, THE KEY ELEMENT AND PROVISION OF FRANCHISE LAW, 436.5(T)(6), under which it operates, of which John Hewitt, WITH THREE DECADES OF Franchising, should certainly be ACUTELY aware of, that the FTC’s (t)(6) is a Prospective Franchisee’s best friend and Protection,

V. Incomprehensibly, the Virginia Courts did, and have done, **NOTHING about any of this! **NOTHING**, but to accelerate the path of my programed demise, subsequent to Chief Judge Smith’s ECF 65 04/05/2017 ORDER! This is a “HARD TO UNDERSTAND” Constitutional issue...and A VERY SERIOUS Federal Rules of Civil Procedure (FRCP) infraction, TOO! Combine them, and IT IS SCANDALOUS and CRIMINAL, no matter how the hell you look at it! Multiple persons should be Disbarred and/or Defrocked because of their conduct in my cases!**

QUESTIONS WORTH CONSIDERING

Q! Can a Citizen Party to a suit enjoy the guarantee to a Right - of trial by jury - if the “other side” does not provide AN ANSWER to a Complaint or Counterclaim, as instructed by the FRCP, which, one would think, “the Court” is there to monitor, protect, and enforce the procedures, Rules, and Mandates of the FRCP? **Can they?**

Q! Can a Citizen Party to a suit enjoy the fruits of JUSTICE - of trial by jury - if the “other side” does not provide - AND REFUSES TO PROVIDE, AN ANSWER to a Complaint or Counterclaim, as instructed by the Federal Rules of Civil Procedure? **Can they??**

Q! If the “other side” does not provide an ANSWER to a Complaint or Counterclaim, as instructed in the FRCP, and does **NOT** provide an ANSWER, NOT IN TWENTY-ONE DAYS, BUT RATHER, **NOT EVEN IN THIRTY-ONE (31) MONTHS**...would that action, by INACTION, not qualify to be a DEFAULT?!....which, one would think, “the Court” would certainly HAVE TO SEE “DEFAULT” IN THAT “INACTION” and monitor, protect, and enforce the Federal Rules of Civil Procedure, in such a Case, by moving to GRANT a Motion FOR A DEFAULT JUDGEMENT, by the affected Party, being deprived of Constitutional and FRCP Rights? **Huh???**

Q! But what does a Citizen Party do when they are confronted by an uncharted, unscheduled, unsettling situation - and a Court - where it seems as though the familiarity, geography, and the pedigree of the parties matters more than do the Facts, history, consequences, and the prevailing and **applicable** LAWS affecting the Matters at issue in that Court? What? **WHAT DO they DO? WHAT????**

Q! When the facts and words of a Citizen Party go unacknowledged in a suit and they are “shut out” and “The Court” seemingly “takes sides”, the OTHER SIDE..... and does so with sophomoric “citation gusto”, Who does the Citizen Party turn to?

Who?????

The bottom line is that I was SCREWED in Norfolk and DUMPED in Richmond. And I want to suggest, “On Time”! NONE, or ANY, of what I have alleged in a couple thousand pages was even blinked at in those two places. And **WITHOUT AN ANSWER**, BLINKS, or even INTROSPECTION, DID NOT EVEN MATTER. I went through three years of Shiftiness and Bullshit down there in Virginia, without anyone on the other side - all of whom should know better, by OATH - ever commenting on or inspecting the Facts of 558, imbedded in my writings and Counterclaims, of which NONE of the three (3) were ever ANSWERED, over the thirty-one (31) MONTHS Case 2:15cv558 was in play down in Norfolk. NO ANSWERS!!! **NONE** in the FRCP mandated twenty-one days; and NONE in the expended (and seemingly programed) thirty-one **MONTHS** of No. 2:15cv558!

No one said, “Hines you really got screwed down THERE!” But I knew it! People I knew who were supporting me and following this case, KNEW IT. But the people who were supposed **TO** KNOW IT - as their intellect was so acute that they were said to “Reasonably Should Know” - as a given, they and their intellect went AWOL on the Matters that I KNEW, and SAID AS WELL AS THEM KNOWING, BUT DID NOT SAY, DESPITE ALL OF THEIR VOWS AND OATHS OF SUPERIORITY AND HOLINESS AS **AGENTS OF**

THE CONSTITUTION! As they say on Law & Order, "The Law doesn't mean Justice"! Horrible! I found that as a Pro Se, actually, over six years, but in the last three, **for sure**, in Virginia Courts, in 2016, 17 and 2018. **Pathetic!**

Conclusion

In my opinion, the moment that Liberty Tax violated 436.5(t)(6) with me, and FAILED to provide me with the (t)(6) information by way of the appropriate and legal methodology, Liberty's positions and allegations were done...that Liberty lost ANY and ALL standing in the case. Somewhere, I said that the (t)(6) violation made this case "VOID, AB INITIO". I STAND BY THAT! And I think any competent and just Court will also stand by that. In one of my last writings before my "April Fools" Gift, amazingly to go along with my "Christmas Gift" suit, I said I was going to write an "Omnibus Judgement" Motion. I don't know if I can ask for a Motion here; but I will try to do something to secure a Judgement for me, as the NORFOLK COURT SHOULD HAVE DONE FOR ME, IN THE NAME OF THE JUSTICE **that** Court is presumably there to properly deliver. **This is a KILLER:** I stay up with my wife watching tv, often till 3 and 4 in the morning, to keep her company and to comfort her. So, last night we are watching an episode of "Blue Bloods" and the lead female, a District Attorney proclaimed, **"Our job is to pursue Justice for victims who have nowhere else to turn to".** **WOW!** But that did not happen for me, down there, in the Norfolk Court, where, on cue, I was **forced** to turn to the Norfolk Court, by Judge Krask, only to be railroaded out of Justice and a retribution and be forced to watch a "Criminal Organization" walk away scot free from the valid allegations and charges of my three Counter Documents, NONE of which were ANSWERED over two and a half years!!! You Honors, please consider the unexpected "detours" my cases have taken from the "norm"!

ALSO, as said in my "I WONDER", page 51: "All five of you, across the table, know what has been going on here; and in the interest of Fact, Truth, Honesty, Reality, Merit, Justice, Lies, Cheating, and Stealing, YOU FIVE ARE AS GUILTY OF CONSTITUTIONAL AND FTC VIOLATIONS AS IS Liberty Tax:" As time allows, beside the FTC, there has to be something like a Judicial Review Board that I can also take this case to. I **DO** think I have been "gamed" down there in Norfolk. A reading, by "in touch" or "in the know" individuals, will show that, in the Docket Sheets for Case 2:15cv558.

Relief and Motion for a Default Judgement

In more than one instance it was said that I "failed to state claim". I don't get that, as in the first couple of pages of my counter Documents I'm asking for \$619,000. Well, herein, I'm asking for a DEFAULT JUDGEMENT, for \$619,735 AND TREBLE DAMAGES, FOR THE WAY THIS SITUATION HAS BEEN HANDLED, OR HAS NOT BEEN HANDLED, OR HAS BEEN MISHANDLED, by the two courts and Willcox & Savage. This all has been a sorry ass DISGRACE! Your Honors, please

consider this Petition to, also, be a Motion FOR A DEFAULT JUDGEMENT! If I had been a W&S equivalent, this Case would have gone very differently. This whole thing was just one step above "shady"! THERE WAS NO ANSWER, IN THIRTY-SEVEN (37) MONTHS; AND THAT FACT HAD LITTLE REAL CONNECTION TO THE WAY I WROTE MY Counterclaims! For W & S, there had to be somebody in those top four floors of that tallest building in Norfolk, who, simply, to show their skills, they would have and could have gladly ANSWERED MY COUNTERCLAIMS, to move justice along, and to just help out a novice, first time, Pro Se. For THIS, my first time IN A REAL "SUIT SITUATION", I am saying there was little in the way of what I could brag about as being Professionalism. There is NO JUSTICE. W& S and the Judges of both Courts went off the rails here. This situation is almost analogist to being a Professional in a Hospital Emergency Room and letting a patient "bleed out" from wounds they received in a fight with someone you knew. Would you brag to your Parents, your mate, your kids, about how you let someone bleed out. For WHAT REASON? I'M THINKING ABOUT THIS.....NO ANSWER = BLEED OUT. If you were in the Emergency Room with red drip marks to your credit identifying those who you allowed to "bleed", how long would it be before you became subject to some kind of a charge? Should it be any different with legal matters. Is it green dollar signs rather than red drops of blood? I'm out a quarter of a million green dollar signs, by **criminal and fraudulent manipulation**, of a **criminal and fraudulent operation**. **What did any of you do to right that situation**, other than allow this person to bleed out? I'm not you; but I couldn't have done this. Did anyone pay ANY attention to the details of what I spent hundreds, if not thousands of pages saying? I have, by Program, been DENIED JUSTICE! And did any Judge even give a shit?????

As said on page 2 of my 03/15/2017 "Amended" Counterclaim, "I am seeking compensatory damages, punitive damages, and restitution in the amount of \$619,735 from the Plaintiff, John Hewitt's Liberty Tax, arising out of unfair, unconscionable, deceptive and fraudulent trade practices and all other legal words of a similar bent, orientation and implication, over the period of May 1, 2012, through June 3, 2015, my Termination from Liberty Tax, but which continues into the present day by Liberty's unlawful and unjust attempt to continue to defraud the Defendant, by this lawsuit.

21. As a final thought, I want to leave the following, as originally stated in 12 point Arial Black, but here in 12 point Century. The Norfolk District Court would have one believe that the writing style of a Novice, inexperienced, first time, Pro Se was the crux of the matter of case 558. That is what came out of that Court, allowing a very guilty party to enjoy a Walk Away. But the real issues are below; and I firmly believe that the Norfolk Court should pay for its "sleight of hand".

A real CRIME has been committed here: but not the one based on "pleading errors" of the Pro Se Defendant, which have been fictitiously claimed by the Plaintiff, and which this Court has done nothing but to rubber stamp, duly authenticate, then proclaim as "**THE** Crime" in this case.

A real CRIME has been committed here: in Franchising, in the Defendant's irreplaceable dollars and cents, by a long term, organized, practiced FRAUD of John Hewitt's Liberty Tax Services, and by clear violations of various Laws in Franchising and in the violation of the day to day conduct of basic ingrained business and ethical standards!

A real CRIME has been committed here: caused by John Hewitt's Liberty Tax's systematic violation of the FTC's "Rule", known as article 16 CFR 436.5(t)(6) of the Federal Trade Commission's "Rule", which governs the RE-SALE of territories under a Franchis OR, and is the franchise Prospect's main protection against fraudulent Franchis ORS.

A real CRIME has been committed here: costing Hines and his Wife their life savings three hundred thousand dollar (\$300,000) Retirement Fund!

A real CRIME has been committed here: costing the Defendant "a quarter of a million dollars" (\$250,000) in business LOSSES - as a John Hewitt Liberty Tax Services Franchisee!

A real CRIME has been committed here: costing Chuck and Ronnie Hines six (6) years of their life, in what little time they may have left!

A real CRIME has been committed here: the crime Liberty Tax has spent all of 2017 and 2018 trying to finagle a way out of having to ANSWER to Hines!

A real CRIME has been committed here: which severely threatens the availability, to Hines, of the Constitution of the United States' sacred 7th Amendment guarantee of Trial by a Jury of one's peers.

A real CRIME has been committed here: which has left the Defendant's Wife in a poor, costly, debilitated, medicated, and damaged physical, mental, emotional state of Health.

A real CRIME has been committed here: by perpetration and design, and has covered a period of six (6) years - leaving Hines and his Wife with no equity left in their home, after forty years of ownership; with no Liberty Tax income, after three years of trying desperately, by the script, to be and become a successful Liberty Tax Services Franchisee.

A real CRIME has been committed here: leaving Hines with no discretionary funds; in a state of poverty and INSOLVENCY; with No Credit; heavily in debt; with no operating vehicles for most of 2017; on the verge of Bankruptcy; and having been condemned, by John Hewitt and Liberty Tax Services, to HAVING TO WORK UNTIL THE DAY HE DIES!

A real CRIME has been committed here: accurately, lawfully, and properly reported with abundant "Particularity" in Counterclaims, in the English language, in readable, grammatically correct context, suitably and ably to be read and acted upon by anyone with over a Middle School level of reading comprehension and intellect.

A real CRIME has been committed here: in the fact that this US District Court has, in effect, extinguished and "put out" the flames of all of the Facts and material matter which various business and FTC violations - by Liberty Tax, has imposed upon the financial, business, economic, domestic, spousal, and emotional lives of the Defendant and his Wife!!

The bald fact of the matter is that Liberty Tax and Willcox and Savage, in “timely filing a Motion” Motions, in order to not ANSWER to Hines’s Counters, should have been and should be DENIED, and the Plaintiff should have had to stand trial in this Court, where a Jury of the Hines’ peers would have ultimately awarded Hines \$619,735, as stated in ECF 60, or possibly award treble damages.

A real CRIME has been committed here:as any other outcome or result of 558, other than the above, can NOT be considered to be JUSTICE for the Defendant.

A real CRIME has been committed here:and any other outcome or result of 558, other than the above, cannot be justified by this Court in its R&Rs and its actions and decisions, under the banner of Truth, Fact, Merit, and Justice!

STATEMENT OF THE CASE - Part III

TEST A real CRIME has been committed here

The other side of this suit claimed that my March 15, 2016 Counterclaim was unanswerable. They did NOT ANSWER any of three counterclaims I put on the table. That created a severe problem, of course; because if one side does not entreat with the other side in a suit AT LAW”, the suit cannot go forward, and potentially - and probably - the Defendant in that suit, as in my case, cannot and will not experience closure or JUSTICE... unless this **awkwardness** and **irregularity** is acted upon and corrected by those in charge, **the Lawyers and, most of all, the Judges!**

BUT A real CRIME has been committed here

Instead of ANSWERING a Counterclaim, if that side just filed motion, after motion, after motion, after motion, two and a half dozen of them, building a case on fictitious Motions of gross fabrications which, in such a case, the fabrications were unrealistic or DID NOT EXIST. This was all a stalling tactic, in violation of Rule 1 of the FRCP, to make it look respectable enough until the Norfolk Magistrate Judge DISMISSED JUST ABOUT EVERYTING I PUT OUT. A slam-dunk. Nothing was going to get “John” or Liberty out on the Court!

AND A real CRIME has been committed here

A Court did **NOTHING** to intercede in such a situation, under its control and direction, for which it could be clearly seen that - AS A STRATEGY TO KEEP THE CASE FROM OPENING UP IN COURT - the one side was NOT GOING TO FILE AN ANSWER. That a Court accommodated that manoeuver, over and over.....and the one party - the "other" party, HAVING GOTEN NOWHERE, that Party WAS THEREFORE LEFT WITHOUT JUSTICE BEING SERVED and IN A PERMANENT STATE OF LEGAL LIMBO AND SUSPENDED ANIMATION, as well as being left without results, *in the one venue that, by Law, that "other" party was legally obligated to have to choose as its means of extracting Justice, to mediate/mitigate the wrongs it had been forced into a legal process to resolve and to cure!*

When Liberty and Willcox & Savage disrespected Chief Judge Smith and her 04/05/2017 ECF 65 ORDER, THAT Court should have FORCED LIBERTY TO ANSWER TO THE OTHER SIDE. This Defendant, out "a quarter of a million dollars" and four years of his life, was patiently left standing at the altar by THE COURT. This was not by the Rules of the FRCP. I think this whole thing was part of a long running set-up!

STATEMENT OF THE CASE - Part IV

- * The history of Liberty Tax suits at the Norfolk District Court should be investigated for malfeasance and irregularities!
- * John Hewitt belongs in JAIL!
- * Judge Krask should be De-Frocked!

Quite Frankly, I don't know what the hell I'm doing right now! I'm more concerned as to my Wife's State of Health and Well Being. I don't know whether she is going to live or die, or, having been medicated out of her mind over the last ten years, I don't know whether she will have any semblance of a Sound Mind left, any longer. Along with being BROKE, unrelenting Collection Calls, forty-one (41)months of an unlawful, fraudulent unending PERSECUTION by SUIT, and existing on threadbare tires of a fifteen year old Honda, chauffeuring "old Ladies" around and cleaning their houses, I am close to being overwhelmed by it all. Plus, I have just been released, 06/16, after a week at Bon Secours Hospital, in Baltimore, dosed with some high powered drugs to kill off the "Gram Negative Rods" in my body! **And I really don't know what the hell I'm doing right now!** (Gram is not a measure of weight. It's the name of the guy who discovered the GNRs.)

For my ONE CHANCE IN A HUNDRED, I BELIEVE THE SUPREME COURT SHOULD APPROVE MY PETITION, AS THE TWO VIRGINIA COURTS HAVE MADE A GROSS MOCKERY OF MY RIGHTS TO THE CONSTITUTION OF THE UNITED STATES...AND WALKED ALL OVER THE FEDERAL RULES OF CIVIL PROCEDURE,

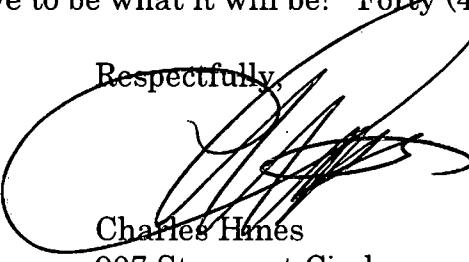
WITH IMPUNITY AT THE US DISTRICT COURT, IN NORFOLK; AND THROUGH THE SNORING OF THE COURT OF APPEALS, IN RICHMOND, JUSTICE, IN MY CASE, HAS BEEN LEFT UNTouched, UNDISTURBED, UNDISTINGuISHED and UNDISTILLED! I'M ALSO ASKING THE SUPREME COURT TO TREAT THIS PETITION AS A "MOTION FOR A DEFAULT JUDGEMENT" AGAINST THE OTHER SIDE, AND AWARD TRIPLE DAMAGES FOR THE PREMEDITATED AND OBVIOUS DELINQUENT MISBEHAVIORS AND DISRESPECT THEY HAVE BROUGHT TO AND SHOWN TO THIS BASIC AND HALLOWED PROCESS OF ONE OF THE SACRED FUNDAMENTALS OF WHAT MAKES AMERICA, AMERICA!

The other side tried to Hijack my Justice and my Citizen Rights by use of a slew of fictitious Motions thrown up on a sympathetic Courthouse wall, a Courthouse that I thought was much too ready and far too willing to "look the other way" and to see something that was NOT there, as well as to NOT see something, which WAS THERE!

....and the one party - the "other" party, HAVING GOTTED NOWHERE, that Party WAS, THEREFORE, LEFT WITHOUT JUSTICE BEING SERVED and IN A PERMANENT STATE OF LEGAL LIMBO AND SUSPENDED ANIMATION, *as well as being left without results, in the one venue that, by Law, that "other" party was legally obligated to have to choose as its means of extracting Justice, to mediate/mitigate the wrongs it had been forced into a legal process ,to resolve and to cure!*

I'm sorry, I left a lot out! This will have to be what it will be! Forty (40) pages.

Respectfully,



Charles Hines

907 Stormont Circle
Baltimore, Maryland 21227
410-242-8098h/410-790-5641c

A copy of this Petition will be sent to Wilcox & Savage Tuesday morning, 6/25/19.