IN THE SUPERIOR COURT OF HALL COUNTY
STATE OF GEORGIA

Friendship Pavilion Acquisitions Co., LLC)
Plaintiff

Civil Action
No. 2015- CV -1366B

)

vs.

Mediterranean Dining Group, Inc.,
David Sundy and Tim Sundy,)
Defendants

vs.

)

Michael Weinstein,)
Arsenal Real Estate Fund II,
Thomas Ling,)
Gary Picone,
Defendants in Counterclaim

ORDER DISMISSING NOTICE OF APPEAL PURSUANT TO O.C.G.A. SECTION 5-6-48(c) AND LIFTING STAY

On January 28, 2020, this Court entered a Notice of Show Cause Hearing Regarding Itemized Appeal Costs. The Notice ordered Defendant, Tim Sundy (Defendant), to appear and show cause at 9:30 a.m. on March 2, 2020 as to why the Notice of Appeal filed by him should not be dismissed pursuant to O.C.G.A. Section 5-6-48(c). Defendant was put on notice that if he did not appear, his Notice of Appeal could be dismissed.

The Court held a hearing on March 2, 2020 at 9:30 a.m. and Defendant did not appear. Prior to the hearing, on February 21, 2020, Defendant did file a pleading titled "Standing Objection to Inconsistent Due Process and Fraud Upon the Court." This pleading has been considered by the Court.

The Court finds as follows:

On January 2, 2019, Defendant filed a Notice of Appeal to the Supreme Court of Georgia from the Final Judgment entered in this case on December 3, 2018 and "from the final disposition form with its attached Final Judgment that was filed in this court December 6, 2018."

Defendant was given timely and proper notice of the amount he would have to pay for the record to be sent to the Supreme Court. He was mailed a statement of the Itemized Appeal Costs on January 15, 2019 by certified mail. The total due was $2168.00.

On February 8, 2019, Defendant filed a Motion for Leave to Proceed in Forma Pauperis. On February 11, 2019, this Court entered a Rule Nisi setting a hearing on this Motion. In the Rule, the Court informed Defendant that the Court found that his affidavit of indigency was not sufficient for the Court to make a determination of his indigency. Defendant was ordered to appear at a hearing on March 7, 2019 to present evidence of his gross and net income; the fair market value of all of his property; the amount of all liens on such property; his monthly living expenses and all debt for which he claims he is responsible. He was ordered to present written documentation supporting his claim. The Court put Defendant on notice that if he did not appear and present such evidence, his Motion would be denied. The hearing was held, and Defendant did not appear.

On March 13, 2019, an Order was entered denying Defendant's Motion for Leave to Proceed in Forma Pauperis.

Defendant has not paid the Itemized Appeal Costs.

In the pleading Defendant filed on February 21, 2020 (Standing Objection), Defendant stated that he was "Appearing" by special appearance "challenging the Court's jurisdiction, avoiding a corrupt judicial system in the State of Georgia." Defendant continues to claim, as he has in numerous pleadings, that this Court does not have jurisdiction to hear this case. This Court has ruled and hereby rules that this court has not been deprived of jurisdiction nor has this Judge been disqualified to hear the case.

Defendant complains that he should not have to pay for a record that is "incomplete." He states that "the docket does not reflect several items legitimately and lawfully filed within the case." However, the only document he identifies as not being on the docket is a document titled "December 20, 2016 JOINT OBJECTION." A review of the docket and of the file shows that a document titled "JOINT OBJECTION TO SUMMARY JUDGMENT HEARING" is shown as filed on December 20, 2016 and is in the record (in his Objection, Defendant acknowledges that the document "was finally restored".) This document appears as item number 44 in Defendant's request regarding what should be sent to the Supreme Court by the Clerk. This Court is aware of Defendant's repeated claims regarding this document. Nevertheless, the document appears to be in the record. Defendant has not shown that the record in this case is incomplete or not accurate.

In his Standing Objection, Defendant also claims that this Court should have dismissed the Notice of Appeal "long ago". He bases this claim on a ruling made by the Georgia Court of Appeals which denied his interlocutory appeal filed the same day he filed the Notice of Appeal. He states that this Court should know that the Court of Appeals will deny his direct appeal. This argument has no merit.

The Court finds that there has been an unreasonable delay in the transmission of the record to the appellate court, that the delay was inexcusable and caused by Defendant's failure and refusal to pay costs in the trial court. O.C.G.A. §5-6-48(c).

Therefore, The Notice of Appeal filed by Defendant on January 2, 2019 is hereby DISMISSED.

On February 11, 2019, this Court entered an Order staying the case until determination of the Notice of Appeal. The Notice of Appeal having been dismissed, the stay is lifted. The Court will proceed to consider Plaintiff's pleading filed on December 13, 2018, "MOTION PURSUANT TO O.C.G.A. 9-1160(d)(2)(3) TO SET ASIDE THE DECEMBER 3, 2018 VOID FINAL JUDGMENT FOR FRAUD UPON THE COURT AND/OR NON-AMENDABLE EFFECTS."

SO ORDERED, this 2nd day of March 2020

Martha C Christian

Martha C. Christian

Judge Hall County Superior Court

By Assignment

STATE OF GEORGIA, COUNTY OF HALL
I Charles Baker, Clerk of Superior Court in and for said County do hereby certify that the within is a true and correct copy of the original as it appears on file in this office.
Witness my official seal and signature of Superior Court this 11 day of March 20 20

Clerk, Deputy Clerk Hall Superior Court

SUPREME COURT OF GEORGIA
Case No. S20M1044

March 31, 2020

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

TIM SUNDY v. FRIENDSHIP PAVILION ACQUISITION CO. LLC et al.

Upon consideration of Petitioner's "Emergency Motion For a Supersedeas Pursuant to Rule 9 of the Supreme Court of Georgia" filed in this case, it is ordered that it be denied.

Melton, C. J., Nahmias, P. J., and Blackwell, Boggs, Peterson, Warren, and Bethel, JJ., concur. Ellington, J., disqualified.

SUPREME COURT OF THE STATE OF GEORGIA
Clerk's Office, Atlanta

I certify that the above is a true extract from the minutes of the Supreme Court of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

, Clerk

Court of Appeals
of the State of Georgia

ATLANTA, March 13, 2020

The Court of Appeals hereby passes the following order:

A20E0037. TIM SUNDY v. FRIENDSHIP PAVILLION ACQUISITIONS, LLC, Et Al.

Having read and considered the "Rule 40(b) Emergency Motion for Process to be Issued" the same is hereby DENIED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 03/13/2020
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Stephen E. Castlen , *Clerk.*

IN THE SUPERIOR COURT OF HALL COUNTY
STATE OF GEORGIA

Friendship Pavilion Acquisitions Co., LLC)
Plaintiff

Civil Action
No. 2015- CV -1366B

)

vs.

Mediterranean Dining Group, Inc.,
David Sundy and Tim Sundy,)
Defendants

vs.

)

Michael Weinstein,)
Arsenal Real Estate Fund II,
Thomas Ling,)
Gary Picone,
Defendants in Counterclaim

NOTICE OF SHOW CAUSE HEARING REGARDING ITEMIZED APPEAL COSTS

It appearing to the Court that on January 2, 2019, Defendant Mr. Tim Sundy filed a Notice of Appeal in this case. In his notice, he requested that the record be sent to the Supreme Court of Georgia. On January 8, 2019, Mr. Sundy filed a Motion for Leave to Proceed In Forma Pauperis. On February 11, 2019, the Court entered a Rule Nisi setting a hearing on Defendant's Motion to Proceed In Forma Pauperis. The Court directed Mr. Sundy to appear and be prepared to present evidence in support of his motion. The hearing was held on March 7, 2019, but Defendant did not appear. Defendant was properly served with the Rule Nisi. Plaintiff appeared through its counsel. On March 13, 2019, the Court entered an Order denying Mr. Sundy's Motion. It also appearing to this Court that Defendant Mr. Tim Sundy has not paid the Itemized Appeal cost for the record that he requested as of the date of this Notice.

Plaintiff and Defendant, Mr. Tim Sundy are hereby Ordered to appear in courtroom 401 at the Hall County Courthouse in Gainesville, GA at 9:30 a.m. on March 2, 2020. Mr. Tim Sundy shall show cause as to why his Notice of Appeal in this case should not be dismissed pursuant to O.C.G.A. Section 5-6-48(c). Should Defendant, Tim Sundy not appear, then the Appeal filed by Mr. Tim Sundy may be dismissed pursuant to O.C.G.A. Section 5-6-48(c).

SO ORDERED, this 21 day of January 2020

Martha C Christian

Martha C. Christian

Judge Hall County Superior Court

By Assignment

April 9, 2020

Supreme Court of the United States
Office of the Clerk
Washington, D.C. 20543-0001

Certified Mail # 7018 3090 0001 5140 7347 7018 3090 0001 5140 7347

To: Clerk Scott S. Harris, c/o Mr. Michael Duggan

RE: March 10 2020, letter of deficiency related to specifying the kind of extraordinary writ Petitioner is seeking

Dear Mr. Harris,

Thank you for the copy of the Rules of the Supreme Court. This letter is not to waive my *Original Action* received by this Court on 10 March 2020 but to document my intent to utilize the full 60 days specified by Rule 14.5 to re-submit to this court a corrected *Original Action* for the specific kind of extraordinary writ I was seeking for the cause of action at the time the *Original Action* was submitted. I have enclosed a copy of the 10 March 2020 letter of deficiency as a reminder and for your convenience.

Since the time I submitted the *Original Action* on 4 March 2020, the State trial court in Hall County Superior Court case 2015CV1366 committed other violations on 9 March 2020 and the 11th Circuit USCA made a determination on 13 March 2020. In turn, there are particular reliefs I was seeking in my 4 March 2020 *Original Action* which, in the sense of the word, have now become moot. For example, there is no need to request this Court, in a corrected *Original Action*, to stay the 11th Circuit USCA proceedings if that court has already ruled. Moreover, all my support for the 4 March 2020 *Original Action* in aid of jurisdiction is already DENIED by this Court, except the potential petition for a writ of certiorari to the 11th Circuit USCA case 19-11391 and a request for rehearing for US Supreme Court case 19-7600.

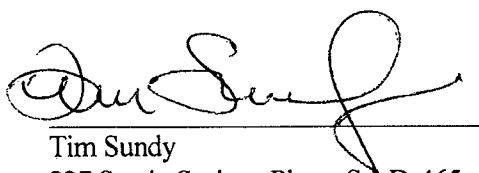
As stated, I am not waiving any leftover issues in my 4 March 2020 *Original Action* but the State trial court has raised a NEW cause of action for which I am entitled to file another *Original Action.* This will be in addition to the one submitted on 4 March 2020 and corrected by 10 May 2010, i.e., within 60 days of your letter. To make it clear, I plan to file a NEW *Original Action* while, at the same time, I am preserving my privilege/right in good faith of 60 days to make my corrections to remaining disputes in the deficient 4 March 2020 *Original Action.*

Furthermore, I understand that the clerk cannot give me advice and I am not seeking such. My concept of "Specif[ic] kind of extraordinary writ [I am] seeking" was specifically stated

for each individual in my RELIEF SOUGHT or Prayer for Relief at the end of my 4 March 2020 *Original Action.* Though I do not see language in the Rules as to the clerk's notice, and I stand to be corrected, I am not challenging the clerk's indication of the deficiency in his letter. I also intend on complying with the Clerk's indication of the deficiency in my NEW, second *Original Action.*

Nonetheless, this indication of deficiency by the clerk suggests that when I am subject -- or any litigant is subject-- to a conspiracy with multiple violators in State court, I cannot make a request for each of the violators in a single petition for *Original Action,* despite their shared common objective. It appears I am instead under a condition to pursue only one violator at a time in applying for an *Original Action* while other violators may escape their wrongdoings.

In other words, to specify suggests "Limited"; if I have 10 individuals who violate me in a specified manner, but for a common goal, then I would need to file 10 separate petitions for extraordinary remedy just to get the clerk to docket my case(s). This Rule appears similar to Georgia Court of Appeals' Rule 41(b), which prohibits joint or compound Motions. Here again, I am not challenging the clerk's indication or findings, but I am protesting the technical form of pleadings in light of Rule 8(d)(1)(2)(3)(e) F.R.C.P. Upon Clerk Duggan's direction, it seems I am compelled to file multiple *Original Actions* for each individual to obtain the specif[ic] relief I am seeking as the remedy again a conspiracy.



Tim Sundy
227 Sandy Springs Place, Ste D-465
Sandy Springs, GA 30328

7018 3090 0001 5140 7354

Copy sent to:
Chief Justice John G. Roberts, Certified Mail # 7018 3090 0001 5140 7354
House Committee on the Judiciary, Certified Mail # 7018 3090 0001 5140 7378
DOJ, Certified Mail # 7018 3090 0001 5140 7385
Martha C. Christian, Certified Mail # 7018 3090 0001 5140 7392
Charles Baker, Certified Mail # 7018 3090 0001 5140 7408

7018 3090 0001 5140 7392

7018 3090 0001 5140 7408

IN THE SUPERIOR COURT FOR THE COUNTY OF HALL

STATE OF GEORGIA

TIM SUNDY,	•	
PLAINTIFF,	•	CIVIL ACTION FILE NUMBER: 2016CV-982B
VS.	•	
FRIENDSHIP PAVILION ACQUISITION COMPANY, LLC., ET AL.	•	
DEFENDANTS.	•	

FILED
HALL CO., GA
2018 JUL 10 PM 3:05
CHARLES BAKER, CLERK
SUPERIOR-STATE COURT
BY _____

ORDER

On Friday, the 6th day of July, 2018, the Plaintiff in the above-captioned and numbered case presented for filing with the Clerk of Court a pleading entitled Notice Of Dismissal By Plaintiff Tim Sundy Pursuant To 9-11-41(a)(1)(A). This pleading was presented for filing with the Clerk of Court by an individual identifying himself as Oliver Endsley.

Prior to stamp filing this pleading or any other pleading presented for filing in the above-captioned and numbered case by Tim Sundy, the judges of the Northeastern Judicial Circuit determined that the undersigned would review any pleading presented for filing by Tim Sundy in the above-captioned and numbered case or any other case pending in the Superior Court of Hall County wherein Tim Sundy is a party.[1]

Upon review of the pleading entitled Notice Of Dismissal By Plaintiff Tim Sundy Pursuant to 9-11-41(a)(1)(A), IT IS ORDERED that the Clerk of Court file the same in Hall County Superior Court Case Number 2016CV-982B with a stamp file date of July 6, 2018 at 10:52 a.m. Plaintiff Tim Sundy is ORDERED to provide a copy of this document to any party or former party and those parties' attorneys with an appropriate certificate of service.

By allowing this pleading to be filed, the undersigned makes no ruling concerning the merits of the pleading. Any issues of any party concerning the merits of that pleading entitled

[1]This judicial review prior to the filing of any pleading presented for filing by Tim Sundy is primarily for the purpose of allowing the court to determine whether a pleading presented for filing is a new case or properly filed in an existing case.

Notice Of Dismissal By Plaintiff Tim Sundy Pursuant To 9-11-41(a)(1)(A) will be heard at **1:00 p.m. on July 30, 2018 at the Hall County Courthouse by the Honorable Martha C. Christian, Judge of the Hall County Superior Court. Plaintiff Tim Sundy is ordered to appear before Judge Christian on July 30, 2018 at 1:00 p.m. at the Hall County Courthouse.**

SO ORDERED, this the 10th day of July, 2018.

C. Andrew Fuller

C. ANDREW FULLER, JUDGE
SUPERIOR COURT FOR THE
NORTHEASTERN JUDICIAL CIRCUIT

cc: Honorable Martha C. Christian
Tim Sundy, 227 Sandy Springs Place, Suite D-465, Sandy Springs, GA 30328
Robert C. Khayat, Jr., 75 Fourteenth Street, Suite 2750, Atlanta, GA 30309
Michael B. Weinstein, 3050 Amwiler Road, Suite 200-C, Atlanta, GA 30360
David R. Dolinsky, 2870 Pharr Court South, Unit 2801, Atlanta, GA 30305
Deirdre M. Stephens-Johnson, 1230 Peachtree Street, Suite 3750, Atlanta, GA 30309
Christian A. Fuller, State of Georgia Law Department, 40 Capitol Square, SW, Atlanta, GA 30334

IN THE SUPERIOR COURT OF HALL COUNTY
STATE OF GEORGIA

Tim Sundy
Petitioner/Plaintiff,
vs.

FRIENDSHIP PAVILION ACQUISITION COMPANY, LLC, et al.
Defendants
and

C. Andrew Fuller, Chief Judge, Superior Court Hall County
Respondent

Civil Action Case No.:

2016-CV-000982A

FILED IN OFFICE
This 6 day of July, 2018
Charles Baker 10:52 AM
Charles Baker, Clerk
mm

NOTICE OF DISMISSAL BY PLAINTIFF TIM SUNDY PURSUANT TO 9-11-41(a)(1)(A)

Plaintiff Tim Sundy, *pro se*, pursuant to 9-11-41(a)(1)(A), files this written notice of the dismissal of 2016CV982 without prejudice as a matter of right.

In 2016, *pro se* Plaintiff was informed that he could not file a *Brown v. Johnson* mandamus action within an existing case so he initiated 2016CV982 to attempt to correct statutory violations by court officers in civil action 2015CV1366. The mandamus action was to no avail with the court using subtle forms for destructive means to exonerate court officer(s).

In taking judicial notice in 2017, Judge Richard T. Winegarden, presiding over *Brown v. Johnson* mandamus action 2017CV0031, filed by David Sundy in 2017 to also attempt to correct the violations in 2015CV1366, Judge Winegarden stated that he had no jurisdiction to make any determinations in the parent case 2015CV1366 via mandamus. Judge Winegarden inferred that *Brown v. Johnson* mandamus actions should be filed within the action where the offense(s) has occurred.

In taking judicial notice in 2018, Tim Sundy and David Sundy filed a *Brown v. Johnson* mandamus petition within 2015CV1366 to attempt to correct injustices and violations by court officers which include the clerk of court removing Petitioner's documents from the record. Presiding judge Martha C. Christian stated that a *Brown v. Johnson* mandamus petition could not be filed in existing action 2015CV1366, especially if it added parties such as the clerk of court.

Therefore, the Plaintiff's documents to this day are still missing from the record and it is conclusive that there is no remedy in Hall County Superior Court under *Brown v. Johnson* when court officers – whether judge or clerk -- violate statutory laws and/or refuse to perform their administrative duty.

Furthermore, during the two years since this case was initiated, the presiding judge has demonstrated that she will not, under any circumstance, render a ruling that is disfavourable to an attorney-represented party. The presiding judge has also underscored that she can and will violate statutes with impunity and that she will allow other court officers to violate statutes with impunity.

When a record is incomplete because a Clerk has removed *pro se*- filed documents and the judges create legislation as the case progresses whereby one judge states that the process should filed within a case while another judge states that the process should be filed separate from the case, then there is no remedy. *Pro se* plaintiffs are further impoverished and injured by the court itself.

To assure that missing documents remain missing, the judges and clerk(s) of court in Hall County Superior Court are currently conspiring to intercept and refuse to file Tim Sundy's pleadings, without due process and in a blatant denial of equal protection. Therefore, Tim Sundy is under duress to dismiss case 2016CV982 while this document may not be allowed to be filed. By certificate of service, all parties hereby notified.

Respectfully submitted 6 July 2018.

Tim Sundy
227 Sandy Springs Place, Suite D-465
Sandy Springs, GA 30328

CERTIFICATE OF SERVICE

The undersigned hereby certifies that was served a true and accurate copy of this **NOTICE OF DISMISSAL BY PLAINTIFF TIM SUNDY PURSUANT TO 9-11-41(A)(1)(A)** subsequent to filing same via U. S. mail addressed as follows:

Robert C. Khayat, Jr., The Khayat Law Firm, 75 Fourteenth Street, Ste. 2750, Atlanta, GA 30309

Michael B. Weinstein, MBW Law LLC, 3050 Amwiler Road, Ste 200-C, Atlanta, GA 30360

David R. Dolinsky, Law Offices of David R. Dolinsky, 2870 Pharr Court South, Unit 2801, Atlanta, GA 30305

Law Office of Deirdre M. Stephens-Johnson LLC, 1230 Peachtree Street, Ste 3750, Atlanta, GA 30309

Christian A. Fuller, State of Georgia Law Department, 40 Capitol Square SW, Atlanta, GA 30334

Respectfully submitted 6 July 2018.

Tim Sundy
227 Sandy Springs Place, Suite D-465
Sandy Springs, GA 30328

IN THE SUPREME COURT OF GEORGIA

Docket No. _____

Submitted by Certified Mail No. 7018 3090 0001 5140 7330

CIVIL CASE

Tim Sundy,
Petitioner

vs.

FRIENDSHIP PAVILION ACQUISITION COMPANY, LLC, ARSENAL REAL ESTATE FUND II-IDF, LP; GEORGIA DEPT. OF TRANSPORTATION; Gary Picone; Thomas Ling; Michael Weinstein, and C. Andrew Fuller
Respondents

PETITION FOR WRIT OF CERTIORARI

Pauper's Affidavit with proper jurat enclosed in lieu of fees paid

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From a determination by the Georgia Court of Appeals in A20E0037

TIM SUNDY
227 Sandy Springs Place, Ste. D-465
Sandy Springs, GA 30328
404-409-5473
email: dstshall@earthlink.net

THE SUPREME COURT OF GEORGIA
PETITION FOR A WRIT OF CERTIORARI

BASIS FOR WRIT

Applicant respectfully requests that a writ of certiorari issue to review the Court of Appeals of Georgia's denial of Emergency Motion in case A20E0037, denying Applicant enforcement to compel the Superior Court of Hall County to restore and complete the record of civil action 2015CV1366. This Court should grant a writ of certiorari because the decision of the Court of Appeals directly conflicts with the due process of Applicant's 1st Amendment right of access to the court

QUESTIONS PRESENTED FOR WRIT OF CERTIORARI

1. Whether it is affirmative that Petitioner Sundy cannot obtain a complete record on appeal in the State of Georgia with all judicial and executive branch officials in the State of Georgia continuing to protect/assist Superior Court of Hall County judges and clerks of court as they remove documents and/or otherwise tamper with the record of 2015CV1366?
2. Is OCGA§ 9-6-22 implicated, when a Clerk of Court refuses to file a litigant's objection, or statutory notice, or other document into a civil action so that the litigant loses the right of a complete record on appeal and other rights, and the litigant has exercised extraordinary diligence to secure the discharge of such duties, with the litigant denied any appellant process?

3. What is the "appropriate superior court" as stated/required in *Brown v. Johnson*, 251 Ga. 436,306 S.E. 2d 655 (1983), when three State Superior Court judges issue three conflicting opinions regarding jurisdiction over a mandamus action?

STATEMENTS OF JURISDICTION

Date of Judgment or Order: The date on which the Court of Appeals of Georgia decided case A20E0037 was dated March 13, 2020. see **Appendix A.**

Date of Judgment or Order: Superior Court of Hall County Order in 2015CV1366 on March 9, 2020. **Appendix Bv1**

Date of Notice of intent to file for a Writ of Certiorari: Applicants timely filed a Notice of Intent to File for a Writ of Certiorari on March 23, 2020 **Appendix C** to seek review of the Court of Appeals' DENIAL of Appellant's Emergency Motion.

Provision prerequisite for Jurisdiction: The Petitioner has obtained Appellate Jurisdiction via Rule 38 of the Supreme Court of Georgia, with this application timely filed on April 2, 2020 by certified Mail No. **7018 3090 0001 5140 7330**; a Pauper's Affidavit with proper jurat is enclosed in lieu of fees to cover this Application.

Constitutional Conferring of Jurisdiction: The jurisdiction of this Court for a request of a writ of certiorari is invoked under Article VI, § VI, ¶ V of the Constitution of the State of Georgia.

SUMMARY OF ARGUMENT

Self-represented *("pro se")* Petitioner Tim Sundy ("Sundy"), unwilling to acquiesce to an incomplete court record which denies him a full and meaningful appeal, and deprived of adequate relief in any other form and from any other court, respectfully petitions for Writ of Certiorari to the Georgia Court of Appeals ("GCOA") upon its refusal in A20E0037 to compel State court and other officials in civil action 2015CV1366 in Hall County Superior Court ("HCSC") to enforce Sundy's clear legal rights under the First, Fourth, Ninth, and Fourteenth Amendments of the U.S. Constitution as well as his clear legal rights under the Constitution of the State of Georgia..

Petitioner has been denied equal protection and deprive of access to the court, contrary to the 1st and 14th Amendments of the Constitution by a Clerk of Superior Court refusing to file properly submitted documents into a civil action and/or the same Clerk removing and/or withholding properly submitted documents from a civil action. Petitioner has been denied the right of a complete record on appeal and injured by the Clerk's failure to perform the Clerk's duties despite OCGA § 9-6-22:

> If any sheriff, clerk, or other officer fails to discharge any duty required of him by any provision of Title 5.... No party shall lose any right by reason of the failure of the officer to discharge his duties when the party has been guilty of no fault himself and has exercised ordinary diligence to secure the discharge of such duties. **OCGA § 9-6-22**

On 9 March 2020, subsequent to a 2 March 2020 hearing in HCSC 2015CV1366, an ORDER **Appendix Bv1** was file-stamped by the Clerk of Court which states that "...The Court will proceed to consider "MOTION PURSUANT TO O.C.G.A. 9-1160(d)(2)(3) TO SET ASIDE THE DECEMBER 3, 2018 VOID FINAL JUDGMENT FOR FRAUD UPON THE COURT AND/OR NON-AMENDABLE EFFECTS" [sic]. This means that finally (after fifteen months) there may be a ruling on Sundy's OCGA § 9-11-60(d)(2)(3) MOTION from which decision Sundy may have opportunity to appeal - **IF CLERK CHARLES BAKER DOES NOT CONCEAL THE TRIAL COURT'S RULING FROM THE DOCKET BEYOND 7 DAYS AND/OR DELAY THE PHYSICAL MAILING OF A COPY** of the order in order to create a situation to cause Sundy to miss the 7-day deadline to appeal established by GCOA on 15 March 2019 in A19D0345 **APPENDIX D.**

Pro se Sundy has not yet obtained a remedy, not even an injunction from this court in S19O1351, to prohibit Clerk Charles Baker and other court officers from tampering with the record of any of Sundy's cases, including removing Sundy's papers and withholding items from the docket, to deprive Sundy of Notice and equal protection as well as a the full and fair litigation of issues and claims. Sundy is compelled to regularly obtain a printed copy of the official Docket directly from HCSC, because Sundy has no remedy to prohibit the clerk or other court officers

from delaying filing and/or backdating or changing the stamp-filed date on documents. Instead, HCSC court officers appear to uphold the same pattern established by GASUP Clerk of Court Therese Barnes in S19O1351 to falsify court records and act intentionally and with premeditation to prejudice Sundy's claims and appeal(s). By Judicial Notice, Clerk Barnes created a false motion for sanctions in S19O1351 to injure Sundy while denyng Sundy Notice.

The practice and pattern of malfeasance by court clerks was repeated again in HCSC 2015CV1366 as follows: On 19 February 2020 *pro se* Sundy submitted a STANDING OBJECTION to the 2 March 2020 hearing. Because Sundy is prohibited from physically entering the HCSC Clerk's Office under threat of arrest, and illegally enjoined from the normal filing of papers by a disqualified judge who recused himself three-years prior, Sundy's STANDING OBJECTION was submitted by certified mail **Appendix E (4 pgs only)**. The STANDING OBJECTION was received by the Clerk's Office on 21 February 2020. **Appendix F.** The HCSC docket obtained from HCSC on 2 March 2020 **Appendix G (1st and last pgs only)** , prior to the 9:30AM hearing, shows that Sundy's STANDING OBJECTION is nowhere to seen. The docket of 9 March 2020 **Appendix H** shows that Sundy's STANDING OBJECTION has now been "docketed" but the 9 March 2020 ORDER **Appendix Bv1** is nowhere to be seen. The 10 March 2020 docket **Appendix I** shows the 9 March 2020 ORDER now on the docket.

The pattern by Clerk Baker and other court officers is consistent: In an ongoing denial of equal protection and due process, Sundy never knows what qualifies him to timely have papers docketed or whether the court will disappear Sundy's papers completely.

A closer examination of the 9 March 2020 Order **Appendix B v1** reveals that, despite being signed on 2 March 2020 by Judge Christian after the 9:30AM hearing, the Clerk's Office did not file it on the record until 9 March 2020. As an aside, the certified copy of the 9 March 2020 ORDER **Appendix Bv1** bears a different file-stamp and signature than the service copy **Appendix Bv2** mailed to *pro se* Sundy and received by him on 12 March 2020.

Friendship Pavilion Acquisition Company LLC ("Friendship") and its officers and agents took a calculated risk in 2011 that it could successfully perpetrate, using affirmative RICO acts, a scheme of prevention of performance and fraud upon Petitioner Tim Sundy, his brother, and their family-owned restaurant company. Friendship *et al.* knew that what it was doing was deceitful, fraudulent and illegal, and could cost the Sundys their livelihood, but calculated that imposing obstacles upon the Sundys' restaurant of condemnation, road construction and the secret conveyance of its property frontage -- obstacles not contemplated within its contract with the Sundys--was a risk Friendship was willing to take. When Friendship's calculation proved wrong and the Sundys finally obtained partial evidence, after

three years of open record requests, of Friendship's scheme and Friendship's breaches of contract, Friendship hired multiple attorneys and sought to avail itself of the Sundys' nonperformance, resulting in HCSC case 2015CV1366.

For still unknown reasons, court officers in the Northeastern Judicial Circuit of Georgia have demonstrated an actual interest in the outcome of the original *in rem* proceeding and even, at one point, adopted Plaintiff Friendship's MOTION TO LIFT LIS PENDENS in court officers' mandamus response. For five years, court officers have created collateral issues in HCSC 2015CV1366 by violating Georgia statutory laws and ministerial duties to deprive Sundy of Constitutional due process, equal protection, redress of grievance, immunity from criminal activity, private property without compensation, and liberty interests, as the Sundys defend themselves from Plaintiff Friendship's affirmative RICO activity and scheme of prevention of performance and seek counter means for damages. Plaintiff Friendship and HCSC court officers, including judges and clerks, have given every appearance of conspiring to shield Friendship from the consequences of its own scheme of making it impossible for the Sundys to perform in the face of obstacles of Friendship's own creation.

When a clerk of court or judge can change the complexion and perception of a case by removing and/or withholding a *pro se* litigant's documents, as in every case in HCSC, creating a false appearance of laches or acquiescence or procedural non-

compliance on the part of the *pro se* litigant, while manipulating the State appellate courts to render an adverse ruling as a result of litigants' defective record on appeal, fraud upon the court is complete.

When is judicial or official misconduct sufficiently egregious to distinguish it from "abuse of discretion" or misunderstanding or sloppiness? How much bad conduct is enough? Does one indisputable judicial lie about a fact central to the case suffice? Does an apparent scheme calculated to interfere with the judicial system's ability to impartially adjudicate Sundy's claims and issues by unfairly hampering the presentation of the Sundy's claims and defenses suffice as fraud upon the court? When do the material factors of missing objections, missing notices, missing orders, and missing transcripts -- which create an incomplete court record insufficient for a fair and adequate appeal – become abuse of the judicial process in the eyes of Georgia's appellate courts?

Review by this Court of the GCOA's prejudicial and erroneous 13 March 2020 ORDER in A20E0037 **Appendix A** regarding 2015CV1366 as well as GCOA's 19 September 2018 ORDER in A19E0011 **APPENDIX J** is necessary to protect *pro se* Sundy from further injury by court officers' continued tampering with the record and to give Sundy access to a remedy at law. The action requested is time-sensitive because it appears that the trial court and the clerk have already determined to collude to deprive this Court of jurisdiction of any appeal by Sundy from a ruling on his

OCGA § 9-11-60(d)(2)(3) MOTION by causing *pro se* Sundy to be denied notice and opportunity for some or all of the 7-days he has in which to appeal. *Pro se* Sundy, served by U.S. mail, cannot rely on the HCSC docket or the trial court for timely notice.

STATEMENT OF FACTS IN THE CASE

In the 9 March 2020 Order **Appendix B**, Judge Christian incorrectly stated "Defendant has not shown that the record in this case is incomplete or not accurate." Sundy's 21 February 21, 2020 Standing Objection **Appendix D** makes it self-evident that Judge Christian's finding of facts is based on falsehood.

On page 32 of the Standing Objection **Appendix D**, Sundy stated: "**If Intervenor says "Right Now, I need the ORDER in 2015CV1366 showing how the December 20, 2016 JOINT OBJECTION was restored 18 months after it was filed so I can challenge the inconsistent due process on appeal," it will never happen. Unless Intervenor can come up with thousands of more dollars and another eighteen months of time.**" The 10 July 2018 ORDER restoring the Joint Objection is missing from the record of 2015CV1366.

The May 2018 injunctive order issued by disqualified Judge Fuller "on behalf of the Northeastern Judicial Circuit" prohibiting Sundy from filing documents directly with the HCSC Clerk of Court and enforced in 2015CV1366 is missing from the record of 2015CV1366 yet a 26 November 2018 "ORDER TO FILE

PLEADING TITLED INTERVENORS STANDING OBJECTIONS" references disqualified Judge Fuller's Order. Sundy is deprived of review of disqualified Judge Fuller's Order if it is not part of the record on appeal. There is nothing for the appellate court to review when Sundy cannot support an argument from the record.

In comparing the Docket with Sundy's Notice of Appeal ("NOA") mailed on 28 December 2018, received on 31 December 2018 but not docketed by the Court until 2 January 2019, Sundy's designation of the record reveals that (i) NOA #150 is not on the Docket and (ii) NOA Transcrip: October 15, 2018 is not on the Docket. The Docket also reflects no Notice to the Sundys of the conference hearing of November 25, 2018 despite a November 25, 2018 transcript being on the record.

The Clerk's Itemized Appeal Costs **Appendix K,** which is not on the record, reflects $35.00 for one transcript rather than $210.00 for the six (6) transcripts listed in Sundy's NOA, indicating that the Clerk will not adhere to Sundy's NOA.

> "I have included an Index with the items you requested in your Amended Appeal along with a bill of cost. The cost for an appeal would be $1.00 per page on the record and $2.50 to certify that record, a $35.00 charge to certify each transcript..." *Gruner v. Thacker*, 739 S.E.2d 440, 441 (Ga. Ct. App. 2013)

Sundy's NOA in case 2015CV1366 was unjustly dismissed under OCGA § 5-6-48(c) for failure to pay costs for an incomplete record **Appendix B** despite Sundy having documented for the court that the record was incomplete. GCOA's denial of Sundy's Emergency Motion to complete the record is absolute proof that Sundy has

no remedy to obtain a complete record from which to appeal and also demonstrates that Georgia's appellate courts are complicit with Hall County Superior Court in depriving Sundy of a full and fair appeal. When the appellate courts ignore procedural misconduct by court officers, as well as the accompanying substantive misconduct of false statements of the facts of the case by judges and attorneys, fraud upon the court is confirmed to any objective observer.

ARGUMENTS

1. **Regardless of Petitioner Sundy appearing by special appearance in trial court, Sundy was put in a Catch-22 in this case: pay the cost for an incomplete record and be deprived of a full and fair appeal or refuse to acquiesce to an incomplete record and have his Notice of Appeal dismissed for timeliness.**

Over the last five years, Sundy has documented that it appears the only way in the State of Georgia for Sundy to appeal a civil case, whether the court is State or Federal, is to acquiesce to an incomplete record with missing documents while paying several thousand dollars for a fundamentally unfair review while Sundy has no enforcement to restore the record of HCSC 2015CV1366.

> "It is a principle of the widest application that equity will not permit one to rely on his own wrongful act, as against those affected by it but who have not participated in it, to support his own asserted legal title or to defeat a remedy which except for his misconduct would not be available." *Deitrick v. Greaney*, 309 U.S. 190 (1940)

The executive branch in Georgia, while the federal courts are on stand-by in this case, has watched the Superior Court of Hall County place Sundy in an

unconstitutional condition via misfeasance, malfeasance, subtle forms, malpractice, lies, RICO activity, and falsehood such that even if Sundy paid the costs for a record from which to appeal, Sundy still would be denied a fair and impartial appeal.

> "...The next stage of judicial corruption is false statement of the facts. The judge simply states a false set of "facts" which would lead any other court to the desired conclusion, and the resulting judgment not only looks plausible but cannot be appealed... If tried, the outcome is determined by the false picture of fact." Why Judicial Corruption is Invisible, John Barth, Jr., **CounterPunch Magazine.** December 10, 2010

As has happened often during the past five years, a situation was created by disqualified Judge Christian on 28 January 2020, with calculation and malice, to weaponize Sundy's Notice of Appeal docketed 2 January 2019 in HCSC 2015CV1366, despite the fact that she delayed action for over a year and Sundy's Notice of Appeal had been mooted under OCGA 5-6-48(b)(1) by GCOA on 15 March 2019 by its "7-days to appeal" ruling in A19D0345 **APPENDIX D.** As the docket shows, Sundy's Notice of Appeal was filed more than 7 days after the filing in 2015CV1366 of the Civil Disposition Form and Final Order on 6 December 2018. (The trial court's tactics of delay in the cases in which Sundy is a party, including a 27-month delay in HCSC 2016CV0982, remain purposeful and predictable.)

To make it clear: If Sundy fails to pay costs for a record that is tampered with and incomplete, the trial court dismisses his Notice of Appeal under OCGA 5-6-48(c) which provides for unreasonable delays to transmit record, despite the fact that the clerk never sent a bill inclusive of all items detailed in Sundy's Notice of Appeal. If

Sundy acquiesces and borrows thousands of dollars to pay for the incomplete record, Georgia's appellate court will dismiss Sundy's Notice of Appeal as untimely under OCGA 5-6-48(b)(1), GCOA having previously ruled on 15 March 2019 in A19D0345 **APPENDIX D** that HCSC 2015CV1366 never ceased to be a dispossessory proceeding and Sundy is therefore subject to the 7-day appeal requirements of OCGA § 44-7-56 --despite Plaintiff Friendship's amended complaint filed on 6 February 2017, almost two years after the dispute over possession of the premises had been settled, with Friendship stating that its amended complaint sounded solely in contract while citing new causes of action that arose subsequent to the original action. GCOA, by inconsistent due process, chose to ignore its own case law as well as Friendship's amended complaint in reaching its decision, continuing its alliance with corrupt superior court officers.

> "if state officers conspire . . . in such a way as to defeat or prejudice a litigant's rights in state court, that would amount to a denial of equal protection of the laws by persons acting under color of state law." D*inwiddie v. Brown,* 230 F.2d 465, 469 (5th Cir.), *cert. denied,* 351 U.S. 971, 76 S.Ct. 1041, 100 L.Ed. 1490 (1956).

Despite his special appearance objection at the 3 March 2020 hearing, standing his ground and preserving all objections to an incomplete record and the jurisdiction of the court, Sundy can only obtain a meaningless ritual deprived of equal protection and due process at any trial or hearing in HCSC. The State of

Georgia refuses to protect Sundy or provide him with the complete trial court record to which he is entitled.

> "[N]o matter how erroneous a ruling of a trial court might be, a litigant cannot submit to a ruling or acquiesce in the holding, and then complain of the same on appeal. He must stand his ground. Acquiescence deprives him of the right to complain further." (Footnote omitted.) *Roberts v. First Ga. Community Bank*, 335 Ga. App. 228, 230 (1) (779 SE2d 113) (2015). See also *Davis v. Phoebe Putney Health Systems*, 280 Ga. App. 505, 506-507 (1) (634 SE2d 452) (2006) ("A party cannot participate and acquiesce in a trial court's procedure and then complain of it.")

2. Even if this Court granted Sundy a Certiorari to the GCOA, because the record is incomplete, Sundy is deprived of a full and fair appeal upon invited error and denied meaningful access to the court.

> "...it is still the ultimate responsibility of the court to consider all potential remedies if it finds that the ones the plaintiffs offer do not suffice. It has always been Congress's intent that "[t]he court should exercise its traditional equitable powers to fashion the relief so that it completely remedies..." *Southern Christian Leadership Conference v. Sessions*, 56 F.3d 1281 (11th Cir. 1995)

Because Sundy has been denied any means to complete the record in 2015CV1366, Sundy cannot argue error or present claims of what happened at the trial level regarding disqualified Judge Fuller's illegal filing injunction, the restoration of Sundy's Joint Objection missing for 18 months, the details of the 15 October 2018 hearing, being deprived of notice of the November hearing, etc. Sundy is deprived of his right to petition as well as due process.

> "The burden is on the complaining party, "including pro se appellants, [cit.], to compile a *complete record* of what happened at the trial level, and '**when this is not done, there is nothing for the appellate court to review**.' [Cit.]" ***Wright v. State***, 215 Ga. App. 569, 570 (2) (452 S.E.2d 118) (1994). See also ***Johnson v. State,*** 261 Ga. 678, 679 (2) (409

S.E.2d 500) (1991); ***Brown v. State***, 223 Ga. 540, 541 (2) (156 S.E.2d 454) (1967)." ***Kegler v. State***, 475 S.E.2d 593 (Ga. 1996)'

If by some miracle this court or the U.S. Supreme court granted Sundy a writ of certiorari and commanded the lower court to send up the record, this would not do Sundy justice because the record is still incomplete -- **"there is nothing for the [Supreme] court to review"**

Pro se Sundy has made a consistent claim for a complete record in court proceedings, a claim which is coupled with the right to effective, meaningful appellate review, but Sundy is denied in every proceeding. A complete record functions to ensure procedural due process on appeal. *U.S. v Mancilla*, 226 Fed. Appx. 945,946 (11th Cir. 2007). Thumbing its nose at procedural due process, the trial court instead commands Sundy to pay the costs to transmit an incomplete record, an invited error.

> "Invited error refers to a trial court's error against which a party cannot complain to an appellate court because the party encouraged or prompted the error by its own conduct during the trial. The original goal of the invited error doctrine was to prohibit a party from setting up an error at trial and then complaining of it on appeal. In State v. Pam, the State of Washington intentionally set up an error in order to create a test case for appeal. Since then, the doctrine has been applied even in cases where the error resulted from neither negligence nor bad faith." See, e.g., State v. Studd, 137 533, 547 (Wn.2d 1999).

By operation of law, Sundy has been repeatedly injured by an incomplete record and by statutory and constitutional violations. There is justification for every assertion of a legal right that Sundy has made. The law says that when the

nonperformance of a party to a contract is caused by the conduct of the opposite party, such conduct shall excuse the other party from performance. OCGA § 13-4-23. The law says Sundy shall not lose any right by reason of the failure of a clerk of court or judge to discharge his duties when Sundy has been guilty of no fault himself and has exercised ordinary diligence to secure the discharge of such duties. OCGA § 9-6-22.

The Clerk and the trial court have failed to maintain a complete record in HCSC 2015CV1366. And, the Clerk and the trial court are currently poised to tamper with the record to deprive Sundy of appeal of his OCGA § 9-11-60(d)(2)(3) MOTION. According to legal theory in the State of Georgia as established in *Robinson v. Glass*, 302 Ga. App. 742, 746 (2010), Sundy has partially prevailed on two mandamus petitions and one motion for injunction by achieving the relief sought though the courts in Georgia have refused to issue a written order which implicates any court officer, instead dismissing or denying Sundy's cases upon his prevailing. The fact that *pro se* Sundy has been injured and impoverished not just by Plaintiff Friendship but by having to file mandamus cases and other requests for extraordinary relief just to obtain a partially complete record, is a commentary on the denials of equal protection, procedural due process and constitutional protections experienced by underprivileged, *pro se* litigants. The fact that court officers continue to tamper with the record in 2015CV1366 is a resounding indictment against this Court as well as the trial court.

> "There is lacking that equality demanded by the Fourteenth Amendment where the rich man, who appeals as of right, enjoys the benefit of counsel's examination into the record... The indigent, where the record is unclear or the errors are hidden, has only the right to a meaningless ritual, while the rich man has a meaningful appeal." *Douglas v. California*, 372 U.S. 353, 357 (1963

As long as the trial court is protected by GCOA's Orders in A19E0011 **Appendix J** and A20E0037 **Appendix A** denying Sundy enforcement of his constitutional rights, Sundy is in custody and denied rights protected by the federal and Georgia Constitutions.

> "But if the statutes show no discrimination, yet in its judicial tribunals one class is unable to secure that enforcement of their rights and punishment for their infraction which is accorded to another, or **if secret combinations of men are allowed by the Executive to band together to deprive one class of citizens of their legal rights without a proper effort to discover**, detect, and punish the violations of law and order, the State has not afforded to all its citizens the equal protection of the laws." Cong. Globe, 42nd Cong., 1st Sess., App. 315." *Monroe v. Pape,* 365 U.S. 167, **180** (1961)

Apparently *pro se* Sundy is in the class of citizens that does not qualify to have all missing papers docketed in Hall County Superior Court nor to have other constitutional protections enforced.

3. When a Clerk of Court refuses to file and docket a litigant's objection or statutory notice or other document into a civil action so that the litigant loses the right of a complete record on appeal and other rights, and the litigant has exercised extraordinary diligence to secure the discharge of such duties, with the litigant denied any appellant process, is OCGA§ 9-6-22 implicated?

By presenting papers to the Clerk of Court for filing in an enumerated case, Applicant has made a legal demand that such papers be filed and docketed with the court. The evidence is that the Clerk of Court has a duty to file Applicant's pleadings without question.

> "It is the official duty of the clerk of a court to file all papers in a cause presented by the parties, and to mark them filed, with the date of filing. [Cits.]" *Brinson v. Ga. R. Bank & Trust Co.*, 45 Ga. App. 459,460 (165 SE 321) (1932)

> "We take this occasion to remind that the duty of the clerk is to file pleadings, not to ascertain their legal effect. See generally *Hood v. State,* 282 Ga. 462, 464, 651 S.E.2d 88 (2007) (clerk has ministerial duty to file pleadings, and it is beyond the purview of the clerk to be concerned with their legal viability)." *Ford v. Hanna,* 292 Ga. 500, 502, 739 S.E.2d 309 (2013).

> "The propriety of the filing should be considered, if at all, by the court upon motion by the parties or on its own motion, and not by the Clerk." A*lexander v. Gibson*, 300 Ga. 394, 395-396 (794 SE2d 597) (2016)

Applicant is subject to an unlawful two-judge (or more) panel which includes disqualified Judge Fuller and which has deprived Applicant of due process and equal protection. The Clerk of Court has politicized his office and used his position to deny equal protection and implement inconsistent due process. The Court of Appeals has abdicated its responsibility to review the actions of the clerk as well as the actions of the trial court while ensuring that Sundy has no remedy in the state of Georgia.

> "a two-judge panel . . is positively inconsistent with both local rules of the court [and] the American legal system's long-standing practice of assigning a case or motion, at the trial level to a 'single' judge." *Grutter v. Bollinger*, 16 F. Supp. 2d 797, 802 (E.D. Mich. 1998)

In his application for discretionary appeal in A19D0345, Applicant Sundy raised reversible errors of law and deprivations of rights that the Court of Appeals ignored. Just as Hall County Superior Court judges have presupposed and guaranteed that *pro se* Sundy will not prevail against court officers, the Court of Appeals has done the same.

The clerk of court is an elected official who bears the responsibility for ensuring that he, or a deputy clerk on his behalf, performs the statutory duties he is required to perform. OCGA §§ 15-6-50; 15-6-59 (b) (powers and duties of appointed deputy clerks are same as clerk's). State court clerks have the legal duty "to file pleadings, not to ascertain their legal effect." (Citation omitted.) *Ford v. Hanna*, 292 Ga. 500, 501 n.2 (739 SE2d 309) (2013). These "duties of the clerk relating to the filing of pleadings are ministerial in nature" and do not involve the exercise of discretion. *Hood v. State*, 282 Ga. 462, 464 (651 SE2d 88) (2007). As stated in the Uniform Rules of the Superior Courts of Georgia Rule 36.2, actions shall be entered by the clerk in the proper docket immediately or within a reasonable period after being received in the clerk's office.

> "...the City overlooks the fact that the loss of a procedural right "is itself an injury" sufficient to provide standing "without any requirement of a showing of further injury." *Bertulli v. Independent Ass'n of Continental Pilots*, 242 F.3d 290, 295 (5th Cir. 2001). Additionally, "the right to procedural due process is `absolute' in the sense that it does not depend upon the merits of a claimant's substantive assertions and [therefore] the denial of procedural due process [is] actionable for nominal damages without proof of actual injury." *Carey v. Piphus*, 435 U.S. 247, 266, 98

S.Ct. 1042, 55 L.Ed.2d 252 (1978). Wessel v. City of Albuquerque, 299 F.3d 1186, **1193** (10th Cir. 2002)

Applicant Sundy has been injured, and continues to be injured, deprived of status, and constitutional protections of property, equal protection and due process in civil actions 2015CV1366 and in 2016CV0982 because of oral orders issued by Respondent Judge Fuller, Respondent Fuller knowing that "What the judge orally declares is no judgment until it has been put in writing and entered as such.'" [Cit.]" *State v. Sullivan*, 237 Ga. App. 677, 678 (516 S.E.2d 539) (1999).

O.C.G.A. § 9-2-4 provides: "A plaintiff may pursue any number of consistent or inconsistent remedies against the same or different persons until he shall obtain a satisfaction from some of them." Respondent Judge Fuller's refusal to issue written orders harmed Applicant Sundy, interfering with Applicant's access to the courts, depriving him of procedural rights and causing prejudice to the rights of the Applicant and to Applicant's litigation. Judge Fuller, as then chief judge of HCSC, purposefully and with malpractice created a change in circumstances causing prejudice *and injuryto* Applicant Sundy.

4. When three Superior Court judges issue three conflicting opinions regarding jurisdiction over a mandamus action, obscuring the "appropriate court" as stated/required in *Brown v. Johnson*, 251 Ga. 436,306 S.E. 2d 655 (1983), Sundy is denied his constitutional right to a remedy.

"It is the right of every State to establish such courts as it sees fit, and to prescribe their several jurisdictions as to territorial extent, subject-matter, and amount, and the finality and effect of their decisions, provided it does not encroach upon the proper jurisdiction of the

> United States, and does not abridge the privileges and immunities of citizens of the United States, and does not deprive any person of his rights without due process of law, nor deny to any person the equal protection of the laws, including the equal right to resort to the appropriate courts for redress. *Missouri v. Lewis*, 101 U.S. 22 (1879)

In 1983, this Court issued its ruling in *Brown v. Johnson*, 251 Ga. 436,306 S.E. 2d 655 (1983) expanding the guidelines under the 1983 Constitution for pursuit of mandamus relief.

> "Although there may occasionally appear to be a need to file an original petition in the Supreme Court to issue process in the nature of mandamus, and perhaps quo warranto or prohibition, where a superior court judge is named as the respondent, such as where the petitioner seeks to require the judge to enter an order in a matter, alleged pending more than [90] days in violation of subsection (b) of this section, such a petition may in fact be **filed in the appropriate superior court.** Being the respondent, the superior court judge will disqualify, another superior court judge will be appointed to hear and determine the matter, and the final decision may be appealed to the Supreme Court for review. *Brown v. Johnson,* 251 Ga. 436,306 S.E. 2d 655 (1983)." (*emphasis added)*

This Court did not elucidate *which is the appropriate superior court.* Three separate mandamus cases filed in the Superior Court of Hall County in different manners in an attempt to conform to the language of *Brown v. Johnson,* yielded inconsistent due process in three different and contradictory interpretations of the jurisdiction alluded to in *Brown v. Johnson.* With Applicant's documents missing from the record, and with no mean of correction, the Applicant was compelled to dismiss mandamus case 2016CV00982 being unable to defend himself against the judges of the Northeastern Judicial Circuit closing the doors of the courthouse to the

Applicant, said judges having empowered themselves and vindictive, disqualified judge C. Andrew Fuller to retaliate against and defeat the Sundy brothers, not only in case 2016CV00982 but in every case in which the Sundy brothers are parties. As a result, all the records of each case are incomplete while the *Brown v. Johnson* cases, in any form, are rendered insufficient. The judge in mandamus action 2017CV0031 ruled that he has no jurisdiction in the case which precipitated the mandamus action, and that language was affirmed in case A18A0170 by the Georgia Court of Appeals. The judge in primary case 2015CV1366, in defiance of *Brown v. Johnson*, ruled that the mandamus action Applicant subsequently filed within 2015CV1366 naming the judge as a respondent had to be filed as a new, separate mandamus civil action. A third judge in yet another case restored a missing document to the primary case without any apparent concern that he had no jurisdiction in 2015CV1366.

> "The superior courts, on the trial of any civil case, shall give effect to all the rights of the parties, legal or equitable, or both, and apply on such trial remedies or relief, legal or equitable, or both, in favor of either party, such as the nature of the case may allow or require." *Moore v. Robinson,* 55 S.E.2d 711 (Ga. 1949)

The Superior Court of Hall County has eviscerated and nullified *Brown v. Johnson,* making it a vehicle for inconsistent due process and denial of equal protection. It is actual bias on its face for the judge who is a named Respondent in an application to rule on that application. The floor established by the *Due Process* Clause clearly requires a "fair trial in a fair tribunal," *Withrow v. Larkin*, 421 U.S.

35, 46 (1975), before a judge with no actual *bias* against the party or interest in the outcome of his particular case. It is clear under the operation of law of *Brown v. Johnson* that the Respondent judge will disqualify and another superior court judge will be appointed to hear and determine the matter, and the final decision may be appealed

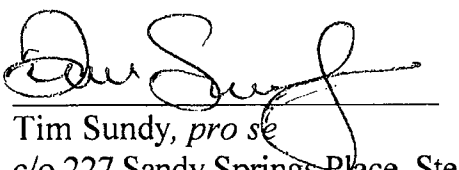
Without clear guidance from this Court, a mandamus action, or any extraordinary remedy, which names an officer of the court as a respondent is no longer a remedy and the citizens of Georgia are, again, enslaved to judicial misfeasance and tyrannical partiality. "Not only is a biased decision maker constitutionally unacceptable, but our system of law has always endeavored to prevent even the probability of unfairness." *Withrow v. Larkin*, 421 U.S. 35, 47 (1975) (quoting *In re Murchison*, 349 U.S. 133, 136 (1955))

Furthermore, in light of the language of **OCGA § 9-6-22** -- "***No party shall lose any right by reason of the failure of the officer to discharge his duties when the party has been guilty of no fault himself and has exercised ordinary diligence to secure the discharge of such duties.***" and the Sundys having filed three applications in the superior court in this triangle, in an attempt to conform to what each judge personally determines to be appropriate, the Sundys have completely lost their right to be secured in their papers because all the case are still incomplete contrary to the intent of the Georgia Legislature pursuant to **OCGA § 9-6-22.**

V. CONCLUSION

For the reasons set forth above, Applicant Sundy respectfully requests that this Court grant his Application for Writ of Certiorari to review and reverse the Court of Appeals' March 13, 2020 Order in A20E0037 and its preceding order in A19E0011. A Notice of Filing of Application for Writ of Certiorari has been contemporaneously filed in the Court of Appeals by Applicant.

Respectfully submitted 2 April 2020.



Tim Sundy, *pro se*
c/o 227 Sandy Springs Place, Ste D-465
Sandy Springs, GA 30328

CERTIFICATE OF SERVICE

The undersigned hereby certifies that he has caused to be served the within and foregoing, **Petition for Writ of Certiorari** by depositing a copy thereof, in the United States Mail, properly addressed upon:

Robert C. Khayat, Jr., The Khayat Law Firm, 75 Fourteenth Street, Ste. 2750, Atlanta, GA 30309

Charles Baker, Clerk, Hall County Superior Court, P.O. Box 409, Gainesville, GA 30503

MBW Law LLC, 3050 Amwiler Road, Suite 200-C, Atlanta, GA 30360

Respectfully submitted 2 April 2020.

Tim Sundy, *pro se*
c/o 227 Sandy Springs Place, Ste D-465
Sandy Springs, GA 30328

Court of Appeals
of the State of Georgia

ATLANTA, March 13, 2020

The Court of Appeals hereby passes the following order:

A20E0037. TIM SUNDY v. FRIENDSHIP PAVILLION ACQUISITIONS, LLC, Et Al.

Having read and considered the "Rule 40(b) Emergency Motion for Process to be Issued" the same is hereby DENIED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 03/13/2020
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Stephen E. Castlen , *Clerk.*

IN THE SUPERIOR COURT OF HALL COUNTY
STATE OF GEORGIA

Friendship Pavilion Acquisitions Co., LLC)
Plaintiff

Civil Action
No. 2015- CV -1366B

)

vs.

Mediterranean Dining Group, Inc.,
David Sundy and Tim Sundy,)
Defendants

vs.

)

Michael Weinstein,)
Arsenal Real Estate Fund II,
Thomas Ling,)
Gary Picone,
Defendants in Counterclaim

ORDER DISMISSING NOTICE OF APPEAL PURSUANT TO O.C.G.A. SECTION 5-6-48(c) AND LIFTING STAY

On January 28, 2020, this Court entered a Notice of Show Cause Hearing Regarding Itemized Appeal Costs. The Notice ordered Defendant, Tim Sundy (Defendant), to appear and show cause at 9:30 a.m. on March 2, 2020 as to why the Notice of Appeal filed by him should not be dismissed pursuant to O.C.G.A. Section 5-6-48(c). Defendant was put on notice that if he did not appear, his Notice of Appeal could be dismissed.

The Court held a hearing on March 2, 2020 at 9:30 a.m. and Defendant did not appear. Prior to the hearing, on February 21, 2020, Defendant did file a pleading titled "Standing Objection to Inconsistent Due Process and Fraud Upon the Court." This pleading has been considered by the Court.

The Court finds as follows:

On January 2, 2019, Defendant filed a Notice of Appeal to the Supreme Court of Georgia from the Final Judgment entered in this case on December 3, 2018 and "from the final disposition form with its attached Final Judgment that was filed in this court December 6, 2018."

Defendant was given timely and proper notice of the amount he would have to pay for the record to be sent to the Supreme Court. He was mailed a statement of the Itemized Appeal Costs on January 15, 2019 by certified mail. The total due was $2168.00.

On February 8, 2019, Defendant filed a Motion for Leave to Proceed in Forma Pauperis. On February 11, 2019, this Court entered a Rule Nisi setting a hearing on this Motion. In the Rule, the Court informed Defendant that the Court found that his affidavit of indigency was not sufficient for the Court to make a determination of his indigency. Defendant was ordered to appear at a hearing on March 7, 2019 to present evidence of his gross and net income; the fair market value of all of his property; the amount of all liens on such property; his monthly living expenses and all debt for which he claims he is responsible. He was ordered to present written documentation supporting his claim. The Court put Defendant on notice that if he did not appear and present such evidence, his Motion would be denied. The hearing was held, and Defendant did not appear.

On March 13, 2019, an Order was entered denying Defendant's Motion for Leave to Proceed in Forma Pauperis.

Defendant has not paid the Itemized Appeal Costs.

In the pleading Defendant filed on February 21, 2020 (Standing Objection), Defendant stated that he was "Appearing" by special appearance "challenging the Court's jurisdiction, avoiding a corrupt judicial system in the State of Georgia." Defendant continues to claim, as he has in numerous pleadings, that this Court does not have jurisdiction to hear this case. This Court has ruled and hereby rules that this court has not been deprived of jurisdiction nor has this Judge been disqualified to hear the case.

Defendant complains that he should not have to pay for a record that is "incomplete." He states that "the docket does not reflect several items legitimately and lawfully filed within the case." However, the only document he identifies as not being on the docket is a document titled "December 20, 2016 JOINT OBJECTION." A review of the docket and of the file shows that a document titled "JOINT OBJECTION TO SUMMARY JUDGMENT HEARING" is shown as filed on December 20, 2016 and is in the record (in his Objection, Defendant acknowledges that the document "was finally restored".) This document appears as item number 44 in Defendant's request regarding what should be sent to the Supreme Court by the Clerk. This Court is aware of Defendant's repeated claims regarding this document. Nevertheless, the document appears to be in the record. Defendant has not shown that the record in this case is incomplete or not accurate.

In his Standing Objection, Defendant also claims that this Court should have dismissed the Notice of Appeal "long ago". He bases this claim on a ruling made by the Georgia Court of Appeals which denied his interlocutory appeal filed the same day he filed the Notice of Appeal. He states that this Court should know that the Court of Appeals will deny his direct appeal. This argument has no merit.

The Court finds that there has been an unreasonable delay in the transmission of the record to the appellate court, that the delay was inexcusable and caused by Defendant's failure and refusal to pay costs in the trial court. O.C.G.A. §5-6-48(c).

Therefore, The Notice of Appeal filed by Defendant on January 2, 2019 is hereby DISMISSED.

On February 11, 2019, this Court entered an Order staying the case until determination of the Notice of Appeal. The Notice of Appeal having been dismissed, the stay is lifted. The Court will proceed to consider Plaintiff's pleading filed on December 13, 2018, "MOTION PURSUANT TO O.C.G.A. 9-1160(d)(2)(3) TO SET ASIDE THE DECEMBER 3, 2018 VOID FINAL JUDGMENT FOR FRAUD UPON THE COURT AND/OR NON-AMENDABLE EFFECTS."

SO ORDERED, this 24th day of March 2020

Martha C Christian

Martha C. Christian

Judge Hall County Superior Court

By Assignment

STATE OF GEORGIA, COUNTY OF HALL
I Charles Baker, Clerk of Superior Court in and for said County do hereby certify that the within is a true and correct copy of the original as it appears on file in this office.
Witness my official seal and signature of Superior Court this 11 day of March 2020

Clerk, Deputy Clerk Hall Superior Court

IN THE SUPERIOR COURT OF HALL COUNTY
STATE OF GEORGIA

Friendship Pavilion Acquisitions Co., LLC)
Plaintiff

Civil Action
No. 2015- CV -1366B

)

vs.

Mediterranean Dining Group, Inc.,
David Sundy and Tim Sundy,)
Defendants

vs.

)

Michael Weinstein,)
Arsenal Real Estate Fund II,
Thomas Ling,)
Gary Picone,
Defendants in Counterclaim

ORDER DISMISSING NOTICE OF APPEAL PURSUANT TO O.C.G.A. SECTION 5-6-48(c) AND LIFTING STAY

On January 28, 2020, this Court entered a Notice of Show Cause Hearing Regarding Itemized Appeal Costs. The Notice ordered Defendant, Tim Sundy (Defendant), to appear and show cause at 9:30 a.m. on March 2, 2020 as to why the Notice of Appeal filed by him should not be dismissed pursuant to O.C.G.A. Section 5-6-48(c). Defendant was put on notice that if he did not appear, his Notice of Appeal could be dismissed.

The Court held a hearing on March 2, 2020 at 9:30 a.m. and Defendant did not appear. Prior to the hearing, on February 21, 2020, Defendant did file a pleading titled "Standing Objection to Inconsistent Due Process and Fraud Upon the Court." This pleading has been considered by the Court.

The Court finds as follows:

On January 2, 2019, Defendant filed a Notice of Appeal to the Supreme Court of Georgia from the Final Judgment entered in this case on December 3, 2018 and "from the final disposition form with its attached Final Judgment that was filed in this court December 6, 2018."

IN THE COURT OF APPEALS
OF THE STATE OF GEORGIA

Tim Sundy Applicant v. Friendship Pavilion Acquisition Company LLC, et al. Respondents	Case No. A20E0037

NOTICE OF INTENT
TO APPLY FOR CERTIORARI IN SUPREME COURT OF GEORGIA

COMES NOW, *pro se* Petitioner Tim Sundy in the above action, by certified mail #70183090000151407323 subject to the statewide Judicial Emergency Order, and hereby gives a timely Notice of Intent to apply for certiorari to the Supreme Court of Georgia upon this Court's 13 March 2020, same-day denial of Petitioner's Rule 40(b) Emergency Motion.

Respectfully submitted 20 March 2019.

Tim Sundy
c/o 227 Sandy Springs Place, Suite D-465
Sandy Springs, GA 30328

7018 3090 0001 5140 7323

APPENDIX C
pg 1of 2

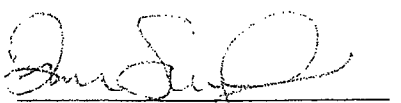
CERTIFICATE OF SERVICE

I, Tim Sundy, do hereby certify that I have this day caused to be served the within and foregoing, **NOTICE OF INTENT TO APPLY FOR CERTIORARI IN SUPREME COURT OF GEORGIA** by depositing a copy thereof, in the United States Mail, properly addressed upon:

Robert C. Khayat, Jr., The Khayat Law Firm, 75 Fourteenth Street, Ste. 2750, Atlanta, GA 30309

Charles Baker, Clerk, Hall County Superior Court, PO Box 409, Gainesville, GA 30503

Respectfully submitted 20 March 2020.



Tim Sundy
227 Sandy Springs Place, Suite D-465
Sandy Springs, GA 30328

Court of Appeals
of the State of Georgia

ATLANTA, March 15, 2019

The Court of Appeals hereby passes the following order:

A19D0345. TIM SUNDY v. FRIENDSHIP PAVILION ACQUISITION COMPANY, LLC.

This case began as a dispossessory proceeding in magistrate court. After defendant Mediterranean Dining Group, Inc. asserted a counterclaim for damages, the action was transferred to the superior court. At some point, Tim Sundy and David Sundy were added as defendants.[1] On December 3, 2018, the superior court issued a "Final Judgment" awarding the plaintiff $394,617.47 in unpaid lease obligations and interest against all three defendants. On January 2, 2019, defendant Tim Sundy, proceeding pro se, filed this application for discretionary appeal, seeking appellate review of the December 3 order.[2] We lack jurisdiction.

An application for discretionary review generally may be filed within 30 days of entry of the order sought to be appealed. See OCGA § 5-6-35 (d). The underlying subject matter of an appeal, however, controls over the relief sought in determining the proper appellate procedure. *Radio Sandy Springs, Inc. v. Allen Road Joint Venture*, 311 Ga. App. 334, 335 (715 SE2d 752) (2011). Under OCGA § 44-7-56,

---

[1] It appears that additional counterclaim defendants also were added to this action before entry of the order on appeal in this application. The status of those parties is unclear on the current record.

[2] Tim Sundy initially filed this application in the Supreme Court, which transferred the matter to this Court. As the only defendant who signed the application, Tim Sundy is the sole applicant because, as a non-attorney, he may not file an appeal on behalf of other parties. See *Aniebue v. Jaguar Credit Corp.*, 308 Ga. App. 1, 1, n. 1 (708 SE2d 4) (2011).

appeals in dispossessory actions must be filed within 7 days of the date the judgment was entered. See *Ray M. Wright, Inc. v. Jones*, 239 Ga. App. 521, 522-523 (521 SE2d 456) (1999). Pretermitting whether the December 3 order is a final order that disposed of all pending issues in this case, Tim Sundy's application is untimely, as it was filed 30 days after entry of the superior court order he seeks to appeal.

Consequently, this untimely application for discretionary review is hereby DISMISSED for lack of jurisdiction.[3]

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 03/15/2019
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Stephen E. Castlen , *Clerk.*

[3] To the extent that Tim Sundy also seeks permission to appeal a "Case Disposition Form" entered on December 6, 2018, or any prior orders entered in this action, his application likewise is untimely, pretermitting whether an appeal otherwise would lie from any such filings. See OCGA § 44-7-56; *Radio Sandy Springs, Inc.*, 311 Ga. App. at 335-336.

EQUALITY IN ACCESS ADVOCATES

9925 Haynes Bridge Rd., # 200-133
Alpharetta, Georgia 30022

Director of compliance:
Nova-Lee Graber

Sr. Certified Advocate:
Lawrence Crandall

Assistant Advocates:
Rodney Barber
Noel Hathman
C. K. Jones
Joseph Obosla
Lavale Phipps

February 18, 2020

TO: Clerk of Court Charles Baker
Superior Court of Hall County
P.O. Drawer 1275
Gainesville, Georgia 30503

Certified Mail #70180360000222448953
Priority Flat Rate

Re: Friendship Pavilion Acquisition Company LLC v. David Sundy, et al. 2015CV001366:

Request to file– **STANDING OBJECTION TO INCONSISTENT DUE PROCESS AND FRAUD UPON THE COURT**

Mr. Baker:

Enclosed for filing in the above-styled action, please find Tim Sundy's original and one copy of **STANDING OBJECTION TO INCONSISTENT DUE PROCESS AND FRAUD UPON THE COURT.**

Please file the original into the record and return a file-stamped copy in the self-addressed, postage prepaid envelope provided. If you are under direction of the judges of the Northeastern Judicial Circuit to refuse to file said documents, the Sundys request that you forward said document to either Chief Judge Kathlene F. Gosselin or to Judge Martha C. Christian to permit the document to be filed in 2015-CV-001366 by a judge in accordance with OCGA § 9-11-5(e).

The Sundys, prohibited by the Sheriff and the Court from filing documents directly in the Office of the Clerk of Court, maintain their safeguard of requesting GEAA to present all original documents to the Clerk for filing and to

establish proof, via certified mail, of the Clerk receiving those original documents.

Respectfully,

Ms. Nova-Lee Graber, CADAA, CADAC, CADAP
Georgia's Equality in Access Advocates
9925 Haynes Bridge Road # 200-133
Alpharetta, GA 30022

Copy to:
Rebecca Bond, Department of Justice, Civil Rights Division,
Disability Rights Section – NYA
J. Huffer, Equal Access Advocates

IN THE SUPERIOR COURT OF HALL COUNTY
STATE OF GEORGIA

FRIENDSHIP PAVILION ACQUISITION COMPANY, LLC Plaintiff, v. **Mediterranean Dining Group Inc., Tim Sundy and David Sundy** Defendants, v. **ARSENAL REAL ESTATE FUND II-IDF, LP; Gary Picone; Thomas Ling; and, Michael Weinstein** Defendants in Counterclaim	**Civil Action Case No.:** 2015CV001366

STANDING OBJECTION TO INCONSISTENT DUE PROCESS AND FRAUD UPON THE COURT

Tim Sundy, Intervenor-Third party Plaintiff ("Intervenor" or "Sundy"), by special appearance for the 2 March 2020 hearing while under threat and duress of jail upon failure to use the above-styled caption in the dispossessory proceedings of case 2015CV1366 Hall County Superior Court, ("HCSC"), and with the Clerk of Court ordered to not accept Intervenor's documents for filing if the above-styled caption is not used, submits this **STANDING OBJECTION TO INCONSISTENT DUE PROCESS AND FRAUD UPON THE COURT** to the trial court's 28 January 2020 order for a hearing on 2 March 2020. Adopting part of Wikipedia's definition of special appearance which states "*In a legal catch-22, if the defendant appeared solely to contest jurisdiction, the court would then be permitted to assert jurisdiction based on the defendant's presence...*", the Intervenor contends that he is not failing to "Appear" on 2 March 2020. Intervenor is "Appearing" by special appearance, challenging the Court's jurisdiction, avoiding a corrupt judicial system in the State of Georgia.

counsel, the consequence is that the law enforcement officer cannot use any information obtained from the suspect.

The Georgia General Assembly has provided for its citizen OCGA § 9-6-22 which states:

> OCGA § 9-6-22 Enforcement of officer's duties under Title 5; If any sheriff, clerk, or other officer fails to discharge any duty required of him by any provision of Title 5, upon petition the appellate court or the superior, state, or city court, as the case may be, may compel the performance of such duty by mandamus. No party shall lose any right by reason of the failure of the officer to discharge his duties when the party has been guilty of no fault himself and has exercised ordinary diligence to secure the discharge of such duties.

A criminal can say he needs counsel and it is s good as done. If Intervenor says he needs his December 20, 2016 JOINT OBJECTION restored to the record in order to exercise his 1st Amendment right of redress of grievance and access to the court, by judicial notice, it will take 18 months and thousands of dollars for the document to be restored. Disqualified Judge Christian proceeded forward to a void judgment with the case upon an incomplete record, knowing the document was missing while putting Intervenor under conditions to come to court upon an incomplete record, threatening Intervenor with injury under the conditions.

When the December 20, 2016 JOINT OBJECTION was finally restored, that did not prohibit Clerk Baker from further tampering with the record of case 2015CV1366. If Intervenor says "Right Now, I need the ORDER in 2015CV1366 showing how the December 20, 2016 JOINT OBJECTION was restored 18 months after it was filed so I can challenge the inconsistent due process on appeal," it will never happen. Unless Intervenor can come up with thousands of more dollars and another eighteen months of time.

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Delivered

February 21, 2020 at 11:42 am
Delivered
GAINESVILLE, GA 30501

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Text & Email Updates ∨

Tracking History ∧

February 21, 2020, 11:42 am
Delivered
GAINESVILLE, GA 30501

APPENDIX F
pg 1 of 1

In The Superior Court of Hall County
State of Georgia

03/02/2020 08:46

Civil Docket

Docket: 2015CV001366B **Page:** 1

Plaintiff: FRIENDSHIP PAVILION ACQUISITION COMPANY LLC
949 IMAGE AVE SUITE B ATLANTA, GA 30318

Attorney(s): DAVID R DOLINSKY; LAW OFFICES OF DAVID R DOLINSKY
2870 PHARR COURT SOUTH
UNIT 2801
ATLANTA, GA 30305

ROBERT C KHAYAT, JR; THE KHAYAT LAW FIRM
75 14TH STREET, N.E.
SUITE 2750
ATLANTA, GA 30309

Defendant: ARSENAL REAL ESTATE FUND II DEFENDANT IN COUNTERCLAIM

Attorney(s): ROBERT C KHAYAT, JR; THE KHAYAT LAW FIRM
75 14TH STREET, N.E.
SUITE 2750
ATLANTA, GA 30309

LING THOMAS DEFENDANT IN COUNTERCLAIM

Attorney(s): ROBERT C KHAYAT, JR; THE KHAYAT LAW FIRM
75 14TH STREET, N.E.
SUITE 2750
ATLANTA, GA 30309

MEDITERRANEAN DINING GROUP INC
227 SANDY SPRINGS CIRCLE SUITE D-465 SANDY SPRINGS, GA 30328

Attorney(s): DEIRDRE M STEPHENS JOHNSON; LAW OFFICE OF DEIRDRE M. STEPHENS-JOHNSON
6141 COURSE SIDE WAY

LITHONIA, GA 30058

PICONE GARY DEFENDANT IN COUNTERCLAIM

Attorney(s): ROBERT C KHAYAT, JR; THE KHAYAT LAW FIRM
75 14TH STREET, N.E.
SUITE 2750
ATLANTA, GA 30309

SUNDY DAVID
321 BLACKSMITH ARCH YORKTOWN, VA 23693

Attorney(s):

SUNDY TIM
227 SANDY SPRINGS PLACE SUITE D-465 SANDY SPRINGS, GA 30328

File: 737986 Date: 07/08/2015 Cause: MAGISTRATE TRANSFER Disp: J3

Activity	Date Filed	Comments
PLEADING	04/08/2019	EVIDENCE LIST
REMITTUR	04/08/2019	FROM SUPREME COURT - APPLICATION IS TRANSFERRED TO THE COURT OF APPEALS
ORDER	01/28/2020	NOTICE OF SHOW CASE HEARING REGARDING ITEMIZED APPEAL COSTS - MARCH 2, 2020 AT 9:30 A.M. IN COURTROOM 401.

* * * End of Docket * * *

ONLINE DOCKET (HTTPS://DOCKET.HALLCOURTS.COM)

HALL COURTS (HTTP://WWW.HALLCOURTS.COM)

Case Information

Case Number:
2015CV001366

Filing Date:
July 8, 2015

CASE CLOSED

Case Type:
General

Judge:
Kathlene F. Gosselin

Disposition:
Judgment

Category:
Magistrate Transfer

Closed:
December 3, 2018

Court:
Superior Court

Parties

Arsenal Real Estate Fund II Defendant In Counterclaim (Defendant)

David R Dolinsky (Attorney Plaintiff)

Deirdre M Stephens Johnson (Attorney Defendant) +

Friendship Pavilion Acquisition Company LLC (Plaintiff)

Ling Thomas Defendant In Counterclaim (Defendant)

Mediterranean Dining Group Inc (Defendant)

Michael B Weinstein (Attorney Defendant) +

Picone Gary Defendant In Counterclaim (Defendant)

Robert C Khayat, Jr (Attorney Defendant) +

Robert C Khayat, Jr (Attorney Plaintiff) +

Sundy David (Defendant)

Sundy Tim (Defendant)

Weinstein Michael Defendant In Counterclaim (Defendant)

Events

APPENDIX H
pg 2 of 3

A0058

Documents may be obtained in the Hall County Clerk of Courts Office located at the Hall County Courthouse (https://maps.apple.com/?address=225+Green+St+SE,+Gainesville,+GA+30501).
Our office is open between the hours of 8 AM to 5 PM except holidays and weekends.

Event	Description	Filing Date	Details
PLEADING	ALL OTHER PLEADINGS	February 21, 2020	STANDING OBJECTION TO INCONSISTENT DUE PROCESS &
ORDER	ORDER FILED	January 28, 2020	NOTICE OF SHOW CASE HEARING REGARDING ITEMIZED
REMITTUR	REMITITTUR FILED	April 8, 2019	FROM SUPREME COURT - APPLICATION IS TRANSFERRED
PLEADING	ALL OTHER PLEADINGS	April 8, 2019	EVIDENCE LIST
ORDER	ORDER FILED	March 15, 2019	FROM COURT OF APPEAL - APPLICATION FOR
PLEADING	ALL OTHER PLEADINGS	March 13, 2019	CERTIFICATE OF SERVICE
ORDER	ORDER FILED	March 13, 2019	ORDER ON MOTION FOR LEAVE TO PROCEED IN FORMA
PLEADING	ALL OTHER PLEADINGS	March 7, 2019	NOTICE OF FILING DISCRETIONARY APPLICATION
ANSWER	ANSWER	February 25, 2019	RESPONSE TO DEF. & COUNTERCLAIM PLTF. TIM SUNDY'S
REMITTUR	REMITITTUR FILED	February 15, 2019	FROM SUPREME COURT OF GEORGIA - APPLICATION IS
PLEADING	ALL OTHER PLEADINGS	February 11, 2019	CERT. OF SERVICE OF ORDER STAYING CASE
RULENISI	RULE NISI	February 11, 2019	ON MOTION TO LEAVE TO PROCEED IN FORMA PAUPERIS -
ORDER	ORDER FILED	February 11, 2019	ORDER STAYING CASE UNTIL DETERMINATION OF NOTICE
PLEADING	ALL OTHER PLEADINGS	February 11, 2019	CERT. OF SERVICE OF RULE NISI
MOTION	MOTION FILED	February 8, 2019	MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS
ANSWER	ANSWER	January 15, 2019	PLTF'S RESPONSE TO DEFS' MOTION TO SET ASIDE THE
APPEAL	NOTICE OF APPEAL FILED	January 2, 2019	TIM SUNDY TO SUPREME COURT; APPEALS BOX 3 LOCATED

APPENDIX H
pg 3 of 3

In The Superior Court of Hall County
State of Georgia

03/10/2020 08:02

Civil Docket

Docket: 2015CV001366B **Page:** 1

Plaintiff: FRIENDSHIP PAVILION ACQUISITION COMPANY LLC
949 IMAGE AVE SUITE B ATLANTA, GA 30318

Attorney(s): DAVID R DOLINSKY; LAW OFFICES OF DAVID R DOLINSKY
2870 PHARR COURT SOUTH
UNIT 2801
ATLANTA, GA 30305

ROBERT C KHAYAT, JR; THE KHAYAT LAW FIRM
75 14TH STREET, N.E.
SUITE 2750
ATLANTA, GA 30309

Defendant: ARSENAL REAL ESTATE FUND II DEFENDANT IN COUNTERCLAIM

Attorney(s): ROBERT C KHAYAT, JR; THE KHAYAT LAW FIRM
75 14TH STREET, N.E.
SUITE 2750
ATLANTA, GA 30309

LING THOMAS DEFENDANT IN COUNTERCLAIM

Attorney(s): ROBERT C KHAYAT, JR; THE KHAYAT LAW FIRM
75 14TH STREET, N.E.
SUITE 2750
ATLANTA, GA 30309

MEDITERRANEAN DINING GROUP INC
227 SANDY SPRINGS CIRCLE SUITE D-465 SANDY SPRINGS, GA 30328

Attorney(s): DEIRDRE M STEPHENS JOHNSON; LAW OFFICE OF DEIRDRE M. STEPHENS-JOHNSON
6141 COURSE SIDE WAY

LITHONIA, GA 30058

PICONE GARY DEFENDANT IN COUNTERCLAIM

Attorney(s): ROBERT C KHAYAT, JR; THE KHAYAT LAW FIRM
75 14TH STREET, N.E.
SUITE 2750
ATLANTA, GA 30309

SUNDY DAVID
321 BLACKSMITH ARCH YORKTOWN, VA 23693

Attorney(s):

SUNDY TIM
227 SANDY SPRINGS PLACE SUITE D-465 SANDY SPRINGS, GA 30328

File: 737986 Date: 07/08/2015 Cause: MAGISTRATE TRANSFER Disp: J3

Activity	Date Filed	Comments
PLEADING	04/08/2019	EVIDENCE LIST
REMITTUR	04/08/2019	FROM SUPREME COURT - APPLICATION IS TRANSFERRED TO THE COURT OF APPEALS
ORDER	01/28/2020	NOTICE OF SHOW CAUSE HEARING REGARDING ITEMIZED APPEAL COSTS - MARCH 2, 2020 AT 9:30 A.M. IN COURTROOM 1.
PLEADING	02/21/2020	STANDING OBJECTION TO INCONSISTENT DUE PROCESS & FRAUD UPON THE COURT
PLEADING	03/09/2020	CERT. OF SERVICE
ORDER	03/09/2020	ORDER DISMISSING NOTICE OF APPEAL PURSUANT TO OCGA SECTION 5-6-48(C) & LIFTING STAY

* * * End of Docket * * *

Tim Sundy
227 SANDY SPRINGS PLACE
SUITE D-465
Sandy Springs, GA 30328

A19E0011
2016CV982 2017CV1125 2018CV502 2015CV1366

APPENDIX J
pg 1 of 2

Court of Appeals
of the State of Georgia

ATLANTA, September 19, 2018

The Court of Appeals hereby passes the following order:

A19E0011. DAVID SUNDY et al. v. CHARLES BAKER et al.

Having read and considered the "Rule 40(b) Emergency Motion for Process to be Issued" the same is hereby DENIED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 09/19/2018
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Stephen E. Castlen, *Clerk.*

CHARLES BAKER
CLERK SUPERIOR AND STATE COURTS
AND TRAFFIC VIOLATIONS BUREAU
HALL COUNTY, GEORGIA
POST OFFICE DRAWER 1275
GAINESVILLE, GEORGIA 30501-1275

CIVIL/CRIMINAL	770-531-7025	770-531-7070 (FAX)
REAL ESTATE	770-531-7058	770-536-0702 (FAX)

DATE: JANUARY 14, 2019

CASE NUMBER: *2015-CV-1366B*

TIM SUNDY
PLAINTIFF(S)

VS.

FRIENDSHIP PAVILION ACQUISITION COMPANY, LLC, ETAL
DEFENDANT(S)

ITEMIZED APPEAL COSTS

NOTICE OF APPEAL
FIRST PAGE $5.00, ADDITIONAL PAGES $2.00 EACH.....45.00
PREPARATION OF RECORD
PER PAGE, 1.00.....2,082.00
CERTIFICATION, $1.00 EACH.....1.00
FILING AND TRANSMISSION OF TRANSCRIPT ($35.00).....35.00
JUDGMENT ON REMITTITUR
FIRST PAGE $5.00, ADDITIONAL PAGES $2.00 EACH.....5.00

TOTAL DUE.....$2,168.00

IN THE SUPERIOR COURT OF HALL COUNTY
STATE OF GEORGIA

FRIENDSHIP PAVILION ACQUISITION COMPANY, LLC Plaintiff, v. **Mediterranean Dining Group Inc., Tim Sundy and David Sundy** Defendants, v. **ARSENAL REAL ESTATE FUND II-IDF, LP; Gary Picone; Thomas Ling; and, Michael Weinstein** Defendants in Counterclaim	**Civil Action Case No.:** 2015CV001366

STANDING OBJECTION TO INCONSISTENT DUE PROCESS AND FRAUD UPON THE COURT

Tim Sundy, Intervenor-Third party Plaintiff ("Intervenor" or "Sundy"), by special appearance for the 2 March 2020 hearing while under threat and duress of jail upon failure to use the above-styled caption in the dispossessory proceedings of case 2015CV1366 Hall County Superior Court, ("HCSC"), and with the Clerk of Court ordered to not accept Intervenor's documents for filing if the above-styled caption is not used, submits this **STANDING OBJECTION TO INCONSISTENT DUE PROCESS AND FRAUD UPON THE COURT** to the trial court's 28 January 2020 order for a hearing on 2 March 2020. Adopting part of Wikipedia's definition of special appearance which states "*In a legal catch-22, if the defendant appeared solely to contest jurisdiction, the court would then be permitted to assert jurisdiction based on the defendant's presence...*", the Intervenor contends that he is not failing to "Appear" on 2 March 2020. Intervenor is "Appearing" by special appearance, challenging the Court's jurisdiction, avoiding a corrupt judicial system in the State of Georgia.

The Intervenor is without waiver of a qualified judge and the disqualification of Judge Martha Christian; without waiver of his Intervenor status granted by 6 August 2015 Order of the U.S. District Court for the Northern District of Georgia in 2:15-cv-00149-RWS; without waiver of provisions of OCGA § 9-11-14(a)(2) which states "*When the applicant claims an interest relating to the property or transaction which is the subject matter of the action and he is so situated that the disposition of the action may as a practical matter impair or impede his ability to protect that interest, unless the applicant's interest is adequately represented by existing parties*"; without waiver of a qualified judge to rule on Intervenors' 16 March 2018 MOTION: VERIFIED PETITION FOR AN ORDER IN THE NATURE OF WRIT OF INJUNCTION PURSUANT TO *BROWN V. JOHNSON* AND MOTION FOR DECLARATORY JUDGMENT; without waiver of equal protection to proceed as Third-party Plaintiff; without waiver of having timely added parties pursuant to OCGA § 9-11-14 and/or Fed.R.Civ.P. Rule 14 ("adding as a matter of law"); without waiver of a verified answer from each Third party Defendant; without waiver of any and all violations of OCGA § 15-6-21(b)(c); without waiver of a complete record in case 2015CV1366; without waiver of the *lis pendens* filed on 9 October 2015 in case 2015CV1366; without waiver of only paying the cost of a record that is full and complete as delineated in Notice of Appeal; without waiver of a qualified judge to rule on his 13 December 2018 OCGA § 9-11-60(d)(2)(3) Motion; without waiver of automatic default of any Defendants or Respondents including Third party Defendants Friendship Pavilion Acquisition Company LLC ("Friendship"), Weinstein, Ling, Picone, and Arsenal; without waiver of his *Bivens* and § 1983 claims; without waiver of any motion, demurrer, or objection previously submitted; and, without waiver of protections under Article. I, Section I, Paragraph II of the Constitution of the State of Georgia and the paramount duty of the Attorney General to protect the citizenry.

The Intervenor, a defendant in a proceeding that began *in rem* in Hall County, Georgia under conditions of fraud, RICO and a scheme of prevention of performance, has been threatened with physical injury if he refused to abandon his compulsory counterclaims, enjoined from any reliance on the defensive provisions of Georgia's dispossessory statues while being deprived of private property without compensation under those same dispossessory statutes, denied access to the courts, denied due process and equal protection, and subjected to the unethical and illegal affirmative acts of judges and court clerks tampering with the record(s) of proceedings.

During the same period in which the Intervenor has sought to defend himself from Plaintiff Friendship's scheme of prevention of performance, constructive fraud, unclean hands, affirmative RICO activity and the false affidavit it filed into a government entity, with Intervenor seeking counter means for damages, the Intervenor has been forced to defend against collateral acts committed by court officers to systematically deprive him of Constitutional due process, equal protection and liberty interests by singling out the Intervenor to conceal, remove and/or withhold Intervenor's documents from the court record. When this Court and its officers conspire to deter the *pro se* Intervenor from the exercise of First Amendment rights to petition for redress, it deprives Sundy of the equal protection of the laws and of equal rights, privileges and immunities under the laws. The collateral issues created by this Court and its officers would lead a reasonable person, subjected to four years of statutory and Constitutional violations as Sundy has been, to conclude that a chain conspiracy appears to exist to corrupt the court record such that Sundy is deprived of due process as well as "adequate, effective and meaningful" access to the courts. Despite Sundy's immunity from criminal activity under the law and Sundy's

entitlement to Federal constitutional protections, with this case subject to tampering by court officers and Sundy still unable to obtain a correct, full and complete record, in the face of invited error and actual prejudice, Sundy objects as follows, while preserving all rights to a trial by jury in the above-styled action .

I. TAMPERING AS EMPLOYED BY COURTS IN GEORGIA

a. <u>Intervenor is subject to repeated tampering with his record</u>:

The term "Tamper(ed)(ing) with the record," when used by *pro se* Intervenor implicates 18 U.S.C. § 1512(c) and is comprised of the actual violations and injuries suffered by Intervenor in every court in which he has litigated in the State of Georgia, up to and including the 11th Circuit Court of Appeals withholding from the record Intervenor's timely and properly filed 18 October 2019 Corrected Certificate of Service and other documents. As experienced by Intervenor, "Tamper(ed)(ing) with the record" means, but is not limited to, the following: To be unsecured in Intervenor's papers by court officers' removal, altering, destroying or concealing of some documents or thing, such as a transcript or notice or objection, from the official record; to falsely add a document or thing to the official record; to withhold a document or thing from the record for a period of time in order to achieve misrepresentation to the parties who rely thereon; to falsify on the face of the record the actual date of filing a document or thing; to alter a document or thing from its original status when initially filed with the custodian of the record; to falsely certify a court record as true and complete when the custodian has knowledge of documents or things missing from the record; to delay the mailing of notice or to mail incomplete or partial notice; a judge who lacks jurisdiction ordering documents to be removed or withheld or concealed from the record, with the intent to cause an error in the case or to impair the use or availability of the document or thing removed, whether acting in a non-judicial

function or with the appearance of legality to specifically foster an erroneous assessment of the facts and the evidence.

Intervenor considers Tamper(ed)(ing), when used in this objection to also include the manipulation of the official court record in any manner, or by any means, for deceptive purposes in order to defeat an underprivileged *pro se* litigant and to cause a desired outcome in aid of attorney-represented adverse parties, *i.e.*, to cause a case to have a different outcome then would issue from the record's true and honest state. Tampering with an underprivileged *pro se* litigant's documents, underprivileged by virtue of lacking the rights and advantages of attorney-represented parties as well as lacking finances as the result of the scheme of prevention of performance and constructive fraud engineered by Plaintiff Friendship, allows the Court to gut valid legal claims. Tampering with an underprivileged *pro se* litigant's documents also allows the Court to portray an underprivileged litigant as procedurally deficient, exploit the underprivileged litigant's legal illiteracy, and alter the factual basis of any suit. Tampering with the record places the already disadvantaged underprivileged litigant in a place of even greater weakness, requiring of the unsophisticated underprivileged litigant a standard of legal acumen and expertise that he can never obtain.

In the State and Federal courts and their respective appellate courts in the State of Georgia, Tampering also occurs when the appellate Court takes special measures after an underprivileged litigant files a notice of, or application for, appeal to calculate the specific times for ruling and/or docketing a case, and schemes to allow time for collusion in the lower Court for the purpose of contaminating the record. This may have the appearance of being "legal" on the part of the appellate Courts but it is an evil practice of Tampering with the record, indicative of lawlessness because it is an intentional, biased calculation designed to injure citizens.

> "Subtle forms for destructive means" is a descriptor in general of, and interchangeable with, "malpractice" and derives from M. L. Kathrein's statement: "You must appreciate however, that corruption takes many subtle but equally destructive forms. A dishonest judge can ignore evidence, twist procedure, obstruct the record, retaliate, manufacture facts and ignore others, dismiss valid claims, suborn perjury, mischaracterize pleadings, engage in *ex parte* communication and misapply the law. When he does these things intentionally, he commits a crime. Petty or grand, the acts are still crimes. It takes surprisingly little to "throw" a case."

For the sake of clear expression in this Objection, Tampering is inclusive of one, or a combination of any unseen subtle forms for destructive means, with the crime of tampering including the elements of willfulness and an affirmative act constituting manipulation of the record.

b. <u>An extraordinary remedy is ineffective in the State of Georgia:</u>

Pro se Intervenor is not a lawyer but only a citizen with the constitutional right to be secured in his person. It might appear that the remedy which Intervenor could rely on in the State of Georgia is to file a *Brown v. Johnson,* 251 Ga. 436,306 S.E. 2d 655 (1983) mandamus action to enforce statutory duties of court officers:

> "Although there may occasionally appear to be a need to file an original petition in the Supreme Court to issue process in the nature of mandamus, and perhaps quo warranto or prohibition, where a superior court judge is named as the respondent, such as where the petitioner seeks to require the judge to enter an order in a matter, alleged pending more than [90] days in violation of subsection (b) of this section, such a petition may in fact be filed in the appropriate superior court. Being the respondent, the superior court judge will disqualify, another superior court judge will be appointed to hear and determine the matter, and the final decision may be appealed to the Supreme Court for review. *Brown v. Johnson, 251 Ga. 436,306 S.E. 2d 655 (1983).*"

However, as this objection documents, any type of extraordinary proceeding action in Georgia, including a mandamus action, is subject to tampering by court officers -- including members of the judiciary -- to prevail against an underprivileged litigant and exonerate fellow

court officers, with the Georgia General Assembly having failed to provide a remedy for the violative actions of interfering officers.

> "Art. 1§1¶ 7: Protection of Citizen. All citizens of the United States, resident in the state, are hereby declared citizens of this state; and it shall be the duty of the General Assembly to enact such laws as will protect them in the full enjoyment of the rights, privileges, and immunities due to such citizenship." *Constitution of the State of Georgia*

Judge C. Andrew Fuller refused to issue a written order in Hall County Superior Court ("HCSC") case 2015CV1366, in violation of OCGA § 15-6-21(c), with the intent to deprive Intervenor(s) of appellate process. Upon Intervenor filing a mandamus petition, the mandamus-appointed collegial judge ruled that there was no evidence that Fuller did not issue an order. The irony was not lost on Intervenor. (Judge Fuller has subsequently also refused to issue a written order in 2018CV000502.) HCSC Clerk Baker removed Intervenor's document(s) from the record. Upon filing a mandamus petition, the mandamus-appointed collegial judge ruled that he could not locate the missing document and therefore dismissed Clerk Baker with prejudice, which the Georgia Court of Appeals ("GCOA") affirmed. The irony was not lost on Intervenor – especially when the "exonerated" Clerk Baker then initiated his own case in order to restore the missing document and named Intervenor as a respondent (HCSC 2017CV1125). . When disqualified Judges Fuller and Christian make it a practice, contrary to OCGA § 15-6-21(b), to exceed 90 days in making a determination on the "various motions, injunctions, demurrers, and all other motions of any nature," with the intention to tamper with the record and coordinate their rulings with those of the appellate courts, their failure to perform their duty is a crime against the public under OCGA § 45-11-4(b). When this crime too, upon filing a mandamus petition, is dismissed by the mandamus-appointed collegial judge, the irony is not lost on Intervenor. When Intervenor's petitions for extraordinary remedy yield contradictory rulings as to the jurisdiction --

or lack of jurisdiction -- of a mandamus judge to act in the causative case, the irony is also not lost on Intervenor.

There is a distinction between mistake and malfeasance. Court officers deliberately ruling in a manner purposed to exonerate fellow court officers nullifies *Brown v. Johnson* while defeating justice and obstructing the exercise of Intervenor's constitutional right of access to the courts. Intervenor reiterates that Georgia Court of Appeals' Order in A18E0011 affirms the privilege of State of Georgia court officers to commit malfeasance, violating statutes while removing papers from an official record, including papers in an extraordinary proceeding, as well as affirming the subtle form of allowing time for a lower court to contaminate the record after an extraordinary remedy is filed, with interfering officers scheming to defeat the due course of justice.

> "if state officers conspire . . . in such a way as to defeat or prejudice a litigant's rights in state court, that would amount to a denial of equal protection of the laws by persons acting under color of state law." D*inwiddie v. Brown,* 230 F.2d 465, 469 (5th Cir. 1956).

c. <u>Intervenor is injured by an incomplete record as the result of the pattern of Tampering and other criminal acts:</u>

This Objection is the result of criminal acts of tampering on the face of the record, as well as tampering that is not apparent on the face of the record, perpetrated by this Court and other courts upon the Intervenor. The goal of said acts is to create an incomplete record, create and/or hide error, and make the record unclear so that Intervenor has no adequate appeal while publicly exonerating every court officer. As M. L. Kathrein stated, "corruption takes many subtle but equally destructive forms."

On 26 July 2019 in Georgia Supreme Court ("GASUP") case S19O1351, Clerk of Court Thérése Barnes colluded with S19O1351 Respondent Nova Casualty Company to purposefully

and knowingly process Nova's filed document for the second time, having previously processed it on 28 June 2019, overstriking the previous date and creating a "new" Motion for Sanctions on the docket against Intervenor while depriving Intervenor of any Notice of the "new" Motion. The face of the record in S19O1351 does not reflect the truth of the proceedings and the record is incomplete.

On 20 March 2019, GASUP Clerk of Court Thérése Barnes transformed Intervenor's timely, proper and clearly-labeled Application for Discretionary Appeal from HCSC case 2015CV1366 into a fake petition for writ of certiorari, docketing it as GASUP case S19C0943. The Clerk falsified the GASUP record by docketing Sundy's legitimate discretionary application for appeal as an illegitimate petition for writ for certiorari in order to establish fake certiorari S19C0943, denying Sundy the equal protection of law. On 9 May 2019, when Sundy timely and properly filed in the Georgia Supreme Court a procedurally-correct and legitimate petition for writ of certiorari to the Georgia Court of Appeals in A19D0345, Clerk Barnes entered the legitimate petition as a supplemental brief in the fake, illegitimate certiorari to compound Sundy's injury. The GASUP Clerk, with intent to defraud, docketed Sundy's 9 May 2019 procedurally correct petition as a "supplemental Brief" into the "fake" S19C0943, Clerk Barnes knowingly and purposefully creating defects because "a supplemental brief is not the vehicle for raising a new issue of law" (see *Fargason v. State*, 266 Ga. 463,464(6) (467 SE2d 551) The face of the record in S19C0943 does not reflect the truth of the proceedings and the record is incomplete.

In Hall County Superior Court cases 2015CV1366, 2016CV0982, 2017CV1125, and 2018CV0502, clerks of court and judges have removed, withheld, destroyed and mislabeled

Intervenor's timely and properly-filed documents. The face of the records do not reflect the truth of the proceedings and the official records in every case are incomplete.

In 11th Cir. U.S. Court of Appeals ("USCA") case 19-11391, on 18 October 2019, *pro se* Intervenor filed "CORRECTED CERTIFICATE OF SERVICE FOR REPLY BRIEF OF PLAINTIFF-APPELLANT FILED 15 OCTOBER 2019." Weeks later the document was still not docketed. On 23 August 2019, Intervenor filed a second copy of his 3-volume appendix into 11th Cir. USCA 19-11391. The second copy has never been docketed, nor has his third copy filed on 11 September 2019. Other documents filed by Intervenor have been delayed entry on the docket or misdated or otherwise misrepresented. The face of the record in 11th Cir. USCA 19-11391 does not reflect the truth of the proceedings and the record is incomplete.

In lower United States District Court ("USDC") case 2:18-cv-0112, Documents 11, 57 and what became Document 92 were missing from the record and Document 12 was incomplete. Upon Intervenor filing a separate mandamus action in the 11th Cir. USCA, Documents 11, 57, 92 were restored to the USDC record though mandamus was not granted but Document 12 is still incomplete. As always, the irony is not lost on Intervenor. USDC closed 2:18-cv-0112 without ruling on Intervenor's RICO claims. The face of the record in USDC 2:18-cv-0112 does not reflect the truth of the proceedings and the record is incomplete.

Intervenor brings all of this to the Court's attention as evidence of the fact that court clerks, for whatever reason, are not impartial employees performing their purely administrative duties but rather are biased members of a conspiracy of court actors. These court actors are determined to fatally injure Intervenor's redress of grievance and deprive Intervenor of equal protection, due process, a complete record on appeal, and full access to the courts. This

interference by clerks, with other court officers; deprives Intervenor of sufficient, adequate, effective, and meaningful appeal in any court of the State of Georgia.

> "We take this occasion to remind that the duty of the clerk is to file pleadings, not to ascertain their legal effect. See generally *Hood v. State,* 282 Ga. 462,464, 651 S.E.2d 88 (2007) (clerk has ministerial duty to file pleadings, and it is beyond the purview of the clerk to be concerned with their legal viability)." *Ford v. Hanna,* 292 Ga. 500,502, 739 S.E.2d 309 (2013).

d. <u>Intervenor is subject to violations of substantive and procedural due process:</u>

As it stands today, if Intervenor invokes any court geographically located in the State of Georgia and proximate to Atlanta -- State or Federal -- to enforce the statutory and/or constitutional duties of court officers while defending himself against civil liability and predicate acts of RICO by Plaintiff Friendship, that court adopts a pattern of Subtle Forms that amounts to violations of substantive and procedural due process.

How does a state Supreme Court clerk reprocess a document filed a month previously, overstriking the previous electronic filing date, to create a new filing date and a new motion for sanctions against Intervenor? How do federal appellate clerks, district court clerks, and State court clerks, lose only *pro se* Intervenor's documents for weeks or months at a time? How does a mandamus claim of a missing document against a state superior court clerk get dismissed with prejudice, only to have that same superior court clerk then initiate a separate case to restore the missing document? How does a plethora of "scrivener error" occur only as regards underprivileged *pro se* litigants and never attorney-represented parties? How do attorney-represented private citizens or companies ("*private individual*") such as Nova Casualty Company act collaboratively with court officers such as GASUP Clerk Barnes to tamper with the record, implicating 18 USC § 1512(c)(2) and OCGA §16-10-20?

Can the pattern of transgressive acts used by court officers and private individuals in Georgia to obtain their mutual objective of an "*Incomplete Record*" to ensure that Intervenor will appear procedurally deficient in every court located in Georgia, be disrupted? *Pro se* Intervenor has received no answers and no relief in any court in the State of Georgia, and has no adequate means to puncture the close-knit judicial community of Atlanta to attain the relief he desires. But Intervenor files this standing objection to inconsistent due process and fraud upon the court, documenting the ongoing and unceasing constitutional violations and deprivations. Throughout this Objection, Intervenor will generally use the term "Subtle Forms" or the term "Transgressive act" as a quantitative descriptor of the retaliatory corruption Intervenor has experienced in Georgia.

II. STATEMENT OF TRUE FACTS ALREADY KNOWN BY THIS COURT

a. Fact: The Notice of Appeal Was Untimely

On 28 December 2018, because Intervenor Tim Sundy is prohibited by the Hall County Sheriff as well as the Superior Court of Hall County from entering the Clerk of Court's office and ordinarily filing papers, a right accorded to any other citizen, an officer of Georgia's Equality In Access Advocates ("GEAA") mailed HCSC Clerk Baker the Intervenor's Notice of Appeal to the Supreme Court of Georgia regarding the 3 December 2018 final judgment and 6 December 2018 case disposition form filed in HCSC 2015CV1366. The Notice of Appeal was docketed by HCSC on 2 January 2019.

On 2 January 2019, Intervenor filed an application for discretionary appeal with GASUP regarding the 3 December 2018 final judgment and 6 December 2018 case disposition form. Intervenor filed the application in the office of the Clerk of GASUP.

Intervenor's discretionary application in GASUP, **S19D0602**, was transferred to the Georgia Court of Appeals ("GCOA") on 31 January 2019 and docketed on 15 February 2019 as **A19D0345**. On 15 March 2019, GCOA dismissed Intervenor's Application as untimely, ruling that 2015CV1366 was a dispossessory proceeding subject to O.C.G.A. § 44-7-56 and that Intervenor failed to file his application within seven days of the appealed order(s).

GCOA denied Intervenor's motion for reconsideration on 19 April 2019. On 9 May 2019, Intervenor timely and properly filed in GASUP a Petition for Writ of Certiorari requesting review of GCOA's order in A19D0345. As previously stated, the Intervenor's 9 May 2019 Petition was fraudulently docketed as a supplemental brief in S19C0943, a fake petition for writ of certiorari created by GASUP Clerk Thérése Barnes on 20 March 2019 to deny Sundy the equal protection of law.

Intervenor's Notice of Appeal in HCSC 2015CV1366 is already predetermined by GCOA as untimely and will be dismissed for lack of jurisdiction under OCGA § 5-6-48(b)(1). Because "[t]he proper and timely filing of a notice of appeal is an absolute requirement to confer jurisdiction upon the appellate court." *Jordan v. Caldwell*, 229 Ga. 343, 344 (191 S.E.2d 530, Intervenor's Notice of Appeal fails on its face.

b. <u>Fact: The Record of 2015CV1366 is Incomplete Rendering the Cost Bill Inaccurate</u>

Every time Disqualified Judge Christian calls for a hearing, or issues a Rule Nisi, the hearing is predicated on a biased, unconstitutional condition: in order for the Intervenor to receive a right, privilege or immunity, Intervenor must give up a right, privilege or immunity. The hearing set for 2 March 2020 is no different.

In this instance, Intervenor must come to a court lacking jurisdiction to show cause regarding itemized appeal costs. Intervenor must show cause why he has not paid to transmit an

incomplete record, *i.e.,* a record that has missing documents. Intervenor must also show that the record the Clerk has prepared and billed does not match the 190 items and 6 transcripts listed in Intervenor's Notice of Appeal.

Despite Intervenor's unrelenting efforts to perfect the record on appeal, as documented by the official docket of 2015CV1366, the record of 2015CV1366 is still incomplete and the docket does not reflect several items legitimately and lawfully filed within the case. Intervenor cannot have the privilege of both a complete record and access to the court for an appeal in the State of Georgia. It is one or the other. If Intervenor fails to pay for the incomplete record, Intervenor cannot get an appeal. If Intervenor is forced to pay for an incomplete record in order to obtain an appeal, the appellate process will not be proper, full and effective. The HCSC Clerk has previously falsely certified as complete the incomplete record of 2015CV1366. Intervenor has every expectation that the same will be done again. Intervenor has discovered that there is no remedy for Georgia court officers' violations of duty.

Despite the fact that Intervenor has repeatedly pointed to evidence suggesting bad faith on the part of the Court(s) in connection with the missing documents, when the incomplete record is sent to the appellate court, Intervenor will be blamed for the missing documents. And the appellate court will state that it cannot provide a determination of Intervenor's claims based upon the incomplete record.

As the Intervenor continues to point out, judges in all courts proximate to Atlanta have established the perfect crime of tampering such that HCSC disqualified Judge Christian, USDC Judge Jones, and others can falsely purport "full consideration" while documents are missing from the record. The crime of tampering is further compounded with the judges allowing adverse parties to take advantage of the missing document(s) by not filing a timely

response on the record to the missing documents, even though the adverse parties were properly served and know the missing document(s) exist. The truth is that disqualified Judge Christian *et al.* absolutely cannot give "full consideration" when documents (replies, objections and responses) are missing from the record. Disqualified Judge Christian *et al.* have acted with deliberate indifference to Intervenor's rights, depriving Intervenor of due process and equal protection.

c. Fact: Disqualified Judge Christian has established a pattern of holding Intervenor's Documents for the purpose of creating an unconstitutional condition

Disqualified Judge Christian and disqualified Judge Fuller grossly exceeded 90 days in holding case HCSC 2016CV0982 hostage for 27 months. In HCSC 2015CV1366, after over two years of Sundy proceeding as an Intervenor and Third-party Plaintiff, disqualified Judge Christian plotted and conspired to enjoin Sundy from any reliance on the defensive provisions of Georgia's dispossessory statutes in this ***in rem*** proceeding, cancelling Intervenor's *lis pendens* while acting to aid Plaintiff Friendship to prevail in its scheme of prevention of performance and constructive fraud, despite law to the contrary .

> "where a [plaintiff] prevents the performance of a stipulation of a contract undertaken by the [defendant], he is estopped from setting up in his own behalf any injury which may have resulted from the nonperformance of such condition." *Allied Enterprises, Inc. v. Brooks,* 93 Ga. App. 832, 834, 93 S.E.2d 392, 398 (1956) (quoting from *Stimpson Computing Scale Company v. Taylor,* 4 Ga. App. 567, 61 S.E. 1131, 1132 (1908))

Corroborating the pattern of this Court holding Intervenor's documents hostage is the fact that disqualified Judge Christian has maliciously withheld ruling on Intervenor's Notice of Appeal for over a year. The Notice should have been dismissed long ago by a qualified judge under OCGA 5-6-48(b)(1) after the Georgia Court of Appeals stated in its 15 March 2019 order in case **A19D0345** that 2015CV1366 was a dispossessory proceeding subject to O.C.G.A.

§ 44-7-56. Instead, disqualified Judge Christian again uses a bogus Rule Nisi to entice the Intervenor to court so that the mere presence of the Intervenor in the courtroom might waive all of Intervenor's previous claims.

This is virtually the same objective the Court had in holding case 2016CV0982 hostage for 27 months, conspiring and plotting to get the Intervenor to show up in a courtroom under unconstitutional conditions and waive all his rights. Disqualified Judge Christian has again crafted a plan to hold a hearing, this time on Intervenor's Notice of Appeal, creating an appearance of legitimacy for the Court. The Intervenor can pay thousands of dollars to HCSC to have the Clerk falsely certify an incomplete record as complete for an appeal that will be dismissed as untimely and/or this Court has already predetermined to dismiss Intervenor's Notice of Appeal under OCGA 5-6-48(c) despite the fact that record is incomplete, the Cost Bill does not match Intervenor's Notice of Appeal, and the Notice of Appeal has already been determined by the GCOA as untimely, depriving it of jurisdiction.. .

It seems sisqualified Judge Christian has had only one plan all along, *i.e.,* to assist Plaintiff Friendship to prevail by aiding and abetting court officers to cause Intervenor's record to be incomplete or tampered with in some form, and then require the Intervenor to acquiesce and show up in court just to have the record corrected. Meanwhile attorney-represented adverse parties can proceed normally at hearings on their documents which were duly filed and free of contamination or obstruction, demonstrating that the underprivileged Intervenor has to qualify to have a complete record. If the question was put to disqualified Judge Christian whether the conduct of the Court to insure that that the Intervenor's record is always incomplete is a denial equal protection under the law, she would no doubt answer "no."

d. Fact: Intervenor is deprived of consistent due process and First Amendment rights

The substantial stamp-filed copy of Intervenor's December 20, 2016 JOINT OBJECTION was missing from case 2015CV1366 for almost eighteen months and then magically appeared on the docket sometime after 10 July 2018. The record is incomplete as to an Order showing how the filed December 20, 2016 JOINT OBJECTION was placed on the docket eighteen months after it was filed in the court, with the implication on the face of the record that Intervenor purportedly obtained full consideration of his December 20, 2016 JOINT OBJECTION. Only a biased judge would label this as consistent due process, satisfying full First Amendment access to the court.

Since there is no Order in the record of 2015CV1366 restoring the document, if the cost was paid to transmit the record to an appellate court, and the Clerk falsely certified the record as true and correct, the Intervenor would be deprived of an appealable order to challenge inconsistent due process violations for the Court to reach a void judgment,

> "The burden is on the complaining party, "including pro se appellants, [cit.], to compile a complete record of what happened at the trial level, and `when this is not done, there is nothing for the appellate court to review.' [Cit.]" *Wright v. State*, 215 Ga. App. 569, 570 (2) (452 S.E.2d 118)(1994). See also *Johnson v. State,* 261 Ga. 678, 679 (2) (409 S.E.2d 500)(1991); *Brown v. State*, 223 Ga. 540,541 (2)(156 S.E.2d 454)(1967)." *Kegler v. State*, 475 S.E.2d 593 (Ga. 1996)'

e. Fact: Repeated Violations of OCGA § 15-6-21(b) are without remedy

Intervenor's claim in case 2015CV1366 that the trial court is sitting on Intervenor's OCGA § 9-11-60(d)(2)(3) Motion, committing the crime of OCGA § 15-6-21(c), means Intervenor needs a Mandamus ("extraordinary remedy ") to compel the trial court to rule on the OCGA § 9-11-60 (d)(2)(3) MOTION. Subsequently, in applying HCSC's consistent pattern of tampering, Intervenor will need another extraordinary remedy to prohibit HCSC Clerk Charles

Baker from concealing the Order on the § 9-11-60 from the Intervenor for over 7 days in order to deprive Sundy of an appeal. Because the malfeasance of the courts won't stop there, Intervenor will then need another prohibition or injunction against GCOA Clerk Stephen E. Castlen and/or GASUP Clerk Barnes to stop them from misconstruing Intervenor's Appeal. The Appellate Justices have already shown they will affirm any erroneous decision of Atlanta-area judges, therefore the cycle will never end.

This is the endless insane process in the State of Georgia if Intervenor follows the suggestion of GASUP to file another *Brown v. Johnson* action, and adopt new violations by each subsequent officer to vindicate claims via Mandamus. Intervenor is then back in the GASUP on appeal for newer issues only to be re-informed by GASUP that the issues are not important enough to the citizenry to grant certiorari nor an Original Jurisdiction Petition.

Ultimately, the Georgia Supreme Court would again suggest another *Brown v. Johnson* be filed against the latest violating officer(s) and, about 18 months later, the Intervenor would be back in GASUP again begging for the exact same enforcement of the right of " meaningful access to the court and a complete record." Since Court officers know it is virtually impossible for every U.S. citizen to obtain an U.S. Writ of certiorari, this Court could safely estimate that it might be early 2023 before it again has to deal with court officers' corruption and Intervenor's request for the same relief of a complete record and full access to the court.

f. <u>Fact: Intervenor added Third-party Defendants as a matter of law</u>

Intervenor Sundy, granted Intervenor Defendant status without restriction by the federal court, is treated as if he were an original party under both federal and state law. See Fed.R.Civ.P. Rule 24 and *Woodward v. Lawson*, 225 Ga. 261,262 (Ga. 1969).

> "The fact that the district court, and not the superior court, granted leave to add parties, does not nullify this permission....Rodgers does not suggest that a state court may simply ignore the rulings of district courts made in the same case before remand to superior court...The district court's order was valid until set aside. See generally *Howell Mill/Collier Assoc. v. Gonzales*, 186 Ga. App. 909, 910 (1) (368 S.E.2d 831) (1988). It was never set aside, and the superior court was therefore bound by it... Accordingly, we conclude that the superior court erred..." (emphasis added) *El Chico Restaurants, Inc. v. Trans. Ins. Co.,* 235 Ga. App. 427 (509 S.E.2d 681)(1998)

In its 30 October 2017 Order, the trial court enjoined Intervenor from any reliance on the provisions of the dispossessory statutes, including his right to his compulsory counterclaims, and determined that *pro se* Intervenor was not a third-party plaintiff, despite the fact that Intervenor as third-party plaintiff, in the midst of the removal action, timely complied with both the laws, rules, and procedures of OCGA § 9-11-14 and Fed.R.Civ.P. Rule 14 in bringing in Third-party Defendants without leave of the court, and that all parties, including Third-party Defendants, were proper before the Federal Court without leave of the court and were acknowledged as proper. Intervenor, to this day, has been deprived of private property without just compensation, though granted intervenor status in federal court, and denied the right to litigate his counterclaims in state court

Subsequent to 30 October 2017, Intervenor was unlawfully forced to proceed in 2015CV1366 as a General Civil Action with the GCOA also concluding on 28 December 2017 in A18D0215 that 2015CV1366 was operating as civil action.. Disqualified Judge Christian threatened to hold Intervenor in contempt (put in Jail) if Intervenor continued to pursue the law governing an ***in rem*** case. Where HCSC stated that Intervenor Sundy's claims were not compulsory counterclaims but rather independent claims, and enjoined Sundy from presenting his counterclaims, HCSC deprived Intervenor Sundy of the statutory remedy of O.C.G.A. § 44-

7-53. Thus, the trial court placed Intervenor outside of the aegis of the dispossessory statutes and into the procedures of O.C.G.A. § 9-11-13.

The trial court's issuance of a collateral order on 15 October 2018 lifting the Intervenor Defendants' *Lis Pendens* is further evidence that the trial court terminated Sundy's access to the dispossessory statues since, under well established law, a *Lis Pendens* is to remain in effect "until a final judgment has been entered and the time for appeal has expired." See *WAYNE LYLE et al. v. LIBERTY CAPITAL, LLC et al.,* Georgia Court of Appeals, A19E0009, (August 27, 2018).

It is not essential that Intervenor assert a direct interest in the real property for a *lis pendens* to be valid, so long as the real property would be directly affected by the relief sought. See *Griggs v. Gwinco Dev. Corp.*, 240 Ga. 487 (241 SE2d 244) (1978). If the Lease at issue in HCSC 2015CV1366 was void on its face at execution and Friendship fraudulently took the Intervenor's money and invested in the real estate at 4949 Friendship Road, the Court knows that Intervenor can follow that money to the real property and impress a trust on the property. See *Adams v. McGehee*, 211 Ga. 498, 500 (86 SE2d 525)(1955); *Total Supply, Inc. v. Pridgen*, 267 Ga. App. 125, 126 (598 SE2d 805)(2004). If the Intervenors prevail on their claim that the Property Owner's Affidavit is fraudulent, a lien would be imposed on the property. See *Scroggins v. Edmondson*, 297 S.E.2d 469, 472 (Ga. 1982).

As stated by the Georgia Court of Appeals in *International Maintenance Corp. v. Inland Paper Board Packaging, Inc.*, 256 Ga. App. 752, 755, 569 S.E.2d 865, 868 (2002), "Case law in Georgia allows an intervenor to file "any pleading in the case that original parties could have filed." (Citation omitted.) *Woodward v. Lawson*, 225 Ga. 261, 262(1) (167 S.E.2d 660) (1969), cert. denied. 396 U.S. 889 (90 S.Ct. 175, 24 L.Ed.2d 163) (1969)."

Since the rule on ***in rem*** proceedings is clear in federal court and state court, Intervenor timely and properly added the Third-Parties as a matter or right.

g. <u>Fact: Disqualified Judge Christian and others are in Automatic default</u>

On 14 June 2019, Intervenor Tim Sundy filed ORIGINAL JURISDICTION PETITION FOR A MANDAMUS NISI TO SHOW CAUSE in the Georgia Supreme Court. GASUP Clerk of Court Thérése S. Barnes assigned Case Number S19O1351 and, immediately tampering with the record, docketed ORIGINAL JURISDICTION PETITION as being filed on 13 June 2019.

Service that gave Notice of law suit was perfected via United States mail on the Respondents ("Third party Defendants"), as proof by certificate of service. On 28 June 2019, Third party Defendant Nova Casualty Company ("Nova") responded to that service by filing a motion to dismiss introducing matters outside the original pleadings, but did not file an answer as required by Georgia's Civil Practice Act, subjecting Nova to default. By 16 July 2019, every Third party Defendants had completely defaulted except Nova, but each failing to submit an answer went into automatic default as stipulated in OCGA § 9-11-55(a).

Intervenor was entitled to due process and equal protection under OCGA § 9-11-55(a) for default judgment against each DEFAULTING Defendant, for the relief sought in the Original Jurisdiction Petition, which Defendants had admitted by operation of law "as if every item and paragraph of the Original Jurisdiction Petition or other pleading were supported by proper evidence." Intervenor timely and properly requested entry of default. But the relief was denied and the case was dismissed without prejudice.

> "Moreover, the Civil Practice Act provides that when the defendant has not filed a timely answer, "the case shall automatically become in default" and if the case is still in default after the expiration of the statutory period of 15 days for opening default as a matter of right, "the plaintiff at any time thereafter *shall be entitled to verdict and judgment by default,* in open court or in chambers ... unless the action

> is one ex delicto or involves unliquidated damages." OCGA § 9–11–55(a) (emphasis supplied). See, e.g., *H.N. Real Estate Group v. Dixon,* 298 Ga.App. 124, 126, 679 S.E.2d 130 (2009); *Lewis v. Waller,* 282 Ga.App. 8, 11(1)(a), 637 S.E.2d 505 (2006)" *Williams v. Contemporary Serv. Corp.,* 750 S.E.2d 460, **462** (Ga. Ct. App. 2013)

Intervenor cannot attain the relief of having a complete record nor "Notice" via show cause why Intervenor is singled out to be denied the equal protection of a complete record. Rather, Intervenor is allowed to be damaged and prejudiced repeatedly in a way that is not correctable on ordinary appeal. Intervenor is without remedy in the State of Georgia, including in case S19O1351 where he is subject to the Clerk of Court or some other court officer tampering with papers in the record in conflict with the 1st , 4th, 5th, and 14th Amendments of the U.S. Constitution.

II. OBJECTIONS

a. Objection: Intervenor is without an effective remedy in the State of Georgia to file his independent claims.

Intervenor initially believed his counterclaim was a compulsory counterclaim in an *in rem* proceeding, meaning Intervenor had to timely file his counterclaim in compliance with OCGA § 9-11-13(a)-Compulsory counterclaims. In its 30 October 2017 Order, disqualified Judge Christian enjoined Intervenor from any reliance on the provisions of the dispossessory statutes, including his right to his compulsory counterclaims, and determined that *pro se* Intervenor was not a third-party plaintiff. Disqualified Judge Christian also changed the style of the case by interlocutory mandatory injunctive Order on Procedure and did not allow *pro se* Intervenor's claims to be joined for the purpose of trial of monetary case 2015CV1366. Since disqualified Judge Christian and GCOA were adamantly threatening Intervenor while both deeming 2015CV1366 a civil action, with Intervenor under oppressive circumstances in

2016CV0982, and since Intervenor could not operate under OCGA § 9-11-13(a), Intervenor was compelled to file any permissive counterclaim to vindicate his independent claims as a separate case under OCGA § 9-11-13 (b)-Permissive counterclaims.

Disqualified Judge Christian order(s) were very clear as to "separated claims for the purposes of trial" but if Intervenor used the "Caption" enjoined by the 30 October 2017 order, Intervenor would be waiving his Intervention and Third-party status. Intervenor was being given only one option by Disqualified Judge Christian -- to participate in 2015CV1366 HCSC without presenting any of his claims. However, upon Intervenor's attempt to appeal 2015CV1366 HCSC as a civil action, the GCOA then informed Intervenor that the case never ceased to be a dispossessory ***(in rem)*** proceeding and Intervenor was required to file a Notice of Appeal or other form of Appeal within seven days as mandated by OCGA § 44-7-56..

With Intervenor under unconstitutional conditions in the State of Georgia, if Intervenor had been adamant and insisted on continuing to file documents in HCSC 2015CV1366 to avail himself of his rights under the dispossessory statutes, it meant the possibility of Intervenor going to jail, while the Attorney General maintains his silent assent to disqualified Judge Christian and other court officers committing crimes against the Intervenor.

Intervenor considers that USDC case 2:18-CV-0112 –SCJ, now pending on appeal as case 11th C. USCA 19-11391, is such a permissive and independent counterclaim. And, because disqualified Judge Christian stated in her Order that Intervenor has independent claims and Intervenor could not file his claims in HCSC 2015CV1336, any independent claim in USDC 2:18-CV112 -SCJ will not amount to Rooker-Feldman or *res judicata* and there are no grounds for USDC to abstain from Intervenor raising § 1983 and RICO claims. However, the record

shows when Intervenor filed independent claims in USDC 2:18-CV112-SCJ, the federal court decided to abstain contrary to legal precedent.

> "A mere formal right of access to the courts does not pass constitutional muster. Courts have required that the access be "adequate, effective, and meaningful." *Bounds v. Smith*, 97 S.Ct. at 1495; see also *Rudolph v. Locke*, 594 F.2d at 1078. Interference with the right of access to the courts gives rise to a claim for relief under section 1983. *Sigafus v. Brown*, 416 F.2d 105 (7th Cir. 1969)" *Ryland v. Shapiro*, 708 F.2d 967 (5th Cir. 1983)

In the design of the interconnected judicial community in courts proximate to Atlanta, there is no possible way to have meaningful access in either the State or Federal court. As USDC Judge Jones stated, he is well acquainted and on very good terms with all the adverse parties.

b. <u>Objection: Intervenor is subject to fraud upon by the court</u>

> "Since attorneys are officers of the court, their conduct, if dishonest, would constitute fraud on the court. *Kupferman v. Consolidated Research Mfg. Corp.*, 459 F. 2d 21017, 1078 (2d Cir. 1972)" *H. K. Porter Co. v. Goodyear Tire Rubber*, 536 F.2d 1115, 1118 (6th Cir. 1976).

On 3 December 2018, Friendship's Attorney Robert C. Khayat Jr. ("Attorney Khayat") filed the final Order of Disqualified Judge Christian on the record of HCSC 2015CV1366 which, in a circumstantial vacuum, possibly could establish that the monetary trial was an ***in rem*** proceeding, meaning Intervenor had 7 days to appeal. Three days later, on 6 December 2018, Attorney Khayat filed the CIVIL ACTION DISPOSITION FORM required by OCGA § 9-11-58 (b), establishing that the monetary trial was a civil proceeding, meaning Intervenor had 30 days to appeal .

> OCGA § 9-11-58(b) When judgment entered. The filing with the clerk of a judgment, signed by the judge, with the fully completed civil case disposition form constitutes the entry of the judgment... The entry of the judgment shall not be made by the clerk of the court until the civil case disposition form is

> filed....This subsection shall not apply to actions brought pursuant to Code Sections 44-7-50 through 44-7-59.

There is no circumstantial vacuum, however. At the 15 October 2018 hearing to cancel the *lis pendens* filled by the Intervenor in 2015, Attorney Khayat stated on the record the two reasons why the ***lis pendens*** should be canceled. (T- 6:22 thru 7:25). ***REASON ONE:*** Attorney Khayat stated the lawsuit, now controlled by Friendship's Amended Complaint, was "for monetary damages, the counterclaims here and third-party claims are for monetary damages," meaning Intervenor should have had 30 days to appeal a decision if the category of the case had changed. ***REASON TWO:*** Attorney Khayat argued that Intervenor "is not the-- was not the lessor of the property" when the actual *lis pendens* was submitted.

Since 30 October 2017 when disqualified Judge Christian via Order set the law of the case, there were no longer Third-Parties in case 2015CV1366. But on 15 October 2018, applying inconsistent due process, disqualified Judge Christian agreed with Attorney Khayat that Attorney Khayat had the privilege of using the language of 'Third-party' to prevail in canceling the *lis pendens*, language which Intervenor was forbidden to use, with the Clerk ordered to not accept filed papers if the words "Intervenor Third-party" were used in the Caption. The threat was implicit that Intervenor was going to jail if he pushed the language Intervenor- Third -Party in the caption. Only Attorney Khayat was given access to the court to use such language.

Attorney Khayat persuaded disqualified Judge Christian that the category of the case had changed, i.e., the property was disposed of and the case was proceeding as a monetary case, omitting that the Intervenor joined the original *in rem* case by Order of the federal court, and then timely added parties pursuant to Rule 14, Federal Rules of ("F.R.C.P."), as a matter of law,

to litigate the Intervenors' compulsory counterclaims of inverse condemnation, prevention of performance, fraud by Friendship, criminal conduct/RICO, etc. as well as the Intervenors' claims of breach of contract by Friendship with increase of risk to the Intervenor under OCGA § 10-7-22. By changing the nature of the case to a civil action, the Court and Attorney Khayat were free to dispose of the *lis pendens*.

If Attorney Khayat's statement of monetary proceedings to cancel the *Lis Pendens* was a separate extension of the ***in rem*** case, and HCSC 2015CV1366 was operating as a permissive counterclaim with the property disposed of, there should have been no reason why Intervenor could not file his third-party and independent claims in the separate case.

> **OCGA § 9-11-13 (i)** Separate trials; separate judgments. If the court orders separate trials as provided in subsection (b) of Code Section 9-11-42, judgment on a counterclaim or cross-claim may be rendered in accordance with the terms of subsection (b) of Code Section 9-11-54 when the court has jurisdiction to do so, **even if the claims of the opposing party have been dismissed or otherwise disposed of.**

Disqualified Judge Christian may wordsmith a sentence or two purporting that Intervenor somehow agreed to a single trial under OCGA § 9-11-13(b) on 3 December 2018 and suggest that disqualified Judge Christian therefore had jurisdiction to dismiss Intervenor's claims. This is the type of lie by implication which disqualified Judge Christian introduced in HCSC 2016CV0982, manufacturing the fiction of a jurisdiction that did not actually exist. The wordsmithed argument will challenge the intelligence of the appellate courts to accept as fact that Intervenor agreed to participate in a consolidated non-jury trial with Intervenor Sundy, agreeing that the Court would not allow Intervenor to file his claims in the consolidated, one-sided non-jury trial and Intervenror assisting the Court to render a void, one-sided , double-

standard judgment of $394,617.47 against Intervenors without any mention of whether the order rendered was from a civil or dispossessory proceeding.

Attorney Khayat filed the two opposing entries -- the judgment and the Civil Case Disposition Form -- to receive a judgment from a biased trial court manufacturing a consolidated case via tyrannical partiality. This case was not merely inconsistent of due process, it was premeditated to be inconsistent to establish fraud upon the court.

HCSC Clerk Baker was prohibited on 3 December 2018, under OCGA § 9-11-58(b), from entering judgment until the Disposition Form was filed, establishing the case was civil in nature. But if 2015CV1366 was truly ***in rem***, the Clerk should have not filed the Disposition Form on 6 December 2018 in the same manner that the Clerk has refused to file Intervenor's papers. To be consistent with the law of dispossessory cases, if 2015CV1366 was, in fact, a dispossessory case, the Clerk or the ever-involved Judge Fuller should have removed the Disposition Form from the record since the Clerk and Judge Fuller have no problem in removing Intervenor's documents. Instead, HCSC Clerk Baker, Attorney Khayat, disqualified Judge Christian, disqualified Judge Fuller and the GCOA understood the GCOA would make its decision based upon what would be most damaging to the Intervenor -- in the event *pro se* Intervenor filed an appeal within 7 days.

The scheme was a win-win for Attorney Khayat and the trial court. The GCOA could easily acknowledge the case as an ***in rem*** proceeding, if Intervenor had appealed within 7 days and then resort to its secondary plan and inform Intervenor that he could not appeal certain issues, i.e., independent claims, because Intervenor's record was silent, i.e., incomplete, on certain issues as the result of the conditions of threat and duress imposed by disqualified Judge Christian and the tampering of HCSC's Baker and Fuller.

c. Objection: The Intervenor is subject to created error

The pattern of blaming Intervenor for any defects in the appellate process was established by the GCOA in its Order in case A18D0215, with GCOA calling 2015CV1366 a civil action and stating Intervenor did not follow the interlocutory rules. Also in its Order, GCOA referenced cases A18A0290, A17D0525 and A17D0476 stating that Intervenor had previous interlocutory defects and Intervenor did not comply with the interlocutory procedures. However, GCOA failed to mention that in each of the said cases, Intervenor filed his Notice of Appeal or Application beyond 7 days but within 30 days.

GCOA's ruling in **A19D0345** that Intervenor is required to appeal within seven days in 2015CV1366 is inconsistent with its four PREVIOUS ORDERS. . Intervenor claims, if the Order from case **A19D0345** is true and 2015CV1366 never ceased to be a dispossessory proceeding, GCOA lacked jurisdiction to reach conclusions of law about interlocutory matters in previous appeals A18D0215, A18A0290, A17D0525 and A17D0476 on the controlling grounds that none were filed within 7 days.

In other words, this means GCOA lacked jurisdiction to even determine Intervenor should have complied with interlocutory procedures because all previous appeals were filed over 7 days from the pertinent orders. But GCOA was assisting HCSC in setting up the Intervenor for an invited error in the trial court.

> Invited error refers to a trial court's error against which a party cannot complain to an appellate court because the party encouraged or prompted the error by its own conduct during the trial. The original goal of the invited error doctrine was to prohibit a party from setting up an error at trial and then complaining of it on appeal. In *State v. Pam*, the State of Washington intentionally set up an error in order to create a test case for appeal. Since then, the doctrine has been applied even in cases where the error resulted from neither negligence nor bad faith. See, e.g., *State v. Studd*, 137 533, 547 (Wn.2d 1999).

GCOA did not call 2015CV1366 a dispossessory case in A18D0215, A18A0290, A17D0525, and A17D0476 because GCOA was saving the surprise in order to spring the trap of invited error upon the *pro se* Intervenor. And, Intervenor admits, it was an excellent trap -- tampering and corruption at its best! Intervenor got caught by the surprise of the invited error which was prohibited, with Intervenor following rules of the Civil Practice Act in a case categorized as general civil, and thus did not file an appeal within 7 days..

> Fraud upon the court confers equitable jurisdiction on a court to set aside a judgment where the unsuccessful party has been prevented from exhibiting fully his case, by fraud or deception practiced on him by his opponent, as by keeping him away from court, a false promise of a compromise; or where the defendant never had knowledge of the suit, being kept in ignorance by the acts of the plaintiff; or without authority assumes to represent a party and connives at his defeat; or where the attorney corruptly sells out his client's interest to the other side. ***Luttrell v. U.S.***, C.A. Or. 1980, 644 F. 2d 1274

It really didn't matter in the State of Georgia if Intervenor filed any of his appeals within 7 days as proven by subsequent fraud upon the Court with GASUP converting Intervenor's timely-filed, i.e., within 7 days, discretionary application into a fake petition for writ certiorari (S19C0943). There is always another court officer waiting in line to cover up corruption by changing the details of operation .

> A Conspiracy may be continuing one; actors may drop out, and other drop in; the details of operation may change from time to time; the members need not know each other or the played by others; a member need not know all the details of the plan or the operation; he must, however, know the purpose of the conspiracy and agree to become a party to a plan to effectuate that purpose. *Craig v. U.S.*, (C.C.A. 9) 81 F2d 816, 822.

Today disqualified Judge Christian is setting up another trap of invited error by scheduling a Rule Nisi to force Intervenor to pay for an incomplete record which disqualified Judge Christian knows to be incomplete. Disqualified Judge Christian also knows that even if

Intervenor paid the Cost Bill, GCOA can dismiss (and sanction the Intervenor) because the Appeal under OCGA 5-6-48(b)(1) is already deemed dismissible by the Georgia General Assembly.

Intervenor has no remedy to escape the biased catch- 22 crafted by disqualified Judge Christian. If Intervenor fails to appear, the appeal will be dismissed under OCGA 5-6-48(c). If Intervenor appears and pays for transmittal of the incomplete record the appeal will be dismissed under OCGA 5-6-48(b)(1).

d. Objection: The endless, systematic pattern of corruption in the State of Georgia's judiciary gives new meaning to the doctrine of exhaustion of Remedies

> "Meaningful access to the courts is a fundamental constitutional right, grounded in the First Amendment right to petition and the Fifth and Fourteenth Amendment due process clauses." *Johnson v. Atkins*, 999 F.2d 99 (5th Cir. 1993)

Elrod v. Burns, 427 U.S. 347, 374 (1976) seems to be a citation that every court would agree with, stating "Loss of First Amendment Freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury." When Intervenor filed U.S. Supreme Court ("SCOTUS") case 18-5506 on 10 August 2018 upon a decision in GCOA A18D215, Sundy was requesting the same basic relief sought today -- freedom from tampering while exercising his right to redress of grievances. Two years later, the doctrine of exhaustion of remedies has taken on new meaning.

An application for Certificate of Immediate Review has proven not to be an option for the Intervenor. HCSC records will show about 8 applications, none of which were even acknowledged by HCSC, let alone ruled upon.

Brown v. Johnson has also proven to not be an option. The Courts have perfected the art of denying every request for extraordinary remedy while utilizing under-the-table orders and secret phone calls to court officers to moot claims raised.

Courts will abstain from Intervenor's valid claims while the necessary Respondent defaults in the case and then create a catch-22 to deprive the Intervenor of any relief while aiding the Respondent to prevail – even if it means falsifying the record..

Prohibition, injunction, request for declaratory relief – all useless to the Intervenor. Court officers in collusion will alter the nature and style of the case, rendering restored documents moot and requested relief as frivolous.

Intervenor has gone over and above in his attempt to duly exhaust his remedies in the state and federal courts located in Georgia, only to discover that there is no effective remedy to tampering in Georgia. Neither is there meaningful access to the court while the Attorney General supports and encourages the transgressive acts of corrupt public officials.

e. Objection: Georgia provides no affirmative language against violations of tampering with the record and deprivation of 1st Amendment rights of access to the courts

The unconstitutional conduct by Georgia's court officers as public officials tampering with the record and depriving citizens of 1st Amendments rights of access to the courts, is enhanced by the lack of **affirmative language** to obtain an immediate right in the Georgia judiciary.

For example; under the 6th Amendment of the U.S. Constitution, when a criminal suspect is under interrogation by a law enforcement officer and the suspect wants the interview to come to an end, all the suspect has to do is use **affirmative language** such as, "I need counsel." The interview should end immediately and there is no need of an extraordinary remedy to accomplish the right. If the law enforcement officer continues to move forward with the interview of the suspect without honoring his constitutional right to

counsel, the consequence is that the law enforcement officer cannot use any information obtained from the suspect.

The Georgia General Assembly has provided for its citizen OCGA § 9-6-22 which states:

> OCGA § 9-6-22 Enforcement of officer's duties under Title 5; If any sheriff, clerk, or other officer fails to discharge any duty required of him by any provision of Title 5, upon petition the appellate court or the superior, state, or city court, as the case may be, may compel the performance of such duty by mandamus. No party shall lose any right by reason of the failure of the officer to discharge his duties when the party has been guilty of no fault himself and has exercised ordinary diligence to secure the discharge of such duties.

A criminal can say he needs counsel and it is s good as done. If Intervenor says he needs his December 20, 2016 JOINT OBJECTION restored to the record in order to exercise his 1st Amendment right of redress of grievance and access to the court, by judicial notice, it will take 18 months and thousands of dollars for the document to be restored. Disqualified Judge Christian proceeded forward to a void judgment with the case upon an incomplete record, knowing the document was missing while putting Intervenor under conditions to come to court upon an incomplete record, threatening Intervenor with injury under the conditions.

When the December 20, 2016 JOINT OBJECTION was finally restored, that did not prohibit Clerk Baker from further tampering with the record of case 2015CV1366. If Intervenor says "Right Now, I need the ORDER in 2015CV1366 showing how the December 20, 2016 JOINT OBJECTION was restored 18 months after it was filed so I can challenge the inconsistent due process on appeal," it will never happen. Unless Intervenor can come up with thousands of more dollars and another eighteen months of time.

Intervenor has demonstrated by filing for extraordinary remedy in the Superior Court, GCOA, GASUP , USDC and USCA that he is not waiving a Complete Record and that the Mandamus process is to no avail and ineffective in the State of Georgia. Corrupt officials, supported by Attorney General Christopher M. Carr. Intervenor will continue to join the conspiracy to defile /tamper with the record in the same case or a related (appeal) case.

It would appear under OCGA § 9-6-22 when Intervenor has "exercised ordinary diligence to secure the discharge of such duties," to have a complete record and "No party shall lose any right by reason of failure of the officer to discharge his duties " that these words should operate as **affirmative language** in any court in Georgia, in like manner as a suspect stating his need for "counsel". It further appears that when a Suspect is denied his right to counsel and a court uses information obtained violative of the suspect's demands and over his objections, this would render the court's decision as inconsistent of due process and therefore void.

Intervenor contends the effect of OCGA 9-6-22 should be as the Automatic Reversal Rule and should apply when Georgia's legislation states "[Intervenor] shall not lose any right" -- any Order or Judgment obtained by a lower court in violation of OCGA 9-6-22 should be void.

CONCLUSION

Disqualified Judge Martha Christian is again trying to use sleight of hand to deprive the underprivileged *pro se* Intervenor of his appeal, redress of grievance and other Constitutional rights and protections. The Court is using another post-judgment trick to feign jurisdiction over the subject matter despite refusing to fulfill its obligation to the Intervenor, including ruling within 90 days and appointing a qualified judge to rule on Intervenor's 16 March 2018 *Brown v.*

Johnson petition. The Court is also feigning jurisdiction over the person of the Intervenor despite refusing its obligation to rule on Intervenor's OCGA § 9-11-60 MOTION and having deprived Intervenor of notice and opportunity to be heard on multiple occasions.

On 27 January 2019, the Supreme Court of the United States ("SCOTUS") denied Sundy's petition for writ of certiorari to the GASUP in S19O1351, in which disqualified Martha Christian was a named respondent. On 28 January2019, the very day after SCOTUS ruled, a Rule Nisi was filed into HCSC 2015CV1366 -- despite the fact that the Rule Nisi order had been signed a week earlier (another example of tampering) and more than a year after Intervenor's Notice of Appeal was filed. Running concurrent with Intervenor's 30 days to object to disqualified Judge Christian's 28 January 2020 Order is the twenty five days for Intervenor to ask for a rehearing in SCOTUS.

What qualifies Intervenor for rehearing in SCOTUS is the situation created by disqualified Judge Christian on 28 January 2020 when disqualified Judge Christian, with calculation and malice, weaponized the Intervenor's Notice of Appeal which she has been sitting on for over a year.

> "[N]o matter how erroneous a ruling of a trial court might be, a litigant cannot submit to a ruling or acquiesce in the holding, and then complain of the same on appeal. He must stand his ground. Acquiescence deprives him of the right to complain further." (Footnote omitted.) *Roberts v. First Ga. Community Bank*, 335 Ga. App. 228, 230 (1) (779 SE2d 113) (2015). See also *Davis v. Phoebe Putney Health Systems*, 280 Ga. App. 505, 506-507 (1) (634 SE2d 452) (2006) ("A party cannot participate and acquiesce in a trial court's procedure and then complain of it.")

To win on appeal, a defendant "must be able to show reversible error, and he must do so on the existing record." *Collier v. State,* 834 S.E.2d 769 (Ga. 2019) The existing record is incomplete in 2015CV1366 as well as every other case in which Sundy is a party. The Georgia

Court of Appeals told Sundy in advance in A19E0011 that it did not care how many documents were removed from the official court record in any case involving Sundy, nor what court officer removed them. *Sua sponte* and without jursidiction, GCOA filed its order in four non-joined cases, including 2015CV1366, to make sure Sundy got the message.

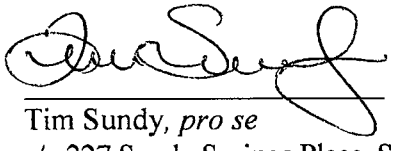
A definition of insanity that became popular during Albert Einstein's era was "the definition of insanity is doing the same thing and expecting a different result." *Pro se* Intervenor Sundy has made a consistent claim for a complete record in court proceedings, a claim which is coupled with the right to effective, meaningful, appellate review. A complete record functions to ensure procedural due process on appeal. *U.S. v. Mancilla*, 226 Fed. Appx. 945, 946 (11th Cir. 2007) Intervenor Sundy has been deprived of certificates of immediate review by the rebellious and indifferent court. The Intervenor has been denied an order in the nature of mandamus in every case, the courts instead using under-the-table orders and secret phone calls to the malefactors to correct violations of duty and misdemeanors, allowing Sundy to prevail according to legal theory in the state of Georgia as established in *Robinson v. Glass*, 302 Ga. App. 742 (691 S.E.2d 620) (2010) but with the courts exonerating court officers in the process. The Georgia Court of Appeals has gone on the record in Hall County that it will not enforce Sundy's constitutional right to be secure in his papers and immune from court officers tampering with the record. And the Supreme Court of Georgia considers none of these issues important enough to the citizens of Georgia to merit review.

Intervenor Sundy has neither ordinary remedy nor extraordinary remedy to recover from court officers tampering with the record in cases in which he is a party. Disqualified Judge Christian will implement whatever plan she has concocted whether Sundy appears specially or generally. Sundy chooses to appear specially and at no time does Intervenor -

Third party Plaintiff Sundy waive any rights, privileges or immunities as it pertains to this case.

> "Of what avail is it to the individual to arm him with a vesture of constitutional rights if, when he seeks to vindicate them, the courtroom door can be hermetically sealed against him by a functionary who, by refusal or neglect, impedes the filing of his papers?" ***McCray v. State of Maryland***, 456 F.2d 1, **6** (4th Cir. 1972)

Respectfully submitted this 18 February 2020.



Tim Sundy, *pro se*
c/o 227 Sandy Springs Place, Ste D-465
Sandy Springs, GA 30328

IN THE SUPERIOR COURT OF HALL COUNTY
STATE OF GEORGIA

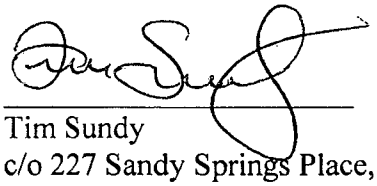
FRIENDSHIP PAVILION ACQUISITION COMPANY, LLC Plaintiff, v. **Mediterranean Dining Group Inc., Tim Sundy and David Sundy** Defendants, v. **ARSENAL REAL ESTATE FUND II-IDF, LP; Gary Picone; Thomas Ling; and, Michael Weinstein** Defendants in Counterclaim	**Civil Action Case No.:** 2015CV001366

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the within and foregoing, **STANDING OBJECTION TO INCONSISTENT DUE PROCESS AND FRAUD UPON THE COURT** has been served by United States Mail, properly addressed upon:

Robert C. Khayat, Jr., The Khayat Law Firm, 75 Fourteenth Street, Ste. 2750, Atlanta, GA 30309

This 18 February 2020.



Tim Sundy
c/o 227 Sandy Springs Place, Ste. D-465
Sandy Springs, GA 30328

Superior Court of Hall County
State of Georgia

Motion Sent to Judge by:
Clerk
Attny

Friendship Pavilion Acquisition Co. LLC
Plaintiff
v.
Mediterranean Dining Group Inc, David Sunday and Tim Sunday
Defendants
v.
Michael Weinstein, Arsenal Real Estate Fund VI, Thomas Long and Gary Picone
Defendants in Counterclaim

Case No. 2015CV1366

FILED
HALL CO. GA
2018 NOV 26 AM 11:38
CHARLES BAKER, CLERK
SUPERIOR STATE COURT
BY

Order To File Pleading

The Clerk of the Superior Court of Hall County is Hereby Ordered to file of record in this case the Document titled Intervenor's Standing Objections To All Void Orders and Proceedings, and Notice to the Court of Pending Matters in Federal Court. Said document shall be stamped as filed on the date received by the Clerk.

So Ordered This 26 day of November, 2018

Martha C Christian
Judge Superior Court of Hall County
(By assignment)

A00102

In The Superior Court of Hall County
State of Georgia

03/02/2020 08:46

Civil Docket

Docket: 2015CV001366B **Page:** 1

Plaintiff: FRIENDSHIP PAVILION ACQUISITION COMPANY LLC
949 IMAGE AVE SUITE B ATLANTA, GA 30318

Attorney(s): DAVID R DOLINSKY; LAW OFFICES OF DAVID R DOLINSKY
2870 PHARR COURT SOUTH
UNIT 2801
ATLANTA, GA 30305

ROBERT C KHAYAT, JR; THE KHAYAT LAW FIRM
75 14TH STREET, N.E.
SUITE 2750
ATLANTA, GA 30309

Defendant: ARSENAL REAL ESTATE FUND II DEFENDANT IN COUNTERCLAIM

Attorney(s): ROBERT C KHAYAT, JR; THE KHAYAT LAW FIRM
75 14TH STREET, N.E.
SUITE 2750
ATLANTA, GA 30309

LING THOMAS DEFENDANT IN COUNTERCLAIM

Attorney(s): ROBERT C KHAYAT, JR; THE KHAYAT LAW FIRM
75 14TH STREET, N.E.
SUITE 2750
ATLANTA, GA 30309

MEDITERRANEAN DINING GROUP INC
227 SANDY SPRINGS CIRCLE SUITE D-465 SANDY SPRINGS, GA 30328

Attorney(s): DEIRDRE M STEPHENS JOHNSON; LAW OFFICE OF DEIRDRE M. STEPHENS-JOHNSON
6141 COURSE SIDE WAY

LITHONIA, GA 30058

PICONE GARY DEFENDANT IN COUNTERCLAIM

Attorney(s): ROBERT C KHAYAT, JR; THE KHAYAT LAW FIRM
75 14TH STREET, N.E.
SUITE 2750
ATLANTA, GA 30309

SUNDY DAVID
321 BLACKSMITH ARCH YORKTOWN, VA 23693

Attorney(s):

SUNDY TIM
227 SANDY SPRINGS PLACE SUITE D-465 SANDY SPRINGS, GA 30328

Activity	Date Filed	Comments
PLEADING	08/02/2018	PROPOSED ORDER GRANTING THE MOTION TO DISMISS
		FILED BY 3RD PARTY DEFS ARSENAL REAL ESTAE FUND II-IDF, L.P., GARY PICONE, & THOMAS LING (FILE W/O JUDGES SIGNATURE PER JUDGE)
PLEADING	08/02/2018	PROPOSED ORDER GRANTING FRIENDSHIP PAVILION
		ACQUISITION CO , LLC'S EMERGENCY MOTION TO REMOVE LIS PENDENS (FILE W/O JUDGES SIGNATURE PER JUDGE)
PLEADING	08/13/2018	PROPOSED PRETRIAL ORDER
TSCRIP	08/24/2018	HEARING
RULENISI	09/18/2018	OCT. 15, 2018 10:00 A.M.
ORDER	09/18/2018	NOTICE OF PRETRIAL CONFERENCE - OCT. 15, 2018
		10:00 A.M.
ORDER	09/18/2018	ORDER DENYING MOTION TO DISMISS FILED BY DEFS
		ARSENAL REAL ESTATE FUND II-IDF, L.P., GARY PICONE & THOMAS LING
ORDER	09/18/2018	ORDER GRANTING MICHAEL WEINSTEIN'S MOTION TO
		W/DRAW AS COUNSEL FOR PLTF.
MOTION	09/20/2018	MOTION TO W/DRAW
PLEADING	09/20/2018	(4) CERT. OF SERVICE
PLEADING	09/20/2018	NOTICE OF ADDRESS CHANGE
PLEADING	09/28/2018	FROM COURT OF APPEALS - NOTICE OF DOCKETING
		EMERGENCY MOTION
ORDER	09/28/2018	FROM COURT OF APPEALS - EMERGENCY MOTION FOR
		PROCESS TO BE ISSUED IS HEREBY DENIED
PLEADING	10/09/2018	PROPOSED PRETRIAL ORDER
ORDER	10/15/2018	ORDER GRANTING FRIENDSHIP PAVILION ACQUISITION
		COMPANY, LLC'S EMERGENCY MOTION TO REMOVE LIS PENDENS
MOTION	10/18/2018	MOTION TO DISMISS, TO STRIKE ANSWER, FOR DEFAULT
		JUDGMENT AND BRIEF IN SUPPORT
PLEADING	10/18/2018	NOTICE OF LEAVE OF ABSENCE FOR ROBERT C. KHAYAT JR
PLEADING	10/23/2018	INTERVENORS' OBJECTION TO THE COURT'S 18 SEPT.
		2018 ORDERS
PLEADING	10/30/2018	PROPOSED PRETRIAL ORDER
ORDER	11/08/2018	ORDER DENYING INTERVENORS' OBJECTION TO THE
		COURT'S 18 SEPT. 2018 ORDERS
ORDER	11/08/2018	NOTICE OF CLENDAR CALL - NOV. 26, 2018 10:00 A.M.,
		NOTICE OF TRIAL - DEC, 3, 2018 9:00 A.M. , NOTICE OF HEARING ON MOTION TO DISMISS, TO STRIKE ANSWER FOR DEFAULT JUDGMENT - NOV. 26, 2018 10:00 A.M.
PLEADING	11/09/2018	CERT. OF SERVICE
PLEADING	11/09/2018	CERT. OF SERVICE
PLEADING	11/14/2018	INTERVENORS' STANDING OBJECTIONS TO ALL VOID
		ORDERS & PROCEEDINGS, & NOTICE TO THE COURT OF PENDING MATTERS IN FEDERAL COURT; EXHIBIT A
TSCRIP	11/25/2018	CONFERENCE HEARING OF NOV. 25, 2018
ORDER	11/26/2018	ORDER TO FILE PLEADING TITLED "INTERVENOR'S
		STANDING OBJECTIONS TO ALL VOID ORDERS & PROCEEDINGS & NOTICE TO THE COURT OF PENDING MATTERS IN FEDERAL COURT"