

APPENDIX (127-Pages)

Index: 1-page Jan. 11, 2021 *Writ of Certiorari* Chief Justice took no part...in this petition.

- 1-page Exhibit A-8571 Sex Threat RICO Crime Affidavit: Miami Florida.
- 1-pge Exhibit A-8588 E-Mail ABA "*Defending liberty & pursuing justice*" voice mail.
- 1-pge Exhibit A-8601 Naples Police Report 21-11801 remote delete Writ Mandamus.
- 4-page Exhibit A-8302 & 8580 Krakowka ADLC Atty 11/30/15 & 4/23/2019 E-mail.
- 6-page Civil Progress Docket: Case CV-17-79-BMM-JCL (as of 2/24/21).
- 8-page Document 60, *Not Good Behavior of JC Lynch U.S. Magistrate ... Affidavit*.
- 51-page Doc. 65, 11 *Exceptions JC Lynch Findings & Recommendations Affidavit*.
- 15-page Document 63, Filed 5/2/18, "Findings & Recommendation" by JC Lynch.
- 1-page Document 67, Judgment In A Civil Case Filed 10/30/18;
- 6-pages Document 66, *Order Adopting Findings & Recommendations* by GM Morris.
- 5-page Civil Docket Case 9th District Appeal Court #18-35937, docket 11/1/18 term 3/6/20.
- 6-page Document 16, Emergency Motion To Sanction Jeffrey Wade Dahood Esq. (\$1,050)
Circuit Rule 27(a) Before April 11, 2019... After Three Fraud Violations.
 - 1-page ORDER Filed 6/23/2020: US Appeals Court 9th Circuit, San Fran. CA.
 - 2-page MANDATE Filed 3/30/2020: US Appeals Court 9TH Circuit, San Fran. CA.
 - 3-page MEMORANDUM Filed 3/6/2020 US Court of Appeals for 9TH Circuit.
- 1-pg Exhibit A-8282 under duress: Amend Dorothy Lussy Revocable Living Trust 1/16/14.
- 1-page Exhibit A-8281 Settlor's Power to Amend or Revoke Notary of Mother: 6/22/2001.
- 1-page Exhibit A-8978 U.S. Clerk Mont. Division CV 78-67-BU case record destroyed (2nd
lawyer malpractice lawsuit vs. prime counsel: Seattle medical malpractice law firm: Mark Davidson
for Williams Lanza Kastner & Gibbs & Missoula local lawyer: Guy McClelland.
- 2-page/envelope Exhibit A-8538 U.S. Clerk Mont. Division CV 78-67-BU reopened for free.
- 1-page Exhibit A-8304 Cashiers Ck \$35,000 refused "by instructions of ...trust" → fraud.
- 4-page Exhibit A-8509 Case "A" dismissal Wade J. Dahood Pro Se letterhead CV 78-67-BU
- 6-page Exhibit A-8508 Case "B" dismissal Wade J. Dahood Pro Se letterhead CV 78-67-BU

Supreme Court of the United States
Office of the Clerk
Washington, DC 20543-0001

Scott S. Harris
Clerk of the Court
(202) 479-3011

January 11, 2021

Clerk
United States Court of Appeals for the Ninth
Circuit
95 Seventh Street
San Francisco, CA 94103-1526

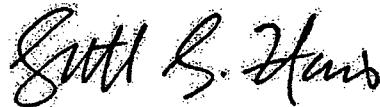
Re: Richard Charles Lussy
v. Henry Paumie Lussy, et al.
No. 19-8630
(Your No. 18-35937)

Dear Clerk:

The Court today entered the following order in the above-entitled case:

The petition for rehearing is denied. The Chief Justice took no part in
the consideration or decision of this petition.

Sincerely,



Scott S. Harris, Clerk

Exhibit A-8571 evidence Racketeering Organized Crime: International Green Machine
Sex Solicit then Threat to RE: petitioner pro se RC "Rick" Lussy Candidate 2016 &2020-24

LOCATION: Embassy Suites, Hilton-Hotel 3974 NW S. River Dr, Miami FL. 33412.

DATE: July 23, 2019, Monday night 7:45pm @ Embassy Suites.

AGENT: SSA (Sabotage Surveillance Agent) Christenson's sex solicit-&-threat
work as 5th 6th, 7th ... party for lawyer lobbyists: American Antitrust Society-&-ABA.

PHYSICAL DESCRIPTION. White woman: Ms. Christenson (volunteered 1st
name missed) HEIGHT: 5'3" at 115 pounds-heavy & pushy, grey sweat pants-top and
large deep "V Neck" horizontal stitch. Dyed blond hair-bun on top with dark roots.

HER CLAIM: to be International marketing VP Manager for Med-Line products &
Vice president of Embassy Suites-Hampton Inn-Hilton flip hand up (for others). I said: the
renovations here now are beautifully done. Reply: I know nothing of that (done 1-year).

AGENT'S QUESTION: She asked what I was doing. I said "writing a speech".

She said she is a public speaker. I asked a motivational speaker. She said Yes.
Petitioner pro se asked: "I should get your card." (She made no comment-no
answer). This petitioner pro se also said: You are surely busy 40-hours-80-hours 160
hours or more per week working. (She again made no comment-no answer).

She then said I noticed your body language. Then sexually-solicited me in body
language pushing her two legs on either side of & clutched them onto my left leg as this
petitioner pro se was sitting at a high table on a high chair inside the common area
courtesy lounge in front of the television and immediately below the camera-black-ball for
surveillance. Petitioner pro se stated "I am a commercial property appraiser, have been
since graduation from college in May 1973."

She said "It sounds a bit weak". Petitioner pro se: "I turned my head-cocked it
sideways: WHAT?" The Embassy Suites cleanup staff then came to me stating this
area closed at 7:30pm so would you please move (then 7:45pm). Petitioner pro se:
"Gladly", I got up without saying goodbye to her and walked briskly out.

She: followed (me) 600+ feet from the table to the other side/end of the common
area-atrium after I got up & walked toward the swim pool area.

Her physical left hand pushed my left shoulder with threat: "You should be
very careful" then walked away back to me 600 feet

I yelled back "about what- no answer.

Again: "about what" no answer. **END SHORT INCIDENT** →

NOTARY PUBLIC SWORN & VERIFIED

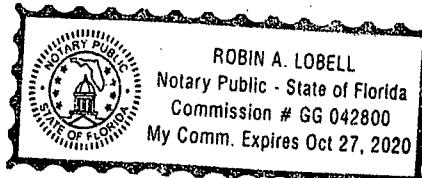
SWORN To as truth & Subscribed before me this 5th day of August, 2019, by Richard C.
Lussy, ✓ who (✓) is personally known to me or who () have produced his
Florida Drivers License Class E, No. L200-743-50-269-0 as identification: 860 Sixth Ave.
South P.O. Box 152, Naples Fla. 34106. E-mail: ricklussy@yahoo.com, Ph 239-263-5413.

By Robin Lobell

Notary Public, State of Florida

Robin Lobell

Print, Name of Notary Public



10/16/2020

(632 unread) - ricklussy@yahoo.com - Yahoo Mail

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← Back ⏪ ⏩ Archive ⏪ Move ⏪ Delete ⏪ Spam

Yahoo/Inbox



Inbox 632

Unread

Starred

Drafts 479

Sent

Archive

Spam

Trash

^ Less

Views Hide

Photos

Documents

Subscriptions

Groceries

Deals

Receipts

Travel

Folders Hide

+ New Folder

Lee County P...

Sara Marie

These 3-questions for archives please

2

 Rick Lussy <ricklussy@yahoo.com> Tue, Sep 22 at 6:29 PM
To: service@americanbar.org

To whom it concerns:

Question 1. How many members are there at the American Bar Association and at what date?

Question 2. Are all 50 states and 5-territories required to be members of the American Bar Association?

Question 3. Does "BAR" mean British Affiliation Registry?

I shall appreciate your cooperation,
Sincerely,
Rick Lussy MAI, SRA, Commercial & Extraordinary Residential
Property Appraiser
Phone (239) 263-5413
E-mail: ricklussy@yahoo.com

 ABA Member Service <service> Sat, Sep 26 at 4:37 PM
To: Rick Lussy

Greetings,

Thank you for contacting the American Bar Association. We apologize for the delay in responding.

The ABA does not disclose annual membership numbers as it is proprietary information.

The ABA is a voluntary professional membership organization and does not regulate the right to practice law. Admission to practice law is governed by the highest court of each state or territory of the United States. Membership in the ABA does not qualify its members to practice law, nor is it a requirement to be admitted to the practice of law. Rather, the mission of the ABA is to be the national representative of the legal profession, to serve the public and the profession by promoting justice, professional excellence and respect for the law.

For more information on the definition of "BAR," please visit [https://en.wikipedia.org/wiki/Bar_\(law\)](https://en.wikipedia.org/wiki/Bar_(law))

Visit our website at www.americanbar.org or contact us at www.americanbar.org/contactus. For immediate assistance, please call the ABA Service Center at 800-285-2221 or 312-988-5522 Monday-Friday between 9:00 AM and 6:00 PM ET.

Sincerely,

ABA Service Center
American Bar Association
321 North Clark Street
Chicago, IL 60654

T: 800-285-2221
F: 312-988-5850
www.americanbar.org

-----Original Message-----

From: Rick Lussy <ricklussy@yahoo.com>
Sent: Tuesday, September 22, 2020 5:30 PM



VOICE Mail Message:

"Defending
Liberty &
Pursuing
Justice"

Defending RICK Please
100 PERCENT JUST

TRIAL VERDICT DUE

Process REDUCED WITH

1- Judge State/Federal

2-Jury → 1-Jury state (Fed/State) ^{Spam!}
4-Counsel (Questioner-Answerer)

Exhibit A-8588 J. (spes? J. spes?)

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 Groceries

 Deals

 Receipts

 Travel

Folders

Hide

 New Folder

Lee County P...

Sara Marie

3rd try 2

Yahoo/Sent

McAfee Total Protection
McAfee Official Store

 **Rick Lussy** <ricklussy@yahoo...>  Thu, Feb 18 at 10:43 AM
To: Rick Lussy

I U.S. Citizen Rick Lussy am calling 911 as to make a record that my computer has been hacked with deletion of all yesterdays (Ash Wednesday) February 17, 2021 work on U.S. Supreme Court Writ of Mandamus petition.

I believe the continuation of my being targeted, stalked bullied badgered and tormented 24/7 is due to American Bar Association for these 33-years since moving from Seattle to South Florida in an unfinished CV-78-67-BU second tier lawyer malpractice lawsuit the American Bar Association is protecting itself from non-lawyer competition for its government lawyer judges. I give 3-reasons:

#1 Reason) Gov't lawyer judges have 100% market share, no competition and no consumer freedom of choice by use of express omissions, 100% concealment and insider trading-lawyers on both sides with the judge also a lawyer for self-dealing that self-pardons. Lawyers discriminate for a living. This is not correct for government to be run by lawyers at all levels of society that claim the Florida Bar Association rules are sovereign inferring there exist a jurisdictional exception Rule by their own advice. The Appraisals Institute expressly forbids any jurisdictional exception rule as sovereign to existing law by any lawyers advice to anyone as no one is to be above the law.

#2 Reason) Gov't lawyer judges are not religious 40-hour per week workers. Daily, they arrive late, leave early and take all of Friday &/or 1/2 the day off. Routinely they take more days off than public holidays allow.

#3 Reason) Gov't lawyer judges are not adequately trained as the American Bar Association accredited 3-year law schools that grant juris doctor diplomas do not require jury trial/mock trial/moot court education core courses before obtaining their juris doctor diploma. This renders them unfit to represent all clients and 100% require mollycoddling bench conferences from the gov't lawyer judge to teach them what they should have learned in 3-year law school & falsely claim to be doctors with no doctors experience what-so-ever.

This emergency 911 call requests public assist for department of law justice. I am U.S. Citizen Rick Lussy.

McAfee Total Protection
VPN - 24/7 Free Suppc

\$19.99 \$89.99

McAfee Total Protection - Premium ai identity and privacy protection for your Macs, smartphones, and tablets - all in one subscription (1-year subscription). Free

Right now



Naples Police Department
355 Riverside Circle
Naples, Florida 34102

Cleasby

Officer: *Cleasby*

Case/Call#: *71-00011801*

(239) 213-3000 Non-Emergency (24/7)

(239) 213-4890 Public Records

(239) 213-4836 Property & Evidence

www.naplespolice.com

*2/18/2021
Cleasby*

Exh. J. P.A. 8601

OFFICE OF THE COUNTY ATTORNEY

800
12/5/15
Anaconda - Deer Lodge County
800 Main Street
Anaconda, Montana 59711
Phone # (406) 563-4019
Fax # (406) 563-5018

ELLEN DONOHUE
Deputy County Attorney

Sandy Sullivan
Paralegal

BEN KRAKOWKA
County Attorney

MICHELLE SIEVERS
Deputy County Attorney

Geri Staley
Legal Secretary



11/30/2015

Richard Lussy
2840 Shoreview Drive, Apt. 2
Naples, Florida
34112-5881

RE: Request for Prosecution

Mr. Lussy

I have received and reviewed the information that you have provided to me where you are apparently requesting the prosecution of two of your brothers. After reviewing the documentation that you have sent to me I do not believe there is a prosecutable criminal offense. Further, it is important that you understand my office does not conduct investigations into criminal conduct and that such investigations are carried out by the Anaconda-Deer Lodge County Police Department. Any requests for investigation of possible criminal conduct should be forwarded to them.

Additionally, after reviewing the documents you provided to me it appears that this matter primarily consists of a family dispute regarding the distribution of an estate. Any litigation on such a matter should be dealt with in a civil proceeding and it may be in your interest to speak with an attorney about your options.

Sincerely,


Ben Krakowka
County Attorney

Exhibit A-9302 lot 2

Ben Krakowka Esq.
County Attorney
Office of the County Attorney
800 Main
Anaconda, MT 59711

neupost
12/01/2015
US POSTAGE

1st CLASS MAIL
\$00.485

ZIP 59711
041L11225122

Richard Lussy
2840 Shoreview Drive, Apt. 2
Naples, Florida
34112-5881

3411225881 0006

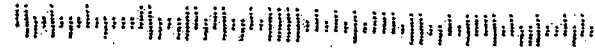


Exhibit A-8301
(back)

Ben Krakowka <bkrakowka@adlc.us>
To: ricklussy@yahoo.com
Cc: Charles Ariss

Apr 23 at 5:48 PM

1019

Mr. Lussy

Mr. Chas Ariss forwarded me your email. Are you anticipating depositions in association with the litigation. We would be happy to make our personnel available to testify if required. Also, I am curious as to the nature of the litigation.

Much of the information you seek is likely contained in the rental agreement between Anaconda-Deer Lodge County and the State of Montana. That agreement should be on file with the State or with the Clerk of the Commission.

→ Robert R. L
To County Atty

Pursuant to the right to know we will be happy to duplicate and mail an records to you. Any cost with the association of duplicating and mailing those documents will require payment in advance.

Ben Krakowka

County Attorney

From: Charles Ariss
Sent: Tuesday, April 23, 2019 3:37 PM
To: Ben Krakowka <bkrakowka@adlc.us>
Subject: FW: Courthouse Tenant: Montana Department of Revenue office space &/or home office space with Merna Green office holder

Ben:

FYI.

Ch

Exhibit A-8560 (1st)

April 23, 2018

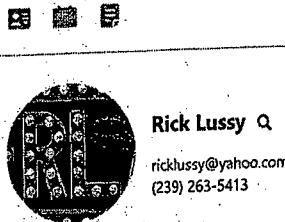
4:48 pm

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Unread

Starred

Drafts 446

Sent

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Spam

Trash

^ Less

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Photos

Documents

Deals

Receipts

Groceries

Travel

Folders Hide

+ New Folder

Lee County P...

Sara Marie

Courthouse Tenant: Montana
Department of Revenue office space
&/or home office space with Merna
Green office holder 2

Yahoo/Sent

• Rick Lussy <ricklussy@yahoo.com> Apr 23 at 4:48 PM ★
To: cariss@adlc.us

Dear Mr. Chas Ariss: Office: (406) 563-
4015 Cell (406) 479-4941

I am in litigation with the above referenced party. Would you please
answer these 7-questions.

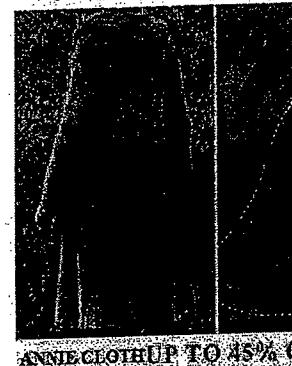
Question #1: Is that second floor courthouse space rented to the
Montana Department of Revenue?
Question #2: Is Merna Green the current occupant of that courthouse
space with Clerk of Court & Clerk & Recorder for Anaconda Deer
Lodge County Montana as neighbors on the same floor?
Question #3: Is there another lease of Anaconda Deer Lodge County
Space to the Montana Department of Revenue, Mitchell Bldg., Helena
Montana?
Question #4: Is this second floor courthouse space 100% office used
by Montana Department of Revenue?
Question #5: Is this second floor courthouse space 50% office & 50%
used for cooking, bath residence use?
Question #6: Is there anything notable about this government tenant for
the State of Montana?
Question #7: Is there any overnight-use for sleeping of this second floor
courthouse rental space?

I shall appreciate your cooperation with same questions to be delivered
to your cell phone number.

Sincerely,
Rick Lussy Esq. MAI, SRA
Phone (239) 263-5413
E-mail: ricklussy@yahoo.com



• Ben Krakowka <bkrakowka@adlc.us> Apr 23 at 5:48 PM ★
To: ricklussy@yahoo.com



ANNE CLOTHUP TO 45% 0



Newchic

Exhibit A-8580 (2 of 2)

3/26/2014 8th Court of Appeals
4/5-355-8800 → Appeal San Francisco

**U.S. District Court
District of Montana (Butte)**
CIVIL DOCKET FOR CASE #: 2:17-cv-00079-BMM-JCL

APPEAL, CLOSED, DISPF&R, F/R, PRO SE

Lussy v. Lussy et al
Assigned to: Judge Brian Morris
Referred to: Magistrate Judge Jeremiah C. Lynch
Demand: \$438,000
Case in other court: United States Court of Appeals for the
Ninth Crct, 18-35937
Cause: 28:1332 Diversity-Fraud

Date Filed: 10/23/2017
Date Terminated: 10/29/2018
Jury Demand: Plaintiff
Nature of Suit: 370 Other Fraud
Jurisdiction: Diversity

Plaintiff

Richard Charles Lussy

represented by **Richard Charles Lussy**
860 6th Avenue South
P.O. Box 152
Naples, FL 34106
239-263-5413
Email: ricklussy@yahoo.com
PRO SE

V.

Defendant

Henry Paumie Lussy

represented by **Jeffrey Wade Dahoo**
KNIGHT DAHOOD MCLEAN
EVERETT & SIEVERS
113 East Third Street
PO Box 727
Anaconda, MT 59711-0727
406-563-3424
Email: jeff_fed@kdesdlaw.com
ATTORNEY TO BE NOTICED

Defendant

Launa Lynn Roque

represented by **Jeffrey Wade Dahoo**
(See above for address)
ATTORNEY TO BE NOTICED

Defendant

Juahlee Murie Borniff

represented by **Jeffrey Wade Dahoo**
(See above for address)
ATTORNEY TO BE NOTICED

Defendant

Merna Green

*Assessors Office Montana Department of
Revenue*

Defendant

Wade J. Dahoo

represented by **Jeffrey Wade Dahoo**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text

10/23/2017	<u>1</u>	COMPLAINT against Juahlee Murie Bornff, Henry Paumie Lussy, Launa Lynn Roque, filed by Richard Charles Lussy. (Attachments: # <u>1</u> Civil Cover Sheet, # <u>2</u> Exhibits) (ELL) (Entered: 10/23/2017)
10/23/2017		Filing fee: \$ 400.00 check received from Pro Se Pla, check #162 mailed to Missoula to be receipted. (ELL) (Entered: 10/23/2017)
10/23/2017	<u>2</u>	Summons Issued as to Juahlee Murie Bornff, Henry Paumie Lussy, Launa Lynn Roque. Original and 5 copies each mailed to pro se Plaintiff for service. (ELL) (Entered: 10/23/2017)
10/23/2017	<u>3</u>	NOTICE OF CASE OPENING (Attachments: # <u>1</u> Pro Se Request to File by Email Form) (ELL) (Entered: 10/23/2017)
10/23/2017	<u>4</u>	NOTICE to Pro Se Litigants and Consent to Electronic Service (Attachments: # <u>1</u> Consent Form) (ELL) (Entered: 10/23/2017)
10/30/2017	<u>5</u>	NOTICE AND CONSENT TO ELECTRONIC SERVICE by Richard Charles Lussy (ELL) (Entered: 10/30/2017)
10/30/2017	<u>6</u>	Pro Se Request for Leave to File by E-mail by Richard Charles Lussy. (ELL) (Entered: 10/30/2017)
11/03/2017	<u>7</u>	Agreement to Allow Pro Se Party to File by E-Mail. (ELL) (Entered: 11/03/2017)
11/08/2017	<u>8</u>	AMENDED COMPLAINT with Exhibits against Richard Charles Lussy, Juahlee Murie Bornff, Wade J. Dahoo, Henry Paumie Lussy, Merna Green, Launa Lynn Roque, filed by Richard Charles Lussy. (ELL) (Entered: 11/08/2017)
11/08/2017	<u>9</u>	Summons Reissued as to Juahlee Murie Bornff, Henry Paumie Lussy, Launa Lynn Roque. Original and 5 copies to pro se Pla for service. (ELL) (Entered: 11/08/2017)
11/08/2017	<u>10</u>	Summons Issued as to Wade J. Dahoo, Merna Green. Original and 5 copies ea to pro se pla for service. (ELL) (Entered: 11/08/2017)
12/11/2017	<u>11</u>	MOTION for Default Judgment as to Launa Lynn Roque and Juahlee Murie Bornff by Plaintiff Richard Charles Lussy Motions referred to Jeremiah C. Lynch. (Attachments: # <u>1</u> Summons Returned, # <u>2</u> Text of Proposed Order) (ELL) (Entered: 12/11/2017)
12/13/2017	<u>12</u>	First MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM Jeffrey Wade Dahoo appearing for Defendant Wade J. Dahoo Motions referred to Jeremiah C. Lynch. (Dahoo, Jeffrey) (Entered: 12/13/2017)
12/13/2017	<u>13</u>	Brief in Support of MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM Jeffrey Wade Dahoo appearing for Defendant Wade J. Dahoo Motions referred to Jeremiah C. Lynch. (Dahoo, Jeffrey) Modified on 12/18/2017 to reflect changing event from Motion to a Brief (APP). Modified on 12/18/2017 to create relationship to <u>12</u> Motion (APP). (Entered: 12/13/2017)
12/14/2017	<u>14</u>	SUMMONS Returned Executed by Richard Charles Lussy. Juahlee Murie Bornff answer due 11/18/2017; Wade J. Dahoo answer due 11/27/2017; Henry Paumie Lussy answer due 12/1/2017; Merna Green answer due 11/27/2017; Launa Lynn Roque answer due 11/18/2017. (ELL) (Entered: 12/14/2017)
12/15/2017	<u>15</u>	AMENDED MOTION for Default Judgment as to Launa Lynn Roque and Juahlee Murie Bornff by Plaintiff Richard Charles Lussy Motions referred to Jeremiah C. Lynch. (Attachments: # <u>1</u> Text of Proposed Order) (ELL) (Entered: 12/18/2017)
12/19/2017	<u>16</u>	TEXT ORDER. Plaintiff having filed an amended motion requesting the entry of default judgment (doc.15), Plaintiff's original motion for default judgment (doc.11) is denied as moot. SO ORDERED. Signed by Magistrate Judge Jeremiah C. Lynch on 12/19/2017. (Lynch, Jeremiah) (Entered: 12/19/2017)
12/20/2017	<u>17</u>	MOTION for Default Judgment as to Merna Green Assessors Office Montana Department of Revenue by Plaintiff Richard Charles Lussy Motions referred to Jeremiah C. Lynch. (Attachments: # <u>1</u> Text of Proposed Order) (ELL) (Entered: 12/20/2017)
12/20/2017	<u>18</u>	MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM Jeffrey Wade Dahoo appearing for Defendant Juahlee Murie Bornff Motions referred to Jeremiah C. Lynch.

		(Dahood, Jeffrey) Modified on 3/29/2018 to reinstate this motion for oral argument on 4/6/18 (APP). (Entered: 12/20/2017)
12/20/2017	<u>19</u>	Brief in Support of <u>18</u> Motion Jeffrey Wade Dahood appearing for Defendant Juahlee Murie Bornff Motions referred to Jeremiah C. Lynch. (Dahood, Jeffrey) Modified on 12/22/2017 to correct entry from a Motion to a Brief and created relationship to <u>18</u> Motion (APP). (Entered: 12/20/2017)
12/21/2017	<u>20</u>	RESPONSE to Motion re <u>15</u> Amended MOTION for Default Judgment as to filed by Juahlee Murie Bornff. (Dahood, Jeffrey) Modified to correct linkage. (NOS) (Entered: 12/21/2017)
01/05/2018	<u>21</u>	REPLY to Response to Motion re <u>15</u> Amended MOTION for Default Judgment as to filed by Richard Charles Lussy. (TAG) (Entered: 01/05/2018)
01/05/2018	<u>22</u>	RESPONSE to Motion re <u>12</u> First MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM filed by Richard Charles Lussy. (TAG) (Entered: 01/05/2018)
01/05/2018	<u>23</u>	RESPONSE to Motion re <u>18</u> MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM filed by Richard Charles Lussy. (TAG) (Entered: 01/05/2018)
01/10/2018	<u>24</u>	MOTION for Protective Order by Plaintiff Richard Charles Lussy. Motions referred to Jeremiah C. Lynch. (Attachments: # <u>1</u> Text of Proposed Order) (TAG) (Entered: 01/10/2018)
01/11/2018	<u>25</u>	TEXT ORDER. Having given due consideration to Plaintiff Lusssys motion for protective order (doc.24), the Court deems it appropriate to deny the motion. SO ORDERED. Signed by Magistrate Judge Jeremiah C. Lynch on 1/11/2018. (Lynch, Jeremiah) (Entered: 01/11/2018)
01/19/2018	<u>26</u>	REPLY to Response to Motion re <u>18</u> MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM filed by Henry Paumie Lussy. (Dahood, Jeffrey) (Modified to correct linkage to motion.) (NOS) (Entered: 01/19/2018)
01/19/2018	<u>27</u>	REPLY to Response to Motion re <u>12</u> MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM filed by Wade J. Dahood. (Dahood, Jeffrey) (Modified to correct linkage to motion.) (NOS) (Entered: 01/19/2018)
01/22/2018	<u>28</u>	Second Answer Affidavit/Sur-Reply to Reply to Response to Motion re <u>12</u> First MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM filed by Richard Charles Lussy. (NOS) (Entered: 01/22/2018)
01/22/2018	<u>29</u>	Second Answer Affidavit/Sur-Reply to Reply to Response to Motion re <u>18</u> MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM filed by Richard Charles Lussy. (NOS) (Entered: 01/22/2018)
01/23/2018	<u>30</u>	ORDER granting <u>15</u> MOTION for for entry of Default and directing the Clerk of Court to enter Launa Roque and Juahlee Bornff's default. Motions terminated: <u>15</u> MOTION for Default Judgment as to filed by Richard Charles Lussy., FINDINGS AND RECOMMENDATIONS re <u>18</u> MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM filed by Juahlee Murie Bornff. () Signed by Magistrate Judge Jeremiah C. Lynch on 1/23/2018. (TCL) (Entered: 01/23/2018)
01/23/2018	<u>31</u>	Clerk's ENTRY OF DEFAULT as to Launa Lynn Roque and Juahlee Murie Bornff. (NOS) (Entered: 01/23/2018)
01/23/2018	<u>32</u>	ORDER granting <u>17</u> Motion for entry of Default. The Clerk of Court is directed to enter Defendant Merna Green's default. Signed by Magistrate Judge Jeremiah C. Lynch on 1/23/2018. (TCL) (Entered: 01/23/2018)
01/23/2018	<u>33</u>	Clerk's ENTRY OF DEFAULT as to Merna Green. (NOS) (Entered: 01/23/2018)
01/31/2018	<u>34</u>	NOTICE of Attorney-in-Fact-Written Contract by Richard Charles Lussy. (NOS) (Entered: 01/31/2018)
02/02/2018	<u>35</u>	MOTION for Default Judgment as to Merna Green by Plaintiff Richard Charles Lussy. Motions referred to Jeremiah C. Lynch. (Attachment(s): # <u>1</u> Text of Proposed Order) (NOS). (Documents modified to replace/separate motion and prop ord.) (NOS). (Entered: 02/02/2018)

02/02/2018	<u>36</u>	Brief/Memorandum in Support re <u>35</u> MOTION for Default Judgment as to Merna Green filed by Richard Charles Lussy. (NOS) (Entered: 02/02/2018)
02/02/2018	<u>37</u>	MOTION for Default Judgment as to Launa Lynn Roque and Juahlee Murie Bornff by Plaintiff Richard Charles Lussy. Motions referred to Jeremiah C. Lynch. (Attachments: # <u>1</u> Text of Proposed Order) (NOS) (Entered: 02/02/2018)
02/02/2018	<u>38</u>	Brief/Memorandum in Support re <u>37</u> MOTION for Default Judgment as to Launa Lynn Roque and Juahlee Murie Bornff filed by Richard Charles Lussy. (NOS) (Entered: 02/02/2018)
02/05/2018	<u>39</u>	First MOTION to Set Aside Judgment. Jeffrey Wade Dahoood appearing for Defendants Juahlee Murie Bornff and Launa Lynn Roque. Motions referred to Jeremiah C. Lynch. (Dahoood, Jeffrey) (NOS) (Entered: 02/05/2018)
02/05/2018	<u>40</u>	Brief/Memorandum in Support re <u>39</u> Motion to Set Aside Judgment as to Juahlee Murie Bornff and Launa Lynn Roque filed by Jeffrey Dahoood. (Dahoood, Jeffrey) (Modified to change event type from Motion to Brief; docket text updated.) (NOS) (Entered: 02/05/2018)
02/07/2018	<u>41</u>	ORDER ADOPTING <u>30</u> FINDINGS AND RECOMMENDATIONS; denying <u>18</u> Motion to Dismiss for Failure to State a Claim. Signed by Judge Brian Morris on 2/6/2018. (TAG) Modified on 2/7/2018 to correctly indicate signing date (TAG). (Entered: 02/07/2018)
02/19/2018	<u>42</u>	RESPONSE to Motion re <u>39</u> First MOTION to Set Aside Judgment filed by Richard Charles Lussy. (NOS) (Entered: 02/20/2018)
02/23/2018	<u>43</u>	FINDINGS AND RECOMMENDATIONS re <u>39</u> First MOTION to Set Aside Judgment filed by Juahlee Murie Bornff, <u>37</u> MOTION for Default Judgment as to filed by Richard Charles Lussy. Signed by Magistrate Judge Jeremiah C. Lynch on 2/23/2018. (TXB) (Entered: 02/23/2018)
02/28/2018	<u>44</u>	REPLY to Response to Motion re <u>15</u> MOTION for Default Judgment as to, <u>11</u> MOTION for Default Judgment as to filed by Juahlee Murie Bornff. (Dahoood, Jeffrey) (Entered: 02/28/2018)
03/07/2018	<u>45</u>	MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM Jeffrey Wade Dahoood appearing for Defendant Juahlee Murie Bornff Motions referred to Jeremiah C. Lynch. (Dahoood, Jeffrey) (Entered: 03/07/2018)
03/07/2018	<u>46</u>	Brief/Memorandum in Support re <u>45</u> Motion to Set Aside Judgment as to Juahlee Murie Bornff and Launa Lynn Roque filed by Jeffrey Dahoood. (Dahoood, Jeffrey) (Modified to change event type from Motion to Brief; docket text updated.) (NOS) (Entered: 03/07/2018)
03/08/2018	<u>47</u>	Notice of Correction: re <u>46</u> MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM . The filing error relates to: Incorrect Docket Event used. See the attached document for a brief description of the error made. (NOS) (Entered: 03/08/2018)
03/13/2018	<u>48</u>	ORDER Setting Hearing on Motion <u>35</u> MOTION for Default Judgment as to : Motion Hearing set for 4/6/2018 at 10:00 AM in Missoula, MT before Magistrate Judge Jeremiah C. Lynch. Signed by Magistrate Judge Jeremiah C. Lynch on 3/13/2018. (TXB) (Entered: 03/13/2018)
03/16/2018	<u>49</u>	MOTION for Leave to Appear Telephonically at the April 6, 2018, Motion Hearing by Plaintiff Richard Charles Lussy. Motions referred to Jeremiah C. Lynch. (Attachments: # <u>1</u> Text of Proposed Order) (NOS) (Entered: 03/16/2018)
03/16/2018	<u>50</u>	Brief/Memorandum in Support re <u>49</u> MOTION for Leave to Appear Appear Telephonically filed by Richard Charles Lussy. (Attachments: # <u>1</u> Bill of Costs) (NOS) (Entered: 03/16/2018)
03/16/2018	<u>51</u>	TEXT ORDER, Plaintiff Lussys motion leave to appear by telephone/videoconference <u>49</u> is denied. SO ORDERED. Signed by Magistrate Judge Jeremiah C. Lynch on 3/16/2018. (Lynch, Jeremiah) Modified on 3/19/2018 to create linkage to doc. 49 (CDH). (Entered: 03/16/2018)

03/21/2018	<u>52</u>	ORDER Setting Hearing on Motion <u>45</u> MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM , <u>12</u> First MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM : Motion Hearing set for 4/6/2018 at 10:00 AM in Missoula, MT before Magistrate Judge Jeremiah C. Lynch. Signed by Magistrate Judge Jeremiah C. Lynch on 3/21/2018. (TXB) Modified on 3/22/2018 to reflect Julie Lake will be here (APP). (Entered: 03/21/2018)
03/26/2018	<u>53</u>	First MOTION hearing Jeffrey Wade Dahoo appearing for Defendant Henry Paumie Lussy Motions referred to Jeremiah C. Lynch. (Dahoo, Jeffrey) (Entered: 03/26/2018)
03/29/2018	<u>54</u>	ORDER granting <u>53</u> Motion Signed by Magistrate Judge Jeremiah C. Lynch on 3/29/2018. IT IS HEREBY ORDERED that Oral argument on Defendant's Motion <u>18</u> will be held on April 6, 2018, at 10:00 a.m., at the Russell Smith Federal Courthouse, in Missoula. (TXB) Modified on 3/29/2018 to add text of hearing (MMS). (Entered: 03/29/2018)
03/29/2018	<u>55</u>	REPLY to Response to Motion re <u>12</u> First MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM, <u>18</u> MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM, <u>45</u> MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM filed by Richard Charles Lussy. (Attachments: # <u>1</u> Text of Proposed Order) (NOS) (Entered: 04/02/2018)
04/02/2018	<u>56</u>	MOTION for Leave to File Retrospective Doc. <u>55</u> Reply Brief by Plaintiff Richard Charles Lussy. Motions referred to Jeremiah C. Lynch. (NOS) (Entered: 04/02/2018)
04/05/2018	<u>57</u>	ORDER ADOPTING <u>43</u> FINDINGS AND RECOMMENDATIONS in full; denying <u>37</u> Motion for Default Judgment; granting <u>39</u> Motion to Set Aside the Entry of Default. Signed by Judge Brian Morris on 4/5/2018. (NOS) (Entered: 04/05/2018)
04/06/2018	<u>58</u>	MINUTE ENTRY for proceedings held before Magistrate Judge Jeremiah C. Lynch; Motion Hearing held on 4/6/2018; Pro se Plaintiff Richard Lussy present, Jeff Dahoo present on behalf of Defendants Henry Lussy, Launa Roque, Juahlee Bornff, and Wade Dahoo; Written order to follow; Hearing commenced at 10:05 a.m. and concluded at 11:36 a.m. (Court Reporter Julie Lake.) (Hearing held in Missoula) (APP) (Entered: 04/06/2018)
04/09/2018	<u>59</u>	TRANSCRIPT DESIGNATION ORDER FORM by Richard Charles Lussy for proceedings held on April 6, 2018, before Judge Jeremiah C. Lynch. Court reporter Julie Lake. Transcript due by 5/17/2018. (NOS) (Entered: 04/09/2018)
04/16/2018	<u>60</u>	NOTICE of filing by Richard Charles Lussy (APP) (Entered: 04/17/2018)
04/23/2018	<u>61</u>	TRANSCRIPT of Motion Hearing re <u>58</u> Motion Hearing held on 4/6/18 before Judge Lynch. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER, the Clerks Office or the court reporter NOTICE: A NOTICE OF INTENT TO REQUEST REDACTION MUST BE FILED WITHIN 14 DAYS OF THIS FILING. Contact Court Reporter Julie Lake, 406-543-6477. For further information, please see the Transcript Redaction Procedure and Schedule on the Court Reporters page of our website. Redaction Request due 5/14/2018. Redacted Transcript Deadline set for 5/24/2018. Release of Transcript Restriction set for 7/23/2018. (APP) (Entered: 04/23/2018)
04/25/2018	<u>62</u>	Objection re <u>60</u> Notice of Filing by Richard Charles Lussy. (Dahoo, Jeffrey) (Modified to link to Notice.) (NOS) (Entered: 04/25/2018)
05/02/2018	<u>63</u> <i>15- P-P</i>	FINDINGS AND RECOMMENDATIONS re <u>45</u> MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM filed by Juahlee Murie Bornff, <u>18</u> MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM filed by Juahlee Murie Bornff, <u>12</u> First MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM filed by Wade J. Dahoo, <u>35</u> MOTION for Default Judgment as to filed by Richard Charles Lussy. Signed by Magistrate Judge Jeremiah C. Lynch on 5/2/2018. (TXB) (Entered: 05/02/2018)
05/15/2018	<u>64</u> <i>L</i>	OBJECTION to <u>63</u> Findings and Recommendations filed by Richard Charles Lussy. (APP) (Entered: 05/15/2018)

05/22/2018	65 <i>(X)</i>	AFFIDAVIT/DECLARATION re <u>63</u> FINDINGS AND RECOMMENDATIONS re <u>45</u> MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM filed by Juahlee Murie Bornff, <u>18</u> MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM filed by Juahlee Murie Bornff, <u>12</u> First MOTION TO DISMISS FOR by Richard Charles Lussy. (APP) (Entered: 05/22/2018)
		MURIE BORNFF, JUAHLEE 406-542-7260 <i>406-542-7260</i> <i>65 Le B J</i>
(239) 213-3000		Naples Police Department
		<u>63</u> FINDINGS AND RECOMMENDATIONS; granting <u>45</u> Failure to State a Claim; granting <u>12</u> Motion to Dismiss for; granting <u>18</u> Motion to Dismiss for Failure to State a Claim; Default Judgment. Signed by Judge Brian Morris on (Entered: 10/29/2018)
		T (APP) (Entered: 10/30/2018)
		as to <u>67</u> Clerk's Judgment by Richard Charles Lussy. Filing fee NOT PAID. (APP) (Entered: 11/01/2018)
		8-35937 and Time Scheduling Order for <u>68</u> Notice of Appeal by Lussy. (APP) (Entered: 11/02/2018)
		Received \$ 505.00 receipt number MTX9-12978 re <u>68</u> Notice of d Charles Lussy (APP) (Entered: 11/05/2018)
		JSCA as to <u>68</u> Notice of Appeal filed by Richard Charles Lussy (Entered: 03/06/2020)
03/31/2020	71	MANDATE OF USCA as to <u>68</u> Notice of Appeal filed by Richard Charles Lussy (APP) (Entered: 03/31/2020)
06/09/2020	72	Document received from U.S. Supreme Court re <u>68</u> Notice of Appeal filed by Richard Charles Lussy. The petition for a writ of certiorari in the above-entitled case was filed on May 27, 2020 and placed on the docket June 7, 2020 as No. 19-8630. (SLR) (Entered: 06/09/2020)
06/24/2020	73	ORDER of USCA as to <u>68</u> Notice of Appeal filed by Richard Charles Lussy. We treat Lussy's petition for panel rehearing as a motion to recall the mandate, and deny the motion. No further filings will be entertained in this closed case. (SLR) (Entered: 06/24/2020)
10/06/2020	74	Document received from U.S. Supreme Court: The petition for a writ of certiorari is denied. (ACC) (Entered: 10/06/2020)
01/13/2021	75	Document received from U.S. Supreme Court: The Court today entered the following order in the above-entitled case: The petition for rehearing is denied. The Chief Justice took no part in the consideration or decision of this petition. (SLR) (Entered: 01/13/2021)

*(X) Kelley M. Sauer Deputy Clerk 406-542-7260
Said documents #64-#65 are the same.
Cannot file as Plain Exception to Findings & Recommendations (Document)*

UNITED STATES DISTRICT COURT
For the Montana District of Missoula
Butte Division
Case Number CV-17-79-BU-BMM-JCL

RICHARD CHARLES LUSSY Plaintiff)
-v-)
HENRY PAUMIE LUSSY, LAUNA LYNN ROQUE,)
JUAHLEE MURIE BORNFF, MERNA GREEN ASSESSORS)
OFFICE MONTANA DEPARTMENT OF REVENUE, AND)
WADE J. DAHOOD ESQ. Defendants)

NOT GOOD BEHAVIOR[¶] OF JEREMIAH C. LYNCH UNITED STATES
MAGISTRATE JUDGE IS A VIOLATION OF UNITED STATES
CONSTITUTION ARTICLE III JUDICIARY § 1.

STATE OF FLORIDA) AFFIDAVIT
County of Collier)

Richard Charles Lussy aka HON RICK ESQ signed below, for himself individually, affirms and states as follows: Under penalties of perjury, I declare that I have written & read the foregoing and that the facts stated in it are true.

(1) WHO→ Continued United States Government employment-pension: Jeremiah C. Lynch U.S. Magistrate Judge before recording-transcript-dismissal-deny default-judgment Merna Green Deer Lodge Cty Assessor Revenue Dept. etc. et al issues.

(2) WHERE→ April 6, 2018 Oral Argument: Missoula Montana, after 10:00 am.

(3) WHAT→ Judge Lynch's not-good behavior[¶] is a violation of U.S. Constitution Article III Judiciary § 1 [FN#1] currently at issue before both

[¶]US Article III Judiciary Section 1. The judicial power of the United States, shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish. The judges, both of the supreme and inferior courts, shall hold their offices during good behaviour, (sic) and shall, at stated times, receive for their services, a compensation, which shall not be diminished during their continuance in office. (Emphasis added).

transcript delivery (paid with check mailed April 11, 2018) & 2-Orders including a Default Judgment.

(3-i) The sole remedy is a 100% jury trial verdict due process redress³ to him and the Amended Complaint Document 8 pursuant non-negotiable U.S. Constitution Seventh Amendment⁴ predicate Document 59, FTR Gold Recording and Transcript.

(3-ii) The positive long lasting remedy: Moral Not Political. These United States of America is a good country, let us make it better with non-discrimination policy: MAI (Member Appraisal Institute), SRA (Senior Residential Appraiser), CPA (Certified Public Accountant) competition against the discrimination policy of lawyer government employee judges. After pleading 100% Jury Trial Verdict Due

Proposed HON RICK ESQ'S Bad Behavior definition: 1. Violation of any petitioned, particular specific in order of priority: (A) U.S. Constitution, (B) Codified-State Statute, (C) or Rule of civil-criminal procedure addressed in Joe Negron Esq. Rule & Albert Foer Esq. Rule to terminate employment-pensions of the public servant & subject employee(s) requires personal individual financial responsibility. 2. And/or any combination of "on the job" treatment of public: three bad attitude traits with at least two witnesses per incident/existing credible transcript-recording to verify the violation(s). ... and/or 3. And/or City, County, State or unincorporated community area, Federal public servants are to be personally liable-culpable, holding harmless all, 100% of registered voter taxpayers (RVT); (i) ...champerty, behavior against any candidate-agent; 4. And/or any part of a target-stalk-bully-badger-torment sting operation 5. And/or any secret payment by bad character, &/or to secure secret dead peasant insurance to secretly collect monies as public servants are in control.... 6. And/or any 24/7 surveillance, phone tap, personal coming-and-goings, wet blanket sting, death by 100,000 cuts, scorched earth policies ... public tax payments, for job security in public "trust" that does no benefit for sole owners of monopoly government: registered voter taxpayers (RVT) that pay public salaries by taxation.

A 100% jury trial verdict due process requires 2-judges, 1-Naples, Florida State Judge and 1-US District Court Judge concurrent as the small claims court (only jurisdiction for "vexatious" litigant) with 2-juror sworn oaths 1 juror oath for juror individual signatures, written by HON RICK ESQ with jury instructions. All Florida Statutes shall be in jury instructions without editing, never before done in Florida State history during jury trial before jury verdict(s).

U.S. Constitution Amendment VII [Common Law Suits - Jury Trial (1791)] In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury

Process Redress (with 4-video cameras) to implement the Missing (1819) 13TH Amendment AKA Title of Nobility Amendment Permitting Competition Against lawyers as with Document 8: court certification Fed. Rule Civil Procedure/Montana Rule Civil Procedure 5.1, as similar.

(3-iii) The bad attitude, not neutral, despite Judge Lynch's insincere words, was bombastic to myself: HON RICK ESQ, a little person; to correct manipulated & falsified public records in comity with Fla. Criminal Statute 839.13(2)(d) Document 8. With a pending issue to reopen CV 78-67-BU case records⁵ not time barred April 10, 2018, Exhibit A-8538 from Ms. Coleen Hanley Chief Deputy of Operations.

- o Concurrent delay schedule Naples, FL. expert witness Joann Bartolomeo, 97-year old, animated-demonstrative Hospice-Avow-care; grows weaker daily.

(3-iv) Judge Lynch's personal patronage-tribute to the American Bar Association 100% market share, no competition, no consumer freedom of choice: lawyer Dahoo. His lack of candor is extraneous. His arrogant-attitude-swaggering body language, purposeful forgetfulness of the primary motion for hearing till the end: *Merna Green Anaconda-Deer Lodge County Assessor, Montana Department of Revenue*, as it was too much money \$400K+. All preceded with claim of a *settled probate not in public*

shall be preserved, and no fact tried by a jury, shall be otherwise re-examined in any Court of United States, than according to rules of the common law.

OFFICE OF THE CLERK UNITED STATES DISTRICT COURT FOR THE District of Montana Tyler Gilman Clerk of Court, Beth Conley Chief Deputy Clerk, February 18, 2015. Dear Mr. Lussy, I regret to inform you that I am unable to supply copies of the documents you requested in Case CV 78-67-BU, as the case file has been destroyed. I apologize for the inconvenience this has caused. Sincerely, Beth Conley Chief Deputy Ph 406-542-7260, FAX 406-542-7272 Russell E. Smith Courthouse, P.O. Box 8537, 201 E Broadway, Missoula, MT 59807.

STATE OF FLORIDA)

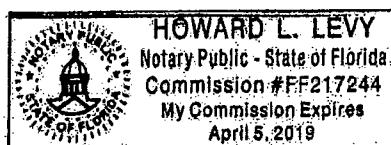
AFFIDAVIT

County of Collier)

The individual signed below, for himself individually, affirms and states as follows: Under penalties of perjury, I declare that I have written & read the foregoing REPLY BRIEF AFFIDAVIT and that the facts stated in it are true.

By RICK Richard C. Lussy a.k.a R.C. "Rick" Lussy with optional Esquire entitlement aka HON RICK ESQ, Plaintiff/Petitioner/Appellant pro se, Attorney-in-Fact Candidate For Property Appraiser (R), Florida State Certified General Real Estate Appraiser #RZ001564, Florida License #SL531638 & International Appraisal Institute Designation No. 902668, Esquire Entitlement Exhibit A-1386; Address: 860 Sixth Avenue South, P.O. Box 152, Naples, FL. 34106, (239) 263-5413, E-mail: ricklussy@yahoo.com

VERIFIED, SWORN TO AND SUBSCRIBED before me this 16th day of April 2018, by Richard C. Lussy, who is personally known to me or who has produced his Florida Drivers License as identification.



(SEAL)

By Howard L. Levy
Notary Public, State of Florida

Howard L. Levy
Print, Type, or Name of Notary Public

CERTIFICATE OF SERVICE this 16TH, day, April, 2018 by RICK Rick Lussy

1-E-Mail filing only to: Clerk of U.S. District Court System Missoula Mont. RE prosepleadings.org.

2-U.S. Mail & FAX To: Chief Judge Hon. Dana L. Christensen, James F. Battin Federal Courthouse 2601 2nd Ave. N. Billings, MT 59101 Clerk's Office (406) 247-7000 Clerk's Office Fax (406) 247-7008.

3-U.S. Mail & E-mail To: Jeffrey W. Dahood Esq., KNIGHT & DAHOOD, 113 East Third Street, P.O. Box 727, Anaconda, Montana 59711 Phone (406) 563-3424 and E-mail: jef_fed@kdeslaw.com

3-Page Attach't: Exhibit A-8539 Ms. Suzie Kruger Clerk Deer Lodge County Ct;
Exhibit A-8538 (2-page) Chief Deputy of Operations Missoula MT. Court.

record Exhibit A-8539, att'd. Judge Lynch took no sworn Dahood Esq. statement: just hearsay.

- Elder abuse by belligerent older incompetent brother Henry Paumie Lussy refused to appeal taxes (estate diminution) affidavits, provided similar to Document 8. Merna Green's control of County Assessment appeals, Helena will not interfere.
- Judge Lynch's bad behavior, is an "externality" delay by blocking & stopping the legal process, is a misuse of U.S. Tax monies that lawyer judges boast-of-relish.⁶
- This willful-arrogance to cause an appeal will delay this Federal Case while the two new DV-18-37 Wade J. Dahood v Richard C. Lussy & DV-18-38, Henry P. Lussy v. Richard C. Lussy continue as both lawyer Dahood's refuse to answer the Complaints to proceed into routine discovery in preparation of 100% jury trial verdict due process redress.

(3-v) Judge Lynch is under Oath of office. This is not good behavior of judge Lynch to cave under political lawyer pressure rather than law enforcement. To give preference to "probate" hearsay pleadings that are to be impeached, as opposite to sworn affidavit pleadings from primary source: plaintiff pro se. Judges have no choice but to weigh sworn affidavit pleadings as superior to any lawyer's hearsay as unsworn testimony. This U.S.-Montana evidence is a violation.

(3-vi) The U.S. Supreme Court Writ of Certiorari will not correct errors as evidenced in my December 10, 2017 submission. If local judges refuse, a 100% jury trial verdict-due-process-redress all is lost as this is within the lawyer monopoly's restraint of trade. Remedy circulars to necessary (1819) Missing 13th Amendment.

(3-vii) I bode Judge Lynch no ill will, yet his not-good behavior is of a bully who must be served a piece of humble pie.

⁶Judge Friendly put it well: "[w]ithin the limits of professional propriety, causing delay and sowing confusion not only are [lawyer's] right but may be his duty." Rebooting Justice "More Technology, Fewer Lawyers, And The Future of Law", Barton & Bibas Esq. (2017) Page 108.





you
Fwd by
4/13/18

United States Courts
District of Montana

TYLER P. GILMAN, CLERK OF COURT
BETH CONLEY, CHIEF DEPUTY OF ADMINISTRATION
COLEEN HANLEY, CHIEF DEPUTY OF OPERATIONS
DISTRICT OF MONTANA

RUSSELL E. SMITH COURTHOUSE
201 E. BROADWAY
MISSOULA, MT 59802
TELEPHONE: 406-542-7260

April 10, 2018

Richard Lussy
P.O. Box 152
Naples, FL 34106

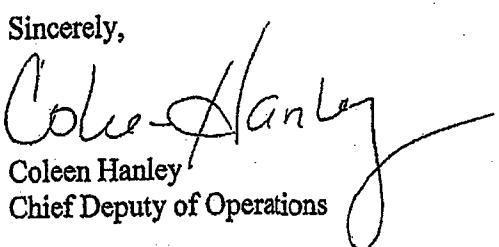
Dear Mr. Lussy:

I am writing in response to your voice mail and written correspondence to Chief Deputy Beth Conley, dated April 10, 2018.

Please be advised that there is no fee required to file a motion to reopen a civil case in federal court. If you wish to bring a matter to the Court's attention, you are welcome to do so by filing a written pleading. If you wish to file a new civil complaint, the filing fee is \$400.00 which you may remit upon filing of the complaint.

Thank you.

Sincerely,


Coleen Hanley
Chief Deputy of Operations

Exh.Jt A-8538(108)

**DISTRICT OF MONTANA
OFFICE OF
CLERK, U.S. DISTRICT COURT
P.O. BOX 8537
MISSOULA, MONTANA 59807**

OFFICIAL BUSINESS

Richard Lussy
P.O. Box 152
Naples, FL 34106

3410680152

quidlibet nullus est quod non est in se, et quod non est in se non est nisi in aliis.

Exhibit A-8538 (2 of 2)

Richard Lussy & Associates

UNITED STATES DISTRICT COURT

For the
Montana District of Missoula
Butte Division

Case Number CV-17-79-BU-BMM-JCL

RICHARD CHARLES LUSSY

Plaintiff)

-v-

HENRY PAUMIE LUSSY, LAUNA LYNN ROQUE,)

JENAHLEE MURIE BORNFF, MERNA GREEN ASSESSORS)

OFFICE MONTANA DEPARTMENT OF REVENUE, AND)

WADE J. DAHOOD ESQ. Defendants)

ELEVEN EXCEPTIONS To: FINDINGS & RECOMMENDATION (DOCUMENT #63) SUBSTANTIVE PROCEDURE, LAW & FACT ERRORS THAT JUDGE BRIAN MORRIS IS JUSTIFIED TO 100% THROW OUT AS A DOUBLE NEGATIVE IS AN AFFIRMATIVE: 100% FRAUD ON COURT BY OFFICER OF COURT'S FALLIBLE COURT JUDGE LYNCH: NO-GOOD BEHAVIOR US ARTICLE III § 1: AFFIDAVIT AFFIRMATIVE DEFENSE ALLOW LEAVE TO AMEND COMPLAINT & RESTATEMENT OF (\$89,828.56) DEFAULT.

STATE OF FLORIDA)
ss

COUNTY OF COLLIER)

Richard C. Lussy ("RCL") is sworn & timely deposes in 14-days this Answer:

Synopsis Rule Of Law(s) Plead In Complaint. U.S. Magistrate Jeremiah C. Lynch ("JCL") comes to us with his order clearly erroneous & contrary to existing procedure, law & fact through the five of the six defendants motion to dismiss, for failure to state a claim. He unreasonably claims RCL Complaint Document 8, Jurisdiction page 2 of 82 is moot in his Doc. #63, Page 1-2 Lines 1-6 & 1. And that Doc. #1 included a revocable living trust, which is denied by both lawyer Dahood's' Doc. #63 page 2 Line 5. In addition Magistrate JCL states RCL's footnotes are essentially unintelligible Doc. #63, page 4 Line 18. Magistrate JCL uses the ossified pre-1776 Old English Barrister-Solicitor's "interpretation" (cherry picking) of the written word as lawful. This is opposite to RCL's

functional literacy and U.S. Justice Scalia's textualism[FN#24] understanding of existing law. Also RCL use of numerous footnotes is to prove this non-lawyer understands what he reads & is not inferior to lawyers self-administered, self-immunization of 100% anti-trust policy failure, 100% market share, no competition & no consumer freedom of choice. All adequately addressed in two-federal issues that include U.S. Missing (1819) 13th Amendment Doc. #8, pp 6-20.

Magistrate JCL erroneously refers in Doc. #63, P4, L9 that RCL Doc. #8, consists of 38-single spaced pages from the form authorized-for-use by U.S. District Court Web page. This is taken as a brass knuckle sucker punch to RCL's stomach. Magistrate JCL's not-good behavior[FN#2] proof is by extrajudicial personal bias[FN#60] against RCL by his mollycoddling[FN#45] opposing counsel's ten-single spaced 12" font Motions for Dismissal that are reoccurring violations for sanction pursuant Montana Local Federal Rule 1.5(a)(2). All ten-dismissal motions by Jeffrey Wade Dahoo Esq. ("JWD") as opposing lawyer requires a spaced, 14-font presentation and none were. With JWD's particularity boast demonstrated in Missoula on April 6, 2018, this non-compliance is fatal: Doc. #12, #13, #28 for his defendant father Wade J. Dahoo Esq. ("WJD"); Doc. #18, #19 & #23 for defendant Henry Paumie Lussy ("HPL") and Doc. #19, #29, #45 & #46 for defendant HPL's 2-daughter Defendants Launa Lynn Roque ("LLR") & Jenahlee Murie Bornff ("JMB"). This non-compliance to procedure-presentation 100% demonstrate Magistrate JCL is in personal-extra-judicial bias[FN#60] and is a fatal missive for remand to trial court with leave to Amend complaint favorable to Plaintiff pro se RCL. There is plenty more, read on.

Magistrate JCL is complained about by Plaintiff pro se RCL, who applies 28 USC § 636 (b)(1)(A) against Magistrate JCL's "dismissal" for failure to state a claim & procedural default "denial" Merna Green, County Assessor, Helena

Montana Department of Revenue of (\$89,828.56) after Magistrate JCL's \$440,000-\$500,000 eight-insults. Magistrate JCL was 100% unprepared as he did not pre-read, recorded public record pleadings Doc. #17, #32, #33, #34 and #36 for Merna Green's default. His dismissal discussion and eight-default proclamations are openly mendacious¹ & hostile. Judge Lynch extrajudicial judicial bias is toward Plaintiff pro se RCL's adequately plead jurisdiction Federal Issue[FN#12] that include: [A] U.S. 7th Amendment² (100% jury trial verdict). [B] Missing (1819) U.S. 13th Amendment, [C] equality in (property) tax methodology Montana Statute 15-8-111 challenge; [D] punctuated with Merna Green's venomous smear-to-RCL on the telephone about the Dahood lawsuit. This is trademark-style of organized crime racketeering from 1988-92-96-00-04-08-12-16 Florida election (into 2020 election) channel of interstate-commerce clause. U.S. Congress regulates interstate-commerce from U.S. Constitution Article I, § 8. Defendant Merna Green is a shill-monopoly-government employee that further stigmatizes RCL by continuing to manipulate & falsify public records &/or keep them from public recording; [E] ignore common law rule of law for default (no paper-answer-what-so-ever) to facts plead. Opposing Dahood Esq. did not dispute in particularity-specificity inside his 4-line 12(b)(6) motion(s) to dismiss. [F] FURTHER adequate jurisdiction plead is diversity of citizenship. [FN#13] As is: over \$75,000 damage (uncontested default of \$89,828.56 Merna Green from \$449,142/5-defendant parties). All is representative of adequate plaintiff pro se plead law-to-fact scope within Document 8 complaint. [G] Merna Green a public

¹Mendacity defined adj. given to deception or falsehood; untruthful syn dishonest, deceitful. New Merriam-Webster Dictionary (1989), Page. 457.

²U.S. Constitution Amendment VII [Common Law Suits - Jury Trial (1791)] In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise re-examined in any Court of United States, than according to the rules of the common law.

servant refused to serve the public. She refused to U.S. Mail 3-commercial property appraisal property tax appeal forms. As the forms were denied delivery from Helena Mitchell Building, to reduce property value fifteen percent (15%) base incorrect market value (100% willing sellers) opposite mass-assessed property tax value (85% unwilling sellers). Industry definition source is Appraisal Institute recorded Affidavits: Exhibit A-8533, Exhibit A-8534 & Exhibit A-8535 (Document 8, page 69, 70 & 71 of 82) value method is unconstitutional: Montana Statute: MCA 15-8-111 challenge Rule 5.1.[FN#51] [H] Five remaining defendants' common-law-basic fraud in addition to racketeering, organized crime fraud-deceit, concealment of non-existent probate proceedings etc. et. al. as distribution of property was not to Defendant HPL liking "*as oldest son*". [I] HPL's do-estate-over-after-funeral of Mother Blessed Saint DHL. HPL & 2-daughters collaboration with key-man assist: Wade J. Dahood so *HPL can take what he wants.*"[FN#52]. [J] This includes falsified claim to 100% real & personal property at 1818 Tammany Street, with restricted access to RCL & 50% of real and (cherry picked) personal property at 301-305 Main Street (Washoe Amusement Co. Inc.) one antique & one late model motor car, Lock Box at Montana Bank, Jewelry gifts from husband Blessed Saint HFL & jewelry gifts from Rick Lussy of Tiffany's of Naples plus status of Butte Georgetown Mining & Milling Company Inc. et al. HPL's sole claim is due to the oldest son as claimant with no Limited Power of Attorney with durable provision & without Warranty Deeds as proof of ownership.

Magistrate JCL's temporary assignment 28 USC § 636 (b)(1)(A) is not a humble, competent public servant. Conversely he is filled with attitude, brazen braggadocio & no substance; no-respect or supplication to Common Rules of Federal-Montana Local Rules of Procedure-Evidence that warrant his-this no good

behavior.³ This magistrate violation follows 4/16/18: Document 60. His sarcasm is laced with bigotry: 100% clueless to Lussy Family law-plead-procedure-fact issue result defendants' estate diminution-cannibalization ongoing-to-date.

In addition all defendants can be sued for official policy, constitutional deprivations caused by monopoly governmental lawyer custom of protesting not governing, deny oversight of 7th Amendment[FN#2] control of 100% lawyer-market-share: bar association lawyer cartel behemoth ("BALCB") even though such custom does not receive formal express approval through the governmental body's official *stare decisis*, decision making channels that non-lawyers must 100% purchase access to free public courtrooms, to apply free public law before free public lawyer judges holding 3-year juris doctor diplomas with no doctor experience. Government lawyer employees wrongfully control all USA elections with express omissions, 100% concealment and insider trading of manipulated, falsified public record impeachment a Federal Issue: U.S. 7th Amendment[FN#2].

Brief Fact Summary: FROM: "This matter comes before the court on *pro se* Plaintiff Richard Charles Lussy's ("RCL") motion for default judgment against Defendant Merna Green, and Federal Rule of Civil Procedure 12(b)(6) motions to dismiss by the remaining Defendants. Because Plaintiff has not shown that a default judgment against Green is warranted, and fails to state a claim against any of the remaining defendants." Source Document #63, page 1, Lines 1-5

SWORN FACT SUMMARY: Plaintiff RCL is a little person, a non-lawyer seeking to correct manipulated & falsified public records now⁴ before the 2020

³US Article III Judiciary Section 1. The judicial power of the United States, shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish. The judges, both of the supreme and inferior courts, shall hold their offices during good behaviour, (sic) and shall, at stated times, receive for their services, a compensation, which shall not be diminished during their continuance in office. (Emphasis added).

⁴Plaintiff RCL is a little person, non-lawyer seeking to (1) correct manipulated & falsified public records (2) all public servant lawyer judge made fraudulent public records as numerous

election while confronting the unrelenting smear of Magistrate Lynch, Merna Green and other monopoly government employees with their own private-some supplementary paid agenda of Federal Question(s) [FN#12] Diversity of Citizenship [FN#13] determination in a 100% jury trial verdict. RCL is sworn that Defendant Henry Paumie Lussy ("HPL") did not have a business-trust-fiduciary financial relationship with Blessed Saint, Mother: DHL-Father HFL believed Defendant HPL was/is unfit in a sole proprietor small-business management position. DHL-HFL insisted on equal treatment of all 4-fine boys while retaining real-personal property located at 301 & 305 Main Street with 2-automobiles in the same name as 301 Main Street for safe keeping. The unnamed tried-&-true party herein: "J" is #4-son as most business fit. "J's" 33-years of sweat equity, subsidize

predicate acts now require due process redress 100% jury trial verdicts. (3) Anaconda-Washoe Smelter closed in 1980 officially ended internship & started youngest brother Jerome ("J") 33-year estate 301-305 Main Street (Washoe Amusement Co. Inc.) with Butte Georgetown Mining & Milling Co. Inc. management of its real & personal (FF&E) property that included Mother Blessed Saint DHL First Montana Bank Lock Box property. (4) Now the oldest "Lussy" brother Henry Paumie Lussy ("HPL") a 71-year financial failure, dashes back from Seward-Anchorage AK to live free in the basement of the family residence under the pretense to assist elderly Blessed Saint Dorothy Helen Lussy ("DHL") in her last mortal years. (5) HPL does not even like the movie exhibition business: (6) Yet claims thru Wade J. Dahoo ("WJD") in a surprise November 9, 2015 law firm Anaconda Montana meeting following the November 7, 2015 Roman Catholic Burial Mass (where HPL refused to have a Catholic Priest present at the Butte burial of Blessed Saint Mother DHL so to use that money for himself. (7) *HPL in voice mail told RCL not to come to the funeral.* (8) Lawyer WJD claimed 11/9/2015 that 100% of the probate had been settled, (9) then affirmed on April 6, 2018 (Oral Argument: CV-17-79-BU) by son Jeffrey Wade Dahoo Esq. ("JWD") that the property had already been distributed. (10) Yet on 11/9/2015 before the property was actually distribution WJD wanted all 4-boys signature not to sue HPL before the property was distributed pursuant Blessed Mother DHL Exhibit A-8281 (Page 66 of 82, Document 8), as cut-&-pasted to make Exhibit A-8306 (65 of 82). (11) This was to justify Exhibit A-8304 (page 67 of 2, Document 8) that HPL superficially used to 100% claim control without the Blessed Saint Mother-Father DHL-HFL written permission in Revocable Living Trust (still not produced). (12) HPL did not have a Limited Power of Attorney with Durable Provision & no Warranty Deed for 1818 Tammany St. just an indenture-agreement to live in the basement. (13) A precedent status: Montana Probate guide in judge-made-law is to hold culpable for causation by common-law-fraud, racketeering etc. et al is: ➔Re Estate of Spencer, 59, P.3d 1160 (2002) MT 304. It holds precedent status.

it's existence after the catastrophic 1980 Washoe Smelter closure in this one-industry town. "J" is assisted with his professional full time working Registered Nurse spouse 24/7. Both are of a solid admirable work ethics. This "J" team's quiet competence-kindness-pride & caring: for 301-305 Main Street, for which both have extended families and both take pleasure in preserving & protecting.

The origin goes to 1978 ossified *stare decisis* after 8-unsuccessful Florida property appraiser elections: 1988-92-96-00-04-08-12-16 to remedy before 2020 pending election by confronting this smear while correcting manipulated and falsified public records continuing to be made by public servant lawyer judges-justice-agents ("PSLJJA") origin in this Dahood lawsuit CV 78-67-BU⁶ evidenced in 2016 election editorial of Naples Daily News: Document 8, page 68 of 82. As CV 78-67-BU was destroyed: case record.⁶ As property appraisal election issues were irrelevant to 100% control of ballot-elections that organized crime continue to sell protection to incumbent *what's s/he name not a proper noun(s)*: payments to this shadow government of organized crime with government employee participants. A past incumbent called them: (international) green machine's contract with lawyer tribe-trade union. This is to pile on & to repeat libel per se.⁷

¶ CV 78-67-BU caption Henry F. Lussy and Richard C. Lussy vs. Francis R. Bennett; Knight, Dahood, Mackay and Mclean, as a partnership composed of Wade J. Dahood, Conde F. MacKay and David J. McLean; and David J. Mclean as an individual Defendants. W. J. Dahood could have prevented this lien.

¶CV 78-67-BU record destroyed: Office Of The Clerk United States District court For The District of Montana Tyler Gilman Clerk of Court, Beth Conley Chief Deputy Clerk, February 18, 2015. Dear Mr. Lussy, I regret to inform you that I am unable to supply copies of the documents you requested in Case CV 78-67-BU, as the case file has been destroyed. I apologize for the inconvenience this has caused. Sincerely, Beth Conley Chief Deputy Phone 406-542-7260, FAX 406-542-7272 Russell E. Smith Courthouse, P.O. Box 8537, 201 East Broadway, Missoula, MT 59807 Exhibit A-8184 as a channel to interstate commerce regulation.

¶"...repetition of libel per se is actionable, even though the libeler explicitly refuses to vouch personally for its verity." Lewis v Evans, 406 So. 2d 489 (Fla. Dist. Ct App. 2 Dist 1981). 19 Fla Jur 2d 409, Exhibit A-2557. Judges refuse to enforce Executive/Leg. Fla. Evidence Code/Statute

Impeachment is the remedy with the US 7th Amendment 100% jury trial (which moot court is an elective & not essential to 3-year juris doctor diploma). This lawyer tradition continues in these United States of America through it's weaponized⁸ Judiciary with secret surveillance warrants ("SSW") that pay W-2 employees to supervise third-fourth-fifth party 1099, Independent contractor sabotage surveillance agents ("SSA"). Method is by 24/7 phone taps, physical comings and goings with remote electronic word-number changes, file deletions. A scorched earth, death by a 100,000 cuts, take no enemies mantra. Opponent claimed 300-people were retained. It is a shadow-lobbyist-talking-government to keep government incumbents in "job secure" offices while hiring extraneous government workers, who then rely on gov't lawyers to never have to live-testify.

The start of defendant dimidiation & cannibalization was action-declared removal personal property-jewelry preservation-is-to-memory-of-Blessed-Mother DHL without all grand-daughters-equal-sharing. At present HPL's two daughters boxed the jewelry up & departed to Vancouver Washington: November 11, 2015.

90.907 competency of judge witnesses; 90.608 Impeachment; 90.106 summing up & comment without 100% Jury trial Verdict Evidence Code F.S. 90.501 require witnesses to testify & produce proof.

⁸Weaponized Judiciary use of government tax monies as a personal automated teller machine ("ATM") to smear. This lawyer tribal-trade union, consists of government lawyer employees all 100% independent of existing law without individual personal accountability, by self-administered, self-immunization. Each under oath to each other for monopoly government job security with lawyer: 100% market share, lawyer: no competition, lawyer: no consumer freedom of choice. Lawyers in government respect private lawyers. Lawyer tools of the trade express omissions, 100% concealment & insider trading. Use \$60,000 unaccountable, non-transparent walk around money, all public tax monies to fund 24/7, phone taps, physical comings and goings, word-number text changes, file deletions against targeted Plaintiff pro se RCL to block and stop his existing petitioned law that by suing, prosecuting & impeaching public servant lawyer judges-justices-agents ("PSLJJA") with side agreements to induce into suicide Plaintiff pro se Richard Charles Lussy as a Sherman Anti-Trust Policy failure threat to this lawyer tribal-trade union completion threatened by the Missing (1819) Missing United States of America Amendment enforced with the existing U.S. 7th Amendment.

Magistrate Lynch is a Fraud on the Court as Officer of the Court (attached 3-page Exhibit A-3751) that requires his recusal & jury trial verdict monopoly government employment referral.

All is due to jealousy of Rick Lussy's Blessed Saint Mother-Fathers quiet competence, cooperative 24/7 work ethic, kindness with unrelenting self-sacrifice with respect for the Anaconda-Butte Community and the people of Montana State.

EXCEPTION ONE: FEDERAL QUESTION & DIVERSITY OF CITIZENSHIP STATEMENTS WITH AFFIRMATIVE DEFENSE ACCORD & SATISFACTION BY JUDGE LYNCH'S PRE-EMPLOYMENT LOYALTY OATH TO PROTECT & DEFEND OUR U.S. CONSTITUTION THEREBY ALLOWING PLAINTIFF PRO SE LEAVE TO AMEND THIS COMPLAINT WITH THIS AFFIDAVIT

(1) In regards to locking RCL Plaintiff pro se out of society-success before 2020 election is for heightened pleading scrutiny by this Magistrate JCL action, having more to do with the Judge than the law. This is pursuant Federal Rule 12(b)(6) Motion to Dismiss: 44-page "report"^{10,11} so say; "*Motions to Dismiss For Failure to State A Claim After Iqbal*" where RCL's existing facts are adequate for federal jurisdiction's U.S. 7th Amendment[FN#2] 100% jury trial verdict due process redress.

(2) Magistrate JCL is lying his way out of this problem. Magistrate JCL is too busy getting paid to do the petitioned RCL plaintiff pro se work. For example he was not prepared for the April 6, 2018 Missoula Oral Argument. He did not

§ Accord & Satisfaction: The plaintiff's defense against U.S. Judge Lynch is a defense that applies if the parties agreed to give and accept something (protect and defend the United States Constitution's U.S. 7th Amendment) to settle claim per argument, in this lawsuit. And then they performed that agreement with a 100% jury trial verdict due process redress consubstantial civil tort jury verdict with a jury verdict referring this same matter for crime enforcement.

¹⁰ "Motions To Dismiss for Failure to State a Claim After Iqbal" Report to the Judicial Conference Advisory committee on Civil Rules, Federal Judicial Center March 2011... does not reflect policy or recommendations of the Board of the Federal Judicial Center. (44-pages).

pre-read & understand the pre-recorded, recent public record pleadings: Document #34, #35 & #36. Magistrate-Judge in part, blamed his computer: "...because my computer is not working at the time." Document 61, page 29, Line 14. As was existing fact in complaint document 8. Explanations will follow in the remaining ten exceptions to affirm Judge Brian Morris: *Leave to Amend* Complaint & reinstatement of the Merna Green default.

(3) Plaintiff pro se RCL adequate pleading Federal Jurisdiction is specific to Complaint Document 8 page 2, that plead both 28 USC § 1331 Federal Question^[12] and 28 USC § 1332 Diversity of Citizenship,^[13] over \$75,000 loss (\$439,453/5-parties for Merna Green Default: \$89,828.56 Complaint page 24, amount in controversy: two-HPL daughter defendants (Vancouver Washington) are in a different states outside of Montana State, America.

(4) This is to enforce [A] Federal Question of the existing United States 7th Amendment [FN#3] requiring a 100% jury trial verdict due process redress (Document 8 page 1 & 37 of 82-pages) for individual personal responsibility, holding harmless all registered voting taxpayers ("RVT"); [B] the Federal Question of the Missing (1819) U.S. 13th Amendment Document 8 pages 6 thru 20

^[11] "And do not distinguish between orders granting motion to dismiss with leave to amend an orders granting motions without leave to amend. *Ibid* Page 1.

^[12] 28 USC § 1331 Federal Question (Jurisdiction). The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of United States.

^[13] 28 USC § 1332 "Diversity of Citizenship, amount in controversy; costs. (a) The district courts shall have original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of \$75,000. (1) Citizens of different States; ... (c) For the purposes of this section and section 1441 of this title--(2) the legal representative of the estate of a decedent shall be deemed to be a citizen only of the same State as the decedent, and the legal representative... (class actions thereafter) (11) For purposes of this subsection and section 1453, a mass action shall be deemed to be a class action"

and [C] consubstantial¹⁴ to & in US law RE: Falsification Public Records Criminal 18 USC § 494¹⁵ &/or 18 USC § 1519¹⁶ in a/jury verdict after civil ruling on, in comity Florida Criminal Statute 839.13(2)(d)¹⁷ Exhibit A-3863(3-page). All

¹⁴"... I believe in one Lord Jesus Christ the only begotten son of God, born of the father before all persons, God from God, light from light true God from true God, begotten, not made, consubstantial through him all things were made. For us men and for our salvation he came down from Heaven & the Holy Spirit was incarnate of the Virgin Mary & became man." Source: Nicene Creed, St. Ann's Roman Catholic Missal, Naples, Florida. (emphasis)

¹⁵18 USC § 494- CONTRACTORS' BONDS, BIDS, AND PUBLIC RECORDS is a preliminary release and may be subject to further revision before it is released again as a final version. Current through Pub. L. 113-14. (See Public Laws for the current Congress.)

Whoever falsely makes, alters, forges, or counterfeits any bond, bid, proposal, contract, guarantee, security, official bond, public record, affidavit, or other writing for the purpose of defrauding the United States; or Whoever utters or publishes as true or possesses with intent to utter or publish as true, any such false, forged, altered, or counterfeited writing, knowing the same to be false, forged, altered, or counterfeited; or Whoever transmits to, or presents at any office or to any officer of the United States, any such false, forged, altered, or counterfeited writing, knowing the same to be false, forged, altered, or counterfeited—Shall be fined under this title or imprisoned not more than ten years, or both. Whoever falsely makes, alters, forges, or counterfeits any bond, bid, proposal, contract, guarantee, security, official bond, public record, affidavit, or other writing for the purpose of defrauding the United States; or

Whoever utters or publishes as true or possesses with intent to utter or publish as true, any such false, forged, altered, or counterfeited writing, knowing the same to be false, forged, altered, or counterfeited; or Whoever transmits to, or presents at any office or to any officer of the United States, any such false, forged, altered, or counterfeited writing, knowing the same to be false, forged, altered, or counterfeited—Shall be fined under this title or imprisoned not more than ten years, or both. Source (June 25, 1948, ch. 645, 62 Stat. 711; Pub. L. 103-322, title XXXIII, § ...“fined not more than \$1,000”.

¹⁶18 USC § 1519 - DESTRUCTION, ALTERATION, OR FALSIFICATION OF RECORDS IN FEDERAL INVESTIGATIONS AND BANKRUPTCY, Is a preliminary release and may be subject to further revision before it is released again as a final version. Current through Pub. L. 113-14. (See Public Laws for the current Congress.) Whoever knowingly alters, destroys, mutilates, conceals, covers up, falsifies, or makes a false entry in any record, document, or tangible object with the intent to impede, obstruct, or influence the investigation or proper administration of any matter within the jurisdiction of any department or agency of the United States or any case filed under title 11, or in relation to or contemplation of any such matter or case, shall be fined under this title, imprisoned not more than 20 years, or both.

¹⁷Correction of manipulated & falsified public records in comity with Florida Statute 839.13 ... (2), if any judge, justice, mayor, alderman, clerk, sheriff, coroner, or other public officer, or employee or agent ... shall steal embezzle, alter, corruptly withdraw, falsify or avoid any record, ... or any paper filed in any judicial proceeding in any court of this state, or shall knowingly and willfully ... or falsify any document or instrument recorded, or filed in any court, or any registry,

address Doctrine of fraudulent concealment¹⁸ (Rule) Fraud by Concealment → the Concealment rule. ... to basic common law fraud¹⁹ (in short 1-party action resulted in an unconscionable bargain by & for self-serving five defendants that include civil fraud.²⁰ This specific information requires leave to amend complaint.

MAGISTRATE SUMMARY QUOTE: From: Jeremiah C. Lynch United States Magistrate Judge: "... This entire controversy, in my view, belongs in state court. Now, what we're doing to do through, and I'm going to give you all the due process you are entitled to, but if I reach that conclusion, this matter is going to go

...or falsify any minutes, documents, books, or any proceedings whatever of or belonging to any public office within this state; ... (d) This section does not prohibit the disposing or archiving of records as otherwise provided by law. In addition, this section does not prohibit any person from correcting or updating records; In any prosecution under this section, it shall not be necessary to prove the ownership or value of any paper or instrument involved. (emphasis).

¹⁸ Doctrine of fraudulent concealment Fraud by Concealment → Concealment rule. The principle that a defendant's conduct that hinders or prevents a plaintiff from discovering the existence of a claim tolls the statute of limitations until the plaintiff discovers or should have discovered the claim. – Also termed fraudulent-concealment rule. Black's Law Dictionary 8th Edition (2004) Page 307.

¹⁹ (Basic) Fraud. n. 1. A knowing misrepresentation of the truth or concealment of a material fact to induce another to act to his or her detriment. * Fraud is usu. A tort, but in some cases (esp. when the conduct is willful) it may be a crime. –Also termed intentional fraud. 2. A misrepresentation made recklessly without belief in its truth, to induce another person to act. 3. A tort arising from a knowing misrepresentation, concealment of material fact, or reckless misrepresentation made to induce another to act to his or her detriment. 4. Unconscionable dealing; esp., in contract law, the unfair use of the power arising out of the parties' relative positions and resulting in an unconscionable bargain.

Fraudulent adj. "[T]he use of the term fraud has been wider and less precise in the chancery than in the common-law courts. This followed necessarily from the remedies which they respectively administered. Common law gave damages for a wrong, and was compelled to define with care the wrong which furnished a cause of action. Equity refused specific performance of a contract, or set aside a transaction, or gave compensation where one party had acted unfairly by the other. Thus 'fraud' at common law is a false statement...: fraud in equity has often been used as meaning unconscientious dealing – although, I think unfortunately, a great equity lawyer has said," William R. Anson, Principles of the Law of Contract 263 (Arthur L. Corbin ed., 3d Am. Ed. 1919). Black's Law Dictionary 8th Edition (2004) page 685.

²⁰ Civil Fraud. 1. Fraud (3). 2. Tax. An intentional –but not willful –evasion of taxes. * The distinction between an intentional (i.e., civil) and willful (i.e. criminal) fraud is not always clear, but civil fraud carries only a monetary, noncriminal penalty. Cf. ... Black's Law Dictionary 8th Edition (2004) page 686.

back—I'm just going to recommend the Court decline jurisdiction over this. This matter, in my view, should have been litigated in the state courts of Montana. And if I dismiss this purported RICO claim, that's where this is going to end up. I'm just being honest with you. Okay?

SUMMARY: For Brian Morris as the review Judge Leave to Amend Complaint & restatement of Merna Green's Default \$89,828.56 (not Judge JCL claim of \$440K to \$500,000). Judge Lynch the "tip of the spear" is a regulator turned lawyer promoter to purchase patronage-tribute to lock RCL Plaintiff pro se out of society before the 2020 election is incorrect as Judge JCL demonstrates a purposeful pattern of deceit to support the bar association lawyer cartel²¹ behemoth ("BALCB") adequacy of lawyer standard.²² "The more-lawyers-for-everyone solution is a dead end."²³ The Plaintiff pro se RCL remedy is functional literacy by textualism²⁴ for education-education-education. "As a vice president of the Georgia Trial lawyers Association put it, "You put a mirror under the court

²¹The ABA & AALS are acting as a giant cartel, restricting the supply of lawyers and thus driving up the price." Rebooting Justice "More Technology, Fewer Lawyers, And The Future of Law", by Benjamin HJ. Barton & Stepanos Bibas (2017) Page 170. (emphasis)

²²"Law schools have all but abandoned the education of trial lawyers, and the truth is that you'll graduate knowing very little more about the art than you do now... What you have to do is go to work for someone who's in court every day. Do that even if you have to pay him for the education. Cut classes if you have to, but go to court." F. Lee Bailey, The Defense Never Rests, (1971) Page 17.

²³"The more-lawyers-for-everyone solution is a dead end." Rebooting Justice "More Technology, Fewer Lawyers, And The Future of Law", by Benjamin HJ. Barton & Stepanos Bibas (2017) Page 101

²⁴"My shtick, as you may know, is textualism. I believe that judges should adhere to the text of the law, and not amend or revise it to accord with what they think the law ought to be. Imagine my delight, then, when I find, in Aquinas's discussion of the question. "Whether we should always judge according to the written law?" the following seemingly categorical conclusion: "Hence it is necessary to judge according to the written law, else judgment would fall short either of the natural or of the positive right. Bravo! I knew I have been right." Scalia Speaks, by Antonin Scalia (2017) US Supreme Ct Justice (1986– Feb. 13, 2016) (Life 1936-2016 (age 79)) p 244.

appointed lawyer's nose, and the mirror clouds up, that's adequate counsel."²⁵ As the lawyer 100% market share, patronage for tribute benefits peer opposing counsel Jeffrey Wade Dahood Esq. is on behalf first of his father Defendant Wade J. Dahood Esq. et al to further protest-denied Plaintiff pro se RCL the right to federal issue, diversity of citizenship by leave to amend complaint with adversarial bias Magistrate Judge JCL a lawyer benefit Defendant Dahood: patronage-tribute.

SUMMARY QUOTE: MR. LUSSY: "Thank you for your courtesy, Your Honor. The underlying purpose—may I—one sentence? Document 61, Oral Argument April 6, 2018 transcript, Page 65 Lines 7-8.

THE COURT: Sure. Ibid Page 65 Line 9.

MR. LUSSY: "The pile-on aspect of manipulating the falsified public records can only be remedied by impeaching the parties speaking & so that is done by 100 percent jury trial verdict redress. And so that is the ultimate resolution for which I seek. Your honor, is to be able to directly impeach the parties involved. And that's it & I thank you for your generous time and your service, and these nice ladies, your deputy clerk & the court reporter." Ibid P.65 L10-17.

THE COURT: All right, thank you. Nice to meet you. Thank you Mr. Dahood. We stand in recess.

Court concluded at 11:40 a.m. 4/6/18 Ibid P65 L18-19.

SUMMARY RECAP: For Brian Morris as the review Judge: leave to Amend Complaint & restatement of Merna Green's Default \$89,828.56 (not Judge

²⁵"*You put a mirror under the court appointed lawyer's nose, and the mirror clouds up, that's adequate counsel.*" Ibid, page 30. "For examples of sleeping, drunk, drugged, alcoholic, and mentally impaired defense lawyers, see Bright, 103 Yale L.J. at 1835, 1843 & nn. 53-54, 1859; Jeffrey L. Kirchmeier, Drink, Drugs, and Drowsiness: The Constitutional Right to Effective Assistance of Counsel and the Strickland Prejudice Requirement, 75 Neb. L. Rev. 425, 426-27, 455-63 (1966, Recent Cases-Sixth Amendment-Ineffective Assistance of Counsel- Sixth Circuit Holds that Defense Counsel's Nap During the Defendant's Cross-Examination Does Not Clearly Violate the Sixth Amendment, 125 Harv. L. Rev. 1498 (2012) (criticizing Muniz v. Smith, 647 F. 3d 619 (6th Cir. 2011)). The quotation is from Hal Strauss, Indigent Legal Defense Called "Terrible," Atlanta J. -Const., July 7, 1985, at 12A (quoted in Bright, supra at 1852). The facts of Judy Haney's case come from Katya Lezin, Finding Life on Death Row 99-127 (1999); Haney v. State, 603, So. 2d 368 (Ala. Crim. App. 1991; Ex parte Haney, 603 So. 32d 412 (Ala. 1992). Rebooting Justice ibid page 18.

repeated claim of \$440K to \$500,000) with live testimony: impeach the manipulated & falsified public record authors: reaffirmed as plead: Complaint p 1.

EXCEPTION TWO: STANDING: TO KEEP FEDERAL JURISDICTION A JURY TRIAL VERDICT REFERAL: AFFIRMATIVE DEFENSE IS LEAVE TO AMEND COMPLAINT: AFFIDAVIT

MR. JEFFREY WADE DAHOOD ESQ: "... *I would bring to the Court that Mr. Richard Lussy does not have standing to bring crimes against somebody. That's up to the U.s. Attorney's Office, the county attorney if it's a state charge, and he does not have standing to bring those charges. That's the same ...*"

Transcript April 6, 2018, Oral Argument Page 5, Lines 13-17. (*emphasis*)

AND please see Consubstantial Exception #3: jury trial verdict criminal referral.

(1) Both federal questions: Constitutional supplication & diversity of citizenship. Transcript (Document #61, Page 7, Line 25), Rule #8(a)(1)(2) of common law Federal Procedure "short & plain statement(s)" is/are now unilaterally nullified, by Judge Lynch's agreement with opposition Mr. Dahood that *Rule #9(b) party's authority to sue or be sued in a representative capacity* that Richard C. Lussy ("RCL") an interested person²⁶ has "no" standing as son of mother Blessed Saint's Dorothy Helen Lussy ("DHL")-father Henry Francis Lussy's memories: a 166-year estate for which all grand daughters are to equally share the memories: personality, jewelry of Blessed Saint Mother DHL & gifts from husband Blessed Saint Father HFL & RCL's gifts to mom from Tiffany's of Naples all boxed up & moved to Vancouver WA from 1818 Tammany St., Anaconda Montana etc. et al.

(2) THE MAGISTRATE COURT: "The essence of your argument to me is, again, very succinct and it's under Bell versus Twombly which we are all familiar with. And basically saying he (RCL) fails to, as the term used in the Twombly

²⁶ Interested Person as defined by § 72-1-103(25) MCA "[i]nterested person" includes heirs, devisees, children, spouses, creditors... Plaintiff pro se RCL son #3: Blessed mother & father.

case," Get the ball across the goal line." Doc. 61, 4/6/18 transcript, pp 12-13 Lines 24-5 & 1-3.

MR. DAHOOD: "Correct, Your Honor." Ibid page 13 Line 4.

THE JCL COURT: "Should I give him another opportunity, Mr. Richard Lussy, to either file an Amended Complaint or provide a more detailed statement under the rules?" Ibid page 13 Lines 5-7.

MR. DAHOOD: "Your Honor, my fear of that is that it's going to be similar. All of his filing to this point have been incoherent. They ramble on. To look at a couple of his filings, he talks about issues that happened back in the '80s which have statute of limitations issue and have other issues. And my fear is that unless the Court puts specific parameters on his amended filing, I'm afraid we're going to get the same thing back and that we won't be able to make heads or tails of causes of action or anything else and we won't know how to defend against it, Your Honor." Ibid page 13 Lines 8-18.

The Predicate Act(s) is/are a/numerous Fact(s) opposing Mr. Jeffrey Wade Dahood as say nothing specific, nothing particular, therefore, underlying facts to the infamous November 9, 2015 meeting with his father Wade J. Dahood, requires his live witness testimony. Defendant WJD as father provided Exhibit A-8281 Document 8 page 66 of 82. This is to paraphrase Judge Friendly:²⁷ lawyers are taught to protest not to govern. This governing-in-law is a guaranteed right, by the U.S. Seventh Amendment[FN#2] to a 100% jury trial verdict due process redress. THEREBY Plaintiff pro se RCL as an interested person requires, with the upmost courtesy: Judge Brian Morris Order leave to file an amended complaint. All writing can be improved. Let the original Document 8 be judged by the 100% jury trial verdict due process redress and not to take hearsay of the WJD Defendant's son as gospel truth. In a subsequent section on "estate-probate" judgment he in

²⁷Judge Friendly put it well: "[w]ithin the limits of professional propriety, causing delay & sowing confusion not only are [lawyer's] right but may be his duty." Rebooting Justice "More Technology, Fewer Lawyers, And Future of Law", by Benjamin HJ. Barton Esq. & Stepanos Bibas Esq. (2017) Page 108.

Document #62 admitted to be incorrect. THEREFORE affirm underlying facts as plead in Complaint Document 8 as true allegations for 100% jury trial verdict.

SUMMARY RECAP: For Brian Morris as the review Judge Leave to Amend Complaint & restatement of Merna Green's Default \$89,828.56 (not Judge JCL 8-claims of \$440K to \$500,000) with live testimony: to impeach the manipulated & falsified public record authors: to reaffirm Complaint page 1.

EXCEPTION THREE: TORT CIVIL CONSUBSTANTIAL & REFER CRIME AFFIRM DEFENSE TO AMEND COMPLAINT: AFFIDAVIT
MR LUSSY: "Consubstantial, yes." THE COURT: "Consubstantial. Okay, I'll accept that term go ahead."²⁸ Consubstantial[FN#14] is a Roman Catholic Word for use here by & for jury verdict civil tort law application referral for crime enforcement after manipulating & falsifying public records. Complaint page 1 U.S. Fed. R. Civ. P. Rule 5.1 same as Montana Rule of Civil Procedure 5.1(b) Constitutional Challenge to Statute-Notice and Intervention of Montana Statute MCA 15-8-111. Mr. Tim Fox Montana State Attorney General 60-day notice: Certified-Mail, U.S. April 30, 2018 mailing on four-issues. This timely reply would allow a learned reply on the incorrect Montana Statute 15-8-111 (100%, willing seller) verses Assessment Value (85%, unwilling seller) revision by prevailing functional literacy/textualism after Judge Brian Morris Leave to Amend Complaint. Thereafter his answer will be forwarded to the US Attorney.

THE COURT: You can go to the United States Attorney and ask them to prosecute these folks for mail fraud under a criminal statute. There is no mechanism I'm aware of that allows you simply to take your relief that someone committed a criminal act and transfer that into a civil cause of action. ... I'm just here on a 12(b)(6) Motion. Ibid Page 41, Lines 1-8.

SUMMARY RECAP: For Honorable Brian Morris as the review U.S. Judge Leave to Amend Complaint & restatement of Merna Green's Default \$89,828.56

(Magistrate JCL 8-claims of \$440K to \$500,000) with live testimony: to impeach the manipulated & falsified public record authors: to reaffirm Complaint page 1.

EXCEPTION FOUR: STATUTE OF FRAUDS²⁹ TO RETAIN FEDERAL JURISDICTION

AFFIRMATIVE DEFENSE LEAVE TO AMEND COMPLAINT AFFIDAVIT

Without notice gives evidence of fraudulent estate-probate transfers. RCL Plaintiff pro se meets the Doctrine of fraudulent concealment [FN#18] basic-common law fraud[FN#19] is civil fraud[FN#20] that requires formal discovery after this petition for leave to file an Amended Complaint. The legal precedent is Re Estate of Spencer 59 P.3d 1160 (2002) MT 304 requiring notice to Plaintiff.

Part I: Legal Issue of Defendant Wade J. Dahood ("WJD") Dahood's son Jeffrey W. Dahood Esq. representation is that of a completed-probate-estate of Blessed Saints Mother DHL, Father HFL at his law office on November 9, 2015. Fact issue is Defendant HPL's 71-year history of financial failure will bankrupt & drive the 33-year successful operator unnamed brother #4 Jerome Carl Lussy ("J") out of business in Anaconda from HPL's demands for unearned money from "J". The statute of fraud instant issue is no written record inventory of probate or of property distribution. No ownership-titles have been known to change except the "Indenture-Agreement". The ongoing non-existence, HPL Defendant brother written copy was denied RCL brother of Blessed Mother's written Revocable Living Trust, on November 9, 2015 in Dahood's Office ibid P23 L 11-13. All tangible personal property is at issue as is jewelry to be shared with other granddaughters. Include contents of Lock Box of Montana Bank. That HPL has cherry

²⁸ Consubstantial in transcript Missoula Oral Argument 4/6/18. Document #61 page 22, L 6-8.

²⁹ Statute of Frauds is a law that requires many different types of contracts to be in writing. The plaintiff is suing on relates to tangible memories personal & real property of mother-father. Oversight is to secure 100% ownership of 1818 Tammany Street, 301 & 305 Main Street to the 33-year successful operator JCL protection from bankruptcy: HPL's 71-year of financial failure.

picked furniture, fixtures & equipment ("FF&E") & 2-automobiles one antique & another late model automobile. Also defendants wrongfully claim 50% of both 301-305 Main Street & 100% 1818 Tammany Street real property.

Part II: MR. LUSSY: And may I please ask for the probate number and the file from the probate state court so that I have some privity as to what I did not know on November 9th in Wade Dahood's Office?

THE COURT: Mr. Dahood, do you have that handy?

MR. DAHOOD: I don't have it handy, Your Honor, but within the next ten days I will provide it to him by mail.

THE COURT: Okay. I'm ordering that he provide that to you within the next ten days." Document 61. Page 42, Lines 13-21. Missoula Oral Argument Default & Dismissal Motions, 10:09 to 11:40 a.m. 4/6/18.

Part III: JEFFREY DAHOOD: "... It all stems around an Estate which was handled in the Third Judicial District Court of Deer Lodge County in front of the Honorable Ray J. Dayton in which my father handled the Estate of the parties' parents, and specifically their mother. Your Honor – Ibid page 4 L19-23.

THE COURT: Not to interrupt you. This is the parents of Mr. Richard Lussy and Henry (Paumie) Lussy?" Ibid page 4 L24-25.

MR. DAHOOD: "That's correct, Your honor. Ibid page 5, Line 25; April 6, 2018.

Part IV: JEFFREY W. DAHOOD: "At the hearing of April 6, 2018, Jeffrey W. Dahood, attorney for stated Defendants, advised the Court that the estate of Dorothy Lussy had been probated. This is in error. Counsel for the stated Defendants has been advised that the property of Dorothy Lussy was distributed during her lifetime and was distributed through an attorney and a trust in Missoula, Montana. The estate was never administered nor distributed through the law firm of Knight & Dahood, Anaconda Mont." 4/25/18 Document 62, p 2 L3-8.

SUMMARY RECAP: For Honorable Brian Morris as the review U.S. Judge Leave to Amend Complaint & restatement of Merna Green's Default \$89,828.56 (not

Judge JCL claim of \$440K to \$500,000) with live testimony: impeach the manipulated & falsified public record authors: reaffirmed as plead: Complaint p 1.

**EXCEPTION FIVE: FAILURE TO PROPERLY EXECUTE IN RECORD³⁰
UNDER INFLUENCE,³¹ UNDUE DURESS,³² UNJUST ENRICHMENT,³³
CUT & PASTE IS FORGERY,³⁴ DOUBLE FORGERY,³⁵ TRIPLE**

³⁰ Failure to properly execute, aka failure of record (1844) *Hist. In a trial by record, a party's inability to produce the record and thereby prove to support a pleading; an absence of proof to support a party's pleading. *The other party was entitled to summary judgment. See trial by record under trial.*] Black's Law Dictionary 10th Edition (2014) Page 713.

³¹ Under influence. (18c) 1. The improper use of power or trust in a way that deprives a person of free will and substitutes another's objective; the exercise of enough control over another person that a questioned act by this person would not have otherwise been performed, the person's free agency having been overmastered. *Consent wither to conduct or to a contract, transaction, or relationship is voidable if the consent is obtained though undue influence. Also termed implied coercion; moral coercion. (longer discussion) 2. Wills & estates. Coercion that destroys a testator's free will and substitutes another's objectives in its place. *When a beneficiary actively procures the execution of a will, a presumption of undue influence may be raised, based on the confidential relationship between the influencer and the person influenced. – Also termed improper influence; (formerly, in both senses) suggestion. See COERCION; DURESS. CF. CAPITATION. Black's Law Dictionary 10th Edition (2014) Page 1760.

³² Duress (13c) 1. *Strictly, the physical confinement of a person or the detention of a contracting party's property. *In the field of torts, duress is considered a species of fraud in which compulsion takes the place of decent in causing injury (long discussion that includes 8-sub-sections) (1) Duress of circumstances. (2) duress of goods, (3) duress of imprisonment, (4) duress of property, (5) duress of the person (6) duress per minas (loss of life), (7) economic duress, (8) moral duress.* Black's Law Dict. 10th Ed (2014) P 614.

³³ Unjust enrichment (1897) 1. The retention of a benefit conferred by another, who offered no compensation, in circumstances where compensation is reasonably expected. 2. A benefit obtained from another, not intended as a gift and not legally justifiable, for which the beneficiary must make restitution or recompense. * Unjust enrichment is a basis of civil liability involving a claim for recovery that sometimes also goes by the name *restitution*. Instances of unjust enrichment typically arise when property is transferred by an act of wrongdoing (as by conversion or breach of fiduciary duty), or without the effective consent of the transferor (as in a case of mistake), or when a benefit is conferred deliberately but without a contract, and the court concludes that the absence of a contract is excusable-as when the benefit was provided in an emergency, or when the parties one seemed to have a contract but it turns out to be invalid. The resulting claim of unjust enrichment seeks to recover the defendant's gains. 3. The area of law dealing with unjustifiable benefits of this kind. Black's Law Dictionary 10th Ed. (2014) Pge 1771.

³⁴ Forgery n. 1. The act of fraudulently making a false document or altering a real one to be used as if genuine ,the contract was void because of the seller's forgery>. –Also termed false making. Though forgery was a misdemeanor at common law, modern statutes typically make it a felony. 2. A false or altered document made to look genuine by someone with the intent to deceive <he

FORGERY:³⁶ SECURED ELDER ABUSE OF BLESSED SAINT MOTHER DHL AFFIRMATIVE DEFENSE: TO AMEND COMPLAINT: AFFIDAVIT

Both 28 USC 1331[FN#12] Constitutional question requiring 100% jury trial verdict due process redress and 28 USC 1331[FN#13] diversity of citizenship is for citizen fact witness testimony requiring federal jurisdiction formal discovery, fact witness testimony as plead in Complaint Document 8, page 4, exploitation of an elderly person Mother Blessed Saint Dorothy Helen Lussy by Defendant HPL.

SUMMARY RECAP: For Hon. Brian Morris as the review U.S. Judge Leave to Amend Complaint & restatement of Merna Green's Default \$89,828.56 (not Judge JCL claim of \$440K to \$500,000) with live testimony: impeach the manipulated & falsified public record authors: to reaffirm as plead: Complaint p 1.

was not the true property owner because the deed was a forgery>. Also termed fake. 3. Under the Model Penal Code, the act of fraudulently altering, authenticating, issuing, or transferring a writing without appropriate authorization. Under the explicit terms of the Code, writing can include items such as coins and credit cards. Model Penal Code 224.1(1) . – forge, vb. –forger, n. *“While it is true that there is a distinction between fraud and forgery, and forgery contains some elements that are not included in fraud, forgeries are a species of fraud. In essence, the crime of forgery involves the making, altering, or completing of an instrument by someone other than the ostensible maker or drawer or an agent of the ostensible maker or drawer.”* 37 C.J.S. Forgery 2, at 66 (1997) Black's Law Dictionary, 8th Edition (2004) page 677.

³⁵ Double Forgery. A draft having a forged payor signature and a forged endorsement. Black's Law Dictionary, 10th Edition (2014) page 766.

³⁶ Triple Forgery. Definition by Rick Lussy three times: **(1)** forged by false making of a self-signature on oath to obtain public servant job, pension for life; **(2)** forged-false making self-signature 100% intent to obligating 3rd party (ghost) payers to lawyers *ad nauseam* with purposeful deficiencies as lawyers refuse to look behind, refuse to verify live fact witness testimony for self-impeachment. **(3)** *Lawyer-treason-citizens-in-name-only* ("CINO") simple-single forgery, double forgery and triple forgery is within this categorical manipulation & falsification of public records. For selfish profits.

**EXCEPTION SIX: EXCLUSON NO RULE/CLAUSE³⁷
FUNCTIONAL LITERACY/TEXTUALISM AFFIRMATIVE DEFENSE
FOR LEAVE TO AMEND COMPLAINT AFFIDAVIT**

The Plaintiff pro se RCL must act now to protect and preserve this federal case jurisdiction by citing the five-Defendants have no exclusion Rule/Clause[FN#37] to exempt itself from functional literacy aka textualism[FN#24] not the lawyer preferred interpretation (cherry picking) of existing law as accomplished in Magistrate JCL "Findings And Recommendation" a 15-page: Document 63.

SUMMARY RECAP: For Hon. Brian Morris as the review U.S. Judge is Leave to Amend Complaint & restatement of Merna Green's Default \$89,828.56 (not Judge JCL claim of \$440K to \$500,000) with live testimony: impeach the manipulated & falsified public record authors: reaffirmed as plead: Complaint p 1.

**EXCEPTION SEVEN: UNFIT-NO-GOOD BEHAVIOR: JUDGE LYNCH
AFFIRMATIVE DEFENSE LEAVE TO AMEND COMPLAINT & TO ENTER
JUDGMENT BY DEFAULT: \$89,828.56 NOT \$440,000 TO \$500,000 BY
ACTUALLY READING DOCUMENT'S #35, #36 & #34: AFFIDAVIT**

This elaboration is to Document 62 as no-good behavior[FN#3] of Jeremiah C. Lynch US Magistrate Judge as he is in violation to US Constitution Article III, Judiciary § 1[FN#2] for immediate recusal, requiring an automatic review to reconsider the five defendant dismissals and Merna Green Anaconda-Deer Lodge County Assessor, Montana Department of Revenue concluding Default: "order".

³⁷ Exclusionary Rule is a judicial implication. 338 U.S. 25 (1949 at 28. "Designed to safeguard 4th Amendment Rights by its deterrent effect, rather than a personal constitutional right of the party aggrieved." United States v. Leon, 468 U.S. 897, 906 (1984) (Citing United States v. Calandra, 414 U.S. 338, 348 (1974)). See generally William J. Stuntz, *The Virtues & Vices of the Exclusionary Rule*, 20 Harvard J.L. & Pub. Pol'y 443 (1997). "The Challenge of Prosecuting Organized Crime in United States: Procedural Issues" by Paul Marcus Facility Pub. 1998. Pages 1381-2.

Part I: Judge Lynch Forgot about this Default Motion: He acknowledged his delinquency Re Merna Green Default Motion at 10:09 am April 6, 2018 stopped at 11:07 a.m.³⁸ After he finished the Dahood four-Motions to Dismiss abruptly-hurriedly, this magistrate quickly departed. This was without acknowledging Plaintiff pro se RCL Consolidated Affidavit 4-Party Consolidated Answers To Dismiss Doc. #55 w/ Mr. Dahood's yes, to Argue Retrospective Document #56.

Reconvened at 11:13 a.m. THE COURT: "*Please be seated. I apologize for overlooking the motion for default judgment, so we'll address that motion. That is—I don't have the docket number, but it's —excuse me, it's Docket 35, the motion for entry of default judgment against Merna Green, Assessor. ... as duly entered, and we're here today on your motion for the entry of a default judgment.*"

Oral Argument April 6, 2018, Document 61, page 45, Line 7-19.

Part II: (i) Magistrate Lynch did not read the specified (\$89,828.56 Instant Loss) RCL's pleading document #35 "Motion For Judgment by Default: Merna Green Assessors' Office Montana Department of Revenue with Attached Proposed Order." (ii) He also did not read the specified (\$89,828.56 Instant Loss) RCL's pleading document #36, Brief In Support for Judgment by Default Affidavit Against Defendant Merna Green County Assessor Dept. of Revenue: Document 33: F.R.Civ.P. 55(B). (iii) All consubstantial with Document #34 "Attorney-In-Fact Written Contract-Plaintiff-Pro Se Richard Charles Lussy Affidavit To Enforce Complaint Document No. 8 la Authorities Etc. et al."

Part III: Unprepared & arrogant: Judge Lynch stated in eight (8) separate occasions numbers from multi-hundred thousand dollars, to \$440 thousand upwards to \$500,000, nearly half a million dollars as quoted from the transcript. This is a 457-percent change from \$500,000 to \$89,828.56. This is well above the

³⁸ Delinquency of Judge Lynch Re Merna Green Default Transcript Page 45, Line 7.

10% professional legal variance to prove *fraud on the court by officer of the court* (attached Exhibit A-3751 as below:

1-THE COURT "...You are asking for a *multi hundred thousand dollar* default judgment to be entered against Ms. Green." Document 61, pge 49 Line 22-24.
2- THE COURT "Let me just tell you something, sir. You are asking me to enter a judgment against a county official for *440-some-thousand dollars*. Very serious request wouldn't you agree?" Document 61, page 52 Line 21-24. MR. LUSSY: Yes, Your Honor. Ibid Line 25.

3-THE COURT So I'm going to be demanding. I'm not mad, I'm not angry. I'm going to be demanding sir, that upon rather incoherent pleadings you are asking me to award you *nearly half a million dollars* against a defendant in default. Understood? MR. LUSSY: Yes Your Honor. Ibid Page 53, Lines 1-6.

4-THE COURT So I'm going to be demanding and you are going to give me straight answers. All the gibberish about praying and all this stuff, it's over. I'm here to establish a record that you are entitled to *nearly \$500,000* against a county official who didn't provide you, allegedly, a form. So I am going to be demanding. That's not anger. That's the law. Ibid Page 53 Lines 7-13.

5-THE COURT "Ms. Green hs nothing to do with that. She does not have to defend that. And it does not give you the right to seek \$500,000 against her." Ibid P 54, L18-20.

6-THE COURT "...Al I'm asking you is what is the jurisdictional basis of your claim to receive \$500,000 from Ms. Green." Ibid Page 54 L24-25 and Page 55 L1.

7-THE COURT ... "I'm here because you are asking somebody to pay you \$500,000. I have made that perfectly clear." Ibid page 60, line 22-25.

8-THE COURT ... "I question and probably will find there is no jurisdiction here. And even if there were, I don't think you've stated a claim that would allow me to award you almost *half a million dollars* against Ms. Green." Ibid page 64 L 2-10.

Part IV: Judge Lynch self-admitted he can be rude: THE COURT: "I don't get mad at anybody in here. All I need is answers. If you-you know, if people tend to be rude, people are rude. I guess I can be accused of that. Ibid. Page 57 Lines 7-9.

Part V: Magistrate Lynch called RCL's "rather incoherent pleadings...All the gibberish about praying and all this stuff, it's over. Ibid. Page 53 Lines 3 and 8-9.

Part VI: Judge Lynch THE COURT: "All right. I'm not one of your family members that you feel obligated to abuse, so let's get that straight. I've given you a lot of time here. ;;" Ibid Page 51 Lines 23-25.

Part VII: Judge Lynch THE COURT: "... The discrimination of which you are complaining is the personal relationship between you and Ms. Green.

MR. LUSSY: I have no personal relationship. It had to do with her—I don't mean to be nonspecific. I'm just going back to the fact of her refusal to cooperate with me as a public official, as a public servant." Ibid Page 59 Lines 11-14.

THE COURT: "Okay, let me then recharacterize & I apologize. Ibid L15-16

Part VIII: MR LUSSY: "...I apologize for pushing you to the tipping point. Not my intent at all You are the boss and you'll always be the boss because I'm just a little person. Ibid Page 60 Lines 12-15.

Part IX: MR LUSSY: "Yes. Judge Murray, who was the judge for the securities fraud case, he called me a disgruntled litigant (are not all plaintiff's disgruntled litigants) because Frank Bennett was not included in the legal malpractice errors and omissions settlement from Mr. Dahood and so therefore I'm saying that was faulty settlement because--- ... Ibid Page 60 Lines 15-20.

Part X: Magistrate Lynch THE COURT: "So Judge Murray was with the good Lord, correct, hopefully? Ibid Page 63 Lines 10-11.

MR LUSSY: "I pray so. And I know you didn't like the word pray, but typically pleadings can be so stated to be I pray for relief such as. So I'm not acting out of the lexicon of made-up words. Ibid Page 63 Lines 12-15.

Part XI: MR LUSSY: "I've been barred by the Montana State Supreme Court from representing myself." Ibid Page 63 Lines 22-23.

Magistrate Lynch is sarcastic-THE COURT: "Imagine that. When were you barred? MR. LUSSY: After Judge Murray³⁹ (make work for lawyer son Murray Esq. & 1st lawyer-nephew Murray Esq., working out of 53 West Galena Paumie Block, Saint Yvonne Paumie Lussy's residence, lost to lawyer fee churning) saying I was a disgruntled plaintiff. Ibid Page 63-64 Lines 22-23 & 1.

Anaconda Montana Success DV-80-41 & still open CV-78-67-BU Butte Montana is *Lussy v. Bennett, Knight Dahood Esq. Etc. et al*, 692 P 2d 1232, 1234 (Mont. 1984) US Judge Murray.[FN#5]

³⁹Judge Murray Montana US Federal District Court issued a restraining order against Lussy, "enjoining him (HON RICK ESQ) from proceeding pro se in any Montana court without requesting a leave to file or proceed, and staying all pending actions brought by him pro se". Continues to be open case: Lussy v Bennett, Knight Dahood McLean & somebody else use to impeach WELLS₍₁₎ etc. et al Florida State Supreme Court Justices SC01-849/933 in 10-63-SC (small claims case to impeach Circuit Court Judge Belanger) Fla. State, Naples Collier County.

CONCLUSION: This predicate act, pending litigation evidenced in Naples Daily News (Complaint Document 8 page 62 of 82) is causation to lose 8-Florida County property appraiser (assessor) elections: 1988-92-96-00-04-08-00-12-16. It is due to the prior Dahood Case. It requires Mr. Wade J. Dahood's live testimony as to what happened November 9th, 2015 (his recording-not-a-transcript is a standard precaution) and retrospective to October 22, 1981 whether Francis R. Bennett not in the legal malpractice lawsuit caption, why so settle him out. I advised Mr. Wade J. Dahood of limited culpability before filing this current action. Yet it is a 40-year continuation (1978-2018) from destroyed CV 78-67-BU [FN#5] case record [FN#6] to reopen. It is not time bared (See Exhibit A-8538).

- Both Federal question's require 100% jury trial verdict Title 28 USC § 1331 as with diversity of citizenship 28 U.S.C. § 1332 as plead on page 2 of 82, Document 8. Form: Pro Se 1 (Rev. 12/16) Complaint. Thus one must recuse Judge Lynch as willfully unprepared: too busy getting paid to do petitioned required work. Public citizen request of RCL Plaintiff pro se: progress docket is on file.
- MR. LUSSY: "I eminently and in sincerity plead the exact cause of law jurisdiction that I'm aware of. If I made a mistake, I would like to replead and amend the complaint. THE MAGISTRATE LYNCH COURT: "We're beyond that sir. ... *Ibid Page 56 Line25/*

SUMMARY RECAP: For Hon. Brian Morris as the review U.S. Judge Leave to Amend Complaint & restatement of Merna Green's Default \$89,828.56 (not Judge JCL claim of \$440K to \$500,000) with live testimony: impeach the manipulated & falsified public record authors: reaffirmed as plead: Complaint page 1.

**EXCEPTION EIGHT: DEFENDANT WAIVER⁴⁰ BY DELAYED EXPRESS
WAIVER⁴¹ TO STATUTE OF LIMITATIONS⁴² EQUITABLE ESTOPPEL
AFFIRMATIVE DEFENSE FOR LEAVE TO AMEND COMPLAINT**

(1) Plaintiff pro se RCL suspected the predicate act⁴³ of 9th of December, 2015 (Exhibit A-8304 (Document 8, page 67 of 82) with receipt of \$35,000 Cashiers Check thru the U.S. Mail that followed the infamous Blessed Saint Mother DHL Catholic Burial Mass. Then a surprise infamous Monday 9th of November, 2015 Dahood Law Office meeting. Followed April 6, 2018 to May 1, 2018 with a delay express waiver to this Statute of Limitations as made with receipt from opposing

⁴⁰ Waiver 1. The voluntary relinquishment or abandonment – express or implied – of a legal right or advantage; FORFEITURE <WAIVER OF NOTICE> * The party alleged to have waived a right must have had both knowledge of the existing right and the intention of forgoing it. Cf. ESTOPPEL. [Cases Estoppel 52.10. C.] S. Estoppel §§ 67-68, 70-72, 75-76, 79, 159-160]. ... "Waiver is often asserted as the justification for a decision when it is not appropriate to the circumstances." Robert E. Keeton & Alan I. Widiss, Insurance Law § 6,8 at 719 (1998) ... Blacks Law Dictionary 8th Ed (2004) page 1611.

⁴¹ Express Waiver A voluntary and intentional waiver. [Cases: Estoppel 52.10(2). C.J.S. Estoppel §§ 74-75, 84, 87]. Blacks Law Dictionary 8th Ed (2004) page 1611.

⁴² Statute of Limitations The "statute of limitations" is a law that sets the maximum time periods during which certain claims can be brought or rights enforced. If Plaintiff files his complaint after the time period set out in statute has past, court might dismiss plaintiff's complaint & find that it's barred by the statute of limitations. Source: Instructions for Preparing, Filing, & Serving an Answer in District Court (Generic) Civil Law Self-Help Center Clark County, Nevada.

⁴³ Predicate act: Statute of limitations. "Mr. Rick Lussy: And may I please ask for the probate number and the file from the probate state court so that I have some privity as to what I did not know on November 9, (2015) in Wade Dahood's office?" CV-17-79-BU, [FN#3] April 6, '18 Transcript P42, Lines 13-16. "Mr. Jeffrey Wade Dahood: ... Your Honor, but with the next ten days I will provide it to him by mail." Ibid Transcript Page 42, Lines 18-19. "The Court U.S. Magistrate Lynch: Okay. I'm ordering that he provide that to you within the next ten days." Ibid Transcript Page 42, Lines 20-21. [Not received in 10-days, but after 19-days]. Case claim probate attachment Exhibit A-8544, Anaconda County Clerk of Court said no Probate was filed qualifies Rick Lussy aka HON RICK ESQ. an interested person, that the Dahood Judge Dayton "orders issued without notice are not binding on the parties that do not receive notice." Estate of Holmes, 183 Mont. At 295, 599 P.2d at 347. Consequently, as to WJD-HPL-LLL-JMB the decree is necessarily void & without effect, & must be reversed. See no inventory of Blessed Saint DHL-HFL estate that includes 2-motor vehicles in 301 Main Street heated garage.

Jeffrey Wade Dahood Esq.'s Document 62 statement he verified & now claims ownership.

(2) ORIGINAL STATEMENT April 6, 2018 ultimately delayed to May 1, 2018.

(3) JEFFREY WADE DAHOOD ESQ: "...It all stems around an Estate which was handled in the Third Judicial District Court of Deer Lodge County in front of the Honorable Ray J. Dayton in which my father handled the Estate of the parties' parents, and specifically their mother. Your Honor--." Transcript April 6, 2018, Oral Argument Page 4, Lines 19-23.

THE MAGISTRATE LYNCH COURT: "Not to interrupt you. This (sic) is the parents of Mr. Richard Lussy and Henry Lussy?" *Ibid* Page 4, Lines 24-25.

MR. JEFFREY WADE DAHOOD ESQ: "That's correct, Your Honor. *Ibid* Page 5, Line 1.

THE MAGISTRATE LYNCH COURT: "And are Bornff and Roque within that family tree, so to speak? *Ibid* Page 5, Line 2-3.

MR. JEFFREY WADE DAHOOD ESQ: "They are the daughters of Mr. Henry (Paumie) Lussy, Your Honor." *Ibid* Page 5, Line 4-5.

(4) Predicate Act: Waiver by Delayed Express Waiver receipt RCL: May 1, 2018.

(5) THAT WAS APRIL 6, 2018 RESPONSE TO:

MR. LUSSY: "And may I please ask for the probate number and the file from the probate state court so that I have some privity as to what I did not know November 9th (2015) in Wade Dahood's office?" Transcript 4/6/18 P 42 L 13-16.

MAGISTRATE COURT: "Mr. Dahood, do you have that handy? *Ibid* P 42 L17.

MR. JEFFREY WADE DAHOOD ESQ: "I don't have it handy, Your Honor, but within the next ten days I will provide it to him by mail. P. 42 L18-19.

THE MAGISTRATE LYNCH COURT: "Okay, I'm ordering that he provide that to you within the next ten days. *Ibid* Page 42 L20-21.

(6) Nineteen days (April 6 to 25, '18) later → MR. JEFFREY WADE DAHOOD ESQ: "At the hearing of April 6, 2018, Jeffrey W. Dahood, attorney for stated Defendants, advised the Court that the estate of Dorothy Lussy had been probated. This is in error. Counsel for the stated Defendants has been advised that the property of Dorothy Lussy was distributed during her lifetime and was distributed through an attorney and a trust in Missoula, Montana. The estate was never administered nor distributed thru the law firm of Knight & Dahood, Anaconda, Montana." Document 62 "Objection To Affidavit Richard Charles

Lussy Entitled 'Not Good Behavior of Jeremiah C. Lynch United States Magistrate Judge Is A Violation of United States Constitution Article III Judiciary § 1' And Clarification of Probate Issue" as dated April 25, 2018 & received thru U.S. mail on May 1, 2018.

(7) Suspected Predicate Act Dec. 9, 2015 before express waiver by Mr. Dahood.

THE MAGISTRATE LYNCH COURT: "*So when did you first become aware of this fraudulent* –Transcript April 6, 2018, Oral Argument Page 31, Lines 19-20.

MR LUSSY: "When I received the \$35,000 check with this second page that I gave your most proficient clerk, the second page [Exhibit A-8306 (Document 8, page 65 of 82) that was cut & pasted from Document 8, p 66 of 82 use to justify Document 8, p 67 of 82].

Ibid P31, L19-20.

THE COURT: "*The question is when. A date.*" –

Ibid P31, Line 24.

MR LUSSY: "The 9th of December, 2015."

Ibid P31, Line 25.

AND

(8) This pattern is further extended by common law fraud consubstantial with Civil RICO fraud etc. et al Document #8 Frauds and Swindles Paragraph denied as a disputed fact, a *predicate act* [FN#43] on April 6, 2018 (4/6/18 to 5/1/18 - 150-days (0.41-year) U.S. Magistrate Jeremiah C. Lynch Court Order to produce Judge Dayton's Order. Plaintiff pro se counsel Mr. Jeffrey Wade Dahood on behalf of his father took 19-days, not the ordered 10-days to produce.

(9-i) This 0.41-year[FN#43] is inside the limit of 3-years: MCA 27-2-204(2) limit of three years: for tort (civil wrong) (injury by lawyer made manipulated & falsified public records (with comity) Fla. Statute 839.13(2)(d) attachment Exhibit A-3863 (3-page) remedy. The CV 78-67-BU is not time bared by reopening that stigmatized-eight Florida Property Appraiser Elections (1988-92-96-00-04-08-12-16). (9-ii) This 0.41-year is inside the limit of 3 to 10-years: Professional malpractice MCA § 27-2-206 legal 3-years from discovery, max 10-years MCA § 27-2-206, (9-iii) This 0.41-year is inside the limit of 5-years: Contracts MCA §27-2-202(1); oral (oath of public office to support & defend U.S. Constitution), written 5-years MCA §27-2-202(2). (9-iv) This 0.41-year is inside the limit of 3-years: Judgments 10-years MCA §27-2-201(2) without particularity. (9-v) This 0.41-year is inside the limit of 3 to 5-years: common law predicate act(s) of fraud-theft MCA §72-1-111, 3-to-5-years & (9-vi) this 0.41-year is inside the limit of 4-

years: Civil RICO 4-years Rotella v. Wood, 528 U.S. 549, 559 n.4 (2000) as a conduit prescribed by the Commerce Clause.

1. Plaintiff pro se RCL pleads the defense of collateral estoppel⁴⁴ as protection from U.S. Magistrate Judge Lynch in oral argument. It was without reference to the evidence, not litigated. It must be tried with the evidence plead.

SUMMARY RECAP: For Brian Morris as the review Judge Leave to Amend Complaint & restatement of Merna Green's Default \$89,828.56 (not Judge JCL claim of \$440K to \$500,000) with live testimony: to impeach the manipulated & falsified public record authors: reaffirmed as plead: Complaint page 1. (Doc 8) 82 Pgs)

EXCEPTION NINE: MAGISTRATE LYNCH BIAS MOLLYCODDLER⁴⁵
DEFENDANT LAWYER PLEADINGS: CIVIL FRAUD IS NOT A JURY
VERDICT REFERRAL FOR CRIMINAL FRAUD: AFFIRMATIVE
DEFENSE LEAVE TO AMEND COMPLAINT

Part I: (1) Richard Charles Lussy ("RCL") is again totally locked out of society-marriage-personal family life before the 2020 election by "premature dismissal" & Merna Green's political smear. Judge Lynch denied all adequate facts by express omission-100% concealment in his Order Findings & Recommendation that consists of 15-pages, dated May 2, 2018 clearly erroneous & contrary to law pursuant 28 USC § 636 (b)(1)(A) to dismiss for failure to state a claim & denial of Merna Green's Default.

⁴⁴Collateral estoppel A(e-stop-el). 1. The binding effect of a judgment as to matters actually litigated and determine in one action on later controversies between the parties involving a different claim form that on which the original judgment was based. 2. A doctrine barring a party from relitigating an issue determined against that party in an earlier action, even if the second action differs significantly from the first one. — Also termed issue preclusion; issue estoppel; direct estoppel; estoppel by judgment; estoppel by record; estoppel by verdict; cause-of-action estoppel; technical estoppel; estoppel *per rem judicatam*. Cf. Res Judicata. [Cases: Judgment 634, 713, 948(1). C.J.S. Judgments §§ 697-703, 707, 779-782, 803-806, 834, 930-931, 933.] *Black's Law Dictionary* 8th Edition (2004) page 279.

Part II: The DHL-HFL Estate wrong doers are all here as 5-named defendants pursuant: State Farm Fire & Cas. Co. v. Estate of Caton, 540 F. Supp. 673 (N.D. Ind. 1982) that allow Estate & Civil RICO compliance etc. et al also allows leave to file Amended Complaint for an improved particularized pleading.

1. Just one example of many law authorities plaintiff pro se plead in complaint document 8 civil fraud different from criminal fraud: a jury verdict referral.
2. Civil Fraud versus jury verdict referral to monopoly government authority

Criminal Fraud: what's the difference?⁴⁵ The shortest conclusion is:

"By contrast, a civil fraud case is brought to court by the person (RCL) who was defrauded, who needs to prove (*to a 100% jury trial for 100% verdict in 100% due process redress: 51% for civil jury verdict & super majority for criminal jury verdict*) that the defendant materially misrepresented the fact, that the fact was false and they knew that it was false, that they did so with the intention of getting the victim to act on the misrepresentation and that the victim acted reasonably in believing the misrepresentation. In addition to all of these elements, the victim needs to show that they suffered a damage as a result of the misrepresentation. The biggest difference between a civil fraud case and a criminal case, beyond who is pursuing it, is that actual damage needs to have occurred in a civil case.

2(b) The goal of consubstantial[FN#14] pursuit in a jury verdict referral criminal fraud case concurrent civil fraud case is to get justice and punish the wrongdoer, but the punishments that result from a guilty verdict are very different. In the case of criminal fraud, the accused faces the possibility of incarceration or probation, as well as of having to pay fines and possibly make restitution to any victims that may have been damaged. In a civil fraud case, the punishment sought is generally compensation for the damage that was suffered by the victim.

Part III: The DHL-HFL Estate Judge Lynch is no admirer vise-a-vise in professional judgment attitude. The best evidence is the FTR Gold Recording of April 6, 2018 oral argument, not turned on, by U.S. Clerk is consistent with U.S.

⁴⁵ Mollycoddle a man or boy used to being coddled or pampered; a milksop. Also verb. To pamper; to coddle. Webster's New Universal Unabridged Dictionary (1972) Page 1158.

⁴⁶ <http://bochettoandlentz.com/criminal-fraud-vs-civil-fraud-whats-different>.

Clerk destruction of Case Record in CV-78-67-BU[FN#6]. Public servants not serving public, public tax money compensation support bias: Magistrate Lynch.

3-i.) MAGISTRATE LYNCH COURT: "Mr. Dahoo, welcome to you."

Document 61, April 6, 2018 page 3 Line 9.

3-ii.) MAGISTRATE LYNCH COURT: "-that's why I'm here neutral and detached, as they say." [these words are incongruent contrasting his attitude, as to smear Plaintiff pro se RCL also supporting Merna Green's smear of organized crime.] *Ibid 4/6/18 p 14 L 22-23.*

3-iii.) MAGISTRATE LYNCH COURT (sarcasm): "I feel pretty safe in saying I bet your mother would be awfully proud of the conduct of all you folks here. MR. LUSSY: I pray so Your Honor ... *Ibid Page 36 Lines 7-9.*

3-iv.) MAGISTRATE LYNCH COURT(sarcasm): "I'm sure she would be. I'm sure she would be. MR. LUSSY: I pray so yes. *Ibid Page 36 Lines 12-13.*

3-v.) MAGISTRATE LYNCH COURT (sarcasm): "All right. I'm not one of your family members that you feel obligated to abuse, so let's get that straight. I've given you a lot of time here. Do not interrupt me again Mr. Lussy. Understood?" *Ibid Page 51-2 Lines 23-25 & 1.*

3-vi.) MAGISTRATE LYNCH COURT (sarcasm): "So I'm going to be demanding. I'm not mad, I'm not angry. I'm noting to be demanding, sir, that upon rather incoherent pleadings you are asking me to award you nearly half a million dollars against a defendant in default. Understood?" (emphasis) *Ibid Page 53 Lines 1-5.*

3-vii.) MAGISTRATE LYNCH'S (sarcasm): "So I'm going to be demanding & you are going to give me straight answers. All the gibberish about praying & all this stuff, it's over. I'm here to establish a record that you are entitled to nearly \$500,000 against a county official who didn't provide you, allegedly a form. So I am going to be demanding. That's not anger. That's law." (emphasis) *Ibid P. 53 L. 7-13.*

3-viii.) MAGISTRATE LYNCH COURT (self-admission): "I don't get mad at anybody in here. All I need is answers. If you—you know, if people tend to be rude, people are rude. I guess I can be accused of that. ... (emphasis) *Ibid Page 57 Lines 7-9.*

3-ix.) MAGISTRATE LYNCH COURT (sarcasm): "No; no, that's not true. I'm here to serve you. I'm not near any tipping point. Rest assured, if I hit the tipping point, everyone in the courtroom would know that. I'm not at the tipping point. I never get to the tipping point. I don't consider you a little man. I don't know what you mean by that. ... (emphasis) *Ibid Page 60 Lines 16-21.*

3-x.) MAGISTRATE LYNCH COURT (sarcasm): "So Judge Murray was with the good Lord, correct, hopefully?" (emphasis) *Ibid Page 63 Lines 10-11*

3-xi.) MAGISTRATE LYNCH COURT (sarcasm): "Imagine that. When were you barred? (emphasis) *Ibid Page 63 Line 24.*

SUMMARY RECAP: For Brian Morris as the review Judge Leave to Amend Complaint & restatement of Merna Green's Default \$89,828.56 (not Judge JCL claim of \$440K to \$500,000) with live testimony: impeach the manipulated & falsified public record authors: reaffirmed as plead: Complaint page 1. (doc & papers)

**EXCEPTION TEN: LICENSE⁴⁷ OF JUDGE LYNCH
AFFIRMATIVE DEFENSE TO AMEND COMPLAINT**

Magistrate Lynch's discretion is to be judged by a jury trial verdict as a civil tort and for referral (two separate juror questions) to criminal government prosecution for unlicensed fraud on the court as an officer of the court. Magistrate Lynch's temporary government license[FN#47] is as a temporary employee "is/are" *pied-a'-terre* (one foot on the floor) without Federal courthouse-as-castle (fortress) Doctrine Protections. Unlicensed violations include: pre-employment

⁴⁷ License n. 1. A permission, usu. Revocable, to commit some act that would otherwise be unlawful: esp. an agreement (not amounting to a lease or profit a prendre) that it is lawful to license to enter the licensor's land to do some act that would otherwise be illegal, such as hunting game. See SERVITUDE... "[a] License is an authority to do a particular act or series: Of acts, upon another's land, without possessing any estate therein, it is founded in personal confidence, and is not assignable, nor within the statute of frauds." 2 James Kent, Commentaries on American Law "452-53 (George Comstock ed. 11th ed. 1866) 2. The certificate or document evidence such permission. —License, vb. Black's Law Dictionary 8th Edition (2004) page 938.

loyalty oath to preserve and protect the United States Constitution or, 28 USC § 636 (b)(1)(A) to self-administer “5-dismissals” for failure to state a claim & default “denial” Merna Green, Anaconda Deer Lodge County Assessor.

**EXCEPTION ELEVEN: UNCLEAN HANDS⁴⁸ WITH NOT GOOD FAITH⁴⁹
IS CONSPICIOUS JUDICIAL BIAS⁵⁰ OF JEREMIAH C. LYNCH UNITED
STATES MAGISTRATE**

AFFIRMATIVE DEFENSE FOR LEAVE TO AMEND COMPLAINT

Magistrate Lynch is a distemperate regulator with the extracurricular motive to promote by preference to any-other-Plaintiff pro se that is not suing a peer lawyer in patronage-tribute, therefore with not-clean hands in not-good faith. Thereby protecting his own lawyer tribe/labor union against non-lawyer competition so lawyers can retain 100% market share, no competition and no consumer freedom of choice. This is lawyer anti-trust policy failure by self-administration & self-immunization, from express omissions, 100% concealment as insider traders with

⁴⁸ Clean Hands Doctrine. (1914) The principle that a party cannot seek equitable relief or assert an equitable defense if that party has violated an equitable principle such as good faith. * Such a party is described as having “unclean hands.” For example, Section 8 of the Uniform Child Custody Jurisdiction Act contains an unclean-hands provision that forbids a court from exercising jurisdiction in a child-custody suite in certain situations, as when one party has wrongfully removed a child from another state, has improperly retained custody of a child after visitation, or has wrongfully removed a child from the person with custody. The clean-hands doctrine evolved from the discretionary nature of equitable relief in English courts of equity, such as Chancery.-Also termed unclean-hands doctrine. Black's Law Dictionary, 10th Edition, (2014) page 306.

⁴⁹ Good Faith n. A state of mind consisting in (1) honesty in belief or purpose, (2) faithfulness to one's duty or obligation, (3) observance of reasonable commercial standards of fair dealing in a given trade or business, or (4) absence of intent to defraud or to seek unconscionable advantage. – Also termed bona fides. Cf. BAD FAITH. – Good-faith, adj. Black's Law Dictionary, 8th Edition (2004) page 713.

⁵⁰ Bias, n. Inclination; prejudice; predilection <the juror's bias prompted a challenged for cause>. –bias, vb. – biased, adj. Black's Law Dictionary, 8th Edition (2004) page 171. AND Judicial bias a judge's bias toward one or more of the parties to a case over which the judge presides. *Judicial bias is usu. Insufficient to justify disqualification or recusal, the judge's bias usu. Must be personal or based on some extrajudicial reason. Black's Law Dictionary, 8th Ed. (2004) page 171.

rare oversight in the belief PSLJJA have no individual personal accountability, given U.S. Supreme Courts Writ of Certiorari's do not correct inferior court errors.

THE MAGISTRATE LYNCH COURT: "All right. Let me be very clear with you. If you don't state for me what the basis of jurisdiction is, and not just in general terms, if you aren't going to state for me the basis for jurisdiction, then I'm not going to enter a default judgment because I at all times have to determine whether in fact I do have jurisdiction. When you are asking me to enter nearly a half a million dollar judgment, default judgment, then I need to be assured that in the exercise of my discretion I'm doing what the law allows. And I'm not getting that feeling, sir. Document 61, 4/6/2018, transcript, P56, Lines 11-20. (emphasis)

Magistrate Lynch conspicuous judicial bias demonstrated against Plaintiff pro se RCL adequately plead jurisdiction Federal Issue[FN#12] include: [A] U.S. 7th Amendment[FN#2] (100% jury trial verdict). [B] Missing (1819) U.S. 13th Amendment, [C] equality in (property) tax methodology Montana Statute 15-8-111 challenge; [D] punctuated with Merna Green's venomous smear-to-RCL on the telephone. This is a trademark of organized crime racketeering during 1988-92-96-00-04-08-12-16 Florida election (continues to 2020 election upcoming) channels of interstate-commerce clause. U.S. Congress Regulate in U.S. Constitution Article I, § 8. Defendant Merna Green is a shill-monopoly-government employee to further stigmatize RCL by continuing to manipulate & falsify public records; [E] ignore common law rule of law for default (no paper-answer-what-so-ever) to facts plead. Opposing Dahood Esq. did not dispute in particularity-specificity inside his 4-line 12(b)(6) motion(s) to dismiss. [F] FURTHER adequate jurisdiction plead is diversity of citizenship. [FN#13] As is: over \$75,000 damage (uncontested default of \$89,828.56 Merna Green from \$449,142/5-defendant parties). All is representative of adequate plaintiff pro se plead law-to-fact scope within Document 8 complaint. [G] Merna Green a public servant refused to serve the public. She refused to U.S. Mail 3-commercial

property appraisal property tax appeal forms. Also forms were denied delivery from Helena Mitchell Building, to reduce property value fifteen percent (15%) base incorrect market value (100% willing sellers) opposite mass-assessed property tax value (85% unwilling sellers). Industry source is Appraisal Institute for definition in recorded Affidavits: Exhibit A-8533, Exhibit A-8534 & Exhibit A-8535 (Document 8, page 69, 70 & 71 of 82) value method is unconstitutional: Montana Statute: MCA 15-8-111 challenge Rule 5.1.⁵¹ [H] Five remaining defendants' common-law-basic fraud in addition to racketeering, organized crime fraud-deceit, concealment of non-existent probate proceedings etc. et al as distribution of property was not to Defendant HPL liking "*as oldest son*". [I] HPL's do-estate-over-after-funeral of Mother Blessed Saint DHL. HPL & 2-daughters collaboration with key-man assist: Wade J. Dahoo so *HPL can take what he wants*.⁵² [J] This includes falsified claim to 100% real & personal property at 1818 Tammany St. & 50% of real and (cherry picked) personal property at 301-305 Main Street (Washoe Amusement Co. Inc.) one antique & one late model motor car, Lock Box at Montana Bank, Jewelry gifts from husband Blessed Saint HFL & jewelry gifts from Rick Lussy of Tiffany's of Naples plus status of Butte Georgetown Mining & Milling Company Inc. et al. HPL's sole claim is that he is the oldest son as claimant with no Limited Power of Attorney with durable provision & certainly no Warranty Deeds as proof of ownership.

⁵¹ Montana Code Annotated Rule 5.1(b) of Civil Procedure, Constitutional Challenge To Statute-Notice & Intervention (b) Intervention; Final Decision on the Merits. Unless court sets a later time, the attorney general may intervene within 60-days after the notice is filed or after the court certifies the challenge, whichever is earlier. Before the time to intervene expires, court may reject constitutional challenge, but may not enter a final judgment holding statute unconstitutional.

⁵² Primogeniture noun pri-mo-gen-i-ture Popularity: Bottom 40% of words. Definition 1 : the state of being the firstborn of the children of the same parents 2 : an exclusive right of inheritance belonging to the eldest son. Merriam Webster Dictionary internet 8/11/17

Attachments (13-pages):

Exhibit A-3751 (3-page) *Fraud on Court By An Officer of Court" And "Disqualification Of Judges, State and Federal"*

1-page (Document #59) US Court FTC Gold Recording Or

Exhibit A-3863 (3-page) Fla. Dpt. Law Enforcement Fla. Stat. 839.13(2)(d).

Exhibit A-8544 (1-page w/o envelope) 4/17/18 ADLC Clerk of Court

Exhibit A-8281 (1-page) 66 of 82 DHL no lawsuits till property distributed.

Exhibit A-8306 (1-p) 65 of 82, *Fraud Full Release cut-&-past RCL sign.*

Exhibit A-8304 (1-page) 67 of 82, HPL \$35K cashiers check refused.

Exhibit A-8538 (2-p/envelope) US Mt. Courts 4/10/18 Open CV-78-67-BU

"Cause For Relief"

"Fraud On The Court By An Officer Of The Court"
And "Disqualification Of Judges, State and Federal"

1. Who is an "officer of the court"?
2. What is "fraud on the court"?
3. What effect does an act of "fraud upon the court" have upon the court proceeding?
4. What causes the "Disqualification of Judges"?

1. Who is an "officer of the court"?

A judge is an officer of the court, as well as are all attorneys. A state judge is a state judicial officer, paid by the State to act impartially and lawfully. A federal judge is a federal judicial officer, paid by the federal government to act impartially and lawfully. State and federal attorneys fall into the same general category and must meet the same requirements. A judge is not the court. *People v. Zajic*, 88 Ill.App.3d 477, 410 N.E.2d 626 (1980).

2. What is "fraud on the court"?

Whenever any officer of the court commits fraud during a proceeding in the court, he/she is engaged in "fraud upon the court". In *Bulloch v. United States*, 763 F.2d 1115, 1121 (10th Cir. 1985), the court stated "Fraud upon the court is fraud which is directed to the judicial machinery itself and is not fraud between the parties or fraudulent documents, false statements or perjury. ... It is where the court or a member is corrupted or influenced or influence is attempted or where the judge has not performed his judicial function --- thus where the impartial functions of the court have been directly corrupted."

"Fraud upon the court" has been defined by the 7th Circuit Court of Appeals to "embrace that species of fraud which does, or attempts to, defile the court itself, or is a fraud perpetrated by officers of the court so that the judicial machinery can not perform in the usual manner its impartial task of adjudging cases that are presented for adjudication." *Kenner v. C.I.R.*, 387 F.3d 689 (1968); 7 Moore's Federal Practice, 2d ed., p. 512, ¶ 60.23. The 7th Circuit further stated "a decision produced by fraud upon the court is not in essence a decision at all, and never becomes final."

3. What effect does an act of "fraud upon the court" have upon the court proceeding?

"Fraud upon the court" makes void the orders and judgments of that court.

It is also clear and well-settled Illinois law that any attempt to commit "fraud upon the court" vitiates the entire proceeding. *The People of the State of Illinois v. Fred E. Sterling*, 357 Ill. 354, 192 N.E. 229 (1934) ("The maxim that fraud vitiates every transaction into which it enters applies to judgments as well as to contracts and other transactions."); *Allen F. Moore v. Stanley F. Sievers*, 336 Ill. 316; 168 N.E. 259 (1929) ("The maxim that fraud vitiates every transaction into which it enters ..."); *In re Village of Willowbrook*, 37 Ill.App.2d 393 (1962) ("It is axiomatic that fraud vitiates everything."); *Dunham v. Dunham*, 57 Ill.App. 475 (1894), affirmed 162 Ill. 589 (1896); *Skelly Oil Co. v. Universal Oil Products Co.*, 338 Ill.App. 79, 86 N.E.2d 875, 883-4 (1949); *Thomas Stasel v. The American Home Security Corporation*, 362 Ill. 350; 199 N.E. 798 (1935).

Under Illinois and Federal law, when any officer of the court has committed "fraud upon the court", the orders and judgment of that court are void, of no legal force or effect.

4. What causes the "Disqualification of Judges"?

Federal law requires the automatic disqualification of a Federal judge under

certain circumstances.

In 1994, the U.S. Supreme Court held that "Disqualification is required if an objective observer would entertain reasonable questions about the judge's impartiality. If a judge's attitude or state of mind leads a detached observer to conclude that a fair and impartial hearing is unlikely, the judge must be disqualified." [Emphasis added]. *Liteky v. U.S.*, 114 S.Ct. 1147, 1162 (1994).

Courts have repeatedly held that positive proof of the partiality of a judge is not a requirement, only the appearance of partiality. *Liljeberg v. Health Services Acquisition Corp.*, 486 U.S. 847, 108 S.Ct. 2194 (1988) (what matters is not the reality of bias or prejudice but its appearance); *United States v. Balistrieri*, 779 F.2d 1191 (7th Cir. 1985) (Section 455(a) "is directed against the appearance of partiality, whether or not the judge is actually biased.") ("Section 455(a) of the Judicial Code, 28 U.S.C. §455(a), is not intended to protect litigants from actual bias in their judge but rather to promote public confidence in the impartiality of the judicial process.").

That Court also stated that Section 455(a) "requires a judge to recuse himself in any proceeding in which her impartiality might reasonably be questioned." *Taylor v. O'Grady*, 888 F.2d 1189 (7th Cir. 1989). In *Pfizer Inc. v. Lord*, 456 F.2d 532 (8th Cir. 1972), the Court stated that "It is important that the litigant not only actually receive justice, but that he believes that he has received justice."

The Supreme Court has ruled and has reaffirmed the principle that "justice must satisfy the appearance of justice", *Levine v. United States*, 362 U.S. 610, 80 S.Ct. 1038 (1960), citing *Offutt v. United States*, 348 U.S. 11, 14, 75 S.Ct. 11, 13 (1954). A judge receiving a bribe from an interested party over which he is presiding, does not give the appearance of justice.

"Recusal under Section 455 is self-executing; a party need not file affidavits in support of recusal and the judge is obligated to recuse herself *sua sponte* under the stated circumstances." *Taylor v. O'Grady*, 888 F.2d 1189 (7th Cir. 1989).

Further, the judge has a legal duty to disqualify himself even if there is no motion asking for his disqualification. The Seventh Circuit Court of Appeals further stated that "We think that this language [455(a)] imposes a duty on the judge to act *sua sponte*, even if no motion or affidavit is filed." *Balistrieri*, at 1202.

Judges do not have discretion not to disqualify themselves. By law, they are bound to follow the law. Should a judge not disqualify himself as required by law, then the judge has given another example of his "appearance of partiality" which, possibly, further disqualifies the judge. Should another judge not accept the disqualification of the judge, then the second judge has evidenced an "appearance of partiality" and has possibly disqualified himself/herself. None of the orders issued by any judge who has been disqualified by law would appear to be valid. It would appear that they are void as a matter of law, and are of no legal force or effect.

Should a judge not disqualify himself, then the judge is in violation of the Due Process Clause of the U.S. Constitution. *United States v. Sciuto*, 521 F.2d 842, 845 (7th Cir. 1996) ("The right to a tribunal free from bias or prejudice is based, not on section 144, but on the Due Process Clause.").

Should a judge issue any order after he has been disqualified by law, and if the party has been denied of any of his / her property, then the judge may have been engaged in the Federal Crime of "interference with interstate commerce". The judge has acted in the judge's personal capacity and not in the judge's judicial capacity. It has been said that this judge, acting in this manner, has no more lawful authority than someone's next-door neighbor (provided that he is not a judge). However some judges may not follow the law.

If you were a non-represented litigant, and should the court not follow the law as to non-represented litigants, then the judge has expressed an "appearance of partiality" and, under the law, it would seem that he/she has disqualified him/herself.

However, since not all judges keep up to date in the law, and since not all judges follow the law, it is possible that a judge may not know the ruling of the U.S. Supreme Court and the other courts on this subject. Notice that it states "disqualification is required" and that a judge "must be disqualified" under certain circumstances.

The Supreme Court has also held that if a judge wars against the Constitution, or if he acts without jurisdiction, he has engaged in treason to the Constitution. If a

Exhibit A - 3751 (2 of 3)

judge acts after he has been automatically disqualified by law, then he is acting without jurisdiction, and that suggest that he is then engaging in criminal acts of treason, and may be engaged in extortion and the interference with interstate commerce.

Courts have repeatedly ruled that judges have no immunity for their criminal acts. Since both treason and the interference with interstate commerce are criminal acts, no judge has immunity to engage in such acts.

Exhibit A-3751 (3062)

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MONTANA
FTR GOLD RECORDING OR TRANSCRIPT DESIGNATION AND ORDERING FORM
Please read instructions.

1. NAME Richard C. Lussy		2. PHONE NUMBER 239-263-5413	3. DATE April 7, 2018
4. MAILING ADDRESS 860 Sixth Avenue South, P.O. Box 152		5. E-MAIL ADDRESS ricklussy@yahoo.com	6. CITY Naples
7. STATE Fla.	8. ZIP CODE 34106		9. JUDGE Jeramiah Lynch
10. CASE NAME R.C. Lussy v. H.P. Lussy et al		11. U.S. DISTRICT COURT CASE NUMBER CV-17-79-BU	
12. COURT OF APPEALS CASE NUMBER Not Yet Docketed		13. ORDER FOR	

<input checked="" type="checkbox"/> APPEAL	<input type="checkbox"/> CRIMINAL	<input type="checkbox"/> CRIMINAL JUSTICE ACT	<input type="checkbox"/> BANKRUPTCY
<input type="checkbox"/> NON-APPEAL	<input type="checkbox"/> CIVIL	<input type="checkbox"/> IN FORMA PAUPERIS	<input type="checkbox"/> OTHER - Specify

14. RECORDING REQUESTED: (Specify portion(s) and date(s) of proceeding(s) to be recorded.)
Financial arrangements must be made with the Clerk's Office before recording is prepared.
Copy costs \$15 for each proceeding.

Proceedings	Date(s)	Judge
Motion To Dismiss Defendants HPLussy, Roque, Bornff & Wade J. Dahood	April 6, 2018	Jeramiah Lynch
Plaintiff Motion For Default Merna Green, Assessors Off. MT Dept. Rev.	April 6, 2018	Jeramiah Lynch

15. TRANSCRIBER SELECTED FROM THE PROVIDER LIST:

Specify portion(s) and date(s) of proceeding(s) to be transcribed.
Financial arrangements must be made with the transcriber before the transcript is prepared.

Proceedings	Date(s)	Judge
Motion To Dismiss Defendants HPLussy, Roque, Bornff & Wade J. Dahood	April 6, 2018	Jeramiah Lynch
Plaintiff Motion For Default Merna Green, Assessors Off. MT Dept. Rev.	April 6, 2018	Jeramiah Lynch

CATEGORY	ORIGINAL Includes certified copy to clerk for records of the Court	FIRST COPY to each party	ADDITIONAL COPIES to same party	FORMAT REQUESTED			
				Paper		Electronic Specify File Format	
30-Day	or S3.65/page <i>or S6.65/ S5.00/ea</i> <input checked="" type="checkbox"/>	\$3.65/page <input type="checkbox"/>	\$60/page <input type="checkbox"/>	<input type="checkbox"/> Full Size	<input type="checkbox"/> A-Z word index	<input type="checkbox"/> ASCII	<input checked="" type="checkbox"/> PDF <i>S16NEU</i>
14-Day	\$4.25/page <input type="checkbox"/>	\$90/page <input type="checkbox"/>	\$60/page <input type="checkbox"/>	<input type="checkbox"/> Full Size	<input type="checkbox"/> A-Z word index	<input type="checkbox"/> ASCII	<input type="checkbox"/> PDF <input type="checkbox"/> A-Z word index
7-Day	\$4.85/page <input type="checkbox"/>	\$90/page <input type="checkbox"/>	\$60/page <input type="checkbox"/>	<input type="checkbox"/> Full Size	<input type="checkbox"/> A-Z word index	<input type="checkbox"/> ASCII	<input type="checkbox"/> PDF <input type="checkbox"/> A-Z word index
3-Day	\$5.45/page <input type="checkbox"/>	\$1.05/page <input type="checkbox"/>	\$75/page <input type="checkbox"/>	<input type="checkbox"/> Full Size	<input type="checkbox"/> A-Z word index	<input type="checkbox"/> ASCII	<input type="checkbox"/> PDF <input type="checkbox"/> A-Z word index
DAILY	\$6.05/page <input type="checkbox"/>	\$1.20/page <input type="checkbox"/>	\$90/page <input type="checkbox"/>	<input type="checkbox"/> Full Size	<input type="checkbox"/> A-Z word index	<input type="checkbox"/> ASCII	<input type="checkbox"/> PDF <input type="checkbox"/> A-Z word index
HOURLY	\$7.25/page <input type="checkbox"/>	\$1.20/page <input type="checkbox"/>	\$90/page <input type="checkbox"/>	<input type="checkbox"/> Full Size	<input type="checkbox"/> A-Z word index	<input type="checkbox"/> ASCII	<input type="checkbox"/> PDF <input type="checkbox"/> A-Z word index

16. DISTRIBUTION

E-file this form with the clerk's office, mail to opposing counsel if they are not electronic filers and serve the court reporter.
If payment is authorized under CJA, attach the completed CJA 24 form to this transcript order form.

Signature: *RLZ*

FDLE

Florida Department of
Law Enforcement

Gerald M. Bailey
Commissioner

Office of General Counsel
Post Office Box 1489
Tallahassee, Florida 32302-1489
(850) 410-7676
www.fdle.state.fl.us

Rick Scott, Governor
Pam Bondi, Attorney General
Jeff Atwater, Chief Financial Officer
Adam Putnam, Commissioner of Agriculture

December 7, 2012

Rick C. Lussey
2165 Greenback Circle, Suite 5-303
Naples, Florida 34112

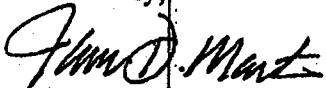
RE: 2012 Florida Statute 839.13

Dear Mr. Lussey,

Pursuant to your request today by telephone, I have attached a copy of Section 839.13, Florida Statutes.

If I can provide anything further you may contact me directly.

Sincerely,



James D. Martin
Assistant General Counsel
850-410-7679

Enclosure

"D"
LAWS

Exhibit A-3863 (1 of 3)

D-1

Select Year: 2012 Go

The 2012 Florida Statutes

Title XLVIChapter 839View Entire Chapter**CRIMES****OFFENSES BY PUBLIC OFFICERS AND EMPLOYEES****839.13 Falsifying records.—**

(1) Except as provided in subsection (2), if any judge, justice, mayor, alderman, clerk, sheriff, coroner, or other public officer, or employee or agent of or contractor with a public agency, or any person whatsoever, shall steal, embezzle, alter, corruptly withdraw, falsify or avoid any record, process, charter, gift, grant, conveyance, or contract, or any paper filed in any judicial proceeding in any court of this state, or shall knowingly and willfully take off, discharge or conceal any issue, forfeited recognizance, or other forfeiture, or other paper above mentioned, or shall forge, deface, or falsify any document or instrument recorded, or filed in any court, or any registry, acknowledgment, or certificate, or shall fraudulently alter, deface, or falsify any minutes, documents, books, or any proceedings whatever of or belonging to any public office within this state; or if any person shall cause or procure any of the offenses aforesaid to be committed, or be in anywise concerned therein, the person so offending shall be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(2)(a) Any person who knowingly falsifies, alters, destroys, defaces, overwrites, removes, or discards an official record relating to an individual in the care and custody of a state agency, which act has the potential to detrimentally affect the health, safety, or welfare of that individual, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. For the purposes of this paragraph, the term "care and custody" includes, but is not limited to, a child abuse protective investigation, protective supervision, foster care and related services, or a protective investigation or protective supervision of a vulnerable adult, as defined in chapter 39, chapter 409, or chapter 415.

(b) Any person who commits a violation of paragraph (a) which contributes to great bodily harm to or the death of an individual in the care and custody of a state agency commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. For the purposes of this paragraph, the term "care and custody" includes, but is not limited to, a child abuse protective investigation, protective supervision, foster care and related services, or a protective investigation or protective supervision of a vulnerable adult, as defined in chapter 39, chapter 409, or chapter 415.

(c) Any person who knowingly falsifies, alters, destroys, defaces, overwrites, removes, or discards records of the Department of Children and Family Services or its contract provider with the intent to conceal a fact material to a child abuse protective investigation, protective supervision, foster care and related services, or a protective investigation or protective supervision of a vulnerable adult, as defined in chapter 39, chapter 409, or chapter 415, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. Nothing in this paragraph prohibits prosecution for a violation of paragraph (a) or paragraph (b) involving records described in this paragraph.

(1) This section does not prohibit the disposing or archiving of records as otherwise provided by law.

Exhibit 11-3863 (2013)

11-2

In ~~addition~~, this section does not prohibit any person from correcting or updating records. ←

(3) In any prosecution under this section, it shall not be necessary to prove the ownership or value of any paper or instrument involved.

History.—s. 19, Feb. 10, 1832; RS 2571; GS 3483; RGS 5357; CGL 7492; s. 1023, ch. 71-136; s. 1, ch. 2002-386; s. 2, ch. 2007-174.

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Exhibit A-3863(3043)

D-3

RICHARD LUSSY & ASSOCIATES

Real Estate Appraisers, Analysts & Consultants

Richard C. Lussy, MAI, SRA

State Certified General Real Estate Appraiser RZ0001564

Florida State Sales Person License No. SL531638

April 7, 2018, Saturday

Ms. Suzie Kruger
Clerk of Deer Lodge County Court
800 S. Main Street, Courthouse
Anaconda, MT. 59711

Phone (406) 563-4040
FAX (406) 563-4077

RE: Request Progress Docket Index with Probate Number of my blessed mother Dorothy Helen Lussy, From Deer Loge County Certification of a Death (Nov. 2, 2015), Certificate File #201512-008297, as signed bhy Clerk and Recorder Joey Blodnick.

Dear Ms. Suzie Kruger, Clerk of Court,

I was advised during a hearing Friday April 6th, 2018 that a probate was opened and settled for which I was never copied.

Would you be so kind to verify its existence with its progress docket index. I will appreciate your cooperation.

Sincerely,

Rick Lussy
Rick Lussy

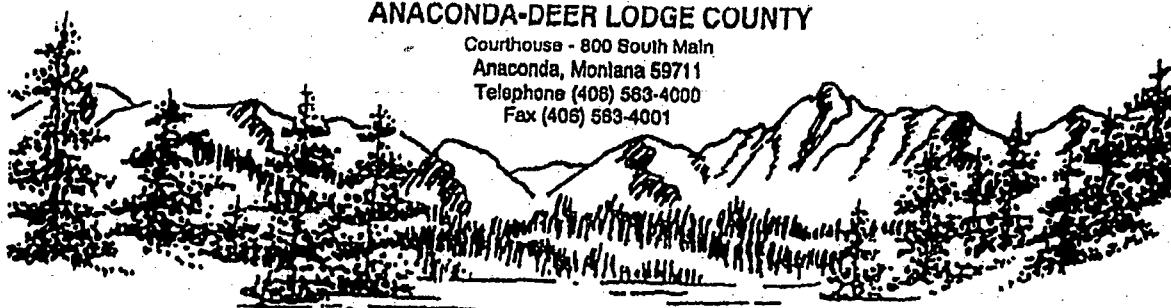
Attachment: -0-

*Busch No probate
opened
for mother
4/9/18
EST 11:40 AM*

Exhibit A-8539(1+1)

ANACONDA-DEER LODGE COUNTY

Courthouse - 800 South Main
Anaconda, Montana 59711
Telephone (406) 563-4000
Fax (406) 563-4001



HONORABLE RAY J. DAYTON
DISTRICT COURT JUDGE

Telephone (406)563-4040
Fax (406)563-4077

SUSIE KRUEGER
CLERK OF COURT
BARBARA VAUGHN
DEPUTY CLERK
JAMIE BLASKOVICH
DEPUTY CLERK

April 17, 2018

RE: Dorothy Helen Lussy/Date of Death: November 2, 2015)

To Whom It May Concern:

This office searched through our Full Court Index and Probate Index and found no Estate or Will has ever been filed with this office for the above-named individual.

If we can be of any further assistance please feel free to contact us.

Sincerely yours,

Susie Krueger, Clerk of District Court

By: Susie Krueger Deputy

Exhibit A-8544 (oft w/o endps)



For
4/13/18

United States Courts
District of Montana

TYLER P. GILMAN, CLERK OF COURT
BETH CONLEY, CHIEF DEPUTY OF ADMINISTRATION
COLEEN HANLEY, CHIEF DEPUTY OF OPERATIONS
DISTRICT OF MONTANA

RUSSELL E. SMITH COURTHOUSE
201 E. BROADWAY
MISSOULA, MT 59802
TELEPHONE: 406-542-7260

April 10, 2018

Richard Lussy
P.O. Box 152
Naples, FL 34106

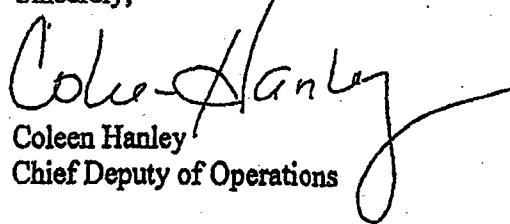
Dear Mr. Lussy:

I am writing in response to your voice mail and written correspondence to Chief Deputy Beth Conley, dated April 10, 2018.

Please be advised that there is no fee required to file a motion to reopen a civil case in federal court. If you wish to bring a matter to the Court's attention, you are welcome to do so by filing a written pleading. If you wish to file a new civil complaint, the filing fee is \$400.00 which you may remit upon filing of the complaint.

Thank you.

Sincerely,


Coleen Hanley
Chief Deputy of Operations

Exh.Jt A-8538(10f)

DISTRICT OF MONTANA
OFFICE OF
CLERK, U.S. DISTRICT COURT
P.O. BOX 8537
MISSOULA, MONTANA 59807

OFFICIAL BUSINESS

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Richard Lussy
P.O. Box 152
Naples, FL 34106

3410630152

Exhibit A-8538 (2 of 2)

Richard Lussy & Associates

Case 2:17-cv-00079-BMM-JCL Document 8 Filed 11/08/17 Page 66 of 82

Article V

Settlor's Power to Amend or Revoke

The settlor reserves the right from time ^{to} time during his or her life, by written instrument delivered to the trustees, to ~~amend~~^{set} or revoke this agreement, but no amendment may change the trustees' duties, powers, and discretions without the trustees' consent. Upon the death of the settlor, the trust shall become irrevocable.

* * *

Release:

ALL Recipients must sign a statement
never to sue before funds and property
are distributed from this TRUST.



WADE J. DAHOOD
ATTORNEY AT LAW

(406) 563-3424
IN MT 1-800-821-1424

111 EAST THIRD STREET
ANACONDA, MONTANA 59711
FAX (406) 563-7519

Dorothy Lussey
Subscribed and sworn to before me this
22 day of June
2001
Mary Pat Lussey
Notary Public for the State of Montana
Residing at Anaconda, Montana
My Commission Expires 11-04-01

Exhibit # 8281 (1.61)

FULL RELEASE OF RECIPIENTS
IN CONNECTION WITH THE
DOROTHY LUSSY
REVOCABLE LIVING TRUST

Fund Urties U. & U. of L.

We, the undersigned, Henry P. Lussy, Jerome C. Lussy, Lawrence F. Lussy, and Richard C. Lussy do hereby state and agree that there will not be any contest with respect to the Revocable Living Trust of Dorothy Lussy and that each will accept the share that is provided for each of them in the said Living Trust of Dorothy Lussy.

Dated this 10th day of November, 2015.

Henry P. Lussy
Henry P. Lussy

Nov 12, 2015

Jerome C. Lussy
Jerome C. Lussy

Lawrence F. Lussy
Lawrence F. Lussy

Richard C. Lussy
Richard C. Lussy

Richard C. Lussy 11/9/15

← Fund Urties

Urties

Posto

214

Exhibit A-8306

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BUTTE DIVISION

RICHARD CHARLES LUSSY,

Plaintiff,

vs.

HENRY PAUMIE LUSSY, LAUNA
LYNN ROQUE, JUAHLEE MURIE
BORNFF, MERNA GREEN,
ASSESSORS OFFICE MONTANA
DEPARTMENT OF REVENUE, and
WADE J. DAHOOD, ESQ.,

Defendants.

CV 17-79-BU-BMM-JCL

FINDINGS AND
RECOMMENDATION

This matter comes before the Court on pro se Plaintiff Richard Charles Lussy's motion for default judgment against Defendant Merna Green, and Federal Rule of Civil Procedure 12(b)(6) motions to dismiss by the remaining Defendants. Because Plaintiff has not shown that a default judgment against Green is warranted, and fails to state a claim against any of the remaining Defendants, Plaintiff's motion for a default judgment (doc. 35) should be denied, and

Defendants' motions to dismiss (docs. 12, 18, and 45) should be granted.

I. Background

Plaintiff filed his Complaint in this case on October 23, 2017, following an apparent family dispute over the administration of his mother's assets under a revocable living trust. (Doc. 1). The named Defendants include: (1) Henry Paumie Lussy, Plaintiff's brother; (2) Launa Lynn Roque and Juahlee Murie Bornff, both of whom are Henry Lussy's daughters; (3) Merna Green Anaconda Assessors Office Department of Revenue, and; (4) Wade J. Dahood, Esq., the attorney who handled the probate of Plaintiff's mother's estate in state court.

On November 8, 2017, Plaintiff filed an Amended Complaint and had summonses issued with respect to all Defendants. (Doc. 8). On January 23, 2018, the Clerk of Court entered defaults against Roque, Bornff, and Green pursuant to Federal Rule of Civil Procedure 55(a). (Docs. 31 and 33). Plaintiff has since filed a motion for default judgment against Green pursuant to Fed. R. Civ. P. 55(b). Unlike Green, who has yet to appear in the case, Roque and Bornff moved successfully to set aside the entry of default and have filed a motion to dismiss for failure to state a claim under Federal Rule of Civil Procedure 12(b)(6). Henry Lussy and Dahood have also appeared in the case and filed Rule 12(b)(6) motions to dismiss for failure to state a claim. All three motions are essentially the same,

and seek dismissal on the ground that the Amended Complaint “is merely a rambling of speculative allegations that make very little to no sense” and does not set forth any cognizable “causes of action or other claims for relief.” (Doc. 13, at 2; Doc. 19, at 2; Doc. 46, at 2).

On April 6, 2018, the Court held oral argument on Plaintiff’s motion for default judgment against Green and the Rule 12(b)(6) motions to dismiss filed by Roque and Bornff, Henry Lussy, and Dahood (hereinafter “Defendants”).

II. Legal Standard

A motion to dismiss under Rule 12(b)(6) tests the legal sufficiency of a complaint. *Navarro v. Block*, 250 F.3d 729, 732 (9th Cir. 2001). “Dismissal under Rule 12(b)(6) is appropriate only where the complaint lacks a cognizable legal theory or sufficient facts to support a cognizable legal theory.” *Mendiondo v. Centinela Hosp. Med. Ctr.*, 521 F.3d 1097, 1104 (9th Cir. 2008).

To survive a Rule 12(b)(6) motion, the complaint “must contain sufficient factual matter, accepted as true, to ‘state a claim to relief that is plausible on its face.’” *Ashcroft v. Iqbal*, 556 U.S. 662, 678-79 (2009) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). A complaint will survive a motion to dismiss if it alleges facts that allow “the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” *Iqbal*, 556 U.S. at 678. But if the

complaint "lacks a cognizable legal theory or sufficient facts to support a cognizable legal theory," then dismissal under Rule 12(b)(6) is appropriate.

Mendiando v. Centinela Hosp. Med. Ctr., 521 F.3d 1091, 1104 (9th Cir. 2008).

Where, as here, the plaintiff is appearing pro se, the court liberally construes the allegations in the complaint. *See e.g. Karim-Panahi v. Los Angeles Police Dept.*, 839 F.2d 621, 623 (9th Cir. 1988); *Ortez v. Washington County Oregon*, 88 F.3d 804, 807 (9th Cir. 1996).

III. Discussion

The Amended Complaint consists of 38 single spaced pages accompanied by more than 40 pages of attached exhibits, and bears the following title: "Amended Complaint & Request for Protective Order with Request for Two-Certifications by this Court U.S. F. R. Civ. P. Rule 5.1: Supplement (Black Slaves) US XIII Amendment with (White Slave) Missing U.S. 13th Amendment (FN #15-#38) and Statute MCA 15-8-111 Challenge: '100% Market' Unwilling Sellers." (Doc. 8, at 1). The body of the Amended Complaint is as difficult to understand as the title. Plaintiff invokes the Court's federal question jurisdiction under 28 U.S.C. § 1331, and sets forth a litany of federal criminal statutes, Constitutional provisions, and essentially unintelligible footnotes. (Doc. 8, at 2-22). Plaintiff also invokes the Court's diversity jurisdiction under 28 U.S.C. § 1332, and sets forth more than 19

purported claims and supporting allegations, most of which are legally incomprehensible. (Doc. 8, at 25-36).

At oral argument, Plaintiff agreed that the Amended Complaint asserts three claims for relief: (1) a claim under the Racketeer Influenced and Corrupt Organizations Act (“RICO”), 18 U.S.C. § 1961 et seq.; (2) a claim for mail fraud under 18 U.S.C. § 1341 and; (3) a common law fraud claim. (Doc. 61, at 18-22).

A. Rule 12(b)(6) Motions to Dismiss By Defendants Lussy, Roque, Bornff and Dahoo

1. Federal Claims

At oral argument, Plaintiff confirmed that his primary theory of recovery based on federal law is a civil RICO claim. (Doc. 61, at 19). Plaintiff alleges that Defendants cut and pasted his signature on a document that released his right to contest his mother’s revocable living trust. (Doc. 8, at 26). The document Plaintiff complains of is titled “Full Release of Recipients in Connection with the Dorothy Lussy Revocable Living Trust,” and states that Plaintiff and his three brothers “agree that there will not be any contest with respect to the Revocable Living Trust of Dorothy Lussy and that each will accept the share that is provided for each of them in the said Living Trust of Dorothy Lussy.” (Doc. 13, at 11).

Presumably, Plaintiff is attempting to bring a civil RICO claim under 18 U.S.C. § 1962(c), which provides as follows:

It shall be unlawful for any person employed by or associated with any enterprise engaged in, or the activities of which affect, interstate or foreign commerce, to conduct or participate, directly or indirectly, in the conduct of such enterprise's affairs through a pattern of racketeering activity or collection of unlawful debt.

18 U.S.C. § 1962(c)

To state a civil RICO claim, Plaintiff must sufficiently allege: "(1) conduct (2) of an enterprise (3) through a pattern (4) of racketeering activity (known as 'predicate acts') (5) causing injury to the plaintiff's business or property." *Living Designs, Inc. v. E.I. Dupont de Nemours & Co.*, 431 F.3d 353, 361 (9th Cir. 2005).

A "racketeering activity" is an act that is indictable as a criminal offense under several specific provisions of Title 18 of the United States Code. 18 U.S.C. § 1961(1). *Miller v. Yokohama Tire Corp.*, 358 F.3d 616, 620 (9th Cir. 2004) (citing *Schreiber Distributing Company v. Serv-Well Furniture Company, Inc.*, 806 F.2d 1393, 1399 (9th Cir. 1986)). A "pattern" of racketeering activity under RICO "requires at least acts of racketeering activity" within ten years of each other. 18 U.S.C. § 1961(5); *United States v. Fernandez*, 388 F.3d 1199, 1221 (9th Cir. 2004).

An "enterprise" is a "group of persons associated together for a common purpose of engaging in a course of conduct," and is "proved by evidence of an ongoing organization, formal or informal, and by evidence that the various associates function as a continuing unit." *United States v. Turkette*, 452 U.S. 576,

583 (1981). "An ongoing organization is a vehicle for the commission of two or more predicate crimes." *Odom v. Microsoft Corp.*, 486 F.3d 541, 552 (9th Cir. 2007) (citation and quotation omitted).

Plaintiff utterly fails to articulate or allege an "enterprise" or a "pattern of racketeering activity" as required to state a claim for civil liability under RICO. The only discernable factual basis for Plaintiff's purported civil RICO claim is his allegation that Defendants forged his signature on the release form during the probate of his mother's estate. This general allegation is insufficient to state a claim for relief under RICO.

To the extent Plaintiff alleges mail fraud in violation of 18 U.S.C. § 1341, and violations of other federal criminal statutes (doc. 8, at 2-3), he fails to state a claim for relief because none of those statutes provides for a private right of action. See e.g. *Cobb v. Brede*, No. C 10-03907 MEJ, 2012 WL 33242, *2 (N.D. Cal. Jan. 6, 2012) (no private right of action under federal mail and wire fraud statutes, 18 U.S.C. §§ 1341 and 1343); *Bratset v. Davis Joint Unified School District*, 2017 WL 6484308 *4 (E.D. Cal. Dec. 19, 2017) (no private right of action under 18 U.S.C. § 1519); *Kumar v. Naiman*, 2016 WL 397596, *2 (E.D. Cal. Feb. 2, 2016) ("[P]laintiffs, as private citizens, have no standing to prosecute criminal claims").

To the extent Plaintiff also attempts to allege some sort of constitutional

violation, he fails to state a claim for relief. The Amended Complaint refers to various provisions of the United States Constitution, including Article I, § 9, which prohibits the grant of any title of nobility by the United States, and Article I, § 10, which provides in part that “no state shall … pass any bill of attainder, ex post facto law, or law impairing the obligations of contracts, or granting any title of nobility.” Plaintiff also complains repeatedly in his Amended Complaint about the “Missing 13th Amendment.” These references are not supported by any coherent factual allegations and do not state a claim for relief based on a violation of the United State Constitution.

2. State Law Claims

Plaintiff’s purported state law claims are equally incomprehensible. (Doc. 8, at 26-35). As but one example, “Count II-C” alleges Henry Lussy’s “fantastical thinking ‘Indenture’ attached Exhibit A-8483 is laughable in thought word & deed. Indenture time line from conspicuous [FN#49] quitclaim and living trust analysis. From: Mother Saint Dorothy Helen Lussy Revocable Living Trust Dated May 18, 1994 to 4-fine sons.” (Doc. 8, at 28). With the exception of a possible fraud claim, Plaintiff does not identify any even arguably cognizable state law claims, much less support those claims with sufficient factual allegations.

While Plaintiff’s claims and allegations are difficult to understand, it appears

that the Amended Complaint arises from a dispute over the disposition of Plaintiff's mother's assets under a revocable living trust. Construing the allegations in the Amended Complaint as liberally as possible, Plaintiff claims that Defendants committed fraud by cutting and pasting his signature on the document releasing his right to contest his mother's revocable living trust. (Doc. 8, at 26).

Plaintiff has failed to adequately plead the necessary elements of a common law fraud claim. A complaint alleging fraud must satisfy the heightened pleading standards set forth in Fed. R. Civ. P. 9(b), which requires that “[i]n all averments of fraud or mistake, the circumstances constituting fraud or mistake shall be stated with particularity.” “Rule 9(b)’s particularity requirement applies to state-law causes of action.” *Salameh*, 726 F.3d at 1133 (quoting *Vess v. Ciba-Geigy Corp. USA*, 317 F.3d 1097, 1103 (9th Cir. 2003)).

In diversity actions state law governs the substantive elements of fraud. *Moore v. Brewster*, 96 F.3d 1240, 1245-46 (9th Cir. 1996). Under Montana law, a cause of action for fraud must set forth the following nine elements:

- (1) a representation; (2) the falsity of that representation; (3) the materiality of the representation; (4) the speaker's knowledge of the representation's falsity or ignorance of its truth; (5) the speaker's intent that the representation should be acted upon by the person and in the manner reasonably contemplated; (6) the hearer's ignorance of the representation's falsity; (7) the hearer's reliance upon the truth of the representation; (8) the hearer's right to rely upon the representation;

and (9) the hearer's consequent and proximate injury or damages caused by their reliance on the representation.

In re Estate of Kindsfather, 2005 MT 51, ¶ 17, 108 P.3d 487, 490 (2005).

Nowhere in the Amended Complaint does Plaintiff plead the above elements with the requisite specificity. Plaintiff's only purported fraud claim reads as follows:

Count I-A Dahood Esq. aided & abetted fraud that November 9, 2015. As paid to assist [Henry Lussy] fraud by providing unknowing [Plaintiff's] signature, to then cut & paste onto Exhibit A-8306. As the other document signed immediately went missing via [Henry Lussy]: "All recipients must sign a statement, never to sue this estate before funds and property are distributed from this Trust" reattached [Plaintiff's] original signature to the fraudulent Exhibit A-8306. [Henry Lussy] had no power of attorney with no durable provision from DHL & no such specific power, presumed in Saint DHL's Living Trust for: "Full Release of Recipient-Dorothy Lussy (Living) Trust, \$35k Cashiers Check #61091 Exhibit A-8304 U.S. Mail: as [Plaintiff] refused & returned after coming thru the U.S. Mail.

(Doc. 8, at 26-27).

Plaintiff does not allege that he was ignorant of the fact that Dahood and Henry Lussy had allegedly misrepresented his signature on the release. Nor does he claim that he somehow relied on the alleged misrepresentation, or that he had a right to do so. Because, Plaintiff has not pled fraud with the specificity required by Federal Rule of Civil Procedure 9(b) and otherwise fails to state a claim upon which relief may be granted, Defendants' motions to dismiss should be granted.

As a general rule, dismissal under Rule 12(b)(6) should be without prejudice, and leave to amend the complaint should be granted unless it is clear that amendment would be futile. *Vess v. Ciba-Geigy Corp. USA*, 317 F.3d 1097, 1107-08 (9th Cir. 2003). At oral argument, Plaintiff explained he had filed a combined brief and affidavit for the purpose of summarizing and clarifying his claims, and making “more clear the who, what, when, and how of the Complaint leading particularization by specificity of the Complaint.” (Doc. 61, at 25). That brief/affidavit is 52 single-spaced, legally incomprehensible pages, and does not clarify Plaintiff’s claims or plead the elements of a common law fraud claim with the requisite specificity.¹ Plaintiff has had three opportunities to adequately state a claim for relief – first in the Complaint (doc 1.), then in the Amended Complaint (doc. 8), and most recently in his brief/affidavit (doc. 55). All three of these pleadings are equally confusing and incoherent. Granting Plaintiff another opportunity to amend the complaint in attempt to state a claim for relief would be

¹ Plaintiff filed a “Motion for Leave to File Retrospective.” (Doc. 56). At oral argument, Plaintiff explained that he filed the motion for the purposes asking that his brief/affidavit be considered as a consolidated response to the motions to dismiss. (Doc. 61, at 24). Defense counsel did not object to considering Plaintiff’s filing as a consolidated response, and Plaintiff’s Motion to Leave to File Retrospective is moot.

futile. Accordingly, the Court recommends that Plaintiff's Amended Complaint be dismissed without leave to amend.

B. Motion for Default Judgment

Plaintiff moves for a default judgment in excess of \$400,000 against Green pursuant to Federal Rule of Civil Procedure 55(b). Where, as here, default has been entered pursuant to Rule 55(a), the factual allegations of the complaint are taken as true for purposes of entering a default judgment under Rule 55(b). See e.g., *Geddes v. United Financial Group*, 559 F.2d 557, 560 (9th Cir. 1977). Whether to grant default judgment is left to the court's sound discretion. See *Aldabe v. Aldabe*, 616 F.2d 1089, 1092 (9th Cir. 1980).

In determining whether default judgment is appropriate, the court should consider the following factors: "(1) the possibility of prejudice to the plaintiff, (2) the merits of plaintiff's substantive claim, (3) the sufficiency of the complaint, (4) the sum of money at stake in the action, (5) the possibility of a dispute concerning material facts, (6) whether the default was due to excusable neglect, and (7) the strong policy underlying the Federal Rules of Civil Procedure favoring decisions on the merits." *Eitel v. McCool*, 782 F.2d 1470, 1471-72 (9th Cir. 1986).

These factors weigh against entering default judgment in Plaintiff's favor. First, Plaintiff has not established the possibility of prejudice if a default judgment

is not entered because, as set forth below, he has not stated any cognizable legal claim for relief against Green.

The second and third factors weigh heavily against entering a default judgment. These two factors are considered together, and essentially require that "a plaintiff state a claim on which [it] may recover." *Pepsico, Inc. v. California Security Cans*, 238 F.Supp.2d 1172, 1175 (C.D. Cal. 2002). Plaintiff conceded at oral argument his claims against Green are based entirely on the allegation that she refused, in her capacity as County Assessor, to give him property tax assessment appeal forms for three of the real properties that were apparently part of his mother's estate. (Doc. 8, 32; Doc. 61-47). Even taking all of Plaintiff's allegations as true, the Amended Complaint does not state any cognizable legal claims against Green.

Under the fourth *Etel* factor, "the court must consider the amount of money at stake in relation to the seriousness of Defendant's conduct." *PepsiCo, Inc.*, 238 F.Supp.2d at 1176-77. Plaintiff requests a default judgement in excess of \$400,000 – an amount that is exceedingly large in relation to the seriousness of Green's alleged conduct, which amounted to nothing more than allegedly refusing to provide Plaintiff with some property tax assessment appeal forms.

As to the remaining factors, because Plaintiff has not stated a claim against Green there is no possibility of a dispute concerning material facts. And while it is not possible to determine based on the materials of record whether Green's default was due to excusable neglect, it is safe to say there is no apparent policy favoring a decision on the merits of Plaintiff's claims in this case.

Even taking the allegations in the Amended Complaint as true, entry of default judgment against Green is not warranted.

IV. Conclusion

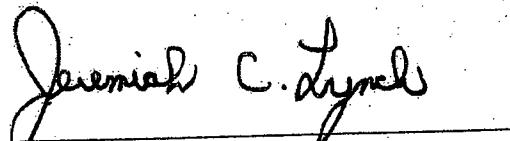
For the reasons set forth above,

IT IS RECOMMENDED that Defendants' Rule 12(b)(6) motions to dismiss for failure to state a claim (docs. 12, 18, and 45) be GRANTED, and this matter be DISMISSED as to Defendants Lussy, Roque, Bornff, and Dahoo.

IT IS RECOMMENDED that Plaintiff's motion for default judgment against Green (doc. 35) be DENIED, and this matter be DISMISSED as to Green. See e.g. *Ogeone v. Nakakuni*, 2013 WL 6487472 *1 (D. Hawaii Dec. 10, 2013) ("A court may dismiss a complaint, for which the filing fee has been paid, *sua sponte* for failure to state a claim" without notice to the plaintiff if the plaintiff "cannot possibly win relief.") (citing *Sparling v. Hoffman Construction Co.*, 864 F.2d 635, 638 (9th Cir. 1988); *Dufour v. Allen*, 2017 WL 373441 *3 (C.D. Cal. Jan. 23, 2017)

(denying motion for default judgment and dismissing claims against defaulting defendants with prejudice on statute of limitations grounds) (citing *Sparling*, 864 F.2d at 638)). If, however, Plaintiff files objections to this Findings & Recommendation showing that he may be able to state a claim for relief against Green, then the Court recommends that he be allowed to file an amended complaint as to Green within 30 days of presiding Judge Brian Morris's order on the Findings & Recommendation.

DATED this 2nd day of May, 2018.



Jeremiah C. Lynch
United States Magistrate Judge

Case 2:17-cv-00079-BMM-JCL Document 67 Filed 10/30/18 Page 1 of 1

UNITED STATES DISTRICT COURT
DISTRICT OF MONTANA
BUTTE DIVISION

RICHARD CHARLES LUSSY,

Plaintiff,

vs.

HENRY PAUMIE LUSSY ET AL,

Defendant.

Case No. CV-17-079-BU-BMM
JUDGMENT IN A CIVIL CASE

Jury Verdict. This action came before the Court for a trial by jury. The issues have been tried and the jury has rendered its verdict.

X Decision by Court. This action came before the Court for bench trial, hearing, or determination on the record. A decision has been rendered.

IT IS ORDERED AND ADJUDGED that his matter is **DISMISSED WITHOUT LEAVE TO AMEND** as to Defendants Lussy, Roque, Bornff, Dahood, and Green.

Dated this 30th day of October, 2018.

TYLER P. GILMAN, CLERK

By: /s/ A Puhrmann
A Puhrmann, Deputy Clerk

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BUTTE DIVISION**

RICHARD CHARLES LUSSY,

CR-17-79-BU-BMM

Plaintiff,

vs.

HENRY PAUMIE LUSSY, LAUNA
LYNN ROQUE, JUAHLEE MURIE
BORNOFF, MERNA GREEN,
ASSESSORS OFFICE MONTANA
DEPARTMENT OF REVENUE, and
WADE J. DAHOOD, ESQ.,

Defendant.

**ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS**

Plaintiff Richard Charles Lussy filed a complaint on October 23, 2017. (Doc. 1.) Lussy then filed an amended complaint and had summonses issued on November 8, 2017. (Doc. 8.) The Clerk of Court entered defaults pursuant to Federal Rule of Civil Procedure 55(a) against Defendants Luana Lynn Roque, Juahlee Murie Bornoff, and Merna Green on January 23, 2018. (Docs. 31, 33.)

1 Roque and Bornoff successfully moved to set aside entry of default. (Doc. 57.)
2 Lussy filed a Motion for Default Judgment against Green on February 2, 2018.
3 (Doc. 35.) Defendant Wade J. Dahood filed a Motion to Dismiss on December 13,
4 2018. (Doc. 12.) Defendants Henry Paumie Lussy, Roque, and Bornoff filed a
5 Motion to Dismiss on December 20, 2017. (Doc. 18.) Roque and Bornoff filed a
6 Motion to Dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6) on March
7 7, 2018. (Doc. 45.) The Court held oral argument on Lussy's motion for default
8 judgment and on Roque and Bornoff's motion to dismiss on April 6, 2018. (Doc.
9 58.) At oral argument, Lussy agreed that his amended complaint raised causes of
10 action under (1) the Racketeer Influenced and Corrupt Organizations Act
11 ("RICO"), 18 U.S.C. § 1961; (2) mail fraud pursuant to 18 U.S.C. § 1341; and (3)
12 a common law fraud claim. (Doc. 61 at 18-22.)

13 *L.W.L. Luss*
14 *J. D. Dahood*

13 United States Magistrate Judge Jeremiah Lynch entered Findings and
14 Recommendations in this matter on May 2, 2018. (Doc. 63.) Judge Lynch
15 recommended that Defendants' Rule 12(b)(6) motions be granted, and Lussy's
16 motion for default judgment against Green be denied. (Doc. 63 at 14.) Judge Lynch
17 further recommended that Lussy's Amended Complaint be dismissed without leave
18 to amend as to Defendants Lussy, Dahood, Roque, Bornoff, and Green. (Doc. 63 at
19 14-15.) Judge Lynch also recommended that if Lussy filed objections to the
20 Findings and Recommendations showing that Lussy is able to state a claim for
21 *Exceptions (1)*

1 relief against Green, then Lussy should be allowed to file an amded complaint as
2 to Green. (Doc. 63 at 15.) Lussy timely objected to Judge Lynch's Findings and
3 Recommendations on May 15, 2018. (Doc. 64.)

4 Lussy's eleven objections are as difficult to understand as the causes of
5 actions raised in Lussy's amended complaint. Lussy raises the following
6 objections: (1) that he adequately plead federal question and diversity jurisdiction;
7 (2) that he has standing to keep federal jurisdiction; (3) that there is a "jury verdict
8 civil tort law application referral for crime enforcement after manipulation [and]
9 falsifying public record;" (4) that the statute of frauds allows Lussy to retain
10 federal jurisdiction; (5) that elder abuse and contract affirmative defenses allow
11 Lussy to amend his complaint; (6) that the defendants "have no exclusion
12 Rule/Clause . . . to exempt itself from functional literacy aka textualism;" (7) that
13 Judge Lynch's "unfit-no-good behavior" is an affirmative defense allowing Lussy
14 leave to amend his complaint; (8) that equitable estoppel and defendants' waiver
15 by delayed express mail allow Lussy to amend his complaint; (9) that Judge Lynch
16 mollycoddled defendants' pleadings; (10) that Judge Lynch violated his oath to
17 protect the United States Constitution; and (11) that Judge Lynch showed bias to
18 his "own lawyer tribe/labor union against non-lawyer competition." (Doc. 64 at 9-
19 34.).

1 The Court reviews de novo Findings and Recommendations timely objected
2 to. 28 U.S.C. § 636(b)(1). The Court reviews for clear error the portions of the
3 Findings and Recommendations not specifically objected to. *McDonnell Douglas*
4 *Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981).
5 Where a party's objections constitute perfunctory responses argued in an attempt to
6 engage the district court in a rehashing of the same arguments set forth in the
7 original response, however, the Court will review the applicable portions of the
8 findings and recommendations for clear error. *Rosling v. Kirkegaard*, 2014 WL
9 693315 *3 (D. Mont. Feb. 21, 2014) (internal citations omitted).

10 I. Lussy's Objections

Except as to letter (3)

11 Though difficult to follow, Lussy essentially objects to Judge Lynch's
12 finding that Lussy's RICO, mail fraud, and common law fraud claims failed to
13 satisfy Rule 12(b)(6). Lussy further objects to Judge Lynch's recommendation that
14 Lussy be denied leave to amend his complaint. Lussy's objections advance the
15 same arguments made in Lussy's responses to defendants' motions to dismiss and
16 in Lussy's motion for default judgment against Defendant Green. Judge Lynch
17 considered these arguments in making his recommendation to the Court. Thus, the
18 Court finds no specific objections that do not attempt to relitigate the same
19 arguments and will review Judge Lynch's Findings and Recommendations for
20 clear error. The Court finds no error. *near 3 1/2 optm 100% TTV cth*



II. Leave to Amend Complaint as to Green

Judge Lynch recommended the Court grant Lussy leave to amend his complaint as to Green if Lussy could show that he was able to state a claim for relief against Green. A motion to dismiss under Rule 12(b)(6) tests the legal sufficiency of a complaint. *Navarro v. Block*, 250 F.3d 729, 732 (9th Cir. 2001).

Dismissal under Rule 12(b)(6) is appropriate only where the complaint lacks a cognizable legal theory or sufficient facts to support a cognizable legal theory." []

Mendiondo v. Centinela Hosp. Med. Ctr., 521 F.3d 1097, 1104 (9th Cir. 2008). To survive a motion to dismiss, the complaint must allege sufficient facts to state a plausible claim for relief. *Taylor v. Yee*, 780 F.3d 928, 935 (9th Cir. 2015). The Court liberally construes the allegations in a complaint filed by a pro se litigant.

Ortez v. Washington County, State of Oregon, 88 F.3d 804, 807 (9th Cir. 1996). In his objections, Lussy summarizes the legal theories raised in his complaint. Lussy then rehashes the same arguments raised in his motion for default judgment against Green and in his responses to defendants' motions to suppress. Lussy did not state a claim for relief against Green. [] *Leave to file*

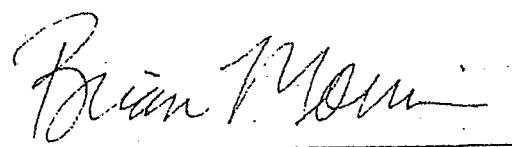
Accordingly, IT IS ORDERED that Magistrate Judge Lynch's Findings and Recommendations (Doc. 63) is ADOPTED IN FULL.

Defendants' Motions to Dismiss (Docs. 12, 18, and 45) are GRANTED.

Lussy's Motion for Default Judgment Against Green (Doc. 35) is DENIED.

This matter is **DISMISSED WITHOUT LEAVE TO AMEND** as to
Defendants Lussy, Roque, Bornff, Dahood, and Green.

DATED this 29th day of October, 2018.



Brian Morris
Brian Morris
United States District Court Judge

General Docket

United States Court of Appeals for the Ninth Circuit

Court of Appeals Docket #: 18-35937

Docketed: 11/01/2018

Nature of Suit: 4370 Other Fraud

Termed: 03/06/2020

Richard Lussy v. Henry Lussy, et al

Appeal From: U.S. District Court for Montana, Butte

Fee Status: Paid

Case Type Information:

- 1) civil
- 2) private
- 3) null

Originating Court Information:

District: 0977-2 : 2:17-cv-00079-BMM-JCL

Court Reporter: Beth B. Conley, Court Reporter
Supervisor

Court Reporter: Julie M. Lake, Court Reporter

Trial Judge: Brian M. Morris, District Judge

Date Filed: 10/23/2017

Order/Judgment:	Date Order/Judgment	Date NOA	Date Rec'd
10/30/2018	EOD: 10/30/2018	Filed: 11/01/2018	COA: 11/01/2018

Prior Cases:

None

Current Cases:

None

RICHARD CHARLES LUSSY
Plaintiff - Appellant,Richard Charles Lussy
[NTC Pro Se]
860 6th Avenue South
P.O. Box 152
Naples, FL 34106

v.

HENRY PAUMIE LUSSY
Defendant - Appellee,Jeffrey Wade Dahood
Direct: 406-563-3424
[COR NTC Retained]
Knight & Dahood
113 E Third Street
Anaconda, MT 59711

LAUNA LYNN ROQUE
Defendant - Appellee,

Jeffrey Wade Dahoo
Direct: 406-563-3424
[COR NTC Retained]
(see above)

JUAHLEE MURIE BORNFF
Defendant - Appellee,

Jeffrey Wade Dahoo
Direct: 406-563-3424
[COR NTC Retained]
(see above)

WADE J. DAHOOD
Defendant - Appellee,

Jeffrey Wade Dahoo
Direct: 406-563-3424
[COR NTC Retained]
(see above)

MERNA GREEN, Assessors Office Montana
Department of Revenue
Defendant - Appellee,

Daniel J. Whyte, Chief Counsel
[COR NTC Retained]
Montana Department of Revenue
Legal Services Office
Firm: 406-444-5884
125 N. Roberts St.
P.O. Box 7701
Helena, MT 59604-7701

RICHARD CHARLES LUSSY,

Plaintiff - Appellant,

v.

HENRY PAUMIE LUSSY; LAUNA LYNN ROQUE; JUAHLEE MURIE BORNFF; WADE J. DAHOOD; MERNA GREEN, Assessors Office Montana Department of Revenue,

Defendants - Appellees.

11/01/2018 1 DOCKETED CAUSE AND ENTERED APPEARANCES OF COUNSEL AND PRO SE APPELLANT. SEND MQ: No. The schedule is set as follows: Transcript ordered by 12/03/2018. Transcript due 12/31/2018. Appellant Richard Charles Lussy opening brief due 02/11/2019. Appellees Juahlee Murie Bornff, Wade J. Dahoo, Merna Green, Henry Paumie Lussy and Launa Lynn Roque answering brief due 03/11/2019. Appellant's optional reply brief is due 21 days after service of the answering brief. [11068993] (JMR) [Entered: 11/01/2018 02:47 PM]

11/05/2018 2 Received notification from District Court re: payment of docket fee. Amount Paid: USD 505.00. Date paid: 11/05/2018. [11072164] (RT) [Entered: 11/05/2018 02:26 PM]

02/12/2019 3 Filed original and 25 copies of Appellant Richard Charles Lussy (Informal: No) opening brief of 41 pages. Served on 02/08/2019. [11189198] (KT) [Entered: 02/13/2019 02:21 PM]

03/01/2019 4 COURT CORRECTION: Attorney Wade J. Dahood in 18-35937 substituted by Attorney Jeffrey Wade Dahood in 18-35937 (Appellee Wade J. Dahood added as attorney in error). [11213753] (RY) [Entered: 03/01/2019 06:11 PM]

03/08/2019 5 Submitted (ECF) Answering Brief for review. Submitted by Appellees Juahlee Murie Bornff, Wade J. Dahood, Henry Paumie Lussy, Launa Lynn Roque and Appellant Richard Charles Lussy. Date of service: 03/08/2019. [11221915] [18-35937]--[COURT UPDATE: Edited docket text to reflect correct brief type. Attached corrected PDF of brief. Removed PDF of excerpts (resubmitted using correct filing type in entry [10]). 03/14/2019 by RY] (Dahood, Jeffrey) [Entered: 03/08/2019 04:35 PM]

03/11/2019 6 Filed (ECF) notice of appearance of Daniel J. Whyte for Appellee Merna Green. Date of service: 03/11/2019. (Party previously proceeding without counsel: Yes) [11222241] [18-35937] (Whyte, Daniel) [Entered: 03/11/2019 08:44 AM]

03/11/2019 7 Added attorney Daniel J. Whyte for Merna Green, in case 18-35937. [11222727] (JFF) [Entered: 03/11/2019 11:47 AM]

03/11/2019 8 Filed (ECF) Streamlined request for extension of time to file Answering Brief by Appellee Merna Green. New requested due date is 04/10/2019. [11222737] [18-35937] (Whyte, Daniel) [Entered: 03/11/2019 11:50 AM]

03/11/2019 9 **Streamlined request [8] by Appellee Merna Green to extend time to file the brief is approved. Amended briefing schedule: Appellees Juahlee Murie Bornff, Wade J. Dahood, Merna Green, Henry Paumie Lussy and Launa Lynn Roque answering brief due 04/10/2019. The optional reply brief is due 21 days from the date of service of the answering brief. [11222901] (BG) [Entered: 03/11/2019 01:31 PM]**

03/12/2019 10 Submitted (ECF) excerpts of record. Submitted by Appellees Wade J. Dahood, Merna Green, Henry Paumie Lussy and Launa Lynn Roque. Date of service: 03/12/2019. [11225050] [18-35937] (Dahood, Jeffrey) [Entered: 03/12/2019 03:27 PM]

03/14/2019 11 Filed clerk order: The answering brief [5] submitted by appellees is filed. Within 7 days of the filing of this order, filer is ordered to file 7 copies of the brief in paper format, accompanied by certification (attached to the end of each copy of the brief) that the brief is identical to the version submitted electronically. Cover color: red. The Court has reviewed the excerpts of record [10] submitted by appellees. Within 7 days of this order, filer is ordered to file 4 copies of the excerpts in paper format securely bound on the left side, with white covers. The paper copies shall be submitted to the principal office of the Clerk. [11227369] (KT) [Entered: 03/14/2019 10:13 AM]

03/22/2019 12 Received 7 paper copies of Answering Brief [5] filed by appellees. [11239693] (DB) [Entered: 03/22/2019 03:32 PM]

03/22/2019 13 Filed 4 paper copies of excerpts of record [10] in 1 volume(s) filed by Appellees. [11239925] (KT) [Entered: 03/22/2019 04:39 PM]

03/28/2019 14 Filed original and 6 copies of Appellant Richard Charles Lussy (Informal: No) reply brief of 14 pages. Served on 03/24/2019. [11248441] (KT) [Entered: 04/01/2019 01:05 PM]

04/03/2019 15 Filed Appellant Richard Charles Lussy motion to expedite case. Deficiencies: None. Served on 03/29/2019. [11252870] (JFF) [Entered: 04/04/2019 10:55 AM]

04/05/2019 16 Filed Appellant Richard Charles Lussy EMERGENCY motion for sanctions. Deficiencies: None. Served on 04/01/2019. [11255691] (JFF) [Entered: 04/08/2019 10:20 AM]

04/09/2019 17 Filed (ECF) Appellees Juahlee Murie Bornff, Wade J. Dahood, Henry Paumie Lussy and Launa Lynn Roque response opposing motion ([16] Party Motion). Date of service: 04/09/2019. [11257896] [18-35937] (Dahood, Jeffrey) [Entered: 04/09/2019 12:52 PM]

04/10/2019 18 Submitted (ECF) Answering Brief for review. Submitted by Appellee Merna Green. Date of service: 04/10/2019. [11259597] [18-35937] (Whyte, Daniel) [Entered: 04/10/2019 02:12 PM]

04/10/2019 19 Submitted (ECF) supplemental excerpts of record. Submitted by Appellee Merna Green. Date of service: 04/10/2019. [11259600] [18-35937] (Whyte, Daniel) [Entered: 04/10/2019 02:13 PM]

04/11/2019 20 Filed clerk order: The answering brief [18] submitted by Merna Green is filed. Within 7 days of the filing of this order, filer is ordered to file 7 copies of the brief in paper format, accompanied by certification (attached to the end of each copy of the brief) that the brief is identical to the version submitted electronically. Cover color: red. The Court has reviewed the supplemental excerpts of record [19] submitted by Merna Green. Within 7 days of this order, filer is ordered to file 4 copies of the excerpts in paper format securely bound on the left side, with white covers. The paper copies shall be submitted to the principal office of the Clerk. [11260251] (KT) [Entered: 04/11/2019 08:16 AM]

04/16/2019 21 Filed 4 paper copies of supplemental excerpts of record [19] in 1 volume(s) filed by Appellee Merna Green. [11265405] (KT) [Entered: 04/16/2019 11:17 AM]

04/16/2019 22 Received 7 paper copies of Answering Brief [18] filed by Merna Green. [11265717] (SD) [Entered: 04/16/2019 01:28 PM]

04/26/2019 23 Filed clerk order (Deputy Clerk: KS): Appellant's motion (Docket Entry No. [15]) to expedite is referred to the panel that will consider the merits of this case. Appellant's motion (Docket Entry No. [16]) for sanctions and appellees' response (Docket Entry No. 17) to the motion for sanctions are referred to the panel that will consider the merits of this case. The optional reply brief remains due May 1, 2019. [11279381] (WL) [Entered: 04/26/2019 04:10 PM]

05/03/2019 24 Filed original and 3 copies of Appellant Richard Charles Lussy (Informal: No) reply brief of 16 pages and 3 copies of supplemental excerpts of record in 1 volume. Served on 04/29/2019. [11287711] (KT) [Entered: 05/06/2019 01:36 PM]

09/03/2019 25 Filed Appellant Richard Charles Lussy request E-mail copy. Deficiencies: None. Served on 08/26/2019. [11423178] (JFF) [Entered: 09/06/2019 09:53 AM]

03/06/2020 26 FILED MEMORANDUM (MARY H. MURGUIA, MORGAN B. CHRISTEN and BRIDGET S. BADE) Lussy's motion to expedite the appeal (Docket Entry No. [15]) is denied as moot. Lussy's motion for sanctions (Docket Entry No. [16]) is denied. AFFIRMED. FILED AND ENTERED JUDGMENT. [11620445] (JN) [Entered: 03/06/2020 09:34 AM]

03/12/2020 27 Filed Appellant Richard Charles Lussy letter dated re: Form 29. Request for Docket Sheet, Document, or Rules. Paper filing deficiency: None. [11627980] (JFF) [Entered: 03/12/2020 01:52 PM]

03/23/2020 28 Filed Appellant Richard Charles Lussy letter dated 03/18/2020 re: Request rules book. Paper filing deficiency: None. (Sent copy of rules book) [11641056] (RL) [Entered: 03/25/2020 09:08 AM]

03/30/2020 29 MANDATE ISSUED. (MHM, MBC and BSB) [11645749] (RR) [Entered: 03/30/2020 02:02 PM]

03/30/2020 30 Filed Appellant Richard Charles Lussy petition for panel rehearing Number of Pages 15. Served on 03/20/2020. Deficiency: Mandate issued. (RESEARCH) [11646340] (JFF) [Entered: 03/30/2020 04:59 PM]

03/31/2020 31 Sent Appellant a copy of the FRAP and Ninth Circuit rules and a copy of the docket sheet in response to his letter of request filed on 03/23/2020. [11647544] (JR) [Entered: 03/31/2020 03:04 PM]

06/09/2020 32 **Supreme Court Case Info**
Case number: 19-8630
Filed on: 05/27/2020
Cert Petition Action 1: Pending
[11716048] (RR) [Entered: 06/09/2020 01:31 PM]

06/23/2020 33 Filed order (MARY H. MURGUIA, MORGAN B. CHRISTEN and BRIDGET S. BADE) We treat Lussy's petition for panel rehearing (Docket Entry No. [30]) as a motion to recall the mandate, and deny the motion. No further filings will be entertained in this closed case. [11731028] (WL) [Entered: 06/23/2020 02:41 PM]

10/05/2020 34 **Supreme Court Case Info**
Case number: 19-8630
Filed on: 05/27/2020
Cert Petition Action 1: Denied, 10/05/2020
[11848320] (RL) [Entered: 10/05/2020 07:46 PM]

01/12/2021 35 **Supreme Court Case Info**
Case number: 19-8630
Filed on: 05/27/2020
Cert Petition Action 1: Denied, 10/05/2020
Cert Rehearing: Denied, 01/11/2021
[11961085] (JFF) [Entered: 01/12/2021 02:15 PM]

No. 18-35937

IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

RICHARD CHARLES LUSSY Plaintiff/Appellant/Injured)
-v-)
HENRY PAUMIE LUSSY, LAUNA LYNN ROQUE,)
JUAHLEE MURIE BORNFF, MERNA GREEN ASSESSORS)
OFFICE MONTANA DEPARTMENT OF REVENUE, AND)
WADE J. DAHOOD ESQ. Defendants'/Appellees'/Perpetrators'/Fraudsters')

On Appeal from the United States District Court
Butte Montana Division
CV-17-79-BU-BMM-JCL (cover white)

**EMERGENCY MOTION TO SANCTION JEFFREY WADE DAHOOD
ESQ. (\$1,050) CIRCUIT RULE 27(a) BEFORE APRIL 11TH 2019 FOR
REPRESENTING MERNA GREEN ASSESSOR MONTANA DEPARTMENT
OF REVENUE TO MODIFY ANSWERING (sic) BRIEF ACTION & TO
CERTIFY \$1,050 ATTORNEY-IN-FACT FEE DUE BY MOVANT AFTER
THREE-FRAUD VIOLATIONS**

Counsel of Record

MOVANT/PLAINTIFF/APPELLANT/INJURED PRO SE

Richard C. Lussy, MAI, SRA, Esq.

RICHARD LUSSY & ASSOCIATES (Property Appraisers)

860 Sixth Avenue South, P.O. Box 152, Naples, Florida 34106

Phone (239) 263-5413, E-mail: ricklussy@yahoo.com

State Certified General Real Estate Appraiser RZ0001564

Real Estate License SL531638

International Designate Appraisal Institute

Esquire Entitlement: Florida State Supreme Court

COMES NOW, movant: Richard Charles Lussy aka ("injured-RCL") Plaintiff/Appellant/Injured seeks \$1,050 Attorney-In-Fact fees from Lawyer of Record JEFFREY W. DAHOOD aka ("*Negligent JW DAHOOD*") of Knight & Dahood Law Firm as Lawyer for all other defendants' appellees' in this action.

Opposing Counsel Jeffrey Wade Dahood Esq. →E-mail: Jdahood@kdesdlaw.com
Knight & Dahood, P.O. Box 727, 113 E. Third Street, Anaconda MT. 59711
Phone (406) 465-3424.

*Movant has difficulty E-filing on Pacer unlike seamless US District Court *Pacer* shall also U.S. Mail April 1, 2019.

However "*Negligent JW DAHOOD*" does not represent & is no lawyer for Defendant-Appellee Ms. Merna Green County Assessor, Montana Department of Revenue. As in the beginning: R. Samuel Willette (phone (406) 444-5884) Special Assist Attorney General Tim Fox, Mont. Dept. Rev. Legal Service Office was her lawyer, followed by Daniel J. Whyte (phone (406) 444-3340) General Counsel for Montana Department of Revenue statement who incorrectly secured 9th Circuit Appellate Court's extension to Answer Brief from March 11th to April 11th 2019: "*Party Previously proceeding without counsel: Yes.*" Was incorrect. As that separate-different: *Circuit Rule 27-3 Urgent Motion* US Mail filed Friday, March 29, 2019 was to STAY ORDER filing Answer Brief: Merna Green County Assessor Montana Department of Revenue.

Movant applies Fed. Rules of Appellate Procedure ("FRAP"), 9th Circuit

Rules Advisory Committee Notes (1. Dec. 2018) in Disposition of this Motion For
a Procedural Order Emergency Circuit Rule 27(a):

***EMERGENCY MOTION TO SANCTION JEFFREY WADE DAHOOD
ESQ. (\$1,050) CIRCUIT RULE 27(a) REPRESENTING MERNA GREEN
ASSESSOR MONTANA DEPARTMENT OF REVENUE TO MODIFY
ANSWERING (sic) BRIEF ACTION & TO CERTIFY \$1,050 ATTORNEY-IN-
FACT FEE DUE MOVANT AFTER THREE-FRAUD VIOLATIONS**

This EMERGENCY RULE 27-3(a) **INTERLOCATORI ORDER ON APPEAL**
by movant is opposite Jeffrey Wade Dahood ("Negligent JW DAHOOD") as fraud
to willfully mislead this Honorable Appellate Court^{1,2} to wrongly favor **Default-
Libelous-Green** with by Emergency Motion FRAP Rule 27-3(a) criteria-cause-for-
relief negligence follow for \$350/hour multiple 3-hours equal \$1,050 due movant.

FROM: March 8, 2019: "ANSWERING (sic) BRIEF OF DEFENDANTS/
APPELLEES, HENRY PAUMINE LUSSY... AND WADE J. DAHOOD. ...
"CONCLUSION" ... DISMISSING THE CASE WITHOUT LEAVE TO AMEND
AS TO Defendants Lussy, Roque, Bronff, Dahod and **Green**." (red cover) Page 7,
last sentence, last word). (**Emphasis** Added)

THREE FRAUDS BY Negligent JW DAHOOD to favor Default-Libelous-Green:

ONE: He has no written contract to represent her.

TWO: He has not written to become counsel of record for her.

¹"Fraud On The Court By An Officer Of The Court & Disqualification of Judges,
State & Federal" www.ballew.com/bob, Exhibit A-3751 (3-pages).

²Fraud on the court (1810) In a judicial proceeding, a lawyer's or party's
misconduct so serious that it undermines or is intended to undermine the integrity of
the proceeding. Examples are bribery of a juror and introduction of fabricated
evidence. (emphasis) Blacks Law Dictionary 9th Edition, 2009, page 732.

THREE: His 100-percent concealment per required FRAP Rule 28
Corporate Disclosure by omission in his ANSWERING (sic) BRIEF (red cover).

This Emergency Circuit Rule 27-3(a) Motion is intended for compliance. As it becomes "almost" moot if considered after April 11th 2019 after & "if" wrongful filing of Answer Brief from Ms. Merna Green County Assessor, Montana Department of Revenue Answer Brief not by R. Samuel Willette but by Daniel J. Whyte General Counsel for Montana State Department of Revenue.

E-filing with U.S. Mail filing 4/1/2019: After the lawyer-fraud-extension from March 11 to April, 11, 2019, notified by Injured-Richard Charles Lussy ("RCL") filing Friday March 29th 2019 in U.S. Mail. Pacer has yet to allow seamless E-filing, after no-problem filing in Butte Montana U.S. District Court: as argued April 6, 2018 in Missoula Montana on that Clerk-to-Court Default judgment (\$89,828.56) FRCP 55(b)(2) concurrent with amending this complaint with court order to allow 100-percent jury trial verdict impeachment of additional inexcusable defendant additions' for certifications' pursuant U.S. Constitution Article III §1 no good behavior. WHY A JURY? Lawyers are not neutral.

Emergency Motion Cir. Rule 27-3(b) sanction "Negligent JW DAHOOD" qualify:

(1-a) To avoid irreparable harm, action is needed within 21-days to avoid irreparable harm relief, in good faith, knowing all appropriate circumstances before April 11, 2019 filing of "Answering (sic) Brief" authored by Jeffrey Wade Dahood & neglected by both R. Samuel Willette & Daniel J. Whyte representing **Default-Libelous-Green**.

Doc 16

(1-b) Before filing this motion 4/1/19 this movant did make every practicable effort to notify the Clerk and all opposing counsel, and to serve the motion, at the earliest possible time. 9th Circuit "On Duty Attorney For The Day" (no name was allowed to be given by On Duty Attorney) phone (415) 355-8000 (#7 then #3). *The professional man stated whatever spoken to warrant your filing, must be in writing, as explained on the phone to qualify for Circuit Rule 27-3(a) Emergency Motion to Sanction \$1,050 Jeffrey Wade Dahoo. Verified-Day & Time → 4/1/19 @ 1:27pm EST for 10:27am PST.*

(1-c)-On March 27, 2019, Injured-RCL called Jeffrey Wade Dahoo, & spoke with Legal Assistant Mother Nancy, 2nd wife to pro se defendant Wade J. Dahoo & advised her of this motion to Sanction Motion For Representing *Default-Libelous-Green* in last paragraph, last page as the last word of their "Answer Brief". ("Default-Libelous-Green") answer Brief Filing. At issue for her is the Answer Brief from March 11, 2019 to April 11, 2019 after that fraudulent Motion For Extension from March 11, to April 11, 2019 by Daniel J. Whyte General Counsel for Montana State Department of Revenue.

Issues' on *Default-Libelous-Green* include the uncontested Clerk Default for a Court Default judgment (\$89,828.56 now plus RCL attorney-in-fact fee at \$350/hour) FRCP 55(b)(2) with written witnessed-notarized contract in trial record Document 34.

Remedy sought is to sanction \$1,050 *Negligent JW DAHOOD* for misleading this Honorable court as appropriate to Circuit Rule 27-3(a) as pursuant FRAP Rule 8(b)(6) Effect of Failing to Deny.³

³ FRAP Rule 8(b)(6) Effect of Failing to Deny An allegation – other than one related to damages-is admitted if a responsive pleading is required and the

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2/20/ Richard C. Lussy on April 1, 2019

Movant-Plaintiff-Appellant-Injured @ cover page.

Attachment Exhibits -0-

CERTIFICATE OF E-SERVICE this 1st day, April 2019: Rick Lussy

(1) Hard-paper-copies w/E-copy Clerk 9th Cir. Court, P.O. Box 193939 San Francisco CA 94119-3939 Ph (415)355-8000 1-Orig+3-bound white cover

(2) One copy Opposing Counsel Jeffrey Wade Dahood Esq. E-mail: Jdahood@kdesdlaw.com Knight & Dahood, P.O. Box 727, 113 E. Third Street, Anaconda MT. 59711, Phone (406) 465-3424

(3) One copy Clerk of Court Deer Lodge Cty Ms. S. Krueger c/o of Butte-Silver Bow County Judge: Kurt Krueger, 800 S. Main Street, Anaconda, Mt. 59711.

allegation is not denied. If a responsive pleading is not required, an allegation is considered denied or avoided.

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JUN 23 2020

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

RICHARD CHARLES LUSSY,

Plaintiff-Appellant,

v.

HENRY PAUMIE LUSSY; et al.,

Defendants-Appellees.

No. 18-35937

D.C. No. 2:17-cv-00079-BMM-JCL
District of Montana,
Butte

ORDER

Before: MURGUIA, CHRISTEN, and BADE, Circuit Judges.

We treat Lussy's petition for panel rehearing (Docket Entry No. 30) as a motion to recall the mandate, and deny the motion.

No further filings will be entertained in this closed case.

CLERK, U.S. COURT OF APPEALS
FOR THE NINTH CIRCUIT
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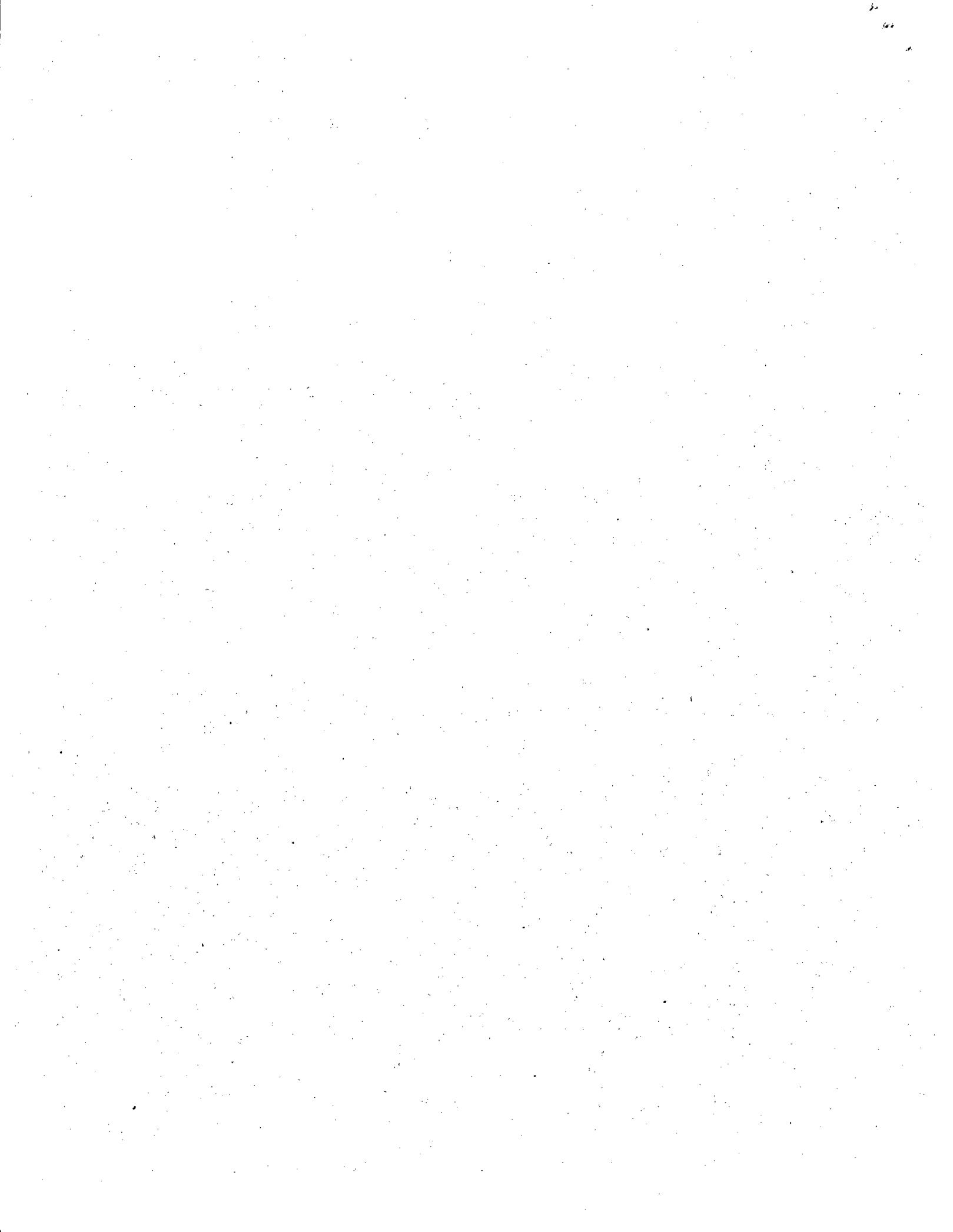


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UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

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U.S. COURT OF APPEALS

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Attorneys

RICHARD CHARLES LUSSY,
Plaintiff - Appellant,
v.
HENRY PAUMIE LUSSY; et al.,
Defendants - Appellees.

No. 18-35937

D.C. No. 2:17-cv-00079-BMM-JCL
U.S. District Court for Montana,
Butte

MANDATE

The judgment of this Court, entered March 06, 2020, takes effect this date.

This constitutes the formal mandate of this Court issued pursuant to Rule
41(a) of the Federal Rules of Appellate Procedure.

FOR THE COURT:

MOLLY C. DWYER
CLERK OF COURT

By: Rhonda Roberts
Deputy Clerk
Ninth Circuit Rule 27-7

FILED

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

MAR 6 2020

**MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS**

RICHARD CHARLES LUSSY,

No. 18-35937

Plaintiff-Appellant,

D.C. No. 2:17-cv-00079-BMM-JCL

v.

HENRY PAUMIE LUSSY; et al.,

MEMORANDUM*

Defendants-Appellees.

**Appeal from the United States District Court
for the District of Montana
Brian M. Morris, District Judge, Presiding**

Submitted March 3, 2020**

Before: MURGUIA, CHRISTEN, and BADE, Circuit Judges.

Richard Charles Lussy appeals pro se from the district court's judgment dismissing his action alleging federal and state law claims arising out of the administration of the assets of Lussy's mother's estate. We have jurisdiction under 28 U.S.C. § 1291. We review de novo a dismissal under Federal Rule of Civil

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

Dismissal

1A

1B

Procedure 12(b)(6). *Eclectic Props. E., LLC v. Marcus & Millichap Co.*, 751 F.3d

990, 995 (9th Cir. 2014). We affirm.

The district court properly dismissed Lussy's Racketeering Influenced and Corrupt Organizations Act ("RICO") claim because Lussy failed to allege facts sufficient to demonstrate any element of a RICO claim. *See id.* at 997 (setting forth elements of a RICO claim).

The district court properly dismissed Lussy's state law fraud claim because

Lussy failed to allege fraud with particularity as required under Federal Rule of Civil Procedure 9(b). *See Kearns v. Ford Motor Co.*, 567 F.3d 1120, 1124-25 (9th Cir. 2009) (discussing heightened pleading standard under Rule 9(b), which applies to state law claims alleging fraudulent conduct); *see also In re Estate of Kindsfather*, 108 P.3d 487, 490 (Mont. 2005) (elements of fraud under Montana law).

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explaining that a district court "acts within its discretion to deny leave to amend when amendment would be futile").

The district court did not abuse its discretion in denying Lussy's motion for default judgment against defendant Green because Lussy failed to demonstrate the possibility of prejudice and failed to plead sufficient facts to state a claim against Green. *See Eitel v. McCool*, 782 F.2d 1470, 1471-72 (9th Cir. 1986) (setting forth standard of review and factors courts consider in determining whether to enter a default judgment).

We reject as meritless Lussy's criticisms of the magistrate judge, the district court judge, and the courtroom deputy. *Relevant to 8/16 Re switch for Recording of Recor system in place.*
We do not consider matters not specifically and distinctly raised and argued in the opening brief. *See Padgett v. Wright*, 587 F.3d 983, 985 n.2 (9th Cir. 2009).

Lussy's motion to expedite the appeal (Docket Entry No. 15) is denied as moot.

Lussy's motion for sanctions (Docket Entry No. 16) is denied.

AFFIRMED.

DAN HODD
REPRESENTING
Maura Green
Not a Typo.

① Direct question
Docket number
Filing date
offices of
Court
by witness
of first witness
testimony

AMENDMENT TO DOROTHY LUSSY REVOCABLE LIVING TRUST

4.2.2 Remainder Divided into Shares

The trustee is directed to divide the remaining principal and property and all accrued income to the Trust Estate into two (2) shares. The name of each beneficiary and his respective share is as follows.

Name and Relationship of Beneficiary	Share of Remaining Estate
Henry P. Lussy, son	50%
Jerome C. Lussy, son	50%
Lawrence F. Lussy, son	\$ 35,000.00 Dollars TOTAL INHERITANCE
Richard C. Lussy, son	\$ 35,000.00 Dollars TOTAL INHERITANCE

The then living descendants of a deceased beneficiary of the settler shall take per stripes the share which the beneficiary would have received if living, subject to postponement of possession as provided in 4.3 infra.

I hereby give, devise and bequeath to Henry and Jerome Lussy the 1926 Cadillac model # 2889, and the contents of the additional rooms adjacent to the Washoe Amusement office, known as the "The Memorial Rooms" to have and to hold as their property in their own right forever.

I further declare that in the event any of my sons, above named, contest the distribution of my Trust as set forth in paragraph 4.2.2 of this amendment, he shall forfeit his right to inherit and shall take nothing from the distribution of this Trust.

Release: All recipients must sign a statement, never to sue this estate, before funds and property are distributed from this Trust.

Dorothy Lussy

Date:

Exhibit A-8282 (1 of 1)

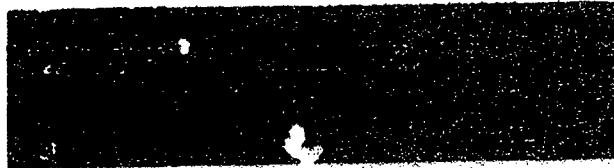
Article V

Settlor's Power to Amend or Revoke

The settlor reserves the right from time to time during his or her life, by written instrument delivered to the trustees, to ~~amend~~ or revoke this agreement, but no amendment may change the trustees' duties, powers, and discretions without the trustees' consent. Upon the death of the settlor, the trust shall become irrevocable.

Release:

ALL Recipients must sign a statement
never to sue before funds and property
are distributed from this TRUST.



WADE J. DAHOOD
ATTORNEY AT LAW

(406) 563-3424
IN MT 1-800-823-3424

113 EAST THIRD STREET
ANACONDA, MONTANA 59711
FAX (406) 563-7519

Dorothy Lusk
Subscribed and sworn to before me this
22 day of June
2001
Mary Pat Lusk
Notary Public for the State of Montana
Residing at Anaconda, Montana
My Commission Expires 11-04-01

Exhibit A-8281 (1st)

OFFICE OF THE CLERK
UNITED STATES DISTRICT COURT
For The District of Montana

Tyler Gilman
Clerk of Court

Beth Conley
Chief Deputy Clerk



February 18, 2015

Rick Lussy MAJ, SRA
RICHARD LUSSY & ASSOCIATES
2165 Greenback Circle, Suite #5-303
Naples, FL, 34112

Dear Mr. Lussy,

I regret to inform you that I am unable to supply copies of the documents you requested in case CV 78-67-BC, as the case file has been destroyed.

I apologize for the inconvenience this has caused.

Sincerely,

Beth Conley

Beth Conley
Chief Deputy

Exhibit A-8978

Russell E. Smith Courthouse
P.O. Box 8537 • 201 East Broadway
Missoula, MT 59807
www.mtd.uscourts.gov

406-542-7260

Fax 406-542-7272



For
Fwd
4/13/18

United States Courts
District of Montana

TYLER P. GILMAN, CLERK OF COURT
BETH CONLEY, CHIEF DEPUTY OF ADMINISTRATION
COLEEN HANLEY, CHIEF DEPUTY OF OPERATIONS
DISTRICT OF MONTANA

RUSSELL E. SMITH COURTHOUSE
201 E. BROADWAY
MISSOULA, MT 59802
TELEPHONE: 406-542-7260

April 10, 2018

Richard Lussy
P.O. Box 152
Naples, FL 34106

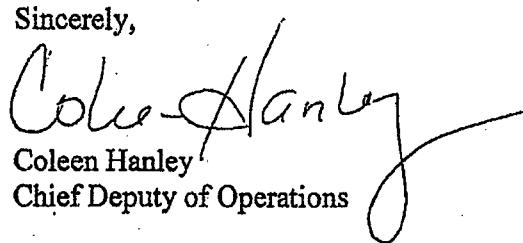
Dear Mr. Lussy:

I am writing in response to your voice mail and written correspondence to Chief Deputy Beth Conley, dated April 10, 2018.

Please be advised that there is no fee required to file a motion to reopen a civil case in federal court. If you wish to bring a matter to the Court's attention, you are welcome to do so by filing a written pleading. If you wish to file a new civil complaint, the filing fee is \$400.00 which you may remit upon filing of the complaint.

Thank you.

Sincerely,


Coleen Hanley
Chief Deputy of Operations

Exh.Jt A-8538(10f)

(soft w/ Envelope)

DISTRICT OF MONTANA
OFFICE OF
CLERK, U.S. DISTRICT COURT
P.O. BOX 8537
MISSOULA, MONTANA 59807

OFFICIAL BUSINESS

OFFICIAL BUSINESS

A photograph of a white envelope. In the upper left corner is a rectangular postage stamp with a blue ink cancellation mark that reads 'MISSOULA MT 59802' and '04/10/2018'. To the right of the stamp is a printed address label with the text 'MISSOULA MT 59802' at the top, followed by a barcode, and the address 'ZIP 59802' and '011D11609869' at the bottom.

Richard Lussy
P.O. Box 152
Naples, FL 34106

3410630152

Erkundet A-8538 (2001)

Richard Lussy & Associates

November 3, 2015

Enclosed find a cashiers check in the amount of \$ 35,000.00 gifted to you, Richard Lussy, by the instructions of Dorothy Lussy's trust.

Also enclosed is a copy of the full release document each recipient signed.

LOSS OF THIS CHICK MAY REQUIRE THE PURCHASE OF AN INDEMNITY BOND.

CASHIER'S CHECK

Full Release of Recipient -
Dorothy Lussy Trust

SECURITY FEATURES INCLUDED. DETAILS ON BACK.

Full Release of Recipient -

Full Release of Recipient -

Exhibit A-8384

"A"
CASE

LAW OFFICES
OF
KNIGHT, DAHOOD, EVERETT & SIEVERS

POST OFFICE BOX 727
113 EAST THIRD STREET
ANACONDA, MONTANA 59711

J.B.C. KNIGHT (1882-1967)

WADE J. DAHOOD

BERNARD J. EVERETT

MICHELLE SIEVERS

JEFFREY W. DAHOOD

NANCY L. DAHOOD, CERTIFIED LEGAL ASSISTANT
MAUREEN PARROW, ADMINISTRATIVE ASSISTANT
KELLIE SAWTER, PROBATE PARALEGAL

Phones
(406) 583-3424
583-3425

(In State Only)
1-800-823-3424

FAX
(406) 583-7518

December 7, 2010

Rick Lussy
2165 Greenback Circle, Suite #5-303
Naples, Florida 34112

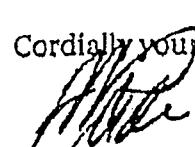
Dear Rick,

I went into our files and was fortunate enough to find the files of years ago involving the litigation concerning your father and me.

I enclose the order approving the settlement and dismissing the case which should provide you with all of the information you requested.

With kindest regards, I am,

Cordially yours,


WADE J. DAHOOD

WJD/aw
w/encl.

Exhibit A-8509 (1 of 4)

[#3] Dohod Esq (14 of 16)
Exhibit A-8546 (13 of 17)

*CASE A
(2 of 4)*

RECEIVED

NOV 30 1981

FILED

Clerk, U. S. District Court
District of Montana
Summe,

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BUTTE DIVISION

DEC 3 1981

LOU ALEKSICH, JR. CLERK
S.Y. Aleksich
Deputy Clerk

HENRY F. LUSSY and RICHARD C. LUSSY

Plaintiffs

vs.

No. CV-78-67-BU

FRANCIS R. BENNETT; KNIGHT, DAHOOD,
MACKAY and MCLEAN, as a partnership
composed of Wade J. Dahood, Conde F.
Mackay and David J. McLean; and
DAVID J. MCLEAN, as an individual.

Defendants

ORDER DISMISSING ACTION WITH PREJUDICE

A hearing on a Motion to Dismiss the above entitled matter
having come on for hearing before the above-entitled court pursuant
to Notice and the Plaintiffs Henry P. Lussy and Richard C. Lussy
being present in Court with one of their attorneys Arden C. McClelland
and the Defendants Wade J. Dahood and David J. McLean being present
in Court and being represented by themselves and by their attorneys
James E. Purcell and Mark A. Vucurovich and witnesses being sworn
and having testified and evidence having been filed with the Court
and the Court being fully advised in the premises, the Court makes the
following Findings of Fact and Conclusions of Law:

The Court finds that a Settlement Agreement was entered into
between the parties in Cause Numbered 12773 in the District Court of
The Third Judicial District of the State of Montana in and for the
County of Deer Lodge on October 5, 1981 and that said Settlement was
approved by the Honorable Peter G. Meloy by a written order signed and
filed on October 22, 1981 in said Court.

Exhibit A-8509 (Def 4)

1157 11/20/81 (15 of 18) 455

Exhibit A-8546 (14 of 17)

C410 "A"
(3 of 4)

The Court further finds that as part of said Settlement Agreement, the Defendants were required to pay to the Plaintiffs the sum of \$125,000.00 on or before the 1st day of December, 1981/

The Court further finds that said Defendants did in fact deposit with the Clerk of the District Court of the Third Judicial District in and for the County of Deer Lodge Montana the sum of \$125,000.00 on November 30, 1981 as evidenced by the affidavit of the Clerk of said court on file herein, and

The Court further finds that neither Henry F. Lussy nor Richard C. Lussy nor their attorneys of record have filed a complaint nor claim for relief for Recission of the settlement agreement above referred to in the District Court of the Third Judicial District of the State of Montana in and for the County of Deer Lodge in accordance with the conditions setforth by this Court

NOW THEREFORE, the Court concludes as a matter of law that a valid settlement agreement was entered into by the parties above named on October 5, 1981, and that the conditions of said Settlement agreement and this Court have been fulfilled,

Now Therefore it is Ordered and this does Order that the above-entitled matter is dismissed with prejudice.

DONE and DATED this 3rd day of December, 1981

S. J. Murray
SENIOR UNITED STATES DISTRICT JUDGE

United States of America } ss.
District of Montana

I, the undersigned, Clerk of the United States District Court for the District of Montana do hereby certify that the affiant and foregoing is a true and full copy of the original instrument in my office as such Clerk.

Witness my hand and Seal this 11th day of December 1981

LOU ALEKSICH, JR. Clerk
By John F. Murphy Deputy Clerk

Exh.d.t A-8569 (3 of 4)

#3 D. b. d. E. 9 (16 of 18) 456

Exh.d.t A-8546 (15 of 17)

FILED

Case 2:17-cv-00079-BMM-JCL Document 8 Filed 11/08/17 Page 59 of 82 (4 of 4)

CIV. 32
(7/63)

JUDGMENT ON DECISION BY THE COURT

LOU ALEKSICH, JR. CLERK
BY *Alvarez*
Deputy Clerk

B.C. 8-301

United States District Court

FOR THE

DISTRICT OF MONTANA - BUTTE DIVISION

CIVIL ACTION FILE NO. CV-78-67-BU

HENRY F. LUSSY, and
RICHARD C. LUSSY,Plaintiffs,
US.FRANCIS R. BENNETT; KNIGHT, DAHOOD, MACKAY and McLEAN,
a partnership, composed of WADE J. DAHOOD, CONDE F. MACKAY,
DAVID M. McLEAN, and DAVID F. McLEAN as an individual,
Defendants.

JUDGMENT

This action came on for trial (hearing) before the Court, Honorable W. D. MURRAY

United States District Judge, presiding, and the issues having been duly tried
(heard) and a decision having been duly rendered,

It is Ordered and Adjudged that this cause is dismissed with prejudice.

Exhibit A-8509 (4 of 4)

Dated at Butte, Montana

, this 3rd day

of December , 19 81 .

United States of America } ss.
District of Montana }I, the undersigned, Clerk of the United States District Court
for the District of Montana, do hereby certify that the above and
any office as such Clerk.Witness my hand and Seal at the City of Butte, Montana, on the 3rd
day of December , 19 81 .

LOU ALEKSICH, JR.

BY *Alvarez*

LOU ALEKSICH, JR.

Clerk of Court

DOREEN P. MURO

By *Alvarez*

Deputy Clerk

#3 D. M. E. 9 (17 of 10)
Exhibit A-8546 (16 of 17)

457

CAJE
"B"

P.D. I & II
(1 of 6)

LAW OFFICES
OF
KNIGHT, DAHOOD, EVERETT & SIEVERS

POST OFFICE BOX 727
113 EAST THIRD STREET
ANACONDA, MONTANA 59711

J.B.C. KNIGHT (1888-1967)

WADE J. DAHOOD

BERNARD J. EVERETT

MICHELLE SIEVERS

JEFFREY W. DAHOOD

NAncy L. DAHOOD, CERTIFIED LEGAL ASSISTANT

MAUREEN PARROW, ADMINISTRATIVE ASSISTANT

KELLIE SAWTOR, PROBATE PARALEGAL

December 7, 2010

Phones
(406) 583-3424
583-3425

(In State Only)
1-800-823-3424

Fax
(406) 583-7519

Rick Lussy
2165 Greenback Circle, Suite #5-309
Naples, Florida 34112

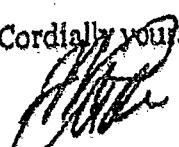
Dear Rick,

I went into our files and was fortunate enough to find the files of years ago involving the litigation concerning your father and me.

I enclose the order approving the settlement and dismissing the case which should provide you with all of the information you requested.

With kindest regards, I am,

Cordially yours,


WADE J. DAHOOD

WJD/aw
w/encl.

Exhibit A-8508

(lot 66 only
State Not Foulard
2V-78-67-B4)

Revised Draft

[#3] Dated: 11/08/17 (14 of 18)

Exhibit A-8546 (13 of 18)

CERTIFIED COPY

Case "B"
Part I & II
(2 of 6)

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT
OF THE STATE OF MONTANA
IN AND FOR THE COUNTY OF DEER LODGE

WADE J. DAHOOD, Esq.,
Plaintiff,
vs
HENRY F. LUSSY and
RICHARD C. LUSSY,
Defendants.

CAUSE NO. 12773

ORDER APPROVING SETTLEMENT
AND
DISMISSING CASE

FILED October 22, 1981

Theresa Gladich
CLERK

THIS CAUSE WAS CALLED for jury trial on the fifth day of October, 1981 at 9:00 o'clock A.M.

Plaintiff WADE J. DAHOOD appeared in person, and informed the Court he was acting as his own attorney.

Defendants RICHARD C. LUSSY and HENRY F. LUSSY appeared in person with their attorneys, MARK C. DAVIDSON ESQ., and ARDEN G. MC CLELLAND, ESQ.

Prior to impaneling the jury, the attorneys for the defendants asked for additional time to confer with their clients on the possibility of reaching a settlement. The defendants request for additional time was granted and, subsequently, the attorneys for the defendants appeared before the Court with the plaintiff, WADE J. DAHOOD, acting as his own attorney and informed the Court that a settlement had been reached.

At that point in time the Court was called into session outside the presence of the jury, and the proposed Settlement Agreement was recited for the record. The terms of the Settlement Agreement indicated that a payment of ONE HUNDRED TWENTY-FIVE THOUSAND DOLLARS (\$125,000.00) would be made to HENRY F. LUSSY and RICHARD C. LUSSY for all of their right, title and interest in and to Townhouses Ltd., a Montana limited partnership. In addition, WADE J. DAHOOD and DAVID M. MC LEAN would relieve RICHARD C. LUSSY and HENRY F. LUSSY from certain obligations owing as a result of their participation in Townhouses Ltd. These obligations were identified

Exhibit A-8506
(2 of 6)

Not Factual
CU-79-67-CU

115 Dated 8/3 (10 of 18)

Exhibit A-8546 (8 of 17)

Case "B"
Part I & II
(3 of 6)

as promissory notes of Richard C. Lussy and Henry F. Lussy and guaranteed personally on behalf of Townhouses Ltd. The sum of \$125,000.00 was to be paid no later than December 1, 1981.

As a result of the terms of the Settlement Agreement outlined above, the parties agreed that all of the following actions would be dismissed with prejudice:

1. This action, WADE J. DAHOOD ESQ., v. HENRY F. LUSSY and RICHARD C. LUSSY, CAUSE NO. 12773 filed with the Third Judicial District of the State of Montana in and for the County of Deer Lodge.
2. DAVID M. MC LEAN ESQ., vs. HENRY F. LUSSY and RICHARD C. LUSSY, CAUSE NO. 12773-A filed with the Third Judicial District of the State of Montana in and for the County of Deer Lodge.
3. HENRY F. LUSSY and RICHARD C. LUSSY vs. KNIGHT, DAHOOD, MACKAY and MC LEAN, composed of WADE J. DAHOOD, CONDE F. MACKAY, DAVID M. MC LEAN, and WADE J. DAHOOD and DAVID M. MC LEAN as individuals, CAUSE NO. DV-80-41, filed with the Third Judicial District of the State of Montana in and for the County of Deer Lodge.
4. HENRY F. LUSSY and RICHARD C. LUSSY vs. FRANCIS R. BENNETT; KNIGHT, DAHOOD, MACKAY AND MC LEAN, a partnership composed of WADE J. DAHOOD, CONDE F. MACKAY and DAVID M. MC LEAN, and WADE J. DAHOOD AND DAVID M. MC LEAN as individuals, CAUSE NO. CV-78-67-BU filed in the United States District Court for the District of Montana, Butte Division.

Exhibit A-8568

(3 of 6)

STATE NOT Faxed
CU-78-67-BU

[#3] D.L. v E.S. (11-15)

Exhibit A-8546 (10 of 17)

Case "B"
Part I & II
(4 of 6)

The Court having thoroughly acquainted itself with all of these matters, and having been presented the proposed Settlement Agreement upon the record, and being fully advised in the premises, NOW THEREFORE,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the Settlement Agreement submitted to the Court on the open record was approved in full and adopted by this Court and the above entitled cause was dismissed with prejudice to the filing of another action, each party to pay their own costs and each party to pay one-half of the jury assessment to Anaconda-Deer Lodge County.

DATED this 22 day of October, 1981.

BY THE COURT,

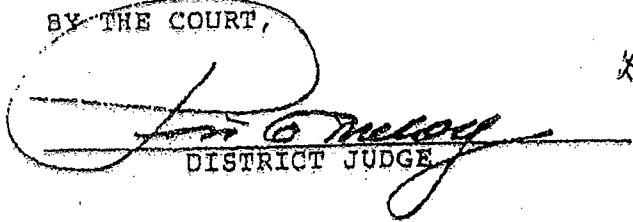

W. L. D. Egg
DISTRICT JUDGE

Exhibit A-8508

W. L. D. Egg

Acting Honorary Judge

11/08/17

Exhibit A-8508

(4 of 6)

Not filed case CV-78-67-BM

Exhibit A-8508

#3 W. L. D. Egg (11-08-18)

Exhibit A-8508 (4 of 6)

Case "B"
Parts I & II
(5046)

STATE OF MONTANA
COUNTY OF ANACONDA, DEER LODGE } ss

I, Susie Krueger, Clerk of the District Court of the Third
Judicial District of the State of Montana, in and for the County
of Anaconda Deer Lodge, do hereby certify that the above is
a full, true and correct copy of the original as the same
appears in the files and records of this office. WITNESS my

Hand and Seal of the Court 11/16 day of

November 2010
Susie Krueger, Clerk
By: Blanche P. McDonald, Deputy

Exhibit A-8508 Not Federal Case
(5046) CV 78-67-BU
Case Record Destroyed

#5 D. 608 ESS (13 of 18)

Exhibit A-8546 (12 of 17)

Case "B"
part I of II
(6 of 6)

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT
OF THE STATE OF MONTANA
IN AND FOR THE COUNTY OF DEER LODGE

HENRY F. LUSSY and
RICHARD C. LUSSY,

Plaintiffs,

vs

Bennett the
Bunker Mt.
In Lessor
KNIGHT, DAHOOD, MACKAY &
MC LEAN, composed of
WADE J. DAHOOD, CONOR P. MACKAY,
DAVID M. MC LEAN and
WADE J. DAHOOD and DAVID M.
MC LEAN, as individuals,

Defendants.

CAUSE NO. DV-80-41

ORDER APPROVING
SETTLEMENT and
DISMISSING CASE.

FILED October 22, 1981
Theresa (Adelie) CLERK

THIS CASE, having been included as part of the
total settlement package presented to the Court in the
case of WADE J. DAHOOD Esq., vs. HENRY F. LUSSY and RICHARD C.
LUSSY, CAUSE NO. 12773 filed with the Third Judicial District
of the State of Montana in and for the County of Deer Lodge,
and the same terms and conditions apply to this case as is
outlined in the order approving settlement and dismissing the
cause in that action; NOW THEREFORE,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that
the Settlement Agreement submitted to the Court on the open
record was approved in full and adopted by this Court and the
above entitled cause was dismissed with prejudice to the
filing of another action, each party to pay their own costs
and each party to pay one-half of the jury assessment to
Anaconda-Deer Lodge County.

DATED this 22 day of October, 1981.

BY THE COURT,

Jesse G. Maloy
DISTRICT JUDGE

STATE OF MONTANA
COUNTY OF ANACONDA - DEER LODGE } ss

1. Supt. Krueger, Clerk of the District Court of the Third
Judicial District of the State of Montana, in and for the County
of Anaconda-Deer Lodge, do hereby certify that the aforesaid
is a full, true and correct copy of the original as the same
appears in the files and records of this office, WITNESS my
hand and seal of the Court 17th day of Oct 1981

Exhibit A-2692

By Debbie L. Ladd, Clerk

Exhibit A-8546 (10 of 17)
Exhibit A-8546 (10 of 17)

Exhibit A-8508 6 of 6
Not Faxed 60-7666
Car Read dictated