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IN THE UNITED STATES SUPREME COURT

PETITION FOR WRIT OF MANDAMUS

JUSTICE ELENA KAGAN

APPENDIX

In re JACK R. FINNEGAN, Petitioner

v.

Richard A. Marshack, Hon. Jacki C. Brown,
Respondents

In Superior Court, Hon. Jacki C. Brown, Probate
Court of Appeals, 4th Dist. Div. 3
California Supreme Court

The Matter does not fall into NRAP 17(a) or (b)

Jack R. Finnegan
12575 Catalina Drive
Santa Ana, CA 92705
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Appendix "A" Register of Actions

Clearly shows that Marshack filed a fraudulent and illegal Petition on January 1, 2019.

That Marshack filed a fraudulent and illegal ex parte hearing, in violation of the California Probate Code §1051(a)(b)(d), on January 30, 2019.

Objection to ex parte filed by Finnegan on February 7, 2019.

Request for dismissal filed by Finnegan on March 29, 2019.

Another Request for dismissal filed by Finnegan on April 8, 2019.

Another Request for dismissal filed by Finnegan on April 16, 2019.

California Probate Code §1301(a)(c)(g)(e), Immediate Appeal on grounds of denial of motion.

Objection denial of California Constitution Right to jury Trial, Probate Code §1823(a)(b)(7) filed by Finnegan on December 5, 2019.

Notice of Appeal filed by Finnegan, on December 5, 2019, at 8:15 A.M., case G058635. *Griggs v. Provident Consumer Discount Co.*

Notification of Notice of Appeal filed by Finnegan on December 5, 2019.

Payment received by Finnegan Transcript on Appeal, on December 5, 2019, transaction No. 12670178.

Appendix "B"
California Supreme Court Decision. S271232,
Petition for review is denied.

Appendix "C".

PETITION FOR REHEARING, G058635
IN THE COURT OF APPEAL OF CALIFORNIA
FOURTH APPELLATE DISTRICT

DIVISION THREE

Jack R. Finnegan

Plaintiff

vs.

Richard A. Marshack

Defendant

Appeal from the Superior Court for Orange County

Jacki C. Brown, Judge

PETITION FOR REHEARING

Jack R. Finnegan
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San Clemente, CA 92672
949-492-3837
Attorney for Appellant

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INTRODUCTION

This court's opinion is predicated on the erroneous assumption that the trial court had conducted a fair and impartial hearing when in fact it was in violation of numerous United States and California Constitutional provisions, statutes and decisional law as the Opening Brief clearly demonstrated. Because the underlying factual predicate for this court's opinion is false, rehearing is necessary. The question the Panel must resolve is if there are no Creditors and no valid legal Claims (See Heading Creditors beginning on page 17 of this Petition for Rehearing), then why is it necessary to have conducted a very expensive nugatory trial to appoint a Conservator?

Apparently, the Panel's enigma, is the violations of United States Constitution's guaranteed right of Article III. The undisputed supreme law of the land, which gives to a person uncontrolled dominion for all purposes, which establishes that the case brought before the trial court was without an individual with prescribed proper standing, constituting excess of jurisdiction. An action not founded upon an actual controversy, is collusive, and should not be entertained. These issues are addressed in the Opening Brief pages 1 through 31.

Violation of California Constitution, Article 6, Section 21, and all the California Rules of Court provisions regarding Temporary judges were in non-compliance and was Substantial error. The California Supreme Court ruled that stipulations were a

Constitutional requirement.

The fact that the decision was entered into the record without the proper stipulations of all parties violated this Constitutional provision.

These issues are addressed in the Opening Brief of Appellant, beginning at page 37 and continuing to page 45. Aaron Heisler, on June 26, 2019, was not a Superior court judge, he did not receive stipulations from all parties as required, he did not report his findings to a Superior court judge for final adjudication as required.

The trial court never made a ruling or Order on the proceeding and did not send the proper required Notice to Appellant. The failure to comply with the law in these proceedings were prejudicial errors of such significance that the case must be reversed.

The United States Constitutions Sixth Amendment Section [2] states, "This Constitutions, and the Laws of the United States which shall be made in Pursuance thereof; ... shall be the supreme Law of the Land; and the judges in every State shall be bound thereby... ." This provision requires the judges in every State to comply with Federal Law and to support the Constitution." The third paragraph on page 14 of the Opinion flies in the face of the United States Constitutions Sixth Amendment Section [2]. The purpose of the Appellate Court is not to determine the case on its merits, but to review for trial court error, and decide questions of law, to determine legal correctness, and reviewing action taken in the trial court for prejudicial error. Failure of the trail court to execute Federal Law as commanded by the Sixth Amendment was Reversible error.

The court's job is to determine first, whether the trial proceedings were prejudicial and must determine that the errors were of such significance that the case should be reversed. The mere fact that there are no Creditors or legal Claims against the Appellant negates the requirement for a Conservator and was Plain error by the lower court.

The trial court's failure to follow the Probate Rules §§1823(b)(7), 1828, 1828(a)(1-6), 1828(b)(1-3), and Welfare Code §5350, and 5364, in the trial proceedings were Cumulative errors and it must determine that the errors were of such significance that the case should be reversed.

This court on rehearing can consider all issues presented by the appeal; it is not limited to the points asserted in the Petition for Rehearing. See *Miller & Lux, Inc. v. James*, supra; *People v. Bender* (1933) 132 CA 753, 755, 23 P.2d 439, 440. The pretermission of this requirement would be a resultant of Reissuance error of the tribunal.

Violation of Appellant's Due Process Vested Rights by the United States and California Constitutions by several unconstitutional orders especially the issue of filing lawsuits is not only nugatory but a void Order pursuant to an error of law as stated in the following cases: *Abelleira v. District Court of Appeals*, (1941) 17 C.2d 280, 109 P.2d 942; In *Burtnett v. King* (1949) 33 C.2d 805, 807, 205 P.2d 657; In *Vasquez v. Vasquez*, (1952) 109 C.A.2d 280, 283, 240 P.2d 319, as noted on page 20 of the Opening Brief, and constitutes Substantial error by the trial court.

California Constitution Article 1, Section 1, Article 1, Section 4, Article 1, Section 7, Article 1, Section 19, Article 1, Section 24, Article 1, Section 26, and Article 3, Section 1, all declare that the United States Constitution is the law of the Land.

This reviewing court has the authority pursuant the California Evidence Code §459(a)(b)(c)(d), to take judicial notice as requested here, and of Federal Ninth Circuit General Order #224(4) as authorized in §451, and of each matter under §§451, 452, 453, and 454. The trial court did not follow the requirements of California Evidence Code §456, as required by law. See §300 of the California Evidence Code.

Violations of the additional Sections of the Probate Code as defined in the Opening Brief would constitute prejudicial error by the trial court.

Violations of trial by jury. These issues are addressed in the Opening Brief pages beginning at page 39, constitute Manifest error by the trial court.

Violation of CCP §916, by continuous actions prohibited by that statute, after the timely filing of an Appeal on the morning of December 5, 2020, constitute Assigned error by the trial court.

The appointment was done unlawfully, unreasonably and contrary to Constitutional, statutory and procedural law. A party in interest must plead facts showing the existence of an actual controversy relating to the legal rights and duties of the parties." *Wellenkamp v. Bank of America*, 21 C.3d 943, 947, 582 P.2d 970, 972 (1978). California Code of Civil Procedure §367 and FRCivP Rule 17(a) clearly states, "Every action must be prosecuted in the name

of the real party in interest", that no Notice was filed or no Motion was filed by a party in interest as required by law and no Hearing was held, was Reversible error by the trial court and is detailed in Appellant's Opening Brief on page 22.

Every filing for a bankruptcy receives the protection of 11 USC §362 Automatic Stay. §362 Automatic Stay, operates as a stay, applicable to all entities. 11 USC §362(a)(1) "the commencement or continuation ... of a judicial ... or other action against the debtor that was or could have been commenced before the commencement of the case under this title, or to recover a claim against the debtor that arose before the commencement of the case under this title." 11 USC §362(a)(2) "the enforcement, against the debtor or against property of the estate, of a judgment obtained before the commencement of the case under this title." 11 USC §362(a)(3) "any act to obtain possession of property of the estate or of property from the estate or to exercise control over property of the estate." Failure of the trial court to execute Federal Law as commanded by the Sixth Amendment was Reversible error, and is detailed in Appellant's Opening Brief on page 25.

One of the most fundamental aspects of the Bankruptcy Code, (11 USC), is the creation, scope, effect, and duration of the automatic stay found in section 362. The purpose of the automatic stay is to afford the debtor time to confirm a plan of reorganization in a Chapter 11 case. *Interstate Commerce Comm'n v. Holmes Transp., Inc.*, 931 F. 2d 984, 987 (1st Cir 1991).

The automatic stay stops the commencement or continuation of all civil actions against the debtor, and all acts to create liens, collect or enforce claims, recover property, repossess or foreclose, or to exercise control over property of the estate. The automatic stay halts any collection activities. Any act in violation of the automatic stay is void because the stay is self-enforcing, irrespective of the knowledge of the stay's existence, is void. Failure of the trial court to execute Federal Law as commanded by the Sixth Amendment was Reversible error, and is detailed in Appellant's Opening Brief on page 27.

There is no legal defense for willful violation of the guaranteed provisions of the United States and California Constitutions. The United States Constitution authorizes Congress to establish subject matter jurisdiction to include cases arising under federal law, particularly the Due Process Clause, which operates to establish limits on subject matter jurisdiction of the State courts. A clear violation of the United States Constitution Article III Section 2[1], the Fifth, Sixth and Fourteenth Amendments and California Constitution Article 1 Section 3(4), and Article 1 Section 7(a).

There is no legal defense for willful disregard of the provisions of the Federal and California Statutes and Standard Codes of California i.e. Civil Code, Code of Civil Procedures, Evidence Code, Probate Code, Penal Code, Welfare and Institutions Code, Business and Professions Code, and Government Code.

There is no legal defense for willful disrespect of the provisions of the California Rules of Court policy, and the Decisional Law of the United states and California. (A repeat of the Conclusion of

Appellant's Opening Brief.)

CONSTITUTIONS, Omitted Material Facts in the Case, Mistake of Law, Jurisdictional Errors and the lower court's Mistake of Law.

Every lawyer, legal scholar, Judge and Justice, knows or should know the provisions of the United States and California Constitutions. Those documents need no introduction for they have existed for a long time, have been changed only a few times, but interpreted on numerous occasions.

The United States Constitution guarantees the rights, power, privilege, or immunity and Due Process and Equal Protection. These Rights are such as belonging to every citizen of the United States by the 4th, 5th, 9th, and 14th, Amendments, prior to the infringement of individuals' rights and entitlements? Notable, in *Goldberg v. Kelly*, 397 U.S. 254 (1970). Article 1 Section 24 of the California Constitution states, "Rights guaranteed by this Constitution are not dependent on those guaranteed by the United States Constitution." Vested Rights of both the United States and California Constitutions are so completely and definitely accrued to that they are not subject to be defeated, impaired, or taken away without the person's consent.

THE GARDEN WALLS, Omitted Material Facts in the Case, Mistake of Law, Jurisdictional Errors and the lower court's Mistake of Law.

An inordinate amount of the Opinion was devoted to the illegally obtained decision over a decade ago and information not relevant to this Appeal, regarding garden walls located on the Dana Point

property, and the distortion of many material facts. If the panel was made aware of these distortions, it would likely produce a different result.

Probably the most significant of these enlightenments is the fact the Trial Judge corrected the nugatory Order by stating on the record, August 4, 2014, page 174, lines 10, and 11, "This Court has, under the criminal laws, has no ability to force the Defendant (Finnegan) to take down the wall."

One of the issues that was completely misunderstood in this case, was the issue of Stop Work Orders. There is no provision in California Penal Code §829.5, or the Dana Point Municipal Code that allows any person other than a *Building Official*, to issue a Stop Work Order on private property.

Until a jury determines the decision of the proper adjudication of ownership there was no Criminal Act committed. The Defendant violated Plaintiffs Constitutional vested rights by fraudulently filing this action in Criminal Court on or about February 22, 2012, and by filing the action in the wrong forum.

Exceptions: 1. Work exempt from permits as specified in Chapter 1, Administration, Division II Section 105.2.

105.2 Work exempt from permit. ... Permits shall not be required for the following: 4. Retaining walls that are not over 4 feet (1219) in height

In *United States ex rel. Rudick v. Laird*, 412 F.2d 16, 20, (2d Cir. (1969) ("[Jurisdiction must first be found over the subject matter and the persons involved in the cause before the question of venue can be properly reached."); by parties of interest whose

interests will be materially affected by the outcome. Determination of an easement is not within the responsibilities or jurisdiction of the Criminal Court, a fraudulent mis-application of CCP §582.

The California H & S. C. §17980(a)(b)(c)(d)(e)(f), clearly states "Building, Structures, Dwellings and Residential Units" a total of 24 times in just one section alone, a fraudulent mis-application of H. & S. C.

C. C. §3482, makes it clear that there can be no nuisance for anything done under express authority. H & S. C. §17980(a), Specifically refers to the California Building Standards, where the exemption for building permits resides.

H & S. C. §17980(a), states, "to prevent or remedy an immediate threat to the health and safety of the neighboring community, public, or occupants of the structure."

H & S. C. §17980(c)(1), "Whenever the enforcement agency (Defendant) has inspected or caused to be inspected any building and has determined that the building is a substandard building All of the above listed acts by the Defendant were fraudulent, as was the Petition filed with the court on September 19, 2014, the H & S. C. §17980.7(c) refers to a substandard building, and a Notice never sent, and the fraudulent statements made in open court on November 26, 2014.

The first issue is any work related by this code, since all of the walls built were exempt from permit none of the work could be lawfully stopped by a *Building Official*. The second issue any work related by this code being performed in a manner either contrary to the provisions of this code or dangerous or

unsafe, since all of the walls built were exempt from permit none of the work could be lawfully stopped by a *building official*.

There are very strict rules governing the issue of Stop Work Orders, they are Section 115.2 Issuance, The Stop Work Orders shall be in writing (by the *building official*) ... The Stop Work Order shall state the reason for the order, and the conditions under which the cited work will be permitted to resume. Since all of the walls built were exempt from permit none of the work could be lawfully stopped by a *building official*.

Clear and convincing evidence of fraud is the filing of the Petition for Appointment of Receiver, filed on September 19, 2014, Case No. 30-2014-00746296-CU-PT-CJC, a document filled with intrinsic and extrinsic fraud, and in violation of the Judicial Power provision of the United States Constitution of Article III, Standing to Sue, (Real party in Interest), and the California Court Doctrine and Nature of Ripeness Doctrine. A Petition that should have soundly denied in Courtroom C14, on November 26, 2014, at a hearing for dismissal, and filed October 21, 2014, and a request for Judicial Notice filed on November 12, 2014, in the Official Court Record. This Petition was filed making fraudulent representations, the filer knew of its falsity, had knowledge of the falsity, intended to deceive, and there was a reliance and resulting damage. Records, See, United States Supreme Court decisions, *Flast v. Cohen*, 392 U.S. 83 (1968); *Baker v. Carr*, 369 U.S. 186 (1962); *Frothingham v. Mellon*, 262 U.S. 447 (1923); *Color-View, Inc., v Abrams* (1996) CA4th 1599, 1604, 52

CR2d 443, 446. Lawsuits may go forward when either the United States or California Constitution's Due Process Clauses permit the lawsuit.

In *Mireless v. Waco*, 502 U.S. 9, 112S. Ct. 286, 116 L.Ed2d 9 (1991), the United States Supreme Court held, "Judicial immunity is overcome in two instances, (1) where the act is nonjudicial, (2) Where the judicial officer acted in absence of all jurisdiction."

On or about November 26, 2014, This, is an established fact, where the Criminal Court acted in the absence of all jurisdiction on or about May 22, 2013, based on the fraud committed by the Defendant.

In *Ashelman v. Pope*, 793 F.2d 1072, 1075 (9th Cir.) (1986) stated, "That judicial immunity applies where the judicial officer acted within the jurisdiction of her court." Performing tasks that are not an integral part of the empowered judicial process is absence of all jurisdiction" when the lower court acted on or about November 26, 2014.

In the absence of all subject matter jurisdiction, the illegally applied Receivership was not within the jurisdiction of the Superior Court. *Dept. of Alcoholic Beverage Control v. Lockyer*, 129 C.A. 3rd. 381, 388-90, (1982); *San Diego County v. Carlstrom*, 196 C.A. 2nd. 485, 491-92 (1961); *City and County of San Francisco v. Daley*, 16 C.A. 4th. 734, 742-44 (1993).

There are no time limits to objection to subject matter jurisdiction, or Fraud and Deceit objection to these can be raised at any time and the court can act on motion of either party or on its own motion, but is required to act under clear and convincing evidence. See *Steel Co. Citizens for a Better Environment*, 523 U.S. 83, 118 S. Ct. 1003, 140 L.Ed.2d 210 (1998). "first responsibility of court is to determine jurisdiction; if

jurisdiction is lacking, court should dismiss without addressing merits". *Stevenson v. Superior Court* (1970) 9 C.A.3d 904, 88 CR 462.

It is well settled that all Taking claims are under the Constitution. See, *Jacobs v. United States*, 290 U.S. 13 (1933), *quoted in, Cotton Land Co. v. United States*, 109 Ct. Cl. 816 (1948).

Persons, or municipalities for which they work when they act in a manner inconsistent with their lawful authority, may also be held accountable for such damages. The Right of Way would by law have to determined by a jury in a civil trial pursuant to CCP §592, that determination does not belong in a Criminal action.

The courts have held that the terms Fraud C.C. §§1566, 1567(3), 1689(b)(1), and Deceit C.C. §§1709, 1710, are interchangeably, are applicable when a misrepresentation or false promise is asserted as the basis for vested Constitutional Rights. It was fraud and a violation of the Sixth Amendment, of the United States Constitution for the Defendant to not serve the complaint on the Plaintiff as required by law pursuant to P. C. §990, and §991.

If concealment of a material fact is calculated to induce a false belief, the distinction between active concealment and affirmative misrepresentation is not significant. Both are fraudulent, and active concealment has the same force and effect as a representation which is positive in form. *Outboard Marine Corp., v. Superior Court*, (1975) 52 C.A. 3d 30, 37, C.R. 852. It was fraud and concealment that Resolution 07-11-06-02 did not contain provisions for change to Retaining Walls heights as required by H &

S C. §§17958, 17922.

The speaker is bound not only to tell the truth but also not to suppress or conceal facts within his knowledge which materially qualify those stated, because one who speaks at all must make a full and fair disclosure. *Brownlee v. Vang*, (1965) 235 C. A. 2d 465, 477, 45 C.R. 458.

Fraud is a ground for awarding punitive damages, *Stevens v. Superior Court*, (1986) 180 C. A. 3d 605, 610, 225 C.R. 624; *Horn v. Guaranty Chevrolet Motors*, (1969) 270 C. A. 477, 484, 75 C.R. 871, fraud as a basis for punitive damages is defined in C. C. §3294(c)(3) as an intentional misrepresentation, deceit, or concealment of a material fact known to the defendant with the intention to thereby deprive a person of legal rights or property, or otherwise cause injury. Fraud C.C. §§1571, 1572, 1573, 1709, 1709(1), (2), (3), (4), 3294, 3333, 338(4).

Fraud as including anything intended to deceive, including all statements, act, concealments, and omissions involving a breach of legal or ethical duty, trust, or confidence which results in injury to one who justifiably relies. *Ach v. Finkelstein*, (1968) 264 C. A. 2d 667, 674, 70 C.R. 472.

The Defendant again violated the Constitutional provisions of both the United States and California Constitutions by the failure and absolute refusal to supply exculpatory evidence commonly referred to as Brady material, the withholding of such information violates the Due Process Clause. See, *Brady v. Maryland*, 373 U. S. 83, 83 S. Ct. 1194 (1963), and violated the California Penal Code §1054.1(e), and constitutes fraud.

The exclusionary rule is a judicially created doctrine designed to protect those rights embodied in the United States Constitution's Fourth Amendment. *Mapp v. Ohio*, 367 U.S. 643 (1961). The exclusionary rule is applicable only to constitutional violations by government actors. *United States v. Leon*, 468 U.S. 897 (1984).

A misdemeanor is generally subject to the requirement that the offense be committed in the presence of the officer. *Johanson v. Dep't of Motor Vehicles*, 36 Cal App.4th 1209 (1st Dist. 1995); *People v. Schofield*, 90 Cal App.4th 968 (2nd Dist. 2001).

The California Supreme Court has stated that, as a general principle, a defendant owes a duty of care to all persons who are foreseeably endangered by the defendant's conduct. *Tarasoff v. Regents of University of California*, (1976) 17 Cal. 425, 434-435, 131 C.R. 14, 551 P.2d 334. The California Supreme Court has held that foreseeability is not to be measured by what is more probable than not, but "includes whatever is likely enough in the setting of modern life that a reasonably thoughtful person would take account of it in guiding practical conduct." *Bigbee v. Pacific Tel. & Tel. Co.*, (1983) 34 Cal. 3d 49, 57, 192 C.R. 857, 665 P.2d 947.

The California Supreme Court has defined ordinary care as that degree of care that ordinarily prudent people can reasonably expected to exercise under similar circumstances. *Hilyar v. Union Ice Co.*, (1955) 45 Cal. 2d 30, 36, 286 P. 2d 21.

California Evidence Code §669 provides that a person will be presumed to have failed to exercise due care if (1) he or she violated a statute, ordinance, or

regulation of a public entity.(4) the injured person was one of the class of persons for whose protection the statute, ordinance, or regulation was adopted.

Page 1, Lines 26, 27, Official Record Page 17:
"This Petition is brought pursuant to Health & Safety. Code §17980, and Code of Civil Procedures §564(b)(3)"
The true facts are the H & S. C. §17980, applies to Buildings, and Defendant never provided any factual evidence that the Building located at 25146 Manzanita Drive, was substandard. The Representations were knowingly false when made. All documents referred to are incorporated by reference.

Page 1, Lines 26, 27, Official Record Page 17:
"This Petition is brought pursuant to Health & Safety. Code §17980, and Code of Civil Procedures §564(b)(3)"
The true facts are the CCP §564(b)(3), states, "(3) After judgment, to carry out the judgment into effect," and Defendant never provided any factual evidence that a judgement pursuant to CCP §592 or any judgment of the Civil Courts ever existed. CCP §564(a) states, A receiver may be appointed, in the manner provided in this chapter, by a court in which an action or proceeding is pending" The Official Record demonstrates that there existed no pending action as required by CCP 564(a), there existed no pending action as required by CCP 564(b), there existed no pending action as required by CCP 564(b)(3), there existed no pending action as required by CCP 564(b)(4), and there existed no pending action as required by CCP 564(b)(9). The Representations were knowingly false when made. The suit targets as unconstitutional the Federal and California statutes

authoritatively construed unfairly, that prevented Plaintiff from receiving a fair and wrongly decided cases.

Page 1, Lines 26, 27, Official Record Page 17: The Rules Enabling Act was the source of, *inter alia*, the Rules of Civil Procedure which are so important to the processing of civil cases. Under Rules Enabling Act the Federal rules apply to all civil actions and control over all conflicting California law, the rules have the force and effect of law. The Official Record demonstrates that there existed no pending action as required by FRCivP Rule 66. The appointment of a Receiver is not permitted as an end in itself. See, *Gordon v. Washington*, 295 U. S. 30, 37, n. 4 55 S. Ct. 584, 588, n. 4, 79 L.Ed. 1282 (1935).

Page 1, Lines 26, 27, Official Record Page 17: The Official Record demonstrates that there existed no pending action as required by CCP 8564(a)(b), and FRCivP Rule 66, Rule 66 does not create a substantive right to the appointment of a receiver, a statute or general principal of equity must justify the appointment. The appointment of a Receiver may be requested by any person having a legally recognized right to the property-a mere interest or claim to the property will not be sufficient to justify the appointment of a receiver. The appointment of a Receiver is an extraordinary remedy; available only upon a showing that a receivership is essential to protect the property from some threatened loss or injury pending a final disposition by the court. See, *Gordon v. Washington*, 295 U. S. 30, 37, n. 4 55 S. Ct. 584, 588, n. 4, 79 L.Ed. 1282 (1935). Existence of a valid claim by a party seeking the appointment; the imminent nature of any danger to the property ...

or to its value; the adequacy of other legal remedies. the lack of a less drastic equitable remedy; the plaintiff's probable success in the lawsuit and the risk of irreparable injury to the property; whether the defendant has engaged, or may engage, in any fraudulent actions with respect to the property; the likelihood that appointing the receiver will do more good than harm; whether the potential harm to the plaintiff outweighs the injury to others.

Page 2, Lines 3, 6, Official Record Page 18:
"Respondent's property has been in violation of the Dana Point and the California Building Code for the last three years. Since November, 2011, the City has issued multiple notices and orders to Respondent relating to two retaining walls Respondent built on his Property without first seeking City approval."

Page 2, Lines 6, 7, Official Record Page 18: *"One of the retaining walls is in front of Respondent's Property within the City's Right of Way."*

Page 2, Lines 7, 11, Official Record Page 18:
"The other retaining wall is in the back of Respondent's Property and currently supports a slope that has a history of slope failure. Because Respondent refused to comply with City citations and stop work orders, the Deputy City Attorney, who prosecutes cases on behalf of the City, initiated a criminal action against Respondent in March 2013."

Page 2, Lines 11, 15, Official Record Page 18:
"A jury found Respondent guilty on six counts. On August 28, 2013, Judge Robinson of Orange County Superior Court ordered Respondent to obtain permits from the City to: (1) remove the wall Respondent illegally constructed in the City's right-of-way"

without a permit ("Front Retaining Wall"), and (2) obtain City approval for the retaining wall Respondent illegally constructed without a permit in his backyard on a slope with a surcharge ("Back Retaining Wall").

Page 2, Lines 24, 26, Official Record Page 18, and Page 3, Lines 1, 2, Official Record Page 19: *"The Back and Front Retaining Walls on Respondent's Property pose immediate and sever health & safety risks to Respondent, his neighbors, and the public in general. The rainy season commences October 15, 2014 and will likely increase the potential for slope failure. This petition and the corresponding [Proposed] Order are necessary to prevent immediate danger to the owner and any occupant(s) of the Property and irreparable harm to the City and the public in general."*

They were false when made, on or about September 19, 2014, and constituted concealment of the cause of action. The true facts are to quote, *Leeper v. Beltrami*, (1959) 53, C.2d 195, 12, 347 P.2d n 12. "the entire fraudulent Petition reeks of fraud."

Page 3, Lines 9, 11, Official Record Page 19: *"Health & Safety Code §§17960, 17980, 17980.1, 17980.6, 17980.7, 17982, generally authorize the City to enforce State building standards and similar local law to institute this special proceeding."*

Health & Safety Code §§17980.1, is designated to the prevention of Earthquakes.

Health & Safety Code §§17980.6, is designated to Buildings so extensively substandard.

Health & Safety Code §§17980.7(a), is designated to compliance by owner of substandard

Buildings.

Health & Safety Code §§17980.7(b)(1)(2), is designated to **no deduction of State Taxes.**

Health & Safety Code §§17980.7(c), is designated to **no deduction of substandard Buildings.**

Health & Safety Code §§17982, is designated to **abatement.**

Health & Safety Code §§17980, is designated to **no deduction of substandard Buildings.**

All these representations were false when made, were willful when made, and the intent was to deceive, because the Petition states absolutely that the **Building** is not under consideration of the Petition. To again quote, *Leeper v. Beltrami*, (1959) 53, C.2d 195, 12, 347 P.2d n 12. "the entire fraudulent Petition non-applicable Exhibits, and Declarations, reeks of fraud."

Page 3, Lines 24 - 26, of the Certified Copy of the Transcript, Official Record Page 28;

In open court by proof of a Certified Copy of a Reporter's Transcript of the Proceedings, dated November 26, 2014,

Page 4, Lines 4 - 6, of the Certified Copy of the Transcript, Official Record Page 29; "THE DANGER WAS CREATED WHEN HE REMOVED THAT SLOUGH BECAUSE THAT WAS ALL THAT WAS HOLDING BACK THE LANDSLIDE."

Page 4, Lines 6 - 7, of the Certified Copy of the Transcript, Official Record Page 29; "HE THEN PUT IN A UNPERMITTED WALL WITHOUT ENGINEERING."

Page 4, Lines 10, 116, of the Certified Copy of the Transcript, Official Record Page 29; "THAT THE WALL THAT WAS PUT IN AND THE WORK THAT WAS DONE DID NOT INCLUDE DRAINS"

Page 4, Lines 15 - 17, of the Certified Copy of the Transcript, Official Record Page 29; "WITHOUT DRAINS, THERE IS A SUBSTANTIAL THREAT TO THE PUBLIC THAT IF IT RAINS, THAT SLOUGH WILL COME DOWN

Page 4, Lines 24, 25, of the Certified Copy of the Transcript, Official Record Page 29;

"WE FIRST TRIED TO DEAL WITH IT THROUGH A CRIMINAL JURY TRIAL

Page 5, Lines 6 - 8, of the Certified Copy of the Transcript, Official Record Page 30;

" THE RELEVANCE OF THE CRIMINAL PROCEEDING IS SIMPLY THAT HE HAS NOTICE FOR YEARS AND YEARS

Page 5, Lines 12, 13, , of the Certified Copy of the Transcript, Official Record Page 30;

"THE HOUSE ABOVE IS LIKELY, AT LEAST IN PART, TO END UP IN THE BACKYARD OF MR. FINNEGAN'S HOME."

Page 5, Lines 19 - 22, of the Certified Copy of the Transcript, Official Record Page 30;

"ITS IMPORTANT FOR YOU TO BEAR IN MIND THAT THIS IS NOT MR. FINNEGAN'S PRIMARY RESIDENCE. THIS IS AN INVESTMENT PROPERTY OF SOME SORT

Page 5, Lines 24, 25, of the Certified Copy of the Transcript, Official Record Page 30;

"HE PUTS HIS TENANTS IN DANGER

BECAUSE OF THIS LANDSLIDE."

Page 5, Lines 27, 28, of the Certified Copy of the Transcript, Official Record Page 30; "BUT IT IS A SERIOUS PUBLIC SAFETY CONCERN THAT WE HAVE."

Page 6, Lines 1 - 6, of the Certified Copy of the Transcript, Official Record Page 31;

"THIS IS AN INVESTMENT PROPERTY, AND THERE'S QUITE A BIT OF EQUITY IN THE PROPERTY."

A City cannot obtain Attorney fees to enforce their own laws, See, *County of San Luis Obispo v. Abalone Alliance*, (1986) 178 C. A. 3d 848. CR 846

No evidence was provided prior to proceedings in Criminal Court, showing a jury determination pursuant to CCP §592. The lax enforcement of an ordinance was a calculated result of an intentional or arbitrary scheme to **invidious discrimination**, C. C. §51 Unruh Civil Rights Act; §52, Penalty for discrimination; and §52.1 Civil Rights. Section 15, of the California Penal Code, "Crime" and "Public offence" defined, states, "A crime or public offence is an act committed or omitted in violation of a law **forbidding or commanding** it, and to which is annexed, upon conviction, either of the following punishments: 1. Death; 2. Imprisonment; 3. Fine; 4. Removal from office; or 5. Disqualification to hold and enjoy any office of honor, trust, or profit in this state."

An ordinance is invalid if it makes an improper delegation of authority that is imposed on the use of property that are unnecessary, unreasonable, and oppressive, that ordinance will be unconstitutional. *People v. Perez*, (1963) 214 C. A. 2d Supp. 881, 886, 29

C.R. 781.

A city may make other ordinances and regulations not in conflict with general laws. Cal Const. Article 9, §7 and Gov. Code §§65800-65912.

An Ordinance Is only permissible if it is reasonably related to the public safety and welfare. *Novi v. City of Pacifica* (1983) 169 C.A. 3d 678, 682, 215 C.R. 439.

The Official Record demonstrates that there was a violation of the Ninth Amendment of the United States Constitution and Articles 1 Section 1, 3(b)(2), 3(b)(4), 4, 7(a), 7(b), 9, 19(a), 19(b), 19(c), 19(e)(3), 24, 26, 28(e), 28(f), Article 3, Section 1, Article 4, Sections 16(a), 16(b), Article 6, Section 13, Article 11, and Sections 7, 13. of the California Constitution. *Goldberg v. Kelly*,

In *Breuer v. Jim's Concrete of Brevard, Inc.*, 538 U. S. 691, 123, S. Ct. 1882, 155 L. Ed. 2d 923 (2003), held: There is no serious question about the Constitutional authority of federal courts and Congress to create procedural law that governs. Congress enacted legislation creating a process by which rules of procedure could be enacted without necessarily involving direct participation in each rule by Congress. The Rules Enabling Act was the source of, *inter alia*, the Rules of Civil Procedure which are so important to the processing of civil cases. Under Rules Enabling Act the Federal rules apply to all civil actions and control over all conflicting California law, the rules have the force and effect of law.

In *Beneficial National Bank v. Anderson*, 529 U. S. 1, 7, 123, S. Ct. 2058, 2063 156, L. Ed. 2d 1 (2003), held, (test of complete preemption is whether

federal statute "wholly displaces" otherwise relevant state claims), as in the application of the Rules Enabling Act. H & S. C. §17980(a), requires a 30-day Notice, which was never issued.

APPEAL, Omitted Material Facts in the Case, Mistake of Law, Jurisdictional Errors, the lower court's Mistake of Law, and Procedural Rights of Appellant.

The provisions of CCP §916, states in part, "stays proceedings in the trial court upon the judgment or order appealed from or upon the matters embraced therein..."

Procedural Rights of the Appellant were comprised by the Cover of the Opinion, by changing the positions of the parties and falsely claiming that the Appellee was a legally appointed trustee. Pursuant to Federal Law 11 USC. Objection is made to the conclusion that the individual alluded to was ever legally appointed a trustee in this Bankruptcy Case, the individual is not now or ever was legally appointed to any position pursuant to 11 USC.

The denial or elimination to the Appellant's request for Judicial Notice shown in italics as follows:

REQUEST FOR JUDICIAL NOTICE

Request for Judicial Notice of all the of the contents of California Evidence Code §459, and the specific sections alluded to in the Briefs of the Appellant, of Federal Statutes Titles, 11, 18, 28, 42, and the Official Record of the District Court Case 8:18-bk-10762-TA. The exclusive jurisdiction of Title 11 (Bankruptcy Code) lies with the Federal District Court, not the Bankruptcy Court. See 28 USC §1334(a)(e).

APPOINTMENT OF TRUSTEE, Omitted Material Facts in the Case, Mistake of Law, Jurisdictional Errors, the lower court's Mistake of Law, and Procedural Rights of Appellant.

Pursuant to 11 USC §105(a), states in part, "The court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title." The provisions of 11 USC do not allow an Inferior Officer to appoint a trustee. The conversion from a Chapter 11 to a Chapter 7 must be made by a Motion and only by the Debtor.

This individual who claims to be a trustee seems to be driven only by personal greed.

JURY FEES, Omitted Material Facts in the Case, Mistake of Law, Jurisdictional Errors, the lower court's Mistake of Law, and Procedural Rights of Appellant.

I was given in writing by the Superior Court Clerk's Office that there were no chargeable fees to be applied for a conservatee. This requirement would be taken care of by the provisions of California Code of Civil Procedure §§631.1 and 631.2.

CREDITORS, Omitted Material Facts in the Case, Mistake of Law, Jurisdictional Errors, the lower court's Mistake of Law, and Procedural Rights of Appellant.

Each of the Nine remaining claims are fraudulent and these facts will be proven to the District Court, and notification of these rulings will be sent to the United States Justice Department for prosecution pursuant to 18 USC §§152, 157, and 3571.

For the Panels edification Claim # 2, is asserted on a property in Long Beach California that Appellant

has no financial interest in, but according to an Official of bankruptcy was a Bankruptcy-high-jacking. Claim # 3, is for unearned legal fees claimed from a case in the Ninth Circuit Appellate Court. Claim # 4, is a fraudulent claim manufactured from a letter trying to justify the claimed amount. Claim #5, and Claim #7 are a duplication of each other filed on different dates which is fraud, and the entire claim is subject 11 USC §101(5), **Breach of Performance**. Claim #6, and #8 are from attorneys who have violated provisions of the California Constitution Article 6, §21. Claim #9, is a fraudulent amount, and claim #10, for \$325.00 is a fraudulent claim.

There exists, no legal claims which makes the Petition for Conservatorship moot.

Constitutional Law and Equity of sustaining a ruling repugnant to the California Constitution, Article 6, Section 21, which reads, "On stipulation of the parties litigant, the court may order a cause to be tried by a temporary judge who is a member of the State Bar, sworn and empowered to act until final determination of the cause.", a temporary judge ruling exceeded his authority, constitutes extrinsic and intrinsic fraud. The final decision is unenforceable and void because it is violative of the explicit command of the California Constitutions.

An order of an appointed temporary judge without stipulation of the parties is void. *Lovret v. Seyfarth*, (1972) 22 C.A.3d 841, 852, 101 CR 143; *Rooney v. Vermont Inv. Corp.*, (19073) 10 C.3d 351, 360, 110 CR 353, 515 P.2d 297. Occurring on September 16, 2014.

In *People v. Tijerina*, (1969) 1 C.3d 41, 81 CR 264, 459, P.2d 680, the California Supreme Court took

a different view, disapproving the *Martin* holding. The court pointed out that stipulation was a constitutional requirement, both before and after the revision of California Constitution, Article VI.

Temporary Judges, governed by the California Rules of Court Rules 2.816(a)(b)(1-3), 2.817, 2.818(a), 2.819, 2.831(e), 3.20(a), [3.727(5)], 3.1100(a)(2), 3.1308(a-d), 7.2(a)(b)(c)(d), 7.4, 7.10(b), 7.103(b), and 7.401(1)(3) among others. California Code of Judicial Ethics, Canon 2(A), Canon 3(A)(B)(2)(B)(7)(D)(2)(E)(1)(2), Canon 6(A)(D)(1)(D)(3)(A)(C). Added to the constitutional requirement of required stipulation {Stipulations must be to the facts}, is the acts of this temporary judge that are purely intrinsic and extrinsic fraud.

The filing of a fraudulent Motion for Attorney's fees on September 19, 2014, a product of fraud and deceit. Was heard an Ordered by a Temporary judge in violation of the California Constitution, Article 6, Section 21, which requires a stipulation of all parties. The Motion was also in violation of decisional law i.e.: A City cannot obtain Attorney fees to enforce their own laws, See, *County of San Luis Obispo v. Abalone Alliance*, (1986) 178 C. A. 3d 848. CR 846.

The Order for attorney fees was fraudulently based on Health & Safety Code §17980.7, and was for \$108,778.00. The problem is and what makes this a complete fraud is, Health & Safety Code §17980.7, does not grant attorney fees. There was no order or notice as required by the Section. Section §17980.7(b) "not claim any deduction of state taxes". Section §17980.7(c) "is dedicated to substandard buildings". Section §17980.7(d) "a building substantially endangers" Not only was this Motion fraudulent,

because of lack of diligence to the California Constitution, decisional law, CCP §1021.5(a)(c), but it was a complete misapplication of a Section of the Health & Safety Code.

The Defendant's own surveyor Hall & Foreman, Matthew H. Okubo, Surveyor, showed that the hydrant was illegally placed within approximately 12 inches from a power pole, a clear violation of the California Fire Code §§8 C 1, 8 C 3, and 8 C 6, on or about April 9, 2012.

The Defendant again violated the Constitutional provisions of both the United States and California Constitutions by the failure and absolute refusal to supply exculpatory evidence commonly referred to as Brady material, the withholding of such information violates the Due Process Clause and constitutes fraud. See, *Brady v. Maryland*, 373 U. S. 83, 83 S. Ct. 1194 (1963), and violated the California Penal Code §1054.1(e).

DISQUALIFICATION

The disqualification issue of 11 USC was adequately addressed in the Opening Brief.

NON-CORE

The non-core issue of 11 USC was adequately addressed in the Opening Brief.

EXAMINATION

The Appellant attended the §341(a) examination as scheduled. Federal Bankruptcy Procedures Rule 2003 states, in part, "to be held no fewer than 21 and no more than 40 days after the order for relief."

Federal Bankruptcy Procedures Rule 2004 states, in part, "on motion of any party in interest, the

court may order the examination of any entity." The debtor is not an entity and no party in interest filed a motion.

TRESPASS, Omitted Material Facts in the Case, Mistake of Law, Jurisdictional Errors, the lower court's Mistake of Law.

Regardless of whether the occupant of land has sustained physical injury, may recover damages for the discomfort and annoyance for the mental suffering occasioned by fear for the safety when discomfort or suffering has been proximately caused by the trespass. *Kornoff v. Kingsburg Cotton Oil Co.*, (1955) 45 Cal. 2d 265, 268-269; 288 P.2d 507; *Acadia California, Ltd. v. Herbert*, (1960) 54 Cal. 2d 328, 337, 5 C.R. 686.

Malice supporting punitive damages found when trespasser acted with unmistakable conscious disregard for property rights of another, beginning on or about November 4, 2011, and continuing to November 26, 2014, *Goshgarian v. George*, (1984) 161 C.A. 3d 1214, 1224-1226, 208 C.R. 321.

Punitive damages awardable if trespass is committed from wanton or malicious motives, or reckless disregard of rights of others, or oppression. *Krieger v. Pacific Gas & Electric Co.* (1981) (1981) 119 C.A. 3d 137, 148, 173 C.R. 751, beginning on or about November 4, 2011, and continuing to November 26, 2014, *Haun v. Hyman*, (1963) 223 C.A. 2d 615, 620, 36 C.R. 84.

Intentional character of actions as essential element of trespass; intent to cause damage irrelevant. *Meyer v. Pacific Employers Ins. Co.*, (1965) 233 C.A. 2d 321, 326, 43 C.R. 542. A, B,

Damages proximately caused by the trespass. *Gomez v. Reed*, (1918) 178 Cal. 759, 763, 174 P.658.

California Assembly Bill 1909, makes it a felony for prosecutors to intentionally falsify, or withhold evidence as this prosecutor did on two separate occasions.

The Official Record demonstrates that there was no perceptible injury caused by Plaintiff, and allegations of perceptible injury cannot create a cause of action where none exists, that expansion of the law in this area would have the undesired effect of fostering ill will and a proliferation of litigation. In the absence of an unlawful act, a landowner's right to use his property lawfully is a fundamental precept of a free society this would clearly extend the statute to absurd proportions. *Servants of Paraclete v. Does*, 204 F.3d 1005, 1012 (10th Cir. 2000).

CONCLUSION

In my 69 years of legal proceedings I have won many cases against the United States Tax Court and others all of which have no relevance to this appeal. However, I must admit that with few exceptions I have always been met with bias and prejudice. The defeats alluded to in the Opinion have no place in the Opinion, the lawsuit were always in sight of the United States and California Constitutions, and although I may have seemed to lose those cases alluded to, it has been gratifying to know that my actions has led to many of the judges being reassigned so that damage by their indiscretions were minimized.

The reliance on the unconstitutional orders issued after the Appeal was filed, is a mistake by a number of people, when the specific order was

given that violated my United States and California Constitutional Vested Rights, and CCP §916.

PRAYER FOR RELIEF

For all of the above stated reasons it is prayed that the Court will Vacate Order for Cause, and Dismiss Case No. 30-2019-01047364-PR-CE-CJC, for Cause with prejudice.

Dated, September 3, 2021

Jack R. Finnegan

VERIFICATION

I Jack R. Finnegan, declare as follows:

I am the Appellant for the Petition for Rehearing herein. I have prepared and read the forgoing Petition for Rehearing and know of its contents of the law to support the Courts action. The facts alleged in the Petition for Rehearing are within my own knowledge, and I know these facts to be true because of my familiarity with the relevant facts pertaining to the trial proceedings and Appellate proceedings. I declare under penalty of perjury under the laws of the State of California, that the foregoing is true and correct. Executed on Date: September 3, 2021, at San Clemente, California.

Jack R. Finnegan, pro per

CERTIFICATION OF COMPLIANCE

The Petition for Rehearing is proportionately spaced, of Roman type, 13 point type size, line spacing at 1-1/2 and a word count of 5,953 words, margins of 1" on top and bottom, and 1-1/2" on sides. The paper

is white , at least 20-pound weight.

The Petition for Rehearing complies with Appellate Rules.

Jack R. Finnegan, pro per

Appendix "D" 4th Appellate Court Decision.

**Court of Appeals of the State of California, Fourth
Appellate District, Division Three. G058635,
Superior Court No. 30-2019-01047364**

Appeals from an order of the Superior Court of Orange County, Jacki C. Brown, Judge. Affirmed.

Jack R. Finnegan, in pro per, for Objector and Appellant.

Marshack Hays, D. Edward Hays and Laila Masud for Petitioner and Respondent.

INTRODUCTION

Jack Richard Finnegan appeals from an order granting a petition for a appointment of a conservator of the Finnegan estate. The petition was filed by Richard A. Marshack, the appointed trustee in Finnegan's bankruptcy case. We therefore affirm.

FACTS AND PROCEDURAL BACKGROUND

I.

In March 2018, Finnegan filed a voluntary petition for chapter 11 bankruptcy protection in the United States Bankruptcy Court

In June 2018, Finnegan filed a motion for disqualification of the bankruptcy judge presiding over his bankruptcy case and the matter was set for hearing.

FINNEGAN FAILS TO PARTICIPATE IN THE
BANKRUPTCY ACTION AND THE BANKRUPTCY
COURT GRANTS MARSHACK APPROVAL TO
PETITION FOR THE APPOINTMENT OF A
CONSERVATOR.

In September 2018 the bankruptcy court granted Marshack's motion for an order authorizing the filing of a petition in the superior court to determine whether a conservator should be appointed for Finnegan's estate.

III

THE PETITION

In January 2019, Marshack filed a petition for an appointment of a conservator of Finnegan's estate in the superior court (the petition).

The petition alleged the appointment of a conservator was required because Finnegan was substantially unable to manage his ... financial resources or to resist fraud or undue influence" based on the following summary of supporting facts: "Conservatee filed bankruptcy.

IV

FOLLOWING A BENCH TRIAL, THE TRIAL
COURT GRANTS THE PETITION

The following month, the trial court issued a formal signed ruling setting forth the scope of the conservatorship, including the order that, absent a contrary written order, Finnegan "lacks the capacity to commence or continue any litigation, lawsuit, or other legal proceeding including, but not limited to, filing any pleading or notice of appeal in any federal or state court. Instead, any such pleading, lawsuit or appeals may only be filed by Conservator, Peter Kote."

APPEALABILITY

As noted *ante*, Finnegan initiated this appeal by filing a notice of appeal the morning of trial on December 5, 2019. Following briefing, in a subsequent order dated June 29, 2020, this court stated: “After reviewing the documents filed here and judicially noticeable trial court documents, it appears appellant intended to appeal a December 5, 2019 order granting a probate conservatorship on January 15, 2020. It does not appear that letters of conservatorship have actually issued in this case. *“This appeal may proceed as one taken from the order granting of letters of conservatorship and the orders leading up to that appealable order.”* (Prob. Code §1301(a).

DISCUSSION, 1

Probate Code section 1801, subdivision (b) provides in relevant part: “A conservator of the estate may be appointed for a person who is substantially unable to manage his or her own financial resources or resist fraud or undue influence ... Substantial inability may not be proved solely by isolated incidents of negligence or improvidence.” Subdivision (e) of the Probate Code section 1801 provides that the standard of proof for the appointment of a conservator under this section is “clear and convincing evidence.”

II

FINNEGAN HAS FAILED TO MEET HIS BURDEN OF PROVING ERROR

Notwithstanding this court’s order dated June 29, 2020 regarding the scope of the instant appeal as taken from the order granting the petition, Finnegan’s opening brief begins: “The nature of the action is to compel obedience to the private rights of the

Appellant's Constitutional rights, and the voiding of all actions of the Superior Court that resulted from excess of jurisdiction and a reversal of the final decision filed on May 13, 2020. The final decision is unenforceable and void because it is violative of the explicit command of the United States Constitution, the California Constitution, federal and California state law, and the California Rules of Court.

In his opening brief, Finnegan implies that the filing of the petition constituted a violation of the automatic stay imposed upon Finnegan's initiation of the bankruptcy action. The record shows the bankruptcy court itself granted Marshack's request to file a conservatorship petition in the trial court.

Finnegan argues the order granting the petition is void because it was made by a temporary judge and that the record does not contain the parties' stipulation for a temporary judge to preside at the trial. The trial judge in this case is a sitting judge of the Orange County Superior Court, not a temporary judge.

To the extent Finnegan argues he was unfairly denied a jury trial, there is no dispute he failed to post jury fees.

In addition ... Finnegan makes the following points: (1) "The petition was filed with intrinsic and extrinsic fraud; (2) The case should have been ruled a moot case or question which will not be considered by this court; (3) Marshack cannot prove concrete harm; (4) There is no ripe controversy at issue; (5) The trial court lacked personal and subject matter jurisdiction; (6) Untruthful pleading or concealment of facts, a false issue is presented; (7) The filing of the petition was baseless and intended to interfere with the

bankruptcy action; (8) There exist no judicial immunity; (9) Venue is lacking; (10) Mail fraud was conducted; (11) Marshack was not a party of interest; (12) The petition lacked adherence to various unspecified requirements; and (13) There was no initial case management conference within 180 days, meet and confer efforts, or a case management statement.

DISPOSITION

The order granting the petition to appoint a conservator of the estate of appellant is affirmed. Respondent shall recover costs on appeal.

FYBEL. J.

WE CONCUR:

MOORE. ACTING P.J.

THOMPSON. J.