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IN THE
SUPREME COURT OF THE UNITED STATES

JOHN SMITH — PETITIONER

vs.

LORA SMITH — RESPONDENT ON

PETITION FOR A WRIT OF CERTIORARI TO THE
EASTERN DISTRICT COURT OF APPEALS FOR

THE STATE OF MISSOURI

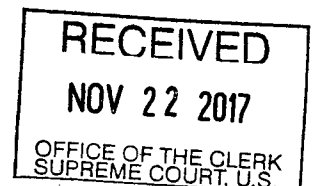
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JOHN SMITH

275 West Cherry Street

Troy, Missouri 63379

(636)352-8768



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QUESTIONS PRESENTED

This case raises questions of first impression regarding the phrase “a judge acted in a manner inconsistent with due process” as it applies to the voiding of a judgment. Petitioner has found no case, State or Federal that defines the circumstances necessary to establish that a “judge acted in a manner inconsistent with due process.”

QUESTION 1

As a case of first impression, under the specific facts that appear on the face of the record of court proceedings submitted herewith, what is the current status of the Judgment of Dissolution as either void or valid based upon the face of the records submitted herein and, if void, does the official judicial adjudication that Judge Frawley “demonstrated actual hostility and prejudice” through a course of improper behavior and serious, egregious and disqualifying judicial misconduct from December 21, 2009 (when the intentionally falsified Judgment of Dissolution was entered) through and beyond April 9, 2009 when the 508.130 Applications were filed in both cause 0511-FC03508, the initial dissolution action, and cause 0511-FC03508-01, the cross-motion to modify and Motion for Contempt causes of action. (See Docket Entry April 9, 2009 in both causes Appendix K, page 10, 15) constitute a per se instance of a “judge acting in a manner inconsistent with due process?”

QUESTION 2

Whether or not the failure and refusal to judicially acknowledge, properly denominate and give res judicata legal effect to the adjudicated claims and issues of the December 7, 2009 Judgment and Order violates Petitioner's Constitutional right to a full and fair opportunity to be heard and presents the appearance of impropriety in that the Missouri Courts appears to be unable to hold their fellow judges accountable when presented with objective proof and evidence of serious judicial misconduct and whether this failure undermines public confidence in the integrity and legitimacy of the Missouri Judiciary to such an extent that it raises existential questions about the legitimacy of the Missouri Judiciary?

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CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

United States Constitutional Provisions

Amendment 5

No person shall be held to answer for a capital or otherwise infamous crime unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property without due process of law; nor shall private property be taken for public use without just compensation.

Amendment 14

1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.
2. Representatives shall be apportioned among the several states according to their respective numbers, counting the whole number of persons in each state,

[excluding Indians not taxed]. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the executive and judicial officers of a state, or the members of the legislature thereof is denied to any of the male inhabitants of such state, being twenty-one years of age and citizens of the United States, or in any way abridged except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such state.

3. No person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States, or under any state, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any state legislature, or as an executive or judicial officer of any state, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may, by a vote of two-thirds of each house, remove such disability.

4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any state shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations, and claims shall be held illegal and void.
5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

MISSOURI CONSTITUTION

Article 1, Section 2 Promotion of general welfare--natural rights of persons--equality under the law--purpose of government.

Section 2. That all constitutional government is intended to promote the general welfare of the people; that all persons have a natural right to life, liberty, the pursuit of happiness and the enjoyment of the gains of their own industry; that all persons are created equal and are entitled to equal rights and opportunity under the law; that to give security to these things is the principal office of government, and that when government does not confer this security, it fails in its chief design.

Article 1, Section 10. That no person shall be deprived of life, liberty or property without due process of law.

Art. V, section 6. "A judge or commissioner so transferred [by the Supreme Court pursuant to Rule 11.01], during the period designated, shall have the

same powers and responsibilities as a judge of the court or district to which he is transferred.

STATUTES

508.090.RSMo.

Judge disqualified--change of venue granted, when.

508.090. 1. The judge of a court of record may be disqualified in any civil suit for any of the following causes:

That the judge is interested or prejudiced, or is related to either party, or has been of counsel in the cause;

That the opposite party has an undue influence over the mind of the judge.

2. A change of venue may be awarded in any civil suit to any court of record for any of the following causes:

That the inhabitants of the county are prejudiced against the applicant;

That the opposite party has an undue influence over inhabitants of the county; but in no case shall more than one change be granted either party.

508.130 RSMo. Any party, his agent or attorney, may present to the court, or judge thereof in vacation, a petition setting forth the cause of his application for disqualification of the judge or for a change of venue, and when he obtained his information and knowledge of the existence thereof; and he shall annex thereto an affidavit, made by himself, his agent or attorney, to the truth of the petition, and that affiant has just cause to believe that he cannot have a fair trial on account of the cause alleged. If the removal is asked because of objections to the inhabitants of the county, the application shall not include therein any other county than the one from which the change of venue is asked.

508.140. 1. If reasonable notice has been given to the adverse party or his attorney of record, the court or judge, as the case may be, shall consider the application, and if it is sufficient, the judge shall be disqualified or a change of venue shall be awarded to some county in the same, adjoining or next adjoining circuit, convenient to the parties for the trial of the case and where the causes complained of do not exist. One or more of several parties plaintiff or defendant may ask for the change of venue, and if the change is awarded the entire cause shall be removed, and there shall be no further change of venue awarded on the same side of the suit.

In all cases in counties in this state which have a population of more than sixty-five thousand inhabitants and wherein the removal is asked on the ground of objections to or prejudice of the inhabitants of the county and the adverse party has filed counter-affidavit controverting the objection to or the prejudice of the inhabitants of the county, the court shall hear evidence on the issue and determine the same on the merits of the evidence, and if the issue is determined

in favor of the applicant for the change of venue, the change shall be awarded as herein provided.

This section does not apply to causes wherein a special venire has been issued, and in such case the party not applying for the special venire shall be granted a change of venue as of course, upon proper affidavit.

452.370. Modification of judgment as to maintenance or support, when — termination, when — rights of state when an assignment of support has been made — court to have continuing jurisdiction, duties of clerk, clerk to be "appropriate agent", when — severance of responsive pleading. —

1. Except as otherwise provided in subsection 6 of section 452.325, the provisions of any judgment respecting maintenance or support may be modified only upon a showing of changed circumstances so substantial and continuing as to make the terms unreasonable. In a proceeding for modification of any child support or maintenance judgment, the court, in determining whether or not a substantial change in circumstances has occurred, shall consider all financial resources of both parties, including the extent to which the reasonable expenses of either party are, or should be, shared by a spouse or other person with whom he or she cohabits, and the earning capacity of a party who is not employed. If the application of the child support guidelines and criteria set forth in section 452.340 and applicable supreme court rules to the financial circumstances of the parties would result in a change of child support from the existing amount by twenty percent or more, a prima facie showing has been made of a change of circumstances so substantial and continuing as to make the present terms unreasonable, if the existing amount was based upon the presumed amount pursuant to the child support guidelines.

2. When the party seeking modification has met the burden of proof set forth in subsection 1 of this section, the child support shall be determined in conformity with criteria set forth in section 452.340 and applicable supreme court rules.

3. Unless otherwise agreed in writing or expressly provided in the judgment, the obligation to pay future statutory maintenance is terminated upon the death of either party or the remarriage of the party receiving maintenance.

4. Unless otherwise agreed in writing or expressly provided in the judgment, provisions for the support of a child are terminated by emancipation of the child. The parent entitled to receive child support shall have the duty to notify the parent obligated to pay support of the child's emancipation and failing to do so, the parent entitled to receive child support shall be liable to the parent obligated to pay support for child support paid following emancipation of a minor child, plus interest.

5. If a parent has made an assignment of support rights to the family support division on behalf of the state as a condition of eligibility for benefits pursuant to the Temporary Assistance for Needy Families program and either party initiates a motion to modify the support obligation by reducing it, the state of Missouri

shall be named as a party to the proceeding. The state shall be served with a copy of the motion by sending it by certified mail to the director of the family support division.

6. The court shall have continuing personal jurisdiction over both the obligee and the obligor of a court order for child support or maintenance for the purpose of modifying such order. Both obligee and obligor shall notify, in writing, the clerk of the court in which the support or maintenance order was entered of any change of mailing address. If personal service of the motion cannot be had in this state, the motion to modify and notice of hearing shall be served outside the state as provided by supreme court rule 54.14. The order may be modified only as to support or maintenance installments which accrued subsequent to the date of personal service. For the purpose of 42 U.S.C. Section 666(a)(9)(C), the circuit clerk shall be considered the appropriate agent to receive notice of the motion to modify for the obligee or the obligor, but only in those instances in which personal service could not be had in this state.

7. If a responsive pleading raising the issues of custody or visitation is filed in response to a motion to modify child support filed at the request of the family support division by a prosecuting attorney or circuit attorney or an attorney under contract with the division, such responsive pleading shall be severed upon request.

8. Notwithstanding any provision of this section which requires a showing of substantial and continuing change in circumstances, in a IV-D case filed pursuant to this section by the family support division as provided in section 454.400, the court shall modify a support order in accordance with the guidelines and criteria set forth in supreme court rule 88.01 and any regulations thereunder if the amount in the current order differs from the amount which would be ordered in accordance with such guidelines or regulations.

490.130. Certified records of courts to be evidence. — The records of judicial proceedings of any court of the United States, or of any state, attested by the clerk thereof, with the seal of the court annexed, if there be a seal, and certified by the judge, chief justice or presiding associate circuit judge of the court to be attested in due form, shall have such faith and credit given to them in this state as they would have at the place whence the said records come. Copies from the record of proceedings of any court of this state, attested by the clerk thereof, with the seal of the court annexed, if there be a seal, or if there be no seal, with the private seal of the clerk, shall be received as evidence of the acts or proceedings of such court in any court of this state. Records of proceedings of any court of this state contained within any statewide court automated record-keeping system established by the supreme court shall be received as evidence of the acts or proceedings in any court of this state without further certification of the clerk, provided that the location from which such records are obtained is disclosed to the opposing party.

STATEMENT OF THE CASE

This case is exclusively based on the face of the record of Petitioner's prosecution of a 508.090 et seq. cognizable statutory civil cause of action for the involuntary disqualification of a judge for "prejudice" as authorized by Sections 508.090, 508.0130 and 508.140 RSMo. (hereinafter 508.090 et seq. cause of action)

As the case is based upon the words of legal meaning, effect and consequence that objectively appear on the face of Petitioner's cognizable, statutory, civil and valid cause of action for the involuntary disqualification of a judge for "prejudice",

Petitioner has attempted to organize the admittedly large number of records by cause number and they are contained in Appendices E-K. (See Appendix Index)

As best as he is able Petitioner will point out the specific page in the correct Appendix where the records relied on appear on the face of the record of court proceedings held in the 11th Circuit Court.

The face of the record of court proceedings is defined in Black's Law Dictionary as: "Face of the record is defined as: "The entire record in case not merely what the judgment recites. Blacks Law Dictionary, 5th Edition, Abridged. West Publishing Company.

With respect to Court proceedings, the record is defined as "The official and authentic history of the cause, consisting in entries of each successive step in the

proceedings, chronicling the various acts of the parties and the court, couched in the formal language established by usage, terminating with the judgment rendered in the cause and *intended to remain as a perpetual and unimpeachable memorial of the proceedings and judgment. It consists of the official collection of the trial pleadings, orders and word-for-word testimony that took place during the trial* Id.

On April 9, 2009, (after Petitioner's appeal of the Judgment of Dissolution entered in cause 0511-03508 in cause ED90998 was dismissed by the Eastern District Court of Appeals on the grounds that Petitioner's Brief was so technically and procedurally deficient so as to fail to invoke the subject matter of the court and thus not a decision "on the merits"), Petitioner filed an Application for the Involuntary Disqualification and Removal of a Judge for "prejudice" in cause 0511-FC03508, the initial dissolution cause of action and 0511-FC03508-01 a Motion to Modify and Contempt cause of action initially filed in late 2008. (Appendix E 1-23)

Identical substantively and procedurally sufficient 508.130 Applications for Change of Judge for Prejudice were filed in both cause 0511-FC03508 and 0511-FC03508-01 on the same date and time. (Appendix K page 10, 15)

As examples of the demonstration of such actual hostility, Petitioner alleged that Judge Frawley knowingly and deliberately entered objectively false findings of material fact with actual knowledge of the objective falsity of the finding entered. (Appendix E, page 7, paragraphs 36 and 37, 78,79,80-81 and 82 Compare page 11 and page 78; also compare pages 80-81 and page 79)

This egregious act of judicial misconduct is clear and apparent on the face of the record of Petitioner's 508.090 et seq. cause of action. (Appendix E, page 10-11, 77, 78,79,80-81,82)

The Petition claims Judge Frawley "demonstrated actual hostility and prejudice" (Appendix E 10-11).

That Claim was adjudicated as true by the summary adjudication of all claims and issues in Petitioner's favor which was established when the December 7, 2009 Judgment and Order was entered without any findings of fact or Conclusions of Law.

Hostile and prejudice are antonyms of the word and concept of "fair".

The status of Judge Frawley was judicially adjudicated as hostile and prejudiced. That status is res judicata. As such, the status of Judge Frawley constitutes a literal, definitional, linguistic, logical and legal negation of the most fundamental and basic of all due process rights- the right to fairness in both trial and judge, thereby rendering the Judgment of Dissolution entered in cause 0511-FC03508 "void".

In the case of In re Murchison, 349 U.S. 133 (1955) this Court stated "A fair trial in a fair tribunal is a basic requirement of due process. *Fairness, of course, requires an absence of actual bias in the trial of cases.*"

This Court reinforced the necessity and fundamental nature of the absence of actual prejudice when it held "It is axiomatic that 'a fair trial in a fair tribunal is a basic requirement of due process.'" Caperton v. A.T. Massey Coal Co., 129 S. Ct. 2252, 2259 (2009). This Court's designation of the right to a "fair" judge as

axiomatic establishes it as an unchangeable and commonly understood principle of substantive due process.

The face of the record objectively, unimpeachable, permanently and conclusively establishes a definitional negation and violation of this most fundamental of all due process right caused by Judge Frawley's behavior and conduct.

The face of the record therefore conclusively establishes that Judge Frawley *acted* (see paragraph 65 of the 508.130 Application filed in causes 0511-FC03508 and 0511-FC03508-01, Appendix E page 10-11) in a manner inconsistent with due process when he demonstrated by his behavior and conduct "actual hostility and prejudice" toward Petitioner.

Petitioner's axiomatic constitutional right to a "fair" judge has been violated by the improper conduct and acts of the most serious and egregious judicial misconduct- deliberately entering objectively false findings of material fact entered by Judge Frawley in his Judgment of Dissolution with actual knowledge that the finding been made is in fact and objectively reality, false,

Petitioner asserts that the face of the record objectively shows adjudicated res judicata claim and issues in Petitioner's favor by the summary grant of the Petition by a judgment entry without any findings of fact or conclusions that definitional establish a conclusive violation Petitioner's right to "Fairness" as Judge Frawley was adjudicated to be the opposite of fair- actually hostile and prejudiced.

The face of the record and of law that appear in the face of the Records (contained in Appendix E) *per se definitional* instance of a judge (Judge Thomas J.

Frawley) *acting* in a manner (by serious and severe judicial misconduct as adjudicated and stated above) “*inconsistent*” (Defined in Blacks as “Mutually repugnant of contradictory; contrary, the one to the other, so that both cannot stand, but the acceptance or establishment of the one implies the abrogation or abandonment of the other; as, in speaking of “inconsistent defenses” or the repeal by statute of “all laws inconsistent herewith”) *with Due Process* (the adjudication of Judge Frawley as being and actual hostile and prejudiced by entry of a valid civil judgment entitled to res judicata effect on December 7, 2009 which establish a literal, definitional, logical and legal negation and violation of Petitioner’s “axiomatic” and Fundamental Due Process right to Fairness.

As the Judgment of Dissolution itself was implicated as containing examples of the depth and strength of Judge Frawley’s animus and actual hostility and prejudice, the establishment that Judge Frawley acted in a manner inconsistent with due process must render the Judgment of Dissolution entered on December 21, 2007 “void *ab initio*” on the face of the record of Petitioner’s successful prosecution of the cognizable, statutory civil 508.090 et seq. cause of action for the involuntary disqualification and removal of Judge Frawley for having demonstrated actual hostility and prejudice in violation of Petitioner’s axiomatic substantive due process right to a fair trial before a fair judge.

The pages, documents and words of legal meaning effect and consequence which make up the face of the record of Petitioner’s 508.090 et seq. cause of action are contained in Appendix E.

For the Court's convenience, Petitioner has placed the material documents of public Court proceedings in separate Appendices as follow:

1. Appendix E- Petitioner's 508.090 et seq. cognizable statutory civil cause of action
2. Appendix F- Petitioner's appellate Brief from cause ED90998, submitted in the appeal of the Judgment of Dissolution in cause 0511-FC03508
3. Appendix G- Cause 1111-CV08988
4. Appendix H- Cause 1511-CC00064
5. Appendix I- Eastern District Court of Appeals opinion
6. Appendix J- Cause 0511-FC03508-01
7. Appendix K- Docket entries for all causes of action cited herein

Pursuant to Judge Frawley's July 7, 2009 Order (Appendix E, pages 83-84), the Missouri Supreme Court specially appointed the Hon. T. Bennett Burkemper to adjudicate the claims and issues of the Petition for Change of Judge for having "demonstrating actual hostility and prejudice" toward Petitioner over a course of conduct ranging from the drafting and entry of the Judgment of Dissolution in December, 2007 through and after April 9, 2009.

Judge Burkemper set the application for full adversary trial and proceeding on December 1, 2009. (Appendix E 24-76)

The adversary trial was held on December 1, 2009. (Appendix E pages 24-79)

Both parties had adequate notice and opportunity to be heard before a court of competent jurisdiction. Testimony was taken, subject to cross-examination and documentary evidence was offered by Respondent and submitted into evidence.

Respondent entered Petitioner's November 9, 2007 Statement of Income and Expenses into evidence as well as Petitioner Appellate Brief from the appeal of the

dissolution judgment in cause ED90998 during the December 1, 2009 hearing.

(Appendix E, page 79, Appendix F)

Respondent examined Petitioner on the claims and issues made in the ED90998 Brief. (Appendix E 48-54) thereby placing all of the claims and issues raised in the Brief at issue.

Respondent had the opportunity to examine all of the claims and issues raised in Petitioner's Brief but chose to examine specific claims. This brings into play the definition of res judicata.

For *res judicata* to adhere, "four identities" must occur: 1) identity of the thing sued for; 2) identity of the cause of action; 3) identity of the persons and parties to the action; and 4) identity of the quality of the person for or against whom the claim is made. *Norval v. Whitesell*, 605 S.W.2d 789, 790 (Mo. Banc 1980). Unlike collateral estoppel, *it applies not only to points and issues upon which the court was required by the pleadings and proof to form an opinion and pronounce judgment, but to every point properly belonging to the subject matter of litigation and which the parties, exercising reasonable [**17] diligence, might have brought forward at the time.* *Bover v. Long*, 676 S.W.2d 893, 895 (Mo. App. 1984); *Huska v. Huska*, 721 S.W.2d 120, 121 (Mo. App. 1987); *Terre Du Lac Association, Inc. v. Terre Du Lac, Inc.*, 737 S.W.2d 206, 212 (Mo. App. 1987).

Furthermore, before res judicata bars a claim, *the previous determination must have been on the merits of the claim.* *S.M.B. by W.K.B. v. A.T.W.*, 810 S.W.2d 601, 605 (Mo.App. 1991).

Respondent examined Petitioner under oath regarding claims and issues made in Petitioner's Brief. Respondent exercising reasonable diligence might have brought forward during the adversary December 1, 2009 trial could have examined Petitioner on every claim and issue raised in the Brief. Therefore when the 508.090 et seq. cause of action was adjudicated all claims and issues in shall be considered as having in accordance with the result reached. (Rule 73.01(c) All fact issues upon which no specific findings are made shall be considered as having been found in accordance with the result reached.)

At close of trial each side made closing arguments and Judge Burkemper took the matter under advisement (Appendix E pages 64-69).

On December 7, 2009, Judge Burkemper entered a valid final civil Judgment and Order which summarily granted the Petition for Change of Judge for Prejudice, thereby adjudicating all of the claims and issues raised in the 508.090 et seq. cause of action in Petitioner's favor; Ordered that Judge Frawley be involuntarily disqualified for having "demonstrated actual hostility and prejudice" by his behavior as alleged in the Petition or which arose at trial; and requested that the Missouri Supreme Court assign a new special judge to replace Judge Frawley. (Appendix E page 77)

The December 7, 2009 Judgment and Order is now final and res judicata.

The claims and issues adjudicated as true by the December 7, 2009 Judgment and Order include adjudicating Judge Frawley as having "demonstrated actual

hostitliy and prejudice” and adjudicating that Judge Frawley knowingly, intentionally and maliciously entered objectively false findings of material fact with actual knowledge that the findings being entered were in fact and objective reality, false and untrue.

These adjudicated claims and issues are clear and apparent on the face of the records of Petitioner’s successful prosecution of the 508.090 et seq. cause of action. They are permanent and unimpeachable. They establish a literal definitional violation of Petitioner’s fundamental constitutional substantive due process right to a “fair” judge caused by Judge Frawley’s egregious and serious improper behavior and judicial misconduct. They are the adjudicated claims and issues upon which Petitioner bases his right to relief in his 74.06(b)(4) Motion.

“The requirements of Due Process prescribe the outer constitutional limits of a procedural system that may yield a conclusive product, i.e., one entitled to res judicata effects . Within the constitutional limits, the contours of res judicata are determined by the particulars of the opportunity to litigate afforded by the system of procedure in question. The imprint of the procedural system manifests itself in the rules of both claim preclusion and issue preclusion. **Restat 2d of Judgments, § Scope**

“Adjudication is a procedure by which a disinterested agency – the judge or jury – is authorized to impose a binding resolution of a controversy over legal rights. Arriving at such a resolution requires either a determination of the facts or a particularization of the law as it applies to facts, or both.(i.e. *a judgment on the*

merits of the claims and issues raised in the pleadings or at trial)” Restat 2d of Judgments, § Scope.

An adversary proceeding is defined as “one having opposing parties; contested, as distinguished from an ex parte hearing or proceeding. *One from which the party seeking legal relief has given legal notice to the other party and afforded the latter an opportunity to contest it.* Black’s *supra*.

A judgment on the merits is *one rendered after argument and investigation and when it is determined which party is in [**8] the right*, as distinguished from a judgment rendered upon some preliminary or technical point, or by default, and without trial. Bi-State Dev. Agency v. Whelan Sec., 679 S.W.2d 332, 336[5] (Mo.App. 1984).Valiere Laususe, Individually, And As Next Friend For Ashley S. Laususe, Plaintiff/Respondent, Kelli Richie, By And Through Her Next Friend, Denice Richie, Plaintiff/Petitioner, V. Normandy Osteopathic Hospital, A/K/A Metropolitan Medical Center, Defendant. 918 S.W.2d 953 (Mo App ED 1996)

On January 30, 2015, in cause 1511-CC00064, Petitioner filed a Rule 74.06(b)(4)¹ Motion for Relief from the Judgment of Dissolution entered in 11th Circuit Court in December, 2007 on the grounds that the Judgment of Dissolution was “void on the face of the record of court proceedings held in the 11th Circuit Court” of Petitioner’s successful prosecution of the specific 508.090 claim of prejudice alleged in paragraph 65 of the 508.130 Petition for Change of Judge i.e. that Judge Frawley

¹ Rule 74.06(b)(4) is the Missouri State rule equivalent and based on FRCP Rule 60(b)(4) Motion for Relief

“demonstrated actual hostility and prejudice” toward Petitioner. (Appendix E page 10-11)

As in each cause and proceeding after December 7, 2009 Petitioner, as in every cause, proceeding, pleading or motion involving the Judgment of Dissolution filed numerous requests, both documentary and oral, requests for formal judicial recognition and application of res judicata claims and issues adjudicated in the 508.090 et seq. cause of action that objectively appear on of the face of the record of Petitioner’s successful prosecution of the adjudicated and now res judicata claim that Judge Frawley demonstrated “actual hostility and prejudice”. (Appendix K, 36, 37, 38, 39, 40, 41, 44, 45) including, but not limited to recognition of the December 7, 2009 Judgment and Order as a valid final civil Judgment entitled to res judicata as the Judgment and Order is a conclusive product of the American System of Adversarial Jurisprudence and thus entitled to res judicata effect.

These are not the first attempts that Petitioner has made in attempting to have the Missouri Judiciary recognize and give legal meaning, effect and consequence to the unimpeachable face of the record of Petitioner’s 508.090et seq. cause of action. See Appendix’s A-K

Petitioner urges the Court to fully examine the transcript of the January 4, 2013 hearing in cause 1111-CV08988 for an example of the lengths to which the Missouri Judiciary will go to avoid having to acknowledge the unimpeachable face of the record of the 508.090 et seq. cause of action and Judge Frawley’s serious acts of judicial misconduct and improper behavior.

In short, since the entry of the December 7, 2009 valid final civil judgment entitled Judgment and Order, Petitioner has presented the face of the record of his 508.090 et seq. in every cause or proceeding where the Judgment of Dissolution was enforced or modified and to date, and not a single court has acknowledged even the existence of a document entered on December 7, 2009 as a Judgment, much less acknowledging that the December 7, 2009 final, valid, civil Judgment and Order as one entitled to res judicata effect.

Petitioner, in the trial case alone, excluding Petitioner's after-trial Motion, made the following requests for judicial acknowledgment of the facts and law that facially appear on the records of the disposition in Petitioner favor of the claim made in the 508.090 et seq. cause of action that the trial judge "demonstrated actual hostility and prejudice": See Appendix K Docket Entries for cause 1511-CC00064: February 9, 2015: February 26, 2015: April 9, 2015: April 15: April 23, 2015: May 15, 2015; June 4, 2015

All of these requests were denied by the trial courts leading Petitioner to believe that the Judiciary was engaging in willful blindness to the serious and egregious improper judicial misconduct committed by Judge Frawley in a manner which prevented Petitioner from having a full and fair opportunity to be heard.

The trial court in cause 1511-CC00064 heard argument on Petitioner's 74.06(b)(4) Motion on June 12, 2015. (Appendix H, pages 11-39 contains a transcript of the hearing)

On June 22, 2015 the trial judge entered a document entitled Findings of Fact and Conclusions of Law but did not denominate it as "Judgment" (Appendix H, page 40). Petitioner appealed the trial court's decision on July 8, 2015 but the appeal was dismissed for failure to denominate is decision as a judgment as required by Rule 74.01.

The initial trial judge had retired sometime between the filing of the Notice of Appeal and the Dismissal of cause ED103234 in September, 2015.

On January 25, 2016 a new judge was assigned to the cause by Special Order of the Missouri Supreme Court.

The newly appointed special judge set a hearing for March 18, 2016 (A transcript of the hearing can be found at Appendix H, pages 46-80).

On March 16, 2016, Petitioner emailed a copy of the Legal File submitted in cause ED103234 asking the trial court to read and familiarize itself with these records of court proceedings as they contained the unimpeachable records of the court proceedings upon which Petitioner bases his claim for relief. As certified records of court proceedings, they are the permanent and unimpeachable and are automatically admitted as evidence merely by identifying where such record may be found in the Missouri Court Automation System, herein JIS. Section 490.130

The trial court replied that it would not review Petitioner's "evidence" prior to trial, apparently questioning the conclusive and unimpeachable facts that appear on the face of the records of the 11th Circuit Court (Appendix H page 44)

The hearing was held on March 18, 2016. A copy of the transcript of the hearing can be found in Appendix H, pages 46-80.

Petitioner requests the Court to closely examine the March 18, 2016 transcript for another example of how hostile and closeminded the Missouri courts are in their refusal to acknowledge and give legal consequence and effect to the valid, final res judicata December 7, 2009 Judgment and Order.

Because Petitioner was denied a full and fair opportunity to be heard at the March 18, 2016, Petitioner filed an after-trial Motion seeking to have the trial judge acknowledge the unimpeachable facts that appear on the face of the record of the disposition of Petitioner's 508.090 et seq. where Petitioner attached both the original Request for Findings of Fact filed on February 9, 2015 as well as the five records of court proceedings of the disposition of Petitioner's 508.090 et seq. cause of action.

The trial judge denied Petitioner's after-trial motion on the grounds that it had already been decided.

Petitioner appealed the March 16, 2016 "Judgment" to the Eastern District Court of Appeals in cause ED104481.

The Eastern District Court of Appeals denied Petitioner's appeal in cause ED104481 holding that Petitioner was precluded and estopped from asserting the face of the record of Petitioner's 508.090 et seq. cause of action because Petitioner litigated the claims and issues of remain in cause 0511-Fc03508-01 to finality. (Appendix A).

This findings directly conflicts with the Missouri Supreme Court decision in the case of LaPresto v. LaPresto, 285 S.W.2d 568 (Mo1955) that held: "...a judgment which is void on the face of the record is entitled to no respect, and may be impeached **at any time in any proceeding in** which it is sought to be enforced or in which its validity is questioned by anyone with whose rights or interests it conflicts..

The Court of Appeal Opinion also conflict with the legal definition of a void judgment. "One which has no legal force or effect, invalidity of which may be asserted by any person whose rights are affected at any time and at any place directly or collaterally. One which, from its inception is and forever continues to be absolutely null, without legal efficacy, ineffectual to bind parties or support a right, **of no legal force and effect whatever and incapable of confirmation, ratification or enforcement in any manner or to any degree.** One that has the mere semblance without some essential elements, as want of jurisdiction or failure to serve process or have party in court." Black's Law Dictionary, West Publishing Company, Abridged Edition 1983.

The Eastern District Court of Appeal opinion in ED104481 fails to address the adjudication of the 508.130 Application filed in the initial dissolution judgment under cause 0511-FC03508 discussed below.

Irrespective of anything that occurred in cause 0511-FC03508-01, (the cause upon which the Eastern District exclusively relies for its preclusion and estoppel argument) the face of the record of cause 0511-FC035085 shows two filings. (1) The filing of the 508.130 Application on April 9, 2009; and (2) The entry of the December 7, 2009 Judgment and Order that summarily adjudicated the 508.130

application wholly in Petitioners favor (Appendix K, Docket sheet for cause 0511-FC03508 pages 10, 12).

These objective docket entries establish that Judge Frawley was adjudicated to have “demonstrated actual hostility and prejudice” toward Petitioner in the initial dissolution cause of action under cause 0511-FC03508, eliminating the need to challenge the Eastern District Court of Appeals reliance on the post December 7, 2009 activities cited in cause 0511-FC03508-01 which the Court of Appeals purports precludes and estops Petitioner from asserting the face of the record of the 508.090 et seq. cause of action and seeking relief from the Judgment of Dissolution.

The Court of Appeals opinion, if left unchanged, leads to the absurd result that any member of the general public can view and understand that Judge Frawley repeatedly lied in his official Judgment of Dissolution and that he was judicially determined and adjudicated to be actually hostile and prejudice while Petitioner is prevented from asserting the same unimpeachable facts that appear on the face of the record in a cause in which such adjudication took place.

The opinion of the Eastern District Court of Appeals deals exclusively with what occurred in cause 0511-FC03508-01. (Appendix A).

In its opinion the Eastern District Court of Appeals continues the Missouri Judiciary’s deliberate avoidance of acknowledging the face of the record of Petitioner’s 508.090 et seq. cause of action and this failure seriously undermines public confidence in the integrity and legitimacy of the Missouri Judiciary and presents the appearance of impropriety as the courts have totally ignored the res

judicata actions, behavior and conduct of Judge Frawley as adjudicated by the Judgment and Order.

The Court of Appeals opinion deprives Petitioner of his right, as the prevailing party in a contested cause of action judicially is entitled to res judicata application and effect on the judicially determined and adjudicated claims and issues of the 508.090 et seq. cause of action.

The opinion of the Court of Appeals also fails to address the fact that identical 508.130 Application were filed in both the initial cause of action (0511-FC03508) and cause 0511-FC03508-01.

The Application in cause 0511-FC03508 was filed while Judge Frawley was exercising jurisdiction and judicial power in cause 0511-FC03508 after the appeal of his Judgment of Dissolution was denied in March, 2009. The law is clearly stated in Elnicki v Carracci, 255 SW3rd 44 (Mo App, ED 2008), that "in the face of a proper application for a change of judge, the judge lacks jurisdiction to proceed in the action in which his impartiality is questioned."

Judge Frawley cited Elnicki in his July 7, 2009 Order setting the 508.090 cause for judicial determination and adjudication of the merits of the claims and issues adjudicated in that cause.

Even though Judge Frawley had actual knowledge of the law that his jurisdiction was limited to determination of the 508.130 Application filed and served on opposing counsel prior to court commencing on April 9, 2009, he nevertheless proceeded with his April 9, 2009 hearing, in Petitioner's absence, and entered money judgment against Petitioner on April 14 and April 21, 2009.

The December 7, 2009 Judgment and Order fully and finally adjudicated all of the claims and issues raised in the 508.090 et seq. cause of action summarily in Petitioner's when the Judgment and Order was entered without any findings of fact or conclusions of law. (Appendix E, 77)

The case of Elnicki v Carracci, 255 SW3rd 44 (Mo App, ED 2008) sets forth the process and procedure for determining a 508.090 et seq. cause of action. Summarized, the Eastern District Court of Appeals held that if a 508.130 Application is both procedurally and substantively "sufficient" then the judge ***shall be disqualified.***"

Procedural sufficiency means that it is the right form according to Section 508.130, notice, and timeliness. Substantive sufficiency means that, ***taken the allegations as true on their face***" could cause a reasonable man to question Judge Frawley's impartiality, or lack thereof.

Judge Frawley accepted that the 508.130 Application was "sufficient" as set forth in Elnicki because he was required to dismiss the Application if it was either procedurally or substantively "insufficient", an action he did not take.

He was required to be disqualified as the Application was "sufficient" but there is an exception to this requirement.

Judge Frawley was required to disqualify upon presentation of a sufficient 508.130 Application "unless the facts alleged in the application are disputed. *Id.*" "If the facts in the application are to be controverted rather than accepted as true for purposes of the motion, *a hearing on the record must be held.*" If the challenged judge is to testify, the hearing must be held before another judge.

Goeke, 794 S.W.2d at 699. "These minimal procedures are necessary because, in the face of a proper application for a change of judge, the judge lacks jurisdiction to proceed in the action in which his impartiality is questioned." *Id*

Elnicki does not address the question of what the legal meanings, effects and/or consequences are where a 508.090 et seq. cause of action is adjudicated in the Petitioner's favor after adversarial hearing and entry of a valid final res judicata Judgment that summarily grants the Petition for Change of Judge in the Petitioner's favor.

Therefore Petitioner believes this to be a case of first impression.

Petitioner asserts that the face of the record of the court proceedings of Petitioner's cognizable statutory civil cause of action for the involuntary disqualification of a judge for "prejudice" as authorized by Sections 508.090, 508.130 and 508.140 RSMo. establishes a literal, linguistic, logical and legal negation of Petitioner's most fundamental substantive due process right- the right to a "fair" trial in a "fair" tribunal. This due process right is so fundamental that this Court labeled it as axiomatic.

After the filing of identical 508.130 applications for Change of Judge for having demonstrated actual hostility toward Petitioner over a course of conduct beginning with the drafting and entry of the Judgment of Dissolution in cause 0511-FC03508 through and after the April 9, 2009 filing of Petitioner's 508.090 et seq. cause of action, on July 7, 2009 Judge Frawley entered an Order that disputed the claim of Judge Frawley having "demonstrated actual hostility

and prejudice” and Ordered that the claims and issues of the 508.090 et seq. cause of action be tried on the merits by a judge specially assigned by the Missouri Supreme Court to adjudicate the cognizable statutory civil cause of action. (Appendix E, page 84)

The Missouri Supreme Court held in La Presto v. La Presto, 285 S.W.2d 568 (Mo 1955) held that “...*a judgment which is void on the face of the record is entitled to no respect, and may be impeached at any time in any proceeding in which it is sought to be enforced or in which its validity is questioned by anyone with whose rights or interests conflicts.*”

The Court of Appeals opinion is in direct conflict with this case issued by the State’s highest Court- The Missouri Supreme Court.

The opinion of the Court of Appeals is just another instance where the actual proven and adjudicated serious judicial misconduct undertaken by Judge Frawley is ignored despite repeated attempts to have the courts acknowledge their own records of court proceedings .

Since the Missouri Judiciary has proved that it is either unwilling or unable to recognize and acknowledge the acts of serious improper behavior and judicial misconduct, Petitioner applies to this Court for relief.

REASONS FOR GRANTING THE PETITION

- A. The Court should grant this Petition because it presents a case of first impression of general interest to the public and legal community regarding the construction of the phrase "a judge acted in a manner inconsistent with due process" as the circumstance that results in rendering a Judgment "void" and which is relied upon by Petitioner since by definition the voiding of a judgment must be due to serious and substantial improper judicial behavior and misconduct that is inconsistent with a party's fundamental due process rights.

There is no specific case law construing the phrase "judge acted in a manner inconsistent with due process". Platt v. Platt, 815 S.W.2d 82

(Mo. Ct. App. ED 1991)

As a case of first impression, the phrase "a judge acted in a manner inconsistent with due process", by definition must involve serious improper conduct and judicial misconduct of a member of the Judiciary sufficient to violate the Petitioner's due process rights in a substantial and fundamental way. Petitioner submits that because the issues involve the serious improper conduct and judicial misconduct of members of the Judiciary, this Court should grant this Petition to explain and provide guidance to the public and the legal community as to what constitutes "a judge acting in a manner inconsistent with due process" thereby rendering a judgment entered by such judge "void".

Petitioner submits that he has conclusively and unimpeachably established a definitional per se instance and circumstance of Judge Frawley acting in a manner inconsistent with due process based upon the claims and issues fully and finally

adjudicated by the December 7, 2009 Judgment and Order entered by Judge Burkemper without any findings of fact or conclusions of law.

It is clear and apparent upon the face of the records of court proceedings that Judge Frawley was adjudicated to have “demonstrated actual hostility and prejudice” toward Petition by a course of serious and egregious improper judicial behavior and serious judicial misconduct which definitionally violates Petitioner’s right to “fairness”

In the case of In re Murchison, 349 U.S. 133 (1955) this Court stated “A fair trial in a fair tribunal is a basic requirement of due process. *Fairness, of course, requires an absence of actual bias in the trial of cases.*”

This Court further held “It is axiomatic that ‘a fair trial in a fair tribunal is a basic requirement of due process.’” Caperton v. A.T. Massey Coal Co., 129 S. Ct. 2252, 2259 (2009).

The adjudication of Judge Frawley as having “demonstrated actual hostility and prejudice” toward Petitioner conclusively establishes that Judge Frawley was NOT a fair judge in cause 0511-FC03508 as hostile and prejudiced are antonyms of the word and concept of “fair”.

Adjudication is the process by which the Judiciary determines the truth, veracity and accuracy of the legal claims and factual issues disputed by the parties. The adjudication of the specific claim of prejudice alleged in the 508.130 Petition has legal effects and consequences, specifically Petitioner’s right to res judicata and

collateral estoppel of the claims already adjudicated in the final valid civil judgment entered after a full adversary proceeding.

The conduct of Judge Frawley as adjudicated includes the knowing and intentional entry of objectively false findings of material fact with actual knowledge that the findings entered was, in fact and objective reality, false and untrue. This is such a serious instance of judicial misconduct that it vitiates the primary truth finding function of the Judiciary and calls into question the suitability of Judge Frawley to be a judge that it should be addressed by this Court.

These intentionally false findings of material fact were made solely to cause Petitioner harm in an actionable per se manner.

Yet, to date, no Missouri State Court to which the face of the records of Petitioner's 508.090 et seq. cause of action has been presented have even acknowledged the existence of the December 7, 2009 Judgment and Order but have attempted to find ways to ignore the records of court proceedings held in this state and which are automatically admitted into evidence merely by identifying the location where such records can be found in the Missouri Statewide Court Automation System also known among users as the JIS system. Section 490.130 RSMo.

In addition to explicating the phrase "acted in a manner inconsistent with due process", this Court should also take this case because it represents a case of definitional injustice and the taking of Petitioner's liberty and property without due

process of law in the enforcement of the void Judgment and Decree of Dissolution entered in cause 0511-FC03508.

It is unimpeachably established upon the face of the records of Petitioner's 508.090 et seq. cause of action that Judge Frawley was adjudicated to be an unfair judge. It is equally clear and apparent on the face of these records that Judge Frawley intentionally and maliciously entered objectively false findings of material fact with actual knowledge of their falsity.

After the December 7, 2009 Judgment and Order was entered, Petitioner made numerous attempts to get official judicial acknowledgment of the claims and issues adjudicated in the 508.090 cause of action without success. It is as if there is a black hole in the records when it comes to judicial acknowledgment, acceptance and enforcement of the claims and issues of Petitioner's 508.090 cause of action adjudicated on their merits after full adversary trial by a court of competent jurisdiction.

Since by definition, it is the trial judge's improper behavior and conduct that is at issue and that must be examined in a case alleging that a "judge acted in a manner inconsistent with due process". The actions of the Petitioner that do not relate to the 508.090 et seq. cause of action are immaterial and irrelevant.

Petitioner asserts that the adjudication that Judge Frawley demonstrated by his behavior and conduct "actual hostility and prejudice" definitionally violates the axiomatic substantive due process right to a "fair" judge.

This definitional violation of fundamental substantive due process occurs as a result of Judge Frawley's improper behavior and serious and egregious judicial misconduct that strikes at the very purpose of a judicial- the determination of truth by the processes and procedures established to insure that each party has a "fair" trial before a "fair" judge.

Therefore, Petitioner asserts that the adjudication of the claims and issues of Petitioner's 508.090 et seq. cause of action for the involuntary disqualification of Judge Frawley for having "demonstrated actual hostility and prejudice" establishes a per se definitional instance of a Judge acting in a manner inconsistent with due process, rendering the Judgment of Dissolution entered in cause 0511-FC03508 "void *ab initio* on the face of the records of court proceedings filed with the 11th Circuit Court."

B. The Court should grant the Petition as Petitioner's liberty and property have been continuously taken without due process of law in violation of the Fifth Amendment of the U.S. Constitution since the entry of the December 7, 2009 Judgment and Order despite the final res judicata adjudication of Judge Frawley as an unfair judge.

As stated above, the December 7, 2009 Judgment and Order is a valid final civil judgment entitled to res judicata effect. The final res judicata adjudication of Judge Frawley as having "demonstrated actual hostility and prejudice" creates a definitional per se violation of Petitioner's axiomatic due process right to a "fair" judge.

This violation of such a fundamental due process right occurred by the serious and improper conduct and behavior of Judge Frawley.

Petitioner submits that therefore, Judge Frawley “acted in a manner inconsistent with due process” rendering the Judgment of Dissolution entered in cause 0511-FC03508 void on the face of the records of court proceedings held in the 11th Circuit Court.

Because the Missouri Courts are unable or unwilling to recognize and give legal effect and consequence to the December 7, 2009 Judgment and Order, the void Judgment of Dissolution has been continuously enforced by judicial process through the taking of Petitioner’s property and liberty without due process of law in violation of the Fifth Amendment to the United States Constitution and continues to be enforced to date.

As it is legally impossible to enforce a void judgment by definition, the continued enforcement of the Judgment of Dissolution after December 7, 2009 is being made without a valid judgment in place and therefore constitutes the taking of Petitioner’s property and liberty is being done without due process of law.

This Court should grant this Petition to address the legal effects and consequences that flow from the December 7, 2009 Judgment and Order.

C. The Court should grant this Petition in order to restore public confidence in the legitimacy, impartiality and integrity that has been seriously undermined by the Missouri Courts total failure and refusal to recognize, acknowledge, properly denominate and give legal meaning, effect, and consequence to the claims and issues adjudicated in the 508.090 et seq. cause of action which, if acknowledged, conclusively and unimpeachable establish a definitional violation of Petitioner's axiomatic constitutional substantive due process right to a "fair" judge and a violation of Fundamental Fairness requiring immediate intervention by this Court to stop the continuing damage to the Judiciary's reputation for independence, legitimacy, impartiality and integrity that continued enforcement of a clearly void judgment has on public confidence in the Judiciary.

This Court is presented with records of public court proceedings that conclusively establish on their face that Petitioner's axiomatic, fundamental substantive due process right to a "fair" judge has been definitionally violated upon the adjudication of Judge Frawley as actually hostile and prejudiced toward Petitioner. Petitioner used harsh language to describe the behavior and serious judicial misconduct of Judge Frawley in his 508.130 Application. The face of the record also conclusively establishes that Judge Frawley deliberately and knowingly entered objectively false findings of material facts in at least two instances in the Judgment of Dissolution. The false findings were entered despite the fact that Judge Frawley had actual knowledge that the finding entered was objectively false when entered in the Judgment of Dissolution.

The adjudication of these claims and issues is clear and apparent on the face of the records submitted to this Court. Any member of the public who views the records of the 508.090 et seq. proceeding can determine these adjudicated claims and issues are true.

Since December 7, 2009, Petitioner has filed the face of the record of the 508.090 et seq. cause of action (See Appendix E) in every cause, proceeding or motion that took place after the entry of the December 7, 2009 Judgment and Order. To date, not a single court has identified, recognized, properly denominate or given res judicata effects to the valid final and now res judicata December 7, 2009 Judgment and Order.

The failure of the Missouri Courts to perform the ministerial act of acknowledging the permanent and unimpeachable face of the record deprives Petitioner of the equal protection and application of the law pursuant to the 14th Amendment to the U.S. Constitution as applied to the States.

The facts are harsh but accurate. The law is axiomatic and controlling legal precedent and authority.

There is a very serious attack on the legitimacy, impartiality and integrity going on in the Country right now where phrases like "so-called judge" and that a judge cannot be impartial because of his Hispanic heritage are made by the President and his staff. This Court will be soon called upon to address potential constitutional crises in the near future.

However, if the courts are unable or unwilling to acknowledge the serious and disqualifying judicial misconduct adjudicated to have been done by Judge Frawley, how can the public have confidence in the Judiciary if it cannot even recognize and condemn the conduct of a fellow member of the Judiciary that

intentionally and maliciously violates Petitioner's axiomatic fundamental due process rights.

It is imperative that this Court demonstrate that Judges are not above the Rule of Law and that a judge's improper behavior and serious judicial misconduct will not be tolerated.

The restoration of the damage done to public confidence in the Judiciary by those who are sworn to uphold the law by the refusal to acknowledge the conclusive face of the record that establishes that Judge Frawley acted in a manner inconsistent with due process begin here, with this Court.

This Court should grant the Petition in order to demonstrate that the Judiciary has the ability to recognize and condemn the improper acts of the Judiciary in refusing to give legal meaning, consequence and effect to the claims and issues adjudicated by the December 7, 2009 Judgment and Order, in order to correct the violations of Petitioner's Constitutional due process right to a "fair" judge, stop the unlawful taking of Petitioner's liberty and property without due process of law in enforcement of a void judgment of Dissolution in violation of the Fifth Amendment to the U.S. Constitution, the violation of Petitioner right to be heard and the violation of Fundamental Fairness in the continued enforcement of a judgment that is void.

Petitioner submits that where a judge is adjudicated after a full adversary trial on the merits of Petitioner's 508.130 claim of prejudice (i.e. that Judge Frawley "demonstrated actual hostility and prejudice" toward Petitioner), such final

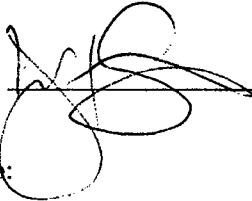
adjudication is a per se definitional instance of a judge acting in a manner inconstant with due process, thereby rendering the Judgment of Dissolution entered in cause 0511-FC03508 "void." All it takes is a court brave enough to acknowledge these violations of Petitioner's axiomatic fundamental due process rights.

Petitioner believes that this Court can do so and for that reason Petitioner asks that this Petition be granted.

CONCLUSION

The petition for a writ of certiorari should granted.

Respectfully submitted,


A handwritten signature in black ink, consisting of stylized, overlapping loops and flourishes, is written over a horizontal line.

Date: