

From: GARY NORTHINGTON  
Date: 2/14/2019 6:23:28 AM  
To: Rudy Davis

Attachments: □

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#1 of 3, POMafia #15; CONFRONTING THE BEAST OF JUDICIAL CORRUPTION:  
----- 07 FEB 2019

Dear Rudy,

This is a continuance of File 24, Public Office Mafia #9 on Judicial Misconduct:

JUDGE CYNTHIA DIANE STEPHENS of the MI State Court of Claims in Lansing attempted to pull a slick move in my State lawsuit on Prison Guards BRENDA SCHMELTZ and --- STEPHENS of Jackson, MI taking and destroying my guitar and typewriter. This taking and destroying was retaliation for my Federal Civil Rights lawsuit on CORIZON HEALTH INC and MDOC (Servants of the Beast) attempting to murder me through the "Lingering Death" of Genocide. She effectively acted as attorney for the State Defendants contrary to law because I had filed a Motion for Reconsideration (File 24, POMafia #9) pointing out the laws she previously violated.

On 09 MAY 2018, I had filed a MOTION TO AMEND my Complaint which Assistant Attorney General Andrew J. Jurgensen was supposed to have answered within 21 days under MI Court Rules. On 18 JANUARY 2019, Judge STEPHENS threw a bone to the MI Attorney General by falsely ruling he could answer my Motion 10 months late after I "put her out on Front Street", in File 24, POMafia #9, for previously violating the law in dismissing MDOC Director HEIDI WASHINGTON from the case. She was attempting to cover her prior misdeeds of ignoring the law and MI Court Rules in the dismissal. It's the old story of once having lied (Holy Bible, John 7:42-47), Judge STEPHENS has to create bigger lies in attempt to obscure her first lie.

It's the never-ending-story, until Revelation 19, of confronting The Beast with the Truth of God. The Servants of The Beast delusionally believe they can reeducate us into not remembering their prior sins by overloading us with Bull Stuffings. However, I keep notes to remind my feeble old mind, like this record being sent to you that stays until I delete it. It's a prosthetic for my stroke-damaged memory that recalls better than me.

Most persons would be discouraged by having to continually confront and expose evil because they let oppression and the long road affect their emotions. I enjoy putting out the Godly Truth.

STATE OF MICHIGAN  
IN THE COURT OF CLAIMS

Gary M. Northington,  
Plaintiff Pro Se, No. 17-000253-MP

vs. ....JUDGE CYNTHIA DIANE STEPHENS

MDOC, et al,  
Defendants.

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PLAINTIFF'S 01 FEB 2019 RESPONSE TO AND BRIEF OPPOSING  
DEFENDANTS' 01/25/2019 MOTION TO DISMISS

Plaintiff Gary M. Northington Pro Se responds to Defendants' 25 JANUARY 2019 MOTION TO DISMISS and BRIEF IN SUPPORT, for which he requested extension of time to answer, as follows:

1. Plaintiff denies, at least in part, that his claims relate to treatment and prison conditions but are incited from outside prison by persons inciting the hostilities of accompanying EXHIBIT A. Judge Stephens' former supervisor, Judge Michael J. Talbot, is one such person (EXHIBIT A, pgh. 4) who was forced to retire in APRIL 2018.
2. Denied as to MCL 600.550(2) applying. Defendants waived defense on disclosing the number of prior lawsuits by not raising it in ANSWER to Original Complaint or SUMMARY MOTION. MCR 2.116(D)(1) and (2); MCRP 2116.5. Such disclosure may be filed "as a matter of course" before a defendant files a response. MCR 2.118(A)(1).
3. Denied since MCL 600.550(3)(b) is on appointment of extra judges. Paragraph 2 herein incorporated by reference. Finally, failure of a plaintiff to supply a document that can be and is readily supplied to cure alleged defect does not entitle a defendant to dismissal. MCL 600.2301; SHOOK v PROCTOR, 26 Mich 283 (1873).
4. DENIED. Defendants waived right to contest issue on disclosure of prior lawsuits by not raising it in their 14 FEBRUARY 2018 MOTION FOR SUMMARY JUDGMENT and 24 JULY 2018 ANSWER to Original Complaint. MCR 2.116(D)(1) and (2); MCRP 2116.5. However, Plaintiff did more than "disclose the number of prior lawsuits"; his 06 FEBRUARY 2018 "ADDENDUM TO ORIGINAL COMPLAINT, LISTING OF PRIOR CASES..." (Docket Ledger, 09 FEB 2018) not only discloses the number but also the Case Name, Case Number, and final status of prior State cases filed by Plaintiff. His 25 JANUARY 2019 ADDENDUM to AMENDED COMPLAINT does the same. Aforesaid ADDENDUM(S) were timely filed before responsive pleading(s) as required by MCR 2.118(A)(1).
5. Plaintiff denies Defendant(s) have any ground for dismissal as stated in his Response and accompanying brief, and because they failed to timely answer Plaintiff's Motion to Amend. Plaintiff is unduly harmed by the Judge ordering unduly late Response thereto. The Judge did not allow Motion to Dismiss. Defendants' Motion should be denied.
6. It appears Judge Stephens may be related within the third degree of consanguinity or affinity to both Defendant KEITH STEPHENS and Plaintiff's imprisonment (she is related to SHOOTER of POMafia #2, pgh. (3), and later worked for my trial judge) for which she should

sua sponte certify her disqualification. MCR 2.003. This is alleged information obtained by Plaintiff on 29 JANUARY 2019 from a family member of a party.

7. Plaintiff believes Judge Stephens acted as advocate for Defendants when she should have granted Plaintiff's Motion for Leave to File First Amended Complaint for untimely or lack of Response. Justice delayed is justice denied. See MCR 2.111(E)(1).

## STATEMENT OF FACTS

All prior paragraphs incorporated by reference herein. Plaintiff denies all claims by Defendants as being fraud(s) on the Court.

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#2 of 3, POMafia #15; CONFRONTING THE BEAST OF JUDICIAL CORRUPTION:  
#2 RSPNS 2 MOT 2 DISMISS

Contrary to Defendants' Brief, page 1: (1) Plaintiff filed two ADDENDUMs to Complaint that more than comply with MCL 600.5507(3)(b) regarding prior lawsuits (pgh. 4 herein). (2) This case is against Defendants MDOC, RUSSELL, SCHMELTZ, STEPHENS and WASHINGTON. (3) WASHINGTON was wrongfully dismissed when incorporated by reference into every paragraph of the Complaint under MCR 2.113(G). (4) The Clerk refused to return enough copies of Summons and Complaint to serve RUSSELL, SCHMELTZ and STEPHENS despite being provided at least 9 copies by Plaintiff (Plaintiff's 25 JAN 2019 OBJECTIONS to 18 JAN ORDER); U.S. Postal Service said 5 copies arrived at the Court on 27 NOVEMBER 2017, Tracking Number 9114 9999 4431 4202 6035 54. The Clerk still holds these.

Regarding Defendants' Brief, page 2: Plaintiff OBJECTS to their false extraneous claim that Plaintiff is convicted of first degree murder (EXHIBIT B). This was maliciously done to unduly bias the Judge. Defendants' Brief should be STRUCK FROM THE RECORD for use of frivolous, immaterial, impertinent and vexatious claim(s) pursuant to MCR 2.115(B), and the Plaintiff's Motion to Amend granted.

Plaintiff reiterates paragraph 1 herein regarding redundant text of Defendants' page 2, paragraph 1.

## ARGUMENT

**I. DEFENDANTS' BRIEF SHOULD BE STRUCK FOR INTRODUCTION OF FALSE ALLEGATIONS WITH NO PROBATIVE VALUE THAT ARE INTENDED TO UNDULY BIAS CONTRARY TO COURT RULES AND RULES OF EVIDENCE:**

Introducing false alleged conviction not affecting credibility violates MRE 404(b) and 609.

The "court may strike from a pleading redundant, immaterial, impertinent, scandalous, or indecent matter, or may strike all or part of a pleading not drawn in conformity with these rules". MCR 2.115(B). MCR 1.105 applies here regarding the "just" "determination of every action" "that does not affect the substantial rights of the parties". MCR 1.105.

On page 2 of Defendants' Brief: Defense Counsel knowingly, maliciously and wantonly pleads irrelevant, impertinent, scandalous, and/or indecent matter by falsely accusing Plaintiff of being convicted of first degree murder. Such false claim is a crime under MCL 750.370. "If the government becomes a lawbreaker, it breeds contempt for law; it invites anarchy". "Against that pernicious doctrine this Court should resolutely set its face". OLMSTEAD v UNITED STATES, 277 US 433, 485 (1928). Does Defense Counsel advocate anarchy? HOLY BIBLE, Matthew 7:12: Luke 6:38.

The Court should deny, dismiss or strike Defendants' 25 JANUARY 2019 Motion and sanction Defense Counsel for the abusive and unduly biasing introduction of immaterial matter(s). MCR 2.114(E) and (F).

**II. DEFENSE COUNSEL COMMITTED FRAUD ON THE COURT WHEN CLAIMING PLAINTIFF DID NOT DISCLOSE THE NUMBER OF PRIOR LAWSUITS AND DEFENDANTS' MOTION SHOULD BE STRUCK AND SANCTIONS IMPOSED ON DEFENSE COUNSEL:**

It's res judicata by prior Order, not dismissing MDOC, that Plaintiff complied with MCL 600.5507(2 and 3). See "ADDENDUM attached TO ORIGINAL COMPLAINT, LISTING OF PRIOR CASES..." (09 FEB 2018), and ADDENDUM attached to Amended Complaint (25 JAN 2019). All delay in filing disclosure is culpable to MDOC's inadequate law library, for which Plaintiff holds WRITTEN ADMISSION BY MDOC, and invokes two new lawsuits if this case is dismissed.

"A party may amend a pleading once as a matter of course within 14 days after being served with a responsive pleading by an adverse party..." MCR 2.118(A)(1). This Michigan Court Rule is supreme over MCL 600.5507. PEOPLE v McDONALD, 201 Mich App 270, 272 (1993); CLEMONS v DETROIT, 120 Mich App 363, 370 (1982), on Mich. Const., Art. VI, Sec. 5.

"Although the Court acknowledged that if a defendant is brought into a lawsuit for the first time upon the filing of an amended complaint, the filing of the amendment constitutes the commencement of the action with regard to the new defendant, it pointed to the necessary party exception, which allows an additional defendant [to] be brought in after the expiration of the limitations period if the new party is a necessary party". GRAHAM v FOSTER, 500 Mich 23, 27-28 (2017).

Here, RUSSELL, SCHMELTZ and STEPHENS (now replaced by SIMS where STEPHENS retired) are necessary parties as primary actors. Plaintiff was not able to serve them because the clerk never returned to him sufficient copies of certified Summons and Complaint despite the clerk being sent 9 or more copies. Lack of service on these Defendants is not culpable to the Plaintiff. Amended complaint is not yet filed, because leave is not yet granted, which means the action has not yet commenced regarding said Defendants who are necessary. GRAHAM, 500 Mich at 27-28.

Further, MCR 2.118 and GRAHAM are supreme over the disclosure statute because original and amended complaint were properly amended, as of course, by the clerk attaching to them said ADDENDUMS disclosing prior lawsuits before Defendants answered. McDONALD, 201 Mich App at 272; CLEMONS, 120 Mich App at 370.

Finally, Defendants waived right to address the issue of disclosure of prior lawsuits by not raising it in their Summary Motion. MCR 2.111(E)(1); 2.116(D)(1).

This Court should deny/dismiss Defendants' 25 JANUARY 2019 Motion to Dismiss and sanction Counsel.

**III. DEFENDANTS FAILED TO TIMELY ANSWER PLAINTIFF'S MOTION FOR FIRST AMENDED COMPLAINT AND THEREBY WAIVED RIGHT TO RESPOND FOR WHICH PROSPECTIVE AMENDMENT SHOULD BE GRANTED:**

#3 of 3, POMafia #15; CONFRONTING THE BEAST OF JUDICIAL CORRUPTION:

#3 RSPNS 2 MOT 2 DISMISS

"A defendant must serve and file an answer or take other action permitted by law or these rules within 21 days after being served with summons and a copy of the complaint in Michigan in the manner provided by MCR 2.105(A)(2)", MCR 2.108(A)(1), "a reply within 21 days after service of the pleading to which it is directed", MCR 2.108(A)(5), and a "motion raising a defense or an objection to a pleading" "within 21 days after service of the pleading to which the motion is directed". MCR 2.108(B).

"Allegations in a pleading that requires a responsive pleading, other than allegations of the amount of damage or the nature of the relief demanded, are admitted if not denied in the responsive pleading". MCR 2.111(E)(1). The "paragraphs of a responsive pleading MUST be numbered to correspond to the numbers of the pleading being answered". MCR 2.113(E)(1).

Under MCR 2.108: Defendants' non-Response to Plaintiff's Motion to Amend, and Defendants' Motion to Dismiss thereon, should have been filed no later than 30 MAY 2018 but are untimely. They should be denied as untimely rather than the judge sua sponte allowing Defendants' unrequested, unduly late filing.

No numbered paragraph for paragraph response to Plaintiff's motion to amend was served upon Plaintiff, but only what is a 2-page brief entitled Response. Such non-response of Defendants is outside scope of MCR 2.113(E)(1) and admission of claims in Plaintiff's motion to amend. MCR 2.111(E)(1).

Said Rules of "court practice and procedure" are "constitutionally supreme" to any statute, requiring relief requested by Plaintiff in motion to amend to be granted for Defendants' failure to timely respond and admission of Plaintiff's claims. McDONALD, 201 Mich App at 272; CLEMONS, 120 Mich App at 370.

Therefore: (1) Response to Motion to Amend Ordered by the Court (ORDER, 18 JAN 2019) was not timely filed but only a 2-page Brief; (2) Defendants' Motion to Dismiss should be denied; and (3) Plaintiff's 09 MAY 2018 Motion to Amend Complaint should be granted.

#### IV. THE JUDGE WAS AND IS UNDULY BIASED REQUIRING SUA SPONTE DISQUALIFICATION:

See Response attached hereto, page 3, paragraphs 6 and 7, regarding possible reasons for judicial bias.

A judge should not appear to favor one party or the other. MCR 2.003(B); LITKEY v U.S., 510 US 540, 551 (1994).

As said on page 8 herein: Defendants had 21-days to answer Plaintiff's 09 MAY 2018 MOTION FOR LEAVE TO FILE AMENDED COMPLAINT but did not. Plaintiff believes that the Judge sua sponte ordering Defendants to answer the MOTION nearly 10-months past time limits, in violation of Court Rules rather than granting Plaintiff the required relief, is probative of judicial bias. Judge Stephens acted as advocate for Defendants, contrary to Due Process requirements. MICH. CONST., Art. I, Sec. 17.

"A cloud of witnesses testify that 'justice must not only be done, it must be seen to be done'. Without the appearance as well as the fact of justice, respect for the law vanishes" IN RE LAWRENCE, 417 Mich 248, 253 (1983).

Therefore, the Judge should sua sponte certify her disqualification and/or deny/dismiss Defendants' MOTION TO DISMISS.

#### CONCLUSION

Defense Counsel's associates have overtly attempted to murder Plaintiff 3-times in prison (EXHIBIT A, p. 1), covertly many times over which includes matters of this case, and they murdered Plaintiff's friend (A, p. 2). That is why, since Plaintiff's imprisonment, the prosecutor lost his bar license and is pumping gas for a living. HOLY BIBLE, Matthew 7:12; Luke 6:38.

Counsel has one-week to make agreement with Plaintiff in this case or waste more of the State's funds than presently in dispute on two more lawsuits that are written and ready to file?

#### VERIFICATION

I declare under penalty of perjury the foregoing is true to the best of my knowledge, information and belief.

RELIEF REQUESTED

WHEREFORE, Plaintiff Gary M. Northington Pro Se requests this Honorable Court to:

- (a) certify Judge Stephens' disqualification if alleged circumstances are correct;
- (b) deny, dismiss and/or strike Defendants' Motion to Dismiss;
- (c) Grant Plaintiff's MOTION FOR LEAVE TO FILE FIRST AMENDED COMPLAINT; and
- (d) Any other relief deemed necessary and just.

Respectfully Submitted,

Dated: 07 FEB 2019

/s/ Gary M. Northington

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PROOF OF SERVICE