STATE OF MAINE

SUPREME JUDICIAL COURT

EMERGENCY MOTION FOR WRIT OF MANDAMUS / PROHIBITION

Docket #: CV-21-138

Petitioner – Anthony Rinaldi &
Southern Maine Construction
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STATEMENT OF ISSUE

THIS IS THE WORST ABUSE OF THE LEGAL SYSTEM IN MAINE HISTORY and **ENOUGH IS ENOUGH**! The record is crystal clear so this case will go down in Maine History wether anyone likes it or not. **NONETHELESS, BOTH PARTIES WENT TO TRIAL ON JUNE 11th AND WERE SET FOR A THREE DAY TRIAL BUT AFTER DAY 1 IT WAS TWICE CANCELED BECAUSE IT WAS CRYSTAL CLEAR THAT THE PLAINTIFFS CASE IS FRIVOLOUS! THE PLAINTIFF'S WITNESSES ALL PROVED THAT THE PLAINTIFFS BREACHED. AFTER THREE YEARS OF DEMANDING JUSTICE I**

CAN'T BELIEVE THIS CASE HASN'T BEEN IMMEDIATELY DISMISSED!!! ASSOCIATE JUSTICE DOUGLAS SHOULD STEP IN AND RIGHT THIS WRONG AND END THIS CIRCUS ONCE AND FOR ALL!!

Nonetheless, on January 29th, 2024 the Defendant filed a Motion to Dismiss 12(b)1 (Exhibit A) because the Plaintiff's lawsuit is based off **Hypothetical Damages** so it lacks Subject Matter Jurisdiction. A 12(b)1 Motion is the only Motion that the Court assumes the Defendant is telling the truth and the **Court assumes it doesn't have jurisdiction** so the burden falls entirely on the Plaintiff not the Defendant. The Plaintiffs must prove that the court has jurisdiction in order to survive a 12(b)1 Motion and the court is unable to move forward until the Plaintiffs do so. Furthermore, a 12(b)1 Motion can be filed at anytime and it can even be filed during trial which would stop the trial in its tracks until jurisdiction is proven. Essentially, the court assumes it shouldn't be involved and doesn't use its discretion until the Plaintiffs prove the court should be involved. **Given the fact that the law is crystal clear regarding subject jurisdiction coupled with the fact that the Defendant has been deprived his rights on a monumental scale, it's CRYSTAL CLEAR that both Justice O'Neil and Justice Billings are aware of the fraud and are actively ignoring the fact that BernsteinShur Attorney James Monteleone has filed and perpetuated the most frivolous and fraudulent**

civil lawsuit in Maine History! Several days after the Defendant filed his 12(b)1 Motion to Dismiss the Plaintiffs submitted a letter to the court requesting leave to file a Gag order and Spickler Order (Exhibit B) which was clearly in response to the Defendants Motion to Dismiss. The Defendant responded with a letter to the court regarding the Plaintiffs Letter (Exhibit C) which pointed out the fact that the Plaintiffs request was void of evidence and clearly done because the Plaintiffs aren't able to respond to the Defendants Motion to Dismiss. This letter was accompanied by the Evidence document that was part of the Defendants Motion to Dismiss and Sanctions and outlines the mountain of evidence against the Plaintiffs(Exhibit D). On Feb 2024 the Defendant filed a Motion for Rule 11 Sanctions (Exhibit E) that presented the court with an overwhelming amount of irrefutable evidence proving how frivolous and fraudulent the Plaintiff's case is. On Feb 2024 the Plaintiffs filed their 9th Motion to Enlarge (Exhibit F & G) asking for an extension which the Defendant vehemently Opposed (Exhibit H) The Plaintiffs waited until the last minute to file this Motion even though they were aware that they didn't have any evidence to refute the Defendants 12(b)1 Motion. **What's unbelievable about the Plaintiffs 9th Motion to Enlarge is the fact that their letter to the court claimed the Defendants Motion to Dismiss is frivolous so wouldn't they want to oppose it and point out why it's frivolous?**

This litigation has dragged on for three years so the Plaintiffs should easily be able to oppose a Motion to Dismiss but obviously they can't because their lawsuit is frivolous and fraudulent. Nonetheless, on March 21st, 2024 the court held a hearing to discuss the Defendants Motion to Dismiss and Sanctions as well as the Plaintiffs request for leave to file a Spickler and Gag order. (Exhibit I)

The Defendants Motion to Dismiss, Motion for Sanctions and Letter to the Court alleged some serious allegations and were properly supported by substantial amount of evidence (Exhibit D) so the Defendant couldn't believe the Plaintiffs weren't going to drop their lawsuit prior to this hearing. Nonetheless, the fact that the Courts assumes it doesn't have jurisdiction it would make sense for Justice Billings to question the Plaintiffs failure to respond to the Defendants Motion and or discuss the contents of the 12(b)1 Motion. Instead Justice Billings acted like the court has jurisdiction and he's completely ignored the Defendants 12(b)1 Motion and he's made decisions despite the fact that the court doesn't have jurisdiction. The Defendant pointed this out to Justice Billings (Exhibit I at 15) but he didn't seem concerned and even went so far as to reprimand the Defendant for the number of motions he's filed (Exhibit I at 62) and due to the timing of his 12(b)1 Motion which is unconscionable. (Exhibit I at 80) Justice Billings also called one of the Defendants Motions Frivolous even though it wasn't

(Exhibit I at 63-67) and then approved the Plaintiffs request for leave to file a Spickler Order even though the Plaintiffs didn't provide any evidence and despite the fact that the court doesn't have jurisdiction.

The Petitioner's attempts to obtain relief, on merits, have been exhausted and proven to be unobtainable in the lower courts, given the conflict of interest, fraud on the court and biased judicial process. There is no other forum, recourse, other than this court, to seek justice. Petitioner simply wants the same rights as every other litigant and wants Justice to be served (EMPHASIS ADDED) Both lower courts, the Superior Court, and the Law Court have obstructed justice by shutting petitioner out, despite petitioner, doing everything necessary to obtain justice on the merits. Both courts summarily dismissed the claims, for no good cause, simply to avoid addressing them on its merits.

It's been over 3 years and the Plaintiff's haven't presented a single piece of evidence to support their frivolous claims. Their only remaining witness is the Plaintiff and during a recent deposition they stated under oath that they don't know why the closing fell through and answered "I don't remember" to the vast majority of questions.

The Supreme Court has a Legal Obligation to take this serious. **This Writ of Mandamus satisfies the requirements set out in Dennett v. Mfg. Co.**

Furthermore, the court has the authority to do as it wants if Justice so requires so it would be Unconscionable to not take this Writ serious given the NOTABLE FACTS below. (EMPHASIS ADDED)

NOTABLE FACTS

1. PLAINTIFFS ADMITTED THEIR ORIGINAL LAWSUIT IS ALL FALSE

99.9% of the time a party gets in big trouble if they are caught red handed intentionally lying and deceiving the court.

2. THE PLAINTIFFS AND ATTORNEY MONTELEONE HAVE TOLD OVER (30) LIES

(1) lies is too many so it's a disgrace to the legal system for Justice O'Neil to allow this conduct and for Unethical BernsteinShur Attorney James Monteleone to intentionally deceive the court.

3. JUSTICE JOHN O'NEIL HAS BLATANTLY DISREGARDED THE LAW AND DUE PROCESS

Justice O'Neil has erred as a matter of law over (40) times, affirmed multiple boilerplate objections, deprived the Defendant's right to be heard, has threaten to unfairly default the Defendant and refuses to address the Plaintiffs egregious conduct.

Justice O'Neil denied the Defendants request for a jury trial, isn't allowing oral opening and closing statements at trial and continues to threaten the Defendant

with Default because he doesn't have an Attorney even though Sole Proprietors can represent themselves Pro Se. **This case is a textbook example of what not to do as an Attorney or Judge**

4. THE PLAINTIFFS DON'T HAVE A SINGLE PIECE OF EVIDENCE SUPPORTING THEIR CASE

The Defendant presented a mountain of evidence during summary judgment and the Plaintiffs were unable to refute any of it, failed to present any evidence, failed to cite evidence, failed to submit an affidavit and failed to present a Prima Facie Case. The Defendant brought this to Justice O'Neil's attention during a Motion Hearing on April 11th, 2023 but Justice O'Neil responded by stating, "Due to the Celotex Doctrine the Plaintiffs don't need to do anything but Object, Deny and Cite Evidence" Justice O'Neil also stated that the Plaintiffs don't need to present Prima Facie evidence to survive summary judgment and that unclean hands and judicial estoppel are inappropriate during Summary Judgment. See Exhibit Audio Files

5. THE DEFENDANT'S STORY HASN'T CHANGED

The Defendant has a mountain of evidence which proves without question exactly who breached the contract. This evidence is crystal clear and unambiguous!!

6. JUSTICE O'NEIL ALMOST ALWAYS RULES AGAINST PRO SE LITIGANTS

7. PLAINTIFFS EVIDENCE:

(0) Texts or Emails supporting their position.

(0) Recordings

(0) Affidavits Submitted during Summary Judgment

(4) Perjurious Affidavits

(5) Different Stories told (All Lies)

****PLAINTIFFS ADMITTED ORIGINAL FILING IS ALL FALSE.**

8. DEFENDANTS EVIDENCE:

- **(20+) Text indicating that the Buyers Willfully Breached the Contract.**
- **(2) Recordings containing multiple statements by the Plaintiffs Star Witness that indicate the Plaintiffs Willfully Breached the Contract.**
- **The Defendants story hasn't changed**
- **The Defendant stated (4) times that he has the legal right to walk on the day of closing and nobody refuted him or gave any indication that he was wrong.**
- **The Plaintiffs have conceded that they mislead the Defendant into thinking he was LEGALLY terminating the contract based off their Repudiation but Attorney Monteleone believes that's ok.**

- **Evidence from text and recordings show that the Defendant and the Plaintiffs Star Witnesses all agreed regarding the interpretation of the paving.**
- **The Plaintiffs asked for $80,000 plus in upgrades and REFUSED TO PAY and is now suing because they want the proceeds from the upgrades.**

9. AFFIRMATIVE DEFENSES:

- **Judicial Estoppel**
- **Unclean Hands Doctrine**
- **Undue Influence**
- **Duress**
- **Failure of Consideration**
- **Anticipatory Repudiation**
- **No Evidence by Plaintiffs**
- **Fraud**
- **Failure to Mitigate**
- **Waiver**
- **Offset**
- **Material Misrepresentation**

TABLE OF AUTHORITIES

PARTIES

PETITIONER - Pro Se Defendant Anthony Rinaldi & Southern Maine Construction

RESPONDENT - Superior Court Justice Daniel Billings

REASONS FOR GRANTING WRIT

"Mandamus is an appropriate and necessary proceeding where a petitioner shows: (1) That his right to have the act done, which is sought by the writ, has been legally established; (2) that it is the plain duty of the party against whom the mandate is sought to do the act, and in the doing of which no discretion may be exercised; (3) that the writ will be availing; and that the petitioner has not other sufficient and adequate remedy. Dennett v. Mfg. Co., 106 Me. 476, 478, 76 Atl. 922." Webster v. Ballou, 108 Me. 522, 524, 81 A. 1009, 1010. "While authorities are numerous and in entire harmony upon the point in issue, we find a well-expressed statement in a very recent note to State v. Stutsman, Ann.Cas.1914D, 776, where the following language is used; `When the law requires a public officer to do a specified act, in a specified way, upon a conceded state of facts, without

regard to his own judgment as to the propriety of the act, and with no power to exercise discretion, the duty is ministerial in character and performance may be compelled by mandamus if there is no other remedy. When, however, the law requires a judicial determination to be made, such as the decision of a question of fact, or the exercise of judgment in deciding whether the act should be done or not, the duty is regarded as judicial, and mandamus will not lie to compel performance.' See, also, High's Extraordinary Legal Remedies, § 24; Wood on Mandamus, P. 19; extensive note to Dane v. Derby, 54 Me. 95, found in 89 Am.Dec. 722; and extensive note to State v. Gardner, 98 Am.St.Rep., 858; Dennett v. Acme Mfg. Co., 106 Me. 476, 76 Atl. 922." Nichols v. Dunton, 113 Me. 282, 283, 284, 93 A. 746. However, mandamus is available to promote justice when there has been an abuse of discretion which has resulted in manifest injustice. Chequinn Corporation v. Mullen, et al., supra.

The Petitioner’s attempts to obtain relief, on merits, have been exhausted and proven to be unobtainable in the lower courts, given the conflict of interest, fraud on the court, corrupting of the judicial process, et al., there is no other forum, recourse, other than this court, to seek justice. Petitioner simply wants the same rights as every other litigant and wants Justice to be served (EMPHASIS ADDED)

Both lower courts, the Superior Court, and the Law Court have obstructed justice by shutting petitioner out, despite petitioner, doing everything necessary to obtain justice on the merits. Both courts summarily dismissed the claims, for no good cause, simply to avoid addressing them on its merits. Worse, improper and unauthorized costs were taxed on the petitioner, without due process, even when lower courts provided no service, i.e. did not adjudicate the issue on merits during Summary Judge or Motion to Vacate. Petitioner was victimized by the denial of summary Judgment, and re-victimized with taxed costs. That constitutes profiting without providing service. No other profession in the civil world refuses to provide service and then charges cost for doing nothing (EMPHASIS ADDED)

When the inferior courts refuse to perform its required duty, the only remaining course of action is a writ. In fact, here the assigned individuals of the inferior courts are the very individuals committing the fraud on the court. "The writs thus afford an expeditious and effective means of confining the inferior court to a lawful exercise of its prescribed jurisdiction, or of compelling it to exercise its authority when it is its duty to do so", Exparte Republic of Peru, 318 U.S. 578, 583, (1943); same Roche v. Evaporated Milk Assn., 319 U.S. 21, 26, (1943)

1. **That his right to have the act done, which is sought by the writ, has been legally established**
    a. This is the WORST ABUSE OF THE LEGAL SYSTEM IN MAINE HISTORY so if there was ever a reason to approve a Writ of Mandamus then this would be it! (EMPHASIS ADDED)
    b. “It is important to acknowledge that stare decisis dictates that this court follow precedent that is directly applicable to facts before it, regardless of whether or not this court agrees with the Defendants position." Reynolds v. Bank of America, N.A., No. RE-18-55 (Me. Super. Mar. 17, 2020) (Quoting) Estate of Galipeau v. State Farm Mut. Auto. Ins. Co., 2016 ME 28, ¶ 15, 132 A.3d 1190.
    c. The record has clearly established that Justice Billings shouldn't have granted the Plaintiffs Leave to file a Spickler Order until the Plaintiffs probe Jurisdiction. The Defendants Motion to Dismiss 12(b)1 should be the only Motion the court is concerned with until the Plaintiffs prove Jurisdiction.
2. **That it is the plain duty of the party against whom the mandate is sought to do the act, and in the doing of which no discretion may be exercised**

a. This is the WORST ABUSE OF THE LEGAL SYSTEM IN MAINE HISTORY so if there was ever a reason to approve a Writ of Mandamus then this would be it! (EMPHASIS ADDED)

b. Justice Billings must address the Defendants Motion to Dismiss 12(b)1 and must be Prohibited from using his discretion until the Plaintiffs prove there is Jurisdiction.

3. That the writ will be availing; and that the petitioner has no other sufficient and adequate remedy.

a. This is the WORST ABUSE OF THE LEGAL SYSTEM IN MAINE HISTORY so if there was ever a reason to approve a Writ of Mandamus then this would be it! (EMPHASIS ADDED)

b. This case was Frivolous when filed and should have never been approved in the first place. Nonetheless, the Defendant shouldn't have to wait another second considering how unconscionable this lawsuit is. Furthermore, the **Defendant filed a properly filed Motion to Dismiss 12(b)1 and shouldn't have to wait another second for Justice to be served.**

This is the Worst Abuse of the Legal System in Maine History so if there was ever a reason for a Writ of Mandamus then this would be it. The Petitioner

cannot wait for Appeal because his rights will be irreparable harmed therefore the most appropriate course of action would be the Supreme Court approving this Writ of Mandamus.

JURISDICTION

This Court Has Original Jurisdiction Over this Matter. Three separate statutory and constitutional provisions grant the Court original jurisdiction to hear and decide this petition.

First, the Court has jurisdiction to determine this action under 14 M.R.S. § 5301. That statute provides that the Supreme Judicial Court and the Superior Court "shall have and exercise concurrent original jurisdiction in proceedings in habeas corpus, prohibition, error, mandamus, quo warranto and certiorari." 14 M.R.S. § 5301 (Westlaw through 2020 1st Reg. Sess.). While Rule 81(c) of the Maine Rules of Civil Procedure, together with the repeal of various statutes in Title 14 in 1967, abolished those writs as "separate procedural devices," those changes did not "alter the substantive law pertaining to the writs or make any change in the kinds of relief available in situations where they have been appropriate." M.R. Civ. P. 81 advisory committee's notes to 1967 amend., Dec. 31, 1967. Thus, while the Legislature repealed the various statutes setting forth

procedures for obtaining writs of mandamus, prohibition, etc., it left § 5301 intact, amended to reflect that the Supreme Judicial Court's jurisdiction was now over "proceedings" to obtain these forms of relief rather than "writs." P.L. 1967, ch. 441, § 6.

Second, the Court has jurisdiction to determine this action under 4 M.R.S. § 7. That statute gives the Court jurisdiction to, among other things, "issue all writs and processes, not within the exclusive jurisdiction of the Superior Court, necessary for the furtherance of justice or the execution of the laws." 4 M.R.S.A. § 7 The 1841 version of the statute read "They [the members of the SJC] shall have power to issue writs of error, certiorari, mandamus, prohibition, quo warranto, and all other processes and writs, to courts of inferior jurisdiction, to corporations and individuals, which may be necessary for the furtherance of justice, and the due execution of the law." R.S. ch. 96, § 5 (1841). rules, should suffice to protect the interests of justice and the execution of the laws. However, the situation now presented to this Court, in which the Inferior Courts refuse to follow the rule of law meets the exacting requirements for issuance of a writ under § 7.

Finally, the Constitution itself impliedly confers jurisdiction upon the Supreme Judicial Court to consider this petition.

RELIEF SOUGHT

Petitioner Anthony Rinaldi and Southern Maine Construction hereby petition the Maine Supreme Judicial Court to issue a Writ of Prohibition barring Justice Billings from using his discretion until he has addressed the Defendants Motion to Dismiss 12(b)1 and/or until the Plaintiffs prove Jurisdiction. Furthermore, the Defendant petitions the Maine Supreme Judicial Court to issue a Writ of Mandamus directing Justice Billings to immediately address the Defendants Motion to Dismiss 12(b)1 and his Motion for Rule 11 Sanctions. Furthermore, it's in this courts authority to end this frivolous litigation and to award the Defendant the Sanctions he requested in his Motion for Rule 11 Sanctions. **This lawsuit is the WORST ABUSE OF T THERE LEGAL SYSTEM IN MAINE HISTORY with the MOST FRIVOLOUS SPICKLER MOTION AND MOST FRIVOLOUS CROSS MOTION FILED IN MAINE HISTORY so it's well within the courts discretion, authority and interest to end this litigation! (Emphasis Added)**

LEGAL ARGUMENTS

I. THIS COURT HAS ORIGINAL JURISDICTION OVER THIS MATTER.

Three separate statutory and constitutional provisions grant the Court original jurisdiction to hear and decide this petition.

First, the Court has jurisdiction to determine this action under 14 M.R.S. § 5301. That statute provides that the Supreme Judicial Court and the Superior Court "shall have and exercise concurrent original jurisdiction in proceedings in habeas corpus, prohibition, error, mandamus, quo warranto and certiorari." 14 M.R.S. § 5301 (Westlaw through 2020 1st Reg. Sess.). While Rule 81(c) of the Maine Rules of Civil Procedure, together with the repeal of various statutes in Title 14 in 1967, abolished those writs as "separate procedural devices," those changes did not "alter the substantive law pertaining to the writs or make any change in the kinds of relief available in situations where they have been appropriate." M.R. Civ. P. 81 advisory committee's notes to 1967 amend., Dec. 31, 1967. Thus, while the Legislature repealed the various statutes setting forth procedures for obtaining writs of mandamus, prohibition, etc., it left § 5301 intact, amended to reflect that the Supreme Judicial Court's jurisdiction was now over "proceedings" to obtain these forms of relief rather than "writs." P.L. 1967, ch. 441, § 6.

Second, the Court has jurisdiction to determine this action under 4 M.R.S. § 7. That statute gives the Court jurisdiction to, among other things, "issue all writs and processes, not within the exclusive jurisdiction of the Superior Court, necessary for the furtherance of justice or the execution of the laws." 4 M.R.S.A. § 7 (Westlaw through 2020 1st Reg. Sess.). This little-used provision has been in effect in something close to its current form since at least 1841. See R.S.

ch. 96, § 5 (1841).6 The Writ grants this Court a power to directly issue injunctive relief—in the form of a writ— when “necessary” for the “furtherance of justice” or the “execution of the laws.”. It will be a rare and exceptional situation in which the issuance of a writ by this Court will be “necessary” for the furtherance of justice or the execution of laws. In nearly all circumstances, the more customary forms of relief available through the lower courts, as prescribed by statute and court rules, should suffice to protect the interests of justice and the execution of the laws. However, the situation now presented to this Court it's obvious that has become impossible due to events beyond control of any branch of State government, meets the exacting

Both courts summarily dismissed the claims, for no good cause, simply to avoid addressing them on its merits. Worse, improper and unauthorized costs were taxed on the petitioner, without due process, even when lower courts provided no service, i.e. did not adjudicate the issue on merits during Summary Judge or Motion to Vacate. Petitioner was victimized by the denial of summary Judgment, and re-victimized with taxed costs. That constitutes profiting without providing service. No other profession in the civil world refuses to provide service and then charges cost for doing nothing (EMPHASIS ADDED)

When the inferior courts refuse to perform its required duty, the only remaining course of action is a writ. In fact, here the assigned individuals of the inferior courts are the very individuals committing the fraud on the court. “The writs thus afford an expeditious and effective means of confining the inferior court to a lawful exercise of its prescribed jurisdiction, or of compelling it to exercise its authority when it is its duty to do so", Exparte Republic of Peru, 318 U.S. 578, 583, (1943); same Roche v. Evaporated Milk Assn., 319 U.S. 21, 26, (1943)

requirements for issuance of a writ under § 7.

Finally, the Constitution itself impliedly confers jurisdiction upon the Supreme Judicial Court to consider this petition. Specifically, the Constitution imposes an obligation upon this Court to act when a lower court is required to act, but fails to do so. Me. Const. art. IV, pt. 1, § 3 & pt. 2, § 2; art. IX, § 24(2) & § 25(2).

Given the gravity of the situation as well as how blatant this fraud is there is no reason the court cannot rule of the Defendants pending Motions. There is a "concrete, certain, and immediate legal problem" that is ripe for resolution now. Waterville Indus., Inc. v. Fin. Auth. of Maine, 2000 ME 138, ¶ 22, 758 A.2d 986, as amended on recons. in part (Sept. 27, 2000) (quoting Wagner v. Secretary of State, 663 A.2d 564, 567 (Me.1995)).

On all three of the above bases, the Court has jurisdiction to consider the enclosed petition and grant the requested relief.

II. IF A MOTION TO DISMISS 12(b)1 IS FILED THE COURT ASSUMES THEY DON'T HAVE JURISDICTION UNTIL THE PLAINTIFFS PROVE OTHERWISE. JUSTICE BILLINGS IS AWARE THAT HE IS BOUND BY LAW TO ACT BUT HE'S CHOSEN TO IGNORE WELL ESTABLISHED CASE LAW.

a. Standard of Review

Justice Billings has ruled on 12(b)1 motions in the past. In 2017 Justice Billings issued an Order in *Emanuel v Town of Bristol* stating the following:

The court reviews a motion to dismiss under M.R. Civ. P. 12(b)(1) without making any inferences in favor of the plaintiff. Persson v. Dep't of Human

*Servs., 2001 ME 124, ¶ 8, 775 A.2d 363. "**When a court's jurisdiction is challenged, the plaintiff bears the initial burden of establishing that jurisdiction is proper**." Commerce Bank & Trust Co. v. Dworman, 2004 ME 142, ¶ 8, 861 A.2d 662. Emanuel v. Town of Bristol, SUPERIOR COURT CIVIL ACTION DOCKET NO. AP-17-02 (Me. Super. Oct. 2, 2017)*

b. Trial Courts Decision

Justice Billings granted the Plaintiffs their 9th Motion to Enlarge and he granted the Plaintiffs leave to file a Spickler order even though the Plaintiffs request was void of evidence (Exhibit A) and the Defendant presented the court with a mountain of evidence proving fraud (See Motion to Dismiss Ex A-F) and proving the Plaintiffs case is frivolous. During the 3/21/24 Hearing the Defendant stated that the Plaintiffs lawsuit claims their damages are hypothetical so it's unconscionable that the court is ignoring the fact that the Plaintiffs don't have standing. The Defendant filed a Motion to Dismiss 12(b)1 Subject Matter Jurisdiction on 1/29/24 and Justice Billings still hasn't given the Plaintiffs a Deadline for responding. **It's clear that Justice Billings is planning on ignoring the Defendants Motion until Trial and then Defaulting the Defendant for not having an Attorney even though he isn't an LLC**

c. Argument

When a Defendant files a Motion to Dismiss 12(b)1 the court assumes that **they don't have jurisdiction until the Plaintiff proves otherwise.** It's well established caselaw that 12(b)1 Motions have to be addressed immediately and the court cannot make decisions or orders until the Plaintiffs prove jurisdiction. Justice Billings is aware of the courts position and he has ruled on 12(b)1 motions in the past. In 2017 Justice Billings issued an Order in *Emanuel v Town of Bristol* stating the following:

> *The court reviews a motion to dismiss under M.R. Civ. P. 12(b)(1) without making any inferences in favor of the plaintiff. Persson v. Dep't of Human Servs., 2001 ME 124, ¶ 8, 775 A.2d 363. "**When a court's jurisdiction is challenged, the plaintiff bears the initial burden of establishing that jurisdiction is proper**." Commerce Bank & Trust Co. v. Dworman, 2004 ME 142, ¶ 8, 861 A.2d 662. Emanuel v. Town of Bristol, SUPERIOR COURT CIVIL ACTION DOCKET NO. AP-17-02 (Me. Super. Oct. 2, 2017)*

Justice Billings clearly erred as a matter of law when he granted the Plaintiffs leave to file a Spickler Order because the court doesn't have jurisdiction to make any rulings until the Plaintiffs prove jurisdiction and because the Plaintiffs didn't provide the court with any evidence supporting such an extraordinary request. Furthermore, it's unconscionable that Justice Billings didn't immediately

end this frivolous lawsuit when he read the Defendants Motion, Dismiss and Motion for Sanctions and letters to the court. What's even worst still is the fact that the Plaintiffs didn't present any evidence to support their request for leave nor did they cite any case law that supports their position. **On top of all that the Plaintiffs recently filed their Motion for Spickler Order which proves that it was simply a delay tactic to avoid responding to the Defendants Motion to Dismiss 12(b)1 because it was void of evidence and frivolous in nature.** Their entire 8 page Motion for Spickler Order **didn't give a single piece of evidence supporting their request** and EXEMPLIFIES how frivolous their request is! (EMPHASIS ADDED)

The Defendant on the other hand presented a Mountain of evidence to the court with his 12(b)1 Motion. (Exhibit H) The **Defendants evidence was irrefutable and uncontested so it's extremely concerning that Justice Billings ruled the way he did. Not only does the Plaintiff have no evidence and no witnesses but they've also committed perjury on a grand scale, abused discovery and filed frivolous motions so why is the court refusing to address the Plaintiff's egregious conduct and why is the court reprimanding and threatening the Defendant when he's done nothing wrong and deserves Justice.** During the 3/21/24 hearing regarding the Defendants Motion to Dismiss 12(b)1 and Motion for Sanctions Justice Billings stated that his Motion shouldn't have made the argument that the Plaintiffs are out of state residents and that the court needs to

hear evidence to make rulings not just legal theories. The issue with his statement is the fact that none of the Defendants arguments included the fact that the Plaintiffs are out of staters and even worse is the fact that the Defendant presented a mountain of irrefutable and uncontested evidence that was sworn to be true and accurate so how and why did Justice Billings make those two points when neither are true. Worse still is the fact that the Defendant pointed out that the Plaintiffs complaint listed hypothetical damages when filed so both parties agree that the Plaintiffs damages are hypothetical. Justice Billings then went on to reprimand the Defendant for filing so many motions and even called his latest interlocutory appeal frivolous because it was denied but the Defendants Motions were all filed properly and his interlocutory appeals weren't frivolous. The Defendant wouldn't have filed that many motions if the court did its job. The Defendant didn't file any frivolous Motions so it's clearly the court and BernsteinShurs fault because the court has been depriving the Defendant of Due Process and BernsteinShur is corrupt so shame on BernsteinShur not the Defendant. Furthermore, it's extremely concerning that Justice Billings called the Defendants latest interlocutory appeal frivolous when it wasn't because the Plaintiffs made that claim with a recent letter to the court so it's obvious that Justice Billings is using the Plaintiff's arguments to reprimand the Defendant without knowing if it's true or not and without any evidence to support it. **The recent hearing was clearly biased and it's**

unconsciousable that the Defendant filed his 12(b)1 Motion over 3 months ago and the Court hasn't even given the Plaintiffs a deadline to respond yet.

MOTION TO DISMISS AND 3/21/24 HEARING

RECENT FILINGS & HEARING

On 1/29/24 the Defendant filed a Motion to Dismiss 12(b)1 because the Court doesn't have Jurisdiction due to the Plaintiffs damages being hypothetical and their inability to prove causation. The Defendant's Motion to Dismiss states the following arguments:

1. The Court Lacks Jurisdiction – The Plaintiffs Lack Standing because their alleged damages are hypothetical and speculative not concrete and actual.

2. The Court Lacks Jurisdiction – The Plaintiffs Lack Standing because the Plaintiffs failed to show that the injury is "Fairly traceable to the Defendants actions"

3. The Court Lacks Jurisdiction – The Plaintiffs Lack Standing because the Plaintiffs failed to show that their injury "Will be redressed by a favorable decision"

4. The Court Lacks Jurisdiction – The Plaintiffs Lack Standing because their alleged damages were completely offset by the unpaid upgrades and work done after March 5th therefore the Plaintiffs weren't damaged.

It's CRYSTAL CLEAR that the Defendant's Motion to Dismiss is concerning Standing and the Plaintiffs failure to meet any of the three requirements of standing proves WITHOUT QUESTION THAT THE COURT DOESN'T HAVE JURISDICTION. A Motion to Dismiss text the legal Sufficiency of the Plaintiffs claim which is well established law so Justice Billings is very familiar with it. If a Judge is made aware that the court doesn't have jurisdiction he should dismiss the complaint on his own accord sue sponte. Nonetheless, the following transcript is from the 3/21/24 Motion Hearing: (Exhibit G Full Trancript),

JUSTICE BILLINGS: I mean, generally, motions to dismiss test the legal sufficiency of the complaint. So the plaintiff says A, B, and C, and the motion to dismiss is even if A, B, and C are true, there would be no legal claim here. I mean, you're effectively arguing, I mean, well, first you argue this jurisdictional issue, but there's no question that they argue that the claimed events occurred in the state of Maine, correct?

DEFENDANT RINALDI: That's correct.

JUSTICE BILLINGS: So why wouldn't a Maine court have jurisdiction?

DEFENDANT RINALDI: Because there's no injury. There's no concrete or particular injury. It's all hypothetical.

JUSTICE BILLINGS: Well, the plaintiffs say otherwise, so that's a disputed fact.

DEFENDANT RINALDI: Well, they even state that they never, if they bought, hypothetically, if they purchased another house, they'd be damaged, or hypothetically, if they win, I have to pay attorney fees. So their allegations are, they're stating these are hypothetical injuries, as stated.

JUSTICE BILLINGS: But you also argue that there's no jurisdiction to the court because the plaintiffs are out-of-state litigants, correct?

DEFENDANT RINALDI: I just wanted to point that out. It wasn't an argument.

DEFENDANT RINALDI: when we went for summary judgment, they failed to prove prima facie. We had a hearing. I pointed that out.And then I even, after, when I got the ruling, I then filed a pretrial motion pointing out that they still failed to prove prima facie. And Justice O'Neill said, well, they get to prove it during trial, which isn't your standard. I mean, prima facie is really the basic. It's been three years, and they don't have any evidence. They don't have any witnesses.

JUSTICE BILLINGS: Basically, your motion is asking for trial before the trial. Why wouldn't we just have the trial? If it turns out the plaintiffs have no evidence to support their claims, the court can deal with that. But for me to find, you know, this conspiracy and frivolous, I mean, I'd have to hear evidence. Those are claims that have to be supported by facts. The court would have to find facts before being able to make, to take that action. So why wouldn't we just have a trial?

DEFENDANT RINALDI: So I've looked at countless motions to dismiss as well as motions for sanctions. I mean, I've read a crazy amount because my biggest fear was to file something that

wasn't proper. Everything I've filed has been proper, supported by evidence. And I made sure not to file anything I, or allegedly.

JUSTICE BILLINGS: Here's what you're saying. No, I understand. You use terms like supported by evidence. So for, I mean, you know, evidence is not just your arguments.

DEFENDANT RINALDI: I understand So when I filed it, I basically used other ones as a template, and I presented all the evidence. I presented everything I needed to show you that this, what I'm alleging is in fact true. There's all the supporting evidence. There's all the case law. I mean, it is as clear as day. And at the very least, he should have to respond to it considering, you know, it didn't meet any of the, you know, requirements for standing. And the court has very limited resources. Why should we have a trial if they can't prove standing?

JUSTICE BILLINGS: But, well, one could suggest that your motions have taken up more time and judicial resources than a trial would take up. So it's hard to take your concerns about judicial resources seriously. I mean, in your own motion, you listed the multitude of motions you have filed. I would suggest to you that that is fairly unusual for litigation of this kind.

DEFENDANT RINALDI: so I agree this is fairly unusual. This is the worst abuse legal system in history. This lawsuit should never have been filed. It should have been denied when filed. When we went to the motion to dissolve hearing, I had a lawyer at the time. They showed up with all this new evidence and a whole new story. And my lawyer pointed out to the judge, like, how am I supposed to respond to this? I've never even seen this evidence. And he didn't respond to my lawyer. They ruled based on that new evidence. So I did file a lot of motions. But if you look at each one individually, not one of them was filed frivolously. Not one of them was. Every one. It should never have gotten this far. So, like, it just stinks that it's used against me when the whole time all I've been asking for is just for this to be judged on its merits for me to have these pretrial, you know, these motions available to me. I should be able to file something and it taken serious. And, you know, at no point has Justice O'Neill said that my motions were frivolous or anything like that. So when I file them, they just get denied without any explanation. And, yes, I filed a lot of motions. But if you look at each one, every one was filed properly and for good cause. I'm not trying to waste the court's time. I'm trying to bring to the court's attention that this is wrong on so many levels. There's so many bad contractors out there. I'm not one of them. This should never have happened. This should never have been filed. And I should never have had to wait three years to be able to, you know, present anything to the court.

JUSTICE BILLINGS: So, Mr. Monteleone, I'll give you an opportunity to respond to what I've heard about the motion to dismiss and motion for sanctions.

ATTORNEY MONTELEONE: Thank you, Your Honor. I'd echo the motion to dismiss, although it's characterized as a subject matter jurisdictional issue. It, in fact, turns on the question of

contract damages. Contract damages are a matter of fact. If a party's failure to perform on a contract gave rise to a hypothetical injury, a non-particularized injury that's not subject to standing, then enforcing any contract obligation would be impossible. Ultimately, it's the court's interpretation of the facts of the party's conduct and the facts of what the actual values of the contract were in order to determine what the damages are. Those are all on the table. In fact, in this case, defendant's prior counsel has stipulated to the amount of damages for what this property was worth at the time of the breach. So that's already in the record and having been established. To now come back three years later and say, oh, it's hypothetical, not only is reversing the stipulations that are on the record in this case, but also are wholly out of line with something that undercuts the court's subject matter jurisdiction. And for that reason, there's no basis for a dismissal on this motion.

JUSTICE BILLINGS: And obviously the sanctions motion goes directly, you know, allegations of your conduct, and I don't expect you to try to defend yourself here today and don't really want to go into the merits too much. But I assume you agree with me that for the court to decide that motion, the court would have to hear evidence, which frankly would probably be much of the evidence that would be necessary at trial.

DEFENDANT RINALDI: So I've spent several thousand hours studying the law and making sure I'm doing things right. One thing that's very clear is when you file a civil lawsuit, the court just doesn't grant a trial. I mean, there's all these procedures to go through to make sure a trial is warranted. He doesn't have any witnesses. He doesn't have any evidence. In a recent deposition when I deposed him.

JUSTICE BILLINGS: So what you just said. Yeah. I've been a judge about 12 years, and almost every civil case is resolved without the court doing any such thing. And there can be summary judgment, motion to dismiss, but the number of cases that are resolved in that way, at least in main state court, are a small percentage of the cases. And I think this may be an example of a little knowledge being dangerous

DEFENDANT RINALDI: Yes, I filed a summary judgment, but it was denied without any explanation. The judge even acknowledged it. He failed to prove prima facie. I mean, it's been three years. They failed to present any evidence at all, and they have no witnesses. I just don't get how, like, I'm filing these motions exactly as the law states, and at the very least, you should have to respond to them. At the very least, you think you're responding to show. Yes, there is actually evidence. There is actually a case here. There are actual damages. I mean, at the very least, I feel like I deserve that.

DEFENDANT RINALDI: The founders of the Constitution would be proud that I'm standing up for my rights and proud that I'm saying this is wrong. Because it is wrong. What he's doing is wrong.

He knows better. He still hasn't presented any evidence. He just says that my actions are bad, but he doesn't say how. He doesn't say anything I've done wrong. I've acted professional. I've literally studied the law. I've tried to do everything by the book. My intentions have only been good. And if you go on my website, it's just stating the facts, the same facts that are in the record. So he stands up and says, I'm delaying and I don't want to. This whole entire time, when I took over and I tried to get a hold of them, my lawyer, I couldn't afford my lawyer anymore. January 28th is when discovery ended. And July is when my lawyer removed himself. And I'm emailing them, emailing them, and they're not responding. What is going on? He waits to the day that discovery ended and then writes to the court and says that he can't get a hold of me. When the opposite was true. They literally delayed for six months and then told the court that they can't get a hold of me, which was a lie. And so I call him out on it. He immediately removes it. And then he's filed nine motions to enlarge. And I'm not scared to go to trial. I keep asking to get in front of the court to discuss this fraud, to discuss their actions, to discuss the evidence. And I've been denied every turn. So they're the ones who, when I email them and present them with additional evidence over and over again, that refuse to address it. When I have a discovery meeting with him, he refuses to. He just says I mischaracterized. I don't agree with the characterization. I don't agree with the characterization. Never. Literally, the day that closing fell through, I stated four times I have a legal right to walk. I mean, I stated over and over and over again, so there was no question. So, nobody could say, you breached. I mean, I went over the top, because I just had this bad feeling. I recorded everything, documented everything. And so, it's just insane to think that I'm the one delaying. I'm the one who's stopping this. And they're ready to go to trial. They're ready to go to trial with no evidence, no witnesses. I mean, it's kind of confusing that they argue that, but yet he stands up and doesn't present one reason that... One actual action I've done that's frivolous or fraudulent or harassing, I'm just stating facts. I have a right to say you're committing fraud. I have a right to say what you're doing is frivolous. And I'm not saying it in a mean way. I'm not swearing. I'm not yelling at them. I'm not acting inappropriate. I'm exercising my constitutional rights here, and I have the right to this trial. I honestly thought today they'd finally have to show some evidence and show that they don't have it.

JUSTICE BILLINGS: See, that's what a trial is about. A trial is when you present evidence. When people bring in witnesses, they're sworn to tell the truth, they testify before the fact finder, they're subject to cross-examination, and the court decides whether the evidence is persuasive or not, whether it believes the evidence, and then ultimately determines whether the party with the burden of proof has met its burden. I mean, that's what a trial is about.

DEFENDANT RINALDI: At a pretrial conference, don't both sides kind of give you a rundown of their case just to make sure it's valid?

JUSTICE BILLINGS: No. No. Even if I agreed with you entirely, like, no. That's not how it works. The evidence is presented at trial. I have no authority to say, plaintiff, it seems like you have a really weak case, so we're not going to have a trial. That's not the role of the court. You talk about constitutional rights, one of the constitutional rights is the open court doctrine, where assuming people can overcome motions to dismiss and motions for summary judgment, which is what has occurred in this case, they have a right to a trial. Now, what happens at the trial? You know, who knows? But that's where the court considers evidence.

DEFENDANT RINALDI: So, I filed a motion to dismiss based on the fact that they failed standing on all three accounts, causation, particular injury, and redressability. They failed on all accounts. I mean, they legitimately, miserably failed. If that motion was frivolous, why wouldn't he point out what I said that was frivolous? Like, he's saying, oh, I don't want to respond to that until we do the gag or spickler order.

JUSTICE BILLINGS: Well, I mean, first, motions dismissed that have merits are usually brought, frankly, they're usually brought before an answer is even filed, because if the complaint doesn't state a legal claim, usually that is litigated at the beginning of the case, not three years later.

DEFENDANT RINALDI: I understand that. I wish I had noticed that this one was available to me. When I noticed it, I literally laughed and said, wow, I could have filed this three years ago. But this motion puts the burden on him, not me. For the first time, it puts the burden on him with a 12(b)1 The burden is completely on him. And yes, I could have filed before, but there's no timeline. You can file those during trial. You can file those the day before trial. And he should have to respond to that and explain how the court has jurisdiction.

JUSTICE BILLINGS: Well, it looks a little different, and I just counted. Again, this may not even be a complete list, but I just counted on page 8 and 9 of your motion. I mean, when it's in context of 46 separate motions filed by you, it takes a different, it looks different than when someone files a motion to dismiss at the beginning of the case, challenging something like standing or the sufficiency of the complaint.

DEFENDANT RINALDI: So I get 46 motions, but how can it be used against me if he can't even point out one of those motions that was frivolous? Not one. He hasn't pointed out one of them.

JUSTICE BILLINGS: I mean, one he's pointed out, which is, I mean, your interlocutory appeal was frivolous.

DEFENDANT RINALDI: How? Like, how?

JUSTICE BILLINGS: I mean, it was summarily denied without requiring the other party to respond.

DEFENDANT RINALDI: That doesn't mean it's frivolous, though. I mean, at the very least, it's been three years, at the very least he should have to respond to those motions. I don't see how this, I'm sorry, this is just making me a thousand times more upset and just losing faith in the legal system because I just don't understand. Like, I'm literally trying to do everything by the book. I'm trying to do everything right.

JUSTICE BILLINGS: Well, it seems like you're doing everything to avoid a trial.

DEFENDANT RINALDI: I'm not scared of trial. They just kept threatening to default me because I'm an LLC, even though I'm not. I'm not an LLC. I never claimed to be. And they just kept threatening to default me for that. That's what scared me. I didn't want to get defaulted. I've never been scared of the evidence. I'm proud of the evidence. I'm proud that I'm telling the truth and the facts are clear. Like, I've never shied away from talking. I've never shied away from anything. It literally sent them a gazillion emails trying to work with good faith. So trials, I'm not scared of at all. I mean, I could go to trial right now. I know this evidence really well, and I'm telling the truth. So the only reason, and it wasn't that I wasn't trying to avoid it. I was trying to bring the court's attention. This is kind of crazy that we're even talking about trial when they've told four or five stories, and I've deposed the plaintiff, the only one left, and he says he doesn't know why the closing fell through. And he said, I don't remember to almost every question I asked. So the plaintiff, who, again, brought up the lawsuit, couldn't answer any questions. He doesn't know why the closing fell through. They have no witnesses. They have no evidence. Like, this isn't even a lawsuit. You have to have evidence to have a lawsuit. Like, I just don't get why the court isn't offended by their behavior.

JUSTICE BILLINGS: Okay. Thank you. Mr. Monteleone, anything else in regards to your request to have leave to file your motions?

ATTORNEY MONTELEONE: No, nothing further.

JUSTICE BILLINGS: Okay. First, in regards to the plaintiff's request for leave to file motions, I'm going to grant the plaintiff leave to file a motion for a stickler order. I'm going to deny the request for the leave to file for a gag order. I understand the concerns that are raised in the letter have been raised today. But given that this is not a jury trial and given the competing interests here and the fact that, you know, Mr. Monteleone and others who might believe they were damaged by Mr. and all these conduct have other remedies or other ways to seek remedies outside of this action, a gag order which attempts to control the actions and statements of a party outside of the courtroom is an extreme remedy. It may be appropriate in certain actions, but it's not a step that the court should consider lightly. Again, I'm not taking issue with the request. I believe the request was made in good faith, but it is not a road I think we need to go down in this matter, at least at this time. So the court, but the court will allow the

plaintiff to file for a stickler order. And as a result of the court allowing the plaintiffs to file for a stickler order, I will also grant the plaintiff's motion to enlarge time to respond to the motion to dismiss and for the motion for sanctions and that the plaintiffs will not be required to respond to those motions until the court has acted upon their motion for a stickler order. So the court's not going to decide those motions at this point, but the plaintiffs will not be required to respond to those motions until the court decides on the spickler issue?

DEFENDANT RINALDI: If their claims aren't frivolous and fraudulent, it would be the easiest thing in the world to respond to a motion to dismiss . The burden's on them on that one, not me. So I just don't understand why if their claims aren't frivolous and fraudulent, at the very least, they should – and not only that, I told them several weeks in advance that I'm filing that. So they had ample time. They got the motion enlarged. They literally had two months. So, I mean, it's just – I get you're ruling it's fine, but at the very least, the motion to enlarge the sanctions, that's fine. The motion to dismiss, I'm sorry, they should have to respond to that, like, immediately. I just don't see why they – if it's not fraudulent and frivolous, it's easy to do. So at the very least, why should we waste the court's time if they don't have jurisdiction?

JUSTICE BILLINGS: Again, things like alleging fraudulent and frivolous, those are the kind of things, particularly fraudulent, that requires evidence. The court would need to be able to make factual findings, and the court cant – that something is fraudulent, and the court can only make factual findings after it has heard evidence.

DEFENDANT RINALDI: Wouldn't that err on the side of them responding now?

JUSTICE BILLINGS: No, because the only way – I mean, the only way I could find that the plaintiffs have acted fraudulently is to have a trial and to hear all the evidence. That's – I mean, I can't decide based upon, you know, affidavits or motions that something is fraudulent. That is a finding of fact that the law court has made clear. The court can only make findings of fact once it has heard evidence.

DEFENDANT RINALDI: I understand that, but still, forget the fraudulent – at the very least, if they have a valid case, they should have to respond to that. The burden is on them, not me. That's the only motion that the burden is on them. And they've had several – two months already. At the very least –

JUSTICE BILLINGS: You have three years to bring it, and you bring it on the eve of trial once trial has already been continued once. I mean, that's part of the consideration as well.

DEFENDANT RINALDI: again, I – he can't point to one of my motions. And, again, I'm a pro se. I'm doing my best here. I'm really trying not to waste – I get 99 percent of pro se litigants do waste the court's time. I'm not one of them. If you look at every one of my motions, they're supported by evidence and case law. So, I mean, at the very least, it just seems like why

wouldn't – if I'm being frivolous and that my motion has no merit – If you're in a program that's supported by evidence,

JUSTICE BILLINGS: your statements in a motion are not evidence.

DEFENDANT RINALDI: Well, I presented, like, the text and recordings and their messages and their words. So the actual – I present stuff from them on the record I don't just say these things.

JUSTICE BILLINGS: And, again, just submitting documents attached to a motion doesn't necessarily make them evidence. Again, there's, you know, before documents get admitted to trial, there has to be testimony to show their admissibility, you know.

DEFENDANT RINALDI: So, again, just – But, again, it would be easy for them to respond to that if it's – you know, they're calling my stuff frivolous. So it would be very easy for them to just explain to the court why it isn't, and then we could save everyone this time. I mean, very easy. And the burden's on them, not me. It's not like the burden was on me on that one.

JUSTICE BILLINGS: Well, the court's ruled on that.

III. CV-2021-138 IS THE WORSE ABUSE OF THE LEGAL SYSTEM IN MAINE HISTORY WITH JUSTICE O'NEIL AND JUSTICE BILLINGS BLATANTLY IGNORING WELL ESTABLISH LAW AND ALLOWING BERNSTEINSHUR TO MAKE A MOCKERY OF THE LEGAL SYSTEM. IN ORDER TO RESTORE PUBLIC CONFIDENCE AND TO PURGE THIS FRAUD ON THE COURT ASSOCIATE JUSTICE DOUGLAS SHOULD ASSUME THE SUPERIOR COURTS ROLE AND END THIS FRAUD IMMEDIATELY! (EMPHASIS ADDED)

This action is the WORST ABUSEGTTT OF THE LEGAL SYSTEM IN MAINE HISTORY so how it's still going on almost 3 years later even though the Plaintiffs

admitted their original complaint is all LIES, haven't presented Prima Facie evidence, admitted they don't know why the breach happened and committed fraud. The Plaintiffs are now accusing the Defendant of filing frivolous motions to save face. If the Defendant has been filing frivolous motions for 3 years then why are the Plaintiffs just bringing it up now? It took them 3 years to realize this? The Plaintiffs are well aware that the Defendants Motions aren't frivolous and it's a disgrace to the legal system for them to imply such. Nonetheless, both parties agree that the Plaintiffs damages are hypothetical so it's unconscionable that Justice Billings would ignore the Defendants Motion to Dismiss 12(b)1 considering it would immediately end this frivolous litigation and during the 3/21/24 Hearing the Defendant discussed the fact that the Plaintiffs lawsuit lists hypothetical damages as written so it's not even up for dispute that their damages aren't real! Subject Matter Jurisdiction is a well established principle that Justice Billings understands so he is CLEARLY ignoring well established law to help the Plaintiffs. Given the fact that Justice Billings knows that he isn't ruling fair is reason enough for Associate JusticE Douglas to intervene.

CONCLUSION

During the 3/21/24 Motion Hearing Justice Billings kept saying the fairest thing to do is go to trial and that he can't hear evidence unless its at trial but he

then grants the Plaintiffs Leave to file a Spickler Order which completely contradicts his prior statement. Granting the Plaintiffs leave is giving them time to present evidence showing that the Defendant filed Frivolous motions so why can Justice Billings look at their evidence to determine fraud but not mine? Also, the Plaintiffs weren't required to respond to the Defendant's Motions but Justice Billings required the Defwndant to respond to the Plaintiff's frivolous Spickler Motion. Nonetheless, how is going to trial the fairest thing to do if the Plaintiffs have no evidence and no witnesses? Its was extremely unfair to make the Defendant prepare for and endure a trial when this fraudulent and frivolous lawsuit should never have been approved in the first place. The court system avoids trial at all cost and a plaintiff isn't granted a trial without first surviving pre trial motions but both Justice O'Neil and Justice Billings refuse to address the massive amount of evidence proving fraud. Nonetheless, Justice Billings forced the Defendant to go to trial but refused to address the Defendants two Motions in Limine, Motion for contempt and Motion to Dismiss and Sanctions. The FACT THAT THE PLAINTIFFS HAVE NO EVIDENCE OR WITNESSES **EXEMPLIFIES** HOW CORRUPT THE SYSTEM IS AND HOW FRAUDULENT THIS LAWSUIT IS. Nonetheless. Associate Justice Douglas should end this fraud and awarded compensatory and punitive damages to the Defendant per the Motion for Sanctions. If the court isn't

comfortable doing so then it should direct Justice Billings to address the Defendants Motions and not use his discretion until the Plaintiffs prove jurisdiction

EXHIBIT LIST

A. DEFENDANT'S MOTION TO DISSOLVE 12(b)1

B. PLAINTIFF'S LETTER TO COURT SPICKLER / GAG

C. DEFENDANT'S LETTER TO COURT REGARDING SPICKLER

D. DEFENDANT'S EVIDENCE DOCUMENT (FILED WITH A,C,E)

E. DEFENDANT'S MOTION FOR RULE 11 SANCTIONS

F. PLAINTIFF'S MOTION TO ENLARGE

G. PLAINTIFF'S REPLY BRIEF

H. DEFENDANT'S OPPOSITION ENLARGE

I. TRANSCRIPT 3/21/24 HEARING

J. PLAINTIFF'MOTION SPICKLER ORDER

K. DEFENDANT'S OPPOSITION TO SPICKLER

L. REQUEST FOR ADMISSIONS AND INTERROGATORIES

M. PICTURE 451 CAPE RD

N. PERJURIOUS AFFIDAVITS OF LORD, DIBIASE AND PIERCE

O. TRANSCRIPT 6/22/22 DISCOVERY MEETING

P. PLAINTIFF'S OPPOSITION CONTEMPT

Q. PLAINTIFF'S CROSS MOTION SJ AND REPLY BRIEF

R. PLAINTIFF'S OPPOSITION TO VACATE

S. PLAINTIFF'S EX PARTE VERIFIED COMPLAINT

The foregoing instrument was acknowledged before me this _____day of _____,

20____,

X

Anthony Michael Rinaldi

PO BOX 1222

Westbrook, ME 04092