

MOTION FOR RECONSIDERATION LOCAL RULE 7.3

JUDGES ORDER VIOLATES PULLIMAN JUDGES ARE NOT IMMUMED

Filed November 11, 2012

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

STEWART A. WEBB

Plaintiff,

v.

12-CV-2588 EFM/GLR

Case No:

Filed September 5, 2012 3:15PM
This Filing November 11, 2012

HON. JUDGE KATHRYN H. VRATIL, in her
Official capacity as Chief Judge
for the United States District Court for
the District of Kansas

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

Defendant,

MOTION FOR RECONSIDERATION LOCAL RULE 7.3

JUDGES ORDER VIOLATES PULLIMAN JUDGES ARE NOT IMMUMED

**COMPLAINT FOR INJUNCTIVE RELIEF AGAINST
THE HON. KATHRYN H. VRATIL, AND THE U.S. DISTRICT COURT OF
THE STATE OF KANSAS, et al.**

Comes now the Plaintiff Stewart A. Webb appearing pro se and in
forma pauperis and files this action for Injunctive Relief against the

honorable chief judge of this court and the federal district court for prospective injunctive relief, solely in equity under the United States Constitution to allow me to have an uncompromised qualified legal counsel Bret Landrith represent me in the Kansas District Court for a civil RICO action I will file and to transfer Grand Jury Status to bring Plaintiff's evidence and witnesses for purpose of Indictments against said parties under Plaintiffs open Grand Jury Case Number 95-Y-107 RM filed US District Court For The District of Colorado in the 10th District same as Kansas.

The Plaintiff is entitled to injunctive relief for the following reasons:

JUDGES ORDER VIOLATES PULLIMAN JUDGES ARE NOT IMMUMED

Judge Eric Melgren Order violates 28 U.S.C. § 1915(d)

Judge Eric Melgren order dismissing the current complaint inherently finds that the plaintiff's claim for prospective injunctive relief is frivolous because Judge Vratil and the Kansas District Court are immune. This is a clear error of law.

The Tenth Circuit has since reversed a court over dismissing claims for prospective injunctive relief based on official capacity immunity:

“Guttman appears to have advocated a claim for prospective injunctive relief throughout the litigation. If that is the case, then the district court erred in *Guttman I*, 320 F.Supp.2d at 1171, when it held that the individual defendants' absolute immunity barred the Ex parte Young claim. See *Verizon*, 535 U.S. at 645, 122 S.Ct. 1753.”

Guttman v. Khalsa, 25 A.D. Cases 1316, 44 NDLR P 130, 669 F.3d 1128 (10th Cir., 2012).

Hon. Judge Vratil and the Kansas District Court are not immune. In *Knox v. Bland*, 632 F.3d 1290 (10th Cir., 2011), the Tenth Circuit stated judicial immunity exists for monetary damages not injunctive relief:

“In any event, judges are generally immune from monetary liability for actions taken in their judicial capacity. See *Lundahl v. Zimmer*, 296 F.3d 936, 939 (10th Cir.2002). In *Pulliam v. Allen*, 466 U.S. 522, 544, 104 S.Ct. 1970, 80 L.Ed.2d 565 (1984), the Supreme Court said that attorney fees in § 1983 cases are a statutory exception to the general rule; but this exception was abrogated by the Federal Courts Improvement Act of 1996. See 42 U.S.C. § 1988(b).”

Knox v. Bland, 632 F.3d 1290 at FN1 (10th Cir., 2011).

The Error of *sua sponte* Dismissal of an Arguable Question

The Judge was respectfully in error to dismiss the plaintiff’s complaint and deprive him of a trial where the law is unsettled on the issue of federal judicial immunity from prospective injunctive relief:

“[I]t is unsettled whether the corresponding immunity afforded federal judges in *Bivens* cases permits or precludes such claims. Compare *Mullis v. United States Bankr. Court for the Dist. of Nev.*, 828 F.2d 1385, 1394 (9th Cir. 1987) (distinguishing *Pulliam* and extending federal judicial immunity to preclude equitable *Bivens* claim) and *Bolin v. Story*, 225 F.3d 1234, 1240-42 (11th Cir. 2000) (following *Mullis*, but noting issue “is a closer one than it would seem at first blush”), with *Scruggs v. Moellering*, 870 F.2d 376, 378 (7th Cir. 1989) (finding *Mullis* immunity analysis to be “of doubtful merit,” though not deciding issue).

We express no opinion on the issue and rely instead for our disposition on uncontroversial principles specifically barring the equitable relief sought here.” [Emphasis added]

Switzer v. Coan et al., 261 F.3d 985 at FN 9 (10th Cir., 2001).

An arguable question of law states a basis that facially invalidates the Kansas district Court’s dismissal for frivolousness under 28 U.S.C. § 1915(d) (now § 1915(e)(2)(B)) as the controlling precedent for this court proscribes in *Neitzke v. Williams*, 490 U.S. 319, 325, 328 (1989):

“In dismissing the complaint [in *Nietzke*], the district court equated the standard for frivolousness with the standard for a dismissal for the failure to state a claim upon which relief may be granted. On appeal, the Seventh Circuit reversed the district court's determination that the complaint was frivolous, and a unanimous Supreme Court affirmed the Seventh Circuit's decision. The Court explained that “[w]hen a **complaint raises an arguable question of law which the district court ultimately finds is correctly resolved against the plaintiff, dismissal on Rule 12(b)(6) grounds is appropriate, but dismissal on the basis of frivolousness is not.**” *Id.* at 328.” [Emphasis added]

Brown v. Bargery, 207 F.3d 863 at 867 (6th Cir., 2000).

The Judge Eric Melgren’s order violates the test of legal frivolity in the Tenth circuit which is whether a plaintiff can make a rational argument on the law and facts in support of his claims. *Bennett v. Passic*, 545 F.2d 1260 (10th Cir. 1976).

The magistrate Rushfelt’s order violates the test of legal frivolity in the Tenth circuit which is whether a plaintiff can make a rational

argument on the law and facts in support of his claims. *Bennett v. Passic*, 545 F.2d 1260 (10th Cir. 1976).

The magistrate's order like Hon. Chief Judge Fernando J. Gaitan Jr.'s order in the earlier Case No: Case No: 09-CV-2603 JTM/DJW:

violates the United States Supreme Court rulings *Neitzke v. Williams*, 490 U.S. 319, 109 S.Ct. 1827, 104 L.Ed.2d 338 (1989) and *Denton v. Hernandez*, 504 U.S. 25 (1992):

"An *in forma pauperis* complaint may not be dismissed, however, simply because the court finds the plaintiff's allegations unlikely. Some improbable allegations might properly be disposed of on summary judgment, but to dismiss them as frivolous without any factual development is to disregard the age-old insight that many allegations might be "strange, but true; for truth is always strange, Stranger than fiction." Lord Byron, *Don Juan*, canto XIV, stanza 101 (T. Steffan, E. Steffan & W. Pratt eds. 1977)."

Denton v. Hernandez, 504 U.S. 25, 32-33 (1992).

Magistrate Rushfelt appears to violate 18 U.S.C. § 241

The Judge Hon. **Judge Eric Melgren** order erroneously applies the principle of res judicata; that the plaintiff's current action is resolved by the earlier ex parte order of dismissal without prejudice **Hon. Magistrate Gerald L. Rushfelt Case No: 12-CV-2588 EFM/GLR.** The magistrate's **Hon. Magistrate Gerald L. Rushfelt Case No: 12-CV-2588 EFM/GLR** order erroneously applies the principle of res judicata; that the plaintiff's current action is resolved by the earlier ex parte order of

dismissal without prejudice **Hon. Chief Judge Fernando J. Gaitan Jr.**

Case No: Case No: 09-CV-2603 JTM/DJW:

“Res judicata is an affirmative defense on which defendant has the burden of proof. See Fed.R.Civ.P. 8(c); *Nwosun v. Gen. Mills Rests., Inc.*, 124 F.3d 1255, 1256 (10th Cir.1997). For the doctrine to apply, four elements must exist: (1) a judgment on the merits in the earlier action; (2) identity of the parties or privies in the two suits; (3) identity of the cause of action in both suits; and (4) a full and fair opportunity for plaintiff to litigate the claim in the first suit. *Id.* at 1257.”

Zhu v. St. Francis Health Center, 413 F.Supp.2d 1232 at 1239,40 (D. Kan., 2006).

The plaintiff’s new claim for prospective injunctive relief details additional events that give rise to a new and different basis for the relief sought by the plaintiff and does not have res judicata or collateral estoppel effect.

No Judgment on the Merits

The Hon. Judge Eric Melgren’s ex parte order of dismissal without prejudice does not preclude subsequent action: “[A] judgment is not res judicata as to any matters which a court expressly refused to determine, and which it reserved for future consideration, or which it directed to be litigated in another forum or in another action.” 242 Kan. at 691, 751 P.2d 122 (citing *American Home Assur. v. Pacific Indem. Co., Inc.*, 672 F.Supp. 495 [D.Kan.1987]; 46 Am.Jur.2d, Judgments § 419, pp. 588–89).

The Tenth Circuit recognizes that in matters related to a continuing course of conduct as described in the plaintiff's current complaint, the passage of time may prevent earlier decided issues from determining the outcome of a current case:

"Other jurisdictions have recognized "the principle that matters adjudged as to one time period are not necessarily an estoppel to other time periods." *Int'l Shoe Mach. Corp. v. United Shoe Mach. Corp.*, 315 F.2d 449, 455 (1st Cir.1963); see also *Harkins Amusement Enters., Inc. v. Harry Nace Co.*, 890 F.2d 181, 183 (9th Cir.1989) (rejecting idea that collateral estoppel barred a suit for conspiracy where "the plaintiff alleges conduct that occurred in a different time period"). This is particularly true "when significant new facts grow out of a continuing course of conduct." *Hawksbill Sea Turtle v. Fed. Emergency Mgmt. Agency*, 126 F.3d 461, 477 (3d Cir. 1997).

B-S Steel of Kansas, Inc. v. Texas Industries, 439 F.3d 653 at 663 (10th Cir., 2006).

Res judicata does not bar claims against subsequent conduct, consistent with the US Supreme Court decision on subsequent antitrust conduct being actionable in *Zenith Radio Corp v. Hazeltine Research, Inc*, 401 U.S. 321 at 340, 91 S.Ct. 795, 28 L.Ed.2d 77 (1971).

New sets of facts arising in later incidents are described in the complaint and give the plaintiff new claims. See 46 Am. Jur. 2d 841-42, Judgments § 567 (1994) (An "earlier adjudication is not permitted to bar a new action to vindicate rights subsequently acquired, even if the same property is the subject matter

of both actions. . . . [A] judgment is not res judicata as to rights which were not in existence at the time of the rendition of the judgment").

The plaintiff's current action seeks injunctive relief based on new violations of fundamental liberty interests that occurred subsequent to the plaintiff's earlier attempt to obtain injunctive relief:

"The doctrine of res judicata does not bar a party from bringing a claim that arose subsequent to a prior judgment involving the same parties. Accordingly, the claim is not precluded by the settlement and dismissal of those claims."

American Home Assur. Co. v. Chevron, USA, Inc., 400 F.3d 265 at fn 22 (5th Cir., 2005).

No trial between the parties

Judge Eric Melgren's order dismissing the plaintiff's current complaint based on Hon. Magistrate Rushfelt's earlier ex parte order is in error when the complaint was never served on the defendants and Defendants never answer or held a hearing on the complaint.

Magistrate Judge Rushfelt cannot use the earlier order made by a judge without jurisdiction as a basis to dismiss the plaintiff's claims. See *Elliot v. Piersol*, 1 Pet. 328, 340, 26 U.S. 328, 340 (1828), the order is simply void.

Lack of a full and fair opportunity to litigate

No claim or issue preclusion results from the out of circuit judge's ruling of dismissal without prejudice of an earlier cause of action for

frivolousness before service on the defendants and without an opportunity for the plaintiff to amend.

The Judge Eric Melgren's order dismissing the plaintiff's current cause of action must respectfully be reversed because the magistrate relies on the out of circuit judge's earlier *ex parte* dismissal where the trial judge lacked jurisdiction to make a determination on the merits of the plaintiff's cause:

"It is important to realize, however, that denial of leave to amend and dismissal with prejudice are two separate concepts. See generally, *N. Assurance Co. of Am. v. Square D Co.*, 201 F.3d 84, 88 (2d Cir.2000) (noting that where denial of leave to amend does not reach underlying merits of claim, "the actual decision denying leave to amend is irrelevant to the claim preclusion analysis."). A denial of leave to amend to repair a jurisdictional defect, even on futility grounds, does not call for a dismissal with prejudice. The two concepts do not overlap in those cases where, although amendment would be futile, a jurisdictional defect calls for a dismissal without prejudice. See *Hutchinson v. Pfeil*, 211 F.3d 515, 519, 523 (10th Cir.2000) (affirming district court's denial of leave to amend to add state law claims on futility grounds, while also affirming dismissal, apparently without prejudice, of entire action for lack of standing); *Bauchman ex rel. Bauchman v. West High School*, 132 F.3d 542, 549-50, 561-62 (10th Cir.1997) (upholding district court's denial of leave to amend complaint under futility analysis, but reversing merits disposition on pendent state claims and remanding for dismissal without prejudice for lack of jurisdiction). The district court extended the futility principle too far in this case by dismissing with prejudice for lack of standing, since it lacked jurisdiction to make a determination on the merits of the complaint."

Brereton v. Bountiful City Corp., 434 F.3d 1213 (Fed. 10th Cir., 2006).

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Denton v. Hernandez, 504 U.S. 25, 32-33 (1992).

Judge Eric Melgren appears to violate 18 U.S.C. § 241 upholding Magistrate Rushfelt's order:

Magistrate Rushfelt appears to violate 18 U.S.C. § 241

Magistrate Judge Gerald L. Rushfelt appears to be committing a felony violation of 18 U.S.C. § 241 in Magistrate Rushfelt's knowing furtherance of the conduct by state of Kansas officials in trafficking children

to defraud the federal government out of US Treasury Medicare and Health and Human Services funds through false claims and to protect the order made by Hon. Judge Carlos Murguia that was used to obstruct Bret Landrith's US District Court reciprocal disbarment proceeding and hearing.

Even though Magistrate Judge Gerald L. Rushfelt is a federal official, he is committing a civil rights violation of 18 U.S.C. § 241 in concert with State of Kansas officials every time he deprives Landrith of his property right in pursuit of his profession for his federally protected representation of the African American James L. Bolden and Bolden's witness, David M. Price of American Indian descent in the vindication of rights from race based federal civil rights discrimination statutes, that resulted in *Bolden v. City of Topeka, Kan.*, 441 F.3d 1129 (10th Cir., 2006).

Magistrate Rushfelt was the magistrate in Hon. Judge Carlos Murguia Novation Cartel case where the two Assistant U.S. Attorney's died. First Assistant US Attorney Thelma Quince Colbert who brought the sealed False Claims act proceeding against Novation with testimony of a Novation medical supply purchasing executive verifying the nationwide restraint of trade in hospital supplies that I had alleged in the private civil action *Med. Supply Chain, Inc. v. Neoforma, Inc.*, 419 F. Supp. 2d 1316 (D. Kan. 2006) against Novation for violations of 15 U.S.C. §§ 1,2 (Sherman Antitrust Act)

and for predicate acts of 18 U.S.C. § 1962 (Racketeer Influenced and Corrupt Organizations Act) that are also grave felonies.

Assistant US Attorney Shannon Ross, who supervised 70 U.S. Justice Department prosecutors and who signed the criminal subpoenas against Novation was found dead in her home just before Landrith's expert testified in the U.S. Senate antitrust hearing on Novation's conduct to restrain trade in hospitals, and mere days after she signed the criminal subpoenas.

The plaintiff had a famous investigative journalist Tom Flocco <http://www.tomflocco.com> investigate the deaths of the Northern District of Texas US Attorneys Thelma Quince Colbert and Shannon Ross. Tom Flocco determined the attorneys had likely been murdered due to their investigation of Novation LLC and the hospital supply cartel members and the threat to the hospital skimming scheme. See: Tom Flocco, Dead, fired attorneys' Medicare fraud probe linked to White House.

<http://www.tomflocco.com/fs/FiredAttorneysFraudProbe.htm> **Exhibit B**

Hon. Judge Carlos Murguia's sanctioned Bret Landrith for asserting there was a private right of action under the USA PATRIOT Act (Public Law 107-56—OCT. 26, 2001) which had been used by the Novation Cartel

members to keep Landrith's client Samuel K. Lipari and Medical Supply Chain, Inc. out of the nationwide hospital supply market they monopolized.

It is beyond dispute that expressly creates several new private rights of action by modifying existing statutes to create liability from private actions for damages. Specifically the USA PATRIOT Act expressly recognizes private liability related to Suspicious Activity Reports made with malicious intent:

“(3) MALICIOUS INTENT.—Notwithstanding any other provision of this subsection, voluntary disclosure made by an insured depository institution, and any director, officer, employee, or agent of such institution under this subsection concerning potentially unlawful activity that is made with malicious intent, shall not be shielded from liability from the person identified in the disclosure. “

Subsequent to Hon. Judge Carlos Murguia's order sanctioning Landrith in *Med. Supply Chain, Inc. v. Neoforma, Inc.*, 419 F. Supp. 2d 1316 (D. Kan. 2006), the Arkansas Supreme Court found liability for a Suspicious Activity Report under the USA PATRIOT Act in the absence of good faith *Bank of Eureka Springs v. Evans*, 353 Ark. 438, 109 S.W.3d 672 (Ark. 2003) in materially the same circumstances as the complaint Hon. Judge Carlos Murguia sanctioned Landrith over.

Magistrate Rushfelt is responsible for knowing the misconduct of Hon. Judge Carlos Murguia in ordering that Landrith be sanctioned over \$20, 000.00 for lawfully reporting the commission of federal felonies under 15 U.S.C. §§ 1,2 and 18 U.S.C. § 1962 in *Med. Supply Chain, Inc. v. Neoforma, Inc.*, 419 F. Supp. 2d 1316 (D. Kan. 2006).

Magistrate Rushfelt had a duty to report Hon. Judge Carlos Murguia. Which it appears he did not. See Abramson, Leslie W., *The Judge's Ethical Duty to Report Misconduct By Other Judges and Lawyers and its Effect on Judicial Independence*. Hofstra Law Review, Vol. 25, No. 751, 1997.

Reciprocal disbarment based on fraud on Kansas District Court

As a magistrate on *Med. Supply Chain, Inc. v. Neoforma, Inc.*, 419 F. Supp. 2d 1316 (D. Kan. 2006), Magistrate Rushfelt knew or is responsible for knowing that the case that was used to controvene the order staying Landrith's reciprocal disbarment was procured through fraud on Hon. Judge Carlos Murguia, both in the intentional misrepresentation of law by the Novation cartel attorney John K. Power and by Power's misrepresentation of the facts regarding Landrith's complaint. The Novation defendants including Neoforma also misrepresented the monopolistic consolidation of the electronic hospital supply marketplace Neoforma, Samuel K. Lipari and Medical Supply Chain, Inc. closest competitor with

Novation LLC and General Electric during the trial itself in an attempt to placate Neoforma's investors (which included member hospitals) who had been misled through securities frauds when Neoforma had been taken over by the Novation cartel to prevent it Neoforma from being profitable or from challenging prices set in the nationwide market by Novation LLC.

Hon. Judge Carlos Murguia respectfully in error erroneously relied upon Husch Blackwell LLP attorney John K. Power's summary of the case in Power's Motion for Hearing on Dismissal. See **Exhibit C** Pleading of John K. Power. And shortly thereafter, and without a hearing Hon. Judge Murguia sustained the motions to dismiss and in the order Hon. Judge Murguia sanctioned LANDRITH and Med. Supply Chain, Inc. See **Exhibit D** Memorandum and Order.

The complaint however had each element John K. Power's motion (**exhibit C**) stated it lacked. The elements were arranged in a table of contents which directed the parties and the court to the outline sections of the complaint where numbered paragraphs provided supporting averments of fact for each element. See **Exhibit E** Med. Supply Chain, Inc. Complaint.

The court respectfully in error found that the non fraud based RICO allegations for Hobbs Act extortion and obstruction of justice predicate acts in what was mainly a Sherman Act antitrust action were insufficiently pled.

The plaintiff hereby includes a separate attachment of the table of contents section and complaint's RICO elements and supporting facts. See **Exhibit F** Med. Supply Chain, Inc. RICO excerpt.

Med. Supply Chain, Inc. appealed the dismissal (after Landrith had been reciprocally disbarred) on the grounds that the appeal did sufficiently plead Sherman Act and RICO violations. The appellees made a motion to dismiss the appeal for timeliness. However, the Tenth Circuit referred this issue to the panel and required the parties to brief the action. See **Exhibit G** Med. Supply Chain, Inc. Brief. The brief identifies each of the elements required under the then controlling precedent for the Tenth Circuit regarding the pleading of RICO claims. The brief identifies by paragraph number each of the supporting averments of fact for each required pleading element. None were missing. See **Exhibit F** Med. Supply Chain, Inc. Brief RICO excerpts.

The Tenth Circuit ultimately ruled that the appeal was untimely and did not address the issues appealed by Med. Supply Chain, Inc.. See *Medical Supply Chain, Inc. v. Neoforma, Inc.*, 508 F.3d 572 (10th Cir., 2007). Samuel K. Lipari as sole successor in interest to Med. Supply Chain, Inc. sought relief from judgment. See Exhibit 8 Lipari Rule 59(e) Answer. But Lipari's motion was stricken by Hon. Judge Murguia.

Since Hon. Judge Carlos Murguia's ruling in *Med. Supply Chain, Inc. v. Neoforma, Inc.*, 419 F. Supp. 2d 1316, 1333-36 (D. Kan. 2006), dismissing the antitrust and RICO claims, the Kansas District Court and the Tenth Circuit Court of Appeals have reexamined *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544 (2007) where the court addressed the plausibility of an inferred antitrust conspiracy to their Rule 12(b)(6) dismissal standard. The majority of *Med. Supply Chain, Inc.*'s were non fraud based and the antitrust conspiracy was alleged to be express and averments supporting an overt agreement and concerted action in furtherance of the antitrust and RICO conspiracy claims were contained in Landrith's complaint.

The Tenth Circuit recognized that Fed. R. Civ. P. Rule 8 is still the valid standard for evaluating non fraud based claims under Fed. R. Civ. P.

12(b)(6):

"There is no indication the Supreme Court intended a return to the more stringent pre-Rule 8 pleading requirements. See *Iqbal*, 129 S. Ct. at 1950 ("Rule 8 marks a notable and generous departure from the hyper-technical, code-pleading regime of a prior era . . ."). And in fact, the Supreme Court stated in *Swierkiewicz v. Sorema N.A.*, 534 U.S. 506, 514 (2002), a pre-*Twombly* case, that "[a] requirement of greater specificity for particular claims is a result that must be obtained by the process of amending the Federal Rules, and not by judicial interpretation." *Id.* at 515 (internal quotation marks omitted). Thus, as the Court held in *Erickson v. Pardus*, 551 U.S. 89 (2007), which it decided a few weeks after *Twombly*, under Rule 8, "[s]pecific facts are not necessary; the statement need only 'give the defendant fair notice of what the . . . claim is and the grounds upon which it rests.'" *Id.* at 93 (quoting *Twombly*, 550 U.S. at 555 (alteration in original)); see also *al-*

Kidd v. Ashcroft, 580 F.3d 949, 977 (9th Cir. 2009) ("*Twombly* and *Iqbal* do not require that the complaint include all facts necessary to carry the plaintiff's burden.").

While the 12(b)(6) standard does not require that Plaintiff establish a prima facie case in her complaint, the elements of each alleged cause of action help to determine whether Plaintiff has set forth a plausible claim. See *Swierkiewicz*, 534 U.S. at 515; see also *Twombly*, 550 U.S. at 570."

Khalik v. United Air Lines at 5-7 (10th Cir., 2012).

Legal basis for finding a violation of 18 U.S.C. § 241

Magistrate Judge Gerald L. Rushfelt appears to be in violation of 18 U.S.C. § 241 where the magistrate knows or should have known that the first judge on *Med. Supply Chain, Inc. v. Neoforma, Inc.*, 419 F. Supp. 2d 1316 (D. Kan. 2006), the defendant Hon. Chief Judge Kathryn H. Vratil acted ex parte to procure Landrith's disbarment by the Kansas Supreme Court.

The Internet postings of filings by Samuel K. Lipari describe Hon. Chief Judge Kathryn H. Vratil's participation in ex parte communications for the purpose of negatively influencing Bret Landrith's oral arguments in defense of his law license and constitutional property right in pursuing his trade by Hon. Chief Judge Kathryn H. Vratil's acting under color of state law to cause retaliation against Landrith for his contracts to represent Bolden and Price's federal civil rights in protected speech against race based animus:

“208. The petitioner's counsel was disbarred through Stanton Hazlett and the State of Kansas Disciplinary office presenting ex parte testimony by Kansas District Judge Kathryn H. Vratil to personnel and justices of the Kansas Supreme Court, disparaging Medical Supply's counsel without his knowledge or opportunity to question Kansas District Court Judge Kathryn H. Vratil's testimony on October 20, 2005 minutes before the Kansas Supreme Court justices heard Medical Supply's counsel's oral argument in defense of his law license. “
Lipari v. General Electric, US District Court for the Western District of Missouri, Case No. 07-0849-CV-W-FJG Proposed Amended Complaint1.

These posting by Landrith's former client Samuel K. Lipari are from cases he had before Hon. Chief Judge Fernando J. Gaitan Jr. in the Western District Court. And were part of filings made before Hon. Judge Gaitan was substituted in the plaintiff's earlier case to deprive him of access to a meaningful hearing to protect himself from continuing retaliation for his whistleblowing.

In the plaintiff's prior action for injunctive relief before this court he filed a motion for summary judgment which contained factual information of Magistrate Judge Gerald L. Rushfelt working in concert with State of Kansas officials to deprive Landrith of constitutional rights under color of state law and to further a racketeering enterprise depriving Landrith's former Cremeen clients of recovery in a mortgage fraud Ponzi scheme:

“128. The affidavit stated Sherri Price came on to Fred Sanders property with two City of Topeka police cars and a code compliance officer to perform an inspection knowing Fred Sanders attorney was out of town. See **exhibit 31** Kirtdoll Affidavit.

129. The KDC has knowledge though Magistrate Judge Gerald L. Rushfelt that the replacement attorney Dennis Hawver in *Cremeen et al v. Schaefer et al* 04-cv-02519-CM-GLR was threatened if he did not voluntarily dismiss the Ponzi Scheme co-defendant Steve Strayer.

130. Magistrate Judge Gerald L. Rushfelt threatened to sanction Hawver because Rex A. Redlingshafer of Stanton & Redlingshafer, LLC had given a notice of Strayer's bankruptcy filing on 02/25/2005 before a finding of Strayer's guilt in the Arizona real estate development RICO Enterprise Ponzie racketeering scheme.

131. The KDC has knowledge though Hon. Judge Carlos Murguia that Hon. Judge Carlos Murguia sanctioned Landrith and threatened to sanction Samuel K. Lipari if the action and any replacement attorney if *MSC v. Neoforma* was continued in anyway."

Webb Motion for Summary Judgment

These paragraphs are also part of the plaintiff's filings in the present case. And show what appears to be Magistrate Judge Gerald L. Rushfelt's knowing participation with State of Kansas and federal officials in 18 U.S.C. § 241, conspiracy to deprive Landrith and now the plaintiff of constitutional rights and protections under color of state law:

"A conspiracy under 18 U.S.C. § 241 is different than conspiracies under other statutes in that no proof of an overt act is necessary to establish the existence of the conspiracy. *United States v. Skillman*, 922 F.2d 1370, 1375-1376 (9th Cir.1990). Indeed, to prove a Conspiracy Against Rights, the government must only show that two or more parties entered into an agreement; that the purpose of their agreement was to injure, oppress, threaten or intimidate; that the agreement was intended to affect inhabitants of a State; and that the agreement was directed towards the free exercise or enjoyment of rights and privileges secured by the Constitution and federal law. *United States v. Redwine*, 715 F.2d 315, 319 (7th Cir.1983), cert. denied, 467 U.S. 1216, 104 S.Ct. 2661, 81 L.Ed.2d 367 (1984)."

US v. Hayward, 764 F. Supp. 1305 at 1307 (N.D. Ill., 1991).

Besides being the prosecuting witness in the federal cases reporting grave violations and federal felonies under 15 U.S.C. §§ 1,2 and 18 U.S.C. § 1962 in *Medical Supply Chain, Inc. v. General Elec. Co.*, 03-2324-CM, (D. Kan. Jan 29, 2004) and *Med. Supply Chain, Inc. v. Neoforma, Inc.*, 419 F. Supp. 2d 1316 (D. Kan. 2006) against the Novation Cartel, Landrith and Lipari were likely witnesses in Assistant US Attorney Thelma Quince Colbert and Shannon Ross' Medicare False Claims Act proceeding styled *US ex rel Cynthia I. Fitzgerald v. Novation LLC, VHA, University Healthcare Consortium et al*, N. Dist. Of Texas Case 3:03-cv-01589.

The state and federal officials including Magistrate Judge Gerald L. Rushfelt's actions against Landrith and now the plaintiff fit the requirements of an 18 U.S.C. § 1503 charge but are also appear to properly be 18 U.S.C. § 241 violations:

“ On April 2, 1981, the government brought a superceding indictment which replaced the count of the indictment against Rizzitello involving conspiracy to obstruct justice under 18 U.S.C. § 1503 with conspiracy to violate a citizen's civil rights, 18 U.S.C. § 241. Section 241 contains a harsher penalty than Section 1503. The government represents that the reason for bringing the superceding indictment is the dearth of evidence going to Rizzitello's awareness of Napoli's status as a federal witness. Proof of such an awareness is a necessary element under 18 U.S.C. § 1503, but not an element under 18 U.S.C. § 241.”

United States v. Bufalino, 518 F.Supp. 1190 at 1193 (S.D.N.Y., 1981).

Landrith had and the plaintiff has a clearly established right to report

violations of federal law without retaliation. The actions taken against Landrith under color of state law to deprive him of his constitutional rights in violation of federal statutes cannot lawfully prevent him from being an attorney in federal court.

“...the right to inform the United States authorities of violation of its laws, *In re Quarles*, 158 U.S. 532 [15 S.Ct. 959, 39 L.Ed. 1080].” *Twining*, 211 U.S. at 97, 29 S.Ct. at 19.”

Young v. Matsushita Elec. Indus. Co., Ltd., 939 F.2d 19 at 20 (C.A.2 (N.Y.), 1991).

This court cannot follow the magistrate’s recommendation of dismissal against public policy and controlling precedent:

“The public policies embedded in the criminal laws have long been deemed of such importance that the law also encourages persons to report criminal activity to public authorities... Such rulings recognize the long-established proposition that public policy encourages citizens to report crimes. See *In re Quarles & Butler*, 158 U.S. 532, 533-35, 15 S.Ct. 959, 960-61, 39 L.Ed. 1080, 1080-81 (1895); *Lachman v. Sperry-Sun Well Surveying Co.*, 457 F.2d 850, 853 (10th Cir.1972) (“[I]t is public policy ... everywhere to encourage the disclosure of criminal activity.”). Effective implementation of that policy requires the cooperation of citizens possessing knowledge thereof. See, e.g., *Palmateer v. International Harvester Co.*, 85 Ill.2d 124, 52 Ill.Dec. 13, 421 N.E.2d 876, 879-80 (1981); *Garibaldi v. Lucky Food Stores, Inc.*, 726 F.2d 1367, 1374 (9th Cir.1984).”

Fox v. MCI Communications Corp., 931 P.2d 857 at 861 (Utah, 1997).

Under the facts of the present complaint, the plaintiff is imminent danger of irreparable harm from retaliation for his federal whistle blowing

activities and requires capable counsel which he still cannot obtain, to protect his fundamental liberty interests:

“Although "a private citizen lacks a judicially cognizable interest in the prosecution... of another," private citizens have the right to inform law enforcement officers of violations of the law. *Leeke v. Timmerman*, 454 U.S. 83, 85-86, 102 S.Ct. 69, 70, 70 L.Ed.2d 65 (1982) (internal quotation marks omitted). *In re Quarles*, 158 U.S. 532, 535-36, 15 S. Ct. 959, 960-61, 39 L. Ed. 1080 (1895).”

Woody v. Cronin at 7-8 (11th Cir., 2010).

Respectively submitted,

s/Stew Webb Federal Whistleblower Plaintiff,

stewwebb@stewwebb.com

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**Mortgage Fraud Federal Strike Force
WADHWAS@sec.gov**

Michael.Levy@usdoj.gov

sansonj@sec.gov

ago@state.ma.us

oig@sec.gov

Previous Filing in this **Case No: 12-CV-2588 EFM/GLR**
COMPLAINT FOR INJUNCTIVE RELIEF 20120905.htm
EX PARTE MOTION FOR PRELIMINARY INJUNCTIVE RELIEF 20120925.pdf

Including Notice to Court of U.S. Mail theft Police report filed: electronic filing

Including 84 Documents submitted as evidence: Electronic filing
NOTICE TO COURT THREAT FIRST AMENDMENT VIOLATIONS 20120907.htm

MOTION TO REVIEW MAGISTRATES ORDER OF DISMISSAL 20121005.pdf

Letter to NY Attorney General US Attorney SEC Attorneys 20121005.htm

PLAINTIFFS OBJECTIONS TO REPORT AND RECOMMENDATIONS 20121011.pdf

EMERGENCY MOTION FOR HEARING 20121011.pdf

Notice To The Court RICO SUIT Filed Against Judge Kathryn H Vratil 20121024.pdf

MOTION TO MAKE PLEADING ON RECORD OF ASSISTANT TO ATTORNEY GENERAL 20121029.pdf

Notice of Appeal 20121108.pdf

Police report filed:

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Exhibits A-G filed electronically this date as exhibits:

Attached and enclosed herein exhibit H Stewart A. Webb Official SEC Whistleblower Filing with SEC

Note: Oct 2, 2012 JPMorgan sued for fraud by New York attorney general over mortgage-backed securities:

<http://www.ag.ny.gov/>

<http://www.ag.ny.gov/press-release/ag-schneiderman-sues-jpmorgan-fraudulent-residential-mortgage-backed-securities-issued>

Plaintiff Stewart Webb Official SEC Whistleblower Filing Filed March 12, 2012 online after a call from SEC Tim Casey

Official SEC Whistleblower Complaint Securities Frauds

Larry Mizel Mortgage Backed Securities Frauds and Bank Bailout Frauds

MDC Holding, Inc. (MDC NYSE)

Official SEC Whistleblower Complaint Securities Frauds

[http://www.stewwebb.com/Larry Mizel Mortgage Backed Securities Frauds and Bank Bailout Frauds 03122012.htm](http://www.stewwebb.com/Larry_Mizel_Mortgage_Backed_Securities_Frauds_and_Bank_Bailout_Frauds_03122012.htm)

<http://www.stewwebb.com>

MDC Holding, Inc. (MDC NYSE)

This has lead to World Wide Financial Collapse and Bailouts

Here are the Entities Larry Mizel used to Bundle the Fraudulent Mortgage Backed Securities

Official SEC Whistleblower Complaint

False Claims-Whistleblower Act

By Stewart Webb Federal Whistleblower

Filed March 12, 2012 online after a call from Tim Casey

<http://www.sec.gov/whistleblower>

Email sent this same date and submitted online to SEC see bottom of this page:

WADHWAS@sec.gov

Michael.Levy@usdoj.gov

sansonj@sec.gov

ago@state.ma.us

oig@sec.gov

<http://www.sec.gov/whistleblower>

False Claims-Whistleblower Act

Welcome to the Office of the Whistleblower

Assistance and information from a whistleblower who knows of possible securities law violations can be among the most powerful weapons in the law enforcement arsenal of the Securities and Exchange Commission. Through their knowledge of the circumstances and individuals involved, whistleblowers can help the Commission identify possible fraud and other Violations much earlier than might otherwise have been possible. That allows the Commission to minimize the harm to Investors better preserve the integrity of the United States' capital markets, and more swiftly hold accountable those responsible for unlawful conduct.

The Commission is authorized by Congress to provide monetary awards to eligible individuals who come forward with High-quality original information that leads to a Commission enforcement action in which over \$1,000,000 in sanctions is ordered. The range for awards is between 10% and 30% of the money collected.

The Office of the Whistleblower was established to administer the SEC's whistleblower program. We greatly appreciate your interest and we hope that this website answers any questions you may have.

We understand that the decision to come forward with information about securities fraud or other wrongdoing is not one taken lightly and we are here to answer any questions you may have. You can reach the Office of the

Whistleblower at (202) 551-4790.

Larry Mizel Bank Bailout Criminal

1% Illuminati Bankers

Get the Money Back

Solve the World Financial Crisis

The American Revolution Continues in 2012

Larry Mizel Bank Fraudster

One of the 100 Illuminati Bankers that control 90% of the Worlds wealth illegally gained.

Mizel created Mortgages through MDC Asset Investors on houses that were never built in southern California (Richmond Homes) and other states, including duplicating Mortgages up to 9 times by bundling and selling then in Billion Dollar Bundles to Banks and Pension Funds to steal your money then after the temporary 2008 Bail Out by U.S. Citizens they start robbing people who had been paying their Mortgage to their legal Mortgage holders and came in and stole 3.5 million homes from Mortgage paying Americans.

These are Larry Mizel Entities that were used by Larry A. Mizel aka Larry Mizell aka Larry Mizei

To commit Frauds and False Claims against the United States of America and the American People including Securities Frauds and Frauds against Investors and Foreign Banks.

Other Culprits include Norman Phillip Brownstein Former Director MDC NYSE Mizel's attorney and partner in crime who is Managing Director of DEUTSCHE BANK AG-REGISTERED (DBK:Xetra) Runs a team of sales and marketing professionals responsible for bringing HSBC's global derivative capabilities to Canadian clients. Product coverage includes rates, credit, equity, funds and emerging market derivatives. Team is divided into retail and institutional coverage. Retail team is responsible for all structured notes issues by HSBC Bank Canada (all asset classes) as well as Structured GICs. Products are sold through the private bank, HSBC securities as well as multiple third party distributors. Institutional team covers clients ranging from mid-market to multi-national to provide financial solutions on both the asset side and liability side of the balance sheet.

Does this sound like the Mortgage Frauds?

[http://www.stewwebb.com/Junk Bond Daisy Chain Fraud by Stew Webb.html](http://www.stewwebb.com/Junk_Bond_Daisy_Chain_Fraud_by_Stew_Webb.html)

http://www.stewwebb.com/frauds_are_us_at_mdc_holdings_04262010.htm
|

Here are the Criminals who caused the World Wide Economic Collapse and the Entities used the U.S. Government has 53 Attorneys and 200 agents on a Special Task Force and they claim they cannot figure it out. BULLSIT!

Other Culprits are named in the Documents herein below:

Original Letter to SEC Attorneys

February 6, 2012

WADHWAS@sec.gov

Michael.Levy@usdoj.gov

sansonj@sec.gov

ago@state.ma.us

oig@sec.gov

Filed online March 13, 2012 SEC.gov

RE: After call from Tim Casey

<http://www.sec.gov/whistleblower>

Welcome to the Office of the Whistleblower

Note: The U.S. Government never has Paid this Whistleblower a dime only tried to Murder me many time...Stew Webb

http://www.stewwebb.com/DHS_Assassination_attempt_on_Stew_Webb_Photos_12052010.htm

http://www.stewwebb.com/Grandview_Missouri_Police_Cover_up_attempted_Murder_11122010.htm

http://www.stewwebb.com/Grandview_Missouri_Police_Report_105206_10252010.htm

http://www.stewwebb.com/Stew_Webb_Drawing_of_Accident_Attempted_Murder_10252010.htm

http://www.stewwebb.com/Bush_Whacked_Again_Stew_Webb_Federal_Whistleblower_01102011.htm

http://www.stewwebb.com/Obama_Killing_Americans_Unite_the_Governors_Revolution_11302010.htm

http://www.stewwebb.com/dhs_attempted_murder_of_whistleblower_stew_webb_06092010.htm

Companies responsible for Mortgage Securities frauds

Houses that were never built and Duplicated Mortgages

Not to be published.

Let me know.

s/Stew Webb Federal Whistleblower

stewwebb@stewwebb.com

816 478 3267

http://www.stewwebb.com/stew_webb_grand_jury_demand_vs_bush_millman_clinton_etal_09142009.htm

http://www.stewwebb.com/stew_webb_vs_bush_millman_lindner_clinton_crime_syndicate_122009.htm

<http://www.stewwebb.com>

http://www.stewwebb.com/breaking_news.htm

http://www.stewwebb.com/savings_and_loan_whistleblower_faces_federal_charges_091692.gif

http://www.stewwebb.com/Bush_Millman_Clinton_Lindner_Crime_Family_Flow_Chart1.jpg

http://www.stewwebb.com/Bush_Millman_Organized_Crime_Syndicate_Bank_Accounts1.htm

http://www.stewwebb.com/bush_clinton_mizel_organized_crime_syndicate_06172010.htm

http://www.stewwebb.com/kerre_millman_aka_kerre_smith_fugitive_from_justice_05162010.htm

http://www.stewwebb.com/Amanda_Janusz_Where_is_The_Justice_Department_11162010.htm

http://www.stewwebb.com/inside_the_bush_crime_family_part1.htm

http://www.stewwebb.com/inside_the_bush_crime_family_part2.htm

http://www.stewwebb.com/WANTED_FOR_TREASON_AND_SEDITION_12072010.htm

http://www.stewwebb.com/Obama_Killing_Americans_Unite_the_Governors_Revolution_11302010.htm

http://www.stewwebb.com/obamas_crystal_nacht_american_people_under_attack_09262010.htm

http://www.stewwebb.com/dhs_attempted_murder_of_whistleblower_stew_webb_06092010.htm

http://www.stewwebb.com/DHS_Assassination_attempt_on_Stew_Webb_Photos_12052010.htm

http://www.stewwebb.com/Bush_Whacked_Again_Stew_Webb_Federal_Whistleblower_01102011.htm

http://www.stewwebb.com/may_6th_market_event_mdc_holdings_nyse_larry_mizel_culprit_news_05182010.htm

http://www.stewwebb.com/Wall_Street_how_Larry_Mizel_MDC_NYSE_Does_a_Deal_07182011.htm

http://www.stewwebb.com/bush_narcotics_money_laundry_funds_obama_mccain.htm

http://www.stewwebb.com/rush_for_gold_how_silverado_operated.htm

Companies responsible for Mortgage Securities Frauds

Houses that were never built and Duplicated Mortgages

The below are the Buffers used to pass the Illegal Mortgage Securities in Bundles

that has lead to the Illegal Bank Bailout and World Financial Collapse

These are Trillions of Dollars Stole my the Persons herein the Filings.

http://www.stewwebb.com/ASSET_INVESTORS_ACCEPTANCE_INC.htm

http://www.stewwebb.com/Asset_Investors_Corporation.htm

http://www.stewwebb.com/ASSET_INVESTORS_EQUITY_INC.htm

http://www.stewwebb.com/ASSET_INVESTORS_FINANCE_CORPORATION.htm

http://www.stewwebb.com/ASSET_INVESTORS_FUNDING_CORPORATION.htm

http://www.stewwebb.com/ASSET_INVESTORS_LLC.htm

http://www.stewwebb.com/ASSET_INVESTORS_MORTGAGE_FUNDING_CORPORATION.htm

http://www.stewwebb.com/ASSET_INVESTORS_OPERATING_PARTNERSHIP_LP.htm

http://www.stewwebb.com/B_R_ASSET_INVESTORS_LIMITED.htm

http://www.stewwebb.com/B_R_ASSET_INVESTORS_LLC.htm

http://www.stewwebb.com/D_&_R_Asset_Investors.htm

http://www.stewwebb.com/GREENWOOD_ASSET_INVESTORS_LLC_02052012.htm

http://www.stewwebb.com/INVESTORS_ASSET_MANAGEMENT_GROUP_LLC_02052012.htm

http://www.stewwebb.com/INVESTORS_ASSET_MANAGEMENT_LTD.htm

http://www.stewwebb.com/MDC_Asset_Investors_38_Found.htm

http://www.stewwebb.com/MDC_ASSET_INVESTORS_INC_02052012.htm

Note 50 South Steel Denver, Colorado

Is nothing more than a RICO Securities Headquarters?

Below

Aka MDC Janus Funds

and other Len Millman-Larry Mizel-Norman Brownstein Entities

Foreign Limited Partnership

Jurisdiction: British Virgin Islands

http://www.stewwebb.com/Palm_Structured_Asset_Investors_02052012.htm

<http://www.stewwebb.com/20041257435.pdf>

<http://www.stewwebb.com/20051281539.pdf>

<http://www.stewwebb.com/20111385721.pdf>

http://www.stewwebb.com/PRINCIPAL_ASSET_INVESTORS_02052012.htm

http://www.stewwebb.com/Real_Asset_Investors_LLC_02052012.htm

http://www.stewwebb.com/ServiceStar_Asset_Investors_02052012.htm

http://www.stewwebb.com/SKB_ASSET_INVESTORS_02052012.htm

http://www.stewwebb.com/TECH_ASSET_GROUP_INVESTORS_LLC_02052012.htm

Note: Len Millman's National Acceptance Company Aka National Brokerage as in

AIG Maurice Hank Greenburg and Meyer Blinder

Aka First National Acceptance Company Aka First National Banks

50 South Steel Denver, Colorado

lots of Securities Frauds.

Respectively submitted,

s/Stew Webb Federal Whistleblower Plaintiff,

stewwebb@stewwebb.com

<http://www.stewwebb.com>

816 478 3267

16508 A East Gudgell

Independence, Missouri 64055

**Copies by email to:
NY Attorney General**

**<http://www.ag.ny.gov/>
nyag.pressoffice@ag.ny.gov**

**Mortgage Fraud Federal Strike Force
WADHWAS@sec.gov**

Michael.Levy@usdoj.gov

sansonj@sec.gov

ago@state.ma.us

oig@sec.gov

Motions

[2:12-cv-02588-EFM Webb v. Vratil](#)

U.S. District Court

DISTRICT OF KANSAS

Notice of Electronic Filing

The following transaction was entered on 11/11/2012 at 12:12 PM CST and filed on 11/11/2012

Case Name: Webb v. Vratil
Case Number: [2:12-cv-02588-EFM](#)
Filer: Stewart A. Webb
Document Number: [18](#)

Docket Text:

[MOTION for Reconsideration by Plaintiff Stewart A. Webb\(Webb, Stewart\)](#)

2:12-cv-02588-EFM Notice has been electronically mailed to:

Stewart A. Webb stewwebb@stewwebb.com

2:12-cv-02588-EFM Notice has been delivered by other means to:

The following document(s) are associated with this transaction:

Document description:Main Document

Original filename:n/a

Electronic document Stamp:

[STAMP dcecfStamp_ID=1028492125 [Date=11/11/2012] [FileNumber=2829947-0] [9d256ba04f0edea32cc813924e962b8bc2ab5c120d101f7cbc6b94dade5418775cc949be120db1d9cad38b762c914580ec6651a92cea3d03f8da85cfa1cfc759]]

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U.S. District Court

DISTRICT OF KANSAS

Notice of Electronic Filing

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[MOTION for Reconsideration by Plaintiff Stewart A. Webb\(Webb, Stewart\)](#)

2:12-cv-02588-EFM Notice has been electronically mailed to:

Stewart A. Webb stewwebb@stewwebb.com

2:12-cv-02588-EFM Notice has been delivered by other means to:

The following document(s) are associated with this transaction:

Document description:Main Document

Original filename:n/a

Electronic document Stamp:

[STAMP dcecfStamp_ID=1028492125 [Date=11/11/2012] [FileNumber=2829947-

0] [9d256ba04f0edea32cc813924e962b8bc2ab5c120d101f7cbc6b94dade5418775c
c949be120db1d9cad38b762c914580ec6651a92cea3d03f8da85cfa1cfc759]]