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JAN 09 2019

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# California General Assembly

No. 19-55013

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## IN THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

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Billie Rene' Frances Lillian Powers

Plaintiff-Appellant Pro Per

V.

THE BANK OF NEW YORK MELLON F/K/A THE BANK OF NEW YORK,  
AS TRUSTEE, ON BEHALF OF THE HOLDERS OF THE ALTERNATIVE  
LOAN TRUST 2007-HY-9; SELECT PORTFOLIO SERVICING, INC; BANK  
OF AMERICA, N.A.; MORTGAGE ELECTRONIC REGISTRATION  
SYSTEMS, INC.; COMMONWEALTH LAND TITLE INSURANCE  
COMPANY; JON SECRIST; NICHOLE CLAVADETSCHER; THOMAS  
PEPPERS and DOES 1 to 10, inclusive, or Defendants.

Defendants-Appellees

On Appeal from the U.S. District Court for the Central District of California,

No: 8:17-cv-01386-DOC-KES

Hon. David O. Carter

---

### **Motion for Third Party Intervention**

Now comes :Lorie-Ann: Cole and :Valerie-Lynn: Naif, Sui Juris and of sound  
Mind, to move this court to reconsider the Intervention for Civil Criminal Joinder  
for all Third-Party Intervenors, who have interests in the outcome, of this first

impression case.

Federal Rules of Civil Procedure Rule 24, allows for Third Party Intervenors. With the recent order of November 22, 2019, in which Billie Powers, never received any NOTICE of such order and only became aware of such after a third-party intervenor, informed her of the docket update. Such actions; as allotting for ALL APPELLEES an extension of time to file their answer reply, when not one of them filed a motion for extension of time and the court extended such to the Appellees, from Steven Dailey's Motion alone.

This shows BIAS and PREJUDICE against Billie Powers and all Third-Party Intervenors. For this Court to give leeway to BAR ATTORNEYS and all APPELLEES in this Case and fail to see the actions of former counsel Angela Swan, who botched the Civil Criminal Joinder for those Third-Parties, by failing to represent her client Billie Powers and Billie's intent to be made whole and END these FINANCIAL CRIMES AGAINST HUMANITY.

This type of action by the Court, would be a lack of DUE PROCESS and EQUAL PROTECTION, for Billie Powers and all Third-Party Intervenors, who are seeking Justice with Relief through Remedy. As former counsel of Billie Powers Botched the Criminal Joinder, when she quit abruptly, due to the threat of her BAR LICENSE being lost, going up, against the TOO BIG, TOO FAIL BANKS.

We pray that this court will reconsider the Third-Party Intervention into this case, in the best interest of restoring, integrity and honor to the Judiciary

Machinery. Leeway is to be given to We the People, who are not officers, agents, entities, corporations, PERSONS or BAR MEMBERS who are at an ADVANTAGE, in their fourth pillar of Law, that is NOT recognizable within our three pillars of law, in the GUARANTEED REPUBLIC. Article IV, Section 4 of the U.S. Constitution “The United States shall guarantee to every State in this Union a Republican Form of Government, and shall protect each of them against invasion (BAR, British Accredited Registry); and on Application of the Legislature, or of the Executive (when the Legislature cannot be convened) against domestic violence”.

Declarant's say nothing further.

In Love and Service,

All Rights Retained, None Waived.

 :Lorie-Ann Cole Date: 1/7/2020

/s/ :Lorie-Ann Cole; Third Party Intervenor,  
One of the People

 :Valerie-Lynn Naif Date: 01-07-2020

/s/ :Valerie-Lynn Naif; Third Party Intervenor,  
One of the People

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# In the California General Assembly

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**IN THE UNITED STATES COURT OF APPEALS  
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Billie Rene' Frances Lillian Powers

*Plaintiff-Appellant Pro Per*

v.

*THE BANK OF NEW YORK MELLON F/K/A THE BANK OF NEW YORK,  
AS TRUSTEE, ON BEHALF OF THE HOLDERS OF THE ALTERNATIVE  
LOAN TRUST 2007-HY9; SELECT PORTFOLIO SERVICING, INC.; BANK OF  
AMERICA, N.A.; MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC.;  
COMMONWEALTH LAND TITLE INSURANCE COMPANY; JON SECRIST;  
NICHOLE CLAVADETSCHER; THOMAS PEPPERS; and DOES 1 to 10,  
inclusive, or Defendants.*

*Defendants-Appellees.*

On Appeal from the U.S. District Court for the Central District of California,

No. 8:17-cv-01386-DOC-KES

Hon. David O. Carter

---

**NOTICE OF LIABILITY (NOL) BOTH CIVIL AND CRIMINAL;  
NOTICE OF FRAUD UPON THE FICUCIARY COURT;  
NOTICE OF FELONY MISPRISION AND CRIMINAL MALFEASANCE**

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## DECLARATION

Notice to the Agent, is Notice to the Principal.

Notice to the Principal, is Notice to the Agent.

## COMPLAINT AND CLAIM

1. Fifty (50) plus interested parties and whistleblowers came forth eighteen (18) months ago in the First Impression case of California Federal District Court, Case No. 8:17-cv-01386-DOC-KES to add their evidences of criminality as victims supporting criminal joinder to the civil case of “foreclosure mill”<sup>1</sup> fraud by banks and various lenders who have manufactured spurious Mortgage Backed Securities (MBS) creating derivatives of mass destruction. Qui Tam relators<sup>2</sup> witnessing of Financial Crimes Against Humanity have been well documented and just recently verified as published in the book People v. Money, by attorney Mark Stopa.

2. Instead of estopping and staying this civil action pending an investigation of the Fifty (50) plus interested parties, whistleblowers, material witnesses’ testimonies and evidence of crimes reported, including that of the Plaintiff, this court of original jurisdiction under the organic laws of the Republic of states, along with the court’s sworn and bonded officers, scrubbed and purged the evidence of the crimes alleged perpetrated by all Defendants therein named, including their associations and assigns.

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<sup>1</sup> **Foreclosure Mills:** Third-parties hired by lender banks to falsify the mortgage documents needed to foreclose to prove a bank’s ownership after its securitization of the private property so the trustees assigned could foreclose. "The fraud in this matter was the result of negligence in the process of creating Mortgage Backed Securities (MBS)," the Jacksonville, Florida, FBI agents memo reads. It claims the trusts committed fraud by reporting to the Securities and Exchange Commission (SEC), the credit rating agencies, and investors that they had clear title to the properties when they actually didn't.

"Given everything I see here, you'd have thought there would be many more convictions," said Timothy Crino, a now-retired FBI forensic accountant who reviewed case file documents. "If I was the case agent, I would be devastated." *David Dayen's new book Chain of Title: How Three Ordinary Americans Uncovered Wall Street's Great Foreclosure Fraud.*

<sup>2</sup> **Qui Tam Relator:** The False Claims Act *qui tam* provision is one of the strongest whistleblower protection laws in the United States. In common law, a writ of *qui tam* is a writ whereby a private individual who assists a prosecution can receive all or part of any penalty imposed.

3. Now on appeal eight (8) additional, lawful claims with supporting evidence were submitted to this appeals court by relators over the period of ten (10) months as whistleblowers / victims evidencing criminal acts by public and private entities with fiduciary, trust responsibilities, again seeking criminal joinder of actions via a grand jury investigation.

4. Given there are now some thirty (30) plus material witnesses, relators, this appeals court also fails in its due process duties (**Exhibit P – Warner Brief pgs. 21-26**), as fiduciary of the Republic of states, to stay or estop this civil action on appeal, as well as all those victim/whistleblowers attached to it, pending a criminal investigation. (countless other victims are prepared to come forward in testimony to the crimes against them).

5. Not only did the court not establish an independent, common law, grand jury to investigate the claims of criminality by whistleblowers, this court's sworn and bonded officers did a scrubbing/purging of the evidence of the crimes alleged perpetrated by the lower court and all Defendants therein named. This is exactly what federal officers of district court Judge Carter, Steven Dailey and other Defense counsel, Angela Swan and others who may be unknown at this time perpetrated. Billie Powers also clearly put on the record she wanted a Jury Trial and to this day, after 4 amended complaints and a final order to dismiss based upon a Rule 12 (B) 6, by Judge Carter, has landed the case/s into this 9<sup>th</sup> Circuit Appeals Court.

Appellant Powers was being represented by Angela Swan at the time of the Civil Joinder of Criminal Actions of parties of interest in a criminal investigation, but Swan abruptly quit before court July 30, 2018 and changed Powers narrative, believed to botch up the Joinder of Criminal Actions. Why didn't Swan file the Motion for Relator joinder, or advise her client Powers to have the IP's file their own Relator Motion? Swan was sent copies of all the relator Qui Tam filings, as was the Defense, and did not hand them to Powers as was required upon Powers request for her file. Swan knew her clients intent for Criminal JOINDER to prove fraud/RICO.

Appellant paid Attorney Swan for her services, within a contingent agreement, and Swan violated her Foreign Emolument when she quit using the excuse, "I will lose my license if I go against the banks ". Judge Carter moved the court *sua sponte* to dispose of all relator, whistleblowers' criminal evidence that also detailed the injuries they caused. This is GROSS NEGLIGENCE, as these Courts hide under the Corporate Veil, with no LOSS PREVENTION in place, to protect We the People the FACTUAL, TANGIBLE, Beneficiaries for the Governmental Services, in which your seats and services are rendered through the Emoluments you receive.

6. These are the main reasons for Appellant's appeal, i.e. the cover-up of criminality and cleansing of the evidence of criminal actions by officers of the court and lack of Due Process and Equal Protection of the law, by ignoring Appellants verified material evidence while allowing hearsay and false claims by the Defendants. The recent scrubbing and purging of evidence by this Appellate court mirrors the lower courts destruction of evidence.

7. To add to this miscarriage of justice the court, likely the judge and/or court administrator, aware of the banksters' manufactured MBS scheme (see foot note # 1 – FBI Investigation of securities fraud) would be involved in manufacturing yet another security from the already damaged Appellants COLB account to unjustly enrich his/her growing Emoluments, in what may be billions of dollars off the backs of the trusting and unsuspecting creditors to include: witnesses; whistle blowers; realtors'. (see **Exhibit Q – Warner's Two Billion Court Manufactured Security**).

8. The evidence indicates the court system has been redesigned for brokering deals for the banking system; wherein we are both the collateral and the depositors for the court system, as in the Metropolitan Life Buy-Sell, Sell-Buy case bringing billions in fines.

9. Given **Exhibit Q**, it is no wonder the courts refuse to investigate. Appellant's & Third-Party Intervenor Relator Plaintiff's comes with clean hands; where Appellees and their agents come with Fraud on the Court and admittedly with a lack of firsthand knowledge of Appellants breached contract with Defendant/Appellees.

10. On top of this miscarriage of justice the Appeals court November 22, 2019, order (**Exhibit N**) striking vital evidence: 1) bears no signature or 2) seal of the court and 2) fails to state findings of fact in law and conclusions of law, under Mandatory Constitutional Provisions, for its decision on the merits of the whistle-blower's charges.

11. Further, on top of all that this court allowed documents filed under seal by whistle blower, Warner, to be accessed and used to discredit his foreclosure action (Hawaii Intermediate Court of Appeals - Case No. No. CAAP-19-568) that has been criminally joined to this case now on appeal (**Exhibits R - Tampering - attached**), along with other cases evidencing witness, victim/whistleblowers' evidence that they were courageous enough to bring forth.

12. Then the Clerk's recent order granting an extension of time to all Appellees to file their answer briefs, with only Steven Dailey's (ring leader?) motion. Where is Dailey's POA or delegation of authority to act on behalf of the other Appellees, or did the court's Clerk violate Due Process, by practicing law in a civil matter, he/she is not a party to by using Dailey's request to allow all Appellees more time?

13. By their acts, the officers of the court have appeared to commit: 1) violations of due process, 2) obstruction of justice by evidence and witness tampering (muzzling witnesses' testimonies), 3) Gross Negligence 4) domestic violence; and thus, 5) violations of their oaths of office bringing upon themselves 6) felony misprision [Title 18 § 3 – 4]; and criminal malfeasance.<sup>3</sup> An investigation is required.

14. All who participate are civilly and criminally liable having demonstrated their contempt for the rule of law documented in the ancient Bible maxims of law, and other

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<sup>3</sup> **Criminal Malfeasance:** Intentional conduct that is wrongful or unlawful, especially by officials or public employees. **Malfeasance** is at a higher level of wrongdoing than **nonfeasance** (failure to act where there was a duty to act) or **misfeasance** (conduct that is lawful but inappropriate).



foundational, recognized laws of the Republic forged since the first Peace Treaties were signed with the indigenous nations of the Americas.

### CONCLUSION

15. In summary the Appellees and Third-Party Intervenor Interested Party Plaintiffs, with the support of many sworn officers of this court, have executed dishonorable, actions (attorn) of deceit, coercion and duress, including evidenced witness tampering, evidence tampering and even the destroying of vital evidence. Their list of crimes may be endless (see Exhibit P pgs. 1 & 2, Definitions & pg. 18 # 65)

16. The apparent fraud on the court breaks nearly every maxim of law (Exhibit P pgs. 27-29) demonstrating this court lacks Constitutional standing: 1) to move forward civilly absent a criminal investigation; and 2) to order evidence destroyed.

17. Thus, the fruit of this tree, i.e.: Case, is spoiled and is developing a peculiar, but distinctive rotten smell that must be immediately dealt with before all is spoiled and lost; and evil triumphs once again.

18. In the Republic's laws it is within the powers of the clerk of court to assign and remove officers of the court when necessary, including judges from the bench, who willfully violate their oath. Not only to remove; but in this instance to arrest due to the severity of the above-named crimes committed. It is this way due process of law is served and public losses are curtailed.

19. As POTUS Donald Trump remarked during his run for President, 'America's courts are corrupt; and the worst is the Ninth Circuit.' There has been new Judges brought in since that remark and this honorable court needs to understand, that if the most malicious, treasonous criminals can still walk the streets as free people, even after carrying out the most heinous conspiracy of crimes against the people of the American Republic, then We the people... do not have any functioning rule of law at all. It is the prayer of Appellant's Billie Powers (California 9<sup>th</sup> Circuit), LeAnn Atkins (California 9<sup>th</sup> Circuit), Gene Warner (Hawaii Intermediate Court), Renee Wyler (Michigan Court of

Appeals) and all Third-Party Intervenor Interested Parties for Civil Criminal Joinder; to have these courts act in honor.

20. The fact the courts are using made up rules, statutes and ancient court decisions to subvert the common law and use color of law and color of office; to hide wrong doing is becoming more evident the courts of the Republic have been weaponized to initiate domestic violence.

21. "In law," words have meaning; and ones' actions have consequences.

### IN LAW AND EQUITY REMEDY

22. As every hour and day passes, the harm that is done to victims coming forward in this case herein described grows and compounds beyond being compensable. Thus, in the name of *liberty and justice for all*, Appellant's and all Third-Party Intervenor Interested Parties is demanding of trusted fiduciary appeals court and Legislative and Executive investigative oversight of the Judicial Courts:

23. The November 22, 2019, order striking evidence from the record be voided and vacate for lack of standing and fraud on the court; and

24. The judges assigned to this matter, having allowed the unjust actions, be removed, replaced; and

25. The officers of the court involved in the above described violations be held personally and criminally responsible for their injurious actions against the Appellant and interested parties, as the evidence is undeniable; and

26. The witness', whistleblowers', victims' evidence be reinstated into the record; including **Franklin's (Exhibit S), Cole's and Naif's (Exhibit T)**; and

27. That a stay of the civil proceedings be ordered *sua sponte* pending the outcome of an independent grand jury's investigation of the evidence submitted by thirty (30) plus other material witnesses, not including Appellant's claim; and

28. That said stay reach, extend to and apply to all the witness' whistleblowers and victim's with civil actions within the jurisdiction of the ninth circuit; but

29. Especially material witness and whistleblower in this matter Atkins' appeal case No. 18-5662 that was also dismissed by Judge Carter and also sits on appeal in this court, and

30. Appellant Powers be returned possession of her property, both the land and home as well as her family belongings, and that

31. Appellees will share in the cost of all damages Appellants property has incurred due to their lack of property preservation and protection as Powers has detailed in affidavits within her many filings on the record, describing the destruction and theft of her, and her heirs, property. (Damages include, but do not exclude more that may be found: plumbing, roof, driveway, over growth of vegetation, vermin control/damage, water- well function, heating, lack of maintenance and structural damages) and

32. That the 9th Circuit declares a stay on all foreclosure actions pending this First Impression Case including the Civil Joinder of Criminal Actions by use of Financial Crimes Against Humanity.

Further Declarant's sayeth not,

DATED this 7<sup>th</sup> day of January, 2020

All Rights Retained, None Waived.

By: Lorie-Ann: Cole  
/s/ :Lorie-Ann: Cole  
Private American State National,  
"Dwelling on the land of the living,"  
Ezek. 32:23-27,  
Beneficial Owner, one of the People  
& National Committee Member R6021

All Rights Retained, None Waived.

By: Valerie-Lynn: Naif  
/s/ :Valerie-Lynn: Naif  
Private American State National,  
"Dwelling on the land of the living,"  
Ezek. 32:23-27,  
Beneficial Owner, one of the People  
& National Committee Member R6021

## National Committee in Support of Miami Florida Resolution 6021

**R E C E I V E D**  
MOLLY C. DWYER, CLERK  
Date: 1/9/2020  
U.S. COURT OF APPEALS

U.S. Court of Appeals  
For the Ninth Circuit  
P.O. Box 193939  
San Francisco, California 94119-3939

JAN 09 2020

FILED \_\_\_\_\_  
DOCKETED \_\_\_\_\_  
RE: Powers V BONYM INITIAL \_\_\_\_\_

Dear Court Clerk/Judges,

We hope that this recent correspondence finds you and yours well in this New Year 2020. Our National Committee has three of our members in Appeals court, re: Foreclosures. In which these cases have had some recent, Judges Orders and other correspondences that have taken place. Since we have Petitioned for an Investigation and Public Order on these matters, concerning Financial Crimes Against Humanity, we must continue to give Notice accordingly, to ensure DUE PROCESS and EQUAL PROTECTION for all, is served in seeking Justice.

Due to the botching of the Civil Criminal Joinder in the USDC under presiding Judge Carter, when Billie Powers had retained Attorney Angela Swan to represent her; many of our third-party non-committee members, fell through the cracks. With the destruction of evidence and failure of Angela Swan to give Billie Powers all of her documents and all third-party interested parties' docs, that were filed & mailed to all Defendants in this matter.

Now, it appears the Ninth Circuit court is continuing the BIAS and same MONOPOLY JUSTICE SYSTEM in favor of the Banks and fellow Attorneys, while going through the "charade" of serving the Public's best Interests in seeking Justice in Equity and law. Our other member Renee Wyler up in Michigan, has been Sanctioned by the Court in her Appeal matter, all for exposing the Conflicts of Interest that 2 out of the 3 Judges on the panel, have concerning her property, she paid CASH for her home! Gene Warner, received a letter *Exhibit N3* from the Ninth Circuit Supervising Deputy Clerk, stating all third-party intervenors docs, that were submitted to the Ninth Circuit, were Ordered Stricken from the record and that the Court has stricken and thus unlawfully blocked access to those documents on the DOCKET accessible thru PACER. Another member Susan Augustitus, received a phone call from the Supervising Deputy Clerk stating; no judges have been assigned to the Powers V BONYM Appeals case yet, as they don't assign Judges, until after all the briefs are in. So, 1) Who gave the ORDER to strike all third-party intervenors for Civil Criminal Joinder, yet again in Appeals court? and 2) Given that when the USDC, presiding Judge Carter erred, when Angela Swan botched the Civil Criminal Joinder?

As you can see the problem, we Americans are facing is, these *de facto* courts that are operating in GROSS NEGLIGENCE, intentionally causing LOSS, HARM and INJURY, by the ATTORNING over of our homes, estates, assets, etc. Loss Prevention is typically in place to

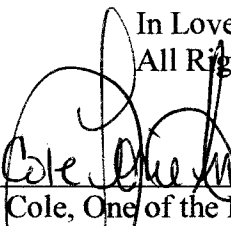
avoid major LOSSES to CORPORATIONS, not AID and ABET into the CRIMINAL TRESPASS.

Gene Warner, stands to be UNLAWFULLY evicted from his condo any day now, while the courts and attorneys continue their MONOPOLY business as usual, ignoring the American People and the FACTS and EVIDENCE that are Contrary to the TRUTH. See *Exhibit: V*, a motion by the alleged Commissioner assigned to sell Gene's condo, whether he is occupying it or not. There is NO CONSENT! Your Emolument and Seat as a Representative of the People, is to represent our VOICES and our CLAIMS, through our CONSENT. NO CONSENT, typically means NO AUTHORITY and NO POWER to act and makes the acts of those, assuming and presuming such power and authority, NULL and VOID.

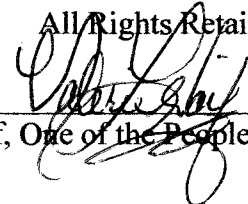
It is not our intent to be wasteful, by printing, mailing and submitting and resubmitting documentation over and over to multiple Courts, in the seeking of Justice. We are trying to promote judicial economy here; and end "cash register justice" caused by the attorney's unjust monopoly in "justice for all." It has only been recently that we discovered our power, as **We the People...**, in the Legislature; and that is what has brought us to this current debacle and overload of correspondence. Since, this is a jurisdictional diversity residence issue, with multiple States involved, due to our 18 Committee Members and other Third-Party Intervenors, we are Noticing all of those State's General Assemblies accordingly.

Gene Warner, has submitted the Powers V BONYM Petition of Remonstrance into **Hawaii General Assembly** and Cole/Naif have submitted the Powers V BONYM Remonstrance into the **Illinois General Assembly**. Other members and Third-Party Intervenors are working on their States as well. We don't think we are asking for more than what your Emolument and other Representatives Emoluments cover, but we REFUSE to accept anything LESS than, you and other's to provide those Governmental Services as fiduciaries in GOOD FAITH, WITH CLEAN HANDS, with HONOR and INTEGRITY, to ensure **We the People** are Thriving (not only surviving), as we seek to have LIFE, LIBERTY and PURSUIT of HAPPINESS. Thank you again for your Public Service, We the People do appreciate you and those acting on the best interest of We the American People. May you be blessed, spiritually enriched and guided in your service to; **We the People**.

In Love and Service,  
All Rights Retained, None Waived,

By: Lorie-Ann: Cole  Date: 1/7/2020  
/s/ :Lorie-Ann: Cole, One of the People

All Rights Retained, None Waived,

By: Valerie-Lynn: Naif  Date: 01-07-2020  
/s/ :Valerie-Lynn: Naif, One of the People

UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

FILED

NOV 22 2019

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

BILLIE RENE FRANCES LILLIAN  
POWERS,

Plaintiff-Appellant,

v.

THE BANK OF NEW YORK MELLON,  
FKA The Bank of New York, as Trustee, on  
behalf of the holders of the alternative Loan  
Trust 2007-HY9 Mortgage Pass Through  
Certifcates Series 2007-HY9; et al.,

Defendants-Appellees.

No. 19-55013

D.C. No.

8:17-cv-01386-DOC-KES  
Central District of California,  
Santa Ana

ORDER

Exhibit: N

Before: BYBEE and IKUTA, Circuit Judges.

The June 19, 2019 order is vacated.

The Clerk shall strike the non-party filings at Docket Entry Nos. 7, 8, 11, 13, 15, 16, 17, and 18. The Clerk shall not file any further non-party submissions in this case. No motions for reconsideration, clarification, or modification of this order shall be filed or entertained.

The opening brief has been filed. The answering brief remains due January 8, 2020. The optional reply brief remains due within 21 days after service of the answering brief.

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3) Motion for Third Party Intervention.....	3 pgs
4) Notice of Liability and Declaration.....	8 pgs
5) Exhibit: N Order for 11/22/19 Striking 3 <sup>rd</sup> Party Intervenors.....	1 pg
6) Exhibit: N2 Order for 6/19/19 Non-Party Order.....	1 pg
7) Exhibit: N3 Letter to Warner from 9 <sup>th</sup> Circuit Clerk.....	1 pg
8) Exhibit: N4 9 <sup>th</sup> Circuit Docket.....	8 pgs
9) Exhibit: O Renee Wyler (3 <sup>rd</sup> party) DOJ Letter.....	1 pg
10) Exhibit: P Warner's (3 <sup>rd</sup> Party) Brief.....	32 pgs
11) Exhibit: P2 Warner's Exhibit Brief.....	12 pgs
12) Exhibit: Q Warner's CUSIP BOND.....	1 pg
13) Exhibit: R Warner's Tampering Evidence Qui Tam.....	6 pgs
14) Exhibit: S Franklin (3 <sup>rd</sup> Party) Evidence of Docs submitted....	1 pg
15) Exhibit: T Cole/Naif (3 <sup>rd</sup> Party) POS All Parties served docs...	2pgs
16) Exhibit: U Warner's Letter from AG Becerra.....	1 pg
17) Exhibit: V Warner's Commissioner Motion.....	5 pgs
<b>87 Pages total, not including Cover Letter or Table of Contents</b>	

### PROOF OF SERVICE

Date: January 7, 2020

We, hereby declare that we deposited into the mail the said **new exhibits** that were sent to the herein listed below Agents or Agencies through the United State's Postal Service via Overnight Priority Mail; concerning the Powers v BONYM case in the U.S. Court of Appeals for the Ninth District in California and the Petition of Remonstrance on behalf of our National Committee Members & Interested Third Party Intervenor Relators.

No notary agent or state agent is being used, as We the People, will not be AIDED and ABETTED into FRAUD, by the use of FALSE I.D. such as a State I.D. or Drivers License, that is an "image" made in our likeness of a fictional State Creature. We are the living Beneficiaries of the Public Trust's Of, By and For the People, not Corpses/Corporations or Artificial Entities.

We declare under the Laws of God and Nature that our words are the truth, the whole truth, nothing but the truth, so help us God. As God is our Witness, to Full Faith and Credit in that God first Loved us, before we knew how to Love.

In Love and Service on behalf of Committee Members R6021,

All Rights Retained, None Waived  
:Lorie-Ann: Cole, one of the People

Lorie-Ann: Cole

1/7/2020

All Rights Retained, None Waived  
:Valerie-Lynn: Naif, one of the People

Valerie-Lynn: Naif

01-07-2020

- 1) Representative Marc Levine  
Capitol Office, Room 5135  
P.O. Box 942849  
Sacramento, California 94249-0010  
916-319-2010  
USPS #EI 690295109 US
- 2) Office of the Governor  
Governor Gavin Newsom  
1303 10<sup>th</sup> Street, Suite 1173



Sacramento, California 95814  
USPS #EI 690295130 US

- 3) Attorney Generals Office  
California Department of Justice  
Attorney General Xavier Beccerra  
P.O. Box 944255  
Sacramento, California 94244-2550  
USPS #EI 690295090 US
- 4) U.S. Secret Service  
501 I Street, #12100  
Sacramento, California 95814-2322  
USPS #EI 690295165 US
- 5) U.S. Senate Judiciary Chairman  
The Honorable Lindsey Graham  
224 Dirksen Senate Office Building  
Washington, D.C. 20510  
USPS #EI 690295143 US
- 6) Office of the President  
The White House  
President Donald J. Trump  
1600 Pennsylvania Avenue, NW  
Washington, D.C. 20500  
USPS #EI 690295126 US
- 7) U.S. Department of Justice  
Attorney General William Barr, Rm. 4400  
950 Pennsylvania Avenue, NW  
Washington, D.C. 20530-0001  
USPS #EI 690295174 US
- 8) U.S. Court of Appeals  
For the Ninth District  
P.O. Box 193939  
San Francisco, California 94119-3939  
USPS #EI 690295157 US

## PROOF OF SERVICE-Illinois General Assembly

Date: January 7, 2020

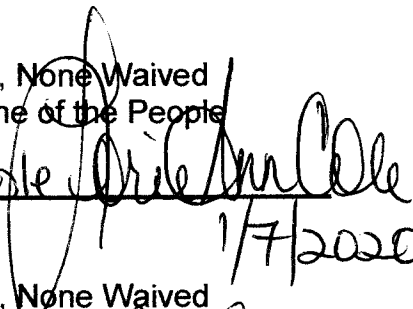
We, hereby declare that we deposited into the mail the said **new exhibits** that were sent to the herein listed below Agents or Agencies through the United States Postal Service via Overnight Priority Mail; concerning the Powers v BONYM case in the U.S. Court of Appeals for the Ninth District in California and the Petition of Remonstrance on behalf of our National Committee Members & Interested Third Party Intervenor Relators.

No notary agent or state agent is being used, as We the People, will not be AIDED and ABETTED into FRAUD, by the use of FALSE I.D. such as a State I.D. or Driver's License, that is an "image" made in our likeness of a fictional State Creature. We are the living Beneficiaries of the Public Trusts Of, By and For the People, not Corpses/Corporations or Artificial Entities.

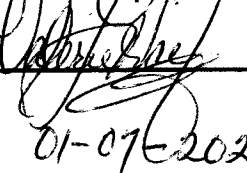
We declare under the Laws of God and Nature that our words are the truth, the whole truth, nothing but the truth, so help us God. As God is our Witness, to Full Faith and Credit in that God first Loved us, before we knew how to Love.

In Love and Service on behalf of Committee Members R6021,

All Rights Retained, None Waived  
:Lorie-Ann: Cole, one of the People

Lorie-Ann Cole   
1/7/2020

All Rights Retained, None Waived  
:Valerie-Lynn: Naif, one of the People

Valerie-Lynn Naif   
01-07-2020

- 1) Representative Michael Madigan  
Speaker of the House  
101<sup>st</sup> Illinois General Assembly  
300 Capitol Building  
Springfield, Illinois 62706  
USPS CM# 7012 3460 0001 8740 6803

National Committee R6021 Chairwoman: Billie Powers P.O. Box 1501 Newport Beach, California  
[92659]

- 2) Representative Raja Krishnamoorthi  
Local District Office  
1701 East Woodfield Road, Ste. 704  
Schaumburg, Illinois 60173  
USPS CM# 7012 3460 0001 8740 6810
  
- 3) Representative Sean Casten  
Local District Office  
800 Roosevelt Road Building C, Ste. 210  
Glen Ellyn, Illinois 60137  
USPS CM# 7012 3460 0001 8740 6827
  
- 4) Julie A. Morrison  
Local Senate District 29  
700 Osterman Avenue  
Deerfield, Illinois 60015  
USPS CM# 7012 3460 0001 8740 6834
  
- 5) Thomas Cullerton  
Local Senate District 23  
338 S. Ardmore Avenue  
Villa Park, Illinois 60181  
USPS CM# 7012 3460 0001 8740 6841
  
- 6) Office of the Governor  
Governor JB Pritzker  
207 State House  
Springfield, Illinois 62706  
USPS CM# 7012 3460 0001 8740 6858
  
- 7) U.S. Attorney General  
John R. Lausch, Jr.  
219 S. Dearborn Street, 5<sup>th</sup> Floor  
Chicago, Illinois 60604  
USPS CM# 7012 3460 0001 8740 6865
  
- 8) U.S. Secret Service  
525 W. Van Buren #900  
Chicago, Illinois 60607  
USPS CM# 7012 3460 0001 8740 6872

UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

FILED

JUN 19 2019

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

BILLIE RENE FRANCES LILLIAN  
POWERS,

Plaintiff-Appellant,

v.

THE BANK OF NEW YORK MELLON,  
FKA The Bank of New York, as Trustee, on  
behalf of the holders of the alternative Loan  
Trust 2007-HY9 Mortgage Pass Through  
Certificates Series 2007-HY9; et al.,

Defendants-Appellees.

No. 19-55013

D.C. No.

8:17-cv-01386-DOC-KES  
Central District of California,  
Santa Ana

ORDER

Exhibit: NA

The non-party filings at Docket Entry Nos. 7, 8, 11 and 13 are referred to the panel assigned to decide the merits of this appeal for whatever consideration the panel deems appropriate.

The previously established briefing schedule remains in effect.

FOR THE COURT:

MOLLY C. DWYER  
CLERK OF COURT

By: Lior A. Brinn  
Deputy Clerk  
Ninth Circuit Rule 27-7

**UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT  
P.O. Box 193939  
95 Seventh Street  
San Francisco, CA 94119-3939**

**Exhibit: N3**

Eugene George Warner  
355 Kalanianaʻole Avenue #306  
Hilo, Hawaii 96720

December 20, 2019

Dear Mr. Warner,

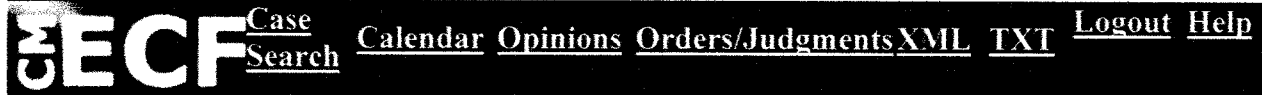
We received your recent correspondence to the court in connection with case No. 19-55013. A review of the docket indicates that you are not a party in this case. Because you are not a party, the document will not be filed. In addition, the court's November 22, 2019 order states that "[t]he Clerk shall not file any further non-party submissions in this case." We return the document to you, along with a copy of the court's November 22, 2019 order and the public docket sheet for this case.

A non-party who wishes to file a document in a case must submit a motion to intervene pursuant to Federal Rule of Civil Procedure 24 or a motion for leave to file an amicus brief pursuant to Federal Rule of Appellate Procedure 29. If you are wishing to provide a statement on behalf of a party to a case, please provide that statement to the party or his/her counsel and ask the party to file the document.

Sincerely,

Stephanie McMahon  
Operations Supervisor/Deputy Clerk

EXHIBIT: N4



**General Docket**  
**United States Court of Appeals for the Ninth Circuit**

**Court of Appeals Docket #:** 19-55013**Docketed:** 01/04/2019**Nature of Suit:** 3190 Other Contract Actions**Billie Rene Powers v. The Bank of New York Mellon, et al****Appeal From:** U.S. District Court for Central California, Santa Ana**Fee Status:** Paid**Case Type Information:**

- 1) civil
- 2) private
- 3) null

**Originating Court Information:****District:** 0973-8 : 8:17-cv-01386-DOC-KES**Court Reporter:** Debbie Gale, Official Court Reporter**Trial Judge:** David O. Carter, District Judge**Date Filed:** 08/11/2017

<b>Date</b>	<b>Date Order/Judgment</b>	<b>Date NOA</b>	<b>Date Rec'd</b>
<b>Order/Judgment:</b>	<b>EOD:</b>	<b>Filed:</b>	<b>COA:</b>
11/26/2018	11/26/2018	12/27/2018	12/28/2018

**Prior Cases:**

None

**Current Cases:**

None

**BILLIE RENE FRANCES LILLIAN  
 POWERS**

Plaintiff - Appellant,

**Billie Rene Frances Lillian Powers**

Direct: 949-374-4052

[NTC Pro Se]

P.O. Box 1501

Newport Beach, CA 92659

v.

**THE BANK OF NEW YORK MELLON, as  
 Trustee, on behalf of the holders of the  
 alternative Loan Trust 2007-HY9 Mortgage  
 Pass Through Certificates Series 2007-HY9,**

**Steven M. Dailey, Esquire, Attorney**

Direct: 949-417-0999

[COR LD NTC Retained]

Kutak Rock LLP

EXHIBIT: N4

FKA The Bank of New York  
Defendant - Appellee,

5 Park Plaza  
Suite 1500  
Irvine, CA 92614-8595

Rebecca L. Wilson, Esquire, Attorney  
Direct: 949-417-0999  
[COR LD NTC Retained]  
Kutak Rock LLP  
5 Park Plaza  
Suite 1500  
Irvine, CA 92614-8595

SELECT PORTFOLIO SERVICING, INC.  
Defendant - Appellee,

Steven M. Dailey, Esquire, Attorney  
Direct: 949-417-0999  
[COR LD NTC Retained]  
(see above)

Rebecca L. Wilson, Esquire, Attorney  
Direct: 949-417-0999  
[COR LD NTC Retained]  
(see above)

MORTGAGE ELECTRONIC  
REGISTRATION SYSTEMS, INC.  
Defendant - Appellee,

Steven M. Dailey, Esquire, Attorney  
Direct: 949-417-0999  
[COR LD NTC Retained]  
(see above)

Rebecca L. Wilson, Esquire, Attorney  
Direct: 949-417-0999  
[COR LD NTC Retained]  
(see above)

JON SECRIST  
Defendant - Appellee,

Kerry W. Franich  
[COR LD NTC Retained]  
Severson & Werson, APC  
19100 Von Karman Avenue  
Suite 700  
Irvine, CA 92612

Robert James Gandy, Attorney  
[COR LD NTC Retained]  
Severson & Werson, APC  
19100 Von Karman Avenue  
Suite 700  
Irvine, CA 92612

EXHIBIT: N4

Jan T. Chilton, Attorney  
[COR NTC Retained]  
Severson & Werson APC  
One Embarcadero Center  
San Francisco, CA 94111

NICHOLE CLAVADETSCHER  
Defendant - Appellee,

Kerry W. Franich  
[COR LD NTC Retained]  
(see above)

Robert James Gandy, Attorney  
[COR LD NTC Retained]  
(see above)

Jan T. Chilton, Attorney  
[COR NTC Retained]  
(see above)

COMMONWEALTH LAND TITLE  
COMPANY  
Defendant - Appellee,

Kevin S. Sinclair  
Direct: 323-301-4671  
[LD NTC Retained]  
Early Sullivan Wright Gizer & McRae LLP  
6420 Wilshire Boulevard  
17th Floor  
Los Angeles, CA 90048

BANK OF AMERICA, NA  
Defendant - Appellee,

Robert James Gandy, Attorney  
[COR LD NTC Retained]  
(see above)

Jan T. Chilton, Attorney  
[COR NTC Retained]  
(see above)

Kerry W. Franich  
[COR NTC Retained]  
(see above)

DOES, 1-10  
Defendant - Appellee,

BILLIE RENE FRANCES LILLIAN POWERS,

Plaintiff - Appellant,



v.

THE BANK OF NEW YORK MELLON, as Trustee, on behalf of the holders of the alternative Loan Trust 2007-HY9 Mortgage Pass Through Certificates Series 2007-HY9, FKA The Bank of New York; SELECT PORTFOLIO SERVICING, INC.; MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC.; JON SECRIST; NICHOLE CLAVADETSCHER; COMMONWEALTH LAND TITLE COMPANY; BANK OF AMERICA, NA; DOES, 1-10,

## Defendants - Appellees.

- 01/04/2019 1  
25 pg, 703.7 KB DOCKETED CAUSE AND ENTERED APPEARANCES OF COUNSEL AND PRO SE APPELLANT. SEND MQ: No. The schedule is set as follows: Transcript ordered by 01/28/2019. Transcript due 02/25/2019. Appellant Billie Rene Frances Lillian Powers opening brief due 04/08/2019. Appellees Bank of America, N.A., Nichole Clavadetscher, Commonwealth Land Title Company, Does, Mortgage Electronic Registration Systems, Inc., Jon Secrist, Select Portfolio Servicing, Inc. and The Bank of New York Mellon answering brief due 05/08/2019. Appellant's optional reply brief is due 21 days after service of the answering brief. [11141805] (RT) [Entered: 01/04/2019 12:38 PM]
- 01/07/2019 2 Filed (ECF) notice of appearance of Kerry W. Franich for Appellees Bank of America, N.A., Jon Secrist and Nichole Clavadetscher. Date of service: 01/07/2019. (Party previously proceeding without counsel: No) [11143207] [19-55013] (Franich, Kerry) [Entered: 01/07/2019 11:07 AM]
- 01/07/2019 3 Filed (ECF) notice of appearance of Jan T. Chilton for Appellees Bank of America, N.A., Nichole Clavadetscher and Jon Secrist. Date of service: 01/07/2019. (Party previously proceeding without counsel: No) [11143210] [19-55013] (Chilton, Jan) [Entered: 01/07/2019 11:09 AM]
- 01/07/2019 4 Added attorney Jan T. Chilton, Kerry W. Franich for Bank of America, N.A., in case 19-55013. [11143320] (CW) [Entered: 01/07/2019 11:44 AM]
- 01/08/2019 5  
10 pg, 372.36 KB Filed clerk order (Deputy Clerk: CKP): Order to show cause docket fee due [11145289] (CKP) [Entered: 01/08/2019 12:24 PM]
- 01/18/2019 6 Received notification from District Court re: payment of docket fee. Amount Paid: USD 505.00. Date paid: 01/18/2019. [11158947] (BY) [Entered: 01/18/2019 11:29 AM]

## EXHIBIT: N4

- 03/22/2019 7 STRICKEN PER ORDER [23]. ~~Filed non parties Valerie Lynn Naif and Lorie Ann Cole, letter dated 03/18/2019 re: Interested parties criminal joinder. Paper filing deficiency: None. [11240529] --[COURT UPDATE: To edit docket to reflect correct party filers; resent NDA - 06/19/2019 by HH] (CW) [Entered: 03/25/2019 10:38 AM]~~
- 04/01/2019 8 STRICKEN PER ORDER [23]. ~~Filed letter dated 03/25/2019 re: non party Tom Kibler letter in support of appellant "letter of support and demand for justice for all". Paper filing deficiency: None.[11251337] (CW) [Entered: 04/03/2019 10:25 AM]~~
- 04/04/2019 9  
1 pg, 28.87 KB **Streamlined request by Appellant Billie Rene Frances Lillian Powers to extend time to file the brief is approved. Amended briefing schedule: Appellant Billie Rene Frances Lillian Powers opening brief due 05/08/2019. Appellees Bank of America, N.A., Nichole Clavadetscher, Commonwealth Land Title Company, Does, Mortgage Electronic Registration Systems, Inc., Jon Secrist, Select Portfolio Servicing, Inc. and The Bank of New York Mellon answering brief due 06/07/2019. The optional reply brief is due 21 days from the date of service of the answering brief. [11253717] (DLM) [Entered: 04/04/2019 04:39 PM]**
- 05/08/2019 10  
4 pg, 101.2 KB Filed Appellant Billie Rene Frances Lillian Powers motion to extend time to file appellant opening brief until 11/08/2019. Deficiencies: None. Served on 05/06/2019. [11291087] (CW) [Entered: 05/08/2019 03:01 PM]
- 05/08/2019 11 STRICKEN PER ORDER [23]. ~~Filed letter dated 05/03/2019 re: non party Warner Eugene George mise statements regarding corruption.. Paper filing deficiency: None. [11291093] (CW) [Entered: 05/08/2019 03:05 PM]~~
- 05/09/2019 12  
1 pg, 87.7 KB Filed clerk order (Deputy Clerk: SM): Granting Unopposed Motion [10] to extend time to file appellant brief filed by Appellant Billie Rene Frances Lillian Powers. Appellant Billie Rene Frances Lillian Powers opening brief due 11/08/2019. Appellees Bank of America, N.A., Nichole Clavadetscher, Commonwealth Land Title Company, Does, Mortgage Electronic Registration Systems, Inc., Jon Secrist, Select Portfolio Servicing, Inc. and The Bank of New York Mellon answering brief due 12/09/2019. The optional reply brief is due 21 days after service of the answering brief. [11292379] (SAM) [Entered: 05/09/2019 02:11 PM]
- 05/14/2019 13 STRICKEN PER ORDER [23]. ~~Filed non party Rita R. Franklin letter dated 05/07/2019 re: "letter of support and demand for justice~~

EXHIBIT: N4

- for all". Paper filing deficiency: None. [11297967] (QDL)  
[Entered: 05/15/2019 09:49 AM]
- 06/19/2019 14  
1 pg, 97.99 KB Filed clerk order (Deputy Clerk: LAB): The non-party filings at Docket Entry Nos. [7], [8], [11] and [13] are referred to the panel assigned to decide the merits of this appeal for whatever consideration the panel deems appropriate. The previously established briefing schedule remains in effect. [11337626] (AF)  
[Entered: 06/19/2019 02:41 PM]
- 09/09/2019 15 STRICKEN PER ORDER [23]. ~~Filed letter signed by a non party Charile Rice, Jr. dated 09/04/2019 re: The Unrebutted affidavit of Charlie Rice Jr. Stands As Truth. Paper filing deficiency: None.~~[11426377] (CW) [Entered: 09/10/2019 09:58 AM]
- 09/10/2019 16 STRICKEN PER ORDER [23]. ~~Filed letter dated re: proof of service of dkt #15. NAN. Paper filing deficiency: None.~~[11427722] (CW) [Entered: 09/11/2019 08:23 AM]
- 10/23/2019 17 STRICKEN PER ORDER [23]. ~~Filed UNDER SEAL non party Eugene George Warner's letter dated 09/18/2019 re: 911 Writ of Qui Tam, supplemental obstruction of justice evidence of unlawful witness and evidence tampering. Paper filing deficiency: no certificate of service.~~ [11476912] (LA) [Entered: 10/24/2019 03:03 PM]
- 11/05/2019 18 STRICKER PER ORDER [23]. ~~Filed letter dated 10/29/2019 re: non party letter whistleblower party of interest. Paper filing deficiency: None.~~ [11491900] (CW) [Entered: 11/07/2019 07:17 AM]
- 11/12/2019 19  
58 pg, 1.11 MB COURT UPDATE: Filed original and 0 copies of Billie Rene Frances Lillian Powers (Informal: Yes) opening brief of 25 pages. 1 copy of excerpts of record in 1 volume. Served on 11/02/2019. Filed with minor deficiency: no signature. Notified appellant. [11496879]--[Edited 11/18/2019 by LA: Deficiency satisfaction of signed brief's signature page received on 11/15/2019.] (LA)  
[Entered: 11/12/2019 06:20 PM]
- 11/12/2019 20  
1 pg, 201.88 KB Received 1 CD containing Exhibit "D" from Appellant Billie Rene Frances Lillian Powers. Deficiencies: motion to transmit a physical exhibit is required. Notified Appellant (see attached notice). [11496882] (LA) [Entered: 11/12/2019 06:29 PM]
- 11/19/2019 21 Filed (ECF) Streamlined request for extension of time to file Answering Brief by Appellees MERS, Select Portfolio Servicing, Inc. and The Bank of New York Mellon. New requested due date

## EXHIBIT: N4

is 01/08/2020. [11503473] [19-55013] (Dailey, Steven) [Entered: 11/19/2019 09:24 AM]

- 11/19/2019 22 **Streamlined request [21] by Appellees MERS, Select Portfolio Servicing, Inc. and The Bank of New York Mellon to extend time to file the brief is approved FOR ALL APPELLEES. Amended briefing schedule: Appellees Bank of America, NA, Does, Nichole Clavadetscher, Commonwealth Land Title Company, Mortgage Electronic Registration Systems, Inc., Jon Secrist, Select Portfolio Servicing, Inc. and The Bank of New York Mellon answering brief due 01/08/2020. The optional reply brief is due 21 days from the date of service of the answering brief.** [11504471] (DLM) [Entered: 11/19/2019 03:45 PM]
- 11/22/2019 23  
1 pg, 97.32 KB Filed order (JAY S. BYBEE and SANDRA S. IKUTA): The June 19, 2019 order is vacated. The Clerk shall strike the non-party filings at Docket Entry Nos. [7], [8], [11], [13], [15], [16], [17], and [18]. The Clerk shall not file any further non-party submissions in this case. No motions for reconsideration, clarification, or modification of this order shall be filed or entertained. The opening brief has been filed. The answering brief remains due January 8, 2020. The optional reply brief remains due within 21 days after service of the answering brief. [11508578] (AF) [Entered: 11/22/2019 10:20 AM]
- 12/09/2019 24  
144 pg, 3.46 MB Filed Appellant Billie Rene Frances Lillian Powers letter dated 12/03/2019 re: misc documents in support of appeal. Paper filing deficiency: None. [11527053] (CW) [Entered: 12/10/2019 11:17 AM]
- 12/23/2019 25  
21 pg, 291.92 KB Submitted (ECF) Answering Brief for review. Submitted by Appellees Bank of America, NA, Nichole Clavadetscher and Jon Secrist. Date of service: 12/23/2019. [11541823] [19-55013] (Franich, Kerry) [Entered: 12/23/2019 11:13 AM]
- 12/23/2019 26  
335 pg, 88.9 MB Submitted (ECF) supplemental excerpts of record. Submitted by Appellees Bank of America, NA, Nichole Clavadetscher and Jon Secrist. Date of service: 12/23/2019. [11541839] [19-55013] (Franich, Kerry) [Entered: 12/23/2019 11:18 AM]
- 12/24/2019 27  
2 pg, 94.82 KB Filed clerk order: The answering brief [25] submitted by Bank of America, NA, et al. is filed. Within 7 days of the filing of this order, filer is ordered to file 6 copies of the brief in paper format, accompanied by certification (attached to the end of each copy of the brief) that the brief is identical to the version submitted electronically. Cover color: red. The supplemental excerpts of

**EXHIBIT: N4**

record [26] submitted by Bank of America, NA, et al. are filed. Within 7 days of this order, filer is ordered to file 3 copies of the excerpts in paper format securely bound on the left side, with white covers. The paper copies shall be submitted to the principal office of the Clerk. [11543783] (LA) [Entered: 12/24/2019 04:23 PM]

12/24/2019 28

Added Attorney(s) Jan T. Chilton and Kerry W. Franich for party(s) Appellees Jon Secrist and Nichole Clavadetscher in case 19-55013 (per notices of appearance filed 01/07/2019). [11543784] (LA) [Entered: 12/24/2019 04:27 PM]

**Documents and Docket Summary**  
**Documents Only**

**Include Page Numbers**

**Selected Pages: Selected Size:**

**PACER Service Center**  
**Transaction Receipt**

U.S. Court of Appeals for the 9th Circuit - 12/27/2019 02:42:03

<b>PACER Login:</b>	mentoruniversity	<b>Client Code:</b>	5
<b>Description:</b>	Docket Report (filtered)	<b>Search Criteria:</b>	19-55013
<b>Billable Pages:</b>	4	<b>Cost:</b>	0.40

<a href="#">Court Information</a>	<a href="#">Court Home</a>	<a href="#">PACER Service Center</a>	<a href="#">Change Client</a>	<a href="#">Billing History</a>	<a href="#">Contact Us</a>
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Exhibit: 0

U.S. Department of Justice

Mail Referral Unit

---

Washington, D.C. 20530

December 11, 2019

Annette R. Wyler  
P.O. Box 852  
Leland, MI 49654-0852

Dear Friend:

Thank you for your letter dated December 3, 2019 to the Attorney General, Deputy Attorney General, or Associate Attorney General, which was received by the Department of Justice, Mail Referral Unit, on December 11, 2019 and assigned ID number 4364752.

Your letter will be reviewed and if a response or an update is necessary it will be sent to you within 60 business days. If you have any questions, please contact us at (301) 583-7350 and refer to your ID number 4364752 when requesting any information concerning your correspondence.

Sincerely,

Mail Referral Unit  
Department of Justice

Exhibit: P

Eugene George Warner, Counter Claimant  
c/o 355 Kalanianaʻole Ave. # 306,  
Hilo, Hawaii 96720  
816-714-0418

No. CAAP-19-568

**IN THE INTERMEDIATE COURT OF APPEALS  
OF THE STATE OF HAWAII**

EUGENE GEORGE WARNER, Petitioner-Appellant,

v.

ASSOCIATION OF OWNERS OF ORCHID MANOR, Respondent-Appellee

APPEAL FROM THE CIRCUIT COURT OF THE THIRD CIRCUIT

NO. 17-I-0164

**Appellant's Informal Opening Brief**

**Note: This Brief also contains Evidence from Material Witnesses  
for Criminal Referral for all Who Read it**

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V. Arguments ..... 7

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### Definitions

**HOA:** Home Owners Association of elected trustees entrusted with fiduciary responsibilities in the care and maintenance of a creditor's, home owner's assets, in essence a bank with a quasi-government status. See footnote # 1

**TDC:** Threat, Duress and Coercion: Some of Appellants actions and "at law" non-common law, references were use due to TDC in order to protect his private property, as he appears to be in a court of questionable authority, venue and jurisdiction given international peace treaty law.

**NOL:** Notice of Liability - civil and criminal liabilities under "domestic violence."

## **I. Statement of the Case**

### **Procedural History**

Appellant, a Native American domiciled in Alaska, purchased two investment properties to rent out in 1997, in Hilo, Hawaii. This case is a simple business tort complicated by fiduciary<sup>1</sup> HOA, Appellees<sup>2</sup> and their agents' numerous instances of silence<sup>3</sup> and inaction to common area repair claims since 2002. This fact has caused great harm due to the many civil and criminal, intentional breaches of contract and due process, as agreed to in the "law of the contract."<sup>4</sup> Their failures to honor the HOA contract's provisions, including their mandated repair of common areas have caused serious damage to their home owners as creditors' lives and private property values placed under their care and trust to manage, including Appellant's private, investment properties.

Appellant immediately filed his counterclaim thinking the court and jury would uphold the law in the contractual agreement backed by numerous laws of the Republic.

---

<sup>1</sup> **Fiduciary:** trust relationship, "a homeowners' association is not relieved "from liability for breach of its fiduciary duties because it occupied a particularly elevated position of trust" due to its **quasi-governmental status** and "the many interests it monitors and services it performs."...Appellate court holds HOA board to fiduciary obligations of good faith and negligence. Jelford v. Sugewood HOA, No. E048483, Cal. App. 4th Dist., Nov. 16, 2019, (TDC)

<sup>2</sup> **Appellees** is plural in this matter on appeal, as there are 90 – private principals owners creditors represent by their fiduciary agent a HOA and their numerous attorney esquires (unregistered foreign agents) who have taken upon themselves tremendous civil and criminal liabilities.

<sup>3</sup> **Silence can only be equated with fraud when there is a legal and moral duty to speak or when an inquiry left unanswered would be intentionally misleading.** U.S.A. Prudden, 424 F.2d. 1021, 1032 (1970); cert. denied 400 U.S. 831. See also United States of America v. Robson, 477 F.2d 13, 14, 15 (1973) 9<sup>th</sup> Circuit

<sup>4</sup> **Maxims of Law**- The agreement of the parties makes the law of the contract: The contract makes the law.

This matter before this tribunal has turned into a debacle burdened with bad faith and fraud. In the two plus years of this action due process rights have been subverted, i.e. due process of a) the "law of the contract", b) counterclaim, c) discovery and d) trial by jury. This matter should never have gone outside of the HOA project, as there is a free, simple, private, in-house appeal process for adjudicating all claims built into all of the HOA's home owners' contracts, i.e. by laws which Appellees, as owner-principals and their agents refuse to implement. To date the attorney's fabricated bill to the project's principals/home owners is pushing \$80,000.00.

Absent the HOA's contractual appeals, Appellant, in an effort to amicably resolve all issues, went to arbitration under Hawai'i indigenous laws, and received two awards, one in 2003 and another in 2016, wherein the arbitration investigators found numerous evidences of criminality that they reported, as required by due process of law and good faith. However, the fiduciary, Appellant's agents, again responded to both arbitration by total silence.

In 2007 fiduciary HOA filed two, fabricated, false claims as liens against both Appellant's properties. They were forced to expunge both in 2017, after arbitration and expensive due diligence, due to failure to validated as required by law. [5001]

Having exhausted all attempts to amicably resolve all issues with HOA and being frustrated beyond belief, Appellant did **rescind** all contracts for management of his private property for gross negligence, fraudulent misrepresentations<sup>5</sup>, breach of duty and fiduciary's silence on Sept. 1, 2018.

This big question is: What would be the Appellee's motive for such flagrant violations of contract and its written, agreed to due process? Due to all the evidence of "fraud on the court" and other criminality exposed by whistleblowers, including egregious, unlawful US occupation of Hawaiian law and lands, Appellant believes the answered is in the many Petitions of Remonstrance being sent to the three pillars of government; and the numerous whistleblower request for investigation and criminal joinder of victims' evidence submitted in other similar cases.

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<sup>5</sup> There is no question of the general doctrine that *fraud vitiat* the most solemn contracts, documents, and even judgments...

## II. Facts from Circuit Court

1. On November 6, 2017, Appellant answered Appellees' complaint with: a) a motion to dismiss and b) a verified counterclaim. [at Docket number {5}]<sup>6</sup>
2. On January 10, 2018, Appellant filed his demand for subrogation [9]
3. On June 5, 2018, Appellant filed his motion to compel discovery from fiduciary as Appellee HOA maintained its silence to admissions and interrogatories. On July 9, 2018, Appellant filed his verified motion of reconsideration [23] of the Circuit Court's June 27, 2018, order dismissing Defendant's Counterclaim
4. On July 27, 2018, [29] Appellant filed his Addition to his verified motion of reconsideration of the Circuit Court's June 27, 2018, order dismissing Defendant's Counterclaim.
5. On September 13, 2018, Appellant filed his Results of Discovery due to Appellee's default via silence having admitted to their wrongdoings. [33]
6. On July 18, 2018, a relator/whistleblower files under seal a Writ of Qui Tam evidence package with evidence of the Appellees' filing of false claims in the public record against Appellant [S001].
7. On October 29, 2018, Appellant filed in the court Notice of Rescission of Contract, as the HOA's many breaches of Contract became intolerable and overwhelming [36].
8. On April 23, 2019, Appellant filed a Mandatory Judicial Notice of Fraud and Fraud upon the Court and Demand and Demand for Return of Court Created Bonds.
9. In July thru October of 2019, five whistleblowers [S1 – S4] came forth and filed their evidence of Defendants "unclean hands" that brought fraud upon the court.

## III. Appeals Court Issues

10. Did the court err in denying Appellant's motion to dismiss Appellee's Claim? [5]
11. Did the court err in denying [14, 25, 28] Appellant's verified counterclaims? [5]
12. Did the court obviously err in denying subrogation? [24]
13. Did the court plainly err in denying Appellant's motion to compel discovery? [32]
14. Did the court plainly err in its orders at [14, 25, 28, 39] when it failed to address and state its findings of fact and conclusions of law?

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All further docket numbers will be placed in brackets, i.e. {5}

15. Did the court plainly err in secretly manufacturing securities to bond this action?
16. Did the court err in secretly selling said securities on the stock market?
17. Did the court err in ignoring evidence of fraud on the court from Appellant and numerous whistleblowers?
18. After receiving numerous wrongdoing evidence for material witnesses, did the court commit plain error in failing to *sua sponte*:
  - a) stay the proceedings pending a criminal investigation;
  - b) sequester a grand jury to investigate the numerous whistleblowers' Writs of Qui Tam evidencing fraud and fraud on the court?
19. Are the officers of the court not guilty of felony misprision for letting L. W's Writ of Qui Tam spoil and decompose for eighteen (18) months by failing:
  - a) to stay the proceedings pending a criminal investigation; and
  - b) to sequester a grand jury to investigate the numerous whistleblowers' Writs of Qui Tam evidencing fraud and fraud on the court?
20. Are then the officers of the court not guilty of criminal collusion in running a protection racket to cover up one another's, their BAR Buddies' "dirty laundry" and laundering of their ill-gotten gains / emoluments.?
21. Did the court err and abuse its discretion and gravely err in keeping Bright's filing with exhibits from Appellant's and this court's preview in this matter on appeal.
22. Did the court abuse its discretion and gravely err in:
  - a) trespassing on and violating Appellant's rights privacy and property; and
  - b) violating the international peace treaties that he is protected under; and
  - c) making Appellant a victim of "war crimes" on the scale of Nuremburg?

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**Emoluments Clause Violations:** The emoluments clause, also called the foreign emoluments clause, is a provision of the organic Constitution (Article I, Section 9, Paragraph 8) that generally prohibits federal officeholders from receiving any gift, payment, or other thing of value from a foreign state or its rulers, officers, or representatives. The clause provides that: *No Title of Nobility shall be granted by the United States: And no Person holding any Office of Profit or Trust under them, shall, without the Consent of the Congress, accept of any present, Emolument, Office, or Title, of any kind whatever, from any King, Prince, or foreign State.*

23. Did the court error in not returning the value of the securities it created to Appellant's trust account? [43]

#### **IV. Standards of Review**

*We should follow our own rather than a foreign law. Maxim of Law*

24. The Hawaiian and U.S.A. Republic People's contracts, being the Ancient Charters and Statutes confirming the liberties of the subjects (Biblical Law), Treaty of Paris 1783, the Maxims of Common Law, the Articles of Confederation, Constitution of the united States of America with the Bill of Rights, Hawai'i's Treaty of Peace with the USA, and every additional ordinance of man that inherently recognizes the supremacy of God and of the pre-eminence of His Law, together with the mandated Oath of Office of all PUBLIC SERVANTS; and the standards set forth in the Petition for Remonstrance.

25. Appellant incorporates by reference the whistleblowers' civil and criminal allegations set forth above and at [S001, S002, S003, S004, S005] as though fully set forth herein.

#### **V. Arguments**

##### **Due Process of Law Standing**

##### **A. The Circuit Court Erred in Failing to Dismiss Appellee's Claim and to Affirm and Enforce Appellant's Verified Counter Claim**

26. Appellees, principals of the HIOA, knowing full well Appellant was 1) a foreigner from Alaska, 2) his contractual right to in-house appeal had been subverted, and 3) that this matter was fully settled administratively by arbitration under laws of the Hawai'i Nation as directed by the UN they should, and 4) that the United Nations Human Rights Commission's Memorandum<sup>8</sup> outlawed U.S. courts operating in Hawaii as international human rights violations; but still they "in bad faith" did, in violation of the international law of nations, file their claim in a private U.S. State of Hawaii Circuit Court anticipating an easy win which they did eventually procure.

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<sup>8</sup> the lawful political status of the Hawaiian Islands is that of a sovereign nation state in continuity... As such, international law... requires that that governance and legal matters within the occupied territory of the Hawaiian Islands must be administered by application of the laws of the occupied state... not under the domestic laws of the occupier (the United States). Dr. A. M. deZayas, UN Memorandum, Feb. 25, 2018

27. This is plain error a) in DUE PROCESS of LAW and b) a due process Violation, and c) in which is also an Emoluments Violation, selling justice for money, and d) which is in fact Barratry.:

28. Thus, under TDC Appellant's Answer to Claim on November 6, 2017, motioned to dismiss for lack of standing (pg. 5, = 56-59) [5]; and motioned for a "verified counter-claim" to have the court enforce the administrative remedies he was awarded after thorough investigation by the Alo-ha International Arbitration Council Co-op for harm due to fraudulent silence by fiduciary, gross negligence, bad faith, loss of revenue and many other breaches of contract by fiduciary listed at (pg. 1-5, = 1-55 and Exhibits) [5].

29. On July 9, 2018, Appellant filed his verified motion of reconsideration [23] of the Circuit Court's June 27, 2018, order dismissing Defendant's Counterclaim with exhibits A - Unanswered by HOA fiduciary letters lawfully requesting validity of liens dated February 1, 2007, that by "good faith" and law ethically require a response. As no response came forth after thirty (30) days from fiduciary Appellees' HOA they by law become unlawful false claims doing great harm to Appellant; and which prompted Exhibit B - a NOL evidencing grave due process errors:

a) The Appellee fiduciary deals with owner creditors by silence's misrepresentations, and

b) It is the first to be injured who has standing to claim injury. So, who is really in breach of contract?

30. On July 27, 2018, [29] Appellant filed his Addition to his verified motion of reconsideration of the Circuit Court's June 27, 2018, order dismissing Defendant's Counterclaim, due to new evidence in the form of Telford v. Sagewood (see footnote 1) decision which clarifies that Appellant's counterclaim is based more on tort than contract. As a prose, Appellant did not realize the full nature of his counterclaim. This single opinion strikes at one defect in the HOA legal scheme that was necessary for the widespread adoption and mass marketing of HOAs, the "free ride." **No longer will HOA boards get a free ride under the business judgment rule, but will now be held to act responsibly under its quasi-governmental legal status. The Court stated that a "breach of fiduciary duty is a tort."** A tort is a common law wrongful act that **allows for punitive damages against the board and/or individual director.** A tort provides a strong counter-measure against the one-sided

financial damages that HOA boards are entitled under state laws and the governing documents. (pg. 1-4. = 1-16) [25];

31. Although Telford clarified and updated the old out dated laws regarding HOA's fiduciary responsibilities, once again, on July 25, 2018, [28] the circuit court denied Appellant/Defendant's motion for reconsideration with addition, absent finding of fact and conclusions of law.

32. This Court's denial of Appellant's counterclaim is inequitable and un-defendable. Appellant has Rights which this Court must protect. Denial of the counterclaim is a clear indication to bias toward the Appellee/Plaintiff, allowing the fiduciary HOA to collect monies due while allowing Plaintiff to skip out on its own duties, leaving Defendant with a debt owed and no way to fix his rental unit, because he is nether allowed (by law) to fix the common areas, nor can he afford to fix common areas or the damage caused to his own unit by the Appellee/Plaintiff's willful neglect of its own duties.

33. Appellees have come to the circuit court with unclean hands, demanding that its rights be upheld, while the Defendant's rights are ignored, and making this Court an accomplice to a tort being committed against Appellant.

34. Therefore, the circuit court erred in:

- 1) Abusing its discretion in not dismissing Appellee's claim for lack of standing and for filing a frivolous claim; and
- 2) Not upholding and enforcing the administrative remedy established and perfected under the laws of the Hawaiian Nation as prescribed per UN directive as Hawai'i is occupied illegally by a foreign power; and
- 3) Abusing its discretion in blessing Appellant's misuse of an outdated statute that was in contradiction of the law and creed of the Hawai'i Nation and the U.S. and its public policy; and
- 4) Not seeing it is the first to be injured who has standing to claim injury, even Appellant's counterclaim (pg. 2 [23]).

35. The court furthered Erred in issuing on July 25, 2018, its court order denying Appellant's motion for reconsideration absent finding of facts and conclusions of law. Order fails to state the required findings of fact and /or conclusions of law should this matter be appealed.

Memorandum decision. A court's decision that gives the ruling (what it decides and orders done), but no opinion (reasons for the decision). Memorandum decision is not judgment nor decision of court but merely announcement of court's intended decision and is not appealable order. *In re Pieper's Estate*, 224 C.A.2d 670, 37 Cal.Rptr. 46, 50. – *Black's Law Dictionary*, 5<sup>th</sup> Ed.

36. This court's failure to give written findings of facts and conclusions of law runs throughout this matter [14, 25, 28, 39]; and is yet another denial of due process, which requires the dismissal of the entire case as against the defendant as any denial of due process deprives the court of subject matter jurisdiction.
37. This Court is suppressing evidence (including whistleblower, witness tampering) by denying interested parties' affidavits of facts and violations of law.
38. Further Appellees' HOA erred civilly and criminally:
- 1) in bringing its long-standing breaches of contract to a U.S. court instead of to its in-house judicial process, and
  - 2) in bringing its fraud by negligent misrepresentation by silence upon the circuit court, and
  - 3) in intentionally interfering with Appellant's prospective economic relations, and
  - 4) in negligently interfering with Appellant's prospective economic relations by its unfair business practices, and
  - 5) in supporting and committing war crimes, including genocide of the Hawaiian Peoples' land, race and creed in violations of international, U.N laws of PEACE.
39. Even further, the officers of the circuit court intentionally committed plain erred and brought fraud and felony misprision upon themselves:
- 1) in failing to recognize the crimes being committed given numerous whistleblowers' evidence and ignoring and supporting the "bad actors" bad faith, and
  - 2) in not *sui sponte* staying all civil proceedings and calling forth an "in law" grand jury investigation into criminal wrong doing by HOA's principals.
- They who consent to an act, and they who do it,  
shall be visited with equal punishment. Maxim*



40. Given this fact, the public servants, officers of the circuit court, are actually running a private, in house protection racket for fiduciaries and their fellow union BAR members in exchange for unlawful emoluments.<sup>2</sup>

41. At the very least the court erred in demonstrating its prejudice against a foreign party and its "preferential treatment" (pg. 7, first sentence [23]) of Appellees.

**B. DEMAND FOR SUBROGATION**  
**The Circuit Court Erred in Failing to Set Off Appellants Arbitration Awards or Subrogate its Manufactured Bonding to Settle this Matter**

42. In Appellant's above initial answer to complaint he requests "...any compensation owed to the association be set off by what it owes to [counter] claimant." (pg. 1 = 3, 39 [5]). That being the arbitration award amount. (pg. 5. = 54 [5]). See also Appellees invoice the failed to respond to, [5] Exhibit = 3.

43. The court erred:

- a) in failing to recognize and set off Appellee's claim using the arbitration awards, and
- b) in demonstrating its BIAS, and
- c) in its RAILROADING, and
- d) in its disdain and contempt for the common law of equity and due process.

44. On January 10, 2018, Appellant filed his Motion, Demand for Subrogation [9] of the circuit court's created bond [S004, Exhibit = 1] in his name without his consent and made claim to those securities. He demanded those "securities be used to set off, settle and close this matter." (pg. 2, and Exhibit A CUSIP [9]).

45. This is egregious error to the max, if not criminal, as it sets an evil precedence and further subjects the sovereign people of Hawaii into involuntary servitude or slavery, which has been abolished by international treaties of peace.

46. The court erred in creating a bond bearing Appellant's name without consent.

47. The Court erred in that it is unlawful for the court's officers to:

- a) create and/or

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<sup>2</sup> **Emoluments:** A single line of the Republic's Constitution guards against improper foreign influence on federal officeholders

b) own property.

48. The court erred in denying subrogation absent findings of fact and conclusions of law? [14] (see item #s 31 & 32 above)

49. How are these not unjust enrichments<sup>22</sup> or emoluments violations, in failing to discharge the debt obligations, of the said UNITED STATES? This would be a direct failure to discharge their duties as a public fiduciary, in which they are paid to perform in 'good faith' = Emoluments.

50. The court erred in not ruling that in commerce an un-responded to debt instrument (invoice) by Appellees signifies acceptance of said debt owed to creditor.

### **C. ABSENCE OF DUE PROCESS AND VIOLATIONS OF DUE PROCESS**

#### **The Circuit Court Erred in Failing to Follow Due Process of Law and Equity**

*He who seeks equity must do equity. Maxim*

51. On June 20, 2018, Appellant filed his Verified Answer Plaintiff's [Appellees] Motion to Dismiss Counterclaim and Appellants' / Defendants' Motion to Strike Plaintiff's Complaint, [20] where Appellees are in default by silence having failed to provide discovery. Further there is a scheduled motion by Appellant/Defendant to compel discovery or in the alternative strike Plaintiffs' (Appellees') complaint as this transparency/ discovery evidence is needed by Appellant to support his upcoming scheduled hearing to dismiss his counterclaim. (pg. 2, # 1-28 [20]).

52. It is significant that Appellees most often cite court rules; but Appellant consistently cites laws and the rules of Equity. Private corporate policies do not supersede the Civil Land Law, being the Hawaii Constitution and U.S. Constitution.

53. The court erred in not striking Appellees' complaint, as there should be no reason to compel discovery, due to the fact fiduciary HOA is always compelled by law to be transparent, whether in or out of court, therefore its silence is fraud. Withholding evidence from the court is also fraud on the court.

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<sup>22</sup> **Unjust enrichment** is an equitable doctrine that provides a remedy where another party knowingly received something of value to which he / she was not entitled, and the circumstances are such that it would be unjust for that person to retain the benefit. A claim in unjust enrichment lies where the defendant's conduct is morally wrong.

54. The court erred in not immediately dismissing the case for the above fact and for its **silence** bringing fraud by concealment on the court. (see footnote # 3).

55. In Appellees' request for summary judgement [44] they did bring forth one of the items that for years had been requested in 30 days by law from fiduciary Appellant... a verified accounting of what was owed under the FDCPA. This was also requested in discovery. However, even that was a contrived **false claim** as it began with a large balance titled "carry forward"... from who or what?

56. The court erred in overlooking this simple fact of verified accounting.

57. The HOA Appellees' use statute to allege no contract. What do they think the by-laws are? The due process of the equity laws of the Republic and Hawaii apply to both the complaint and the counter claim. Whatever contract the HOA uses to collect assessments and fees, also makes the HOA fiduciary liable for maintenance and repairs, especially when it causes the damage to a principal owner's unit. (pg. 2, # 1-28 [20]). Four fifteen (15) plus years Appellees have failed in fulfill their contractual obligations. Only after the Appellees fulfill their contractual duties will they have "clean hands" to ask for amounts allegedly owed. Equity requires that all parties be made whole.

58. The court did err in allowing the Appellees', after having failed in its duties outlined in the by-laws, to proceed in court with "unclean hands." These by-laws are not suggestions, they are legal obligations, laid down as consideration's in exchange for said HOA fees.

59. Meaning the court erred in granting Appellees' claim when they are not entitled to the requisite relief from the court.

60. Meaning the court erred allowing the Appellees' relief even though it stated a claim for which no relief could be granted.

61. On July 18, 2019, a summary judgement order was signed by the circuit court in favor of Appellees. [47]

62. This the court abused its discretion and gravely erred as it denied Appellant his requested Constitutional right to:

- a) a due process of law trial by jury and
- b) jury nullification of a ill written and applied statute not fitting to this matter for true justice to be achieved.

63. On September 13, 2018, Appellant filed his Judicial Notice of the Results of

Discovery and Second Motion to Dismiss Plaintiff's Claim for Fraud Upon the Court and Second Motion to Reinstate Defendant/ Counter Claimant's Claim for Harm due to Gross Negligence. [33]. The 2nd paragraph of pg. 1 plainly states the true issues not being addressed in this matter: but are being covered up under color of law.

"The total history of this action and its resultant counter claim revolves around a home owners association (HOA), a fiduciary, **maintaining silence** when asked pertinent questions by a home owner about the care and safe keeping of his assets placed in its trusted care. For some twenty (20) years Defendant / Counter Claimant has been frustrated beyond belief by HOA's arrogant attitude of silence toward selective, individual home owners. Now, even under the discovery rules of this court, they still maintain their reticence. Today that silence has become so loud, as to be unbearable to all who must hear it. Fiduciary HOA, Plaintiff's silence in this action is in reality: 1) Another way of "bearing false witness" in an effort to intentionally mislead; and 2) It is tacit admission<sup>33</sup> of numerous ongoing criminal acts. This cannot continue on any longer."

64. This single five (5) page document simply "says it all" and should have evoked and implemented *estoppel denier* and *equitable estoppel* (supra) pending criminal investigation of the facts, due to fraud on the court and defrauding Appellant. This motion well stats the facts:

1. "Two (2) separate requests for both Admissions and Interrogatories, dated April 17, 2018 and July 13, 2018, were sent to Plaintiff, HOA. Neither was answered. Even Defendants' request under court rules to meet and confer with HOA as to why their silence on discovery was denied."
2. Thus, in violation of their fiduciary duties, HOA has tacitly admitted by silence and consequent default that their claims are both false and fraudulent:<sup>32</sup> and that Defendant / Counter Claimant's claims are both correct and true.
3. The HOA's attempted application of the landlord and tenant laws to this matter is egregious.
4. The HOA board's defense that there is an exculpatory clause in the governing documents; that is, a clause that grants the board immunity from liability as a

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<sup>32</sup> *Qui tacet consentire videtur* (silence gives consent / approval / admission) is a well-known maxim of law  
<sup>33</sup> "Silence can only be equated with fraud when there is a legal and moral duty to speak or when an inquiry left unanswered would be intentionally misleading." *U.S. v. Prudden*, 424 F.2d. 1021, 1032 (1970); cert. denied 400 U.S. 831. See also *United States of America v. Robson*, 477 F.2d 13, 14,15 (1973) 9<sup>th</sup> Circuit

result of its actions. The *Telford* Court held, however, that this type of clause was against public policy and therefore invalid.<sup>13</sup>

5. Equity aids the vigilant, not those who slumber on their rights.
6. Counter Claimant has not slept on his rights, but, as shown below, has diligently and repeatedly appealed to the HOA to dutifully honor its contractual obligations.
7. The HOA Board of Directors, pursuant to the Fair Debt Collection Practices Act, admits they have slept on their rights and have failed to validate their claim and lien(s).
8. The HOA admits, and does not deny that the project's poorly maintained, common roof has caused severe damaged to apartment # 306.
9. The HOA does not deny, but tacitly admits it has a contractual and statutory obligation to make needed repairs to Claimant's apartment # 306.
10. The HOA does not deny its attempt to profit at the expense of loss to the Defendant, which loss was created by the acts or inaction of the Plaintiff / HOA.
11. By tacit admission the HOA does not deny it committed acts and omissions that resulted in gross negligence. Thus, causing dangerous living conditions, health hazards, and loss of income to Defendant and Counter Claimant.
12. The HOA does not deny it has had for years, real estate agents on its board of directors who well know the laws on property and its management, own and rent multiple apartments in the building and some do not even live in the building. Thus, these board members sit in an "insider" position to make profits for themselves, as owners are forced to sell due to management's convenient negligence.
13. That by tacit admission the HOA has come to this court with unclean hands, knowing full well it is in violation of laws governing condominium associations; and is in breach of contract, in violation of health laws, and has caused the Claimant financial loss and personal hardship.

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<sup>13</sup> "The law has traditionally viewed with disfavor attempts to secure insulation from one's own negligence or willful misconduct. Furthermore, it is the express statutory policy of this state that contracts which have for their object, directly or indirectly, to exempt anyone from the responsibility for his own fraud or willful injury to the person or property of another, or violation of law, whether willful or negligent, are against the policy of the law." *Telford v. Sagewood HOA*, No. E048483, Cal. App. 4th Dist., Nov. 16, 2010

14. The HOA does not deny, but tacitly admits, that as far back as 2001, there has been unrepaired water damages to Claimant's unit.
15. The HOA does not deny, but admits it has been notified of the need for repairs numerous times.
16. The HOA does not deny, but admits that up until December 12, 2012, Claimant was using this unit as a rental, but due to the repairs needed, the Association made the renter move out, causing financial damages to Claimant, yet still will not make the necessary repairs or reimburse Dr. Warner for his losses.
17. The HOA does not deny that on or about May 1, 2014, Neil Erickson of Hawaii Dept. of Building Safety came to Orchid Manor Apt. # 306 to do an on-site inspection. He found signs of water damage and possible rot issues, stating in his report "...as a result of water infiltration. We recommend that a structural engineer be obtained to provide an investigative report of the floor framing integrity." He went on to say the Condo Association owns everything beyond the paint and it is not the unit owner's responsibility nor can the owner take the responsibility.
18. The HOA does not deny, but admits by its silence it has never contradicted the inspector's statement, nor has anyone from the Association said they are not responsible for the repairs.
19. The HOA does not deny, but tacitly admits, that due to its failure to make needed repairs, the property value has decreased, meaning Claimant has lost money on his investment.
20. The HOA does not deny that the County of Hawaii's tax assessor, Keita Jo, inspected the "structural deficiencies" and found "...a reduction in the assessed value is warranted."
21. The HOA does not deny that from before the year 2000, up until late 2014, a lake of water existed on Orchid Manor's flat roof just above the ceiling of Apartment # 306 causing serious damage to the apartment's foundational structure, walls, its fixtures, furnishings and occupants.
22. The HOA does not deny that to date, the HOA, by its Board of Directors, has remained silent and has refused to remedy or repair the damages caused by its board's negligence and lack of due diligence in proper property maintenance.
23. The HOA does not deny, but admits by its silence it owes Dr. Warner an Arbitration award from March 11, 2003, of \$5,398.85 with accruing interest, for repairs Defendant made to common area. To date, the Association's Board has remained silent and its debt unpaid.

24. The HOA does not deny that on or about December 20, 2012, Claimant's tenant, Caroline Pacheco, was coerced by threat and duress, by the Association's manager Charlie Fischer, to move out of unit # 306 due to the alleged danger of mold, dampness and exposed asbestos in the ceiling, yet no repairs were ever made to the unit.
25. The HOA does not deny Claimant suffered loss of business revenue and helped Ms. Pacheco financially with her move; but was never compensated by the Association.
26. The HOA does not deny its fiduciary responsibilities to properly repair and maintain all common areas of the project.
27. The HOA does not deny that Counter Claimant has not been able to "safely" rent his unit #306 due to safety concerns and lack of repairs, thus causing a loss of revenue stream, loss of livelihood, since December 20, 2012.
28. The HOA does not deny Counter Claimant has made numerous demands for compensation for damages and for repairs, which have been ignored by the Association.
29. The HOA does not deny Counter Claimant has expended untold hours trying to right the wrongs described herein. His business income has been reduced, his good name and character ruined along with his ability to obtain credit to expand his business.
30. The HOA does not deny that from a second Arbitration award an Affidavit of Obligation was filed in the amount of \$2,800,450,000.00 in Constitutional Dollars with the County Clerk, County of Hawaii on April 11, 2016, 11:55 AM.
31. Additionally, Title 15 § 1, states that any conspiracy, in restraint of trade shall be punished by fine not exceeding \$100,000,000 and imprisonment not to exceed 10 years.

**MOTION TO DISMISS PLAINTIFF'S CLAIM**

32. The Plaintiff HOA tacitly admits it manufactured more than one spurious lien it cannot **validate** pursuant to the TILA laws that Mr. Warner is a debtor. Thus, as their thirty (30) days to **validate** has long since passed, all liens become null and void; and
33. That the Plaintiff HOA tacitly admits Counter Claimant's claims are all correct and true; and
34. That, as the TILA and its Regulation Z laws are being violated here, the HOA's complaint and claim are frivolous and without merit, as it fails to state a claim for which relief may be granted; **Therefore**, by operation of all bodies of law it must be dismissed.

35. That this court must *sua sponte* convene a grand jury pursuant to Title 18 § 3 & 4. to investigate this whole matter, including the HOA's willful, extortionate<sup>34</sup> acts against the elderly, conversion,<sup>35</sup> its bringing its fraud upon this honorable court, its acts of mail fraud,<sup>36</sup> and its many acts of fiduciary silence.<sup>37</sup> To do anything less would make those "sworn to do justice and keep the peace," officers of this court, an accessory to the perpetrator HOA's crimes committed by failing to report and follow through on their knowledge of criminal wrongdoing. Additionally, there could also arise the aspect of malpractice (malfeasance) by officers of the court, including a judge, acting in insurrection and rebellion against the US Constitution.

**MOTION TO EXPEDITE REINSTATEMENT OF COUNTERCLAIM**

36. As the Plaintiff / HOA admits by default: a) to their wrong doing; and b) to their violations of the TILA and its Regulation Z laws; and c) to their fraud via silence; and d) to having damaged and disrupted Counter Claimant's whole life and livelihood; **Therefore**, Defendant's Counter Claim must be immediately, with all haste, be reinstated.

65. Unless we are in a post law and order society, due to all the above, the court erred in not dismissing Appellees' case for:

- a) seeking unjust enrichment; and
- b) barratry; and
- c) violations of due process of law; and
- d) coming to a court with unclean hands; and
- e) violation of numerous financial federal laws; and
- f) bringing its breaches of contract and fraud upon the circuit court; and
- g) and allowing Appellees to use landlord tenant laws ([33] at # 3) that do not apply to cover its breaches of contract and fraudulent behavior.

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<sup>34</sup> Extortion: a criminal offense to obtain money, property, or services from an individual, through coercion.

<sup>35</sup> Conversion: a criminal offense to obtain money(s) by false pretenses

<sup>36</sup> UPU Universal Postal Union - Mail Fraud: Material received in Envelopes through the US Post Office that is unlawful.

<sup>37</sup> "**Silence can only be equated with fraud when there is a legal or moral duty to speak or an inquiry left unanswered would be intentionally misleading.**" US v. Twill, 550 Fed 2d 297, 299, 300; U.S. v. Prudden, 424 Fed. 1021, 1032 (1970); cert. denied 400 U.S. 831. See also United States of America v. Robson, 477 F.2d 13, 14,15 (1973) 9<sup>th</sup> Circuit



66. Due to all the above, the court erred in not staying or estopping Appellees' case pending Appellant's request in [33] at # 35 to do so pending a grand jury investigation; and thus brought felony misprision upon the court and its officers.

67. Due to all the above, the court erred in not reinstating Appellant's counter claim.

68. Due to all the above, the court erred in not:

- a) Enforcing the consumer protection laws noted in [33] at # 39's; and
- b) Protecting Appellant's private property.

#### **D. RESCISSION OF CONTRACT FOR BREACH AND FIDUCIARY FRAUD**

##### **The Circuit Court Plainly Erred in Failing to Address New Found Hard Evidence from Material Witness, Whistleblower, Proving Consumer Fraud by HOA Principals/Plaintiffs/Appellees in Filing False Claims**

69. On October 29, 2018, Appellant filed with the court his Notice of Rescission of Contract, as the fiduciary HOA's many breaches of Contract became intolerably overwhelming [36]. This is the point at which the material evidence and whistleblower witness gets so thick and profound anyone could see the "unclean hands," fraud and fraud on the court.

70. In February 1, 2007, Appellees filed two separate liens on Appellant's two rental units placed in their care and trust. The damning exhibits herein show it took two separate law firms months and thousands of dollars to expose the false claims and get the HOA's liens removed from the public record. The law firm that tried to defend this unlawful and immoral act is the same that represents the HOA in this action. (pg. 1-5)

Then the Exhibits show that same law firm placed its \$405,000.00 bill onto Appellant's account. To date the HOA Appellees' have not been held accountable for their actions; nor has either injured party been reimbursed for their costs or harm done.

71. As the circuit court was informed, Appellees' acts are tantamount to conversion<sup>18</sup> and extortion<sup>19</sup>. Thus, On September 1, 2018, CC sent HOA Board a Notice of

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<sup>18</sup> **Conversion:** a criminal offense to obtain money(s) by false pretenses

<sup>19</sup> **Extortion:** a criminal offense to obtain money, property, or services from an individual, through coercion.

Rescission<sup>20</sup> of Contract regarding Apt. # 303, and later for Apt. # 306 for breach due to gross negligence, fraudulent misrepresentations<sup>21</sup>, breach of duty and HOA, as fiduciary's silence. (pg. 5-6, [36])

72. Thus, Appellant request:

- a) sanctions due to barratry by Appellee's and their agents; and
- b) reinstatement of counterclaim; and
- c) dismissal of Appellees' claim for:
  - 1) failure to state a claim for which relief can be granted; and
  - 2) criminal wrongdoings involving fraudulent silence by fiduciary; and
  - 3) conversion; and
  - 4) unjust enrichment; and
  - 5) extortion; and
  - 6) mail fraud; and
  - 7) by law the debt has been paid. *Equity wishes the Plundered, the deceived, and the ruined, above all, to have restitution.* Maxim

73. Therefore, the circuit court errs again:

- 1) in not dismissing Appellee's claim for lack of standing and for filing a frivolous claim; and
- 2) in failing to reinstating Appellant's counter claim; and
- 3) in failing to invoke equitable estoppel (supra); and
- 4) in failing to avoid felony misprision<sup>22</sup> by initiating an investigation; and
- 4) in failing to sanction Appellee's and their agents for barratry; and
- 5) in failing to seeing it is the first to be injured who has standing to claim injury, i.e. Appellant's counterclaim (pg. 2 [23]).
- 6) in to uphold and immediately enforced all state and federal consumer protection laws regarding debt settlements, including Federal FDCPA laws.

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<sup>20</sup> **Rescission** - (common-law) the lawful act of rescinding; the cancellation of a contract, verbally or in writing, and the return of the parties to the positions they would have had if the contract had not been made: "rescission may be brought about by decree or by mutual consent".

<sup>21</sup> There is no question of the general doctrine that *fraud vitiates* the most solemn *contracts*, documents, and even judgments...

<sup>22</sup> UNDER TITLE 18 § 3 & 4 sworn in officers of the court were made aware of corruption and crimes against humanity.

74. In review of all the above, the judge did in this action erred in discretion, exceeding his office and his oath of office. (see also VIII. # 4 & 5)

**E. FRAUD ON THE COURT AND FILING FALSE CLAIMS COVER UP**

**The Circuit Court Erred in Not Staying this Matter  
Pending a Full Grand Jury Investigation of Material Witnesses  
Whistleblowers' Evidence of Corruption and Human Right Violations**

75. On July 24, 2019, five (5) months ago, a relator, material witness and owner and principal of the same HOA came forth, wishing to limit her liability as a principal and creditor in this matter with an evidentiary package of fraud and fraud on the Circuit Court by her own fiduciary HOA via a Writ of Qui Tam filed under seal. [SO01]. Her 21 page Writ of Qui Tam exposes numerous breaches of contract, including silence by HOA fiduciary and a 2007, filing of a frivolous lien, a **false claim filing**, that the HOA has failed to validate when requested by law to do so to this day.

76. This material witness's evidence is a perfect example of the fraudulent abuse of power by HOAs who sit in an quasi-governmental elevated position of fiduciary trust of what the Telford decision was trying to correct. The perfect example of what lawyer Mark Stopa is exposing in his book People v. Money, Big Business, Judicial Corruption and You, and the expose Licensed to Lie, Exposing Corruption in the Department of Justice by Sidney Powell, as the courts, through their barratry and emoluments, are in on getting their share of the foreclosure "RICO rackets" unjust enrichments. The "bearing of false witness" by a trusted fiduciary and its agents in control of a creditor's financial business assets is very serious offense of fraud that borders on treason. These two books evidence the systemic nature of the out of control U.S.'s fiduciary courts that support and cover up foreclosure mills... wherein the courts/tribunals have also become fraudulent *banks-ters* in trust running an egregious "protection racket" for other fiduciaries and their agents of the ABA.

77. Exposed by one of its very own creditors, home owners, principals... Appellees' "unclean hands" stick out like a "sore thumb" needing immediate amputation by an honest, ethical, A.B.A. member judge.

78. Thus, the whistleblower evidence speaks for itself. The court glaringly and plainly erred:

- a) in not *sua sponte* entirely dismissing HOA's claim with prejudice, and
- b) in failing to allow Appellant's counterclaim and arbitration to stand, and
- c) in not *sua sponte* initiating a full grand jury investigation into the whistleblower's testimony and evidence of wrong doing by Appellees (principals) and their agents, and
- d) in not *sua sponte* filing an ethics complaint with the A.B.A., and
- e) in not copying the whistleblower's evidence and returning the originals for safe keeping pending a grand jury's investigation.

79. The court erred in granting Appellee's summary judgment, as it effectively denied this material, eyewitness testimony of civil and criminal wrongdoing that would have been very damning to Appellees if it were given during the requested by Appellant trial by jury.

80. Given this material witness's testimony and evidence is five (5) months old with no mandated stay of civil proceedings pending a grand jury's criminal investigation, is another glaring plain error and example of the circuit court's officers, fiduciaries and public servants, A.B.A. members operating a private justice system enterprise monopoly dressed up to look like a legitimate public court.

81. It is gross error by the court and abuse of discretion:

- a) to impede the investigation of this relator, whistleblower's reported criminal acts of "domestic violence"<sup>23</sup> and terrorism against him and others of the Republic, and
- b) to ignore a gross violation of Article 4 § 4 (supra. at = 79) of the organic Constitution for the United States of America

82. Further, the Supreme Court has indicated that a district court must stay civil proceedings in favor of a criminal investigation "when the interests of justice seem to require such action." *Kordel*, 397 U.S. at 12, n.27 (1970). Now this requirement is even more imperative when the criminality is brought foreword by multiple material witnesses / relators / whistleblowers / victims. The district court failed to follow due

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<sup>23</sup> Article 4 § 4: The United States shall guarantee to every State in this Union a Republican Form of Government, and shall protect each of them against Invasion; and on Application of the Legislature, or of the Executive (when the Legislature cannot be convened) against **Domestic Violence** and Terrorism.

process of law and stay civil proceedings pending investigation after being alerted to evidence of wrong-doing.

83. Also, because adverse inferences may be drawn in a civil case from the assertion of Fifth Amendment rights, *see Baxter v. Palmigiano*, 425 U.S. 308 (1976), the court must stay the civil action until the criminal matter is investigated and resolved. *See SEC v. Dresser Industries, Inc.*, 628 F.2d 1368, 1376 (D.C. Cir.), cert. denied, 449 U.S. 993 (1980) (“[A] noncriminal proceeding, if not deferred, might undermine the party’s fifth amendment privilege against self-incrimination.”); *Dienstag v. Bronsen*, 49 F.R.D. 327, 329 (S.D.N.Y. 1970) (civil discovery stayed because necessary to protect defendant’s Fifth Amendment privilege against self-incrimination); *United States v. A Certain Parcel of Land*, 781 F. Supp. 830, 834 (D.N.H. 1992) (discovery stayed in civil forfeiture action because protective order would not sufficiently protect Fifth Amendment privilege).

84. In determining whether a stay is appropriate, courts look to the following factors:

- a) All interests of victim, non-parties, but parties of interest to the civil litigation; and
- b) The public’s interest. *See, e.g., Keating v. OTS*, 45 F.3d 322, 324-25 (9th Cir.), cert. denied, 516 U.S. 827 (1995); *FSLIC v. Molinaro*, 889 F.2d 899, 902-903 (9th Cir. 1989); *Golden Quality Ice Cream Co. v. Deerfield Specialty Papers, Inc.*, 87 F.R.D. 53, 56 (E.D. Pa. 1980).

85. Ignoring Writs of Qui Tam<sup>22</sup> is a grave error by the court and brings charges of felony misprision misfeasance, and malfeasance upon the officers of the court and great personal civil and criminal liability upon them and all those charged with oversight.

86. The court and its officers commit grave error when,

- a) they condone and support domestic violence and terrorism which is treason to the original Republic of states ancient foundational documents, and
- b) these same vermin dare to bring their acts of domestic violence upon the Hawaiian People in order to genocide their Aloha culture and creed.

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<sup>22</sup> **Qui Tam Relator:** The False Claims Act *qui tam* provision is one of the strongest whistleblower protection laws in the United States. In common law, a writ of *qui tam* is a writ whereby a private individual who assists a prosecution can receive all or part of any penalty imposed.

87. On August 5, 2019, another relator, material witness, whistleblower came forth with her Writ of Qui Tam showing evidence of court manufactured, **false claims** (pg. 1-2, [S004]). These false claims were secretly contrived as securities, sold on the stock market and attach to various case numbers of court cases in Hawai'i. One is attached to Appellant's circuit court case, absent is knowledge or consent. (Exhibit 2 & 3, [s004]).

In filing this evidence, whistleblower von Schlesien has noticed a judge of serious securities violations as required by Title 18 & 3 & 4. Attached to the exhibits in her evidence she adds a similar notice of a manufactured security for \$ 24 billion plus, that is somehow secretly connected to her social security account. (Exhibit 3, [s004]).

88. This relator also "blows the whistle" on serious national and international human rights, war crimes violations and corruption being committed against Hawai'i's indigenous People by its the U.S. occupiers. (pg. 3, & Exhibit 4).

As a whistleblower my true freewoman status is: 1) in keeping with the False Claims Act and 2) My *qui tam* relator's obligations in support of POTUS D. Trump's December 21, 2017, Emergency Executive Order, No. 13818, Re: lawlessness: *Serious Human Rights Abuse and Corruption* currently taking place domestically and internationally. I believe the evidence presented herein plus your investigation of numerous violations of fiduciary duty and moral, ethical behavior will expose gross lawlessness, including but not limited to: theft of identity, theft by deception, misrepresentations by silence<sup>23</sup>, fraud, fraud by concealment, mail fraud, fraud upon the court, deceit, equity extortion, collusion, extortion and malfeasance. (pg. 1, [S004])

89. Once again, the court errors, as in the six (6) points of error in # 60 above. Four (4) months have passed and she has not received her original documents back as requested and required from the court stamped received or been contacted by the grand jury foreman to testify.

90. The court erred in granting Appellee's summary judgment, as it effectively denied eyewitness von Schlesien's testimony of civil and criminal wrongdoing that would have been very damning to Appellees if it were given at Appellant's requested trial by jury.

91. Appellant demands the return of the bonds created in his name in his Mandator Judicial Notice filing on April 23, 2019. [43] to no avail.

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<sup>23</sup>"**Silence can only be equated with fraud when there is a legal and moral duty to speak or when an inquiry left unanswered would be intentionally misleading.**" *U.S.A. v. Prudden*, 424 F.2d 1021, 1032 (1970); cert. denied 400 U.S. 831. See also *United States of America v. Robson*, 477 F.2d 13, 14,15 (1973) 9<sup>th</sup> Circuit

92. One or more of the officers of the court erred in unlawfully manufacturing an emolument to enrich themselves.

93. On August 1, 2019, four (4) months ago, a relator, material witness, another owner and principal of the same HOA came forth, wishing to limit her liability as a principal and creditor in this matter. Her evidentiary package via a Writ of Qui Tam was filed under seal. [S002]. Her testimony evidences the Appellees' years of operating with "unclean hands," that now results in civil and criminal liabilities against the unsuspecting home owners as principals. Her HOA has brought fraud on the Circuit Court by bearing and filing with "unclean hands" false witness and false claims. Her appeal for redress of grievances are also met with silence. She states:

"According to contract and by-laws the fiduciary, HOA, is duty bound to "establish an inhouse appeals process." The tremendous time (3 years) and expense of HOA's hiring two separate law firms to initiate a foreclosure action is in "bad faith." No home owner should be subject to this court's jurisdiction until all contractual remedies have been exhausted by law. I have complained to the HOA regarding their breach of contract in failure to establish and publish in "good faith" an *in house* remedy for owners concerns and complaints (Exhibit 1). After all, in common law we are all close neighbors who are living in one common building and should have every opportunity to rightly and amicably get along (Galatians 5:14)." (Pg. 1, Item # 1. [S002]).

"Given my witness and the evidence related in numbers 1 & 2 above, the HOA has knowingly, using officers of the court, filed **false claims** into the public records of this honorable court of common law." (pg. 2, # 5 [S004])

94. Marla' concerns as principal of her civil and eriminal liabilities are well founded.

95. Once again, the court errors, as in the six (6) points of error in # 60 above. Four (4) months have passed and she has not received here original documents back as requested and required from the court stamped received nor been contacted by the grand jury foreman to testify.

96. The court erred in granting Appellee's summary judgment, as it effectively denied this eyewitness testimony that would have been given during trial by jury.

97. On August 1, 2019, another relator, material witness, whistleblower came forth with her Writ of Qui Tam showing evidence of, **false claims** (pg. 1-2. [S004]) produced by the "unclean hands" of Appellees. She states for the record,

The undersigned has been following Case No. 17-1-0164 (HTN). due to the fact I am a victim of Plaintiff, ASSOCIATION OF OWNERS OF ORCHID MANOR, a Home Owners Association (HOA) using false claims to threaten, intimidate and coerce residents to get their way. I have lived in the building for many years and thus have a thorough knowledge of how the HOA mismanages the project.

Just before Christmas in December of 2012. the HOA falsely claimed there was a dangerous asbestos problem in the apartment, No. 306, I was renting from Defendant Warner at that time. Manager Charlie Fisher came to my apartment with a board member and demanded I leave immediately due to dangerous asbestos exposure cause by a leaking roof above my rental. That they had alerted the health department and if I failed to leave the sheriff would be called to force me out. So, under threat, duress and coercion I gave Mr. Fisher the key and moved out until the repairs were made and it was safe to move back in again.

Months passed and no repairs were completed nor was there any evidence the apartment was made safe to occupy again. Seven years later the HOA remains silent to Mr. Warner's many requests for repairs and proof there was ever any asbestos to be concerned about.

98. The court errors

- a) in failing to see the patter of abuses by HOA. Appellee's. modus operandi. that spell "unclean hands." and
- b) in failing to *sua sponte* order equitable estoppel<sup>26</sup> or
- c) in failing to *sua sponte* order estoppel by misrepresentation.<sup>27</sup>

99. Still once again, the court errors, as in the six (6) points of error in = 60 above. Four (4) months have passed and she has not received here original documents back as

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<sup>26</sup> **Equitable Estoppel** as a *Defense Doctrine* preventing one party from taking unfair advantage of another when, through false language or conduct, the person to be estopped has induced another person to act in a certain way, with the result that the other person has been injured in some way.

<sup>27</sup> **Estoppel by misrepresentation:** An estoppel that arises when one makes a false statement that induces another person to believe something and that results in that person's reasonable and detrimental reliance on the belief.



requested and required from the court stamped received nor been contacted by the grand jury foreman to testify.

100. It is quite apparent from the above material witnesses' testimonies, the numerous court errors and Appellee's unlawful breach of contract by fiduciary, this Appellant's rights and private property have been unjustly trespassed upon multiple times.

*What is proved by the record ought not be denied.*

## **VI. Statement of Common Law, its Maxims and Related Cases**

### **Maxiums of law**

- 1) *Qui tacet consentire videtur* (silence gives consent / approval / admission).
- 2) Law is the science of what is good and just.
- 3) There is no closer (or firmer) link among men than an oath.
- 4) The malicious designs of men must be thwarted.
- 5) No expectation can allure a good man to evil.
- 6) A person is considered a possessor who has ceased possession through fraud or injury.
- 7) Truth is the mother of Justice.
- 8) Truth Fears nothing but to be hidden.
- 9) One who does not speak the truth freely is a traitor to the truth.
- 10) Time rule events.
- 11) No prescription or statutory limit runs against a Right by blood.
- 12) Right cannot die.
- 13) Everyone is the manager and disposer of his own matters.
- 14) Use is a fiduciary ownership.
- 15) A repugnant act cannot be brought into being, that is it cannot be made effectual.
- 16) It is a cursed construction that corrupts the text.
- 17) Great fault (or gross negligence) is the equivalent to fraud.
- 18) The torture (or twisting) of Laws is the worst kind of torture.
- 19) In order to rightly to comprehend a thing, it is necessary first to inquire into the names, for a right knowledge of things depends on the names.
- 20) We should follow our own rather than a foreign law.
- 21) When the words of an ordinance can be made true in their true signification, they out not be warped to a foreign meaning.

- 22) Common opinion is double: that proceeding from the grave and discreet men, which has much truth in it, and that proceeding from foolish vulgar men, without any semblance of truth in it.
- 23) If I conquer your conqueror, by so much more do I conquer you.
- 24) Reason in Law is the perfect equity.
- 25) Equity wishes the Plundered, the deceived, and the ruined, above all, to have restitution.
- 26) A concealed intention is an evil one.
- 27) Justice comes before Liberty.
- 28) Justice is to be denied to no one.
- 29) A person is guilty of barratry who sells Justice for money.
- 30) Too much subtlety in Law is condemned.
- 31) Right and Fraud never abide together. *Jus et fraus nunquam cohabitant*
- 32) The Law speaks to all with one mouth.
- 33) The Law helps those being deceived, not those deceiving.
- 34) The Law punishes falsehood.
- 35) An unjust Law is not a Law.
- 36) What is illegal out not be entered under the pretext of legality.
- 37) A special Law detracts from the general Law.
- 38) A precedent accomplishes nothing if it settles one dispute by raising another.
- 39) What I cannot do in person, I also cannot do through the agency of another.
- 40) What is proved by the record ought not be denied.
- 41) The Law does not command useless things, because useless labor is foolish.
- 42) The Law does not compel to impossible ends.
- 43) A judge is appointed for the peace of the People.
- 44) The remedy of the Law lies open to all within (subject to) the realm who ask for it.
- 45) The process of Law is a heavy hardship; the execution of the Law crowns (rewards) the work.
- 46) A judge who exceeds his office (or jurisdiction) is not obeyed.
- 47) Transactions between others can benefit, but should not injure, anyone who is not party to them.
- 48) He who acts under the Cloak of the Law, who acts unjustly, should bare double punishment.

- 49) The will and the purpose distinguish crimes.
- 50) The crime of treason exceeds all other crimes in punishment.

**Common Law Related Cases and Supporting NOIs**

- 51) Telford v. Sagewood HOA, No. E048483, Cal. App. 4th Dist., Nov. 16, 2010. (TDC)
- 52) U.S. v. Tweel, 550 F. 2d. 297, 299, 300 (1977)
- 53) Dr. A. M. deZayas, UN Memorandum, Feb. 25, 2018
- 54) In re Pieper's Estate, 224 C.A.2d 670, 37 Cal.Rptr. 46, 50. – *Black's Law Dictionary*, 5<sup>th</sup> Ed.
- 55) Powers v The Bank of New York Mellon Case: 19-55013 D.C. No: 8:17-cv-01386-DOC-KES, Ninth Circuit Court of Appeals.
- 56) Faith Brashear v. United States: Case # 1:18-cv-01052-MBH, in The US Court of Federal Claims.
- 57) Appellant incorporates the laws cited in whistleblowers' filings at [S001, S002, S003, S004, S005 (lost)] as though fully set forth herein.
- 58) Appellant incorporates the laws cited in the Petition for Remonstrance filings with this Appeals Court as though fully set forth herein.
- 59) Appellant incorporates the foreclosure laws and case law cited in the People v. Money, Big Business, Judicial Corruption and You, Mark Stopa, 2019.
- 60) Appellant incorporates the judicial corruption laws cited in the Licensed to Lie, Exposing Corruption in the Department of Justice, Sidney Powell, 2014.
- 61) American Insurance Co. v. 356 Bails of Cotton, 1 Pet. 511 (1828)
- 62) Baxter v. Palmigiano, 425 U.S. 308 (1976)

**Executive Orders**

- 63) POTUS D. Trump's Emergency Executive Order, No. 13818, Re: lawlessness: Serious Human Rights Abuse and Corruption, i.e. "domestic violence."

**VII. List of Errors, Due Process Violations, and Felonies Causing Domestic Violence from this Action. Whistleblowers, Material Witnesses and Other Parallel Cases Criminally Joined and Ripe for Grand Jury Investigation; and Presented as a True Bill**

- 1) The following is what has transpired in the lower tribunal in this matter and other criminally connected foreclosure actions through these "**Defective Practices**" which establish this "**Negative Nexus**" and each perpetrator's liabilities.

1. Violation of Oath of Office \$ 250,000. 18 USC 3571
2. Denied Proper Due Process \$ 250,000. 18 USC 3571
3. Denied Right of Reasonable Defense Arguments & Counter Claim \$ 250,000.
4. Plaintiff Withholding of Evidence from the Court (records) \$ 250,000. 18 USC 3571
5. Denied Right to Truth In Evidence \$ 250,000. 18 USC 3571
6. Slavery (Forced Compliance to contracts not held or rescinded) \$ 250,000. 18 USC 3571
7. Denied Provisions in the Constitution \$ 250,000. 18 USC 3571
8. Treason (combined above actions) \$ 250,000. 18 USC 3571
9. War Crimes and Genocide \$1,000,000 ea. 18 USC 1091
10. Conspiracy \$10,000. 18 USC 241
11. Deprivation of rights under color of law \$1,000 18 USC 242
12. Deprivation of relief benefits \$10,000 18 USC 246
13. Extortion \$ 5,000. 18 USC 872
14. Mail Threats \$ 5,000. 18 USC 876
15. Fraud \$ 10,000. 18 USC 1001
16. Falsification of Documents \$ 10,000. 18 USC 1001
17. Perjury \$ 2,000. 18 USC 1621
18. Subornation of Perjury \$ 2,000. 18 USC 1622
19. Grand Theft and Theft by Deception - each \$ 250,000. 18 USC 2112
20. To determine multiply no. of counts by damage 18 USC 3571
21. Collusion and Racketeering (Criminal) \$ 25,000. 18 USC 1963
22. Racketeering (Civil) \$25,000. 18 USC 1961, & Executive Order No. 12435
24. Criminal Manufacturing and Trafficking Securities 100% of each securities/bond's present value 18 USC § 1348
25. Violations of USA Constitution's Emoluments Clause 100% of each gift's value.
26. Breach Ethical and Fiduciary responsibility of officers of labor and law organizations \$10,000 29 U.S.C. § 501(a) and (c)
27. FILING OF FALSE CLAIMS – each \$ 250,000. 31 USC § 3729
28. Violations of EXECUTIVE ORDER 13891 Promoting the Rule of Law Through Improved Agency Guidance Documents, & 13892 Promoting the Rule of Law Through Transparency and Fairness in Civil Administrative Enforcement and Adjudication
29. Violations of 28 U.S.C. §§ 1608, 1330 [Qui Tam 31 U.S. Code, § 3730(b),(c)]

**VIII. Mysteriously Missing from the Record on Appeal is Material Witness and Whistleblower/Relator T. Bright's Writ of Qui Tam Filed Under Seal**

1. The incomplete Record on Appeal is missing vital evidence filed in the circuit court by clerk Byron Poy on October 8, 2019, titled Writ of Qui Tam. (Ex. 1). Absent this

filing Appellant cannot adequately complete his opening brief, as it exposes the Circuit Court's very limited venue and jurisdiction... if any.

2. However, a computer search shows Bright's same Qui Tam filing was also filed in parallel cases with the Circuit Court of the State of Hawaii on October 8, 2019. Case No. 16-1-0211 and Case No. CR 16-1-259. Thus, it is available in the public record; but still under seal. However, Appellant submits a supplemental attachment of one of the key exhibits from same as he has access to it.

3. The court has abused its discretion and gravely erred in keeping Bright's filing with exhibits from Appellant's and this court's preview in this matter on appeal.

4. This exhibit titled, **Who and What Exactly is the American BAR Association that is Operating and All Controlling in Hawaii?**, is the Native Hawaiians' Forensic Investigation of A.B.A.'s Historical Facts and Fictions. Putting this with the facts in the Petition for Remonstrance proves beyond a shadow of the doubt the virtual monopoly the A.B.A. and I.B.A. has on the United States of America's total justice system... one of the three pillars of the Republic operating in the Americas. Now that Beast of BABYLON THE GREAT has taken root in Hawai'i to keep the indigenous natives enslaved and paying all kinds of emoluments to feed the "Wizards of OZ."

5. Attached to this Exhibit are two (2) exhibits. One shows that the judge in this matter, Henry Nakamoto, tacitly admitted by Declaration to his lack of judicial authority and was obstructing justice.

Bright's evidence of criminality must be included with the other whistleblowers and brought before a grand jury for analysis and examination.

6. The court has abused its discretion and gravely erred in

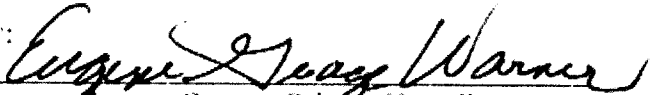
- a) trespassing on and violating Appellant's rights privacy and property; and
- b) violating the international peace treaties that he is protected under; and
- c) making Appellant a victim of "war crimes" on the scale of Nuremburg.

Note: Appellant reserves his right to amend or add to this his informal opening brief once the missing documents are found and made a part of the record.

////  
////

E:P

DATED: Hilo, Hawaii this 18th day of December, 2019

By:   
Warner, Eugene George, Private Hawaiian  
National, Beneficial Owner and 1<sup>st</sup> Lien Holder  
of WARNER, EUGENE GEORGE Estate  
d/b/a EUGENE GEORGE WARNER

Copied to:

- 1) House of Representatives  
Rep. Chris Toshiro Todd  
Hawaii State Capitol  
415 S. Beretania Street, Rm. 322  
Honolulu, Hawaii 96813
- 2) Senator Kaiuli I Kahele  
Hawaii State Capitol  
415 S. Beretania Street Rm 213  
Honolulu, Hawaii 96813
- 3) Office of the Governor  
Governor David Y. Ige  
Executive Chambers State Capitol  
Honolulu, Hawaii 96813
- 4) Dept. of the Attorney General  
Attorney Clare E. Connors  
425 Queen Street  
Honolulu, Hawaii 96813
- 5) Secret Service  
300 Ala Moana Blvd. #6210  
Honolulu, Hawaii 96850
- 7) The Honorable Lindsey Graham  
224 Dirksen Senate Office Building  
Washington, D.C. 20510
- 8) POTUS D. Trump  
c/o U.S. Department of Justice  
Attorney General William Barr, Rm. 4400  
950 Pennsylvania Avenue, NW  
Washington, D.C. 20530-0001

Exhibit: P2

Woe to them that call evil good, and good evil: that put darkness for light, and light for darkness.  
Isaiah 5:20

Aimed at restoring Hawai'i's sacred Aloha belief in Restorative Justice with its ageless Rule of Law; and obediently obeying Revelations 18:4's Prophetic Directive, "Come out of her (the Beast) My people...", we must humbly ask the question:

## **Who and What Exactly is the American Bar Association That is Operating in Hawaii?**

### **Native Hawaiians' Forensic Investigation of A.B.A.'s Historical Facts**

1. The **AMERICAN BAR ASSOCIATION**, the **INTERNATIONAL BAR ASSOCIATION**, and the **DEPARTMENT OF JUSTICE**, are commercial derivations & subsidiaries of the Crown Templar, or Temple Crown, whose Corporate Headquarters are located in the City of London, England.
2. In 2007, William C. Hubbard, Esquire, received the American Inns of Court Professionalism Award for the Fourth Circuit. In 2015, he was called to the bench as an Honorary Bench of the Middle Temple in London.
3. The A.B.A. was founded on August 21, 1878, in Saratoga Springs, New York, by 100 lawyers from 21 states. The I.B.A., established in 1947, now has over 55,000 individuals and 195 bar associations and law societies, and its organization continues to grow.
4. The first President of the **AMERICAN BAR ASSOCIATION** was it's inceptor, creator, and implementor, James O. Broadhead. Representatives of 34 national bar associations gathered in New York on 17 February 1947, to create the I.B.A. This was an act of sedition, treason and "Piracy on Land," pursuant to 18 USC § 1651-1661.
5. Initial membership was limited to bar associations and law societies, but in 1970, I.B.A. membership was opened to individual lawyers. Members of the legal profession including attorneys, solicitors, barristers, advocates, members of the judiciary, in house lawyers, academics and law students comprise the membership of the I.B.A.
6. James O. Brodhead violated the Original & Organic XIII Amendment of the Constitution of the pre-1871 Continental united States of America, when, in 1878, he was chosen president of the American Bar Association, which met at Saratoga, N.Y. In 1882, he was elected as the State's representative to the 48th Congress as a Democrat, and in 1885 was appointed by the government as special agent to make preliminary search of the record of the French archives in the matter of the French spoliation claims, making his report in October, 1885. He was U.S. minister to Switzerland, 1893-'97. It appears James O. Broadhead committed treason against the Continental United States government in forming the A.B.A. and becoming its first president.
7. James O. Broadhead's election and appointment were direct abrogations and usurpations of the 1803 Supreme Court ruling over **Marbury v. Madison**, wherein, John Marshal rendered a majority decision restricting Barristers & Esquires, and other holders of Titles of Nobility, from holding government or public offices,

Exhibit A, 12 pgs.  
2 Attachments  
3 pgs ea.

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and declared that, "*prescribing, giving, or taking such oaths of Office*", to these offices was "*a solemn mockery*" against the US Constitution, its people, and was "*equally a crime*." If this is a correct assessment of the foundation and legacy of Broadhead, it stands, then, that the **entire** concept, structural design, and the implementation of all contracts; i.e. "Electoral College," "Lifetime Judicial Appointments," "Copyrighted, Revenue-bearing Statutes, Codes, Rules, Ordinances," etc., created by the A.B.A. are fraudulent, malicious, egregious, & corrupt to A.B.A.'s core.

8. Mr. Broadhead's collation of 100 foreign agents ("attroeyes"), who, in-concert, collusion and conspiracy, created, with the encouragement, support, and aid and abetting of the Federal Reserve's Debt Banking System, the A.B.A.'s efforts were thus aimed to "federalize," "democratize," "incorporatize," "socialize" (encourage communism), "defraud," and therefore silently overthrow the righteous, original, genuine Constitutional government of the united States (and now Hawaii); and to subvert, to usurp, and to destroy the Unalienable and Natural Rights of "We the People..." established by their Nation's Founding Fathers; and First Nations Tribal families, who once resided and inhabited the undivided land. All well explained in: **The Spider's Web: Britain's Second Empire** (Documentary) - [https://www.youtube.com/watch?v=np\\_ylvc8Zj8&w=420&h=237](https://www.youtube.com/watch?v=np_ylvc8Zj8&w=420&h=237)

9. Is it **NOT** True, that "fraud vitiates all contracts," and that, all commercial contracts, including, but **not** limited to, **all** unlawful sentences and incarcerations of political prisoners (ie: imprisoned I.R.S. Lien Debtors, non-criminal offenders), wherein, such commercial contracts were all conceived in fraud, and lacking any moral & ethical character, are in direct conflict with Natural Law & Commercial Law, and thus, every A.B.A "contract" since 1882, whether verbal, or written, including, but not limited to all Judicial Oath's of Office, falsely sworn to, and fraudulently securitized, monetized, and commercialized, are Null & Void, ab initio?

10. The U.S.A.'s Founding Fathers established their Original & Organic Constitution under the "Land Jurisdiction," and **Not** the "Jurisdiction of the Sea," or "Holy SEE," with various "embargos" against acts of piracy, press-ganging, personage, slavery, barratry, and other notorious & potentially injurious foreign intrusions, including the Titles of Nobility Act, the XIII Amendment, Bills of Attainder, foreign emoluments clause<sup>2</sup> and other honorable acts and codifications of law that meant to insure the health, safety, and welfare of our government, our lands, and our People.

11. Question? Under what law form, or forms, was the A.B.A., the I.B.A., and their minions, able to subvert and usurp the "Land Jurisdiction" with the mere "presumption" of the "Jurisdiction of the Sea?" What is the nature, foundation and law of the forum now operating in occupied Hawaii?

12. The USA's enactment of the 1948 Administrative Procedure's Act following the

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<sup>2</sup> A single line of the U.S. Constitution guards against improper foreign influence on federal officeholders.



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Isaiah 5:20

A.B.A.'s 1947 BAR Treaty, created a multitude of quasi-government corporate agencies. Both efforts and Acts, further subverted all legitimate government agencies to bring them under the A.B.A.'s corporate judicial control & administration, thus destroying the organic Executive & Legislative branches of the people's government.

13. It is a well-documented fact, that the A.B.A., and the I.B.A. are, quite simply, "political organizations" with distinct corporate connections to all nations, and State BAR Associations, Inns of the Courts, and to Districts & Middle Inns made up of adjoining State BAR Associations, and that, in order to "*serve at the bench*," all judges, from a municipal "judge," to the "Justices" of the US Supreme Court, according to the Federal Civil Procedures Act, **MUST** be members of the BAR. Does this "interstate districting," and the "judicial mandating" for the seating of "judges," "justices," and "magistrates," not violate every Nation's/State's General Laws & Rights, abridge individual voter & election rights, abrogate both State & Federal Constitutions, and completely nullifies the A.B.A.'s, and the I.B.A.'s very own "articles of Incorporation," "Policies and Procedures," "Bylaws," and their own "Professional Rules of Conduct?"

14. Both the A.B.A., and I.B.A., market their wares & practices as "voluntary;" yet, in actual practice & execution, the A.B.A. and I.B.A., by all lawful and "legal" definitions, practice what can only be defined as a "MONOPOLY" over the entire International (including Hawaii) and United States Justice Systems. Also, the A.B.A. dominates the genuine three branches of Continental government of the united States.

Question: Are the requirements set forth in the F.C.P.A. (Foreign Corrupt Practices Act), not then, prima facie evidence of this criminal "MONOPOLIZING" of the Justice System? And further does it **NOT** in fact, encourage & promote the destabilization of the world governments, through judicial and military occupation (as in Hawaii), political lobbying, social & economic manipulation, and inciting civil protest and unrest?

15. **Licensed to Lie:** Powell, Sidney. Exposing Corruption in the Department of Justice, Brown Books Publishing Group. ISBN: 978-1-61254-191-4; further evidences with explicit annotations numerous treasons acts by A.B.A. members. The title itself is a horrendous indictment of criminal acts and ethics violations. It exposes how the letter of the law and semantics "legal-eze" are used to twist words and their meanings so as to play in the cracks and gray areas of statutes called "loopholes vile." In organic "in law" practices, as in Hawaii of old, it is the Spirit of the law that reigns supreme and always *trumps* the letter of the law. This is summed up in Galatians 5:13-14, and is referred to as the "royal law." **Question:** Why are ABA and IBA members not required to have a professional license to practice law, as do doctors, teachers, realtors, etc?

16. Further, take judicial notice, it is a fact the A.B.A.'s private tribunals charge a fee/tax to exercise one's sovereign right to justice. This is yet another telling evidence they are not an organic tribunal of original venue and jurisdiction. Since when and why are the Bill of Rights safeguarded people charged fees or a tax for exercising a right?

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17. **Obstruction of Justice** to Destroy WORLD PEACE and jurisdiction/venue boundaries raises the specter of unlawful Venue and Jurisdictional Trespass on long standing international peace treaties. Hawaii stands as a prime example of this fact. Jurisdictional trespass by corporate, US domestic law, A.B.A. private courts on the independent self-governance of the Hawaiian Nation (internationally recognized as still in existence). (See Memorandum of Law from the United Nations Human Rights Council at: [https://hawaiiankingdom.org/pdf/Dr\\_deZayas\\_Memo\\_2\\_25\\_2018.pdf](https://hawaiiankingdom.org/pdf/Dr_deZayas_Memo_2_25_2018.pdf)). It clearly states: 1) Hawaii is under illegal occupation; 2) that the US Inc. is violating all international peace treaties (their highest laws), including using US domestic laws; 3) obstructing justice and international peace by holding frivolous, illegal court proceedings on Hawaii's Islands to: a) subjugate and pressgang into involuntary servitude its indigenous, defenseless people; and b) pilfer and usufruct their resources.

When a peace treaty is signed and ratified it then supersedes any and all local codes, laws & statutes; thus, rendering them null and void. This is 'fact' which is bound in the written word of international law; and is not in question.

The incorporated State of Hawaii, Inc.'s hybrid, administrative tribunals now operating in Hawaii are not even unconstitutional on their own U.S. soil. There are **NO Judicial Courts** in America and have not been since 1789. Judges do not enforce Statutes and Codes. Executive Administrators enforce Statutes and Codes. (FRC v. GE 281 US 464; Keller v. PE 261 US 428, 1 Stat 138-178). A fraudulent, alternative system of justice took root in Roosevelt's big government New Deal. See Judge Rules Administrative Court System Illegal After 81 Years - Armstrong Economics (link)

Therefore, the minions of the A.B.A./BAR have discovered that yes, indeed, they have no basis to be in Hawaii's court buildings, nor in the USA's for that matter. It turns out that they well know, that all the people that they have been persecuting and prosecuting are their Creditors. The US BAR's A.B.A. operated private, hybrid "military styled" tribunals that now function in Hawaii are frivolous to say the least.

18. The movie documentary titled SPOTLIGHT further exposes the A.B.A.'s obstruction of justice in their helping to protect and cover up a child molesting, child trafficking, pedophile ring composed of 80% of the Catholic Priests operating in Boston, N.Y. *And they have cast lots for my people; and have given a boy for a harlot, and sold a girl for wine, that they might drink.* Book of Joel 3:3

19. Further we have found a whistleblower, employee, "robo-signer" at the "Licensed to Lie" law firm of McCarthy & Holthus in California describes her employer's "foreclosure mill" workings of paying her to forge titles to property/homes that would be fraudulently presented in court foreclosure actions to obstruct justice. (video link) \_\_\_\_\_

20. Despite the fact that MONOPOLIES and other antitrust R.I.C.O. activities are both unlawful and "illegal" on the Land, the A.B.A. and the I.B.A. knowingly and willingly operate in Ultra Vires, and with total disregard and disdain of human rights guaranteed

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by the Universal Declaration of Human Rights, and the many safeguards built into its State & Federal Constitutions. These safeguards are built into any number of Hawaii's Maxims of Law and U.S.A.'s Constitutionally derived laws, including 15 USC 1 & 2, which state very clearly & unambiguously the penalties for operating in such a way:

**15 U.S. Code§ 1 - Trusts, etc., in restraint of trade illegal; penalty;**

*"Every contract, combination in the form of trust or otherwise, or conspiracy in restraint of trade or commerce among the several States, or with foreign nations, is declared to be illegal. Every person who shall make any contract or engage in any combination or conspiracy hereby declared to be illegal shall be deemed guilty of a felony, and, on conviction thereof, shall be punished by fine not exceeding \$100,000,000 if a corporation, or, if any other person, \$1,000,000, or by imprisonment not exceeding 10 years, or by both said punishments...*

**15 U.S. Code§ 2 - Monopolizing trade a felony; penalty, which states;**

*"Every person who shall monopolize, or attempt to monopolize, or combine or conspire with any other person or persons, to monopolize any part of the trade or commerce among the several States, or with foreign nations shall be deemed guilty of a felony, and, on conviction thereof, shall be punished by fine not exceeding \$100,000,000 if a corporation, or, if any other person, \$1,000,000, or by imprisonment not exceeding 10 years, or by both..."*

21. The attached, not responded to Declaration, further unequivocally proves the aforesaid is in fact both true and correct... that money talks louder than social justice.

**Conclusion:**

The conclusion drawn by Hawaiians domiciled without the U.S. (but under its control) is that the united States/U.S.A. Republic has been usurped by pirates... a foreign trade union and its bosses founded by the Crown Templar of London, England, called the B.A.R.'s A.B.A. who have total control of all three branches of its government. The Republic's D.C. Center is rightfully referred to by the present POTUS as a "swamp" run by the deep state, i.e. a "shadow government." That being an army (Revelations 19:19; 13:17)... an illegally organized attorneys' union shop carrying union BAR cards. In the U.S. and now Hawai'i they have incorporated all governments and their agencies, complete with DUNN numbers, to create and cloak their legal fictions run by a ruling class elite.

Hawaiians are crime victims of the above described privately operated tribunals that could care less about facts or law and justice. The incorporated dead THING they list as DEFENDANT is their manufactured THING that is already declared guilty as "charged." Their goal is to collect money and assets from the THING.

In the Spirit of Aloha our hearts go out to our brothers of North America who must exist under socialism's evils; and we pray to Akua, Creator, for your freedoms to be returned so that He may heal your sacred aina and ours. That the foregoing may help America come out of the land of unbelief and once again step into the peaceful land of the Living! Like Hitler's Poland, who endured the world's most horrific genocide, we in Hawai'i await for truth and justice to prevail once again in our aina. All the above evidence of violations of peace treaties have, with malice and forethought, been forced by U.S.

CORP's military machine onto our Hawai'i... its race, sacred creed and land by the above described perpetrators without provocation. The beastly, socialist pirates (Rev. 13:1) are slowly and stealthily achieving their desired end goal of pillaging and ethnic cleansing.

Although a much needed, more through forensic investigation of the A.B.A. and I.B.A. union, brotherhood would likely turn up even more evidence of their ongoing, wrongful, human right violations and corruption in North America, (see - <http://gloog.us/wordpress/2014/01/27/the-rest-of-the-story/>) not to mention their acts of piracy in Hawaii and other foreign national venues... Further, deeper investigation would likely class the "unregistered foreign agents" of the BAR as a socialist terrorist front organization.

But given alone the incredible and irrefutable weight and preponderance of the above-mentioned evidence, the private courts owned and administered by the A.B.A., the I.B.A. and the D.O.J. **MUST** find themselves today "guilty-as-charged" and **MUST** therefore, under their own revenue bearing, statutory laws convict themselves, less they be totally void of Human Morality, Ethics, Honor, or Character.

The Trillions of dollars stolen form the Hawaiian Nation and its people returned; and the loses of lives compensated for.

This is a request and demand by private Hawaiian Nationals, as claimants under our sacred and true spirit of aloha, for whistleblowers to come forth in truth, in good faith and conscience with written evidence, confessions and/or admissions. Evidence offered in the Spirit of a humble plea bargain it might limit fairly one's culpability in an ominous and dire situation such as this... one akin to the Nuremburg War Crimes Trials following the atrocities of WWII.

Know that in Hawaii under our Creator God and His sacred laws of Al-oha, words have meaning and actions have consequences.

This research and memorandum are presented in good faith by members in good standing of:

## Hawai'i Aina Pae Ko E Manao Io

Date: September 20, 2019



Justice Eugene Thomas Warner

85 - 1545 Hale Ahi Rd

Waianae Hawaii 96797

Justice Eugene Thomas Warner

E: P2

Hawaii state, )  
 ) ss  
Hawaii county )

DECLARATION

Warner, Eugene George, your Declarant, being over the age of majority, competent to testify, and having firsthand knowledge of the subject matter, states the following is true and correct.

1. Declarant is the beneficiary of the EUGENE GEORGE WARNER *Cestui Que Trust/Estate*, which entity is the named defendant in CIRCUIT COURT OF THE THIRD CIRCUIT, HILO DIVISION, STATE OF HAWAII Case No. 17-1-0164, wherein Declarant is being fraudulently held as the Surety/defendant in error.
2. Henry T. Nakamoto is the judge presiding over the above-named case. He has an Oath of Office to support the constitutions and the laws of the State of Hawaii and the United States.
3. Declarant has assigned the reversionary interest in this case to the United States Treasury pursuant to 12 USC 95a(2), and pursuant to that law, all further obligations are now fully acquitted and discharged. Refusal of the judge to discharge and dismiss the case, puts the judge in insurrection and rebellion to the laws of the United States.
4. Failure of Henry T. Nakamoto to uphold and obey the laws of the United States is insurrection and rebellion against the United States, and violates his Oaths to the constitutions and the laws.
5. By ignoring a Mandatory Judicial Notice regarding the laws to which he is subject, and by failing to subrogate and exonerate Declarant, and by failing to dismiss the case, Henry T. Nakamoto is in rebellion (18 USC 2383) to 12 USC 95a(2), he is violating 15 USC 1 impediments of contract and Lieber Code Art. 46 interference with the proper administration of government. He is in violation of 62 Stat 696 (18 USC 242) by violating Declarant's Rights.
6. Henry T. Nakamoto knows the above-named court is a legislative/administrative court which does not have the judicial authority to fine or imprison anyone, therefore, he has no authority to impose a monetary judgment or take my property, and he is knowingly, willingly and intentionally, and in conspiracy with the plaintiff's attorney, committing fraud upon the court, violating rights in violation of 18 USC 241 and 18 USC 1581, 1583, 1584.
7. Legislative courts cannot assume or presume to perform Article III type judicial duties. Legislative courts can be identified by the fact they enforce statutes against artificial entities, not the common law to which all People are constitutionally entitled. Legislative courts can only perform those duties which are conferred by the Article under which they were created, and Article III type courts (states have different articles, but all constitutions identify the constitutional court) can only perform those duties granted under the state Article which created the constitutional judicial power. Only Article III type constitutional judicial courts have a criminal jurisdiction, which is exercised via common law, and can fine or imprison. There are no Article III type constitutional judicial courts in the states, and all U. S. District Courts outside of Washington, D.C. are Article I legislative courts.
8. It is a "... settled principle that where a controversy is of such a character as to require the exercise of the judicial power defined by Art. 3, jurisdiction thereof can be conferred only on courts established in virtue of that article, and that Congress is without power to vest that judicial power in any other judicial tribunal, or, of course, in an executive officer, or administrative or executive board, since, to repeat the language of Chief Justice Marshall in *American Ins. Co. v. 356 Bales of Cotton*, 1 Pet. 511, 7 L.Ed. 243, supra, 'they are incapable of receiving it.'"
9. A legislative/administrative court only has authority to report to the legislature/congress.
10. Henry T. Nakamoto knows the People are guaranteed the Right to the Common Law, yet he has denied Declarant the Right to the Common Law by denying the Right to a constitutional court of common law.
11. Henry T. Nakamoto knows or should know when he is enforcing statutes, he is operating in a court of limited jurisdiction (no authority to fine or imprison) and is acting in a ministerial capacity and has no judicial immunity.
12. Henry T. Nakamoto is operating outside his Constitutional authority, as a renegade, a thug and



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- opening himself to personal liability and personal suit, and committing war against the Constitutions. *US v Lanier* (a judge), *Harlow v. Fitzgerald*, *Malley v Briggs*.
13. Henry T. Nakamoto is not working for a judicial court, he/she is working for a private, for-profit, corporation, listed on Dun & Bradstreet, having EINs, DUNS numbers and CAGE Codes (Commercial and Government Entity number issued by the Defense Logistics Information Service of the Department of Defense), and they are operating in commerce, for profit. The court receives an income stream from every case, which is a huge conflict.
  14. Declarant is not subject to corporations. and no judge. working as a corporate officer. has any jurisdiction over living people who are not employees of said corporation. Henry T. Nakamoto is usurping a jurisdiction he does not have when he attempts to subject living people to a jurisdiction which is designed solely for artificial entities, government agencies and employees.
  15. *Scheur v. Rhodes*, 416 U.S. 232, 94 S. Ct. 1683, 1687 (1974): "when a state officer acts under a state law in a manner violative of the Federal Constitution, he comes into conflict with the superior authority of that Constitution, and he is in that case stripped of his official or representative character and is subjected in his person to the consequences of his individual conduct. The State has no power to impart to him any immunity from responsibility to the supreme authority of the United States."
  16. Declarant is a living soul, not an artificial entity, yet the codes under which Declarant is/was being judged are applicable only to artificial entities, therefore Henry T. Nakamoto is misapplying the codes, knowingly lacks subject matter jurisdiction, and has intentionally and willingly proceeded without subject matter jurisdiction.
  17. Henry T. Nakamoto has violated Declarant's Rights, violated his own Oath of Office, proceeded without jurisdiction, and is in insurrection and rebellion to the laws of the United States.
  18. Declarant hereby makes claim to Henry T. Nakamoto's Oath of Office and everything attached thereto, meaning the bond(s) under which he works, in the amount of \$100,000,000.
  19. Judge Henry T. Nakamoto has ten (10) days to rebut this Declaration with evidence attached. Failure to do so will comprise his agreement that he has violated his Oath of Office.

Further Declarant saith naught.

**VERIFICATION**

I state, pursuant to the laws of God which forbid lying, but also forbid the making of an oath, that the foregoing statements are true, correct and complete, in good faith and not meant to harass.

DATED this 11th day of March, 2019.

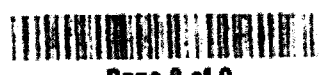
By ... Warner Eugene George non-negotiable autograph  
 ... Warner, Eugene George, non-negotiable autograph  
 Private American National; agent without recourse, heir/beneficiary to  
 "EUGENE GEORGE WARNER *cestui que trust*,"  
 c/o 355 Kalaniana'ole Ave. # 306  
 Hilo, Hawaii Zip code excepted

**QUORUM OF WITNESSES**

Sworn to (or affirmed) and Subscribed before me this 11th day of March, 2019

Elizabeth Emi Berdeck Elizabeth Emi Berdeck  
 Witness Signature Print witness name and location

Ngina B Berdeck Ngina B Berdeck  
 Witness Signature Print witness name and location



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State of Hawai'i  
Oath of Office

State of Hawai'i

County of Hawai'i

} ss.

I, Henry T. Nakamoto, do solemnly swear that I will support and defend the Constitution of the United States, and the Constitution of the State of Hawai'i, and that I will faithfully discharge my duties as judge of the Circuit Court of the Third Circuit of the State of Hawai'i to the best of my ability.

*Henry T. Nakamoto*

Henry T. Nakamoto

Subscribed and sworn to before me this 30th day of October, A.D. 2017.

Effective: October 30, 2017

*Mark E. Rockswold*

Chief Justice Mark E. Rockswold  
Supreme Court of the State of Hawai'i

I hereby certify that the foregoing is a true copy of the original  
Dated, Honolulu, Hawai'i

MAR 06 2019

*[Signature]*  
Clerk, Appellate Courts  
State of Hawai'i



E: P2

Hawaii state )  
 ) ss  
 Hawaii county )

**DECLARATION**

Bendeck, Lizabeth Emi, your Declarant, being over the age of majority, competent to testify, and having firsthand knowledge of the subject matter, states the following is true and correct.

1. Declarant is the beneficiary of the **LIZABETH EMI BENDECK Cestui Que Trust/Estate**, which entity is the named defendant in Circuit Court for the Third Circuit of Hawaii, Case No. 16-1-0211, wherein Declarant is being fraudulently held as the Surety/defendant in error, subject to foreclosure.
2. Greg K. Nakamura is the judge presiding over the above-named case. He has an Oath of Office to support the constitutions and the laws of the State of Hawaii and the United States.
3. Declarant put in a Motion for Subrogation and Exoneration, the debt having been paid by the United States Treasury via the **LIZABETH EMI BENDECK Cestui Que Trust/Estate**. Greg K. Nakamura denied the motion.
4. Greg K. Nakamura denied the motion, even though said judge is bound by his Oath to support and uphold the laws of the United States, and therefore, has no discretion to deny said motion.
5. Failure of Greg K. Nakamura to uphold and obey the laws of the United States is insurrection and rebellion against the United States, and violates his Oaths to the constitutions and the laws.
6. Greg K. Nakamura is in rebellion (18 USC 2383) to 12 USC 95a(2), he is violating 15 USC 1 impediments of contract and Lieber Code Art. 45 interference with the proper administration of government. He is in violation of 62 Stat 696 (18 USC 242) by violating Declarant's Rights.
7. Greg K. Nakamura knows the above-named court is a legislative/administrative court which does not have the judicial authority to fine or imprison anyone, therefore, he has no authority to impose a monetary judgment or take my property, and he is knowingly, willingly and intentionally, and in conspiracy with the plaintiff's attorney, committing fraud upon the court, violating rights in violation of 18 USC 241 and 18 USC 1581, 1583, 1584.
8. Legislative courts cannot assume or presume to perform Article III type judicial duties. Legislative courts can be identified by the fact they enforce statutes against artificial entities, not the common law to which all People are constitutionally entitled. Legislative courts can only perform those duties which are conferred by the Article under which they were created, and Article III type courts (states have different articles, but all constitutions identify the constitutional court) can only perform those duties granted under the state Article which created the constitutional judicial power. Only Article III type constitutional judicial courts have a criminal jurisdiction, which is exercised via common law, and can fine or imprison. There are no Article III type constitutional judicial courts in the states, and all U. S. District Courts outside of Washington, D.C. are Article I legislative courts.
9. It is a well settled principle that where a controversy is of such a character as to require the exercise of the judicial power defined by Art. 3, jurisdiction thereof can be conferred only on courts established in virtue of that article, and that Congress is without power to vest that judicial power in any other judicial tribunal, or, of course, in an executive officer, or administrative or executive board, since, to repeat the language of Chief Justice Marshall in *American Ins. Co. v. 356 Bales of Cotton*, 1 Pet. 511, 7 L.Ed. 243, supra, **"they are incapable of receiving it."**
10. A legislative administrative court only has authority to report to the legislature/congress.
11. Greg K. Nakamura knows the People are guaranteed the Right to the Common Law, yet he has denied Declarant the Right to the Common Law by denying the Right to a constitutional court of common law.
12. Greg K. Nakamura knows or should know when he is enforcing statutes, he is operating in a court of limited jurisdiction (no authority to fine or imprison) and is acting in a ministerial capacity and has no judicial immunity.
13. Greg K. Nakamura is operating outside his Constitutional authority, as a renegade, a thug and opening himself to personal liability and personal suit, and committing war against the Constitutions. *US v Lanier* (a judge), *Harlow v. Fitzgerald*, *Malley v Briggs*.
14. Greg K. Nakamura is not working for a judicial court, he is working for a private, for-profit, corporation, listed on Dun & Bradstreet, having EINs, DUNS numbers and CAGE Codes

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(Commercial and Government Entity number issued by the Defense Logistics Information Service of the Department of Defense), and they are operating in commerce, for profit. The court receives an income stream from every case, which is a huge conflict of interest.

- 15. Declarant is not subject to corporations, and no judge, working as a corporate officer, has any jurisdiction over living people who are not employees of said corporation. Greg K. Nakamura is usurping a jurisdiction he does not have when he attempts to subject living people to a jurisdiction which is designed solely for artificial entities, government agencies and employees.
- 16. *Scheur v. Rhodes*, 416 U.S. 232, 94 S. Ct. 1683, 1687 (1974): "when a state officer acts under a state law in a manner violative of the Federal Constitution, he comes into conflict with the superior authority of that Constitution, and he is in that case stripped of his official or representative character and is subjected in his person to the consequences of his individual conduct. The State has no power to impart to him any immunity from responsibility to the supreme authority of the United States."
- 17. Declarant is a living soul, not an artificial entity, yet the codes under which Declarant is being subjected are applicable only to artificial entities, therefore Greg K. Nakamura is misapplying the codes, knowingly lacks subject matter jurisdiction, and has intentionally and willingly proceeded without subject matter jurisdiction.
- 18. Greg K. Nakamura has violated Declarant's Rights, violated his own Oath of Office, proceeded without jurisdiction, and is in insurrection and rebellion to the laws of the United States.
- 19. Declarant hereby makes claim to Greg K. Nakamura's Oath of Office and everything attached thereto, meaning the bond(s) under which he works, in the amount of \$100,000,000.
- 20. Greg K. Nakamura has ten (10) days to rebut this Declaration with evidence attached. Failure to do is will comprise his agreement that he has violated his Oath of Office.

Further Declarant saith naught.

**VERIFICATION**

I state, pursuant to the laws of God which forbid lying, but also forbid the making of an oath, that the foregoing statements are true, correct and complete, in good faith and not meant to harass.

DATED this 11 day of March, 2019

By ... *Lizabeth Emi Bendeck*, non-negotiable autograph  
 ... Bendeck, Lizabeth Emi, non-negotiable autograph  
 Private American National; agent without recourse, heir/beneficiary to  
 "LIZABETH EMI BENDECK *cestui que trust*."  
 c/o 43 Palakana Street  
 Hilo, Hawaii Zip code excepted

**QUORUM OF WITNESSES**

Sworn to (or affirmed) and Subscribed before me this 11th day of March, 2019

*Eugene George Warner*  
 Witness Signature

*Eugene George Warner*  
 Print witness name and location

*Waziri G Bendeck*  
 Witness Signature

*Waziri G Bendeck*  
 Print witness name and location

E:pa

*State of Hawai'i*  
*Oath of Office*

*State of Hawai'i*

} ss.

*County of Hawaii*

*I, Greg K. Nakamura, do solemnly swear that I will support and defend the Constitution of the United States, and the Constitution of the State of Hawai'i, and that I will faithfully discharge my duties as judge of the Circuit Court of the Third Circuit of the State of Hawai'i to the best of my ability.*

  
\_\_\_\_\_  
*Greg K. Nakamura*

*Subscribed and sworn to before me this*  
3 *day of April, A.D. 2014.*

*Effective: April 18, 2014*



\_\_\_\_\_  
*Honorable Ronald Ibarra*  
*Chief Judge*

*I hereby certify that the foregoing is a true copy of the original*  
*Dated, Honolulu, Hawaii*  
MAR 06 2014

  
\_\_\_\_\_  
*Clerk, Appellate Courts*  
*State of Hawai'i*

*E:Pa.*

**Your CUSIP Results are as follows:**

**EUGENE WARNER (CC 17-1-0164)**

**Fidelity Advisor Balanced T Fund**

Symbol: FAIGX

CUSIP: 315807404

Inception Date: 1/6/1987

Net Assets: \$2,821,000,000.00 as of  
10/30/2017

Portfolio Assets: \$2,821,000,000.00 as of  
10/30/2017

Exhibit: Q

**A little about the Fund:**

The investment seeks income and capital growth. The fund normally invests at least 60% of assets in equities including the lower-quality debt securities, and the remaining assets in fixed-income securities. It usually invests at least 25% of assets in fixed-income senior securities. The fund may invest in foreign securities.



Eugene George Warner, Counter Claimant

**EXHIBIT: R**

c/o 355 Kalaniana'ole Ave. # 306  
Hilo, Hawaii  
816-714-0418

**Appellant Case: 19-55013 D.C.**

From Case No: 8:17-cv-01386-DOC-KES

**The United States Court of Appeals for the Ninth District**

P.O. Box 193939 San Francisco, California 94119-3939

**911 WRIT of QUI TAM  
FILED UNDER SEAL**

**Supplemental  
Obstruction of Justice  
Evidence of Unlawful Witness and Evidence Tampering  
By Eugene George Warner, Qui Tam Relator**

**Total Pages: 11**

**Note:** After stamping received on all documents, including any evidence exhibits, within two weeks, send filed stamped originals or certified true and correct copies back, under seal, to relator at above address and inform relator the name of the standing federal, grand jury foreman or lead party assigned that can be held accountable for initiating under seal the required Writ of Qui Tam investigation into whistleblower's claims and evidence of corruption, i.e. financial crimes and criminal acts.

Exhibit: R

**Warner: Eugene-George**, a private Hawaiian National man  
c/o 555 Kalaniana'ole Ave. # 306, Hilo, Hawaii  
816-714-0418

**911 WRIT OF QUI TAM UNDER COMMON LAW  
IN EQUITY**

EXPOSING THE FILING OF FALSE CLAIMS; KNOWINGLY FILING AND THUS  
EXPOSING SEALED DOCUMENTS INTO AN OPEN COURT,  
THUS INITIATING OBSTRUCTION OF JUSTICE AND FRAUD UPON A COURT

To: The United States Court of Appeals for the Ninth District      Date: Oct. 18, 2019  
P.O. Box 193939 San Francisco, California 94119-3939

Re: Evidence of Unlawful Witness and Evidence Tampering in Powers v The Bank of  
New York Mellon Billie Rene' Frances Lillian Powers, Pro Per **Appellant Case: 19-  
55013 D.C.** - Re: No: 8:17-cv-01386-DOC-KES

AND

To: The US Court of Federal Claims, 717 Madison Pl NW, Washington, DC 20005

Re: Evidence of Unlawful Witness and Evidence Tampering in Faith Brashear v. United  
States, Case# 1:18-cv-01052-MBH,

**DEFINITION of TERMS**

*In a Godly democratic Republic words have meaning and actions have consequences.*

**Writ:** an order or mandatory process in writing issued in the name of the sovereign or  
judicial officer commanding the person to whom it is directed to perform

**Writ of Qui Tam:** Biblical Common Law Writ for exposing false claims, 'every matter  
may be established by the testimony of two or three witnesses.' Mathew 18:16;  
and "...that I should bear witness to the truth." John 18:37

**Obstruction of Justice:** the crime or act of willfully interfering with the process of  
justice and law especially by influencing, threatening, harming, or impeding a  
witness, potential witness, juror, or judicial or legal officer or by furnishing false  
information in or otherwise impeding an investigation or legal process

**SUBVERSION:** Treasonous behavior that seeks to subvert, overthrow or destroy a  
lawfully constituted government; and attempt to transform established law and  
order... and its structures of power, authority and hierarchy.

**Treason:** the crime of betraying one's country, especially by attempting to kill the sovereigns or overthrow their lawful right and authority to commonwealth.

**Emoluments:** the treasonous act of selling a public office. A single line of the u.S. Constitution guards against improper foreign influence on federal officeholders.

**Collateralization:** pledging someone as security (press-ganging, enslaving) for repayment of a loan, to be forfeited in the event of a default

**Impersonation:** an imposture masquerading, cloaked, pretending to be a fiduciary, public servant for purposes of deception, entrapment, fraud and/or emolument.

**Ethical Conduct:** is fundamental to the legitimacy of democratic governance; Ensures private and public confidence in the integrity of their elected fiduciaries governing as public servants/fiduciaries. Complies with Galatians 5:13-14.

**Felony Misprision:** deliberate concealment of one's knowledge of a treasonable act

**Malfeasance:** the commission of wrongdoing, especially by a public servant/official

**Contrived:** obviously planned, having an unnatural or false appearance or quality: counterfeit, forged, put-on, pretended, false, feigned, manufactured, unnatural; forced; artificial; strained:

**Frivolous:** Lacking in substance or relevance, the act of creating a deceptive "smoke screen" to hide one's wrongful misleading and irrelevant acts; something created out of "thin air" impersonating or posing as being real, a fiction or fiction of law.

**Fraud:** wrongful or criminal deception intended to result in financial or personal gain. "Silence can only be equated with fraud when there is a legal or moral duty to speak or an inquiry left unanswered would be intentionally misleading." US v. Twill 550 Fed 2d 297,299,300,

"Once a fraud always a fraud." 13 Vin. Abr.539; "Things invalid in the beginning cannot be made valid by a subsequent act." Trayner, Max. 482. Maxims of Law, Black's Law Dictionary 9<sup>th</sup> Edit., pg. 1862; "A thing void in the beginning does not become valid by the lapse of time." 1 S. & R. 58. Maxims of Law, Black's Law Dictionary 9<sup>th</sup> Edit., pg. 1866;

**Equity Extortion:** a fraud by gaining of property or money by color of official right by a public official is distinct from any kind of force or threat of violence.

**Creditor:** Land owner and all of his physical substance and intellectual assets

**Deceleration:** in commerce truth expressed in the form of a declaration or affidavit is sovereign – Exodus 20:16; Jn. 8:32; Levit. 5:4-5, 6:3-5, 19:11-13; Matt. 5:33; James 5:12

E: R

**Judicial Notice of Qui Tam Witness by  
DECLARATION**

**NOW COMES** Eugene-George of the family of Warner, 1) a Private Hawaiian National, 2) a sovereign royal and one of many principal creditors, 3) a *qui tam* relator<sup>1</sup>, “whistle-blower,” 4) a victim and 5) claimant of the same criminal elements this instant action is bound to review, investigate, uncover and expose, and 6) a peace-loving friend (one of many) of this honorable, entrusted fiduciary<sup>2</sup>, *de jure* court. The undersigned is relating herein pertinent, firsthand knowledge and evidence witness tampering and evidence tampering to contrive false claims with intent to conceal subversion, fiduciary fraud upon a court and theft of private property. I am relating herein pertinent, firsthand knowledge and evidence of Crimes Against Humanity involving human rights abuses and corruption to protect all my equity from equity extortion and my and my family’s honor from any felony misprision. (U.S. Inc. Code, Title 18 § 3 and 4)

As a whistleblower my true freeman status is in keeping with: 1) the False Claims Act; 2) My *qui tam* relator’s obligations in support of POTUS D. Trump’s December 21, 2017, Emergency Executive Order, No. 13818, Re: Lawlessness: *Serious Human Rights Abuse and Corruption* currently taking place domestically and internationally; and 3) POTUS Donald Trump’s Task Force on Consumer Fraud. I believe the evidence presented herein plus your investigation of numerous violations of fiduciary duty and moral, ethical behavior will expose gross lawlessness, including but not limited to: gross felony misprision, gross ethical misconduct, fraud upon the court, deceit, attempted equity extortion, collusion, trespass, mail fraud, wire fraud, frivolous evil behaviors by sworn fiduciaries and malfeasance.

**JUDICIAL TRESPASS AND FRAUD  
and  
THE FRUIT OF THE POISONED TREE DOCTRINE<sup>3</sup>**

Exhibit A clearly shows Appellee, a fiduciary Home Owners Association (HOA), egregiously uses sealed court documents to file their contrived, false claim into a public

---

<sup>1</sup> **Qui Tam Relator:** The False Claims Act *qui tam* provision is one of the strongest **whistle-blower** protection laws in the United States. In common law, a writ of *qui tam* is a writ whereby a private individual who assists a prosecution can receive all or part of any penalty imposed.

<sup>2</sup> **Fiduciary:** trust relationship, “a homeowners’ association is not relieved “from liability for breach of its fiduciary duties because it occupied a particularly elevated position of trust’ due to its **quasi-governmental status** and ‘the many interests it monitors and services it performs.’”. *Telford v. Sagewood HOA*, No. EO48483, Cal. App. 4th Dist., Nov. 16, 2010.

<sup>3</sup> **Fruit of the Poisonous Tree:** is a legal metaphor in the United States used to describe evidence that is obtained illegally. The logic of the terminology is that if the source of the evidence or evidence itself is tainted, then anything gained from it is tainted as well.

court record to spoof the court; and thus bring its fraud upon the court. The first and second paragraph (Exhibit A, pg. 5) undeniably, clearly states the top-secret, secure and sensitive nature of the whistleblower's (in the nature of Writ of Qui Tam) pleadings and evidentiary documents to be filed under SEAL, as well as their purpose. The words "whistleblower" and "Qui Tam" are clear and visible. Exposing sealed, evidentiary documents poisons the fruit of the tree; and goes way beyond barratry, ethical conduct and twisting of the truth and borders on treason, as now Appellant's sealed documents, along with its sealed evidence and private, informational documents, are now carelessly placed and unguarded in open court to the public view for all to see. If Appellant were a woman, this would be the same as lifting up my skirt to cause duress, to coerce and threaten my person. This unspeakable, intimidating act places the honorable, responsible whistleblower: 1) in harm's way; 2) in grave danger of retribution for stepping forward, 3) makes whistleblower a target; and 4) discourages him/her and any others from coming forth with their similar evidence of false claims.

Due to lawlessness, the long standing and recognized purpose, security and honor of the ancient Writ of Qui Tam's process<sup>4</sup> has been irreparably breached and dishonored. I am amazed that the Hawaii Intermediate Court of Appeals' Clerk, after receiving the undersigned's filed Qui Tam Exhibits from HOA, did not immediately seal Appellant's now infected case file and have all perpetrators and their principals immediately arrested.

Defendant's, now Appellant, ability to now move the reality and integrity of this case forward is undeniably poisoned, if not destroyed, as well as the Federal Circuit and Claims Courts' now compromised ability to do its independent Writ of Qui Tam investigation that is exposed and no longer under seal. All Writ of Qui Tam filings' document must be immediately sealed from public view and plaintiff ordered to divulge how they were obtained and return all files in his possession to the federal Court of Claims and Ninth Circuit Court of Appeals under properly verified seal. This would serve in showing the court and its clerk's good faith and due diligence; and serve to protect the dignity of the court and its officers from also being charged with "obstruction of justice."<sup>5</sup>

Federal Court Judge Carter, in the case from which this appeal came, like wise obstructed justice when he ordered the clerk to dispose of this whistleblower's evidence filed under seal along with the evidence submitted by other parties of interest/whistleblowers.

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<sup>4</sup> **Qui Tam Process:** an ancient lawful device meaning in Latin "he who brings a case on behalf of our lord the King, as well as for himself". This process allows a private person, known as a "relator," to bring a lawsuit on behalf of his nation or commonwealth, where the private wo/man has information that the named perpetrator(s) has knowingly submitted or caused the submission of false or fraudulent claims.

<sup>5</sup> **Obstruction of Justice:** the crime or act of willfully interfering with the process of justice and law especially by influencing, threatening, harming, or impeding a witness, potential witness, juror, or judicial or legal officer or by furnishing false information in or otherwise impeding an investigation or legal process.



## SUMMARY

The tremendous, egregious moral, ethical<sup>6</sup> and legal question now is: How was the Appellee HOA's attorneys able to obtain access and copies of sealed document's Appellant WARNER filed under seal into federal US Court of Claims and Ninth Circuit Court of Appeals?

Plaintiff-Appellee, a HOA, has committed illegal and unethical judicial trespass by going into one court's sealed Writ of Qui Tam documents to twist and used them to make false claims against Appellant's Motion for Extension of a filing deadline. In so doing they and their agents compromised, tainted and spoiled the sealed evidence (the fruit of the evidence tree) before it was allowed to ripen. Whistleblowers with evidence of wrongdoing should be encouraged; not discouraged and dishonored. Those responsible Witnesses /Whistle-blowers willing to step forward have: a) saved their individual treasuries, b) saved their fellow creditor, kings' treasuries and c) saved their joint commonwealth treasury thousands of dollars by aiding in an investigation: 1) shortening cases, 2) reducing investigation time, 3) reducing corruption, 4) pinpointing malfeasance in public office, extortionists and wrongdoers, 5) protecting the innocent and 6) wrongly accused who were innocent, etc.

## RECOMMEDED REMEDY

As the above referenced SEALED, first impression, federal cases have been breached, and their evidence (fruit) contaminated (poisoned) the Hawaii Appeals Case No. CAAP-19-0000568 and Circuit Court Case No. Civil Case No. 17-1-0164, must be immediately sealed and returned to from which it came to protect further damage to the whistleblowers' evidentiary testimony and evidentiary documents in this case and other several connected cases that other whistleblowers have honorably and bravely come forward in to present their declarations, affidavits and evidence of the filing of numerous false claims in many other related Quit Tam actions. Immediately sealing these instant actions would protect the clerk and other like sworn and bonded officers/fiduciaries of the court from arrest and conviction for obstruction of justice; and demonstrate their "good faith" and due diligence. This will allow time for the four courts and their fiduciaries involved to do their **mandated by law due diligence** in investigating this travesty of justice happening in their own backyards by members of their own "officers of the court", i.e. - A.B.A. and I.B.A attorney's BAR Association.

These two (2) referenced, vital to American justice, federal, SEALED, **first impression** cases have been intentionally and willfully compromised; and used to subvert two (2) fundamental and vital Hawaiian state court cases by officers and employees of the court serving in a fiduciary capacity.

---

<sup>6</sup> **Principles of Ethical Conduct.** Promulgated to ensure that every citizen can have complete confidence in the integrity of the public servants and officers of the court

The undersigned creditor/king is making a criminal referral and lending support for these sealed and now unified 'out of fraud and necessity' cases to be awarded the remedy, as justice for all must be served. These types of treasons acts are well documented and annotated in the book: Powell, S. Licensed to Lie: Exposing Corruption in the Department of Justice, Brown Books Publishing Group. ISBN: 978-1-61254-191-4.

This egregious behavior by A.B.A. union BAR members, acting as honorable officers of our *de jure* courts, needs a sledgehammer to make a noticeable, very clear example this lawless tampering with witnesses and their evidence under SEAL will not be tolerated or condoned with a simple slap on the wrist by their "BAR Buddies." A fiduciary's maintaining silence to cover corruption and violations of human rights is fraud;<sup>7</sup> but even worse is the "bearing of false witness" (Exodus 20:16) against one's neighbor" to subvert the truth. These two evils are rampant in America today and are neigh unto destroying her.

Further Declarant sayeth not,

DATED: Hilo, Hawaii this 18<sup>th</sup> day of September, 2019

By: \_\_\_\_\_  
Warner: Eugene-George, Private Hawaiian National  
Creditor & Beneficial Owner & 1<sup>st</sup> Line Holder of  
WARNER, EUGENE GEORGE Estate  
d/b/a EUGENE GEORGE WARNER  
c/o USPS Post Master 96720,  
c/o 355 Kakanianaole Ave, # 306, Hilo, Hawaii,  
on the land of Hawai'i

CC: POTUS Donald Trump's Task Force on Consumer Fraud  
c/o The Honorable US Attorney General William Barr  
c/o The US Dept. of Justice 950 Pennsylvania Ave.,  
NW Washington D.C., 20530-0001

---

<sup>7</sup> **Silence:** wrongful or criminal deception intended to result in financial or personal gain. "**Silence** can only be **equated with fraud** when there is a legal or moral duty to speak or an inquiry left unanswered would be intentionally misleading." US v. Twill 550 Fed 2d 297,299,300, "Once a fraud always a fraud." 13 Vin. Abr.539; "Things invalid in the beginning cannot be made valid by a subsequent act." Trayner, Max. 482. Maxims of Law, Black's Law Dictionary 9<sup>th</sup> Edit., pg. 1862; "A thing void in the beginning does not become valid by the lapse of time." 1 S. & R. 58. Maxims of Law, Black's Law Dictionary 9<sup>th</sup> Edit., pg. 1866;

# Exhibit: S

To:  
 The United States Court of Appeals for the Ninth District  
 P.O. Box 193939  
 San Francisco, California 94119-3939  
 Powers v The Bank of New York Mellon  
 Re: Billie Rene' Frances Lillian Powers, Pro Per Appellant  
 Case: 19-55013  
 D.C. No: 8:17-cv-01386-DOC-KES  
 &  
 The US Court of Federal Claims  
 717 Madison Pl NW, Washington, DC 20005  
 202-357-6400  
 Re: Faith Brashear v. United States  
 Case# 1:18-cv-01052-MBH

May 7, 2019

**R E C E I V E D**  
 MOLLY C. DWYER, CLERK  
 U.S. COURT OF APPEALS

**MAY 14 2019**

FILED	_____
DOCKETED	_____
DATE	INITIAL

This is a letter of support and demand for justice for all;

I am both a Veteran and an American woman sending support for these unified cases to be awarded the win and remedy. These two First Impression cases must experience indictments by the U.S. Attorney General as Judge Carter promised he would do in the Powers case if evidence of fraud was presented, but in lieu of holding the criminal Bankers and their attorneys accountable the Judge ordered evidence to be destroyed.

These cases prove that Congressional Banking Regulations have been in place for decades and have not been followed, it proves the "Bankers" have controlled and stolen our land, homes and lives, they prove Tax Evasion, usurpation and enough Financial Crimes to give America hundreds of trillions of dollars in awards for the crimes committed. These two women have identified the truth, have brought whistle blowers together, have too many interested parties to name and are demanding remedy. Faith and Billie demand that the U.S. forces the return of all the stolen property and assets of the American women and want the genocide of our property ownership and unalienable rights to end.

Further, I add my cases currently pending for hearing En Banc in the Fourth Circuit Court of Appeals, Case No. 17-2436 appealed from the United States District Court for the Eastern District, Western Division Case No. 5:17-CV-452-BO, The Honorable Terrence W. Boyle and my case that has diversity of jurisdiction being transferred from the Southern District of New York, Case No. 19-CV-00690 to the United States District Court for the Eastern District of North Carolina, Western Division, given the a similar case number 5:19-CV-00042-BO and given to Judge Boyle, who not only showed bias against my case but has a well-established history of bias against women, people of color and the disabled, so much so that former Senator of NC John Edwards helped lead the fight to keep him off the Fourth Circuit Court of Appeals and People for the American Way wrote an analysis of his judicial history titled " Judge Terrance Boyle Unfit for the Fourth Circuit Court of Appeals." My cases give clear evidence of proof of plain error ignorance of the rule of law. You will find a few documents from my cases attached. My cases show, mortgage and securities fraud, fraud upon the court, due process violations and plain error as the court granted a void ab initio order to foreclose with Deutsche Banks attorney pleading to the court that the appeals notice was "void on its face" yet accepting and executing a void ab initio order to foreclose from the court. No sales or property tax on multiple alleged transfers of my alleged mortgage is recorded.

Name, Address and Telephone Number of Attorneys or Pro per  
:Lorie-Ann: Cole  
:Valerie-Lynn: Naif  
c/o 1747 Stonehedge Court  
Wheeling, Illinois [60090]  
630-932-9983

Exhibit: T

**UNITED STATES DISTRICT COURT CENTRAL DISTRICT OF CALIFORNIA**

Billie Rene' Frances Lillian Powers

CASE NUMBER:

PLAINTIFF(S),

8:17-cv-01386-DOC-KES

v.

BANK OF AMERICA N.A. THE BANK OF NEW YORK MELLON F/K/A THE BANK OF NEW YORK, AS TRUSTEE ON BEHALF OF THE HOLDER OF THE ALTERNATIVE LOAN TRUST 2007 HY9, SELECT PORTFOLIO SERVICING, INC: QUALITY LOAN

SERVICE CORPORATION, MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC. COMMOWEALTH LAND TITLE COMPANY, JON SECRIST, NICHOLE CLAVADTSCHER, AND DOES 1 TO 10 INCLUSIVE

**PROOF OF SERVICE**

DEFENDANT(S)

i, the undersigned, certify and declare that I am over the age of 18, age of majority, not a minor and that i am a party of interest in the criminal joinder in the above referenced case, as a victim of these crimes.

i served a true copy of my CV-30 form for joinder, with my declaration and other supporting documentation and evidence of the foreclosure on my home and other crimes that were purported upon me. In compliance with FRCivP 5(b) by personally depositing documents in the UNITED STATES MAIL in sealed PRIORITY MAIL overnight express service, with the postage fully prepaid to the following: (see page 2 for list of parties served)

Place of Mailing: USA

Executed on: July, 10<sup>th</sup>, 2018 at Wheeling, Illinois

i hereby certify under the penalty of perjury that the foregoing is true and correct

[Signature]  
Autograph of one Mailing Service

[Signature]  
Autograph of one Mailing Service

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

---

**PROOF OF SERVICE** List of Parties Served:

- 1) Angela Swan, #213793; The LAW OFFICES OF ANGELA SWAN,  
A PROFESSIONAL CORPORATION  
21151 South Western Avenue, Suite 177  
Torrance, CA. 90501  
(Attorney for Plaintiff Billie Rene' Frances Lillian Powers)  
USPS# EL 266 777 921 US
  
- 2) Stephen D. Britt and Robert J. Gandy; SEVERSON & WERSON, A PROFESSIONAL CORPORATION  
THE ATRIUM  
19100 Von Karman Avenue, Suite 700  
Irvine, CA. 92612  
(Attorneys for BANK OF AMERICA; Jon Secrist; and, Nicole Clavedetscher  
USPS# EL 5911 02782 US
  
- 3) Steven M. Dailey and Rebecca L. Wilson; KUTAK ROCK, LLP  
5 Park Plaza, Suite 1500  
Irvine, CA. 92614-8595  
(Attorneys for THE BANK OF NEW YORK MELLON F/K/A the BANK OF NEW YORK, as Trustee, on  
Behalf of the holders of the Alternative Loan Trust 2007-HY9; Select Portfolio Servicing, Inc.;  
and, Mortgage Electronic Registration Systems, Inc.  
USPS# EL 5911 02782 US
  
- 4) Lakshmi Jagannath; MCCARTHY HOLTHUS, LLP  
1770 4<sup>th</sup> Avenue  
San Diego, CA. 92101  
(Attorney for Quality Loan Service Corporation)  
USPS# EL 266 777 918 US
  
- 5) Kevin S. Sinclair, Partner  
EARLY SULLIVAN WRIGHT GIZER & MCRAE, LLC  
6420 Wilshire Blvd., 17<sup>th</sup> Floor  
Los Angeles, CA. 90048  
(Attorney for Commonwealth Land Title Company)  
USPS# EL 718 292 172 US

E:T

**XAVIER BECERRA**  
Attorney General

State of California  
**DEPARTMENT OF JUSTICE**



**PUBLIC INQUIRY UNIT**  
P.O. BOX 944255  
SACRAMENTO, CA 94244-2550  
(916) 210-6276  
TOLL FREE: (800) 952-5225  
TTY: CA Relay Service  
(800) 735-2922

December 20, 2019

PIU: 336704

Mr. Eugene Warner  
355 Kalaniana'ole Ave., #306  
Hilo, HI 96720

**Exhibit: U**

**RE: Association of Owners of Orchid Manor v. Eugene George Warner, et al., Civil No. 17-1-0164**

Dear Mr. Eugene Warner:

Thank you for your correspondence to the Office of the Attorney General.

While we appreciate the time and effort it has taken to contact our office, we are unable to assist you. The role of the Attorney General is to represent the People of California, collectively, in civil and criminal matters before trial courts, appellate courts, and the supreme courts of California and the United States. However, the Attorney General is prohibited by law from representing private individuals or providing legal advice, legal research or legal analysis to private individuals under any circumstances. As a result, the Attorney General cannot represent you in your private litigation or intercede on your behalf.

Therefore, we suggest that you consult with a private attorney to determine any civil remedies that may be available to you. An attorney would directly represent your interests and is the one whose advice would be most helpful to you.

Again, thank you for contacting the Office of the Attorney General.

Sincerely,

A handwritten signature in black ink that reads "Casey Hallinan".

Casey Hallinan  
Public Inquiry Unit

For **XAVIER BECERRA**  
Attorney General

Law Office of Shaunda A. K. Liu, LLLC  
SHAUNDA A. K. LIU 8040  
P.O. Box 5841  
Hilo, HI 96720

Exhibit: V

Tel. No. 747-4264

Commissioner

IN THE CIRCUIT COURT OF THE THIRD CIRCUIT

STATE OF HAWAII


ASSOCIATION OF OWNERS OF ORCHID MANOR, by its Board of Directors,	)	CIVIL NO. 17-1-0164
	)	(Foreclosure)
	)	
Plaintiff,	)	COMMISSIONER'S MOTION TO SELL
vs.	)	PROPERTY WITHOUT AN OPEN
	)	HOUSE OR FOR INSTRUCTIONS;
EUGENE GEORGE WARNER; UNITED STATES ATTORNEY'S OFFICE FOR THE DISTRICT OF HAWAII; JOHN DOES 1-5; JANE DOES 1-5; DOE PARTNERSHIPS 1-5; DOE CORPORATIONS 1-5; DOE ENTITIES 1-5; and DOE GOVERNMENTAL UNITS 1-5,	)	DECLARATION OF COMMISSIONER; EXHIBITS A-B; NOTICE OF HEARING ON MOTION; CERTIFICATE OF SERVICE.
	)	
Defendants.	)	The Honorable Henry T. Nakamoto
	)	Hearing Date: February 5, 2020
	)	Time: 8:00 a.m.
	)	

COMMISSIONER'S MOTION TO SELL PROPERTY WITHOUT AN OPEN HOUSE OR FOR INSTRUCTIONS

Comes now SHAUNDA A. K. LIU, duly appointed Commissioner in the above titled action, and hereby moves this Honorable Court to issue an order to sell the subject property without an open house, or in the alternative, for instructions on how to proceed in this case.

This motion is made pursuant to Rule 7 of the Hawai'i Rules of Civil Procedure and is based upon the Declaration of Commissioner, Shaunda A. K. Liu, and the records and files herein.

Dated: Hilo, Hawai'i, January 1, 2020.



---

SHAUNDA A. K. LIU  
Commissioner



IN THE CIRCUIT COURT OF THE THIRD CIRCUIT

STATE OF HAWAII

ASSOCIATION OF OWNERS OF ORCHID MANOR, by its Board of Directors,

Plaintiff,

vs.

EUGENE GEORGE WARNER; UNITED STATES ATTORNEY'S OFFICE FOR THE DISTRICT OF HAWAII; JOHN DOES 1-5; JANE DOES 1-5; DOE PARTNERSHIPS 1-5; DOE CORPORATIONS 1-5; DOE ENTITIES 1-5; and DOE GOVERNMENTAL UNITS 1-5,

Defendants.

CIVIL NO. 17-1-0164 (Foreclosure)

DECLARATION OF COMMISSIONER

DECLARATION OF COMMISSIONER

I, SHAUNDA A. K. LIU, declare:

1. I am the Commissioner in this case, having been appointed pursuant to the Findings of Fact, Conclusions of Law, and Order Granting Plaintiff Association of Owners of Orchid Manor's Motion for Summary Judgment Against All Named Defendants, For Interlocutory Decree of Foreclosure, and for Entry of Final Judgment, filed May 13, 2019 filed on September 27, 2019;

2. On November 18, 2019, Commissioner wrote to Defendant, EUGENE GEORGE WARNER, requesting he contact Commissioner in order to schedule a date and time for inspection and to schedule the open houses in this matter. Said letter was mailed to Defendant via U.S.P.S. First-Class Mail on November 18, 2019, at the subject property address, attached hereto as Exhibit A;

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3. Said letter was not returned to Commissioner and no communication from Defendant WARNER was received;

4. On December 8, 2019, Commissioner went to the subject unit and knocked several times on the unit door, however there was no response. The resident manager accompanied Commissioner to the unit and confirmed that Defendant WARNER had entered the building just a few minutes prior and should have been in the unit. Commissioner left a letter at the door, attached hereto as Exhibit B;

5. The Commissioner was given information by the resident manager that Defendant WARNER is still occupying the subject unit;

6. Since December 8, 2019, Commissioner has received multiple emails from Defendant WARNER, all of which have attachments including a document entitled Notice of Liability, an unfiled motion for an emergency stay and an unfiled opening brief, documents filed with the Intermediate Court of Appeals, and links to different websites. Some of the attachments that Defendant WARNER have sent to Commissioner do not seem directly related to the above-captioned case;

7. The emails that have been sent to Commissioner by Defendant WARNER do not address the Commissioner's request for scheduling a time for open houses;

8. The content of emails and attachments sent to Commissioner by Defendant WARNER indicate that it is not likely that Defendant WARNER would be willing to allow people into the unit for an open house;

Your Commissioner is now seeking an order from this Honorable Court to allow for the sale of the subject property without holding an open house, or in the alternative, for instructions on how to proceed.

IN THE CIRCUIT COURT OF THE THIRD CIRCUIT

STATE OF HAWAII

ASSOCIATION OF OWNERS OF  
ORCHID MANOR, by its Board of  
Directors.

Plaintiff,

vs.

EUGENE GEORGE WARNER; UNITED  
STATES ATTORNEY'S OFFICE FOR  
THE DISTRICT OF HAWAII; JOHN DOES  
1-5; JANE DOES 1-5; DOE  
PARTNERSHIPS 1-5; DOE  
CORPORATIONS 1-5; DOE ENTITIES 1-  
5; and DOE GOVERNMENTAL UNITS 1-  
5,

Defendants.

) CIVIL NO. 17-1-0164  
) (Foreclosure)

) NOTICE OF HEARING

NOTICE OF HEARING

TO: ROBERT S ALCORN  
CHRISTOPHER SHEA GOODWIN AAL LLC  
737 Bishop Street, Suite 1640  
Honolulu, HI 96813  
Attorneys for Plaintiff

EUGENE GEORGE WARNER  
355 Kalaniana'ole Avenue, Unit #306  
Hilo, HI 96720  
Defendant

U.S. DEPARTMENT OF JUSTICE  
UNITED STATES ATTORNEY'S OFFICE  
FOR THE DISTRICT OF HAWAII  
222 West 7<sup>th</sup> Avenue #9, Room 253  
Anchorage, AK 99513  
Defendant

PLEASE TAKE NOTICE that the undersigned will bring the foregoing Motion on  
for hearing before the Honorable Presiding Judge of the above-entitled Court at the

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