

IN THE COURT OF APPEALS
FORTH APPELLATE DISTRICT
PICKAWAY COUNTY, OHIO

CASE NO. 2015-CA003

PNC Bank, NA,)
)
Plaintiff-Appellee,)
)
vs.)
)
Mark R. Wellman,)
)
Defendant-Appellant)

OPENING APPEAL BRIEF OF MARK R. WELMAN

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STATEMENT OF THE CASE

This case speaks volumes of the injustices our American legal system will tolerate when an enterprise masks Civil Rights crimes under the guise of justice.

The schemes of Judge Paul Randal Knece, Judge William Harsha, Magistrate Shelly Harsha and their syndicate has eluded justice by allowing a party with no interest in a case, to use the Ohio Courts to steal property from an American citizen.

“No person shall...be deprived of life, liberty, or property, without due process of law...

5th Amendment, United States Constitution.

Judicial officers may not escape liability for commission of illegal acts merely by committing them in courthouse.

Luttrell v. Douglas, (1963, DC Ill) 220 F Supp 278.

Appellant Mark Wellman is now a victim of Judicial theft, racketeering, fraud, misrepresentation, and denial of due process, by criminals who use the legal system as a weapon. The Statement of facts shows the history of legal abuse against Appellant Wellman and the methods used by Judge Knece and Judge William Harsha in their admitted statement regarding how they would “handle Appellant Wellman.

JURISDICTION

Jurisdiction of this Court is invoked pursuant to Ohio R. App. P. 3 and Ohio R. App. P 4.

STATEMENT OF FACTS

1. National City Mortgage Co., (NCMC) and Mark R. Wellman and Gina Wellman, hereby (Wellman) became mortgagors and mortgagee on May 11, 1994.

2. On 6/ 15/1995, NCMC assigned the mortgage to CDC Servicing Inc., thus assigning it's interests to CDC and terminating it's standing to file any form of legal action to Appellant Wellman from this day forward. See Exhibit A
3. Wellman experienced financial problems and filed a Chapter 13 bankruptcy proceeding in June of 1996.
4. Wellman was doing a good job working his way out of financial hardships until the Salt Creek Valley Bank of Laurelville Ohio refused a significant payment from Wellman which would have paid said Bank note, secured by mortgage, current, plus several months ahead.
5. NCMC filed for foreclosure on March 12, 2002.
6. Wellman, Unaware that NCMC was not a party of interest at the time, entered into a Forbearance Agreement on January 23, 2003 and signed a Forbearance Agreement on January 30, 2003. See Exhibit B
7. NCMC signed the Forbearance Agreement on February 14, 2003, which exceeded the 20 day time limit set forth in Paragraph 9 of the Forbearance agreement. See Exhibit B, pg 5
8. According to paragraph 9 of the Forbearance Agreement, it was also required to be signed and completed by Judge Knece within 30 days. See Exhibit B, pg 5
9. Unknown to Wellman, Judge Knece failed to sign the Forbearance Agreement which makes the Forbearance Agreement null and void.
10. In the fall of 2004 Wellman obtained NCMC's records of payments made by

Wellman and how NCMC had applied those payments.

11. Consequently, Wellman made a payment to comply with the requirements set forth in the Forbearance Agreement.
12. After several subsequent Chapter 13 plans were filed, Wellman was dismissed from all bankruptcy protection in July of 2005.
13. NCMC had a Forbearance Agreement prepared and had obtained Wellman's signatures, but never completed the execution of said Agreement in accordance with said agreements' terms, which constitutes as fraud in the inducement. See Exhibit B
14. Subsequent to Wellman being dismissed from bankruptcy protection, NCMC moved the trial court to reopen the foreclosure case on 12/01/2005.
15. Wellman filed a memorandum Contra on 12/02/2005.
16. The trial court filed an order returning the case to the active docket on 12/21/2005.
17. Wellman requested and received a Scheduling Order filed on 1/17/2006.
18. NCMC filed it's Motion to Enforce the settlement Agreement and to grant judgment to it on 2/27/2006.
19. Wellman filed an Answer and Counterclaim on 4/4/2006.
20. NCMC filed a Reply and Memorandum Contra on 4/21/2006.
21. NCMC filed a Motion to Dismiss Wellman's Counterclaim on 5/5/2006.
22. Wellman filed his Memorandum Contra to NCMC's Motion to Dismiss the

Counterclaim on 6/8/2006.

23. NCMC filed a Motion to Conduct an Oral Hearing on 6/28/2006.
24. NCMC filed a Notice of substitution of Counsel on 8/10/2006.
25. A Notice of Hearing was filed on 9/21/2006, with the matter set for hearing on 9/27/2006.
26. On 9/27/2006, a 15 to 20 minute hearing was held which had no evidence introduced, no authority to support the trial court's decision. See Exhibit C
27. Wellman filed a Request for Separate Findings of Fact and Conclusions of Law on 10/2/2006.
28. Wellman filed an Objection to NCMC's Proposed Entry on the basis it did not satisfy Civ. R. 52 on 10/12/2006.
29. Nonetheless, the trial court signed and filed the multiple Entry submitted by NCMC on 10/31/2006.
30. On 6/21/2007, an Assignment of Mortgage was notarized, alleging a transfer of Assignment of mortgage from CDC to NCMC. See Exhibit D
31. On 7/20/2007, said assignment was filed for record.
32. On 8/29/2007, Wellman's Attorney Roy Huffer filed a Motion to Dismiss Complaint for Foreclosure addressing this matter and pointing out that NCMC had submitted a fraudulent document to the court which contained a hand written date alleging the above assignment of mortgage to be effective as of 3/5/2002, 5 days prior to the filing of the foreclosure action. See Exhibit D

33. On 10/3/2007, the Fourth District Court of Appeals denied relief to Appellant Wellman.
34. On 10/10/2007 Appellant Wellman filed a motion to Dismiss Plaintiff's Complaint for foreclosure to this court, arguing the fact that Plaintiff did not have standing.
35. On 1/22/2008 Judge Knece entered a decision and entry with no statement of facts or conclusions of law to support his order.
36. On 6/10/2008 Wellman received an Affidavit from Steven M. Helwagen, CPA (Halwagen), pointing out 15 acts of fraud committed by NCMC. See Exhibit E
37. Helwagen's Affidavit points out that NCMC has reported inaccurate account balances to both state and federal courts since June 1996. See Exhibit E
38. On 11/21/2005 Phillip J. Cobb, Vice President of National City Mortgage Company, claiming to be "competent to testify to the matters addressed herein from personal knowledge" signed and filed an Affidavit titled "Affidavit of Phillip J. Cobb". See Exhibit F
39. Due to NCMC not actually having possession of the assignment of mortgage and not legally being a party of interest in the foreclosure action against Wellman, Cobb's Affidavit doesn't mention the assignment of mortgage they allege they owned prior to the commencement of the action because at the time Cobb was unaware of the fraudulent article because, 2 and a half years later, it had not yet been created.

40. The fraudulent article was created between 6/21/2007 (date of execution) and 7/20/2007 (date of filing of record).
41. On 9/14/2014, Magistrate Shelly Harsha, denied Appellant Wellman's motion to Vacate Void Judgment.
42. Shortly after Magistrate Harsha's order, Appellant Wellman filed a Complaint to the Ohio Supreme Court's Disciplinary Counsel and although Wellman's wording wasn't perfect, he does point out the crimes against him thorough enough for this court to understand. See Exhibit G
43. As this case history will show, this case was in the Appeals Court before with Judge William Harsha presiding, then his wife ruled on the matter when this case went back to the trial court level.
44. On 7/20/2015, the fourth Appellate district judges all recused themselves from the case, "due to conflicts".
45. At least one conflict is the fact that both Shelly and her husband William presided over the same case. Should a recusal have occurred prior to the Shelly Harsha sitting in to oversee the will of her husband and Judge Knece?
46. Appellant Wellman began this legal process in 2002 under case file No. 2002 CI 067 however, through the course of this proceeding later recieved the case file number 15CA3.
47. Wellman is now a victim of a pattern of corrupt activity.

ARGUEMENT
1. FRAUD IN THE INDUCEMENT

Appellant Wellman was fraudulently induced into a contract in which he relied on the facts enumerated in said contract (Exhibit B).

Appellant Wellman believed that he was to sign the Forbearance agreement within the time specified in Paragraph 9.

NCMC was to sign the Forbearance agreement within the time specified in paragraph 9, Which NCMC failed to do.

Judge Knece would sign the Forbearance agreement within the time specified in paragraph 9, which Knece refused to sign the Forbearance agreement.

2. ABUSE OF DISCRETION

Lines 8, 9, 26, 35 of Appellant Wellman's Statement of Facts point out Judge Knece's Abuse of Discretion.

Judge Knece issued a decision without evidence or legal authority to support his ruling and so, made his decision based solely on his own caprice.

It is wrong and highly abusive for a judge to exercise his power without the normal procedures and trappings of the adversary system—a motion, an opportunity for the other side to respond, a statement of reasons for the decision, reliance on legal authority. These niceties of orderly procedure are not designed merely to ensure fairness to the litigants and a correct application of the law, though they surely serve those purposes as well. More fundamentally, they lend legitimacy to the judicial process by ensuring that judicial action is—and is seen to be—based on law, not the judge's caprice.

In re Complaint of Judicial Misconduct, 425 F.3d 1179 (9th Cir. 2005) (Kozinski dissenting).

Further, Judge Knece allowed clearly fraudulent documentation to be admitted into evidence (Exhibit D) as well as refused to follow his own court order in regards to the Forbearance Agreement (Exhibit B).

"A district court by definition abuses its discretion when it makes an error of law."

Koon v. United States, 518 U.S. 81, 100 (1996); *accord Vonage Holdings Corp. v. Neb. Pub. Serv. Comm'n*, 564 F.3d. 900, 904 (8th Cir. 2009).

3. NCMC LACKED STANDING AND WAS NOT A PARTY OF INTEREST

The undeniable facts regarding Exhibit D become more clear when compared to Exhibit A.

Exhibit A, as this court is aware, is the assignment of mortgage from NCMC to CDC from June 15, 1995.

1995's technology was somehow capable of "typing" the date of the assignment (exhibit A) however, NCMC would have this court believe our possession of superior technology is incapable of typing a date indicating when the document was *actually* created yet notaries somehow possess rubber stamps capable of more than computers of today.

The Ohio Supreme Court's holding in *Federal Home Loan Mortgage Corporation v. Schwartzwald* (October 31, 2012), 134 Ohio St.3d 13, 2012-Ohio-5017 would be sufficient enough to understand the lack of standing NCMC had at the time of filing if Appellant wasn't plagued by out-of-control and undisciplined State Judges.

4. MISREPRESENTATION

NCMC submitted into evidence the fraudulent document known in this Appeal as exhibit D.

On 11/21/2005 Phillip J. Cobb, Vice President of National City Mortgage Company, claiming to be “competent to testify to the matters addressed herein from personal knowledge” signed and filed an Affidavit titled “Affidavit of Phillip J. Cobb”, Exhibit F

The problems arising from Cobb's Affidavit are:

NOWHERE in Cobb's Affidavit did he mention NCMC receiving the assignment of mortgage from CDC.

Assuming Cobb was, in fact, “competent to testify to the matters addressed herein from personal knowledge”, if Cobb was competent to state when the promissory note and mortgage deed was executed on 5/11/1994 (Exhibit F, pg.1, line 3) why was Cobb unaware of receiving the assignment of mortgage from CDC by the date of the Affidavit?

This court can accurately conclude that NCMC did not have the assignment of mortgage by 11/21/2005, more than 2 and a half years after filing the foreclosure action.

Cobb's Affidavit, on it's face, is an attempt to mislead the Ohio Courts into basing it's rulings on Fraud.

5. THEFT AND FRAUD

When one looks at the history of this case, it quickly becomes clear that Appellant

Wellman, isn't some guy trying to "1-up" the system but in fact has raise a multitude of legal claims, procedural questions, rules and applicable case laws at all times having legal merit of one form or another.

The Affidavit of Steve M. Helwagen (Exhibit E) itself addresses 15 acts of fraud that NCMC committed against Appellant Wellman.

The trial court never addressed this issue, along with many others.

This fact alone requires this case to be reversed and remander to a law trained judge for a new trial.

As used in this chapter, unless the context requires that a term be given a different meaning:

(A) "Deception" means knowingly deceiving another or causing another to be deceived by any false or misleading representation, by withholding information, by preventing another from acquiring information, or by any other conduct, act, or omission that creates, confirms, or perpetuates a false impression in another, including a false impression as to law, value, state of mind, or other objective or subjective fact.

(B) "Defraud" means to knowingly obtain, by deception, some benefit for oneself or another, or to knowingly cause, by deception, some detriment to another.

(C) "Deprive" means to do any of the following:

(1) Withhold property of another permanently, or for a period that

appropriates a substantial portion of its value or use, or with purpose to restore it only upon payment of a reward or other consideration;

(2) Dispose of property so as to make it unlikely that the owner will recover it;

(3) Accept, use, or appropriate money, property, or services, with purpose not to give proper consideration in return for the money, property, or services, and without reasonable justification or excuse for not giving proper consideration.

(E) "Services" include labor, personal services, professional services, rental services, public utility services including wireless service as defined in division (F)(1) of section 128.01 of the Revised Code, common carrier services, and food, drink, transportation, entertainment, and cable television services and, for purposes of section 2913.04 of the Revised Code, include

cable services as defined in that section.

(F) "Writing" means any computer software, document, letter, memorandum, note, paper, plate, data, film, or other thing having in or upon it any written, typewritten, or printed matter, and any token, stamp, seal, credit card, badge, trademark, label, or other symbol of value, right, privilege, license, or identification.

(K) "Theft offense" means any of the following:

(1) A violation of section2913.02,2913.43, 2913.44,.... of the Revised Code;

(2) A violation of an existing or former municipal ordinance or law of this or any other state, or of the United States, substantially equivalent to any section listed in division (K)(1) of this section or a violation of section 2913.41, 2913.81, or 2915.06 of the Revised Code as it existed prior to July 1, 1996;

(4) A conspiracy or attempt to commit, or complicity in committing, any offense under division (K)(1), (2), or (3) of this section.

Ohio Stat. 2913.01

(A) No person, with purpose to deprive the owner of property or services, shall knowingly obtain or exert control over either the property or services in any of the following ways:

(1) Without the consent of the owner or person authorized to give consent;

(2) Beyond the scope of the express or implied consent of the owner or person authorized to give consent;

(3) By deception;

(4) By threat;

(5) By intimidation.

(B) (1) Whoever violates this section is guilty of theft.

(2) Except as otherwise provided in this division or division (B)(3), (4), (5), (6), (7), (8), or (9) of this section, a violation of this section is petty theft, a misdemeanor of the first degree..... If the value of the property or services stolen is one hundred fifty thousand dollars or more and is less than seven hundred fifty thousand dollars, a violation of this section is aggravated theft, a felony of the third degree. If the value of the property or services is seven hundred fifty thousand dollars or more and is less than one million five hundred thousand dollars, a violation of this section is aggravated theft, a felony of the second degree. If the value of the property or services stolen is one million five hundred thousand dollars or more, a violation of this section is aggravated theft of one million five hundred thousand dollars or

more, a felony of the first degree.

Ohio Stat. 2913.02

(A) No person, knowing the person has no privilege to do so, and with purpose to defraud or knowing that the person is facilitating a fraud, shall do any of the following:

(1) Falsify, destroy, remove, conceal, alter, deface, or mutilate any writing, computer software, data, or record;

(2) Utter any writing or record, knowing it to have been tampered with as provided in division (A)(1) of this section.

(B) (1) Whoever violates this section is guilty of tampering with records.

Ohio Stat. 2913.42

(A) No person, by deception, shall cause another to execute any writing that disposes of or encumbers property, or by which a pecuniary obligation is incurred.

(B)(1) Whoever violates this section is guilty of securing writings by deception.

(2) Except as otherwise provided in this division or division (B)(3) of this section, securing writings by deception is a misdemeanor of the first degree..... If the value of the property or the obligation involved is one hundred fifty thousand dollars or more, securing writings by deception is a felony of the third degree.

Ohio Stat. 2913.43

(A) No person shall receive, retain, or dispose of property of another knowing or having reasonable cause to believe that the property has been obtained through commission of a theft offense.

(C) Whoever violates this section is guilty of receiving stolen property. Except as otherwise provided in this division or division (D) of this section, receiving stolen property is a misdemeanor of the first degree.....If the value of the property involved is one hundred fifty thousand dollars or more, receiving stolen property is a felony of the third degree.

Ohio Stat. 2913.51

The Ministerial Laws of the State of Ohio should be sufficient for this court to understand the crimes committed against Wellman and, Bound by those very laws, are required to reverse the lower court's decision.

6. R.I.C.O. MAIL FRAUD (18 USC 1341)

Every time a judge makes such a high-handed arbitrary, and unexplained ruling he has committed an act of mail fraud, 18 U.S.C. § 1961(1)(B), said mail fraud being the deprivation of honest services, see 18 U.S.C. § 1346 (which states):

Sec. 1346. Definition of "scheme or artifice to defraud"

For the purposes of this chapter, the term "scheme or artifice to defraud" includes a scheme or artifice to deprive another of the intangible right of honest services.

A government entity may constitute an "enterprise" within the meaning of R.I.C.O. *United States v. Freeman*, 6 F.3d 586 (9th Cir. 1993).

An "enterprise" may include courts. *United States v. Angelilli*, 660 F.2d 23 (2nd Cir. 1981), *United States v. Bachelor*, 611 F.2d 443 (3rd Cir. 1979).

"Enterprise" includes any individual, sole proprietorship, partnership, limited partnership, corporation, trust, union, government agency, or other legal entity, or any organization, association, or group of persons associated in fact although not a legal entity. "Enterprise" includes illicit as well as licit enterprises.

Ohio Stat. 2923.31 (C)

Offices of public officials can be R.I.C.O. enterprises. *United States v. McDade*, 827 F.Supp. 1153, 1181 (E.D. Pa. 1993).

Mail fraud is the use of the mails to execute a "scheme or artifice to defraud." 18

U.S.C. § 1341.

Congress amended the mail fraud statutes in 1988 to provide that the term scheme or artifice to defraud “includes a scheme or artifice to deprive another of the intangible right of honest services.”

“The essence of a scheme to defraud is an intent to harm the victim.”

United States v. Jain, 93 F.3d 436, 442 (8th Cir. 1996), *cert. denied*, 520 U.S. 1273 (1997).

7. RACKETEERING

The laws of Ohio in regards to racketeering as used in section 2923.31 of the Revised Code are self explanatory and Appellant Wellman states them in part:

(E) "Pattern of corrupt activity" means two or more incidents of corrupt activity, whether or not there has been a prior conviction, that are related to the affairs of the same enterprise, are not isolated, and are not so closely related to each other and connected in time and place that they constitute a single event.

At least one of the incidents forming the pattern shall occur on or after January 1, 1986. Unless any incident was an aggravated murder or murder, the last of the incidents forming the pattern shall occur within six years after the commission of any prior incident forming the pattern, excluding any period of imprisonment served by any person engaging in the corrupt activity.

For the purposes of the criminal penalties that may be imposed pursuant to section 2923.32 of the Revised Code, at least one of the incidents forming the pattern shall constitute a felony under the laws of this state in existence at the time it was committed or, if committed in violation of the laws of the United States or of any other state, shall constitute a felony under the law of the United States or the other state and would be a criminal offense under the law of this state if committed in this state.

(F) "Pecuniary value" means money, a negotiable instrument, a commercial interest, or anything of value, as defined in section 1.03 of the Revised Code, or any other property or service that has a value in excess of one hundred dollars.

(G) "Person" means any person, as defined in section 1.59 of the Revised Code, and any governmental officer, employee, or entity.

(H) "Personal property" means any personal property, any interest in personal property, or any right, including, but not limited to, bank accounts, debts, corporate stocks, patents, or copyrights. Personal property and any beneficial interest in personal property are deemed to be located where the trustee of the property, the personal property, or the instrument evidencing the right is located.

(I) "Corrupt activity" means engaging in, attempting to engage in, conspiring to engage in, or soliciting, coercing, or intimidating another person to engage in any of the following:

(1) Conduct defined as "racketeering activity" under the "Organized Crime Control Act of 1970," 84 Stat. 941, 18 U.S.C. 1961(1)(B), (1)(C), (1)(D), and (1)(E), as amended;

(2) Conduct constituting any of the following:

(c) Any violation of section...2913.02,..... 2913.51,..... of the Revised Code, any violation of section 2925.11 of the Revised Code that is a felony of the first, second, third, or fourth degree and that occurs on or after July 1, 1996, any violation of section 2915.02 of the Revised Code that occurred prior to July 1, 1996, any violation of section 2915.02 of the Revised Code that occurs on or after July 1, 1996, and that, had it occurred prior to that date, would not have been a violation of section 3769.11 of the Revised Code as it existed prior to that date, any violation of section 2915.06 of the Revised Code as it existed prior to July 1, 1996, or any violation of division (B) of section 2915.05 of the Revised Code as it exists on and after July 1, 1996, when the proceeds of the violation, the payments made in the violation, the amount of a claim for payment or for any other benefit that is false or deceptive and that is involved in the violation, or the value of the contraband or other property illegally possessed, sold, or purchased in the violation exceeds one thousand dollars, or any combination of violations described in division (I)(2)(c) of this section when the total proceeds of the combination of violations, payments made in the combination of violations, amount of the claims for payment or for other benefits that is false or deceptive and that is involved in the combination of violations, or value of the contraband or other property illegally possessed, sold, or purchased in the combination of violations exceeds one thousand dollars;

"Real property" means any real property or any interest in real property, including, but not limited to, any lease of, or mortgage upon, real property. Real property and any beneficial interest in it is deemed to be located where the real property is located.

Ohio Stat. 2923.31 (J)

"Unlawful debt" means any money or other thing of value constituting principal or interest of a debt that is legally unenforceable in this state in whole or in part because the debt was incurred or contracted in violation of any federal or state law.....relating to the business of lending money at an usurious rate unless the creditor proves, by a preponderance of the evidence, that the usurious rate was not intentionally set and that it resulted from a good faith error by the creditor, notwithstanding the maintenance of procedures that were adopted by the creditor to avoid an error of that nature.

(A) (1) No person employed by, or associated with, any enterprise shall conduct or participate in, directly or indirectly, the affairs of the enterprise through a pattern of corrupt activity or the collection of an unlawful debt.

(2) No person, through a pattern of corrupt activity or the collection of an unlawful debt, shall acquire or maintain, directly or indirectly, any interest in, or control of, any enterprise or real property.

(3) No person, who knowingly has received any proceeds derived, directly or indirectly, from a pattern of corrupt activity or the collection of any unlawful debt, shall use or invest, directly or indirectly, any part of those proceeds, or any proceeds derived from the use or investment of any of those proceeds, in the acquisition of any title to, or any right, interest, or equity in, real property or in the establishment or operation of any enterprise.

(B) (1) Whoever violates this section is guilty of engaging in a pattern of corrupt activity. Except as otherwise provided in this division, engaging in corrupt activity is a felony of the second degree..... or if at least one of the incidents of corrupt activity is a felony under the law of the United States or of another state that, if committed in this state on or after July 1, 1996, would constitute a felony of the first, second, or third degree, aggravated murder, or murder under the law of this state, engaging in a pattern of corrupt activity is a felony of the first degree..... Notwithstanding any other provision of law, a person may be convicted of violating the provisions of this section as well as of a conspiracy to violate one or more of those provisions under section 2923.01 of the Revised Code.

The court shall hold a hearing to determine the amount of fine, court costs, and other costs to be imposed under this division.

(3) In addition to any other penalty or disposition authorized or required by law, the court shall order any person who is convicted of or pleads guilty to a violation of this section or who is adjudicated delinquent by reason of a

violation of this section to criminally forfeit to the state under Chapter 2981. of the Revised Code any personal or real property in which the person has an interest and that was used in the course of or intended for use in the course of a violation of this section, or that was derived from or realized through conduct in violation of this section, including any property constituting an interest in, means of control over, or influence over the enterprise involved in the violation and any property constituting proceeds derived from the violation, including all of the following:

(a) Any position, office, appointment, tenure, commission, or employment contract of any kind acquired or maintained by the person in violation of this section, through which the person, in violation of this section, conducted or participated in the conduct of an enterprise, or that afforded the person a source of influence or control over an enterprise that the person exercised in violation of this section;

(b) Any compensation, right, or benefit derived from a position, office, appointment, tenure, commission, or employment contract described in division (B)(3)(a) of this section that accrued to the person in violation of this section during the period of the pattern of corrupt activity;

Ohio Stat. 2923.31 (3)

QUESTIONS FOR THE COURT:

1. Is an Ohio state judge's duty to violate the Ministerial laws of the state of Ohio?
2. Did NCMC obtain an unlawful debt through the maintenance of procedures?
3. Did the Bank create a debt contract through fraud, misrepresentation and concealment?
4. Was the above debt contract obtained without full disclosure to the mortgagee?
5. Can a judgment based on fraud stand in the Ohio Court of Appeals?
6. Will this court allow falsified documents and fraud to be submitted as evidence in a scheme or artifice to deprive Appellant Wellman.

CONCLUSION

In conclusion, Judges Paul Knece, Shelly Harsha, William Harsha and the Fourth District Appellate Court for the state of Ohio have demonstrated how “they will handle the Wellman's” as well as their blatant disregard for the law. Appellant Wellman prays

there is a shread of honesty left in the Ohio State Judicial system and relies upon Judges Lisa Sadler, Julia Dorrian and Elizabeth Schuster of the Tenth Appellate District who have been assigned to this case to put an end to this Judicial anarchy. At the very least, the case should be sent to a law trained judge with an Order from this Court barring NCMC's fraudulent documents from the record and Order the trial court schedule a new trial.

CERTIFICATE OF SERVICE

I hereby certify that I have on this 15th day of January, 2016, placed a true and exact copy of the above and foregoing.

OPENING BRIEF

In the U.S. Mail, first class postage, prepaid, addressed to:

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Respectfully submitted,

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APPENDIX

EXHIBIT A

EXHIBIT B

EXHIBIT C

EXHIBIT D

EXHIBIT E

EXIBIT F

EXHIBIT G