AMERICANS IN JEOPARDY: When Human Rights Protection Becomes America’s Executive, Legislative, and Judicial Branch Shell Game

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This report is a publication of Opt IN USA, a grassroots U.S. foreign policy reform, judicial accountability, and international human rights campaign sponsored by National Judicial Conduct and Disability Law Project, Inc.

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Front Entrance to the Supreme Court of the United States in Washington, D.C. USA
Acknowledgments

This report was written by our Executive Director and lead strategist, attorney Zena Crenshaw-Logal.* It evolved, like all of our work, from the past and ongoing commitment and sacrifices of many, many people in the interest of due process, equal protection, and the rule of law in America. Some of the most committed and accomplished of them comprise our board of directors and administrative staff and we thank all of them deeply for their service.

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Last but certainly not least . . . thank you to all of our current and future Opt IN USA participants!
# Table of Contents

I. About Opt IN USA .................................................................................................................. 2

II. What is an Optional Protocol? ............................................................................................. 2

III. What is The Third Degree? ................................................................................................. 3

IV. Why Should America Ratify the OPs to the ICCPR and CAT? ....................................... 4

V. AMERICANS IN JEOPARDY: When Human Rights Protection Becomes America’s Executive, Legislative, and Judicial Branch Shell Game .................................................. 5

   A. The Apparent Ineffectiveness of Domestic Remedies for Average Americans
      Contending with Entrenched U.S. Legal System Abuse .................................................. 7

   B. What is Reasonably Required to Establish Persistent U.S. Legal System Abuse? ..... 10

VI. What’s At Stake .................................................................................................................. 13

   ▪ Access To Affordable, Competent Legal Representation ................................................. 13
   ▪ Quality, Affordable Healthcare ......................................................................................... 16
   ▪ The Sanctity of Families and Family Lineage .................................................................. 25
   ▪ Republican Form of Government ..................................................................................... 26
   ▪ Public Health and Safety ................................................................................................. 28

VII. The Sisyphensians of America ....................................................................................... 36

   ▪ More Logistics and Statistics .......................................................................................... 39

VIII. Ground Zero: INDIANA, the Hoosier State ................................................................. 39

APPENDIX ............................................................................................................................... 46
I. About Opt IN USA
Opt IN USA is a grassroots U.S. foreign policy reform, judicial accountability, and international human rights campaign. Its corporate sponsor is National Judicial Conduct and Disability Law Project, Inc. (NJCDLP), a U.S.-based nonprofit organization.\(^1\) While NJCDLP’s volunteer directors and administrators have varying degrees of knowledge or expertise in regard to U.S. foreign policy and international human rights, NJCDLP is not a specialist in these matters. Instead, its focus on the epidemiology of persistent U.S. legal system abuse, and corresponding work as a judicial accountability specialist brought NJCDLP to spearhead Opt IN USA.

On June 1, 2015, parameters of what has been dubbed “The Third Degree” were defined for the U.N. Human Rights Committee (HRC) and alleged to violate America’s International Covenant on Civil and Political Rights (ICCPR); Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT); and The Universal Declaration of Human Rights. The HRC submission\(^2\) was made by NJCDLP’s co-founders, one of whom is the primary drafter of this report. Despite what these good government advocates thought were reasonable efforts to confirm the viability of that HRC communication, the U.N. Petitions and Inquiries Section subsequently advised them that neither the Optional Protocol to the ICCPR nor the CAT has been signed, ratified, or acceded to by the United States of America (U.S.).

II. What is an Optional Protocol?
An Optional Protocol (hereinafter OPs) “is an instrument that establishes additional rights and obligations to a treaty”. OPs to the ICCPR and CAT recognize, among other things, “the competence of the (HRC) to receive and consider communications from

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1. NJCDLP is the nonprofit corporate umbrella for several grassroots legal reform advocacy organizations, programs, and campaigns. Learn more by visiting [http://www.njcdlp.org](http://www.njcdlp.org)
2. [Crenshaw-Logal, et al, v. The United States of America](http://media.wix.com/ugd/fa6d06_c75b8012f58a41d1acd32a37a166e956.pdf), For communications under the Optional Protocol to the International Covenant on Civil and Political Rights, accessible (without attachments) at [http://media.wix.com/ugd/fa6d06_c75b8012f58a41d1acd32a37a166e956.pdf](http://media.wix.com/ugd/fa6d06_c75b8012f58a41d1acd32a37a166e956.pdf)
individuals subject to its jurisdiction who claim to be victims of a violation by (a) State Party of any of the rights set forth in the Covenant”. The U.S. has yet to recognize the competence of the HRC to consider allegations by Americans that U.S. state and/or federal officials have violated the ICCPR and/or CAT within its national territory. As a result, the HRC “cannot examine” allegations of ICCPR and/or CAT violations in the U.S. by U.S. government officials, submitted by American citizens, although the U.S. ratified the ICCPR in 1976 and the CAT in 1987.

III. What is The Third Degree?

The Third Degree (TTD) is a persistent, national pattern of persecution and psychological torture imposed through U.S. legal system abuse. The pattern is multifaceted in that the corresponding persecution/torture evidences distinct goals overlaying a discernible modality of U.S. legal system abuse. The scheme has five (5) specific goals and is implemented through seven (7) distinct U.S. legal system abuses.

Targets of TTD are invariably . . .

1. disparaged and discredited through legal process;
2. intimidated for their activism through violence and/or threats of violence;
3. denied the equal protection of law and corresponding access to courts;
4. impoverished through questionable job losses, unwarranted black listings, and/or the questionable imposition/denial of fines, sanctions, and/or damages awards;
5. and they may be incarcerated under questionable circumstances.

With very limited exceptions, any legal claim that a target of TTD pursues and/or defends against, imposes on him or her a variety of the following detriments:

1) Procedural irregularities (particularly hearing request denials, untimely notice, and/or evidence tampering/destruction);
2) One or more questionable departures from well-established precedent;
3) Undisclosed grounds for adverse credibility determinations;
4) Personal character disparagement;
5) Total or substantial denial of relief through Judicial Activism, i.e., an arguable usurpation of legislative powers;
6) Judicial proscriptions that are the functional, civil equivalent of *ex post facto* law; and/or

7) Total or substantial denial of relief pursuant to some form of Judicial Engineering, which concept is described at [https://jedi1.wikispaces.com](https://jedi1.wikispaces.com)

As the foregoing lists suggest, TTD is a particularly devious form of human rights violation. A very similar concept is selective prosecution except that with TTD, judicial officers are among the deliberate perpetrators; those persecuting and/or psychologically torturing Americans through U.S. legal system abuse. When the goal is persecution or torture and the instrument is U.S. legal systems, participants only appear to be part of adjudicatory processes.

**IV. Why Should America Ratify the OPs to the ICCPR and CAT?**

On September 15, 2015, a coalition of U.S.-based NGOs (non-governmental organizations) explained by letter to the U.S. Senate Foreign Relations Committee that TTD is “unchecked judicial misconduct; the ineffectiveness of domestic remedies is an integral part of its pathology.”4 This report is the first in a series of *de facto* referendums on the purported effectiveness and alleged ineffectiveness of those remedies. But the significance of America’s unwillingness to supplement them by

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3 The US Human Rights Network defines human rights as follows:

Human rights are rights that we all have simply because we are human. They are the basic claims that we have to dignity and respect without regard to our race, nationality, gender, gender identity, sexuality, age, religion, (dis)ability, language, income, immigration status, or other statuses. Human rights include civil, cultural, development, economic, environmental, political, sexual, and social rights. Examples of human rights include housing, health, education, food, water, freedom from discrimination, freedom from torture, and freedom of expression.

…


ratifying the Ops to the ICCPR and CAT has been addressed in a much more ideological context.

Earlier this millennium (but unknown to NJCDLP’s co-founders until mid-2015) Kenneth Roth, Executive Director of Human Rights Watch, noted that the “refusal to apply international human rights law to itself renders U.S. ratification of human rights treaties a purely cosmetic gesture.” He adds, “(t)this approach suggests a view that human rights treaties should be embraced only insofar as they codify existing US practice, not if they would compel any change in US behavior.” Problem is, “domestic protections fall short in a variety of ways that leave people in America, vulnerable to human rights abuses”, that is according to the December 2015 Report Card Assessing Human Rights in the United States by the US Human Rights Network.

V. AMERICANS IN JEOPARDY: When Human Rights Protection Becomes America’s Executive, Legislative, and Judicial Branch Shell Game

The extraterritoriality of human rights abuses by rogue U.S. government agents is increasingly clear. On October 23, 2015, the U.S. Court of Appeals for the District of Columbia Circuit affirmed a trial court determination that an American cannot sue FBI agents accused of torturing him for several months because the alleged constitutional rights violations occurred in Africa during a terrorism investigation. Exactly ten (10) months earlier, via their brief as Amici Curiae for the appellant, the current and two (2) former U.N. Special Rapporteurs On Torture explained:

The United States has explicitly acknowledged its obligations under international law to provide a remedy in a case such as this. In 2006, the U.S. State Department, responding to questions from the Committee against Torture about U.S. compliance with its obligations to provide redress under Article 14 of the CAT, specifically stated that victims of torture could “[s]u[e] federal officials directly for damages under provisions of the U.S. Constitution for ‘constitutional torts,’” citing Bivens and Davis v. Passman. The availability of such remedies was reaffirmed in

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6 Id. at 350.
the most recent periodic report by the United States to the Committee. In 2014, the United States candidly acknowledged to the Committee past lapses in its obligations under the CAT and committed itself to full compliance going forward. Specifically, the United States told the Committee that it remains bound by the terms of the CAT for actions committed domestically or by its agents overseas, whether during a time of armed conflict or not. 2014 Concluding Observations, at ¶6 (commending U.S. position that war or armed conflict does not suspend operation of the CAT); ¶10 (noting U.S. commitment before Committee that the U.S. must “abide by the universal prohibition of torture and other ill-treatment everywhere,” including overseas). In sum, the United States has pledged to provide the precise remedy that the district court held unavailable in this case.9

So it seems that for Americans, securing protection from abusive U.S. local, state, and/or federal government officials is a classic executive, legislative, and judicial branch shell game — this, although “(t)he ICCPR and CAT obligate States Parties such as the United States to provide effective remedies for violations. See ICCPR, supra, at arts. 2(3), 9(5), 14(6); CAT, supra, at art. 14(1) (‘Each State Party shall ensure in its legal system that the victim . . . obtains redress and has an enforceable right to fair and adequate compensation . . .’); see also UDHR, supra, art. 8 (‘[e]veryone has the right to an effective remedy . . . for acts violating the fundamental rights granted him . . .’).”10

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10 Id. at docket pp 30-31, brief pp 18-19. (emphasis added).
A. The Apparent Ineffectiveness of Domestic Remedies for Average Americans Contending with Entrenched U.S. Legal System Abuse

"An audience slowly gathered on the morning of May 15, 2008 at the Capitol Hill mansion in Washington, D.C. of the now deceased philanthropist Stewart R. Mott, for an unprecedented ‘Citizens’ Forum on Judicial Accountability’ (CFOJA).”  

According to the 2009 report of that event:

(t)he CFOJA began with an academic debate on the resolution that adequate judicial oversight is generally available in America through well-established government processes. The question of whether current government processes for judicial oversight generally align with due process in America was then considered in light of testimony from a pre-selected panel of U.S. citizens.

By page nine (9) of the CFOJA report, a key contention was introduced: “It seems ‘the real problem for (America) is not the reality or unwarranted perception of (U.S.) judicial misconduct’, but the lack of forums for addressing related allegations that do not rely almost exclusively for effectiveness on judicial integrity and/or that of lawyers and/or public officials whose power and/or careers are controlled or substantially impacted by judges.”

Participating CFOJA panelists noted that their report was “not to suggest

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12 Id. at p 5.
13 Id. at p 9. (emphasis added).
that judges, lawyers, and public officials whose power and/or careers are controlled or substantially impacted by judges are not generally honest people of great integrity.”

Instead, the report "decries a judiciary that is ‘. . . essentially final arbiter of whether it has been corrupted and exclusive regulator of any attorney or judge who would object’ as NJCDLP did in 2005.”

But the corrupting effect of such sweeping judicial autonomy in the U.S. became more apparent over the following years to date.

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14 Id. at p 11.
15 Id.
In 2010 a stellar coalition of U.S.-based good government advocates attested to the United Nations (UN), as “New York Times reporter Adam Liptak once hinted, there is no rule of law without meaningful citizen oversight, ‘. . . a counterweight to central authority . . . and . . . as important an element in the constitutional balance as the two houses of Congress, the three branches of government and the federal system itself’.”16 Quoting the 2007 Global Corruption Report of Transparency International, the coalition noted that “(a)ll these are prerequisites for an environment promoting access to justice: the capacity of (usually) disadvantaged groups of citizens to gain access to courts (or alternative resolution mechanisms) by removing various institutional as well as corruption related barriers within the legal system.”17 And what was that “capacity” per the coalition’s UN submission as part of the 2010 Universal Periodic Review of America’s human rights record? The coalition reported: “This ‘capacity,’ evidenced by the ability of average Americans to effectively petition their government, is so diluted or compromised that what would otherwise be our constitutional and universal human rights are no more than privileges, doled out at government discretion.”18

A delegation of coalition representatives delivered the referenced UN report and its hearty list of “asks” to several members of Congress as part of what they called Grass On The Hill Day 2010. They supplied an overview of the report asserting that their UN “submission makes a case that America’s administration of justice is not firmly anchored by the rule of law.”19 As a first step in addressing related contentions, the delegation sought to have the full submission made part of the U.S. Congressional Record. There

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17Id. at 9.
18Id. (emphasis added).
was never a response to that proposal by any of the U.S. Senators and Representatives whose offices the delegation visited.

It seemed that an opportunity to revive the concerns of Grass On The Hill Day 2010 came on January 28, 2013. On that day UPR Info — a Geneva-based NGO (non-governmental organization) in Special Consultative Status with the U.N. Economic and Social Council — invited follow-up. Responding through its coalition leader which was OAK (Organizations Associating for the Kind of Change America Really Needs), the group stressed its intention “to report the actions (or lack thereof) by the U.S.A. to redress the primary concerns of (its) coalition members as reflected by the country's acceptance of certain UPR session 22 recommendations.”

UPR Info was implored: “Hopefully the milestones that OAK highlights, represented by the language, parameters, and mere acceptance of these recommendations, are relevant and important for your assessment though it also measures patent steps taken or not taken to implement those recommendations.” It was re-emphasized that “OAK gauges the latter developments only after they clearly advance, deter, or are inconsequential for ‘an environment promoting access to justice: the capacity of (usually) disadvantaged groups of citizens to gain access to courts (or alternative resolution mechanisms) by removing various institutional as well as corruption related barriers within the legal system’.” UPR Info’s final response was that OAK’s 2013 submission “is too general, it will not help to assess the implementation.” The U.N. representative would not explain how or why OAK’s proposed follow-up submission ‘is too general’ or otherwise ‘will not help’.20

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B. What is Reasonably Required to Establish Persistent U.S. Legal System Abuse?

The CFOJA debate contentions were as follows:

\textbf{Resolved:} Adequate judicial oversight is generally available in America through well established government processes.

\textbf{Negation:} Government processes

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for judicial oversight in America generally lack adequate procedural protections to vindicate the substantive rights of complainants alleging judicial misconduct.\textsuperscript{21}

If those supporting the resolution are far more accomplished than the overwhelming majority of those advancing its negation, are U.S. officials obliged to appease the latter group in any way? Does any American whose experiences solidly contradict the resolution deserve relief or is it reasonable for U.S. officials to hinge their help on a certain caliber of advocacy and/or volume of public support among complainants? Is there not a threshold of potential if not actual harm that U.S. officials are obliged to redress regardless of how the threat became clear? America’s answer to these questions is apparent from the skewed input it seeks in evaluating the country’s third branch of government.

National Forum On Judicial Accountability (NFOJA) responded with the following Facebook post of December 30, 2015 to “Cleaning House: Courts Self-Police”, a December 28, 2015 article\textsuperscript{22} by Zoe Tillman of The National Law Journal:

How does America measure the extent of judicial misconduct it experiences? Just the answer to that question is likely to have great implications regarding the country’s quality of judicial accountability, not to mention justice.

U.S. government agencies, academia, and other mainstreamed entities are not known for involving grassroots critics of America’s judiciary in considerations of judicial ethics or the lack thereof. It may seem reasonable to reserve such matters for people widely considered experts on relevant subjects. But then measurement of judicial misconduct in America gets left to people seemingly convinced in advance that judicial misconduct does not happen at an alarming rate in America. How can that view be challenged if anyone and everyone inclined to do so are avoided and otherwise disregarded?

Consider the example provided us by Arthur Hellman, a professor at the University of Pittsburgh School of Law who reportedly studies judicial ethics. The quotes attributed to him by this National Law Journal article make clear that he perceives judicial misconduct to be quite rare among U.S. federal judges. And he reaches that conclusion based on what... how engaging U.S. federal judges tend to be at cocktail parties?

The point is that the most meaningful manifestation of ethics (or the lack thereof) among U.S. judges happens when they’re at work. How many widely well regarded legal and/or judicial ethics experts experience America’s judiciary as an unpopular pro se litigant or as David’s understaffed and undercapitalized lawyer in high stakes litigation against Goliath?

Of course there are ‘experts’ who have considered the war stories of embattled U.S. litigants as well as their marginalized lawyers and found neither group to be particularly credible judicial critics. Well, how about launching legislative investigations of the extent to which those stories reveal discernible patterns of U.S. legal system abuse and judicial misconduct? That approach ultimately shifts emphasis from the subjective to the objective aspects of stories from U.S. legal system trenches.

...The book Outliers by Malcolm Gladwell reportedly identifies a “10,000 Hour Rule” — 10,000 hours being the time needed to become a “world class” expert in any field.23 Consider this: OAK’s 2010 U.N. submission on America’s human rights record and the very much related, grimmer, and unfortunately aborted report of TTD to the HRC are the work, and copiously cite the work as well as other supportive input of multiple world

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class experts . . . some qualifying per the 10,000 Hour Rule, three (3) or more times over.24

VI. What’s At Stake

Even in considering, as Transparency International suggests, “the capacity of (usually) disadvantaged groups of citizens to gain access to courts”, America’s standard retort to critics and critiques of its judiciary is “Consider the source!” Worth noting, of course, is the role and questionable tactics of U.S. government in discrediting those sources. Much more is at stake than reputations. For example:

- Access To Affordable, Competent Legal Representation

In a 2008 white paper which was cited in OAK’s 2010 UN submission, POPULAR (Power Over Poverty Under Laws of America Restored), a nonprofit U.S. legal system reform advocate, noted that “state administered, lawyer disciplinary processes can be misused to silence government critics; the devastating impact extends beyond targeted lawyers and their families; in fact scores if not hundreds or thousands of poor and other disadvantaged Americans lack access to affordable, competent legal representation as a result; and the most fundamental, underlying problem is that state regulation of speech among lawyers and judges, transgresses the Privileges and Immunities Clause, Commerce Clause, and First Amendment of the U. S. Constitution beyond considerations of orderly, fair trials.”25 As of this report, the sheer prospect of retaliatory lawyer discipline has virtually transformed the phrases “rock the boat” and “public interest lawyer” into an oxymoron.

A veteran grassroots legal reform activist answered online:

There are so many organizations out there - isn't there an organization that will help me fight wrongdoing by a judge or lawyers?

Amazingly, though you can find many American organizations supposedly dealing with lawyers and judges, and the topic of reforming the legal system, they will mostly all ignore you, if you are a victim of judicial or legal corruption. This is true of the whole range of well-funded advocacy groups, non-profit study groups, and various civil rights, civil liberties, and human rights organizations.

Such groups tell you they try to ‘work within the system’, which is code language for telling you that they almost never get involved in complaining about crooked lawyers and judges. These organizations are not out to rock the boat of America’s judicial nightmare, even though they may be engaged in other political-type legal cases.

If such organizations have any money, resources, or lawyers on their staff, they will very likely totally ignore you.

But if the organization has no money, has nothing much more than a website, and no lawyers or legal help, you may find a sympathetic ear to receive your e-mails, but perhaps little else.

Like many other victims, you may find that the same civil rights or civil liberties organization, to whom you were donating money all these years, now dumps you on the street like a load of garbage when you ask them to help, in an actual case of judicial or legal corruption.

It is all a tragedy, indeed.

And it will be quite a surprise, as you sift through the websites, many of which claim that they are advocates for civil liberties, human rights, more honest judges, a more open judicial process and blah-blah-blah.

Some of them have very nice websites, put up at great expense. You can read about their paid staff members with their executive director, and all the important people on their board of directors - which is almost a sure sign that the organization will not help you.

If you dig into those websites, though, you will usually not find any great heroic stories, of how the group helped some poor victim of legal corruption, who had been railroaded by a dishonest judge or lawyer.
If you call them up, you will find that such brave fighting is not their ‘mission’. If such groups have money, that usually means that these groups are part of the general game of politics that serves either the Democratic or Republican parties, or both. Or sometimes the group is actually a group working for the very lawyers and judges who are running the current system as it stands right now.

Such groups are sometimes quite passionately involved in a few partisan legal cases, where Republican politicians are going after Democrats, or vice-versa. Sometimes they are involved with one of those public emotional issues - like school prayer or family values or so on - in the framework of one political party or another. Occasionally, they do help some private individual, who is lucky enough to have his or her problem fit exactly into their political agenda, but that is very rare.

And such cases are almost never about the usual bribery, fraud, corruption, and brutality, of America’s day-to-day lawyers and judges. There is no well-funded organization out there, helping the simple average American who is being robbed, violated and railroaded by crooked lawyers and judges.

Any well-funded organizations, and their lawyers, tend to chase after cases that are already in the media, or obviously suited to the political game of the two main parties.

…

Some organizations do some good work for human rights or civil rights, but they are very timid or limited in what they do. So many tens of millions of people need help, they say No to most people anyway.

And such organizations are afraid of exposing crooked lawyers and judges. They have the same problem you do: The judges and lawyers will destroy them if they speak out too much. If they criticize judges and lawyers, they face lawsuits and false criminal charges, just like you do. The judges can see to it that the organization’s lawyers lose the right to practice law, and that the organization gets destroyed with a few big lawsuits. And they will lose their ‘corporate’ funding if they have any, and all those paid employees at the organization will be out of work, or worse.
When you are a victim of a crooked judge or lawyer, that often means your civil rights have been violated, either by what originally happened, or the subsequent cover up. However, that is exactly the kind of violation of your civil rights and civil liberties, that the various organizations are afraid to touch, even if they claim to be national ‘civil rights and civil liberties’ organizations.

‘We have to work within the system,’ they will tell you. ‘Our resources are limited, we can't take every case, it’s not the kind of case we handle . . .’ Eventually you get used to the routine responses.

Most victims will find that, for their own case, there is no one out there, with money or resources or lawyers, who is willing to help fight legal or judicial corruption in America.26

The result is a polychronic community of people — courtesy of the financial, social, and emotional devastation heaped upon them through persistent U.S. legal system abuse, leaving them with little to no resilience for the monochronic tasks (such as data base development, community canvassing, strategic social networking, etc.) essential in harnessing and wielding political power on a grassroots basis in America.27

![Image]

- **Quality, Affordable Healthcare**

Massachusetts resident Douglas K. Kinan attested in writing to what he described as “an undisputed pattern and practice of bullying and retaliation and, in terms of duration, . . . the worst case of bullying and retaliation (he had) witnessed in (his) professional career.” The target of this alleged conduct? Dr. Bharanidharan Padmanabhan:

Dr. Padmanabhan is a Board-Certified Neurologist with a Ph.D. in Multiple Sclerosis who was subspecialty-trained in Neurology and Multiple Sclerosis in Boston at Tufts and Harvard. He is one of a small handful of people in the United States to have completed two fellowships in Multiple

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27 To learn more, navigate to “Storm of Inaction” on TTD website, [http://www.thethirddegree.net/#!storm-of-inaction/ct3a](http://www.thethirddegree.net/#!storm-of-inaction/ct3a)
Sclerosis, making for a total of 4 years as a fellow following his training in residence in Neurology.\textsuperscript{28}

Based on his “approximately twenty-five (25) years of experience monitoring and evaluating the complaints process and investigations, fact finding and analyzing complaints and labor/employee relations matters, in both the private and public sectors” as a non-lawyer administrator, Kinan assessed Dr. Padmanabhan’s difficulties.

Kinan explains:

I am knowledgeable of the various ‘legal manipulations’ used, including the retaliatory practice of filing false charges, fabricating evidence and the use of false and/or anonymous witness testimony, which has been characterized to me by a senior government attorney as ‘gaming.’ For example, in a non-selection case assigned to me during my employment at the Defense Contract Management Agency, East (’DCMAE’) the undisputed evidence and admissions made to me established that the complainant was being disciplined for a violation she did not commit. I was required to go along with the frame-up. I refused.

Despite undisputed evidence of routine and systematic harassment and retaliation of the innocent female complainant, which I presented to the chief counsel, . . ., and the deputy chief counsel, . . ., with a request that they intervene to stop the harassment and retaliation, they remained silent. The retaliation proceeded. When I asked the chief counsel why he was not going to stop the frame up and termination of an innocent, elderly and sickly female when he had overwhelming evidence that she was innocent, he cavalierly replied: ‘\textit{We, (the Legal Directorate) can do anything we want. It’s called gaming. We can deny, we can delay . . . dismiss. We can manipulate the system any way we want.’} [Emphasis added]. The ‘gaming’ continued on to the federal court where a forced settlement was ‘agreed’ to by the attorneys. Legal manipulations and forced settlements prevent witnesses from testifying and prevent jury trials.

\textsuperscript{28} Learn more about Dr. Padmanabhan’s difficulties and the plight of many medical whistleblowers by reading the online article \textit{How One Hospital Lost Two Of Its Best Neurologists}, published at http://liftingtheveil.org/special-reports/how-one-hospital-lost-two-of-its-best-neurologists/
Unfortunately, in the overwhelming majority of cases, complainants have no say and no choice in forced settlements. Prosecutors will resort to any and all unethical and/or unlawful practices to avoid a jury trial. Despite statutory protections, the illegal and unethical mind set and mentality, using the might and unlimited government resources against complainants/whistleblowers is standard operating procedure due to the lockstep conduct of those involved, with the complicity of the prosecutors. Using the federal court system to complete a crime should be rebuked by all federal judges, but that rarely happens. A jury trial is also a remote possibility. I find similar conduct to be the case in Administrative law proceedings, sometimes worse.

With his insights on gaming that only began with the story recounted above, Kinan agreed to be a pro bono witness to proceedings in the matter of Board of Registration in Medicine v. Dr. Bharanidharan Padmanabhan.

To evidence his relevant, specialized knowledge through direct experience and study\(^\text{29}\), Mr. Kinan described the following phenomena in assessing what he observed of medical disciplinary proceedings against Dr. Padmanabhan:

... 

**A GUARANTEED FORMULA FOR BULLYING, RETALIATION AND MALICE AGAINST WHISTLEBLOWERS**

It is important to note some, but not all of the following whistleblower retaliation ‘formula’ has been used against Dr. (Padmanabhan):

**Spotlighting the whistleblower, not the wrongdoing.**

This is also known as the ‘smokescreen’ or ‘changing the subject’ tactic. The first imperative of retaliation is to make the whistleblower the issue: obfuscate the dissent by attacking the source’s motives, credibility, professional competence, or virtually anything else that will work to cloud the issue. The point is to direct the spotlight at the whistleblower instead of the wrongdoing or violations of law.

\(^{29}\) Kinan indicates that his affidavit “(s)ources are from direct knowledge, personal experience, portions of articles published (by) the Government Accountability Project (GAP), the National Whistleblower Center (NWC) and the Project on Government Oversight (POGO).”
A typical management response to a whistleblower’s disclosures is to launch an internal investigation and retaliate against the employee on trumped-up charges.

Allegations of everything, including a smear campaign - even charges that have already been investigated and discredited continue. Moreover, smears of alleged misconduct similar to what the whistleblower is exposing are not unusual.

Chutzpah in selecting the smear charges is a common tactic to demonstrate the organization’s invincibility. Soft-spoken, humble individuals have been branded loudmouth egomaniacs. There is no limit to the petty and outrageous depths to which an unscrupulous employer may be willing to sink.

Often a private firm will be hired to do the dirty work of investigating a whistleblower.

A related technique is to open an internal investigation or process - and then deliberately keep it pending for an indefinite period. The idea is to leave the whistleblower twisting in the wind, with the clouds of an unresolved, never-ending investigation hanging over his head.

Some whistleblowers endure a series of nearly seamless investigations for decades. The intent is not only to create uncertainty and stress but also to undermine the whistleblower’s credibility.

Potential media, government, and other officials may be discouraged from listening to and taking seriously the allegations of a whistleblower who is ‘under investigation.’ At the same time, agencies can hide behind privacy laws to hint that there is a problem with the employee that the corporation is not at liberty to disclose.

A related tactic is ‘chain witch hunts,’ in which a new investigation is opened as soon as an old one is closed without action.

**Build a damaging record against the whistleblower.**

This tactic goes hand in glove with spotlighting the whistleblower. Not infrequently, companies spend years manufacturing an official personnel record to brand a whistleblower as a chronic ‘problem employee’ who has refused to improve. The idea is to convey that the employee does nothing
right. In truth, many whistleblowers have a history of sterling performance evaluations – until this tactic is used against them. An employer may begin by compiling memoranda about any incident, real or contrived, that projects inadequate or problematic performance on the job! By the time something more serious such as termination is proposed, the employer is armed with a long and contrived history of ‘unsatisfactory performance.’

**Threaten them.**

Warning-shot reprisals for whistleblowing, such as reprimands, often contain an explicit threat of termination or other severe punishment if the offense is repeated.

**Isolate them.**

Another retaliation technique is to transfer the whistleblower to a ‘bureaucratic Siberia.’ Similar to public humiliation, the isolation makes an example of the whistleblower while also blocking the employee’s access to information and severing contact with other concerned employees. Moreover, like any good retaliation tactic, isolation puts pressure on the whistleblower to be compliant or resign.

**Set them up for failure.**

The converse of retaliating against whistleblowers by stripping them of their duties is the tactic of putting them on a ‘pedestal of cards.’ This involves setting whistleblowers up for failure by overloading them with unmanageable work and then firing or demoting them for non-performance. This tactic commonly includes making it impossible to fulfill assigned responsibilities by withdrawing the necessary privileges, access, or staffing. Another variation of this tactic is to appoint the whistleblower to solve the problem he exposed and then make the job impossible through a wide range of obstacles that undercut any possibility of real reform. The employee may then be turned into the scapegoat and fired for incompetence when the problem is not solved. In extreme cases, this retaliatory tactic may extend to setting the whistleblower up for criminal charges, disciplinary action, or even injury, such as by ordering people with bad backs to move heavy furniture.

**Physically attack them.**
Karen Silkwood from Oklahoma’s Kerr-McGee nuclear facility was killed after her car ran off the road on the way to meet a reporter under circumstances that led many to suspect murder. Shortly after James Murtagh successfully settled his False Claims lawsuit and made FBI disclosures in a political-corruption case that sent the Georgia State Senate leader to prison, he was hospitalized for arsenic poisoning. Brown & Williamson’s Jeff Wigand experienced anonymous death threats against himself and his loved ones. These whistleblowers’ fates demonstrate the risk of physical retaliation for speaking out. Physical attacks on whistleblowers are not common but do occur. Sometimes organizations encourage or wink at ‘the boys’ who do their dirty work, as the whistleblower gets beaten up by thugs on the work floor. Sometimes physical retaliation is more subtle. Whistleblowers at nuclear or chemical facilities may find themselves assigned to work in the hottest radioactive or toxic spots in the plant.

**Eliminate their jobs.**

Another common tactic is to lay off whistleblowers even as the company is hiring new staff. Employers may ‘reorganize’ whistleblowers out of jobs or into marginal positions.

**Paralyze their careers.**

An effective retaliation technique - and one that sends a signal to other would-be dissenters—is to deep-freeze the careers of whistleblowers who manage to thwart termination and hold on to their jobs. These employees become living legends of retaliation when employers deny all requests for promotion or transfer. A related tactic is to deny whistleblowers the training needed for professional development. The message is clear: ‘She is going nowhere.’ Bad references for future employment openings are common, and any whistleblower settling a legal case should be careful to take this into account. Sometimes this tactic can be subtle, using buzzwords to signal that a former employee should not be hired. Common examples are statements that an employee ‘is not always a team player’ or ‘needs to work on maintaining cooperative relationships.’

**Blacklist them.**
Sometimes it is not enough merely to fire whistleblowers or make them rot in their jobs: The goal is to make sure they ‘will never work again’ in their chosen field or industry. After several oil-industry whistleblowers exposed illegal pipeline practices, for example, the company placed them on a list of workers ‘not to touch’ in future hiring. It does not matter whether you are completely vindicated.

Employers in scientific professions have exercised some of the ugliest forms of blacklisting. James Murtagh has endured a steady pattern of receiving new jobs in supportive environments only to get terminated without explanation within weeks. He subsequently found that his former employer had posted the equivalent of a smear dossier about him on its website. Another creative method is extradition. Whistleblowing foreign nationals at university laboratories, including students, have been warned that their visas will not be renewed and that the Department of Homeland Security is available to ensure their departure. Many other forms of retaliation against scientists have also arisen. These experiences are not unique. They illustrate what you can expect.

**NEUTRALIZING DISSENT – STANDARD TACTICS OF COVER-UP**

The point of the tactics described above is to overwhelm whistleblowers in an existential struggle for preservation - to undermine their credibility, career, family, finances, and even sanity until they are silenced and the issues that triggered the whistleblowing are forgotten. Typically, these tactics are only one of two fronts. In addition to ‘shooting the messenger,’ employers also strive actively to bury the message by changing the subject to cover up the wrongdoing.

Employers often rely on longstanding secrecy tactics to camouflage institutional misconduct. Large corporations will devise systems and written or unwritten policies for keeping dissent - including information about possible wrongdoing - from surfacing or creating problems for the company. Some are standing policies. Others are adopted when companies become aware of their own wrongdoing and seek to avoid getting caught. Still others are put into place as a means of damage control after a whistleblower has publicly exposed an instance of misconduct.
Gag the employee.

The most direct way to silence potential whistleblowers is to gag employees through repressive nondisclosure agreements as a job prerequisite or by excessively designating information as ‘proprietary’ or with government contractors as ‘classified.’ Private employers often build gag orders into company manuals or employment contracts and then enforce them through civil suits for breach of contract or theft of proprietary information. More subtly, companies routinely order staff to refer all media inquiries to an in-house public relations office.

Conduct a fraudulent investigation.

A related tactic is to launch an investigation on false and fabricated allegations that never ends, similar to this Board keeping a Docket open against Dr. Bharani for almost 5 years fully conscious that this has blocked him from earning a living.

Institutionalize conflict of interest.

Institutions accused of wrongdoing routinely initiate probes into their own misconduct. In many whistleblower cases, this is the equivalent of appointing the fox to guard the henhouse. In one sense, it is only fair (and more efficient) to allow companies a chance to resolve allegations and straighten out internal problems. That is the point of internal checks and balances; corporations should be responsible for internal housecleaning. But when confirmation of misconduct could create liability or when individual business leaders are the direct cause of misconduct, this approach inevitably places in-house investigations in a conflict of interest.

Keep them ignorant.

Like government-classified national security information, companies’ information may be restricted to a ‘need-to-know’ basis. Taken to the extreme, this policy can be misused to hide the truth and thereby keep employees too ignorant to threaten the corporation. There is often a link between this tactic and various others, such as isolation and internal reorganization. Employers may seek not only to punish the whistleblowers but also to make it impossible for them to access information and evidence. When information is power, ignorance is anti-bliss.
On occasion, employers isolate whistleblowers from gathering evidence through a longstanding labor-management technique: physically locking them out and or reassigning them to a non-job assignment or a lesser position. Managers may pull out technicalities and obscure subsections of procedures to paralyze efforts at gathering and disclosing information. Similarly, revoking an employee’s security clearance is both a tactic of retaliation and a technique for hiding damaging information from those workers who would otherwise have access to it.

**Prevent development of a written record.**

When policies or suspect activities are indefensible, wrongdoing can best be obscured by keeping the evidence oral. This can be enforced by peer pressure, overscheduling (to ensure that there is not time to construct a written record), purging files - both electronic and hard copy - and off-the-record backdoor meetings. Managers recognize that it is difficult for whistleblowers to build a case against them without a paper trail. Verbal orders and agreements diffuse accountability over time and inevitably pit the whistleblower’s word against that of his superior. In the case of Dr. Bharani, despite a requirement to keep minutes of his Complaints Committee Hearing, no minutes were allegedly kept.

**Rewrite the issues.**

One of the more insidious (s)trategies is to trivialize, grossly exaggerate, or otherwise distort the whistleblower’s allegations - and then discredit the employee by rejecting the resulting ‘red herring.’ A whistleblower who alleges that superiors overlooked problems on the job may, for example, find the concerns exaggerated into allegations of willful misconduct—thus stretched beyond credibility. The corporation then finds that, although mistakes were made, the employer committed no intentional violations. The charges are dismissed, the whistleblower is discredited, and the targets promptly proclaim exoneration.

Rewriting the record can degenerate into outright censorship. This may involve deleting evidence or issues that are too hot to handle - and therefore vanish from the ensuing investigative report. In other cases, the findings are “massaged” through edits that ensure that they will not be interpreted as significant. An investigative report - even one diluted by
rewritten allegations, censorship, and neutered recommendations - can still be damaging to wrongdoers. As a result, a related technique is to issue a press release declaring that the investigation had concluded that there was no wrongdoing - but then refuse to release the report containing the record of the investigation.

**Scapegoat the small fry.**

Just as corporations may trivialize allegations of wrongdoing by rewriting them, they may lower the scandal volume by shielding institutional leadership from accountability. Instead, they target those who do not have a support constituency or who were only following orders from higher-ups

**Reward the perpetrators.**

Personnel who retaliate against and drive out the whistleblower are almost (always) rewarded by promotions, awards and/or public commendation. In my particular experience, my supervisor and 'Equal Employment Manager' at the DCMAE who participated in promotion fixing designed to cheat women and minorities out of merit based promotions, retaliation, rigged investigations and more, eventually was given three promotions, received annual bonuses and received the DCMAE's highest employee award: 'Superior Performance Award.'

According to Mr. Kinan, “(i)n the case of Dr. (Padmanabhan), a new Neurology Chief put into motion the events that culminated in the Board blocking him from earning a living for more than 4 years and was invited by the Board to serve as (its) witness at the DALA hearing and to have her statements relied upon in both the Board’s Statement of Allegations and the closing brief.”

**The Sanctity of Families and Family Lineage**

Perhaps the most prolific source of U.S. legal system abuse allegations are parents *(including grandparents)*, children *(usually by proxy)*, and families with the misfortune of having their rights *(in their respective capacity as parents, children, and families)* tested through U.S. court proceedings. Related conflict has clearly fostered **INTENSE** animosity between many mothers and fathers, parents and grandparents, natural parents and foster as well as adoptive parents, not to mention parent/child conflict. However, in the midst of all the corresponding disagreement, these core problems are apparent:
1. the judicial/legal system “revenue bias” attendant to Title IV-D of the Social Security Act, 42 USC § 451 et. seq.;\(^{30}\)

2. the sometimes obscene profitability of U.S. family conflict attendant to marital and custody disputes as well as child protective services being part of America’s adversarial legal system;\(^{31}\)

3. the susceptibility to inappropriate gender, class, and similar biases attendant to unduly subjective aspects of fact-finding in U.S. family court proceedings;

4. the inadequacy/ineffectiveness of training for U.S. law enforcement and judicial officers contending with high-conflict romantic relationships; and

5. the prospect of there being substantial U.S. state facilitated child-trafficking under the guise of Child Protective Services, Foster Care, and Adoption.

Despite the seriousness of these problems and the clarity with which they are regularly implicated by Americans allegedly contending with persistent U.S. legal system abuse, the more pressing issue for U.S. politicians seems to be whether complainants are credible U.S. judicial critics and whether U.S. executive and/or legislative branch intervention is appropriate given separation of powers and other jurisdictional concerns. As evidenced by a series of emails, U.S. Representative Katherine Anne “Kathy” Castor (D-FL 14th District) even preempted a meeting with an Opt IN USA constituent who is also a psychiatrist on the purported grounds that only state family law matters would be at issue.\(^ {32}\)

- **Republican Form of Government**

While they are not meant to be apocalyptic, but are, instead, meant to inspire appropriate reforms . . . two (2) writings go a long way in establishing that for government gadflies, America is easily transformed through its criminal justice system into a fascist regime. The most recent article is “How To Get Away With Career Murder: The Unconstitutional

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\(^{30}\) While it may not be the original or only source, this report’s quote of the phrase “revenue bias” is from footnote 1 of *In Re: LEON R. KOZIOL*, a proposed “PETITION FOR MANDAMUS RELATING TO ORDERS OF THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF NEW YORK Case No. 6:14-cv-946(GLS/TWD)” accessible at [http://www.scribd.com/doc/289766433/Petition-for-Mandamus](http://www.scribd.com/doc/289766433/Petition-for-Mandamus)


\(^{32}\) An image of the email exchange between Castor and her physician constituent is accessible at [https://www.facebook.com/Opt.IN.USA/photos/p.1037742282915343/1037742282915343/](https://www.facebook.com/Opt.IN.USA/photos/p.1037742282915343/1037742282915343/)
Blueprint for Systematically Purging Whistleblowers from U.S. Law Enforcement" and the earlier is “The Official End of Judicial Accountability Through Federal Rights Litigation: Ashcroft v. Iqbal”. What a careful reader could learn, largely from these two articles, is that probable cause to criminally indict an American can be derived from totally fabricated evidence and no matter how negligent the prosecutor and presiding judge are in allowing that predicament to evolve into a wrongful conviction, it may never be thoroughly investigated, prompt civil damages, statutory reparations, and/or any form of equitable relief for the unfortunate defendant. As the cited articles indicate or suggest, such an outcome was firmly nestled into the realm of possibilities by the U.S. Supreme Court this millennium through expansions and refinements of its precedents.

So America need not ever become known for “disappearing” its critics or having them shot in public squares or meet their mortal end through suspicious mishaps. The U.S. Supreme Court has handily insulated America’s judges and prosecutors (with immunities and unassailable discretion) such that they can transform U.S. criminal proceedings into little more than internments, with virtual impunity. No matter how retaliatory or otherwise unwarranted the process may seem, legal recourse may be outright preempted by some judge-made or liberally construed immunity, or easily circumvented by judicially

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35 Defense counsel’s competence and zealousness can be rendered inconsequential by an unscrupulous prosecutor and complicit presiding judge. Learn more under “Factoring the Prospect of Wrongful Conviction” at http://www.plea4justice.org/#about/clmxq

36 Interesting, considering that “(t)he court is now almost evenly split by ideology, with four conservative-leaning justices, four on the liberal side and one — Justice Anthony Kennedy, known as the ‘swing voter’ — in the middle and just as likely on almost any issue to go either way.” Atkins, Kimberly. “Next president will name as many as four Supreme Court justices. High court power play comes with presidency”. Boston Herald. (10/5/15). http://www.bostonherald.com/news/us_politics/2015/10/next_president_will_name_as_many_as_four_supreme_court justices

37 See footnotes 33 and 34, supra.
imposed pleading standards or burdens of proof and persuasion . . . precedent, *stare decisis*, the rule of law, and sometimes fairness and logic notwithstanding.\(^{38}\)

At least ostensibly, America is a republican form of government. It has not descended, and is unlikely to ever descend into conspicuous Fascism. But for those who know or can sense its judicial oversight inadequacies, America’s relative isolation from the international human rights community renders it a dystopia, *i.e.*, a frightening society. Those of us in varying phases of being subjected to TTD have been disenfranchised, severely traumatized, and/or incarcerated through highly questionable legal proceedings and/or live under constant threat of unwarranted incarceration if not unnatural death.\(^{39}\)

It is difficult to even flee the United States and seek asylum elsewhere under such circumstances.

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\*Public Health and Safety*

"As the Nation’s largest employer, the Federal government must model effective employment policies and practices that advance America’s ideal of equal opportunity for all."\(^{40}\) Of course sometimes (many current and former U.S. federal employees would say oftentimes) it does not, due to rogue agents or discernible intra-agency cabals. Responsibility for redressing related offenses was transferred from the Civil Service Commission (Office of Personnel Management) to the U.S. Equal Employment Opportunity Commission (EEOC), effective January 1, 1979.\(^{41}\)

This report is only days past the eleventh (11\(^{th}\)) year anniversary of the *Chicago Tribune*, a major U.S. news outlet, describing the agency as overworked and ineffective.\(^{42}\) Through its radio broadcast, *Domestic Threat 2016*, and other public awareness efforts, The

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\(^{39}\)To learn more, visit [www.thethirddegree.net](http://www.thethirddegree.net) and/or consider the related HRC submission, *Crenshaw-Logal, et al. v. The United States of America*, For communications under the Optional Protocol to the International Covenant on Civil and Political Rights, accessible (without attachments) at [http://media.wix.com/ugd/fa6d06_c75b8012f58a41d1acd32a37a1666e956.pdf](http://media.wix.com/ugd/fa6d06_c75b8012f58a41d1acd32a37a1666e956.pdf)

\(^{40}\)U.S. Department of Labor, Office of Disability Employment Policy — disability employment policy topic at [http://www.dol.gov/odep/topics/federealemployment.htm](http://www.dol.gov/odep/topics/federealemployment.htm)

\(^{41}\)See, the President’s Reorganization Plan No. 1 of 1978.

Coalition for Change, Inc. (C4C) addresses “Racism and Reprisal in the Federal Sector” and attests to continued EEOC dysfunction.43

When a nation’s largest employer pledges to be a bastion of equal opportunity but is instead plagued by unlawful discrimination, the result is a work environment more toxic each time an attempt to redress that discrimination fails. It would defy human nature for the person who sought relief to simply accept the loss, adjust his or her expectations, and resign him or herself to the discrimination without some sense of disappointment. And if the employer continues to espouse intolerance of unlawful discrimination without supplying an effective means to contain it on the job, that disappointment will likely give way to resentment.

Not everyone can acquiesce to an equal opportunity charade. When the employer is America’s largest, i.e., it is our federal government — many employees will undoubtedly pursue relief.44 Each time purported remedies prove ineffective, the cycle of disappointment and resentment is sure to repeat and probably intensify for these grievants. The end product is a workforce that is, and for many people, both a workforce and civil rights enforcement process that are toxic. Of course the toxicity intensifies in some proportion to the direct harm of underlying discrimination and related retaliation if any. There is also the consideration that serial violation of rights can constitute psychological torture in a global sense.45

So a substantial portion of America’s population is seriously debilitated by the U.S. government as an employer, in conjunction with the EEOC as a civil rights enforcement agency. The same kind of dynamics allegedly involves the U.S. Office of Special Counsel (OSC), “an independent federal investigative and prosecutorial agency.”46 The OSC is charged with “(p)rotecting federal employees from improper personnel actions, including retaliation for whistleblowing”.47 Clearly that function could align with

46 Learn more at https://osc.gov/Pages/WhatWeDo.aspx
47 Id.
disappointed expectations and brewing/escalating resentment among federal employees who looked or look to the OSC for protection. But the threat to public health and safety is arguably more ominous given OSC’s purported role as “a safe channel for federal employees to disclose wrongdoing”.

In fact a Joseph Carson of Tennessee regularly publicizes his “opinion as a professional engineer (PE) that OSC is a decades-long, law-breaking fraud of a federal agency, the U.S. Merit Systems Protection Board (MSPB) is its decades-long, law-breaking, enabler and that this continuing, compounded, federal agency law-breaking puts America and civilization at unnecessarily increased risk of a nuclear terrorist attack or other dire calamity, given its deeply corrupting impact on the integrity of the federal civil service.” The MSPB is “an independent, quasi-judicial agency in the Executive branch that serves as the guardian of Federal merit systems.” This report shares the referenced Mr. Carson’s view of the OSC and MSPB to illustrate the professionalism (as in balance) that a complainant can bring to his or her employment dispute only to be evaded or otherwise left without a fair and impartial resolution.

The images below provide a reasonably thorough summary of Carson’s twenty-five (25) year OSC/MSPB wrangling, and display the caliber of his advocacy better than this report would by merely quoting the depicted text:

~ Images of Carson Complaint begin on next page ~
December 14, 2015

Mr. Rush Holt, CEO
American Association for the Advancement of Science (AAAS)
1200 New York Avenue, NW
Washington, DC 20005

Via: Andrew Black, Chief of Staff and Director of Executive Operations
fax 202.371.9526 email: xxxxxxx@aaas.org

Subject: Complaint of Professional Misconduct, Injurious to the Purposes of the American Association for the Advancement of Science (AAAS), by Secretary of Energy Ernest Moniz, a Fellow in AAAS

Dear Mr. Holt,

I am a longtime, deeply concerned member of AAAS, as well as a “multiple-time” prevailing whistleblower in the Department of Energy (DOE) about serious public (including workplace) health and safety issues, including nuclear safety. My professional duties in DOE continue to include significant responsibilities for worker and public health and safety. I am a licensed professional engineer (PE) and a longtime member of other engineering societies, American Nuclear Society (ANS), American Society of Mechanical Engineers (ASME), and National Society of Professional Engineers (NSPE), all of which are AAAS-Affiliated organizations.

I am 61 with a spotless personal and professional record. At whatever risk to my federal job and benefits, my PE license, and my membership in AAAS and other professional societies, I publicly allege that Secretary of Energy Ernest Moniz appears to be unfit for his position of the great responsibility for American public health, safety and security - as well as his continued status as a Fellow in AAAS - because he refuses and/or fails to recognize and honor the positive legal and/or professional obligations that PE’s, other engineers, and other professionally credentialed environment, safety, and health professionals in the Department of Energy (and its contractors) have to risk their jobs, when necessary, to “hold paramount the public (including workplace) health, safety and welfare in the performance of professional duty.”

Summary of my misconduct complaint against AAAS Fellow Ernest Moniz:¹

Secretary Moniz is my ultimate boss in DOE, he has the unquestioned legal authority to direct an objective review of my well-evidenced whistleblower disclosures of approximately dozen violations of specific civil service statute by the U.S. Office of

Special Counsel (OSC) or U.S. Merit Systems Protection Board (MSPB) crucial to the regulation of the management culture, particularly the safety and security culture, in DOE. This he refuses or fails to do, putting civilization itself, in my public professional opinion, at unnecessarily increased risk of collapse or destruction. Therefore, his conduct is deeply injurious to the purposes of AAAS.

As a PE, as a member of ANS, NSPE and ASME, I have a positive legal and/or professional duty to risk my professional standing and economic security to “hold paramount the public health, safety and welfare in the performance of professional duty.” I have a positive legal and professional duty to end my professional relationship with an organization that will not resolve my reasonable concerns involving public (including workplace) health and safety. AAAS Fellow Moniz is my ultimate boss in DOE, so if he will not respect the positive legal and ethical demands of my professional duty in DOE, then AAAS should sever, with prejudice, its relationship with him.

I allege that Secretary Moniz has engaged in years-long unlawful whistleblower reprisal against me by willfully refusing or failing to direct, per his unquestioned legal authority as the head of an

2 My situation as a deeply concerned PE employed by DOE now approaches a quarter-century. There are few, if any, contested facts, see www.carsonversusdoe.com and www.broken-covenant.org.

The specific civil service statutes in dispute relevant to DOE’s management culture are:

OSC - 5 U.S.C. §1212(a)(4), §1213(g)(l); §1214(a)(1)(A), (a)(1)(C), (a)(1)(D), (a)(2)(A), (a)(4), (b)(2)(A)(i) and (ii), (b)(2)(D), (c), and requirements of the “termination statement” found in endnotes of Section 1214, citing Pub. L. 103-424 Section 12(b).

MSPB - 5 U.S.C. § 1204(a)(3) and (c)(3).

I allege Secretary Moniz is refusing or failing to comply with 5 U.S.C. §2301(c), “to take any action necessary” to ensure employment “embodies” the “merit principles” in DOE’s Office of Intelligence and Counterintelligence, which is an intelligence community (IC) entity.

I allege that the OSC and MSPB law-breaking precludes Secretary Moniz from being able to comply with 5 U.S.C. § 2302(c) to “prevent prohibited personnel practices (PPPs)” in the rest of DOE - because of it, he is unable to say, with any objective basis, that DOE employees are adequately protected from PPPs; therefore he is unable to say, with any objective basis, that he is “preventing” them.

The Office of Legal Counsel (OLC) website is http://www.justice.gov/olc. DOE is an “Executive Department,” therefore Secretary Moniz has the lawful authority to direct OLC to review these civil service laws and issue its opinion as to their interpretation, by 28 U.S.C. §512.
Executive Department, the Office of Legal Counsel (OLC) of the Department of Justice review and issue its opinion on the approximately dozen specific civil service statutes relevant to public health, safety, security and environment in DOE that I reasonably believe the U.S. Office of Special Counsel (OSC) or U.S. Merit Systems Protection Board (MSPB) have misinterpreted and misapplied for decades now. I allege his willful failure or refusal to do this creates “any other significant change in my duties, responsibilities or working conditions” as a PE with a positive lawful duty to “blow whistles,” regardless of possible employment retribution - or to resign if the concerns continue to be ignored - employed in the Department of Energy in a position with significant responsibilities for public (including workplace) health and safety, including nuclear safety.

By law, the Civil Service Reform Act of 1978, agencies as DOE are NOT self-regulating for their management culture, particularly their safety culture. Congress purposely created a complex system, involving multiple agencies performing complementary functions, to regulate the management culture in federal agencies for two reasons:

1) create a more uniform system for the several hundred federal agencies, and
2) Congress knew better than to trust federal agencies to self-regulate their management culture.

Like it or not, DOE is simply unable to fix its flawed safety culture (and, more ominously for the future of civilization, its flawed security culture) unless OSC and MSPB properly interpret and apply their various statutory duties for the regulation of the management culture, particularly the safety (and security) culture in DOE. No one denies this, the law could not be more clear that DOE is NOT self-regulating for its management culture, that it depends, in essential part, on OSC and MSPB for the regulation of its management culture.

I have been pursuing resolution of these concerns, by every lawful mechanism, for many years now. Attorneys at DOE, OSC and MSPB (including the head of OSC, Special Counsel Carolyn Lerner and the head of MSPB, Chairman Susan Grundmann) have an attorney-client relationship with their employing agencies and, by the relevant legal ethics, have a positive duty to be a “zealous advocate” for their clients, their employing agencies. These attorneys do not take exception to the reasonable nature of my concerns, instead they do everything they can to prevent their objective resolution and do so in the name of “legal ethics.” That is why this situation has

3 My whistleblower reprisal appeal against Secretary Moniz is Carson v. MSPB, docket no. 15-1286, at the U.S. Court of Appeals for the D.C. Circuit

4 This is a novel issue of civil service law - about a law that was passed in 1994 - whether this type of personnel action can occur when an agency refuses or fails to resolve a whistleblower disclosure. AAAS is not constrained by civil service law, it can make clear that any member who refuses or fails to support the timely and objective resolution of a subordinate’s whistleblower disclosure relevant to the integrity of practice of science or engineering in their organization is subject to discipline within AAAS.
dragged on for approaching a quarter-century and why I am taking the unprecedented step of filing a professional misconduct against Secretary Moniz in AAAS - he will not be able to hide behind DOE attorneys, he will have to answer for his conduct and its injurious impact on AAAS purposes.  

Why AAAS Has the Authority - and the Responsibility - to Discipline AAAS Members for Cause

The Constitution of AAAS at Article II, Section 1 details the purposes of AAAS.

Section 1. The objectives of the American Association for the Advancement of Science are to further the work of scientists, to facilitate cooperation among them, to foster scientific freedom and responsibility, to improve the effectiveness of science in the promotion of human welfare, to advance education in science, and to increase public understanding and appreciation of the importance and promise of the methods of science in human progress.

AAAS has a “Mission Statement” that elaborates on these purposes and includes:

- Promote and defend the integrity of science and its use;
- Promote the responsible use of science in public policy;

AAAS bylaws do not include a section on member discipline, but they do specify that Robert’s Rule of Order are its parliamentary authority at Article XV.

Robert’s Rules of Order, 11th Edition, Chapter XX, “Disciplinary Procedures,” details why organizations as AAAS have the authority and responsibility to discipline members for conduct injurious to their purposes and how this responsibility is to be discharged. Membership in AAAS

5 I invite Secretary Moniz to file a professional misconduct complaint against me with my PE licensing authority in Tennessee, and/or with AAAS, NSPE, ASME, and/or ANS if he wishes to contend my public claims of decades-long, compounded, continuing, civilization-threatening, law-breaking in OSC and MSPB are not truthful and objective - if I lack at least reasonable belief in them.

Additionally, I invite Secretary Moniz to direct my supervisors to initiate a termination or other disciplinary action against me per DOE Order 3750.1. “Workforce Discipline,” Attachment 1, Cause 21, if he wishes to contend my claims against him are “false, unfounded, or highly irresponsible” and made “with the intent to destroy or damage his reputation, authority, or official standing.” If he were to do so, then I would get something that DOE, OSC and MSPB have successfully prevented for many years now - my obtaining an objective resolution of my concerns- as least insofar as whether I have “reasonable belief” about OSC and MSPB law-breaking and its harmful impact on DOE.
is a privilege, not an entitlement, and AAAS has the power to discipline its members, up to expulsion, just as all other professional and scientific societies do.

I have nothing to hide about my actions and motivations, I welcome a skeptical, questioning attitude by any and all to them. Finally, I contend AAAS would be violating its charter - its contract with the State for its legal existence - if it fails or refuses to consider my complaint.

Respectfully,

/\s/
Joseph Carson, PE
AAAS member no. 09043764
Knoxville, TN
\@tds.net
865\_
The December 14, 2015 complaint against Secretary of Energy Ernest Moniz “has yet to be acknowledged, despite (Carson’s) follow-up emails and voice mails to Mr. Black and CEO Holt.”

VII. The Sisyphians of America

With regard to momentum, Opt IN USA does not come close to rivaling the TEA Party, Million Man March, Occupy Movement, Black Lives Matter or similar current or past grassroots reform initiative. But Opt IN USA is not an opening bell, signaling that the administration of justice in America has transformed the nation from a republic to a closet fascist regime. Instead, Opt IN USA is a movement of Americans who have tested the rule of law against institutionalized corruption and seen that the latter is as debilitating to honest litigants, lawyers, judges, and legislators as kryptonite is to Superman. We have borne witness to underlying problems with varying levels of sophistication for decades. And as of June 2015, the distinct patterns of that societal plague were identified and it was dubbed The Third Degree.

Opt IN USA administrators and campaign participants recognize their need to organize and mobilize for political power. However, in treating us like Sisyphus; acting as if we have yet to earn serious consideration despite our collective petitioning for relief for more than three (3) decades, the U.S. has violated these international provisions:

- International Covenant on Civil and Political Rights
  
  o **Article 2, ¶3(a) and (b):** 3. Each State Party to the present Covenant undertakes: (a) To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity; (b) To ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy;

  o **Article 7:** No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.

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50 ““The gods had condemned Sisyphus to ceaselessly rolling a rock to the top of a mountain, whence the stone would fall back of its own weight. They had thought with some reason that there is no more dreadful punishment than futile and hopeless labor.” Learn more at [https://www.nyu.edu/classes/keefer/hell/camus.html](https://www.nyu.edu/classes/keefer/hell/camus.html)
Article 14, ¶1.: 1. All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law.

Article 17: 1. No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation. 2. Everyone has the right to the protection of the law against such interference or attacks.

Article 19: 1. Everyone shall have the right to hold opinions without interference. 2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice. 3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary: (a) For respect of the rights or reputations of others; (b) For the protection of national security or of public order (ordre public), or of public health or morals.

Article 26: All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

### Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

Article 16, ¶1.: 1. Each State Party shall undertake to prevent in any territory under its jurisdiction other acts of cruel, inhuman or degrading treatment or punishment which do not amount to torture as defined in article I, when such acts are committed by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. In particular, the obligations contained in articles 10, 11, 12 and 13 shall apply with the substitution for references to torture of references to other forms of cruel, inhuman or degrading treatment or punishment.
**The Universal Declaration of Human Rights**

- **Article 5:** No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

- **Article 7:** All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

- **Article 8:** Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

- **Article 10:** Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

- **Article 12:** No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

- **Article 19:** Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

- **Article 29, ¶ (2):** (2) In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.

Thirty-eight (38) NGOs representing thousands of Americans — not including non-member constituents — proclaimed to the U.S. Senate Foreign Relations Committee (SFRC) that “to be secure in our privileges and immunities and republican form of government, Americans need the option of mediation as anticipated by the Optional Protocols of America’s ICCPR and CAT.”\(^5\) The coalition vouched for there being “(t)argets of *The Third Degree* (usually government whistleblowers, judicial critics, and judicial reform

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\(^5\) See footnote 4, *supra.*
advocates) . . . at varying levels of qualifying for political asylum outside of the United States.” And no staff of the SFRC would even agree to a pre-arranged meeting in Washington, D.C. with a pre-identified delegation of Opt IN USA participants.

- **More Logistics and Statistics**

As a first step, Opt IN USA administrators coordinate district office meetings between Opt IN USA participants and their U.S. Representatives. The goal is to get them on our side as we press the U.S. Senate to arrange for ratification of the OPs to the ICCPR and CAT. Opt IN USA administrators are also gearing up to assist campaign participants in pressing their state legislators as well as federal prosecutors to investigate apparent prospects of TTD.

Fifty (50) people have become Opt IN USA participants since late August 2015. Approximately forty (40) of them have attended their first district office meeting with their respective U.S. Representative. The meetings spanned fourteen (14) different U.S. states. So far only Congressman Peter Visclosky of Indiana (D-IN 1st District) has formally responded and he did so with an encouraging, on-point letter.

**VIII. Ground Zero: INDIANA, the Hoosier State**

Uncanny it is that little to no oversight is brought to bear for Americans claiming to be persecuted if not psychologically tortured through persistent U.S. legal system abuse. Ironically their allegations — specifically the notion that they are targets of TTD — rarely if ever garner more than cursory major media and U.S. government attention. Yet for each of them, powerful private sector and/or U.S. public sector actors expend **tremendous** time, effort, and resources muting their government critiques through quasi-judicial and/or judicial processes. Whether as a result they opt to suffer in silence, become widely ignored or disregarded, cease communicating while incarcerated, and/or die . . . these supposedly too-insignificant-to-take-seriously people get silenced.

Surely many will hasten to say that due process is supplied when alleged targets of TTD are defeated through often protracted U.S. legal process. Cannot legal process be weaponized in America? This is a question that the Indiana House Judiciary Committee and the U.S. Attorney for the Northern District of Indiana have shown no interest in answering although:

52 Id.

53 To no avail, the late Reverend Theodore Hesburgh, a U.S. Civil Rights icon and former Chairman of the U.S. Civil Rights Commission, encouraged then House Judiciary Committee Chairman, U.S. Representative John Conyers, Jr., and U.S. Attorney Eric Holder to meet with NJCDLP’s Executive Director, Zena Crenshaw-Logal, describing her as “a young woman with whom I have much in common”. Learn more at [http://www.prweb.com/releases/2009/10/prweb2993174.htm](http://www.prweb.com/releases/2009/10/prweb2993174.htm)
(t)hrough a court document enclosed with . . . correspondence, (NJCDLP’s co-founders — Mr. Rodney A. Logal, his wife attorney Zena Crenshaw-Logal*) and Dr. Jackson describe some disturbing, recent developments for (the state and federal officials as well as) Indiana’s Black Legislative Caucus (and) U.S. Representative Peter Visclosky (D-IN). The filed-stamped court paper with exhibits . . . detail a saga of alleged judicial bias, record tampering, potential fraud on the Lake Circuit Court, and questionable legal arguments involving Indiana court administrators, the court clerk, judges, law enforcement officers, and public sector as well as private sector attorneys. Supposedly, ‘(o)nce the Logals commenced their referenced . . . Action for Mandate on July 13, 2015, unknown intruders began to leave distinct evidence of frequenting the Logal home late at night or during early morning hours. On or about September 22, 2015, a spare trunk key magnetized to the Logal family car was apparently used to access the trunk, and the spare tire inside was left dramatically slashed’.54

That was after some prominent Indiana residents were linked in the HRC submission (i.e., the HRC submission prompting Opt IN USA) to not only TTD, but also the prospect of multiple murders, including the suspicious death of a lawyer who attested to the bribery of a now retired Indiana state court judge.55

Again, when the goal is persecution or torture and the instrument is U.S. legal systems, participants only appear to be part of adjudicatory processes. TTD entails distinct legal system abuses which is why its results readily differ from legitimate, albeit questionable judicial outcomes. On January 14, 2016, Mr. and Mrs. Logal learned that Indiana Lake Circuit Court Judge George Paras extended them an opportunity to address at least some related matters by granting them permission to sue a private lawyer for allegedly

conspiring against them with another Indiana judge.56 Less than ten (10) days later a prominent lawyer shared via a newspaper story that just a “few days” before she was “approached . . . about the possibility of (her) running” against the previously unopposed Paras for Indiana Lake Circuit Court judge.57

Two (2) days after learning through the referenced news article that Judge Paras was at risk of losing his job to a formidable contender, the Logals were compelled to again seek his help. They asked that he enjoin and otherwise stop the lawyer they sued from continuing legal action to their detriment before and with the judge alleged to be her co-conspirator.58 A copy of the Logals’ corresponding applications for relief are an appendix to this report and another example of quality advocacy advanced by alleged targets of TTD only to be seemingly ignored, rejected *per curiam*, or rebuffed through accounts of facts and law often distorted enough to defy logic.

Of course the Logals are not merely two (2) of potentially a million or more Americans having their lives altered for the worse through questionable U.S. court

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56See, Logal, et al., *v. Lake Superior Court, Small Claims Division III, et al.*, Cause No. 45C01-1507-PL-00063, Pthfs’ 1st Amd Cmplt, Sheriff’s Return of 1/8/16, before the Lake Circuit Court at Crown Point, Indiana. The Logals did not receive a filed-stamped copy of their amended complaint until January 14, 2016 although it was reportedly served by sheriff on defendant Megan L. Craig on January 8, 2016.


58Specifically the Logals filed “Plaintiffs’ Verified Application for Emergency Hearing (i.e., hearing prior to 2/4/16), Temporary Restraining Order, and/or Preliminary Injunction Enjoining Defendant Craig with Actual Notice to Her Agents, Servants, Employees, and Attorneys, and Designated Persons in Active Concert or Participation with Her” and Plaintiffs’ Exhibits 12 through 16 and “Plaintiffs’ Verified Motion for Emergency Hearing (i.e., hearing prior to 2/4/16) and Stay Of All Lower Court Proceedings” — all with corresponding Certificates of Service and a Chronological Case Summary (CCS) form. See, Logal, et al., *v. Lake Superior Court, Small Claims Division III, et al.*, Cause No. 45C01-1507-PL-00063, before the Lake Circuit Court at Crown Point, Indiana.
proceedings. While all NJCDLP board members are cutting-edge pioneers in detecting and addressing patterns of U.S. legal system abuse, the Logals and their fellow NJCDLP co-founder, Dr. Andrew D. Jackson, are the organization’s driving force. They are NJCDLP’s full-time volunteers as well as the non-profit’s primary financial benefactors. In that context it is particularly significant that two Indiana judges have taken to repeatedly placing the Logals and Dr. Jackson at respective risk of arrest: a death threat for Mr. Logal given how jail would affect his medical care and health. Moreover, substantial debt has been imposed by default upon the Logals and Dr. Jackson, and is in the process of being collected although the underlying judgments are void as a matter of law!

Instead of investigating, Indiana’s Attorney General is helping instigate the calamity at hand; that is, he was advancing spurious objections and defenses against the Logals through a Deputy Attorney General. Such action has not been necessary since Judge Paras’ became incommunicado after his second, six (6) year term in office was publicly threatened by a prospective turned actual political challenger.59 Without explanation; despite what are life-threatening circumstances for Mr. Logal; although a pivotal trial rule obliges him to address the situation and, in fact, advises that he be ‘readily available’ to do so . . . Judge Paras appears to have abandoned the Logals, leaving them to the discretion of their litigation opponents.

In pressing for an emergency hearing, the Logals explained as follows to Judge Paras through sworn pleadings:

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59See footnote 56, supra.

60Indiana Trial Rule 65 provides that “the judge regularly assigned to the case shall act upon and hear all matters relating to temporary restraining orders and preliminary injunctions.” T.R. 65(A)(3).

61Indiana Trial Rule 65 also provides that a “judge shall make himself readily available to consider temporary restraining orders, conduct hearings, fix the manner of giving notice and the time and place for hearings under this rule, and shall act and require the parties to act promptly.” T.R. 65(A)(3).
1. At approximately 8:37 am on January 25, 2016, the Plaintiffs filed . . . their Verified Applications for Stay Of All Lower Court Proceedings and for Temporary Restraining Order, and/or Preliminary Injunction Enjoining Defendant Craig with Actual Notice to Her Agents, Servants, Employees, and Attorneys, and Designated Persons in Active Concert or Participation with Her. See, Pltfs’ Verified Application for Stay and Pltfs’ Verified Application for Injunction of 1/25/16;

2. Both of those Applications and the corresponding CCS request that those matters be set for ‘Emergency Hearing (i.e., hearing prior to 2/4/16)’.

   See, Pltfs’ CCS, Verified Application for Stay at p. 2, and Pltfs’ Verified Application for Injunction at p. 8, all filed on 1/25/16;

3. There being no hearing set or other order entered herein, Plaintiff Rodney A. Logal was compelled by the lower court defendants at the instance of defendant Megan L. Craig to appear before them at 1:00 pm on February 4, 2016 to respond to a Contempt Citation already entered against him, as contemplated by the Plaintiffs’ referenced applications for equitable relief, still pending before this Court;

4. In the course of that lower court proceeding, defendant Pagano announced that the Action for Mandate (now pending as Count I of this litigation) was dismissed and suggested it remains dismissed as Pagano proclaimed that no Indiana Court has jurisdiction over his court other than the Indiana Court of Appeals and the Supreme Court of Indiana;

5. Despite there being no willful disobedience of the lower court defendants and Mr. Logal’s clear indication of that fact, Defendant Pagano proceeded to amend his judgment entered against Mr. Logal, thereby increasing it by $500.00 as a sanction, and further ordered Mr. Logal to pay $500.00 in legal fees to defendant Craig’s law firm for fees reportedly incurred in advancing the referenced contempt proceedings;

6. Defendant Pagano ordered that Plaintiff Rodney A. Logal be jailed for thirty (30) days, which sentence was suspended subject to him paying the One Thousand Dollar ($1,000.00) sanction (including legal fees) entered against him within thirty (30) days;
7. Defendant Pagano further indicated that Plaintiff Rodney A. Logal will ‘go straight to jail’ should there be even a contention that he is in violation of any order by the lower court defendants;

8. The actions of defendant Craig that the Plaintiffs’ have sought to enjoin continue unabated and the lower court proceedings are clearly not stayed; 62

On February 8, 2016, the Logals received Pagano’s written order, excerpted below:

On December 18, 2015, this court entered an order (HI) attaching rents from tenants leasing three properties owned by Mr. Logal. The rent therefrom was to be paid to the Wilsons’ attorneys as payment toward the judgment.

Mr. Logal received a rental payment from one of these tenants, Mr. Elzinga, a tenant-farmer, in the amount of $500.00. However, rather than remit this payment as ordered, Mr. Logal instead returned this rent payment to Mr. Elzinga on or about December 28, 2015 and informed Mr. Elzinga, via letter (Counter Plaintiff’s Exhibit A) that 1) the amount paid by Mr. Elzinga was insufficient and 2) Mr. Logal had assigned all proceeds from this rental to his wife, Ms. Crenshaw-Logal.

The court finds and concludes as follows that Mr. Logal’s actions, as noted above, were done knowingly and intentionally, and in direct contravention of this court’s December 19, 2015 order. Mr. Logal gave no adequate explanation for his actions, although he denied disobeying this court’s order. The court would further add that the purported assignment of these rents to Ms. Crenshaw-Logal was inappropriate; this court’s order attaching these rents to pay the judgment being first in time, take priority. Moreover, the court would add that the purported assignment, in and of itself, is likewise, contemptuous.63

62See, Logal, et al., v. Lake Superior Court, Small Claims Division III, et al., Cause No. 45C01-1507-PL-00063, Pltfs’ Verified Motion for Emergency Hearing of 2/4/16 before the Lake Circuit Court at Crown Point, Indiana.
63See, Logal v. Wilson, et al., Cause No. 45D09-1501-SC-00040 before the Lake Superior Court, County Division III at Crown Point, Indiana, “RULING ON CONTEMPT PROCEEDINGS” (2/4/16).

*Bar admissions limited to the 7th Cir. COA
Someone is not telling the truth. But as Pagano has chided in open court, “(He’s) the judge.” Through his characterizations as opposed to quotes of key documents and testimony, we have the Logals knowingly, intentionally, and directly, but inexplicably disobeying his orders . . . throwing in an inappropriate assignment of funds that they did not even keep! Why would anyone do that? As of this report, Judge Paras has yet to respond.
APPENDIX

AMERICANS IN JEOPARDY:

When Human Rights Protection Becomes America’s Executive, Legislative, and Judicial Branch Shell Game
CCS Entry Form
IN THE LAKE CIRCUIT
SITTING AT CROWN POINT, INDIANA

Case No.: Cause # 45C01-1507-PL-00063


The activity of the Court should be summarized as follows on the Chronological Case Summary (CCS):

Plaintiffs file “Plaintiffs’ Verified Application for Emergency Hearing (i.e., hearing prior to 2/4/16), Temporary Restraining Order, and/or Preliminary Injunction Enjoining Defendant Craig with Actual Notice to Her Agents, Servants, Employees, and Attorneys, and Designated Persons in Active Concert or Participation with Her” and Plaintiffs’ Exhibits 12 through 16 and “Plaintiffs’ Verified Motion for Emergency Hearing (i.e., hearing prior to 2/4/16) and Stay Of All Lower Court Proceedings” — all with corresponding Certificates of Service.

These matters are hereby scheduled for hearing on the _____ day of ________________, 2016 at _______ o’clock _______.

PLAINTIFFS PRO SE
Rodney A. Logal
Zena Crenshaw-Logal
c/o 7519 W. 77th Avenue
Crown Point, IN 46307
219.865.6248 Ext. 0
lpppo@comcast.net

DEFENDANCE COUNSEL
Jonathan P. Nagy, Deputy Attorney General
Office of the Indiana Attorney General
Indiana Government Center South, 5th Floor
302 West Washington Street
Indianapolis, IN 46204-2770

DEFENDANT
Megan L. Craig c/o
Craig, Craig, & Maroc, LLC
11035 Broadway, Suite B
Crown Point, IN 46307

(TO BE DESIGNATED BY THE COURT)

This CCS Entry Form shall be:

(  ) Placed in case file
(  ) Discarded after entry on the CCS
(  ) Mailed to all counsel and pro se parties by: ___Counsel ___Clerk ___Court

(  ) There is no attached Order; or

The attached Order shall be placed in the RJO: ___Yes ___No

Date: Approved: ____________________________
In The Lake Circuit Court
Sitting at Crown Point, Indiana

Rodney A. Logal and Zena Crenshaw-Logal,
Husband and Wife, Pro Se and as Count I
Relators for the State of Indiana,

Plaintiffs,

-vs-

Lake Superior Court, Small Claims Division III,
the Honorable Julie N. Cantrell as its Judge,
Michael N. Pagano as her Magistrate, and
Megan L. Craig,

Defendants.

Plaintiffs’ Verified Application for Emergency Hearing (i.e., hearing prior to 2/4/16), Temporary Restraining Order, and/or Preliminary Injunction Enjoining Defendant Craig with Actual Notice to Her Agents, Servants, Employees, and Attorneys, and Designated Persons in Active Concert or Participation with Her

Come now the Plaintiffs, Pro Se and as Relators for the State of Indiana, pursuant to Indiana Rule of Trial Procedure 65 [Injunctions] and apply for an emergency hearing (i.e., hearing prior to Thursday – February 4, 2016), Temporary Restraining Order, and/or Preliminary Injunction enjoining defendant Megan L. Craig with actual notice to her agents, servants, employees, and attorneys, and designated persons in active concert or participation with her. In support of this application, Plaintiffs say as follows:

I

The Operative Facts

1. On January 14, 2016, the Plaintiffs received a filed-stamped copy of their proposed Summons, First Amended Complaint, with Exhibits 8, 9, 10, and 11 in this case, the originals of which were designated for service by sheriff on the above named defendant Megan L. Craig;

2. Plaintiffs subsequently determined that said items were duly served upon Craig on January 8, 2016;

3. On January 8, 2016, Plaintiff Rodney A. Logal received the attached “MOTION FOR CONTEMPT” with Exhibit A of January 5, 2016, apparently signed by defendant Craig for herself and John R. Craig as attorneys for the defendants/counter-plaintiffs whose actions escalated to the present litigation, Richard Wilson and Peggy Wilson. See, Pltfs’ Exhibit 12;
4. On January 9, 2016, he received a second copy of the motion and exhibit, purportedly mailed on the same day as the earlier copies, i.e., January 5, 2016;

5. On January 12, 2016, the motion and exhibit were left at the Plaintiffs’ home with the “CITATION FOR CIVIL CONTEMPT” and “PETITION FOR RULE TO SHOW CAUSE”, both attached hereto and incorporated herein as Plaintiffs’ Exhibit 13;

6. A duplicate of the contempt citation and show cause order arrived by mail at the Plaintiffs’ home on January 16, 2016;

7. Also on January 16, 2016, Plaintiff Rodney A. Logal received the above named lower court defendants’ order of January 11, 2016, advancing the hearing on its contempt citation from February 10, 2016 to February 4, 2016 at 1:00 p.m., which order is attached hereto and incorporated herein as Plaintiffs’ Exhibit 14;

8. Despite the lower court defendants’ objections, this case was, of course, reinstated — having been dismissed with prejudice1 on November 12, 2015 — and expanded to include defendant Craig in response to Plaintiffs’ Motion to Correct Errors and Plaintiffs’ Motion For Leave To Supplement Pleadings filed herein on December 14, 2015;

9. Although defendant Craig was not a party to the indicated motions, she would know (as she is an active Indiana attorney) that some version of them must have been filed to precipitate this lawsuit at hand2;

10. While Plaintiffs’ Counts II through IV herein have not been tested by any dispositive motion as of this application, neither were they foreclosed sua sponte — implying that they are at least colorable claims;

11. There is at least an appearance of impropriety and partiality attendant to the allegations at hand of conspiracy between defendants Craig and Pagano to violate the Plaintiffs’ constitutional rights and impose upon them various tort injuries. See, In re Drury, 602 N.E.2d 1000 at 1008-1009 (Ind. 1992) – “The Masters appear to find evidence of a conspiracy by Respondent (judge) and his son”, contributing to the finding of “clear and convincing evidence that Respondent has engaged in willful misconduct in office, in willful misconduct unrelated to the judicial office that brings the office into disrepute, and other violations of the Code of Judicial Conduct and Rules of Professional Conduct.”;

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1 The Plaintiffs received the November 12th Order by mail on November 27, 2015.
2 In other words, as of December 9, 2015 if not earlier, defendant Craig knew that the original complaint herein was dismissed. Defendant Pagano made that fact clear in response to Mr. Logal saying “My wife and I will respond to that decision”, among other things, during the proceedings supplemental prompting Counts II through IV of this present complaint. If nothing else, Indiana’s rules of trial procedure put Craig on notice that Plaintiffs’ First Amended Complaint was filed and served upon her pursuant to requested leave of court.
12. Even if the lower court defendants are deemed entitled to have entered and enforce the judgment that defendant Craig and others are executing\(^3\), the prospect remains that at least defendants Craig and Pagano have done and are doing so as part of an unlawful scheme. See, Pltfs’ 1st Amd. Cmplt, Counts II-IV;

13. ‘A judge shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety.’ In re Brown, 4 N.E.3d 619 at 623 (Ind. 2014), quoting Jud. Cond. R. 1.2 (asterisks omitted);

14. “The Indiana Code of Judicial Conduct (Judicial Code) requires judges to perform all duties of that office ‘fairly and impartially’ and without ‘bias or prejudice.’ Ind. Judicial Conduct Canon 2(A), Rule 2.2, -2.3. In fact, a judge is required by the Judicial Code to disqualify himself from any proceeding in which his impartiality ‘might reasonably be questioned[,]’ Id. Rule 2.” State v. Shackleford, 922 N.E.2d 702 at 707 (Ind. Ct. App. 2010);

15. Yet, as far as the Plaintiffs are aware, no defendant herein has acted to forestall the referenced contempt citation on a contingent or permanent basis;

16. “Indiana Code § 34-47-3-1 provides in relevant part: ‘A person who is guilty of any willful disobedience of any process, or any order lawfully issued: (1) by any court of record . . . is guilty of an indirect contempt of the court that issued the process or order’ (emphasis added). Consistent with this statutory provision, our courts have long held that ‘indirect contempt is the willful disobedience of any lawfully entered court order of which the offender has notice’.” City of Gary v. Major, 822 N.E.2d 165 at 169 (2005 Ind.) (emphasis in original text);

17. Having potentially exposed herself to liability in getting Plaintiff Rodney A. Logal before defendant Pagano based on what she may now concede is a void judgment, defendant Craig shifts gears: now maneuvering for Mr. Logal to again face defendant Pagano, purportedly for Logal’s willful disobedience of a voidable December 18, 2015 order. See, Pltfs’ Exhibits 12, 13 and 15;

\(^3\) Reinstating Plaintiffs’ Action for Mandate as Count I, and perfecting jurisdiction over Plaintiffs’ Counts II through IV of this case are not neutral acts by this Court . . . much like it was not “simple adverse rulings, but rather judicial declarations so striking as to support a conclusion that IHSAA’s course of defense was ‘unreasonable’ (with regard to the 2013 case of Ind. High Sch. Ath. Ass’n v. Schafer)“. See, Ind. High Sch. Ath. Ass’n v. Schafer, 1 N.E.3d 164 at 169-170 (2013 Ind. App.) Pivotal contentions have been presented, weighed, rejected, or accepted in this Court determining to assert authority over specific and limited aspects of what has been dubbed the Wilson Controversy, Logal v. Richard Wilson, et al., Cause No. 45D09-1501-SC-00040 before the Lake Superior Court, Small Claims Division III at Crown Point, Indiana. So the defendants should readily concede that the judgment Craig and others seek to execute is void. Of course, the contempt citation at issue relates to defendant Pagano’s subsequent order of December 18, 2015. See, Pltfs’ Exhibit 13. ‘(A)lthough a defendant cannot be held in contempt of a void order, a defendant may be held in contempt of an erroneous order’. City of Gary v. Major, 822 N.E.2d 165 at 169 (February 10, 2005 Ind.)
18. Witnesseth that “the rulings a disqualified judge makes are not void per se, but simply voidable”. *Wilson v. State*, 521 N.E.2d 363 at 365 (Ind. Ct. App. 1988);

II

The Act Or Acts Sought To Be Restrained

19. This case has morphed from a very limited to what by all indications should be an exhaustive consideration of the Wilson Controversy to discern the full extent to which it manifests an unlawful conspiracy to violate the Plaintiffs’ constitutional rights and impose upon them various tort injuries;

20. Such an expanded inquiry correlates with the defendants’, and particularly defendants Craig and Pagano’s dogged escalation of the Wilson Controversy;

21. Of course “among the inherent powers of a court is that of maintaining its dignity, securing obedience to its process and rules, rebuking interference with the conduct of business, and punishing unseemly behavior.” *City of Gary v. Major* at 169. But it is the Plaintiffs’ adversaries — not some detached court or impartial judge — repeatedly calling Mr. Logal to the proverbial carpet on questionable grounds;

22. Plaintiff Rodney Logal is clearly a senior citizen. And while the defendants may not know he has uncontrolled hypertension and a heart condition (both of which are aggravated by stress), they were advised of his “White Coat Syndrome”, a condition that leaves him unusually nervous in medical settings and likely compromises his composure during legal proceedings. See, Pltfs’ Mtn to Correct Errors, footnote 3, *Logal v. Richard Wilson, et al.*, Cause No. 45D09-1501-SC-00040 before the Lake Superior Court, Small Claims Division III at Crown Point, Indiana;

23. The defendants risk killing Mr. Logal — Plaintiff Zena Crenshaw-Logal’s husband with whom she has a right of consortium — based on actions and grounds that a reasonable jury may well consider disingenuous. See, Pltfs’ Exhibits 13 and 15;

24. On December 17, 2013 the IHSSA was determined to be what the lower court defendants should have been⁴ as of their December 18, 2015 order, and what defendant Craig certainly should have been as of January 8, 2016: alerted to “consider and avoid potentially unconstitutional applications of (relevant rules and substantive law).” Cf., *Ind. High Sch. Ath. Ass’n v. Schafer*, 1 N.E.3d 164 (2013 Ind. App.);

25. Do the defendants carefully construe, or outright distort the Plaintiffs’ December 28, 2015 correspondence to Christopher Elzinga in maneuvering to again subject Plaintiff Rodney A. Logal to the lower court defendants’ jurisdiction and a threat of

⁴ Plaintiffs’ Motion to Correct Errors and Plaintiffs’ Motion For Leave To Supplement Pleadings with proposed First Amended Complaint were reportedly delivered to Assistant Indiana Attorney General Nagy on December 16, 2015 at 9:34 a.m. See, Pltfs’ Exhibit 16.
incarceration? Perhaps the prospect of them doing the latter explains why defendant Craig takes part while avoiding the penalties of perjury through an **unverified** “MOTION FOR CONTEMPT”. *See, Pltfs’ Exhibit 12 and its attached Dft Craig’s Exhibit A;*

26. Despite knowing, per Plaintiffs’ Count I herein, that this Lake Circuit Court has exclusive jurisdiction to determine whether the lower court defendants were authorized to conduct trial precipitating the judgment that she seeks or sought to execute, on **January 11, 2016** defendant Craig accepted three (3) years of otherwise private tax returns from Plaintiff Rodney A. Logal;

27. Despite knowing that the judgment which she seeks or sought to execute is void as evidenced by the collateral attack that is Plaintiffs’ Count I herein, defendant Craig subsequently accepted three (3) years of otherwise private tax returns from Plaintiff Rodney A. Logal;

28. Why would Plaintiff Rodney A. Logal provide a written account of purported farm rents on **December 28, 2015** and surrender three (3) years of otherwise private tax returns to defendant Craig’s law firm on **January 11, 2016** *(consummating a gratuitous, irreversible and, unwarranted invasion of his privacy)* if his intent was to willfully disobey the lower court defendants?

29. Why would the Plaintiffs unnecessarily provoke the wrath of any litigant seemingly undeterred by the niceties of subject matter jurisdiction, ethics codes and canons, Indiana Trial Rule 11, and due process provisions?

30. As should become increasingly clear through discovery, defendant Craig’s various maneuvers positioning the lower court defendants’ to assert jurisdiction over Plaintiff Rodney A. Logal while excluding Plaintiff Zena Crenshaw-Logal from related proceedings are “(absurd,) devoid of good logic and (inconsistent with) the true intended purpose of the rules (and laws) in place.” *Cf., Schafer. Any such abuse of process, including but not limited to defendant Craig’s pressing of her unverified “MOTION FOR CONTEMPT” at issue, should be enjoined;*

31. Defendant Craig’s various maneuvers positioning the lower court defendants’ to assert jurisdiction over Plaintiff Rodney A. Logal while excluding Plaintiff Zena Crenshaw-Logal from related proceedings are fairly, and upon jury trial are likely to be deemed “vindictive”. *Cf., Schafer at 171. Any such abuse of process, including but not limited to defendant Craig’s pressing of her unverified “MOTION FOR CONTEMPT” at issue, should be enjoined;*

32. And defendant Craig is positioning the Plaintiffs for another, this time potentially lethal round *(as to Plaintiff Rodney A. Logal) of the same constitutional rights*

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5 *See, Mazza v. Merkler (In re P.E.M.), 818 N.E.2d 32 at 36 (Ind. Ct. App. 2004) – “A judgment (or appealable order) that is voidable may only be attacked through a direct appeal, whereas a void judgment is subject to collateral attack.”*
violations and torts precipitating their current Counts II and III. *See, Pltfs’ Exhibit 13. Any such abuse of process, including but not limited to defendant Craig’s pressing of her unverified “MOTION FOR CONTEMPT” at issue, should be enjoined;*

**III**

*Grounds for a Preliminary Injunction*

33. “The trial court’s discretion to grant or deny a preliminary injunction is measured by several factors: (1) whether the movant’s remedies at law are inadequate, thus causing irreparable harm pending resolution of the substantive action if the injunction does not issue; (2) whether the movant has demonstrated at least a reasonable likelihood of success at trial by establishing a prima facie case; and (3) whether the threatened injury of the movant outweighs the threatened harm the grant of the injunction would occasion.” *Paul v. I.S.I. Servs.*, 726 N.E.2d 318 at 320-321 (2000 Ind. App.);

34. Should the lower court defendants determine to punish Mr. Logal for purported contempt, he must suffer what will undoubtedly be stressful consequences, which could prove fatal, and he could never appeal whether they implicate unlawful collusion without foregoing the superior fact finding process of jury trial with regard to that prospect pursuant to Counts II through IV herein;

35. In fact should the Plaintiffs or either of them appeal any aspect of the contempt hearing presently scheduled before the lower court defendants on February 4, 2016, he/she/they may well forfeit the superior fact finding process of jury trial attendant to their Counts II through IV herein. Appellate court rulings may be *res judicata* as to those matters;

36. The Plaintiffs also attest that the defendants punish them considerably, simply by having them contend with threats of contempt and corresponding threats to Mr. Logal’s life when they *(i.e., the Logals)* have been forthright, even if arguably mistaken in addressing the Wilson Controversy;

37. Through discovery, defendant Craig’s referenced, *prima facie* abuses of process⁶ will be made clear to the jury by a preponderance of evidence. “To prevail on a claim of abuse of process, a party must prove the following elements: (1) an ulterior purpose or motive and (2) a willful act in the use of process not proper in the regular conduct of the proceeding. The second element, stated differently, involves an inquiry as to whether the use of process was a legitimate use of the judicial system.” *Kalwitz v. Kalwitz*, 934 N.E.2d 741 at 753 (2010 Ind. App.) (internal citation omitted);

---

⁶ The abuses of process align with Plaintiffs’ current Count II through IV herein, but Plaintiffs will likely seek leave to add an express count against defendant Craig alleging all of her relevant abuse(s) of process.
38. The threatened injury to both Plaintiffs and each of them separately, outweighs any and all interests in supposedly vindicating the clearly disputable indirect contempt alleged;

IV

Applicants’ Giving of Security

39. The Plaintiffs contend that whatever security they should give “for the payment of such costs and damages as may be incurred or suffered by any party who is found to have been wrongfully enjoined or restrained” should be no more than the present value of legal fees sought as an incident of the contempt citation at issue. See, T.R. 65 (C);

40. That amount should equal the sanction imposed by this Court pursuant to Indiana Trial Rule 11 on defendant Craig and/or any other defendant who/that misstates or otherwise distorts any portion of the Plaintiffs’ Elzinga letter to justify risking Mr. Logal’s life by citing him for contempt (a/k/a threatening to incarcerate him) and necessitating the present proceedings;

41. Hence neither party would actually remit funds;

42. The Plaintiffs also note that defendant Craig has collected enough money on the lower court defendants’ void judgment against Plaintiff Rodney A. Logal to cover an appropriate security for this T.R. 65 action at hand;

V

Actual Notice to Craig’s Agents, Servants, Employees, and Attorneys, and Designated Persons in Active Concert or Participation with Her

43. “Every order granting temporary injunction and every restraining order shall include or be accompanied by findings as required by Rule 52; shall be specific in terms; shall describe in reasonable detail, and not by reference to the complaint or other document, the act or acts sought to be restrained; and is binding only upon the parties to the action, their officers, agents, servants, employees, and attorneys, and upon those persons in active concert or participation with them who receive actual notice of the order by personal service or otherwise.” T.R. 65(D);

44. With regard to Logal v. Richard Wilson, et al., Cause No. 45D09-1501-SC-00040 before the Lake Superior Court, Small Claims Division III at Crown Point, Indiana, those persons/entities clearly in active concert or participation with defendant Craig (beyond the lower court defendants who/that are already privy to this proceeding) are Craig, Craig & Maroc, LLC and all lawyers constituting that firm as well as Mr. Richard and Mrs. Peggy Wilson, their successors, executors, administrators, heirs, and assigns;

WHEREFORE, the Plaintiffs and each of them prays that:
1) this matter be scheduled for emergency hearing before February 4, 2016 except that they are unavailable due to a medical appointment during the afternoon of January 27, 2016;

2) defendant Megan L. Craig is enjoined from:
   a. pressing her unverified “MOTION FOR CONTEMPT” at issue before the lower court defendants or any of them;
   b. seeking to enforce any or all unexecuted provisions of the lower court defendants’ disputed order of December 18, 2015;
   c. maneuvering in any way outside of this litigation at hand and related appeals, to proceed against Plaintiff Rodney A. Logal pursuant to and particularly while excluding Plaintiff Zena Crenshaw-Logal from Logal v. Richard Wilson, et al., Cause No. 45D09-1501-SC-00040 before the Lake Superior Court, Small Claims Division III at Crown Point, Indiana;
   d. attempting to collect upon or otherwise enforce the August 3, 2015 judgment entered against Plaintiff Rodney A. Logal in Logal v. Richard Wilson, et al., Cause No. 45D09-1501-SC-00040 before the Lake Superior Court, Small Claims Division III at Crown Point, Indiana;

3) The Plaintiffs and each of them also pray that defendant Megan L. Craig is required to deliver to them in writing, at 7519 W. 77th Avenue in Crown Point, IN 46307, at least 72 hours before the scheduled contempt hearing at issue, the names of all attorneys comprising Craig, Craig & Maroc, LLC and the mailing address (home or work) for those attorneys as well as Mr. Richard and Mrs. Peggy Wilson so that the Plaintiffs can provide them, by personal service or otherwise, actual notice of the injunction against defendant Craig and that it binds her officers, agents, servants, employees, attorneys, and them, their successors, executors, administrators, heirs, and assigns as persons in active concert or participation with Craig in regard to Logal v. Richard Wilson, et al., Cause No. 45D09-1501-SC-00040 before the Lake Superior Court, Small Claims Division III at Crown Point, Indiana;

4) The Plaintiffs and each of them further pray that the security they be required to give pursuant to Indiana Trial Rule 65 be in accord with their foregoing application section IV;

5) And, finally, the Plaintiffs and each of them pray for any and all other relief just and proper upon the premises.

Verification

Under penalties of perjury, the Plaintiffs, and each of them, hereby affirm that their above and foregoing statement of facts excluding opinions and reports of third parties, are true and correct.
Respectfully Submitted,

[Signature]
Rodney A. Logal, Pro Se and as Relator for the State of Indiana
7519 W. 77th Avenue
Crown Point, IN 46307
219.865.6248 Ext. 0
lpppo@comcast.net

[Signature]
Zena Crenshaw-Logal, Pro Se and as Relator for the State of Indiana
7519 W. 77th Avenue
Crown Point, IN 46307
219.865.6248 Ext. 0
zcrenshaw@comcast.net

Certificate of Service

I hereby certify that on January 25, 2016, I served the foregoing “Verified Application for Emergency Hearing (i.e., hearing prior to 2/4/16), Temporary Restraining Order, and/or Preliminary Injunction Enjoining Defendant Craig with Actual Notice to Her Agents, Servants, Employees, and Attorneys, and Designated Persons in Active Concert or Participation with Her” and Plaintiffs’ Exhibits 12 through 16 with corresponding CCS on all defendants or their attorney(s) of record herein by placing a true and accurate copy of the same in the U.S. Mail, adequate postage affixed and addressed as follows:

Jonathan P. Nagy, Deputy Attorney General
Office of the Indiana Attorney General
Indiana Government Center South, 5th Floor
302 West Washington Street
Indianapolis, IN 46204-2770

Megan L. Craig c/o
Craig, Craig, & Maroc, LLC
11035 Broadway, Suite B
Crown Point, IN 46307

[Signature]
Zena Crenshaw-Logal, Plaintiff Pro Se
COME NOW Defendants/Counter-Plaintiffs, Richard Wilson and Peggy Wilson, by counsel, Megan L. Craig and John R. Craig of Craig, Craig & Maroc, LLC, and files this Motion for Contempt against Plaintiff/Counter-Defendant, Rodney A. Logal, for failure to remit the farm rent received as Ordered by this Court, and in support thereof, states as follows:

1. On or about December 9, 2015, Rodney Logal testified in open Court, under oath, that he had received from rent for the year 2015 in the amount of $500.00.

2. On December 28, 2015, Ms. Zena Crenshaw-Logal dropped off a letter to the undersigned’s office. See Exhibit A, a copy of which is attached hereto and made a part hereof.

3. At the conclusion of the hearing held on December 9, 2015, this Court entered an Order requiring Rodney Logal to remit the farm rent to Counter-Plaintiff’s attorneys office.

4. Instead of remitting the farm rent as ordered by this Court, Rodney Logal has attempted to transfer his ownership interest in the farm rent previously received, as well as any future farm rent to be received. See Exhibit A.

5. Pursuant to the verbiage contained on Exhibit A, Plaintiff/Counter-Defendant, has returned the rent check to Christopher Elzinga and advised him that he has now assigned his interest in the farm rent to his wife, Zena Crenshaw-Logal.

6. This assignment occurred after the Court ordered Mr. Logal to remit the farm rent to Counter-Plaintiffs counsel’s office towards satisfaction of the amount due.
7. Counter-Plaintiff requests this Court hold Mr. Logal in contempt for failing to abide by this Court's Order regarding the turnover of the farm to Counter-Plaintiffs counsel's office.

8. Counter-Plaintiffs have incurred additional attorney fees in the filing of this Motion due to the fact that Plaintiff/Counter-Defendant, Rodney Logal, has refused to obey an Order of this Court and Plaintiff/Counter-Defendant, Rodney Logal, should be held responsible for payment of the attorney fees incurred in the filing of the Motion for Contempt and attendance at any hearing on this matter.

9. That a reasonable attorney fee for the filing of this Motion and the attendant at a hearing on this matter is $500.00.

WHEREFORE, Defendants/Counter-Plaintiffs, by counsel, request this Court enter an Order finding Rodney Logal in contempt for failing to abide by this Court's Order regarding the remitting of the farm rent and the attempt to transfer ownership in the farm rent that has been ordered to be turned over to Defendant/Counter-Plaintiffs counsel's office, enter an order for attorney fees in the amount of $500.00, and for all other just and proper relief in the premises.

Respectfully submitted

Megan L. Craig, #23184-49
John R. Craig, #22320-43
Attorneys for Defendants/Counter-Plaintiffs
11035 Broadway, Suite B
Crown Point, IN 46307
Telephone: 219-661-9100

CERTIFICATE OF SERVICE

I affirm that the above and foregoing document was served on all counsel of record by depositing same in the United States mail, First Class postage affixed to all parties of record on the 5th day of January, 2016.
Via Priority Mail
December 28, 2015

Christopher Elzinga
2649 Forest Park Drive
Dyer, IN 46311

RE: Rejection of Proposed Rental/Payment Terms

Dear Christopher,

I have assigned my wife an interest in whatever farm rental proceeds I receive as of 2015. So we both write to advise you that your proposed payment of Five Hundred Dollars ($500.00) for farming a portion of my Schererville land is hereby rejected, just like we rejected a de facto imposition of that arrangement in 2014. Your corresponding Check Number 538 is returned to you un-negotiated by cover of this letter.

You took it upon yourself in 2014 to pay Five Hundred Dollars ($500.00) directly to the Wilsons of the One Thousand Dollars ($1,000.00) I expected to receive from you given the amount I accepted from you in 2013 to cover 2012 to 2013. Just because the Wilsons, without my prior knowledge and consent, eliminated me as their Project Manager and commandeered half of that One Thousand Dollars ($1,000.00) from you, that does not mean I consider or ever considered the balance to be your full compensation or to me. As you know, on January 2, 2015 my wife emphasized to you by phone and we indicated by follow-up letter¹ that your arrangement with me up until then entailed you paying One Thousand Dollars ($1,000.00) per year, directly to me.

You have obviously chosen to work separately with the Wilsons and me as of 2015. That reality was certainly no reason for you to presume I would accept Five Hundred Dollars ($500.00) from you for farm rent. After all, I have no idea of how that amount relates to your corresponding produce sales; it does not allow for your use of my Rohrman Road garage which was without prior consent; and it disregards the fact that you farm more of my than the Wilsons’ land and even access the Wilsons property through my land.

¹ You were already provided a copy of that letter to the Wilsons, but another copy is enclosed for your convenience.
Christopher Elzinga
Rejection of Proposed Rental/Payment Terms
December 28, 2015

You are free to issue me a check for Five Hundred Dollars ($500.00) as an installment or down-payment on 2015 farm rent. The notation on your enclosed check is misleading and, therefore, will not suffice. In any event, my wife and I will get back to you sometime during first quarter 2016 and propose what your balance for 2015 and 2016 farm rent should be. In the interim, take care and enjoy the rest of this holiday season.

Sincerely,

Rodney A. Logal

and

Zena Crenshaw-Logal

RAL/zdcl

Enclosures:
January 2, 2015 letter (Logals to Wilsons)
Original Check No. 538 (Elzinga to Rod Logal)

cc (w/encl copies):
Megan L. Craig, Esq. ✓
Hand Delivered 12/28/15

HAND DELIVERY RECEIPT

By providing my printed name, signature, and title below, I hereby acknowledge receipt on this 28th day of December, 2015 of a copy of the foregoing two (2) page Rejection of Proposed Rental/Payment Terms with two (2) enclosures/attachments at the office of Craig Craig & Maroc, LLC, 11035 Broadway, Suite B in Crown Point, Indiana 46307.

PRINTED NAME

DATE

SIGNATURE
PAY TO THE ORDER OF:           $500.00
Red Legal
Five Hundred Dollars

FOR:                          

Name:

Date: 11-08-2015

Chris
STATE OF INDIANA )
) SS:
COUNTY OF LAKE )

1/12/16 RECEIVED

IN THE LAKE SUPERIOR COURT OF LAKE COUNTY
CIVIL DIVISION, ROOM NINE
2293 NORTH MAIN STREET
CROWN POINT, INDIANA 46307

Cause Number: 45D09-1501-SC-00040

*45D09-1501-SC-00040*

RODNEY A LOGAL

Plaintiff/Counter Defendant

VS.

RICHARD WILSON and
PEGGY WILSON
Defendants/Counter Plaintiffs

THE STATE OF INDIANA TO THE SHERIFF OF SAID COUNTY, GREETINGS:

You are hereby commanded to cite

RODNEY A LOGAL

7511 W. 77TH AVENUE
CROWN POINT, IN 46307

to appear before the Presiding/Special Judge in the within cause wherein hearing shall be conducted at the Superior Court of Lake County, Civil Division, Room Nine, located at 2293 North Main Street (ground floor), Crown Point, Indiana, on Wednesday, February 10, 2016 at 1:00 pm and the person cited shall then and there show cause, if any be had, why he or she should not be dealt with as and for contempt of court for failing to comply with the orders of this court as more fully set forth in the attached PETITION: (H.I.)

The following manner of service is hereby designated: By Sheriff

WITNESS my hand and the Seal of the Superior Court of Lake County Hereunto affixed at the City of Crown Point in said County this 11 day of January, 2016.

MICHAEL A. BROWN
CLERK OF THE LAKE CIRCUIT AND SUPERIOR COURT

By: Deputy Clerk
NOTE: PETITION FOR RULE TO SHOW CAUSE MUST BE ATTACHED

CLERK’S CERTIFICATE OF MAILING

I hereby certify that on the ______ day of ________________, 2015, I mailed a copy of this CITATION and a copy of the PETITION mailed to Respondent, __________________________, by __________________ mail, requesting a return receipt, at the address furnished by the Petitioner.

MICHAEL A. BROWN
CLERK OF THE LAKE CIRCUIT AND SUPERIOR COURTS

Dated: ______________________, 2015. By: ____________________________

Deputy Clerk

RETURN ON SERVICE OF CITATION BY MAIL

I hereby certify that the attached return receipt was received by me showing that the CITATION and a copy of PETITION mailed to Respondent __________________________ was accepted by the Respondent on the ______ day of ________________, 2015.

I hereby certify that the attached return receipt was received by me showing that the CITATION and a copy of the PETITION was returned not accepted on the ______ day of __________________________, 2015.

MICHAEL A. BROWN
CLERK OF THE LAKE CIRCUIT AND SUPERIOR COURTS

Dated: ______________________, 2015. By: ____________________________

Deputy Clerk

RETURN OF SERVICE OF CITATION BY SHERIFF

I hereby certify that I have served the within CITATION:

1. By delivering on __________________________, 2015, a copy of the CITATION, a copy of the PETITION and all other materials filed the same date to each of the within named person(s).

2. By leaving on __________________________, 2015, for each of the within named person(s) a copy of the CITATION, a copy of the PETITION and all other materials filed the same date at the respective dwelling house or usual place of abode of __________________________ in __________________________, Indiana, with a person of suitable age and discretion residing within, whose usual duties or activities include prompt communication of such information to the person served, or by otherwise leaving such process there at.

3. This CITATION came to hand this date, __________________________, 2015.

The within named __________________________ was not found in my bailiwick this date, __________________________, 2015.

ALL DONE IN LAKE COUNTY, INDIANA.

JOHN BUNCICH
SHERIFF OF LAKE COUNTY, INDIANA

By: ____________________________

SERVICE ACKNOWLEDGED

A copy of the within CITATION, a copy of the PETITION and all materials filed the same dated attached thereto were received by me at __________________________ in __________________________, Indiana, on this date, __________________________, 2015.

Signature of Respondent
PETITION FOR RULE TO SHOW CAUSE

Defendant/Counter Plaintiffs file Motion for Contempt [H.I.] The Court orders the Clerk of the Court to issue citation for Plaintiff/Counter Defendant, RODNEY A. LOGAL, to appear and show cause why defendant should not be held in contempt for failure to comply with court order dated December 18, 2015. Hearing is set for Wednesday, March 04, 2015, at 1:30 pm.

Notice of hearing is to be served on defendant by
( ) Certified Mail ( X ) Sheriff Summons

So ordered this January 6, 2016.
STATE OF INDIANA )
) SS:
COUNTY OF LAKE )

RICHARD AND PEGGY WILSON
Counter Plaintiffs

v.

RODNEY LOGAL
Counter Defendant

IN THE LAKE SUPERIOR COURT
COUNTY DIVISION III
2293 MAIN STREET
CROWN POINT INDIANA

CAUSE NO.: 45D09-1501-SC-00040

ORDER CONTINUING CONTEMPT HEARING

This matter is currently set for Contempt Hearing on February 10, 2016 at 1:00 p.m. Due to court congestion, the court, sua sponte, reschedules this hearing to February 4, 2016 at 1:00 p.m.

Mr. Logal’s failure to appear may result in the issuance of a bench warrant.

SO ORDERED

MICHAEL N. PAGANO
MAGISTRATE, DIVISION III

Plaintiffs’ Exhibit 14
STATE OF INDIANA  
LAKE COUNTY  

RODNEY A. LOGAL  
Plaintiff/Counter-Defendant  
v.  

RICHARD WILSON and PEGGY WILSON  
Defendant/Counter-Plaintiffs  

LAKE SUPERIOR COURT  
SMALL CLAIMS DIVISION III  
CROWN POINT, INDIANA  

Cause No. 45D09-1501-SC-00040  
FILED IN OPEN COURT  
DEC 18 2015  
JUDGE LAKE COUNTY  
COURT #3  

ORDER  

This matter came before the Court on December 9, 2015 on a Proceedings Supplemental hearing. Counter-Plaintiffs, Richard Wilson and Peggy Wilson, appeared in person and by counsel, John R. Craig and Megan L. Craig. The Counter-Defendant, Rodney A. Logal, appeared in person, self-represented. During the proceeding supplemental questioning Mr. Logal disclosed the existence of two rental properties, specifically, with addresses of 3789 Rhode Island St., Gary, IN 46409 and 7501 W. 77th Avenue, Crown Point, IN 46307 in addition to the rent he receives for allowing a portion of his land to be farmed by Christopher Elzinga. 

IT IS THEREFORE ORDERED that each and every rental payment received by the Counter-Defendant, Rodney Logal, for the properties located at 3789 Rhode Island St., Gary, IN 46409 and 7501 W. 77th Avenue, Crown Point, IN 46307, no matter from what source, must be remitted to the Counter-Plaintiffs’ counsel’s office located at 11035 Broadway, Suite B, Crown Point, IN 46307 within five (5) business days of Counter-Defendant’s receipt of said rental funds. Counter-Defendant will forward the rental funds received to Counter-Plaintiffs’ counsels, made payable to Craig, Craig & Maroc, LLC Trust Account, 11035 Broadway, Suite B, Crown Point, Indiana 46307. 

IT IS FURTHER ORDERED that the farm rents from Christopher Elzinga, beginning for farm rent received in 2015, must be remitted to the Counter-Plaintiffs’ counsel’s office located at 11035 Broadway, Suite B, Crown Point, IN 46307. 

Plaintiffs’ Exhibit 15
SO ORDERED this ____ day of December, 2015.

MICHAEL N. PAGANO
MAGISTRATE, DIVISION III

Distribution:
Defendant/Counter-Plaintiff’s Counsel: Megan L. Craig, Craig, Craig & Maroc, LLC, 11035 Broadway, Suite B, Crown Point, IN 46307
Plaintiff/Counter-Defendant: Rodney Logal, 7511 W. 77th Avenue, Crown Point, IN 46307
USPS Tracking®

Tracking Number: 9505510881075348232219

Updated Delivery Day: Wednesday, December 16, 2015

Product & Tracking Information

Postal Product: Priority Mail 2-Day™
Features: Insured

DATE & TIME
December 16, 2015, 9:34 am
STATUS OF ITEM
Delivered, In/At Mailbox
LOCATION
INDIANAPOLIS, IN 46204

Your item was delivered to an inactive mailbox at 9:34 am on December 16, 2015 in INDIANAPOLIS, IN 46204.

December 16, 2015, 9:10 am
Sorting Complete
INDIANAPOLIS, IN 46204

December 16, 2015, 6:56 am
Arrived at Post Office
INDIANAPOLIS, IN 46204

December 15, 2015, 4:09 pm
Arrived at USPS Destination Facility
INDIANAPOLIS, IN 46241

December 14, 2015, 10:40 pm
Arrived at USPS Origin Facility
CHICAGO METRO HUB

December 14, 2015, 5:38 pm
Departed Post Office
LANSING, IL 60438

December 14, 2015, 3:53 pm
Acceptance
LANSING, IL 60438

Available Actions

Text Updates
Email Updates

Plaintiffs’ Exhibit 16

Track Another Package
Tracking (or receipt) number
9505510881075348232219
Track It

Manage Incoming Packages
Track all your packages from a dashboard.
No tracking numbers necessary.
Sign up for My USPS
In The Lake Circuit Court
Sitting at Crown Point, Indiana

Rodney A. Logal and Zena Crenshaw-Logal,
Husband and Wife, Pro Se and as Count I
Relators for the State of Indiana,
Plaintiffs,

-vs-

Lake Superior Court, Small Claims Division III,
the Honorable Julie N. Cantrell as its Judge,
Michael N. Pagano as her Magistrate, and
Megan L. Craig,

Defendants.

Plaintiffs’ Verified Motion for Emergency Hearing
(i.e., hearing prior to 2/4/16) and Stay Of All Lower Court Proceedings

Come now the Plaintiffs, Pro Se and as Relators for the State of Indiana, pursuant to Indiana Code sections 34-27-1-1 [Actions for mandate; procedure] and 34-27-3, et seq. [Actions for Mandate], and 33-28-1, et seq. [Circuit Court Jurisdiction, Duties, and Powers] and move for a stay until conclusion of the above captioned Action for Mandate with related claims for constitutional rights violations and tort injuries, all proceedings in and of Logal v. Richard Wilson, et al., Cause No. 45D09-1501-SC-00040 before the Lake Superior Court, Small Claims Division III at Crown Point, Indiana. In support of this application, Plaintiffs say as follows:

1. The above captioned litigation has morphed from a very limited to what by all indications should be an exhaustive consideration of the Wilson Controversy¹ to discern the full extent to which it manifests an unlawful conspiracy to violate the Plaintiffs’ constitutional rights and impose upon them various tort injuries;

2. Such an expanded inquiry correlates with the defendants’, and particularly defendants Craig and Pagano’s dogged escalation of the Wilson Controversy;

3. Of course “among the inherent powers of a court is that of maintaining its dignity, securing obedience to its process and rules, rebuking interference with the conduct of business, and punishing unseemly behavior.” City of Gary v. Major, 822 N.E.2d 165 at 169 (2005 Ind.). But it is the Plaintiffs’ adversaries — not

¹ Logal v. Richard Wilson, et al., Cause No. 45D09-1501-SC-00040 before the Lake Superior Court, Small Claims Division III at Crown Point, Indiana.
some detached court or impartial judge — repeatedly calling Mr. Logal to the proverbial carpet on questionable grounds;

4. Plaintiff Rodney Logal is clearly a senior citizen. And while the defendants may not know he has uncontrolled hypertension and a heart condition (both of which are aggravated by stress), they were advised of his “White Coat Syndrome”, a condition that leaves him unusually nervous in medical settings and likely compromises his composure during legal proceedings. See, Plts’ Mtn to Correct Errors, footnote 3, Logal v. Richard Wilson, et al., Cause No. 45D09-1501-SC-00040 before the Lake Superior Court, Small Claims Division III at Crown Point, Indiana;

5. The defendants risk killing Mr. Logal — Plaintiff Zena Crenshaw-Logal’s husband with whom she has a right of consortium — based on grounds that a reasonable jury may well consider disingenuous. In support of this contention, the Plaintiffs incorporate herein by reference their “Verified Application for Emergency Hearing (i.e., hearing prior to 2/4/16), Temporary Restraining Order, and/or Preliminary Injunction Enjoining Defendant Craig with Actual Notice to Her Agents, Servants, Employees, and Attorneys, and Designated Persons in Active Concert or Participation with Her” and Plaintiffs’ Exhibits 12 through 16;

6. “A circuit court may do the following: (1) Issue and direct all processes necessary to the regular execution of the law to the following: (A) A court of inferior jurisdiction. (B) A corporation. (C) An individual. (2) Make all proper judgments, sentences, decrees, orders, and injunctions, issue all processes, and do other acts as may be proper to carry into effect the same, in conformity with Indiana laws and Constitution of the State of Indiana. (3) Administer all necessary oaths. (4) Punish, by fine or imprisonment, or both, all contempts of the court’s authority. (5) Proceed in any matter before the court, or in any matter in which the proceedings of the court, or the due course of justice, is interrupted. (6) Grant commissions for the examination of witnesses according to the regulations of law.” I.C. §33-28-1-5;

7. WHEREFORE, the Plaintiffs and each of them prays:

(a). that this matter be scheduled for emergency hearing before February 4, 2016 except that they are unavailable due to a medical appointment during the afternoon of January 27, 2016;

(b). for an Order of this Court commanding the Lake Superior Court, Small Claims Division III at Crown Point, Indiana and The Honorable Julie N. Cantrell as Judge as well as The Honorable Michael N. Pagano as Magistrate thereof to refrain from any further proceedings in Cause No. 45D09-1501-SC-00040 before it/then, captioned as Logal v. Richard Wilson, et al., until disposition of the above captioned Action for Mandate with related claims for constitutional rights violations and tort injuries; and

(c). any for and all other relief just and proper upon the premises.
Verification

Under penalties of perjury, the Plaintiffs, and each of them, hereby affirm that their above and foregoing statement of facts excluding opinions and reports of third parties, are true and correct.

Respectfully Submitted,

Rodney A. Logal,  
Pro Se and as Relator for  
the State of Indiana  
7519 W. 77th Avenue  
Crown Point, IN 46307  
219.865.6248 Ext. 0  
lpppo@comcast.net

Zena Crenshaw-Logal,  
Pro Se and as Relator for  
the State of Indiana  
7519 W. 77th Avenue  
Crown Point, IN 46307  
219.865.6248 Ext. 0  
zcrenshaw@comcast.net

Certificate of Service

I hereby certify that on January 25, 2016, I served the foregoing “Plaintiffs’ Verified Motion for Emergency Hearing (i.e., hearing prior to 2/4/16) and Stay Of All Lower Court Proceedings” with corresponding CCS on all defendants or their attorney(s) of record herein by placing a true and accurate copy of the same in the U.S. Mail, adequate postage affixed and addressed as follows:

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