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Amir H. Sanjari, )  
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Verified and Evidentiary Brief In Support of  
Statements Regarding  
CONSTITUTIONAL & CRIMINAL VIOLATIONS BY INDIANA OFFICIALS & JUDICIARY

The instant Brief is filed pursuant to the Notice of Younger Doctrine (**Exhibit # 1**) filed with the Elkhart Superior # 5 Court and Indiana Supreme Court.

1. In 1993, Dr. Amir H. Sanjari (“Sanjari” herein), In Propria Persona, a British citizen, and a Nuclear Physicist moved with his wife (Alison Sanjari, now Alison Gratzol, “Gratzol”) and his two biological minor children (“AFS” and “MRS”), all British citizens, to the United States after having been invited by research establishments here. His children are British citizens and have been kidnapped under color of law by Gratzol and are in Indiana.
2. In or about August 1999, Gratzol, by and through her attorney Max K. Walker, Jr. (“Walker”), filed for divorce seeking “sole custody” (i.e. removal of Sanjari's fundamental equal parental rights) of the parties' two minor children, herein, referred to as “AFS” and “MRS”.

3. At the time of the filing by Gratzol, all parties lived and worked in Elkhart, Indiana. Walker, filed the divorce action in Goshen, Indiana, in the Elkhart Circuit Court of Judge Terry Shewmaker.
4. Neither Walker nor the Judge ever disclosed they had a conflict of interest that they had been law partners up until Shewmaker became a Judge of the Circuit Court. Walker's sister and brother-in-law (Mona Walker Biddlecome and George Biddlecome) are officers and judge in Elkhart Courts and also the Elkhart Court Title IV-D Commissioner, **Exhibits # 2.A and 2.B**, which indicate conflict of interest and unlawful use of Title IV-D by Walker and Gratzol in conspiracy with Elkhart county prosecutor to have state of Indiana (unlawfully) intervene in the Elkhart case leading to the said body attachment. For conspiracy, “courts require the plaintiff to allege the parties, the general purpose, and the approximate date of the conspiracy.” Loubser quoting Walker supra, @ 1007-08. Also see Walker, Hoskins, Ryan, Swierkiewicz.
5. Approximately one (1) year later, in August of 2000, Sanjari uncovered the conflict of interest between Walker and Shewmaker. But, only after Judge Shewmaker had made a number of gender discriminatory and prejudicial decisions against Sanjari.
6. Walker himself was a former Elkhart County Deputy Prosecutor, and brutally assaulted<sup>1</sup> a woman friend and her minor (9 years old at the time) daughter. Upon hospitalization, the woman filed a criminal complaint against Walker. The evidence somehow disappeared and got “lost” within the Elkhart police department. Walker got away with a nominal suspension of his law license.

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1 Documentary evidence and court records available upon request as well as on the web.

7. As can be seen by Walker's conduct, he has corruptly influenced, misused and abused the court process to his advantage and to the deprivation of Sanjari's fundamentally secured rights in conspiracy with Gratzol.
8. Sanjari contested Gratzol's "sole custody" demand. Gratzol eventually agreed to share with Sanjari the equal legal and physical custody of the children. Sanjari was unfairly forced to pay inordinate and excessive amount of "child" support to Gratzol even though both parties were making almost identical income and had equal custody and parenting time with the children.
9. In August of 2000, after a change of judge on protest by Sanjari, the venue moved to Elkhart Superior Court No. 5 ("Elkhart court", or "Trial court") with Special Judge/Magistrate David Denton presiding over the case. This was another friend and associate of Walker and subordinate of Shewmaker. During the proceedings involving the children, Walker, specifically and explicitly stated in court that he didn't give a "fuck" about the children because his client (Gratzol) had control of them.
10. On August 23, 2000 the Elkhart Court issued the final divorce decree. Both parties, Sanjari and Gratzol, shared equal physical and legal custody of the children. **Exhibit # 3**, pg 1, §2 - Indiana Decree of Dissolution. (Gratzol's then boyfriend, later to become her husband, John Gratzol, moved into the marital house hardly a week later).
11. At this time, Gratzol and her husband John Gratzol set about on their willfully malicious campaign to alienate the oldest minor child, AFS, against Sanjari (father). This inflicted and initiated a long period of psychological problems upon AFS which was to be intensified by the Gratzols later causing AFS to self-mutilate. Alison Gratzol herself had suffered psychological problems (resulting in suicide attempts, etc in early adulthood), and

ostensibly still suffers from psychological inflictions, mental instability and problems perpetrated upon her by her own mother. Gratzol began inflicting same upon AFS, and now on MRS.

VIOLATIONS OF SANJARI'S CONSTITUTIONALLY PROTECTED  
PROCEDURAL AND SUBSTANTIVE DUE PROCESS AND OTHER RIGHTS

12. In June of 2001 Sanjari was about to take the two children to England (travel expenses had been paid a long time before) for a month vacation and visit with relatives (Sanjari and the said children were and are all British citizens) that had been planned many months earlier with the knowledge and agreement of both parents. As part of a conspiracy carefully planned well in advance (of Sanjari's and children's trip to England) by the Gratzols and Walker to deprive Sanjari of his parental rights and equal custody, a few days prior to the departure, they got a secret *ex parte* court order from Elkhart court (by now under special judge Michael D. Cook), without service of process and in violation of Sanjari's due process rights (a routine occurrence and violation in Elkhart courts), to freeze and garnish Sanjari's salary and bank accounts leaving him destitute and with no money for rent, subsistence, household and all other expenses necessary for and associated with bringing up two children. This diabolical act by the Gratzols and Walker was particularly egregious and inhumane given that the two minor children actually *lived* with Sanjari at least 50% of the time, i.e. his own 50% (equal legal and physical custody) plus any additional time that Gratzol did not want the said children with her.
13. Gratzol and Walker had the Elkhart county sheriff, again without service of process, impound Sanjari's car without his knowledge, a few hours after Sanjari's and his children's departure. Similarly, an unlawful (civil) body attachment was also issued against Sanjari a

week or two later while he and the children were in England. In violation of Sanjari's due process, no lawful notice or service of process (either timely or properly) was issued to him (either by the Elkhart court or by Gratzol or her attorney), nor was Sanjari given the opportunity to challenge the allegations contained in the said orders prior to their issuance.

14. While in England, Sanjari received letters from the Elkhart County sheriff's department informing him that his car had been impounded and a body attachment issued against him.
15. As originally had been planned and agreed, the children returned to Indiana on July 10, 2001. Sanjari's return to Indiana was delayed as he remained in England a little longer to get together some money to deal with the fraudulent machinations of Gratzol and Walker in Indiana and challenge said unconstitutional orders. No doubt this had entered into Gratzol's and Walker's calculations when they plotted their conspiracy.
16. On July 12, 2001, only two (2) days after the children were back in Indiana, Gratzol and Walker filed another secret and *ex parte* petition for "sole custody" of the minor children, (i.e. removal of Sanjari's fundamental parental rights) falsely and fraudulently, under oath, alleging that Sanjari (father) would not be returning to the United States. **Exhibit # 4**, §5. In this case, too, Gratzol and Walker did not serve service of process to Sanjari of the petition. This constituted malicious use, misuse or abuse of the court process and defrauded Sanjari out of his fundamentally secured rights, and in violation of his due process and equal protection rights, as well as defrauding the court. Again, in violation of Sanjari's due process rights, neither Gratzol, nor her attorney issued lawful, proper and timely notice to Sanjari in violation of both the US and Indiana Constitutions and laws.
17. These acts constituted blatant fraud and conspiracy to deprive Sanjari of his due process rights under the Fourteenth Amendment.

18. The Elkhart Court knowingly went along with this conspiracy by granting the *ex parte* order (hereinafter referred to as “August 2001 order”, fraudulently dated August 27, 2001<sup>2</sup>) without the opportunity of appearance by Sanjari, and merely on the basis of the lie that Sanjari was not returning to the US. Attached **Exhibit # 5**, pg 1 §2, shows the said *void* order removing Sanjari's fundamentally protected parental rights of equal custody of his children in violation of his procedural and substantive due process and equal protection rights. This resulted in the exercise of “sole-custody” of the children by Gratzol, and loss of Sanjari's family life, mutual care, companionship, love and association with his children since 2001, in addition to resulting in financial loss and damage to him. Griswold.
19. Sometime in the week after September 11, 2001, in a telephone conversation while Sanjari was trying to communicate from England with his children in Indiana, both the Gratzols told him of their intention that they “*will get [Sanjari] out of the children's lives*”. Thus far, with egregious deprivation of Sanjari's constitutionally protected parental rights, they, in conspiracy with Walker, appear to have succeeded in their schemes.
20. Upon further delay due to the restrictions on international travel after September 11, 2001, Sanjari returned to the US (as maybe irrefutably verified by the US Immigration Department, Sanjari's new employer at the time, the children, and other parties involved) in October 2001, since which date he has been living in the US. This is prima facie evidence that the Gratzol's fraudulent claim, which was the sole basis for seeking and granting the “August 2001 order”, that Sanjari was not returning to the US was deliberately false and fraudulent. And that the said order dated August 27, 2001, was sought and issued based upon lies and through fraud and deceit by Gratzol in conspiracy

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<sup>2</sup> Elkhart Court records, including, but not limited to the docket or the Chronological Case Summary (“CCS”) have been repeatedly falsified and tampered with by judge Rex L. Reed, et al. to prevent any effective appeal by and remedy for Sanjari.

with her husband and Walker. Upon the confirmation of Sanjari's return to the US in October 2001, Gratzol and Walker conspired with others to falsify the date of the order to August 27, 2001, which resulted in putting it outside the time line for any appeal by Sanjari. As a result of this and some other irregularities, Sanjari was unable to file a timely direct appeal of the order. In any case, a *void* order has no force of law.

21. The “August 2001 order” was sought and issued fraudulently and in violation of Sanjari's procedural and substantive due process rights and in his absence. Hence, rendering it, and all subsequent (progeny) orders based upon it, i.e. “tainted fruit”, null and void ab initio. The progeny orders themselves too were obtained through fraud and in violation of Sanjari's fundamental rights, inter alia, procedural due process and equal protection. 'It is well settled that "[t]he requirements of procedural due process apply only to the deprivation of interests encompassed by the Fourteenth Amendment's protection of liberty and property." Santosky Citing Board of Regents @ II. Also see Marbury, Miranda.
22. Indiana courts have not even exercised standard procedural due process protection as required by the Constitution, much less the higher requirement as directed by the US-SC stating,
  23. *“If anything, persons faced with forced dissolution of their parental rights have a more critical need for procedural protections”*. US-SC went on to state, *“[t]he fact ...does not justify denying the natural parents constitutionally adequate procedures. Nor can the State refuse to provide natural parents adequate procedural safeguards”*. *“The absence of dispute reflected this Court's historical recognition that freedom of personal choice in matters of family life is a fundamental liberty interest protected by the Fourteenth Amendment.”* Santosky quoting: Quilloin, Smith, Moore I, Cleveland, Stanley, Prince, Pierce, and Meyer.

24. These rights and procedural and substantive due process standards must be maintained and protected even when there are allegations against a parent, let alone when there have never even been any allegations of unfitness of any kind against Sanjari.
25. Notwithstanding the above facts, which in themselves are enough to render the said “August 2001 order” *void*, even if the Elkhart court had believed that Sanjari was not returning to the US, then the latter's absence from Indiana rendered the said court without *personam* jurisdiction over Sanjari, and hence, again, rendering the said order *void ab initio* as it was issued in the absence of *personam* jurisdiction over Sanjari. See May. Therefore, the said “August 2001 order” was issued fraudulently and/or without jurisdiction, and hence, in any event, is *void ab initio*.
26. The said progeny orders are, additionally, null and void due to having been issued in total absence of jurisdiction by the issuing judge, Rex L. Reed. (Elliott, Thompson, Pennoyer. In re Sawyer, Scheuer, Will) and in Sanjari's absence (see below). Therefore, the said orders can not and must not be processed and executed against Sanjari. Catz, Marbury. Furthermore, any one processing, executing or otherwise acting upon them violate the Constitution and is liable in their personal and other capacity. Huminski.

*' when a state officer acts under a state law in a manner violative of the Federal Constitution, he "comes into conflict with the superior authority of that Constitution, and he is, in that case, stripped of his official or representative character, and is subjected in his person to the consequences of his individual conduct. The State has no power to impart to him any immunity from responsibility to the supreme authority of the United States." Id. at 209 U. S. 159-160. (Emphasis supplied.) ' Scheuer @ 237. By law, a judge is a state officer.*

And

when “*it appears [...] there is a total want of jurisdiction, the proceedings are void and a mere nullity, and confer no right and afford no justification, and may be rejected when collaterally drawn in question.*” Thompson.

And

' “[I]f it [the court] act without authority, its judgments and orders are

*regarded as nullities. They are not voidable, but simply void."* [Elliott]; [Wilcox]; [Hickey]; [Thompson II]. ' In re Sawyer @ 220.

And

*"A court has no jurisdiction to determine its own jurisdiction, for a basic issue in any case before a tribunal is its power to act, and a court must have the authority to decide that question in the first instance."*

Rescue Army.

27. Such *void* orders are legal nullities and can be attacked collaterally or otherwise at any time and in any venue. See Long, because it was obtained fraudulently and in violation of Sanjari's fundamental constitutional rights of procedural and substantive due process, equal protection and other rights (Fourteenth Amendment), as:
- A) no notice or service of process, as required by law and due process, of the Gratzol's petition (of July 12, 2001) was lawfully issued to Sanjari. Nor was Sanjari timely and lawfully informed of the said petition and the proceedings there upon (he was in England which Gratzol and Walker were well aware of). Bell, Orner, V.T.A. .
- B) orders were based upon a lie (i.e .that Sanjari was not ever returning to the US), deceit and fraud upon Sanjari, his children and the Court.

This violated the Petitioner's Fourteenth Amendment and other rights. Fraud vitiates everything including judgments, etc. Throckmorton, Moore, Miller.

- C) they are unconstitutional. The US Supreme Court ("US-SC") has a well-established history on the fundamental rights of parents and procedural due process. It, as a matter of due process, has held that a fit parent may not be denied [or have removed his] equal legal and physical custody of [his] minor child[ren] without "*strict scrutiny*", "*compelling state interest*" and a finding by clear and convincing evidence of parental unfitness and substantial harm to the child, Santosky, that "*[t]he fundamental liberty interest of natural parents in the care, custody, and management of their child is protected*

*by the Fourteenth Amendment.*” Quoting Santosky in Franz, the Court stated:

*“...the Court has expressly held that the interest of a parent, who has temporarily lost custody of his child; in avoiding elimination of his rights ever to visit, communicate, or regain custody of the child is important enough to entitle him to the procedural protections mandated by the Due Process Clause.”* Id. at 596. [Emphasis added.]. Also see Langton.

28. So, Indiana has not only failed to act constitutionally, but it wantonly, actively and fraudulently set out, through its state actors under color of law, to violate Sanjari's constitutional rights. In so doing, it not only deliberately violated the Constitution and Sanjari's procedural and substantive due process, but has also egregiously trampled upon them and over 200 years of federal law and US-SC directives on due process protection. *State Judges, as well as federal, have the responsibility to respect and protect persons from violations of federal constitutional rights.* Gross.
29. Furthermore, the said orders violate Sanjari's First Amendment and Fourteenth Amendment rights. Mabra.
30. Since 2001, Gratzol and her husband have gone on to obtain further unlawful and unconstitutional orders from Indiana courts in the state case in conspiracy with Walker, his relatives in the Indiana court system, et al.. These progeny orders are also *void* both on grounds of having been sought and obtained fraudulently and in violation of due process and other constitutional rights in themselves, as well as being based upon the aforementioned *void* “August 2001 order”.
31. If voidness of judgment is found then relief from judgment is not discretionary and any order based upon that judgment is also *void*. V.T.A./2, Venable.

32. Upon many constitutional violations and endangerment of the lives of the minor children by judge Cook, and his subsequent disqualification, special judge Rex L. Reed was appointed in or about July 2003, to the case and continued the special judge Cook's violations even more egregiously and further continued such constitutional, due process and equal protection violations, as well as violation of his oath of office to uphold the Constitution and defying Indiana law and Canons of Judicial Conduct requiring his disqualification. Hence, his actions have in total absence of jurisdiction. In re Sawyer, Scheuer, US-SC quoting Ableman in Cooper I.
33. All orders issued by special judges Cook and Reed, are, therefore, “nullities. They are not voidable, but simply void”. Vallely quoting Elliott, Old Wayne Life Assn.
34. These violations were and continue to be perpetrated by state of Indiana's violations of Sanjari's protected family life as enshrined in the Fourteenth Amendment. Indiana does not now, nor ever had, any right to intervene and interfere in Sanjari's family life without “*compelling state interest*” (*Where certain "fundamental rights" are involved, the Court has held that .... limiting these rights may be justified only by a "compelling state interest,"* ' Roe @ 155 citing inter alia, Kramer) and only upon “*strict scrutiny*” (*sensitive areas of liberty do, under the cases of this Court, require "strict scrutiny,"* Griswold @ 504 citing Skinner), both interpreted by US-SC as provisions of constitutional rights under Fourteenth Amendment that Indiana, Elkhart prosecutor and other Indiana state actors under the color of law continue to violate. See Troxel, Parham, Quilloin and Calabretta. “[F]amily life is a fundamental liberty interest protected by the Fourteenth Amendment.” “We therefore reject respondent Kramer's claim that a parental rights termination proceeding does not interfere with a fundamental liberty interest.” Footnote 7, Santosky.

*"Where there is a significant encroachment upon personal liberty, the State may prevail only upon showing a subordinating interest which is compelling," Griswold @ 497.*

For constitutional deprivation, the state has to show a “*compelling state interest*” which has to withstand “*strict scrutiny*”. In practice, the state is almost never able to sustain its burden and survive strict scrutiny since US-SC has not declared a state interest compelling enough to justify the impairment of a fundamental right since Korematsu (1944).

35. Before long, due to judge Reed's pattern of judicial and criminal misconduct, Sanjari challenged his jurisdiction. "Once jurisdiction is challenged, it must be proved." Hagan, Federal Trade Commission. "*No sanction can be imposed absent proof of jurisdiction*". Stanard.

36. Only Gratzol (Petitioner in the Elkhart court case), and even then only upon showing positive proof and evidence and “alleg[ing] in clear terms the necessary facts [and] convincing evidence” showing Reed's jurisdiction, could oppose Sanjari's jurisdictional challenge. Harris II. Gratzol never did so, and indeed could not do so because judge Rex Reed's violations, and hence loss of jurisdiction are abundantly clear and obvious.

FRAUD, PROCEDURAL AND SUBSTANTIVE DUE PROCESS VIOLATIONS,  
CONSPIRACY, UNLAWFUL FALSIFICATION OF COURT RECORDS, ETC  
BY JUDGES MICHAEL D. COOK, REX L. REED AND ELKHART COURT, ET AL.

37. Two independent sources, the court clerk's staff's (name to be supplied) and court administrator, Kathleen Meteiver's, legally tape recorded statements regarding their thorough searches indicate and confirm that indeed judge Reed falsified court records to cover up his misconduct, obstruct justice, violate Sanjari's due process and access to the court rights. Hence, reinforcing his loss of jurisdiction in the Elkhart court case and

voidness of his orders including those subject of the instant case. The course of events were as follows:

38. On 04.12.2004, Sanjari filed a motion for conduct of psychological evaluation of his children. There was no response by the court at all to the said motion.

39. On 05.17.2004, Sanjari personally went to Elkhart Superior Court No. 5 and, in a lawfully tape recorded conversation with two different members of court staff (court clerk and judge's administrative secretary), inquired about lack of response for more than 30 days to this and other motions. Listening to the audio file on the DVD-ROM<sup>3</sup>, the following transpires:

A) Elkhart Court clerk- At 40 seconds into the recording, Sanjari is heard inquiring about any orders regarding the motion in question. At 01 minute 10 seconds Sanjari gives the specifics of the said motion of April 12, 2004, for psychological evaluation. After extensive search of the docket on the computer for the period from April 12 to May 17, at 03 min. 02 sec., the clerk's staff states “[she] can't see anything on that [April 12 motion for psychological evaluation]”, meaning there is no court response to the said motion. At 03 min. 28 sec. the specifics of the motion is reiterated and the clerk confirms that she can not see any order on that motion. At 04 min. 06 sec., after not having seen any Order or response to Sanjari's 04.12.2004 motion, the clerk goes to check with others and still does not see any response. At 04 min. 20 sec. the clerk categorically confirms that “no, there is no order for that [12th of April evaluation motion]”. She also confirms that the day of Sanjari's inquiry was May 17 [2004]. At 04 min. 40 sec. Sanjari seeks confirmation that there is no order on the April 12 motion. The clerk confirms that there is no order by

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<sup>3</sup> A DVD-ROM of audio recording (file ElkhartCourt5-Praecipe-CourtFraud-05172004.wav) regarding judge Reed's falsification of official court docket and his felony crime as confirmed by two court officials on the recording is available upon request.

saying “I am just reading down ....” the docket on the computer. She continues to 06 min. 42 sec. reading all the entries in the docket during and around the period from April 12 to May 17, and confirms that there is no court order or response by judge Reed (or indeed any judge) regarding Sanjari's April 12 motion for psychological evaluation. In addition to Sanjari's April 12, 2004, “psychological evaluation” motion, there were another 2 motions that Sanjari had filed and for which the court had not issued any timely response or order as it is required by Indiana Rules of Trial Procedure, Rule 53.1 (“Lazy Judge” Rule”). At 08 min. 42 sec. the clerk states that “I [she] don't see anything [re response to pertinent motions].... I don't see any of it”, she states. At 08 min. 45 sec. Sanjari asked the clerk to make a note of those 3 motions (of March 22, April 12, ...) that do not have any orders on them. She did<sup>4</sup>. At 09 min. 50 sec. Sanjari asks again if there is any order on any of the 3 motions. At 10 min. 10 sec. the clerk confirms that she does not see any order by the court for the April 12 psychological evaluation motion.

B) In addition to the clerk confirming lack of any court response to the said April 12 motion, Sanjari went to the court's administrator's office, Kathleen Meteiver, and sought confirmation of lack of an order at 11 min. 05 sec. in the court's office. At 11 min. 48 sec. Sanjari gives more details of the motion while the court administrator continues searching for any order. At 12 min. 11 sec. Ms. Meteiver, the court administrator confirms that “I [she] don't [doesn't] see anything”.

So, two independent sources, the court clerk and court administrator confirmed, upon thorough searches, that indeed there were no orders or responses issued by the court regarding Sanjari's psychological evaluation motion.

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<sup>4</sup> See file apa05172004-Clerk'sNoteOfFilings.pdf, in ElkhartSuperiorCourt folder.

40. Upon confirmation that there was no (timely) order or response issued by the court, Sanjari, after a few minutes (soon after 02:00 p.m. on May 17, 2004), filed his praecipe to remove, in accordance with Indiana Trial Rule 53.1, judge Rex L. Reed from the case for his violations.
41. On May 18, 2004, the following day to filing the praecipe, Ms. Meteiver, who had on previous day herself confirmed that there was no order regarding the April 12 motion, called Sanjari to inform him that somehow an order by judge Reed regarding the said April 12 motion had mysteriously appeared over night in the docket!!!! The sudden appearance of the order in the docket is shown at entry point "04/16/2004". Ms. Meteiver confirmed that judge Reed usually makes order entries in the docket.
42. Federal law enforcement authorities and the relevant US Congressional committees have been informed and investigations sought.
43. Affidavits by two independent persons (**Exhibits # 6.A and 6.B**) attending a day long hearing in the case testify to judge Reed's bias and discrimination against Sanjari.
44. In an August 18, 2005, preliminary court hearing, judge Reed pre-empting the outcome of the then impending November 08, 2005, hearing stated to an attorney that Dr. Sanjari would not be getting what he want which would have been the subject of the November 08, 2005, hearing delayed since September 2002 in violation of Sanjari's due process and access to the courts rights. It furthermore, indicates judge Reed's misconduct and prejudice.
45. In August 2005, Sanjari filed a lawsuit (**Exhibit # 7**) in US District Court against Judge Reed, the Gratzols and Walker for constitutional violations, conspiracy, fraud, etc. Judge Reed, has repeatedly acted with acute prejudice and malice in total absence of jurisdiction and violated the federal and Indiana laws and Constitutions as well as the Indiana Canons

(especially Canons 2 and 3) of Judicial Code of Conduct (see Indiana Canons) requiring him to disqualify himself. Canons 2 and 3, in part, state:

Canon 2: “A Judge Shall Avoid Impropriety and the Appearance of Impropriety in All the Judge's Activities”,

“A. A judge shall respect and comply with the law \* and shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.”

Canon 3: “A Judge Shall Perform the Duties of Judicial Office Impartially and Diligently”.

Canon 3.E: “E. Disqualification. (1) A judge shall disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned.”.

46. Judge Reed's jurisdiction was, therefore, “circumscribed to foreclose consideration of the” case both “by statute [as well as] by case law”. Stump @ 350.
47. Judge Reed acted in “clear absence of all jurisdiction”,Id. @380, in spite of Sanjari's repeated challenges of his jurisdiction. Judge Reed went on to commit further violations of the Constitution and Sanjari's and his children's fundamental rights. His acts, misconduct, falsification of court records, fraud, violation of oath of office, misrepresentation, false representation, conspiracy and other violations are not mere errors in law. They are malicious, vindictive and criminal misconduct carried out in the clear absence of jurisdiction.
48. Judge Reed's conduct not only were reasonably questioned, but positively proven. Judge Reed has refused to disqualify himself from the Elkhart Court case. There can be no doubt as to his prejudice and criminal activities regarding the Sanjari case.
49. On October 07, 2005, Sanjari filed a

“MOTION TO SET ASIDE, VACATE AND VOID COURT ORDERS  
DUE TO THE COURT RULINGS BEING FRAUDULENT & [Sanjari]

CANNOT GET A FAIR HEARING IN THIS COURT; [Gratzol], HER ATTORNEY AND THE JUDGE HAVE DEFRAUDED [Sanjari] AND THE COURT COMMITTED BIAS AGAINST [Sanjari]”. Heretoeafter referred as “Rule 60 (B) motion”.

This motion was denied by judge Reed immediately on the same day as if by an a standing order that all of Sanjari's filings be denied immediately since incident of Sanjari's filing of Praecipe on May 17, 2004.

50. On November 01, 2005, upon its denial by judge Reed, Sanjari filed appeal (“Appeal-1”) to Indiana Court of Appeals (“IN-CA”) of “Rule 60 (B) motion” denial also asking for the stay of all proceedings in the matter.
51. On October 15, 2005, Sanjari filed for bankruptcy in the US Bankruptcy Court, MA.
52. On November 08, 2005, judge Reed held a belated, but still unlawful and in the absence of jurisdiction, hearing (after over 3 years and in violation of Sanjari's Seventh Amendment and due process rights) on a custody petition that Sanjari had filed in September 2002. Sanjari attended this hearing under special appearance while objecting to, challenging and refusing to recognize judge Reed's jurisdiction in the case. Judge Reed continued to issue further unlawful and unconstitutional orders against Sanjari including one issued on December 02, 2005, but back dated to November 16, 2005. Sanjari appealed (“Appeal-2”) to IN-CA. In his unlawful order judge Reed added a memorandum replete with deliberately untrue statements in order to misrepresent, taint and prejudice any future action and to justify and cover up his predecessor's and his own unlawful activities.
53. On January 18, 2006, Sanjari filed Verified Motion To: Vacate Hearing of January 25, 2006 Due to Automatic Bankruptcy Stay and Related Orders, and Declare the November 8, 2005 Hearing and Its Resulting Orders Unlawful, Null & Void. Motion was denied.

54. On January 21, 2006, in view of judge Reed's disdain for and defiance of federal laws and Constitution, Sanjari filed another lawsuit (**Exhibit # 8**) against him in judge Reed's own court in Kosciusko Circuit court, Indiana for, *inter alia* constitutional and civil rights violations, fraud, conspiracy. Judge Reed still refused to disqualify himself as required by law from the Elkhart Court case and continued to issue unlawful orders against Sanjari.
55. On January 25, 2006, Judge Reed held another unlawful hearing in the absence of jurisdiction which Sanjari, self-represented, did not attend. The said hearing was in violation of the applicable "old" (pre October 17, 2005) US Bankruptcy laws under which Sanjari had filed bankruptcy entitling him to automatic stay upon certain state court and monetary proceedings.
56. On January 30, 2006, (entered February 01), upon the January 25, 2006, unlawful hearing, judge Reed in total absence of jurisdiction issued another *void* order (**Exhibit # 9**) "ORDER FOR ISSUANCE OF RULE TO SHOW CAUSE" replete with deliberately factually false statements and claims (18 U.S.C. 1621, Perjury Against Oath of Office) contrived in conspiracy with Walker to taint any potential appeals and perceptions. He set yet another unlawful hearing without jurisdiction for March 08, 2006. This order set the foundation for the later orders again be issued by judge Reed on March 08, 2006, to curtail Sanjari's liberty and rights. It also was a confirmation of judge Reed's violation of the federal Bankruptcy laws protecting Sanjari. This order and the hearing were appealed all the way to the Indiana Supreme Court.
57. On February 03, 2006, judge Reed, in the absence of jurisdiction, issued a (*void*) citation order (**Exhibit # 10**) against Sanjari to compel him to attend the unlawful hearing set for

March 08, 2006. This citation, also appealed, too was another pillar of the body attachment that was later issued by judge Reed on March 08, 2006.

58. On February 07, 2006, (entered February 08), judge Reed issued, without jurisdiction, yet another *void* order (**Exhibit # 11**) punishing Sanjari by curtailing his parenting time with his minor children. This order, issued in conspiracy with Walker and Gratzol violates Sanjari's and his children's Fourteenth Amendment rights of due process (“*compelling interest*” and “*strict scrutiny*”: US-SC), due process, and rights of association between parent and child. Similarly, and simultaneously an order for delivery of the minor child's birth certificate was issued.
59. On February 09, 2006, Sanjari filed an Adversarial Proceeding Complaint (**Exhibit # 12**) against Gratzol, Walker and judge Reed in the US Bankruptcy Court in Massachusetts, charging them with not only their violations of the bankruptcy laws, but also inter alia, fraud, conspiracy, violations of constitutional rights.
60. In his January and February 2006, *void* orders, judge Reed, still continuing to pretend to act as a judge in the Elkhart court case, also set up another unlawful hearing without jurisdiction for March 08, 2006. The above, *void*, orders directly laying the foundations for the said body attachment for contempt were issued by judge Reed. On March 03, 2006, Sanjari appealed to IN-CA (“Appeal-3”) the orders and the pending March 08, 2006, hearing. The orders were appealed all the way to the Indiana Supreme Court.
61. On March 08, 2006, before the appeals decision (see above), judge Reed held the unlawful hearing, which was on appeal, without jurisdiction and in Sanjari's absence and issued the *void ab initio* order (**Exhibit # 13**) holding Sanjari in contempt and issuing a writ of body attachment. In it, the court erroneously states that it has jurisdiction. However, it is *not* for

the court to claim its jurisdiction, it is for the Elkhart court case Petitioner (i.e. Gratzol) to re-assert and prove (Hagan, Federal Trade Commission) if the court has jurisdiction after Sanjari challenged and filed papers with the court regarding Reed's lack of jurisdiction upon judge Reed's persistent and egregious criminal, civil, and constitutional rights violations and atrocities. Judge Reed seems to think that by merely professing in his orders that he has jurisdiction or that he is not violating the law, it makes it so. The US and Indiana Constitutions and the laws disagree with judge Reed.

62. On April 03, 2006, Sanjari filed a

“VERIFIED MOTION [containing an affidavit] TO CORRECT ERRORS RE: DELIBERATE “ERRORS” BY (PURPORTED JUDGE) REX REED IN ISSUING BODY ATTACHMENT WITHOUT HAVING JURISDICTION AND WHILE COMMITTING TREASON AGAINST THE UNITED STATES IN A VENDETTA AGAINST [Sanjari]”.

It outlined judge Reed's lies, abuse and misconduct and total absence of his jurisdiction as well as the unlawful acts in arriving at the said body attachment. The motion was denied. Sanjari appealed.

STATE OF INDIANA'S AND ELKHART PROSECUTOR'S  
INTERVENTION UNDER TITLE IV-D AND ORDERS THEREUPON  
ARE UNLAWFUL AND UNCONSTITUTIONAL

63. Violations of Sanjari's constitutionally protected procedural and substantive due process rights were and continue to be perpetrated by the state of Indiana, Elkhart Prosecutor and his deputy whose interference and intervention under Title IV-D are fraudulent, unlawful and unconstitutional and in further violation of Sanjari's procedural and substantive due process and other fundamental rights. The orders relating to and sought and used under Title IV-D by State of Indiana, Elkhart Prosecutor and Gratzol and issued by judge Rex Reed are in violation of Sanjari's procedural and substantive due process and other

constitutional rights in all their aspects of existence, issuance and execution. The reasons, any one of which alone renders the said intervention and orders null and *void ab initio* and unlawful, are as follows:

64. The “August 2001 order”, on the basis of which Title IV-D is invoked, is fraudulent and was sought and issued in violation of Sanjari's due process and other rights by Gratzol and Walker and is unlawful and null and *void ab initio*. Therefore, its progeny orders, including that pertaining to Title IV-D order and allowing intervention, are *void* too. Bell, Orner, V.T.A., Marbury, Vallely, Santosky. Fraud vitiates everything including judgments. Throckmorton, Moore, Miller. In Franz, the Court stated:

*“...the Court has expressly held that the interest of a parent, [...] is important enough to entitle him to the procedural protections mandated by the Due Process Clause.”* Id. at 596.

[Emphasis added.]. Also see Langton.

65. Sanjari, a fit parent, has had lawful legal and physical custody rights to his children, who were born in the United Kingdom and are British citizens (not US citizens). Therefore, there is no contract between Sanjari and Indiana regarding birth of his children through marriage license, etc, nor any authority by Indiana through *parens patriae* over Sanjari's children. *“The fundamental liberty interest of natural parents in the care, custody, and management of their child is protected by the Fourteenth Amendment.”* Santosky. *'Where certain "fundamental [inter alia, family] rights" are involved, the Court has held that .... limiting these rights may be justified only by a "compelling state interest," ' Roe @ 155 citing *inter alia*, Kramer) and only upon “strict scrutiny” (*'sensitive areas of liberty [such as family rights] do, under the cases of this Court, require "strict scrutiny,"**

Griswold @ 504 citing Skinner), both interpreted by US-SC as provisions of constitutional rights under Fourteenth Amendment to which Sanjari was and is entitled to.

66. The State of Indiana's and Elkhart Prosecutor's interference and intervention into Sanjari's family life, I.e. his liberty interests, under the guise of Title IV-D and its use to harass and pursue him under the resulting *void* orders, are unlawful and unconstitutional. The only interest for its intervention, whether under this Title or when it interfered and issued the unlawful "August 2001 order", that state of Indiana had/has in the matter is its amoral endeavor to enrich itself monetarily to fraudulently collect federal incentives under Title IV-D while destroying families. Furthermore, since the judge, Elkhart Prosecutor and other state actors under the color of law have interfered and intervened, they have violated their oaths to uphold, support and defend the US Constitution they have sworn to. This is misconduct and contempt of US Supreme Court mandates. The judges both in 2001 and in 2006 had no discretion to rule as they did (re "August 2001 order", et seq.) without "*compelling state interest*" and with "*strict scrutiny*" and in accordance with the constitution and its standards which they have consistently violated.
67. The said children having a fit natural father (Sanjari), Grtazol had no authority to pawn them and make them slaves of Indiana state, without Sanjari's permission which he would never give.
68. The interference in the instant case by State of Indiana under Title IV-D is not only undue and unlawful for lack of "*compelling state interest*" and that it has been done without "*strict scrutiny*", but also it is in violation of private contracts (between Sanjari and his children) whose substantial and egregious impairment (Energy Reserves Group @ 411-13, Barbri, Chemerinsky) the state of Indiana, through its interference, has caused and

continues to cause the parties (Sanjari and his children), i.e. the destruction and loss of most or all of a party's liberty rights under an existing contract. Such substantial and egregious impairment caused by Indiana's interference is forbidden under the Contract Clause of the Constitution (see under Federal Constitution and Statutes, Memorandum of Law). The interference, both through the "August 2001 order" and through the intervention under Title IV-D, has resulted in Sanjari's loss of family life, alienation by Gratzol of the said children from Sanjari, their father, to the extent that the older and younger children have been unlawfully prevented from having any family interaction with Sanjari for the past six (6) years and two (2) years respectively. Hence, severely impairing and violating his sacred and protected fundamental family liberty interests (May, Santosky, Quilloin, Smith, Moore I, Cleveland, Stanley, Prince, Pierce, Troxel, Griswold, and Meyer), i.e. care, custody and management of his children. Furthermore, Indiana's interference in the said private contract is not only highly unreasonable, but it is indiscriminately and irrationally broad hoping to net in its trap unsuspecting parents under any pretext so that the state and county governments as well as the courts and the prosecuting offices financially profit from such unlawful parental rights deprivations.

69. Furthermore, the interference and impairment by Indiana in the said private contract was undue and unlawful because it not only was not under any constitutionally valid pretext, but also the circumstances of the case did not warrant any such interference at all.

70. For the above reasons, therefore, the government interference (whether by the Elkhart court through the "August 2001 order" unlawfully removing Sanjari's equal custody of his children, or by its interference via Elkhart county prosecutor under Title IV-D) in Sanjari's private contract with his children is unconstitutional.

71. State of Indiana, Elkhart Prosecutor, his deputy, judge Reed, Walker, the Biddlecomes and Gratzol defrauded the United States, Sanjari and tax payers (source of funds for federal expenditure including the defrauded incentives) by conspiring to collect moneys under Title IV-D from federal government where there was none due.
72. Judge Reed, Walker, the Biddlecomes and Elkhart Prosecutor, Curtiss T. Hill, Jr. and his deputy Bruce Wells knowingly committed further fraud upon the court and aided and abetted Gratzol in her defrauding Sanjari, US government and tax payers by utilizing Title IV-D given that her own income was/is in excess of \$50,000.00 per annum and her husband's income in excess of \$40,000.00 per annum, making a total household income in excess of \$90,000.00 per annum. The Congress legislated the Social Security Act and Title IV-D laws specifically for low income (often single parent) families. This does not apply to the Gratzols. State of Indiana, in conjunction with those like Gratzol, defraud the US government and tax payers and deprive children of their one or the other parents. Hence, Gratzol's use of this Title and knowingly aiding and abetting her actions by her cohorts Indiana state actors is fraudulent, and any resulting action and order in this matter is also fraudulent and null and *void*.
73. The “child support”, as defined within the Social Security Act and title IV-D are *gifts* and as such can not be enforced as obligations as the Elkhart court and Prosecutor are attempting to do.
74. Further Violations of Sanjari's Constitutionally Protected Procedural and Substantive Due Process and Access to the Courts Rights. Notwithstanding
- A. the unconstitutionality and unlawfulness of the whole process,
  - B. Reed's total absence of jurisdiction in the Elkhart case. And

C. the unconstitutionality and inapplicability of the whole concept of the said intervention into Sanjari's private family life:

the process by the state of Indiana, Elkhart Prosecutor and his deputy for their intervention as well as their execution of same and subsequent orders were in violation of Sanjari's rights of due process, equal protection and access to the courts, and therefore, as such, were additionally unlawful and *void*, as is shown below:

75. On July 20, 2006, a motion secretly by State of Indiana, acting through Elkhart County Prosecutor (“Elkhart Prosecutor”), was entered under Indiana Trial Rule 24 (see Memorandum Of Law, Indiana Statutes, Intervention) fraudulently and in violation of Sanjari's both procedural and substantive due process rights, and in his absence, to intervene under Title IV-D. **Exhibit # 14.A** indicates the file stamped (by Elkhart court) copy of the motion. **Exhibit # 14.B** indicates the proposed order which was signed by judge Reed on the same day. **Exhibit # 14.C** is a letter written to Sanjari dated July 18, 2006, by Elkhart Prosecutor's office giving Sanjari “*ten (10) days from the date of [the] letter*” to contact the Prosecutor's office at the risk of “*contempt citation*” and issuance of “*a body attachment for [Sanjari's] arrest.*”. All three (3) documents (**Exhibits # 14.A, 14.B and 14.C**) were deposited into the US Mail to Sanjari on August 01, 2006, in South Bend, Indiana, i.e. Fourteen (14) days and twelve (12) days respectively after the dates on the said documents. **Exhibit # 14.D** indicates the envelope in which all three (3) documents were mailed to Sanjari. Also, the dates at the bottom of the 3 documents (**Exhibits # 14.A, 14.B and 14.C**) indicate that they were all produced on July 18, 2006.

This violates Sanjari's constitutionally protected procedural due process rights since the Elkhart Prosecutor failed to effect a lawful service of process of the said documents in

**Exhibit # 14.A, 14.B, and 14.C.** Indeed they were dropped in the mail (**Exhibit # 14.D**) to Sanjari 10 days after the motion had been filed and granted (albeit unlawfully) by judge Reed, and 3 days after the deadline given in the **Exhibit # 14.C** had passed.

76. The current action, one of a long series of fraudulent and unlawful actions by Indiana, its courts and Elkhart Prosecutor's office to deprive Sanjari of his liberty and rights, is also based upon this unlawful and fraudulent order sought by Elkhart Prosecutor. A close inspection of the first sentence in the "CERTIFICATE OF SERVICE" (**Exhibit # 14.A**) reveals the unusual language used deliberately to be misleading and/or vague by Elkhart deputy Prosecutor stating, "... [deputy prosecutor] *caused a copy of the foregoing Motion to Intervene to be sent by first class mail, postage prepaid, to: Amir H. Sanjari...*", whereas Section (C) of the "Trial Rule 24", under which deputy Prosecutor filed the motion, in part, requires that "**(C) Procedure.** *A person desiring to intervene shall serve a motion to intervene upon the parties as provided in Rule 5. The motion shall state the grounds therefor and set forth or include by reference the claim, defense or matter for which intervention is sought.*" Emphasis added. Rule 5 (see Memorandum Of Law, Indiana Statutes, Rule 5) states: "**(C) Certificate of Service.** *An attorney or unrepresented party tendering a document to the Clerk for filing shall certify that service has been made, list the parties served, and specify the date and means of service.*" The only dates on the said motion are July 18, 2006, (bottom of the pages, and top of the letter to Sanjari) and July 20, 2006, (court's file stamp). The former is the only date entered by the issuing attorney, i.e. Deputy Prosecutor. Neither date is accurate, indicating that deputy prosecutor flatly lied. 18 U.S.C. 1621, Perjury Against Oath of Office. Indeed, the two dates differ from the actual date of mailing (August 01, 2006) by fourteen (14) and twelve (12) days

respectively. The relevant sub-section (2) of the said Rule 5, Section (B) states: “(2) *Service by Mail*. If service is made by mail, the papers shall be deposited in the United States mail addressed to the person on whom they are being served, with postage prepaid. Service shall be deemed complete upon mailing”. Underline added. Since the service of the said motion by Elkhart deputy Prosecutor was not mailed until August 01, 2006, the service is not deemed timely nor lawfully “complete”. This is violation of due process and access to the courts and renders the said motion and its progenies as well as the said intervention and the resulting enforcement under Title IV-D by Indiana unlawful. Evidently, as his language in the certificate of service confirms, not only he did not “certify that service [had] been made” as indeed it had not been and it was not even done at the time of filing, but Elkhart deputy Prosecutor had all along intended that Sanjari should not receive the document timely and have an opportunity to challenge it. I.e., the Elkhart prosecutor conspired to and committed fraud and deprivation of Sanjari's protected rights of due process. This kind of fraudulent and criminal conduct by Indiana state actors operating under the color of law sheds further light on how the “August 2001 order” was obtained.

77. Additionally, the said motion to intervene may have arguably stated an alleged “claim”, though not shown or proven, for intervention, it failed to state any “grounds” by the state of Indiana, as required by Rule 24 (C). Merely referencing “an Application for Child Support” does not satisfy the requirement of “grounds” and “claim”. Notwithstanding such deficiency, any alleged grounds or claim would be unconstitutional and in violation of Sanjari's due process as the supposed allegations of grounds and claim would have been just that, i.e. allegations without Sanjari having been given the opportunity to challenge

their veracity and applicability or rebut them. This is in violation of Sanjari's due process rights and equal protection as well as Rule 24 of Indiana Trial Rule authorizing such intervention. Later requests by Sanjari to the Elkhart court, its clerk and Elkhart Prosecutor's office requesting production of copies of the said fraudulent "Application for Child Support Services pursuant to Title IV-D" have been refused by them and documents not provided. This is in violation of Sanjari's due process "*to be informed of the nature and cause of the accusation*" or claims against him. AMENDMENT VI to The Constitution, (1791). Nor was the said Title IV-D "Application" included with the unlawfully served motion.

78. On July 20, 2006, Judge Reed, in addition to total absence of jurisdiction in the case, unlawfully and in violation of Sanjari's due process and access to the courts rights, signed the Indiana's motion to intervene, hence setting the scene for further punishing Sanjari, who only found out about the said motion *after* Elkhart court sent him a copy of the order *after the fact*. **Exhibit # 15.A** indicates a copy of the Elkhart case Chronological Case Summary ("CCS") dated July 26, 2006, stating that a motion (in due process violation) had been granted on July 20, 2006. **Exhibit # 15.B** indicates the actual order filed and signed on July 20, 2006, unconstitutionally and which is also the basis of Indiana's enforcement action against Sanjari and his liberty. Another aspect showing the extent and pattern of criminal misconduct under the color of law in Indiana can be gleaned from the date ("07/20/2006") and time ("15:38") of the motion and the proposed order faxed by Elkhart Prosecutor to Elkhart court. Although it was faxed close to the closing time of the court, nevertheless it was signed on the same day showing the conspiracy and pre-planning amongst the Elkhart court clerk, judge Reed, Prosecutor and his deputy, Walker, et al.

(Elkhart court on occasions has refused to accept filing papers -under special appearance as Reed has no jurisdiction in the case- by fax from Sanjari -necessitated by the unlawful conduct of the court, e.g. see below. This is fraud, conspiracy, discrimination and violation of equal protection. **Exhibit # 15.C** indicate the envelope in which the two documents (**Exhibits # 15.A** and **15.B**) were mailed to Sanjari. As can be seen, it was mailed by Elkhart court on July 27, 2006. A week *after* the motion to intervene by Indiana had been filed and granted. This is further violation of Sanjari's constitutional rights *inter alia*, due process, equal protection, access to the courts, and also constitutes conspiracy and fraud by Indiana, Elkhart county prosecutor, his deputy, judge Reed, Gratzol, Walker and the Biddlecomes (Walker's sister and brother-in-law who judges and Title IV-D Commissioner of Elkhart court).

79. Sanjari never had a compact or agreement, nor even would contemplate or agree, as Gratzol has done, to such heinous crime as to sign his parental rights to his children over to and give them to state of Indiana as child slaves and pawns so that Indiana state and Elkhart Prosecutor and his deputy, in their moral depravity and in violation of the Constitution, may use them to profit from federal Title IV-D incentives. **Exhibit # 16**. A forced contract, or one without the consent of a party, is no contract at all.
80. Judge Rex Reed allowed the said intervention as well as issued other orders in total absence of jurisdiction. "*Once jurisdiction is challenged, it must be proved.*" Hagan, Federal Trade Commission. "*No sanction can be imposed absent proof of jurisdiction*". Stanard. He, therefore, violated his oath of office and the Constitution and warred against the United States, and is ' "*stripped of his official or representative character. ... The State has no power to impart to him any immunity from responsibility to the supreme authority*

*of the United States." Id. at 209 U. S. 159-160. (Emphasis supplied.) ' Scheuer @ 237. When "it appears [...] there is a total want of jurisdiction, the proceedings are void and a mere nullity, and confer no right and afford no justification, and may be rejected when collaterally drawn in question." Thompson. And ' "if [the court] act without authority, its judgments and orders are regarded as nullities. They are not voidable, but simply void." [Elliott]; [Wilcox]; [Hickey]; [Thompson II]. ' In re Sawyer @ 220.*

81. Therefore, all orders and actions, including, but not limited to, the intervention and seeking enforcement of curtailment and deprivation of Sanjari's liberty and freedom are null and *void* and unlawful. They are designed to punish Sanjari and further destroy the familial relationship between him and his children, intimidate and retaliate against him because he'd filed lawsuits in federal courts against judge Reed, Elkhart court, Walker and the Gratzols. See above. The pattern of events is clear. Instead of disqualifying himself, as required by Indiana laws (see Indiana Canons), but more importantly, by federal laws, judge Reed has chosen to unlawfully pretend he is still ruling over the Elkhart case in order to use it to intimidate, harass and punish Sanjari. This is nothing short of judicial tyranny and kidnapping by Indiana, its courts and officials of children for extortion, from which Elkhart county general budget (getting 22.2% of profit) and courts deciding Title IV-D matters in conflict of interest (getting 22.2% of profit), county Prosecutor's office enforcing Title IV-D matters in conflict of interest (getting 33.4% of profit), and state of Indiana benefit.

#### OTHER UNLAWFUL ACTIVITIES BY INDIANA COURTS, ET AL.

82. In March 2007, Gratzol and Walker unlawfully filed a contrived and bogus petition in Elkhart court under special judge Reed ruling in the case in the absence of total jurisdiction.

In the petition Walker, using one of his usual unethical (to say the least) tricks and proposed two possible dates, April 03, or April 10, 2007, (**Exhibit # 17**) for a hearing as follows:

83. In his letter to Elkhart clerk (**Exhibit # 18.A**), dated March 08, 2007, he states that he had already enclosed copies of pleadings he was filing in the Elkhart case. Yet, it was not until at best March 11, 2007, or more likely March 14, 2007, (see **Exhibit # 18.B**, US Postal Service post mark reading 11 or 14 on the envelope received by Sanjari) when Walker actually mailed service of process of the petition to Sanjari (the other party living 1000 miles away in Massachusetts). Sanjari, having received the service of process belatedly toward the end of March, faxed a response on April 02, 2007, to the court (with service of process to Walker) under special appearance and while emphasizing the Elkhart court's and judge Reed's lack of personam jurisdiction in the case. This kind of unethical and unlawful conduct is a hall mark of Walker and his practice.
84. Additionally, in the letter (**Exhibit # 18.A**), Walker refers to “a copy of [his] letter to Judge Reed's Court ”. Sanjari was never sent a service of process of such a secret *ex parte* letter from Walker.
85. Unbeknown to Sanjari, the court had already picked April 03, 2007, for the hearing without having sent him notice of same by the time of hearing itself.
86. Elkhart court claimed that a notice of hearing of April 03, 2007, was mailed to Sanjari on March 27, 2007 (**Exhibit # 19**, their envelope post mark). But the notice of the hearing was not delivered to Sanjari until May 11, 2007 (**Exhibit # 20.A**). The hearing was nevertheless held without Sanjari, and again in the absence of total jurisdiction by judge Redd. This due

process violation was yet another in the myriad acts of conspiracy and misconduct by the Indiana actors against Sanjari.

87. Notwithstanding the undue delay for the hearing notice and the resulting due process violation, the hearing and its notice were unlawful due to the following:
88. March 27, 2007, the day the hearing notice was mailed was a Tuesday. April 03, 2007, the day of the (secretly) proposed hearing was a Tuesday. Rule 6(D) of Indiana Trial Procedure (see Memorandum Of Law, Time, Rule 6) requires “*A written motion [... and] notice of the hearing thereof shall be served not less than five [5] days before the time specified for the hearing*”. [Other pleadings require longer notice.] Rule 6(A) requires that “[w]hen the period of time allowed is less than seven [7] days, intermediate Saturdays, Sundays, legal holidays, and days on which the office is closed shall be excluded from the computations.”
89. In any case, the proposed hearing was on the basis of Walker's *petition* that is a pleading akin to a Complaint, not a motion. Hence, requiring 20 days, not 5 days for a response and hearing. Therefore, the hearing was held unlawfully and in violation of due process which is a habitual and modus operandi of the Indiana courts and judge Reed, and not necessarily confined to Sanjari's case, although judge Reed and Indiana courts harbor special venom toward Sanjari.
90. Additionally, the following maybe noted regrading this hearing:
  - i. The court and judge Reed had no jurisdiction to hold the hearing in the case anyway.
  - ii. Elkhart court has its own postal franking system. As such, the Elkhart court which, along with judge Reed, was and still is subject of federal court actions by Sanjari, has long had the ability to frank any date it wishes on an envelope and mail it later than the date.
  - iii. Elkhart court had Sanjari's current mailing address as did Walker. Indeed, although

having taken 2 weeks, Walker's letter did not take over a month as did Elkhart court's notice of hearing evidently designed to reach Sanjari after the unlawful hearing date.

iv. **Exhibit # 20.B** is a letter that the US Postal Service (“USPS”) in Haverhill, MA, wrote to Sanjari in response to his later inquiries regarding any such communication from Elkhart court. The USPS letter confirms that there were indeed no certified communications, as claimed by Elkhart court, had been (which would have had to go through the said Haverhill branch) sent to Sanjari.

v. Sanjari did not receive the notice of April 03, 2007, hearing until May 11, 2007. Yet, Elkhart court and judge Reed went ahead on April 03, 2007, and held a secret, *ex parte* and unlawful hearing, not to mention without jurisdiction, and issued similarly unlawful orders dated April 04, 2007 (entered on April 09, 2007) against Sanjari.

vi. Notwithstanding judge Reed's absence of total jurisdiction in the case, and notwithstanding the fact that Sanjari never did receive the notice of hearing timely and prior to it, even if he had received it within anticipated time, he'd still not have enough time (given that 2 days of the prior date tot he hearing were weekend) to travel 1000 miles in view of the fact that Sanjari, although a highly qualified nuclear physicist, was by then unemployed, without funds and unable to find employment due to the machinations of judge Reed, Indiana courts and Walker in order to render him unable to seek redress through the courts and “create more waves” regarding the pattern of criminal misconduct in Indiana courts and by judge Reed. Evidently, the court and Walker did not wish for Sanjari to really attend the hearing. In any case, judge Reed did not and does not have jurisdiction in the said Elkhart case. And as such all his orders in this regard are null and *void ab initio*. On May 03, 2007, appeal of the said orders (Appeal-4) were filed to IN-CA.

COLLUSION, CONSPIRACY AND CONSTITUTIONAL VIOLATIONS BY  
INDIANA COURT OF APPEALS AND SUPREME COURT

91. Appeal-1 - A review of the Appeal-1 docket reports regarding judge Reed's violations shows the IN-CA's conspiracy through its secret *ex parte* communications with judge Rex L. Reed, item "3/03/06" ¶ 4 in **Exhibit # 21.A**, obtained on March 13, 2006. After Sanjari contacted IN-CA to inquire about said secret "LETTER ... FROM SPECIAL JUDGE REX REED", the entry was removed to cover up the conspiracy. **Exhibit # 21.B** shows the docket on April 14, 2006, after Sanjari's contact with and inquiry from the IN-CA. Upon the undersigned's re-contacting IN-CA to object to the removal of the entry, which indicates the said conspiracy, and informing the IN-CA that the undersigned had copies of the earlier docket reports as proof, the entry was re-inserted, ¶ 4 in **Exhibit # 21.C**, obtained on April 18, 2006, shows the "3/03/06" entry for the secret letter. It only leaves to the imagination what other unrecorded conspiracies, cover ups and frauds the Indiana courts, including but not limited to the trial courts, IN-CA and Supreme Court ("IN-SC"), have perpetrated and/or are perpetrating upon the undersigned to neutralize his efforts in seeking redress. The said secret letter (unlawful and in violation of the undersigned's due process) between judge Rex L. Reed and the IN-CA dated "3/03/06" was exchanged after the undersigned had filed lawsuits in federal court against Reed and Elkhart court. It was not surprising to see this appeal denied. The conspiracy, secret communications and falsified entries are indicated by reviewing several of the docket files from before 03.03.2006 to 03.24.2006 and dockets of other cases. C.f. **Exhibit # 21.D**, IN case fixing.
92. The Elkhart court docket entries have been extensively falsified by and at the behest of judge Rex Reed (see above). Therefore, as indicated in the final docket report (**Exhibit #**

22) of Appeal-1, Elkhart court clerk (Stephanie Burgess) filed three (3) different versions of the docket (entries “11/17/05” clerk's request for extension to assemble records) and “12/12/05”, “12/30/05” and “3/08/06”, clerk's 3 notices of completion to IN-CA. Sanjari forwarded (entry “1/04/06”) a copy of his motion to correct errors to the trial court also to IN-CA informing it of the falsified and erroneous nature of the Elkhart court docket in the Elkhart case and requesting that it be corrected. In addition, IN-CA, in violation of Sanjari's due process and Seventh Amendment, refused to accept his filings (entries “12//13/05” and “2/01/06”). The IN-CA's rulings in the said appeal either confirm their conspiracy by avoidance of dealing with the real issues by ignoring them or knowingly mislabeling them (e.g. at the expense of looking ignorant of the law they refer to Sanjari's request for copies of the *ex parte* communications as “vague”. Surely, the court should now what is *ex parte* and what is not, and what secret communications are unlawful in a case) or untruthfully refer to them as “unsupported”.

93. The extent of collusion is such that Gratzol (the Appellee in the case) did not even file a brief or make any representation in IN-CA even after Sanjari filed his Appellant's Brief. Instead, IN-CA, in practicing law from the bench (unlawful), represented Gratzol in the appeals case and acted on her behalf.

94. On “11/02/06”, ALL state court remedies were exhausted when IN-SC denied transfer of Sanjari's petition for its consideration.

95. In this matter, IN-CA used and abused its position like a petty tyrant to deny the appeal. Indeed, to borrow the statement from another case that experienced IN-CA's and IN-SC's misconduct and corruption, "[t]he opinion, is so factually and legally inaccurate that one is left to wonder whether the Court of Appeals was determined to find for" Gratzol "and then

said whatever was necessary to reach that conclusion."<sup>5</sup> Indeed, "[t]hey're reacting more like petty bureaucrats than the highest judicial officers in the state," Id. @ end, **Exhibit # 21.D** (by professor Monroe H. Freedman, an expert in judicial ethics at Hofstra Law School). IN-SC denial of transfer help them avoid ruling directly on judge Reed's criminal misconduct. However, IN-SC, and in particular, the Indiana chief judge had and have since been repeatedly informed by Sanjari of Reed's misconduct in writing and with proof.

96. Sanjari's Petition for Writ of Certiorari to the US-SC was filed on "January 31, 2007" and later denied.

97. Appeal-2 – Filed "1/11/06"- As another indication of the conspiracy and repeated criminal and constitutional violations (*inter alia*, access to the court, due process, equal protection) by the Indiana courts (Elkhart, IN-CA and IN-SC; evidence available) against Sanjari, **Exhibit # 23** of Appeal-2 indicates that Sanjari (Appellant in the appeal) filed two (2) "MOTION[s] TO COMPEL TRIAL COURT CLERK TO COMPLETE TRANSCRIPT AND ISSUE, FILE AND SERVE ITS NOTICE OF COMPLETION OF TRANSCRIPTS" ("2/14/06" and "5/05/06") of Elkhart court hearing showing that it had been held unlawfully as well as proof of federal and other violations by and conspiracy between Reed and Walker. (By Indiana law notices of completion of records and transcript have to be filed within 30 days of the notice of appeal.) IN-CA on "6/21/06" ordered Elkhart Trial court clerk (Stephanie Burgess) to complete transcripts and issue service to Appellant (Sanjari). The clerk never carried out either duties. See Sanjari's motion to IN-CA (entry of "7/13/06"). However, in taking part in the conspiracy with Elkhart court and

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5 "Indiana Court Bars Lawyer For Criticizing An Opinion", Article in New York Times, Nov. 03, 2002, @ § 4. See the article on <http://webpages.charter.net/lah1321/#Announcements%20&%20Court%20Watch>

Reed and condoning deprivations of Sanjari's rights, IN-CA overlooked the Elkhart clerk's violations and even ignoring IN-CA's own order regarding filing of the notice.

98. On "7/13/06" Sanjari filed a motion to IN-CA for "VERIFIED MOTION FOR SANCTIONS AGAINST TRIAL COURT [Reed] AND TRIAL COURT CLERK FOR VIOLATIONS OF INDIANA LAWS, TRIAL AND APPELLATE RULES, AND FEDERAL LAWS AND CONSTITUTION FOR THE UNITED STATES".

99. Upon various unlawful actions and conspiracy by Elkhart court, judge Reed and IN-CA, Sanjari filed a notice and motion to that effect with IN-CA ("3/19/07").

100. Upon further frustration and after one (1) year and five (5) months (to wit, a total of seventeen, 17, months) of delay and prevarication by IN-CA regarding judge Reed's unlawful hearings and orders against him and in violation of his due process and access to the courts rights, Sanjari filed a motion, under Indiana laws, to transfer the case to the IN-SC on "6/04/07". The transfer to IN-SC was denied on "7/23/07" on the grounds that "THESE APPEALS DO NOT ENTAIL "RARE CASES" INVOLVING " A SUBSTANTIAL QUESTION OF LAW OF GREAT PUBLIC IMPORTANCE AND . . .". Apparently, pervasive criminal misconduct and conspiracy by Indiana judges are not "RARE", nor rise to "GREAT PUBLIC IMPORTANCE". Apparently, as indicated in another case IN-SC believes in covering up and perpetuating its own and other Indiana courts' judicial corruption as its statement refers to "the public's confidence in the administration of justice." being "undermined". (Footnote 5 Article @ 1.)

101. On "7/30/07" Sanjari filed with IN-CA "VERIFIED MOTION FOR TAKING NOTE OF FRAUDULENT DOCKETS BY INDIANA COURT OF APPEALS AND ELKHART

SUPERIOR COURT NO. 5 AND SAID COURTS' FRAUD AND CONSPIRACY WITH  
REX L. REED (PURPORTED JUDGE) AND MAX K. WALKER, JR.”

102. On “8/23/07”, in a clear sign of conspiracy IN-CA prejudicially dismissed the appeal. It further violated Sanjari's due process and Seventh Amendment rights by its orders prohibiting and restricting any future appeal by Sanjari. This further shows that any proceedings in the state court would be “futile” and that Sanjari can have no hope of any lawful, much less just treatment or any remedy at all in Indiana courts. It is of note that IN-CA apparently issued its order not only belatedly (17 months) “justice delayed is justice denied”, but also without the transcripts that should have been filed by the Elkhart court clerk, and without any response from the Appellee, Gratzol who never in any of the Indiana appeals filed a response or Appellee's Brief. To wit, the IN-CA judges, as well as Reed, practiced law from the bench and acted, not as judges, but as attorneys for Gratzol. This violates both state and federal laws and judges' oaths of office (which Reed had already perpetrated a long time earlier and lost jurisdiction) and to uphold the Constitution. It is, furthermore, evidence of conspiracy between IN-CA, Elkhart court, judge Reed, and Gratzol's attorney Walker (note Walker's contacts and relatives- judges- in Elkhart court). The extent of falsification of court records and criminal misconduct is such that Elkhart clerk did not even see the need to file with IN-CA the trial court transcripts, **Exhibit # 23**. IN-CA even ignored Elkhart clerk's defiance of IN-CA's own order of “6/21/06” §§ 1,2, 3, when it did not issue a notice of completion of records. Sanjari has already shown that there has been secret communication between IN-CA, judge Reed and others. This is clear conspiracy and violation of procedural and substantive due process rights and access to the courts, as well as others.

103. On "11/28/07", Sanjari filed Petition to the IN-SC for transfer to hear the case.
104. On "1/24/08", ALL state court remedies were exhausted when IN-SC refused to transfer and hear the case for consideration evidently not wishing to further highlight and expose the unlawful and criminal misconduct of lower courts, judges, et al.. In any case, since the IN-SC justices read the Sanjari's communications, they were aware of (Sanjari over the previous few years had written to them directly through certified mail informing them of) the criminal activities of the lower court judges and they not only did nothing about it, but also conspired to cover it up. Therefore, they (IN-SC justices ) too are culpable under such laws as criminal conspiracy, 18 U.S.C. 2,3,4, Misprision of Felony, etc.
105. Appeal-3 – Filed on "3/03/06"- A review of this appeal's docket (**Exhibit # 24**) reveals the same pattern of prejudice, misconduct, conspiracy by Indiana courts.
106. Clerk issued notice of completion of records on "3/07/06". Notice of completion of transcript not filed. Even after Sanjari filed ("6/24/06") his motion to IN-CA to compel Elkhart court clerk to complete transcripts and issue and file with service its notice. In fact the clerk of Elkhart court filed its notice of completion of transcripts on "7/06/06" falsified four (4) months later with its ' "AMENDED" NOTICE OF COMPLETION OF CLERK'S RECORD (1) '.
107. On "5/09/06" IN-CA further denied Sanjari's due process and Seventh Amendment rights by dismissing his filing. The said motion to correct had not been filed to IN-CA. It had been previously filed with the Elkhart court. And, as permitted by Indiana Appellate Rules, Sanjari had included a copy of it with his notice of appeal (3/28/06") to IN-CA. However, as the said motion contained accounts of the Indiana courts', and particularly judge Reed's

criminal misconduct, IN-CA pretended ignorance and “dismissed” it after having been “duly advised”.

108. On “7/13/06” Sanjari filed a motion to IN-CA for “VERIFIED MOTION FOR SANCTIONS AGAINST TRIAL COURT [Reed] AND TRIAL COURT CLERK FOR VIOLATIONS OF INDIANA LAWS, TRIAL AND APPELLATE RULES, AND FEDERAL LAWS AND CONSTITUTION FOR THE UNITED STATES”.

109. Upon further constitutional violations and after one (1) year and four (4) months (i.e. a total of seventeen, 16, months) of delay and prevarication by IN-CA regarding judge Reed's unlawful hearings and orders against him and in violation of his due process and access to the courts rights, Sanjari filed a motion, under Indiana laws, to transfer the case to the IN-SC on “6/04/07”. As has been the case in Sanjari's cases, IN-SC in a knee jerk response denied the transfer automatically on “7/23/07” on the grounds that “THESE APPEALS DO NOT ENTAIL "RARE CASES" INVOLVING " A SUBSTANTIAL QUESTION OF LAW OF GREAT PUBLIC IMPORTANCE AND . . .!”. Apparently, pervasive criminal misconduct and conspiracy by Indiana judges are not “RARE”, nor rise to “GREAT PUBLIC IMPORTANCE”.

110. On “7/30/07” Sanjari filed with IN-CA “MOTION FOR TAKING NOTE OF FRAUDULENT DOCKETS BY INDIANA COURT OF APPEALS AND ELKHART SUPERIOR COURT NO. 5. YL”.

111. On “8/23/07”, in a clear sign of conspiracy (*inter alia*, Walker, Loubser) IN-CA prejudicially dismissed the appeal. It further violated Sanjari's due process and Seventh Amendment rights by its orders prohibiting and restricting any future appeal by Sanjari. This further shows that any proceedings in the state court would be “futile” and that Sanjari

can have no hope of any lawful, much less just treatment or any remedy at all in Indiana courts. It is of note that IN-CA issued its order belatedly (15 months) “justice delayed is justice denied”. Although it seems that it had at the outset (footnote 5) decided upon this decision and only went through the motions, *without* any response from the Appellee, Gratzol who never in any of the Indiana appeals filed a response or Appellee's Brief. To wit, the IN-CA judges, as well as Reed practiced law from the bench and acted, not as judges, but as attorneys for Gratzol. This violates both state and federal laws and judges' oaths of office (which Reed had already perpetrated a long time earlier and lost jurisdiction) and to uphold the Constitution.

112. On “11/28/07”, Sanjari filed Petition to the IN-SC for transfer to hear the case.

113. On “1/24/08”, ALL state court remedies were exhausted when IN-SC refused to transfer and hear the case for consideration evidently not wishing to further expose the unlawful and criminal misconduct of lower courts, judges, *et al.*.

114. As yet another indication of Indiana courts' misconduct and conspiracy against Sanjari and deprivation of his rights it would be illuminating to compare the 17-month and 15-month durations of Sanjari's above appeals (**Exhibit # 23** and **Exhibit # 24**) with the 4-month (even shorter for cases involving children, which the Elkhart case undoubtedly has been about) as proclaimed by IN-CA as their policy (**Exhibit # 25**, § 6) on their web site stating “[t]here is no deadline for the Court to reach a decision in each case; however, the Court strives to issue decisions within four months of receiving an appeal. Opinions are often issued earlier.” Emphasis added. Furthermore, Appellate Rule 21(A) “Expedited Appeals” states:

“The court shall give expedited consideration to interlocutory appeals and appeals involving issues of child custody, support, visitation, adoption,

*paternity, determination that a child is in need of services, termination of parental rights, and all other appeals entitled to priority by rule or statute.”*

How can IN-CA and IN-SC reconcile such violations with their false utterances (18 U.S.C. 1621, Perjury Against Oath of Office) and orders?

115. Appeals-4 – On May 03, 2007, Sanjari filed his appeal of the *void* orders judge Reed had issued not only in the absence of total jurisdiction, but in a secret hearing in violation of Indiana Trial Rules of Court and without having provided notice of hearing to Sanjari and in violation of Sanjari's rights of fundamental procedural due process, equal protection and access to the courts. Records of this appeal were timely and properly filed with IN-CA and Elkhart court pursuant to Appellate rules (see “Indiana Appellate and Supreme Courts Rules” in Memorandum Of Law attached).
116. This appeal was timely and properly initiated (see Definition of “I. Notice of Appeal” and Rule 9(A)(1)) by Sanjari having filed on May 03, 2007, his Notice of Appeal (Exhibit # 26, file stamped by Elkhart court clerk) with the Elkhart (trial) court. Copies of the Notice of Appeal, Elkhart court orders on appeal, motion to proceed In Forma Pauperis (“IFP”) and cover letter (Exhibit # 27 file stamped by Kevin A. Smith of Indiana Court of Appeals clerk) were filed with IN-CA. As such, the said appeal is, pursuant to Appellate Rules 5 (A) and 9(A)(1), deemed to have been properly and categorically filed with IN-CA.
117. **Exhibit # 28** is a copy of Elkhart court clerk's certified “NOTICE OF COMPLETION OF CLERKS RECORD FILED 5/3/07” (Rule 10(C)) in the said appeal. Pursuant to Indiana Appellate Rule 5(A) and Rule 8, “Acquisition of Jurisdiction”, which states: “*The Court on Appeal acquires jurisdiction on the date the trial court clerk issues its Notice of Completion of Clerk’s Record.*” Therefore, IN-CA acquired and had jurisdiction

of the case on May 03, 2007, onward when Elkhart court clerk filed its notice of completion of records. To wit,, the appeal *was* “WITHIN THE JURISDICTION OF THE COURT OF APPEALS,”.

118. On “6/04/07” Sanjari filed, **Exhibit # 23 ¶ 3**, and **Exhibit # 24 ¶ 3**,

“APPELLANT'S VERIFIED MOTION FOR TRANSFER FROM COURT OF APPEALS TO THE SUPREME COURT (6) CERTIFICATE OF WORD COUNT (6) CERTIFICATE OF SERVICE (6) BY MAIL 6/4/07 GP”,

in all three (3) cases to wit, Appeal-2, Appeal-3 and Appeal-4. As the this Appeal-4 was a properly filed appeal to IN-CA, then this request / motion to transfer to IN-SC is a proper appeal to IN-SC, hence constituting a final appeal in the state courts.

119. On June 08, 2007, upon receiving from the Elkhart court clerk the file stamped Notice of Appeal (**Exhibit # 26**), Sanjari filed it along with his Case Summary, appearance (**Exhibits # 29.A, 29.B, and 29.C**) and other documents with IN-CA timely and properly pursuant to Appellate Rules 15 and 16. See Indiana Appellate and Supreme Courts Rules under “Indiana Statutes” in the attached Memorandum of Law. **Exhibit # 29.A** is the enclosed cover letter which also contains Sanjari's complaint and query regarding the absence of a docket for the said appeal given that the appeal was filed properly and timely and that IN-CA had, at that point in time, jurisdiction of the case and appeal. **Exhibits # 29.B and 29.C** are respectively, the Case Summary and the post marked envelope showing that IN-CA did receive same on June 11, 2007.

120. On July 25, 2007, Elkhart court clerk filed her “NOTICE OF COMPLETION OF TRANSCRIPT” (**Exhibit # 30**), completing the requirements for IN-CA, having already had jurisdiction of the case, to begin consideration of the undocketed appeal (Appeal-4) of the April 03, 2007, hearing and its April 04, 2007, orders. This is further confirmation of

the appeal number 4 as having been properly submitted by Sanjari. Yet another confirmation is indicated in the partial record of Elkhart court docket (**Exhibit # 31.A** and **Exhibit # 31.B** obtained on May 15 and July 14, 2007 respectively) which refer (“05/03/2007” entries) to Sanjari's undocketed Appeal-4 of April 2007 hearing and orders as well as the clerk's notice of completion of transcript to IN-CA (entry “07/10/2007”).

121. On July 25, 2007, Sanjari sent a letter of query to IN-CA clerk inquiring about the filing and docketing status of the appeal and the resulting deprivation of his rights. **Exhibits # 32.A** and **32.B** respectively, indicate the letter and the court stamped envelope showing the receipt of it by IN-CA clerk.

122. On July 28, 2007, Sanjari filed, **Exhibit # 33**, a

“VERIFIED MOTION FOR TAKING NOTE OF FRAUDULENT DOCKETS BY INDIANA COURT OF APPEALS AND ELKHART SUPERIOR COURT NO. 5 AND SAID COURTS' FRAUD AND CONSPIRACY WITHREX L. REED (PURPORTED JUDGE) AND MAX K. WALKER, JR.” with IN-CA.

123. On August 03, 2007, Sanjari filed, **Exhibit # 34.A** and **34.B**, with IN-CA a

“MOTION FOR THE COURT'S IMMEDIATE A) DOCKETING OF INSTANT APPEAL, B) RULING UPON APPELLANT'S MOTIONS, AND C) CLARIFICATION OF INSTANT APPEAL'S TIMELINE FOR BRIEFS; AND D) PROVISION OF ADEQUATE TIME FOR APPELLANT'S BRIEF IN ACCORDANCE WITH ABOVE CLARIFICATION”,

including the envelope stamped as “received” by the IN-CA clerk on August 07, 2007.

124. On “7/23/07” (see **Exhibit # 23** and **Exhibit # 24**), the IN-SC, referring to the “third<sup>6</sup>, unnumbered appeal”, i.e. Appeal-4, stated

“7/23/07 [...] IN SO FAR AS SANJARI'S MOTION PERTAINS TO A THIRD, UNNUMBERED APPEAL, IT IS DENIED AS PREMATURE. WE MAY ONLY ACCEPT IMMEDIATE TRANSFER OF APPEALS THAT WOULD OTHERWISE BE WITHIN THE JURISDICTION OF

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<sup>6</sup> Appeal-1 had already been denied much earlier, and at this time only the last three (3) appeals (to wit, Appeal-2, Appeal-3 and Appeal-4) were under consideration.

THE COURT OF APPEALS," AND IT IS NOT EVIDENT FROM SANJARI'S MOTION THAT THE THIRD APPEAL HE CLAIMS TO HAVE FILED FALLS WITHIN THE COURT OF APPEALS' JURISDICTION. FURTHER, SANJARI HAS NOT SUBMITTED ANY DOCUMENTS DEMONSTRATING THAT HE HAS, IN FACT, INITIATED AN APPEAL AS THAT TERM IS DEFINED WITHIN OUR APPELLATE RULES. RANDALL T. SHEPARD, CHIEF JUSTICE ALL JUSTICES CONCUR. KM “

125. The above statement by IN-SC has been shown to be a lie and a clear fabrication and indicates their (IN-CA's and IN-SC's) determination to criminally and deliberately deprive Sanjari of his constitutional rights and punish him through their unlawful and criminal misconduct given that Sanjari has shown (above) that he did properly file his appeal and that IN-CA had acquired jurisdiction of said appeal on May 03, 2007, and hence it was “WITHIN THE JURISDICTION OF THE COURT OF APPEALS,” and therefore for the IN-SC to transfer the case given the egregious and repeated amoral and criminal violations of the lower courts and their own misconduct. At the very least, whether IN-SC transferred the case or not, their statement regarding jurisdiction is a fabrication and a lie. Both the IN-CA and IN-SC statements and conduct are calculated to be deliberately deceptive, erroneous and misleading in order to cover up violations under color of law of judge Reed, IN-CA and IN-SC. Also see footnote 5.

126. The fact that the said appeal was not docketed and was “unnumbered” is a violation of Sanjari's due process and access to the courts (Seventh Amendment) rights, and is an indication of conspiracy to deprive Sanjari of his rights and redress while covering up Indiana's judicial criminal misconduct.

127. Upon filing the notice of appeal and other appropriate documents with IN-CA clerk, and calling IN-CA on various occasions (*inter alia*, on 05.25.2007, 06.13.2007, 08.14.2007), Sanjari had recorded conversations with two IN-CA clerk staff members (names available)

who confirmed the proper filing and completeness of the appeals (Appeal-4) papers and that the said appeals documents had been sent to the court (to wit, IN-CA). However, the clerks, much to Sanjari's concern, added that they had been instructed by the court (IN-CA) not to open a docket for the said appeal which had been filed timely and properly and was in accordance with the IN-CA Appellate rules. IN-CA's withholding of this appeal is violation of Sanjari's due process and Seventh Amendment, not to mention the court's conspiracy with judge Reed, *et al.* due to his multitude of violations *inter alia*, holding the trial court hearing of April 03, 2007 (see above) and pretending to act as a judge in the absence of jurisdiction. This *deliberate* deprivation of Sanjari's constitutional rights, *inter alia* due process, equal protection, access to the courts, is also in violation of the IN-CA and IN-SC judges' oaths of office and oaths to uphold the Constitution, warring against which is treason and all that it entails (Article III, Section 3, 18 U.S.C. 2381, In re Sawyer, Treason, Cohens, Will) against the United States.

128. Therefore, the IN-SC's statement that "SANJARI HAS NOT SUBMITTED ANY DOCUMENTS DEMONSTRATING THAT HE HAS, IN FACT, INITIATED AN APPEAL" is a clear fabrication and indicates the IN-CA judges and IN-SC justices conspiracy and criminal misconduct against Sanjari.

NO EXCEPTIONS OR DOCTRINES APPLY TO THE INSTANT ACTION

129. Domestic Relations and Rooker-Feldman exceptions do not apply to the instant case as it is merely "incidental" and irrelevant that the atmosphere giving rise to the *void* order was that of domestic relations. The issues before this Court are not domestic relations issues. Sanjari is not seeking declarations on domestic relations issues. The issues before this Court are

liberty and fundamental rights of the Sanjari violated by *void* orders sought and issued through fraud, deception and constitutional violations resulting in and from the order and the claim of their unconstitutionality. Catz quoting Johnson. Also Nesses, Loubser, Marshall. This case also entails criminal misconduct and conspiracy by judges including, but not limited to those at the highest judicial courts of state of Indiana.

130. In any case, the instant action is not an appeal from the state court. Actions in Indiana state courts have been exhausted and concluded. There is no action in the state court pending regarding this matter.

131. Allowing the “judicially created doctrines” of Rooker-Feldman and domestic relations to impede the instant action would be “abuse[d]” of “authority” by federal courts. US-SC in Marshall. Furthermore, domestic relations exception is no bar to the federal court's consideration of the instant action. Ankenbrandt.

132. Sanjari is not seeking the granting or modification of a divorce or alimony decree. He is seeking a ruling upon the constitutionality (lack thereof) and voidness of the said orders and criminal activities of miscreant judges.

I hereby state: "*Under penalties of perjury, I declare that I have read the foregoing complaint and statements, and that the facts stated within it are true, to the best of my knowledge and belief.*"

Respectfully Submitted,

A handwritten signature in black ink, enclosed in a hand-drawn oval. The signature appears to read "A. H. Sanjari" followed by a stylized flourish or initials.

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Dr. Amir H. Sanjari

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Amir H. Sanjari, )  
Petitioner, )  
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Memorandum of Law In Support of Verified Brief Regarding  
CONSTITUTIONAL & CRIMINAL VIOLATIONS BY INDIANA OFFICIALS & JUDICIARY

- Ableman- Ableman v. Booth, 21 How. 506, 524, 16 L. Ed. 169. The U.S. Supreme Court has stated that [e]very state legislator and executive and judicial officer is solemnly committed by oath taken pursuant to Art. VI, 3 "to support this Constitution." Chief Justice Taney, speaking for a unanimous Court in 1859, said that this requirement reflected the framers' "anxiety to preserve it [the Constitution] in full force, in all its powers, and to guard against resistance to or evasion of its authority, on the part of a State. \* \* \*" Ableman v. Booth, 21 How. 506, 524, 16 L. Ed. 169.

- Ankenbrandt- In Ankenbrandt v. Richards, 504 U.S. 689 (1992),(a )the USSC clearly explained: "The Barber Court thus did not intend to strip the federal courts of authority to hear cases arising from the domestic relations of persons unless they seek the granting or modification of a divorce or alimony decree." (emphasis added). They further added, "By concluding, as we do, that the domestic relations exception encompasses only cases involving the issuance of a divorce, alimony, or child custody decree, we necessarily find that the Court of

Appeals erred by affirming the District Court's invocation of this exception.” (emphasis added).

- Barbri- Contract Clause Barbri Bar Review (2004).

- Bell- Bell v. City of Milwaukee, 746 F.2d 1205, 1242-45; (7th Cir., WI, 1984).

The Due Process Clause of the Fourteenth Amendment requires that severance in the parent-child relationship caused by the state occur only with rigorous protections for individual liberty interests at stake. ... The parent-child relationship is a liberty interest protected by the Due Process Clause of the 14th Amendment. Also, [t]he liberty interest of the family encompasses an interest in retaining custody of one's children and, thus, a state may not interfere with a parent's custodial rights absent due process protections. Langton v. Maloney, 527 F. Supp. 538, D.C. Conn. (1981).

- Blackledge- Blackledge v. Perry 417 U.S. 21, 26 n.4; 94 S.Ct. 2098 at 2101 n.4 (1974).

- Board of Regents- Board of Regents v. Roth, 408 U.S. 564, 569 (1972).

- Bumper- Bumper v. North Carolina, 391 U.S. 543, 551 (1968).

- Calabretta- Calabretta v. Floyd, 189 F.3d 808 (9th Cir. 1999).

The United States Court of Appeals for the Ninth Circuit said it best, “The government's interest in the welfare of children embraces not only protecting children from physical abuse, but also protecting children's interest in the privacy and dignity of their homes and in the lawfully exercised authority of their parents.”

- Carter- Carter v. Estelle, 677 F.2d at 440 and 449 n.16 & n.15.

- Catz- Catz v. Chalker, 142 F.3d 279 (C.A.6 (Ohio) 1998) In Catz v. Chalker, 142 F.3d 279 (C.A. 6 (Ohio) 1998), “former husband's action, seeking a declaration that the state divorce decree was void as a violation of due process, was not a core domestic relations case to which the domestic-relations exception applied). Catz did not seek declaration of marital or parental status, but instead

presented a constitutional claim in which it was incidental that the underlying action involved a divorce. *Id.* Fourteenth Amendment. The domestic-relations exception has no generally recognized application as a limitation on federal question jurisdiction; it applies only as a judicially implied limitation on diversity jurisdiction. *U.S. v. Johnson*, 114 F.3d 476 (C.A.4 (Va.) 1997).”.

- Chemerinsky- Chemerinsky, Erwin (2002). *Constitutional Law* (in English). New York, United States: Aspen Publishers, 1276 pages. ISBN 0-7355-2428- 9.

- Cleveland- *Cleveland Board of Education v. LaFleur*, 414 U.S. 632, 639 -640 (1974).

- Cohen- *Cohens v. Virginia*, 6 *Wheat.* 264 (1821).

- Cooper I- *Cooper v. Aaron*, 358 U.S. 1, 78 S.Ct. 1401 (1958).

'Every state legislator and executive and judicial officer is solemnly committed by oath taken pursuant to Art. VI, 3 "to support this Constitution." Chief Justice Taney, speaking for a unanimous Court in 1859, said that this requirement reflected the framers' "anxiety to preserve it [the Constitution] in full force, in all its powers, and to guard against resistance to or evasion of its authority, on the part of a State. \* \* \*" *Ableman v. Booth*, 21 How. 506, 524, 16 L. Ed. 169.'

- Cooper II- *Cooper v. Taylor* 70 F.3d 1454, 1470 (4th Cir 1995) (Sanjari cannot lose his rights to federal [factual determinations of claimed errors and constitutional violations on procedural grounds] because he was obstructed by the "arbitrary and lawless" actions of the state. "There is no higher duty of a court than the careful processing and adjudication of petitions for [constitutional redress] for it is in [this] a prisoner charges error, neglect, or evil purpose"|resulting in his unlawful confinement and that he is deprived of his freedom contrary to law." *Id.* at 1470, quoting: *Harris v. Nelson* 394 U.S. at 290-91; 89 S.Ct. at 1086-87 (1969). The duty of the court is to uphold the Constitution of the U.S. over a state's actions to arbitrarily and lawlessly deny equal protection of it under color of comity.

- Elliott- Elliot v. Peirsol, 26 U.S. 1 Pet. 328 328, 340 (1828).

Under Federal law which is applicable to all states, the U.S. Supreme Court stated that if a court is *"But we cannot yield an assent to the proposition that the jurisdiction of the county court could not be questioned when its proceedings were brought collaterally before the circuit court. We know nothing in the organization of the circuit courts of the Union which can contradistinguish them from other courts in this respect."* *"But if it act without authority, its judgments and orders are regarded as nullities. They are not voidable, but simply void, and form no bar to a remedy sought in opposition to them, even prior to a reversal. They constitute no justification, and all persons concerned in executing such judgments or sentences are considered in law as trespassers."* Id @ 329. *"The jurisdiction of any court exercising authority over a subject may be inquired into in every other court when the proceedings of the former are relied on and brought before the latter by a party claiming the benefit of [or in this case, injury by] such proceedings-"* .

- Energy Reserves Group- Energy Reserves Group v. Kansas Power & Light 459 U.S. 400, 411-13 (1983).

- Federal Trade commission- Federal Trade Commission v. Raladam Co., 283 U.S. 643, 75 L.Ed. 1324, 51 S.Ct. 587. "Jurisdiction, although once obtained, may be lost, and in such case proceedings cannot be validly continued beyond the point at which jurisdiction ceases".

- Franz- Franz v. United States, 707 F.2d 582 (1983).

- Granberry- Granberry v. Greer, 481 U.S. 129, 107 S.Ct. 1671, 95 L.Ed.2d 119 (1987)

- Griswold- Griswold v. Connecticut, 381 US 479, 497, 504 (1965).

There is a family right to privacy which cannot be invaded or it becomes actionable.

- Gross- Gross v. State of Illinois, 312 F 2d 257; (1963).

- Hagan- Hagan v. Levine, 415 U.S. 533, n. 3. "Once jurisdiction is challenged, it must be proved."

- Harris I- Harris v. Champion (aka Harris I) 938 F.2d 1062, 1065 (10th Cir 1994).

- Harris II- Harris v. American Legion, \_\_\_\_ F.Supp. 633 (1958).

"As previously observed in this opinion, the diversity statute must be strictly construed, and the jurisdiction cannot be assumed by a District Court nor conferred by agreement of the parties, but it is incumbent upon Plaintiff to allege in CLEAR terms, the necessary facts showing jurisdiction, which must be proved by CONVINCING evidence."

- Harris III- Harris v. Champion, (aka Harris III) 48 F.3d 1127, 1132 (10th Cir 1995).

- Harris IV- Harris v. Nelson, 394 U.S. 286, 290-91, (1969)

- Hendricks- Hendricks v. Zenon 993 F.2d 664 at 672 (9th Cir 1993).

- Hickey- Hickey v. Stewart, 3 How. 750, 44 U. S. 762

- Huminski v. Corsones, et al., (2nd Cir. 2004) and 386 F.3d 116 (2nd Cir. 2005), involving judicial retribution against Scott Huminski by Judge Corsones & other officials who issued, without any basis, a bogus order against Huminski. On the basis of the order, the sheriff arrested and incarcerated Huminski. After the fact, Corsones fabricated lies as the basis for the order. Upon consideration by US District Court, the sheriff (personally, \$50,000.00), the county and the state were fined in excess of \$470,000.00 for the sheriff's execution and processing of the judge's unlawful and *void* order.

- In re Sawyer- In re Sawyer, 124 U.S. 200 (1888).

' *"But if it [the court] act without authority, its judgments and orders are regarded as nullities. They are not voidable, but simply void."* Elliott v. Peirsol, 1 Pet. 328, 26 U. S. 340; Wilcox v. Jackson, 13 Pet. 498, 38 U. S. 511; Hickey v. Stewart, 3 How. 750, 44 U. S. 762; Thompson v.

*Whitman*, 18 Wall. 457, 85 U. S. 467. ' 220.

If a judge does not fully comply with the Constitution, then his orders are void, he/she is without jurisdiction, and he/she has engaged in an act or acts of treason. When judges act when they do not have jurisdiction to act, or they enforce a void order (an order issued by a judge without jurisdiction), they become trespassers of the law, and are engaged in treason.

- Johnson- U.S. v. Johnson, 114 F.3d 476 (C.A.4 (Va.) 1997).”.

- Korematsu - Korematsu v. U.S., 323 U.S. 214, 216-20, 65 S.Ct. 193, 194-95, 89 L.Ed.2d 194 (1944).

The U.S. Supreme Court has repeatedly and consistently interpreted the U.S. Constitution as barring the violation of a fundamental right. When a state statute violates a fundamental right, judicial strict scrutiny is automatically invoked. Under strict scrutiny analysis, the burden shifts from the individual defendant onto the state. To avoid having a statute declared invalid under strict scrutiny, the state has the sole burden of showing a narrowly drawn, compelling state interest, e.g. in protecting life or health, advanced by the least restrictive means and with no other reasonable alternative. In practice, the state is almost never able to sustain its burden and survive strict scrutiny since the U.S. Supreme Court has not declared a state interest compelling enough to justify the impairment of a fundamental right since 1944.

- Kramer- Kramer v. Union Free School District, 395 U. S. 621, 627 (1969).

- Langton- Langton v. Maloney, 527 F Supp 538, D.C. Conn. (1981). The liberty interest of the family encompasses an interest in retaining custody of one's children and, thus, a state may not interfere with a parent's custodial rights absent due process protections.

- Lee- U.S. v. Lee 106 U.S. 220.

- Long- Long v. Shorebank Development Corp., 182 F.3d 548 (C.A. 7 Ill. 1999). A void (NOT

voidable) judgment is a judgment entered by a court which lacks jurisdiction over the parties or the subject matter, or lacks inherent power to enter the particular judgment, or an order procured by fraud and can be attacked at any time, in any court, either directly or collaterally.

- Loubser- Loubser (pro se) v. Thacker, et al., No. 05-3058 , U.S. CA7 (Indiana) 03.08.2006, Decided, regarding inapplicability of Rooker-Feldman, stated,

*“The grounds [Rooker-Feldman] on which the district court dismissed Loubser's suit were erroneous. The claim that a Respondent [...] "so far succeeded in corrupting the state judicial process as to obtain a favorable judgment" is not barred [\*6] by the Rooker-Feldman doctrine.*

Nesses v. Shepard, 68 F.3d 1003, 1005 (7th Cir. 1995). But Rooker-Feldman does not impose a duty to exhaust judicial and administrative remedies before pursuing a federal civil rights suit. ....

On Conspiracy: “conspiracy is not something that Rule 9(b) of the Federal Rules of Civil

Procedure requires be proved with particularity, and so a plain and short state- ment will do,

Hoskins v. Poelstra, 320 F.3d 761 (7th Cir. 2003); Walker v. Benjamin, 293 F.3d 1030, 1039 (7th

Cir. 2002); Walker v. Thompson, 288 F.3d 1005, 1007 (7th Cir. 2002); see generally Swierkiewicz

v. Sorema, N.A., 534 U.S. 506, 512 (2002); Leatherman v. Tarrant County Narcotics Intelligence

& Coordination Unit, 507 U.S. 163, 168 (1993),”. That is why courts require the plaintiff to allege

the parties, the general pur- pose, and the approximate date of the conspiracy. Walker v. Thompson,

supra, 288 F.3d at 1007-08; Ryan v. Mary Immaculate Queen Center, 188 F.3d 857, 858-60 (7th

Cir. 1999).”

- Mabra- Mabra v. Schmidt, 356 F Supp 620; DC, WI (1973). Father enjoys the right to associate with his children which is guaranteed by this amendment (First) as incorporated in Amendment 14, or which is embodied in the concept of "liberty" as that word is used in the Due Process Clause of the 14th Amendment and Equal Protection Clause of the 14th Amendment.

- Marbury- Marbury v. Madison, 5 US (2 Cranch) 137, 174, 176, (1803). The Supreme Court stated  
“All laws which are repugnant to the Constitution are null and void.”

- May- May v. Anderson, 345 U.S. 528 (1953).

*“The question presented is whether,” ... “an Ohio court must give full faith and credit to a Wisconsin decree awarding custody of the children to their father when that decree is obtained by the father in an ex parte divorce action in [528] a Wisconsin court which had no personal jurisdiction over the mother. For the reasons hereafter stated, our answer is no.” @ 529.*

*“[T]hey agreed in December, 1946, that appellant should take their children to Lisbon, Columbiana County, Ohio, and there think over her future course. By New Year's Day, she had decided not to return to Wisconsin, and, by telephone, she informed her husband of that decision.” @530. “Appellant entered no appearance and took no part in this Wisconsin proceeding, which produced not only a decree divorcing the parties from the bonds of matrimony, but a decree purporting to award the custody of the children to their father, subject to a right of their mother to visit them at reasonable times.” @531.*

Within a few days, he filed suit in Wisconsin, seeking both an absolute divorce and custody of the children. The only service of process upon appellant consisted of the delivery to her personally, in Ohio, of a copy of the Wisconsin summons and petition.

- Marshall- Marshall v. Marshall, 126 S. Ct. 1735, 1748 (2006), (“Marshall”, a case from the Texas domestic/probate court), \*unanimous\*, in which the USSC expressly admonishes the lower federal courts for that abuse, stating:

' we warned that the lower courts have at times extended Rooker-Feldman “far beyond the contours of the Rooker and Feldman cases, overriding Congress' conferral of federal-court

jurisdiction concurrent with jurisdiction exercised by state courts, and superseding the ordinary application of preclusion law pursuant to 28 U. S. C. §1738." 544 U. S., at 283. Rooker - Feldman, we explained, is a narrow doctrine'. And,

“Last Term, in Justice Ginsburg's lucid opinion in Exxon Mobil Corp. v. Saudi Basic Industries Corp., 544 U. S. 280 (2005), the Court finally interred the so-called "Rooker-Feldman doctrine." And, today, the Court quite properly disapproves of the District Court's resuscitation of a doctrine that has produced nothing but mischief for 23 years. My disagreement with the majority arises not from what it actually decides”. .... “Rather than preserving whatever vitality that the [probate/domestic] “exception” has retained as a result of the Markham dicta. I would provide the creature with a decent burial in a grave adjacent to the resting place of the Rooker-Feldman doctrine. See Lance v. Dennis, 546 U. S., USSC No. 05-555(2006)[“Lance”] (STEVENS, J., dissenting) (slip op., at 2–3). “ (Emphasis added).

- Meyer- Meyer v. Nebraska, 262 U.S. 390, 399 (1923).

- Miller- Miller v. Pate. 386 U.S. 1 (1967); When false evidence is used (fraud) and the 14th amend won't stand for it.

- Miranda- Miranda v. Arizona, 384 US 436, P 491 concludes, “*Where the rights secured by the Constitution are involved, there can be no rule making [or legislation] which would abrogate them.*”

- Montgomery- Montgomery v. Meloy 90 F.3d 1200, 1205, 1206 (7th Cir 1996).

- Moore I- Moore v. East Cleveland, 431 U.S. 494, 499 (1977) (plurality opinion).

- Moore- Allen F. Moore v. Stanley F. Sievers, 336 Ill. 316; 168 N.E. 259 (1929).

“The maxim that fraud vitiates every transaction into which it enters applies to judgments as well as to contracts and other transaction.”

- Nesses- Nesses v. Shepard, 68 F.3d 1003, 1005 (Cir. 7, 1995).
- Old Wayne Life Assn.- Old Wayne Life Assn. v. McDonough, 204 U. S. 8.[, 27 S.Ct. 236 (1907).
- Orner- Orner v. Shalala, 30 F.3d 1307, 1308 (1994); A judgment is *void* if it is not consistent with Due Process of law.
- Parham- Parham v. J. R., 442 U. S. 584, 602.
- Pennoyer- Pennoyer v. Neff:Pennoyer v. Neff, 95 U.S. 714, 733 (1877)  
*“The contrary is the law: the validity of every judgment depends upon the jurisdiction of the court before it is rendered, not upon what may occur subsequently.”*  
*“But if the court has no jurisdiction over the person of the defendant by reason of his non residence, and consequently no authority to pass upon his personal rights and obligations; if the whole proceeding, without service upon him or his appearance, is coram non judice and void; if to hold a defendant bound by such a judgment is contrary to the first principles of justice -- it is difficult to see how the judgment can legitimately have any force”.*  
*“Since the adoption of the Fourteenth Amendment to the Federal Constitution, the validity of such judgments may be directly questioned, and their enforcement in the State resisted, on the ground that proceedings in a court of justice to determine the personal rights and obligations of parties over whom that court has no jurisdiction do not constitute due process of law.”*  
*“If the judgment be previously void, it will not become valid by the subsequent discovery of property of the defendant, or by his subsequent acquisition of it. The judgment, if void when rendered, will always remain void; it cannot occupy the doubtful position of being valid if property be found, and void if there be none.”-*
- Pierce- Pierce v. Society of Sisters, 268 U.S. 510, 534 -535 (1925).
- Prince- Prince v. Massachusetts, 321 U.S. 158, 166 (1944).

- Quilloin- Quilloin v. Walcott, 434 U.S. 246, 255, (1978).

A due-process violation occurs when a state-required breakup of a natural family is founded solely on a “best interests” analysis that is not supported by the requisite proof of parental unfitness.

- Reno- Reno v. Flores, 507 U. S. 292, 304 (1993).

There is normally no reason or compelling interest for the State to inject itself into the private realm of the family to further question fit parents' ability to make the best decisions regarding their children.

- Rescue Army- Rescue Army v. Municipal Court of Los Angeles, 171 P2d 8; 331 US 549, 91 L. ed. 1666, 67 S.Ct. 1409.

- Roe- Roe v. Wade. 410 U.S. 113, 155 ; 93 S.Ct. 705; 35 L Ed 2d 147, (1973).

In applying the protection of the Fourteenth Amendment, the United States Supreme Court has held that "Where certain "fundamental rights" are involved, the Court has held that regulation limiting these rights may be justified only by a "compelling state interest," Kramer v. Union Free School District, 395 U. S. 621, 627 (1969); Shapiro v. Thompson, 394 U. S. 618, 634 (1969), Sherbert v. Verner, 374 U. S. 398, 406 (1963),"

- Santosky- Santosky v. Kramer, 455 U.S. at 745, 749, 753-754 (1982).

Even when blood relationships are strained, parents retain vital interest in preventing irretrievable destruction of their family life; “[i]f anything, persons faced with forced dissolution of their parental rights have a more critical need for procedural protections”. Also, “[t]he fact ...does not justify denying the natural parents constitutionally adequate procedures. Nor can the State refuse to provide natural parents adequate procedural safeguards”.

The Supreme Court noted its "*historical recognition that freedom of personal choice in matters of family life is a fundamental liberty interest protected by the Fourteenth Amendment.*"

the State cannot arbitrarily designate one parent a custodial parent and the other parent a non-custodial parent where there is no finding of unfitness by an evidentiary standard of "clear and convincing" evidence.

- Scheuer- Scheuer v. Rhodes, 416 U.S. 232, 94 S.Ct. 1683, 1687 (1974), the US-SC stated that:

*"when a state officer acts under a state law in a manner violative of the Federal Constitution, he comes into conflict with the superior authority of that Constitution, and he is in that case stripped of his official or representative character and is subjected in his person to the consequences of his individual conduct. The State has no power to impart to him any immunity from responsibility to the supreme authority of the United States."* [Emphasis supplied in original]. By law, a judge is a state officer.

- Skinner- Skinner v. Oklahoma, 316 U. S. 535, 541.

- Smith- Smith v. Organization of Foster Families, 431 U.S. 816, 845 (1977).

- Stanard- *Stanard v. Olesen*, 74 S.Ct. 768.

- Stanley- Stanley v. Illinois, 405 U.S. 645, 651 -652 (1972).

- Tennessee- Tennessee Coal, Iron & R, Co. v. George, 233 U.S. 354, 360 (1914).

- Thompson- Thompson v Tolmie, 27 U.S. 2 Pet. 157, 157 (1829).

*"When the proceedings of a court of competent jurisdiction are brought before another court collaterally, they are by no means subject to all the exceptions which might be taken to them on a direct appeal. The general and well settled rule of law in such cases is that when the proceedings are collaterally drawn in question and it appears [...] there is a total want of jurisdiction, the proceedings are void and a mere nullity, and confer no right and afford no justification, and may be rejected when collaterally drawn in question."*

- Thompson II- Thompson v. Whitman, 18 Wall. 457, 85 U. S. 467.

- Throckmorton- U.S. v. Throckmorton, 98 U.S. 61. “Fraud vitiates the most solemn contracts, documents, and even judgments” .

- Troxel- Troxel v. Granville, 530 U.S. 57 (2000).

The state may not interfere in child rearing decisions when a fit parent is available.

- Tweel- Tweel v. U.S. , 550 F. 2d. 297. Fraud. “It may be stated as a general rule that fraud consists in anything which is calculated to deceive, whether it be a single act or combination of circumstances, whether is be by suppression of the truth or suggestion of what is false; whether is be by direct falsehood, or by innuendo, by speech or by silence, by word of mouth or by a look or a gesture. Fraud of this kind may be defined to by any artifice by which a person is deceived to his disadvantage.” Bisph. Eq. Sec. 206 Bouvier’s Law Dictionary (unabridged, Page 1306).

- Will- U.S. v. Will, 449 U.S. 200 (1980) (fn 19)

Quoting ' Chief Justice Marshall's exposition in Cohens v. Virginia, 6 Wheat. 264 (1821), “We have no more right to decline the exercise of jurisdiction which is given than to usurp that which is not given. The one or the other would be treason to the constitution. '

- Vallely- Vallely v. Northern Fire and Marine Ins. Co., 254 U.S. 348, 41 S. Ct. 116 (1920).

The U.S. Supreme Court as “Courts are constituted by authority, and they cannot go beyond the power delegated to them. If they act beyond that authority, and certainly in contravention of it, their judgments and orders are regarded as nullities. They are not voidable, but simply void, and this even prior to reversal. Elliott v. Peirsol, 1 Pet. 328, 26 U. S. 340; Old Wayne Life Assn. v. McDonough, 204 U. S. 8.[, 27 S.Ct. 236 (1907)]” [Emphasis added].

- Venable- Venable v. Haislip, 721 F.2d 297, 298 (1983). If voidness of judgment is found then relief from judgment is not discretionary and any order based upon that judgment is also void.

- V.T.A.- V.T.A., Inc. v. Airco, Inc., 597 F.2d 220, 221 (1979). A judgment is void if it is not consistent with Due Process of law.

- V.T.A./2- V.T.A., Inc. v. Airco, Inc., Supra @ 221. If voidness of judgment is found then relief from judgment is not discretionary and any order based upon that judgment is also void. V.T.A., Inc. v. Airco, Inc.,supra @ 221.

- Walker- Walker v. Thompson, 288 F.3d 1005, 1007 (7th Cir. 2002);

- Wilcox- Wilcox v. Jackson, 13 Pet. 498, 38 U. S. 511.

### Federal Constitution & Statutes

- Contract Clause- Article I, Section 10, Clause 1:

" *No State shall enter into any Treaty, Alliance, or Confederation; grant Letters of Marque and Reprisal; coin Money; emit Bills of Credit; make any Thing but gold and silver Coin a Tender in Payment of Debts; pass any Bill of Attainder, ex post facto Law, or Law impairing the Obligation of Contracts, or grant any Title of Nobility.* "

- Article III, Section 3- Treason against the United States by levying war against their Constitution.

- 18 U.S.C. 1621- Perjury Against Oath of Office.

- 18 U.S.C. 2381- Treason against the United States by levying war against their Constitution.

### Indiana Statutes

- Indiana Canons- Indiana Canons of Judicial Code of Conduct:

*"CANON 2. A Judge Shall Avoid Impropriety and the Appearance of Impropriety in All the Judge's Activities*

*A. A judge shall respect and comply with the law \* and shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.*

*“CANON 3. A Judge Shall Perform the Duties of Judicial Office Impartially and Diligently”*

*“B. Adjudicative Responsibilities.*

*A judge shall hear and decide matters assigned to the judge except those in which disqualification is required.*

*A judge shall be faithful to the law \* and maintain professional competence in it.*

*A judge shall not be swayed by partisan interests, public clamor or fear of criticism.”*

*“(5) A judge shall perform judicial duties without bias or prejudice.*

*A judge shall not, in the performance of judicial duties, by words or conduct manifest bias or prejudice based upon race, gender, religion, national origin, disability, sexual orientation, age, socioeconomic status, or similar factors, and shall not permit staff, court officials and others subject to the judge's direction and control to do so.”*

*“(8) A judge shall accord to every person who has a legal interest in a proceeding, or that person's lawyer, the right to be heard according to law \*”*

*“(9) A judge shall dispose of all judicial matters fairly, promptly, and efficiently.”*

*“E. Disqualification.”*

*“(1) A judge shall disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned” [Sanjari's underline, bold italic ].*

- Service- Rule 5

## **Rules of Trial Procedure**

*Including Amendments Received Through February 1, 2007*

**Rule 5. Service and Filing of Pleading and Other Papers**

**(A) Service: When Required.** Unless otherwise provided by these rules or an order of the court, each party and special judge, if any, shall be served with:

- (1) every order required by its terms to be served;
- (2) every pleading subsequent to the original complaint;
- (3) every written motion except one which may be heard ex parte;
- (4) every brief submitted to the trial court;
- (5) every paper relating to discovery required to be served upon a party; and
- (6) every written notice, appearance, demand, offer of judgment, designation of record on appeal, or similar paper. No service need be made on parties in default for failure to appear, except that pleadings asserting new or additional claims for relief against them shall be served upon them in the manner provided by service of summons in Rule 4.

*Amended July 1, 2003, effective January 1, 2004.*

**(B) Service: How made.** Whenever a party is represented by an attorney of record, service shall be made upon such attorney unless service upon the party himself is ordered by the court. Service upon the attorney or party shall be made by delivering or mailing a copy of the papers to him at his last known address.

- (1) *Delivery.* Delivery of a copy within this rule means
  - (a) offering or tendering it to the attorney or party and stating the nature of the papers being served. Refusal to accept an offered or tendered document is a waiver of any objection to the sufficiency or adequacy of service of that document;
  - (b) leaving it at his office with a clerk or other person in charge thereof, or if there is no one in charge, leaving it in a conspicuous place therein; or
  - (c) if the office is closed, by leaving it at his dwelling house or usual place of abode with some person of suitable age and discretion then residing therein; or,
  - (d) leaving it at some other suitable place, selected by the attorney upon whom service is being made, pursuant to duly promulgated local rule.
- (2) *Service by Mail.* If service is made by mail, the papers shall be deposited in the United States mail addressed to the person on whom they are being served, with postage prepaid. Service shall be deemed complete upon mailing Proof of service of all papers permitted to be mailed may be made by written acknowledgment of service, by affidavit of the person who mailed the papers, or by certificate of an attorney. It shall be the duty of attorneys when entering their appearance in a cause or when filing pleadings or papers therein, to have noted on the chronological case summary or said pleadings or papers so filed the address and telephone number of their office. Service by delivery or by mail at such address shall be deemed sufficient and complete.

**(C) Certificate of Service.** An attorney or unrepresented party tendering a document to the Clerk for filing shall certify that service has been made, list the parties served, and specify the date and means of service. The certificate of service shall be placed at the end of the document and shall not be separately filed. The separate filing of a certificate of service, however, shall not be grounds for rejecting a document for filing. The Clerk may permit documents to be filed without a certificate of service but shall require prompt filing of a separate certificate of service.

....

**(F) Filing With the Court Defined. ....**

(5) ..... “Any party filing any paper by any method other than personal delivery to the clerk shall retain proof of filing.”

- Time- Rule 6 of Indiana Trial Procedure:

**Rule 6. Time**

**(A) Computation.** In computing any period of time prescribed or allowed by these rules, by order of the court, or by any applicable statute, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed is to be included unless it is:

- (1) a Saturday,
- (2) a Sunday,
- (3) a legal holiday as defined by state statute, or

a day the office in which the act is to be done is closed during regular business hours. In any event, the period runs until the end of the next day that is not a Saturday, a Sunday, a legal holiday, or a day on which the office is closed. When the period of time allowed is less than seven [7] days, intermediate Saturdays, Sundays, legal holidays, and days on which the office is closed shall be excluded from the computations.

.....

**(D) For motions - Affidavits.** A written motion, other than one which may be heard ex parte, and notice of the hearing thereof shall be served not less than five [5] days before the time specified for the hearing, unless a different period is fixed by these rules or by order of the court. Such an order may, for cause shown, be made on ex parte application. When a motion is supported by affidavit, the affidavit shall be served with the motion; and, except as otherwise provided in Rule 59(D), opposing affidavits may be served not less than one [1] day before the hearing, unless the court permits them to be served at some other time.

- Intervention- Indiana Trial Rule 24

**Rule 24. Intervention**

**(A) Intervention of right.** Upon timely motion anyone shall be permitted to intervene in an action:

- (1) when a statute confers an unconditional right to intervene; or
- (2) when the applicant claims an interest relating to a property, fund or transaction which is the subject of the action and he is so situated that the disposition of the action may as a practical matter impair or impede his ability to protect his interest in the property, fund or transaction, unless the applicant's interest is adequately represented by existing parties.

**(B) Permissive intervention.** Upon timely filing of his motion anyone may be permitted to intervene in an action:

- (1) when a statute confers a conditional right to intervene; or

(2) when an applicant's claim or defense and the main action have a question of law or fact in common. When a party to an action relies for ground of claim or defense upon any statute or executive order administered by a federal or state governmental officer or agency or upon any regulation, order, requirement, or agreement issued or made pursuant to the statute or executive administrative order, the governmental unit upon timely application may be permitted to intervene in the action. In exercising its discretion the court shall consider whether the intervention will unduly delay or prejudice the adjudication of the rights of the original parties.

**(C) Procedure.** A person desiring to intervene shall serve a motion to intervene upon the parties as provided in Rule 5. The motion shall state the grounds therefor and set forth or include by reference the claim, defense or matter for which intervention is sought. Intervention after trial or after judgment for purposes of a motion under Rules 50, 59, or 60, or an appeal may be allowed upon motion. The court's determination upon a motion to intervene shall be interlocutory for all purposes unless made final under Trial Rule 54(B).

*Amended Nov. 21, 1980, effective Jan. 1, 1981.*

- Indiana Appellate and Supreme Courts Rules- extracted from

**“Indiana Rules of Court  
Rules of Appellate Procedure**  
*Including Amendments Received Through January 1, 2007*

**Definition:** “**I. Notice of Appeal.** The Notice of Appeal initiates the appeal under Rule 9 and replaces the praecipe for appeal.”

- “**Rule 5. Court of Appeals Jurisdiction**

**A. Appeals From Final Judgments.** Except as provided in Rule 4 [Supreme Court Jurisdiction] , the Court of Appeals shall have jurisdiction in all appeals from Final Judgments of Circuit, Superior, Probate, and County Courts, notwithstanding any law, statute or rule providing for appeal directly to the Supreme Court of Indiana. See Rule 2(H). “

- “**Rule 8. Acquisition of Jurisdiction**

The Court on Appeal acquires jurisdiction on the date the trial court clerk issues its Notice of Completion of Clerk’s Record. Before that date, the Court on Appeal may, whenever necessary,

exercise limited jurisdiction in aid of its appellate jurisdiction, such as motions under Rules 18 and 39. “

- **“TITLE III - INITIATION OF APPEAL**

**Rule 9. Initiation of the Appeal**

**A. Filing the Notice of Appeal.**

(1) *Appeals from Final Judgments.* A party initiates an appeal by filing a Notice of Appeal with the trial court clerk within thirty (30) days after the entry of a Final Judgment. However, if any party files a timely motion to correct error, a Notice of Appeal must be filed within thirty (30) days after the court's ruling on such motion, or thirty (30) days after the motion is deemed denied under Trial Rule 53.3, whichever occurs first. Copies of the Notice of Appeal, which need not be file stamped by the trial court clerk, shall be served on all parties of record in the trial court, the Clerk, and upon the Attorney General in all Criminal Appeals and any appeals from a final judgment declaring a state statute unconstitutional in whole or in part. “

**“Rule 10. Duties of Trial Court Clerk or Administrative Agency**

**A. Notice to Court Reporter of Transcript Request.** If a Transcript is requested, the trial court clerk or the Administrative Agency shall give immediate notice of the filing of the Notice of Appeal and the requested Transcript to the court reporter.

**B. Assembly of Clerk's Record.** Within thirty (30) days of the filing of the Notice of Appeal, the trial court clerk or Administrative Agency shall assemble the Clerk's Record. The trial court clerk or Administrative Agency is not obligated to index or marginally annotate the Clerk's Record.

**C. Notice of Completion of Clerk's Record.** On or before the deadline for assembly of the Clerk's Record, the trial court clerk or Administrative Agency shall issue and file a Notice of Completion of Clerk's Record with the Clerk and shall serve a copy on the parties to advise them that the Clerk's Record has been assembled and is complete. The Notice of Completion of Clerk's Record shall include a certified copy of the Chronological Case Summary and shall state whether the Transcript is (a) completed, (b) not completed, or (c)

not requested. (See Form # App.R. 10-1). Copies of the Notice of Completion of Clerk's Record served on the parties shall include a copy of the Chronological Case Summary included with the original, but the copies served on the parties need not be individually certified.

**D. Notice of Completion of Transcript.** If the Transcript has been requested but has not been filed when the trial court clerk or Administrative Agency issues its Notice of Completion of the Clerk's Record, the trial court clerk or Administrative Agency shall issue and file a Notice of Completion of Transcript with the Clerk and shall serve a copy on the parties within five (5) days after the court reporter files the Transcript. (See Form # App.R. 10-2)"

#### **“Rule 15. Appellant’s Case Summary**

**A. Who Must file.** Any party who has filed a Notice of Appeal shall file an Appellant’s Case Summary with the Clerk. The filing of an Appellant’s Case Summary satisfies the requirement to file an appearance under Rule 16. (See Form # App.R. 15-1)

**B. Date Due.** The Appellant's Case Summary shall be filed within thirty (30) days of the filing of the Notice of Appeal or, in the case of a Discretionary Interlocutory Appeal under Rule 14(B)(2), the Appellant’s Case Summary shall be filed at the time the motion requesting permission to file the interlocutory appeal is filed in the Court of Appeals.

**C. Content.** The Appellant’s Case Summary shall set forth the following information, as applicable:

*(1) Party Information.*

- (a) Name and address of the parties initiating the appeal, and if a party is not represented by counsel, the party’s FAX number, telephone number, and electronic mail address, if any;
- (b) Name, address, attorney number, FAX number, telephone number and electronic mail address, if any, of the attorneys representing the parties initiating the appeal; and
- (c) Whether the attorney requests transmittal of orders and opinions by FAX pursuant to Rule 26.

*(2) Trial Information.*

- (a) Title of case;
- (b) Names of all parties;
- (c) Trial court or Administrative Agency;
- (d) Case number;
- (e) Name of trial judge;
- (f) Date case commenced;
- (g) Date of judgment or order;

- (h) Whether trial was by judge or jury;
- (i) Synopsis of judgment and if applicable, sentence, or administrative order, ruling or decision; and
- (j) Case type using classification in Administrative Rule 8(B)(3).

(3) *Transcript Information.*

- (a) Date Notice of Appeal was filed;
- (b) Date Transcript is due to be filed; and
- (c) The following Transcript information:
  - (i) Name, address and telephone number of court reporter responsible for preparing the Transcript;
  - (ii) Date ordered (or reason it has not been ordered);
  - (iii) Payment arrangements;
  - (iv) Estimated length of the Transcript;
  - (v) Estimated time required for preparation; and
  - (vi) Estimated completion date.

(4) *Appeal Information.*

- (a) A short and plain statement of the anticipated issues on appeal; provided, however, that the statement of anticipated issues shall not prevent the raising of any issue on appeal;
- (b) Prior appeals in same case;
- (c) Related appeals (prior, pending or potential) known to the party;
- (d) Whether a motion for oral argument will be filed;
- (e) Whether a motion for pre-appeal conference will be filed;
- (f) In Criminal Appeals, the status of the defendant (e.g., on bond, incarcerated and, if so, where);
- (g) Whether Alternative Dispute Resolution has been used and whether it should be used on appeal; and
- (h) Certification that case does or does not involve issues of child custody, visitation, adoption, paternity, determination that a child is in need of services, termination of parental rights, and all other appeals entitled to priority by rule or statute.

**D. Attachments.** The following documents shall be attached to the Appellant's Case Summary:

- (1) In civil cases, a copy of the judgment or order appealed from, including findings of fact and conclusions, where made;
- (2) In Criminal Appeals, a copy of the judgment or order appealed from, including any sentencing order;
- (3) A copy of any motion to correct errors filed in the trial court;
- (4) A file-stamped copy of the Notice of Appeal, except in Discretionary Interlocutory Appeals;

- (5) In Administrative Agency cases, a copy of the order, ruling or decision appealed from, including any order or ruling on any motion or request for rehearing; and
- (6) In appeals file *in forma pauperis*, a proof of appointment or proof of indigency.

**E. Failure to File.** The Clerk shall not accept for filing any paper, motion, or other filing by an appellant until that appellant has filed its Appellant’s Case Summary. The failure to file an Appellant’s Case Summary shall not forfeit the appeal.”

**“Rule 16. Appearances**

**A. Initiating Parties.** The filing of an Appellant’s Case Summary pursuant to Rule 15 satisfies the requirement to file an appearance.

**B. Responding Parties.** All other parties participating in an appeal shall file an appearance form with the Clerk. When the State is appellee in a Criminal Appeal, the Clerk shall enter the appearance of the Attorney General. The appearance form shall be filed within thirty (30) days after the filing of the first Appellant’s Case Summary or contemporaneously with the first document filed by the appearing party, whichever comes first. The appearance form shall contain the following:

- (1) Name and address of the appearing party, and if the appearing party is not represented by counsel, the party’s FAX number, telephone number, and electronic mail address, if any;
- (2) Name, address, attorney number, telephone number, FAX number, and electronic mail address, if any, of the attorneys representing the parties; and
- (3) Whether the attorney requests transmittal of orders and opinions by FAX pursuant to Rule 26. “

**“TITLE IV - GENERAL PROVISIONS**

**Rule 21. Order in Which Appeals are Considered**

**A. Expedited Appeals.** The court shall give expedited consideration to interlocutory appeals and appeals involving issues of child custody, support, visitation, adoption, paternity, determination that a child is in need of services, termination of parental rights, and all other appeals entitled to priority by rule or statute.

**B. Motion for Expedited Consideration.** By motion of any party, other appeals that involve the constitutionality of any law, the public revenue, public health, or are otherwise of general public concern or for other good cause, may be expedited by order of the court.”

**“Rule 23. Filing**

**A. Time for Filing.** All papers will be deemed filed with the Clerk when they are:

- (1) personally delivered to the Clerk (including rotunda filing with the guard of the State House);
- (2) deposited in the United States Mail, postage prepaid, properly addressed to the Clerk; or
- (3) deposited with any third-party commercial carrier for delivery to the Clerk within three (3) calendar days, cost prepaid, properly addressed. “

**“TITLE XI - SUPREME COURT PROCEEDINGS**

**Rule 56. Requests to Transfer to the Supreme Court**

**A. Motion Before Consideration by the Court of Appeals.** In rare cases, the Supreme Court may, upon verified motion of a party, accept jurisdiction over an appeal that would otherwise be within the jurisdiction of the Court of Appeals upon a showing that the appeal involves a substantial question of law of great public importance and that an emergency exists requiring a speedy determination. If the Supreme Court grants the motion, it will transfer the case to the Supreme Court, where the case shall proceed as if it had been originally filed there. If a filing fee has already been paid in the Court of Appeals, no additional filing fee is required.”



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Dr. Amir H. Sanjari