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SC Court of Appeals

Initial Brief of Appellant Allen Sires

FRAUD UPON THE COURT

The lower courts, class counsel and Diocese counsel failed to acknowledge the facts presented via affidavits, emails and documents of Appellant. All were legally and ethically bound to report the repeated violations of Appellants rights under the South Carolina Constitution.

Specifically, Article 1 Declaration of Rights - Section 24 Victims' Bill of Rights (A) *To preserve and protect victims' rights to justice and due process regardless of sex, age, religion, or economic status, victims of crime have the right to:*

- (1) be treated with fairness, respect, and dignity, and to be free from intimidation, harassment, or abuse.***

Class Counsel and Diocese Counsel not only violated these rights but compelled eligible class members, with the promise of substantial financial gain, to violate these rights of Appellant. The Lower Court accepted a grossly incomplete non-written record of the Lower Courts' own ordered investigation.

This lack of investigation is perpetuating the violation of Appellants rights provided by the South Carolina Constitution. A proper review or investigation would prove the facts presented herein undeniable;

- 1. Class Counsel and Diocese Counsel knew the ArchDiocese of Boston had inadvertently released Appellants' name to the public.**
- 2. Appellant was seeking protection from the harassment at hand and the ensuing harassment to come. Attorney John Sinclair**

agreed to help in July 2003 shortly after the release of Appellants' name by The Archdiocese of Boston to who would become an eligible class member. This fact is known to class counsel and Diocese counsel. Appellant to date remains uninformed if the eligible class member actually became a class member.

3. Appellants' spouse abandoned the marital home and left the State of South Carolina in 2004 due to harassment from all directions. Class counsel and Diocese were aware of this devastation brought to Appellant and family.
4. Class counsel and Diocese Counsel had unclean hands long before fraudulently presenting to have an agreement to the Lower Court. (See exhibit 1) (attorney Gibb letter to class counsel and Diocese counsel)
5. Class counsel and Diocese counsel have unclean hands to date.
6. Private investigators were hired by the Archdiocese of Boston, Diocese of Charleston, the Richter Firm, Father Nyhans' Attorney and at least 2 eligible class members.
7. Appellant is owed an investigation and by the State of South Carolina and/or Federal authorities.
8. Diocese attorney Peter Shahid accepted Appellants' designation as class representative fully informed that Appellant was being sued in two family court cases by persons in dire need to remove themselves from the dangerous environment the Archdiocese of Boston (and the Diocese of Charleston) had irrevocably placed Appellant, family and associates in.

- 9.** Diocese attorney Peter Shahid was fully aware Appellant was a witness for the State of South Carolina verses Father W. James Nyhan since 2003.
- 10.** Diocese Attorney Peter Shahid and class counsel were fully informed family members and community were Lashing out at Appellant after Father W. James Nyhan was arrested on camera, by all local news channels, in 2003.
- 11.** Class counsel and Diocese Attorney Peter Shahid were fully aware Appellants' entire community was threatening, badgering, harassing and belittling Appellant all the way to the trial of Father W. James Nyhan, April 25, 2006.
- 12.** Any attorney knows this is foreseeable when prosecuting any popular Catholic Priest criminally charged as a pedophile.
- 13.** Diocese Counsel and class counsel were fully aware Appellant was being badgered, harassed and belittled before during and after the alleged settlement agreement of January 2007.
- 14.** Diocese counsel and Class Counsel knew Appellant had no interest in suing Appellants' own Church Family.
- 15.** The lower court was fully informed that Lawrence E. Richter, Peter Shahid and Appellant are born and raised members of the same Church Family located in Charleston County.
- 16.** The Lower Court erred in its failure to report this conflict of interest and allowed the Dioceses' continued handling of pedophile priests like Father Nyhan in-house. Thus, leaving the class action rife with abuse and neglect of class members.

- 17.** In the Lower courts' error, all attorneys simply enjoined the community outrage being directed to Appellant et al.
- 18.** A post award fairness hearing was denied Appellant et al and in so doing covering up grotesque attorney misconduct.
- 19.** The Lower courts' error allowed all attorneys in the Church Family to continue belittling intimidating and/or remaining active witnesses to the Church Familys' process of banishing Appellant. A post award fairness review would have revealed this to the lower court.
- 20.** One attorney, Ellen Howard Bentz had Appellant jailed, for the remainder of her fees created by the class action Appellant objected to. This is a violation of The South Carolina Constitution- Article 1 Declaration of Rights - Section 19. Imprisonment for debt. No person shall be imprisoned for debt except in cases of fraud. This attorney had already been paid over \$22,000 at the time and demanded \$5,000 to release Appellant from jail. Appellant borrowed money yet again, paid the attorney and fled the State in fear.
- 21.** Appellant was the primary witness for the State of South Carolina verses W. James Nyhan at the time of the Lower Courts' error.
- 22.** Attorney Peter Shahid witnessed attorney Lawrence E. Richter belittle Appellant in the presence of Father Titus and acting Vicar General Martin Laughlin. This meeting was arranged by Appellant in 2007.

- 23.** Class counsel at no time informed Appellant was class representative or a class member.
- 24.** All of Class counsel witnessed Lawrence E. Richter belittle and berate Appellant when Appellant requested that Lawrence E. Richter cease litigation with the Diocese.
- 25.** The lower court repeatedly ignored the appearance of impropriety.
- 26.** The family court ordered that Richter & Haller hand over records at the beginning of Appellant being sued for custody of his son by an eligible class member in 2006. Appellant held full custody of his son since 2002 and was awarded full custody in 2003 by the same court. The same court reduced the award to visitation only in October 2007.
- 27.** Appellant asked for an investigation in 2008.
- 28.** The Honorable Deadra Jefferson ordered all counsel “to sit down and talk” to Appellant and all refused, in 2010. Appellant asked the court to answer as to why they all should not be held in contempt of court.
- 29.** Appellant was struck down by a convicted felon with pending felony charges a few days after presenting exhibit B. The driver admitted fault at the scene, in the presence of 6 witnesses and in court.
- 30.** Appellants’ injuries lasted 18 months and was jailed by Attorney Ellen Howard Bentz.

- 31.** Appellant was struck down on Appellants motorcycle and hospitalized with serious bodily injuries 3 times in 10 years. All 3 drivers, were convicted felons with pending felony charges.
- 32.** This Effectively instilled fear in Appellant from seeking legal aid in South Carolina and consistently interrupting Appellant pursuing accountability in any matter pro se.
- 33.** Appellant is so terrified by class counsel, Diocese Counsel and his community, Appellant could not bring himself to get an attorney for his injuries. Medical bills went unpaid and Appellant was too terrified to request another hearing on the contempt of court.
- 34.** Prior to this in February, 2008 Appellant was working for a large company and was hospitalized for a back injury requiring surgery. Again, Appellant could not even think to seek legal help. Workers' compensation and company insurance went unused. Surgery is still needed to this day. This is caused by the States' allowing of class counsel and Diocese Counsel to abuse Appellant with impunity.
- 35.** Appellant had strong ties to the community in 2003. The ArchDiocese of Boston, class Counsel, Diocese Counsel and the State severed all of Appellants ties to the State.
- 36.** All attorneys involved knew this was occurring since the arrest of popular pedophile priest W. James Nyhan in 2003.
- 37.** Appellant objected to the belittling of Appellant at the first hearing of the 2nd family court case. Judge Tunstall instructed Appellant not to object and would not allow Appellant to speak.

- 38.** This was a constitutional violation that attorney Lawrence E. Richter is aware of.
- 39.** Attorney Richter stated that “we will sue him” (attorney Gibb). Attorney Comings B. Gibb was representing an eligible class member. (see exhibit 1)
- 40.** To this day Attorney Richter has not done so.
- 41.** Appellant was at no time at odds with Appellants’ religion.
- 42.** Appellant was married at the Church of the Nativity on Folly Road.
- 43.** A life insurance policy Appellant held named the Church of the Nativity on Folly Road sole beneficiary, in the past.
- 44.** Appellant now has no ties to his church, family or community. All cut ties with Appellant and Appellant must seek sanctuary when Mass is not being held.
- 45.** The fairness review should have asked, how many Richter clients/diocese victims and witnesses for the State of South Carolina were brought to this end.
- 46.** Class counsel, Diocese Counsel and the Lower Court refused to discuss the non-monetary settlement agreement presented to the Lower court.

Conclusion

Appellant requested a Victims Advocate of the Lower Court and all attorneys prior to the latest hearings of the Lower Court. No Victims Advocate appeared. Nor was any Victims Advocate provided since 2003.

The lower courts allowed class counsel and Diocese counsel to abandon all rules of professional conduct and all responsibilities to Appellant.

The Lower court ignored and violated Victims Bill of rights.

The State of South Carolina endangered a witness for the State verses Father W. James Nyhan in concert with attorney Lawrence E. Richter, Peter Shahid, the Diocese of Boston and the Diocese of Charleston for 20 years.

Class counsel and Diocese counsel weaponized the laws of South Carolina, leaving Appellant in tremendous fear of the State of South Carolina, the archdiocese of Boston and the Diocese of Charleston.

Appellant prays for a proper investigation from The State of South Carolina for what is now 20 years of violating appellants' Constitutional Rights as defined in Article 1 Declaration of Rights SECTION 24. Victims' Bill of Rights (A)(1)

Appellant is still owed a victims advocate denied by the Lower Court and class counsel Appellant is seeking an order from the Appeals Court or the Supreme Court granting a victims advocate and/or shadow counsel in this matter.

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