

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

Court Case No. 2009-CP-46-00915

IndyMac Federal Bank, FSB, Respondent

v.

Henry A. Pol, Patricia A. Pol, Earth Mortgage, Defendants,
of Whom Henry Abel Pol is the, Appellant.

Appellants file final Brief

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SC Court of Appeals

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STATEMENT OF ISSUES ON APPEAL

- 1) DID THE TRIAL COURT ERR IN RUSHING TO JUDGEMENT OF CONTEMPT (R. pp. 29-35) OF COURT IN THAT IT FAILED TO ACKNOWLEDGE THE AGREEMENT THAT HAD LONG BEEN REACHED BETWEEN THE PARTIES VIA LAWFUL AQUIESCENCE THEREBY ELIMINATING THE PLAINTIFFS LEGAL RIGHT FOR STANDING? (R. pp. 26, p.36-40, p.44-48, p. 50-67)
- 2) DID THE TRIAL COURT ERR CONDUCTING THE SHOW CAUSE HEARING WHEN THE PREPONDERANCE OF THE EVIDENCE WAS THAT THE HEARING WAS MOOT BECAUSE THERE WAS NO LONGER ANY CONTROVERSY IN THAT THE PLAINTIFF FAILED TO PROVIDE ANY PROOF OF CLAIM TO THE CONTRARY? (R. pp. 10, lines 1-24, p. 26, p.36-40, p.44-48, p. 50-67).
- 3) DID THE TRIAL COURT ERR IN THAT IT CONTINUED TO TORTUOUSLY INTERFERE (R. pp.1-21,41-43) AFTER HAVING RECEIVED SUCCESSIVE NOTICES FROM THE DEFENDANT (R. pp. 2, lines 19-25, p. 26, p.36-40, p.44-48, p. 50-67) THAT AGREEMENT BETWEEN PARTIES HAD BEEN INFERED IN THAT EVERY REQUEST BY THE DEFENDANT TO THE PLAINTIFF FOR A

VALID PROOF OF CLAIM WAS LEFT UNANSWERED? (R. pp. 16, lines 1-24, p. 26, p.36-40, p.44-48, p. 50-67)

- 4) DID THE TRIAL COURT ERR CONDUCTING THE SHOW CAUSE HEARING WHEN THE PREPONDERANCE OF THE EVIDENCE WAS THAT THE HEARING WAS MOOT IN THAT THE COURT ITSELF FAILED TO RESPOND TO DEFENDANTS REQUEST FOR THE COURT TO PROVIDE VALID PROOF THAT INDEED A CONTROVERSY STILL EXISTED? (R. pp. 13, lines 13-22, lines 24-22, p. 14, lines 12- 24)
- 5) DID THE TRIAL COURT ERR CONDUCTING THE SHOW CAUSE HEARING IN A CLOSED COURT WITH NO OTHER UNBIAS WITNESSES?(R.pp.2,lines19-25,p,1-21)
- 6) DID THE TRIAL COURT ERR CONDUCTING THE SHOW CAUSE HEARING IN A CLOSED COURT WHEN THE DEFENDANT WAS BROUGHT UNDER THREAT, DURESS AND COERCION, HANDCUFFED, WITHOUT HIS GLASSES, A PEN AND PAPER TO MAKE NOTES TO GATHER HIS THOUGHTS? (R. pp. 2, lines 19-25, p.6, lines 6-12)
- 7) DID THE TRIAL COURT ERR CONDUCTING THE SHOW CAUSE HEARING IN A CLOSED COURT AND THAT THE SPECIFIC ACTIONS AND CIRCUMSTANCES COULD NOT BE CONSTRUED AS ACTS OF BARRATRY UPON THE DEFENDANT? (R. pp. 2, lines 19-25, p. 1-21)
- 8) DID THE TRIAL COURT ERR CONDUCTING THE SHOW CAUSE HEARING IN A CLOSED COURT UNDER THE ABOVE MENTIONED CIRCUMSTANCES

AN ATEMPT TO DEFRAUD AND MISLEAD THE DEFENDANT DENIEGHING THE DEFENDANT DUE PROCESS? (R. pp. 2, lines 19-25, p. 1-21)

- 9) DID THE TRIAL COURT ERR CONDUCTING THE SHOW CAUSE HEARING IN A CLOSED COURT WHEN HE WAS PRACTICING LAW FROM THE BENCH AS THE COURT CROSS EXAMINED A WITNESS FROM THE CLERCK OF COURT? (R. pp. 8, line 1-p. 9, line 14)
- 10) DID THE TRIAL COURT ERR WHEN CONDUCTING THE SHOW CAUSE HEARING WHEN ASKED TO IDENTIFY HIMSELF HE DISMISSED THE REQUEST AND IS ON THE RECORD AS REFUSING TO SHOW THE DEFENDANT HIS IDENTIFICATION? (R. pp. 5, lines 16-24, p.9, line 1-p.10, line 6, p.12, lines 10-15)
- 11) DID THE TRIAL COURT ERR CONDUCTING THE SHOW CAUSE HEARING IN THAT IT FOUND THE DEFENDANT GUILTY EVEN THOUGH IT FAILED TO PROVIDE ANY VALID PROOFS OF CLAIMS FOR THE DEFENDANT TO INSPECT AND EXAMINE OF EVIDENCE THAT THE DOCUMENTS WERE INDEED FILED WITH THE CLERK OF COURT AND THAT THEY WERE FRIVILOUS IN NATURE? (R. pp. 13, lines 13-19, p. 16, lines 19-25, p.20, lines 12-22)
- 12) DID THE TRIAL COURT ERR CONDUCTING THE SHOW CAUSE HEARING AND TORTUOUSLY INTERFERE WITH THE DEFENDANTS RIGHT TO CONTRACT WITH A REAL PARTY OF INTEREST? (R. pp. 1-21, p. 11, lines 1-7)
- 13) DID THE TRIAL COURT ERR IN THAT IT CONTINUED TO TORTUOUSLY INTERFERE WITH A PARTY THAT HAD RESOLVED ALL CONTENTION BETWEEN THE PARTIES (R. pp. 11, lines 1-7, p. 26, p.36-40, p.44-48, p. 50-67)

BY KIDNAPING AND HOLDING THE DEFENDANT HOSTAGE? (R. pp. 2, lines 21-25, p. 8, lines 6-12)

- 14) DID THE TRIAL COURT ERR IN THAT IT DEPRIVED THE DEFENDANT FROM DUE PROCESS? (R. pp. 2, lines 19-25, p. 14, lines 6-12, p. 1-21, p. 26, p. 45-67)
- 15) DID THE TRIAL COURT ERR IN THAT IT DEPRIVED THE DEFENDANT FROM HAVING A FAIR TRIAL BY AN IMPATIAL JUDGE? (R. pp. 2, lines 21-25, p. 16, lines 19-25, p.20, lines 12-22, p. 1-21)
- 16) DID THE TRIAL COURT ERR IN THAT IT FAILED TO PRODUCE THE OATH OF OFFICE WHEN THE DEFENDANT REQUESTED THE COURT TO DO SO?
- 17) DID THE TRIAL COURT ERR IN THAT IT FAILED TO PROPERLY IDENTIFY ITSELF WHEN ASKED TO BY THE DEFENDANT? (R. pp. 5, lines 16-24, p. 9, line 1-p.10, line 8, p.12, lines 10-15)
- 18) DID THE TRIAL COURT ERR IN THAT IT MADE CLAIMS THAT THE DEFENDANT'S PRIVATE ADMINISTRATIVE PROCESS WAS FILED WITH THE CLERK OF COURT OR THAT THE DEFENDANT CAUSED THEM TO BE FILED WITH THE CLERK OF COURT? (R. p. 20, lines 12-18)
- 19) DID THE TRIAL COURT ERR IN THAT IT CLAIMED THAT THE DEFENDANT FAILED TO FILE WITH THE CLERK OF COURT THE NOTICE OF ATTORNEY IN FACT AND THEREFORE FAILED TO GIVE PUBLIC NOTICE EVEN THOUGH THE COURT IGNORED CERTIFIED COPIES OF THE PUBLIC NOTICES THAT WERE FILED WITH THE UCC1 FINANCING STATEMENTS? (R. pp. 45-47)
- 20) DID THE TRIAL COURT ERR IN THAT WHEN THE DEFENDANT ASKED IF THE CERTIFIED UCC1 COPIES OF FILINGS WAS NOT SUFFICIENT PUBLIC NOTIC OF

THE DEFENDANTS RIGHT TO LAWFULLY ACT AS ATORNEY IN FACT FOR THE PLAINTIFF AS PER THE STIPULATIONS IN THE DEFENDANTS ADMINISTRATIVE PROCESS AS PER THE COURT RECORD THE COURT REFUSED TO ANSWER THE DEFENDANTS QUESTION? (R. p. 20, line 18)

- 21) DID THE TRIAL COURT ERR IN THAT IT ACTED WITH BARRATRY WHEN IT ORDERED A SHOW CAUSE AS TO WHY THE COURT SHOULD NOT ISSUE A WRIT OF ASSISTANCE TO THE SHERIFF TO HAVE THE DEFENDANT IMMEDIATELY PEACABLY OR FORCIBLY REMOVED FROM DEFENDANTS HOME IMEADIATELY? (R. pp. 22-24)
- 22) DID THE TRIAL COURT ERR IN THAT THE INCARCERATION WAS NOT AN ACT OF BARRATRY AND AN ATEMPT TO KEEP THE DEFENDANT INCARSERATED WHILE THE COURT MOVED SWIFTLY TO SELL THE DEFENDANTS HOME? (R. p. 20, lines 2-7, p. 49, lines 5-10 ie; first email)
- 23) DID THE TRIAL COURT ERR IN THAT THE COURT DID NOT CONSPIRED WITH THE PLAINTIFF TO HAVE THE DEFENDANT FORCIBLY REMOVED IMEADIATLY AFTER THE SALE AND THAT THIS WAS NOT AN ACT OF BARRATRY? (R. pp. 20, lines 2-7, p. 22-24, p. 49, lines 5-10 ie; first email)

STATEMENT OF THE CASE

On or about March 2009 the Plaintiff filed Liz pendants. The defendant responded timely with a Public Negative Averment Counter Claim which was administered through a Notary Agent all documents were filed with the clerk of court. After the Plaintiff failed to respond adequately or timely the Plaintiff filed a frivolous complaint and the court ruled to dismiss the counter claim and place a restraining order on the defendant from filing any further such documents. Then in Nov 2010 the defendant administered a private administrative

procedure(R. pp. 36-40, p.44-48, p. 50-67) with the CEO of the Plaintiff and it's agent also through Notary Presentment (R. pp. 26, p. 36-40, p.44-48, p. 50-67) but this was not filed with the clerk of court instead it was sent via Notary Presentment to the CFO of the Plaintiff and it's agent and originals or certified copies were sent to the court marked: (R. p. 20, lines 12-18) "Private and Confidential" which means that under no circumstances did the defendant file any such documents with the clerk of court or the defendant caused them to be filed with the clerk of court. To this day they remain marked "Private and Confidential". (R. p. 20, lines 12-18) Yet, the court chose to move forward with a show cause hearing as to why defendant should not be charged with contempt of court for the filings of the private documents that were served in November and December of 2010 and January 2011 marked "private and confidential" (R. pp. 20, lines 12-18, p. 36-40, p.44-48, p. 50-67) via notary presentment. Prior to the January Show Cause Hearing the defendant requested from the plaintiff and the court to provide valid proof of claims. (R. pp. 26, lines 12-18, p. 36-40, p.44-48, p. 50-67) When no claims were forth coming, then the defendant served via notary presentment a document that stated that the hearing was moot and abated. (R. p. 26)

Then early on or about the morning of January 28th deputies accosted the defendant without proper identification and kidnapped and held hostage. (R. p. 8, lines 6-12) The defendant was brought into a court room with the only people present were the man who refused to identify himself and was impersonating a judge, 2 deputies and the court reporter and the clerk who left minutes after the hearing began. The hearing began with the defendant left without glasses and a paper and a pen or any notes to have even a resemblance of a chance of staging a reasonable defense.

Throughout the hearing, the defendant asked for a valid proof of claim to which all such calls were brushed aside and ignored. (R. p. 16, lines 22-25) When the man impersonating a judge (R. pp. 5, lines 16-24, p.9, line 1-p.10, line 8, p.12, lines 10-15) opened his address he had to catch himself from saying; "I find the..." (R. p. 8, line 2) almost like the goal was to find the defendant guilty even before the simulated unlawful trial. The court proceeded to conviction and defendant was incarcerated. It took the defendant 3 days to find the \$2,000 to get out, even after the judge signed the release on or about 11:30 pm, the guard refused to

release the defendant until 11:30 am the next morning. The defendant's only means left to stop the pending sale was to file for bankruptcy prior to the 11am sale on Monday the 7th of February. The defendant had the stay clocked in at 9:04 am on February 7th and as soon as the defendant arrived back at his office the defendant emailed or faxed the court and the plaintiff the bankruptcy filing notice and that was around 2:30pm on Monday the 7th. Needless to say the defendant was shocked to find 3 or 4 days later real estate agents knocking on the door and asking when we could move out and on top of that we received a notice of a scheduled hearing of a Sheriff's writ of assistance to have us immediately peaceably or forcibly removed from the home. (R.pp. 22-24) When it came time to attend the hearing the defendant asked the clerk about the hearing only to be told that it had been continued even though the defendant had not been issued any such notice. The plaintiff proceeds now in Federal Bankruptcy Court with a motion to have the stay dismissed and the sale re-instated. During the hearing the defendant asked the plaintiff to produce proof of Subject Matter Jurisdiction, the plaintiff said that he was not prepared to answer that question at that time. The court scheduled a second hearing 2 weeks later and a week before the hearing the plaintiff called and asked if it was okay with the defendant for the plaintiff to drop their motion to have the stay dismissed. The defendant agreed and the motion was dropped. (R.p. 25)

ARGUMENTS

- i) The court lost its jurisdiction when the private agreement between the parties had been reached and the court had the record of that agreement (R.p. 22, line 21) and with no evidence to the contrary the court had no jurisdiction to proceed with the hearing. Yet the court proceeded without evidence apart from the record that the defendant had obtained agreement to kidnap and hold hostage the defendant and bring the defendant handcuffed into a closed court without the defendant having reading glasses and paper and a pen thereby deigning the defendant due process and common rights to stage a reasonable defense. The defendant's common law rights were denied as were the defendant's constitutional rights to a fair and speedy trial. This hearing was all about speed without the fairness. (R. pp. 2, lines 21-25, p. 8, lines 6-12)

South Carolina Code of Laws SECTION 16-17-10. Barratry prohibited.

Any person who shall:

(1) Willfully solicit or incite another to bring, prosecute or maintain an action, at law or in equity, in any court having jurisdiction within this State and

(c) does so with intent to distress or harass any party to such action, (R. pp. 8, lines 6-12, p. 21, lines 7-25)

(2) Willfully bring, prosecute or maintain an action, at law or in equity, in any court having jurisdiction within this State and

(a) has no direct or substantial interest in the relief thereby sought, (R. pp. 8, lines 6-12, p. 21, lines 7-25)

(b) thereby seeks to defraud or mislead the court, (R. pp. 20, line 18-22, p. 1-24)

(c) brings such action with intent to distress or harass any party thereto or (R. pp. 1-24, p. 2, 21-25, p. 20, lines 5-9, p. 41-42)

(d) directly or indirectly receives any money or other thing of value to induce the bringing of such action; Shall be guilty of the crime of barratry. (R. p. 20, lines 5-9)

ii) The defendant went on the record under threat duress and coercion and offered to assist the court in resolving the case. The defendant requested again that the court prove that the defendant had filed any frivolous documents with the clerk of court, no such evidence was produced, none. Yet the court made numerous false claims that the defendant had made such filings with the clerk. (R. pp. 19, lines 19-22, p. 6, line 14- p. 8, line 2, 24, p. 13, line 3-7, p. 14, lines 9-11, p. 17, lines 7-12, p. 41-42) The court falsely claimed that the defendant had filed frivolous documents without producing any evidence that the documents were indeed frivolous. (R. p. 20, lines 13-18) The court stressed how serious it took the charge of finding one guilty of contempt of court yet there was no attempt to produce any evidence and without evidence for the defendant to inspect the court had no grounds to determine the case. The defendant conditionally accepted the courts assertions on the condition that valid proofs of claim be produced. (R. pp. 20, lines 12-17, p. 10, lines 9-21, p. 16, lines 22-24, p. 26) No valid proofs of claims were produced therefore the court acted

without jurisdiction, and acted beyond it's authority exceeding it's authority and jurisdiction in that the court acted: (R.pp. 20, lines 12-17, p. 10, lines 9-21, p. 16, lines 22-24, p. 26)

- 1) Held the hearing with an agreement between the parties in it's possession with no evidence to the contrary (R.pp. 20, lines 12-17, p. 10, lines 9-21, p. 16, lines 22-24, p. 26)
- 2) By kidnapping the defendant (R.p. 8, lines 6-12)
- 3) The alleged judge refused to identify himself thereby denying the defendants right to know his accuser and impersonating a judge (R. pp. 5, lines 16-24, p. 9, line 1-p.10, line 8, p.12, lines 10-15)
- 4) By holding the hearing in a closed court (R.p. 2, lines 21-25)
- 5) By finding the defendant guilty without and evidence being produced (R.pp. 20, lines 12-17, p. 10, lines 9-21, p. 16, lines 22-24, p. 26)
- 6) By incarcerating the defendant for 30 days and fining the defendant \$2,000 without producing any evidence. (R.pp. 20, lines 12-17, p. 10, lines 9-21, p.16, lines22-24, p. 26)
- 7) By committing barratry upon the defendant (R.pp. 1-21, p. 22-24)
- 8) By denying the defendant due process and a fair trial (R.p. 2, lines 21-25)
- 9) By rushing to judgment without producing evidence to support it's conclusions therefore all that the court referenced was hearsay and unacceptable as evidence (R.pp. 20, lines 12-17, p. 10, lines 9-21, p. 16, lines 22-24, p. 26)
- 10) The hearing was conducted by a partial court that has strong relationship with the Plaintiff therefore compromising the integrity of the court and it's decision. (R.pp. 2, lines 19-25, p. 20, lines 12-22, p. 1-21)
- 11) By dismissing the defendants lawful counter claim the court was able to rush to a summer judgment in the Plaintiff's favor. (R. pp.1-21, p. 26, p. 36-40, p.44-48, p. 50-67)
- 12) **Due Process;** To comport with due process, a party bringing a contempt proceeding for conduct that occurred outside the presence of the court must adhere to the rules of notice and service of process. **Notice - Subject Matter;** With constructive contempt, a RTSC will be fatally defective unless it is accompanied by a "relevant pleading," such as a verified complaint or an affidavit, to provide the court with the underlying facts

justifying the issuance of a RTSC. *State v. Kennerly*, 337 S.C. 617, 524 S.E.2d 837 (1999). See also Rule 3(a) SCRCF. This relevant pleading must (1) inform the court that an order is in place; (2) clearly and specifically identify the contemptuous conduct, i.e., the respondent's noncompliance or violation of the court's order and (3) specify the relief sought. See, e.g., *State v. Kennerly*, 337 S.C. 617, 524 S.E.2d 837 (1999); 60 C.J.S. *Motions & Orders* § 21 (2002). Petitioners should attach a copy of the violated order to the pleading. Some confusion surrounds the timing requirement for a RTSC. When a RTSC is used in place of a summons, it must contain the essential elements of a summons, including the time to appear. *S.C. Dep't of Revenue v. Elliott*, 350 S.C. 404, 566 S.E.2d 196 (App. Ct. 2002), citing *Citizens and Southern National Bank of S.C. v. First Palmetto State Bank and Trust Co., Inc.*, 279 S.C. 252, 305 S.E.2d 80 (1983). If, however, the RTSC is related to an on-going action or arises from an earlier action in which the contemnor had already appeared, the RTSC is considered, by its nature, a supplemental proceeding incidental to the original suit, and is treated like a motion. As the S.C. Supreme Court explained in *Everhart v. Everhart*: [T]his Court has specifically held that where a court of equity has assumed jurisdiction of a cause, it will retain such jurisdiction to dispose of all issues within the scope of the pleadings, including the granting of whatever auxiliary and supplementary relief may be required to render its judgment effective. 261 S.C. 322, 325, 200 S.E.2d 87, 88 (1973). The order-enforcing RTSC must give the defendant only the reasonable notice required for a motion, as specified in Rule 6(d), SCRCF. See, e.g., *Raines v. Poston*, 208 S.C. 349, 38 S.E.2d 145 (1946). The practitioner should treat the RTSC as one would a summary judgment motion, i.e., with appropriate documentation attached.

- iii) The defendant was incarcerated about a week prior to the schedule sale of the home. After the defendant was released after the \$2,000 was paid which left the defendant under extreme hardship making any last ditched attempts at saving the home from the sale very difficult. It seems that the court may have acted in collusion with the Plaintiff when you consider the following events. The court sells the home and even

though it has be notified of the bankruptcy filing that same day February 7th, they immediately proceeded to file and serve a show cause to give the Sheriff a writ of assistance (R.p. 22-24) even though the court was aware that the defendant filed bankruptcy and had a stay in place which one can only conclude that the court was trying to intimidate the defendant by such barratry or in the very least that the court acted in gross negligence in light of it's knowledge of the bankruptcy filing. What really tops it all off was the fact that the Plaintiff and the court failed to notify the defendant that there was a continuance of that hearing. Such negligence caused the defendant to waste several days preparing for the hearing and several hours traveling to and from the court to attend the hearing. This gross negligence discredits the court in it's rush to see that the defendant was evicted immediately (R.p. 22-24) without respect or due process and in violation of a federal bankruptcy stay. A few weeks later the plaintiff was forced to drop its motion in the bankruptcy court to have the stay annulled when it was unable to provide the court any evidence of subject matter jurisdiction (R.p. 25) All this points to and implicates the trial court running a foreclosure mill in conjunction with the Plaintiff which is facing several suits across the country right now. This has very serious fraudulent implications and the course of action that the court has taken may cause the court to be closed down itself and it may need to take bankruptcy protection of its own.

SECTION 16-17-410. Conspiracy.

The common law crime known as "conspiracy" is defined as a combination between two or more persons for the purpose of accomplishing an unlawful object or lawful object by unlawful means.

- iv) The court claimed that the defendant did not file public notice of the granting of Attorney In Fact to the defendant, even though the court had the record with it's stipulations awarding the defendant such authority and the court had certified copies of the UCC1 filings which was accepted as public notice. The defendant asked the Plaintiff and the court if the UCC1 filing was not sufficient notice and with no

response from either party the defendant rightfully accepted that the silence inferred that the Plaintiff and the court agreed through tacit agreement therefore the court again acted beyond its authority and or jurisdiction when it rescinded the Satisfaction of Mortgage that the defendant had lawfully filed on behalf of the Plaintiff as per the stipulation agreed to in the record before the court. The court rescinded the document without due process and again with tortuous interference of a contract between two private parties. (R. pp. 1-21, p. 26, p. 36-40, p.44-48, p. 50-67)

- v) What does the law state concerning the issues above like: Void judgments are those rendered by a court which lacked jurisdiction, either of the subject matter or the parties, *Wahl v. Round Valley Bank* 38 Ariz. 411, 300 P. 955(1931), *Tube City Milling Co. v. Otterson* 16 Ariz. 305, 146p 203(1914); *Milliken v. Meyer*, 311 U.S. 457, 61 S. CT. 339, 85 L. 2d 278 (1940) The most important thing to remember with subject matter jurisdiction is that it can never be presumed, can never be waived, and cannot be constructed even by mutual consent of the parties. Subject Matter Jurisdiction is two part. (1) The Statutory or Common Law Authority for the court to hear the case, and even if a court (judge)has or appears to have subject matter jurisdiction, subject matter jurisdiction can be lost. The Laws covering judges and other public officials are to be found in the U.S. Constitution at Article VI Clause 2 and 3, (*known as the Supremacy Clause*), and in the South Carolina Constitution at Article 6, §3, also in the County Code at Article 4, §403, and at 5 U.S.C. 3331, 28 U.S.C. 543 and 5 U.S.C. 1983 and if the judges has not complied with all of these provisions he/she is not a judge, but a trespasser upon the court. If he/she is proven a trespasser upon the court(upon the law) not one of his judgments, pronouncements or orders are valid. All are null and void. Before a Judge can proceed judicially, Jurisdiction must be complete consisting of two opposing parties (not their attorney's – although attorney's can enter an appearance on behalf of a party, only the parties can testify and until the Plaintiff testifies, the court has no basis on which to rule judicially) The Commonwealth or your State is not present and the attorney for them

is “not” the Plaintiff nor the injured party, and cannot be the Movant in a criminal case. And the two halves of Subject Matter Jurisdiction is the Statutory or Common Law Authority the action is brought under, and the testimony of a competent fact witness regarding the injury (the cause of action). If there is a jurisdictional failing appearing on the face of the record, the matter is void, subject to vacation with damages, and can never be time barred. “Lack of Jurisdiction cannot be corrected by an order nunc pro tunc. (*a phrase applied to acts allowed to be done after the time when they should be done, with a retroactive effect.*) The only proper office of a nunc pro tunc order is to correct a mistake in the records; it cannot be used to rewrite history.” *Transamerica Ins. Co. v. South*, 975 F. 2d 321 325-26 (7th Cir. 1992); *United States v. Daniels* 902 F. 2d 1238 , 1240, (7th Cir. 1990); *King v. Ionization Int'l, Inc.*, 825 F.2d 1180, 1188, (7th Cir. 1987); and *Central Laborer's Pension and Annuity Funds v. Griffiee*, 198 F.3d 642, 644, (7th Cir. 1999)

vi) 22 Major reasons why subject matter jurisdiction is lost:

1. No petition in the record of the case, *Brown v. Vankeuren*, 340 Ill. 118, 122 (1930)
2. Defective petition filed. Same case as above.
3. Fraud committed in the procurement of jurisdiction, *Fredman Brothers Furniture v. Dept. of Revenue*, 109 Ill. 2D 202, 486 N.E. 2D 893(1985)
4. Fraud upon the court, *In re Village of Willowbrook*, 37 Ill. App. 3D 393(1962)
5. A judge does not follow statutory procedure, *Armstrong v. Obucino*, 300 Ill. 140, 143 (1921)
6. Unlawful activity of a judge, see the Code of Judicial Conduct.
7. Violation of Due Process, *Johnson v. Zerbst*, 304 U.S. 458 S Ct 1019; *Pure Oil Co. v. City of Northlake*, 10 Ill. 2D 241, 245, 140 N.E. 2D 289 (1956) *Hallberg v. Goldblatt Bros.*, 363 Ill. 25 (1936)
8. If the court exceeded its statutory authority. *Rosenstiel v. Rosenstiel*, 278 F. Supp. 794
9. Any acts in violation of 11 U.S.C. N362(a), *In re Garcia*, 109 B.R. 335 (N.D. Illinois, 1989)
10. Where no justiciable issue is presented to the court through proper pleadings. *Ligon v. Williams*, 264 Ill. App. 3D 701, 637 N.E. 2D 633 (1st Dist. 1994)
11. Where a complaint states no cognizable cause of action (capable of being tried or examined before a tribunal) against that party. *Charles v. Gore*, 248 Ill. App. 3D 441, 618 N.E. 2D 554 (1st Dist. 1993)

12. Where any litigant was represented before a court by a person/law firm that is prohibited to practice law in that jurisdiction.
13. When the Judge is involved in a scheme of Bribery, (the Alemann cases, Bracey v. Warden, U.S. Supreme Court No. 96-6133(June 9, 1997)
14. Where a summons was not properly issued.
15. Where service of process was not made pursuant to statute and Supreme Court Rules, Janove v. Bacon, 6 Ill. 2D 245, 249, 218 N.E. 2D 706, 708 (1953)
16. When the rules of Circuit Court are not complied with.
17. When the local rules of special court are not complied with. (One where judges does not act impartially, Bracey v. Warden, U.S. Supreme Court No. 96-6133(June 9, 1997)
18. Where the statute is vague, People v. Williams, 638 N.E. 2D207 (1st Dist 1994)
19. When proper notice is not given to all parties by the movant, Wilson v. More 13 Ill. App. 3d 632, 301 N.E. 2d 39 (1st Dist. (1973)
20. Where an order/judgment is based on a void order/judgment, Austin v. Smith, 312 F. 2d 337, 343 (1962); English v. English, 72 Ill. App. 3d 736, 393 N.E. 2d 18 (1st Dist. (1979) or
21. Where the public policy of the state of (Your State) is violated, Martin- Tregona v. Roderick, 29 Ill.

Certificate of Counsel of
FINAL BRIEF OF APPELLANT

I certify that the Designation contains no matter which is irrelevant to the appeal.
On this 22nd day of June, 2012,



Henry Abel Pol, Patricia A. Pol

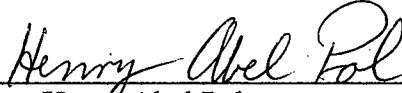
3222 Bannock Dr Fort Mill, SC 29715

CONCLUSION

For the reasons stated, this Court should reverse the judgments of the circuit court and take all appropriate actions it deems necessary that will help to bring restitution to the defendant.

Respectfully submitted,

October 11, 2012,



Henry Abel Pol
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CERTIFICATE OF COUNSEL

The undersigned certifies that this Final Brief complies with Rule 211(b), SCACR.

On this 22nd day of June, 2012,



Henry Abel Pol
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CONCLUSION

For the reasons stated, this Court should reverse the judgments of the circuit court and take all appropriate actions it deems necessary that will help to bring restitution to the appellant /defendant.

August 17, 2012

Respectfully submitted,

Henry Abel Pol, Patricia A. Pol
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PROOF OF SERVICE

I certify that I have served Appellants Final Brief and the Record on Appeal this the 17th day August, 2012, on respondents below by depositing a copy of it in the United States Mail, postage prepaid, on this the 17th day August, 2012, addressed to the following Respondents ;
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