

Chief Justice Donald W. Beatty  
Justice John W. Kittredge  
Justice Kaye G. Hearn  
Justice John Cannon Few  
Justice George C. James

Page | 1 of 20

THE STATE OF SOUTH CAROLINA  
In The Supreme Court

**RECEIVED**

JUN 02 2020

S.C. SUPREME COURT

Ronnell Demar Walker a/k/a  
Ronnell D. Walker; and South  
Pointe Homeowners Association  
Defendants, Of whom Ronnell  
Demar Walker a/k/a Ronnell D.  
, Petitioner,

v.

PrimeLending, A  
PlainsCapital Company, Erica G Lybrand  
Respondent,

Appellate Case No. 2016-002234  
ON WRIT OF CERTIORARI

APPEAL FROM BERKELY COUNTY  
Court of Common Pleas

Dale Van Slambrook, Master In Equity

Case No. 2015-CP-08-00965

**The Foundation of Law for State Of South Carolina**

1. Notice: I Walker Ronnell Demar Bey, Understand the Common Law and Constitutions are the Supreme Law of the land and any Statue, code ordnance or rule that's repugnant to the constitution is null and void of Law!! And I am lawfully demanding the Common Law Venue: Citing Chief Justice John Marshall Marbury v. Madison: 5 US 137 (1803): "No provision of the Constitution is designed to be without effect," "Anything that is in conflict is null and void of law", "Clearly, for a secondary law to come in conflict with the supreme Law was illogical, for certainly, the supreme Law would prevail over all other laws and certainly our forefathers had intended that the supreme Law would be the bases of all law and for any law to come in conflict would

be null and void of law, it would bare no power to enforce, in would bare no obligation to obey, it would purport to settle as if it had never existed, for unconstitutionality would date from the enactment of such a law, not from the date so branded in an open court of law, no courts are bound to uphold it, and no Citizens are bound to obey it. It operates as a near nullity or a fiction of law."

If any statement, within any law, which is passed, is unconstitutional, the whole law is unconstitutional.

## Complaint and Argument

2. I Walker Ronnell Demar Bey, the real party in Interest makes this Complaint for relief according to Rule 242 For Judicial Review, SC Con Article 1 Section 22 and under the original Jurisdiction of the supreme Court and notifying all parties *Erica G. Lybrand and Prime Lending A Plains, Capital Company and others in association*, Authorized Designee, County Agents and Berkeley County court Judges. That I Walker Ronnell Demar Bey, am the real party in Interest an aggrieved man Object to Appeals Court and Berkeley County Court Lack of Due Process of law, Abuse Of process, Malicious Prosecution, and Abuse of discretion by Berkeley county court(s) and private Attorneys piecemeal practices, procedures and rules of administration are void By Authority of SC Con Article V section 1 also see Spartanburg County Dept. of Social Services vs Padgett (1988) 296 SC 79, 370 SE2d 872.
- I. I Ronnell Demar Bey states that it is a Fact that Defendants Erica G. Lybrand and Prime Lending A Plains, Capital Company are in violation of the State and Federal Unfair Trade Practices Act (UTPA), breach of contract and the covenant of good faith and fair dealing, breach of contract with fraudulent intent, slander of title, libel, and negligent misrepresentation Prime Lending is PlainsCapital Company "engaged in a pattern of renegeing upon promises to modify or otherwise restructure loans, including, but [not] limited to, the loan subject of this case." Were this allegation true, it could affect the loan's enforceability. Cf. BADD, 414 S.C. at 296, 778 S.E.2d at 109 (holding a counterclaim was permissive when its allegations, if true, would not have rendered the guaranty agreements unenforceable). See N.C. Fed. Sav. & Loan Ass'n v. DAV Corp., 298 S.C. 514, 518–19, 381 S.E.2d 903, 904–05 (1989) (holding a counterclaim alleging violation of the UTPA by breach of an oral agreement was both legal and compulsory). See Attachments.
2. **SECTION 39-5-20.** Unfair methods of competition and unfair or deceptive acts or practices unlawful; application of interpretations of Federal act.
  - (a) Unfair methods of competition and unfair or deceptive acts or practices in the conduct of any

trade or commerce are hereby declared unlawful.

(b) It is the intent of the legislature that in construing paragraph (a) of this section the courts will be guided by the interpretations given by the Federal Trade Commission and the Federal Courts to Section 5(a) (1) of the Federal Trade Commission Act (15 U.S.C. 45(a)(1)), as from time to time amended.

HISTORY: 1962 Code Section 66-71.1; 1971 (57) 369.

Summary judgment. See *Arpin v. Santa Clara Valley Transp. Agency*, 261 F.3d 912, 925 (9th Cir. 2001).

#### **Novel Question of Law**

1. FRCP Discovery and Disclosure Rule 26 through 37 were ignored and Discovery was heavily redacted which lead to me not being able to examine the evidence and the Biased Void Order 10-13-2016. There was no possible way to properly examine the debt related instruments when they were unfairly blacked out and when no such personal privacy exist for a corporation The Appeals court should have seen this and took it into Consideration sees *FCC vs At&t*.

B. was there a Wrongful Foreclosure?

I Ronnell Demar Bey States that it is a Fact I attempted to pay the delinquent dues to Prime Lending A Plains, Capital Company but my attempts were rejected. It is also a fact that Even if Prime Lending A Plains, Capital Company was not licensed does not mean that it was not an agent of the Principal for the purposes of collecting past due debt Payments. Moreover, a servicer such as Prime Lending a Plains Capital Company is specifically prohibited by South Carolina law from "[r]efus[ing] to accept from a owner payment of any assessment, fine, fee or other charge that is due because there is an outstanding payment due." South Carolina Code of Laws § 39-5-20. Unfair methods of competition and unfair or deceptive acts or practices unlawful; application of interpretations of Federal act. And Senate Bill 702 as trustees the servicers owes the alleged debtor a duty of loyalty. I Ronnell Demar Bey states that it is a Fact that Prime Lending A Plains, Capital Company was Freddy Mac, Fannie Mae and Mers agent. State of South Carolina Senate Bill 702 specifically states The Servicer Prime Lending a Plains Capital Company owes the homeowner duty of utmost care, honesty, loyalty and full disclosure of all material facts.

C. Was my rights to due process under FDCPA violated?

**Notice to the principal is notice to the agent this is a Consumer Enforcement Action**

I Ronnell Demar Bey as a federally protected consumer, Original Creditor, Principal and Authorized Representative for Ronnell Demar Bey in private trust for RONNELL DEMAR WALKER on all accounts created by my seal/signature, I order and demand Defendants Erica G. Lybrand and Prime Lending A Plains, Capital Company and others in association to make recompense and pay redress and compensation for your trespass against I Ronnell Demar Bey. You are attempting to extort and rob me using deceptive, misleading and abusive practices me personally, my family and my household. This is criminal activity at least and Unacceptable by every means.

Erica G. Lybrand and Prime Lending A Plains, Capital Company and others in association have committed several federal violations and State Violations against me; a private Law abiding Federally & State Protected Consumer, Each violation is violation is a Statutory Cost of one thousand dollars (\$1,000) each, which does not include my personal cost and fees (which I determine) for taking time to address these issues. Violations committed against me include but are not limited to: the following:

**Cause of Actions 1**

Notice what constitutes a cause of action? The question is thus answered by Pomeroy's Code Remedies (4th Ed.), § 347: "Every judicial action must involve the following elements; a primary right possessed by plaintiff and a corresponding primary duty devolving upon the defendant; a delict, or wrong, done by defendant which consisted in a breach of such primary right, and duty; a remedial right in favor of plaintiff and a remedial duty resting upon the defendant springing from this delict; and finally the remedy or relief itself."

1. Erica G. Lybrand and Prime Lending A Plains, Capital Company and others in association are in violation of 15 USC 1692c(a); Communication without prior consent, expressed permission
2. Erica G. Lybrand and Prime Lending A Plains, Capital Company and others in association are in violation of 15 USC 1692c(b); Communication without prior consent, expressed permission

3. Erica G. Lybrand and Prime Lending A Plains, Capital Company and others in association are in violation of 15 USC 1692d;Harrass and oppressive use of intercourse about an alleged debt
4. Erica G. Lybrand and Prime Lending A Plains, Capital Company and others in association are in violation of 15 USC 1692d(1);A I Ronnell Demar Bey of the family name walker reputation without proving it according to law and, accusing me of owing an alleged debt to you
5. Erica G. Lybrand and Prime Lending A Plains, Capital Company and others in association are in violation of 15 USC 1692d(2);use of Obscene or profane language on a report saying I owe you a debt)
6. Erica G. Lybrand and Prime Lending A Plains, Capital Company and others in association are in violation of 15 USC 1692e;Using false, deceptive or misleading Representation
7. Erica G. Lybrand and Prime Lending A Plains, Capital Company and others in association are in violation of 15 USC 1692e(2)(A);False Representation of the Character and amount of the alleged debt
8. Erica G. Lybrand and Prime Lending A Plains, Capital Company and others in association are in violation of 15 USC 1692e(2)(B); False Representation of any services rendered or compensation
9. Erica G. Lybrand and Prime Lending A Plains, Capital Company and others in association are in violation of 15 USC 1692e(8);Communicating False Information
10. Erica G. Lybrand and Prime Lending A Plains, Capital Company and others in association are in violation of 15 USC 1692e(9);
11. Erica G. Lybrand and Prime Lending A Plains, Capital Company and others in association are in violation of 15 USC 1692e(10); False Representation(not a party to alleged debt by consent)
12. Erica G. Lybrand and Prime Lending A Plains, Capital Company and others in association are in violation of 15 USC 1692e(12); False Representation/Implication (innocent purchaser for Value)
13. Erica G. Lybrand and Prime Lending A Plains, Capital Company and others in association are in violation of 15 USC 1692f; Unfair practices attempting collect an alleged debt
14. Erica G. Lybrand and Prime Lending A Plains, Capital Company and others in association are in violation of 15 USC 1692f(1);Attempting to collect a debt unauthorized by agreement between parties

15. Erica G. Lybrand and Prime Lending A Plains, Capital Company and others in association are in violation of 15 USC 1692g(a); No Certifiable Validation and Verification of alleged debt
16. Erica G. Lybrand and Prime Lending A Plains, Capital Company and others in association are in violation of 15 USC 1692j (a); Furnishing certain deceptive forms. (You are not a party in the alleged debt) see Rule 17 real party in interest
17. Erica G. Lybrand and Prime Lending A Plains, Capital Company and others in association are in violation of Identify Theft obtaining personal identification information without prior consent and creating an account in my name without my knowledge.
18. Erica G. Lybrand and Prime Lending A Plains, Capital Company and others in association are in violation of Invasion of individual and Family Privacy.

You, DEBT COLLECTOR and its representatives/agents is civilly liable for your transgression against me, a Consumer, under 1692k. I take this lawful action ordering judgement against you. A court of competent Jurisdiction can add additional damages it deems necessary finally, violations of § 1692g(c) against all Defendants.

D. Was the appeal court wrong on overlooking FRAUD?

I made it Clear in my testimony my desire for discovery and my Affidavits of the duties of the servicers and the court to provide me with such but The Appeals court and Berkeley county Master IN Equity allowed Erica G. Lybrand and Prime Lending A Plains, Capital Company to misrepresent the amount of the debt owed at the time of acceleration without proof that there was a default in the debt and committed fraud by wrongful Foreclosure using unfair practices to take my property over an alleged debt. My reliance on the misrepresentation however has caused me injuries. I Ronnell Demar Bey Attempted to pay the past due amount represented to be owed, and Mediation was not noticed to meas stated in senate bill 702 but Prime Lending A Plains, Capital Company foreclosed anyway because they refused my money and to produce a valid discovery and disclosure. In other words, For I Ronnell Demar Bey to be in default I would have had to first exercise my state and federal right to consumer negotiation. I Ronnell Demar Bey have been intentionally tricked to my detriment. Further Erica G. Lybrand and Prime Lending A Plains, Capital Company used fraudulent evidence, redacted discovery to cover for a alleged debt.

E. Was the Appeals court wrong in overlooking a Clear BREACH OF CONTRACT?

The breach of contract claim is brought against Berkeley County Master IN Equity Abuse of discretion, Erica G. Lybrand, Dale Van Slambrook and Prime Lending A Plains, Capital Company. I the Plaintiff State that Erica G. Lybrand and Prime Lending A Plains, Capital Company rejected my right to review a full Discovery of the alleged Contract without showing an undue burden on the Defendants and the Court the account had been turned over to "collections" (presumably meaning ABS or Alessi & Koenig). (See First Am. Compl. ¶ 96). As noted, supra, NRS 116A.640 specifically prohibits a community manager such as CMC from rejecting a tender of an assessment simply because it is late, and it prohibits the collections of fees or other charges from a client not specified in the management agreement. A breach of contract claim cannot stand on these bases, however. The first issue—wrongful rejection of the tender of a delinquent amount—is a matter of wrongful foreclosure. The second issue—a community manager's charging of fees not specified in a management agreement—concerns charges by a community manger to an HOA ("a client") not authorized in the management agreement between them, as opposed to charges by a community manager *(on behalf of an HOA) to a homeowner not authorized in the CC&R*. See *Nev. Rev. Stat. § 116A.640(10)*.

a. Additionally I wrote up an Discovery and disclosure on January 29, 2016, in support of case #2015-CP-08-00965, yet I never received documents that I could properly inspect in full which caused me further injury through negligence.

b. The following valid points were raised in the filed appeal drafted by I Ronnell Demar Bey.

i. The "Rule of Law" was changed as parties conspired and agreed amongst themselves to administer judgments with prejudice and with no regard to my civil rights and Constitutional law.

ii. Final order was filed without acknowledging the deficiency of the witness lack of first hand knowledge to any debt related business.

iii. Receiving witness testimony and conducting motion hearings without being heard in a meaningful way as I objected to the lack of transparency on multiple occasions.

iv. I did not agree to the biased court methods and I never refused my right to a Jury trial so no wavers were put into writing.

v. The court established its findings based on unsworn testimony the basis for a trial in which the evidence would be presented would be the Sworn Affidavits and Complaint. If the Complaint requires that ownership of a real loan be present at the time the Complaint is filed then the Court's jurisdiction has never been invoked. The Court has no choice as it is plain on its face that there has been a breach in the law, deprivation of my rights and civil liberties. And the reason for this is that it is very well-settled that when you bring a matter to court that there must be an actual controversy and a plea for relief that can be legally granted.

- a. ." Fed. R. Civ. P. 56(e)(1). A party who submits evidence in the form of affidavits must do so in the proper, authenticated form. Even at a preliminary stage of trial, courts should not permit admission of documents that do not strictly comply with procedural rules. It is imperative that a party's sworn submission be sufficient in execution and substance, as well as consistent with prior assertions, to ensure the integrity of the process.
- b. The Courts and Practitioners also should examine opposing counsel's submissions and move to strike any that do not meet the clear standards set forth for admissible affidavits and sworn statements.
- c. The mere signing of a statement in the presence of a notary, or a notary's placement of an "acknowledgment" on a statement, does not constitute a sworn statement or affidavit. In *Orsi v. Kirkwood*, 999 F.2d 86, 91 (4th Cir. 1993),

.vi. The Special Referee was not empowered under South Carolina law to administer an oath to a witness outside of state geographic boundaries.

vii. Court violated the 14<sup>th</sup> Amendment of the U.S. Constitution; Equal protection Clause. Court only allowed I Ronnell Demar Bey a few minutes to produce proof contrasting proof of financing, Fraud and Injury to the plaintiff from a heavily redacted Discovery which no normal human could read or even gain clarity.

Harlow v. Fitzgerald (points) inter alia= among other things. Executive officials in general are usually entitled to only qualified or good faith immunity. Such immunity is not available if the official asserting the defense took the action with malicious intention to cause a deprivation of constitutional rights or other injury. *Wood v. Strickland*).

x. Court showed prejudice by not making PrimeLending, A PlainsCapital Company, and Erica G Lybrand file proof of debt through lawful discovery, as was demanded to do.

Fourteenth Amendment (a person's rights to life, liberty or property shall not be deprived without due process of law, nor shall any person be denied equal protection of the laws). Any conduct that "shocks the conscience" or "offends the community's sense of fair play and decency" – *Rochin v. California*, 342 U.S. 165 (1952); *Pittsley v. Warish*, 927 F.2d 3 (1st Cir. 1991).

### **Fifth Amendment protection Due process**

1. The fifth amendment of the US constitutions provides, “No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of grand jury, except in cases arising in land or naval forces, or in a militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty or property, without due process of law; nor shall public property be taken for public use, without just compensation.”

#### **The types of due process**

2. *Substantive due process: Substantive Due Process pertains to those rights not listed specifically in the U.S. Constitution, but which are recognized as an important part of an individual’s liberty.*
3. *Procedural due process: Procedural due process protects individuals during governmental proceedings, whether they are civil or criminal.*
4. *The right to an unbiased trial*
5. *The right to be given notice of the proposed trial and the reason for it*
6. *The right of the individual to be aware of evidence against him*
7. *The right to cross-examine witnesses for the opposition*
8. *The right to present evidence and call witnesses*
9. *The right to be represented by counsel*
10. *Prohibition against vague laws “void for vagueness.” The Due Process Clause protects citizens against laws that are too vague for the average person to understand. If the laws are written in such a manner that an ordinary person cannot determine whether the conduct is expressly prohibited, or that a punishment can be rendered if they carry out the conduct, the court can determine the law to be “void for vagueness.”*

11. *As a means to incorporate the Bill of Rights: The Bill of Rights was originally intended to apply only to the federal government, but the ratification of the Fourteenth Amendment placed prohibitions on the actions of individual states as well.*
12. **Seventh Amendment** – *The Seventh Amendment ensures an individual's specific right to a fair trial. It is almost impossible for me with the state courts piecemeal procedures, and practices commonly colore officii. We the people must ask can there be a possible opportunity to have a fair and impartial trial? When the courts are biased and rarely entertained or take notice of people asserting and pleading rights secured by state and federal constitutions.*

## 14<sup>th</sup> Amendment protections

### The 14<sup>th</sup> Amendment and Article 4 requires Equal Protection and South Carolina's

The fourteenth amendment for the United States constitution provides that "No state shall make or enforce any law which shall abridge the privileges and immunities of citizens of the United States; nor shall any State deprive any person of life liberty or property, without due process of law." It furthers provides that the Congress shall have power to enforce, appropriate legislation.

- a. Justice Miller, writing for the Court, observed that fraud could undermine a judgment: where, by reason of something done by the successful party to a suit, there was in fact no adversary trial or decision of the issue in the case.... by keeping him away from court, a false promise of a compromise; or where the defendant never had knowledge of the suit, being kept in ignorance by the acts of the plaintiff; or where an attorney fraudulently or without authority assumes to represent a party and connives at his defeat; or where the attorney regularly employed corruptly sells out his client's interest to the other side.
- b. Thus, where "there has never been a real contest in the trial or hearing of the case 2015-CP-08-00965 or Appeal Case 2016-002234 because of fraud, the fraud is extrinsic and relief will lie. United States Vs Throckmorton
- c. The Court observed the "settled doctrine" that a party may obtain relief from a judgment where fraud prevents a fact from being a part of the original litigation when the fact "clearly proves it to be against conscience to execute a judgment.

- d. "Where enforcement of the judgment is 'manifestly unconscionable,'" a court has the equitable power to grant relief-even after the term has expired.
1. The undisputed facts show that Defendants were guilty of a deliberate, calculated scheme to "defraud ... the Court. There schemes are sufficient to justify relief the fact is that I Ronnell Demar Bey have been diligent in pursuing the truth about the bogus Claims and collective efforts of officers of the court to keep me from a fair and just trial.
2. The fraud was an affront to the administration of justice and the proper function of the judicial system because the fraud was perpetrated on the court through the corruption of multiple officers, attorney(s) and Judge(s).
- a. **Ex parte Young 209 U.S. 123 (1908)** the 11th amendment provides no shield for a state official confronted by a claim that he had deprived another of a federal right under the color of state law. Ex Parte Young teaches that when a state officer acts under a state law in a manner violate of the federal constitution, he or She comes into conflict with the superior authority of the constitution, and he or she is in that case stripped of his or her official or repetitive character and is subjected in his or her person to the consequences of his or her individual conduct. The state has no power to impart to him or her any immunity from responsibility to the supreme authority of the United States.
- b. **Compensatory damages Seeking damages** Edelman v. Jordan, supra; Kennecott Copper Corp. v. state tax com,n, 327 U.S. 573 (1946); ford motor Co. v. Dept. of treasury, 323 U.S. 459 (1945); Great Northern life insurance Co. v. read 322 U.S. 47 (1944), damages against individual defendants are a permissible remedy in some circumstances notwithstanding the fact that they hold public offices. Myers v. Anderson, 238 U.S. 368 (1915) see generally Monroe v. pape, 365 U.S. 167 (1961); moor v. county of Alameda, 411 U.S. 693 (1973). In some situations a damage remedy can be as effective a redress for the infringement of a constitutional right as injunctive relief might be in another. Monell vs Dept . of Social Services of the city of New York. In 1978 the Supreme court reversed its self, overruling Monroe vs Pape insofar as it held that local governments were wholly immune from suit under section 1983. In Monell, the court held that Congress had intended municipalities and other local government units to be include among those "persons" to section 1983 applied.

*Using false or fraudulent evidence involves a corruption United States v. Agurs , see also Miller v. Pate, Darden v. Wainwright Improper Argument and Manipulation or misstatement of evidence violates due process). Cf. Mesarosh v. United States.*

*The sufficiency of the complaint the accepted rule is that a complaint should not be dismissed for failure to state a claim unless it appears beyond doubt that the plaintiff can prove no set of facts in support of his claims that would entitle him to relief. Conley v. Gibson also Gardner v. Toilet Goods Assn.*

3. *Unconscionable conduct is also found in acts of **Fraud** and deceit, where the deliberate **Misrepresentation** of fact deprives me of a valuable possession(s).*
  - a. *Whenever someone takes unconscionable advantage of another person, the action may be treated as criminal fraud or the civil action of deceit.*
  - b. *No standardized criteria exist for measuring whether an action is unconscionable. A court of law applies its conscience, or moral sense, to the facts before it and makes a subjective judgment.*
  - c. *The U.S. Supreme Court's "shock the conscience test" in rochin v. california, 342 U.S. 165, 72 S. Ct. 205, 96 L. Ed. 183 (1952), demonstrates this approach.*
  - d. *The Court ruled that pumping the stomach of a criminal suspect in search of drugs of fends "those canons of decency and fairness which express the notions of justice of Englishspeaking peoples." The Court relied on these general historical and moral traditions as the basis for ruling unconstitutional an unconscionable act.*

### **The Duty OF the Courts and Judges**

A threshold determination which must be made in every case is whether a court has subject matter jurisdiction over the matter in question. Issues relating to subject matter jurisdiction may be raised at any time, cannot be waived by consent of the parties, and should be considered by the court on its own motion. See, e.g., Johnson v. State, \_\_\_\_ S.C. \_\_\_\_, 459 S.E.2d 840 (1995).

“While in a court of general jurisdiction, there is a presumption that the judge has subject-matter jurisdiction, such is not the case in courts of limited jurisdiction. In all courts of limited jurisdiction, there is no presumption of subject-matter jurisdiction.” State Bank of Lake Zurich v. Thill, 113 Ill.2d 294, 497 N.E.2d 1156 (1986).

“The law requires proof of jurisdiction to appear on the record of the administrative agency and all administrative proceedings.” Hagens v Lavine 415 U. S. 533.

“Courts are constituted by authority and they cannot act 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 [254 U.S. 348, 354] not voidable, but simply void, and this even prior to reversal.” Elliot v. Piersol, 1 Pet. 328, 340; Old Wayne Life Ass’n v. McDonough, 204 U.S. 8, 27 Sup. Ct. 236. (underline emphasis added)

It is not the duty of the court to be religious and mediate faith/Fiat claims deficient of empirical evidence. Men can claim anything, but the court has no duty to any Plaintiff lacking proof of claim. Even historic Christianity avoided fideism by providing many “infallible proofs” in its assertion that the Prophet Jesus Christ rose from the dead (John 20:25; Acts 1:3).

There is no proof that PrimeLending, A PlainsCapital Company, Erica G Lybrandy has any true Right to Sue or claim, title or deed.

It is not the duty of the court to be involved in politics voting for their favorite party or to cast a vote for party slogans. The fact that the opposing attorney and the judge belong to the same commercial club called the BAR should alert the Court that the judge in the instant case is called to be fair, impartial, and non-prejudicial.

[Judges] are the depository of the laws; the living oracles, who must decide in all cases of doubt, and who are bound by an oath to decide according to the law of the land. [Blackstone, 1 COMMENTARIES \*69.]

It is the duty of the Court to insure that pleadings are sufficient to invoke judicial authority. Pleadings that lack evidence supported by fact can only be deemed as a “failure to state a claim upon which relief can be granted” (Rule 1-012).

It is the duty of the Court to seek the truth. Lady Justice is blind. She carries the scales of justice with a duty to make sure there is an “agreement between thought and reality;” between “faith claims and reality.”

It is the duty of the Court and jury to determine the facts, the actual events or existence of an occurrence. Facts differ from truth in that facts are more related to specific events of an occurrence, while truth is a holistic, unified conclusion regarding a series of actual occurrences.

It is, therefore, the duty of the Court to discern the truth in a controversy by weighing the evidence.

“No instruction was asked, but, as we have said, the judge told the jury that they were to regard only the evidence admitted by him, not statements of counsel”, Holt v. United States, (10/31/10) 218 U.S. 245, 54 L. Ed. 1021, 31 S. Ct. 2,

[W]e may take it as a general rule, “that the decisions of courts of justice are the evidence of what is common law.” [Blackstone, 1 COMMENTARIES \*71.]

The best evidence of the common law is to be found in the decisions of the courts of justice . . . The reports of judicial decisions contain the most certain evidence, and the most authoritative and precise application of the rules of the common law. [Kent, J., 1 COMMENTARIES, at 473-78.]

Courts must have Proof beyond a reasonable doubt. U.S. Supreme Court In re Winship, 397 U.S. 358 (1970)

### **Attorneys Duty to client and court**

- A. Only facts can be entered into evidence.** Attorneys are required to provide proof of claim without it they are asking the court to act upon fraud.

. . . The proponent of a rule or order has the burden of proof. (Administrative Procedures Act, circa)

- 1. Evidence:** Any species of proof, or probative matter, legally presented the trial of an issue, by the act of the parties and through the medium of witnesses, records, documents, exhibits, concrete objects, etc. for the purpose of inducing beliefs (Black’s Law Dictionary, Sixth Edition, p. 555).
  - 2. Fideism:** reliance on faith instead of fact and reason to establish a belief claim (See Webster’s Dictionary).
- B.** The rules of evidence that truth can only be determined from a first-hand witness with personal knowledge (Rule 602). Attorneys, Law enforcement officers and Inferior courts can’t testify because they lack first-hand knowledge of a factual Crime upon a well-informed challenge.

- C. The rules of evidence assert that for a statement to be deemed as true, it must be stated under oath (Rule 603).** If a BAR Attorneys and the Plaintiffs were not under oath nothing he or she says can be trusted or entered into evidence. A man not under oath can make any claim he wants without impunity. Furthermore, no oath can be trusted unless shown by a. Only the Supreme Being (Allah) has perfect knowledge and only the omniscient, omnipresent, eternal God can judge one who commits perjury without human detection according to your Gods Law (See Deuteronomy 3:11; 6:13).
- D. The rules of evidence preclude hearsay as proof of claim (Rule 802).** Since the attorney is not a first-hand witness, anything and everything he says must be considered as hearsay and not be permitted to be placed on the scales of justice. ; Perjury by a witness is a crime, 18 U.S.C. §1621.
- E. Statement of counsel in brief or in oral argument re not facts before the court.** In *Trinsey v. Pagliaro* the Court ruled that attorneys cannot admit evidence into the court. BAR attorneys are not sentient human beings but corporate fictions; and, therefore are prevented from testifying on behalf of their Clients Human or corporate clients; that is, they are prevented by law to testify on behalf of blind, deaf, fictional corporation or in absence of a competent, sentient eye witness. "An attorney for the plaintiff cannot admit evidence into the court. He is either an attorney or a witness". (*Trinsey v. Pagliaro* D.C.Pa. 1964, 229 F. Supp. 647)
1. "Manifestly, [such statements] cannot be properly considered by us in the disposition of [a] case." *United States v. Lovasco* (06/09/77) 431 U.S. 783, 97 S. Ct. 2044, 52 L. Ed. 2d 752,
  2. "Under no possible view, however, of the findings we are considering can they be held to constitute a compliance with the statute, since they merely embody conflicting statements of counsel concerning the facts as they suppose them to be and their appreciation of the law which they deem applicable, there being, therefore, no attempt whatever to state the ultimate facts by a consideration of which we would be able to conclude whether or not the judgment was warranted." *Gonzales v. Buist*. (04/01/12) 224 U.S. 126, 56 L. Ed. 693, 32 S. Ct. 463.

**F. Attorneys can't authenticate any documents if they are not a first-hand, eyewitness of an actual event.** Any statements by an attorney that a document is valid must be rejected as evidence unless it is certified, validated, and certified by a competent witness. Further this includes Jurisdiction.

1. Attorney's statements in briefs do not rise to the level of fact or truth or evidence.

"Statements of counsel in brief or in argument are not facts before the court and are therefore insufficient for a motion to dismiss or for summary judgment." *Trinsey v Pagliaro*, D.C.Pa. 1964, 229 F.Supp. 647.

**G. Attorneys must either be an attorney or a witness.** He cannot be both. Professional statements of litigants attorney are treated as affidavits, and attorney making statements may be cross-examined regarding substance of statement, *Frunzar v. Allied Property and Casualty Ins. Co.*, (Iowa 1996) 548 N.W.2d 880.

**H. Plaintiff attorneys have the burden of proof to provide** facts and evidence of consent to the court.

Administrative Procedures Act, 5 U.S.C. Part I, Chapter 5, II, § 556 ((d)) Except as otherwise provided by statute, the proponent of a rule or order has the burden of proof. , *Porter v. Porter*, (N.D. 1979 ) 274 N.W.2d 235. Furthermore, the attorney is not permitted to administer an oath in his cases applies as well, *Deyo v. Detroit Creamery Co* (Mich 1932) 241 N.W.2d 244.

**I. Attorneys can't administer oaths of affiants.** Statutes forbidding administering of oath by attorney's in cases in which they may be engaged applies to affidavits as well, *Deyo v. Detroit Creamery Co* (Mich 1932) 241 N.W.2d 244

Attorneys, and Fiduciary court officials are required to submit original copies and competent affidavits in support of claim (NMRCP, Rule 1-009 I.).

PLEADING

In CONCLUSION I Ronnell Demar Bey makes all other motions and objections in this case whether or not specifically noted at the time of making of the motion or objection, on the following grounds and authorities: The Due process clause, the right to a fair trial by an impartial jury, the right to counsel, Equal protection, Confrontation and compulsory process, The right to remain silent and Appeal, and the right to be free from cruel and unusual Punishment, pursuant to the federal and south Carolina constitution generally, and specifically, the first, fourth, Fifth, Sixth, Eighth, Ninth, tenth and Fourteenth amendments to the United states constitution, and Article 1 through 23 of the state of south Carolina constitution and will not waive any of my Rights.

### ***Injuries***

*As a direct and proximate result of the Plaintiffs' Gross negligence, I Ronnell Demar Bey has suffered extreme mental anguish, Misrepresentation, Breach of Trust of a Confidential and fiduciary relationship, No Due Process, and Extrinsic Fraud as evidence. Due to the above mentioned facts the failure of the Officers through a Breach of Trust to recognize that they must apply the rules and the appropriate law.*

The willful and unfair deprivation of my constitutional right to property and Due Process of law, Equal protection of the law, to protect my Interest, resulted not only in the loss of liberty, but the ability to have a fair and impartial trail I have suffered extreme mental anguish and including but not limited to loss of future business, visit to the hospital for stress and chest pains. At the hands of the officers of the court named above fraud and based on phantom evidence. I have suffered Tremendous Loss of finance and the right to the free exercise and enjoyment of my property through the schemes of:

PrimeLending, A PlainsCapital Company, Erica G Lybrand have caused me and my family great losses by their fraud upon the court, negligence by acting under color of law. And I have undergone *economic loss, tremendous stress and tension by color of law, fraudulent, wanton and negligent practices.*

### **RELIEF**

#### **Here are grounds for relief**

- (1) A judgment which ought not, in equity and good conscience, was enforced is Void.
- (2) I provided a good defense to the alleged cause of action on which the judgment is founded.
- (3) Fraud, accident, or mistake which prevented me in the judgment from obtaining the benefit of my defense.
- (4) The absence of any remedy at law.

(5) Under Rule 60(b)(4), relief where a judgment is void is non-discretionary and a matter of right. *Richardson Construction Co. v. Meck Engineering & Construction Co.*, 274 S.C. 307, 262 S.E.2d 913 (1980). Citing *Coleman v. Dunlap*, 306 S.C. 491, 494-95, 413 S.E.2d 15, 17 (1992). "An abuse of discretion arises where the trial judge was controlled by an error of law or where his order is based on factual conclusions that are without evidentiary support.

- Actual or Compensatory Damages

A victim unlawfully deprived of his or her civil rights is entitled to recover from the police officer responsible for such deprivation for the out-of-pocket expenses he or she sustained as a result of the defendant's conduct. This may include the victim's "specials"--her medical expenses, lost wages or lost earnings, and future loss of income--as well as her "general" damages--pain and suffering, emotional distress, humiliation, injury to reputation, etc. No damages may be awarded based on the abstract "value" or "importance" of the particular constitutional or statutory right infringed. *Memphis Community Dist. v. Stachura*, 477 U.S. 299 (1986); *Carey v. Piphus*, 435 U.S. 247 (1978). In certain circumstances, however, when a plaintiff seeks compensation for an injury likely to have occurred but difficult to establish, some form of "presumed" damages may be appropriate. Nonetheless, such circumstances remain limited. *Domegan v. Ponte*, 972 F.2d 401, 417-18 (1st Cir. 1992).

- Nominal Damages

When a plaintiff can establish that he was unlawfully deprived of a constitutional or federally-protected right as a result of a police officer's activities, but cannot prove actual harm, then he is entitled to an award of nominal damages (\$1) from the jury.

- Punitive Damages

Punitive damages may be awarded against a law enforcement official if he or she acted with "evil motive or intent," or with "reckless or callous indifference" to the claimant's civil rights. *Smith v. Wade*, 461 U.S. 30 (1983). A municipality, however, is immune from liability for punitive damages. *City of Newport v. Fact Concerts, Inc.*, 453 U.S. 247 (1981).

- Attorney's Fees

Under 42 U.S.C. Section 1988, the "prevailing party" in any action brought under Section 1983 may recover "a reasonable attorney's fee" as part of her costs. Moreover, this fee may include expert witness fees. The award of a reasonable attorney's fee is within the sound discretion of the trial court, although that discretion is not without limits. The prevailing party should ordinarily recover an attorney's fee "unless special circumstances would render such an award

Chief Justice Donald W. Beatty  
Justice John W. Kittredge  
Justice Kaye G. Hearn  
Justice John Cannon Few  
Justice George C. James

Page | 19 of 20

unjust." Blanchard v. Bergeron, 489 U.S. 87 (1989). A defendant, as the "prevailing party," may only recover attorney's fees "upon a finding that the plaintiff's action was frivolous, unreasonable, or without foundation, even if not brought in subjective bad faith." Christlanberg Garment Co. v. EEOC, 434 U.S. 4012 (1978).

Subscribed and sworn, without prejudice, and with all rights reserved.

Ronnell Demar Bey  
Principal, by Special Appearance, in Propria Persona, proceeding Sui Juris.

Ronnell Demar Bey  
Signature of Affiant

ACKNOWLEDGMENT

state of SOUTH CAROLINA  
county of Beaufort

On this 15<sup>th</sup> day of June, 2020, before me

personally appeared Ronnell Demar Bey, to me known to be the person described in and who executed the foregoing instrument and acknowledged that he executed the same as his free act and deed, for the purposes therein set forth.

Cheryl Ann M. McFadden  
(Notary Public)

**CHERYL ANN M. McFADDEN**  
Notary Public, State of South Carolina  
My Commission Expires 01/16/2030