



T Kost <tkost999@gmail.com>

Strategy which focuses on primary cause of action10 messages

T Kost <tkost999@gmail.com>

Fri, Sep 1, 2023 at 9:45 AM

To: Paul Dulberg <Paul_Dulberg@comcast.net>, Alphonse Talarico <contact@lawofficeofalphonsetalarico.com>

There are a few things that I believe we are doing incorrectly. This needs to be discussed so I am starting this email thread to explain my position.

- 1) When Dulberg filed lawsuit 17LA377 against Popovich and Mast the complaint listed causes of action.
- 2) During the law and motion portion of 17LA377 fraud on the court was committed by officers of the court.
- 3) When we discovered fraud on the court taking place a NEW CAUSE OF ACTION emerged against officers of the court committing fraud on the court.

The problem we are experiencing is that we did not recognize that the new cause of action (fraud on the court) is now the PRIMARY CAUSE OF ACTION. I believe this is a mistake.

Once you know about the fraud on the court (like now), your primary cause of action should change to "fraud on the court" and "extrinsic fraud". Your secondary causes of action are your current lawsuits.

You cannot wait to act on the fraud. You have to act on the fraud on the court as your primary cause of action.

What you are doing wrong in my opinion is that you do not recognize "fraud on the court" as your primary cause of action. You already have a case under [Civil Rights Violation – Title 42 Section 1983](#) but you are not acting on it because you are pursuing secondary causes of action.

Paul Dulberg <Paul_Dulberg@comcast.net>

Fri, Sep 1, 2023 at 9:50 AM

To: Tom Kost <tkost999@gmail.com>

Cc: Law Office Of Alphonse Talarico <contact@lawofficeofalphonsetalarico.com>

I believe you are correct, however Mr Talarico is putting out a fire this morning due to a clerk not getting the file to the appellate court on time.

Please refrain from bothering him till the fire is out.

[Quoted text hidden]

T Kost <tkost999@gmail.com>

Fri, Sep 1, 2023 at 11:37 AM

To: Paul Dulberg <Paul_Dulberg@comcast.net>

Mr Talarico can read this later. Since this is in writing I am going to proceed to explain why I believe your current course of action is incorrect.

- 1) In general, you cannot deal with issues involving fraud without addressing the fraud. If you try I believe you are falling into a trap.
- 2) When fraud is involved in producing a result, fraud becomes the primary issue, not the result.

I believe we are currently treating fraud on the court as an additional issue, not as THE PRIMARY ISSUE. We currently talk about dealing with it "in a few months" or "later". I suspect this is because we have not yet recognized that your PRIMARY CAUSE OF ACTION HAS CHANGED.

In legal terms I believe that our "gravaman" has changed. I am using the following definition of "Gravaman":

The "Gravamen" of the Complaint is the part of an accusation that weighs most heavily against the accused; the substantial part of a charge or complaint. The Gravamen represents that aspect of the case that if resolved would most likely bring the case to a close. In cases of [Fraud Upon the Court](#) the [Omission](#) is usually a simple matter that if presented to a judge at an Evidentiary Hearing would most certainly have to be factored in to the the Judgment."

In other words, the "gravaman" of our accusations have changed. Fraud on the court and extrinsic fraud are now our most serious accusations. "Fraud on the court" is our "gravaman".

In this language, I believe our current mistake is that we are not addressing the 'gravaman' of our accusations (which is Fraud on the court).

If what I write is correct, then our highest priority would be to establish the accusation of "Fraud on the court" as our primary cause of action. We are currently in possession of overwhelming evidence of "fraud on the court". We have also articulated charges of "fraud on the court" in writing with exhibits.

Strangely, even though we have this information Judges presiding over our cases are not allowed to see it. This means we are sitting on this information. We are not acting as if "fraud on the court" is our primary cause of action.

This, I believe, is a mistake we need to correct.

[Quoted text hidden]

T Kost <tkost999@gmail.com>

Fri, Sep 1, 2023 at 11:46 AM

To: Paul Dulberg <Paul_Dulberg@comcast.net>

Paul, let me know when I have your permission to send this message directly to Mr Talerico. I do not know why you would try to block information of this nature.

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T Kost <tkost999@gmail.com>

Fri, Sep 1, 2023 at 2:17 PM

To: Paul Dulberg <Paul_Dulberg@comcast.net>

The mistake in our current approach can be seen clearly in the case of Judge Otto granting the Baudin Summary Judgment over the 2 year statute of limitations issue.

1) We had the evidence in our possession to refute the argument. This is the information in the Clinton-Williams ARDC Complaint.

2) We could not use the evidence in Judge Otto's court.

This is how things will probably end up over and over unless we address the Fraud on the Court as the PRIMARY CAUSE OF ACTION.

The primary legal question (in my opinion) should be: How do you bring the extrinsic evidence of Fraud on the Court before the judge as valid evidence?

The answer (as I currently understand it) is through Declaratory Judgments until one has enough information to file a civil rights violation case. In our special case I believe we already have an overwhelming amount of evidence to prove Extrinsic Fraud and Fraud on the Court.

If we continue on our current course we are simply hoarding evidence of Fraud on the Court and (incorrectly) sitting on it.

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T Kost <tkost999@gmail.com>

Fri, Sep 1, 2023 at 4:09 PM

To: Paul Dulberg <Paul_Dulberg@comcast.net>

A separate important point about accusing someone of fraud is that the accuser must be able to explain how and when they first learned about the fraud.

So it is important to ask: When did we learn about Clinton and Williams committing fraud on the court?
The answer is: A few months ago.

The defense will have a right to inquire whether you knew about fraud but delayed releasing the information intentionally.

I do not believe we want to be perceived as knowing about Fraud on the Court but not acting on the knowledge. Once we know we should articulate it in written form. (We have just finished placing the accusations of Fraud on the Court in written form.)

But once we have it in written form we should introduce it as evidence that can be used in court. If we do not take prompt steps to make this evidence valid in court then the question can be asked: Why didn't we act sooner?

For many reasons I do not believe we want to hoard evidence of fraud privately. We should have a clear and direct plan of action for putting it before the eyes of any sitting Judge promptly as valid evidence that can be used in court.

Fraud on the Court should be taken as the 'gravatas' of accusations. Fraud on the Court and Extrinsic Fraud should be presented to a Judge as a PRIMARY CAUSE OF ACTION.

(Strangely, it is as if sitting on this information helps perpetrate the fraud on the court AGAINST US. We will be helping to keep the fraud going.)

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T Kost <tkost999@gmail.com>
To: Paul Dulberg <Paul_Dulberg@comcast.net>

Fri, Sep 1, 2023 at 10:52 PM

Both in 17LA377 and in Otto's court you are involved with cases that were severely damaged by acts of Fraud on the Court. You have the evidence of Fraud on the Court. Yet it seems the cases are being pursued as if you believe you can win a case that was severely damaged by Fraud on the Court without addressing the Fraud on the Court.

I believe we need a strategy that gets the evidence of Fraud on the Court in front of the eyes of Judge Otto and in front of the eyes of the Court of Appeals in the case of Popovich and Mast.

I believe we cannot continue to "tip-toe" around the Extrinsic Fraud and Fraud on the Court that unquestionably took place. I think we could be fools for pursuing the extremely damaged cases without the Judge being informed of the Fraud on the Court that took place.

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T Kost <tkost999@gmail.com>
To: Paul Dulberg <Paul_Dulberg@comcast.net>

Fri, Sep 1, 2023 at 11:12 PM

My current understanding is there is a way to have a case (or multiple cases) transferred to Federal Court if you can provide evidence of Fraud on the Court. We already have the evidence. Our priority should be to prepare conditions for transfers to Federal Court based on the clear and convincing evidence we already have of Fraud on the Court.

Why remain in conditions already severely damaged by Fraud on the Court that already took place? You can present evidence of Fraud on the Court to get the cases transferred out of these damaged conditions.

It makes no sense to continue under conditions created through Fraud without addressing the Fraud. It seems like a fool's game.

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T Kost <tkost999@gmail.com>
To: Paul Dulberg <Paul_Dulberg@comcast.net>

Fri, Sep 1, 2023 at 11:41 PM

Important quotes:

"Fraud upon the court" has been defined by the 7th Circuit Court of Appeals to "embrace that species of fraud which does, or attempts to, defile the court itself, or is a fraud perpetrated by officers of the court so that the judicial machinery can not perform in the usual manner its impartial task of adjudging cases that are presented for adjudication." *Kenner v. C.I.R.*, 387 F.3d 689 (1968); 7 Moore's Federal Practice, 2d ed., p. 512, ¶ 60.23. The 7th Circuit further stated "a decision produced by fraud upon the court is not in essence a decision at all, and never becomes final."

"Fraud upon the court" makes void the orders and judgments of that court.

It is also clear and well-settled Illinois law that any attempt to commit "fraud upon the court" vitiates the entire proceeding. The People of the State of Illinois v. Fred E. Sterling, 357 Ill. 354; 192 N.E. 229 (1934) ("The maxim that fraud vitiates every transaction into which it enters applies to judgments as well as to contracts and other transactions."); *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 ..."); *In re Village of Willowbrook*, 37 Ill.App.2d 393 (1962) ("It is axiomatic that fraud vitiates everything."); *Dunham v. Dunham*, 57 Ill.App. 475 (1894), affirmed 162 Ill. 589 (1896); *Skelly Oil Co. v. Universal Oil Products Co.*, 338 Ill.App. 79, 86 N.E.2d 875, 883-4 (1949); *Thomas Stasel v. The American Home Security Corporation*, 362 Ill. 350; 199 N.E. 798 (1935)."

Notice the bold font. Even an attempt to commit Fraud on the Court voids the entire process.

Since we know all this, and since the evidence you have for Fraud on the Court is so detailed and convincing, why do we keep sitting on this "time bomb" as if it is real?

If we are already participating in processes that are effectively void by law, why isn't Extrinsic Fraud and Fraud on the Court treated as our PRIMARY CAUSE OF ACTION??

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T Kost <tkost999@gmail.com>
To: Paul Dulberg <Paul_Dulberg@comcast.net>

Sat, Sep 2, 2023 at 12:38 AM

Let's look closely at 2 small quotes:

"The maxim that fraud vitiates every transaction into which it enters ..."

"It is axiomatic that fraud vitiates everything."

This is why we cannot address Fraud on the Court "later" or "in a few months". This is why Fraud on the Court and Extrinsic Fraud must be our 'gravatas'. The nature of fraud destroys everything it touches. Everything around the fraud could be voided. We have no choice but to see the current cases as tainted by fraud, large portions of which may be voided very soon.

If large elements of these cases become void due to the taint of fraud, then the Fraud on the Court and Extrinsic Fraud become THE MAIN ISSUE. Because fraud voids everything it touches, our current strategy of dealing with Fraud on the Court at some later date seems to make no sense.

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