

Watchdawg v Chief Justice Moyer

The following is a verbatim copy of a complaint (lawsuit) filed by the Watchdawg against Ohio Supreme Court Chief Justice Thomas J. Moyer in the federal court in Sacramento, California on August 29, 2008.

As many of you are likely aware, our so-called Judiciary anointed themselves with Absolute Judicial Immunity many, many years ago. This means that even if a judge took a \$50,000 bribe from your adversary in a lawsuit, and you had "drop-dead" evidence to prove it, you could not sue the judge as long as he took the bribe in his judicial capacity.

However, there is one exception to this outrageous abuse involving absolute judicial immunity. If a judge is acting in an administrative capacity, meaning assignment of visiting judges or any judge for that matter to your case, then the judge has no immunity. Therefore, if you have been the victim of judicial abuse that came about from a judge acting in his or her Administrative capacity, then such a judge is liable for any damages he or she caused to you.

At the end of the complaint, you'll see 24 excerpts of news stories that further demonstrate that Moyer is in fact biased. After this, you'll see a list of corruption I uncovered during my years-long investigation.

Lastly, if you have any questions regarding this matter, don't hesitate to drop me a line at Noethics1@aol.com.

UNITED STATES DISTRICT COURT EASTERN DISTRICT OF CALIFORNIA SACRAMENTO DIVISION

David Palmer
Folsom, CA 95630

Plaintiff,

-vs-

Thomas J. Moyer
65 South Front Street
Columbus, OH 43215

And

John Does – 1 through 25
Addresses Unknown

Jane Does – 1 through 25
Addresses unknown

Case No..2:08-CV-2032

**Judge: John Mendez
Magistrate: Dale Drozd**

COMPLAINT – REQUEST FOR TEMPORARY RESTRAINING ORDER AND PERMANENT INJUNCTION

David Palmer, Pro Se
Folsom, California

PARTIES

1. Plaintiff David Palmer, is a resident of Sacramento County California.

2. Defendant Thomas J. Moyer, hereinafter referred to as “Moyer” is a resident of Franklin County, Ohio and from January 1, 1987 has been the duly elected Chief Justice of the Ohio Supreme Court.

VENUE

3. Venue is proper in this jurisdiction pursuant to Title 42 U.S. Code §1983, deprivation of rights, privileges, or immunities secured by the U.S. Constitution and laws. In addition, Moyer engaged in punitive acts aimed at abridging plaintiff’s 1st Amendment rights of free speech and the right to petition the government for redress of grievances.

PRELIMINARY STATEMENT

4. Plaintiff does not profess to be highly educated in the law and therefore respectfully requests the patience and indulgence of the Court for any undue redundancies and/or comment unintentionally inappropriate herein.

5. Each American citizen has at least one right, and that is to have “their day in court.” All that is required is that both sides be given an equal opportunity to present their evidence before an unbiased judge. When this is accomplished, the loser must accept defeat graciously and respect the final outcome.

6. Under normal circumstances, such a statement could be viewed as emerging from a party unhappy with past outcomes; however, the Court will find atrocities set forth herein that prove Plaintiff has never had his “day in court.” Our founding fathers fully intended of ensuring that justice would actually be dispensed and not dispensed with.

7. The constitutional guarantee of an unbiased judge applies to all regardless of race, ethnicity, religious belief, social standing and/or sexual preference. This right would not exclude investigative reporters and “whistleblowers,” any more than it would “judicial watchdogs.” Plaintiff is confident this Court would agree with this view wholeheartedly.

8. In his most fevered state of mind, John Grisham could not have penned a fictional account of any more outrageous abuses detailed herein and lived by plaintiff and his family. The evidence does not establish the *mere* appearance of bias. It establishes a *truth* that is not only beyond all doubt, but would serve as an embarrassment and outrage to any Court of Law that stood behind the principles upon which it was founded.

9. Beginning in the very early 1990s, Plaintiff embarked on an effort to partner-up with Moyer to improve the attorney-discipline system within the state of Ohio, but more importantly, to take the more responsible step of finding a solution that would avoid the problem at the onset, before discipline becomes necessary. Such a solution would need to remove Ohioans from their vulnerability to the harm and tragedy left by dishonest and/or incompetent attorneys.

10. Plaintiff was motivated to so act after his own victimization and the life-altering harm caused by unethical attorneys he had the misfortune to employ one after another from 1980 to 1989. Those attorneys and their official records of misconduct are set forth below: (**See Ex. 1**, 12/23/03 letter to Plaintiff from Ohio State Bar Assn re: misconduct of attorney Dale R. Crandall)

Name	Venue	Hired	Discipline	Case Info
Joe Westmeyer Jr.	Toledo	1980	3/16/88 – suspended 3/16/91 – suspended	DD8713 - OH 901704
Tom Gruhler	Toledo	3/15/85 ¹	3/13/85 – suspended 6/18/87 – indefinite suspension	DD8346 DD8615
David Pheils, Jr.	Toledo	01/91	\$2,500 sanction	88-0289
Dale R. Crandall (Ex. 1)	Toledo	1987	4/27/01 – suspended 4/16/03 – indefinite Suspension	022183
E. J. Leizerman	Toledo	1989	9/16/92 – reprimand 8/25/98 – admonishment MI Court sanctions	92-426 Michigan 5 = \$1400

¹ At the March 15 meeting with Gruhler, plaintiff paid to him a \$1500 retainer to represent him in a legal malpractice claim against attorney Joe Westmeyer, Jr. Gruhler instructed plaintiff at this time to return to his office on March 21; however, when he arrived office was vacant and abandoned.

11. On Oct. 19, 1995, Plaintiff testified before the Bell Commission in Columbus as to the state of the attorney-discipline record that was unnecessarily exposing Ohioans to additional harm and tragedy. The Commission was established by Moyer *only after* publication of Professor Jack Guttenberg's (Cleveland Marshall Law) 97-page treatise on Ohio's dismal record and the media attention it garnered.

12. On Nov. 14, 1995, Plaintiff authored a 13-page, single-spaced memo titled: Written ***Recommendations for Improving Ohio's Disciplinary Procedures in Ohio***," with copies provided to the Commission, Professor Guttenberg (now Dean of Capitol Law School), and Moyer. On 11/29/95, Guttenberg sent Plaintiff a letter thanking him and expressed sorrow that it took "such bad experiences for you to make these recommendations."

13. After testifying in Columbus, Plaintiff finally realized that partnership with Moyer to institute positive change was a pipe-dream. It became evident that the trust Plaintiff had placed in Moyer was based upon just another case of "character acting." Moyer returned the trust placed in him with repeated references to Plaintiff as an "angry man" in response to media inquiries. It was clear this was just one more attorney that saw a vulnerable victim and took every advantage.

14. As the court will readily see, the egregious abuses based on actual bias began in earnest in 1995 and have continued unabated as of August 2008. There is no doubt this Court will be shocked upon review of the irrefutable facts evidencing clear bias on the Part of Moyer and the six (6) visiting judges he "hand picked" to preside over cases involving Plaintiff and his wife from 1994 to 2008.

JUDICIAL IMMUNITY

15. Plaintiff incorporates paragraphs 1-4 above as if fully rewritten herein.

16. All of the tortuous acts engaged in by Moyer as set forth herein, took place while he was acting in an Administrative capacity. Therefore, pursuant to *Stump v Sparkman*, 435 U.S. 349, Moyer is not clothed with judicial immunity.

17. As a direct and proximate result of such tortuous conduct, Plaintiff has suffered and will continue to suffer great mental anguish and loss of consortium to his damage in excess of \$100,000.

COUNT ONE

Ex Parte Communications

18. Plaintiff incorporates paragraphs 1-5 above as if fully rewritten herein.

19. On Nov. 19, 1999, Moyer sent a letter (**Ex. 2**) to several attorneys and judges named therein. At the time, Moyer knew said attorneys were adversarial to Plaintiff in pending litigation and said judges, all of whom he personally selected and appointed were then presiding over cases involving Plaintiff and said attorneys. The salient portions of said letter are:

- ➡ “Chief Justice Moyer recently received the enclosed letter from David Palmer. He also asked that I forward a copy to each of you for your review.”
- ➡ “**As you know, this is not the first letter the Chief Justice and some of you have received from Mr. Palmer.**”

20. Moyer’s letter evidences prior unlawful *ex parte* communications. Since Plaintiff began to write to Moyer in 1988 in exposing attorney misconduct involving of said attorneys, it would appear this conduct began in 1988.

21. In response to Moyer’s letter, attorney Marshall Wisniewski replied on Dec. 2, 1999 (**Ex. 3**). Given the nature of the disgusting and highly defamatory attacks on Plaintiff, he was very reluctant, as the court will undoubtedly appreciate, to cause the republication of it. Portions of said letter are:

- ➡ This is to thank you and the Chief Justice for your letter of November 17.

- As you know, Palmer has always **hidden behind his “poor handicapped Asian wife’s” apron strings**, and **the fear which I have** is that, **as a coward**, he would **not have the guts to do anything directly to any of us named herein**.
- However, **he would not be beyond hiring someone to harm our spouses and families**.
- It is now as a lawyer that I must **beg the Chief Justice to institute contempt proceedings** against Palmer.
- **I fear that one of these days; being the unstable person that he is**, he’s going to go over the edge, and we are all going to be sorry for his violent conduct.
- I can understand why the Chief Justice hasn’t taken action sooner. The concern is that you will just **simply give the unstable perpetrator** another form to air their grievances.
- My concern is somebody else is going to see that Mr. Palmer’s conduct produced some benefit to him, and therefore, they will mimic his antics. I look for this to be done by **other nut cases...**

22. Moyer never provided a copy of this ex parte communication to Plaintiff or attorneys Timothy James and David R. Rupp, Jr. who he knew at the time were representing him and/or his wife. How widely this defamatory letter was disseminated (re-published) by Moyer and who the recipients were will likely never be known. One can only imagine the delight that Moyer and those he provided it too experienced at the expense of Relator and his permanently disabled wife.

23. And how did Relator discover the existence of Wisniewski’s perverted missive you ask? Well, the following facts establish just how this occurred:

- On **May 20, 2001**, a front-page story titled: “David Palmer: Hero or Threat?” appeared in the *Columbus Dispatch*, which was written by Jon Craig
- Prior to penning said story, Craig interviewed Plaintiff; Moyer’s spokesman; Judge Richard McQuade, Jr. and his wife, and Judge Robert Wilson.
- Wilson’s comment was: **“Oh God, that son-of-a-bitch.”**
- Mrs. McQuade’s comment was: **“Everyone’s afraid of Palmer.”**
- After reading the story, Plaintiff contacted Mr. Craig at about 5:45 p.m. on May 24, 1999 to congratulate him on a job well done.
- Mr. Craig advised Plaintiff that while working on the story the prior week, some unknown/undeclared person delivered Wisniewski’s letter to the front desk of the *Dispatch* in an unmarked envelope to his attention.
- Mr. Craig then faxed a copy of said letter to Plaintiff at 5:50 p.m. on the 24th, but not before telling Plaintiff that upon review of it, he and his editors had no intention of ever commenting on it in the May 20th front page story. **(See fax details at top of Ex. 3)**

24. The evidence above proves that Moyer was responsible for providing this letter to the *Dispatch* and Mr. Craig. Wisniewski was *never interviewed* by Mr. Craig, therefore, he was totally unaware of the stories impending publication. It would be absurd to suggest that Wisniewski drove 300 miles to deliver it to the *Dispatch* when he was clueless as to the impending story. This is even truer given the fact that the Supreme Court was located less than a ½ mile (3-4 minute walking distance) from the *Dispatch*.

25. The most serious aspect of Moyer's wrongdoing in concealing this *ex parte* communication from Plaintiff and/or his attorneys was a knowing denial of plaintiff's constitutional right to seek redress in the court's for defamation before the one-year limiting statute tolled..

COUNT TWO

Evidence of Actual Bias

26. Plaintiff incorporates paragraphs 1-5 above as if fully rewritten herein.

I. Relator's Publication of "Judicial Misfits"

27. In January 2008, Plaintiff published a book titled: "**Judicial Misfits.**" (Ex. 10) *Judicial Misfits* was dedicated to Moyer (p. 6), and a story titled "Tommy Boy" in the chapter titled "*Miscellaneous Misfits*" can be found at pp. 94-96.

28. Additionally, Plaintiff provided Moyer with an autographed copy of "*Judicial Misfits*" along with a CD of the Shirelles singing "*Dedicated to the one I love*" enclosed in a multi-colored, personalized CD jacket along with a letter. (Ex. 4)

II. Media Coverage – Circa: 2001 to 2008

29. Beginning in May 2000, there have been literally hundreds of newspaper, TV and/or radio stories regarding Plaintiff's investigations of and reporting on corruption involving judges and other public officials, most of which Moyer and the visiting judges he assigned were well aware of.

30. Front page stories have appeared in the *Wall Street Journal*, *USA Today*, *Sacramento News & Review*, *LA Reporter*, *Toledo Blade*, *Akron Beacon Journal*, *Cleveland Plain Dealer*, *Columbus Dispatch*, *Houston Chronicle*, *Dallas Morning News*, *Austin American-Statesman*, *San Antonio Express-News*, *Brownsville Herald*, *Delaware Gazette*, *Ohio Lawyer's Weekly*, *The Other Paper*, *Cleveland Scene*, *Toledo City Paper*, *La Prensa*, and the *Grand Rapids Record*.

31. Coverage also extended to radio talk show and/or television interviews in New York City, Cleveland, Youngstown, Toledo, Austin, Sacramento and San Diego. Re-edited stories by *Associated Press* and/or *Reuters* appeared in the *London Globe*, *CNN News*, *LA Times*, *San Francisco Chronicle*, *San Jose Mercury News*, *Newsday*, *New York Daily News*, *Chicago Tribune*, *Miami Herald* and *Kansas City Star*, just too mention a few.

32. Excerpts of a few of these stories can be found in **Text Boxes 1 through 24 of Exhibit 5** attached hereto. Full texts of current stories can be found on plaintiff's web site at www.noethics.net under "*Watchdog in the News*." Additional excerpts of media stories can be found by clicking onto "*Additional Media Stores*" " under "Ohio Reporter (Plaintiff hereby incorporates his web site at www.noethics.net as if fully rewritten herein.)

33. Several *Editorial Opinions*, which included a cartoon lampooning Moyer (**Ex. 6**) can be found in Text Boxes 3, 4, 14, 15 and 19 (**Ex. 5**) criticized Moyer's conduct. Moreover, in his Aug. 2, 2002 letter to the Editor (*Columbus Dispatch*), Ohio attorney David A. Sams, in commenting on **Moyer's vendetta** against plaintiff said, "**That claim doesn't even pass the involuntary laugh test. Of course it's a vendetta.**" (**Text Box 8 of Ex. 5**)

Sacramento News & Review

- ➡ TB 1—Race to the Bottom
- ➡ TB 1A—Watchdog caricature nipping at judge's leg
- ➡ TB 1B—Citizen vendetta

Washington Post

- ➡ TB 2—Ohio Justices scrutinized over credit card use

Canton Repository

- ➡ TB 3—Justices cruise, citizens pay – **Opinion**
- ➡ TB 4—Perks Questionable – **Editorial**

Columbus Dispatch

- ➡ TB 5—Man accused of impersonating lawyer
- ➡ TB 6—David Palmer: Hero or Threat?
- ➡ TB 7—Appellate judge will look into spending by Justices
- ➡ TB 8—Judicial System is on vendetta against reformer
- ➡ TB 9—Watchdog airs [literally] complaints about two judges
- ➡ TB 10 – California judge muzzles self-appointed watchdog
- ➡ TB 11 – Auditor asked to check how visiting judges are paid
- ➡ TB 12 – Moyer’s promise of job unethical Resnick says

Toledo Blade

- ➡ TB 13—3 justices seeking sanctions against judicial watchdog
- ➡ TB 14—It’s broken, so fix it – **Editorial + Cartoon – Ex. 6**

Wapakoneta News

- ➡ TB 15—Palmer takes on quixotic joust with Ohio judges – **Opinion**

The Other Paper - Columbus

- ➡ TB 16—Watchdog goes Hollywood
- ➡ TB 17—Moyer: ‘Dispatch’ is Palmer’s mouthpiece

Cleveland Plain Dealer

- ➡ TB 18—Men bite watchdog – **Editorial**

Cleveland Scene

- ➡ TB 19—In Contempt – **Opinion**

Akron Beacon Journal

- ➡ TB 20—Toledo Retiree Files Ethics Grievance Against Thomas Moyer

Columbus Monthly Magazine

- ➡ TB 21—The transformation of David Palmer
- ➡ TB 22—Where are they now?

Toledo City Paper

- ➡ TB 23—Legal troubles in Mongolia?

La Prensa

- ➡ TB 24—More local judges charged with theft-in-office

III. Plaintiff’s Monthly Newsletter

34. Plaintiff also published a nationally distributed newsletter further exposing Moyer’s misfeasance. On May 15, 2004, Plaintiff and others distributed a newsletter titled: “A

Special Tribute to Chief Justice Thomas J. Moyer's Major Achievements," (Ex. 7) which contained the following stories:

- Moyer "Lies" in response to Dog's Feb. 2004 Complaint
- Imperial Justice (aka, "King Tommy")
- Refusal to disclose income re: cars
- Tom fails to report auto accident [state car]
- Abuses involving retired judges

IV. Plaintiff taking to the Airways [literally]

35. During the May 15, 2004 dedication ceremony of Moyer's newly remodeled \$120 million edifice (provided 2400 square feet per employee), Plaintiff caused two airplanes with banners attacking his ethics that circled the building for one-hour. In attendance were ex-U.S. Supreme Court Chief Justice William Rehnquist and about 200 Ohio judges.

36. On April 23, 2003, Plaintiff paid for two planes with flyers and banners questioning Moyer's conduct that flew over the Capitol for one-hour. And lastly, during the 2004 PGA Memorial Tournament in Dublin, Ohio, Plaintiff employed two planes with banners about Moyer to circle the golf course for one hour.

V. 1998 efforts at defeating Moyer's reelection bid

37. In 1998 Plaintiff orchestrated an effort to defeat Moyer at the polls in November. That effort led to the submission of a questionnaire to Moyer and his opponent Appellate Judge Gary Tyack, which included the following:

Moyer

Q. "If you were provided with documentary evidence that tended to establish that a Judge may have submitted fraudulent claims for expenses while acting as a visiting Judge, what, if any action would you take?"

A. "If an assigned judge submitted a request for payment for work the judge did not perform we would request [not demand] that the judge, if already paid, reimburse the state for the overpayment.

Tyack

A. "Visiting judges need to have their expenses and payment vouchers carefully monitored. I have been informed that certain judges are over-billing. I would expect to review the vouchers personally and treat fraud harshly."

VI. Moyer's assigned visiting judges – 1 through 6

38. From 1994 to 2008, Moyer hand-picked and assigned seven (7) visiting judges to cases involving Plaintiff and/or his wife. Plaintiff began investigating the billing habits of all of these judges beginning in early 1996.

39. The evidence of corruption involving visiting judges and that involving Moyer and the Supreme Court uncovered by Plaintiff is set forth in **Exhibit 8**. That evidence (**Ex. 8**), all of which was provided to and/or known by Moyer, proves *beyond all doubt* that assigned visiting judges 1 through 6 below *were* in fact biased against Plaintiff.

40. In five of the six assignments below, Supreme Court Rules for assignment of judges were violated in that (a) the assignments were never journalized or docketed and (b) copies were never provided to plaintiff or his attorney of record, and (c) the Administrative Judge never certified the unavailability of the fourteen (14) sitting judges in Lucas County nor the reason or reasons they could not preside over these cases.

No. 1—Judge Richard Markus

- 11/97 – plaintiff accuses Markus of repeatedly billing the state for hours never worked in a report posted on his web site
- 01/01 – plaintiff files ethics complaint v Markus for repeated failures to comply with required disclosures on annual Financial Disclosure Statements
- 02/01 – Markus sends plaintiff letter asking to meet with him privately to discuss **pending** ethics complaint
- 2005 – plaintiff posts web site story: “Criminalizing free speech in Ohio,” which contained articles titled: Judge Markus and Hypocrisy 101, Markus’ theft-in-office, Markus double-billing, and Is Markus defamation proof?
- 03/06 – plaintiff publishes article titled: “Ohio’s “you play – you pay,” exposes public corruption schemes and refers to Markus’ unethical conduct
- 01/08 – plaintiff publishes book titled “Judicial Misfits,” which includes story re: Markus in chapter titled “Morons” at page 264
- 04/08 – plaintiff sends Moyer a letter detailing Markus’ misdeeds and asks that he be removed from any cases involving plaintiff and/or his wife
- 07/08 – plaintiff sends Markus a letter demanding his recusal from case involving wife which details his prior misconduct

- 07/08 – Markus responds to plaintiff’s letter by threatening to hold him in contempt if he again accuses him of egregious misdeeds
- 04/08 – plaintiff files recusal motion v Markus
- 08/20/08 – plaintiff files affidavit of bias v Markus with Supreme Court

No. 2—Judge Richard B. McQuade, Jr.

41. Below is irrefutable evidence proving that Judge McQuade was not only biased against Plaintiff and/or his wife, but that he harbored ill-will towards them, all of which was known by Moyer.

a. McQuade’s False Statements to Lucas County Sheriff

42. On Nov. 23, 1999, McQuade knowingly made the following false statements re: Plaintiff to several Lucas County (Toledo, Ohio) Sheriffs: **(Ex. 7)**

- Stalking him by following him to every county he was assigned
- **Feared for his wife’s safety when he wasn’t home** – intimating that **he believed Plaintiff would visit the home and assault her**

b. McQuade’s False Statements in Response to Ethics Complaints

43. In responses to ethics complaints or affidavits of disqualification filed by Plaintiff, McQuade made the following false statements, all of which are proven false by the evidence following each response.

No. 1 – 05/11/98 letter

- I’ve never looked **disdainfully** or **used profanity** toward Palmer or his wife
- Finally, **I have not consulted the web site** Mr. Palmer has **opened against me** in order **to preserve my impartiality**

44. McQuade’s statement to Moyer is patently false and Moyer knew it to be so on May 11, 1998 when he received McQuade’s letter. The following unimpeachable facts prove the falsity of said letter:

- ▶ 05/04/98 – Plaintiff files affidavit of bias v McQuade with Moyer
- ▶ 05/07/98 – Attorney Pheils (plaintiff in case) files response to affidavit of bias with Moyer and attaches a copy of plaintiff’s website article re: McQuade titled: “*Anatomy of a Crooked Judge,*” which Moyer receives on Friday, May 8, 1998, which is proven by the file stamp on it

- ▶ 05/07/98 – Pheils mails copy of reply and web site article to McQuade, which he receives on Friday, May 8, 1998 or May 7, 1998

45. Additionally, McQuade's denial of viewing Plaintiff's web site is further proven false by entries contained in attorney Pheils' timesheets, which are:

- ▶ 05.06/98 – Research law (contempt) Tel Conf w/ Supreme Ct. – 1.2 = \$180
- ▶ 05/06/98 – Prepare response to affidavit of prejudice – 1.60 = \$240
- ▶ 05/06/98 – Review web pages/motion draft, corrections – 2.20 = \$330
- ▶ 05/07/98 – Review final draft; assemble copies; **serve**/file – 1.0 = \$150

It should be noted that in Dec. 2000, visiting Judge Michael Kelbley (**No. 5**) awarded Pheils **\$900 in pro se fees + \$180 in interest** regarding the above entries in his timesheets.

No. 2 – 06/11/98 letter

- ▶ **I am not prejudiced** against the Palmers
- ▶ I am not a racist
- ▶ I have **never used profanity** toward these parties
- ▶ 12/15/97 trial McQuade stated on the record and before several witnesses in reference to Plaintiff's son-in-law (Chinese-American): "**Where is that goddamn son-of-a-bitch.**"

No. 3 – 08/29/98 affidavit

- ▶ Affiant learned complainant **and his wife** requested his expense reports **from every county in Ohio** and Supreme Court in an effort to discredit affiant
- ▶ Supreme Court records prove plaintiff's wife never made such a request

No. 4 – 09/18/01 letter

- ▶ At the Nov. 1995 bench trial, Palmers appeared pro se
- ▶ They were **admonished to obtain counsel** and warned Mr. Palmer could not represent his wife. **These warnings continued throughout the bench trial** often in **response to Pheils' objections.**
- ▶ Palmer's complaint is completely **false and frivolous.**
- ▶ Court staff and numerous persons repeatedly witnessed McQuade during three separate trials glare at plaintiff's Korean-American wife and his oldest daughter Angela disdainfully and with total contempt
- ▶ 318 pages of trial transcripts of the 11/28/95 trial prove McQuade **never** admonished Plaintiff nor did attorney Pheils ever air even one objection
- ▶ At the Nov. 29, 1995 trial, McQuade said: "Mr. Palmer, you're going to give the opening statement **on behalf of yourself and your wife**; is that correct?" (p. 53, trial

transcript) Clearly, this is not an admonishment; however, it is an invitation for Plaintiff to represent his wife

No. 3—Judge Robert Wilson

46. On or about May 17, 2001, in an effort to prove he was *never* biased against plaintiff, Wilson made the following statement while being interviewed by *Columbus Dispatch* reporter Jon Craig: **“Oh God, that son-of-a-bitch. Someday someone in the judicial system is going to put a muzzle on that guy.”**

47. On Dec. 8, 1997, Wilson presided over a criminal contempt hearing wherein it was alleged Plaintiff unduly questioned the ethics of Judge McQuade. The hearing transcript proves the following:

- Attorney Chuck Boss appeared on plaintiff’s behalf and asked that the hearing be rescheduled so that he could prepare (employed that date because Plaintiff was in Sacramento from Oct. to Dec. 5 and had no advance notice of said hearing)
- Wilson gave Mr. Boss 15 minutes to prepare/meet with plaintiff
- Mr. Boss immediately advised plaintiff this was “a set-up”
- Mr. Boss tells Wilson he would be violating Code of Ethics and likely inviting a legal malpractice suit in the process if he went forward
- Wilson tells him he can leave or remain as an observer
- Wilson cross-examines plaintiff in angry tone, proving his bias
- After the interrogation, Wilson declares plaintiff guilty of criminal contempt
- Plaintiff asks how he can find guilt when he has yet to put on a defense
- Wilson responds angrily, “Go ahead, and put on your defense.”
- Plaintiff calls complaining witness who is in the courtroom, Wilson says, you don’t get any witnesses

48. Mr. Boss was right; it was a set-up presided over by a judge that made no attempt to conceal his hatred of plaintiff. When this inept “kangaroo court” scenario was submitted to the Appeals Court, it was summarily reversed.

49. Another instance of Wilson’s overt bias took place after plaintiff’s June 7, 1999 motion for contempt proving attorney E. J. Leizerman guilty of perpetrating a fraud on the court when asking for a continuance due to a previously scheduled trial in the Nashville federal court. A letter from the Nashville judge to Plaintiff proved Leizerman lied; however, at

a hearing on the matter, Wilson used it as another opportunity to display his contempt for plaintiff. Put simply, Wilson gave less credibility to the Federal judge than he did to Leizerman despite Leizerman's record of discipline.

No. 4—Judge Bruce Huffman

50. This matter was originally assigned to Common Pleas Judge Judith Lanzinger (now a Justice on the Ohio Supreme Court). It is well known in the legal community that Lanzinger had a close relationship with Moyer and that he took affirmative steps in grooming her for a seat on the Ohio Supreme Court.

51. Shortly after the case was filed, plaintiff filed a motion to find attorney Pheils guilty of contempt for perpetrating a fraud on the court. That fraud involved the following facts, all of which were contained in various court files:

- ➡ 03/94 Judge Bates sanctioned plaintiff **only** \$500 for allegedly practicing law without a license in representing his wife (\$500 awarded to Pheils)
- ➡ Pheils then filed a lien against the residence **solely owned** by Mrs. Palmer and **illegally added \$1,956** in court costs that Judge Bates never ordered
- ➡ 07/94 Appeal Court grants plaintiff's Writ of Mandamus v Judge Bates ordering he had no lawful right to sanction him
- ➡ 08/31/94, Judge McQuade voids \$500 sanction
- ➡ 02/26/98 Pheils files a foreclosure action against Mrs. Palmer to collect on the **\$500 voided sanction + \$1,956 in court costs + \$780 interest**

52. Prior to scheduling a hearing on the contempt motion, Lanzinger had her bailiff call plaintiff on Wednesday to see if he would be available Friday morning at 10:00 AM. Plaintiff confirmed he would and the hearing was scheduled.

53. Upon arrival at Lanzinger's courtroom, Huffman magically appears which led plaintiff to ask him what he was doing there. He responded that Moyer had appointed him, which was later proven to be untrue. In fact, the docket sheet in Lucas County Case 98-1589 proves Huffman was never assigned to this case.

54. Within minutes and without ever reviewing the contempt and summary judgment motions filed by plaintiff, Huffman proclaimed, “All of defendant Palmers motions are denied and all of plaintiff Pheils’ motions are granted.”

No. 5—Judge Michael Kelbley

55. Judge Kelbley is yet another long time friend and associate of Moyer. On September 2, 1998, Moyer appointed him to Wood County Case 91-CV-502. This matter involved attorneys David R. Pheils, Jr. and Dale Crandall’s claims for pro se attorney fees against plaintiff and his wife.

56. Kelbley is another visiting judge that was investigated by plaintiff prior to Moyer’s assignment. That investigation proved that he had bilked the taxpayers of Lucas County (Toledo) by billing for meal expenses he never incurred, which led to plaintiff’s filing of complaints, all of which was known to Moyer.

57. At the Dec. 13, 2007 hearing held by Kelbley on Pheils’ motion for fees, it didn’t take long for plaintiff to discover that he was sent by Moyer to assure an outcome that would further damage plaintiff and his wife.

58. During the first hour of plaintiff’s cross-examination of Pheils, he proved that at least 32 separate entries in his timesheets were total fabrications. Plaintiff was taken aback when Kelbley never expressed any concern that an Officer of the Court had so acted. This surprising inaction, caused plaintiff to ask Kelbley if we were involved in a game of “catch-me-if-you-can.” Plaintiff then asked Kelbley if he proved 98% of Pheils’ more than 800 entries were false would he then award him fees for the remaining 2%. Plaintiff knows of many judges; likewise this court, that would not have waited for 32 instances of provable fraud on the court before taking remedial action.

59. Examples of the **sham \$142,665 in pro se fees that Kelbley awarded to Pheils and Crandall that he knew or should have known was fabricated and/or unlawful** are set forth at **Ex. 8, p. 3** (also set forth at **Ex. 8, p. 4** are sham fee awards awarded to

Pheils and Crandall by McQuade) It should be noted that on March 20, 2002, the Court of Appeals unanimously vacated Kelbley's award and in effect stated in its opinion that Pheils and Crandall's claims were a sham.

No. 6—Judge Joe Cirigliano

60. Well before Cirigliano appeared, plaintiff had published numerous articles exposing his conduct in billing for hours he never worked and/or for billing for meal expenses he never incurred, facts well known to Moyer. Cirigliano's assignment also violated Supreme Court assignment rules.

No. 7 – Non-reporting of Income to City of Sandusky

61. On May 8, 2002, Plaintiff sent a letter to the Finance Director of Sandusky, Ohio to let him know that income earned by visiting retired judges assigned by Moyer to Erie County Common Pleas (Sandusky) did not report said income on their annual W-2s (plaintiff was in possession of said W-2s).

62. On June 14, 2002, City Manager Gerald A. Lechner responded by stating, "While we cannot share any specific information with you about any of the alleged taxpayer data, we can tell you that some of the judges on the list are complying **and some are not.**" The judges on said list included Richard B. McQuade, Jr., Richard Markus, Bruce Huffman and Joe Cirigliano.

VII. Moyer's State-Funded \$40,000 Buick Park Avenue Ultra

a. Plaintiff's initial investigation of Moyer's Luxury Car

63. Sometime in 2002, Plaintiff received 3 anonymous letters, 1 each from Cleveland, Akron and Youngstown asking him to investigate the luxury cars that Moyer and the other justices had purchased with public funds. Plaintiff then embarked on an investigation by procuring fuel and maintenance receipts, and the make, models and costs of each vehicle. A review of these public records proved:

- Court paid over \$500 for 4 new Michelin tires for Moyer's new Buick 4 days after its delivery when new Goodyear's only had 242 miles on them
- Court paid \$165 for one (1) oil change
- Court billed 4, 5 and/or 6 quarts of oil for oil changes on the same vehicle
- Court repeatedly billed for rotating tires, radiator flushes and belt changes that Buick and Jeep dealers in Columbus said were unwarranted and absurd

64. Moyer defended the purchase of the Michelin's by directing his attorney to tell Plaintiff **the Goodyear's were placed in the Court's Tire Pool**. This response led Plaintiff to say, **"Oh yeah, the Court's tire pool is across the street from the Court's radiator pool, which is adjacent to the Court's battery pool, right?"**

b. Tax avoidance re: Luxury vehicles

65. After Plaintiff reviewed the annual W-2s of Moyer and the other justices from 1993 to 2003, in conjunction with Moyer's Sept. 1993 secret resolution, he discovered the following:

- Moyer unlawfully directed Court administrators (1993-2004) to violate IRS reporting rules in not disclosing annual income the justices received from personal use of state cars
- Moyer unlawfully directed the justices and himself that they did not have to provide daily logs re: personal v official use of state cars to Court Administrator or Chief Fiscal Officer
- Moyer unlawfully directed justices that they could declare personal use under the per mileage system even though he knew IRS Rules did not allow it
- Moyer's 2005 W-2 was false in that it underreported income he derived from personal use of a state car (this was true of the other justices as well)

66. Based on the above findings, Plaintiff asked the State Auditor to conduct an audit, which she subsequently did. That audit and the summaries of Senior Audit Manager Chuck Volmer (02/17/04) contained the following in regards to Plaintiff's Jan. 10, 2004 complaint.

a. Justices' tax liabilities for personal use of cars

- We reviewed the IRS valuation methods summarized in Mr. Palmer's memo to make his calculations [taxable income] and compared them to the provisions in IRS Publication 15-B. We found that irregardless of the source of Mr. Palmer's information, **the IRS provisions in his memo do indeed apply to the court. It appears the logic and methodology behind Mr. Palmer's calculations is correct...** [underreporting or not reporting income]

- As to Mr. Palmer's allegations that **the justices' W-2 forms** should but **do not disclose any taxable benefit from the personal use of state vehicles**, he is correct.

b. Justices' shopping sprees for luxury vehicles

Mr. Vollmer's Feb. 17, 2004 findings stated:

- Mr. Palmer alleges the Court-provided vehicles to the justices were purchased without competitive bidding, and in fact without regard as to cost.
- While the Court's purchases of these vehicles **could be characterized as fiscally irresponsible**, it doesn't appear to have been illegal.

c. Moyer's Feb. 11, 2004 response to State Audit re: Cars

67. On Feb. 11, 2004, Mr. Vollmer received a letter from Administrative Director Steve Hollon on behalf of Moyer. Mr. Vollmer put forth the following question re: the constitutionality of "perks," which is followed by Moyer's reply.

Vollmer:

Does the court have any documentation (i.e. legal research) to back up this contention? [luxury cars are not perks]

Moyer:

- I have been specifically asked to note that the Court's position on this issue is a fully considered determination of the entire Court, and not a "contention."
- I have also been asked to note that this **request from the Auditor of the State is extraordinary**. A request from an **executive branch official to the Court asking it to explain its reasoning on what is at core a constitutional determination**, albeit affecting the justices of the Court, is at best far-reaching, and **at a minimum may be at tension with the principle of separation of powers**.

68. As a direct result of Plaintiff's investigation, Moyer and the other justices no longer have state-paid for luxury cars (2005). Obviously, Moyer wasn't or isn't happy about this outcome.

f. Plaintiff's actions re: non-disclosure of income from state car use

69. Based on the Auditor's findings and Plaintiff's investigation, Plaintiff did the following, all of which was known to Moyer and the other justices. (See article titled: "Ohio Supreme Court Justices – Tax Fraud" under "Watchdog Commentary" on Plaintiff's web site at www.noethics.net.)

- Reported Moyer and the other justices' non-reporting of income derived from personal use of state cars to the Cities of Cleveland, Toledo, Columbus, Bucyrus, Akron and Sandusky (Moyer's hometown).
- Reported said conduct to the fraud division of the I.R.S.

70. Plaintiff's conduct led to investigations by several tax agencies, which then led to Court Administrator Hollon advising Moyer and the other justices that underreporting or reporting no income for personal use of state cars was now on the "radar" with several taxing authorities, including the City of Columbus.

VIII. Moyer's Preventing Further Discoveries of Misfeasance

a. Public Record Requests

71. From late 1995 or early 1996, plaintiff submitted requests for public records from the Supreme Court, including, but not limited to the following, all of which were provided by Richard Dove of the Court.

- Compensation reports for over 200 visiting retired judges
- Travel expense records for appellate judges
- Annual Financial Disclosure Statements for over 700 judges/justices
- Travel expense records for Moyer and the other justices
- Annual W-2s from 1993 to 2007 for Moyer and justices
- Cell-phone/long distance records for Moyer and justices
- Fed-Ex billing statements for Moyer and justices
- CLE (continuing legal education) records for 100 or more retired judges

72. Retired judge compensation reports predating 1992 were stored at an off-site location and then copied to plaintiff. Prior to front page stories appearing in May 2001 in regards to double-billing by retired judges, plaintiff requested and obtained compensation reports dating back to 1988.

73. However, to prevent plaintiff from obtaining the same dated records as to other visiting judges, Moyer ordered a change in the record retention policy in 2002, ordering all records destroyed after 4-years. For a State Chief Justice to knowingly order public records destroyed that likely would have exposed further corruption is without precedence.

Unfortunately, this act assured that said judges could retain the untold tens of thousands they stole from Ohioans. It also assured that they would remain anonymous.

74. Requests for the following records were met with a response from the Court that no such records existed, which was later proven to be false.

- 1993 state-paid for report by outside counsel to give Moyer opinion on whether state paid for luxury cars for Moyer, et al. violated Ohio's constitution prohibiting any "perks" for Ohio judges
- Any and all documents making any reference of any kind to plaintiff (Moyer's ex parte letter and Wisniewski's letter were never provided)
- Any documents authorizing the purchase of state cars for the justices by the Court (this denial was proven false when plaintiff received a copy of Moyer's Sept. 1993 "secret" resolution from an anonymous source)

75. In taking naiveté to new levels, early on, plaintiff actually believed that Moyer would not only partner-up with him in uncovering visiting judge abuses, but that he would order his subordinates to aggressively assist him. Wouldn't any truly concerned state Chief Justice **be eager** to discover that judges he was personally responsible for appointing were consistently bilking Ohioans by billing for hours never worked or travel expenses never incurred?

IV. Moyer's demand for sanctions, contempt v Plaintiff

76. The following are excerpts of Moyer's comments in responding to various complaints filed by Plaintiff wherein he demanded sanctions be imposed and/or for contempt findings.

a. Declaratory action v Moyer - 2002

77. In 2002, plaintiff filed a Declaratory Judgment action in Columbus asking the court to declare that Moyer's awarding of luxury cars to himself and the other justices via a "secret resolution" he adopted in Sept. 1993 violated Article 6, §(4)(B) of the Ohio Constitution prohibiting judges from receiving any perks.

78. Subsequently, Moyer asked the 10th District Court of Appeals to find Plaintiff in contempt and to impose monetary sanctions in asserting that his claims were false. On Oct.

1, 2002, Court of Appeals Magistrate Stephanie Bisca Brooks denied Moyer's motion and said: "There was **no evidence** that Palmer **made any false assertions.**" In a rather inept attempt to defend Moyer, a court spokesman later told the *Columbus Dispatch* "**A car is hardly a perk.**"

b. June 2004 Elections Commission Complaint

79. In 2004, plaintiff filed an election complaint v. Moyer for eliciting and accepting thousands of dollars in campaign funds from visiting retired judges that were directly employed (appointed and assigned) by him in violation of Ohio law.

80. In this case, Moyer also demanded that the Commission sanction Plaintiff and order that he pay Moyer's attorney over \$6,000 in fees. Subsequently, the Commission summarily denied Moyer's demand and specifically ruled that Plaintiff's complaint was not frivolous as alleged by Moyer.

X. Moyer's Disparaging Statements re: Plaintiff

81. The following are instances wherein Moyer made derogatory comments attacking Plaintiff's credibility even while he sat in judgment of Plaintiff's sworn testimony in support of affidavits of bias.

- ➡ Palmer simply misstates the facts. His **misstatement of those facts** would **appear to be so misdirected that I will not repeat my response to them.**
- ➡ An indication of **Mr. Palmer's hyperbolic diatribe** is his statement that "Moyer's persistent railing against so-called 'activist judges' who he claims legislate from the bench.
- ➡ "The problem with him is he is very anxious to **accuse people of doing wrong things,**" Moyer said. "The watchdog title he gives himself is an overstatement. He is trying to wear us down and to embarrass us, but we simply will not be intimidated."

c. 05/14/01 – Open letter asking Moyer to Resign

82. On May 14, 2001, Plaintiff asked Moyer to resign. Copies were distributed throughout Ohio, which Moyer was aware of. Portions of letter are:

- ➡ **Take some time to honestly examine your many failures and violations of the public trust.** You would not tolerate your own conduct when sitting in judgment of another judge or lawyer, so please do not ask us to tolerate you any longer.

- **Do the honorable thing and resign.** Your overall administrative abilities are a disgrace and total embarrassment to the good citizens of Ohio. **You alone can restore dignity to the Court by leaving it without further delay.**

COUNT THREE

XI. Moyer's Standard Proving Bias – Cause to Remove Judge

83. The following are but a few examples of rulings and/or statements made by Moyer in the past setting forth the standard for removal of judges for bias.

Moyer letter to Attorney Weiner – May 24, 1989

- Mr. Haller's remarkable affidavit [disqualification] contains statements that, if not made against a public official, would certainly be subject to libel laws.
- You may inform Mr. Haller that prior to receiving his affidavit I could have participated fairly and impartially on his case. However, **he has succeeded in making so many false statements about me and others that I will recuse myself.**

In re Disqualification of Floyd – 101 Ohio St.3d 1215

In removing Judge Floyd, Moyer said in part:

- "...I do find that the initiation of the **ex parte discussion** and statements sworn to by the affiant, and unchallenged by the judge, **could suggest to a reasonable person the appearance of impropriety.**"
- "Next in importance to the duty of rendering a righteous judgment is that of doing it in such a manner **as will beget no suspicion of the fairness or integrity of the judge.**" *State v Browning*, 224 N.E.2d 398, quoting *Haslam v Morrison*, 190 P.2d 520.
- "Therefore, **to avoid even an appearance of bias, prejudice, or impropriety, and to ensure** the parties, and the **public the unquestioned neutrality of an impartial judge**, it is ordered that Judge Floyd participate no further in these proceedings.

In re Disqualification of Sheward – 100 Ohio St.3d 1221

In removing Judge Sheward, Moyer said in part:

- Affiant claims Judge Sheward made the following remarks: "I wrote you a letter saying you are a man of no integrity and I am now saying that to your face. You are the type of lawyer who brought disgrace upon the legal profession. You are not welcome in this Court in connection with the action or in connection with any other matter.
- "If find that Judge Sheward's **disqualification from this matter is warranted to avoid the appearance of bias and prejudice.**"

Judge Lee Hildebrandt, Jr. – Nov. 8, 1991

- At the time, Judge Hildebrandt was the Chief Justice of Appeals Court. It was his duty to assign a panel of three appeals judges to review an ethics complaint filed by Plaintiff against Moyer.
- On Nov. 1, 1991, Plaintiff wrote to Judge Hildebrandt opining that the appearance of bias would exist if he appointed any judge who Plaintiff had previously filed an ethics complaint against, which prompted this reply:
- “I agree that if you have filed a formal complaint against a judge of the Courts of Appeal, it may be appropriate for that judge not to serve on the probable cause panel.”

84. Judge Richard B. McQuade, Jr., who repeatedly denied any bias against Plaintiff and/or his wife from late 1995 to 2002 despite the overwhelming evidence above proving his assertions to be untrue, made the following statement to the Columbus Dispatch on March 13, 1995. McQuade was in Columbus to chair a Commission he was appointed to by Moyer. This statement takes hyperbole and hypocrisy to new and as yet unseen levels.

McQuade – March 13, 1995 to Columbus Dispatch

On March 13, 1995 was quoted by the Columbus Dispatch as making the following statement:

- **“When you’re dealing with judges, perception is reality. If someone is uncomfortable with your sitting on a case, probably you should get off.”**

XII. Additional standards requiring recusal/removal for bias

85. In *Lileberg v Health Services Acquisition Corp.*, 486 U.S. 847, the U.S. Supreme Court described the standard for recusal as:

- ...whether a reasonable and objective person knowing all the facts would harbor doubts concerning the judge’s impartiality.
- The goal is to avoid even the appearance of partiality.
- To be clear, avoiding the appearance of impropriety is as important in developing public confidence in our judicial system as avoiding impropriety itself.

86. In *State ex rel. Brown v Dietrick*, 444 S.E.2d 47, the West Virginia Supreme

Court said:

- To protect against the appearance of impropriety, courts in this country consistently hold that a judge should disqualify himself or herself from any proceeding in which his or her impartiality might reasonably be questioned.
- We have repeatedly held that where “the circumstances offer a possible temptation to the average ... [person] as a judge not to hold the balance nice, clear and true” between the parties, a judge should be recused.
- To be clear, avoiding the appearance of impropriety is as important in developing public confidence in our judicial system as avoiding impropriety itself.

XII. Moyer’s comments on bias, judicial conduct

87. Over the past 20 years, Moyer has made numerous statements regarding judicial conduct and/or bias. The following are a couple of examples:

***Cincinnati Enquirer* – Oct. 11, 2004**

- “A number of judges don't seem to realize when they assume the role of judge that they **must be held to a higher standard**,” Moyer said.”

***State ex. Rel. Pratt v. Weygandt*, 164 Ohio St. 463**

- The term “bias or prejudice” implies a **hostile feeling or spirit of ill-will** or undue friendship or favoritism **toward one of the litigants...**

87. It is painfully clear that the standards applied by Moyer in the matters set forth in removing judges for bias as set forth above **did not** apply to Plaintiff. Additionally, the proselytizing Moyer engaged in while speaking to the *Cincinnati Enquirer* and in the *Weygandt* matter was nothing more than hyperbolic linguistics in regards to the manner in which he has trampled on Plaintiff’s constitutional due process rights to have his matters presided over by unbiased judges, which would of course include Moyer himself.

COUNT FOUR

Further Evidence of Moyer’s Bias

XIII. Crandall’s Admissions re: Moyer, et al’s Misconduct

88. Ex-Ohio attorney Dale R. Crandall was attorney Pheils’ partner for 17-years and was a party to all of the cases alluded to above. In Jan. 2002, Crandall made repeated phone calls to Plaintiff demanding \$70,000 in cash in return for providing information or documents

proving fraud involving several individuals. Plaintiff taped each of these calls. Below are relevant excerpts of said calls:

Re: Moyer and McQuade

CRANDALL: Ah, let you know I have some other information regarding the Chief Justice that's all hearsay. I do have some information **regarding McQuade, direct and I was involved. I was asked to be involved...**

PALMER: But I didn't comprehend of fully understand what you said something about **additional information about Moyer**. Is that what you said?

CRANDALL: I can definitively say that **I was involved and asked to be involved** in something that **Pheils also was** by the way. **It came through McQuade.**

PALMER: Directly to you or...

CRANDALL: **Directly to me.**

PALMER: In other words he **[McQuade] contacted you** or something?

CRANDALL: **Yep.**

CRANDALL: It relates [fraud and fraud on the court] also to the Supreme Court.

PALMER: Well, the Supreme Court, who could that be? My friend?

CRANDALL: **Yeah, your buddy.**

CRANDALL: **The Supreme Court is also involved.**

Re: Attorneys Pheils, Wisniewski and Leizerman

CRANDALL: Tickets (law licenses) are involved.

PALMER: Pardon.

CRANDALL: Tickets (law licenses) are involved.

PALMER: I'm limiting it to **Pheils, Crandall, Wisniewski and Leizerman**. Would it involve any fraud? And when I say fraud I'm talking about any type of fraud. **Fraud on the court. Fraud on any matter.**

CRANDALL: **Yes.**

PALMER: Did any of this conduct [fraud and fraud on the court] take place in Wood, Lucas, Monroe (MI), Delaware [Counties] or what?

CRANDALL: **All of the above.**

CRANDALL: **It doesn't only include those people we talked about by the way.**

PALMER: The woman was court ordered to turn over the child. This guy (lawyer) helped her leave the state and then fed her \$130,000 that he stole from a trust account.

CRANDALL: It's bigger.

PALMER: It's worse than that?

CRANDALL: Yep.

PALMER: But it's egregious. I mean this isn't patty-cake – I just accidentally forgot to do something?

CRANDALL: **No, no. It was intentional.**

PALMER: Did Pheils **gain an advantage** from this conduct? (big-hit stuff)

CRANDALL: **Yes.**

PALMER: Could some of the information as it relates to Pheils that you're discussing and documents establish that **he's engaged in violating the law?**

CRANDALL: **Yes.**

PALMER: Have these people been associated with some of this litigation? [involving myself and my wife]

CRANDALL: **Oh yeah.**

PALMER: Directly or indirectly?

CRANDALL: **Directly.**

PALMER: Wisniewski?

CRANDALL: Yes.

CRANDALL: When the cash hits the table, I'll give you the information.

89. The frauds and conspiracy that Crandall offered to sell for \$70,000 is supported by volumes of public records and transcripts. It is also supported by entries in Crandall and David Pheils' attorney timesheets.

90. One thing that is abundantly clear from Crandall's admissions is that there has been an ongoing conspiracy involving Moyer, visiting judges McQuade, Markus, Huffman, Wilson, Kelbley, Cirigliano and Disciplinary Counsel of the Ohio Supreme Court; attorneys Crandall, Pheils, Wisniewski; Leizerman and many others as yet unknown to Plaintiff for at least 14 years.

91. This conspiracy was clearly instigated by Moyer to exact retribution from Plaintiff for exposing his egregious misconduct and misfeasance, and that of his fellow

brothers and sisters on the bench. It was also designed to place a heavy price on Plaintiff's 1st Amendment rights of Free Speech, which it clearly has.

XIV. Judge Firmat – Free Speech in Orange County, California

92. The following is relevant in that documentary evidence proves that attorney David Pheils, Jr. was working hand-in-hand with ex-Orange County attorney Ronald Lais, and the fact that visiting Judge Kelbley awarded Pheils several hundred dollars in fees for time spent communicating with Mr. Lais. Furthermore, based on attorney Crandall's statements and those of Lais, it is likely that Moyer may well have been involved as well as others.

93. Ex. Orange County, California (Anaheim) attorney Ron Lais was unhappy when Plaintiff posted an article in 2000 on his web site exposing his egregious misconduct, much of which was criminal. He was even more upset when the *Wall Street Journal* did a front page story about his misdeeds, which resulted from information provided by Plaintiff.

94. In March 2000, Lais filed a lawsuit in Orange County Superior Court alleging that Plaintiff's web site defamed his character and was causing him **lost attorney fee income**.

95. The case was originally assigned to ex-Judge Robert Kline. After reviewing Lais' frivolous complaint, Plaintiff wrote to Kline and opined that his 1st Amendment rights might be afforded more protection in California if his web site dealt with child pornography. Within a week or so, Kline was arrested for having child pornography on his courthouse and home computers and later arrested for child molestation. Talk about singing to the wrong choirmaster!

96. Kline was replaced by Judge Poole. Judge Poole wrote on a court order "**Free speech issues clearly exit.**" Judge Poole was then replaced by Judge Francisco Firmat. On October 29, 2001, Judge Firmat agreed with Lais' claim that plaintiff's web site article was causing him to lose attorney income and that it defamed him in issuing a permanent injunction (drafted by Lais) stating:

▶ "Palmer is permanently restrained, enjoined and prohibited from publishing any information whatsoever about RONALD E. LAIS AND LAW OFFICES OF RONALD E. LAIS, on defendant's Internet web site, and said Internet web site is ordered disassociated and disconnected from all Internet search engines, indexes and providers."

97. Unbelievably, Judge Firmat issued said injunction even though he knew or should have known of the following facts on or before Oct. 29, 2001:

- Dec. 1, 2000 California Supreme Court suspended Lais
- March 11, 2001, Lais resigned his law license with 8 charges pending

In addition to the above

98. In addition, it is highly unlikely that Judge Firmat was unaware of the following newspaper reports prior to his issuance of said injunction.

San Francisco Chronicle – May 21, 2000

This story by Reynolds Holding titled: “State Bar Should Crack Down on California Lawyers stated in part:

- “I’m not sure what it takes for a lawyer to be disbarred in California. I suppose murder would do the trick, or perhaps bonking a judge on the head with a very heavy law book. It’s amazing, though, how many of the most blatant transgressions never result in a voided bar card. Lying to judges, filing frivolous appeals, endangering children, getting arrested for burglary – none of these or other absurdly irresponsible moves have been enough to propel Anaheim family-law specialist **Ronald Lais** out of the legal fraternity in California. His case, just decided by the State Bar Court’s review department, suggests that the system of disciplining California lawyers is not merely weak, it’s dangerous.

Wall Street Journal – Jan. 19, 2001 – Front Page

This story by Rick Schmidt (presently DC reporter for LA Times) came about as the result of numerous interviews with Plaintiff. The headline states:

- “Lowering the Bar: Suspended Attorneys Hang Virtual Shingles Online, Foiling Ethics Watchdogs.”

99. Of course the stories above pale in comparison to those appearing in the *Orange County Register* regarding Lais’ antics. It would have been impossible for Judge Firmat to have been unaware that Lais’ license was suspended eleven (11) month before he decided to trample on Plaintiff’s 1st Amendment rights.

100. How is it even remotely possible to defame and/or cause a disbarred attorney to lose future fees? What would cause a judge to trample on the 1st Amendment in such an

egregious manner? This absurd ruling led Plaintiff to investigate any possible relationships between Firmat and Lais.

101. That investigation proved that Firmat and Lais were fellow law students at Western State University Law from 1974 to 1975, in addition to being fellow members of the Alumni Association for years. This is yet another tragic example of a judge who was more concerned about protecting a so-called friend than he was in protecting Plaintiff's 1st Amendment rights.

102. And lastly, it should be noted that on Sept. 25, 2005, Orange County Superior Court Judge William Froeberg sentenced Lais to 14-years in prison for some of the same criminal conduct that plaintiff exposed on his web site. Lastly, the Orange County DA issued a subpoena to plaintiff to testify at Lais' criminal trial before Judge Froeberg due to emails Lais sent to Plaintiff that could only be viewed as threats against his wife and daughters living in LA and Sacramento.

COUNT FIVE

Temporary Restraining Order/permanent Injunction

103. Plaintiff respectfully asks this court to enter a TRO and Permanent Injunction enjoining Moyer from any future conduct in selecting and/or assigning visiting judges to cases involving plaintiff and/or his wife. Furthermore, Plaintiff asks this Court to enjoin Moyer from involving himself in any matter involving Plaintiff and/or his wife.

104. Plaintiff has no adequate remedy at law. In fact, no remedy of any kind exists to prevent further abuses involving Moyer's assignment of visiting judges and/or his refusal to remove judges based on irrefutable evidence of bias as demonstrated herein.

105. Since Jan. 1987 to date, Moyer has been the most powerful elected official (politician) in the State of Ohio. There is no mechanism available to appeal and/or have his absurd denials of affidavits of bias reviewed by any authority. Likewise, no remedy is available for review or appeal of his personal selection of and assignment of visiting judges.

106. Additionally, there is no mechanism in Ohio to seek Moyer's removal based on bias. When plaintiff filed an affidavit of bias with the Supreme Court v Moyer it was perfunctorily returned with a comment that Supreme Court Rules did not allow for such filings.

Even if it was permissible, Moyer would be the sole person to rule on it even though it was filed against him. Additionally, Plaintiff sought Moyer's recusal on numerous occasions in writing; however, on each occasion, the last being May 2008, Moyer has never responded in any manner.

108. In California, unlike Ohio, every litigant is entitled to one peremptory challenge of an assigned judge. Even if this remedy were available in Ohio, it would not and could not change the outcome because Moyer is the sole person involved in assigning visiting judges.

109. The following facts further illustrate that no remedy of any kind exist to prevent further abuses by Moyer. On Aug. 2, 2008, Moyer assigned Markus to Case No. 95-1150. Said assignment violated Supreme Court Rules for Assignment of Judges because (a) no copy was provided to plaintiff (pro se counterclaimant) or his attorney Tim James, (b) the assignment was not docketed and journalized, (c) the requesting judge failed to certify that all 14 Common Pleas Judges in Lucas County had indicated they were either biased v Plaintiff or that for other valid reasons they could not handle the case.

110. On the morning of Aug. 8, 2008, Markus calls Tim James and directs him to appear in court. The following then takes place (a) Markus waves a Jun 25, 2008 remand order from the Court of Appeals (never served on Mr. James), (b) he then tells Mr. James, "I don't believe you've seen this before," a fact he new to be true, (c) tells Mr. James he has until the 15th to file a supplemental memorandum in support of the pending Rule 60(B) motion for relief, and (d) tells Mr. James he was going to rule on the 60(B) motion before the 25th.

111. Mr. James filed the supplemental memorandum on the afternoon of the 15th. Local Court Rules allows the opposition 14-days to respond to a motion and/or supplemental memorandum, a fact well known to Markus; however, his deadline of ruling by Aug. 25 demonstrated that he wasn't concerned about receiving any rebuttal from attorney Pheils, and that he had already made up his mind that he was going to rule against Plaintiff.

112. Fully realizing Markus's bias v Plaintiff and knowing he was assigned by Moyer for the purpose of denying Plaintiff's well-documented memorandum, Plaintiff then filed an

affidavit of bias v Markus with the Supreme Court which it received at 9:35 AM on the 20th. Ohio law and Supreme Court Rules divest a judge of all jurisdiction upon receipt of an affidavit of bias by the Court.

113. Despite the fact that he lacked all jurisdiction, Markus then entered an order denying Plaintiff's Rule 60(B) motion which was journalized on the 21st of August. Of course it goes without saying that Markus' Aug. 21, 2007 Order/JE is *void ab initio*. However, as this Court well knows, voiding Markus' illegal action will require Plaintiff to again seek relief from the Court of Appeals, and if that doesn't work, he would then be forced to seek relief from Moyer.

114. Plaintiff cannot imagine what Moyer has in store for him and/or his permanently disabled and scarred wife in the future. However, we can be assured that it will have nothing to do with assuring that Plaintiff's constitutional due process rights are protected. (Emphasis supplied)

115. It may well be that in regards to Moyer's actual bias and to prevent further abuses, a Writ of Mandamus or Prohibition would be more appropriate; therefore, Plaintiff respectfully moves this Court to consider so acting *sua sponte*.

116. Plaintiff's complaint has absolutely nothing to do with seeking review from this Court as to past judgments rendered by Ohio Courts. It merely seeks to prevent further abuses from taking place like those evidenced herein. One can only wonder which retired visiting judges are on Moyer's wish-list to visit even more abuses on Plaintiff and/or his wife. It likely will only include visiting judges who have been investigated by Plaintiff and found to have bilked the hardworking taxpayers of Ohio.

117. Plaintiff would reiterate that Moyer cannot claim judicial immunity as to the purely administrative acts complained of herein (assignment of judges and denials of affidavits of bias). Therefore, Plaintiff is entitled to pursue compensatory and/or punitive damages against Moyer for said intentional tortuous acts.

PRAYER

WHEREFORE, Plaintiff preys for judgment against Moyer for an amount of not less than \$100,000 in compensatory damages and not less than \$100,000 in punitive damages. Further, for the issuance of a TRO/Permanent Injunction and/or in the alternative a Writ of Mandamus/Prohibition ordering that Moyer cease and desist from any further participation in any cases involving Plaintiff and/or his wife, and for any costs, fees and/or any other damages the court deems appropriate.

EXHIBIT “5”

Sacramento News & Review

Text Box 1 – August 8, 2008

Race to the Bottom: Sacramento judge denies ‘disgracing the American Judiciary System – R.V. Scheide

- David Palmer, a Folsom resident who’s earned a national reputation as a judicial watchdog, lists Sacramento judge Peter McBrien in the “Criminals” chapter of his self-published *Judicial Misfits: A Factual Expose of an Industry Answerable Only to itself*. McBrien should consider himself lucky. Other chapter titles include “Child Molesters,” “Sadists” and “Miscellaneous Perverts.” Unfortunately, they’re aptly named, and as Palmer’s well-researched book demonstrates – with a healthy dose of sarcasm – virtually no crime short of homicide seems heinous enough to result in a judge’s removal from the bench.
- The wisecracking Korean War vet made sure to mail McBrien an autographed copy of the book. [See letter to McBrien that accompanied the book and follow-up letter below] Palmer’s own battle against the legal system began two decades ago, in Toledo, Ohio.
- “These are vindictive people,” Palmer growled. “McBrien will destroy you if he can.”
- Accompanying the story was a caricature of Palmer nipping at a judge pictured below.

Text Box 1A – August 8, 2008



Text Box 1B – August 21, 2008

Citizen vendetta – R.V. Scheide

- Like Thomas Worden (friend victim of Sacramento County Probate Court), Folsom resident David Palmer, a.k.a. the Judicial Watchdog, is a retired military officer with an Internet connection and plenty of time on his hands.
- Palmer, originally from Toledo, Ohio, developed a hard-on for judges and lawyers nearly 20 years ago, when a couple of unscrupulous attorneys ripped off his wife's insurance money after she'd been seriously injured in a car accident.
- **Palmer cut through the Ohio judiciary like a scythe** before focusing his efforts on illegal campaign expenditures and the misuse of public funds by member of the Texas Legislature, for which he was recently featured in a front-page story in the Houston Chronicle.
- He's already digging up dirt on the California Legislature, and expects to be announcing some significant misuses of public money soon. He calls his one-man wrecking crew The Committee to Expose Dishonest and Incompetent Judges, Attorneys and Public Officials.

Washington Post

Text Box 2 – June 30, 2002

Ohio Justices scrutinized over credit card use – 6-30-02

- Self-described government watchdog David Palmer thinks four Ohio Supreme Court justices have been using state credit cards to buy gas for their own vehicles.
- Chief Justice Thomas J. Moyer of Columbus, one of those Palmer has accused, says **Palmer is "an angry man"** who has misinterpreted the records in one of **his many quests to discredit public officials**.
- The records show Moyer once pumping 25.5 gallons of gasoline into a car with an 18.5 gallon tank.

Canton Repository

Text Box 3 – June 28, 2002

Justices cruise, citizens pay – Opinion

- Last week, Palmer filed he filed 28 theft-in-office charges v. 4 justices **[Moyer]**, saying they pumped more gas into state cars than the tanks could hold.
- How did he figure this out? He did something that a journalist should have done. He obtained public records of the justices' fuel purchases. .
- Moyer filled his Buick Park Avenue [Ultra - \$38,000 in 2001] with 25.5 gals of gas, even though it holds 18.5.
- Why do the justices get vehicles paid by taxpayers? Why are they driving Park Avenues/Cherokees? Why not a Honda Civic made in Marysville?
- The state's constitution says "judges shall receive no fees or perquisites [perks]." But court spokesperson [aka, paid lackey and enabler] Jay Wuebbold told the Dispatch, "**It seems to me a car is hardly a perk.**"
- **Excuse me? Fill 'er up.**

Columbus Dispatch

Text Box 5 – August 16, 2002

Man accused of impersonating lawyer

- **It was as if a notorious terrorist was on trial.** Osama bin Laden of Afghanistan? No, David Palmer of Powell.
- The self-proclaimed legal watchdog, who **has been the bane of the Ohio judiciary**, stood accused of impersonating a lawyer — for which actor Raymond Burr was celebrated for turning into an art form as Perry Mason.
- **Palmer said** he thought yesterday's hearing was a "**vindictive, punitive action** because of my activities in exposing judicial or attorney misconduct." **If you get justice it was not by design, it was by accident,**" he said. One man called him "Saint Palmer," and a woman explained to her daughter that she was witnessing a "kangaroo court."

Text Box 6 – May 11, 2001

David Palmer Hero or Threat?

- His detractors call him “a legal stalker.” His followers, mostly people with unfavorable court experiences, call him a hero. Palmer, 56, is seen as a threat by some members of the judiciary, with one visiting judge cursing [“Oh God, that son-of-a-bitch] his litigation, and the **wife of another** [Mrs. McQuade] **calling him dangerous.**” **“Everyone is scared of Palmer,”** she said.
- Palmer’s sharply worded complaints; sarcasm mixed with biting humor brusque personality/casual attire can be an affront to some lawyers and judges.
- The state Office of Disciplinary Counsel has filed a complaint against Palmer alleging that he has engaged in the unauthorized practice of law. When he gave a sworn statement on May 10, Palmer was asked what the J.D. stood for: “Jocular doctor,” he responded.
- He set up a makeshift law library in his basement, where he has 10 shelves of American Law Review books and Ohio jurisprudence and revised code. “This is where I do my legal stalking,” he joked during an interview last week.
- **A leading target is Chief Justice Thomas J. Moyer**, who appoints the retired judges who travel around the state as visiting judges.

Text Box 7 – October 1, 2002

Appellate judge will look into Spending by Justices

- Judicial watchdog David Palmer of Columbus won a **favorable order against the Ohio Supreme Court** last week.
- Magistrate Stephanie Bisca Brooks of the Franklin County Court of Appeals said she wants to review any records that show how much the justices [Moyer] claim as personal use of their state vehicles.
- Brooks said that there was **no evidence that Palmer made any false assertions, denying** the Supreme Court’s **motion that he be found guilty of contempt.**

Text Box 8 – August 25,2002

Judicial System is on vendetta against reformer.

- I write concerning the case of the Ohio Supreme Court vs. David Palmer, the persistent critic of the legal system portrayed in the Aug. 16 *Dispatch*.
- The lackey lawyer representing the exalted **court disclaimed any vendetta** against Palmer for publicly accusing allegedly double-billing judges of theft and for placing the judiciary in a very negative light. **That claim doesn't even pass the involuntary laugh test. Of course it's a vendetta.**
- Which brings us to the nub of this case, which has **everything to do with controlling speech** and protest activities of a man on a mission to reform a system resistant to reform.
- Palmer should probably consider sidestepping the charade before what one of his supporters referred to as a "Kangaroo Court" and instead **seek an injunction in a federal court against the Ohio Supreme Court for violating his civil liberties** in an obvious attempt to shut down what really amounts to nothing more than protest operation. – *David A. Sams, Esq.*

Text Box 9 – April 29, 2003

Watchdog airs complaints about two judge's rulings

- It's a bird! It's a plane! No—it's David Palmer.
- The self-proclaimed judicial watchdog from Columbus struck again Thursday, this time in the skies above Capitol Square. Palmer paid for **two planes to fly banners critical of Thomas J. Moyer**, Ohio's Chief justice...

Text Box 10 – November 6, 2001

California judge muzzles self-appointed watchdog

- In a permanent injunction filed last week, Orange County Superior Court Judge Francisco F. Firmat ordered a Web site sponsored by David Palmer of Powell "disassociated and disconnected from all Internet search engines, indexes and providers."
- According to the California Bar Journal, **Lais was suspended from practicing law for two years in December 2000**. He resigned his license in March with other charges pending against him in 8 separate cases.

Text Box 11 – June 6, 2001

Auditor asked to check how visiting judges are paid says

- ➡ David Palmer, the self-appointed judicial watchdog who was the first to allege double-billing, **wonders why it has taken the court [Moyer]** and the auditor's office [Jim Petro] **more than three years to respond** to his original complaints.

Text Box 12 – May 10, 2000

Moyer's promise of job unethical Resnick says

- ➡ The Huron County Democratic Party and David Palmer, a self-appointed court watchdog from Maumee in Lucas County, filed separate complaints against Moyer with Disciplinary Counsel Jonathan E. Coughlan.

Toledo Blade

Text Box 13 – June 15, 2004

3 justices seeking sanctions against judicial watchdog

- ➡ **Three Ohio Supreme Court justices [Moyer] tried to slap back** at self-appointed judicial watchdog David **Palmer** yesterday; **asking** the state Elections Commission to **sanction him with legal fees and costs** for his latest complaints against them.
- ➡ Palmer accused Moyer of improperly accepting campaign contributions from retired judges he appointed as visiting judges. The Board of Commissioners on Grievances previously dismissed a similar complaint, determining the judges, while appointed by the chief justice, are not employees of the Supreme Court.
- ➡ Donald Brey, Moyer attorney demanded that the commission sanction Palmer in an amount in excess of \$6,000 in attorney fees in claiming that the complaint was frivolous. The commission agreed to allow Palmer an opportunity to respond to Moyer's motion for sanction before it entered a ruling.

Text Box 14– August 13, 2001

It's broken, so fix it – Editorial + Cartoon

- The **Chief Justice of the Ohio Supreme Court can't blame his colleagues for this one**. The court's system of payment for visiting judges around the state is sloppy and shoddy and it invites abuse. Since the chief justice oversees the visiting judge program in Ohio, it's clear where the buck stops, and that the oversight is something less than 20-20.
- The **current situation cropped up thanks to David Palmer** of Powell, a disabled veteran and a one-man committee to expose "dishonest judges and incompetent attorneys."
- The **high court must tread softly on its vindictiveness toward Mr. Palmer**, who it is investigating for practicing law without a license, lest it find itself, in the public's eye, the persecutor of a whistleblower who may be right. **The billing system is broken, so fix it.**

Wapakoneta News - Editorial

Text Box 15– May 31, 2001

Palmer takes on Quixotic joust with Ohio judges – *Opinion*

- A retired U.S. Army court reporter has taken on a Don Quixote-like mission that requires no love of classic literature to enjoy — just some old fashioned pleasure in watching a little guy take on a big system. **This is no jousting at windmills** that Powell-based David Palmer is undertaking.
- "I'm going to keep doing this until I bring them to their knees," Palmer said, adding that his goal is to "get rid of every dishonest judge if I possibly can." Don't dismiss this man as a crank spitting in the wind. As a result of Palmer's work, three judges have reimbursed the state, and two others who have not yet been targeted by Palmer also have mailed in reimbursement checks.
- Explained one of these judges: "It wasn't anything intentional. I'm an honest guy. Meantime, I heard about this guy in the Columbus area and I wanted to avoid any difficulty with him."
- **Wow. This guy has the judicial system's attention** — and he's just begun. If only we could buy tickets for this show; everybody loves to watch somebody take on City Hall — or the halls of justice — and win.
- **Go, Mr. Palmer.**

The Other Paper - Columbus

Text Box 16– May 31, 2001

Watchdog goes Hollywood – Molly Willow

- Moyer may want to send a sympathy card and fruit basket to Ronald George, one chief justice to another, warning him what's coming his way Thanksgiving. That's around the time Palmer, the judicial watchdog who has been yapping at the heels of Ohio's top court for years, plans to leave Columbus for California.
- This is one man who isn't content just to be called "an angry man" with a "vendetta" by the chief justice of the Ohio Supreme Court. "I don't have to be here [Columbus] to do what I'm doing.
- "They'll hear from me," Palmer said. "They won't maybe see me in person – I know that might be depressing to them. I'm more than happy to send them updated photos."

Text Box 17– May 27, 2001

Moyer: 'Dispatch' is Palmer's mouthpiece – Molly Willow

- "I think **with him nothing would surprise us,**" Moyer said of Palmer.
- "Jon Craig is nobody's mouthpiece," Marrison [Editor] said. "He's a straight-shooting reporter."
- Moyer said Tuesday that Palmer's **allegations were "ludicrous."**

Cleveland Plain Dealer

Text Box 18– May 31, 2001

Men bite watchdog – Editorial

- The man who founded the Committee to Expose Dishonest/Incompetent Attorneys/Judges considers himself a judicial watchdog. But some Ohio Judges, including Chief Justice Thomas **Moyer, are feeling hounded.**
- In that case, they should **ensure that the watchdog has nothing to sink his teeth into.**
- Three years ago, David Palmer, whose own unhappy experience with lawyers and judges years ago spawned the committee, informed the court that some visiting judges had billed counties to which Moyer assigned them as much as \$50,000 total for days they did not work or expenses they did not incur.
- Petro also will review the court's guidelines for assigning visiting judges, and presumably clarify the guidelines for billing their pay and expenses.
- **If Palmer feels vindicated, he's entitled. But the hounded are hounding back.** A formal complaint has been made that he is practicing law without a license by "offering free legal advice" on his Web site.
- **Beware the watchdog catchers.**

Cleveland Scene

Text Box 19– May 20, 2004

In contempt – Opinion

- David Palmer has been dogging guys in robes for years. Now Palmer's now gunning for Chief Justice Moyer. In February, he accused Moyer of illegally accepting \$2,000 last year from the U.S. State Department [as compensation/wages], which sent him to South America as part of an education program. In his complaint, Palmer scolds: "One would have thought that Moyer would have been satisfied with the \$530 per day in wages he received from Ohio taxpayers while he was vacationing in Argentina and Chile."
- Moyer claims the \$2,000 was to offset travel expenses. But Palmer notes that Moyer's 2003 financial disclosure statement included more than \$6,500 in travel expenses from the State Department, "which means he 'pocketed' the entire \$2,000 in unlawful compensation."
- **So now he's accusing Moyer of "dishonesty, fraud, deceit, misrepresentation, and conduct involving moral turpitude"** (which, for those of you who don't speak lawyer, means **"lying piece of shit."**)

Akron Beacon Journal

Text Box 20– May 5, 2000

Toledo Retiree Files Ethics Grievance Against Thomas Moyer

- The high-stakes game of capturing control of the Ohio Supreme Court has landed the state's **chief justice in hot water**. David Palmer has filed an ethics grievance against Chief Justice Thomas Moyer for publicly supporting the opponent of Justice Alice Robie Resnick – a possible violation of the judicial canon, or code of ethics.
- Last week, Moyer said he was unaware of reporters in the audience at the Republican event and suggested that he would have spoken differently. (Isn't that special?) He [Moyer] differentiated between a public and private meeting. Palmer said it makes no difference when it was said – a justice isn't supposed to endorse a candidate at any time. "That's akin to saying, 'I wouldn't have shoplifted if I knew there was a camera there.'"

Columbus Monthly Magazine

Text Box 21– May 2002

The transformation of David Palmer

- David Palmer is a happy guy. Once a lonely voice in the wilderness, he now has a core group of devoted followers. **“My intent is to make the system accessible to everybody regardless of who they are,”** says Palmer.
- In late December [2001] he beat a complaint he had been impersonating an attorney. In March [2002], Ohio Chief Justice Thomas **Moyer, a frequent foe**, changed how the state pays for visiting judges after Palmer complained about the old system for years.
- His supporters liken him to a brave knight, while his enemies call him a stalker. **“Mr. Palmer is no heroic whistle-blower,”** says Richard McQuade.

Text Box 22– April 2008

Where are they now?

- Fame—or its cousin, infamy—is a three act play. The hero or villain toils in obscurity, then burst onto the scene. A conversation begins with “Do you remember” or “What happened to...” After all, once they leave the spotlight, ex-celebrities continue to work, dream, cook up crazy schemes. That’s where we step in. We tracked down some formerly famous folks—including eight people who had appeared on the cover of Columbus Monthly—to find out how their third acts are going. Enjoy the show.
- He filed criminal charges against dozens of judges, **bad-mouthed his arch nemesis, Ohio Chief Justice Tom Moyer**, on his website and attracted lots of media attention including the Washington Post and Wall Street Journal.
- But **don’t think California has mellowed Palmer**. He remains a committed crusader, continues to gather reams of documents from the Ohio Supreme Court via public records requests and released in January a self-published judicial expose called *Judicial Misfits* (available on Amazon.com), which he dedicated facetiously to Moyer.

Toledo City Paper

Text Box 23– June 11, 2000

Legal troubles in Mongolia?

- Picture this: You're sitting at your PC in Mongolia, and you want to an Internet search on judicial or legal ethics. So you type in the key words "dishonest judge" on Yahoo or any of two dozen search engines worldwide. The first match you get back is the Web site created by Palmer. The site is No. 1 on every search engine in the country and 14 foreign ones. Palmer's site has made him an Internet celebrity with a world-wide reputation.
- During one week in April, uses in Ulaanbataar, Mongolia (at the Legal Retraining Center), and Jakarta, Indonesia, signed on as members of Palmer's virtual committee. The association has members in "Egypt, Israel, Pakistan, Australia," and every province in Canada.
- His worldwide admirers are attracted to his site for **far more than just updates of Palmer's well-publicized ongoing feud with Chief Justice Moyer**. Palmer is the worst nightmare of an incompetent lawyer or judge.

La Prensa – Toledo

Text Box 24– June 2001

More Local Judges Charged with Theft-in-Office

- Three Toledo-area retired visiting judges – Stephen Yarbrough and June Rose Galvin of Lucas County and **Richard B. McQuade, Jr.** have had felony theft-in-office charges filed against them by David Palmer. Two Franklin County judges **found probably cause** to hear the complaints. Evidentiary hearings are to beheld May 24 and May 30 in Columbus.
- The complaints allege the judge's double-billed taxpayers by seeking and accepting reimbursement for working in two counties on the same day. Palmer said he first brought examples of double billing to Moyer's attention in 1997 but was ignored.
- The complaints allege McQuade filed false Financial Disclosure Statements wherein he lied he never received any meal/travel expense monies from any government agency '99/'20. "That is patently false," said Palmer, "because I've been reporting on his theft of meal expenses from Lucas County since 1997."

EXHIBIT “8”

Misfeasance – Corruption involving Ohio Supreme Court

- Use of state cars/fuel for partisan campaigns – authorized by Moyer
- Moyer’s purchase Michelin tires for his \$40,000 2001 Buick Park Avenue four (4) days after it was delivered (only 224 miles on Buick)
- Moyer’s unlawful acceptance of \$2,000 in wages from U.S State Dept.
- Appellate judge billing state for lodging and rental car to drive from Seattle to Vancouver, British Columbia with his wife in tow
- Moyer authorizing Court Administrator Hollon’s use of state car/fuel to drive to North Dakota on a family vacation with wife and kids in tow
- Appellate judge billing state to drive to conference in Boston with his wife, with stopovers for repeated shopping at Sax Fifth Avenue, etc.
- Judges billing for meals at conferences when meals were part of conference fee
- Moyer backdating assignment of visiting judge assignments to nix appellate review in a criminal case
- Moyer’s use of public funds to pay for spouse’s trips to exotic venues
- Moyer’s use of state employee on state time as a chauffeur while engaging in campaign re-election activities
- Moyer illegally transporting spouse in state car
- Justice O’Donnell billing Cuyahoga County (Cleveland) for meal and mileage expenses, which are illegal under Ohio law for a visiting judge who resides in the county (O’Donnell resided in Cuyahoga County)
- Moyer ordering destruction of public records to avoid further
- Justice O’Donnell’s use of state car/fuel for campaign purposes

Corruption involving Visiting Retired Judge Scheme

- Billing state for booze and/or to dine with their paramours
- Billing 8-hrs for receipt of attorney call while vacationing in Naples
- Billing 8-hours to preside over a 5 minute hearing
- Billing same county for two full 8 hour days for attending 2 hearings in the same courthouse on the same day
- Billing County for lunch even though arrived home before 10:00 AM
- Hundreds of billings at \$4 for parking expenses never incurred
- Repeatedly billing \$20 - \$15 for lunches in downtown Toledo 1982 to 2002
- Billing Franklin County 8 hours for appearing as a fact witness in a case having nothing to do with Franklin County Common Pleas
- Billing 2 full days while attending seminar in Aspen, Colorado
- Billing 250 consecutive 8.0 hour days
- Billing 8.0 hours on Christmas Day – McQuade
- Billing 8.0 hours on New Years Eve, 4th of July, Labor Day, Memorial Day
- Billing for cases that were dismissed and no longer active
- Billing to attend hearing the judge cancelled

Pro Se Fees Awarded to Pheils/Crandall by McQuade

- 85 hrs (\$20,000) prepare 3-page generic/boilerplate answer/counterclaim
- 4.5 hrs (\$1152) for attending hearing in Ohio when travel bills submitted to other court proved Pheils was in San Francisco attending a “penile transplant seminar”
- 6.0 hrs (1440) for not attending hearings (Pheils)
- 14.0 hrs (\$1540) to prepare a 1 page generic counterclaim
- 3.5 hrs (\$735) to attend hearing when in fact Crandall was at a hearing involving his personal divorce case
- \$550 in fees for responding to ethics grievances

In addition, on Dec. 16, 1997, McQuade awarded Pheils and Crandall \$11,212 in claimed litigation costs, which they collected on the 19th, which he absolutely knew were false and fabricated. In fact, court records in cases involving McQuade proves this to be the case. Moreover, he awarded the sham costs on the same day that Pheils submitted it to him, thereby denying the attorney representing Plaintiff’s wife her due process rights to respond. Of course this was not by accident, but was just another example of McQuade abusing his power to punish Plaintiff and/or his wife.

Pro Se Fees Awarded to Pheils/Crandall by Kelbley

- 5.0 hrs (\$650) testify in Michigan in case having nothing to with Ohio case
- 10 hrs (\$1500) for roundtrip from Toledo to Akron even though it is but 133 miles one way and only takes about 2 hrs + 15 minutes one way
- 1.0 hrs (\$150) to prepare an affidavit in a case not involving Plaintiff
- 8.5 hrs (\$1190) for responding to ethics grievances
- \$38,000 for time spent dealing with Mrs. Palmer’s bankruptcy case even though it had nothing to do with case before Kelbley
- \$3700 for time Pheils spent pursuing a defamation claim v. Plaintiff

Pheils’ dishonesty knows no bounds. In one instance he billed 17.4 hours to prepare five (5) drafts of a generic reply motion and demanded fees of \$2625. This reply could have been done in an hour or less by a first year law student and Kelbley knew it.
