

CASE NO. 13LF-CV00461

William M. Windsor	§	IN THE CIRCUIT COURT
	§	
Plaintiff,	§	
	§	
v.	§	
	§	15th JUDICIAL CIRCUIT
Allie Loraine Yager Overstreet,	§	
Mark Supanich, Brenda Williamson	§	
And John Does 1-1000,	§	
	§	
Defendants	§	LAFAYETTE COUNTY, MISSOURI

**PLAINTIFF’S RESPONSE TO MOTION TO DISMISS WITH PREJUDICE**

**BY DEFENDANT ALLIE L. OVERSTREET**

Comes Now, William M. Windsor (“WINDSOR” or “PLAINTIFF”) and files this PLAINTIFF’S RESPONSE TO MOTION TO DISMISS WITH PREJUDICE BY DEFENDANT ALLIE LORAIN YAGER OVERSTREET.

PLAINTIFF shows the Court as follows:

1. On July 15, 2013, DEFENDANT ALLIE LORAIN YAGER OVERSTREET (“OVERSTREET”) filed a MOTION TO DISMISS WITH PREJUDICE.

2. On April 29, 2013, the Clerk of the Court docketed PLAINTIFF'S VERIFIED COMPLAINT.

3. On May 29, 2013, an attorney acting for OVERSTREET filed an ANSWER TO THE VERIFIED COMPLAINT, as shown on the Court's Docket.

4. By filing an ANSWER 30 days after the VERIFIED COMPLAINT was filed but not filing a MOTION TO DISMISS until 78 days after the VERIFIED COMPLAINT was filed, OVERSTREET lost the right to seek a dismissal. "...a motion to dismiss is made before the filing of an answer..." (*In re Marriage of Busch*, 310 S.W.3d 253 (Mo.App. E.D. 04/27/2010).) Rule 55.27 provides that the filing of a motion to dismiss is to be before filing an answer. (*State of Missouri v. Bonacker*, 791 S.W.2d 494, (June 20, 1990).) Rule 55.27 says: "a motion making any of these defenses shall be made: (A) Within the time allowed for responding to the opposing party's pleading...." 30 days was the time allowed, and 78 days was too late.

5. The PLAINTIFF did forget to send the letter from the federal judge when he sent the VERIFIED COMPLAINT for filing. The PLAINTIFF had set it aside, not knowing how it should be provided, since the Rules were clear about what was to be filed. When the PLAINTIFF realized that he had failed to put it in the envelope that was sent to the Clerk of the Court, he sent it to the Clerk of the

Court and served it on each party by mail. OVERSTREET absolutely was sent a copy.

6. The mistake was discovered when the PLAINTIFF learned that OVERSTREET had been served by the Sheriff. The PLAINTIFF then immediately sent it to the Clerk and to the Defendants. This oversight should not be grounds to dismiss this action at all. It has not affected this matter in any way.

7. Counsel for OVERSTREET has again presented a lie to this Court in claiming OVERSTREET was not provided with a copy. That is a LIE.

8. The PLAINTIFF also takes the position that the order from the United States District Court for the Northern District of Georgia is void. Void orders have no effect. In this case, the void order was issued by a judge who did not have jurisdiction. The order is not signed, and it was not stamped and signed by the clerk of the court as required by federal law. The case was illegally removed from the Fulton County Georgia court to the federal court, so the federal court never obtained proper jurisdiction and failed to rule on WINDSOR's motions in that regard. The case was on appeal, so the judge had lost all jurisdiction on matters such as this. The judge, Judge Thomas W. Thrash ("TWT"), was a defendant in the actions filed by WINDSOR, and he had no authority to serve as judge when WINDSOR filed a proper motion to have a judge from another district assigned the

case. It is well-established that a judge may not rule on civil actions that involve him. WINDSOR was denied the right to answer the motion filed by the U.S. Attorney. WINDSOR was denied the right to submit documents into evidence. WINDSOR was denied the ability to testify. And there was absolutely no testimony at the short hearing or by affidavit from any of the Defendants in the civil action that WINDSOR had filed. WINDSOR asked TWT at the start of the short hearing whether he had already written an order deciding the motion before hearing a word from him. TWT got red-faced and refused to answer. At the conclusion of the short hearing, he turned to his left and read the order that he had already written. In anticipation, WINDSOR and several of his courtroom observers went straight to the Clerk's Office where WINDSOR FILED an appeal. It was date stamped, and there are witnesses as to the time in addition to WINDSOR. The Clerk of the Federal District Court then falsified the docket by failing to show WINDSOR's appeal filed until after the court order appeared for filing several hours later. And last but not least, the United States Court of Appeals for the Eleventh Circuit outrageously did not allow WINDSOR to file his appeal brief. Windsor had sued every federal judge in Georgia for blatant corruption. Those judges were intent on doing whatever it took to stop WINDSOR. In a related matter, WINDSOR presented criminal charges against

several of the judges to a Fulton County Georgia Grand Jury. His testimony was split over two days with a weekend in between. When WINDSOR returned to continue his testimony, he was met by three Fulton County Sheriff's Deputies and the Chief Investigator for the Fulton County District Attorney (one of those WINDSOR was charging), and he was ordered out of the public courthouse and given a criminal trespass warning that he would be arrested if he ever returned. Law enforcement and the courts then failed to do anything to correct this crime that WINDSOR believes has a sentence of 10 years in prison.

9. TWT's orders were, and are, **void**. The U.S. Supreme Court has stated that if a court is "without authority, its judgments and orders are regarded as nullities. They are not voidable, but simply void; and form no bar to a recovery sought, even prior to a reversal in opposition to them. They constitute no justification; and all persons concerned in executing such judgments or sentences, are considered, in law, as trespassers." (*Elliot v. Piersol*, 1 Pet. 328, 340, 26 U.S. 328, 340 (1828).)

10. Fraud was committed in the removal of the case from the Fulton County Superior Court. This fraud means TWT did not have jurisdiction. TWT committed fraud upon the court as had the U.S. Attorney. This means TWT did not have subject matter jurisdiction. TWT did not follow mandatory statutory

procedures. This means this Court did not have subject matter jurisdiction. TWT committed unlawful acts. This means TWT did not have subject matter jurisdiction. TWT violated due process. This means TWT did not have subject matter jurisdiction. TWT is part of a criminal racketeering enterprise. This means TWT did not have subject matter jurisdiction. TWT did not comply with the rules, the Code of Judicial Conduct, or the Federal Rules of Civil Procedure. This means TWT did not have subject matter jurisdiction.

11. Upon information and belief, TWT did not have a copy of his oath of office in his chambers. This means TWT did not have subject matter jurisdiction.

12. It is clear and well established law that a judge must first determine whether the judge has jurisdiction before hearing and ruling in any case. TWT failed to do so, and his so-called orders are void. (*Adams v. State*, No. 1:07-cv-2924-WSD-CCH (N.D.Ga. 03/05/2008).) (*See Steel Co. v. Citizens for a Better Env't*, 523 U.S. 83, 94 (1998); see also *University of S. Ala. v. The Am. Tobacco Co.*, 168 F.3d 405, 410 (11th Cir. 1999) ("[O]nce a federal court determines that it is without subject matter jurisdiction, the court is powerless to continue.").) (*Jean Dean v. Wells Fargo Home Mortgage*, No. 2:10-cv-564-FtM-29SPC (M.D.Fla. 04/21/2011).) (*Taylor v. Appleton*, 30 F.3d 1365, 1366 (11th Cir. 1994).)

13. TWT demonstrated pervasive bias, and he lost jurisdiction when he failed to recuse himself. A study of pro se cases that TWT has handled reveals that TWT has a proven overwhelming bias against pro se plaintiffs. TWT has an “extra-judicial” bias against pro se parties. According to Windsor’s review of every case TWT has handled in his career using [www.versuslaw.com](http://www.versuslaw.com), no pro se plaintiff has ever won in TWT’s court; 90% of pro se cases are dismissed, and 10% are defeated at summary judgment; no pro se plaintiff has ever received a jury trial

14. Failure to follow the mandatory requirements of the law is a further evidence of the appearance of partiality of TWT. This required recusal.

**“Disqualification is required** if an objective observer would entertain reasonable questions about the judges impartiality. If a judge's attitude or state of mind leads a detached observer to conclude that a fair and impartial hearing is unlikely, the judge **must be disqualified.**” (*Liteky v. U.S.*, 114 S.Ct. 1147 (1994).)

*Rankin v. Howard* (1980) 633 F.2d 844, cert den. *Zeller v. Rankin*, 101 S.Ct. 2020, 451 U.S. 939, 68 L.Ed 2d 326. When a judge knows that he lacks jurisdiction, or acts face of clearly statutes valid statutes expressly depriving him of jurisdiction, judicial immunity is lost.

"When there is no jurisdiction, there can be no discretion, for discretion is incident to jurisdiction." *Piper v. Pearson*, 2 Gray 120, cited in *Bradley v. Fisher*, 13 Wall 335, 20 L. Ed. 646 (1872).

15. TWT has committed treason.

Whenever a judge acts where he/she does not have jurisdiction to act, the judge is engaged in an act or acts of treason. *U.S. v. Will*, 449 U.S. 200, 216,

101 S.Ct. 471, 66 L.Ed.2d 392, 406 (1980); *Cohens v. Virginia*, 19 U.S. (6 Wheat) 264, 404, 5 L.Ed 257 (1821).

16. Amendment V of the U.S. Constitution provides: “No person shall be...deprived of life, liberty, or property, without due process of law...” Article 1 of the Georgia Constitution provides: “No person shall be deprived of life, liberty, or property except by due process of law.” All of these rights have been violated. TWT has improperly foreclosed Windsor’s access to the court. TWT issued an injunction without giving Windsor the opportunity to be heard at a hearing. Procedural due process requires notice and an opportunity to be heard before any governmental deprivation of a property or liberty interest. (*Zipperer v. City of Fort Myers*, 41 F.3d 619, 623 (11th Cir. 1995).)

17. Meaningful access to the courts is a Constitutional right that has been denied by TWT, and this alleged order denies significant rights.

(See *Procup v. Strickland*, 792 F.2d 1069, 1072 (11th Cir. 1986) (per curiam) (en banc); *Christopher v. Harbury*, 536 U.S. 403, 415 & n.12, 122 S.Ct. 2179, 2187 & n.12, 153 L.Ed.2d 413 (2002).)

18. There was no Show Cause order issued to Windsor as required by Eleventh Circuit law. Windsor did not have proper notice.

Upon these findings and **consistent with Eleventh Circuit law, this Court required Plaintiff to show cause within ten days... why a Martin-Trigona injunction should not be entered.** (See *Procup v. Strickland*, 792 F.2d 1069 (11th Cir. 1986); *Torres v. McCoun*, No. 8:08-cv-1605-T-33MSS



(M.D.Fla. 09/10/2008); *Western Water Management, Inc. v. Brown*, 40 F.3d 105, 109 (5th Cir. 1994).) [**emphasis added.**]

19. Every judge or government attorney takes an oath to support the U.S. Constitution. Whenever any judge violates the Constitution in the course of performing his/her duties, as TWT has, then he has defrauded not only the Plaintiff involved, but has also the government. TWT is paid to support the U.S. Constitution. By not supporting the Constitution, TWT is collecting monies for work not performed.

20. The orders issued by TWT are invalid. Orders have not been signed, issued under seal, or signed by the Clerk of the Court in violation of 28 U.S.C. 1691.

The word “process” at 28 U.S.C. 1691 means a court order. See *Middleton Paper Co. v. Rock River Paper Co.*, 19 F. 252 (C.C. W.D. Wisconsin 1884); *Taylor v. U.S.*, 45 F. 531 (C.C. E.D. Tennessee 1891); *U.S. v. Murphy*, 82 F. 893 (DCUS Delaware 1897); *Leas & McVitty v. Merriman*, 132 F. 510 (C.C. W.D. Virginia 1904); *U.S. v. Sharrock*, 276 F. 30 (DCUS Montana 1921); *In re Simon*, 297 F. 942, 34 ALR 1404 (2<sup>nd</sup> Cir. 1924); *Scanbe Mfg. Co. v. Tryon*, 400 F.2d 598 (9<sup>th</sup> Cir. 1968); and *Miles v. Gussin*, 104 B.R. 553 (Bankruptcy D.C. 1989).

21. This is a case of the most overt bias imaginable. TWT has made absolutely false statements in his orders and has announced that he has reached a decision in the case without having any facts before him except Windsor’s.

22. The case was on appeal, and TWT had no jurisdiction to act at all. In the words of defendant Judge William S. Duffey:

("[A] federal district court and a federal court of appeals should not attempt to assert jurisdiction over a case simultaneously. The filing of a notice of appeal is an event of jurisdictional significance--it confers jurisdiction on the court of appeals and divests the district court of its control over those aspects of the case involved in the appeal."). (*Bryant v. Jones*, No. 1:04-cv-2462-WSD (N.D.Ga. 01/10/2007).)

23. Windsor has many orders from the United States Court of Appeals for the Eleventh Circuit that provide that the civil action had been stayed and hundreds from federal courts everywhere. See *Mahone v. Ray*, 326 F.3d 1176, 1179 (11th Cir. 2003) and hundreds of others.

24. The PLAINTIFF contends that the alleged order issued by TWT is absolutely void. As a result, the PLAINTIFF was under no obligation to do anything in regard to the alleged order.

25. WHEREFORE, PLAINTIFF prays that this Court enter an order denying the MOTION TO DISMISS WITH PREJUDICE BY DEFENDANT ALLIE LORAIN YAGER OVERSTREET; and grant such other relief as the Court deems appropriate.

Submitted this 30th day of July, 2013,

*William M. Windsor*

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	§	
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CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing by delivering a copy

by email to:

**Allie Overstreet** – 1208 N Main, Higginsville, Missouri 64037,  
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**Brenda Williamson** -- 210 Chestnut – Apartment A, Belton, MO 64012 --  
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Submitted this 30th day of July, 2013,



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