

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 DEFENDANT MARK SUPANICH'S
MOTION FOR THIS COURT TO TAKE JUDICIAL NOTICE**

Comes Now, William M. Windsor ("Windsor" or "Plaintiff") and files this PLAINTIFF'S RESPONSE TO DEFENDANT MARK SUPANICH'S MOTION FOR THIS COURT TO TAKE JUDICIAL NOTICE. PLAINTIFF shows the Court as follows:

1. In DEFENDANT MARK SUPANICH'S MOTION FOR THIS COURT TO TAKE JUDICIAL NOTICE, DEFENDANT SUPANICH presents matters outside the pleadings. This should cause DEFENDANT MARK SUPANICH'S MOTION TO DISMISS to be denied.

A motion to dismiss must be based solely on matters contained in the pleading at issue. If matters outside the pleading are presented, it must be considered to be a motion for summary judgment. "...any oral or written evidence not already "in the record" — public or court, physically or by reference — is regarded as "extrinsic" and will spur a conversion." (See *Bryant v. Avado Brands, Inc.*, 187 F.3d 1271, 1278 (11th Cir. 1999).)

2. When matters outside the pleadings are presented with a motion to dismiss, the court must notify the parties that it intends to treat the motion as one for summary judgment. (*Counts v. Morrison-Knudsen, Inc.*, 663 S.W.2d 357, 363 (Mo. App. 1983); *Lee v. Osage Ridge Winery*, 727 S.W.2d 218, 224 (Mo.App. 1987).) Under Rule 55.27 (b), "on a motion for judgment on the pleadings, matters outside the pleadings are presented to and not excluded by the court, the motion shall be treated as one for summary judgment and disposed of as provided in Rule 74.04, and all parties shall be given reasonable opportunity to present all materials made pertinent to such a motion by Rule 74.04."

3. At 5:00 am on July 9, 2013, the PLAINTIFF filed PLAINTIFF'S MOTION TO CONVERT DEFENDANT MARK SUPANICH'S MOTION TO DISMISS TO A MOTION FOR SUMMARY JUDGMENT, referenced and incorporated herein as if attached hereto.

4. When the trial court converts a matter into a motion for summary judgment, the court must place the parties on notice, and the parties must comply

with the procedural requirements of Rule 74.04. (*Mitchell v. McEvoy*, 237 S.W.3d 257, 259 (Mo. App. E.D. 2007).)

**DEFENDANT MARK SUPANICH'S MOTION FOR THIS COURT
TO TAKE JUDICIAL NOTICE PRESENTS NO AUTHORITY OTHER
THAN AN INAPPLICABLE FEDERAL RULE,
SO THE MOTION MUST BE DISMISSED.**

5. DEFENDANT MARK SUPANICH'S MOTION FOR THIS COURT TO TAKE JUDICIAL NOTICE is wholly inadequate. It says it is about judicial notice, but it cites only a federal statute regarding the federal All Writs Act. This is a state court, and federal rules do not apply here.

6. DEFENDANT MARK SUPANICH'S MOTION FOR THIS COURT TO TAKE JUDICIAL NOTICE fails to cite any statutes that would provide authority for such a motion, nor does he cite any case law to support this so-called MOTION. This MOTION must be denied.

7. DEFENDANT MARK SUPANICH'S MOTION FOR THIS COURT TO TAKE JUDICIAL NOTICE makes outlandish comments about the PLAINTIFF that are absolutely false, and he attempts to get this Court to take

judicial notice of two orders that are absolutely false as the record in those courts will prove to any honest judge or jury.

JUDICIAL NOTICE DOES NOT APPLY TO
THE EXHIBITS ATTACHED BY DEFENDANT SUPANICH,
AND THIS MOTION MUST BE DENIED.

8. According to the PLAINTIFF's research, Judicial Notice is a rule in the law of evidence that allows a fact to be introduced into evidence if the truth of that fact is so notorious or well known, or so authoritatively attested, that it cannot reasonably be doubted. This is done upon the request of the party seeking to rely on the fact at issue. Facts and materials admitted under judicial notice are accepted without being formally introduced by a witness or other rule of evidence, and they are even admitted if one party wishes to lead evidence to the contrary. Judicial notice does not, therefore, apply to fraudulent orders issued in federal court in Georgia that have no relevance whatsoever to the instant action.

9. Judicial notice is frequently used for the simplest, most obvious common sense facts, such as which day of the week corresponded to a particular calendar date. However, it could even be used within one state to notice a law of

another state--such as one which provides average baselines for motor vehicle stopping distances.

Courts are bound to take judicial notice of matters of common knowledge. *Spoeneman v. Uhri*, 332 Mo. 821 (1933)

10. Judicial Notice is the act by which a court, in conducting a trial, or framing its decision, will, of its own motion, and without the production of evidence, recognize the existence and truth of certain facts, having a bearing on the controversy, which, from their nature, are not properly the subject of testimony, or which are universally regarded as established by common notoriety. (*Black's Law Dictionary*). Items falling into this category may include laws of the state, historical events, the course of nature, geographical features and other items of common knowledge.

"Judicial notice" is that mode of ascertainment by judicial authority of matters of universal knowledge without having such matters established by evidence in individual case. *Murray v. Donlan*, 433 N.Y.S.2d 184 (1980). In a broad sense, the term "judicial notice" is used to denote both judicial knowledge (which courts possess) and common knowledge (which informed individuals, including jurors, possess); and matters of common knowledge may be declared applicable to case without proof. *Bone v. General Motors Corp.*, 322 S.W.2d 916 (Mo., 1959).

11. Because some facts material to litigation are matters of common knowledge, they need not be proven by the presentation of evidence. Judicial notice is a manner of dispensing with formal proof because the fact is known to the

trier of fact as being a matter of general knowledge. Its purpose is to place facts not capable of contradiction before the Court without the necessity of going through formal proof which would result in time-consuming inconvenience. The court's time is valuable, and important, and there is no need to "re-invent the wheel" as they say. This is the court system's way of staving off such redundancy.

12. Judicial notice takes the place of proof, and is of equal force, and as a means of establishing facts it is superior to evidence, as it stands for proof, and is of equal force, and as a means of establishing facts it is superior to evidence, as it stands for proof, and fulfills the object which evidence is designed to fulfill, and makes evidence unnecessary. *Beardsley v. Irving*, 81 Conn. 489 (1909). It is a judicial short cut, a doing away, in the case of evidence, with the formal necessity for evidence, because there is no real necessity for it. *Varcoe v. Lee*, 180 Cal. 338 (1919).

Courts are bound to take judicial notice of such matters of common knowledge and science as are or may be known to all men of ordinary understanding and intelligence. *Eureka Vinegar Co. v. Gazette Printing Co.*, 35 F. 570 (1888); *People v. Snyder* 41 N.Y. 397 (1868); *Walsh v. Oregon Ry. & Nav. Co.*, 10 Or. 250 (1882); *Smith v. Townsend*, Dall. Dig. 569 (Tex., 1844).

13. Courts have taken judicial notice of the following; matters of common knowledge, natural facts, scientific facts, historical facts, laws of nature,

geographical facts, language, words, phrases and abbreviations. Courts will take judicial notice of the prominent geographical features of the country. *Bittle v. Stuart*, 34 Ark. 224 (1879); the navigability of streams. *Neaderhouser v. State*, 28 Ind. 257 (1867); and matters of public history *Payne v. Treadwell*, 16 Cal. 220 (1860).

14. Specific examples are such as the court judicially knowing that "10/9/20" is an abbreviation in common use, and indicates October 9, 1920, *Cochran v. State*, 206 Ala. 74 (1921), that it is common knowledge that few people remember dates with exactness. *McLaughlin v. Rawn*, 41 N.E.2d 869 (Ohio, 1942) and that town records are often lost. *People ex rel. Minard v. Donovan*, 240 N.Y.S. 766 (1930).

15. The only statute on "Judicial Notice" that the PLAINTIFF can find in Missouri is in the Rules of Evidence. Judicial notice to be taken. "490.080. Every court of this state shall take judicial notice of the common law and statutes of every state, territory and other jurisdiction of the United States."

16. This Court should not take judicial notice of two orders from corrupt federal courts in Georgia that have no application whatsoever to this matter. There is absolutely no justification or statute for this.

**SHOULD THIS COURT EVEN CONSIDER TAKING JUDICIAL NOTICE
OF THESE ORDERS, THE PLAINTIFF MUST BE HEARD,
AND A HEARING WILL TAKE SEVERAL DAYS.**

17. Should the Court even consider taking judicial notice of these orders, the PLAINTIFF must be heard on this. (*Willis v. Willis*, 50 S.W.3d 378 (Mo.App. W.D. 07/24/2001).) PLAINTIFF advises the Court that a hearing on this will be lengthy with a massive number of exhibits. The PLAINTIFF will show that he is not litigious, is not vexatious, and has never filed a frivolous motion in his life. The PLAINTIFF will show that the federal courts in Georgia are corrupt and that the judges who issued such orders were defendants in an action filed by Windsor. The PLAINTIFF will also show that he testified before the Fulton County Georgia Grand Jury on this issue, and when he returned at the Grand Jury's request to continue his testimony, he was met by three Fulton County Sheriff's Deputies and the Chief Investigator for the District Attorney (one of the people the PLAINTIFF was seeking to have indicted, and he was removed from the courthouse, denied the opportunity to continue his testimony, and given a Criminal Trespass Warning that said he would be arrested if he returned to the public courthouse. None of this has anything to do with the VERIFIED COMPLAINT in 13LF-CV00461, but the

PLAINTIFF would be pleased to present the evidence if this Court wants to see it for some reason. The evidence is in a storage facility in Georgia, so the PLAINTIFF will need some time to go to Georgia to retrieve it. The earliest the PLAINTIFF can do this is mid-August.

18. If the Court wants to take judicial notice of matters that may be relevant to the VERIFIED COMPLAINT, the PLAINTIFF could ask this Court to take judicial notice that DEFENDANT SUPANICH kidnapped his daughter and was featured on the America's Most Wanted TV show and that DEFENDANT ALLIE OVERSTREET has made outlandish claims about sexual abuse of their daughter by the biological father of the child, and the biological father has custody with undoubtedly many juicy court orders and transcripts.

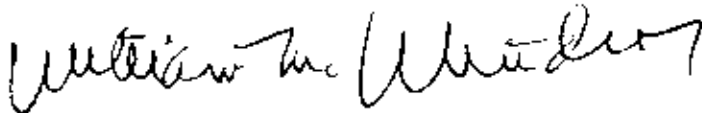
19. The PLAINTIFF does agree that this Court should take judicial notice of 13LF-CV00289, and the PLAINTIFF will file a proper MOTION FOR JUDICIAL NOTICE in this regard. However, DEFENDANT SUPANICH falsely claims that "Windsor filed many motions in that case which were denied." The DOCKET will show that the PLAINTIFF filed a Motion for Continuance that was granted, a Motion for Discovery that was granted (but the order did not reach the PLAINTIFF until several days after he was to act), a Motion for Jury Trial that was denied, a Motion for Recording in the Courtroom that was denied, a Motion for a

Court Reporter that was granted, a Motion for Reconsideration of the Motion for Discovery (since the PLAINTIFF was mailed the order in Georgia, and it did not reach him until it was too late for him to file the discovery notices) which was denied, a second Motion for Continuance (to provide time for the discovery) that was denied, and a Motion to Cancel the Order of Protection which was denied prior to the hearing and then granted during the hearing. The PLAINTIFF did withdraw his Application for a Protective Order when Judge Frerking made it clear that he would not grant it since the PLAINTIFF had only one police complaint when the Court required two. According to the PLAINTIFF's count, he battled .500 with Judge Frerking. The PLAINTIFF believes that if Judge Frerking had understood that the Clerk did not get the discovery order to him until after the date he was to act, he would have granted the two motions that were denied on that issue. That means the only motion that would have been denied was a request to record in the courtroom.

20. DEFENDANT SUPANICH seems to indicate that the Court took judicial notice of something in 13LF-CV00289, but the Court did not, as the DOCKET shows. The PLAINTIFF was never even served with whatever that may have been. The Docket in 13LF-CV00289 is referenced and incorporated herein as if attached hereto.

21. WHEREFORE, PLAINTIFF prays that this Court enter an order denying DEFENDANT MARK SUPANICH'S MOTION FOR THIS COURT TO TAKE JUDICIAL NOTICE; and grant such other relief as the Court deems appropriate.

Submitted this 10th day of July, 2013,



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	§	
Defendants	§	LAFAYETTE COUNTY, MISSOURI

CERTIFICATE OF SERVICE

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

by email to:

Allie Loraine Yager Overstreet – 1208 N Main, Higginsville, Missouri
64037 – loverstreet@yahoo.com and mjoc@workingforjustice.com
Brenda Williamson -- 210 Chestnut – Apartment A, Belton, MO 64012 --
brendaawilliamson@gmail.com
Mark Supanich -- 1826 Lucky Strike Road, Helena, Montana 59602 --
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Submitted this 10th day of July, 2013,



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