

Exhibit

5

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA -- ATLANTA DIVISION**

WILLIAM M. WINDSOR,)	
Plaintiff)	
)	CIVIL ACTION NO.
v.)	
)	1:11-CV-01922-TWT
JUDGE WILLIAM S. DUFFEY, et al,)	
Defendants.)	
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MOTION FOR REMAND

William M. Windsor (“Windsor” or “Plaintiff”) hereby files this MOTION FOR REMAND pursuant to 28 U.S.C. § 1447(c) and moves for an emergency hearing. The Plaintiff seeks this relief on several procedural and substantive grounds. Windsor shows the Court as follows:

FACTUAL BACKGROUND

1. On June 19, 2011, Windsor filed the Verified Complaint in the Superior Court of Fulton County seeking a declaratory judgment pursuant to O.C.G.A. § 9-4-2, et seq. The Civil Action was assigned No. 2011CV200857.
2. There are no claims involving federal statutes in the Verified Complaint. The complaint does not allege claims for acts done within the scope of official duties. The complaint merely seeks a declaration of Georgia law.
3. Plaintiff and six Defendants are citizens of the State of Georgia.

4. Only four of the eight Defendants have been served with the Summons and Verified Complaint.

5. On June 13, 2011, the U.S. Attorney filed a NOTICE OF REMOVAL that alleges to seek to remove Civil Action 2011CV200857 from Fulton County Georgia Superior Court to the United States District Court. The NOTICE OF REMOVAL mentions six (6) Defendants in the opening paragraph, but the NOTICE OF REMOVAL identifies no Defendants in the signature block, and there are no affidavits from any of the Defendants. (A true and correct copy of the NOTICE OF REMOVAL is attached as Exhibit 1 and is referenced and incorporated herein.) There are no affidavits from any of the Defendants.

6. This so-called NOTICE OF REMOVAL is based on 28 U.S.C. § 1442(a)(1) and (3). *See* NOTICE OF REMOVAL ¶5.

7. On June 14, 2011, Windsor filed a MOTION TO DENY REMOVAL in the United States District Court.

8. On June 22, 2011, Windsor filed this Motion to Vacate Notice of Removal in Fulton County Superior Court.

9. On July 5, 2011, Windsor filed this Motion for Remand.

I. **THE NOTICE OF REMOVAL WAS FILED FOR IMPROPER PURPOSES, SO THIS MOTION FOR REMAND MUST BE GRANTED.**

10. The NOTICE OF REMOVAL was filed so the Defendants could evade exposure as criminals. By filing the NOTICE OF REMOVAL, Defendants have been able to utilize their racketeering enterprise to shield themselves from an honest judge and jury in the Fulton County Superior Court.

11. The judge to whom this matter was assigned, Thomas Woodrow Thrash has violated Windsor's Constitutional rights up one side and down the other. Details of Mr. Thrash's wrongdoing is provided in PLAINTIFF WILLIAM M. WINDSOR'S EMERGENCY MOTION TO RECUSE JUDGE THOMAS WOODROW THRASH filed in 1:11-CV-01922-TWT, incorporated herein as if attached hereto. (Docket #31.)

II. THE NOTICE OF REMOVAL IS PROCEDURALLY DEFECTIVE, SO THIS MOTION FOR REMAND MUST BE GRANTED.

12. The NOTICE OF REMOVAL has multiple procedural defects that make it void on its face. Technical, procedural requirements were not met.

13. Defendants Mr. Dubina and Ms. Kravitch have so ruled: (*Russell Corp. v. American Home Assur. Co.*, 264 F.3d 1040, 1044 (11th Cir. 2001).)

14. Defendant Mr. Duffey has so ruled: (*Henry County School Dist. v. Action Development, Inc.*, No. 1:07-cv-1490-WSD (N.D.Ga. 09/06/2007).)

The removing defendants carry the burden to demonstrate that the removal was effected properly, and "this burden is a heavy one." (*Lampkin v. Media General, Inc.*, 302 F. Supp.2d 1293, 1294 (M.D.Ala. 2004). (*Henry County*

School Dist. v. Action Development, Inc., No. 1:07-cv-1490-WSD (N.D.Ga. 09/06/2007) – Judge William S. Duffey.) (See also *Laughlin v. Prudential Ins. Co.*, 882 F.2d. 187 (5th Cir. 1989).)

15. Removal statutes are strictly construed in favor of state court jurisdiction. Defendant Mr. Duffey has so ruled:

(*Shamrock Oil & Gas Corp. v. Sheets*, 313 U.S. 100, 108-09 (1941).
(*Henry County School Dist. v. Action Development, Inc.*, No. 1:07-cv-1490-WSD (N.D.Ga. 09/06/2007) – Judge William S. Duffey.)

16. There is a presumption against removal jurisdiction, and this Court must strictly construe the removal statute. (*Fajen v. Foundation Reserve Ins. Co.*, 683 F.2d 331, 333 (10th Cir.1982).)

17. The NOTICE OF REMOVAL fails on all accounts, so this MOTION FOR REMAND must be granted.

18. **DEFECT #1 -- THE REMOVAL FAILS TO COMPLY WITH THE REQUIREMENT THAT DEFENDANTS MUST MAKE AN APPEARANCE, SO THIS MOTION FOR REMAND MUST BE GRANTED.**

19. None of the Defendants have made an appearance. None of the Defendants have filed a CERTIFICATE OF INTERESTED PERSONS AND CORPORATE DISCLOSURE STATEMENT as required by N.D.Ga Local Rule 3.3 and FRCP 7.1, which was due to be filed with the Clerk “at the time of first appearance.” This is a violation of the rules that is a procedural defect. This is

proven by a true and correct copy of the Docket attached as Exhibit 2. There is no proof that the U.S. Attorney has authority to appear for Defendants.

20. The Attorney General for the State of Georgia has a vested interest in this Declaratory Judgment Action and was served with the Verified Complaint in compliance with O.C.G.A. § 9-4-7 (CGA 110-1106). Windsor has afforded the Attorney General the opportunity to be heard and has sought an Answer from the Attorney General whether the Attorney General elects to participate as a party. The Attorney General is not mentioned in the NOTICE OF REMOVAL, and the U.S. Attorneys do not represent the Georgia Attorney General.

21. DEFECT #2 -- THE ACTION IS NOT YET PENDING IN FULTON COUNTY SUPERIOR COURT AS 28 U.S.C. § 1442 REQUIRES, SO THIS MOTION FOR REMAND MUST BE GRANTED.

22. The removal statute requires service prior to removal in the state of Georgia. The removal statute requires that an action must be "pending" in a state court before it may be removed. See 28 U.S.C. § 1442(a) (noting that civil action may be removed to the district court "embracing the place wherein it is **pending**").

23. Under Georgia law, filing a suit "is still not the commencement of suit unless followed by service within a reasonable time." (*McClendon v. Hernando Phosphate Co.*, 28 S.E. 152, 153 (Ga. 1897); *Franek v. Ray*, 236

S.E.2d 629, 632 (Ga. 1977).) Thus, under Georgia law, "an action is not a 'pending' suit until after service of process is perfected." (*Steve A. Martin Agency, Inc. v. PlantersFIRST Corp.*, 678 S.E.2d 186, 188 (Ga. Ct. App. 2009); see also *Jenkins v. Crea*, 656 S.E.2d 849, 850 (Ga. Ct. App. 2008).)

24. Defendants Judge Joel F. Dubina, John Ley, Maid of the Mist Corporation, and Maid of the Mist Steamboat Company Limited have not been served with process. Since the Civil Action is not yet "pending" in Fulton County Georgia Superior Court, the text of the removal statute prevents removal prior to service on Judge Joel F. Dubina, John Ley, Maid of the Mist Corporation, and Maid of the Mist Steamboat Company Limited. (28 U.S.C. § 1446(b).)

25. **DEFECT #3 -- THE DEFENDANTS DID NOT SIGN OR AUTHORIZE THE NOTICE OF REMOVAL, SO THIS MOTION FOR REMAND MUST BE GRANTED.**

26. The Notice of Removal was not authorized by the Defendants. **None** of the Defendants signed a consent or otherwise approved the removal. **None** of the Defendants are identified in the signature block on the NOTICE OF REMOVAL, so the Petition has not been filed on behalf of any of the Defendants.

(See 14C Charles Alan Wright, Arthur R. Miller, and Edward H. Cooper, *Federal Practice and Procedure* § 3730 (4th ed. 2009).)

27. Defendant Mr. Johnson has so ruled: *Demmons v. Fulton County*, No. 1:09-CV-2312-TWT-WEJ (N.D.Ga. 08/02/2010).

(See also *Bank of America National Association v. Derisme*, No. 3:10cv900 (D. Conn. 08/13/2010); *Helm v. Drennan*, No. 07-CV-0344-CVE-SAJ (N.D.Ok. 07/25/2007); *Sovereign Bank v. Park Development West, LLC*, No. 06-2603 (E.D.Pa. 08/17/2006); *Williams v. City of Beverly Hills, Missouri*, No. 4:07-CV-661 CAS (E.D.Mo. 09/24/2007); *Evanston Insurance Co. v. O'Conner*, No. 06-4687 (D.N.J. 03/20/2007); *Day Imaging, Inc. v. Color Labs Enterprises, L.L.C.*, No. 09-cv-02123-DME-MEH (D.Colo. 12/11/2009).)

28. **DEFECT #4 – THE REMOVAL IS DEFECTIVE FOR FAILURE TO COMPLY WITH THE RULE OF UNANIMITY.**

29. 28 U.S.C. § 1446(a) states that "**defendants desiring to remove any civil action** . . . shall file in the district court of the United States . . . a notice of removal." All Defendants have not filed the NOTICE. At best, only one has.

28 U.S.C. § 1446 requires the unanimous consent of *all* defendants to the removal. (*Russell Corp. v. American Home Assurance Co.*, 264 F.3d 1040 (11th Cir. 09/06/2001); *Loftis v. U.S. Parcel Serv., Inc.*, 342 F.3d 509, 516 (6th Cir. 2003); *Maguire v. Genesee County Sheriff*, 601 F.Supp.2d 882 (E.D.Mich. 02/17/2009).)

30. The NOTICE OF REMOVAL fails to claim the consent of ANY Defendant; it clearly fails to explain the absence of consent to the removal by at least 55 of the Defendants. It is defective for violating the rule of unanimity. Since 98.2% of the Defendants did not join in the notice of removal and the NOTICE OF

REMOVAL failed to account for the lack of their consent, the NOTICE is procedurally defective and this MOTION FOR REMAND must be granted.

31. Defendants Mr. Johnson, Mr. Duffey Mr. Edmondson, Mr. Cox, and Mr. Ed Carnes have ordered that unanimity is required. Defendant Ms. Totenberg so ordered on April 27, 2011:

Russell Corp. v. Am. Home Assur. Co., 264 F.3d 1040, 1044 (11th Cir. 2001). (*Demmons v. Fulton County*, No. 1:09-CV-2312-TWT-WEJ (N.D.Ga. 08/02/2010).) (*Thalacker v. Concessions International, LLC*, No. 1:06-cv-2685-WSD (N.D.Ga. 02/14/2007).) (*In re Ocean Marine Mut. Protection and Indem. Ass'n, Ltd.*, 3 F.3d 353, 355-56 (11th Cir.1993).) (*William & Jin Nam, Individually, and William Nam As the Personal v. U.S. Xpress, Inc., A Nevada Corporation*, No. 1:10-CV-3924-AT (N.D.Ga. 04/27/2011).)

32. **DEFECT #5 -- THE NOTICE OF REMOVAL FAILS TO COMPLY WITH THE REQUIREMENT OF A PLAIN STATEMENT OF THE GROUNDS FOR REMOVAL.**

33. The NOTICE OF REMOVAL has no plain statement of grounds.

34. Defendant Ms. Totenberg ordered in April 2011 that a plain statement of the grounds is required:

A defendant or defendants ... shall file in the district court of the United States for the district and division within which such action is pending a notice of removal ... containing a short and plain statement of the grounds for removal, together with a copy of all process, pleadings, and orders served upon such defendant or defendants in such action. (*William & Jin Nam, Individually, and William Nam As the Personal v. U.S. Xpress, Inc., A Nevada Corporation*, No. 1:10-CV-3924-AT (N.D.Ga. 04/27/2011).)

35. Defendants Mr. Tjoflat, Mr. Marcus, and Ms. Barkett have so ordered: *Lowery v. Alabama Power Co.*, 483 F.3d 1184 (11th Cir. 04/11/2007). Defendants Ms. Black, Ms. Hull, and Ms. Kravitch have so ordered: *Roe v. Michelin North America, Inc.*, 613 F.3d 1058 (11th Cir. 08/05/2010). Defendants Mr. Edmondson, Mr. Ed Carnes, and Mr. Pryor have so ordered: *Pertka v. Kolter City Plaza II, Inc.*, 608 F.3d 744 (11th Cir. 06/08/2010). Defendant Mr. Tjoflat and Mr. Ed Carnes have so ordered: *Cook v. Randolph County, Georgia*, 573 F.3d 1143 (11th Cir. 07/07/2009). Defendants Mr. Edmondson and Mr. Wilson have so ordered: *Bautista v. Star Cruises*, 396 F.3d 1289 (11th Cir. 01/18/2005). Defendants Mr. Tjoflat and Mr. Anderson have so ordered: *Hernandez v. Seminole County*, 334 F.3d 1233 (11th Cir. 06/24/2003). Defendant Mr. Tjoflat has so ordered: *Bradway v. American*, 965 F.2d 991 (11th Cir. 07/07/1992).

36. **DEFECT #6 -- THE NOTICE OF REMOVAL FAILED TO COMPLY WITH THE MANDATORY PROCEDURE TO INCLUDE WITH THE NOTICE OF REMOVAL THE SUMMONS ISSUED BY THE COURT ON ALL DEFENDANTS AND OTHER DOCUMENTS SERVED ON DEFENDANTS CONTAINED IN THE STATE COURT RECORD.**

37. This is a fatal, non-amendable defect that mandates remand. 28 U.S.C. 1446 (a) requires:

“A defendant or defendants desiring to remove any civil action or criminal prosecution from a State court shall file in the district court of the United States for the district and division within which such action is pending a notice of removal signed pursuant to Rule 11 of the Federal Rules of Civil Procedure and containing a short and plain statement of the grounds for removal, together a copy of **all process, pleadings, and orders served upon such defendant or defendants** in such]action.” [**emphasis added.**]

38. The NOTICE OF REMOVAL fails to include a copy of any summons served on any Defendant. Defendant Ms. Totenberg ruled on April 27, 2011 that failure to file copies of all Summons and process is a defect:

...the failure to attach the summons served on all Defendants does not comply with the requirements of 28 U.S.C. § 1446(a). (William & Jin Nam, Individually, and William Nam As the Personal v. U.S. Xpress, Inc., A Nevada Corporation, No. 1:10-CV-3924-AT (N.D.Ga. 04/27/2011) – Defendant (Judge) Totenberg.)

"[Section] 1447(c) implicitly recognizes two bases upon which a district court may -- and in one case must -- order a remand: when there is: (1) a lack of subject matter jurisdiction or (2) a defect other than a lack of subject matter jurisdiction." *Snapper, Inc. v. Redan*, 171 F.3d 1249, 1252-1253 (11th Cir.1999). The "defect" noted in Section 1447(c) refers to the failure to follow statutory removal procedures, typically a lack of compliance with either the filing requirements set forth in Section 1446(a).... Id. This Court has found no authority ... that multiple defendants can rely on a single defendant's compliance with 28 U.S.C. § 1446(a). The statute states that "[a] defendant or defendants ... shall file ... a copy of all process, pleadings, and orders served upon such defendant or defendants ..." (William & Jin Nam, Individually, and William Nam As the Personal v. U.S. Xpress, Inc., A Nevada Corporation, No. 1:10-CV-3924-AT (N.D.Ga. 04/27/2011).)

III. THE PRINCIPLE OF COMITY AND THE LONG-STANDING PUBLIC POLICY AGAINST FEDERAL COURT INTERFERENCE WITH

**STATE COURT PROCEEDINGS SHOULD PREVAIL AND THIS
MOTION FOR REMAND MUST BE GRANTED.**

39. The federal court should abstain for the sake of non-interference with state court proceedings. The jurisdictional laws of Georgia permit individuals to sue in Georgia courts for violations of any rights secured by the Constitution and laws of Georgia. Prohibition of and interference with the State of Georgia in carrying out the important and necessary task of enforcing its own laws against socially harmful conduct that the State believes in good faith to be punishable under its own laws and Constitution would result in a chilling effect on all Georgia citizens' right to the availability of relief under the Constitution and laws of Georgia. The Constitution and laws of Georgia provide for a plain, speedy, and efficient remedy to violations of its laws, therefore the federal court should abstain from this action under the "abstention doctrine." Defendant Mr. Story has ruled:

"...where plaintiff and defendant clash about jurisdiction, uncertainties are resolved in favor of remand."). Sound reasons exist for so limiting the exercise of removal jurisdiction. For one, the removal of cases to federal courts implicates principles of federalism. As the Supreme Court has explained: The power reserved to the states under the Constitution to provide for the determination of controversies in their courts, may be restricted only by the action of Congress in conformity to the Judiciary Articles of the Constitution. "Due regard for the rightful independence of state governments, which should actuate federal courts, requires that they scrupulously confine their own jurisdiction to the precise limits which the statute has defined." *Shamrock Oil & Gas Corp. v. Sheets*, 313 U.S. 100, 109, 61 S.Ct. 868, 85 L.Ed. 1214 (1941) (quoting *Healy v. Ratta*, 292 U.S. 263, 270, 54 S.Ct. 700, 78 L.Ed. 1248 (1934)). (See also *Crowe v. Coleman*,

113 F.3d 1536, 1538 (11th Cir. 1997) (internal quotations omitted). (*Poll v. Deli Management, Inc.*, No. 1:07-CV-0959-RWS (N.D.Ga. 08/24/2007).)

**IV. THE DEFENDANTS HAVE FAILED TO PROVE
THE EXISTENCE OF FEDERAL JURISDICTION,
SO THIS MOTION FOR REMAND MUST BE GRANTED.**

40. The Defendants have the burden of proving the existence of federal jurisdiction, and they have failed to do so. Mr. Huber's NOTICE OF REMOVAL does not even include the word "jurisdiction."

Removal jurisdiction merely refers to the right of a defendant to move a lawsuit filed in state court to the federal district court for the federal judicial district in which the state court sits. (*Wikipedia.*)

41. Mr. Huber's NOTICE OF REMOVAL mentions **removal** "pursuant to 28 U.S.C. §1442(a)(1),(3)," but that's it. Nothing is proven or argued or anything.

42. The sole issue in this matter is a declaration of the meaning and terms of Georgia state law O.C.G.A. § 10-6-5. The legislative intent and purpose of the Georgia Declaratory Judgment Act is to settle and relieve against uncertainty and insecurity with respect to rights, status, and legal interpretation. O.C.G.A. § 9-4-1 (CGA § 110-1111). Pursuant to O.C.G.A. § 9-4-2(b) (GCA § 110-1101) the Georgia Superior Courts are charged with the responsibility to "determine and settle by declaration any justiciable controversy of a civil nature where it appears

to the court that the ends of justice require that such should be made for the guidance and protection of the petitioner, and when such a declaration will relieve the petitioner from uncertainty and insecurity with respect to his rights, status, and legal relations." Only the Georgia Superior Courts have the authority for a declaratory judgment action regarding Georgia statutes.

43. The NOTICE OF REMOVAL fails to address subject matter jurisdiction at all, so the MOTION TO REMAND must be granted.

"...even though an action is eligible for removal pursuant to 28 U.S.C. §1442(a)(1), it is still subject to dismissal for lack of subject matter jurisdiction. See *Rankin v. I.R.S.*, No. 5:01-CV-79-OC10GRJ, 2001 WL 34107044, at *1 (M.D. Fla. May 16, 2001) (noting that "[t]he issue of whether the court has subject matter jurisdiction and the issue of whether there is removal jurisdiction, however, involve separate considerations." (*Morse v. United States*, No. 2:07-cv-249-FtM-34DNF (M.D.Fla. 12/04/2007).) [emphasis added.]

44. Defendants Mr. Tjoflat and Ms. Black have ruled that defendants have the burden of proving the existence of federal jurisdiction, as have Defendants Mr. O'Kelley, and Mr. Story:

***(Tapscott v. MS Dealer Service Corp.*, 77 F.3d 1353, 1356 (11th Cir. 1996).) (*Standridge v. Wal-Mart Stores*, 945 F. Supp. 252 (N.D.Ga. 09/18/1996).) (*Wells Fargo Bank NA v. Narh*, No. 1:06-CV-0580-RWS (N.D.Ga. 05/09/2006).)**

45. So ordered Defendant Mr. Thrash on April 22, 2011 as in 2007:

***(Federal Home Loan Bank of Atlanta v. Countrywide Securities Corporation, et al*, No. 1:11-CV-489-TWT (N.D.Ga. 04/22/2011).) (AR**

Motorsports, Inc. v. City of Lawrenceville, Georgia, No. 1:07-CV-847-TWT (N.D.Ga. 08/07/2007).)

V. **THE NOTICE OF REMOVAL FAILED TO ASSERT GROUNDS FOR SUBJECT MATTER JURISDICTION AND FAILED TO RAISE A DEFENSE, SO THIS MOTION FOR REMAND MUST BE GRANTED.**

46. There are no grounds even asserted for subject matter jurisdiction.

This was an obligation that the NOTICE OF REMOVAL failed to address, so this MOTION FOR REMAND must be granted.

(See *Rankin v. I.R.S.*, No. 5:01-CV-79-OC10GRJ, 2001 WL 34107044, at *1 (M.D. Fla. May 16, 2001); *Morse v. United States*, No. 2:07-cv-249-FtM-34DNF (M.D.Fla. 12/04/2007).)

47. **Subject-matter jurisdiction** is the authority of a court to hear cases of a particular type or cases relating to a specific subject matter. By far the most important two categories of federal subject-matter jurisdiction in non-criminal cases are federal question jurisdiction and diversity jurisdiction. (Wikipedia.)

48. Defendant Mr. Forrester has ruled that failure to assert grounds for subject matter jurisdiction and failure to raise a defense require that the case be remanded:

When considering such a motion, a court should examine closely the grounds asserted for its subject matter jurisdiction. "As a congressionally imposed infringement upon a state's power to determine controversies in their [sic] courts, removal statutes must be strictly construed." *Cowart Ironworks, Inc. v. Phillips Construction Co.*, 507 F. Supp. 740, 743 (S.D. Ga. 1981). "Where the basis for jurisdiction is doubtful, the court should resolve such

doubt in favor of remand." *Id.*; *Clyde v. National Data Corp.*, 609 F. Supp. 216 (N.D. Ga. 1985). (*Hall v. Travelers Ins. Cos.*, 691 F. Supp. 1406 (N.D.Ga. 04/29/1988).)

49. Federal officers must raise a federal defense before removing to federal court, and the NOTICE OF REMOVAL failed to do so. Defendants Mr. Edmondson, Mr. Tjoflat, Mr. Anderson, Ms. Black, Mr. Ed Carnes, Ms. Barkett, Mr. Marcus, and Mr. Wilson have all so ordered:

(*Bellsouth Telecommunications, Inc. v. MCI Metro Access Transmission*, 317 F.3d 1269, 317 F.3d 1270 (11th Cir. 01/10/2003).)

An unbroken line of Supreme Court decisions extending back nearly a century and a quarter have understood all the various incarnations of the federal officer removal statute to require the averment of a federal defense. (*Mesa et al. v. California*, 109 S. Ct. 959, 489 U.S. 121 (U.S. 02/21/1989).)

50. The U.S. district courts may hear only cases arising under federal law and treaties, cases involving ambassadors, admiralty cases, controversies between states or between a state and citizens of another state, lawsuits involving citizens of different states, and against foreign states and citizens. Defendant Mr. Story ruled:

No federal question is present on the face of Plaintiff's Complaint, and the requirements for diversity jurisdiction are not satisfied. The Court therefore concludes that it lacks subject matter jurisdiction and that this action is frivolous. (*HSBC Mortgage Services, Inc. v. Williams*, No. 1:07-CV-2863-RWS (N.D.Ga. 12/10/2007).)

51. This case does not arise under federal law or treaties. It does not involve an ambassador. It is not an admiralty case. It is not a controversy between

states. It is not a controversy between a state and citizens of another state. All parties are from Georgia, as admitted on the New Case Filing Form included as part of the Notice of Removal. It is not a case against foreign states and citizens.

52. According to Defendant Mr. Duffey, federal courts are courts of limited jurisdiction:

Federal courts are courts of limited jurisdiction, and thus a federal court must take care to ensure that it has jurisdiction for all cases that come before it. (*Deutsche Bank Nat'l v. Eberhart*, No. 1:06-cv-1588-WSD (N.D.Ga. 07/10/2006).) (See Defendant Mr. Duffey's ruling also in *Equity Residential Properties v. Bravo*, No. 1:06-cv-1012-WSD (N.D.Ga. 05/03/2006) and *Stegeman v. Wachovia Bank, National Association*, No. 1:06-cv-0247-WSD (N.D.Ga. 04/04/2006).)

53. This Court does not have original jurisdiction. So says Defendant Mr. Story:

A defendant may only remove an action from state court if the federal court would possess original jurisdiction over the subject matter. 28 U.S.C. § 1441(a). *Williams v. Best Buy Co.*, 269 F.3d 1316, 1319 (11th Cir.2001). 28 U.S.C. § 1447(c). (*Kofi Boateng v. Morrison Management Specialists, Inc.*, No. 1:11-CV-00142-RWS (N.D.Ga. 06/13/2011).)

54. This Court lacks subject matter jurisdiction. Lack of subject matter jurisdiction requires remand to the state court. (28 U.S.C. § 1447(c), FRCP 12(h)(3); *Standridge v. Wal-Mart*, 945 F. Supp. 252 (N.D.Ga. 09/18/1996).)

55. The U.S. District Court lacks federal-question jurisdiction because there is no dispute as to the validity, construction or effect of a federal statute with

a cause of action "arising under" the laws of the United States. So says Defendant Mr. Baverman in *Wells Fargo Bank v. Cyrus*, No. 1:10-CV-02064-RLV-AJB (N.D.Ga. 07/15/2010).

56. No federal statute has been included in the causes of action. To meet the requirement of a case "arising under" federal law, the federal question must appear on the face of the plaintiff's complaint. There is no federal question presented on the face of the Verified Complaint. Windsor intends this Action to be solely based on Georgia law.

Federal courts use the "well-pleaded complaint" rule to determine "arising under" jurisdiction. *Long*, 201 F.3d at 758. That rule provides that "federal jurisdiction exists only when a federal question is presented on the face of the plaintiff's properly pleaded complaint." Id. (quoting *Caterpillar Inc. v. Williams*, 482 U.S. 386, 392 (1987)). *The Fair v. Kohler Die & Specialty Co.*, 228 U.S. 22, 25 (1913).

57. Defendant Mr. Duffey has regularly ruled that when a Plaintiff has relied exclusively on state law, remand is required:

"...a suit arises under the Constitution and laws of the United States only when the plaintiff's statement of his own cause of action shows that it is based upon those laws or that Constitution. ... In this case, it is clear that Plaintiff relies exclusively on state law, and thus the well-pleaded complaint rule is not satisfied. Because Defendant fails to demonstrate that the Court has subject matter jurisdiction over this case, the Court is required to remand this action pursuant to 28 U.S.C. § 1447(c). (*Deutsche Bank Nat'l v. Eberhart*, No. 1:06-cv-1588-WSD (N.D.Ga. 07/10/2006).)

"In this case, it is clear that Plaintiff relies exclusively on state law, and thus the well-pleaded complaint rule is not satisfied. ...the Court is required to

remand this action pursuant to 28 U.S.C. § 1447(c).” (*Equity Residential Properties v. Bravo*, No. 1:06-cv-1012-WSD (N.D.Ga. 05/03/2006).)

“Because Ms. Davis fails to demonstrate that the Court has subject matter jurisdiction over this case, the Court is required to remand this action pursuant to 28 U.S.C. § 1447(c).” (*PHH Mortgage Corp. v. Diamond*, No. 1:06-cv-0673-WSD (N.D.Ga. 03/29/2006).)

See also *Chase Home Finance, LLC v. Mungaro*, No. 1:05-cv-3082-WSD (N.D.Ga. 12/08/2005). (See also *State v. Serries*, No. 1:10-cv-01564 -WSD (N.D.Ga. 07/16/2010); *Cunningham v. HSBC Mortgage Services*, No. 1:07-cv-1346-WSD (N.D.Ga. 06/20/2007); *Chase Manhattan Mortgage Corp. v. Gresham*, No. 1:05-cv-1944-WSD (N.D.Ga. 11/17/2005).)

58. Defendant Mr. Thrash said on April 22, 2011 that a Georgia law issue is not a matter of federal law:

In *Grable & Sons Metal Products, Inc. v. Darue Engineering and Manufacturing*, 545 U.S. 308 (2005), the Supreme Court held that a state-law claim gives rise to federal jurisdiction when it "necessarily raise[s] a . . . disputed and substantial" federal issue. *Id.* at 314. The Eleventh Circuit applied Grable's substantiality test in *Adventure Outdoors, Inc. v. Bloomberg*, 552 F.3d 1290 (11th Cir. 2008). *Austin v. Ameriquest Mortgage Co.*, 510 F. Supp. 2d 1218, 1226-27 (N.D. Ga. 2007). (*Federal Home Loan Bank of Atlanta v. Countrywide Securities Corporation, et al*, No. 1:11-CV-489-TWT (N.D.Ga. 04/22/2011).)

59. The U.S. District Court lacks diversity jurisdiction because the Plaintiff and Defendants are all citizens of Georgia. The amount in controversy well exceeds the minimum amount, but this is irrelevant as there is not diversity between the parties.

VI. **THIS COURT IS REQUIRED TO RESOLVE ALL DOUBTS ABOUT
FEDERAL JURISDICTION IN FAVOR OF REMAND,
SO THIS MOTION FOR REMAND MUST BE GRANTED.**

60. This Court is required to resolve all doubts about federal jurisdiction in favor of remand, *Id.* ("where plaintiff and defendant clash about jurisdiction, uncertainties are resolved in favor of remand") (citing *Boyer v. Snap-on Tools Corp.*, 913 F.2d 108 (3rd Cir. 1990), cert. denied, 498 U.S. 1085, 111 S. Ct. 959, 112 L. Ed. 2d 1046 (1991); *Coker v. Amoco Oil Co.*, 709 F.2d 1433 (11th Cir. 1983); *STANDRIDGE v. WAL-MART STORES*, 945 F. Supp. 252 (N.D.Ga. 09/18/1996).)

61. Defendant Mr. Thrash has so ruled:

(*Saye v. Unumprovident Corp.*, No. 1:07-CV-31-TWT (N.D.Ga. 08/09/2007).)

62. The Defendants have waived any grounds for removal not included in their initial notice. So says Defendant Mr. Thrash:

The initial notice of removal must include all grounds for removal or they are waived. 28 U.S.C. § 1446(c)(2). (*ING USA Annuity and Life Insurance Co. v. J.P. Morgan Securities, Inc.*, No. 1:08-CV-1748-TWT (N.D.Ga. 09/30/2008).)

VII. **THE REMOVAL IS DEFECTIVE PURSUANT TO
28 U.S.C § 1442 (a)(1) BECAUSE FEDERAL OFFICERS
HAVE NOT RAISED A FEDERAL DEFENSE.**

SO THIS MOTION FOR REMAND MUST BE GRANTED.

63. The U.S. Attorney erroneously cites 28 U.S.C. § 1442(a)(1) as a basis for the removal.

28 U.S.C. § 1442(a)(1) provides that “a civil action ... commenced in a State court against any of the following may be removed by them to the district court of the United States for the district and division embracing the place wherein it is pending: The United States or any agency thereof or any officer (or any person acting under that officer) of the United States or of any agency thereof, sued in an official or individual capacity for any act under color of such office or on account of any right, title or authority claimed under any Act of Congress....”

64. 28 U.S.C. § 1442(a)(1) does not apply because the Verified Complaint is not about suing “in an official or individual capacity for any act under color of such office or... under any Act of Congress....” (See *Mesa v. California*, 489 U.S. 121, 109 S. Ct. 959, 103 L. Ed. 2d 99 (1989).)

65. Maid of the Mist Corporation and Maid of the Mist Steamboat Company Limited are not federal officers, so they have no right to raise a federal defense. The Georgia Attorney General is not a federal officer and has no right to raise a federal defense.

66. None of the other Defendants have raised any defense whatsoever to the Civil Action. The ONLY statement made by the U.S. Attorney in the NOTICE

OF REMOVAL is: "This action is one that may be removed to the United States District Court pursuant to 28 U.S.C. § 1442(a)(1), (3)."

67. There is no citation of case law to support such a claim. 28 U.S.C. § 1442(a)(1) and (3) have nothing to do with defenses to a declaratory judgment action, so no defense has been raised.

The purpose of section 1442(a)(1) is to "permit[] the removal of those actions commenced in state court that expose a federal official to potential civil liability or criminal penalty for an act performed ... under color of office." *Murray v. Murray*, 621 F.2d 103, 107 (5th Cir.1980). *Willingham*, 395 U.S. at 405, 89 S. Ct. at 1815.

68. The U.S. Attorney has failed to meet the Supreme Court's stated requirements for removal pursuant to 28 U.S.C. § 1442(a)(1) that are binding precedents recognized by the Eleventh Circuit.

Proper removal of an action under section 1442(a)(1) has historically required the satisfaction of two separate requirements. **First, the defendant must advance a "colorable defense arising out of [his] duty to enforce federal law."** *Mesa v. California*, 489 U.S. 121, 133, 109 S. Ct. 959, 966-67, 103 L. Ed. 2d 99 (1989) ...absent the assertion of a federal defense, a state court action against a federal officer is not removable. *Id.* [**emphasis added.**]

Second, the defendant must establish that there is a "causal connection between what the officer has done under asserted official authority" and the action against him. *Maryland v. Soper*, 270 U.S. 9, 33, 46 S. Ct. 185, 190, 70 L. Ed. 449 (1926) (interpreting predecessor statute); see also *Willingham*, 395 U.S. at 409, 89 S. Ct. at 1817. (*Magnin v. Teledyne Continental Motors*, 91 F.3d 1424 (11th Cir. 08/15/1996).) [**emphasis added.**]

69. This Civil Action is a declaratory judgment action about Georgia state law. So, it is impossible for a Defendant to raise a colorable defense as the Defendants have nothing to defend. There can be no causal connection because this is merely a declaratory judgment action.

70. This Court's exercise of federal-question jurisdiction over this state-law claim would be inappropriate because there is no dispute as to any federal statute.

"A removing defendant bears the burden of proving proper federal jurisdiction." *Adventure Outdoors, Inc. v. Bloomberg*, 552 F.3d 1290, 1294 (11th Cir. 2008)

71. In this matter, NO federal issue exists. There is no disputed question of federal law.

Grable, 545 U.S. at 313 (quoting *Shulthis v. McDougal*, 225 U.S. 561, 569 (1912)). (See also *Fed. Trade Comm'n v. Tashman*, 318 F.3d 1273, 1279 (11th Cir. 2003) (Vinson, J., dissenting).)

72. This Civil Action does not seek to hold an officer of the United States in violation of state law while simultaneously executing his duties as prescribed by federal law.

**VIII. THE REMOVAL IS DEFECTIVE PURSUANT TO
28 U.S.C § 1442 (a)(3) BECAUSE FEDERAL OFFICERS HAVE NOT
RAISED A FEDERAL DEFENSE,
SO THE NOTICE OF REMOVAL MUST BE VACATED.**

73. The U.S. Attorney also erroneously cited 28 U.S.C. § 1442(a)(3) as a basis for the removal.

28 U.S.C. § 1442(a)(3) provides that “a civil action or criminal prosecution commenced in a State court against any of the following may be removed by them to the district court of the United States for the district and division embracing the place wherein it is pending: Any officer of the courts of the United States, for any act under color of office or in the performance of his duties;”

74. 28 U.S.C. § 1442(a)(3) does not apply because the Verified Complaint is not about “**any act under color of office or in the performance of [anyone’s] duties.**”

75. The federal interest in this matter is insubstantial, and the exercise of federal-question jurisdiction would disrupt the Congressionally-approved balance of federal and state judicial responsibilities.

“[F]ederal jurisdiction demands not only a contested federal issue, but a substantial one, indicating a serious federal interest in claiming the advantages thought to be inherent in a federal forum.” *Grable*, 545 U.S. at 313.

76. The U.S. District Court’s exercise of federal-question jurisdiction over this state-law claim would be inappropriate because there is no dispute as to any federal statute.

“A removing defendant bears the burden of proving proper federal jurisdiction.” *Adventure Outdoors, Inc. v. Bloomberg*, 552 F.3d 1290, 1294 (11th Cir. 2008) (quoting *Leonard v. Enter. Rent a Car*, 279 F.3d 967, 972 (11th Cir. 2002)).

77. In this matter, NO federal issue exists. There is no disputed question of federal law. The meaning of a Georgia state statute is the only legal and factual issue contested.

Federal-question jurisdiction over state-law claims is confined to those claims that “really and substantially involv[e] a dispute or controversy respecting the validity, construction or effect of [federal] law.” *Grable*, 545 U.S. at 313 (quoting *Shulthis v. McDougal*, 225 U.S. 561, 569 (1912)). (See also *Fed. Trade Comm’n v. Tashman*, 318 F.3d 1273, 1279 (11th Cir. 2003) (Vinson, J., dissenting).)

78. There is no legal authority to permit a Federal court to claim jurisdiction over a state declaratory judgment action. This Civil Action does not seek to hold an officer of the United States in violation of state law while simultaneously executing his duties as prescribed by federal law.

The removal statute is strictly construed against removal jurisdiction and doubt is resolved in favor of remand. *Libhart v. Santa Monica Dairy Co.*, 592 F.2d 1062, 1064 (9th Cir. 1979); *Prize Frize Inc. v. Matrix Inc.*, 167 F.3d 1261, 1265 (9th Cir. 1999).

79. This Court must confirm that jurisdiction must remain with the Superior Court of Fulton County, Georgia.

28 U.S.C. § 1446 (c)(4) provides: The United States district court in which such notice is filed shall examine the notice promptly. If it clearly appears on the face of the notice and any exhibits annexed thereto that removal should not be permitted, the court shall make an order for summary remand.

IX. THE POSITION OF THE U.S. ATTORNEYS IN THE NOTICE OF REMOVAL IS SUBJECT TO LITIGATION, AND IF THIS COURT DOES NOT DENY REMOVAL FOR THE REASONS SPECIFIED ABOVE, WINDSOR DEMANDS DISCOVERY AND AN EVIDENTIARY HEARING.

80. Should this Court fail to deny removal on the grounds specified above, this Court should conduct a de novo hearing. This Court must permit Windsor full discovery on the scope question. (*S.J. & W. Ranch Inc. v. Lehtinen*, 913 F.2d 1538 (11th Cir. 10/10/1990).)

81. Plaintiff has filed this Motion for Remand within thirty (30) days of the filing of the Notice of Removal. Therefore, this Motion for Remand is timely

82. For the aforementioned reasons, this Court should order that remand is required to the Superior Court of Fulton County in the State of Georgia.

WHEREFORE, Windsor respectfully requests:

- a. order that Windsor may immediately conduct discovery;
- b. schedule an evidentiary hearing on the issue of removal and remand;
- c. order that remand is required;
- d. order that jurisdiction for this Civil Action is with the Superior Court of Fulton County Georgia; and
- e. grant any other relief this Court deems just and proper.

Respectfully submitted this 5th day of July, 2011.



William M. Windsor

Pro Se

PO Box 681236

Marietta, GA 30068

Telephone: 770-578-1094

Facsimile: 770-234-4106

Email: williamwindsor@bellsouth.net

VERIFICATION OF WILLIAM M. WINDSOR

I, William M. Windsor, swear that I am authorized to make this verification and that the facts alleged in the foregoing MOTION are true and correct based upon my personal knowledge, except as to the matters herein stated to be alleged on information and belief, and that as to those matters I believe them to be true.

In accordance with 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct based upon my personal knowledge.

This 5th day of July, 2011.

A handwritten signature in black ink, appearing to read "William M. Windsor", written in a cursive style. The signature is positioned above a horizontal line.

William M. Windsor

CERTIFICATE OF COMPLIANCE

As required by Local Rule 7.1D, N.D. Ga., I hereby certify that this pleading has been prepared in Times New Roman 14-point font, one of the font and point selections approved by this Court in Local Rule 5.1B, N.D. Ga.

This 5th day of July, 2011.



William M. Windsor

P.O. Box 681236
Marietta, GA 30068
Telephone: 770-578-1056
Fax: 770-234-4106
williamwindsor@bellsouth.net

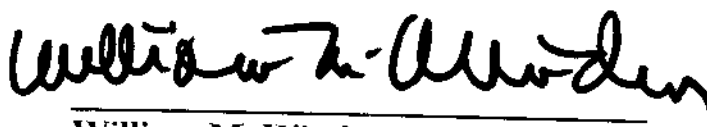
CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing MOTION by fax and mail with sufficient postage addressed to:

NEELI BEN-DAVID
ASSISTANT U.S. ATTORNEY
600 Richard B. Russell Federal Bldg.
75 Spring Street, S.W. -- Atlanta, Georgia 30303
Telephone: (404) 581-6303 -- Facsimile: (404) 581-6181
Email: neeli.ben-david@usdoj.gov

I have also prepared a copy for each Defendant to be served with the Summons and Complaint.

This 5th day of July, 2011.



William M. Windsor
Pro Se

PO Box 681236
Marietta, GA 30068
Telephone: 770-578-1094
Facsimile: 770-234-4106
Email: williamwindsor@bellsouth.net

Exhibit

1

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

WILLIAM M. WINDSOR,)
)
 Plaintiff,)

v.)

CIVIL ACTION NO.)

JUDGE WILLIAM S. DUFFEY,)
 MAID OF THE MIST CORPORATION,)
 MAID OF THE MIST STEAMBOAT)
 COMPANY, LTD.,)
 JUDGE ORINDA D. EVANS,)
 JUDGE JULIE E. CARNES,)
 JUDGE JOEL F. DUBINA,)
 JOHN LEY AND JAMES N. HATTEN,)
 Defendants.)

NOTICE OF REMOVAL

Defendants Judge William S. Duffey, Judge Orinda D. Evans, Judge Julie E. Carnes, Judge Joel F. Dubina, John Ley and James N. Hatten (the "Federal Defendants"), by and through the United States Attorney for the Northern District of Georgia, respectfully file this notice removing this cause from the Superior Court of Fulton Count County, Georgia, to this Court and, as grounds therefor, states as follows:

1. On May 19, 2011, plaintiff William M. Windsor ("Plaintiff") filed a civil complaint (the "Complaint") in the Superior Court of Fulton County, styled William M. Windsor v. Judge William S. Duffey, Maid of the Mist Corporation, Maid of the Mist Steamboat Company, Ltd., Judge Orinda D. Evans, Judge Julie E. Carnes, Judge Joel F. Dubina, John Ley, and James N. Hatten, Case No. 2011CV200857 (the "State Court Action"), naming as defendants the following federal district and appellate court judges, and clerks of court: Judge William S. Duffey, Judge Orinda D. Evans, Judge Julie E. Carnes, Judge Joel F. Dubina, John Ley and James N. Hatten (the "Federal Defendants").

2. On May 24, 2011, plaintiff served the Complaint and Summons on the Honorable Orinda D. Evans. On June 1, 2011, plaintiff served the Complaint and Summons on the Honorable William S. Duffey, Jr. and James N. Hatten. On June 7, 2011, plaintiff served the Complaint and Summons on the Honorable Julie E. Carnes. A copy of the Complaint is attached hereto as Exhibit A, as required by 28 U.S.C. § 1446(a). A copy of a motion for a Temporary Restraining Order is attached hereto as Exhibit B.

3. No further proceedings have occurred and no orders have been entered by the Superior Court of Fulton County in the State Court Action.

4. The Complaint seeks the entry of a declaratory judgment against the Federal Defendants stating the following:

[T]hat O.C.G.A. § 10-6-5 allows a Georgia citizen ("Citizen") to issue a power of attorney that delegates to an agent ("Agent") the power to appear for the Citizen and in that citizen's behalf before any personal having authority by the laws of any State or of the United States; to enter any personal appearance for the Citizen as a plaintiff or as a defendant in any legal action, suit, court, or hearing or to accept, waive or acknowledge any process or service of process from any court, board or agency whatsoever directed to the Citizen personally; to file motions, responses, and pleadings of any time; and to compromise, refer to arbitration, or submit to judgment in any such action or proceeding; to institute, supervise, prosecute, defend, intervene in, abandon, compromise, arbitrate, settle, dismiss, and appeal from any and all legal, equitable, judicial or administrative hearings, actions, suits, proceedings, attachments, arrests or distresses, involving the Citizen in any way, and in the Citizen's behalf speak for the Citizen in open Court, in Judge's chambers, or Clerk's offices.

5. This action is one that may be removed to the United States District Court pursuant to 28 U.S.C. § 1442(a)(1), (3).

WHEREFORE, the Federal Defendants remove the State Court Action to this Court for such further proceedings as may be appropriate. The United States has submitted with this Notice of Removal a proposed order that would constitute a Writ of Certiorari directing the Clerk of the Superior Court of Fulton County, Georgia, to deliver forthwith to the Clerk of Court for the Northern District of Georgia a complete certified copy of the entire record in the Superior Court.

Respectfully submitted, this 13th day of June, 2011.

SALLY QUILLIAN YATES
UNITED STATES ATTORNEY

/s/Christopher J. Huber
Assistant U.S. Attorney
Georgia Bar No. 545627
600 U.S. Courthouse
75 Spring Street, SW
Atlanta, Georgia 30303
(404) 581-6303 (telephone)
(404) 581-6150 (facsimile)

CERTIFICATE OF COMPLIANCE

I certify that the documents to which this certificate is attached have been prepared with one of the font and point selections approved by the Court in LR 5.1B (Times New Roman, 14 pt.) for documents prepared by computer.

This 13th day of June, 2011.

/s/Christopher J. Huber

CERTIFICATE OF SERVICE

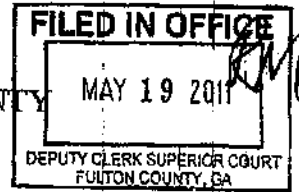
I hereby certify that I have this day served the foregoing Notice of Removal and proposed Order on the plaintiff and counsel of record to the State Court Action by causing true and correct copies thereof to be placed in the U.S. Mail, with proper postage affixed, and addressed as follows:

William M. Windsor
P.O. Box 681236
Marietta, Georgia 30068

Carl H. Anderson, Jr.
4000 Sun Trust Plaza
303 Peachtree Street NE
Atlanta, Georgia 30308-3243

This 13th day of June, 2011.

/s/Christopher J. Huber



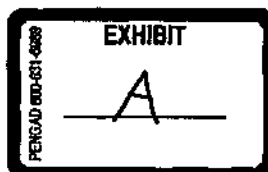
IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

WILLIAM M. WINDSOR,)
Plaintiff)
v.)
JUDGE WILLIAM S. DUFFEY,)
MAID OF THE MIST)
CORPORATION, MAID OF THE)
MIST STEAMBOAT COMPANY,)
LTD., JUDGE ORINDA D. EVANS,)
JUDGE JULIE E. CARNES, JUDGE)
JOEL F. DUBINA, JOHN LEY, AND)
JAMES N. HATTEN,)
Defendants.)

CIVIL ACTION NO:
2011CV200857

VERIFIED COMPLAINT FOR DECLARATORY JUDGMENT,
PETITION FOR TEMPORARY RESTRAINING ORDER,
AND PETITION FOR INJUNCTION

COMES NOW WILLIAM M. WINDSOR, Plaintiff in the above-styled action, and, pursuant to O.C.G.A. § 9-4-2, et seq, brings this action seeking a declaratory judgment that Georgia Code O.C.G.A. § 10-6-5 applies to Georgia residents in federal, state, county, and local matters. This lawsuit requests that this Court declare that O.C.G.A. § 10-6-5 allows a Georgia citizen ("Citizen") to issue a power of attorney that delegates to an agent ("Agent") the power to appear for the Citizen and in that Citizen's behalf before any person having authority by the



laws of any State or of the United States; to prepare, sign, and file documents with any governmental body or agency; to enter any personal appearance for the Citizen as a plaintiff or as a defendant in any legal action, suit, court, or hearing or to accept, waive or acknowledge any process or service of process from any court, board or agency whatsoever directed to the Citizen personally; to file motions, responses, and pleadings of any type; and to compromise, refer to arbitration, or submit to judgment in any such action or proceeding; to institute, supervise, prosecute, defend, intervene in, abandon, compromise, arbitrate, settle, dismiss, and appeal from any and all legal, equitable, judicial or administrative hearings, actions, suits, proceedings, attachments, arrests or distresses, involving the Citizen in any way, and in the Citizen's behalf speak for the Citizen in open Court, in Judge's chambers, or Clerk's offices.

PARTIES

1. William M. Windsor ("Windsor" or "Plaintiff") is a resident of Cobb County, Georgia with his residence at 3924 Lower Roswell Road, Marietta, GA 30068. Windsor has been a defendant in 1:09-CV-01543-WSD in the U.S. District Court for the Northern District of Georgia ("Bogus Action"). The Bogus Action is a matter that appeared out of nowhere with no petition filed and no summons served. Judge Orinda D. Evans is the party who brought the Bogus Action, yet she

is not shown as a party to the Bogus Action, though she has filed motions and other documents as if she was.

2. Judge Orinda D. Evans ("Judge Evans") is subject to the jurisdiction and venue in this Court. Her place of business is United States District Court, Richard B. Russell Federal Building and U.S. Courthouse, Suite 1988 - 75 Spring Street, SW, Atlanta, Fulton County, Georgia 30303. Judge Evans is a federal judge operating in Fulton County, Georgia and she is somehow a "party" to the Bogus Action, so she has a vested interest in this action. Service against Defendant Evans can be perfected via personal service at the foregoing address.

3. Judge William S. Duffey, Jr. ("Judge Duffey") is subject to the jurisdiction and venue in this Court. His place of business is United States District Court, 1721 Richard B. Russell Federal Building and U.S. Courthouse, 75 Spring Street, SW, Atlanta, Fulton County, Georgia 30303. Judge Duffey is a federal judge operating in Fulton County, Georgia, and he has been presiding over the Bogus Action, so he has a vested interest in this matter. Service against Defendant Duffey can be perfected via personal service at the foregoing address.

4. Judge Julie E. Carnes ("Judge Carnes") is subject to the jurisdiction and venue in this Court. Her place of business is United States District Court, 2167 Richard B. Russell Federal Building and U.S. Courthouse, 75 Spring Street,

SW, Atlanta, Fulton County, Georgia 30303. Judge Carnes is the Chief Judge for the United States District Court for the Northern District of Georgia operating in Fulton County, Georgia. As the Chief Judge, Judge Carnes has a vested interest in ensuring that the other judges comply with Georgia law in subsequent actions filed by Windsor or other Georgia citizens. Service against Defendant Carnes can be perfected via personal service at the foregoing address.

5. Judge Joel F. Dubina ("Judge Dubina") is subject to the jurisdiction and venue in this Court. His place of business is United States Court of Appeals for the Eleventh Circuit, 56 Forsyth Street, NW, Atlanta, Fulton County, Georgia 30303. Judge Dubina is the Chief Judge for the United States Court of Appeals for the Eleventh Circuit Court operating in Fulton County, Georgia. As the Chief Judge, Judge Carnes has a vested interest in ensuring that the other judges comply with Georgia law in a motion with power of attorney filed by Windsor in the Eleventh Circuit and in subsequent actions filed by Windsor or other Georgia citizens. Service against Defendant Dubina can be perfected via personal service at the foregoing address.

6. James N. Hatten ("Mr. Hatten"), Clerk of the Court, United States District Court for the Northern District of Georgia, is subject to the jurisdiction and venue in this Court. This court and its clerks have a vested interest in ensuring that

Georgia law is complied with in motions and actions filed by Windsor and in subsequent actions filed by Windsor or other Georgia citizens. Service against Defendant Hatten can be perfected via personal service to James N. Hatten, Clerk of the Court, Richard B. Russell Federal Building & United States Courthouse, 75 Spring St, NW, Atlanta, Fulton County, GA 30303.

7. John Ley ("Mr. Ley"), Clerk of the Court, United States Court of Appeals for the Eleventh Circuit ("Eleventh Circuit"), is subject to the jurisdiction and venue in this Court. This court and its clerks have a vested interest in ensuring that Georgia law is complied with in motions and actions filed by Windsor and in subsequent actions filed by Windsor or other Georgia citizens. Service against Defendant Ley can be perfected via personal service at his place of business, John Ley, Clerk of the Court, United States Court of Appeals for the Eleventh Circuit, 56 Forsyth Street, NW, Atlanta, Fulton County, Georgia 30303.

8. Maid of the Mist Corporation ("MOTM") is a plaintiff in the Bogus Action, does business in Fulton County Georgia, and is subject to jurisdiction and venue in this Court. MOTM is a corporation organized under the laws of the State of New York, United States of America. This party has a vested interest in this matter as a party to the Bogus Action. MOTM's principal place of business is 151 Buffalo Avenue, Suite 204, Niagara Falls, New York 14303. Service against

Defendant Maid of the Mist Corporation can be perfected via personal service at the foregoing address.

9. Maid of the Mist Steamboat Company, Ltd. ("Steamboat") is a plaintiff in the Bogus Action, does business in Fulton County Georgia, and is subject to jurisdiction and venue in this Court. This party has a vested interest in this matter as a party to the Bogus Action. Steamboat is a federal corporation organized under the laws of Canada. Steamboat's principal place of business is 5920 River Road, Post Office Box 808, Niagara Falls, Ontario, L2E 6V6, Canada. Service against Defendant Maid of the Mist Steamboat Company, Ltd. can be perfected via personal service at the foregoing address.

10. The Attorney General for the State of Georgia has a vested interest in this Declaratory Judgment. Pursuant to O.C.G.A. § 9-4-7 (CGA 110-1106), Plaintiff hereby affords the Attorney General the opportunity to be heard and seeks an Answer from the Attorney General whether the Attorney General elects to participate as a party. The Attorney General may be served with Summons and Complaint at the Office of the Attorney General, State of Georgia, Department of Law, 40 Capitol Square SW, Atlanta, GA 30334-1300. Pursuant to O.C.G.A. § 9-4-7, the Attorney General of Georgia will be provided with a copy of this action via personal service.

JURISDICTION AND VENUE

11. This Court has jurisdiction over the Defendants and over the subject matter of this action.

12. This action is for declaratory judgment and other relief. An actual controversy exists within this Court's jurisdiction.

13. This Court has subject matter jurisdiction under the Georgia Constitution; O.C.G.A. § 9-4-1, et seq.

14. Venue is proper in this court.

FACTS

15. William M. Windsor ("Windsor") is allegedly a Defendant in the so-called Civil Action No. 1:09-CV-01543-WSD in the United States District Court for the Northern District of Georgia ("Bogus Action"). The Bogus Action appeared out of nowhere. The Federal Rules of Civil Procedure require a petition and issuance and service of a summons. None of this was done in this "matter." Rule 3. Commencement of Action REQUIRES that "A civil action is commenced by filing a complaint with the court." There was no complaint. The Court Docket includes no complaint. Therefore, this action must be dismissed.

16. Rule 4 requires a Summons. "A summons must: (A) name the court and the parties; (B) be directed to the defendant; (C) state the name and address of

the plaintiff's attorney or — if unrepresented — of the plaintiff; (D) state the time within which the defendant must appear and defend; (E) notify the defendant that a failure to appear and defend will result in a default judgment against the defendant for the relief demanded in the complaint; (F) be signed by the clerk. ... On or after filing the complaint, the plaintiff may present a summons to the clerk for signature and seal. If the summons is properly completed, the clerk must sign, seal, and issue it to the plaintiff for service on the defendant. A summons — or a copy of a summons that is addressed to multiple defendants — must be issued for each defendant to be served. ... A summons must be served with a copy of the complaint. The plaintiff is responsible for having the summons and complaint served within the time allowed by Rule 4(m) and must furnish the necessary copies to the person who makes service.” There was no summons. The Court Docket does not include any summons. Windsor was never served with a summons.

17. Judge Orinda D. Evans created this “matter,” yet her name appears on nothing. Her name does not appear in the caption. Critical records are listed in the docket with no docket number. Critical records submitted to the Clerk of the Court or to Judge Duffey are missing from the docket.

18. The Bogus Action began by Judge Duffey branding Windsor as “scurrilous and irresponsible” for attempting to obtain documents that have been

hidden by Judge Evans that Windsor believes will prove Judge Evans committed obstruction of justice in another civil action. In Windsor's opinion, Judge Duffey has ignored the facts, ignored the law, cited inapplicable law, has committed perjury and other criminal acts, and has done everything possible to protect Judge Evans and damage Windsor.

19. Windsor currently has the Fulton County Grand Jury considering criminal charges against both Judge Duffey and Judge Evans. The sealed envelopes containing the charges were personally delivered to each grand juror by Deputy Sheriff Betts on May 10, 2011.

20. Non-party Barbara Windsor ("BGW") has become involved in the Bogus Action through a request for production of financial documents, including financial records pertaining to her own separate property, which is protected by Article I, Paragraph XXVII of the Georgia Constitution. This has been done (a) despite the fact that the Plaintiffs have illegally obtained liens on ALL of the assets of both Windsor and BGW through filings in both Fulton and Cobb counties, (b) despite the fact that Windsor provided the Plaintiffs with three years of tax returns, a balance sheet, reports on real estate and all other assets, and assorted other financial information that provided a precise report of Windsor's financial position, (c) despite the fact that identical production requests were made of Windsor, and

(d) despite the fact that the Georgia Constitution protects a wife's separate assets.

21. BGW has been advised that she requires surgery for a prolapsed uterus, rectocele, and related issues. A rectocele results from a tear in the rectovaginal septum (which is normally a tough, fibrous, sheet-like divider between the rectum and vagina). Rectal tissue bulges through this tear and into the vagina as a hernia. A hysterectomy will be performed, and her uterus and ovaries will be removed. An assortment of other procedures will be done to repair problems in the vagina and rectum. Dr. Dobson says BGW will be out of commission for six weeks.

22. Prior to being diagnosed, BGW developed a severe case of anxiety. She has been seeing a psychiatrist, Dr. Brian Teliho, and he has begun medication. BGW has trouble tolerating medication, so she is very slowly having the dosage increased. Thus far, the medication has not had any meaningful impact on the anxiety. She has trouble sleeping, shakes much of the time, cries a lot, and is in a state of panic. Her irrational fear is that Judge Duffey will put her in jail. She has done nothing to be put in jail, but that is her fear. She also fears that someone will kill her because of Windsor's efforts to expose judicial corruption.

23. BGW is physically and mentally incapable of handling matters relating to the Bogus Action. Windsor cannot afford an attorney. BGW has asked

Windsor to handle the matter for her. Both Windsor and BGW have made Judge Duffey aware of BGW's medical problems.

24. Windsor conducted online research to determine whether Georgia law allowed a power of attorney to be used to enable Windsor to handle matters for BGW. The Georgia statutes seem to clearly provide this right to BGW and Windsor. All of the Georgia model power of attorney forms available online include language that gives this specific right to Georgia citizens. Exhibit 1 includes true and correct copies of some of the many Georgia model power of attorney forms available online.

25. BGW signed a Power of Attorney giving Windsor the authority to speak and respond for her in the Bogus Action. Exhibit 2 is a true and correct copy of the Power of Attorney executed by both BGW and Windsor.

26. Judge William S. Duffey is the judge in the Bogus Action. On September 23, 2010, he entered an oral order that required that Windsor cease filing motions and file "requests for specific approval" that Judge Duffey would approve before motions could be filed. The order plainly shows that it did not apply to BGW. (Exhibit 3 is a true and correct copy of this order.) The Oral Order of September 23, 2010 requires that "Mr. Windsor" has to request specific

approval to file. It says nothing about Mrs. Windsor (BGW) who had not been involved in the Bogus Action in any manner whatsoever.

27. On October 6, 2010, BGW was served with a subpoena by MOTM and Steamboat to produce documents on October 18, 2010. (Exhibit 4 is a true and correct copy of the subpoena.)

28. BGW filed a motion for protective order on October 18, 2010, and Windsor filed an Emergency Motion for Conference asking that the subpoenas, stay, and appeal be addressed.

29. On November 3, 2010, Judge Duffey issued an order denying BGW's Motion for Protective Order claiming BGW was bound by the September 23, 2010 order. This erroneous order as to BGW was brought to Judge Duffey's attention, but he ignored the facts. There was no such order that placed restrictions on BGW. Exhibit 5 is a true and correct copy of the November 3, 2010 order. Comparison of Exhibit 3 and Exhibit 5 make it absolutely clear that BGW was not subject to any filing restrictions whatsoever. Judge Duffey has also denied or ignored Windsor's requests for conferences or hearings.

30. On December 2, 2010, BGW filed a Request for Specific Approval to file the Motion for Protective Order in compliance with Judge Duffey's November 3, 2010 order.

31. On December 6, 2010, Judge Duffey denied BGW's request for approval to file the motion for protective order. Exhibit 6 is a true and correct copy of the court docket showing this order.

32. On November 5, 2010, BGW presented a notice of appeal to the District Court Clerk with the required filing fee of \$455 cash. The appeal said: "This appeal is necessary due to the violation of ... Constitutional rights by Judge Duffey; claiming filing restrictions on Barbara Windsor when there were none; wrongful dismissal of Barbara's filings; denial of Barbara's access to the Court; and abuse of discretion by Judge Duffey." The court docket does not reflect this notice of appeal as the District Court Clerk refused to file it. The U.S. Treasury sent a refund check for \$455 to BGW.

33. On April 11, 2011, BGW sent another notice of appeal to the Clerk of the Court with \$455 cash. The Court Docket reveals that this appeal has not been filed either. A true and correct copy of the Court Docket is Exhibit 7.

34. Judge Duffey has refused to recognize BGW's appeals and has refused to recognize that case law clearly provides the matter is stayed as the District Court no longer has jurisdiction while the appeal is pending. Upon information and belief, Judge Duffey has directed the Clerk of the Court to hold BGW's appeals, not file them, and not communicate with BGW.

35. On March 11, 2011, Windsor filed a request for specific approval to file a power of attorney. Exhibit 8 is a true and correct copy of this request.

36. On March 26, 2011, Judge Duffey issued an order denying the request for specific approval to file the power of attorney. Judge Duffey did not even allow the motion to be filed and issued a ruling when all Windsor had been allowed to file was a two-page request to file a motion. Exhibit 9 is a true and correct copy of this order. Judge Duffey's order cited case law that was not Georgia law and was not even from a federal court in the Eleventh Circuit.

37. According to Windsor's research, Georgia law is quite clear that a Power of Attorney is to be used in exactly such situations. The model power of attorney forms provided online use the wording that says the power of attorney may be used for Windsor to file for his wife.

38. O.C.G.A. § 10-6-5 states: "Whatever one may do himself may be done by an agent, except such personal trusts in which special confidence is placed on the skill, discretion, or judgment of the person called in to act; so an agent may not delegate his authority to another unless specially empowered to do so." O.C.G.A. § 10-6-5 allows a Georgia citizen ("Citizen") to issue a power of attorney that delegates to an agent ("Agent") the power to appear for the Citizen and in that citizen's behalf before any person having authority by the laws of any

State or of the United States; to prepare, sign, and file documents with any governmental body or agency; to enter any personal appearance for the Citizen as a plaintiff or as a defendant in any legal action, suit, court, or hearing or to accept, waive or acknowledge any process or service of process from any court, board or agency whatsoever directed to the Citizen personally; to file motions, responses, and pleadings of any type; and to compromise, refer to arbitration, or submit to judgment in any such action or proceeding; to institute, supervise, prosecute, defend, intervene in, abandon, compromise, arbitrate, settle, dismiss, and appeal from any and all legal, equitable, judicial or administrative hearings, actions, suits, proceedings, attachments, arrests or distresses, involving the Citizen in any way, and in the Citizen's behalf speak for the Citizen in open Court, in Judge's chambers, or Clerk's offices.

39. On May 4, 2011, Judge Duffey entered a Show Cause Order with allegations that seem to be that Windsor committed forgery and has been acting as an attorney for BGW. A hearing has been postponed, but Judge Duffey could schedule a hearing at any time. In Windsor's opinion, the facts and the law will not matter to Judge Duffey. Windsor has never signed anything with his wife's name, and Windsor is not acting as BGW's attorney, though he believes he has that

legal right under the circumstances described above. A true and correct copy of the Show Cause Order is Exhibit 10.

CLAIM FOR RELIEF

40. There is an actual controversy between Plaintiff and Defendants.

41. Plaintiff is entitled to have this Court declare that O.C.G.A. § 10-6-5 applies to Georgia residents in federal matters as well as state, county, and local matters; that O.C.G.A. § 10-6-5 allows a Georgia citizen ("Citizen") to issue a power of attorney that delegates to an agent ("Agent") the power to appear for the Citizen and in that citizen's behalf before any person having authority by the laws of any State or of the United States; to prepare, sign, and file documents with any governmental body or agency; to enter any personal appearance for the Citizen as a plaintiff or as a defendant in any legal action, suit, court, or hearing or to accept, waive or acknowledge any process or service of process from any court, board or agency whatsoever directed to the Citizen personally; to file motions, responses, and pleadings of any type; and to compromise, refer to arbitration, or submit to judgment in any such action or proceeding; to institute, supervise, prosecute, defend, intervene in, abandon, compromise, arbitrate, settle, dismiss, and appeal from any and all legal, equitable, judicial or administrative hearings, actions, suits, proceedings, attachments, arrests or distresses, involving the Citizen in any way,

and in the Citizen's behalf speak for the Citizen in open Court, in Judge's chambers, or Clerk's offices.

42. Plaintiff is entitled to have this Court hear and decide his claim on an expedited basis in order to resolve the controversy between Plaintiff and Defendants because this case presents a matter of great public importance and because Defendants otherwise will act to deny Windsor the rights granted by a Georgia power of attorney.

43. The claims presented in this Complaint involve pure questions of law for the Court to decide.

TEMPORARY RESTRAINING ORDER

44. Plaintiff has no adequate remedy at law and will suffer immediate and irreparable harm if interlocutory relief is not granted restraining the Defendants from denying Windsor the ability to act for BGW pursuant to the Power of Attorney. Judge Duffey could schedule a hearing at any time and attempt to find Windsor guilty of forgery and unauthorized practice of law despite affording Windsor no criminal due process rights. This Court's TRO as to the validity of the Power of Attorney would simplify matters and put Judge Duffey on notice. BGW is in no mental or physical condition to participate in a hearing, and this Court's TRO will protect her.

45. Plaintiff prays for the entry of an Order temporarily restraining Defendants from denying Windsor the ability to act for BGW pursuant to the Power of Attorney until a hearing is held regarding whether Plaintiff is entitled to declaratory relief and such other relief as the Court deems just and appropriate.

CITATION OF AUTHORITY

46. The legislative intent and purpose of the Declaratory Judgment Act is to settle and relieve against uncertainty and insecurity with respect to rights, status, and other legal relations between the parties. O.C.G.A. § 9-4-1 (CGA § 110-1111).

47. Pursuant to O.C.G.A. § 9-4-2(b) (GCA § 110-1101) the Superior Courts are charged with the responsibility to "determine and settle by declaration any justiciable controversy of a civil nature where it appears to the court that the ends of justice require that such should be made for the guidance and protection of the petitioner, and when such a declaration will relieve the petitioner from uncertainty and insecurity with respect to his rights, status, and legal relations."

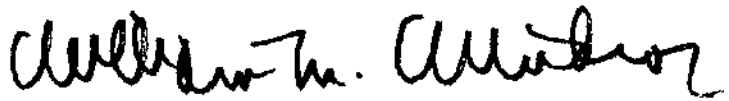
48. Relief by Declaratory Judgment shall be available, notwithstanding the fact that the complaining party has any other adequate legal or equitable remedy or remedies. O.C.G.A. § 9-4-2(c) (CGA § 110-1101).

PRAYER FOR RELIEF

Wherefore Plaintiff prays that this Court:

- (a) issue a declaratory judgment declaring that all courts operating in the state of Georgia must honor a valid Georgia power of attorney and allow a Georgia resident to represent another in court pursuant to a power of attorney as required by O.C.G.A. § 10-6-5;
- (b) enter a TRO for interlocutory injunctive relief to be issued enjoining Defendants from denying Windsor the right to act as an agent pursuant to the Power of Attorney to prevent immediate and irreparable harm, until the Court has had the opportunity to rule on the merits of Plaintiff's claims;
- (c) grant a permanent injunction; and
- (e) grant such other and further relief to which the Plaintiff may be entitled.

Submitted this 18th day of May, 2011.



WILLIAM M. WINDSOR
Pro Se

PO Box 681236
Marietta, GA 30068
Telephone: 770-578-1094
Facsimile: 770-234-4106
Email: williamwindsor@bellsouth.net

VERIFICATION OF WILLIAM M. WINDSOR

I, William M. Windsor, swear and state that I am authorized to make this verification on behalf of myself and that the facts alleged in the foregoing Verified Complaint are true and correct based upon my personal knowledge, except as to the laws and rules discussed, and that as to those matters I believe them to be true.

This 18th day of May, 2011.

A handwritten signature in black ink, appearing to read "William M. Windsor", written over a horizontal line.

William M. Windsor

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

WILLIAM M. WINDSOR,)

Plaintiff,)

v.)

JUDGE WILLIAM S. DUFFEY,)
MAID OF THE MIST CORPORATION,)
MAID OF THE MIST STEAMBOAT)
COMPANY, LTD.,)
JUDGE ORINDA D. EVANS,)
JUDGE JULIE E. CARNES,)
JUDGE JOEL F. DUBINA,)
JOHN LEY AND JAMES N. HATTEN,)

Defendants.)

CIVIL ACTION NO.

ORDER

This matter having been removed to the Court by the United States Attorney for the Northern District of Georgia upon the filing of a Notice of Removal of the case William M. Windsor v. Judge William S. Duffey, Maid of the Mist Corporation, Maid of the Mist Steamboat Company, Ltd., Judge Orinda D. Evans, Judge Julie E. Carnes, Judge Joel F. Dubina, John Ley, and James N. Hatten, Fulton County Superior Court Case No. 2011CV200857, now pending in the

Superior Court of Fulton County, Georgia, in accordance with 28 U.S.C. § 1442, pursuant to the provisions of 28 U.S.C. § 1447(b), as amended, it is hereby

ORDERED:

The Clerk of the Superior Court of Fulton County, Georgia is hereby **ORDERED** to deliver forthwith to the Clerk of this Court, located at United States Courthouse, 2200 Richard B. Russell Federal Building, 75 Spring St., S.W., Atlanta, Georgia 30303, one (1) complete certified copy of the entire record herein to date in the above-referenced case.

SO ORDERED this _____ day of _____, 2011.

UNITED STATES DISTRICT JUDGE

Submitted by:

/s/Christopher J. Huber
Assistant U.S. Attorney

JS44 (Rev. 1/08 NDGA)

CIVIL COVER SHEET

The JS44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form is required for the use of the Clerk of Court for the purpose of initiating the civil docket record. (SEE INSTRUCTIONS ATTACHED)

I. (a) PLAINTIFF(S)

WILLIAM M. WINDSOR

DEFENDANT(S)

JUDGE WILLIAM S. DUFFEY, ET. AL.

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF

Cobb
(EXCEPT IN U.S. PLAINTIFF CASES)

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT

FULTON
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

(c) ATTORNEYS (FIRM NAME, ADDRESS, TELEPHONE NUMBER, AND E-MAIL ADDRESS)

PRO SE

ATTORNEYS (IF KNOWN)

CHRISTOPHER J. HUBER
Asst. U.S. Attorney
600 U.S. Courthouse, 75 Spring Street
Atlanta, Georgia 30303

II. BASIS OF JURISDICTION

(PLACE AN "X" IN ONE BOX ONLY)

- 1 U.S. GOVERNMENT PLAINTIFF
- 2 U.S. GOVERNMENT DEFENDANT
- 3 FEDERAL QUESTION (U.S. GOVERNMENT NOT A PARTY)
- 4 DIVERSITY (INDICATE CITIZENSHIP OF PARTIES IN ITEM III)

III. CITIZENSHIP OF PRINCIPAL PARTIES

(PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)
(FOR DIVERSITY CASES ONLY)

- | | | | | | |
|---------------------------------------|---------------------------------------|---|----------------------------|----------------------------|---|
| PLF | DEF | | PLF | DEF | |
| <input checked="" type="checkbox"/> 1 | <input checked="" type="checkbox"/> 1 | CITIZEN OF THIS STATE | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 | INCORPORATED OR PRINCIPAL PLACE OF BUSINESS IN THIS STATE |
| <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | CITIZEN OF ANOTHER STATE | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 | INCORPORATED AND PRINCIPAL PLACE OF BUSINESS IN ANOTHER STATE |
| <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | CITIZEN OR SUBJECT OF A FOREIGN COUNTRY | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 | FOREIGN NATION |

IV. ORIGIN (PLACE AN "X" IN ONE BOX ONLY)

- 1 ORIGINAL PROCEEDING
- 2 REMOVED FROM STATE COURT
- 3 REMANDED FROM APPELLATE COURT
- 4 REINSTATED OR REOPENED
- 5 TRANSFERRED FROM ANOTHER DISTRICT (Specify District)
- 6 MULTIDISTRICT LITIGATION
- 7 APPEAL TO DISTRICT JUDGE FROM MAGISTRATE JUDGE JUDGMENT

V. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE - DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)

28 U.S.C. § 1442(a)(1),(3)

(IF COMPLEX, CHECK REASON BELOW)

- 1. Unusually large number of parties.
- 2. Unusually large number of claims or defenses.
- 3. Factual issues are exceptionally complex.
- 4. Greater than normal volume of evidence.
- 5. Extended discovery period is needed.
- 6. Problems locating or preserving evidence.
- 7. Pending parallel investigations or actions by government.
- 8. Multiple use of experts.
- 9. Need for discovery outside United States boundaries.
- 10. Existence of highly technical issues and proof.

CONTINUED ON REVERSE

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT \$ _____ APPLYING IFP _____ MAG. JUDGE (IFP) _____
 JUDGE _____ MAG. JUDGE _____ NATURE OF SUIT _____ CAUSE OF ACTION _____
 (Referral)

VI. NATURE OF SUIT (PLACE AN "X" IN ONE BOX ONLY)

CONTRACT - "0" MONTHS DISCOVERY TRACK

- 150 RECOVERY OF OVERPAYMENT & ENFORCEMENT OF JUDGMENT
- 152 RECOVERY OF DEFAULTED STUDENT LOANS (Excl. Veterans)
- 153 RECOVERY OF OVERPAYMENT OF VETERAN'S BENEFITS

CONTRACT - "4" MONTHS DISCOVERY TRACK

- 110 INSURANCE
- 120 MARINE
- 130 MILLER ACT
- 140 NEGOTIABLE INSTRUMENT
- 151 MEDICARE ACT
- 160 STOCKHOLDERS' SUITS
- 190 OTHER CONTRACT
- 195 CONTRACT PRODUCT LIABILITY
- 196 FRANCHISE

REAL PROPERTY - "4" MONTHS DISCOVERY TRACK

- 210 LAND CONDEMNATION
- 220 FORECLOSURE
- 230 RENT LEASE & EJECTMENT
- 240 TORTS TO LAND
- 245 TORT PRODUCT LIABILITY
- 290 ALL OTHER REAL PROPERTY

TORTS - PERSONAL INJURY - "4" MONTHS DISCOVERY TRACK

- 310 AIRPLANE
- 315 AIRPLANE PRODUCT LIABILITY
- 320 ASSAULT, LIBEL & SLANDER
- 330 FEDERAL EMPLOYERS' LIABILITY
- 340 MARINE
- 345 MARINE PRODUCT LIABILITY
- 350 MOTOR VEHICLE
- 355 MOTOR VEHICLE PRODUCT LIABILITY
- 360 OTHER PERSONAL INJURY
- 362 PERSONAL INJURY - MEDICAL MALPRACTICE
- 365 PERSONAL INJURY - PRODUCT LIABILITY
- 368 ASBESTOS PERSONAL INJURY PRODUCT LIABILITY

TORTS - PERSONAL PROPERTY - "4" MONTHS DISCOVERY TRACK

- 370 OTHER FRAUD
- 371 TRUTH IN LENDING
- 380 OTHER PERSONAL PROPERTY DAMAGE
- 385 PROPERTY DAMAGE PRODUCT LIABILITY

BANKRUPTCY - "0" MONTHS DISCOVERY TRACK

- 422 APPEAL 28 USC 158
- 423 WITHDRAWAL 28 USC 157

CIVIL RIGHTS - "4" MONTHS DISCOVERY TRACK

- 441 VOTING
- 442 EMPLOYMENT
- 443 HOUSING/ ACCOMMODATIONS
- 444 WELFARE
- 440 OTHER CIVIL RIGHTS
- 445 AMERICANS with DISABILITIES - Employment
- 446 AMERICANS with DISABILITIES - Other

IMMIGRATION - "0" MONTHS DISCOVERY TRACK

- 462 NATURALIZATION APPLICATION
- 463 HABEAS CORPUS- Alien Detainees
- 465 OTHER IMMIGRATION ACTIONS

PRISONER PETITIONS - "0" MONTHS DISCOVERY TRACK

- 530 MOTIONS TO VACATE SENTENCE
- 530 HABEAS CORPUS
- 535 HABEAS CORPUS DEATH PENALTY
- 540 MANDAMUS & OTHER
- 550 CIVIL RIGHTS - Filed Pro se
- 555 PRISON CONDITION(S) - Filed Pro se

PRISONER PETITIONS - "4" MONTHS DISCOVERY TRACK

- 550 CIVIL RIGHTS - Filed by Counsel
- 555 PRISON CONDITION(S) - Filed by Counsel

FORFEITURE/PENALTY - "4" MONTHS DISCOVERY TRACK

- 610 AGRICULTURE
- 620 FOOD & DRUG
- 625 DRUG RELATED SEIZURE OF PROPERTY 21 USC 881
- 630 LIQUOR LAWS
- 640 R.R. & TRUCK
- 650 AIRLINE REGS.
- 660 OCCUPATIONAL SAFETY / HEALTH
- 690 OTHER

LABOR - "4" MONTHS DISCOVERY TRACK

- 710 FAIR LABOR STANDARDS ACT
- 720 LABOR/MGMT. RELATIONS
- 730 LABOR/MGMT. REPORTING & DISCLOSURE ACT
- 740 RAILWAY LABOR ACT
- 790 OTHER LABOR LITIGATION
- 791 EML. RET. INC. SECURITY ACT

PROPERTY RIGHTS - "4" MONTHS DISCOVERY TRACK

- 820 COPYRIGHTS
- 840 TRADEMARK

PROPERTY RIGHTS - "8" MONTHS DISCOVERY TRACK

- 830 PATENT

SOCIAL SECURITY - "0" MONTHS DISCOVERY TRACK

- 861 HIA (1395(f))
- 862 BLACK LUNG (923)
- 863 DIWC (405(g))
- 863 DIWW (405(g))
- 864 SSD TITLE XVI
- 865 RSI (405(g))

FEDERAL TAX SUITS - "4" MONTHS DISCOVERY TRACK

- 870 TAXES (U.S. Plaintiff or Defendant)
- 871 IRS - THIRD PARTY 26 USC 7609

OTHER STATUTES - "4" MONTHS DISCOVERY TRACK

- 400 STATE REAPPORTIONMENT
- 430 BANKS AND BANKING
- 450 COMMERCE/ICC RATES/ETC.
- 460 DEPORTATION
- 470 RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS
- 480 CONSUMER CREDIT
- 490 CABLE/SATELLITE TV
- 810 SELECTIVE SERVICE
- 675 CUSTOMER CHALLENGE 12 USC 3410
- 891 AGRICULTURAL ACTS
- 892 ECONOMIC STABILIZATION ACT
- 893 ENVIRONMENTAL MATTERS
- 894 ENERGY ALLOCATION ACT
- 895 FREEDOM OF INFORMATION ACT
- 900 APPEAL OF PER DETERMINATION UNDER EQUAL ACCESS TO JUSTICE
- 950 CONSTITUTIONALITY OF STATE STATUTES
- 890 OTHER STATUTORY ACTIONS

OTHER STATUTES - "8" MONTHS DISCOVERY TRACK

- 410 ANTI TRUST
- 850 SECURITIES / COMMODITIES / EXCHANGE

OTHER STATUTES - "0" MONTHS DISCOVERY TRACK

- ARBITRATION (Confirm / Vacate / Order / Modify)

(Note: Mark underlying Nature of Suit as well)

*** PLEASE NOTE DISCOVERY TRACK FOR EACH CASE TYPE. SEE LOCAL RULE 26.3**

VII. REQUESTED IN COMPLAINT:

CHECK IF CLASS ACTION UNDER F.R.Cv.P. 23 DEMAND \$ _____

JURY DEMAND YES NO (CHECK YES ONLY IF DEMANDED IN COMPLAINT)

VIII. RELATED/REFILED CASE(S) IF ANY

JUDGE Evans & Duffey

1:06-CV-0714-ODE

DOCKET NO. 1:09-CV-1543-WSD & 1:09-CV-2027-WSD

CIVIL CASES ARE DEEMED RELATED IF THE PENDING CASE INVOLVES: (CHECK APPROPRIATE BOX)

- 1. PROPERTY INCLUDED IN AN EARLIER NUMBERED PENDING SUIT.
- 2. SAME ISSUE OF FACT OR ARISES OUT OF THE SAME EVENT OR TRANSACTION INCLUDED IN AN EARLIER NUMBERED PENDING SUIT.
- 3. VALIDITY OR INFRINGEMENT OF THE SAME PATENT, COPYRIGHT OR TRADEMARK INCLUDED IN AN EARLIER NUMBERED PENDING SUIT.
- 4. APPEALS ARISING OUT OF THE SAME BANKRUPTCY CASE AND ANY CASE RELATED THERETO WHICH HAVE BEEN DECIDED BY THE SAME BANKRUPTCY JUDGE.
- 5. REPETITIVE CASES FILED BY PRO SE LITIGANTS.
- 6. COMPANION OR RELATED CASE TO CASE(S) BEING SIMULTANEOUSLY FILED (INCLUDE ABBREVIATED STYLE OF OTHER CASE(S)):

7. EITHER SAME OR ALL OF THE PARTIES AND ISSUES IN THIS CASE WERE PREVIOUSLY INVOLVED IN CASE NO. _____, WHICH WAS DISMISSED. This case IS IS NOT (check one box) SUBSTANTIALLY THE SAME CASE.


SIGNATURE OF ATTORNEY OF RECORD

6-13-2011
DATE

Exhibit

2

4months, SUBMDJ

**U.S. District Court
Northern District of Georgia (Atlanta)
CIVIL DOCKET FOR CASE #: 1:11-cv-01922-TWT**

Windsor v. Duffey et al
Assigned to: Judge Thomas W. Thrash, Jr
Case in other court: Superior Court of Fulton County,
Georgia, 2011CV200857
Cause: 28:1443(1)Removal from State Court - Civil Rights

Date Filed: 06/13/2011
Jury Demand: None
Nature of Suit: 440 Civil Rights: Other
Jurisdiction: U.S. Government
Defendant

Plaintiff

William M. Windsor

represented by **William M. Windsor**
P. O. Box 681236
Marietta, GA 30068
770-578-1094
Fax: 770-234-4106
PRO SE

V.

Defendant

Judge William S. Duffey

represented by **Christopher J. Huber**
U.S. Attorneys Office - ATL
Assistant United States Attorney,
Criminal Division
600 Richard Russell Building
75 Spring Street, S.W.
Atlanta, GA 30303
(404) 581-6292
Email: chris.huber@usdoj.gov
ATTORNEY TO BE NOTICED

Defendant

Maid of the Mist Corporation

Defendant

**Maid of the Mist Steamboat
Company, Ltd.**

Defendant

Judge Orinda D. Evans

represented by **Christopher J. Huber**
 (See above for address)
ATTORNEY TO BE NOTICED

Defendant

Judge Julie E. Carnes

represented by **Christopher J. Huber**
 (See above for address)
ATTORNEY TO BE NOTICED

Defendant

Judge Joel F. Dubina

represented by **Christopher J. Huber**
 (See above for address)
ATTORNEY TO BE NOTICED

Defendant

John Ley

represented by **Christopher J. Huber**
 (See above for address)
ATTORNEY TO BE NOTICED

Defendant

James N. Hatten

represented by **Christopher J. Huber**
 (See above for address)
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
06/13/2011	<u>1</u>	NOTICE OF REMOVAL with COMPLAINT filed by Judge Julie E. Carnes, Judge Joel F. Dubina, Judge William S. Duffey, Judge Orinda D. Evans, John Leh, James N. Hatten. Consent form to proceed before U.S. Magistrate and pretrial instructions provided. (Attachments: # <u>1</u> Exhibit A - Complaint for Declaratory Judgment, Petition for Temporary Restraining Order and Petition for Injunction, # <u>2</u> Text of Proposed Order, # <u>3</u> Civil Cover Sheet) (dfb) Please visit our website at http://www.gand.uscourts.gov to obtain Pretrial Instructions. (Entered: 06/13/2011)
06/13/2011	<u>2</u>	MOTION for Temporary Restraining Order, MOTION for Hearing by William M. Windsor. (dfb) (Entered: 06/13/2011)
06/13/2011		Submission of <u>2</u> MOTION for Temporary Restraining Order, MOTION for Hearing, submitted to District Judge Thomas W. Thrash. (dfb) (Entered: 06/13/2011)
06/13/2011		Notification of Docket Correction to reflect correct civil action number assigned, 1:11-cv-1922-TWT. (dfb) (Entered: 06/13/2011)

06/13/2011	<u>3</u>	MOTION for Extension of Time To File Responsive Pleading or Motion and Brief in Support with Brief In Support by Julie E. Carnes, Joel F. Dubina, William S. Duffey, Orinda D. Evans, James N. Hatten, John Ley. (Attachments: # <u>1</u> Text of Proposed Order)(Huber, Christopher) (Entered: 06/13/2011)
06/13/2011	<u>4</u>	MOTION for Protective Order with Brief In Support by Julie E. Carnes, Joel F. Dubina, William S. Duffey, Orinda D. Evans, James N. Hatten, John Ley. (Attachments: # <u>1</u> Brief Memorandum of Points and Authorities in Support of Motion for A Protective Order, # <u>2</u> Text of Proposed Order)(Huber, Christopher) (Entered: 06/13/2011)
06/14/2011	<u>5</u>	Certificate of Interested Persons and Corporate Disclosure Statement by William M. Windsor. (rvb) (Entered: 06/15/2011)
06/14/2011	<u>6</u>	RESPONSE re <u>4</u> MOTION for Protective Order, filed by William M. Windsor. (Attachments: # <u>1</u> Exhibit A)(rvb) (Entered: 06/15/2011)
06/14/2011	<u>7</u>	MOTION to Deny Removal, and Emergency MOTION for Hearing, by William M. Windsor. (Attachments: # <u>1</u> Exhibit A)(rvb) (Entered: 06/15/2011)
06/15/2011	<u>9</u>	Letter from William M. Windsor requesting subpoenas. (rej) (Entered: 06/16/2011)
06/15/2011	<u>10</u>	Letter from William M. Windsor regarding motion to disqualify. (rej) (Entered: 06/16/2011)
06/15/2011	<u>11</u>	NOTICE Of Filing of Motion to Disqualify by William M. Windsor (rej) (Entered: 06/16/2011)
06/15/2011	<u>12</u>	MOTION to Disqualify Sally Quillian Yates, Christopher Huber, and the U.S. Attorney's Office by William M. Windsor. (rej) (Entered: 06/16/2011)
06/15/2011	<u>13</u>	Letter from William M. Windsor regarding Notices of Filing. (rej) (Entered: 06/16/2011)
06/15/2011	<u>14</u>	NOTICE Of Filing Certificate of Interested Persons and Corporate Disclosure Statement by William M. Windsor (rej) (Entered: 06/16/2011)
06/15/2011	<u>15</u>	NOTICE Of Filing Response to the Defendants' Motion for A Protective Order by William M. Windsor. (rej) (Entered: 06/16/2011)
06/15/2011	<u>16</u>	NOTICE Of Filing of Motion to Deny Removal, and Emergency Motion for Discovery and Hearing by William M. Windsor. (rej) (Entered: 06/16/2011)
06/15/2011	<u>17</u>	ORDER denying <u>2</u> Motion for TRO and Motion for Hearing. Signed by Judge Thomas W. Thrash, Jr on 6/15/11. (hfm) (Entered: 06/16/2011)
06/15/2011	<u>18</u>	Letter from William M. Windsor requesting copies of Notices of Electronic Filing. (rej) (Entered: 06/16/2011)
06/16/2011	<u>8</u>	Notice for Leave of Absence for the following date(s): July 5, 6, 7, 8, 2011, by Christopher J. Huber. (Huber, Christopher) (Entered: 06/16/2011)

06/16/2011		Clerks Certificate of Mailing as to William M. Windsor re <u>17</u> Order on Motion for TRO, Order on Motion for Hearing (hfm) (Entered: 06/16/2011)
06/16/2011		Submission of <u>4</u> MOTION for Protective Order, submitted to District Judge Thomas W. Thrash. (ss) (Entered: 06/16/2011)
06/16/2011	<u>19</u>	ORDER that the <u>3</u> Motion for Extension of Time is GRANTED. The Defendants referenced in this Order shall not be required to answer or otherwise respond to the complaint until June 25, 2011. Signed by Judge Thomas W. Thrash, Jr on 6/16/2011. (ank) (Entered: 06/16/2011)
06/16/2011		Clerks Certificate of Mailing as to William M. Windsor re <u>19</u> Order (ank) (Entered: 06/16/2011)
06/17/2011		Clerks Notation re <u>8</u> Leave of Absence July 5, 6, 7, 8, 2011, by Christopher J. Huber. The Court will not require an appearance by C. Huber on these dates. (ss) (Entered: 06/17/2011)
06/17/2011	<u>20</u>	NOTICE Of Filing Emergency Motion for Reconsideration of <u>19</u> Order Granting an Extension of Time to File Responsive Pleading or Motion, by William M. Windsor. (rvb) (Entered: 06/17/2011)
06/17/2011	<u>21</u>	NOTICE Of Filing Emergency Motion for Leave of Court to Commence Discovery and Obtain Subpoenas to Compel Attendance at Preliminary Injunction Hearing, by William M. Windsor. (rvb) (Entered: 06/17/2011)
06/17/2011	<u>22</u>	NOTICE Of Filing Emergency Motion for Reconsideration of Order Denying Temporary Restraining Order and Emergency Motion for Preliminary Injunction Hearing, by William M. Windsor. (rvb) (Entered: 06/17/2011)
06/17/2011	<u>23</u>	NOTICE Of Filing Response to the Federal Defendants' Motion for an Extension of Time to File Responsive Pleading or Motion and Motion to Strike, by William M. Windsor. (rvb) (Entered: 06/17/2011)
06/17/2011	<u>24</u>	Emergency MOTION for Leave of Court to Commence Discovery and Obtain Subpoenas to Compel Attendance at Preliminary Injunction Hearing, by William M. Windsor. (rvb) (Entered: 06/17/2011)
06/17/2011	<u>25</u>	ORDER granting the Federal Defendants' <u>4</u> Motion for Protective Order. All outstanding discovery in this matter is quashed and no responses to the discovery by any party or non-party are required. No discovery shall be served and the parties are not required to hold the conference pursuant to Federal Rules of Civil Procedure 26(f) pending further Order of this Court. No party need respond to any filing by the Plaintiff absent an Order to do so by this Court. The Plaintiff is ordered to post a cash bond or corporate surety bond acceptable to the Clerk in the amount of \$50,000.00 to satisfy any award of Rule 11 sanctions before filing any additional papers in this case without the consent of the Court. Signed by Judge Thomas W. Thrash, Jr. on 06/17/2011. (dfb) (Entered: 06/17/2011)

06/17/2011		Clerks Certificate of Mailing as to William M. Windsor re <u>25</u> Order on Motion for Protective Order. (dfb) (Entered: 06/17/2011)
06/17/2011	<u>26</u>	Emergency MOTION for Reconsideration of Order Denying Temporary Restraining Order and, Emergency MOTION for Preliminary Injunction Hearing, by William M. Windsor. (rvb) (Entered: 06/20/2011)
06/17/2011	<u>27</u>	Emergency MOTION for Reconsideration re <u>19</u> Order on Motion for Extension of Time, by William M. Windsor. (rvb) (Entered: 06/20/2011)
06/17/2011	<u>28</u>	RESPONSE re <u>3</u> MOTION for Extension of Time To File Responsive Pleading or Motion and Brief in Support, filed by William M. Windsor. (rvb) (Entered: 06/20/2011)
06/22/2011	<u>29</u>	ORDER directing the Clerk to file the Plaintiff's Motion to Recuse Judge Thrash and refer it to another Judge pursuant to 28 U.S.C. 144. Signed by Judge Thomas W. Thrash, Jr on 6/22/11. (dr) (Entered: 06/23/2011)
06/23/2011		Clerks Certificate of Mailing as to William M. Windsor re <u>29</u> Order (dr) (Entered: 06/23/2011)
06/23/2011	<u>30</u>	NOTICE of Filing of Request for Consent to file Plaintiff William M. Windsor's Emergency Motion to Recuse Judge Thomas Woodrow Thrash by William M. Windsor (dr) (Entered: 06/23/2011)
06/23/2011	<u>31</u>	EMERGENCY MOTION to Recuse Judge Thomas Woodrow Thrash by William M. Windsor. (dr) (Entered: 06/23/2011)
06/23/2011		Submission of <u>31</u> MOTION for Recusal, submitted to District Judge Amy Totenberg. (dr) (Entered: 06/23/2011)
06/24/2011	<u>32</u>	RESPONSE in Opposition re <u>31</u> MOTION for Recusal filed by Julie E. Carnes, Joel F. Dubina, William S. Duffey, Orinda D. Evans, James N. Hatten, John Ley (Huber, Christopher) (Entered: 06/24/2011)
06/28/2011	<u>33</u>	NOTICE Of Filing Reply to Opposition to Motion to Recuse Judge Thomas W. Thrash and Motion to Strike by William M. Windsor (dr) (Entered: 06/28/2011)
06/28/2011	<u>34</u>	REPLY to Response to <u>31</u> MOTION for Recusal filed by William M. Windsor. (dr) (Entered: 06/28/2011)
06/28/2011	<u>35</u>	MOTION to Strike <u>32</u> Response in Opposition to Motion by William M. Windsor. (dr) (Entered: 06/28/2011)

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