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.	)	

NOTICE OF APPEAL OF ORDERS -- DOCKET #'s 93 & 98

1. Notice is hereby given that William M. Windsor ("Windsor") appeals orders filed on September 28, 2011 -- Docket #93 and 98.

2. This appeal is necessary due to the violation of Windsor's Constitutional rights by Judge Thomas Woodrow Thrash ("TWT"), abuse of "discretion," fraud upon the court by TWT, perjury, and more. The appeal will be based upon abuse of discretion, violation of Constitutional rights, denial of due process, errors of law, violation of statutes, errors of fact, violations of various statutes, judicial bias, corruption, conspiracy, racketeering, and more.

3. Docket #93 is a filing restriction, and filing restrictions may not be entered without notice and hearing. Windsor was denied both. This is an injunction, and it is immediately appealable.

4. TWT's orders were, and are, **void**. The U.S. Supreme Court has stated that if a court is "without authority, its judgments and orders are regarded as nullities." (***Elliot v. Piersol***, 1 Pet. 328, 340, 26 U.S. 328, 340 (1828).)

5. Fraud was committed in the removal of this case from the Fulton County Superior Court. This fraud means this Court does not have jurisdiction. TWT has committed fraud upon the court as has the U.S. Attorney.

6. TWT has not followed mandatory statutory procedures. TWT committed unlawful acts. TWT has violated due process. TWT is part of a criminal racketeering enterprise. TWT has not complied with the rules, the Code of Judicial Conduct, or the Federal Rules of Civil Procedure. Upon information and belief, TWT does not have a copy of his oath of office in his chambers. This means this Court does not have subject matter jurisdiction.

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

Dean v. Wells Fargo Home Mortgage, No. 2:10-cv-564-FtM-29SPC (M.D.Fla. 04/21/2011).) (***Taylor v. Appleton***, 30 F.3d 1365, 1366 (11th Cir. 1994).)

8. Amendment V of the U.S. Constitution provides: "No person shall be...deprived of life, liberty, or property, without due process of law...." Article 1of the Georgia Constitution provides: "No person shall be deprived of life, liberty, or property except by due process of law."

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

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

10. This civil action has been on appeal and has been stayed.

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

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

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

14. Windsor's website says absolutely nothing about an "intention to use lawsuits in a campaign of harassment and retaliation against the federal judiciary" as stated in ORDER, P.2 ¶1. This is PERJURY in violation of 18 U.S.C. § 1001, 18 U.S.C. § 1621, 18 U.S.C. § 1623, and obstruction of justice in violation of 18 U.S.C. § 1503. Government Exhibit 1 is quite clear, and TWT has claimed in this ORDER that it says something that it absolutely does not say. This is a criminal act.

15. TWT also falsely states, with no justification or legal authority whatsoever, that "This purpose is also evident in the reckless, malicious and

scurrilous accusations that are littered throughout Mr. Windsor's voluminous papers." Windsor's filings in this Court are uncontroverted. The only facts before this Court are in affidavits sworn under oath under penalty of perjury by Windsor. TWT has no option to decide those sworn statements are false; he is obligated to accept them as true, as they are. TWT has no authority to testify. TWT has violated Canon 3 B. (9) of the Code of Judicial Conduct (as well as many other Canons): "Judges shall not, while a proceeding is pending or impending in any court, make any public comment that might reasonably be expected to affect its outcome or impair its fairness or make any non-public comment that might substantially interfere with a fair trial or hearing."

16. The cases cited by the TWT are not valid. ***Fridman v. City of New York*** does not stand for what the DC claims. It cites ***Handley v. Union Carbide Corp.***, 622 F. Supp. 1065 (S.D.W.Va. 12/6/1985). In this case, Handley's expenses exceeded his income, and the Court granted IFP.

> In ***Adkins v. duPont Company***, 335 U.S. 331, 93 L. Ed. 43, 69 S. Ct. 85 (1948), the Supreme Court impliedly rejected the notion that an appellant should have to mortgage her home to pay the cost of appeal. As the Second Circuit recently noted in ***Potnick v. Eastern State Hospital***, 701 F.2d 243 (2d Cir. 1983): "Section 1915(a) does not require a litigant to demonstrate absolute destitution; no party must be made to choose between abandoning a potentially meritorious claim or foregoing the necessities of life." Id. at 244.

17. ***Fridman v. City of New York*** has never been adopted by any Circuit or the Supreme Court, nor has ***Williams v. Spencer***, or ***Dycus v. Astrue***. State laws vary, and only Georgia law applies here. For example, ***Fridman*** does not apply in part because the State of New York defines "marital property" as all property acquired by either or both spouses during the marriage and before the execution of a separation agreement or the commencement of a "matrimonial action," which is defined, in part, as an action for annulment, divorce, or separation. N.Y. Dom. Rel. Law, §§ 236 B (1) (c), 236 B (2).

18. TWT claims the Windsors jointly own a home worth $1,640,000. This is false. (ORDER, P.2 ¶2.) TWT claims that the Windsors had $48,000 in dividend income, but this is false. (ORDER, P.2 ¶2, P. 3 ¶1.) The Windsors did not receive a penny in dividend income. Even if they had, their expenses greatly exceeded their income. The ability to pay is determined by net cash flow, which has been significantly negative for the last five years. For the last five years, the Windsor's expenses have exceeded their income.

19. TWT claims Windsor's statements of his financial affairs is convoluted. This is false. There is nothing convoluted whatsoever. TWT is a pathological liar.

20. Georgia is a separate property state. In Georgia, a spouse's separate assets are not marital property. Marriage does not make a spouse liable for the separate debts of the other spouse. In Georgia, a husband may file bankruptcy separately from his wife. In Georgia, as long as the non-filing spouse can prove that the items belong to that spouse and not to the other, and are not community property or otherwise an asset of the filing spouse, they are not an asset of the bankruptcy estate, and therefore not subject to claims by the bankruptcy trustee or by the creditors of the filing spouse. In Georgia, a spouse does not share in his or her spouse's liabilities as Georgia is a non-community property state. The Georgia Constitution provides that a spouse's separate property is SEPARATE. (Georgia Constitution, ¶ XXVII. "**Spouse's separate property.** The separate property of each spouse shall remain the separate property of that spouse except as otherwise provided by law.")

21. There is no law to make a spouse liable to use her separate property to pay for debts of her husband.

22. TWT has violated Canon 3 E. (1) of the Code of Judicial Conduct: "Judges shall disqualify themselves in any proceeding in which their impartiality might reasonably be questioned, including but not limited to instances where: (c) the judge or the judge's spouse, or a person within the third degree of relationship

to either of them, or the spouse of such a person, or any other member of the judge's family residing in the judge's household: (i) is a party to the proceeding, or an officer, director, or trustee of a party;" Judge Thrash is a defendant in two cases with Windsor, and he is disqualified from presiding in this case.

> At least since the time of Lord Coke, (Nemo debet esse judex in propria causa -- no one may be a Judge in his own case), a fundamental precept of due process has been that an interested party in a dispute cannot also sit as a decision-maker. See, e.g., ***Withrow v. Larkin***, 421 U.S. 35, 46-47, 43 L. Ed. 2d 712, 95 S. Ct. 1456 (1975); ***Gibson v. Berryhill***, 411 U.S. 564, 578-79, 36 L. Ed. 2d 488, 93 S. Ct. 1689 (1973); ***Wolkenstein v. Reville***, 694 F.2d 35, 38-39 (2d Cir. 1982). (***International Association of Machinists and Aerospace Workers v. Metro-North Commuter Railroad***, 24 F.3d 369 (2nd Cir. 04/18/1994).)
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> Due process of law as guaranteed by the Fourteenth Amendment to the Constitution of the United States requires that no man shall be judge in his own cause.

23. ***Hibben v. Smith***, 24 S. Ct. 88, 191 U.S. 310 (U.S. 11/30/1903) acknowledged that it was well established no man can be a judge in his own case over 100 years ago.

24. ***Jones v. Luebbers***, 359 F.3d 1005 (8th Cir. 03/03/2004) says:

> "[C]learly established Federal law, as determined by the Supreme Court of the United States", 28 U.S.C. § 2254(d)(1), recognizes not only actual bias, but also the appearance of bias, as grounds for disqualification:
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> A fair trial in a fair tribunal is a basic requirement of due process. Fairness of course requires an absence of actual bias in the trial of cases. But our system has always endeavored to prevent even the probability of unfairness. To this end no man can be a judge in his own case and no man is permitted

to try cases where he has an interest in the outcome. That interest cannot be defined with precision. Circumstances and relationships must be considered. This Court has said, however, that "Every procedure which would offer a possible temptation to the average man as a judge... not to hold the balance nice, clear, and true between the State and the accused denies the latter due process of law."

In re Murchison, 349 U.S. 133, 136 (1955) (quoting ***Tumey v. Ohio***, 273 U.S. 510, 535 (1927)) (omission in original).

Where a judge's interest in the outcome of a case is pecuniary, application of the rule from ***Murchison*** and ***Tumey*** is simple and the need for disqualification usually will be clear. For example, the Court found a due process violation and held there to be an impermissible appearance of bias where a judicial officer's compensation depended at least in part on obtaining convictions. ***Tumey***, 273 U.S. at 535. Similarly, the Court found a due process violation where an appellate judge participated in a case and set forth a rule of law applicable in a separate, pending proceeding in which the appellate judge was personally involved as a litigant. ***Aetna Life Ins. Co. v. Lavoie***, 475 U.S. 813, 821 (1986).

25. Eleventh Circuit Defendants TJOFLAT, BLACK and WILSON said this in ***Callahan v. Campbell***, 427 F.3d 897 (11th Cir. 10/05/2005):

A fair trial in a fair tribunal is a basic requirement of due process. . . .

To this end no man can be a judge in his own case and no man is permitted to try cases where he has an interest in the outcome. . . . It would be very strange if our system of law permitted a judge to act as a grand jury and then try the very persons accused as a result of his investigations. Id. at 136--37, 75 S.Ct. at 625. Callahan interprets ***Murchison*** as holding that "when a judge's participation in a case allows the judge to acquire extra-judicial knowledge that directly relates to issues over which the judge is presiding, recusal is required because it is difficult if not impossible for a judge to free himself from the influence of what took place."

26. TWT has a proven bias against pro se parties as no pro se plaintiff has ever won in his court.

> The appearance of impropriety may also result where the judge has evidenced a bias directed against a class of which the defendant is a member. See ***Berger v. U. S.***, 255 U.S. 22, 41 S. Ct. 230, 65 L. Ed. 481 (1921) (espionage convictions of German-American defendants overturned as result of trial judge's alleged anti-German-American remarks); ***U. S. v. Thompson***, 483 F.2d 527 (3d Cir. 1973), (draft violator's conviction overturned because judge's alleged statement that he had a policy of ordering a standard sentence for all such violators evidenced a bias against the class of which defendant was a member). (***United States v. Cuyler***, 584 F.2d 644 (3rd Cir. 09/29/1978).)

27. Eleventh Circuit Defendants EDMONDSON, BIRCH, and BLACK said this in ***Whisenhant v. Allen***, 556 F.3d 1198 (11th Cir. 02/03/2009):

> It is long established that "[a] fair trial in a fair tribunal is a basic requirement of due process." ***In re Murchison***, 349 U.S. at 136, 75 S.Ct. at 625. The Supreme Court has identified various situations in which "the probability of actual bias on the part of the judge or decisionmaker is too high to be constitutionally tolerable." ***Withrow v. Larkin***, 421 U.S. 35, 47, 95 S.Ct. 1456, 1464 (1975). Such cases include those in which the judge has a pecuniary interest in the outcome or has been personally abused or criticized by the party before him. Id.

28. Windsor has been treated unfairly; his due process rights have been violated. The DC has personal and financial incentives to rule against Windsor.

> A litigant is denied due process if he is in fact treated unfairly. ***Margoles***, 660 F.2d at 296. After reviewing various judicial disqualification cases, the court stated that "those few cases in which due process considerations were the basis for reversal involved serious facts supporting a finding of prejudice, not mere speculation and 'appearances.'" Id. Due process violations occur where there [is] actually some incentive [for the judge] to

find one way or the other, i.e., financial considerations [Ward, 409 U.S. 57, 93 S. Ct. 80, 34 L. Ed. 2d 267 ; ***Tumey v. Ohio***, 273 U.S. 510, 47 S. Ct. 437, 71 L. Ed. 749 (1927); ***Aetna***, 475 U.S. 813, 106 S. Ct. 1580, 89 L. Ed. 2d 823] or previous participation by the trying judge in the proceedings at which the contempt occurred [***In re Murchison***, 349 U.S. 133, 75 S. Ct. 623, 99 L. Ed. 2d 942; ***Taylor v. Hayes***, 418 U.S. 488, 94 S. Ct. 2697, 2704-05 (1974); ***Mayberry v. Pennsylvania***, 400 U.S. 455, 91 S. Ct. 499, 504-05, 27 L. Ed. 2d 532 (1971)]. ***Margoles***, 660 F.2d at 297 (quoting ***Howell v. Jones***, 516 F.2d 53 (5th Cir. 1975)). (***UNITED STATES EX REL. DEL VECCHIO v. ILLINOIS DEPT***, 795 F. Supp. 1406 (N.D.Ill. 06/9/1992).)

"A fair trial in a fair tribunal is a basic requirement of due process." ***In re Murchison***, 349 U.S. 133, 136 (1955); see also ***Ward v. Village of Monroeville***, 409 U.S. 57 (1972). Due process demands more than that the sentencer actually be impartial; rather, "'justice must satisfy the appearance of justice.'" ***In re Murchison***, 349 U.S., at 136, quoting Offutt v. United States, 348 U.S. 11, 14 (1954); see also In re Murchison, 349 U.S., at 136 ("Our system of law has always endeavored to prevent even the probability of unfairness."); ***Mayberry v. Pennsylvania***, 400 U.S. 455, 469 (1971) (Harlan, J., concurring) ("The appearance of even-handed justice . . . is at the core of due process"). The risk that Judge Chapman may have brought to bear on his decision specific information about Robertson not presented as evidence in the sentencing proceeding is too great in this case to satisfy the demands of the Due Process Clause. (***ANDREW EDWARD ROBERTSON v. CALIFORNIA***, 111 S. Ct. 568, 498 U.S. 1004 (U.S. 12/03/1990).)

29. TWT has become embroiled in a bitter dispute with Windsor, and he is disqualified. The Ninth Circuit recently said this in ***Richard D. Hurles v. Charles L. Ryan***, No. 08-99032 (9th Cir. 07/07/2011):

"A fair trial in a fair tribunal is a basic requirement of due process." ***In re Murchison***, 349 U.S. 133, 136 (1955). Indeed, the "legitimacy of the Judicial Branch ultimately depends on its reputation for impartiality and nonpartisan-ship." ***Mistretta v. United States***, 488 U.S. 361, 407 (1989). This most basic tenet of our judicial system helps to ensure both litigants' and the public's confidence that each case has been fairly adjudicated by a

neutral and detached arbiter. An appearance of impropriety, regardless of whether such impropriety is actually present or proven, erodes that confidence and weakens our system of justice.

While most claims of judicial bias are resolved "by common law, statute, or the professional standards of the bench and bar," the Due Process Clause of the Fourteenth Amendment "establishes a constitutional floor." ***Bracy v. Gramley***, 520 U.S. 899, 904 (1997) (citations omitted). To safeguard the right to a fair trial, the Constitution requires judicial recusal in cases where "the probability of actual bias on the part of the judge or decisionmaker is too high to be constitutionally tolerable." ***Withrow v. Larkin***, 421 U.S. 35, 47 (1975). "The Court asks not whether the judge is actually, subjectively biased, but whether the average judge in his position is likely to be neutral, or whether there is an unconstitutional potential for bias." ***Caperton v. A.T. Massey Coal Co.***, 129 S. Ct. 2252, 2262 (2009) (internal quotation marks omitted). The Supreme Court has declared:

Every procedure which would offer a possible temptation to the average man as a judge to forget the burden of proof required to convict the defendant, or which might lead him not to hold the balance nice, clear and true between the state and the accused, denies the latter due process of law. (Tumey v. Ohio, 273 U.S. 510, 532 (1927).)

A claimant need not prove actual bias to make out a due process violation. ***Johnson v. Mississippi***, 403 U.S. 212, 215 (1971); ***Aetna Life Ins. Co. v. Lavoie***, 475 U.S. 813, 825 (1986). Indeed, the Supreme Court has pointed out that it would be nearly impossible for a litigant to prove actual bias on the part of a judge. ***Caperton***, 129 S. Ct. at 2262-63; see also ***Vasquez v. Hillery***, 474 U.S. 254, 263 (1986) ("[W]hen the trial judge is discovered to have had some basis for rendering a biased judgment, his actual motivations are hidden from view, and we must presume the process was impaired." (citing ***Tumey***, 273 U.S. at 535). It is for this reason that the Court's precedents on judicial bias focus on the appearance of and potential for bias, not actual, proven bias. Due process thus mandates a "stringent rule" for judicial conduct, and requires recusal even of judges "who would do their very best to weigh the scales of justice equally" if the risk of bias is too high. Murchison, 349 U.S. at 136.

In determining what constitutes a risk of bias that is "too high," the Supreme Court has emphasized that no mechanical definition exists; cases requiring recusal "cannot be defined with precision" because "[c]ircumstances and relationships must be considered." Id.; see also ***Lavoie***, 475 U.S. at 822 (internal citations omitted). The Supreme Court has just re-affirmed this functional approach. See ***Caperton***, 129 S. Ct. at 2265-66.

The Court's call for pragmatism is particularly important in this instance, for capital cases mandate an even "greater degree of reliability" than other cases do. ***Murray v. Giarratano***, 492 U.S. 1, 9 (1989); ***Woodson v. North Carolina***, 428 U.S. 280, 304 (1976). We are compelled to acknowledge "that the penalty of death is qualitatively different" from any other penalty and that "there is a corresponding difference in the need for reliability in the determination that death is the appropriate punishment." ***Woodson***, 428 U.S. at 305. As required by the Supreme Court, we therefore utilize a functional approach to the facts of this case as they relate to the Court's established case law.

The Supreme Court's judicial bias doctrine has evolved as it confronts new scenarios "which, as an objective matter, require recusal." ***Caperton***, 129 S. Ct. at 2259. The most basic example of probable bias occurs when the judge " 'has a direct, personal, substantial pecuniary interest in reaching a conclusion against [one of the litigants].' " ***Crater v. Galaza***, 491 F.3d 1119, 1131 (9th Cir. 2007) (quoting ***Tumey***, 273 U.S. at 523). The Court has also held that other financial interests may mandate recusal, even when they are not "as direct or positive as [they] appeared to be in [***Tumey***]." ***Gibson v. Berryhill***, 411 U.S. 564, 579 (1973); see also ***Ward v. Monroeville***, 409 U.S. 57 (1972); ***Lavoie***, 475 U.S. 813. However, financial conflicts of interest are not the only relevant conflicts for judicial bias purposes. See ***Caperton***, 129 S. Ct. at 2260 (explaining that judicial bias doctrine encompasses "a more general concept of interests that tempt adjudicators to disregard neutrality"). The Court has thus required recusal if the judge "becomes 'embroiled in a running, bitter controversy' " with one of the litigants, id. at 2262 (quoting ***Mayberry v. Pennsylvania***, 400 U.S. 455, 465 (1971)); if she becomes "enmeshed in matters involving [a litigant]," ***Johnson v. Mississippi***, 403 U.S. 212, 215 (1971); or "if the judge acts as 'part of the accusatory process,' " ***Crater***, 491 F.3d at 1131 (quoting ***Murchison***, 349 U.S. at 137). At bottom, then, the Court has found a due process violation when a judge

holds two irreconcilable roles, such that her role as an impartial arbiter could become compromised. ***Murchison***, 349 U.S. at 137; see also ***Crater***, 491 F.3d at 1131.

30. TWTh's bias is dripping from his orders. He prejudged every issue in this and all other cases. TWT is a criminal who is hell bent on doing whatever it takes to violate all of Windsor's rights.

> Bias exists where a court has prejudged, or reasonably appears to have prejudged, an issue. The disciplinary proceedings must "satisfy the appearance of justice." ***In re Murchison***, 349 U.S. at 136 (quoting ***Offutt v. United States***, 348 U.S. 11, 14, 99 L. Ed. 11, 75 S. Ct. 11 (1954). (***Partington v. Gedan***, 880 F.2d 116 (9th Cir. 03/13/1989).)

31. TWT has violated just about every rule in the book. He must be disqualified, indicted, convicted, imprisoned, disgraced, and impeached.

32. The denial of docketing of the documents that Windsor filed with his motions and responses is an outrageous denial of due process.

33. Windsor has filed many papers with the Clerk of the Court that have not been docketed or processed. This requires that this Court set aside all orders. Windsor complied with the law, but the Clerk of the Court did not.

> The docketing of filed documents is a ministerial act that the Office of the Clerk is obligated to perform. (See ***Ray v. United States***, 57 S. Ct. 700, 301 U.S. 158 (U.S. 04/26/1937).)
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> FRCP Rule 5(d)(2): "A paper is filed by delivering it: (A) to the clerk...."
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> It is settled law that delivery of a pleading to a proper official is sufficient to constitute filing thereof. ***United States v. Lombardo***, 241 U.S. 73, 36 S. Ct.

508, 60 L. Ed. 897 (1916); ***Milton v. United States***, 105 F.2d 253, 255 (5th Cir. 1939). (***Freeman v. Giacomo Costa fu Andrea***, 282 F. Supp. 525 (E.D.Pa. 04/5/1968).)

FRCP Rule 77 (a) "When Court Is Open. Every district court is considered always open for filing any paper, issuing and returning process, making a motion, or entering an order."

"...his [Clerk of the Court] job is to file pleadings and other documents, maintain the court's files and inform litigants of the entry of court orders." ***Sanders v. Department of Corrections***, 815 F. Supp. 1148, H49(N.D. Ill. 1993). (***WILLIAMS v. PUCINSKI***, 01C5588 (N.D.Ill. 01/13/2004).)

The word "filed" the Act uses, is, as applied to court proceedings, a word of art, having a long established and well understood meaning, deriving from the practice of filing papers on a string or wire. It **requires of one filing a suit, merely the depositing of the instrument with the custodian for the purpose of being filed**. Except where some specific statute otherwise provides, and none such is present here, it charges him with no further duty, subjects him to no untoward consequences as a result of the failure of the custodian to do his duty, by placing the instrument on the file, or as in modern practice placing his file mark on the instrument. Collected in vol. 3 ***Words and Phrases***, First Series, pp. 2764-2770, inclusive; vol. 2 Words and Phrases, Second Series, pp. 531, 534, may be found cases from many jurisdictions, all to the same effect, that **the filing of a paper is the delivery of it to the officer at his office**, to be kept by him as a paper on file, and that the file mark of the officer is evidence of the filing, but it is not the essential element of the act. A paper may be filed without being marked or endorsed by the clerk, ***In re Conant's Estate***, 43 Or. 530, 73 P. 1018; ***Holman v. Chevaillier***, 14 Tex. 337; ***Eureka Stone Co. v. Knight***, 82 Ark. 164, 100 S.W. 878; ***Darnell v. Flynn***, 69 W.Va. 146, 71 S.E. 16. Perhaps the best statement of the meaning and consequences of filing is to be found in the ***Chevaillier*** case, supra. "Though the ancient mode of filing papers has gone into disuse, the phraseology of the ancient practice is retained, in the common expressions 'to file,' 'to put on file,' 'to take off the file,' &c., from 'filum' the thread, string, or wire used in ancient practice, for connecting the papers together. The term 'file' is also used to denote the paper placed with the Clerk, and assigned by the law to his official keeping. A file is a record

of the Court.(1 Litt., 112; Burr. L.D. tit. File.) It is the duty of the Clerk, when a paper is thus placed in his custody or 'filed' with him, to endorse upon it the date of its reception, and retain it in his office, subject to inspection by whomsoever it may concern; and that is what is meant by his 'filing' the paper. But **where the law requires or authorizes a party to file it, it simply means that he shall place it in the official custody of the Clerk**. That is all that is required of him; and if the officer omits the duty of endorsing upon it the date of the filing, that should not prejudice the rights of the party. And hence it is the common practice, where that has been omitted, for the officer, with the sanction of the Court, to make the endorsement now for then; the doing of the act now, that is, at the time when it is actually done, being allowed to operate as a substitute and equivalent for doing it then, or when it should have been done. And acts thus allowed to be done by the Clerk of the Court, with the sanction of the Court, have the same effect as if they had been done at the proper time. (1 Stra. 639; 2 Tidd's Pr. 932.) It was the filing of the affidavit and certificate by the party, under the statute, and not the endorsement of the date of their reception, or the filing by the Clerk, which was a condition precedent to the issuing of the execution in this case. The object of the motion to obtain the authority of the Court for the filing of the clerk now for then was that the Court might receive evidence of the time of the actual filing by the party, in order that the filing by the Clerk might relate back, and take effect from that period, as though it had been done then, when it should have been done. (***Milton v. United States***., 105 F.2d 253 (5th Cir. 07/06/1939).) ***JOHANSSON v. TOWSON***, 177 F. Supp. 729 (M.D.Ga. 02/17/1959). [**emphasis added**.]

The Federal Rules of Civil Procedure provide that 'The district courts shall be deemed always open for the purpose of filing any pleading * * *' Rule 77(a); that 'The clerk's office with the clerk or a deputy clerk in attendance shall be open during business hours on all days except Sundays and legal holidays * * *', Rule 77(c); that 'A civil action is commenced by filing a complaint with the court', Rule 3 and that 'The filing of pleadings and other papers with the court as required by these rules shall be made by filing them with the clerk of the court, except that the judge may permit the papers to be filed with him, in which event he shall note thereon the filing date and forthwith transmit them to the office of the clerk.' Rule 5I, 28 U.S.C.A. The tracing of our word 'file' to the Latin word 'filum' and its reference to the ancient practice of placing papers on a thread or wire for safekeeping and

later reference is done in many cases, notably in ***United States v. Lombardo***, 1916, 241 U.S. 73, 36 S. Ct. 508, 60 L. Ed. 897 and more recently in ***Milton v. United States***, 5 Cir., 1939, 105 F.2d 253, 255. The latter case points out that **all that is required on the part of a person filing a paper with an official is 'merely the depositing of the instrument with the custodian for the purpose of being filed'**. (See ***Palcar Real Estate Co. v. Commissioner of Internal Revenue***, 8 Cir., 1942, 131 F.2d 210; ***Schultz v. United States***, Ct.Cl.1955, 132 F.Supp. 953, 955; ***McCord v. Commissioner of Internal Revenue***, 1941, 74 App.D.C. 369, 123 F.2d 164, 165; ***Central Paper Co. v. Commissioner of Internal Revenue***, 6 Cir., 1952, 199 F.2d 902, 904. (***JOHANSSON v. TOWSON***, 177 F. Supp. 729 (M.D.Ga. 02/17/1959).) [**emphasis added**.]

The filing of a paper takes place upon the delivery of it to the officer at his office. ***Milton v. United States***, 5th Cir. 1939, 105 F.2d 253; ***Poynor v. Commissioner***, 5th Cir. 1936, 81 F.2d 521. When the mails are utilized for the purpose of filing an instrument, the filing takes place upon delivery at the office of the official required to receive it. ***Wampler v. Snyder***, 1933, 62 App. D.C. 215, 66 F.2d 195. (***Phinney v. Bank of Southwest National Association***, 335 F.2d 266 (5th Cir. 08/05/1964).) (See also ***United States v. Missco Homestead Ass'n Inc.***, 185 F.2d 283 (8th Cir. 11/01/1950).) (***DIENSTAG v. ST. PAUL FIRE & MARINE INS. CO.***, 164 F. Supp. 603 (S.D.N.Y. 11/18/1957); ***Thorndal v. Smith, Wild, Beebe & Cades***, 339 F.2d 676 (8th Cir. 01/04/1965); ***LONE STAR PRODUCING CO. v. GULF OIL CORP.***, 208 F. Supp. 85 (E.D.Tex. 07/17/1962).) [**emphasis added**.]

Although Lombardo was decided before the Federal Rules of Civil Procedure were promulgated, courts have relied on it and ***Federal Rules of Civil Procedure*** 3, 5I, and 77 for the same proposition. See, e.g., ***Milton v. United States***, 105 F.2d 253, 255 (5th Cir. 1939)("**The word 'filed' . . . requires of one filing a suit, merely the depositing of the instrument with the custodian for the purpose of being filed. Except where specific statute otherwise provides, and none such is present here, it charges him with no further duty, [and] subjects him to no untoward consequences**."); ***Greeson v. Sherman***, 265 F.Supp. 340, 342 (W.D. Va. 1967)("[I]f rule 3 is read in conjunction with Rule 5I . . . [a complaint is filed when] the complaint is delivered to an officer of the court who is authorized bo receive it."); ***Freeman v. Giacomo Costa Fu Andrea***, 282

F.Supp. 525, 527 (E.D.Pa. 1968)("[I]t is settled law that delivery of a pleading to a proper official is sufficient to constitute filing thereof.") In ***Cintron v. Union Pacific R. Co.***, 813 F.2d 917, 920 (9th Cir. 1987), the court said: The consensus is that "[p]apers and pleadings including the original complaint are considered filed when they are placed in the possession of the clerk of the court." C. Wright & A. Miller, ***Federal Practice and Procedure*** § 1153 (1969). See ***United States v. Dae Rim Fishery Co.***, 794 F.2d 1392, 1395 (9th Cir. 1986). The court then discussed earlier cases, including ***Loya v. Desert Sands Unified School Dist.***, 721 F.2d 279 (9th Cir. 1983).... (***Stone Street Capital, Inc. v. McDonald's Corp.***, 300 F.Supp.2d 345 (D.Md. 11/06/2003).) [**emphasis added**.]

Filing is complete once the document is delivered to and received by the proper official. ***United States v. Lombardo***, 241 U.S. 73, 76, 36 S.Ct. 508, 60 L.Ed. 897 (1916). Although ***Lombardo*** was decided before the Federal Rules of Civil Procedure were promulgated, courts have relied on it and Federal Rules of Civil Procedure 3, 5I, and 77 for the same proposition. See, e.g., ***Milton v. United States***, 105 F.2d 253, 255 (5th Cir. 1939); ***Greeson v. Sherman***, 265 F. Supp. 340, 342 (W.D.Va. 1967) ("If Rule 3 is read in conjunction with Rule 5 I . . . [a complaint is filed when] the complaint is delivered to an officer of the court who is authorized to receive it."); ***Freeman v. Giacomo Costa Fu Andrea***, 282 F. Supp. 525, 527 (E.D.Pa. 1968) ("[I]t is settled law that delivery of a pleading to a proper official is sufficient to constitute filing thereof."). ***(CENTRAL STATES, SE & SW PENSION v. PARAMOUNT LIQUOR***, 34 F.Supp.2d 1092 (N.D.Ill. 02/09/1999).) [**emphasis added**.]

34. The duty of the Clerk of the Court is to accept and process filings – not make any determinations about the papers filed. The Clerk of the Court failed to perform required ministerial duties.

The clerk of a court, like the Recorder i**s required to accept documents filed**. It is not incumbent upon him to judicially determine the legal significance of the tendered documents. ***In re Halladjian***, 174 F. 834 (C.C.Mass.1909); ***United States, to Use of Kinney v. Bell***, 127 F. 1002 (C.C.E.D.Pa.1904); ***State ex rel. Kaufman v. Sutton***, 231 So.2d 874

(Fla.App.1970); ***Malinou v. McElroy***, 99 R.I. 277, 207 A.2d 44 (1965); ***State ex rel. Wanamaker v. Miller***, 164 Ohio St. 176, 177, 128 N.E.2d 110 (1955.).) (***Daniel K. Mayers Et Al., v. Peter S. Ridley Et Al.*** No. 71-1418 (06/30/72, United States Court of Appeals for the DC Circuit.) [**emphasis added**.]

35. Everything filed in a civil action must be docketed and processed. When papers are not docketed, the record is inaccurate. The Clerk of the Court has a ministerial duty to docket everything, and judges have no right to interfere with that duty of the Clerk. In this case, this Court must void all orders as everything filed has not been docketed or processed.

> "The duty of the clerk is to make his record correctly represent the proceedings in the case...." (***Wetmore v. Karrick***, 27 S. Ct. 434, 205 U.S. 141 (U.S. 03/11/1907).) Failing to file documents presented and reflect the documents on the docket is a failure to perform the ministerial duties of the Clerk of the Court.
>
> "The specific allegation in Mr. Snyder's complaint is that Mr. Nolen, acting as the Circuit Court Clerk, refused to file or actually removed already filed papers from the court's docket. Under Illinois law, **the clerk simply has the ministerial duty to file papers** that conform to the technical rules of court. See ***In re Estate of Davison***, 430 N.E.2d 222, 223 (Ill. App. Ct. 1981) ("Delivery alone has been held to constitute filing since the person filing has no control over the officer who receives documents. Subsequent ministerial tasks of the clerk evidence the filing of a document but are not essential to its perfection." (internal citation omitted)); ***Roesch-Zeller, Inc. v. Hollembeak***, 124 N.E.2d 662, 664 (Ill. App. Ct. 1955) ("**The duty of the clerk to file the document on the date it was presented to him was a ministerial act**, the performance of which could be compelled by writ of mandamus.")." (***Snyder v. Nolen***, 380 F.3d 279 (7th Circuit, 08/13/2004).) [**emphasis added**.]

36. The employees of the Offices of the Clerk of the Court have intentionally interfered with the docketing and processing of Windsor's filings.

> "Any deliberate impediment to access [to the courts], even a delay of access, may constitute a constitutional deprivation." (***Green v. Johnson***, 977 F.2d 1383, 1389 (10th Cir. 1992).) (***Simkins v. Bruce***, 406 F.3d 1239 (10th Cir. 05/09/2005).)

37. The employees of the Offices of the Clerk of the Court have violated their Oath of Office:

> 28 USC 951: Each clerk of court and his deputies shall take the following oath or affirmation before entering upon their duties: "I, ___ XXX, having been appointed ___, do solemnly swear (or affirm) that I will truly and faithfully enter and record all orders, decrees, judgments and proceedings of such court, and will faithfully and impartially discharge all other duties of my office according to the best of my abilities and understanding. So help me God."

38. TWT has intentionally blocked the docketing and processing of many papers that Windsor filed with the Clerk of the Court.

39. Windsor filed motions to recuse TWT. TWT did not allow some of these motions to be docketed or processed.

40. Windsor has been denied the right of access to the courts when his papers have been filed with the Clerk of the Court but those papers have not been docketed or processed. The right of access to the courts is a fundamental constitutional right grounded in the First Amendment right to petition and the Fifth and Fourteenth Amendment due process clauses. (See ***Johnson v. Atkins***, 999 F.2d

99, 100 (5th Cir. 1993).)

41. TWT and the Clerk of the Court have deliberately delayed access, impeded access, and denied access to the courts.

> "Any deliberate impediment to access, even delay of access, may constitute a constitutional deprivation." ***Jackson v. Procunier***, 789 F.2d 307, 311 (5th Cir. 1986). (***Bilbrew v.Wwilkinson***, 05-0130. (S.D.Tex. 11/09/2005).)
>
> The right of access to courts requires that an individual have "adequate, effective, and meaningful" access to court procedures. ***Ryland v. Shapiro***, 708 F.2d 967, 972 (5th Cir. 1983); see also ***Bounds v. Smith***, 430 U.S. 817, 822, 52 L. Ed. 2d 72 , 97 S. Ct. 1491 (1977); ***Rudolph v. Locke***, 594 F.2d 1076, 1078 (5th Cir. 1979). On that basis, courts have found various acts of delay in court proceedings and suppression or destruction of evidence to constitute an impermissible burden on the right of access to courts. See ***Germany v. Vance***, 868 F.2d 9, 15 (1st Cir, 1989) (intentional suppression of evidence infringes upon protected right of access to courts); ***Jackson v. Procunier***, 789 F.2d 307, 311 (5th Cir. 1986) ("Any deliberate impediment to access, even a delay of access, may constitute a constitutional deprivation"); ***Bell v. Milwaukee***, 746 F.2d 1205, 1260-63 (7th Cir. 1984) (withholding evidence that would allow an individual to prove his claim violates right of access); ***Ryland v. Shapiro***, 708 F.2d 967, 973 (5th Cir. 1983) (conduct which interferes with the right to institute a suit constitutes actionable impediment to right of access); ***Rheuark v. Shaw***, 628 F.2d 297, 302 (5th Cir. 1980) (conduct by state officers which delays appellate process may prejudice right of access to courts); ***McCray v. Maryland***, 456 F.2d 1, 6 (4th Cir. 1972) (right of access violated where court official, by refusal or neglect, impedes the filing of court papers); ***Sigafus v. Brown***, 416 F.2d 105, 107 (7th Cir. 1969) (destruction of legal papers necessary for appeal constitutes denial of access); ***Crews v. Petrosky***, 509 F. Supp. 1199, 1204 (W.D. Pa. 1981) (allegation that clerk of court delayed filing of a petition for appeal may state valid claim for violation of right of access). (***Chrissy F. v. Mississippi Dept. of Pub. Welfare***, 780 F. Supp. 1104 (S.D.Miss. 12/6/1991).)

The right of access is protected by the First Amendment right to petition for redress of grievances and the Fourteenth Amendment right to procedural and substantive due process. ***Jackson v. Procunier***, 789 F.2d 307, 310 (5th Cir. 1986).

(See also ***Toussaint v. McCarthy***, 926 F.2d 800, 809-10 (9th Cir. 1991) (Wiggins, J., dissenting); ***Straub v. Monge***, 815 F.2d 1467, 1470 (11th Cir.), cert. denied, 484 U.S. 946, 98 L. Ed. 2d 363, 108 S. Ct. 336 (1987); ***Jackson***, 789 F.2d at 311; ***Corpus v. Estelle***, 551 F.2d 68, 70 (5th Cir. 1977).

In ***Jackson v. Procunier***, the Fifth Circuit stated, "It is by now well established that access to the courts is protected by the First Amendment right to petition for redress of grievances." That right has also been found in the fourteenth amendment guarantees of procedural and substantive due process. Consequently, interference with access to the courts may constitute the deprivation of a substantive constitutional right, as well as a potential deprivation of property without due process, and may give rise to a claim for relief under § 1983. Any deliberate impediment to access, even a delay of access, may constitute a constitutional deprivation. Almost eighty years ago, in ***Chambers v. Baltimore & Ohio Railroad Co.***, the Supreme Court recognized this right of access in the context of a diversity tort suit, founding the right on the privileges and immunities clause . . . . ***Jackson***, 789 F.2d at 310-11 (citations omitted). In Toussaint, Judge Wiggins adopted the reasoning of the Fifth and Eleventh Circuits stating, "A citizen's general constitutional right of access to the courts encompasses access for all civil and criminal matters. There is nothing in the custodial setting of a prison that warrants interpreting an inmate's right of access any more narrowly." ***Toussaint***, 926 F.2d at 809 (Wiggins, J., dissenting) (citations omitted). (***United States v. Janis***, 820 F. Supp. 512 (10/27/1992).)

The right to sue and defend in the courts is the alternative of force. In an organized society it is the right conservative of all other rights, and lies at the foundation of orderly government. It is one of the highest and most essential privileges of citizenship ... granted and protected by the federal constitution. (***Chambers v. Baltimore & Ohio Railroad Co.***, 207 U.S. 142 at 148, 28 S. Ct. 34 at 35, 52 L. Ed. 143 (1907).

"The due process clause requires that every man shall have the protection of his day in court." ***Truax v. Corrigan***, 257 U.S. 312, 332 (1921). The Fourth Circuit vacated an injunction prohibiting a plaintiff from filing any papers without leave of

court. See ***Cromer v. Kraft Foods N. Am., Inc.***, 390 F.3d 812, 818-19 (4th Cir. 2004). Although not an IFP case, Cromer turned on the same right of access to the courts involved here, and it held that an injunction prohibiting the plaintiff from making "any and all filings" was overbroad. Id. at 819. Like the courts in ***Cok*** and ***Ortman***, the Fourth Circuit in Cromer also emphasized that prospective filing limitations ought to bear some relationship to the litigant's objectionable actions in pending suits, and cannot be wholesale restrictions on all future filings in unrelated matters. (***Cromer v. Kraft Foods N. Am., Inc.***, 390 F.3d 812, 818-19 (4th Cir. 2004).)

42. TWT has improperly foreclosed Windsor's access to the court. TWT issued an injunction without giving Windsor the opportunity to be heard at a hearing. Procedural due process requires notice and an opportunity to be heard before any governmental deprivation of a property or liberty interest. (***Zipperer v. City of Fort Myers***, 41 F.3d 619, 623 (11th Cir. 1995).)

43. Meaningful access to the courts is a Constitutional right that has been denied by TWT, and the Appealed Orders deny significant rights.

> (See ***Armstrong v. Manzo***, 380 U. S. 545, 552 (1965); ***Baldwin v. Hale***, 1 Wall. 223, 233 (1864); ***Boddie v. Connecticut***, 401 U.S. 371, 379, 91 S. Ct. 780, 786, 28 L. Ed. 2d 113 (1971); ***Mullane v. Central Hanover Bank & Trust, Co.***, 339 U.S. 306, 314, 70 S.Ct. 652, 657, 94 L.Ed. 865 (1950); ***United States v. Flint***, 178 Fed.Appx. 964 (11th Cir. 05/01/2006).)
> "A person's right to reasonable notice of a charge against him, and an opportunity to be heard in his defense - a right to his day in court - are basic in our system of jurisprudence; and these rights include, as a minimum, a right to examine the witnesses against him, to offer testimony, and to be represented by counsel." (***United States v. Frazier***, No. 01-14680 (11th Cir. 10/15/2004).)

"[o]ur precedent condemns" the "prospective shutting [of] the courthouse door." (***Cofield v. Alabama Public Service Commission***, 936 F.2d 512 at 518 (11th Cir. 1991).)

44. Procedural due process requires notice and an opportunity to be heard before any governmental deprivation of a property or liberty interest. (***Zipperer v. City of Fort Myers***, 41 F.3d 619, 623 (11th Cir. 1995).)

45. Meaningful access to the courts is a Constitutional right that has been denied by TWT, and the preliminary and permanent injunction orders deny significant rights

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

Numerous persuasive authorities support the idea that due process requires notice and a hearing before a court sua sponte enjoins a party from filing further papers in support of a frivolous claim. See ***MLE Realty Assocs. v. Handler***, 192 F.3d 259, 261 (2d Cir. 1999); ***Brow v. Farrelly***, 994 F.2d 1027, 1038 (3d Cir. 1993); ***De Long v. Hennessey***, 912 F.2d 1144, 1147 (9th Cir. 1990); ***In re Powell***, 851 F.2d 427, 431 (D.C. Cir. 1988); see also ***United States v. Powerstein***, 185 F. App'x 811, 813 (11th Cir. 2006); ***Smith v. United States***, No. 09-14173 (11th Cir. 07/09/2010).)

This Court's precedents confirm that the Petition Clause protects the right of individuals to appeal to courts and other forums established by the government for resolution of legal disputes. "[T]he right of access to courts for redress of wrongs is an aspect of the First Amendment right to petition the government." ***Sure-Tan, Inc. v. NLRB***, 467 U. S. 883, 896-- 897 (1984); see also ***BE&K Constr. Co. v. NLRB***, 536 U. S. 516, 525 (2002); ***Bill Johnson's Restaurants, Inc. v. NLRB***, 461 U. S. 731, 741 (1983); ***California Motor Transport Co. v. Trucking Unlimited***, 404 U. S. 508, 513

(1972). (***Borough of Duryea, Pennsylvania v. Guarnieri***, 131 S.Ct. 2488 (U.S. 06/20/2011).)

"Congress shall make no law . . . abridging . . . the right of the people . . to petition the Government for a redress of grievances." U.S. Const. amend. I; see also Bank of Jackson County v. Cherry, 980 F.2d 1362, 1370 (11th Cir. 1993) ("The First Amendment right to petition the government for a redress of grievances includes a right of access to the courts."). (***Kinsey v. King***, No. 07-11675 (11th Cir. 09/24/2007).)

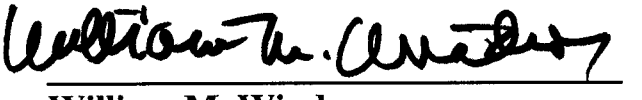
46. There was no Show Cause order issued to Windsor as required by Eleventh Circuit law. Windsor was denied proper notice.

"Upon these findings and consistent with Eleventh Circuit law, this Court required Plaintiff to show cause within ten days... why a Martin-Trigona injunction should not be entered." (See ***Procup v. Strickland***, 792 F.2d 1069 (11th Cir. 1986); ***Torres v. McCoun***, No. 8:08-cv-1605-T-33MSS (M.D.Fla. 09/10/2008); ***Western Water Management, Inc. v. Brown***, 40 F.3d 105, 109 (5th Cir. 1994).)

47. Windsor has not yet fully researched the legal issues, but he will do so by the time he files his Appellant's Brief, so he reserves the right to include anything deemed appropriate in the Brief.

48. Applications for In Forma Pauperis with the District Court and the Eleventh Circuit are filed contemporaneously herewith.

Submitted, this 4th day of October 2011.



William M. Windsor
Pro Se

PO Box 681236
Marietta, GA 30068
Phone: 770-578-1094 -- Fax: 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 NOTICE 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. This Notice is also a Sworn Affidavit.

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 4th day of October 2011.

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.

William M. Windsor
Pro Se

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

CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing NOTICE OF APPEAL by depositing the same with the United States Postal Service with sufficient postage and addressed as follows:

CHRISTOPHER J. HUBER
ASSISTANT U.S. ATTORNEY
Georgia Bar No. 545627
600 Richard B. Russell Federal Bldg.
75 Spring Street, S.W. -- Atlanta, Georgia 30303
Telephone: (404) 581-6292 -- Facsimile: (404) 581-6181
Email: chris.huber@usdoj.gov

This 4th day of October 2011.

William M. Windsor
Pro Se

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