

1 IN THE NEW YORK COURT OF CLAIMS
2 STATE OF NEW YORK

3 KEVIN PATRICK BRADY, *Plaintiff*

4
5 v

6 NOTICE OF CLAIM
7 AFFIDAVIT OF SERVICE

8 THE STATE OF NEW YORK, INC.
9 COUNTY OF MONROE, INC.
10 VILLAGE OF EAST ROCHESTER, INC.
11 and other john doe defendants

12 BE IT KNOWN that on _____ a new and timely claim for damages was filed in the New
13 York Court of Claims. It was personally served on the following parties on

14 **New York Department of Law**
15 144 Exchange Blvd. Rochester, New York 14614

16 **Monroe County Department of Law**
17 39 West Main Street, Rochester, New York 14614

18 **Ontario County Department of Law**
19 27 North Main Street, Canandaigua, New York 14424

20 **East Rochester Village Board of Supervisors**
21 120 W. Commercial Street, East Rochester, NY 14445

22 **New York Senate Judiciary Committee** c/o Sen. James Alesi, Fairport, New York 14450

23
24
25
26 Answers, if any, are to be served on pro se claimant on or before _____

27
28 BE IT KNOWN that the above are all witnesses and co-defendants in complicity to injurious
29 government negligence and collectively liable for damages and restitution of no less than
30 \$1,000,000.00.

1 Deponents allegations of government fraud, extrinsic fraud, negligence, misrepresentation,
2 and other misconduct under color of law, continues herein and is consistent with allegations
3 previously filed and unlawfully dismissed by this Court.

4 Owing to my abject poverty, this claim comes pursuant to Article 11; 'in forma pauperis'.
5 A separate affidavit is attached with 'Legacy of Expenses'.
6

7 Long established and controlling principles of Due Process render it mandatory for this
8 Court to reopen all previously dismissed claims. Said dismissals were all *sua sponte* and
9 thus non-final and non-appelable. Pro se Claimant has never been provided the means to
10 make said dismissals appealable.

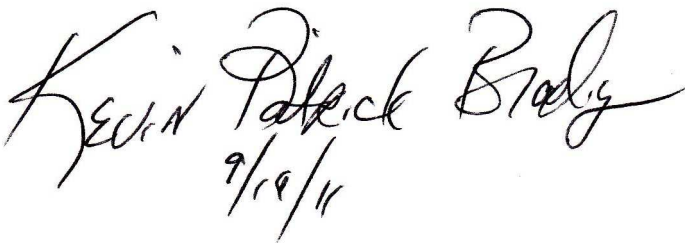
11 As of the date undersigned, NO COURT has ever adjudicated so much as a single issue
12 brought by this petitioner/claimant. NO COURT has required answers to be filed by the
13 defendant State and agencies. NO ADMINISTRATIVE BODY has investigated the
14 continuous wrongdoing alleged here

15 Claimant DEMANDS, *inter alia*, immediate financial relief by suspension and abatement of
16 all taxes owed and accruing on my real and personal property UNTIL such time I am
17 provided the guarantees I am entitled by, *inter alia*, the Fourteenth Amendment USC.
18

19 Said guarantees include, but are not limited to, free access to an uncorrupted forum, due
20 process and equal protection under the law.
21

22 I do hereby depose under penalty of law that everything contained in these affidavits is, to the best of my knowledge,
23 true and complete unless alleged upon information and belief. Nothing is intended to be vexatious, harassing,
24 frivolous, offensive and/or sanction able in any manner.

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30



Kevin Patrick Brady
9/19/11

KEVIN PATRICK BRADY
508 Locust Lane
East Rochester, New York 14445

NICHOLAS D. HINKS
No. 01HI6244145
Notary Public, State of New York
Qualified in Wayne County
My Commission Expires 07/05/2015



1 I , **Kevin Patrick Brady**, petitioner/claimant deposes under penalty of law that,;

2
3 I am not an attorney licensed to practice in New York. I am however defined by statute.
4 Pursuant to CPLR §105 (c), the word ‘attorney’ includes a party prosecuting or defending
5 an action in person.

6 I am natural born, raised and tempered American; a resident of New York since 1962,
7 AND, the only party with personal knowledge of the facts asserted herein. I have thoroughly
8 researched the legal merits thereof and I know them to be accurate and applicable.

9 My grievances concern the right of ‘the People’ to be meaningfully heard, respected and
10 protected by our third branch of government. Upon information and belief these are of
11 substantial interest to all non-lawyer citizens.

12
13 I bring this petition because it is our right to resolve grievances in court without having
14 being defrauded and/or resorting to vigilantism. ‘We’ are guaranteed this right by state and
15 federal constitutions, AND, guaranteed a Due Process and Equal Protection of Law.

16 I submit that those who control our courtrooms are administering only ‘**just us justice**’. They
17 have forgotten that every individual is an integral member of the body politic and is entitled
18 to a full measure of fairness. They must be reminded of the unanimous Declaration of the
19 thirteen united States of America, [July 4, 1776].

20 **“In every stage of these oppressions We have Petitioned for Redress in the most humble**
21 **terms: Our repeated Petitions have been answered only by repeated injury.”**

22
23 **BE IT KNOWN** that despite the long established declaration of the US Supreme Court, my
24 repeated petitions have also been answered by repeated injury only.

25 **“The very essence of civil liberty consists in the right of every individual to claim the**
26 **protection of the laws whenever he is injured. One of the first duties of government is to**
27 **afford that protection.”** Marbury v Madison [1803]

28
29 My honorable third branch has consistently abused and defrauded me. My government will
30 not perform even it’s first; most preeminent duties.

1 In June, 2011, the Supreme Court wrote in Borough of Duryea v. Guarnieri,¹

2
3 **"This Court's precedents confirm that the Petition Clause protects the right of individuals to**
4 **appeal to courts and other forums established by the government for resolution of legal**
5 **disputes The right of access to courts for redress of wrongs is an aspect of the First**
6 **Amendment right to petition the government"** see *Sure-Tan, Inc. v. NLRB*, 467 U. S. 883
7 (1984); *BE&K Constr. Co. v. NLRB*, 536 U. S. 516, (2002); *Bill Johnson's Rests., v. NLRB*, 461
8 U. S. 731 (1983); *California Motor Transport. v. Trucking Unlimited*, 404 U. S. 508, (1972).

9 Since I first petitioned in 1995 to protect and enforce my civil and parental rights, every
10 petition, every motion, and ultimately every claim I filed in the Court of Claims has been
11 blocked, trivialized, repudiated, summarily denied, *sua sponte*, without notice, without
12 answers from the State defendants, without findings, AND with no explanation whatsoever.

13 For having merely exercised my right under the First Amendment and the New York
14 constitution, I have been summarily disfranchised, unanimously sanctioned, abused and
15 abandoned by the Unified Court System.

16 **QUESTION:** Is it possible; is it even plausible, that after 30 or more lawfully commenced
17 petitions/motions for relief, this pro se petitioner has never asserted any right, enunciated
18 any cognizable cause of action or submitted any justiciable controversy on which to invoke
19 a courts jurisdiction? This is essentially what my honorable Unified Court System is saying.

20 Despite complaining actions filed in three [3] of the four [4] appellate divisions, AND, the
21 New York Court of Appeals, NO COURT has ever adjudicated even a single issue I have
22 brought before them. This has caused unfathomable emotional and financial destruction.

23 24 CONSTITUTIONAL KUDO'S

25 I hereby recognize the following entrusted court officers [and members of the Bar] who,
26 before entering their respective offices, **took an Oath** to support our state and federal
27 constitutions. Having then witnessed and/or participated in the constitutional rape and
28 financial destruction of **Kevin Patrick Brady**, every one failed that Oath at every opportunity
29 that presented itself.

30

¹(09-1476)

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JUDGES

Trial Court [civil]

Jerome C. Gorski
Thomas M. Van Strydonck
Stephen R. Sirkin
Frank B. Williams,
Barry Kramer
John Lane
John J. Ark
Richard E. Sise

Trial Court [criminal]

F. Robert Michel, Pittsford Town Court
Thomas Klonick, Perinton Town Court
Sidney Farber, Perinton Town Court
Teresa Johnson, Rochester City Court
Michael Arnold, Perinton Traffic Court
Fred S. Gallina, Pittsford Town Court
J. Scott Odorisi, East Rochester Village Court
Victoria Argento, East Rochester small claims court

Appellate Court, Monroe County

Patricia Marks,
John R. Schwartz
Alex Renzi,
John L. DeMarco

Administrative , Monroe County

Ann Marie Taddeo
Craig Doran
Joseph Valentino

Appellate Court Judges, 1st Department

John T. Buckley
Peter Tom
David B. Saxe
Joseph P. Sullivan
James M. McGuire

PROSECUTORS

Assistant Attorneys General

Carlos Rodriguez,
Robert Colon
Thomas Ramsey
Martin
Owen Demuth [Albany Office]
Frank Brady [Albany Office]

Assistant District Attorneys,

Naomi Adler
Andrew Silver
Brett Granville
Douglas Gregory
Douglas Randall
Alan Cruikshank
Robin Schlia,
Patrick Fierro
Merideth Vacca
Patrick Gallagher

Appellate Court , 3rd Department

Anthony Cardona
Thomas E. Mercure
Edward O. Spain
Bernard J. Malone Jr.
Karen K. Peters

Appellate Court, 4th Department

Eugene Pigott Jr.
Henry Scudder

MISCELLANEOUS

David Van Varick, MC Department of Law
John Bernacki Jr. Attorney now judge
Steven E. Feder Attorney
MC Deputy Sheriff Ken Spohr

CONSTITUTIONAL TORTFEASORS ON NEW YORK'S PAYROLL

		Rate of Pay	Total
Supreme Court Judges			
Ark, John J	Judge Supreme	\$141,700	\$146,700
Demarco, John L	Act Sup Ct Jus	\$136,700	\$143,700
Doran, Craig J	Act Sup Ct Jus	\$136,700	\$146,913
Kramer, Barry	Judge Supreme	\$138,470	\$146,700
Lane, John P.	Judge Supreme	RETIRED	\$93,324
Marks, Patricia D	Judge County Court	\$141,700	\$146,700
McNamara, Thomas J	Judge Supreme	\$141,700	\$141,700
Renzi, Alexander R	Judge Supreme	\$141,700	\$146,700
Schwartz, John R	Acting County Judge	\$125,600	\$135,600
Sirkin, Stephen R	Judge Supreme	\$141,424	\$141,424
Sise, Richard E	Judge Court Claims	\$157,055	\$162,531
Taddeo, Annmarie	Judge Supreme	\$136,700	\$146,700
Valentino, Joseph J	Judge Supreme	\$136,700	\$141,115
Vanstrydonck, Thomas M	Judge Supreme	\$149,602	\$153,800
Williams, Frank B	Judge Supreme	\$141,700	\$141,700
Appellate Court Judges			
Buckley, John T	Asc Jus, Ap Div, Tpct	\$144,000	\$153,605
Cardona, Anthony	Asc Jus, Ap Div	\$144,600	\$161,800
Centra, John	Judge Appellate Fourth	\$149,000	\$149,000
Fahey, Eugene M	Judge Appellate Fourth	\$149,000	\$149,000
Gorski, Jerome C	Asc Jus, Ap Div, Tpct	\$144,000	\$154,000
Hurlbutt, Robert G	Judge Appellate Fourth	\$149,000	\$149,000
Martoche, Salvatore R	Judge Appellate Fourth	\$149,500	\$149,500
McGuire, James M.	Asc Jus, Ap Div	\$144,000	\$154,000
Mercure, Thomas	Asc Jus, Ap Div	\$154,000	\$154,000
Peters, Karen	Asc Jus, Ap Div	\$144,000	\$154,800
Pigott, Eugene	Justice, Court of Appeals	\$151,200	\$161,000
Saxe, David	Asc Jus, Ap Div	\$144,000	\$154,000
Scudder, Henry J	Judge Appellate Fourth	\$152,600	\$157,600
Spain, Edward	Asc Jus, Ap Div	\$144,000	\$15,300
Sullivan, Joseph	Asc Jus, Ap Div	\$144,000	\$144,000
Tom, Peter	Asc Jus, Ap Div	\$144,000	\$154,000
Town City Court Judges			
Arnold, Michael	Judge Local	\$111,925	\$149,543
Aronson, Stephen D	Cty Ct Jge	\$108,800	\$124,482
Farber, Sidney	General Employee		\$35,000
Gallina, Fred	General Employee		\$35,000
Johnson, Teresa D	Judge Rochester City	\$130,600	\$130,600
Klonick, Thomas	Judge Local	\$36,860	\$36,860
Odorisi, J T	Act Cty Jge	\$0	\$7,625
Argento, Victoria	General Employee		\$21,000
Public Prosecutors			
Gallagher, Patrick	General Employee		\$71,000
Granville, Brett	General Employee		\$82,500
Martin, Debra A	Attorney General	\$129,720	\$129,720
Morgan, Patricia L	Judicial Clerk	\$138,200	\$138,200
Rodriguez, Carlos	Assistant Attorney General	RETIRED	\$68,000
Schlia, Robin	Monroe County DA	\$61,648	\$61,648
Vacca, Merideth	General Employee		\$67,000
Senators			
Alesi, James	NYS Senate Member		\$88,000
Sampson, John	NYS Senate Member		\$79,000
Average Annual Salary per Tortfeasor			\$120,313

1 COURTS ARE FOR THE 'TOO BIG TO FAIL'
2 PRO SE LITIGANTS ARE TOO SMALL TO PREVAIL

3
4 As noted by author/ former attorney, Linda L. Kennedy,² our courts have become a place
5 '*where nothing is as it appears, and where plaintiff is never to be seen again – with money.*'

6 Rochester attorney Amy Bach laments '*ordinary Injustice*' results when a community of legal
7 professionals becomes so accustomed to a pattern of lapses that they can no longer see
8 their role in them."³

9 I submit that our autonomous, independent third branch has granted itself leave to silently,
10 but assuredly ignore the rights of the pro se litigant. Judges and attorneys exchange cryptic
11 messages among themselves to ensure that a party's pro se status isn't overlooked. They
12 often underline and/or italicize the words 'pro se'

13 Contrary to the ethical lapses of legal communities, mostly excused and suborned by the
14 Bar Associations, the United States Constitution mandates how our system is supposed to
15 work. Note Article VI, Clause 2, *a.k.a* 'the Supremacy Clause'

16
17 "This Constitution and the Laws of the United States which shall be made in pursuance
18 thereof; and all treaties made, or which shall be made, under the authority of the United
19 States, shall be the supreme law of the land; and the judges in every state shall be bound
20 thereby, anything in the constitution or laws of any state to the contrary notwithstanding.

21 Contrary to the self interested indoctrinations of legal professionals law in this society is not
22 whatever some local judge says it is. To suggest otherwise is constitutional tyranny.

23 When law becomes only as good as one man's ability to enforce, and only lawyers are
24 empowered to enforce it, "We the People' have succumbed to a constructive protection
25 racket, otherwise referred to as '**Just Us, Justice**'.

26
27 'The Due Process Clause of the Fourteenth Amendment guarantees access to courts to
28 present claims of wrongdoing. USC amend. XIV, § 1; Wolff v. McDonnell, 418 U.S. 539,
29 578-79, 94 S.Ct. 2963, 2985- 86, 41 L.Ed. 2d 935, 963-64 (1974).

30 ² <http://www.ejfi.org/Courts/Courts-4.htm>

³ Amy Bach, Ordinary Injustice, Metropolitan Books, 2009

1 Contrary to certain judicial fiction, my claims are not based on '**judicial officers carrying out**
2 **their judicial function**'. The facts show conclusively that the State is at fault.

3
4 Since I first petitioned to enforce my civil and parental rights in 1995 every court and every
5 prosecutor has taken action against me without cause and without personal and subject
6 matter jurisdiction. Every court has ignored prima facie evidence of their lack of jurisdiction
7 and refused to vacate, set aside or declare the wrongful judgments and convictions VOID.

8 Where there's **NO JURISDICTION** there's **NO JUDICIAL FUNCTION** and **NO DISCRETION**.

9
10 **'Failure to acquire jurisdiction cannot insulate the State from its liability for *inter alia*, false**
11 **arrest**. See Houghtaling v. State, 11 Misc. 2d 1049 Nuernberger v. State of NY 40 A.D.2d
12 939; Harty v. State of NY, 52 Misc. 2d 255; Maracle v. State of NY, 50 Misc. 2d 348.

13 **"Discretionary or quasi-judicial acts involve exercise of reasoned judgment **** whereas a**
14 **ministerial act envisions direct adherence to a governing rule or standard with a compulsory**
15 **result"** Tango v Tulevech, 61 NY2d 34, 41

16 **"The word discretion is limited by the duty to follow the law ***** United States v. McWilliams,
17 82 U.S.App.D.C. 259, 163 F.2d 695, 697 (1947).

18
19 **"A 'ministerial' act is not a 'judicial' act and [is] not to be protected. New York courts have**
20 **concluded that the doctrine of judicial immunity does not apply to purely ministerial acts."**
21 Luckie v Goddard, 171 Misc 774; Waterman v State of New York, 35 Misc. 2d 954).

22 **' Haddock v City of New York' stands for the proposition that when reasoned judgment is**
23 **called for but no consideration is given to a problem, liability may ensue. (75 N.Y.2d 478)**

24
25 **"On motion to vacate a judgment for want of jurisdiction, the court, on finding *** that service**
26 **of process was not made, must vacate the judgment absolutely, and may not impose terms**
27 **or conditions upon the vacatur.** Copeland v Gross, 39 Misc. 2d 619; Associates Discount
28 Corp. v Cabell, 164 N.Y.S.2d 189; Levin v McGovern, 53 A.D.2d 1042; Devonian Discount. v
29 Bianchi, 241 App Div 838;

1 JURISDICTIONAL STATEMENT

2 Pursuant to Court of Claims Act § 9 (2) this Court has jurisdiction to hear claims and award
3 damages caused by, *inter alia*, a void money judgment that names the People of New York
4 creditors and lien holders on your deponents real property.
5

6 Pro se Claimant has alleged essentially *ad nauseum*, that the judgments encumbering my
7 property were obtained by fraud on the court, perpetuated by fraud on the court and by
8 continuous extrinsic fraud.

9 **“Extrinsic fraud has been defined as a "fraud practiced in obtaining a judgment such that a
10 party may have been prevented from fully and fairly litigating the matter”⁴**

11
12 **‘Fraud on the Court includes where the judge has not performed his judicial function -- thus
13 where the impartial functions of the court have been directly corrupted’.⁵**

14 Court of Claims Act provides jurisdiction to determine a claim *** against the state for
15 misappropriation of real or personal property or any interest therein, for breach of contract,
16 or torts of its officers or employees acting as such officers or employees, providing [N/A].

17 Although § 8-b provides the Court jurisdiction to here claims for unjust conviction and
18 imprisonment, in this case, NO COURT is ever going to admit that this *pro se* litigant has
19 been unlawfully convicted six [6] times in Monroe County courts, punished and imprisoned
20 by courts and prosecutors acting without personal and subject matter jurisdiction.

21 However, upon information and belief, the Rule of Law in this society still survives.
22

23 **When applied to persons in public office, 'the Rule of Law' is a constant reminder that they
24 have only those powers given by law, and must perform those duties required by law, even
25 when that performance is personally distasteful.⁶**

26
27 Negligence in performing said duties is actionable in the New York Court of Claims.
28

29 ⁴ Bank of NY v Lagakos, 27 AD3d 678, 679 [2d Dept 2006], quoting Shaw v Shaw, 97 AD2d 403 [2d Dept
30 1983]; see also Aguirre v Aguirre, 245 AD2d 5, 7 [1st Dept 1997]).

⁵ H.K. Porter Inc. v. Goodyear Tire & Rubber Co., 536 F.2d 1115 (6th Cir.)

⁶ Karedes v. Colella, 187 Misc.2d 656, 722 N.Y.S.2d 714 (N.Y.Sup. 02/15/2001)

1 The purpose of the Court of Claims Act has been declared as follows;

2
3 **"It is essential for the maintenance of rights in our free society that wrongs done, whether**
4 **by individuals, organizations, or the State, be remedied. It is a matter of pride that New**
5 **York has recognized this truth, and has enacted legislation to give reality to the recognition**
6 **by creating a court to hear such claims in its jurisdiction.**

7 The purpose of [waiver of immunity] was to **'transform an unenforceable moral obligation**
8 **into an actionable legal right and applies to the State the rule of respondeat superior"**

9 Our Court of Appeals said In 1933, ⁷ "[waiver of immunity] **constitutes a recognition and**
10 **acknowledgment of a moral duty demanded by the principles of equity and justice, *****
11 **which the State should satisfy. It declares that no longer will the State use the mantle of**
12 **sovereignty to protect itself from such consequences as follow negligent acts of individuals.**

13 **'It admits that in negligence cases the sovereign ** promises ** to voluntarily discharge its**
14 **moral obligations in the same manner as the citizen [must] perform a duty which courts and**
15 **Legislatures have long held, as to him, to be a legal liability.**

16 I am a definitive example of the intended beneficiary of the Court of Claims Act. Regardless
17 that my injuries are unfathomable and the evidence prima facie, NO COURT is ever going
18 to allow this pro se whistleblower to prevail.

19
20 This pro se claimant has even been deprived of relevant statutory checks and balances by
21 my honorable executive branch

22 Pursuant to Court of Claims Act § 20-a **' the attorney general shall cause a review to be**
23 **made within the department of law of all cases filed in the court of claims to determine**
24 **cases appropriate for possible settlement.**

25
26 Upon information and belief, the Attorney General's Office never had any intention of
27 conducting a review of my meritorious claims and/or making it's findings known. This
28 agency also practices **'Just Us Justice'**.

29 This assures justice to claimants **'too big to fail'** but **too small to prevail**

30

⁷ citing Jackson v State of New York, 261 NY 134, 138 [1933], rearg denied 261 NY 637)

CONTINUOUS EXTRINSIC FRAUD

1
2
3 On or about Nov. 21, 2011, Monroe County Supervising judge **Joseph Valentino** refused to
4 perform a ministerial act specifically required by state and federal laws. He deprived
5 Claimant of a *coram nobis* hearing, access to the courts, due process of law and equal
6 protection under the law.

7 On or about September 13th, Monroe County Administrative judge, **Craig Doran**, failed to
8 perform to the same ministerial acts. Doran too deprived Claimant of access to the courts,
9 due process of law and equal protection under the law.

10 In January 2011, Monroe County judge **John L. DeMarco** rendered the same deprivations.

11
12 In March 2009- August 2010 judge John J. Ark committed the same extrinsic fraud..

13 In January 2010, former East Rochester Police Chief **John Tando** and police officer,
14 **Michael Wilder** failed to enforce New York law and provide me an equal protection of law.

15
16 In September 2011, Ontario County attorney **Michael Reinhardt** obstructed my right to file
17 papers in Canandaigua court. Ontario County judge **Steven Aronson** also obstructed said
18 right and neglected other statutory duties.

19 Ontario County District Attorney **Michael Tantillo** and Monroe County District Attorney
20 **Michael Green** defied performing their duties enunciated under County Law § 700.

21
22 Monroe County Sheriff **Patrick O'Flynn** and Canandaigua Police Chief **Jon Welch** neglected
23 their duty to enforce New York law and provide me an equal protection of the law.

24 These deprivations and others have continued since the original, non-final, non-appealable,
25 and multi defective pre-filing injunction of **Judge Jerome Gorski** in 1996

FROM THE OUTSET

26
27
28 [6/02] Gorski's multi-defective injunction subjects your deponent to irregular and ambiguous
29 pre-filing requirements. This results in arbitrary, non-appealable due process violations in
30 Monroe County Family Court. **Judge Ann Marie Taddeo** declares that my timely FCA 439
objections were filed too early.

1 [9/02] Permission to file for relief from the above by Article 78 requested and granted by
2 supreme court judge Thomas VanStrydonck. The proceedings however turn into serial
3 wrongful prosecutions lasting fourteen [14] months without the court[s] having acquired
4 personal and subject matter jurisdiction.

5 [04/03] Petitions to the United States District Court to enjoin the unlawful prosecution
6 denied without hearing ostensibly

7
8 [9/03] In the absence of personal and subject matter jurisdiction VanStrydonck declares
9 your deponent guilty of civil and criminal contempt, fines and incarcerates me for 90+ days

10 [11/03] AAG Rodriguez refuses to file the record in the designated place and/or stipulate to
11 a proposed record rendering appeal not possible.

12
13 [1/04] Petition to enjoin the subsequent wrongful prosecution is denied by the Fourth Dept.
14 without explanation.

15 [2/04] My '**trial in absentia**' proceeds on Feb, 2004. To date no record is found to exist.

16
17 [6/04] Time to appeal the first wrongful prosecution expires. No record for appeal available
18 until late August, 2004.

19 [7/04] VanStrydonck terminates my motion to vacate and purge from supreme court files.
20 Reason: his void injunction prohibits me from 'commencing **any action in any court unless**
21 **represented by an attorney**'. He then refuses to reduce the termination to writing.

22
23 [9/04] Deponents Article 78 action filed in the appellate division is arbitrarily transferred to
24 supreme court and summarily dismissed, *sua sponte*, by **Judge John P. Lane** before
25 answers were filed. Lane alleges deponent failed to obtain permission to file. Lane notes
26 however that deponent is not required to get permission to file in appellate division.

27 [11/04] Unable to locate record for the serial prosecution [03/11838] time to appeal expires.

28
29 [5/05] Motion to the Fourth Department to revive the technically 'abandoned' appeals and
30 consolidate for plenary review denied without opinion.

1 [7/05] Application to appeal to Court of Appeals denied because appellate divisions denial
2 is not a final order.

3
4 [12/05] Deponent submits a fee paid petition for VanStrydoncks' approval, citing violations
5 actionable under Title 42, Sec.1983 and others. VanStrydonck fails to respond. Time for
6 service expires.

7 [1/06] The determination of the Fourth Dept establishes that Brady v Taddeo, [Article 78]
8 was not dismissed on the merits as alleged in supreme courts order d/t/d January 3, 2003.

9
10 [3/06] After five [5] years of blocked applications for relief from void judgments with no
11 adjudication or explanation deponent files for damages in the New York Court of Claims.

12 [9/06] Still without relief, deponent files '**Petition for Non-Discretionary Relief**' in the Fourth
13 Dept. The Court grants permission for it to proceed. It is then without notice or explanation
14 transferred to the First Department.

15
16 [10/06] Upon the States' failure to timely answer, deponent files for Judgment by Default. It
17 is unilaterally dismissed by the First Department contrary to law and without explanation,

18 [1/07] Unanimous dismissals by the Court of Claims, *sua sponte*, without discretion, without
19 explanation only exasperates deponents injuries.

20
21 [9/08] Having been blocked from Monroe County courts for more than a decade, without
22 income and depleting existing assets, I sought emergency relief by petition to Saratoga
23 County Supreme Court. My pleadings state the following:

24 **"As of April 2007, I am no longer bondable and thus no longer employable in my chosen**
25 **profession. Void judgments on my record have destroyed my professional credibility and**
26 **credit rating and block my access the equity in my property. ******

27 **"To avoid further economic loss by foreclosure and/or bankruptcy, I must remove these**
28 **clouds immediately and sell it as quickly thereafter. For reasons deposed within, this action,**
29 **in this venue, is the only remedy I have.**

1 Despite my financial emergency, this action was dismissed, *sua sponte*, without notice,
2 before service and as a sanction by **Judge Frank Williams**, citing only an 'excerpt' from the
3 1996 injunction.

4 [3/09] With foreclosure growing imminent, I applied for the 'required' permission from the
5 district administrative judge **Vito Caruso**. I filed another emergency action in Schenectady
6 County supreme court. who then assigned it to **Judge Barry Kramer**,.

7
8 This action too was dismissed on sight, *sua sponte*, as a sanction pursuant to the unlawfully
9 modified injunction of Tom VanStrydonck. Kramer failed to disclose how it had come to his
10 attention since I hadn't included it when I filed.

11 Upon information and belief, after being served, **AAG Carlos Rodriguez** [or his accomplice]
12 simply phoned up Kramer and requested dismissal, constituting an ex-parte conspiracy of
13 extrinsic fraud perpetuated by extrinsic fraud.

14 [4/09] Although ' **Wells Fargo Bank v Kevin Patrick Brady**' proved jurisdictionally defective
15 from the outset, it nevertheless provided the only access to court I'd had for a decade. It
16 provided a cognizable statutory scheme by which to challenge the validity of the fraudulent
17 judicial liens that had been impeding my ability to sell the property since October 2001.

18
19 On December 19, 2009, **John J. Ark** terminated the action by knowingly signing a false
20 default foreclosure on my home and property, knowing also that it would be formerly entered
21 in county files and become subject to enforcement by other public servants

22 Said order states, *inter alia*,

23
24 'Upon reading the affidavit of Herman John Kennerty⁸ and the Summons, Complaint, as well as
25 the Answer submitted by Defendant, Kevin Patrick Brady, and after hearing 'no one' in opposition
26 thereto, it is ORDERED that the Answer of KEVIN PATRICK BRADY, Pro Se, be and is hereby
27 dismissed and that summary judgment be and is hereby granted in favor of Plaintiff, WELLS
28 FARGO BANK, N.A.:'

29
30 ⁸ Herman John Kennerty has since admitted to knowingly signing fraudulent mortgage documents. In fact he is widely regarded as one of the most prolific 'robosigners' in the foreclosure scandal. [see Exhibits]

1 Upon belief, Ark intended the words 'no one heard in opposition' to imply that I had defaulted
2 the action by failing to respond or appear. Ark knew this to be total fiction. The words also
3 intended to taunt this pro se litigant by reminding me that courts pay little or no attention to
4 those who come to court without a lawyer.

5 I appeared personally in the courtroom on Sept. 3rd and October 1, 2009, to support my
6 countering allegations.

- 7
- 8 • Wells Fargo Bank lacked standing to bring the action.
- 9 • Failed to produce certified Mortgage and Promissory Note
- 10 • Failed to name judgment lien holders as defendants
- 11 • No explanation for broken chain of mortgage assignments.
- 12 • Fraudulent, 'robo-signed' assignments
- 13 • Assignments made without Power of Attorney
- 14 • Separation of Mortgage from Note as a fatal defect
- 15 • The Banks failure to deny said fatal defects.

16 My timely response included a collateral action against the unnamed parties; the State of
17 New York and attorney Steven Feder, for having encumbered my property with void judicial
18 liens obtained and perpetuated by FRAUD ON THE COURT. Ark learned from my affidavits
19 that said FRAUD had caused the loss of my business, my professional licenses, and my
20 constructive bankruptcy.

21 Nevertheless, Ark ignored every allegation and every motion submitted by the pro se
22 defendant. His agenda in doing so was to avoid the allegations, avoid having to grant relief
23 to a pro se party and avoid having to reduce his findings to writing.⁹ Instead he resorted to
24 'blocking', *a.k.a.* extrinsic fraud.

25 **"Extrinsic fraud has been defined as a "fraud practiced in obtaining a judgment such that a
26 party may have been prevented from fully and fairly litigating the matter""¹⁰**

27 Instead of leaving the court cleared of multiple void judgments, I left with yet another fraud
28 encumbering my property.

29 ⁹ CPLR 3215 [b] "Except in a matrimonial action, no finding of fact in writing shall be necessary to the entry of a
30 judgment on default.

¹⁰ Bank of NY v Lagakos, 27 AD3d 678, 679 [2d Dept 2006], quoting Shaw v Shaw, 97 AD2d 403 [2d Dept
1983]; see also Aguirre v Aguirre, 245 AD2d 5, 7 [1st Dept 1997]).

1 THE FRAUD CONTINUES

2
3 On August 27, 2011 discovered another fraudulent mortgage assignment had been entered
4 on July 12, 2011 at the Monroe County clerk. Upon information and belief, this filing is in
5 preparation for imminent sale of my home and property.

6 I submit that the new assignees knew or should have known, that 'the Bank' cannot reassign
7 a mortgage it couldn't prove owning in the first place. Moreover, New York foreclosure courts
8 are now asking why a Bank would sell a mortgage it knew to be non-performing to a Trust
9 [GSMPS 2005-RP1]containing at best, re-performing mortgages ?

10 Quoting supreme court judge **Arthur Shack** in HSBC Bank USA,. v. Taher, et. al

- 11
- 12 1. **There is no reasonable basis to believe the investors would accept the transfer of a**
 - 13 **non-performing loan into a pool in which they supposedly had an interest. They**
 - 14 **cannot correct the defect by "assigning" the defective, non-performing loan into a**
 - 15 **pool of assets, contrary to the wishes and agreements with the investors.**

 - 16 2. **The note was split from the mortgage and that defect cannot be cured,**

 - 17
 - 18 3. **A foreclosure of a mortgage may not be brought by one who has no title to it and**
 - 19 **absent transfer of the debt, the assignment of the mortgage is a nullity".**

20 **COMPETENCY AND CONTINUING EDUCATION**

21

22 The QUESTION is how supreme court judge, John Ark, could preside over 60 or more
23 foreclosures annually without knowing the fundamental principles and procedural due
24 process requirements of New York Real Property Law ?

25

26 **"Before a (lender/servicer) can establish a prima facie case and file foreclosure against**

27 **a homeowner, [they] must satisfy the threshold questions proving that the mortgage and**

28 **mortgage note exist, ownership of the mortgage, and the defendant's default in payment. see**

29 *Campaign v. Barba*, 23 A.D.3d 327 (2d Dept. 2005).

THE BOTTLENECK OF UNRESOLVED ISSUES

1
2
3 On July 21 2011, I submitted two [2] facially meritorious petitions/applications to the
4 Administrative Office of New York's Seventh [7th] Judicial District, consisting of 92 pages of
5 sworn allegations and prima facie evidence. Among other things I was challenging the
6 jurisdiction of various courts within the District to have prosecuted, incarcerated, fined,
7 sanctioned, and/or otherwise punish me over the years,

8 I also challenged the enforceability of the alleged permanent injunction[s] that had
9 bottlenecked my life since March 1996.

10 The responsibility for evaluating the facial merits and permitting them to be filed in the
11 regular manner, fell to the newly appointed administrative judge, **Craig J. Doran**

12
13 On August 8th, I inquired to Doran's office as to the progress being made on the review.

14
15 On August 9th, I received a message from **Cindy Constantino**, law clerk to the judge, who
16 reported to be reviewing the 'voluminous' materials but had not yet completed. I advised
17 her that the only issues to be determined by pre-filing review was whether the petitions
18 presented facial merit. She seemed to agree.

19 On August 30th, I discovered new evidence of bank fraud had been filed at Monroe County
20 Clerk in the wrongful foreclosure action I had suffered in 2009-2010. I went to the supreme
21 court clerks office and asked to see Constantino to determine if including this new evidence
22 into the record pending review would further delay her progress.

23 My response came by letter to which I responded

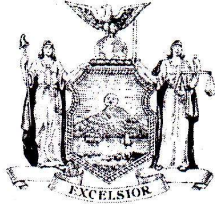
24
25 On September 14th, I phoned the judge at his Canandaigua office. I left a voice mail
26 identifying myself and requesting an appointment to speak with him by telephone. I said the
27 matter was urgent and in fact '**a matter of life and death**'.

28 On September 15, the judges secretary returned my call to say that Doran wanted me to
29 write him a letter explaining what I wanted to talk to him about'.

30 On September 16th I received his letter dated later that same day.

STATE OF NEW YORK

Seventh Judicial District
Administrative Judge



Ontario County Courts
Supreme
County
Family

CRAIG J. DORAN
JUDGE

September 13, 2011

Kevin Patrick Brady
508 Locust Lane
East Rochester, New York 14445

RE: Kevin Patrick Brady v The State of New York, Inc. Dba The State
of New York subd. County of Monroe

Dear Mr. Brady,

I have now had an opportunity to review the documents you submitted to me by which you request permission to commence an action against the State of New York and Monroe County, together with your in forma pauperis application by which you seek a waiver of court fees.

The action you seek to commence is one addressed by Judge Jerome C. Gorski's February 1996 Order, which permanently enjoined you from bringing any further lawsuits based upon your Family Court matter, or any of its progeny, without prior permission from the Presiding or Supervising Judge of that Court or the Judges' designee.

Based upon the aforementioned precedent, by which I am bound, your application postmarked July 21, 2011 is denied.

Very truly yours,


Craig J. Doran

COUNTY COURTHOUSE 27 NORTH MAIN STREET CANANDAIGUA, NY 14424
(585) 396-4479 FAX: (585) 396-4580 CDORAN@COURTS.STATE.NY.US



*County Court Chambers
545 Hall of Justice
Rochester, New York 14614-2184
Telephone (585) 428-2452
Fax (585) 784-4217*

*John L. DeMarco
County Court Judge*

February 23, 2011

Kevin Patrick Brady
508 Locust Lane
East Rochester, New York 14411

Michael C. Green, Esq.
Monroe County District Attorney
ATTN: Appeals Division
47 S. Fitzhugh Street
Ebenezer Watts Building, Suite 832
Rochester, New York 14614

Re: *People v Kevin Patrick Brady*

To Whom It May Concern:

The Court has received voluminous papers from defendant, styled as five separate petitions for orders to show cause involving various justice court matters involving defendant. If the People have not received the papers, they are directed to so advise the Court. Otherwise, if the People wish to respond to the defendant's petitions they should do so by March 23, 2011. The matter will thereafter be deemed submitted without oral argument – it will not be calendared – and the Court will then issue a decision.

Sincerely,

A handwritten signature in black ink, appearing to read "John L. DeMarco".

Hon. John L. DeMarco
Monroe County Court Judge

cc: Court Clerk

EXHIBIT

STATE OF NEW YORK
PART I - COUNTY COURT COUNTY OF MONROE

THE PEOPLE OF THE STATE OF NEW YORK

DECISION AND ORDER

-vs-

KEVIN PATRICK BRADY,

Petitioner

No. 1997/3903
No. 2011-7030
No. 2011-7029
No. 2011-7031
No. 2011-7028
No. 2011-7032

APPEARANCES:

For the Petitioner: Kevin Patrick Brady

DEMARCO, J.

On or about February 22, 2011, Kevin Patrick Brady filed a petition/motion (Monroe County #3903/97) for orders to show cause involving matters concluded in Rochester City Court (Case #2011-7030), Perinton Justice Court (Case ##2011-7029, 2011-7031), and Pittsford Justice Court (Case #2011-7032), as well as one matter apparently still pending in East Rochester Justice Court (Case #2011-7032).


Rule 2214 of the New York Civil Practice Law and Rules provides, in pertinent part, that “[t]he court in a proper case may grant an order to show cause” (CPLR 2214 [d]). “[I]t is left entirely to the judge’s discretion to determine what a proper case is” (Siegel, *New York Practice*, 248 [“Order to Show Cause”]).

Having carefully reviewed petitioner/movant Brady’s papers, which are so totally without merit as to be wholly frivolous and arguably vexatious, the Court determines that this is not a “proper case” to grant an order to show cause.

Accordingly, the aforementioned request for orders to show cause is denied.

This is the Order of the Court.

Dated: 3/4, 2011
Rochester, New York



HON. JOHN L. DEMARCO
County Court Judge



*Supreme Court Chambers
Hall of Justice
Rochester, New York 14614-2184
Telephone (585) 428-2034*

*Joseph D. Valentino
Supervising Judge
Criminal Term Courts
Seventh Judicial District*

November 21, 2011

Mr. Kevin Patrick Brady
508 Locust St
East Rochester, NY 14445

Re: Correspondence dated October 18, 2011

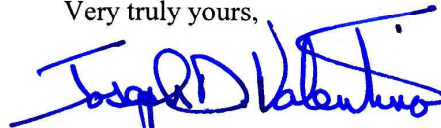
Dear Mr. Brady:

This is to acknowledge receipt of correspondence and attachments concerning the above-referenced matter. I have reviewed all materials.

As Supervising Judge of Criminal Term Courts in the Seventh Judicial District, I am responsible for the administrative aspect of Criminal Courts in the Seventh Judicial District. Please be advised that it is not appropriate for me, and I have no authority, to review the merits or substantive issues involving individual cases brought before a judge of coordinate jurisdiction. Judge Doran's rulings and decisions may be subject to review through the appropriate appellate process.

I would respectfully suggest that you contact an attorney concerning any legal actions.

Very truly yours,


Joseph D. Valentino
Justice Supreme Court

JDV:kd

1
2 **AN ADMINISTRATIVE JUDGE HAS NO DISCRETION TO PREVENT FILING OF**
3 **FACIALLY MERITORIOUS COMPLAINT**

4 **Rosenblum v. Borough of Closter**, 333 N.J.Super. 385, 333 N.J.Super. 385, 755 A.2d 1184,
5 755 A.2d 1184 (N.J.Super.App.Div. 07/20/2000)
6

7 [27] "[t]he due process clause of the fourteenth amendment imposes obligation on state
8 actors to refrain from preventing individuals from obtaining access to the civil courts." ¹¹ As
9 the complete denial of the filing of a claim without judicial review of its merits would violate
10 the constitutional right to access of the courts, ¹² it seems clear that the [pre-filing] order
11 was only intended to allow the Assignment Judge or Civil Presiding Judge the opportunity
12 to dismiss frivolous claims filed by plaintiff before the time and expenses of the courts and
13 the litigants were wasted. *** the order was designed to give the court authority to review
14 plaintiff's complaints before they were filed to determine if they were frivolous. An absolute
15 denial of right to file a complaint without any judicial review is otherwise unconstitutional.

16 [30] 'the complaint must be searched in depth and with liberality to determine if a cause
17 of action can be gleaned even from an obscure statement, particularly if further discovery is
18 taken. Every reasonable inference is thus accorded the plaintiff and [a] motion [to dismiss
19 for failure to state a claim] granted only in rare instances and ordinarily without prejudice. ¹³

20 [45] ' the Assignment Judge [is required] to do more than conclude plaintiff's prior
21 complaints were frivolous. [S]he] must be assured that more traditional sanctions will not
22 protect against frivolous litigation and must review the new complaint to be assured that a
23 meritorious claim is not suppressed.
24
25

26 ¹¹ Brown v. Grabowski, 922 F.2d 1097, 1113 (3d Cir. 1990) (citing Wolff v. McDonnell, 418 U.S. 539, 578-79,
27 94 S. Ct. 2963, 2985-86, 41 L. Ed. 2d 935 (1974) (stating that the due process clause of the fourteenth
28 amendment guarantees citizens access to courts to present claims of wrong doings)), cert. denied, 501 U.S.
29 1218, 111 S. Ct. 2827, 115 L. Ed. 2d 997 (1991); Boddie v. Connecticut, 401 U.S. 371, 380-81, 91 S. Ct. 780,
30 787, 28 L. Ed. 2d 113 (1971) (finding a violation of due process to deny indigent access to court to file
complaint for divorce) (other citations omitted).

¹² U.S. Const. amend. XIV, § 1, New York Constitution

¹³ Pressler, Current N.J. Court Rules, comment 4.1 on R. 4:6-2 (2000) (citing Printing Mart 116 N.J. at 746)

1 **DEFRAUDED AND BOTTLENECKED BY MONROE COUNTY FAMILY COURT**
2 **AND FAMILY COURT ATTORNEY, STEVEN E. FEDER**

3
4 In August 1999, I petitioned family court for a change of custody due to the custodial parents
5 chronic visitation violations.¹⁴ Respondent [Mom] answered by cross petition seeking to
6 increase financial support for the child that had grown so 'alienated' that she ceased all
7 contact with her father barely into adolescence

8 She later amended the cross petition to charge me with willful failure to pay.

9 Following a hearing on March 27, 2000, the hearing examiner [Irizarry] issued the following
10 Findings of Fact.

- 11 • Mom's request for upward modification of support was DENIED.
- 12 • Dad was declared guilty not for failure to pay basic child support, but 'willful failure'
13 to reimburse Mom for incidental medical costs incurred for the child.
- 14 • Dad's 'willfulness' was said to be prima facie pursuant to Powers v Powers, thus
- 15 • an award of attorney fees was [allegedly] mandatory

16
17 **TIMELY WRITTEN OBJECTIONS**

18 [P] filed timely written objections to the alleged 'willful' contempt and award of attorney fees
19 and asserting that 'Powers v Powers' had no application in this case. A 'willful violation' is
20 not made prima facie by a non-custodial parent's failure to reimburse expenses that are [1]
21 subject to qualification and [2] contingent upon precursory action by the custodial parent.

22 They become obligations only after the above conditions are met. And,

23
24 **'Willful' is tantamount to criminal contempt; requiring proof 'beyond a reasonable doubt'.**
25 County of Rockland v. Civil Service Employ Assoc., Inc. 62 N.Y.2d 11,14 [1984]

26
27
28 ¹⁴ evidence that one parent alienates a child's affection for the other or "acts to discourage a continued
29 relationship with the latter has been held to **be so inconsistent with the best interest of a child as to raise the**
30 **probability of the unfitness of the offending party as a custodian"** (Matter of Grathwol v Grathwol, 285 AD2d
957, 960 [2001]; see Matter of Sloand v Sloand, 30 AD3d 784, 785-786 [2006]; Matter of Youngok Lim v
Sangbom Lyi, 299 AD2d 763, 764 [2002]).

1 Insofar as hearing examiners [support magistrates] are non-judicial employees¹⁵ they
2 cannot adjudicate controversies or impose punishments. They must refer them to the judge..

3 FCA § 439. 'a hearing examiner shall have the authority to make a determination that
4 **any person before the said examiner is in violation of an order of the court as authorized ******
5 **subject to confirmation by a judge of the court** *
6

7 The outstanding objections included the failure to suspend or cancel ALL child support
8 based on '**visitation as a defense**'. This was allegedly referred to the judge. [Donofrio]

9 FCA § 439 [a]. "One of the issues [non-judicial employees] cannot hear is ** **visitation as a**
10 **defense, which must be referred to a judge.**"

11 CASE CONCLUDED

12
13 All litigation between the parties concluded with Donofrio's decision of August 16, 2001.
14 Thus, having been superseded by a decision in the plenary action, Irrizarry's temporary
15 findings and proposed judgment lost full force and effect at that time.

16 "**Pending review of the objections and rebuttal, if any, the order ****shall be in full force and**
17 **effect and no stay of such order shall be granted**'. FCA § 439(e).

18
19 On August 17, the plenary Decision was amended for the sole purpose of denying attorney
20 fees, but Mom's attorney; **Steven Feder**, entered the void judgment anyway.

21 With 'in -your-face' due process violations and unresolved issues accruing faster than I could
22 address them I wound up in the courtroom of **Thomas VanStrydonck** on Nov. 13, 2002
23 seeking remedy by Writ for Mandamus

24 THE ALLEGED REMEDY OF MANDAMUS

25
26 In Sept. 2002, I requested, and was granted leave to file action by Article 78 to compel family
27 court [Taddeo] to provide the mandatory confirmation hearing.

28 On Nov. 13th, I appeared in the courtroom of **Thomas VanStrydonck** to argue the merits of
29 'Brady v Taddeo, *et al*'.

30

¹⁵ see 22 NYCRR S 205.32 (b)(1);

1 THE AMBUSH AND SUBTERFUGE

2
3 Within two [2] minutes it was clear that judge Tom VanStrydonck had a different agenda in
4 mind. What I expected to be a purely civil matter turned into commencement of a malicious,
5 jurisdictionally defective, quasi criminal prosecution entitled '**the People of New York by Eliot
6 Spitzer v Kevin Patrick Brady**'.

7 By the time VanStrydonck was through with me fourteen [14] months later, I had been
8 ambushed, falsely accused: *sua sponte*, threatened, intimidated, serially prosecuted and
9 unlawfully jailed for 90 days for non-crimes and non-jailable offenses.

10 Based only on hearsay; no witnesses or real party complainants, without cause, without
11 evidence and without personal and subject matter jurisdiction, VanStrydonck modified the
12 injunction to prohibit me from '**commencing any new litigation unless represented by an
13 attorney**'.

14 Seven [7] years after the fraudulently obtained money judgment purportedly become 'final',
15 without the knowledge or consent of the real judgment parties, VanStrydonck reopened and
16 modified it on ex-parte motion of **AAG Carlos Rodriguez**.

17 This long dormant fee award, intended to reimburse actual costs and actual attorney fees,
18 was rolled into a new judgment naming substituted parties and re-issued under title of the
19 void criminal proceedings; '**the People of New York**'

20 IGNORED AND ABANDONED BY THE COURTS

21
22 In the years since, I have been forced to 30 or more civil actions/motions to purge these
23 unauthorized, jurisdictionally void money judgments from my record. EVERY petition clearly
24 told that they had been procured and perpetuated by fraud, extrinsic fraud, and fraud upon
25 the courts.

26 Every petition enunciated the failures of court officers to perform specific ministerial acts
27 required by law, serial false arrests, malicious unlawful prosecutions and incarcerations by
28 an unauthorized 'prosecutor' [Rodriguez] acting on personal vendetta and with a conflict of
29 interest.

30 Every petition included prima facie evidence that the trial court lacked personal and specific
subject matter jurisdiction.

COINCIDENCE OR CONSPIRACY

My petitions regularly included the findings of other courts, including New York courts, on the Due Process rights of petitioners labeled 'vexatious'. The U.S. Court of Appeals [9th] Circuit declared that 'vexatious-litigant' orders can poison courts against such labeled parties, and noted ¹⁶ they can invoke 'a witch-hunt' that frees judges to express their antipathy for them.

'Among all other citizens, [he] is restricted in his right of access to the courts. As far as he is concerned, his future filings run the risk of delay and possible rejection before he can call upon defendants to respond to those filings. .. We cannot predict what harm might come to him as a result, and he should not be forced to predict either. He knows that a Sword of Damocles hangs over his hopes for access for the foreseeable future.

Moreover, the Court said a 'pre-filing order' is not a penalty to keep the litigant out of court.'

In 2002, the US Supreme Court wrote in Swierkiewicz v. Sorema N.A.,# 534 U.S.

- [1] it is " a gross violation of procedures to dismiss a lawsuit at the threshold stage
- [2] that a judge's opinion of whether or not a litigant will prevail is irrelevant;
- [3] it is fundamentally unfair to dismiss ** before the whole body of facts can be revealed through discovery."

Isn't it interesting that every New York court thus far has failed, or refused, or inadvertently overlooked, or simply ignored these on-point findings of higher courts?

As to the unanimous, *sua sponte* dismissals of my claims for damages from the New York Court of Claims, and summary denial of judgment by default of the State for failing to respond to service, presiding judge Richard E. Sise opined '**in the absence of permission ** movant did not commence an action against the State and, thus, the State had no duty to answer or otherwise respond**'.

Upon appeal of the above unanimous dismissals and failures to respond based on the above findings of higher courts, the New York appellate division for the Third [3rd] Dept. affirmed Sise' arbitrary and contrary opinion.

¹⁶ May v United States,

1 Brady v. State, No. 504967 (N.Y.App.Div. 01/15/2009)

2
3 [1] NEW YORK SUPREME COURT, APPELLATE DIVISION, THIRD DEPARTMENT

4 [4] January 15, 2009

5
6 [5] KEVIN PATRICK BRADY, APPELLANT,
7 v.

8 STATE OF NEW YORK ET AL., RESPONDENTS. (CLAIM NO. 1.)

9 KEVIN PATRICK BRADY, APPELLANT,

10 v. CARMEN BEAUCHAMP CIPARICK ET AL., AS JUDGES OF THE NEW YORK STATE
11 COURT OF APPEALS, RESPONDENTS. (CLAIM NO. 2.)

12 [6] Kevin Patrick Brady, East Rochester, appellant pro se.

13 [7] Andrew M. Cuomo, Attorney General, Albany (Owen Demuth of counsel), for
14 respondents.

15
16 [10] Calendar Date: November 18, 2008

17
18 [11] Before: Peters, J.P., Rose, Lahtinen, Kavanagh and Stein, JJ.

19 [12] MEMORANDUM AND ORDER

20
21 [13] **Appeals (transferred to this Court by order of the Appellate Division, Fourth**
22 **Department) (1) from an order of the Court of Claims (Sise, P.J.), entered September 7,**
23 **2007, which denied claimant's motion for permission to file a claim, (2) from an order of said**
24 **court, entered September 10, 2007, which denied claimant's motion for permission to file a**
25 **claim, and (3) from an order of said court, entered September 11, 2007, which denied**
26 **claimant's motion for a default judgment.**

27 [14] **Orders affirmed, upon the opinions of Presiding Judge Richard E. Sise. ****

28 [15] Peters, J.P., Rose, Lahtinen, Kavanagh and Stein, JJ., concur.

29
30 [16] ORDERED that the orders are affirmed, without costs.

1 JURISDICTIONALLY VOID CRIMINAL CONVICTIONS

2
3 Since January 1995, I have been criminally prosecuted six [6] times in Monroe County
4 courts, convicted [with one exception] by trusting but ill-informed juries, fined, incarcerated,
5 and ordered to report to probation officers for years thereafter.

6 **As a matter of law, every accusatory instrument was facially insufficient to state a crime or**
7 **offense cognizable in New York courts.** Thus, every trial court and every prosecutor acted
8 knowingly without jurisdiction. See Memo; Invalid convictions.

9 Although I asserted the fatal defects at every arraignment, the court[s] and prosecutor[s]
10 ignored them and proceeded to trial. Despite unanimous convictions, there is NO EVIDENCE
11 in any trial record that meets the standards of proof required.

12 **"No conviction of an offense by verdict is valid unless based upon trial evidence which is**
13 **legally sufficient and establishing beyond a reasonable doubt every element of such**
14 **offense and defendant's commission thereof."** see CPL 70.20

15
16 WHO IS ALEX RENZI ?
17 AND WHY DID HE PERVERT THE LAW ?

18 Despite clearly enunciated jurisdictional defects, the decisions of **Judge Alex Renzi** conclude
19 that because of something I did, [represent myself] or didn't do, [appeal in the procedurally
20 correct manner], OR, because of something state legislators allegedly did, ¹⁷ every void
21 conviction must remain undisturbed.

22
23 Because my appeal from a Rochester City Court conviction was not perfected to his liking,
24 Renzi dictated: "**as defendant failed to perfect his appeal in the manner discussed above, it**
25 **is the decision and order of this Court that any present or future arguments pertaining to the**
26 **conduct of the jury trial or the sufficiency of evidence ****is hereby deemed waived and not**
27 **appealable".**

28 The sheer number of fatal constitutional and jurisdictional defects 'overlooked' by Renzi
29 suggests he is GUILTY of criminal negligence and willful official misconduct.

30

¹⁷ CPL 440.10 [c]

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VICTORIA ARGENTO

Insofar as Bernacki had no written agreement, had communicated with only third parties, had failed to deny any allegation, offered no proof of having performed any legal service, AND, had violated professional ethics, the failure by judge to order the money returned was egregious beyond my ability to articulate.

Contrary to Argento's opinion, this was not a fee dispute. Bernacki was not retained to do anything. Argento simply ignored the facts and the controlling principles of law established in New York by higher, controlling courts.

"In order to prevail an attorney must establish (1) the performance of the services in good faith, (2) the acceptance of the services by the person to whom they are rendered, (3) an expectation of compensation therefore, and (4) the reasonable value of the services."²⁰

"If the terms of a retainer agreement are not established, * , the attorney may recover only to the extent that fair and reasonable value of legal services can be established."**²¹ **'An attorney may not recover for quantum meruit unless the [client] requested the services.'**²²

" To recover in quantum meruit, it is incumbent ** to prove that the [client] agreed to pay for the work performed."²³ **The [attorney] must establish he was working for the [client] at the time [the services were performed]."**²⁴

"The failure of an attorney to have a written agreement with the client * does not bar [him] from seeking a quantum meruit recovery, provided [he] can demonstrate that the terms of the agreement were fair, fully understood, and agreed to by the client."**²⁵

²⁰ Avitablile v. Silvestri, 3 Misc.3d 393, 773 N.Y.S.2d 275 (N.Y.Dist.Ct. 03/10/2004) Martin H. Vauman Ass. v H. & M International Transport, 567 NYS 2d 404 (1st Dept. 1991).

²¹ Cohen v Grainger, Tesoriero & Bell, 81 NY2d 655,; Campagnola v Mulholland, Minion & Roe, 76 NY2d 38, 43; Matter of Schanzer, 7 AD2d 275, affd 8 NY2d 972).

²² Avitablile v. Silvestri, supra, Prestige Caterers v. Kaufman, 736 NYS 2d 335 (1st Dept. 2002).

²³ Amana Elevation corp. v Ydrohoos-Acquarius, Inc., 664 NYS 2d 88 (2nd Dept. 1997)

²⁴ Yellowstone Industries, Inc. v. Vinco Marine Mgmt, Inc., 762 NYS 2d 496 (2nd Dept. 2003).

1 THE PREJUDICIAL INFLUENCE OF
2 ADMINISTRATIVE JUDGE THOMAS VANSTRYDONCK.

3
4 In the final analysis, Argento's misconduct was influenced by ex-parte communication from
5 the administrative judge for the Seventh [7th] Judicial District. VanStrydonk's administrative
6 order of transfer suggested that I was **prohibited from commencing any action in New York
unless I am represented by an attorney.**

7
8 VanStrydonck however knew, or should have known that his arbitrary injunction was VOID
9 for manifest constitutional defects and lack of personal and subject matter jurisdiction.

10 VanStrydoncks ex-parte intrusion constitutes the ultimate deterrence for non-lawyers who
11 expect their courts to protect their rights and resolve their disputes.

12
13 **CLAIMANT DEMANDS LONG OVERDUE RELIEF**

14
15 In March 1996, **AAG Carlos Rodriguez** sentiently set in motion an unconscionable scheme
16 calculated to interfere with the judicial system's ability to impartially adjudicate matter[s] of
17 great importance to me by improperly influencing the trier of fact or unfairly hampering the
18 presentation of the opposing party's claim or defense." *** This conduct is defined as
Fraud on the Court. See *Aoude v. Mobil*, 892 F.2d 1115, (1989)

19
20 Contrary to judicial fiction purporting otherwise, I have never filed any action in any court
21 that legally, or constructively, rose to the level of 'frivolous', 'vexatious', or 'completely
22 without merit'. Moreover, New York does not have a 'vexatious' statute. [see Memo]

23
24 To describe the destruction that has occurred in my life due to continuous extrinsic fraud as
25 atrocious, barbaric, corrupt, cruel, inhuman, sadistic, and/or uncivilized, is tantamount to
describing the Grand Canyon as '**a big hole in the ground**'.

26
27 It can only be attributed to '**Just Us Justice**'

28
29
30 ²⁵ *Diederich v. Prior*, No. 2007-246 RO C (N.Y.App.Term 01/03/2008) also *Seth Rubinstein, P.C. v Ganea*, 41
AD3d 54, 63-64 [2007]).

1 Despite thirty [30] or more facially meritorious petitions and claims lawfully commenced in
2 New York courts, **NO COURT OR AGENCY** has adjudicated even a single issue I have
3 brought before them since the outset; September 1995, AND, there is nothing to suggest
4 they will in the future.

5 Nevertheless, **'where there is a Right, there MUST be a remedy'**.

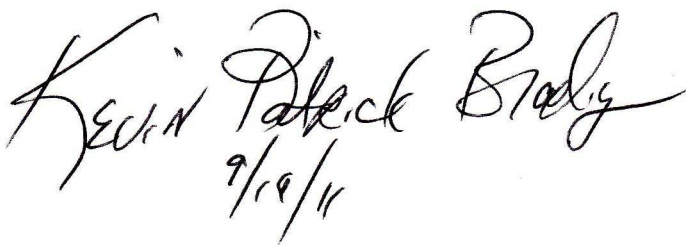
6
7 Now, compensation is the only appropriate remedy. [see application 'in forma pauperis']

8 This Court must reopen my lawfully commenced, facially meritorious and timely filed claims
9 for emotional, financial, and professional damages that were dismissed *sua sponte*, without
10 court appearances, without answers from the defendant State, AND, that were unlawfully
11 docketed as motions. M-71491, M-72717, M-72812, M-72976, M-73333, M-73540,
12 M-73541, M-73707, M-73867, M-74024.

13 Pursuant to Court of Claims Act § 20-a, I DEMAND the Attorney General cause a review to
14 be made within the department of law of all my claims and allegations to determine them
15 appropriate for possible settlement.

16 Until such time I am provided the guarantees to which I am entitled by, *inter alia*, the state
17 and federal constitutions, I DEMAND immediate suspension and abatement of all taxes
18 owed to the State of New York and it's municipalities and accruing on my real and personal
19 property

20
21 I hereby depose under penalty of law that everything contained in these affidavits is, to the best of my knowledge,
22 absolutely true and complete unless alleged upon information and belief. I depose that nothing is intended to be
23 vexatious, harassing, frivolous, offensive and/or sanction able in any manner.

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9/19/11

KEVIN PATRICK BRADY
508 Locust Lane
East Rochester, New York 14445

NICHOLAS D. HINKS
No. 01HI6244145
Notary Public, State of New York
Qualified in Wayne County
My Commission Expires 07/05/2015



ACTIONS TO VACATE VOID PROCEEDINGS AND JUDGMENTS

DATE	TITLE	DOCKET#	TYPE OF ACTION	COURT	COST
Apr-03	Brady v VanStrydonck	NONE	Article 78	Fourth Dept	
Jun-03	Brady v VanStrydonck		Civil Rights	US District Court	275
Sep-03	Brady v VanStrydonck		Appeal	US Court Appeals	310
Jan-04	Brady v Rodriguez, Sirkin		Article 78	Fourth Dept	330
Jul-04	People by Spitzer v Brady	02/13647	Motion To Vacate	Supreme Court	45
Sep-04	Brady v VanStrydonck,	10367/04	Article 78	Fourth Dept.	375
Mar-05	Brady v VanStrydonck,	Various	Consolidate Appeals	Fourth Dept	45
Nov-05	Brady v VanStrydonck,	05-904	Title 42, Sec. 1983	Supreme Court	350
Mar-06	Brady v State	M-71491	Claims for Damage	NY Court Claims	50
Jun-06	Brady v VanStrydonck,	06-661	Reconsider Permission	NY Court Appeals	45
Sep-06	Brady v Gorski	OP-06-2459	Article 78	Fourth Dept	375
Jan-07	Brady v State	Numerous	Continuing Claims	NY Court Claims	50
Jan-07	Brady v State	M-71491	Disclosure	Fourth Dept	45
Feb-07	Brady v State	M-71491	For Remand	Fourth Dept.	45
Mar-07	Brady v State	M-71491	Reargue Remand	Fourth Dept.	45
Dec-07	Brady v Gorski	NONE	Appeal by Right	NY Court Appeals	45
Mar-08	People by Spitzer v Brady	13647/02	Motion To Vacate	Supreme Court	0
Aug-08	Brady v State	504967	Emergency Relief	Third Department	45
Sep-08	Brady v New York, et al	20083395	Emergency Relief	Saratoga Court	295
Sep-08	Brady v State	504967	Appeal	Third Department	540
Apr-09	Brady v New York, et al	2009-485	Emergency Relief	Schenectady County	210
Sept. 02	Brady v Taddeo	02/10647	Article 78	Supreme Court	250
Apr.09	Wells Fargo v Brady	4419/09	Complaint Served	Monroe Supreme	
Apr-09	Wells Fargo v Brady	4419/09	Complaint Answered	Monroe Supreme	
Jul-09	Wells Fargo v Brady	4419/09	Amended Complaint	Monroe Supreme	
Jul-09	Wells Fargo v Brady	4419/09	Answered	Monroe Supreme	
Aug-09	Wells Fargo v Brady	4419/09	Third Party Complaint	Monroe Supreme	45
Sep-09	Wells Fargo v Brady	4419/09	Returnable	Monroe Supreme	
Dec-09	Wells Fargo v Brady	4419/09	Simulated Order	Monroe Supreme	
Jan-10	Wells Fargo v Brady	4419/09	Demand to Vacate	Monroe Supreme	
May-10	Wells Fargo v Brady	4419/09	Notice of Conference	Monroe Supreme	
Jun-10	Wells Fargo v Brady	4419/09	Motion to Execute	Monroe Supreme	
Jun-10	Wells Fargo v Brady	4419/09	Cross Motion	Monroe Supreme	45
Jul-10	Wells Fargo v Brady	4419/09	Appearance for Conference	Monroe Supreme	
Aug-10	Wells Fargo v Brady	4419/09	Appearance for Conference	Monroe Supreme	
Sep-10	Wells Fargo v Brady	4419/09	Notice of Appeal	Monroe Supreme	
Sep-10	Wells Fargo v Brady	4419/09	Motion to Dismiss	Monroe Supreme	45