

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON

JAYAKRISHNAN K. NAIR,
OMANA HOMES LLC,
SUKANYA SUSHEEL,
Plaintiffs,

v.

RICHARD SYMMES,
DOUGLAS CAMERON,
DAINEN PENTA,
BRIAN BORN,
NANCY JAMES,
RORY LIVESEY,
DAVID RILEY,
WILLIAM FOSTER,
ALEX TOTH, in Individual & Official Capacity at
MIDAS MULLIGAN & ROYAL FLUSH LLCs,
PAUL LEE, in Individual and Official Capacity at
JOYOUS INVESTMENTS LLC,
GARY CULVER,
GARY KROHN,
CHANNA COPELAND,
VERISTONE CAPITAL,
FIRST TECH CREDIT UNION,
WASHINGTON FEDERAL SAVINGS BANK,
ARAG LEGAL INSURANCE,
DAWN MERTENS, in Individual and Official
Capacity at PALETTE PROPERTY
MANAGEMENT,
AMY ATCHISON, in Individual and Official
Capacity at CWD GROUP PROPERTY
MANAGEMENT,
SHELLY McLARIN, in Individual and Official
Capacity at McLARIN PROPERTY
MANAGEMENT,
JOHN DOE #1 a.k.a. "Gary",
COUNTY OF SNOHOMISH,
COUNTY OF KING, *et al.*

Defendants.

CASE NO.

19-CV-01577 MJP

COMPLAINT

JURY TRIAL REQUESTED

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I. INTRODUCTION

Jayakrishnan Nair, his mother Omana Thankamma, and niece Sukanya Susheel are citizens of India that had been operating a very successful real estate business (Omana Homes LLC) offering premium upscale rental homes (to many notables including Hon. Court Clerk William McCool) as well as vacation stays through the AirBnB platform. This business has been run out of the 5 homes Jay had bought during 2003-2009 when he was working as a Program Manager leading a team of 26 engineers at Microsoft, while also staying in each from time to time. Sukanya managed AirBnb operations remotely from India, and earned SuperHost status.

However the family's several years of extreme hard work to achieve the classic American Dream (which they did through building a multimillion dollar estate) has since been shattered by the orchestrated criminal scam of several unscrupulous HOA and Bankruptcy "attorneys", who in collusion with the odious criminal enterprise of so-called "Sheriff Sales Mafia", have abused & violated the integrity of Venerable Courts for committing organized fraud; through making an absolute and complete mockery of the legal system.

Plaintiffs are praying to this Court to look at the whole facts and remedy their losses through restitution, as well as punishing the perpetrators exemplarily. Furthermore, this is a systemic problem violating the rights and homes of many Washington families, as the HOA laws are widely being abused for defrauding millions of dollars in equity under the pathetically comical yet insidiously nefarious pretext of attorney fees for collecting just a few trivial dues (usually less than \$30/mo). These shameless mountebanks are unjustly enriching themselves by abusing their privilege as *de facto* officers of Courts, thereby committing the most ultimate Contempt of Court possible to imagine, whilst desecrating these Hallowed Temples of Justice.

II. JURISDICTION AND VENUE

1. This action arises under the United States Constitution, particularly the First and Fourteenth Amendments, and under federal law, specifically, Title 42 U.S.C. § 1983, and § 2000cc et seq.

1 This Honorable Federal Court has BOTH Diversity AND Federal Question Jurisdiction on this
2 matter. Both Plaintiffs are citizens of India. The damages and claims in question *in toto* is of
3 many magnitudes higher than \$75,000.

4 This court has jurisdiction over:

- 5 a) civil claims arising under the United States Constitution and federal law pursuant to
6 28 U.S.C. § 1331, 29 U.S.C. § 794, 42 U.S.C. § 1983, and 42 U.S.C. § 12101 et seq.;
 - 7 b) Over Plaintiff's prayer for preliminary and permanent injunctive relief and damages
8 under F.R.C.P. 65(a);
 - 9 c) Over Plaintiff's prayer for declaratory relief under Title 28 U.S.C. § 2201;
 - 10 d) Over claims of discrimination based on race, color, and national origin-Title VI of the
11 Civil Rights Act of 1964.
 - 12 e) Over claims of violating the Civil Rights Act of 1866, 42 U.S.C. § 1983.
- 13
- 14 2. Venue is proper under 28 U.S.C. § 1391 in the Western District of Washington because this
15 claim arose therein. Each and all of the acts alleged herein were done by the Defendants
16 under the color and pretense of state law, statutes, ordinances, regulations, or customs.

17 **III. PARTIES**

18 **A. PLAINTIFFS**

- 19
- 20
- 21
- 22 1. Jayakrishnan K. Nair, is a citizen of India and a permanent resident of the USA domiciled in
23 the state of Washington. He is the owner of the properties that Omana Homes operates on.
- 24
- 25 2. Sukanya Susheel, is Jay's niece in India and an employee of Omana Homes LLC and also the
26 nonresident primary Property Manager for all the Airbnb and rental operations of the same.
- 27
- 28 3. Omana Homes LLC is a limited liability Corporation incorporated in the State of Washington,
and conducts business in Real Estate through offering premium rentals and vacation stays.

B. DEFENDANTS

- 1
- 2
- 3 1. Richard Symmes, is a natural person domiciled in the State of Washington. He is a
- 4 professional bankruptcy attorney practicing in the Western District of Washington.
- 5
- 6 2. Douglas Cameron, is a natural person domiciled in the State of Washington. He is a
- 7 professional bankruptcy & HOA attorney practicing in the Western District of Washington.
- 8
- 9 3. Dainen Penta, is a natural person domiciled in the State of Washington. He is a professional
- 10 bankruptcy & HOA attorney practicing in the Western District & State of Washington.
- 11
- 12 4. Brian Born, is a natural person domiciled in the State of Washington. He is a professional
- 13 HOA attorney practicing in the State of Washington.
- 14
- 15 5. Nancy James, is a natural person domiciled in the State of Washington and a "Trustee".
- 16
- 17 6. Rory Livesey, is a natural person domiciled in the State of Washington. He is a professional
- 18 bankruptcy attorney practicing in the Western District of Washington.
- 19
- 20 7. David Riley, is a natural person domiciled in the State of Washington. He is a professional
- 21 bankruptcy & HOA attorney practicing in the Western District & State of Washington.
- 22
- 23 8. William Foster, is a natural person domiciled in the State of Washington. He is a
- 24 professional real estate attorney practicing in the State of Washington.
- 25
- 26 9. Alex Toth, is a natural person domiciled in the State of Washington. He buys properties at
- 27 Sheriff Sales for pennies on the dollar, and is part of the HOA mafia for stealing homes.
- 28
10. Paul Lee, is a natural person domiciled in the State of Washington. He buys properties at
- Sheriff Sales for pennies on the dollar, and is part of the HOA mafia for stealing homes.
11. Gary Culver, is a natural person domiciled in the State of Washington. He is a Convicted
- Thief and Felon, an ex-lawyer debarred for first degree theft and now into hard money loan
- sharking. His attorney Gary Krohn also doubles as the "trustee" for his sham foreclosures.

- 1 12. Gary Krohn, is a natural person domiciled in the State of Washington, who fakes as "trustee"
2 for Convicted Thief Gary Culver for stealing homes from predatory lending practices.
- 3 13. Channa Copeland, is a natural person domiciled in the State of Washington, whose actions
4 abusing Omana's guardianship has caused terrible torturous interference with business.
- 5 14. Veristone Capital is a Financial Institution licensed in the State of Washington.
- 6 15. First Tech Credit Union is a Financial Institution licensed in the State of Washington.
- 7 16. Washington Federal Savings Bank, is a Financial Institution licensed in State of Washington.
- 8 17. ARAG Legal Insurance, is a nationwide legal services insurance provider.
- 9 18. Dawn Mertens, is a natural person domiciled in the State of Washington. She was an HOA
10 manager for Redmond Ridge East HOA until recently when she was booted out by the HOA
11 board for swindling homeowners colluding with HOA attorney Doug Cameron for sharing
12 absurd legal fees. Her company Palette Property Management was forced to close down.
- 13 19. Amy Atchison, is a natural person domiciled in the State of Washington. She was an HOA
14 manager for Snoqualmie Ridge HOA, working for CWD Group, and part of the HOA Mafia.
- 15 20. Shelly McLarin, is a natural person domiciled in the State of Washington. She is the principal
16 at McLarin Property Management, & HOA manager for Meadows Homeowners Association.
- 17 21. John Doe #1, aka Gary, details unknown other than that he is a SSDP for tenant Mathew Hale
- 18 22. County of Snohomish, is an incorporated County in the State of Washington.
- 19 23. County of King, is an incorporated County in the State of Washington.
- 20
- 21

22 C. AGENCY AND CONCERT OF ACTION

- 23
- 24 24. At all times herein mentioned, Defendants, and each of them, hereinabove, were the agents,
25 servants, employees, partners, aiders and abettors, co-conspirators, and/or joint venturers
26 of each of the other Defendants named herein and were at all times operating and acting
27 within the purpose and scope of said agency, service, employment, partnership, enterprise,
28 conspiracy, and/or joint venture, and each Defendant has ratified and approved the acts of
each or at least some of the remaining Defendants.

1 25. Each of the Defendants aided and abetted, encouraged, and rendered substantial assistance
2 to the other Defendants in breaching their obligations to Plaintiffs, as alleged herein. In
3 taking action to aid and abet and substantially assist the commission of these wrongful acts
4 and other wrongdoings complained of, as alleged herein, each of the Defendants acted with
5 an awareness of his/her/its primary wrongdoing and realized that his/her/its conduct
6 would substantially assist the accomplishment of the wrongful conduct, wrongful goals, and
7 wrongdoing. They perpetrated devious fraud on Federal Bankruptcy Court and State Courts.

8 26. This Court also has jurisdiction over all other claims pursuant to 28 U.S.C. § 1367 because all
9 of the claims arise from a common nucleus of operative facts that are so intertwined that
10 they cannot be logically or reasonably separated.

11
12 27. This Court has original jurisdiction over the Crimes perpetrated on itself, which is situated
13 in Federal Land. Defendants MOST CONTEMPTUOUSLY defrauded Judge Alston, a newly
14 appointed Bankruptcy Judge, explicitly for stealing from Plaintiffs' multimillion dollar estate
15 by shamelessly abusing His inexperience and misplaced trust on their professional integrity.

16
17
18 **IV. STATEMENT OF FACTS**

19 **A. CONTEXT & BACKGROUND**

20
21 1. Jayakrishnan Nair (hereinafter, "Jay") is a citizen of India who had immigrated to USA at the
22 age of 21 to pursue Masters in Computer Science at University of Massachusetts, after which he
23 was recruited to Microsoft in 2003, when he and his mother Omana (Jay's dependant) moved
24 to Seattle. During the period of 2003-2009 he custom built 5 premium homes in the eastside:

- 25 a) 11031 Elliston Way NE Redmond WA 98053 (Redmond Ridge East)
26 b) 8646 230th Way NE Redmond WA 98053 (Redmond Ridge)
27 c) 6706 Quigley Ave SE Snoqualmie WA 98065 (Snoqualmie Ridge)
28 d) 6813 SE Gove ST Snoqualmie WA 98065 (Cottages at Heights)
e) 13506 34th AVE SE Mill Creek WA 98012 (Meadows at Mill Creek)

- 1 2. Due to a job change, he and his family relocated to New Jersey in 2011. He enjoyed a near-800
2 credit score and had always remained current on all mortgages, taxes, insurance and HOA
3 obligations for these 5 homes, all of which were rented out while his family was in NJ.
- 4
5 3. He continued to pay all the HOAs and mortgages through bill payer set up through First Tech
6 Credit Union's Checking Account. The total monthly obligations exceeded \$15,000, out of
7 which the HOA dues were as follows:
 - 8 a) Redmond Ridge East HOA: Palette Property Management: \$45/mo
 - 9 b) Redmond Ridge HOA: CWD Group Property Management:: \$55/mo
 - 10 c) Snoqualmie Ridge HOA: CWD Group Property Management:: \$25/mo
 - 11 d) Cottages at Heights HOA: CWD Group Property Management:: \$225/mo
 - 12 e) Meadows at Mill Creek HOA: Alderwood Property Management: \$30/mo

13 As is obvious, the total of the HOAs were just \$380/mo, which is ~ ONLY TWO PERCENT of the
14 total monthly expenses in mortgages, taxes, insurance etc for the rental homes in WA state.

- 15 4. Sometime around 2011, CWD group, which managed the HOAs for three of the properties, had
16 an address change for payment receipts, which was NOT communicated to Jay at his address in
17 NJ, though all his contact information had been provided to all the property managers.

18 **B. RESURRECTION OF A CHARGED-OFF LOAN & AN ILLEGAL FORECLOSURE**

- 19
20
21 5. Sometime around 2012, First Tech Credit Union, which had a second mortgage on the home at
22 13506 Mill Creek for \$100k taken out in 2006 that had been paid down to \$72k in the six years
23 thereto, sent a letter to Jay stating that the debt was charged off due to the loan being
24 underwater during the nationwide housing recession at its nadir around then.
- 25
26 6. The first mortgage Wells Fargo's principal balance was higher than the total market price at
27 that time. So First Tech closed the loan, charged off the balance, and also closed the checking
28 account Jay had with them and applied all the available funds in the checking account to the
loan balance. Jay therefore stopped making payments to the charged off loan.

1 7. Jay and his family continued to live in NJ without any contact from any HOAs and continued to
2 make the payments to all known creditors and HOAs as before. Therefore, two years later, he
3 was extremely surprised to hear from the tenant at 13506 there was a foreclosure notice stuck
4 on the door, though the only known mortgage from Wells Fargo was being maintained current.

5
6 8. The notice turned out to be from First Tech, who chose to resurrect the charged-off loan from
7 nearly three years ago and scheduled a trustee sale on May 4th 2015, WITHOUT EVER
8 CONTACTING JAY OR HAVING ANY DUE PROCESS MANDATED ON A TRUSTEE SALE.

9 9. Jay contacted one Mr. Thomas Hill, collections officer at First Tech, who negotiated a payment
10 plan with Jay that was accepted in writing through email. The written and accepted offer was
11 for equal installments of \$916 per month each for 72 payments to pay off the principal balance.

12
13 10. Mr. Hill scheduled a notary to come out and do the signing for the payment agreement.
14 However, on the day of the signing, Jay was told the offer had been withdrawn per Mr. Hill's
15 manager's insistence, and Mr. Hill apologized and said there was nothing he could do to
16 convince his stubborn manager, although there was already an accepted modification by email.

17 11. Jay was flabbergasted as there was just less than a month remaining at this point for the sale,
18 and First Tech had reneged on the accepted offer illegally and suddenly demanded payment of
19 the entire 70k balance (that had in fact been charged off almost three years prior) to stop the
20 spurious sale, after having wasted the previous two months of his on the promise of a written
21 and accepted payment plan. This also denied Jay enough time to liquidate an asset if needed.

22
23 12. So Jay contacted his legal insurance provider ARAG, who connected him with one Mr. Richard
24 Symmes, who initially wrote to First Tech for specific performance on the payment plan.

25
26 13. When First Tech did not budge and remained firm on continuing with the trustee sale, Jay told
27 Mr. Symmes he had about \$100k in 401(k) and about \$20k in his checking account and another
28 \$15k in hand as cash, and therefore he could take out \$35k from his 401(k) and have the
balance paid off to stop the sale [Ex: D1, D2, D7, D11, D22].

1 14. However, Mr. Symmes advised that is a really bad idea to withdraw from the 401(k) and face
2 the early withdrawal penalty, and instead he suggested a plan to bring First Tech to the
3 negotiating table to accept a smaller sum as settlement. Little did Jay know that Symmes' vile
4 intention was actually to goading him into complete suicidal destruction while cloaked in the
5 sheepskin of acting as his lawyer - abusing the integrity of his "profession" that Jay trusted in.

6
7 **C. HIGHLY SOLVENT & CASH POSITIVE \$4.5 MILLION NET WORTH ESTATE CRIMINALLY**
8 **DEFRAUDED INTO A SUICIDAL BANKRUPTCY SCAM**

9
10 15. Mr. Symmes mentioned that he had worked with First Tech recently on behalf of another
11 client, and that he was able to negotiate a settlement for 50% of the balance. This piqued Jay's
12 interest, as Symmes promised that he could have it paid off for \$35k without touching 401(k).
13 However, he said it was first necessary to stop the sale in order to bring First Tech to the
14 negotiating table, for which he advised Jay (as apparently he had also done to his "other
15 client") to file a Bankruptcy petition to stay the sale. [Ex: D1, D2, D7, D11, D22].

16 16. The suggestion was repulsive to Jay who owned about \$6 Million+ in assets, and only about
17 \$1.6 Million in assets, giving him a net worth of about \$4.5 Million dollars, and put him at
18 among the top 1% wealthiest in the nation. His real estate portfolio had rebounded after the
19 economic downturn (as is common knowledge) and his five homes not had a NET equity of
20 close to \$3 Million. He also held private shares in his biotech startup Ratner BioMedical Inc,
21 which holds exclusive licenses [Ex: D3] with top universities such as Johns Hopkins University,
22 and owns highly valuable international Patents [Ex: D4] issued by US, European and Japanese
23 Patent Offices on epoch making regenerative medical devices. The Company has a NPV of \$294
24 Million, and even at the most conservative estimate possible, his shares at a minimum were
25 worth several millions of dollars, making his success story an epitome of the American Dream.

26 17. In several emails [Ex: D2, D11], Jay remonstrated with Mr. Symmes about avoiding this path, as
27 he was concerned about losing his perfect credit and financial reputation, though he did not
28 know at the time anything else about the US Legal System as he is an engineer, not a lawyer.

1 18. He relied on Symmes' "professional" opinion, who said the hit to the credit score would be
2 temporary and a small price to pay for saving the \$35K, and that even Donald Trump has filed
3 Bankruptcies and therefore it would not be of any effect on his continued success or financial
4 reputation. Jay reluctantly agreed and Symmes filed a Chapter 13 on Jay's behalf on 4/29/2015

5
6 19. As a professional bankruptcy lawyer, Symmes should have known that Jay's total secured
7 debts over \$1.6 Million disqualified him from filing Chapter 13, as he was over the debt limit of
8 \$1.1 Million. Therefore the US Trustee moved to dismiss the case. Instead of using the time to
9 negotiate with First Tech, Symmes instead moved to convert the case to Chapter 11. [D7, D22]

10 20. Jay was suffocated with financial restriction from the US Trustee's office and several intrusive
11 questionnaires, and even was question of a 8\$ birthday gift he sent to his niece (despite having
12 a net worth of \$4.5 Million). Therefore he asked Symmes [Ex: D2] to wind up the matter at the
13 earliest after settling with First Tech, the ONE and ONLY reason for the bankruptcy filing as Jay
14 was NOT facing ANY other creditor action at the time. [Ex: D1, D2, D7, D11, D22].

15
16 21. However, Mr. Symmes' reply shocked Jay: he said that now he was in Chapter 11, he could not
17 dismiss the case on his own, as the other creditors or US Trustee could force a conversion to
18 Chapter 7 and liquidate his \$4.5 Million net worth estate. He also said the Chapter 11 filing
19 would not covered by the ARAG plan and therefore he had to pay him fees, which was the very
20 quintessential definition of a classic bait and switch scam. He made no efforts to settle with
21 First Tech either, despite Jay's repeated requests so he can get out of this trap he was in.

22 **D. SYMMES PARTNERS WITH HOA "ATTORNEYS" TO ABUSE INEXPERIENCE OF HON. JUDGE FOR**
23 **SCAMMING THE MULT-MILLION DOLLAR ULTRA SOLVENT ESTATE VIA BOGUS FEES**

24
25
26 22. While being out of state, Jay was not aware that apparently four of the HOA's small payments
27 were being missed due to CWD group's address change (which meant the auto bill payer
28 checks were being returned that led to those payees being canceled from the program) and
also as First Tech had closed his checking account as aforementioned. Instead of contacting Jay

1 (who had never missed a payment with them for over 8 years) the HOAs attorneys took out Ex
2 Parte Default judgments in WA state courts, without any service or process, as follows:

- 3 a) Redmond Ridge East HOA: Mr. Douglas Cameron, ~\$10,000, missed dues less than \$2k
- 4 b) Redmond Ridge HOA: Mr. Dainen Penta, ~\$6600, missed dues less than \$2k
- 5 c) Snoqualmie Ridge HOA: Mr. Dainen Penta, ~\$3500, missed dues less than \$1200
- 6 d) Cottages at Heights HOA: Mr. Brian Born, ~\$14,000, missed dues less than \$6600

7 23. As is obvious, these default judgments were specious as the attorneys concerned never made
8 any attempt at contacting or serving Jay in his address in New Jersey, where he was attending
9 to his mother's heart surgery and recuperation. Instead, they added arbitrary amounts more
10 than doubling / tripling the missed dues (and late fees) as fees for simply presenting a one
11 page ex-parte order through default without any service or contact of the victim whatsoever.

12 24. Under Washington State Law, claims under \$5500 must be brought in Small Claims Court,
13 where no attorneys or attorney fees are allowed. See RCW 12.40. Therefore three of the above
14 judgments are null and void by definition as they were prosecuted without proper jurisdiction.

15
16 25. Immediately after finding about the judgments, Jay had negotiated directly with Redmond
17 Ridge HOA, and was able to payoff and settle the judgment as the board was cooperative.
18 However, his similar efforts with the other three HOAs failed as the property managers Ms.
19 Amy Atchison (Snoqualmie Ridge HOA), Ms. Dawn Mertens (Redmond Ridge East HOA) and
20 Ms. Sandy Cobb (Cottages at Heights HOA) would not let Jay take up the matter with Board and
21 instead pointed him to their attorneys Mr. Penta, Mr. Cameron and Mr. Born respectively.

22 26. After returning with his mother to WA state in 2015, Jay only found about these Ex Parte HOA
23 "judgments" from Symmes in horror, and that the HOA "attorneys" Cameron and Penta were
24 filing frivolous motions on the bankruptcy case, which was completely shocking news to Jay.

25
26 27. For the next 16 months, Jay suffered incredible losses and harm trying to get out of the
27 bankruptcy. In July 2012, he had signed a contract with Highland Partners and Breckenridge
28 Associates [Ex: D5], two renowned Biotech VC firms, for a \$2.5 Million Staggered Investment

1 on Ratner Biomedical. However, after finding about Jay's (CEO of Ratner) bankruptcy in
2 5/2016, the two partners pulled out of their investment deal and stopped making further
3 payments to Ratner. Furthermore, Jay suffered incredible losses, social stigma and pain from
4 having a FAKE Bankruptcy on his hitherto pristine financial and credit record despite his
5 \$4.5M net worth. His standing in the Indo-American community was terribly diminished.

6 28. After finding out that the scammers were filing completely NONSENSICAL, MEANINGLESS
7 motions and responses and so forth when all he is trying to do is pay off the judgments and get
8 back current on the HOA dues from an accidently bill pay error when out of state, Jay contacted
9 the Board for Snoqualmie Ridge HOA [Ex: D13, D6] and not only paid off the full balance, but
10 even prepaid for the NEXT TWO years dues so there would be absolutely no reason for any
11 "representation". The litigation in the BK court had NO ostensible purpose but to play a circus
12 before the Judge to make a complete mockery of the Federal Court for justifying sham fees.

13 29. So Jay tried everything possible (not only paying off but even paying in advance for years for
14 these trivial dues) to stop these scammers from piling on several tens of thousands of dollars
15 in bogus fees for "representing" these \$25 creditors (yes \$25) in a complete skullduggery only
16 aimed at abusing the inexperience of Judge Alston, who had sworn in just before the case.
17
18

19 **E. SCAMMERS DECEIVE HON. JUDGE INTO CONVERTING THE ESTATE INTO CHAPTER 7**

20
21 30. These colluding criminals then manipulated the Judge into converting the \$4.5 Million estate to
22 Chapter 7, arguing that Jay's trip to Las Vegas could involve playing poker (*he is a WINNING*
23 *player, Erdos #2 Mathematician, MBA with Dean's Gold Chord from UW-Foster, and a Game*
24 *Theorist who has worked with famous Prof. John Nash, with nearly HALF A MILLION dollars in*
25 *tournament poker winnings¹)* and therefore placed their client's \$55 dues at risk. If this is not
26 the worst example of shameless subterfuge in the history of US Courts, it is hard to imagine
27 what it can be. These crooks violated the integrity of THIS Federal Court in total contempt.

28 -----
¹ <https://pokerdb.thehendonsmob.com/player.php?a=r&n=176922>

1 31. Judge Alston failed to act in the best interests of the Estate by allowing a dismissal as the
2 Chapter 11 Trustee had sought. He should have known that his former peers/colleagues are
3 abusing the Court to steal from a highly solvent estate that had no purpose or reason to be in
4 Bankruptcy Court in the first place as it needed no bankruptcy protection whatsoever.

5 32. Following this conversion, Jay immediately fired Symmes, filed a Pro Se appeal [Ex: D7] against
6 the conversion with 9th Circuit, and replaced Symmes with Ms. Sashi Vijay so he could salvage
7 his multimillion dollar estate that was criminally scammed. She immediately told him he was a
8 victim of fraud as he had no reason whatsoever to be in Bankruptcy court as a multi
9 millionaire, and that the First Tech issue could have been handled either through an injunction
10 at State Court or through an advance from 401(k) that could have been paid off without
11 penalty in 60 days. So she referred Jay to Mr. Brian Waid, a legal malpractice attorney.

12 33. Mr. Waid and Ms. Vijay filed submissions [Ex: D1, D2, D7, D11, D22] to the Court to deny
13 Symmes' fees for scamming Jay into a completely unnecessary and SUICIDAL bankruptcy.
14 However, Judge Alston denied it and awarded fees to Symmes.
15

16
17 **F. MOST PATHETICALLY SHAMELESS SELF-DEALING: \$40,000 LEGAL FEES FOR COMPLETE**
18 **NONSENSE SUCH AS "TALKING ON PHONE WITH A \$700 TENANT ABOUT A SILLY WATER BILL"**
19

20 34. Chapter 7 Trustee Nancy James hired one Mr. Rory Livesey to represent her, which was a
21 tactic to pilfer as much of the wealth from the highly valuable estate now under her control.
22 They called a meeting with Jay to propose a corrupt scheme involving Jay handing over a large
23 sum of money as RANSOM for the trustee and her lawyer to get back his hard earned estate.

24 35. Jay complained about this blackmail attempt and the criminal scam to 9th Circuit Appeals
25 Court in his heartfelt appeal [Ex: D7]. The Trustee proceeded to list one of his homes for about
26 \$250k less than market price, even though Jay had more than twice all the unsecured debt on
27 the roster with him and had offered to hand the money to trustee to disburse. There was no
28 need for any liquidation, other than to purloin from estate from shameless self dealing.

- 1 36. The only real unsecured debt was LESS than only \$17k - owed to ACTIVE credit cards that Jay
2 carried at the time (Discover, Amex etc) while the rest of the creditors were all secured. Jay
3 proposed to the trustee to pay off all the claimed unsecured debts in the roster immediately as
4 he had over \$50k available in cash, which was over three times the entire total of unsecured
5 debt. However the swindler Livesey asked for \$40k just for himself for DOING NOTHING - he
6 claimed nearly \$40,000 in fees [Ex: D10] for absolute nonsense such as "some phone calls
7 made to a \$700/mo tenant". If this is not the textbook definition of criminal embezzlement,
8 then what is? This shameless charlatan did not even try to make ANY COVER of his \$40k theft.
- 9 37. Livesey contacted King County and persuaded them to file a claim for \$5500 for renting one
10 room in Jay's primary residence at 11031 Elliston Redmond on the pretext that HOA CCRs
11 required the home to be owner occupied only, which was a bogus claim as the county explicitly
12 had permitted him to rent a room [Ex: D8]. The trustee tried to inflate the claims and pay out
13 even ones with no legal basis, only for the purpose of ballooning up their own sham fees.
14 Livesey and Nancy James did their absolute best to exploit and embezzle the maximum.
- 15 38. Ms. Vijay negotiated a settlement of \$103k to dismiss the case, about 80% of which was fraud
16 fees to the Trustee and her goons, who had done everything to criminally pilfer from the \$4.5M
17 estate. This was approved by Court and the Bankruptcy was finally dismissed on April 3, 2017,
18 and the balance of \$4.3M was returned to Jay [Ex: D9] after disbursing the faked, fraud fees.

19
20
21 **G. SHAM SHERIFF SALE #1 : REDMOND RIDGE EAST HOA - \$112K "ATTORNEY FEES" TO**
22 **"COLLECT" LESS THAN \$2K UNCONTESTED DUES (OF MERELY \$55/MO FOR THREE YEARS)**

- 23 39. After getting his estate back, despite having had to liquidate his 401(k)- saving which was the
24 only purported purpose of the bankruptcy filing - Jay and his household consisting of his
25 quadriplegic mother Omana and a Caregiver and a Maid, finally thought the ordeal was over..
26 However, they learnt that Cameron had scheduled a bogus Sheriff Sale for the home at 11031
27 Elliston to collect the \$10k judgment they had taken out while he was out of state, for only
28 about 2k in accidentally missed dues plus another 1k in late fees, which Jay had written to Ms.

1 Dawn Mertens and Mr. Cameron several times to settle. Jay immediately also filed a legal
2 malpractice case against Symmes following dismissal of the Chapter 7 [Ex:D11].

3
4 40. Jay contacted the King County Sheriff to get a payoff on the 10k judgment. They instead said
5 the attorney was asking for 79K in attorney fees on top of the 10k judgment - i.e. 89K in legal
6 fees to collect a mere 2k UNCONTESTED DUES that the homeowner is only more than happy to
7 pay off [Ex: D12]. Jay offered \$25K, i.e. \$15k on top of the 10K judgment, yet they refused.

8 41. Jay again approached ARAG who connected him with an attorney Mr. Edward Chung, who said
9 the matter was NOT civil but CRIMINAL FRAUD as Cameron's efforts was against every ethics
10 of legal practice and had no legal basis. He called Mr. Cameron on the SPEAKER phone from his
11 office with Jay as a witness to elicit a confession, and asked Cameron to explain his billing.

12
13 42. Mr. Cameron readily shamelessly told Chung "Symmes was a close friend and associate that he
14 had been collaborating with for years ", and that "Symmes had approached him soon after
15 trapping Jay to look into ways of maximizing the profits for both of them" - i.e. collude to
16 manipulate & deceive Judge Alston by abusing his trust on their professional integrity. He even
17 went to the extent of shamelessly openly soliciting Mr. Chung to do the same for "more fees".

18
19 43. Jay had also approached another Bankruptcy attorney, Mr. Justin Mishkin of Integrity law
20 group PLLC, who also expressed outrage and disbelief that Judge Alston had failed to recuse
21 himself despite his personal associations and conflict of interest. Judge Alston had a duty to
22 protect the Estate from blatant pillaging that he completely failed to do, which cost incredibly
23 huge losses, and served no real legal purpose or benefited anyone other than these lawyers.

24 44. Chung said he would later be available as witness for a criminal investigation but was not
25 available to represent him in Civil court due to ARAG's low pay for court representation - thus
26 proving the insurance was useless in providing any real legal representation when it mattered.
27 As Jay had already liquidated his 401(k) to pay the Chapter 7 trustee to reclaim his estate, he
28 could not pay the (fraud fees) \$89k and therefore the home was sold in a sheriff sale on July 21,
2017 despite Jay's frantic effort to convince KCSC Judge Schubert to stay the sale the day prior.

1 The \$775K home was sold for a laughable \$79k (about TEN percent of market value) to the
2 plaintiff Redmond Ridge East HOA, while Jay and his quadriplegic mother were staying there.

3
4 **H. SHAM SHERIFF SALE #2: SNOQUALMIE RIDGE HOA: \$25/MO DUES ARE CURRENT & PAID**
5 **UPFRONT FOR NEXT TWO YEARS; NO LEGAL BASIS FOR ANY SALE AS NOTHING WAS OWED**
6

7 45. In addition, his partner in crime Penta had also scheduled a sheriff sale for the house in 6706
8 Quigley, though nothing was owed to the Snoqualmie Ridge HOA (in fact he was even paid up
9 two years in advance until 2018, as can be seen in [Ex: D6] and his SOS letter [Ex: D13] to the
10 board). Mr. Penta scheduled a TOTALLY CRIMINAL BOGUS sale 100% for his purported
11 "attorney fees" of \$18K for representing the HOA in the fake bankruptcy, while the dues of
12 \$25/mo were not just current, but even prepaid for the next 2 years!!

13 46. He had still found it his duty to spend \$18K worth of his time litigating on his client's \$25 dues
14 in the bankruptcy court through various frivolous and vexatious fraud "motions" in collusion
15 with Cameron and Symmes. Unfortunately Judge Alston did nothing to stop this blatantly
16 obvious farce, and failed to bring any Sanctions, although any reasonable person should have
17 suspected the bad faith nature of the proceedings that is readily apparent.

18
19 47. Jay arranged financing from a local real estate lender and scheduled a closing with Ms. Laura
20 Keller at First American Escrow, who repeatedly called, faxed, emailed and contacted Penta in
21 every way possible to get a payoff statement so the sale can be avoided. Despite several weeks
22 of efforts from both Ms. Keller and Jay, Penta or his office would not return calls or give a pay
23 off quote, and the Sheriff's office would point to Penta's office for payoff.

24 48. Even though not a SINGLE DIME was owed to the HOA (which was in fact, pre-paid for two
25 years) Jay offered to pay Penta his claim simply to stop the sale, but this criminal rascal evaded
26 all contact [Ex: D07] only in the effort to get the sale through, which happened on December 8,
27 2018. The \$850K home was sold for a laughable \$28k (about THREE percent of market value).
28

I. SHAM SHERIFF SALE #3: COTTAGES AT HEIGHTS HOA; REFUSING TO STOP SALE EVEN AFTER THE JUDGMENT IS FULLY PAID OFF AND 100% SATISFIED

1
2
3
4 49. In parallel, Mr. Born had also scheduled a Sheriff Sale on 11/28/2017 for the 6813 SE Gove St
5 home, which is professionally appraised at \$550,000. It has extensive upgrades including two
6 Italian Marble bathrooms added in later that increase its value significantly. It is also in the
7 most coveted lot backing to a greenbelt. This was a home that Omana wanted for herself and
8 had used up all her retirement savings to buy outright. She then spent over \$50k in very
9 expensive upgrades as she loved this home and wanted to live there. In August 2017, Jay had
10 sent a letter to the tenant asking to move out so Family can move-in to honor Omana's wish.

11 50. Jay obtained a payoff quote from his attorney which was calculated based on the costs allowed
12 by the Ex Parte Default Judgment for \$13k, and wired the amount, down to the penny, in two
13 wires totaling \$6k and \$13k, for a total of \$19k three days before the Sheriff Sale, to cover the
14 entire judgment of \$13k plus interest and all allowed costs. This is in addition to the fact that
15 he had never missed a payment to HOA from the day he was made aware of the bill pay error.

16
17 51. Despite receiving the full payment, Mr. Born STILL refused to cancel the sale, asking for yet
18 another 12k in attorney "fees". As in the case with Cameron and Penta, NO COURT HAD EVER
19 ALLOWED THESE ADDITIONAL ATTORNEY FEES on top of the ex parte judgments which itself
20 contained over six thousand dollars in bloated fees for simply presenting an uncontested 2-
21 page default ex parte order. King County Sheriff's civil unit was given the proof of satisfaction
22 of judgment, but yet they failed to stop sale stating they needed confirmation from Mr. Born to
23 stop it. The \$550K home was sold on 11/27/2017 for a laughable \$32k (about FIVE percent of
24 market value), although the homeowner was current on both the HOA dues and the mortgage.

25 52. Both these homes were sold to defendant Mr. Alex Toth, who is a partner in crime for these
26 unscrupulous HOA attorneys, under the names of Midas Mulligan LLC and Royal Flush LLC.
27 Both these sales were completely ILLEGAL, as NOT A PENNY was owed to the respective HOAs.
28 The default judgments (taken out ex-parte) had already been satisfied 100% prior to the sales.

I. COMMITTING PERJURY & FRAUD ON COURT TO STEAL TITLE FOR \$850K HOME FOR \$28K

1
2
3 53. Soon after the sale, Mr. Toth and Mr. Penta criminally obtained a fraudulent declaration from
4 the Snoqualmie Ridge HOA manager (and CWD Property Management Group employee) Ms.
5 Amy Atchison, under the penalty of perjury, that the home at 6706 Quigley had been
6 ABANDONED for over 6 months, and used it to get a specious order voiding Jay's one-year
7 redemption period from the bogus Sheriff sale.

8 54. It is apparent the reason Penta avoided the payoff attempts from the Escrow closing agent
9 Laura Keller was due to the criminal intent of stealing the home through the fraud sale. Jay
10 held over HALF A MILLION dollar equity in the home, and the home was always occupied
11 under tenancy with consecutive leases (including that of the Hon. Court Clerk McCool family)
12 to prove Ms. Atchison's perjury. Once again, Jay had never been served or had received any
13 notice, until his tenants informed him that the "new owner" Toth had given them a notice to
14 vacate, by which they were moving out prematurely.

15 55. Petrified, Jay discarded the useless ARAG insurance and went with a real law firm Dickinson
16 and Frohlich PLLC, who asked Jay to immediately move into the home as soon as the tenants
17 vacate in order to prevent the scammers from taking control and selling the home. So Jay and
18 his QUADRIPLEGIC mother Omana, her caregiver and their maid, were forced to move into this
19 home in December 2017, immediately after the sale per the lawyer's advice.

20
21 56. The scammer Toth called Snoqualmie Police and told that Jay had "squatted" into this home
22 they bought at the auction, who then harassed Jay and his family at their home several times
23 and threatened to arrest his family including his quadriplegic mother Omana for "breaking
24 into" their own home!! Jay lost the services of several of his employees due to Police threats.

25
26 57. On 3/12/2018, when their maid went out to a neighbor for borrowing a blender to liquefy
27 Omana's food, the neighbor suspected HER for drug abuse and called police. This frivolous
28 incident was unnecessarily turned into a baseless adult protection investigation and City of

1 Snoqualmie charged Jay with abandoning Omana, though he had produced statements from
2 both a registered CNA and his maid that they were present at home when he had stepped out.

3
4 58. On 5/09/2018, the King County Superior Court, after seeing the consecutive leases that proved
5 the \$850k SIX BED home had in fact always been occupied and never vacant or abandoned as
6 was lied to void the homeowner's redemption right, and realizing it had been deceived earlier
7 by the perjury of Amy Atchison in collusion with these scammers, canceled its earlier order
8 [Ex: D15] and restored Jay's 1 year redemption period.

9 59. Although Jay was able to restore his redemption rights, it had cost him about \$40K in attorney
10 fees and loss of rental income, of course all in addition to the terrible life-changing
11 consequences of the March 12th incident that resulted in a tragic guardianship for Omana.

12
13 60. However, Jay and his family still got locked out of their home a week later when they went out
14 for a Doctor's appointment for Omana at Harborview - when they returned they could not
15 access their home as the locks had been changed, with Omana's life saving drugs, critical
16 medical equipment and several thousands of dollars of personal valuable locked inside. The
17 lying scammer Toth had taken yet another order deceiving the Court for a writ of possession,
18 hiding from the Court the fact that the home was being used as Jay and Omana's primary
19 residence, as he had himself seen when he met with Jay there.

20
21 **K. RESURRECTION OF A DEAD HOA, ARBITRARY \$16K EX PARTE DEFAULT JUDGMENT WITH NO**
22 **ACCOUNTING RECORDS ON A \$30/MO HOA THAT HAS EXISTED ONLY A YEAR**

23
24 61. After being locked out, Jay and his family moved into their home at 13506 AVE SE Mill Creek
25 WA on 5/14/2018. This home had not been involved in any HOA mess as the Meadows HOA
26 had been shut down a year earlier due to infighting, corruption and arson, which had let to
27 criminal charges against the property manager Ann Bauer and the HOA board winding down.
28

1 62. However, a few of the residents in this small, 26-home community had decided to form a new
2 HOA after the old one was closed down for several months, with a new board and new
3 management company (McLarin Management run by Ms. Shelly McLarin). As the arson had
4 destroyed all prior financial records of the old HOA, this new HOA had nothing in common
5 with the old one other than the same name - all its officers, book keeping, management etc
6 were brand new, and all resident members had started at clean slate with zero balance.
7 However, they chose to arbitrarily ask for \$8k ONLY from Jay as a debt owed to the old dead
8 HOA, for which there was no legal basis or any accounting records. By their own records, the
9 balances for all other 25 homeowners were wiped clean and only Jay was targeted for Fraud.

10 63. Jay had rented out one bedroom in this 5-bed, 4000 sqft, \$900K home to a tenant named
11 Mathew Hale, and was renting out the other four bedrooms on AirBnB. He had been forced to
12 stop all the AirBnB reservations because the guests had frequently complained about Mr.
13 Hale's inappropriate behavior at home, and completely making a mess of the common areas,
14 even installing a Dart Board in the dining area, on which several negative reviews were posted.
15 He had also lied on the rental application that he was employed with Red Bull, but was jobless.

16 64. After moving into the other four bedrooms in the home, Jay and his mother and maid all
17 experienced the same continuing pattern of behavior the AirBnb guests had complained about
18 from Hale. Therefore Jay initiated an unlawful detainer with Snohomish County Superior Court
19 on June 5th, and had his maid Dorothea serve it on Mr. Hale when he came home that evening.

20
21 **L. HEINOUSLY ASSAULTED AT HOME FOR INITIATING EVICTION WITH SEVERAL WITNESSES;**
22 **SUFFERS BROKEN WRIST WITH SCAPHOID FRACTURE NON-UNION; YET MILL CREEK POLICE**
23 **REFUSES TO PRESS CHARGES (BLATANT NEPOTISM)**
24

25 65. Mr. Hale called his homosexual partner Gary, whom Jay had met once before and trespassed
26 from visiting his home as he was identified by many AirBnb guests as the main villain causing
27 vicious security concerns in the home, and was also earlier illegally staying at the home with
28 Mathew Hale (though Hale's lease only allowed single occupancy in one bedroom) before Jay

1 moved into the rest of the home. Gary was met by Jay OUTSIDE the home at the Porch, and he
2 attempted to prevent Gary from entering his home by blocking his access and calling police.

3
4 66. Gary viciously attacked Jay and punched him on the chest, in full view of not only Dorothea, but
5 also about half a dozen neighbors and also none other than defendant Shelly McLarin. Jay fell
6 down backwards and was badly injured - his wrist was broken and his hand and clothes were
7 drenched with blood from various cuts from the fall. All of the witnesses screamed and police
8 was called. Gary fled on an UNMARKED car, which proves the attack was preplanned.

9 67. Officer Ian Durkee of Mill Creek police reported, with two other officers and Jay was taken to
10 hospital. Although Gary's details were given to Officers, they did not pursue him for arrest. Jay
11 was treated at Swedish Medical Center in Mill Creek, and he suffered a scaphoid fracture that
12 has since become a non-union requiring surgery. He is continuing to live with severe pain,
13 partially disabled and having a cast. This has caused enormous agony and loss of income as he
14 is not able to work for any length of time on a keyboard without severe excruciating pain.

15 68. Officer Durkee called Jay about a week later and said that Gary was a close friend of his whom
16 he has known for several years and that he wanted Jay to not pursue the charges. Jay informed
17 Durkee of his injuries and asked for justice, to which he was told that if Jay tried to press
18 charges against his buddy, Durkee threatened that he will "make up" some charges against Jay
19 to retaliate. If this is not the most blatant example of police corruption possible, then what is?
20

21 69. Very concerned about Durkee's pathetic illegal demand, Jay immediately went in person to
22 Snohomish County Sheriff's office and reported his conduct to Lieutenant David Swearingen
23 and requested an internal investigation of Durkee's conduct. Dorothea had given a sworn eye
24 witness testimony to Durkee, which was uncovered by Officer Swearingen and attached to the
25 file. Since then Jay has not heard anything from Snohomish County Sheriff's office.
26
27
28

M. SHAM SHERIFF SALE #4: \$900K HOME SOLD FOR \$40K ON CONTESTED DUES LESS THAN \$600.

1
2
3 70. The reincarnated Meadows HOA, under new board and new management, had obtained
4 another Ex Parte Judgment against Jay for \$16k, once again without any service or process, as
5 has become the standard modus operandi of the HOA Scam. They also scheduled a sheriff sale
6 on July 27, 2019, when Jay never agreed to become a part of the new HOA or owed any money
7 to them as he was not obligated to join any new organizations that his neighbors formed.

8 71. Furthermore, the board members of the new association, including one Tammy, had written of
9 all the balances and arrears of ALL other homeowners except Jay, from the old associations,
10 whose financial records they did not have access to (as they were arsoned off by the previous
11 HOA Manager Ann Marie Bauer to cover up the criminal embezzlement of over 10k), by their
12 own sworn submission. However that did not prevent them from obtaining a specious
13 judgment or proceeding to schedule a Sheriff Sale.

14
15 72. Even if Jay somehow DID owe the dues for the one year the new association has been in
16 existence since its inception, that is only a paltry sum of \$300 per year. However, the judgment
17 was for 16k, which is two orders of magnitude higher, almost entirely in attorney fees (again
18 only for an ex parte order taken without service) and baseless balance forward from a dead
19 and buried organization whose records they did not even have access to!!

20 73. Despite Jay's Pro Se efforts to stay or cancel the sale, the Sheriff sold the \$900k home to
21 defendant Paul Lee of Joyous Investments LLC for a mere \$40k (about FOUR percent of the
22 Market Price) on 7/27/2018. As Jay had been staying at this property for three months since
23 May (after getting booted from Snoqualmie) as his primary residence, he was entitled to
24 possession during the one year redemption period. However, due to his mother's sickness and
25 inability to evict Mr. Hale as he was no longer the owner the home, he and his family were
26 forced to move out of the home weeks after the sale, and they returned to their home they had
27 redeemed from Redmond Ridge East HOA for \$93k (for the missed dues of \$2k).
28

1 74. Paul Lee, of Joyous Properties LLC that bought the home at Mill Creek, then immediately paid
2 off the \$262k first mortgage on the property that Plaintiffs had taken at 3.375% 30 year fixed
3 from Wells Fargo, and added to the redemption invoice along with 12% interest to redeem.
4 The redemption amount thus ILLEGALLY jumped from the 40k sheriff auction price to over
5 \$300k and devoid Plaintiffs of the favorable terms of the 30 year FHA loan. RCW
6 6.23.020(2)(c) only allows Purchasers to pay MINIMUM needed to protect Debtors' interest.

7 75. Jay and Omana Homes LLC was unable to redeem due to this illegal action as there is nothing
8 in the statute that allows the purchaser to pay off senior liens beyond what is necessary to
9 preserve the homeowners equity in the property, therefore this is an illegal corrupt tactic the
10 HOA Mafia mobsters like defendants Paul Lee and Alex Toth use to put the redemption beyond
11 the homeowners by effectively accelerating all their mortgages and claiming 12% interest.

12 76. The only default the borrower had with the first mortgage was less than 24k, therefore it was
13 completely unnecessary and illegal to pay off the entire balance instead of only reinstating it.
14 There is no statutory basis to payoff senior liens beyond what is necessary to maintain
15 Judgment Debtor's interest in the property. Clearly the objective of doing so is to fleece the
16 homeowner by making him/her lose favorable FHA 30 yr loans at low rates and adding
17 hundreds of thousands of dollars to the redemption amount, making it jump from a few
18 thousand to exponentially higher, and then to charge an unholy 12% interest on top. This is
19 sheer insanity, considering all this is stemming from a mere contested TWENTY FIVE dollars!!
20

21 **N. JUDGE KEN SCHUBERT'S EGREGIOUS JUDGMENTS CONTRADICT THE LAW AND CCRs MOST**
22 **OPAQUELY; DOES NOT ALLOW MANDATORY ARBITRATION OR REASONABILITY CLAUSES**
23

24 77. In the interim, Jay assimilated and borrowed as much funds as he can from Friends and Family
25 to redeem the home at 11031 Elliston, from Redmond Ridge East HOA, who now asked for
26 \$93K as the redemption amount, while the actual dues missed was less than only \$2k.
27 Although the CCRs of the HOA MANDATORY ARBITRATION Clause and Plaintiffs had promptly
28 requested for the same, and the CCRs also contain verbiage that only reasonable attorney fees

1 (how can \$91k to collect \$2k be "reasonable"?) KCSC Judge Ken Schubert further awarded an
2 additional \$12k to Cameron for defending his atrocious fees: making it over \$110k total in
3 attorney fees to collect less than \$2k uncontested dues that Homeowner was only eager to pay.

4
5 78. The same judge had also earlier signed a judgment disallowing back rent for Jay from a tenant
6 who had stayed in a property without paying rent for almost a year, despite a signed lease that
7 showed a monthly rent amount. There was no legal basis whatsoever for denying the rent for
8 the 11 months he stayed without paying Jay; rent was owed per the plain language of the lease.

9 79. After redeeming 11031 Elliston for 93k (for uncontested dues missed of less than 2k), he was
10 bereft of any liquidity, he and his household including his quadriplegic mother Omana and
11 their two live-in assistants were forced to move back to Redmond from Mill Creek in August as
12 the HOA sale there meant that he could no longer evict Hale or defend his family from Gary.

13
14 80. Jay has promptly appealed this appalling, shocking and egregious "decision" to allow \$110K+
15 as "reasonable" attorney fees to collect a mere uncontested 2k dues missed when out of state,
16 when HOA CCRs allow mandatory arbitration and also only reasonable fees, with Washington
17 Court of Appeals through law firm Vortman & Feinstein PS, , which is attached in [Ex: D16].

18
19 **O. SCHEDULING A BOGUS TRUSTEE SALE ON A MORTGAGE THAT IS CURRENT: AFTER REFUSING TO**
20 **ACCEPT MONTHLY PAYMENTS OF \$400 & ADDING \$8K IN SCAM FORECLOSURE FEES**

21
22 81. In the meanwhile, for the home at 6813 SE Gove St, Mr. Lee's partner in crime Mr. Toth had
23 similarly paid off the entire balance of \$140K that Jay had with Washington Federal Savings
24 bank, on which he was current. After Brian Born informed the Bank that Jay was delinquent on
25 the HOA payments, even though the fact was he was current on the dues except for Born's
26 arbitrary attorney fees that have not been allowed by any court.

27 82. Thereafter the Bank stopped accepting monthly payments and forced him into delinquency,
28 though Jay went to the bank and tried all he could to get them to accept the monthly payments,

1 and David Riley representing the bank scheduled another foreclosure, and added \$8k in bogus
2 legal fees, although the monthly payments are just \$400 and Jay was current to the month.

3
4 **83.** It was impossible for Jay to have done anything more to remain current as he had paid the HOA
5 and the Bank all the monthly obligations and legally allowed costs for the HOA judgment.
6 Therefore to force a Sheriff Sale and a Foreclosure when there is no legal basis for either as the
7 borrower/ homeowner is current to the month, is beyond egregious, it is criminal fraud.

8
9 **84.** Mr. Toth immediately paid off the complete balance on the mortgage balance, and added the
10 \$140K balance to the redemption quote at 12%, again completely illegally as Jay had been
11 current on the mortgage. There is no statutory basis to force a mortgage that is current into a
12 trustee sale by disallowing payments only so the HOA Mafia can steal it from the homeowner
13 by accelerating the mortgage at 4% into getting added to the redemption amount. How is it
14 legal to not accept payments and thus force a delinquency only to add 8k attorney fees for
15 trustee sale and to accelerate the mortgage, when the homeowner is doing everything to pay?

16
17 **85.** This modus operandi is standard practice for the notorious Sheriff Sales Mafia members Lee
18 and Toth, which is aided and abetted by their fellow conspirators HOA attorneys Brian Born,
19 Dainen Penta, Doug Cameron, David Riley, Sound Legal Partners etc, a nefarious gang that feed
20 off of each other to cheat unsuspecting homeowners of their equity while acting under the
21 color of law. This has now turned into a large scale criminal enterprise targeting Sheriff Sales.

22
23 **86.** Jay had paid off all the legally allowed interests and fees on the judgment through two wires
24 totaling \$19k, therefore Brian Born had no legal basis or reason to conduct the Sheriff Sale. In
25 other words, despite being current on a 4% HELOC and having paid off the judgment in full +
26 interest and reasonable costs, he was illegally through conspiracy forced into a situation where
27 he was deprived of my rent, lost my mortgage, and was looking at 189k to redeem the home.
28

P. BETRAYED BY VERISTONE CAPITAL INC. THROUGH A FOUL DRAMA TO PREVENT REDEMPTION

1
2
3 87. Jay had earlier obtained a commitment in writing from a local real estate hard money lender
4 Gary Culver, to arrange the funding to redeem the property at 6813 SE Gove St. Only about two
5 weeks remaining to the one year expiration of the redemption period, Mr. Culver reneged on
6 the commitment and asked the property to be deeded to his associate John Baker.

7
8 88. This forced Jay to list his 5 properties for sale in the MLS so he can find a Ready-Cash
9 buyer/investor willing to help him redeem the home first in exchange for a lower than full
10 price. He was able to garner a roster of 10 potential Ready-Cash buyers who were all ready to
11 buy the home at a discount. The best written offer under such short notice was \$450K, about
12 \$70K less than market price.

13 89. On 11/26, Mr. "DJ" Vyzis from Veristone Capital contacted Jay and stated that based
14 on the titles and other documents he had provided, they can provide a loan for \$191k secured
15 in first position secured against the home in first position. As the HELOC had been paid off by
16 the purchaser, this was a viable option against the 520k valued home.

17
18 90. Jay agreed to change to Veristone after speaking to DJ and confirming the deal was secure and
19 committed. DJ said the check will be ready in a few minutes for me to pickup after signing the
20 closing and that he could go to Sheriff on the same day. Therefore he canceled the pending cash
21 sale of the home to a buyer, as he was keen to save the home Omana loved and wanted to stay.

22 91. Jay advised DJ that 11/26 was the last day he could get one of his buyers to do the deal, and
23 that he could not sleep that night if it was not done that day. DJ said at worst he would have to
24 take the check on 11/27 in the morning to Sheriff, but it was already a done deal and the check
25 would be ready in a few minutes and they were drawing up the documents for Escrow.

26
27 92. Trusting that DJ will follow through on his written commitment, Jay did not take the deadline
28 to sell the home (he wanted to preserve the home for his mom due to emotional reasons). DJ
then told Mr. Nair that though the check was ready, he would need the Sheriff to agree to

1 amend the title to include Veristone as a security interest on the title. Jay agreed and sent his
2 approval to the Sheriff. DJ also assured that it would not be a problem if Sheriff refused to
3 amend because Jay also owns four other homes with vast amounts of equity in them. DJ
4 suggested that if the Sheriff did not agree to amend the title at redemption they would have to
5 first lien two of his other properties for a day until the title for 6813 can be redeemed first
6 before Escrow can record the lien into the redeemed title.

7 93. DJ identified two homes in Redmond that Mr. Nair owns with clear title as the candidates.
8 These homes are worth 1.1Million and \$775,000 respectively and only carried four liens from
9 lenders across both of them. After these 4 liens the two homes hold over \$1 Million in net
10 equity. This is in addition to the \$550K equity in the 6813 home free and clear, and therefore
11 was over-precaution for just a few hours before Title can record (the deeds are already signed
12 before check is released).

13
14 94. Given the multiple repeated assurances that (a) if Sheriff allows Title mod then no need for
15 additional Titles, and (b) if not a temporary cross collateral lien against couple of homes with a
16 million dollar net equity for a day (until the 6813 deed of trust can be recorded immediately
17 post redemption) were the only contingencies, Jay trusted Veristone's integrity to follow
18 through, as can be seen from his declaration in [Ex: D18].

19 95. Jay heard from the Sheriff's office next day that the purchaser Royal Flush LLC took exception
20 to this modification to the Redemption notice. However, this is legally in error as seen in [Ex:
21 D17] DJ advised he was opening the titles for the two homes to get plan (b) done. DJ asked Jay
22 to proceed to sign at the First American Escrow in Seattle at 1pm. He also asked him to go to
23 Columbia Bank to collect the Cashiers check for the redemption amount.

24
25 96. Jay patiently waited at the Escrow office for more than three hours from 1pm. He was getting
26 more and more anxious as the time passed but no information was forthcoming from DJ and
27 Escrow Agents other than "we are working as fast as possible and it will be ready in 15
28 minutes". Jay had been made to wait the whole day at Escrow when he still had other options.

1 97. Only 45 minutes remaining before the redemption period, the Escrow officers advised that
2 Veristone told them they were not going to fund the loan. As can be imagined, Jay was beyond
3 devastated and gutted. He texted Dj that he would even be willing so far as to sign over the title
4 of the home to his company for trusting the check for one day but was refused.

5
6 **Q. HOME RANSACKED AND BURGLARIZED, VALUABLES OVER \$20,000 STOLEN**

7
8 98. Jay used financing from Culver to redeem his property at 6706 Quigley on December 5, 2018.
9 The redemption amount was \$120,000, even though the \$25 dues were paid for next two
10 years. This is the very definition of fraud, as the sale itself had no legal basis. Culver added
11 \$15k as amortized advance fee, thereby costing Plaintiffs \$135K from the fraud sale, in
12 addition to loss of rental income, the cost of burglary and severe losses from the move.

13 99. After returning there, he found that over \$20,000 worth of his valuables in the fully furnished
14 home, including TVs and furnishings, had been stolen. He filed a police report of the theft with
15 Snoqualmie Police that refused to press charges as "defendants had legal access to steal". The
16 home had also been vandalized, and chair railings destroyed and fruit trees pulled out from teh
17 backyard, as a way of retaliating against Jay for reclaiming his home after a massive legal battle

18
19 100. After redeeming 6706 home, he was also shocked to find from his Allstate insurance agent
20 that while Alex Toth was in possession of this home, he had used none other Veristone Capital
21 to finance his Sheriff Sale purchases. Toth was a close friend and business associate of DJ, and
22 Veristone had been added by Toth as Mortgage Insured for the property [Ex: D14]

23 101. Therefore it is blindingly obvious that DJ Vyzis & Veristone had cheated Jay through fraud
24 promise of a lucrative financing to save his home from a sale before the redemption deadline,
25 in order to deprive him of alternate opportunities to redeem until the very last minute, so the
26 nearly \$350K in equity his mother and him had built on the home can be stolen by Alex Toth,
27 whom they also had financed for buying the same properties at the Sheriff Sale Auctions. They
28

1 therefore had a vested interest to make Jay lose the redemption rights by playing a foul drama
2 by abusing his trust to betray him and had not disclosed the conflict of interest.

3
4 102. Jay then approached McBroom Smith PLLC, a law firm handling also his mother's
5 guardianship matter to help with redeeming the home, and they prepared a draft for a motion
6 [Ex: D]to restore his redemption rights. Time was of essence as Toth had immediately sought
7 to fire-sale the home at only \$399k, which is a whopping \$120k short of true market value, in
8 the middle of winter and a snowstorm, showing the pathetic desperation to change title before
9 Jay brought legal action. Jay's redemption rights had extended 6 months automatically by RCW
10 6.23.030 (2), as he had sought to live in the home as primary residence and he was single.

11 103. Therefore the property qualified to be his Homestead as of the date of sale, by the Intent
12 clause prescribed in RCW 6.13.010 " homestead consists of the dwelling house or the mobile
13 home in which the owner resides or intends to reside, with appurtenant buildings, and the
14 land on which the same are situated and by which the same are surrounded, or improved or
15 unimproved land owned with the intention of placing a house or mobile home thereon and
16 residing thereon". Since he had never received any notice of expiration of redemption period
17 from Toth or his agents, 6.23.030 (2) had extended his redemption right automatically.

18
19 **R. LEGAL MALPRACTICE BY WILLIAM FOSTER**

20
21 104. Jay arranged the legal fees for McBroom Smith PLLC through a wire to his bank account for
22 \$10k, but before they could draw the amount, defendant Channa Copeland abused the color of
23 her guardianship to close this account and steal this amount, although it had nothing to do
24 with Omana and the funds came from another account that Jay 100% owned.

25 105. Following this McBroom Smith withdrew from representing Jay for lack of payment. Jay
26 frantically sought to arrange another lawyer and re-raise the funds to pay the same, and found
27 Mr. William Foster, who claimed to be an experienced real estate attorney. A sum of \$7500 was
28

1 borrowed from friends and family, and paid to Foster. He was also sent a draft of all the
2 pleadings that McBroom-Smith prepared which showed myriad legal reasons favorable to Jay.

3
4 106. Jay filed a Lis Pendens to stop a re-sale after finding the home as "Pending Sale" status on
5 Northwest Multiple Listing Service (MLS). Defendants moved King County Superior Court to
6 cancel lis pendens. Jay's attorney Mr. Foster did not present any of these strong reasons in his
7 pathetically weak and useless response [Ex:D19] to this motion, (which he had then hid from
8 Jay before the motion was heard), although he was aware of the facts and the legal points that
9 would have swung the matter in Jay's favor. It is very clear that almost none of the strong legal
10 points from Attorney Smith's draft in [D17] were used. Instead his sole argument only relied
11 on the fact that Jay was not served with the original complaint by the HOA.

12 107. During the hearing, the Court asked Mr. Foster specifically about whether Jay received the
13 Notice of Expiration, which was negative and therefore qualified him for an automatic
14 extension by the clear provision in RCW 6.23.030(2). However, Mr. Foster LIED to Court that
15 he did not know, although Jay had sent him McBroom-Smith's draft that alleged the same. Jay
16 even jumped up from his seat from the court benches, and sought the permission to speak to
17 correct his own attorney's complete nonsense, but Judge Messitt denied him a chance to speak.
18 Based on these false inputs, Judge allowed cancelation of Lis Pendens and recording of the re-
19 sale to one Bernadette Darby for only \$399,000, which also shows the sale was a tax scam. Jay
20 has promptly appealed this decision with Washington Court of Appeals.

21
22 **S. REDEMPTION OF 13506 MILL CREEK HOME**

23 108. As Jay had been staying during the period from beginning of May until end of August (during
24 which time the bogus Sheriff Sale was pushed through) at this home with his mother and
25 caregiver + maid, while claiming it as his primary residence in tax records and furthermore
26 maintaining all utilities in his name and also as attested by all neighbors, by definition of RCW
27 6.13.010 it was his homestead, regardless that one of five bedrooms had been rented out.
28

1 109. As he never received any notice of expiration of redemption period from Paul Lee, who as
2 aforementioned had paid off the entire first mortgage on the property from Selene Finance,
3 and accelerated the 3.375% FHA loan and added 12% thereof on his redemption invoice
4 [Ex:D20], Jay's redemption period has automatically extended by 6 months to February 27,
5 2020. He has also sought to contest the redemption amount with the Court and has filed a
6 motion [Ex: D21] for determining the redemption amount and confirming the statutory
7 extension of the redemption period, which is still pending before Snohomish Court.

8 110. He further tendered a good faith check for \$1000 before the one year expiration with the
9 Snohomish County Sheriff's office, as proper accounting taking into account the rents received
10 from the property, and discarding the statutorily baseless claim for the accelerated first
11 mortgage principal (which was NOT required to be paid off for maintaining the judgment
12 debtors interest in the property and therefore not allowed to be added to the invoice) shows
13 that Jay actually does not owe anything to "Purchaser" since the rents received (of \$9,000 per
14 month as was the case from AirBnb) for 12 months far outweighed the 16k bogus judgment,
15 which itself was almost entirely attorney fees for collecting \$600 dues of a newly formed HOA.

16
17 **T. THIEF CULVER'S ONGOING EFFORTS TO STEAL TWO HOMES IN REDMOND ON A PREDATORY LOAN**
18 **THAT IS CURRENT; "TRUSTEE" KROHN IS ONLY A SHAMELESS HENCHMAN AND ACCOMPLICE**

19
20 111. As aforementioned, the real estate hard money lender Culver is a Felon convicted [Ex: D23]
21 of first degree Theft, and de-barred from all Bar Associations of State, County and Federal. As
22 Jay's credit was ruined from the fake bankruptcy filing, he was forced to accept a hard money
23 loan on one of the investment properties at 8646 230th Way NE, valued around \$1.1 Million, in
24 order to pay the HOAs for redemption. The loan was for \$150k, which was less than 30% of the
25 NET EQUITY of around \$500k he has in the home.

26 112. At the Escrow minutes before signing, Culver reneged on the loan and said that he would
27 only sign if Jay additionally agreed to cross-lien his PRIMARY RESIDENCE in Redmond, the
28 11031 Elliston Way home, which is valued at \$775k in which he retains over \$500k equity.

1 This was completely a trickery, but not having any other option to be able to raise the money
2 to pay the legal fees he was scammed into, Jay had to sign the Deed as on [Ex:D24].

3
4 113. He maintained the loan current by making the \$1500 monthly payments. As recently as in
5 May he made the payments to bring the loan current. In the meanwhile, Culver had made an
6 advance of \$120K to Sheriff on Jay's behalf for redeeming the property at 6706 Quigley. The
7 terms of that advance was a onetime \$15K amortized fee upfront, as can be seen from the
8 agreement in [Ex:D25], and extending the due date for the original loan to February 1, 2020.
9 The agreement did not change the monthly payments, and that was never discussed either.

10 114. Despite the fact that Jay had made the \$1500 payment for the month of May and was current
11 on the loan per the terms of the Deed, Mr. Culver's attorney Mr. Krohn sent a letter of default
12 [Ex: D26] on May 8 2019, asking that the monthly payments be increased almost three times,
13 from \$1500 to \$4400. This had no legal basis as Jay had not agreed to a change in payments.

14
15 115. On May 17, he also recorded a notice of default [Ex: D26] although the loan was current. On
16 the same day Jay contested [Ex: D27] the notice of default and the letter promptly, and sought
17 to remain current per the terms of the deed. Culver did not accept his payments from June, and
18 instead recorded a trustee sale for 10/04 on a CURRENT loan. [Ex:D28], although Jay wrote to
19 him repeatedly seeking to avoid a foreclosure and offered payments.

20 116. Jay contacted a lawyer Paul de Furia, who made it clear to Culver and Krohn that the change
21 in monthly payments from \$1500 to \$4400 had no basis either in the deed or statute, and
22 therefore that Jay is not required to make any more than the \$1500 per month. It was clear
23 that the attempt to change the monthly payments was a ruse to schedule the sale illegally.

24
25 117. After Mr. de Furia firmly established that legally the monthly payments did not change
26 (which was the fake and purported reason they started the foreclosure), Culver and Krohn
27 agreed the error they made and agreed to accept the \$1500 payments for 5 months. Therefore
28 they changed the reinstatement amount to be \$7500, but also demanded a \$36K for an

1 advance that Culver made to a senior lien on one of the homes, as well as \$3k attorney fees for
2 scheduling the bogus trustee foreclosure even though the borrower was current [Ex: D29].

3
4 118. Jay ACCEPTED the figure so the sale can be canceled, and agreed to pay off the \$7500 before
5 the sale date [Ex: D30], and requested Culver and Krohn to cancel the sale. However, Culver
6 replied stating that he also required the two senior first mortgages to be brought current on
7 both homes before he would agree to cancel. Jay replied that he had contacted the mortgage
8 servicers for both the loans (MrCooper Bank and Provident Funding). Although Provident had
9 responded with the balance owed (\$16k), the Customer Service Rep at MrCooper bank said it
10 could take up to 5 to 7 business days for their accounting department to calculate the invoice
11 and send to the borrower's address by mail, which Jay passed to Culver [Ex: D31].

12 119. Jay wrote to both Culver and Krohn requesting to postpone the sale by at least a couple of
13 weeks while he was waiting for the reinstatement from MrCooper. However, Krohn, who is not
14 a trustee by any stretch of imagination but only a shameless henchman for Culver & criminal
15 accomplice to stealing homes with tremendous equity by abusing the non judicial foreclosure
16 process, has not agreed [See emails in D32] to cancel or postpone the sale, even though the sale
17 had no legal basis as Jay had been current at the time they refused to accept the payments.

18 120. Clearly the objective of these criminals is to conduct a sham sale through which convicted
19 thief Culver can steal two homes with nearly a million dollars in net equity. This is very
20 definition of fraud, and furthermore, Krohn has also not yet responded to requests for a payoff
21 quote [D33], stating he is "out of office" but yet he is not willing to postpone the sale WITHOUT
22 giving a payoff as is legally required prior to scheduling a foreclosure. Mr. Krohn brings the
23 attention to potential for shameless abuse of the Washington's nonjudicial process for fraud by
24 such criminals. This situation has prompted Jay and his family to bring this lawsuit as well as
25 request a temporary restraining order to stop the specious sale when the homeowner is being
26 defrauded despite him making the agreed-upon monthly payments to keep the loan current.
27
28

V. CAUSES OF ACTION

FIRST CAUSE OF ACTION

FRAUD

1. Plaintiffs incorporate by reference all paragraphs in Sections I - IV as if fully restated here and further allege the following:
 1. The Defendants have engaged in devious fraud that has caused Plaintiffs grievous harm.
 2. This has caused severe losses and loss of business and livelihood for the Plaintiffs.
 3. Defendants' conduct was willful, malicious, wanton and oppressive.
 4. (To be further expounded in the First Amended Version)

SECOND CAUSE OF ACTION

FEDERAL CIVIL RICO (18 U.S.C.1962(c))

1. Plaintiffs incorporate by reference all paragraphs in Sections I - IV as if fully restated here and further allege the following:
 2. Defendant violated RICO and Plaintiff was injured as a result.
 3. Each Defendant is a "person" capable of holding legal or beneficial interest in property within the meaning of 18 U.S.C. § 1961 (3).
 4. Each Defendant violated 18 U.S.C. 3 1962(c) by the acts described in the prior paragraphs, and as further described below:
 5. The Enterprise. Defendants formed a notorious and corrupt "Sheriff Sales Mafia" enterprise for the criminal purpose of corrupting the State Civil process for collecting the relatively trivial HOA dues, and abused it to steal millions of dollars of equity from unsuspecting home owners. This is the very definition of a fraud enterprise as defined in 18 U.S.C. § 1961 (4).
 6. Each of the real estate LLC, Law Offices, financial institutions and property management companies named herein in the Complaint constitute a separate enterprise as defined in 18 U.S.C. § 1961 (4).

- 1 7. **Pattern of Racketeering Activity.** Defendants, each of whom are persons associated with,
2 or employed by, the enterprise, did knowingly, willfully and unlawfully conduct or
3 participate, directly or indirectly, in the affairs of the enterprise through a pattern of
4 racketeering activity within the meaning of 18 U.S.C. 6 I96 1 (1), 1961 (3, and I962(c). The
5 racketeering activity was made possible by Defendants' regular and repeated use of the
6 facilities and services of the enterprise. Defendants had :he specific intent to engage in the
7 substantive RICO violation alleged herein.
- 8 8. Predicate acts of racketeering activity are acts which are indictable under provisions of the
9 U.S. Code enumerated in 18 U.S.C. \$ 1961(I)(B), as more specifically alleged below.
10 Defendants each committed several such acts or else aided and abetted such acts.
- 11 9. The acts of racketeering were not isolated, but rather the acts of Defendants were related in
12 that they had the same or similar purpose and result, participants, victims and method of
13 commission. Further, the acts of racketeering by Defendants have been continuous. There
14 was repeated conduct during a period of time beginning decades ago for stealing homes and
15 continuing to the present, and there is a continued threat of repetition of such conduct.
- 16 10. The association-in-fact enterprise and the alternative enterprises, as alleged herein, were
17 not limited to the predicate acts and extended beyond the racketeering activity. Rather, they
18 existed separate and apart from the pattern of racketeering activity for the legitimate
19 business purposes of property management, legal & financial services possibly to other
20 customers. Defendants have had and do have. upon information and belief, legitimate
21 business plans outside of the pattern of racketeering activity.

22 **THIRD CAUSE OF ACTION**

23 **CIVIL CONSPIRACY**

- 24 1. Plaintiffs incorporate by reference all paragraphs in Sections I - IV as if fully restated here
25 and further allege the following:
- 26 2. The Defendants have engaged in devious conspiracy that has caused grievous harm.
- 27 3. Defendants' unlawful conspiracy has directly, legally, and proximately caused and
28 4. continues to cause injuries to Plaintiff in its business and property. They have suffered
severe loss of business and even their livelihood from the cash positive real estate business.
5. (To be further expounded in the First Amended Version)

FOURTH CAUSE OF ACTION

UNJUST ENRICHMENT

1. Plaintiffs incorporate by reference all paragraphs in Sections I - IV as if fully restated here and further allege the following:
2. The Defendants have unjustly enriched themselves that has caused Plaintiffs grievous harm.
3. This has caused severe losses and loss of business and livelihood for the Plaintiffs.
4. (To be further expounded in the First Amended Version)

FIFTH CAUSE OF ACTION

MALICIOUS PROSECUTION

1. Plaintiffs incorporate by reference all paragraphs in Sections I - IV as if fully restated here and further allege the following:
2. The Defendants have maliciously prosecuted various frivolous litigations that only had the explicit purpose of boosting their own fraud fees, as the HOA dues were uncontested and only a tiny amount the homeowner was happy to pay.
3. Their frivolous litigation has caused grievous harm and losses of business and livelihood to Plaintiffs who rely on their real estate for income.
4. The fees they have charged is several orders of magnitude higher than the dues.
5. (To be further expounded in the First Amended Version)

SIXTH CAUSE OF ACTION

ABUSE OF PROCESS

1. Plaintiffs incorporate by reference all paragraphs in Sections I - IV as if fully restated here and further allege the following:
2. The Defendants have abused civil process to steal from the Plaintiffs - it is obvious that the proceedings were in bad faith and not at all for the benefit of their clients the HOAs, but only for carving up scam legal fees for these dishonorable thieves.

3. This has caused severe losses and loss of business and livelihood for the Plaintiffs.
4. (To be further expounded in the First Amended Version)

SEVENTH CAUSE OF ACTION

CONVERSION

1. Plaintiffs incorporate by reference all paragraphs in Sections I - IV as if fully restated here and further allege the following:
2. The Defendants have engaged in Conversion of Defendants' property that has caused grievous harm and loss of livelihood to Plaintiffs.
3. (To be further expounded in the First Amended Version)

EIGHTH CAUSE OF ACTION

INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

1. Plaintiffs incorporate by reference all paragraphs in Sections I - IV as if fully restated here and further allege the following:
2. The Defendants have engaged in inflicting emotionally distressing the Defendants intentionally for the purpose of breaking them down from defending their property against their scam targeting their real estate through bogus, baseless sheriff sales.
3. This has caused severe losses and loss of business and livelihood for the Plaintiffs.
4. (To be further expounded in the First Amended Version)

NINTH CAUSE OF ACTION

RECKLESS INFLICTION OF EMOTIONAL DISTRESS

1. Plaintiffs incorporate by reference all paragraphs in Sections I - IV as if fully restated here and further allege the following:
2. The Defendants have engaged in inflicting emotionally distressing the Defendants recklessly
5. This has caused severe losses and loss of business and livelihood for the Plaintiffs.
3. (To be further expounded in the First Amended Version)

TENTH CAUSE OF ACTION

BATTERY

1. Plaintiffs incorporate by reference all paragraphs in Sections I - IV as if fully restated here and further allege the following:
2. Defendant Gary aka John Doe #1 assaulted Jay at his home in Mill Creek and broke his hand, in front of several eye witnesses. He has suffered a scaphoid fracture that is extremely painful and has caused severe losses from inability to work and perform with the incapacity.
3. This has caused severe losses and loss of business and livelihood for the Plaintiffs.
4. (To be further expounded in the First Amended Version)

ELEVENTH CAUSE OF ACTION

DEPRIVATION OF CIVIL RIGHTS: 42 U.S.C. § 1983.

1. Plaintiffs incorporate by reference all paragraphs in Sections I - IV as if fully restated here and further allege the following:
2. The Defendants have deprived Plaintiffs of their Federal Civil rights causing grievous harm.
3. This has caused severe losses and loss of business and livelihood for the Plaintiffs.
4. (To be further expounded in the First Amended Version) (To be further expounded in the First Amended Version)

TWELFTH CAUSE OF ACTION

LEGAL MALPRACTICE

1. Plaintiffs incorporate by reference all paragraphs in Sections I - IV as if fully restated here and further allege the following:
2. Attorney Richard Symmes engaged in Legal Malpractice
3. Attorney William Foster engaged in Legal Malpractice
4. (To be further expounded in the First Amended Version)

THIRTIETH CAUSE OF ACTION

BAD FAITH INSURANCE

- 1
- 2
- 3
- 4 1. Plaintiffs incorporate by reference all paragraphs in Sections I - IV as if fully restated here
- 5 and further allege the following:
- 6 2. ARAG Legal Insurance was issued in Bad Faith.
- 7 3. (To be further expounded in the First Amended Version)
- 8
- 9

FOURTIETH CAUSE OF ACTION

TORTIOUS INTENTIONAL INTERFERENCE

- 10
- 11
- 12
- 13 1. Plaintiffs incorporate by reference all paragraphs in Sections I - IV as if fully restated here
- 14 and further allege the following:
- 15 2. Defendant Channa's subversive closing of the Bank of America Account, the primary account
- 16 for the Plaintiff's rental business, and pilfering of \$10,500 directly interfered with business.
- 17 3. Defendants' actions interfered with Omana Homes LLC's operations, as a result of which
- 18 Plaintiffs suffered grievous injury and losses.
- 19 4. (To be further expounded in the First Amended Version)
- 20

FIFTIETH CAUSE OF ACTION

ABUSE OF POWER: AIDING AND ABETTING FRAUD

- 21
- 22
- 23 1. Plaintiffs incorporate by reference all paragraphs in Sections I - IV as if fully restated here
- 24 and further allege the following:
- 25 2. The Defendants have abused their powers vested as officers of Court in aiding and abetting
- 26 fraud that has caused Plaintiffs grievous harm.
- 27 3. This has caused severe losses and loss of business and livelihood for the Plaintiffs.
- 28 4. (To be further expounded in the First Amended Version)

SIXTEENTH CAUSE OF ACTION

FRAUDULENT CONCEALMENT

1. Plaintiffs incorporate by reference all paragraphs in Sections 1-IV as if fully restated here and further allege the following :
2. The Defendants have fraudulently concealed information from Federal & State Courts and also other authorities, to defraud legal processes that has caused Plaintiffs grievous harm.
3. This has caused severe losses and loss of business and livelihood for the Plaintiffs.
4. (To be further expounded in the First Amended Version)

SEVENTEENTH CAUSE OF ACTION

NEGLIGENCE: PER SE & RES IPSA LOQUITUR

1. Plaintiffs incorporate by reference all paragraphs in Sections 1-IV as if fully restated here and further allege the following :
2. Some of the Defendants had a duty of care/ fiduciary duty towards Plaintiffs and their estate.
3. They negligently breached that duty causing grievous harm to Plaintiffs This has caused severe losses and loss of business and livelihood for the Plaintiffs.
4. (To be further expounded in the First Amended Version)

EIGHTEENTH CAUSE OF ACTION

FOURTH AMENDMENT: UNREASONABLE SEARCHES AND SEIZURES

1. Plaintiffs incorporate by reference all paragraphs in Sections I - IV as if fully restated here and further allege the following:
2. Defendants locked out Plaintiffs family out of their home twice.
3. This has caused severe losses and loss of business and livelihood for the Plaintiffs.
4. (To be further expounded in the First Amended Version)

NINETEENTH CAUSE OF ACTION

ELDER ABUSE

1. Plaintiffs incorporate by reference all paragraphs in Sections I - IV as if fully restated here and further allege the following:
2. Omana is a 77 year old elder, who suffered immensely and is continuing to suffer, due to Defendants conspiracy to defraud Plaintiffs' real estate.
3. This has caused severe elder abuse for Omana, and severe losses for Plaintiffs by Corollary.
4. (To be further expounded in the First Amended Version)

TWENTIETH CAUSE OF ACTION

WILLFUL MISCONDUCT

1. Plaintiffs incorporate by reference all paragraphs in Sections I - IV as if fully restated here and further allege the following:
2. Defendants acted willfully, wantonly, maliciously and criminally.
3. This has caused severe losses and loss of business and livelihood for the Plaintiffs.
4. (To be further expounded in the First Amended Version)

TWENTY-FIRST CAUSE OF ACTION

BREACH OF FIDUCIARY DUTY

1. Plaintiffs incorporate by reference all paragraphs in Sections I - IV as if fully restated here and further allege the following:
2. Defendants Symmes, Foster, Copeland et al had fiduciary duty towards Plaintiffs, which they intentionally violated for self enrichment.
3. This has caused severe losses and loss of business and livelihood for the Plaintiffs.
4. (To be further expounded in the First Amended Version)

TWENTY-SECOND CAUSE OF ACTION

CONSTRUCTIVE FRAUD

1. Plaintiffs incorporate by reference all paragraphs in Sections I - IV as if fully restated here and further allege the following:
2. Defendants engaged in Constructive Fraud to obstruct Justice and defraud Courts to allow them to be unjustly enriched through misrepresentations made under penalty of perjury.
3. This has caused severe losses and loss of business and livelihood for the Plaintiffs.
4. (To be further expounded in the First Amended Version)

TWENTY THIRD CAUSE OF ACTION

COMMON LAW FALSE LIGHT

1. Plaintiffs incorporate by reference all paragraphs in Sections I - IV as if fully restated here and further allege the following:
2. Defendants actions have deprived Plaintiffs of their social and financial reputation, and caused them to be cast in a false light to Public
3. This has caused severe losses and loss of business and livelihood for the Plaintiffs.
4. (To be further expounded in the First Amended Version)

TWENTY-FOURTH CAUSE OF ACTION

NEGLIGENT HIRING AND RETENTION

1. Plaintiffs incorporate by reference all paragraphs in Sections I - IV as if fully restated here and further allege the following:
2. County of King and Snohomish hired employees that did not do their duty to protect Plaintiffs fundamental rights, causing them severe injuries.
3. This has caused severe losses and loss of business and livelihood for the Plaintiffs.
4. (To be further expounded in the First Amended Version)

TWENTY-FIFTH CAUSE OF ACTION

RESPONDEAT SUPERIOR

1. Plaintiffs incorporate by reference all paragraphs in Sections I - IV as if fully restated here and further allege the following:
2. County of King and Snohomish hired employees that did not do their duty to protect Plaintiffs fundamental rights, causing them severe injuries.
3. By Respondeat Superior clause the Counties are responsible for its officers misconduct.
4. This has caused severe losses and loss of business and livelihood for the Plaintiffs.
5. (To be further expounded in the First Amended Version)

TWENTY-SIXTH CAUSE OF ACTION

FRAUD: FALSE PROMISE

1. Plaintiffs incorporate by reference all paragraphs in Sections I - IV as if fully restated here and further allege the following:
2. Defendants First Tech, Veristone and Culver made False Promises to Plaintiffs they had no intention to follow through, only for the illegal purpose of depriving them of their property.
3. This has caused severe losses and loss of business and livelihood for the Plaintiffs.
4. (To be further expounded in the First Amended Version)

TWENTY-SEVENTH CAUSE OF ACTION

BREACH OF CONTRACT AND BREACH OF IMPLIED COVENANT OF GOOD FAITH AND FAIR DEALING

1. Plaintiffs incorporate by reference all paragraphs in Sections I - IV as if fully restated here and further allege the following:
2. Defendants have breached their contracts with Plaintiffs by not following through on payment plans or loan commitments at the last moment, leaving Plaintiffs betrayed.
3. This has caused severe losses and loss of business and livelihood for the Plaintiffs.
4. (To be further expounded in the First Amended Version)

TWENTY-EIGHTH CAUSE OF ACTION

VIOLATION OF FOURTEENTH AMENDMENT:

PROCEDURAL AND SUBSTANTIVE DUE PROCESS RIGHTS

1. Plaintiffs incorporate by reference all paragraphs in Sections I - IV as if fully restated here and further allege the following:
2. Defendants have denied Plaintiffs of their due process rights through subversion.
3. This has caused severe losses and loss of business and livelihood for the Plaintiffs.
4. (To be further expounded in the First Amended Version)

TWENTY-NINTH CAUSE OF ACTION

THE FREE EXERCISE OF RELIGION CLAUSE

1. Plaintiffs incorporate by reference all paragraphs in Sections I - IV as if fully restated here and further allege the following:
2. Defendants actions have deprived Plaintiffs of their religious rights for free practice of Hindu religion. They have even destroyed their temples and idols.
3. This has caused severe losses and loss of business and livelihood for the Plaintiffs.
4. (To be further expounded in the First Amended Version)

THIRTIETH CAUSE OF ACTION

DEFAMATION PER SE

1. Plaintiffs incorporate by reference all paragraphs in Sections I - IV as if fully restated here and further allege the following:
2. Defendants actions have deprived Plaintiffs of their social and financial reputation, and caused them to be defamed in public, and lose their standing as investable entrepreneurs.
3. This has caused severe losses and loss of business and livelihood for the Plaintiffs.
4. (To be further expounded in the First Amended Version)

VI. LEGAL ANALYSIS

A. ROOKER-FELDMAN DOCTRINE DOES NOT APPLY

As the injuries the Plaintiffs suffered are due to the violation of their constitutional rights, which caused independent claims distinct from the State Court judgments, and also due to the clear and extrinsic elaborate frauds committed on the Courts by Defendants, Rooker-Feldman does not bar the Plaintiff from seeking remedial action at District Court.

In *Adkins v. Rumsfeld*, 464 F.3d 456, 460 (4th Cir.2006), the Hon. Court has held that a federal plaintiff who was injured by a state-court judgment is NOT invariably seeking review and rejection of that judgment. The court held that "even if these plaintiffs were `state-court losers complaining of injuries caused by state-court judgments rendered before the district court proceedings commenced,' ... they were not `inviting district court review and rejection of those judgments.'" *Id.* at 464 (quoting *Exxon Mobil*, 544 U.S. at 284, 125 S.Ct. 1517).

A declaration that the federal statute was unconstitutional as applied would prevent the continued transmission of payments to the plaintiffs' former spouses. *Id.* "Such a declaration would not, however, amount to appellate reversal or modification of a valid state court decree entered in an individual plaintiff's divorce case. At bottom, an examination of the federal constitutional challenge presented here against the [statute] does not require scrutinizing and invalidating any individual state court judgment." *Id.* As such, the plaintiffs' federal suit did not require the prohibited exercise of appellate jurisdiction by the district court.

In *Fieger v. Ferry*, 471 F.3d 637, 639 (6th Cir.2006), with respect to Attorney Fieger's challenge to Michigan's recusal rule, after four State Supreme Court justices refused to recuse themselves, the Sixth Circuit Court of Appeals held that it was not barred by Rooker-Feldman, as "the source of Fieger's alleged injury is not the ... state court judgments; it is the purported unconstitutionality of Michigan's recusal rule as applied in future cases. Such a claim is independent of the past state court judgments." *Id.* at 646.

1 In *McCormick v. Braverman*, 451 F.3d 382, 384 (6th Cir.2006), the plaintiff filed suit in
2 federal court contending that she was the owner of certain real property and that the defendants
3 illegally interfered with her ownership. More specifically, the plaintiff alleged that the defendants
4 engaged in fraud and misrepresentation in state-court divorce proceedings involving the real
5 property at issue. *Id.* at 388. Assessing the plaintiff's allegations, the court held that while some
6 were indeed barred by the Rooker-Feldman doctrine, the remainder were "independent" claims
7 over which the federal courts had jurisdiction. The non-barred claims were as follows: (1) the
8 defendants committed fraud and misrepresentation in the divorce proceedings; (2) the defendants
9 intentionally did not make the plaintiff a party to the litigation concerning the order of receivership
10 over the real property; and (3) the defendants committed an abuse of process in the divorce
11 proceedings. *Id.* at 392.

12 Focusing on the source of the alleged injuries, the court held that "[n]one of these claims
13 assert an injury caused by the state court judgments.... Instead, Plaintiff asserts independent claims
14 that those state court judgments were procured by certain Defendants through fraud,
15 misrepresentation, or other improper means...." *Id.*

16 In *Lance v. Dennis*, 546 U.S. 459, 464-66, 126 S.Ct. 1198, 163 L.Ed.2d 1059 (2006), the
17 Supreme Court again emphasized that Rooker-Feldman is a "narrow doctrine" that "applies only in
18 limited circumstances." In light of this admonition, Courts have recognized that "caution is now
19 appropriate in relying on our pre-Exxon formulation of the Rooker-Feldman doctrine," which
20 focused on whether the state and federal suits were "inextricably intertwined." *Gary v. Braddock*
21 *Cemetery*, 517 F.3d 195, 200 n. 5 (3d Cir.2008). See also *McCormick*, 451 F.3d at 394 ("In *Exxon*,
22 the Supreme Court implicitly repudiated the circuits' post-Feldman use of the phrase 'inextricably
23 intertwined' to extend Rooker-Feldman to situations where the source of the injury was not the
24 state court judgment.").

25 Although the term "inextricably intertwined" was used twice by the Supreme Court in
26 *Feldman*, reliance on this term has caused lower federal courts to apply Rooker-Feldman too
27 broadly. The phrase "inextricably intertwined" does not create an additional legal test or expand
28 the scope of Rooker-Feldman beyond challenges to state-court judgments. The phrase inextricably

1 intertwined, however, "has no independent content. It is simply a descriptive label attached to
2 claims that meet the requirements outlined in Exxon Mobil." [4] Hoblock, 422 F.3d at 87.

3
4 Are all the causes that the plaintiffs allege starting from a two year period BEFORE the start
5 of the state action, commencing from the filing of the fake bankruptcy, encompassing 21 defendants
6 and couple of new plaintiffs never named in any prior state action, and identifying a broad range of
7 claims that have nothing to do with any of the verbiage in ANY State order in any way possible of
8 any stretch of wildest imagination "narrowly inexplicably intertwined as a direct application " of
9 the said orders? The answer to that has to be a resoundingly emphatic "NO".

10 In *Brokaw v. Weaver*, 305 F.3d 660, 662 (7th Cir.2002), the plaintiff alleged that her
11 relatives and officials conspired to cause the state to forcibly remove her from her parents' home.
12 She contended that "the defendants conspired — prior to any judicial involvement — to cause false
13 child neglect proceedings to be filed, resulting in her removal from her home in violation of her...
14 substantive and procedural due process rights" and explained "that she [wa]s seeking damages for
15 the conspiracy, not for the state court's decision in the child neglect proceeding." *Id.* at 665.

16 The court held that *Nesses* applied as the plaintiff was "alleging that the people involved in
17 the decision to forcibly remove her from her home and her parents ... violated her constitutional
18 rights, independently of the state court decision." *Id.* Even if the plaintiff would not have suffered
19 any damages from the alleged conspiracy absent the state-court order, her claim was not barred by
20 *Rooker-Feldman* "because her claim for damages is based on an alleged independent violation of
21 her constitutional rights. It was this separate constitutional violation which caused the adverse
22 state court decision." *Id.* at 667; see also *Ernst v. Child & Youth Servs.*, 108 F.3d 486, 491-92 (3d
23 Cir.1997) (holding that a claim alleging that defendants violated plaintiff's due process rights by
24 making biased recommendations to the state court, resulting in an improper ruling, was not barred
25 by *Rooker-Feldman* as it was separate from the state-court judgment). The court in that matter
26 held that "the *Rooker-Feldman* doctrine did not preclude the district court from deciding those
27 claims because a ruling that the defendants violated *Ernst's* right to substantive due process by
28 making recommendations to the state court out of malice or personal bias would not have required
the court to find that the state court judgments made on the basis of those recommendations were

1 erroneous." Id. at 491-92. The court further reasoned that "it is clear that deciding the substantive
2 due process claims did not involve federal court review of a state court decision because Ernst's
3 substantive due process claims were never decided by the state court." Id. at 492.

4
5 The Supreme Court has never, outside of Rooker and Feldman themselves, employed the
6 doctrine to hold that a federal district court is without subject matter jurisdiction. The Court has
7 barely discussed the doctrine since its decision in Feldman, although in three later cases it has held
8 that the doctrine does not apply. In *Verizon Maryland Inc. v. Public Service Commission*, 535 U.S.
9 635, 644 n. 3, 122 S.Ct. 1753, 152 L.Ed.2d 871 (2002), it held that Rooker-Feldman does not apply
10 to a suit in which review is sought in federal district court of "executive action, including
11 determinations made by a state administrative agency." In *Johnson v. De Grandy*, 512 U.S. 997,
12 1006, 114 S.Ct. 2647, 129 L.Ed.2d 775 (1994), it held that Rooker-Feldman does not apply to a
13 federal court suit brought by a non-party to the state court suit. And in *Pennzoil Co. v. Texaco, Inc.*,
14 481 U.S. 1, 107 S.Ct. 1519, 95 L.Ed.2d 1 (1987), it did not dismiss for lack of subject matter
15 jurisdiction, but rather abstained under *Younger v. Harris*, 401 U.S. 37, 91 S.Ct. 746, 27 L.Ed.2d 669
16 (1971). See also *Pennzoil*, 481 U.S. at 18, 107 S.Ct. 1519 (Scalia, J., concurring) ("I do not believe
17 that the so-called Rooker-Feldman doctrine deprives the Court of jurisdiction...."). This present suit
18 is brought by TWO NON PARTIES to any of the state matters, so the above logic applies. The case
19 further has excellent similarities with *Verizon v Public Service Commission* as above, in the fact
20 that the executive actions and determinations made by Counties of King & Snohomish in not
21 following the redemption statutes properly to stop the sale when judgments are already satisfied,
22 as well as disallowing Title modification, are brought herein to be reviewed in federal court.

23 As the U.S. Supreme Court wrote in *Atlantic Coast Line Railroad v. Brotherhood of*
24 *Locomotive Engineers*, 398 U.S. 281, 90 S.Ct. 1739, 26 L.Ed.2d 234 (1970), where the federal
25 plaintiff does not complain of a legal injury caused by a state court judgment, but rather of a legal
26 injury caused by an adverse party, Rooker-Feldman does not bar jurisdiction. Almost all of the
27 Plaintiff's allegations in this present matter for legal injuries were caused by adverse parties, and
28 NOT allowed by State Courts.

In *Skinner v. Switzer*, 131 S. Ct. 1289, 2011. the Supreme Court explains as follows: " As we
explained in *Exxon Mobil Corp. v. Saudi Basic Industries Corp.*, 544 U.S. 280, 125 S.Ct. 1517, 161

1 L.Ed.2d 454 (2005), the Rooker-Feldman doctrine has been applied by this Court only twice, i.e.,
2 only in the two cases from which the doctrine takes its name: first, *Rooker v. Fidelity Trust Co.*, 263
3 U.S. 413, 44 S.Ct. 149, 68 L.Ed. 362 (1923), then 60 years later, *District of Columbia Court of*
4 *Appeals v. Feldman*, 460 U.S. 462, 103 S.Ct. 1303, 75 L.Ed.2d 206 (1983). Both cases fit this pattern:
5 The losing party in state court[9] filed suit in a U.S. District Court after the state proceedings ended,
6 complaining of an injury caused by the state-court judgment and seeking federal-court review and
7 rejection of that judgment. Alleging federal-question jurisdiction, the plaintiffs in *Rooker* and
8 *Feldman* asked the District Court to overturn the injurious state-court judgment."

9 It is important to note that this narrow pattern DOES NOT fit the present case in the Least,
10 as we are not seeking any review, nor have we been injured by the Order per se, which if followed
11 correctly, would have instead been BENEFICIAL for the plaintiffs in several ways - allowing Plaintiff
12 Jay to resurrect his full time career that has been on hold for 5 years since 2014 becoming a work
13 at home entrepreneur forced from becoming her full time primary caregiver since the debilitating
14 FIRST stroke, as well as unloading the financial burden of hiring two live-in helpers, private
15 insurance and private pay therapies, all of which are exorbitantly expensive that he had been
16 bearing out of pocket for years.

17 The Supreme Court further concludes: " *Skinner's* litigation, in light of *Exxon*, encounters no
18 *Rooker-Feldman* shoal. "If a federal plaintiff present[s][an] independent claim," it is not an
19 impediment to the exercise of federal jurisdiction that the "same or a related question" was earlier
20 aired between the parties in state court. *id.*, at 292-293, 125 S.Ct. 1517 (quoting *GASH Assocs. v.*
21 *Rosemont*, 995 F.2d 726, 728 (C.A.7 1993); first alteration in original); see *In re Smith*, 349
22 *Fed.Appx.* 12, 18 (C.A.6 2009) (Sutton, J., concurring in part and dissenting in part) (a defendant's
23 federal challenge to the adequacy of state-law procedures for postconviction DNA testing is not
24 within the "limited grasp" of *Rooker-Feldman*).

25 As earlier noted, see *supra*, at 1296-1297, *Skinner* does not challenge the adverse CCA
26 decisions themselves; instead, he targets as unconstitutional the Texas statute they authoritatively
27 construed. As the Court explained in *Feldman*, 460 U.S., at 487, 103 S.Ct. 1303, and reiterated in
28 *Exxon*, 544 U.S., at 286, 125 S.Ct. 1517, a state-court decision is not reviewable by lower federal

1 courts, but a statute or rule governing the decision may be challenged in a federal action.[10]
2 Skinner's federal case falls within the latter category. There was, therefore, no lack of subject-
3 matter jurisdiction over Skinner's federal suit."

4
5 In Holloway, a mother brought a Section 1983 action against the county and the county
6 social worker alleging that they had improperly interfered with her right to the custody of her
7 children. Holloway, 220 F.3d at 772. The Sixth Circuit held that the Rooker-Feldman doctrine did
8 not bar the mother's federal claim because she was not seeking review of the custody decision,
9 which was an entirely separate state matter. Id. at 778-79. Instead, as the court in Holloway
10 explained, the mother's claim presented a distinct question as to "whether certain actions in the
11 course of those proceedings may have involved a violation of her federal constitutional rights for
12 which the responsible party may be held liable for damages." Id. at 779.

13 This is plain as daylight the exact replica of the situation here; Q.E.D.

14
15 **B. COLLATERAL ESTOPPEL / RES JUDICATA DOES NOT APPLY**

16
17 To see why the legal principles of Collateral Estoppel and/or Res Judicata does not apply,
18 please peruse the attached Petition For Review Submitted to Washington Supreme Court by
19 Plaintiff's legal malpractice attorney Mr. Brian Waid, at [Ex: D22].

20
21 In re Alvarez, 224 F.3d 1273, 1278 (11th Cir. 2000) thus held that a legal malpractice claim
22 which (as here) results from the filing of the bankruptcy petition itself is indeed property of the
23 bankruptcy estate "as of the commencement of the bankruptcy case. See further, Stokes v. Duncan,
24 378 Mont. 433, 437, 346 P.3d 353, 356 (2015)("Once a cause of action becomes the property of the
25 bankruptcy estate, it remains so unless abandoned by the estate. 11 U.S.C. § 554(d)"). Mr. Nair's
26 legal malpractice claim against Symmes was therefore property of his bankruptcy estate at the time
27 of the hearing on the Symmes' fee application. As a result, he could not assert that claim as a
28 counterclaim in opposition to Symmes fee application. In that context, "[t]he preclusive effect of a
federal-court judgment is determined by federal common law." In re Lopez, 2017 WL 443540 *7

1 (B.A.P. 9111 Cir. 2017), quoting Taylor v. Sturgell, 553 U.S. 880, 891, 128 S. Ct. 2161, 2171, 171 L.
2 Ed. 2d 155 (2008), citing Semtek. Intl Inc. v. Lockheed Martin Corp., 531 U.S. 497, 507-508 (2001);
3 accord, Woodley v. Myers Capital Corp., 67 Wn. App. 328, 336-337, 835 P.2d 239.

4
5 In those contexts, Restatement (Second) of Judgments §28 further provides, in pertinent
6 part: "Although an issue is actually litigated and determined by a valid and final judgment,
7 relitigation of the issue in a subsequent action between the parties is not precluded in the following
8 circumstances(3) A new determination of the issue is warranted by differences in the quality or
9 extensiveness of the procedures followed in the two courts or by factors relative to the allocation of
10 jurisdiction between them; or. . .(5) There is a clear and convincing need for a new determination
11 of the issue. . .(c) because the party sought to be precluded, as a result of the conduct of his
12 adversary or other special circumstances, did not have an adequate opportunity or incentive to
13 obtain a full and fair adjudication in the initial action."

14 Here, Jay could not have had a "full and fair opportunity" to litigate his legal malpractice
15 claim against Mr. Symmes because he had no standing (or capacity) to assert that claim because the
16 Ch. 7 Bankruptcy Trustee Ms. Nancy James, not Jay, owned the claim at that point in the bankruptcy
17 proceedings. In similar circumstances, Donahue v. Strain, 2017 WL 3311241 *6-7 (E.D. La.
18 08/03/17) refused to bar a wife's relitigation of state-law tort claims (of domestic abuse) against
19 her ex-husband despite specific findings in the divorce and custody proceeding that there was "no
20 credible evidence . . .to suggest that any [of the Plaintiff's allegations of domestic violence are] true"
21 and "there was no evidence in [the divorce and custody proceeding] record that [Brandon
22 Donahue] is an abuser or violent person."

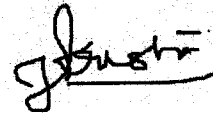
23 The Court reasoned that "Plaintiff's state-law tort claims were not 'actually litigated' in the
24 divorce and custody case" because "Plaintiff could not and did not bring state-law tort claims . . .in
25 the divorce and custody proceeding." Id. at 6. Here, as in Donahue, Mr. Nair could not have brought
26 his state-law tort claims in the Bankruptcy Court. The Court should therefore reject application of
27 collateral estoppel to first-in-time court decision in those situations in which the litigant could not
28 have litigated the claim in the first-in-time proceeding. Q.E.D. Collateral Estoppel does not apply in
this matter or preclude any of the Federal claims the plaintiffs are herein seeking.

VII. CONCLUSION & PRAYER FOR RELIEF

Plaintiffs, wherefore and hereby in unison in humble genuflection, pray to this Honorable Court for allowing this matter to proceed to a Jury Trial, for Awarding Compensatory, Consequential, Exemplary and Punitive Damages & Restitution for the Losses and Suffering resulting from the Defendants' illegal, bad faith & fraudulent actions that have caused them severe trauma, loss of livelihood, and inexplicably devious harm; as well as grant any other further relief(s) this Venerable Court finds as just and proper.

DATED: 10/02/2019

Respectfully Submitted,



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