

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Case No. 04-RB-2455 (BNB)

CHARLES H. CLEMENTS

Plaintiff,

v.

1. JANIS E. CHAPMAN
 2. THOMAS C. 'DOC' MILLER, and
 3. KATHERINE GRIER,
- Defendants

Plaintiff's Answer to Defendant Thomas C. Miller's Answer with Counterclaims

submits **Plaintiff's Answer to Defendant Thomas C. Miller's Answer with**

Counterclaims, and in support of that Answer, states as follows:

1. Admitted by Defendant Miller (Hereinafter, 'Miller')
2. Defendant Janis E. Chapman (hereinafter 'Chapman') is as described in paragraph Two of the Complaint.
3. Defendant Miller was Plaintiff's Attorney beginning on January 20, 2002 during an extended meeting at Defendant Miller's legal offices in Boulder with the entire staff of "Doc's Law" including Co-Attorney Caroline Stapleton, Para-legal Pamela Hadas and legal assistant Steve Gartin as well as Defendant Miller's business partner Judith Phillips. Plaintiff retained Attorney Miller to prosecute a legal claim against civilian actors like Arabella Bonilla, Kathleen Brockman and Roscoe G. Anstine III and STATE actors like Marleen Langfield and Federal actors like Mark Holstlaw and Jefferson County Sheriff's Deputy Donald L. Estep to the STATE Attorney General's Office like

Gary Glyman, for malicious/retaliatory/vindictive prosecution, unlawful arrest and incarceration, slander, libel and official oppression and whatever else he could define statutorily as a crime or tort deriving from Jefferson County Case 00CR3372 because of his special knowledge of the case since Attorney Miller had been designated by the Alternative Defense Counsel as attorney of record in connected case 00CR3371. Attorney Miller assured me that he would be assisted by Attorney Stapleton and Steve Gartin, who was intimately familiar with the Grand Jury proceedings giving rise to the tortuous government conduct which forms the foundation for this complaint, as well as intimate knowledge of the civilian actors who initiated the government action, the police and prosecutorial misconduct both before and after the decision to prosecute had been made, as well as Plaintiff's complete lack of participation in 16 of the 17 charges, all of which were ultimately dismissed, thus forming a strong foundation for righteous litigation seeking to Redress Government for Grievance and protect the Rights of the People. Defendant Miller claimed to be a high-principled, honest defender of the innocent.

Plaintiff paid a substantial retainer to Attorney Miller as 'DocsLaw,' his lawfirm, which has been neither earned nor returned. Plaintiff relied on Defendant Miller's ethical and professional integrity to Plaintiff's detriment and damage.

A federal civil rights claim accrues "when the plaintiff knows or has reason to know of the injury which is the basis of his action." Ormiston v. Nelson, 117 F.3d 69, 71 (2d Cir. 1997)

Plaintiff discovered Defendant Miller's perfidy on **4 March 2004** when Attorney Miller announced to Steve Gartin and Plaintiff that he was "welshing" on our agreement and

didn't have the money to return the retainer nor could he pay for the "work forward" on account that Plaintiff had done for Defendant Miller.

4. Defendant Katherine Grier (hereinafter, 'Grier') is as described in paragraph Four. Defendant Grier is a State actor pursuant to 42 U.S.C. §1983 and established by three connections; with State Actor Defendant Miller, with State Actor Defendant Chapman and acting as an Agent of the State by her usage of the Adams County Sheriff's Department as her enforcement arm and significant acts and actions in conspiracy sufficient to establish co-operation, mutual benefit, a meeting of the minds and agreement between each of the Defendants to deprive Plaintiff of Rights as herein complained.

Person may become state actor liable under §1983 by conspiring with state official, engaging in joint activity with state officials, or becoming so closely related to State that person's actions can be said to be those of State itself. [Price v. State of Hawaii, C.A.9 \(Hawai'i\) 1991, 939 F.2d 702](#), rehearing denied, certiorari denied [112 S.Ct. 1479, 503 U.S. 938, 117 L.Ed.2d 622](#), certiorari denied [112 S.Ct. 1480, 503 U.S. 938, 117 L.Ed.2d 622](#).

5. Jurisdiction is conferred under one or more of the Codes cited. A challenge of jurisdiction must be properly made before pleading in the first instance.

6. Paragraph 6 identifies the State and Federal statutes applicable to the action in Title 42, 1986, 1985, 1983, being which State and Federal laws Defendants infringed upon, and suitable for §1979 application.

We conclude, therefore, that, if a complaint is filed within the time required by any controlling statute or rule and contains substantive allegations sufficient to invoke the court's jurisdiction on some basis, the fact that the pleader mistakenly relies upon an inapplicable statute or rule is not fatal to his cause. If the court would otherwise have authority to adjudicate the claim, it is not deprived of its jurisdiction simply because the plaintiff designates an inapplicable statute or rule. See Hutchinson v. Hutchinson, 149 Colo. 38, 367 P.2d 594 (1961) (fact that

complaint alleged that plaintiff was proceeding under a particular statute not controlling). See also *People v. District Court*, 200 Colo. 65, 612 P.2d 87 (1980).

Monroe v. Pape, 365 U.S. 167 (1961)

(a) *The statutory words "under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory" do not exclude acts of an official or policeman who can show no authority under state law, custom or usage to do what he did, or even who violated the state constitution and laws.* Pp. 172-187.

[365 U.S. 168](b) *One of the purposes of this legislation was to afford a federal right in federal courts because, by reason of prejudice, passion, neglect, intolerance, or otherwise, state laws might not be enforced and the claims of citizens to the enjoyment of rights, privileges and immunities guaranteed by the Fourteenth Amendment might be denied by state agencies.* Pp. 174-180.

(c) *The federal remedy is supplementary to the state remedy, and the state remedy need not be sought and refused before the federal remedy is invoked.* P. 183.

(d) *Misuse of power possessed by virtue of state law and made possible only because the wrongdoer is clothed with the authority of state law is action taken "under color of" state law within the meaning of § 1979.* *United States v. Classic*, 313 U.S. 299; *Screws v. United States*, 325 U.S. 91. Pp. 183-187.

3. *Since § 1979 does not contain the word "willfully," as does 18 U.S.C. § 242, and § 1979 imposes civil liability, rather than criminal sanctions, actions under § 1979 can dispense with the requirement of showing a "specific intent to deprive a person of a federal right."* P. 187.

7. Plaintiff is as described; 60 years old, proceeding as a proper person

Respondent, out of fear, under duress, only by dire financial necessity, and in Forma Pauperis, in Adams County Case 03DR1773, (hereinafter 'IN REM Divorce') which Case was later improperly combined, *without notice to Plaintiff*, and incorporates Adams County Case 03C5605 (hereinafter 'Plaintiff's Restraining Orders').

The Honorable Court is further advised that Plaintiff is not a prisoner, not accused of any crime, and not incarcerated.

The acts of Defendants, each of them and all of them, have been perpetrated against an Innocent Citizen who simply responded to a frivolous, vexatious and groundless IN REM Divorce action where no marriage has ever existed by challenging

jurisdiction and the Fraud being perpetrated upon the Plaintiff and the Adams County Court by Defendant Grier.

For a right to have been "clearly established," the contours of the right must be sufficiently clear that a reasonable official would understand that what he is doing violates that right. This does not mean, however, that an official action is protected by qualified immunity unless the very action in question has previously been held unlawful. Rather, in light of pre-existing law the unlawfulness must be apparent. The Tenth Circuit has held that ordinarily, in order for the law to be clearly established, there must be a Supreme Court or Tenth Circuit decision on point, or the clearly established weight of authority from other courts must have found the law to be as the plaintiff maintains.

"Statute prohibiting "endeavor" to obstruct due administration of justice makes conduct punishable if defendant acts with intent to obstruct justice and in manner likely to obstruct justice, even if he or she is foiled in some way, but use of term does not require criminal liability for any act done with intent to obstruct justice. [18 U.S.C.A. § 1503. U.S. v. Aguilar, 115 S.Ct. 2357](#) U.S. Cal., 1995

"The innocent individual who is harmed by an abuse of governmental authority is assured that he will be compensated for his injury." Owen v. City of Independence

8. Witness Steve Douglas Gartin was a Client of Attorney Miller in Jefferson County Case 00CR3371, paid by the Alternative Defense Counsel as a Public Defender.

Mr. Gartin was also an employee of 'DocsLaw', Miller's lawfirm, enjoying Privilege in many of Attorney Miller's cases.

Mr. Gartin was privy to the phone call, of 04MAR04 from Defendant Grier, taken in Miller's vehicle by cell phone. Gartin was Party to the conversation and analysis with Defendant Miller on the ride over to Plaintiff's home. Mr. Gartin was privy and participant to the conversation and analysis between Attorney Miller and Plaintiff.

(PLAINTIFF'S EXHIBIT 1; 'Conversation with Katherine Grier 05MAR04)

9. Defendant Miller admits the phone call, and the ensuing conversations and analysis. Defendant Grier has admitted to the phone call on the Record, characterizing it as 'just talk between lawyers'. Such admissions are in the Court's Record in Case

#??????, the transcript of which is currently being prepared for Plaintiff as evidence of that ultimate fact.

10. Defendant Miller reported the judicial animus against Plaintiff as a ‘Patriot’, ‘common law activist’, and ‘pro se litigant’. He threatened Plaintiff with ‘I’m the only thing standing between you and jail,’ on ‘trumped up charges like they did with Gartin’, ‘they’re (Adams County Sheriff’s at Grier’s instigation) waiting for you to come to the Courthouse’. Being a Federal Witness in case #97N1501, I was aware of what the Defendant Law Enforcement Officials had done to Mr. Gartin and took that statement as a very credible threat.

Plaintiff’s political championing and advocacy of Negro Rights and activism dates to the early 70’s, and has been the cause of Plaintiff’s being jailed under false charges, harassed and intimidated by the police, threatened by Officers of the Court with ‘trumped up charges like they did with Gartin’.

The same government actors have abused Plaintiff’s rights under the accusation of supporting unpopular civil rights activist political candidates; Senatorial Candidate Rick Stanley, and Jefferson County Sheriff Candidate Steve D. Gartin.

11. Defendant Miller threatened Plaintiff and used the threats to extort Plaintiff’s acceptance of Attorney Miller ‘reneging’ and ‘welshing,’ in the conversation of 4 March, 2004, on proceeding on the malicious/retaliatory/vindictive prosecution of Plaintiff in Jefferson County Case 00CR3372, for which he had been engaged and retained.

(PLAINTIFF’S EXHIBIT 1; ‘Katherine Grier Conversation’)

12. Defendant Miller threatened Plaintiff with being lumped in with ‘a guy that threatened a judge’s life’ (in Adams County), *which Plaintiff later learn was Senatorial Candidate Rick Stanley*, with whom Plaintiff inadvertently shared some legal forma and language such as common law.

Plaintiff has no connection to Senatorial Candidate Stanley, personally, socially, ideologically or otherwise. Plaintiff has never threatened anyone. Plaintiff used the only model of forma available to a pro se defendant unlawfully approached with an assertion of some Common Law instrument or contract.

Legal Illiteracy is not a compelling reason to deny the exercise of Plaintiff’s Constitutional rights to petition, to depend on equal protection or to expect due process of the law.

In point of contrast, Plaintiff hired Defendant Miller when it became possible, and accepted Miller’s offer of representation in the Divorce case immediately and gratefully.

"... the right to file a lawsuit pro se is one of the most important rights under the constitution and laws." Elmore v. McCammon (1986) 640 F. Supp. 905

Sherar v. Cullen, 481 F. 2d 946 (1973)

"There can be no sanction or penalty imposed upon one because of his exercise of constitutional rights."

"Allegations such as those asserted by petitioner, however inartfully pleaded, are sufficient"... "which we hold to less stringent standards than formal pleadings drafted by lawyers." Haines v. Kerner, 404 U.S. 519 (1972)

Pro se pleadings are to be considered without regard to technicality; pro se litigants' pleadings are not to be held to the same high standards of perfection as lawyers. Jenkins v. McKeithen, 395 U.S. 411, 421 (1959); Picking v. Pennsylvania R. Co., 151 Fed 2nd 240; Pucket v. Cox, 456 2nd 233

"Pleadings are intended to serve as a means of arriving at fair and just settlements of controversies between litigants. They should not raise barriers which prevent the achievement of that end. Proper pleading is important, but its

importance consists in its effectiveness as a means to accomplish the end of a just judgment." Maty v. Grasselli Chemical Co., 303 U.S. 197 (1938)

The plaintiff's civil rights pleading was 150 pages and described by a federal judge as "inept". Nevertheless, it was held "Where a plaintiff pleads pro se in a suit for protection of civil rights, the Court should endeavor to construe Plaintiff's Pleadings without regard to technicalities." Picking v. Pennsylvania Railway, 151 F.2d. 240, Third Circuit Court of Appeals

13. Defendant Miller extorted Plaintiff to let him handle the case as concerned the ex parte orders; modification of Permanent Restraining Orders, Custody Orders, Show Cause Motions, trial without notice nor opportunity to prepare, and jurisdictional issues.

14. Defendant Miller made the threats and they were documented in the e-mail communication of the next day. (**PLAINTIFF'S EXHIBIT 1**; Letter to Miller, Letter to Pugliese, Letter to Gartin)

15. The Record and Transcripts have not been furnished as of 22 FEB 05, notwithstanding the Minute Orders of Judge John E. Popovich dating back to about 17 SEP 04.

Plaintiff asserts in good faith that Discovery will bear out the allegations.

16. Defendant Miller's threats of 'trumped up charges', 'false arrest', 'detention' were highly credible, as Plaintiff had already suffered such indignities in Jefferson County Case 00CR3372, and had witnessed Steve D. Gartin suffer even greater punishment in Jefferson County Case 00CR3371 at the hands of the Joint Terrorism Task Force and their STATE accomplices. Attorney Miller is well aware of the special significance to Plaintiff of those threats and exactly how seriously Plaintiff would take such threats.

"The claim and exercise of a Constitution right cannot be converted into a crime"... "a denial of them would be a denial of due process of law". Simmons v. United States, 390 U.S. 377 (1968)

17. The Record in the Combined Case will show a pattern of ex parte judgments, failure to advise or notify Plaintiff of the intent of hearings so as to afford Plaintiff an opportunity to prepare, exclusion of evidentiary matters already in the Record and unrefuted.

18. Until the Honorable District Judge Popovich combined both cases into 03DR1773, they had been separate entities. The combining of the Cases included the ex parte modifications of the Permanent Trial orders of Magistrate David Juarez concerning Permanent Protective Orders for Plaintiff and his two sons, Custody Orders on the two boys, Show Cause Motions submitted by Plaintiff regarding dozens of violations by Defendant Grier's client in the IN REM Divorce Case.

19. Defendant Miller failed, neglected, refused or refrained from Appealing the judgment on the 'marriage' that was patently an abuse of judicial discretion by Defendant Janis Chapman. There was no evidence to support "finding" a "common-law marriage" presented to Defendant Chapman. Defendant Miller also failed to file a Counterclaim to Petitioner, or application for Maintenance on Plaintiff's behalf. It should be noticed that a Counter Claim was the first thing Attorney Massaro filed in this case. Defendant Miller failed to challenge the ex parte modifications of Custody Orders, even though he knew such orders were void and voidable. Defendant Miller failed to call for evidentiary hearings on Attorney Fee awards that were improperly given to Defendant Grier by Defendant Chapman in her official capacity in an ex-parte meeting.

Court must conduct a hearing, on the reasonableness of an award of attorney fees if a party requests a hearing. In re Aldrich, 945 P.2d 1370 (Colo. 1997).

20. The three Defendants are all Legal Professionals, of a Superior Knowledge of the Law, admitted to the Bar, and deemed to be familiar with the Law.

21. Defendant Miller and Defendant Grier came to a meeting of minds concerning each of their ongoing Frauds upon Plaintiff.

22. Defendant Miller and Defendant Grier proceeded with their respective Frauds in a collusive and mutually enabling manner. Plaintiff proffers the official court Transcript of the proceedings, witnesses, exhibits and affidavits as proof of those allegations.

23. Defendants Chapman, Miller and Grier acted lawlessly although in a superior knowledge of the law, and their conduct was in defiance of the law and of such a nature that punitive damages would serve to deter such conduct in the future.

24. Plaintiff incorporates the preceding paragraphs in the Original Complaint as if fully reproduced.

25. It is settled law that ex parte judgments, hearings without notice and opportunity and the judgments therefrom are void and made without jurisdiction and are abusive of the due process rights of Parties.

26. Miller's withdrawal was precipitated by the exposure of his collusive fraud with the Colorado State Attorney General's Office, in the person of Senior Prosecutor Marleen

M. Langfield, to allege an illegal, improper and unpublished stipulation to the Probation Agreement for his client, Steve D. Gartin in Case 00CR3371. Doc's Law, a purported legal entity, had additionally borrowed money from AFP Investigations, refused to repay the loan and attempted to extort additional monies from A. Frank Pugliese and then interceded with the Alternate Defense Counsel to prevent AFP Investigations from receiving any referrals from that STATE office based upon fraudulent assertions by Thomas Cecil Miller, esquire.

The genesis of the entire controversy was the fact that Frank Pugliese had been present in conference with the STATE Attorney General's Senior Prosecutor, Marleen Langfield, Gary Clyman, Patriot Investigations Colorado State Attorney General's Office and Don Estep, Jefferson County Sheriff's Intelligence/FBI MultiJurisdictional Domestic Terrorism Task Force concerning a plea agreement in Jefferson County Case #00CR3371 wherein an unlawful stipulation, to-wit: that Steve Gartin could not sue anyone, or engage in any legal action during the course of the two year probationary period was discussed and decided. As the Private Investigator in case #00CR3371, Investigator Pugliese filed a final report to Jefferson County Judge Leland Paul Anderson which caused Thomas Cecil Miller, esquire, Marleen Langfield, Esquire, Colorado State Attorney General Investigator Gary Clyman and Jefferson County Sheriff's Office / Federal Bureau of Investigation Joint Terrorism Task Force operative Donald L. Estep great anger, resentment and retaliation against both Mr. Pugliese and Steve Gartin. (See **Exhibit ?? ~ Investigator's Final Report**). Plaintiff was simply a witness to the discourse between Investigator Pugliese and Attorney Miller, the admissions made, the accusations

lodged and the loan agreement and reciprocal professional agreements made in Plaintiff's presence by Attorney Miller and Investigator Pugliese.

The exposure of the improper stipulation, Steve D. Gartin to refrain from suit against the Attorney General's Office, the State Actors denying Civil Rights, the Federal Actors, and the civilian accomplices to the action for two years, would effectively toll the time limits for initiating action against government actors under 42 U.S.C. § 1983 and virtually allow Marleen Langfield, Gary Clyman, Donald Estep, Mark Holstlaw and other government actors to escape civil liability.

The Fraud perpetrated by Defendant Miller upon Plaintiff became obvious at the same time, early April, 2004. Defendant Miller, although retained by Plaintiff to act in Plaintiff's best interests, lied to Plaintiff about the improper Stipulation in Gartin's Probation Agreement and misled Plaintiff, denying Plaintiff an opportunity to sue for damages, all the while assuring Plaintiff that everything was well under control and that as soon as Steve Gartin's probationary period expired, Thomas Cecil Miller, esquire would go forward on the Federal Civil Rights action that Plaintiff had paid Attorney Miller to prosecute.

Defendant Miller had co-opted the un-paid assistance of his entire lawfirm, to include Frank Pugliese Investigations, Pamela Hadas Para-Legal, and Steve Gartin Legal Assistant on the Allen Anderson case in order to educate Attorney Miller in the nuances of Federal Procedure so that Plaintiff's case could go forward against many of the same legal entities with alacrity. Attorney Miller deliberately sabotaged the Anderson case for

reasons known presently only to himself, Marleen Langfield, Gary Clyman and Donald L. Estep. A reasonable person may suspect conspiracy, collusion and abuse of official office, but that will be presented to the Honorable Court in at least two separate cases in the near future.

Public defenders charged with conspiring with state officials in violation of 42 USCS § 1983 do not enjoy any immunity, qualified or absolute, from suit under § 1983. Glover v Tower (1983, CA9 Or) 700 F2d 556, affd, remanded (1984) 467 US 914, 81 L Ed 2d 758, 104 S Ct 2820.

Immunity of prosecutor does not extend to those persons who conspire with him to violate civil rights of others. Goldschmidt v Patchett (1982, CA7 Ill) 686 F2d 582, 1982-2 CCH Trade Cases P 64893.

To state a claim under 42 U.S.C.S 1983, a plaintiff must allege that (1) he or she was deprived of a right secured by the Constitution or federal law; and (2) the defendant acted "under color of state authority" in depriving the plaintiff of this right. See Hafer v. Melo, [502 U.S. 21, 25](#) (1991). An allegation that a private person conspired with a state official satisfies the requirement that a defendant act under color of state authority. See Adickes v. S. H. Kress & Co., [398 U.S. 144, 152](#) (1970) (holding that a conspiracy with a state official is sufficient to satisfy the state action requirement of S 1983); United Steelworkers of America v. Phelps Dodge Corp. , 865 F.2d 1539, 1540 (9th Cir. 1989) (holding that "[p]rivate parties act under color of state law if they willfully participate in joint action with state officials to deprive others of constitutional rights").

27. Defendant Chapman's awards of Attorney Fees were improper, done without an opportunity for an evidentiary hearing, ex parte to Plaintiff's knowledge, notice or opportunity to confront, and were not challenged by Defendant Miller.

28. The actions of Defendants, each of them and all of them, were violative of Plaintiff's due process and equal protection rights as defined in the Constitution.

As a general rule, § 1983 also authorizes suits against state actors who violate federal statutory rights. Maine v. Thiboutot, 448 U.S. 1, 65 L. Ed. 2d 555, 100 S. Ct. 2502 (1980).

29. Plaintiff incorporates all the preceding paragraphs as if fully reproduced.

30. Defendant Miller was obligated to proceed in Plaintiff's best interests to confront a Constitutional question concerning the 'Valid Common Law Marriage' clause of the Colorado State Constitution either in Adams County Court, or the Court of Original Jurisdiction on Common Law Questions.

31. Defendant Miller not only didn't proceed in the Habeus Corpus action, he failed, neglected, refrained or refused to proceed on any other action on Plaintiff's behalf. Miller deferred responses, pleadings, appeals or other action until the Statute of Limitations had tolled on both his actions in 00CR3372 and the IN REM Divorce/Plaintiff's Restraining Orders case.

32. Defendants, each of them and all of them, proceeded heedless, reckless and in defiance of settled law, without jurisdiction and in the face of void judgments made ex parte and without notice or opportunity to Plaintiff to respond.

33. Defendant Miller threatened Plaintiff with imminent assault, false arrest, false imprisonment, and 'trumped up charges' subsequent to the phone call of 04MAR05 in the phone call from Defendant Grier

34. Defendant Grier, a former and long time Public Defender in Adams County, called for 'special security' from the Adams County Sheriff's Department.

35. Extortion, witness intimidation, threats of bodily harm and 'trumped up charges' were calculated to intimidate Plaintiff and Plaintiff acted upon that detrimental reliance to Plaintiff's damage.

Although retaliation against witness statute and intimidation of witness statute

use similar language in proscribing same or similar conduct in relation to witness or victim, a defendant cannot be found to be in violation of both statutes for same act and statutes are therefore factually distinguishable in their application and, thus, statutory classification does not violate equal protection; statute prohibiting intimidating witness or victim applies only to instances of contact with witness or victim prior to testimony while, on the other hand, statute prohibiting retaliation against witness or victim proscribes improper conduct taken subsequent to date witness or victim testified or would have testified. U.S.C.A. Const.Amend. 14; West's C.R.S.A. Const. Art. 2, § 25; West's C.R.S.A. § § 18-8-704, 18-8-706 [People v. Gardner, 919 P.2d 850](#) Colo.App.,1995

36. Plaintiff incorporates all the preceding paragraphs as if fully reproduced.

37. Defendant Miller is fully informed as regards the Rick Stanley Case. The continuing accusations by Defendant Grier of some relationship or commonality with Mr. Stanley is unfounded, groundless and tends to prejudice the Court to Plaintiff's damage and detriment.

38. Defendants are in superior knowledge of the Law, proceeded heedless and reckless of Plaintiff's rights and to his detriment and damage. The damages by Defendants, each of them and all of them, warrant the award of punitive damages to deter such conduct in the future.

39. Plaintiff incorporates the preceding paragraphs as if fully reproduced.

40. Defendant Miller threatened Plaintiff with proceeding in pro se, even in the dire necessity of poverty, asserting a continuing and invidious animus upon the part of the whole Adams County Judicial System.

41. Defendants are in superior knowledge of the Law, proceeded heedless and reckless of Plaintiff's rights and to his detriment and damage. The damages by Defendants, each of them and all of them, warrant the award of punitive damages to deter such conduct in the future.

42. Plaintiff incorporates the preceding paragraphs as if fully reproduced

43. Defendant Miller is in full knowledge and collusion with Defendant Grier in a meeting of minds suitable for accomplishing their several frauds and deprivations of Plaintiffs rights.

44. Defendants, each of them and all of them had a duty to report infractions by other State Actors and were given sufficient notice and opportunity to discharge their obligations.

45. Plaintiff reasserts all charges and claims as unrefuted and answered in an attempt to perpetrate a fraud upon the Court.

Defendant's Affirmative Defenses

46. Plaintiff denies any application of Defendant Miller's Affirmative Defenses as moot, impertinent, immaterial, inapplicable or unsuitable.

- a. Plaintiff has alleged fraud with particularity as required by F.R.C.P. 8(c).
- b. Plaintiff has stated claims for which relief may be granted
- c. Plaintiffs claims are timely and well-grounded in pursuing his case.
- d. No official act nor immunity derives to Defendant Miller
- e. Plaintiff depended on Defendant Miller to Plaintiff's detriment and damage.
- f. Plaintiff has not been negligent.
- g. No valid judgment has been made on any of the cogent questions in this controversy before the Court.

The doctrine of promissory estoppel, as set forth in *Restatement (Second) of Contracts* § 90(1) (1970), provides that:

A promise which the promisor should reasonably expect to induce action or a forbearance on the part of the promisee or third person and which does

induce such action or forbearance is binding if injustice can be avoided only by enforcement of the promise. The remedy granted for breach may be limited as justice requires.

Collateral estoppel cannot be used to bar a party from litigating an issue decided previously in a criminal proceeding in a subsequent civil proceeding when that party was not in privity with a party to the prior action and did not have an opportunity to fully and fairly litigate the issue in the prior proceeding.

Collateral estoppel is appropriate when (1) the issue is identical to the issue in a prior adjudication; (2) there was a final judgment on the merits; (3) the estopped party was a party or in privity with a party to the prior adjudication; and (4) the estopped party was given a full and fair opportunity to be heard in the adjudicated issue.

See also *Kiely v. St. Germain*, 670 P.2d 764 (Colo. 1983). The purpose of the doctrine is to assure fairness by protecting one who relies to his detriment on the promise of another. See *Mooney v. Craddock*, 35 Colo. App. 20, 530 P.2d 1302 (1974).

h. Plaintiff has answered Defendant Miller's accusation of Fraud in complete.

A federal civil rights claim accrues "when the plaintiff knows or has reason to know of the injury which is the basis of his action." *Ormiston v. Nelson*, 117 F.3d 69, 71 (2d Cir. 1997)

i. Plaintiff has not given any release to Defendant Miller from his obligations.

j. Plaintiff has made no waiver of rights, privileges, immunities or other.

k. Plaintiff's claims are well grounded in fact and in law and supported by proofs offered to the Court at convenience.

1. Plaintiffs damages are more than \$75,000; direct, exemplary, and punitive

Answer to Defendant's First Counterclaim: Abuse of Process

47. Plaintiff denies all allegations in their total and in their specific.

48. The cause of the complaint is Defendant Thomas C. Miller's collusion and conspiracy with the Attorney General's Office Prosecutor Marleen M. Langfield to deny Plaintiff his day in court, the due process of law, the equal protection of the law, the right

to petition the court for redress of grievance (See PLAINTIFF'S EXHIBIT 2;
Miller/Langfield Grievance)

§ 18-8-610. Tampering with physical evidence

(1) A person commits tampering with physical evidence if, believing that an official proceeding is pending or about to be instituted and acting without legal right or authority, he:

(a) Destroys, mutilates, conceals, removes, or alters physical evidence with intent to impair its verity or availability in the pending or prospective official proceeding; or

(2) "Physical evidence", as used in this section, includes any article, object, document, record, or other thing of physical substance.

(3) Tampering with physical evidence is a class 6 felony.

49. Defendant Chapman is an Adams County Magistrate, proceeding without jurisdiction by virtue not answering jurisdictional questions, of acting ex parte, holding hearings without notice and opportunity to Plaintiff to prepare, conducting hearing without allowing Plaintiff to present evidence already in the Record and unrefuted by Defendant Grier, issuing awards without notice to Plaintiff, evidentiary hearing or notice of the opportunity,

50. Defendant Grier entered into a collusion with Defendant Miller to fail to proceed on Plaintiff's behalf, each for their own benefit.

51. On March 4, 2004, Defendant Thomas C. Miller received notice that Defendant was listed as a witness to testify against him in case no. 04CV635, Boulder County District Court. The exposure of Defendant Miller's fraud and collusion with the Colorado State Attorney General's Office became known, and precipitated an action by Frank Pugliese against Attorney Miller to which Plaintiff was witness.

(See **PLAINTIFF'S EXHIBIT 3 Investigator's Response to Motion to Withdraw**)

In addition, Plaintiff was asked to give evidence in the Grievance against Defendant Miller by another client, Kevin Brown, filed by his parents. Plaintiff worked for DocsLaw and was given privileged information about the Brown case by Attorney Miller.

Additionally, Plaintiff was called to Witness in the Gartin v. Miller action in Boulder County Court, attesting to the ‘fee-splitting arrangement’ between Mr. Gartin and Attorney Miller.

The attorney-client privilege protects the confidentiality of communications between an attorney and client made for the purpose of securing or rendering legal advice. In re Grand Jury 90-1, 758 F. Supp. 1411, 1412 (D.Colo. 1991); Geralnes B.V., 609 F. Supp. at 193.

52. Attorney Miller had completed his Fraud as concerns his representation of Mr. Gartin in Case No. 00CR3371, and his Fraud of Plaintiff sometime around the first weeks of April, 2004. He had taken no constructive action on behalf of Plaintiff prior to that time, and continued to take no action on Plaintiff’s behalf. His ‘withdrawal’ was a sham, as he had performed no function prior to that time in any case.

53. Plaintiff was put in an intolerable position by Defendant Miller’s gross unethical conduct and Plaintiff’s witness to that conduct.

54. The civil case, 04CV635, was voluntarily dismissed after failing to survive a motion for judgment on the pleadings. The judgment was on procedural questions, not merit. (See **PLAINTIFF’S EXHIBIT 3 Investigator’s Response to Motion to Withdraw**)

55. On June 9, 2004, Co-Defendant (Magistrate) Chapman granted Defendant

Miller's Motion to Withdraw. The order was not made known to Plaintiff for some weeks after the event. Subsequent to that information, Defendant Miller held Plaintiff's files and information for several weeks, neglecting and refusing to return them until valuable time had tolled, putting Plaintiff in an even more disadvantageous position.

56. Plaintiff did not elect to represent himself at the hearing of August 31, 2004, And had no time nor means to retain another lawyer after the Motion to Withdraw was granted. Plaintiff exercised no 'choice', only the dire necessity of appearing pro se in the face of the threats and intimidation voiced by Defendant Grier and the bias and attitude towards Plaintiff from Defendant Chapman.

Plaintiff has had to appear in the Proper Person because of financial considerations well-known to Defendant Miller. In fact, Plaintiff has availed himself of counsel at every opportunity.

57. Plaintiff, proceeding pro se by dire necessity admits being legally illiterate, but knows of no Literacy Test necessary to exercise a Constitutional Right to Petitioner for Redress of Grievance, or to enjoy the guarantees of equal protection under the Law, or of Due Process of the Law.

Sherar v. Cullen, 481 F. 2d 946 (1973)

"There can be no sanction or penalty imposed upon one because of his exercise of constitutional rights."

Cochran v. Kansas, 316 U.S. 255, 257-258 (1942)

*"However inept Cochran's choice of words, he has set out allegations supported by affidavits, and nowhere denied, that Kansas refused him privileges of appeal which it afforded to others. *** The State properly concedes that if the alleged facts pertaining to the suppression of Cochran's appeal were disclosed as being true, ... there would be no question but that there was a violation of the equal protection clause of the Fourteenth Amendment."*

58. Plaintiff filed multiple grievances before the Colorado Supreme Court against Defendant Miller, which went to the Chief Disciplinary Justice, Mr. Lucero.

59. The gravamen of Plaintiffs complaint is that two attorneys, representing opposite sides in Plaintiffs IN REM Divorce, and a District Court Magistrate, conspired to deprive him of his civil rights, each acting in his own interests, and in collusion and in a meeting of minds to deprive Plaintiff of Constitutional Rights

60. Plaintiffs allegations of judicial bias are obvious in light of the threats made by Defendant Grier in the phone call of 4 March 2004 and Defendant Chapman's continuing denial of due process and equal protection of the Law to Plaintiff.

Defendant Miller reported the judicial bias as reported to him by Katherine Grier against 'pro se' litigants, 'Patriots', 'Posse Comitatus', threats of 'trumped up charges', imminent arrest and used the threats to extort compliance from Plaintiff in his reneging on the legal action for which he had been retained.

61. Further, Co-Defendant Katherine Grier also conducted herself with the highest professional and personal integrity during all of her dealings with Defendant Thomas C. Miller. Defendant Grier was the source of the threats made on 4 March 2004.

62. And Defendant Thomas C. Miller failed, neglected, refrained or refused to act on Plaintiff's behalf and concealed conflicts of interest that exposed his collusion with the Colorado State Attorney General's Office to deny Plaintiff's Constitutional Rights

This Circuit has long recognized a constitutional right under the Fourth Amendment "to be free from malicious prosecution." Kerr v. Lyford, 171 F.3d 330, 339 (5th Cir. 1999); see also Eugene v. Alief Ind. Sch. Dist., 65 F.3d 1299, 1303, 1305 (5th Cir.1995)(holding that this right was clearly established as early as 1972). But "malicious prosecution may be a constitutional violation . . . only if all of its common law elements are established." Evans v. Ball, 168 F.3d 856, 862

n.9, 863 (5th Cir. 1999). To sustain a malicious prosecution claim, Texas law requires that a plaintiff show "(1) a criminal action was commenced against him; (2) the prosecution was caused by the defendant or with his aid; (3) the action terminated in the plaintiff's favor; (4) the plaintiff was innocent; (5) the defendant acted without probable cause; (6) the defendant acted with malice; and (7) the criminal proceeding damaged the plaintiff." Taylor v. Gregg, 36 F.3d 453, 455 (5th Cir. 1994).

"proceedings terminate in favor of the accused only when they affirmatively indicate that [the accused] is not guilty." Evans, 168 F.3d at 859; see also Taylor, 36 F.3d at 456.

The rule in this Circuit, however, is that a plaintiff alleging retaliatory prosecution must show that he was "prosecuted at least in part to retaliate for constitutionally protected conduct." Gates v. City of Dallas, 729 F.2d 343, 346 (5th Cir. 1984).

63. Plaintiff intentionally, and with some planning, filed the Complaint in this action.

64. Plaintiff's intent is to petition for redress of grievance for damages by State Actors under color of authority by the Defendants; to bring their conduct to the attention of the Honorable Court and to serve the cause of justice.

65. Plaintiff has had all Defendants served . Plaintiff hired a professional process service. The Complaints were delivered to the Process Server all at one time. Service on Defendant Chapman has been made.

66. There has been no impropriety as the Service has been difficult because of barriers to service caused by secured offices

67. Plaintiff's filing of the Complaint against Defendant Thomas C. Miller is well-founded, and any attorneys fees are the consequences of his own actions and conduct.

68. Plaintiff's actions are the exercise of the Constitutional Right to petition the government for redress of grievance and entirely proper.

69. Plaintiff's claims are well founded in law and fact; supported by testimony, evidence and documentation.

70. Because of Plaintiff's actions in using the legal system is his Constitutional Right. Defendant Thomas C. Miller has only his own unethical, illegal and improper conduct to thank for his present plight.

Plaintiff asks for an Evidentiary Hearing prior to any award of attorney's fees to Defendant Miller.

Plaintiff's Answer to Defendant Thomas C. Miller's **Second Counterclaim:**
Exemplary Damages

71. Plaintiff denies allegations both specifically and in general.

72. Plaintiff denies Plaintiffs Complaint is riddled with fraud, malice, willful and wanton misconduct.

73. Plaintiff denies that no conspiracy exists between Defendant and the two Co-Defendants. Plaintiff's Exhibits reflect a broad and complex Conspiracy with Marleen M. Langfield in 00CR3371 to assert a fraudulent, illegal and improper stipulation. Defendant Miller's conflicts of interest with Plaintiff's legal interests are uniformly collusive in nature as Plaintiff would have had no reason to seek out Defendant Miller except to act as Plaintiff's Attorney.

74. Deliberate Fraud was placed before the Court by Defendant Katherine Grier, and Defendant Miller's collusion and silence allowed it to proceed unchallenged.

Miller's Fraud was the concealment of his conflicts of interest from Plaintiff.

75. Conspiracy to suborn perjury exists. 00CR3372

Notwithstanding Supreme Court's holding that witnesses in judicial proceedings are absolutely immune from liability under 42 USCS § 1983, if person plans or group of persons conspire to frustrate and violate legitimate judicial process to extreme and aggravated event, cause of action under § 1983 will be established; cause of action is limited to fact pattern in which (1) persons decide in advance to give false and perjured testimony before grand jury and/or in court and this is only testimony presented, (2) result of testimony must be indictment and arrest and (3) following that, person must be discharged, either before trial, or acquitted after trial or discharged after reversal on appeal. Macko v Byron (1983, ND Ohio) 576 F Supp 875, affd (1985, CA6 Ohio) 760 F2d 95.

[U. S. v. White, 557 F.2d 233 C.A.10.Okla.,1977](#)

Finding of specific intent to interfere with witness in pending judicial proceeding is essential element of offense of obstructing justice, but it may be established by circumstantial evidence. 18 U.S.C.A. § 1503.

[Opheim v. Campbell, 384 F.2d 717](#)

C.A.10.Kan.,1967

Any conduct deliberately taken to frustrate or hinder the jurisdiction of the federal district court, or the Court of Appeals, properly obtained and existent, would be subject to appropriate judicial disciplinary action.

Pursuant to supremacy clause, California litigation immunity statute did not apply to shield from liability in federal civil rights action attorneys accused of conspiring with judge to deprive party of constitutional rights, inasmuch as existence of immunities in action was matter of federal law. [Kimes v. Stone, C.A.9 \(Cal.\) 1996, 84 F.3d 1121.](#)

Intent may be inferred. Intent to commit, official misconduct, ... may be inferred from the defendants' conduct and the circumstances of the case. [People v. Luttrell, 636 P.2d 712 \(Colo. 1981\).](#)

The Tenth Circuit has held that an act taken in retaliation for the exercise of a constitutionally protected right is actionable under § 1983, and hence in a Bivens action. [DeLoach v. Bevers, 922 F.2d 618, 620 \(10th Cir. 1990\).](#) Although retaliation is not expressly referenced in the Constitution, it is nonetheless actionable because retaliatory actions may tend to chill the exercise of constitutional rights. [Pool v. County of Otero, 271 F.3d 955, 960 \(10th Cir. 2001\).](#) To state a claim for unconstitutional retaliation, a plaintiff must allege: (1) exercise of a constitutionally protected right; (2) retaliatory actions by governmental officials in response to the exercise of that constitutional right; and (3) more than a "theoretical injury." *Id.* at 960-61. With respect to the third element, the plaintiff need not allege "actual injury" resulting from the retaliation; [**38] rather, it is sufficient that the plaintiff allege that the retaliatory acts would chill a person of ordinary firmness from continuing to engage in the constitutionally protected activity. *Id.*

18-3-207. Criminal extortion - aggravated extortion. (1) A person commits criminal extortion if:

(a) The person, without legal authority and with the intent to induce another person against that other person's will to perform an act or to refrain from performing a lawful act, makes a substantial threat to confine or restrain, cause economic hardship or bodily injury to, or damage the property or reputation of, the threatened person or another person; and

(II) Invoking action by a third party, including but not limited to, the state or any of its political subdivisions, whose interests are not substantially related to the interests pursued by the person making the threat.

76. Defendant Miller **was not even representing Plaintiff** after June 9, 2004, but that's irrelevant to the damage already done by Defendant Miller's numerous Frauds and misconduct.

77. Plaintiff has abundant facts to support his allegations against Defendant. Plaintiff offers proof by Third Party Eye-Witness Pamela Hadas, PhD., by Frank Pugliese, Private Detective for DocsLaw; by Steve D. Gartin, Privileged Employee of DocsLaw. Plaintiff further offers proof by documentation at the time; correspondence with other legal service providers, the Court record for 00CR3371

78. Plaintiff's claims are not vague or conclusory except as regards Plaintiff's unfamiliarity with terms of art and the requirements of professional lawyers.

79. For these reasons, Plaintiff asks the Honorable Court to DENY exemplary or punitive damages pursuant to C.R.S. § 13-21-102, Ct. seq. to Defendant Miller as Defendant Miller well knows that Plaintiff is well founded in all assertions, claims and proofs, and that claims, however inartfully pleaded, are true.

80. Plaintiff denies that any Exemplary damages are appropriate. Plaintiff approaches the Honorable Court with significant Controversy, well-founded claims and assertions, an Exceptional Case, and new theories of Law.

Plaintiff Prays the Honorable Court to DENY Defendant Miller's Motion for Judgment on the Pleadings

81. Plaintiff denies all allegations in specific and in general.

82. To support a Motion for Judgment on the Pleadings, Plaintiffs claims must be taken as true, and given every reasonable inference therein.

83. Plaintiff Denies; Plaintiff has alleged abundant facts in support of his claims which claims, allegations and assertions are well grounded in fact and law.

84. Plaintiff Denies; Plaintiffs claims are well founded, supported in fact and in law by testimony, the Record and attendant documentation C.R.S. § 13-17-102.

85. Plaintiff denies; Plaintiff has fully stated claims for which relief may be granted under FRCP 12 (b) (6).

86. Plaintiff alleges that Co-Defendant Grier claimed to Defendant Miller to exert some form of "improper influence" with Co-Defendant (Magistrate) Chapman, "as reflected in the disposition of pleadings thus far." (Paragraph 8, Complaint.) by Defendant Chapman's proceeding sans jurisdiction, without giving notice of the purpose of hearings, without giving Plaintiff opportunity to prepare, to present evidence by unrefuted affidavit already in the Record

87. Plaintiff was subjected to ex parte judgments, judgments deriving from hearings in which Plaintiff had no notice nor opportunity to prepare, hearings in which the objective of the hearing was not made known to Plaintiff, hearings in which Plaintiff's case was not advanced by Defendant Miller, and subject to judgments not timely appealed by Defendant Miller whilst Attorney of Record for Plaintiff.

88. Plaintiff denies; Defendant Miller insisted on representing Plaintiff as a gift. Miller plied Plaintiff with promises of action which were undelivered.

89. After assuming, for purposes of this Motion, that Plaintiffs claims are true that Ms. Grier exerted some form of improper influence with Co-Defendant (Magistrate) Chapman, to threaten Plaintiff with same is intimidating a Witness, extortion by threat of bodily harm and kidnapping by State Actors under 'trumped up charges like they did with Gartin', as well as they already did to Plaintiff in Jefferson County Case 00CR3372, for which case Attorney Miller was engaged and retained to challenge and litigate in January of 2001.

90. Plaintiff denies; Plaintiff truthfully asserts that Defendant Miller warned him of judicial bias by Magistrate Chapman and "the entire Adams County Judiciary" toward "common law parties." For purposes of this Motion, Plaintiffs claims are true, threatening and extorting Plaintiff with threats of actions based in bias as one of a judge's tendencies is a violation of Plaintiffs rights to due process of the law and its equal protection.

There was no 'warning'; it was couched as a threat to compel Plaintiff to give up rights

91. Plaintiff has alleged supporting his claim that any orders of the Adams County District Court are illegal, void and nugatory as they have been made sans jurisdiction, ex

parte, without notice or opportunity to Plaintiff, without notice as to the purpose of hearings or opportunity to prepare a legal position.

92. Plaintiff alleges abuse of discretion by Magistrate Chapman in good faith to be proven in Discovery by examination of the Record. Plaintiff has not been furnished with the Record as of 22 FEB 05 in spite of the Orders to so provide as issued by District Court Judge, Honorable John E. Popovich.

Ex parte orders are null and void. Failing to rectify such orders is a denial of due process. Failure to notify Plaintiff of hearings or the objective of a hearing, denying Plaintiff the opportunity to prepare a defense is a denial of due process rights.

93. Plaintiff alleges that Defendant Miller threatened him with criminal charges, arrest and incarceration, in furtherance of his own conspiracy, and in a meeting of minds with Defendant Katherine Grier, with Prosecutor Marleen M. Langfield, and with the State and Federal Actors of the Joint Terrorism Task Force.

The exercise of a Constitutional Right is not a criminal act. Plaintiff has committed no criminal act by appearing pro se, or being illiterate in the law, or presenting the government with a petition for redress of grievance, or raising a Constitutional question about the validity of a common law contract asserted by Defendant Grier.

94. Plaintiff denies; Defendant Miller's actions in threatening a client of unwarranted, unfounded, groundless and 'trumped up' penalties for criminal acts or civil violations go far beyond. 'simply doing his job'.

95. Plaintiff alleges that he was extorted for compliance with illegal orders as Ex parte orders are nugatory on their face and no Void Order has effect, authority or power.

96. Plaintiff denies; Defendant Miller used the threats of 04MAR04 to extort compliance by Plaintiff to his reneging on his obligation of some 18 months to proceed on Plaintiff's claims of malicious prosecution by the Colorado State Attorney General's Office.

97. Plaintiff denies; Defendant Miller related to Plaintiff the threats made by Defendant Grier on 04MAR04 by phone. Miller never claimed to have observed Grier making the threats, and Plaintiff never asserted it.

98. Plaintiff denies; Plaintiffs claim that the threats were made real by Co-Defendant (Magistrate) Chapman is grounded in the fact that Plaintiff was forced to proceed pro se; proving conclusively that a fool for a client is preferrable to having one as an Attorney.

Plaintiff had no choice but to proceed in pro se, and in forma pauperis, after Defendant Miller's damages by both act and omission. Plaintiff claims no facility in the Law and asserts that any Literacy Test for exercise of a Constitutional Right is a denial of the due process of the law or its equal protection.

99. Plaintiff denies; Plaintiff has set forth abundant facts to support his claim of multiple frauds. Plaintiff's claims are clear, unambiguous and detail Defendants' Frauds in particularity, offering proof by testimony, the Record and attendant evidence.

100. Plaintiff admits that Conspiracy between two attorneys on opposite sides of a case, and a FamilyCourt Magistrate presuppose a level of cooperation between State Actors in concert to deny civil rights to Plaintiff.

101. Plaintiff denies; Plaintiffs allegations that Defendant Miller failed to proceed in a professional manner are a violation of Plaintiff's rights to due process or equal

protection of the law. Defendant Miller is a government actor, acting in collusion with Prosecutor Marleen M. Langfield, and his Fraud was accomplished by the time of the August 31, 2004 hearing. Plaintiff had his first hearing before a District Court Judge, Honorable John E. Popovich. Plaintiff simply did not like the result of the 'Marriage' being held valid simply because of Defendant Miller's failure to timely appeal the judgment made without giving Plaintiff notice, opportunity to prepare or to discover evidence, or present evidence by unrefuted affidavit already filed in the Court's Record.

Public defenders charged with conspiring with state officials in violation of 42 USCS § 1983 do not enjoy any immunity, qualified or absolute, from suit under § 1983. Glover v Tower (1983, CA9 Or) 700 F2d 556, affd, remanded (1984) 467 US 914, 81 L Ed 2d 758, 104 S Ct 2820.

Immunity of prosecutor does not extend to those persons who conspire with him to violate civil rights of others. Goldschmidt v Patchett (1982, CA7 Ill) 686 F2d 582, 1982-2 CCH Trade Cases P 64893.

Absolute witness immunity is based on the policy of protecting the judicial process and is "necessary to assure that judges, advocates, and witnesses can perform their respective functions without harassment or intimidation." See id. at 334-35 (citing Butz v. Economou, [438 U.S. 478, 512](#) (1978)).

As the Court stated in Briscoe, "[a] witness's apprehension of subsequent damages liability might induce two forms of self censorship. First, witnesses might be reluctant to come forward to testify. And once a witness is on the stand, his testimony might be distorted by the fear of subsequent liability." See Briscoe, 460 U.S. at 333 (internal citations omitted).

102. Plaintiff admits that merely losing at a hearing in District Court is not a violation of Plaintiff's civil rights, nor has or would Plaintiff make a claim based on that condition. Plaintiff's claims are well founded in settled law.

103. Plaintiff denies; Plaintiff has shown that Defendant Miller's Frauds had direct connection to the hearing where his Rights were trampled. Defendant Miller was allowed to withdraw from representing Plaintiff on June 9, 2004, after his Frauds had been exposed, but prior to the full consequences of his misconduct. Defendant Miller's actions were done prior to his withdrawal, and the losses were directly consequential to Defendant Miller's failures, neglects and conspiratorial acts surrounding his representation of both Plaintiff and Client Gartin.

104. Plaintiff denies; Defendant Miller, as a licensed attorney in the state of Colorado, has an obligation to protect and defend Plaintiff's legal interests that are well founded in fact and law. Defendant Miller would rather abrogate his ethical and professional responsibilities in violation of his ethical duties as an attorney. Plaintiff's Petition for Habeas Corpus is grounded in the Constitutional questions of the validity of a 'common law marriage' assertion, as well as the denial of due process of the law and its equal protection.

105. Plaintiff denies; while it may be true that an attorney may terminate representation of a client when the client insists upon presenting a claim or defense not warranted under existing law and not supported by a good faith argument for extension, modification or reversal of existing law, that is not the context of the present situation. Plaintiff's case is exceptional and unusual, presents a controversy suitable for the Court of Original Jurisdiction over both Common Law Questions and Colorado Constitutional Questions.

106. Plaintiffs **habeas corpus motion was a pro se crackpot** assemblage of arguments, claiming violations of various Constitutional amendments, as is the Complaint at issue here.

Plaintiff accepted counsel at every opportunity. Defendant Miller agreed to challenge judgments made ex parte, to appeal judgments made in hearing wherein Plaintiff was not notified of the objective of the hearing nor given time to prepare evidence and a defense to the question.

107. Simply put, Plaintiff is **legally illiterate**, but notwithstanding that lack of knowledge, files pleadings such as the habeas corpus motion in the IN REM Divorce case and the Complaint in this action to harass and annoy the other parties.

Plaintiff is illiterate in the law, but neither is that a reason to deny Plaintiff the exercise of his First Amendment Right to petition the government for redress of grievance.

108. In the IN REM Divorce case, Plaintiff has **filed so many pro se crackpot motions** that District Court Judge John Popovich ordered that counsel for Plaintiffs wife, Defendant Grier, need not respond to any motions filed by Plaintiff unless specifically ordered to do so. Defendant Miller's conduct left Plaintiff's case in such disarray and confusion that judgments were affirmed simply by virtue of his failure to timely appeal.

109. Defendant Miller failed to prosecute any motions, any appeals, any counterclaim, claim for maintenance, modification of the ex parte orders for custody of the two minor children.

110. Defendant Grier suborned perjury from her client in the hearing on the Constitutional validity of the purported 'common law' marriage. Defendant Grier filed false documents from the inception of the action, averring a common law marriage, asserting that it started in 1984, when testimony before the Honorable Court already established the fact that neither Plaintiff nor Defendant Grier's client, Victoria Lawlwer have ever professed to anyone to be any form of married.

Defendant Grier admitting to Permanent Restraining Orders and particularly the reasons for the Plaintiff's Restraining Orders.

111. Defendant Miller was a Public Defender, paid by the Alternative Defense Counsel, who colluded with the Prosecution to assert an improper and illegal stipulation to the Probation Agreement in case number 00CR3371.

The necessity to lie to his client, Mr. Gartin, necessitated him lying to Plaintiff as well, in order to deny Plaintiff due process rights and the equal protection of the law.

112. Defendant Miller's collusion as a Public Defender, with the prosecutor in 00CR3371 and 00CR2272, bring him within the ambit of being a State Actor.

Defendant Miller's collusion with Defendant Grier, a State Actor by virtue of her collusion with State Actor Defendant Chapman, brings him within the ambit of being a State Actor.

113. Plaintiff's allegations, claims and assertions are specific, well-founded and based in settled law. Any unfamiliarity with forma, or usages in Legal art, or failure to rise to some Literacy Test for exercise of a Constitutional Right is impertinent to the merit of the Complaint.

114. *Plaintiff's pro se pleadings must be construed liberally and held to a less stringent standard than formal pleadings drafted by lawyers. See Haines v. Kerner, 404 U.S. 519, 520-21, 30 L. Ed. 2d 652, 92 S. Ct. 594 (1972). This means that if the court can reasonably read the pleadings to state a valid claim on which the plaintiff could prevail, it should do so despite the plaintiff's failure to cite proper legal theories or unfamiliarity with pleading requirements. See Hall v. Bellmon, 935 F.2d 1106, 1110 (10th Cir. 1991)*

Plaintiff has not been afforded an opportunity to Amend the Complaint.

*A pro se litigant's pleadings are to be construed liberally and held to a less stringent standard than formal pleadings drafted by lawyers." Hall v. Bellmon, 935 F.2d 1106, 1110 (10th Cir. 1991). This broad reading of a pro se plaintiff's complaint does not, however, relieve him of the burden of alleging sufficient facts on which a cognizable claim could be based. Id. Even so, a pro se plaintiff who fails to allege sufficient facts is to be given a reasonable opportunity to amend his complaint if justice so requires. See Roman-Nose v. New Mexico Dept. of Human Services, 967 F.2d 435, 438 (10th Cir. 1992) (citing Fed. R. Civ. P. 15(a), "leave [*4] [to amend pleading] shall be freely given when justice so requires). [HN3] We review a district court's denial of a motion to amend for abuse of discretion. Ketchum v. Cruz, 961 F.2d 916, 920 (10th Cir. 1992).*

It can be argued that to dismiss a civil rights action or other lawsuit in which a serious factual pattern or allegation of a cause of action has been made would itself be violating of procedural due process as it would deprive a pro se litigant of equal protection of the law vis a vis a party who is represented by counsel.

In light of Plaintiff's pro se status, and in light of Fed. R. Civ. P. 15(a)'s requirement that leave to amend be "freely given," we hold that the court's refusal to grant Plaintiff leave to amend was an abuse of discretion. See Foman v. Davis,

371 U.S. 178, 182, 9 L. Ed. 2d 222, 83 S. Ct. 227 (1962) (refusal to grant leave to amend without justifying reason is abuse of discretion and inconsistent with spirit of Federal Rules).

115. Defendant Miller's answers and defenses fail by any standard. Plaintiff's claims are well-founded and attended by overwhelming evidence of their validity.

Wherefore Charles H. Clements, Plaintiff in pro se PRAYS the Honorable Court to DENY Defendant Thomas C. Miller's Answer with Counterclaims.

Respectfully submitted this 22 day of February, 2005

Charles H. Clements
1741 Dallas Street
Aurora, Colorado
usa 80010-2018
303-364-0403
chasclements@comcast.net

Wherefore Charles H. Clements, Plaintiff in pro se PRAYS the Honorable Court to DENY Defendant Thomas C. Miller's Answer with Counterclaims.

Respectfully submitted this 22 day of February, 2005

Charles H. Clements
1741 Dallas Street
Aurora, Colorado
usa 80010-2018
303-364-0403
chasclements@comcast.net

CERTIFICATE OF SERVICE
Civil Action No. 04-RB-2455 (BNB)

I, Charles H. Clements, undersigned hereby certify that a true and correct copy of the foregoing Plaintiff's Answer to Defendant Thomas C. Miller's Answer with Counterclaims dated _____, 2005, was served by (*) delivery to or (**) depositing the same in the United States mail, first class postage prepaid, or subject to service of process (***), this _____ day of _____, 200__, to the following:

CLERK OF THE FEDERAL DISTRICT COURT *
ALFRED A. ARRAJ UNITED STATES COURTHOUSE
901 19TH STREET
DENVER, COLORADO 80294-3589

THE HONORABLE JANIS E. CHAPMAN **
1100 JUDICIAL CENTER DRIVE
BRIGHTON, COLORADO 80601

KEVIN C. MASSARO, ESQ **
COLORADO REGISTER NO. 24682
3780 SOUTH BROADWAY, SUITE 111
ENGLEWOOD, CO 80113

TRACI VAN PELT, ESQ **
MEGHAN E. POUND **
MCCONNELL, SIDERIUS, FLEISCHNER,
HOUGHTALING & CRAIGMILE, LLC.
DENVER CORPORATE CENTER, TOWER I
4700 S. SYRACUSE ST., STE 200
DENVER, CO 80237

Charles H. Clements
1741 Dallas Street
Aurora, Colorado
Usa 80010-2018
303-364-0403
chasclements@comcast.net

From: "Chas Clements" chasclementsFLAME@comcast.net **PLAINTIFF'S EXHIBIT 1**

To: "Judith Phillips" <juphillips@comcast.net>; "steve gartin"

<stevegartin@yahoo.com>; "Frank Pugliese" <f.pugliese@comcast.net>

Subject: Katherine Grier Conversation

Date: Friday, March 05, 2004 1:06 PM

Hi Doc:

5 MAR 04

I am very disturbed after our talk yesterday; agitated and sleepless over the idea that the court considers me to be a menace and plans to jail me. You know I'm terrified of jail, and of having my life and health threatened by another false and unjust arrest. I'm having heart palpitations and panting for breath- anxiety stuff; sitting in my front room, waiting to be hauled away.

What statutory or criminal acts did Attorney Grier accuse me of- or anyone else for that matter? I need to prepare a defense for that, particularly seeing as I have already filed legal processes, if that's what they're accusing me of. Is the Supreme Court mad at me for filing a Writ of Habeus Corpus- even though denied, I'd be prepared to defend that one at any time. It wasn't lightly done, Doc, and you know what it cost me to even do it.

How much jail time am I in hazard of?

Is there some sort of Warrant out?

Who is the complainant?

Would you please make an official note of your conversation with Attorney Grier, detailing the nuance and implications of her tone and inflexion. Your account of the conspiracy against me by the various judges is truly frightening- all the deputies in the court to guard against something undefined- quotes from Judge Chapman about 'knowing where this comes from' as regards my responses to an unsolicited overture about a contract of which I had no knowledge.

I'm considering filing for sanctions against Grier based on her ex parte applications to David Juarez (the restraining order judge), and to Magistrate Chapman (the custody order on Mason), and her lying about informing me- in court, on the record. That's fraudulent as hell- particularly if she found an easy ear from administrators that she's cozened with tales of Patriotism. I have never had any contact with 'Patriots' more extensive than using the same water fountain or something.

This attempt to associate me with people who menace a judge is unconscionable. I know no such people; I do no such thing. I have appeared in front of Harlan Bockman with my son Hunter- last year, right after Vicky and I split, so trying to link me with someone who threatened his wife is utterly improper and unethical and I deny any such thing unequivocally. I hold no view that even remotely includes such a thing.

We made a common law reply to charges (by Victoria against Hunter), and as soon as it was possible to retain counsel, Hunter did. We immediately accommodated the convenience of the Court in all things, including agreeing to an expedited judgment.

We/I have always proceeded with counsel when able, and the only legal process I've filed has been in response to material submitted to me, and for purposes of clarification and definition of the legal process under which I've encountered. Nothing has been frivolous, vexatious, harassing, malicious, or ill-founded.

I'm trying to make arrangements for bond, and to cover any needs of my children if I'm imprisoned, but I'd appreciate a little more detail about what it is they're trying to charge me with. Thanks Doc

Complainant's Full name; Charles Harry Clements **(PLAINTIFF'S EXHIBIT 2)**
1741 Dallas Street
Aurora, Colorado 80010-2018
303-364-0403

Attorney's full name; Thomas Cecil Miller, J.D. Register Number 22652
1026 Lincoln Place
Boulder, Colorado 80302
303-484-8229

Attorney's full name; Katherine Grier, J.D. Register Number 30948
2701 Alcott St. #482
Denver, CO 80211
303-477-3980

Attorney's full name: Glen Roscoe Anstine II, Esq. Register Number 14384
4704 Harlan Street Suite 320
Denver, Colorado 80212

Attorney's full name: Marleen M. Langfield, Esquire, Registration Number 10355
1525 Sherman Street, 5th Floor
Denver, Colorado 80203

Instant Case:
03 DR 1773- Adams County Div. B-1
Janis E. Chapman, Magistrate

Date of occurrence 20 Jan 03 (as regards original retainer of services deriving from
00CR3371-2-3 Jefferson county)

Date of awareness; 4 Mar 04 (conversation with Katherine Grier)

Date of retainer; 15 Aug 03 (as regards original agreement)

Expiration of Statute of Limitations; about mid-October 2003

In the Original Agreement:

Attorney Thomas Cecil Miller, Register Number 22652 was retained on 20 Jan 2003 to pursue a malicious prosecution claim against the Bonilla Family and Attorney Glen Roscoe Anstine II, #14384, deriving from 00CR3371-2-3 Jefferson County.

1. Attorney Miller failed to inform me that he had a conflict of interest as concerning Glen Roscoe Anstine II, as Attorney Anstine supervises Attorney Miller in a bankruptcy judgment, and presently.
2. Attorney Miller deliberately destroyed crucial files, evidence and information germane to my claim by leaving them on the sidewalk for 're-cycling'.

3. Attorney Miller deliberately exposed client's privileged information, work product and evidence to public view on the sidewalk.

3. Attorney Miller deliberately deceived me about 'needing to wait until Gartin's case resolves'. Attorney Miller stated that one of the conditions of Mr. Gartin's probation was that he would not file any lawsuits. Attorney Miller maintained that my filing of a civil rights action would adversely impact Mr. Gartin's probation and that Marlene Langfield would violate his probation as a retaliatory and vindictive response to my filing suit.

4. Attorney Miller deliberately misled me about the Statute of Limitations. Attorney Miller often reassured me that everything was well under control as he continued to accept my services as "payment forward" for his continuing work on my case.

5. Attorney Miller allowed the Statute of Limitations to expire without action. When Attorney Miller returned the case file to me, everything was un-opened and un-read.

6. Attorney Miller continued to mislead me for six months after expiration of the two year statute of limitations on 42 U.S.C. § 1983 actions.

7. On 04 March 2004, just prior to the resolution of Gartin's case, Attorney Miller abandoned me, saying that he was 'welshing', and 'reneging on our agreement'.

8. Attorney Miller stated that he had already spent the money and had no way to repay me for the retainer and offered to work on some other case to satisfy his obligation; a defamation complaint, theft of intellectual property complaint, or an employment dispute and malicious prosecution. Mr. Miller failed to proceed or perform on any of them.

9. Attorney Miller continued to accept services as payment forward, solicit and receive small amounts of money 'for gas', solicited money to file a motion to seal (\$136) and then failed to file, or even write, the motion.

10. Attorney Miller failed to read any of the file; study any of the material or familiarize himself with the circumstances of the case for which I retained him on 20 January 2003.

11. Attorney Miller failed to supervise Attorney Caroline Stapleton or to keep her informed, or to delegate tasks, and summarily dismissed her without consulting me.

12. Attorney Miller failed to delegate reading to his paralegal, Pamela Hadas, for a preparation of her usual synopsis that Attorney Miller commonly used in preference to personal diligence. Attorney Miller has been very candid about his refusal to read case files or applicable law and statutes. He considers his refusal to read and slight diligence as inconsequential.

13. Attorney Miller failed to disclose his adverse interests to me as regards his improper relationship with the Colorado State Attorney General's Office agent, Marleen M.

Langfield, Esquire, Registration Number 10355. I have recently discovered that Attorney Miller has been vying for a position with the Colorado State Attorney General's Office.

14. Attorney Miller deceived me on behalf of Marleen Langfield, Glenn Anstine, and the associated prospective Respondents to my claim, and knowingly and intentionally represented their interests, to my damage, from the inception of our agreement.

In the IN REM Divorce Case:

1. Attorney Thomas Cecil Miller, Register Number 22652, has repeated that pattern of professional neglect and sloth as regards the instant case: 03 DR 1773 Adams County as well as regards the case he was retained to prosecute regarding civil rights violations in cases 00CR3371, 00CR3372 & 00CR3373 in Jefferson County.

2. Attorney Miller has deliberately and intentionally failed or neglected to question in Court, or to report to the Attorney Regulatory Counsel, the ex parte decisions, admitted on the Court's record, by Attorney Katherine Grier # 30948 and of her deliberate failure to notify Respondent of pending hearings in order to gain an advantage over an unrepresented party.

3. Attorney Miller failed or neglected to question or report the ex parte dropping of Permanent Restraining Orders against Victoria Leslie Lawler, failing to notify Respondent, and failing to address the Court to serious issues of Ms. Lawler's penchant for violence against Relator and Relator's children in Relator's absence.

4. Attorney Miller deliberately failed or neglected to address or report ex parte change of custody order depriving Relator's son, Mason, of a safe haven and sufficient parenting time from his primary caregiver, this Relator.

5. Attorney Miller has deliberately failed or neglected to address Victoria Leslie Lawler's heartless abandonment of, dire emotional abuse towards, and physical violence against our eldest son Hunter.

6. Attorney Miller has deliberately failed or neglected to address Victoria Leslie Lawler's domestic violence police record or her breaking of the Permanent Restraining Orders on some two dozen occasions noted to the Court of original jurisdiction to the Permanent Restraining Orders.

7. Attorney Miller deliberately failed or neglected to report to the Court or the Supreme Court Attorney Regulatory Commission Attorney Grier's failure to respond to Relator's common law response to Attorney Grier's common law complaint, and her ex parte applications to the Court without notice to Relator, as well as her attempt to profit by her default by charging fees to Relator for simply reading his common law response to her common law "divorce" action.

8. Attorney Miller deliberately failed or neglected to report to the Attorney Regulatory Counsel or to the Court, Attorney Grier's attempt during the phone call of 4 March 20March 04 to use threats of criminal prosecution and imprisonment, and citing a known bias by the entire Adams County Judiciary, and in the person of the Magistrate, to gain improper advantage in the civil matter and extort compliance to Attorney Grier's demands;

9. Attorney Miller failed to respond in a timely manner for Relator's Petition for Writ of Habeas Corpus as submitted to the Colorado Supreme Court, allowing valuable time to expire without any proactive response from Attorney Miller.

10. Attorney Miller failed to address, in the existing Habeas Corpus original action in the court of competent jurisdiction, the denial of Relator's First Amendment right to Petition the Government for Redress of Grievance; Fifth Amendment Right to due process; Sixth Amendment right to be aware of these threatened criminal charges, any evidence, any witnesses, as well as his effective counsel; Seventh Amendment right to common law process in a common law venue; Fourteenth Amendment right to due process of the law and it's equal protection.

11. Attorney Miller deliberately failed to file a refusal of the expedited divorce process and a Motion for Change of Venue due to judicial bias and prejudice and a motion to vacate voidable judgments made by the Adams County Judiciary in Attorney Grier's favor, unopposed by Relator, as no notice was provided as required by law.

Attorney Miller has intentionally failed or neglect to order transcripts, or do even the slightest diligence on Relator's behalf and has abandoned Relator and refused to pursue legal matters entrusted to Attorney Miller.

Relator believes and therefore alleges that Attorney Miller has been consorting and conspiring with the opposing attorneys to the detriment and damage of this Relator in all of the cases noted herein.

Truly yours,

A handwritten signature in black ink, appearing to read "Charles H. Clements", is written over a horizontal line. Below the line, there is a small vertical tick mark.

Tuesday, June 01, 2004
Charles H. Clements

First Judicial District Division 2 CourtRoom 5-A 100 Jefferson County Parkway Golden, Colorado 80401	▲ Court Use Only ▲
PEOPLE OF THE STATE OF COLORADO - Plaintiff v. STEVE DOUGLAS GARTIN - Defendant	Case Number: 00CR3371 Division 2 LPA
Friday, April 23, 2004	CourtRoom: 5A
INVESTIGATOR'S RESPONSE TO ATTORNEY'S MOTION TO WITHDRAW	

Comes now, the court appointed investigator, Frank Pugliese, (hereinafter known as “the Investigator”) in response to A.D.C. counsel, Thomas C. Miller’s allegations in his Motion to Withdraw in the above case. This response follows original numbered paragraphs as follows:

1. The investigator, Frank A. Pugliese, was appointed in this case matter by the Honorable Leland Anderson in January of 2000. The investigator continued to monitor the case at Bar during the Defendant’s probationary period, as had Attorney Miller.

2. This investigator recalls that event as stated.

3. This investigator agreed to remain on this case and “on-call” during the pendency of Mr. Gartin’s probation, due to the unusual circumstances of his probation agreement concerning defendants in a related case being named as his probation officer and to whom his urine analysis and anger management reports were to be forwarded. The possible conflict of interest caused this investigator some concern from the beginning.

4. This investigator has researched the public record and has identified many cases that were dismissed against Mr. Gartin and would properly be sealed or expunged, this case 00CR3711 was not among them.

I have been a criminal investigator since 1982, and have continued to practice my profession until the present time. I have assisted numerous federal and local law enforcement agencies in the bringing to justice of criminal cases pertaining to extortion, homicide, and real-estate fraud over my 22 years of service. I have been a Professional Bail agent for 13 years, during which I had a 5 year break to continue my investigative services. I attended and was Certified as a Criminal Profiler by the Community College of Aurora, an accredited College. Mr. Miller has knowledge of this since he borrowed my investigative book on this subject and has refused to return it as requested.

5. This investigator noted the change of judges for this hearing as unusual. The fact that two defendants in many of Mr. Gartin’s legal actions, Gary Clyman and Donald L. Estep, also appeared was noteworthy. The fact that the two defendants were obviously acquainted with Wally Barrett on a first name basis caused this investigator some concern.

Pertaining to Mr. Gartin's Motion For Forgiveness and to seal/expunge the records that I attended, was a pointless dramatic monologue by Mr. Miller which was both irrelevant and he had cited the wrong statutes. None of the cites had any pertinence to Mr. Gartin's sealing of records, he failed to support any authority to do so, when questioned by the Honorable Judge Munsinger.

6. The facts are as stated. Mr. Gartin retained me, through exchanging of services, in June of 2003, to investigate the possibility of Mr. Miller's, and Mr. Barrett's potential violation as to attorney client/privilege, and the possible involvement with the prosecution. Attorney Miller and Investigator Walter "Wally" Barrett were not privy to my investigation until my Final Report was filed to the Honorable Court; and the continuing association with the State Attorney Generals office as to cooperating in 'controlling his client,' that is to say Mr. Gartin, was revealed. My concerns are that while visiting Attorney Miller at his home in Boulder Colorado, he had stated he was attempting to gain employment with the State Attorney Generals office. This suggests a motive for his cooperation with the Attorney Generals Office.

7. Attorney Miller is mis-stating the facts. Mr. Gartin spoke with Attorney Miller about his case on or about April 1, 2004, pertaining to the surprise appearance of Mr. Carlos Bonilla in front of Mr. Gartin's home, at which time Mr. Miller contacted myself, THE INVESTIGATOR, to determine what investigation I was going to conduct in the matter. This Investigator explained to Mr. Miller, that unless there was verbal, or physical contact between the two parties, there were no violations to investigate. Mr. Miller stated that for several weeks he had no knowledge of Mr. Gartin's whereabouts, nor a way to contact him, yet on April 1, 2004, Mr. Gartin contacted Mr. Miller by phone, and from his home, to notify him as to the appearance of Mr. Bonilla. I, the investigator, suggested to Mr. Gartin that he be placed in a safe house pending his hearing dated April 8, 2004, in an attempt not to violate his probation should Mr. Bonilla return. Due to this evidence, I have found Mr. Miller's representation of Mr. Gartin's case to be questionable.

8. To my knowledge, Mr. Miller's refusal to use email is a very recent development. Mr. Gartin procured a free email account for Mr. Miller, docslaw@justice.com shortly after release from jail. A short time later, Mr. Gartin purchased Mr. Miller's domain name, www.docslaw.com and set up an email, doc@docslaw.com for Mr. Miller and set up his phone lines and computer in order to facilitate electronic communications. Mr. Gartin did indeed copy in several people on his communications with Mr. Miller during the month of March 2004, his concern, from the contents of Mr. Gartin's e-mails, was that Mr. Miller refused to provide the Motion for Forgiveness and Petition to Seal and the opposing motions. The e-mails were entitled "Doc's Anger Management Issues" and did not reveal any sensitive material related to Mr. Gartin's case, or that in any way "undermines attorney/client" privilege per se. The fact that Mr. Miller refused to provide the information Mr. Gartin was requesting could be construed to be a breach of that relationship.

9. It has been this investigator's experience with Mr. Miller that his willingness to discuss client matters with outside interests proves a much greater threat to "security of information" than any risk that a hacker would breach the security of a server AND have an agenda that would compromise any attorney/client confidentiality. Particularly in Mr. Gartin's case, where Mr. Gartin, himself, is completely unconcerned with concealing any information and quite regularly posts legal filings and information to his personal website, www.stevegartin.com/endgame.htm and is quite open about all of his legal issues. Mr. Miller's argument does not explain why he refused to provide Mr. Gartin with the information he requested.

During the course of my investigation, I have spoke with five different individuals to whom Attorney Miller has disclosed confidential and privileged information as regards this instant case matter. For the protection of these individuals from Mr. Millers uncontrollable anger and impulse for retribution, I shall hold them in confidence for their well-founded fear of retaliation by Mr. Miller and his confidant Walter Barrett. I am prepared to provide evidence should the court order the submission of their names, I would further request that Mr. Miller and Mr. Barrett or any of their agents, not contact these individuals, due to the fact that they are in dire fear of retaliation by these two parties. Attorney Miller's fits of rage and anger towards his clients have yielded numerous threats to "throw them in jail" if they didn't pay him more

money, as well as the demeaning profanity and personal slurs used during his relationship with these clients and their spouses.

10. This Honorable Court in itself appointed this investigator, not ADC, nor Mr. Miller. My responsibility was to my client, Mr. Gartin, and Mr. Miller ceased any assistance or contact with me in this case. I had no written order by this court, or knowledge that a removal of my services was in fact ordered.

I have researched the case files pertaining to case number 00CR3711 and I found two cases, one in Denver District Court, pertaining to Aaron Brown, whose attorney was Seufert T. Marshal. This was a drug case that I admit to never working on, nor did Mr. Miller's name appear on any documents in this case. The next case was pertaining to another Drug case out of El Paso District Court concerning defendant Andrea Dawn Wood, whose attorney was the Public Defenders office; and in this case also I agree that I had no knowledge of it, nor did I see Mr. Miller's name on any documents.

11. My responsibilities were to my client and this Honorable Court. Prior to submitting my final report, Mr. Miller had no objection, nor did he inform me of any change in investigator status, he only requested a copy for his records. As evidence may not be accepted without prior knowledge of the opposing counsel, I simply sent a copy of my report in a timely fashion, for the protection of my client and his assurance of evidence in this matter. It was not until Mr. Miller examined my report, in which some of his actions, those of his confidant Wally Barrett and the State Attorney General's Officer were called into question, that he objected to my status as investigator and retaliated with slanderous remarks as to my investigative ability.

12. Mr. Miller is acting on impulse for the concerns I made in my report, just prior to the April 8, 2004, hearing. Mr. Miller contacted me to inform this investigator that what I wrote suggests a violation of attorney client privilege and that he would retaliate in any manner possible to see that charges were made against me for my statements and actions.

13. Mr. Gartin has refused to involve Mr. Barrett in his case, first, due to the fact that I am his investigator of choice. Mr. Miller has violated attorney client privilege in another case matter with his investigator Mr. Walter Barrett, where Mr. Miller introduced Mr. Barrett and myself as the investigators on this particular case. I enquired of my clients as to the retainment of Mr. Barrett, and they stated that they never heard of him nor had any knowledge of his involvement in their cases. My client's were concerned that their case could be in jeopardy due to the very poor physical and mental state displayed by Investigator Barrett. Mr. Barrett was unable to respond to the judge's simplest questions in a coherent and cogent manner, nor was he able to substantiate or document his involvement in this particular case. Mr. Barrett appeared with bloodshot eyes, dilated pupils and fully flushed red, which my clients as well as Mr. Miller's clients, were concerned about the conduct of their case, due to Mr. Miller's gross violation of attorney/client privilege to an investigator unknown to them, or hired by them and presenting in such a tatty condition.

Mr. Gartin had made numerous objections to the involvement of Walter "Wally" Barrett, yet Counsel, against the wishes of his client, allegedly appointed Mr. Barrett to a related case that endangered Mr. Gartin's probation agreement, to-wit: 02CR3011. Mr. Miller continued to work with this investigator until his involvement as Alternative Defense Counsel, at which time Mr. Miller introduced Mr. Barrett, too, after which Mr. Barrett was financially compensated by the Alternative Defense Counsel even after I had submitted an invoice for my services and it had been denied.

Mr. Miller has continually acted contrary to his client's strong demands and instructions not to employ Mr. Barrett, which is another failure of attorney/client obligation caution on the client's behalf and professional responsibility. It is to be strongly questioned as to Attorney Miller's refusal to advance his client's interests and failure to take the instruction of his clients demands. Mr. Miller has demonstrated that he believed that Mr. Gartin should work for him without pay, as he has demonstrated by Mr. Gartin's thousands of hours assisting Mr. Miller without compensation to offset his representation, as he has done to other client's, unknown to this Honorable Court and to the Alternative Defense Council.

14. It is my understanding that Mr. Miller has demanded that Mr. Gartin only contact him by phone or U.S. Postal service. Mr. Miller could not possibly respond to Mr. Gartin's time-sensitive issues. Mr. Miller has continually gone against his client's demands by employing Mr. Barrett, which is a violation of attorney client privilege. Mr. Miller's refusal to cooperate with his clients and his client's requests is questionable. Mr. Miller has demonstrated that he believed that Mr. Gartin should work for him without pay, as Mr. Gartin has spent thousands of hours assisting Mr. Miller without compensation.

15. Mr. Miller, throughout Mr. Gartin's probationary period, has had Mr. Gartin perform Para-legal tasks, research, the building of a data base and assistance at court cases other than his own. Ostensibly these services were performed for Mr. Miller in order to pay Mr. Miller for legal services that were already being paid through ADC. 1.5 years of Mr. Gartin's time were spent working on other cases of other individuals as a professional paralegal and research assistant, all for no compensation. This in itself should bring a question to the court as to the continual violations Mr. Miller has made pertaining to attorney client privilege in other cases. Mr. Gartin has explained what he expected of Mr. Miller, and Mr. Miller has stated in a written response that he was unable to assist Mr. Gartin's case in an expert manner due to his lack of knowledge of the specifics of Mr. Gartin's case, although Mr. Gartin had repeatedly asked Mr. Miller to read the necessary documents pertaining to his case.

16. I was present on April 8th when Mr. Miller suggested to Mr. Gartin that they begin preparing a 35c motion in order to address the constitutional violations Mr. Gartin has suffered and to bring it under the "ineffective assistance of counsel" due to the fact that Mr. Miller had recycled Mr. Gartin's case file rather than reading it.

17. In this Investigator's opinion, Mr. Gartin has fully completed his probation under the most dire circumstances and should have been released from probation, withdrawn his guilty plea and this matter should have been over as scheduled.

18. In reference to the traffic stop and charges against Mr. Gartin in the State of Arizona, he was in fact stopped and issued a summons, un announced to me, until Attorney Miller contacted this investigator to enquire as to the date I traded this automobile that Mr. Gartin was driving. I stated then as I am now, the trade was made on October 9, 2003. This vehicle was stored in a private storage area, taken in as forfeited collateral, untouched until Mr. Gartin retrieved it on or about November 10, 2003. Attorney Miller, Mr. Gartin's Counsel as was confessed to me, told this investigator he was going to defend Mr. Gartin's case pro-bono, as he had told others, and would I send a modified letter to the Court in the State of Arizona, and falsely state that I had traded this vehicle, just before Mr. Gartin's, travel. I refused and stated that I would not falsify document's for anyone. Attorney Miller was angry with me and hung up.

19. Mr. Gartin has had no convictions during his probation period. He has reported every police contact he has had. He completed his anger management and urine analysis. He did not file any law suits and he worked enough hours for Mr. Miller to pay his "restitution." This investigator would suggest that Mr. Miller be responsible for the restitution payment.

But, again, Mr. Miller refers to the wrong case. Mr. Miller throughout the probationary period has had Mr. Gartin perform Para-legal tasks, research, building a data base and to appear at every court case, client transportation to courts and babysitting Attorney Millers Clients. Attorney Miller use for his personal gain one and one half years of Mr. Gartin's time, which was spent working on other cases of often with unsolicited onlookers. Mr. Gartin was involved with virtually every case Attorney Miller was contracted for, all at Mr. Gartin's expense for travel and expenses as a professional paralegal and research assistant, all for no income by Mr. Miller and without employment of Mr. Gartin in Mr. Miller's cases, a violation of Colorado Labor Laws. Attorney Miller stated that the probationary \$4000.00 was strictly a suggestion and did not have to be paid, therefore, Mr. Gartin was unable to secure gainful employment due to his employment from Attorney Miller in which to pay his restitution. This in itself should bring a question to the court as to the continual violations Mr. Miller has made pertaining to attorney/client privilege in all of his cases. Mr. Gartin has explained what he expected of Attorney Miller and Attorney Miller has stated in a written response that he was unable to assist Mr. Gartin's case in an expert manner, due to his slight

diligence in reading case files, lack of knowledge of the pertinent laws, and to advance as Mr. Gartin had requested him to do.

20. Mr. Gartin was arrested at the Broomfield Jail after visiting one of your clients, Mr. Kevin Brown, on November 23, 2002. Mr. Brown has filed a grievance against Mr. Miller, alleging many of the same crimes, misdemeanors and breaches of professional conduct that I have observed in this case and others.

21. Mr. Miller told me that he would also get me appointed as Private Investigator on that case and requested that I submit an invoice for the investigation I had performed.

22. This investigator appreciates Mr. Miller's kind words about my investigative skill, but 02CR3011 was not dismissed until 12 January, 2004. I was the investigator on this case, my investigation was completely concluded within three weeks. This investigator was introduced to the Lakewood Police Department by Mr. Miller as the investigator on the case. This investigator was also introduced by Mr. Miller to Joe Gilmore as the investigator. Mr. Miller in paragraph 10 of this motion calls me a "quasi-investigator," then complements me in paragraph 22. My investigation was through the retainment of Mr. Gartin, and recognized by Mr. Miller. If Mr. Miller did in fact have Mr. Barrett appointed on this case as well as Case number 00CR3371, after all investigations were completed, I believe his motives should be questioned as to the validity of Mr. Barrett's appointment and the possible unwitting involvement of Mr. Brian Shaha, and whether or not Mr. Shaha had knowledge of the conclusion of this investigation, and of my involvement prior to the appointment of Walter Barrett.

The following statements made by Attorney, Thomas C. "DOC" Miller are false and misleading:

a. Mr. Miller had full knowledge of his client's whereabouts at all times up and until April 2, 2004. It was not several weeks, and even with this in mind, Mr. Gartin never did accept this investigator's offer to be relocated; he remained at his place of residence, but refused to answer his phone. Please refer to this investigator's report to suggest that Mr. Gartin relocate, not that he did.

b. Mr. Miller stated case numbers in this motion, 02CR3711, that were blatantly a false statement, he was never involved in these cases. This case was mentioned not once but 7 times through the course of Mr. Miller's Motion.

c. Mr. Miller has slandered myself, my company, and my ability to earn an income due to his flamboyant allegations without any documented proof to substantiate his allegations.

d. Mr. Miller stated that he had put in hundreds of hours and invoiced the ADC for a case that was already investigated and concluded 3 weeks after knowledge of possible charges. This investigator was retained through exchange of services with the defendant and myself, with full knowledge of Mr. Miller, even as far as Mr. Miller introducing myself as the investigator to the Lakewood Police Department as well as Joe Gilmore, yet the ADC was invoice for investigative services of Mr. Walter "Wally" Barrett for a substantial amount of money.

e. The case pertaining to the sealing of Mr. Gartin's document were denied due to Mr. Miller's inaccuracies in the proper statutes in this matter. Mr. Miller's statutes pertained to the sealing of Investigator Gary Clyman's records, which was in fact denied since Mr. Clyman was not motioning this Honorable Court to seal his records.

Additionally, several of Mr. Miller's clients will confirm the fact that Mr. Gartin was working on their cases and that Mr. Miller charged them extra for his services, although he did not pay Mr. Gartin except for minimal computer consulting.

Wherefore, the Investigator, Frank A. Pugliese, submits his INVESTIGATOR'S RESPONSE TO MOTION TO WITHDRAW, to this Honorable Court for review and to contain in this case as evidence.

Respectfully submitted,

Friday, April 23, 2004

Frank A. Pugliese
P.O. Box 4772276
Aurora, Colorado 80047
303-306-1043

CERTIFICATE OF SERVICE BY FACSIMILE

I, Frank Pugliese, do hereby certify that a true and correct copy of the foregoing, Investigator's Response to Motion to Withdraw by Facsimile to the following parties on this 23rd day of April, 2004:

Clerk of the District Court
Division 2
303-271-6114

Deputy District Attorney Joseph Gilmore
303-271-6888

Alternate Defense Counsel:
Brian Shaha 970-392-9897

**CERTIFICATE OF SERVICE BY UNITED STATES POSTAL
SERVICE**

I, Frank Pugliese, do hereby certify that a true and correct copy of the foregoing, Investigator's Response to Motion to Withdraw by U.S. Postal service, with sufficient postage attached, to the following parties on this 23rd day of April, 2004:

The Honorable Leland P. Anderson
Division 2 First Judicial District
100 Jefferson County Parkway
Golden, Colorado 80401

Thomas C. Miller, Esquire
1026 Lincoln Place
Boulder, Colorado 80302

Marlene Langfield
c/o David Thomas
500 Jefferson County Parkway
Golden, Colorado 80401

Frank Pugliese, Investigator

Mr. Miller;

Below reproduced, you will find my letter to you and the response from your companion, Judith Phillips. I don't know that she gave you the message, so FAXing it is indicated.

You publish her e-mail address as a contact point for you.

Her characterization of my letter to you as 'angry', and her plaint that receiving messages for you is 'disturbing', and that she isn't a 'messenger service' is thoroughly inappropriate and ill-founded, considering your professional obligations to remain in communication with your clients. She is a member of your firm 'Docslaw' in her role as document specialist; the other member of your household, on the same computer line as you, and has provided e-mail services for you for some long time now.

Getting to the Post Office, much less to Boulder, is difficult for me, and you've instructed me to use this e-mail address in the past for your professional needs, as with delivering research results to you on various cases and other matters.

Her threat to me to charge some sort of 'harassment' is similar in tone and content to the threats you've made to others of your clients when they've caught you short and complained about your various instances of questionable practices, failures, neglect of client obligations, and as such is an indication of a pattern of professional misconduct.

I reiterate to you that I'm willing to ransom my case file from you. The jacket is not a problem, and I will throw in the hair-pipes I bought as replacements for the ones lost; no charge. Please do not destroy my file and evidence as you did with Steve Gartin's file. That material was germane and indispensable to the case I hired you for, so when you did it to him, Doc, you did it to me also.

If it's a matter of the \$3.00 postage to mail it to me, I'll send a money order when I mail you your jacket- if you want to handle it that way. In the alternative, I would be willing to go to Mr. Massaro's office and leave the jacket, returning to retrieve my file when appropriate- I can use the bus to get to Brega & Winters. I understand he represents you in the various court cases and grievances, so he would be another option.

I don't care to talk to you again, Doc. Nothing you've ever said to me has been other than duplicitous, mendacious, mis-leading and in support of your fraud. I'm sorry that you find yourself debased to do such things- you're a bright, personable guy, and can even dress up like a man when you get your jacket back.

Chas

(Judith Phillips letter begins)

Mr. Clements,

Please do not contact me by email. I do not provide messenger services for Thomas C. "Doc" Miller. I do not wish to communicate with you under ANY circumstances. Your angry messages directed toward my husband, through my email address, are disturbing. If you do not abide by my wishes, I will report any further harassment to the Boulder Police Department.

Judith Phillips
(Letter ends)

-----Original Message-----

From: Chas Clements [mailto:chasclementsSPOOF@comcast.net]

Sent: Friday, July 16, 2004 4:32 PM

To: Judith Phillips

Subject: Attention to Doc

Mr. Miller:

You have neglected and failed to return my file to me in case # 003DR1773.

The information you gave me about the court date, as being 13 July 2004 at 10:30 AM, was incorrect, as was your characterization of the meeting as a Temporary Orders hearing.

Your attempt at linkage between the black jacket and the return of my file is thoroughly unprofessional, at the very least. Of course the jacket is available at your convenience and at no charge. As you know, I'm mobility impaired, so delivering it is very difficult. I'm aware that you have business in Denver a number of times a week, and would suppose that access to be easy for you. Should you insist to exchange the jacket for my legal file as if ransomed, I'm happy to mail it to you, first. Please provide a current address for secure mail.

Of course, I will expect the return of the loaner jacket as well.

Your abandonment has forced me to appear today without counsel, and in the face of your actions adverse to my interests, and without the necessary file nor with trustworthy information about my obligations, options, nor any useful counsel or action on your part, to my great detriment and damage.

Chas Clements

From: "Steve Gartin" <gartin@intergate.com>
To: "Chas Clements" <chascllements@comcast.net>
Subject: Doc Miller
Date: Monday, March 15, 2004 8:17 PM

Dear Mr. Pugliese,

On the Third of March I attended a LexisNexis training session with Doc Miller. Upon leaving the training session, sometime around 10:30 AM, Doc received a call on his cell phone from someone he identified as "Kathy." During the course of this conversation Doc remarked, "well, don't worry, there will be no more of those filings." He also remarked, "well, we are the professionals here and we will diffuse the anger" which by the context of several other things said made me believe that they were speaking of Victoria Lawler's denigrating comments to Doc during the last court appearance in Adams County. Doc explained to me when he hung up that he had made notice of Victoria's lewd comment to the judge and Ms. Grier as they were all walking out of court. Doc then commented on Victoria's terrible anger and how it was complicating "Kathy's" case. Doc then suggested that we go to Chas' house to tell him the news. We continued eastward to 1741 Dallas Street in Aurora, where Chas lives.

When we arrived Doc began relating the substance of the conversation he had with "Kathy" to Chas and I. Doc's story confirmed my suspicion that he and "Kathy" were discussing Victoria's inappropriate behavior. He then stated that "Kathy" had also told him that the judge's wife had been victim to some sort of "patriot tactics" and that everytime Chas showed up at the Adams County Courthouse, security was alerted and standing by with orders to kill in case of any conflict. He then stated that the judge would "throw Chas in jail" if he continued to file motions in the Supreme Court.

Chas asked what charges they were capable of filing. Doc replied that as long as he was Chas' lawyer and Chas did not file any more motions, "they" would not throw him in jail.

Chas explained that Victoria Lawler's attorney, Ms. Katherine Grier, had filed an IN RE: divorce action presuming a common law marriage that did not exist and that he simply questioned the validity of the purported marriage that both he and Victoria Lawler had always agreed never existed. Doc explained that it did not matter and that "they" would throw Chas in jail if he did not hire Doc as his lawyer.

Chas then explained that he did not pay Doc the \$1500 retainer a year ago to go after his companion of over a decade, but to seek redress of grievance in the form of damages against the people who unlawfully charged and incarcerated Chas on the dismissed Jefferson County Case 00-CR-3372, wherein

Chas felt he was due damages for false imprisonment, unlawful arrest and other civil rights torts.

Doc then replied that he was "welching" on the deal and since he did not have the money to return to Chas, that he would handle the IN REM Divorce action, and that if Chas refused to allow him to work off the debt that Chas would go to jail.

Chas asked why Doc would think that he would pay Doc to consume the substance of his family, no matter how estranged for the moment.

Doc replied that it was Chas' retirement plan. Chas explained to Doc that proceeding against tortfeasors who had continually damaged Chas' business and reputation and had conspired to throw him in jail would provide the means for Chas to insure his own retirement without adversely affecting his family.

Doc again retorted that Chas was going to jail if he did not hire Doc to prosecute his IN REM Divorce and that Doc was not going forward on any of the suits from which he and Chas had originally negotiated as the foundation for the advance of \$1500, the custom leather chair, the leather jacket, and repair of several of Doc's leather accoutrements.

Doc said that he had lied to Chas and that he was broke and could not repay the \$1500, nor could he provide services for the services Chas had rendered in advance of Doc's anticipated prosecution of several tort actions available for Doc to choose from.

Chas then asked Doc why he had spent money that was supposed to be held in trust until the cases were commenced. Doc explained that Judith Phillips had spent the money on her credit cards and Doc simply did not have the money to repay and firmly refused to commence any case for which Chas had provided the retainer. He stated that he would do the IN REM Divorce and nothing else.

Chas then asked why Doc asked to take the IN REM Divorce case in return for Chas' professional leathersmith services and now wanted to convert that agreement into payment for the \$1500 that Chas had provided as the retainer for other tort cases?

Doc replied that he would do the IN REM Divorce, but none of the other cases and that he was not going to give the money back either.

Chas appeared confused and incredulous and suggested that Doc and I leave and give him some time to assimilate the new information Doc had just given him about "welching" on the deal and Chas in danger of going to jail.

Doc and I departed.

I attempted to find some other case that Doc could work off the \$1500 retainer on, but he was adamantly opposed to commencing any tort action what-so-ever. He was focused upon "going after" Victoria Lawler and kept repeating to me that he was not going to do anything else. He repeated many times that Chas was going to jail if he did not do what Doc demanded. When I asked Doc what they planned to charge Chas with, he told me "patriot activity" and whatever else they wanted to.

The foregoing is true, correct and complete to the best of my recollection.

Steve Gartin 720-404-1812
2363 1/2 South Decatur Street
Denver, Colorado 80219

Gregory G. Sakaroff

Regarding the grievance by Kevin Brown, the ethical violations and extortion in the Frank Pugliese complaint, and the complaint filed by Steve Gartin (04C1779) as regards fee-splitting and a failure to rise to minimal professional standards of conduct and performance, I am a witness to much, if not all, the actions perpetrated the filing of these complaints and grievances.

I'm a witness to Attorney Thomas C. Miller's defamation of Frank Pugliese as well as his fee agreement with Steve Gartin, and his conduct as regards the Kevin Brown matter, the Rich Wyatt matter, the Joel Costello matter, and a number of other significant ethical and legal violations or professional omissions. It would be my suggestion that no investigation of Attorney Miller go forward without interviewing me, reviewing my documentary and other evidence.

Yesterday, I received notice from Attorney Miller that he intends to withdraw from my ostensible IN REM Divorce case, citing the fact that I may be called as a witness against him in various actions commenced by others and irreconcilable differences. Attorney Miller did not elucidate any "differences" that he construed to be irreconcilable. It is not my fault that I am a Witness, nor that I've been called/named in the various cases, and Attorney Miller's withdrawal from representing me is a sham and a continuing fraud which I will expound upon in greater detail.

Attorney Miller has depleted my very limited resources, and now seeks to abandon his professional commitments to me and to make good on his threats to see me jailed and impoverished as part of continuing malicious prosecution and retaliatory harassment viz my witness in Federal Court on several 42 U.S.C. 1983, 1985 & 1986 actions and a R.I.C.O. action.

I initially contacted Thomas C. Miller through Frank Pugliese of AFP Investigations in 2002, and he represented Steve Gartin in a related case to mine. I spent a lot of time with the Court's investigator, Mr. Pugliese, to bring him up to speed on the intricacies of that very complex case, and spent a great deal of time with Attorney Miller on the same agenda. Mr. Gartin has been subjected to continuing malicious and retaliatory prosecutions for over a decade now, with no relief in sight. Attorney Miller presented as a "trial lawyer" crusading for the rights of the innocent and down-trodden, which seemed a perfect match for Mr. Gartin.

A secret statewide grand jury was convened contrary to statutory authority by Special Prosecutor State Attorney. Without so much as a mention of my name in grand jury testimony, I was charged with 15 felonies and 1 misdemeanor in addition to the one charge in which my name was mentioned, but no probable cause could be proven that would support the charge. My case (Case 00CR3373) was dismissed at the petition of Marleen Langfield, and my attorney, Cynthia Sheehan. Attorney Sheehan advised me that I had a very strong case for malicious prosecution and gave me a list of civil

attorneys who handle 'malicious prosecution' type cases. Her files are with Attorney Miller at present, and he refuses to return them, I suspect as part of the continuing conspiracy to prevent me from filing suit against the government actors who perpetrated these crimes against me.

I approached Lawyer Miller for representation in the civil suit, as he was familiar with the whole situation and had committed to represent Steve Gartin civilly as well as criminally. You can see my grievance against Marleen M. Langfield, Registration Number 10355 in late 2001(Attached as Langfield Grievance) That grievance forms the basis of my complaint that Attorney Miller agreed to prosecute in my behalf.

Reference also the grievance from Eric Gordon Mitchell as regards Marleen Langfield, filed about 19 October 2001, and the Federal R.I.C.O. action filed by Mr. Gartin (01-ES-1145).

Attorney Miller originally advised that there might be a conflict of interest and demurred until the case was 'more settled'. I approached the ACLU through Attorney Lisa Culpepper and was considered for about five or six months before they demurred, saying it wouldn't affect enough people. I consulted with Attorney Kevin Massaro (Brega & Winters) at length before he advised me that his firm defended the police and it would be inappropriate to take my case.

On January 20, 2003 Attorney Miller invited me to his law office at 1032 Lincoln Place to discuss the merits of my civil action. He introduced me to his legal team, outlined the strategy he expected to place into effect and he accepted my case. He advised that any action I commenced would raise the ire of the State Attorney General's Office and create problems for Steve Gartin's probation period, so he advised that the interim from that date until Mr. Gartin's probation was completed would provide time for preparation and planning. Attorney Miller advised me that Mr. Gartin's probation agreement prevented him from filing any lawsuits until 8 April 2004. Initially, I performed specialty leather work for Mr. Miller as a retainer. Then in August 2003 I gave him \$5,000 against costs and fees; \$3750 by check and endorsed an uncashed \$1250 check for his **trust account** record as if paid for studio work ordered by Attorney Miller and his significant other, Judith Phillips, who Mr. Miller bragged owned all the assets so that he could not be sued.

He enjoined me to trust him; made plain he was my lawyer and had the case well in hand in front of many witnesses, including clients, his family, his associates in the lawfirm and associated professionals such as his investigators. We had strategy sessions, informational instruction, assignation and development of damages, informal conversation about allied cases and so on.

I also did other work as payment in kind for Attorney Miller; studio work as an artist, bodyguarding, consultant, researching, and so on. In these capacities, I was privy to attorney/client privileged information as regards clients Brown, Costello, Wyatt, Gartin, some partners in a gun shop, and so on. I was privy to his home life, his professional associations and knew members of his lawfirm 'Docs Law'.

Attorney Miller actively and directly solicited me to handle my IN REM Divorce purportedly as a gift to me in respect for my mentoring and instruction, close personal friendship and as 'practice' for his prospective entrance into domestic law as a specialty. I had just lost a simple question in front of Magistrate Chapman and Attorney Miller insisted that he could rectify the matter easily.

Attorney Miller represented that he would go forward on my primary complaint against the Bonilla's (or whatever appropriate charging) when Gartin's case was resolved as per the supposed probation agreement- which agreement proved to be a sham and a lie. We learned on 8 April 2004 in Judge Munsinger's court that Attorney Miller had been in collusion with Attorney Langfield to divert any complaints of malicious prosecution or other associated actions arising from their vindictive prosecution of 00CR3373 in order to intimidate me against testifying in the Federal Civil Rights actions noted above. Attorney Miller's lies to Steve Gartin were the basis for his lies to me.

He intentionally allowed the statute of limitations to expire on my complaints, kept me unaware of that for some further months. On 4 March 2004, Attorney Miller told me he was 'welshing' on our agreement, but if I didn't allow him to go forward on my IN REM Divorce, I would go to jail. Attorney Miller cited his conversation with Attorney Katherine Grier Register Number 30948, Attorney for Victoria Lawler's threats to him per phone call that very day. Citing a collusion between she and several Adams County Judicial Officials to incarcerate me for acting pro se in a civil action.

The same witness, his paralegal and research assistant was present during that phone call, discussed the nuances of the conversation between Attorney Grier and Attorney Miller and was also present at the subsequent meeting in which Attorney Miller reneged on his agreement with me, and when Attorney Miller threatened me with jail if he didn't represent me in my 'divorce' action. He clearly and repeatedly stated that only he was standing between me and jail.

Attorney Miller was clearly in collusion with Katherine Grier Reg. #30948, representing my long-term associate Victoria Lawler in his intentional failure to report such a violation of the Ethical Rules to the proper authority. On 4 March 2004, Attorney Grier represented to Attorney Miller that the Judges in the Adams County Court system were prejudiced against me, had extra security whenever I was in the building, and were capable of making 'trumped up charges (against me) like they did with Gartin' unless he protected me, and that I would surely go to jail if I did not accept his representation.

Attorney Miller relayed to me, in the presence of witness, that Attorney Grier maintained that my petition for habeas corpus in the Colorado Supreme Court had angered the judiciary of Adams County, and they were going to put me in jail.

The phone call was witnessed by Attorney Miller's paralegal; they were attending a Thursday Lexus Nexus training workshop and received Attorney Grier's phone call as they were leaving the class. They came directly to my home to inform me of that

conversation and the issues it raised. I also noted the contents of that conversation on 5 March 2004 by e-mail to Attorney Miller and have a taped phone call in which we discuss those issues.

The factual basis of Attorney Miller's conversation with Attorney Grier was borne out in court when the Magistrate, Janice Chapman, observed that they 'knew where these filings come from'. Supposedly, Judge Harlan Bockman's wife had been threatened by someone, and they sought to conflate my conduct with his in some manner.

The discussion of the ex parte hearings, sans notification to me, was referenced in the court setting, as was the improper denial of both 1st Amendment rights and my rights to due process of the law conducted without favor or prejudice against me. This was all relative to the "divorce" action in which both Attorney Grier and Attorney Miller give the appearance of conspiratorial collusion to my detriment.

Threats of jailing for filing pro se have been made by Attorney Miller, to me, on numerous other occasions, including within the courthouse itself at hearings. He has acted as if my arrest were imminent but for his protection of me from the stated judicial bias, and Attorney Grier's malice towards me expressed in her collusion in the denial of my right to due process and equal application of the law. I am now afraid that Attorney Grier's threats will be made manifest, and that I stand in hazard of arrest if I don't have a lawyer and attempt to answer the Court when I can't afford a lawyer any longer, due to their conspiratorial collusion in my case.

Attorney Miller agreed to, but failed to get the transcripts of the judicial exchange regarding Attorney Grier's failure to notify me, and her exploitation of ex parte access to have critical judicial orders set aside or changed. The orders in question were from Magistrate David Juarez as regards permanent restraining orders against Ms. Grier's client, Victoria Lawler, and his custody directions as regards my youngest son, Mason Clements. Attorney Miller has failed to attend to any of the issues he agreed to handle.

Attorney Miller failed to move forward on Katherine Grier as regards improper ex parte hearings on my restraining orders for Domestic Violence, on behalf of myself and my two sons, against Victoria Lawler. Also an improper ex parte hearing on child custody issues, and such other improprieties as Attorney Grier might have committed in failing to report judicial bias as related to her; using the threat of criminal prosecution in order to gain advantage in a civil matter, and moving forward on the fraud as I allege in the Supreme Court submission.

Attorney Miller failed to file timely motions to change the venue for prejudice, recuse the judiciary of Adams County from hearing this purported IN REM Divorce case, set aside the orders made in a prejudicial context, censure Katherine Grier for her ethical lapses and set aside the orders made ex parte, and to revisit my application to the Supreme Court, as it has been vindicated by subsequent events.

On or about 8 April 2004, it came to light that Attorney Miller had improperly colluded with Marleen Langfield to prevent the filing of any complaint by Steve Gartin, and that Attorney Miller had likewise deceived me, as my case was related to the Gartin situation. His performance of 04 March 2004 had been another lie and his acceptance of a retainer and good faith work had been a complete fraud from its inception. He had continued an improper collusion against his client Gartin with Marleen Langfield, and with Attorney Anstine, and on behalf of their various clients and co-conspirators.

Subsequent to the 4 March 2004 meeting, Attorney Miller returned some of the paperwork I had given him- completely unopened, unread, unmoved. He didn't review video tape, or sound recordings, or familiarize himself with the case at all. He neglected to return the 'Sheehan' portion of the file- the most cogent material to the malicious prosecution case. He had done absolutely nothing of due diligence of the most basic process of familiarization with a case.

I further find out that he is a crony of the putative Defendants to the case in the person of the Bonilla lawyer and primary complainant in the false charges against me, Glenn Roscoe Anstine II, Esquire #14384. Attorney Anstine was the Trustee of the disposition of Tom Miller's bankruptcy, as well as the attorney mentioned in grievance of 7 September 2000 (attached as ??) and numerous court filings complaining of major ethical and criminal violations. Unknown to me, Attorneys Miller and Anstine are in a relationship of subordinate to superior, and that has colored his representation of me at all times.

Attorney Miller is well known for extorting his clients with threats of jail, either by his own direct complaint, or by giving slight diligence and ineffective representation in a court hearing, resulting in jailing of his client or in deliberately missing court appointments so that warrants for failure to appear are issued against his clients. His clients Costello, Wyatt, Brown, Elaison, Gartin and I have all experienced such shenanigans and been subjected to the consequences that he avoids, as a holder of a B.A.R. card.

Attorney Miller is a continuing threat to any client. He is careless, destructive, lazy, incompetent, mendacious and willing to betray his client's interests to their opposition for his own personal aggrandizement and pecuniary gain.

Attorney Miller has made it known that you and he are longtime friends, dating back to law school. It has been reported to me that he asserts enjoying a certain confidence in the disposition of his various grievance cases because of that association. If it is known to me, it is known to others as well. While I would hope that his expectations are unfounded, I would also hope that any possible misperception of a bias would also be assiduously avoided.

Charles H. Clements
1741 Dallas Street
Aurora, Colorado
USA 80010-2018
303-364-0403
chasclements@comcast.net

Judge William Lucero
Office of the Presiding Disciplinary Judge
Attorney Regulation System
600 17th St, Ste 510-South
Denver, CO 80202

Date: 8 Aug 2004

Re: Request for investigation of Thomas C. Miller, #2004-2068

Your Honor

As Attorney Matthew Samuelson, Assistant Regulation Counsel, has indicated that further material concerning an investigation of Attorney Thomas C. Miller, sent by any means, will be destroyed without review, I bring this matter to your attention.

Your office was kind enough to provide the correct fax number for the Attorney Regulation Counsel, and to indicate that faxing material to the Counsel is an acceptable format in which to provide material germane to the investigation of an attorney.

My concern is three-fold; the question of faxing investigation material to the Office, the closing of the inquiry before proofs were requested, and the idea that material would be destroyed without review in some attitude of pique.

I say with respect, sir, that this seems a very facile dismissal of my complaints. I feel there was an incomplete investigation. I feel that there was little or no guidance from the Attorney Regulation Counsel's Office as to their needs in an adequate investigation.

I turn as a layman to the Counsel's Office. I've tried to satisfy everything of which I've been made aware. I've named names, cited documents, referred to case numbers, in the expectation of some interview, some request for proofs, some indication that my complaint was taken seriously.

I am not a frivolous man; nor given to hyperbole nor false accusation. I am 60 years old, and have made it most of my life without ever having to deal with a lawyer, or a court, at all. I don't know the intricacies of the profession, nor of investigation, but I do know when I've been cheated; treated in an unethical manner, shameful to your profession.

I am sending Mr. Samuelson's letter by postal service.
Very respectfully submitted, and thank you Your Honor-

Charles H. Clements

Charles H. Clements
1741 Dallas Street
Aurora, Colorado
80010-2018
303.364.0403

Carolyn Stapleton, Esq.
Attorney at Law
by e-mail

(13Jun04)

Dear Attorney Stapleton:

I am a friend of Steve Gartin's, whom you met at the cutlery store. We are longtime associates, and I was his primary Witness in his cases against the various government agencies and so on. I have been subjected, by officers of the law, prosecutors, and involved corporations and individuals, to a deliberate and malicious attempt to improperly influence me, as a Witness, through actions, threats, intimidation and defamation.

The question stems from my position as a 3rd Party Witness for Steve in Federal District Court on his behalf.. He was complaining of various abuses of his civil rights by officers of the Jefferson County Sheriff's Department, the District Attorney's office and some magistrates/judges. As an adjunct of this complaint, he also included a person in the State Attorney General's office, Maurice Knaiser, council for Henry Nieto, Judge of the Appellate Court, and some private individuals who had instigated or enabled the abuses complained..

Over some good period of time, some four years or so, I have been threatened by lawyers, a police officer, Sheriff's Deputy, and an FBI agent, that my witness for Mr. Gartin would 'lead to trouble'. They have sought to extort, by threat of force, an abandonment of my responsibilities to a court to render truthful testimony in order to cover their abuses as charged in the actions.

On February 19th, 2001, I was surprised to be arrested at my home by the Fugitive Apprehension team from Jefferson County on a Fugitive Warrant based on a Secret Grand Jury Indictment issued 60 days prior (23 Dec 00). There were sixteen charges; Attempt to Influence a Public Official, Filing False Instruments, Criminal Extortion (multiple counts) and Carrying a Concealed Weapon on a Jefferson County School Ground. (Ref. Case number 00CR3373)

I was afforded a public defender and upon her appearance, the first fifteen felony charges were dropped within the first 90 days or so; as was the misdemeanor CCW. None of the charges had anything to do with me although they had been presented as reason for treating me in such a manner..

The surviving felony, Criminal Extortion, was carried by Special Deputy State Attorney General Marlene Langfield for several months until a motion was made by the District Attorney's office to dismiss. The charging was inappropriate by any measure- even if events had transpired as they alleged- which they had not.

It was a vindictive, malicious and selective prosecution to gain unfair advantage in a civil case/s against them, and a realization of all the documented threats they, themselves, had been making for a number of years..

I was thoroughly cooperative throughout the experience.

The indictment for 'Criminal Extortion' was based on deliberate material perjury by two witnesses to the Grand Jury.

One of the witnesses, Hector Bonilla, is the brother of a Federal Confidential Informant, member of an international criminal gang (La Eme; Cinco Familias). He was the complainant against me.

Another witness, Victoria de Thouars-Tollman, testified, under oath, about a fictitious event that seemed to support the idea of such conduct as was alleged by Hector Bonilla. She spoke on behalf of Sherman & Howard lawfirm and for her own self-aggrandizement, giving a false account of her involvement and knowledge. She represents several deep pocket entities and her perjury is beyond dispute and immediately demonstrable/provable.

Both of the witnesses were well known to the prosecution team, but not to each other, and both of them gave perjury that can be proven in a court of law.

I believe that their testimonies were suborned as perjury by the prosecution team in the person of Don Estep, Gary Clyman and at the direction of Marlene Langfield, Senior Deputy State Attorney General.

I believe that my arrest, detention and treatment whilst in jail was to threaten and intimidate me against giving truthful testimony in their actions against Steve Gartin. I believe that the entire prosecution was an attempt to gain advantage in Mr. Gartin's Federal Court action by attacking my 'credibility' as a Witness for the Plaintiff and obstructing due process of the petition for redress of grievance..

I believe that even a casual examination of this sequence of events will reveal a broad pattern of abuse of process and obstruction of justice under color of authority by these people.

My initial one year statute of limitations complaining vindictive/malicious/selective prosecution will come up sometime around 3 Oct 02, as the anniversary of the date that the last charges were dropped. I have reserved action while trying to find an attorney to represent me in actions against the various actors; State, county, corporate and individual, while simultaneously trying not to get in the way of Steve's troubles with them.

The several attorney's I've spoken with have been uniform in saying that I have a strong cause of action, but have demurred to get involved because of either their specialty interests being different, or their firm's inability to proceed with what they think will be

an expensive prosecution. It is primarily a matter of scrutinizing the record, as everything has been documented as we proceeded.

I wonder if you would be available for consultation with the intent of soliciting your firm to prosecute this complaint. Some of the complaints against individuals are so instantly provable, that I would contemplate several of them settling immediately and paying the freight for the prosecution of the rest.

Thank you for your time and kind considerations-
Very truly,

Chas Clements

RE: Doc's Anger management issues via FAX

Good morning Doc,

Chas relayed your message of 9:15 AM 4.5.04

"doc miller calls, incensed at Gartin's last e-mail of Sunday."

I suppose that would be this message:

Doc Miller,

Your refusal to read or communicate with me is creating difficulty in your competent representation of my case and my interests. You have requested information REPEATEDLY that is contained in the Supreme Court Brief. Please simply READ and quit asking me the same questions over and over.

The BIG BLACK wall of NONcommunication is creating problems. I would like you to please take advantage of my long, arduous and continuing effort to communicate with you and to make you available for communication from your other clients.

Turning on your FAX machine is a small thing to ask Doc.

With fond regards,

Steve Douglas, Gartin (your client)

Saturday, March 13, 2004

Good Evening Mr. Miller,

Sunday, April 04, 2004

I realize that it is Sunday evening and that you will not see this communiqué until afternoon tomorrow when you and "Cookie" awaken, but I have not heard from you in recent history and I hope to be in line for your attention when you decide to consider your professional obligations to your clients. After the untold hours of teaching you to communicate on line and the great expense I have carried to make sure that you have email and websites, it seem that the only means of communication I can prod from you is the FAX machine, so I will endeavor one more time to get your attention by FAX at the risk of being accused of felony FAXing again.

As you are aware, your agreement with Marlene Langfield that I will not file any lawsuits expires in less than a week. I don't know what all agreements you intend to "welsh" on, besides the one that Chas retained you to pursue, so during this period of constructive confinement I want to prepare the VanDusen suit, whether or not you intend to participate as you have promised. I have asked you several questions concerning when Renita O'Ferrill was charged, when she was convicted, or plead; and what the charges were against her and what her sentence was, but you have not yet responded to several

email requests. I understand that you have lost the first 35 pages of the discovery provided by Joe Gilmore in 01CR3011, which was recently dismissed against me; but I still need that information to prepare the Van Dusen suit. I would appreciate it if you would provide that information VIA email to me, or VIA FAX or phone to Chas or Frank – they are both email literate and can pass that information along to me if you would even be so kind as to call them with the information. I have requested information concerning pending matters, but have received no response from you what-so-ever. I trust that you will take time to email me the information I have requested concerning current and on-going cases. If you have somehow lost my emails or FAXes, ask Chas or Frank to send you copies or to read them over the phone.

Sincerely yours,
Steve Gartin (your client)
sheriffsteve@justice.com

CC: Chas Clements
Frank Pugliese
Caroline Stapleton

www.kuntaosilat.net
www.kuntaosilat.com
www.thunderrock.net

"Doing his case harm."

Actually Mr. Miller, I assumed that this case was well in your control. I am concerned to know which matters you are "welching" on so that I can make preparations to proceed without you. You have assured me that you have the April 8th issues under control.

"Going after Frank for unprofessional conduct- contacting judge directly; aspects of case revealed; attorney-client relationship"

I fail to see what Frank has revealed that is not true, correct and germane to the issues before the Court. I think Judge Leland Anderson would be interested to know about the concerted conspiracy to prevent me from seeking redress of grievance from the terrible persecution I have been subject to.

"stop saying Gartins' life depends on it."

Mr. Miller, those were your exact words. You have informed me that Marlene Langfield and Gary Clyman are "out to get me" and even more adamant about "getting Chas."
Have things changed?

"withdrawing from Gartin's case- not a slave or a combat soldier; attorney decisions on behalf of client interests"

Are you withdrawing BEFORE the final curtain call?

"incensed about being called 'welshing' "

That was your term Mr. Miller, spoken in the presence of a Welshman who had paid you a retainer to proceed in suit against government servants who had grossly violated his constitutionally secured civil rights, when you told him that you were NOT going to do what he had paid you to do. Now, I understand that you are also renegeing on my case for which the STATE has paid you quite handsomely. Perhaps another term would be more appropriate?

"reminded him that I am Welsh; ethnic slur"

"Refuses to go forward with Van Duesen or Paladin henceforth; 'paying clients' who take counsel (as opposed to Gartin and Chas)"

That was my question Mr. Miller. Please IMMEDIATELY return all associated files so that I can begin to prepare to go forward without your assistance. No need to get angry about it. I can handle the details. I'm very disappointed with you, but I'm not mad at you. Since you committed Pamela to the drug rehab center, you have not had much of a legal practice to rely on. It is difficult to proceed in a library science profession when you refuse to read anything except fiction novels. Without Pamela's skills there is little assistance that you can offer, and it now appears even less that you are willing to.

"refuses to use e-mail; bite you in your ass. Too easy to write ill-considered sentences that come back to bite you in the ass."

Well Mr. Miller, you must recall that I told you that when you attempted to squeeze another \$5000 out of Harold Brown by wire transfer before you would agree to meet with him and Kevin to discuss the case they had paid you to consummate. I told you then that it was a bad idea to email that communiqué - and it did indeed cause a problem for you.

"threatens Gartin with Conviction on 8th for disseminating information"

It occurs to me that you have threatened all of your clients with jail, I'm not sure that is ethical behaviour Mr. Miller.

"contempt of court"

You are not the only one who knows the respect I have for the Honorable Leland Paul Anderson. I'm a bit surprised that you would make such a statement, but then again, you have threatened many of your client with similar thinly veiled comments. If Judge Anderson finds offense with anything I have done, I will be anxious to offer him an apology in open court.

"could have won a week ago, but Gartin has damaged his case with copying in people on e-mails and Doc can no longer represent Gartin"

Well Mr. Miller, you are the one who asked me to gather a crowd for you. As a matter of fact, you said something along the line of "your case will go 6 times better with 60 people in the gallery than with 10 and your life depends on it." I have simply complied with your demands as best I could under the threat that you relayed to me. Estep and Clyman have spent years investigating every aspect of my life . . . right up to present. I have nothing to hide from anyone, anywhere and certainly nothing to hide from Judge Leland Anderson. I fail to understand what information you take exception to. Would it be asking to much that you explain, with specificity, what you are referring to?

I am yet unclear as to *when* you intend to "welsh" on this current case. Do you plan to be there on the 8th, or are you "welshing" today?

Since you have decided to "welsh" on the Paladin case and the Van Dusen case, please return the entire case files, records and any notes, communications and etc. immediately and do NOT set them out on the curb to be recycled as you did the records of the active case which is at issue on the 8th of April and still before the Supreme Court on several original jurisdiction writs. You can deliver them to Chas in lieu of destroying or disseminating them at random.

Please also provide me with your communications and all information on the Flagstaff case and the restraining order case at your earliest convenience.

I understand that you have some very serious anger management issues Mr. Miller, but there is no need to be vitriolic and vituperative with Chas. He has no control or influence over my behaviour and it seems inappropriate to expose an attorney/client relationship to outside parties.

It is unfortunate that you have decided to refuse to communicate by email, especially when I have no other means to communicate at present. You have long known and been fully aware that I do not have a postal address, and for the next few days I cannot communicate by phone; but I'm sure you notice the time stamps on all of the communications you have relayed to me through Chas and Frank. I can and will respond to any of your communications IMMEDIATELY via email. I trust that you will rise to minimal standards of professional performance and communicate with me directly, rather than to relay messages through third parties. At least Frank is still my court appointed Private Investigator and as such has a vested interest in relaying your phone messages. Chas has his own life to consider and is not a party to this case. The cases to which he would have been party are the ones that you have already "welshed" on during our meeting at Chas' house on 4 March 2004, and it is appropriate ethics to speak of those cases in his presence, particularly in light of the fact that he paid you to proceed on those cases.

If you see fit to continue to refuse to communicate with me by email concerning the court appearance on the 8th, please relay that information through Frank, you have his number and email.

Once again, I must ask for your submissions to the court and any replies that Marlene Langfield may have made by now. It appears from this email from Chas that you are withdrawing from this case immediately and I must make preparations to continue unrepresented only two days from now. I will expect that information immediately.

I sincerely hope you can manage your anger and proceed in a professional manner to resolve these active issues with some slight modicum of integrity.

Truly,

Steve Gartin
sheriffsteve@justice.com

Charles H. Clements
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