UNITED STATES COURT OF APPEALS

FOR THE SECOND CIRCUIT

ETHAN BOOK and
ETHAN BOOK FOR U.S. SENATE
Plaintiffs - Appellants : CA No. 11-2739

v.

SUSAN BYSIEWICZ, GAYLE S. SLOSSBERG, JAMES F. SPALLONE, RICHARD BLUMENTHAL and STATE OF CONNECTICUT
Defendants - Appellees : February 4, 2012

PLAINTIFFS/APPELLANTS' MOTION TO RECALL MANDATE

With reference to Federal Rules of Appellate Procedure including Rule 41, the Plaintiffs/ Appellants Ethan Book and Ethan Book for U.S. Senate (hereinafter the "Appellants") hereby present a Motion for recall of the Mandate issued on January 27, 2012 (attached as Exhibit 1 at E-1; forwarded via regular mail on January 31, 2012 and received by these Appellants on February 2, 2012), that pertaining to this court's ruling of January 17, 2012 to deny the Appellants' Motion for Leave to Proceed *In Forma Pauperis* and to dismiss this Appeal.

A. BACKGROUND INFORMATION:

This is the Appeal of a timely lawsuit which involves proper federal claims regarding multiple, substantive defects of the statewide election process particularly as pertain to the position of U.S. Senator (with more recent related claims pertaining also to the portions of the election dealing with the position of Connecticut Governor and Lieutenant Governor;

See Plaintiff's Motion of Dec. 14, 2010 for Leave to Present 6th Supplement to Motion for Reconsideration Regarding Preliminary Injunction; #34.). Named Defendants include Susan Bysiewicz as Secretary of State, Richard Blumenthal as Attorney General (also the Democrat Party and Working Families Party candidate for the position of U.S. Senator), Susan Slossberg and James Spallone as Co-Chairmen of the legislative Government Administration & Elections Committee and the State of Connecticut. Jurisdiction of the federal court is invoked pursuant to the 9th and 14th Amendments, 42 U.S. Code, Sections 1983, 1985 and 1986, 2 U.S. Code, Sec. 1a (also 28 U.S. Code, Sec. 1738), the federal common law provision for a *quo warranto* proceeding and for pendant jurisdiction for negligence, conspiracy and continuing courses of tortious conduct. Also, there are in this matter implications regarding issues of the 1913 ratification of the 17th Amendment (Amended Complaint, #27 at Para. 40). Also, in their Motion of December 7, 2010 for Leave to Supplement, the Appellants reaffirmed their position of presenting this lawsuit as a "private attorney general" (at p. 9).

In the lawsuit, the Appellants seek declaratory judgment and *mandamus* action regarding the election issues and financial compensation regarding election and related issues (Amended Complaint, #27 at pgs. 28 – 29). In addition, in their Motion of December 7, 2010 for Leave to Supplement Motions, in an effort to get past ostensible political hurdles encountered in this judicial process, the Appellants also expressed their desire to amend the Complaint to encompass a claim for a *quo warranto* proceeding (at p. 8).

A starting point for federal court review is a series of multiple interrelated legal and due process errors of Defendant Susan Bysiewicz regarding the form which is used for a party-endorsed candidate to register such party endorsement, of the actual form which was filed on June 2, 2011 by Linda McMahon, the presumed Republican Party Candidate, and of the official response or lack of response to the Appellants' formal, unopposed and timely Petition for Declaratory Ruling (Amended Complaint, #27 at Paras. 46 - 49). Among other matters, the prepared form which was prepared in 2006 and has been distributed since then by the Secretary of State for such purpose was never formally promulgated by the legislative Regulation Review Committee (a mandatory, jurisdictional issue of the Uniform Administration Procedure Act), and also it failed to contain the word "duly" together with the word "endorsed" to describe party action. Additionally, for not including the date of the signing by the party's Chairman

or Presiding Office, the form filed by Ms. McMahon was not completed in accord with the mandatory, jurisdictional requirements which are specifically described on the same invalid form. Further, there is a substantive issue of estoppel for the Secretary of State to have accepted such form regarding respective contextual issues and claims directed against Defendants Blumenthal, Slossberg and Spallone such that since the formal initiation of their campaign in February of 2010 (and even long before that step) such that these Appellants have consequently not had a full and fair opportunity to campaign. These substantive issues became further significant by the fact that when the Appellants timely presented on June 24, 2010 a formal Petition for Declaratory Ruling to the Secretary of State, Defendant Bysiewicz failed to schedule the matter for a hearing as is required of the Uniform Administrative Procedure Act. These matters involve multiple willful violations of state law including also excesses of statutory authority such as pertain to Conn. Gen. Statutes, Sections, 4-166 et seq. and 9-388 and well as of the U.S. Constitution and federal statutes. For the significance of the failure by Defendant Bysiewicz to reasonably and timely address and recognize these substantive defects (which logically would have early resulted in a substantial and public alteration to the *status quo*), one must consider the consequent diminished ability for the Appellants to obtain campaign funding and petition signatures and one must also question the narrow victory of Linda McMahon over Rob Simmons at the Republican primary election of August 10, 2010. In other words, simply for these factors (not exhaustive), the entire political ball game would have been greatly altered at the time of the August 2010 Republican Primary Election.

The above issues are further complicated with the same basic defects of the form for Certificate of Endorsement which was filed by Defendant Blumenthal on May 26, 2010, also for the described estoppel issue of an on-going lack of full and fair opportunity for these Appellants to campaign (Amended Complaint, #27 at Para. 51). Considering also the fact that Defendant Blumenthal has been improperly and artificially shielded by state and federal courts over a long-term period (among other related matters further discussed below in the discussion section of the Appellants' related pending Motion of December 4, 2011 for Reconsideration of Court Ruling to Deny as Moot Rule 8 Motion for Injunction Pending Appeal), a proper and earlier resolution of these and related matters would have logically and dramatically diminished or even likely eliminated his presumed electoral victory on November 2, 2010 over the presumed

Republican challenger Linda McMahon (that being by a margin of about 9% of about 1.2 million votes cast). ***In other words, the election process has been a convoluted mess since even before it began!***

Then there is also the added significance that when Defendant Bysiewicz attempted on November 24, 2010 to certify the portion of the recent statewide election for U.S. Senator, she fully failed again to satisfy the mandatory requirements of state law. Conn. General Statutes, Sec. 9-315 requires that the "[t]he votes returned as cast for a senator in Congress . . . shall be publicly counted by the Treasurer, Secretary of State and Comptroller on the last Wednesday of the month in which they were cast". Even if one uses a liberal interpretation of "counted" as "canvassed", the mandatory requirements of this important statute were clearly not satisfied by Defendant Bysiewicz. In fact, the Secretary of State had earlier voluntarily acceded to a refusal of officials of the City of Bridgeport for a canvassing of the votes cast in that City, that pertaining to an acknowledged pivotal segment of the recent statewide election process, a segment for which there was substantial national attention and the curious participation of high level Democrat Party leaders including Barack Obama and Bill Clinton (See Plaintiffs' unopposed Motion of December 7, 2010 for Leave to Present Fifth Supplement to Motion for Reconsideration Regarding Emergency Temporary Preliminary Injunction, #33 at pgs. 4 – 5 and its Exhibit 1). ***Thus, Defendant Bysiewicz again willfully, recklessly and maliciously exceeded statutory authority!***

These stated defects of the recent statewide election process are related to and in addition to other general defects of the statewide election process such as were widely reported in the major media and also were reviewed in some detail by the Bridgeport Election Review Panel. Those include the failure of local Registrars of Voters to specifically request voter identification (as per specific instructions of Defendant Bysiewicz), the failure by local and state law enforcement to prosecute known instances of fraud committed in applications for voter registration, of known abuses of the mail-in absentee ballot procedure, and of the fact that the form which is used for mail-in voter registration (as had been distributed by Defendant Bysiewicz since 2006) also was never formally approved by the legislative Regulation Review Committee, a mandatory requirement of the Uniform Administrative Procedure Act (See Plaintiffs' Fourth Supplement of November 30, 2010 to Motion for Reconsideration Regarding

Preliminary Injunction, #32 at pgs. 5 – 6 and its Exhibit 2; and Plaintiffs' Reply of March 10, 2011 to Defendants' Opposition to Motion for Reconsideration, esp. at p. 10 and its Exhibit 3).

In addition, there is a related substantive issue of the certificate of the election which was jointly prepared on November 24, 2010 by Governor M. Jodi Rell and Defendant Bysiewicz. That executive certificate which is directed to the President of the Senate pursuant to 2 U.S. Code, Sec. 1a makes the notable statement that "on the second day of November, two thousand ten Richard Blumenthal was duly chosen by the qualified electors of the State of Connecticut [for the position of] Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the third day of January two thousand and eleven" (brackets added; Appellants' IFP Motion, at pgs. 11 - 12). Among other issues such as of the above, ***there is no factual or legal basis for the statement that Defendant Blumenthal "was duly chosen by the qualified electors of the State of Connecticut . . . ."***

Further, for the issues raised of continuing legal and constitutional errors of Defendants Blumenthal, Slossberg and Spallone (*with such errors reflecting patterns of deliberate indifference which is observed in state government from the early 1980's*; additional info. available), ***Defendant Blumenthal had an artificially undue advantage during the active campaigning period while these Appellants were at a distinct suppressed disadvantage and did not have a full and fair opportunity to campaign*** (See Amended Complaint, #27 at Paras. 23 - 46; See also related actions of persons associated with such Defendants' actions at Amended Complaint, Paras. 37 – 39, 42 – 43; consider also additional related matters of abuses of Defendant Blumenthal regarding payments to private law firms regarding the multi-state litigation against several major tobacco companies, of Lincoln-gate and the Westchester sting (re: Plaintiffs' Amended Complaint, Para. 50, the Plaintiffs' 4th and 5th Supplements to Motion for Reconsideration Regarding Emergency Preliminary Injunction, #32 and 33, Plaintiffs' Mot. for Reconsideration of Court Ruling to Grant Defendants' Motion to Dismiss, #14, and in Appellants' Motion to this Court of April 28, 2011 for Leave to Present 5th Supplement to IFP Motion in related Appeal CA #10-4688) and additionally of his abject failure to have taken preventative measures for the readily foreseeable CRRA/Enron debacle of 2001.

Further, there is a related issue that the 26,308 votes cast for Dan Malloy as the Working Families Party candidate for Governor (also the votes cast for Nancy Wyman as his running

mate) should be discounted for the Working Families Party substantive legal errors in failing to satisfy state statutes and its own party rules in the process of naming him as its party candidate for Governor (See Plaintiffs' Motion for Leave to Present Sixth Supplement to Motion for Reconsideration Regarding Emergency Temporary Preliminary Injunction, #34, pgs. 5 – 7.). In essence, instead of Mr. Malloy winning that election by 6,404 votes, he rather lost by 19,904 votes. ***This substantive and unchallenged issue fully changes the outcome for the related election for the position of Governor, a portion of the election which had substantial political interplay with the portion dealing with the position of U.S. Senator.***

The above affords additional significance of the substantive issue of the appearance of a conflict of interest for District Judge Peter C. Dorsey and of his conduct and actions in the present and in related matters (See Appellants' Motion for Injunction Pending Appeal, p. 15 and Plaintiffs' Motion for Reconsideration of Court Ruling to Deny Unopposed Motion for Emergency Temporary Preliminary Injunction (#11; at pgs. 7 – 19).[1]

Notable for all the above is that during the course of the subject lawsuit and of the present and related prior Appeals, these Appellants have directly communicated with the Defendants, with these Courts, and with several thousand people including of prominent state and federal

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[1] This unchallenged and unaddressed substantive issue now becomes more significant and interrelated with the fact that this Court's ruling of November 21, 2011 relates to the separate ruling of November 17, 2011 to deny an unopposed IFP Motion and to dismiss this Appeal (subject now to a timely pending and unopposed Appellants' Motion for Reconsideration). This Court's ruling of 11/17/11 included the participation of Court of Appeals Judge Jose Cabranes. Public information indicates that Judge Cabranes graduated from Yale Law School in 1965, that he served as District Judge in the Connecticut District Court from 1979-94, that he was serving as General Counsel to Yale University when he was appointed to the District Court in 1979, and that he was a Yale Trustee from 1987-99. This compares with Court of Appeals Chief Judge Jon O. Newman who graduated from Yale Law School in 1956, served as U.S. Attorney from 1964 – 1969, was appointed to the Connecticut District Court in 1971 and then appointed to this Court of Appeals in 1979. In addition to other information of the cited docket record, this information compares with that of Defendant Blumenthal who graduated from Yale Law School in 1973 (having been classmates with Joseph Lieberman and Dominic Squatrito, now District Court Judge; See Amended Complaint, #27 at Para. 16.), served as law clerk for then District Judge Jon Newman from 1973-74, and served as U.S. Attorney from 1977-81 (immediately following the term of District Judge Peter Dorsey as U.S. Attorney from 1974 -77).

officials, professional attorneys, multiple media organizations (including those who are considered politically conservative and also those who are considered independent and liberal) of facts of this matter and of related Appellants' claims that key portions or the recent statewide election process are wholly legally void *ab initio* and also that these Appellants have not had a full and fair opportunity to campaign (that for issues pertaining to Defendants' abuses, excesses deliberate indifference and to the raised matter of the existence of a long-term, unaddressed and political cancer in state government). ***To this date, no one has challenged in any manner the substance of these claims!***

Now, to all the above, we can add that in the context in January of this year of the pendency of this lawsuit before the District Court, of the substance of these claims and also of a prior related appeal before this Court of Book v. Bysiewicz, CA #10-4688, and further in the context of proper prior notices which these Appellants had provided to Barack Obama, the Secretary of the U.S. Senate and others, ***the Democrat Party majority of the United States Senate assigned merely putative Senator and Defendant Blumenthal to the Senate Judiciary Committee*** (Appellants' Motion of November 30, 2011 for Reconsideration, p. 6) For all of what is known and/or should be known about this matter, ***such action tends to fully close the loop on interrelated and overlapping issues of conflicts of interest and also of a substantial weakening of what the Founding Fathers intended and designed of the important balance of power. Such action is conscience shocking, constitutionally oppressive and morally questionable.*** This situation takes to a further dimension the unchallenged statement made by the Appellants in their IFP Motion. With reference to recent developments on the issue of undisclosed payments made to several private law firms for their roles in representing the state in the multi-state tobacco litigation, the Appellants' commented as follows:

> *With respect to the Appellants' claims of there not existing in state forums adequate legal remedy, this is the icing on the cake.* (at p. 15; also with mention of systematic biases in the Courts)

The related Appeal of Book v. Bysiewicz et al., CA #10-4688 was filed on November 16, 2010. That dealt with the issue of the Appellants' unopposed petition to the District Court for an Emergency Temporary Preliminary Injunction. For that, the Appellants' timely filed on

January 15, 2011 a Motion for Leave to Appeal *In Forma Pauperis.* That unopposed Motion was supplemented on several occasions. Notwithstanding explicit provisions regarding appellate court jurisdiction regarding District Court action regarding injunctive relief [Kidder Peabody & Company, Inc. v. Maxus Energy Corp., 925 F.2d 556, 564-565 (2nd Cir. 1991) citing FRCP, Rule 62(c), on May 5, 2011, this court ruled to dismiss that Appeal for being untimely filed. A timely Motion for Reconsideration was denied on June 2, 2011. The Appellants filed a new Notice of Appeal on June 1, 2011 (CA #11-2307). On June 9, 2011, notwithstanding the limited scope of an earlier order of January 30, 1998, this court issued an order requiring the Appellants to present a motion for leave to appeal. On June 10, 2011, the Appellants presented a Motion for Rule 8 Injunction Pending Appeal. They then presented a Motion for Leave to Appeal on June 20, 2011. That Motion was granted on July 8, 2011 and the Appeal was re-docketed as CA #11-2739. The Appellants presented a Motion for Leave to Proceed *In Forma Pauperis* on July 21, 2011. The Defendants presented no formal opposition. For procedural purposes, November 7, 2011, the Appellants refilled a Motion for Rule 8 Injunction Pending Appeal under the new docket number. They presented a formal Supplement on November 10, 2011. On November 17, 2011, the Defendants presented a limited Opposition to Motion to Dismiss. On the same day, this court ruled to deny the IFP Motion with explanation that it "lacks an arguable basis in law or fact". The court concurrently ruled to dismiss the Appeal. On November 21, 2011, this court issued a ruling to deny as moot the Motion for Rule 8 Injunction Pending Appeal. On November 30, 2011, the Appellants presented a Motion for Reconsideration of Court Ruling to Deny Motion for Leave to Proceed *In Forma Pauperis*, giving explanation also that a forthcoming Motion for Reconsideration of the Court's Ruling to Deny the Rule 8 Motion for Injunction could be determinative on the primary issues of denial of the IFP Motion. On December 4, 2011, the Appellants presented a substantive Motion for Reconsideration of Court Ruling to Deny Rule 8 Motion for Injunction Pending Appeal. They formally supplemented those Motions on December 7, 2011. Without written oppositions from the Defendants and without oral arguments, on January 20, 2012, this Court issued a ruling to deny the Motion for Reconsideration regarding the IFP Motion.

Other background information can be found at the Appellants' Motion of November 30, 2011 for Reconsideration, their pending Motion of December 4, 2011 for Reconsideration

of Court Ruling to Deny as Moot Rule 8 Motion for Injunction Pending Appeal and in their Motion of pending unopposed Motion of December 7, 2011 for Leave to Supplement Motions.

B. ADDITIONAL INFORMATION AND LEGAL DISCUSSION:

Recall of the mandate is an inherent power of the appellate court [FRAP Rule 41, Commentary found in United States Code Service (Lawyers Edition, 2010), p. 710].

An appellate court has the power to reopen a case at any time [Fine v. Bellefonte Underwriters Ins. Co., 758 F.2d 50, 53 (2nd Cir. 1985)].

Such power of the Court to reopen a case is generally to be used sparingly [Greater Boston Television Corp. v. FCC, 463 F.2d 268, 277 (DC Cir. 1971)] and is normally reserved for "exceptional circumstances" [Fine, 758 F.2d at 53]. Such a general limitation is based on a public need for finality of "matters once tried" [Baldwin v. Iowa State Traveling Men's Association, 283 U.S. 522, 525, 51 S.Ct. 517, 518, 75 L.Ed 1244 (1931)]. Other accepted cause for justifying the recall of a mandate is "[a] supervening change in governing law that calls into serious question the correctness of the court's judgment" [McGeshick v. Choucair, 72 F.3d 62, 63 (7th Cir. 1995) and Davis v. Lawrence-Cedarhurst Bank, 206 F.2d 388, 389 (2nd Cir. 1953)]. In addition, cause for reopening a matter for correcting legal error may be considered where proper arguments and references had been presented to the court, where there was little lapse of time between the issuance of the mandate and the motion for recall, and/or where the balancing of equities favor the reopening of the matter [Sargent v. Columbia Forest Products, Inc., 75 F.3d 86, 90 (2nd Cir. 1996)]. Consideration is also given to the factor that the litigants may have not had a full and fair opportunity to litigate [Fine, 758 F.2d at 54]. Further, the Supreme Court considers where the appellate court "has engaged in a systematic practice of ignoring those formalities" [Missouri, 495 U.S. at 48]. In addition, the Supreme Court considers the interplay of a "miscarriage of justice" to "a clear error test" [Calderon, 523 U.S. at 559 and 568]. Particularly relevant is the high Court's comment that consideration of recall of mandates should not be utilized "as a mechanism to frustrate the limitations on second and successive habeas petitions" [Calderon, 523 U.S. at 569]. The same case even comments that "[a]buse of discretion review of the likelihood of

a miscarriage of justice is analogous to the abuse-of-discretion review of Rule 11 sanctions for frivolous filing" (at 571, fn. 2).

There is legal error in this court's ruling of November 17, 2011 to deny the Appellants' Motion for Leave to Proceed In Forma Pauperis and to dismiss this Appeal.

The references for this court given in its prior ruling of November 17, 2011 are 28 U.S. Code, Sec. 1915(e) and Neitzke v. Williams, 490 U.S. 319, 325 (1989). As the Appellants noted in their Motion for Reconsideration (at p. 13), that Court decision comments as follows:

> Unless there is "'indisputably absent any factual or legal basis'" for the wrong asserted in the complaint, the trial court "[i]n a close case," should permit the claim to proceed at least to the point where responsive pleadings are required. (at p. 323)

Neitzke also affirms that a dismissal can be ordered "where a claim is 'based on indisputably meritless legal theory' (at p. 327). The example given is of Williams v. Goldsmith, 701 F.2d 603 (7th Cir. 1983)" (Appellants' Motion at p. 15). Also, Neitzke explains that mere claimed failure to state a claim is normally not a proper basis for denying an IFP Motion (at p. 16):

> Neitzke v. Williams points out that a mere failure to state a claim is not to be automatically equated with the filing of a frivolous lawsuit, such conclusion "consonant with Congress' over-arching goal in enacting the *in forma pauperis* statute 'to assure equality of consideration for all litigants'" [at p. 329 quoting Coppedge v. United States, 369 U.S. 438, 447 (1962)].

Further, with reference to Anders v. California, 386 U.S. 738 (1967), Neitzke affirms,

> . . . The IFP plaintiff's sworn allegations are thus uncontroverted and entitled to the usual presumption of truth.

Considering all the above in the context of this Appeal docket record, it is clear that the conclusion of this court is not based on the credible facts and relevant laws and Constitution, but rather is based on political preferences, systematic biases, conflicts of interests and bureaucratic *inertia* for taking steps which are perceived likely to alter the political *status quo.* There is observed what is described in the collection of essays entitled "Judicial Misconduct: A Rebuke of Modern Judicial Practices" by Lawrence R. Velvel, Dean of the Massachusetts

School of Law (2004), a situation of judicial predilection:

> As one might expect, prior predilection, associated resistance to facts, and plain invention of counter facts are employed in the service of establishment views and to protect the establishment in a wide range of areas. (One does not find them employed against the establishment.) . . . .

Such a predilection by this court is similar to what is apparent of the District Judge in this matter (See case docket with reference to Pls. Motion for Reconsideration of Court Ruling to Deny Unopposed Motion for Preliminary Injunction, #11 at pgs. 7 – 19.).

The facts and context of this matter also suggest the appearance of a potential conflict of interest for this court's judges. In The Elements of Packing As Applied to Special Juries (1821, Royal Exchange, London), Jeremy Bentham, Esquire comments that "[n]o man can serve two masters; a prudent man will serve the [perceived] strongest" (at p. 165)

In addition, the recent court decision as is understood by the facts of the case, the procedural sequence and the nature of its conclusions rise to matters of substantive due process. Substantive due process involves governmental actions which are arbitrary, conscience-shocking and constitutionally oppressive [Cine SKS, Inc. v. Town of Henrietta, 597 F.3d 778 (2nd Cir. 2007) and Kaluczky v. City of White Plains, 57 F.3d 202 (2nd Cir. 1995)]. As additional explanation, the Appellants provide as Exhibit 2 (at E – 2) a Listing of Responses by Second Circuit Court of Appeals to Appeals Brought by Ethan Book. The Listing gives brief description of 28 Court of Appeals' actions in fourteen separate Appeals (including the present) presented beginning in 1995. Such actions include (a) court requirement of Appellant Book to file a motion for leave to appeal when such a requirement exceeded the scope of the earlier ruling to which it referred, (b) of various court actions to deny substantive IFP motions, (c) of early court action to issue a mandate and (d) of court actions to refuse to file a timely Rule 40 Motion (i.e., the prior actions pertaining to IFP motions relating to six court rulings to deny IFP motions in five separate Appeals, such rulings having been issued beginning in March of 2010; with that initial such ruling not received by the Appellant until about November of 2010).

Additional understanding of this situation is found from closer review of recent court actions regarding Book v. CRRA et al., CA #11-1970 (pertaining to a lawsuit initially

presented in 1995 and with unaddressed, politically-sensitive issues of government accountability and government corruption related to issues of the present; mentioned at Amended Complaint at Paras. 10 -16). There is a focus of actions of the Clerk of the Court including (1) to issue on May 11, 2011 a ruling to require of the Appellant a Motion for Leave to Appeal, that pertaining to an earlier order for which the recent Appeal was not with its scope), (2) to issue on August 12, 2011 a mandate (that on the *same day* that this court issued a ruling to deny the proper, well founded Motion for Leave to Appeal, that procedural action in conflict with established procedures) and (3) to refuse twice to receive and file a timely Rule 40 Motion for Rehearing of Court Ruling to Deny Motion to Recall Mandate.

The inherent issues for this situation were deemed sufficiently erroneous and glaring that Appellant Book takes here the opportunity for further review. The situation involves a court Notice of Non-Jurisdiction dated January 12, 2012 (enclosed with attached Appellant letter sent to Clerk of Court on January 25, 2012; Exhibit 3 at E - 5). That Notice explicitly provides that "[i]nquiries regarding this case may be directed to 212-857-8560". Considering that provision, as is explained in the letter (at p. 1), on January 24, 2012, the Appellant called that number and he specifically asked to speak with Jeannine Cook, known as clerk supervisor. She was not available for which the Appellant left a message explaining that he had questions and comments about the Notice of Non-Jurisdiction. Without receiving a reply, on January 25, 2012, he called the same number and asked to speak with Lucille Carr, known to be the operations manager. The person who received the call, case manager Connie Mazarriego, said that Ms. Carr was not available. She proceeded to explain that the court returned the documents for lack of jurisdiction (as is explained in the letter, a conclusory explanation which fails to encompass legal and procedural issues which the Appellant has described). A very important portion of that conversation (at p. 2) is described here:

> I then began to ask Ms. Mazariego if "the sanctions which are issued by the Second Circuit Court of Appeals are . . . ." She then abruptly interrupted me and said that she could not discuss the matter more. I responded by saying that it was not that she could not discuss the matter with me, rather she simply made a decision that she didn't want to do so. At that point, she hung up!

Absent other information and comment which could be available but which to date has not

been available, based on other observed trends of conduct (including at Appellant's Motion of December 4, 2011 for Reconsideration, p. 19 referring to its Exhibits 5 – 7), after discussion of the issues of systematic biases in the court including of reverse gender bias, Appellant Book then asserted the following (at E - 7):

> I hereby assert that ***it is more than plausible, rather it is even probable, that most of the court rulings for sanctions that are issued at the Second Circuit Court of Appeals, most of the IFP motions presented and most of the court rulings to deny IFP motions are of appeals of male, self-represented litigants!*** Also, based my multi-state experience, what I have observed of the Second Circuit is endemic broadly to these United States. ***Reverse-gender bias is a critical political cancer to current American society! It has become a de facto novo-slavery! Also, reverse-gender bias is a vehicle by which other sensitive political biases and preferences are administered!***

These Appellants also discuss in the letter other background and reference regarding the broad problem of systematic biases in our nation's courts (at pgs. 3 – 4):

> Some of the bias is politically-oriented. That is, the bias stems from a defective foundation to the existing political power base of several high level government officials (also officials with interconnection and interrelationships with officials of the federal courts). In a letter sent to Barack Obama on May 5, 2009, I referred to public comments made by him during his presidential campaign that our nation's top court needs justices "who feel the needs of real people". Then in response the week prior to Justice Souter's announced retirement, he reminded the nation that "Part of the role of the high court is to look after the people who don't have political power".
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> Some of the problem referred to by Mr. Obama is observedly discussed in a World Affairs brief by Joel M. Skousen entitled "Corruption of the Judicial System" (2002) (http://www.joelskousen.com). Key portions follow:
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> > . . . the inevitable result of corruption at the top is that systematic growth of corruption at the state and local level follows – simply because emerging criminal minds find out that there is a massive protection racket above them which will guarantee them immunity, if they play along. There is nothing like immunity to foster criminal growth.
> >
> > I want to concentrate on local and state collusion with federal criminal acts because this type of corruption is becoming a very real threat to each of us personally – even if you don't stick your neck out for conservative causes. I'm going to detail two stories for you. There are hundreds like them and the list is growing daily. They are tragic, hopeless stories of innocent people suddenly caught up in the jaws of the dark side of government, where there is no escape. In each case the victim or his survivors seek redress through

> the courts, and in each and every case, justice is denied – not once, but tens of times as appeals are made from the bottom to the top of our supposed constitutional system. [What is startling about these particular stories is that they name names. And the names of those who reveal themselves to be on the side of government collusion are often people who pretend to be conservative politicians, or judges. It shakes your faith in the system.]
>
> [People have faith in the legal system today because these corrupt judges are smart enough to play the part of the noble judge most of the time. They know that if they rule according to law most of the time, they can cover up the exceptions – with a little help from their friends up the ladder. These cover-ups can take many forms . . . . Colluding appeals courts often rule on a sensitive case without recording a written justification (which should never be allowed in our constitutional republic). Sometimes judges write an opinion and then have it de-published or declared ineligible as future court precedent. There is also an unwritten incestuous relationship between judges and attorneys. Young attorneys quickly learn that judges and big law firms control the turf and if you go against what the local legal power players want, you can get blackballed for life – and never win another case. In my first example, from the book A Case of Injustice (published by Palatine Press), you will see this attorney control system at its worst. . . .]
>
> [. . . The problem is nationwide.][1]

Then for the crucial importance and public significance to these interrelated matters, on January 29, 2012, the Appellants sent a letter to Senate Majority Leader Harry Reid (Exhibit 4 at E - 13) including also a copy of the accompanying letter to the Clerk of Court (Exhibit 3 at E - 5). In addition to discussing the details of the above procedural issues and of the existence of systematic biases in our nation's courts, the Appellants also discussed what they describe as

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[2] On January 31. 2006, there was a legislative forum of a Bridgeport-area business association. Several state legislators were there including then State Senator Bill Finch (D - Bridgeport) and State Representative T.R. Rowe (R – Trumbull). Appellant Book attended that breakfast gathering. The various legislators gave opening comments and then there was a question and answer period. Appellant Book stood and referred to public comments made by Fifth Circuit Court of Appeals Judge Edith Jones at a February 2004 meeting of the Federalist Society of Harvard Law School. There, Judge Jones stated that the American legal system has become corrupted almost beyond recognition. "[W]hat is morally right is routinely sacrificed to what is politically expedient." During that public portion, Senator Finch responded by saying that such a situation described by Judge Jones might apply to federal courts. Following the public portion of that meeting, Appellant Book approached Senator Finch to elaborate on the problem of *pro se* bias. Senator Finch commented that *pro se* bias is not exclusive of the State of Connecticut but rather is a nationwide and even worldwide problem. Bill Finch currently serves as Mayor of the City of Bridgeport.

the secularization of American government. Again, with reference to the raised issues of the 17th Amendment in this matter and of the significance of a set of federal government actions of 1913 (Motion of December 4, 2011 for Reconsideration, p. 15 and its Exhibit 2), the Appellants comment as follows:

> *Some of this situation is a symptom of the secularization of government.* The foundation for the secularization of government was established in 1913 with (1) the questioned ratification of the 16th Amendment (that action which gave to the federal government the power to impose taxes on income during peacetime, a first in federal government and an action which was explicitly prohibited in the original Constitution), (2) the questioned ratification of the 17th Amendment (which shifted the election of U.S. Senators from state legislatures to the general public, a step which was promoted as giving to the general public a greater say in the decision process, but considering the manner that the general public can be influenced by the major media which is often controlled by large corporations, for the ready access that the large corporations have in Washington, was rather a step toward the centralization of government, that in conflict with the delicate but real separation of powers of the states and the federal government that our Founding Fathers intended and carefully designed) and (3) the Congressional approval of the Federal Reserve Banking Act (an action which abolished the United States Central Bank and gave the ownership and the regulation authority of our banking and monetary system to a select group of banks including several European banks) (I raised current issues about these events in a letter which I sent in 2001 to then Congressman Christopher Shays.).

> In 1802, Thomas Jefferson gave the following prophetic warning:
>
> I believe that banking institutions are more dangerous to our liberties than standing armies. If the American people ever allow private banks to control the issue of their currency, first by inflation, then by deflation, the banks and corporations that will grow up around the banks will deprive the people of all property – until their children wake-up homeless on the continent their fathers conquered.

The process of such secularization took a major step forward with the 1947 Supreme Court case of Everson v. Board of Education [330 U.S. 1, 18]. That was where the non-constitutional concept of separation of church and state emerged.

Then another important step occurred with the 1989 decision of [County] of Allegheny v. [ACLU, 492 U.S. 573, 574]. In that, the high Court commented as follows:

> [T]he Constitution mandates that the government remain secular.

In reality, ***what happens is that when government conduct follows such a policy, it becomes even more likely that the fundamental, inalienable, God-given rights of the people as are affirmed in various Constitutional provisions including the 9th Amendment will be disregarded!***

These Appellants describe this evolutionary process of the attempt at Constitutional nullification as the secularization of government. Others describe it as the emergence of relativism or pragmatism and others describe it as the Progressive rejection of the Constitution. These terms interrelate. A significant portion of that process occurred during the term of Chief Justice Earl Warren (1953 to 1969). Trop v. Dulles, 356 U.S. 86, 101 (1958) became a harbinger of what would follow:

> The [Constitutional] Amendment must draw its meaning from the evolving standards of decency that mark the progress of a maturing society.

David Barton in Original Intent[3] provides an astute analysis of the Warren Court:

> During Warren's sixteen year tenure, the Court indeed became a powerful societal force, striking down numerous long-standing historical practices, while proudly acknowledging that it was doing so without precedent [Abington v. Schempp, 374 U.S. 203, 220-221 (1963)[4]; the landmark case in which the Court struck down the official use of the Bible in public schools]. In other words, the Court publicly announced that it finally arrived at its fully evolutionary state, no longer being bound by history or precedent.[5]

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[3] Original Intent by David Barton (2010, WallBuilders Press, Aledo, TX; p. 236)

[4] That case came a year after Engel v. Vitale, 370 U.S. 421, 422 (1962) which banned prayer in public schools.

[5] It is a notable observation here that this series of steps taken during the Warren Court also include Pierson v. Ray. 386 U.S. 547 (1967), the landmark case which, in a manner contrary to historical precedent and Constitutional provisions, and also in a manner which was contrary to a usual established principle of exception to established common law principles through legislation, excluded the long-existing waiver of the common law doctrine of judicial immunity for judicial acts which are performed with malice or corruptly. The same decision overlayed

Attorney General Edwin Meese, III stated the following:

> [U]nder the old system, the question was ***how*** to read the Constitution; under the new approach, the question is ***whether*** to read the Constitution. (italics added)[6]

There are various other current references which concur in this position of constitutional disregard and constitutional dysfunction. These include Restoring the Lost Constitution by Law Professor Randy E. Barnett (2004, Princeton University Press, Princeton, NJ); Whatever Happened to America? by Jon Christian Ryter (2000, Hallberg Publishing Corp., Tampa, FL); Constitutional Chaos by Judge Andrew Napolitano (2004, Thomas Nelson, Nashville, TN); The Constitution in Exile, by Judge Andrew Napolitano (2006, Thomas Nelson, Nashville, TN): Coercing Virtue by Judge Robert H. Bork (2003, The AEI Press, Washington, DC); and The Tempting of America – The Political Seduction of the Law by Judge Robert Bork (1991, Simon & Schuster, New York). A representative statement is made by Professor Barnett in Restoring the Lost Constitution:

> The Constitution that was actually enacted and formally amended creates islands of government powers in a sea of liberty. The judicially redacted constitution creates islands of liberty rights in a sea of governmental powers. (at p. 1)

An initial focus of this action is the blatant, willful and malicious failure by Defendant

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the common law judicial immunity doctrine over the explicit wording of the 14th Amendment This situation of constitutional dysfunction reached such an extreme that in 1986, U.S. [discussed at Appellant Book's Opposition to Motion to Dismiss (#83 at pgs. 22-24) in the related matter of Book v. Tobin et al.. Case No. 3:04-cv-0442 (JBA); CA #06-2289 and #09-2357].

In this context, it is also noteworthy that in 1974, Defendant Blumenthal worked as law clerk for Supreme Court Justice Harry Blackman, the one who the year prior authored the decision in Roe v. Wade, 410 U.S. 113 (1973). That has been a broadly criticized decision for which there is not a showing of a preponderance of evidence for a federal court to overturn a Texas abortion statute and the Court gave selective recognition to a woman's right of privacy. Such experience of Defendant Blumenthal compares to the productive two-year term of service of 1973-1975 which Appellant Book spent with the U.S. Peace Corps in Colombia, SA.

[6] Benchmark, Vol. 2, No. 1, January – February 1986, p. 5, "Toward a Jurisprudence of Original Intention," by Attorney General Edwin Meese, III.

Bysiewicz as Secretary of State to administer state law. As the population of the colonists of the Colony of Connecticut increased, there emerged a desire for some type of governmental instrument to deal with *a social compact*. In 1639, there were established the Fundamental Orders of Connecticut. Those Orders explained why the document had been created:

> [W]ell knowing when a people are gathered together, the word of God requires that to maintain the peace and union of such a people, there should be an orderly and decent government established according to God.

That constitution next declared the colonists' desire to:

> [E]nter into combination and confederation together to maintain and preserve the liberty and purity of the Gospel of our Lord Jesus which we now profess . . . which, according to the truth of the said Gospel, is now practices amongst us.

Those Fundamental Orders of Connecticut were "not only the first constitution written in the United States but also the direct antecedent of our current federal Constitution".[7]

Shortly before the Declaration of Independence, Jonathan Trumbull, the Governor of the Colony of Connecticut, stated the following:

> [Pray t]hat God would graciously pour out His Spirit upon us and make the blessed Gospel in His hand effectual to a thorough reformation and general revival of the holy and peaceful religion of Jesus Christ.[7]

In "An Inaugural Discourse Delivered Before the New York Historical Society by the Honorable Gouvenor Morris" given in 1821, New York Governor Morris, a penman and signer of the Constitution, stated:

> The reflection and experience of many years have led me to consider the holy writings not only as the most authentic and instructive in themselves, but as the clue to all other history . . . . All public and private life is there displayed. . . . From the same pure fountain of wisdom we learn that vice destroys freedom, that arbitrary power is founded on public immorality.[8]

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[7] Original Intent at p. 85.

[8] Original Intent at p. 169

Notwithstanding other concurrent decisions such as are discussed above, the Supreme Court in Walz v. Tax Commission, 397 U.S. 664, 681 (1970) commented:

> [I]n resolving such questions of interpretation "a page of history is worth a volume of logic." . . . The more long-standing and widely accepted a practice, the greater its impact on constitutional interpretation.

James McHenry, a signer of the Constitution, stated,

> [T]he Holy Scriptures . . . can alone secure to society, order and peace, and to our courts of justice and constitutions of government, purity, stability, and usefulness. In vain, without the Bible, we increase our penal laws and draw entrenchments [protections] around our institutions.[9]

In 1954, President Dwight Eisenhower (a native of Abilene, KA, the hometown of Appellant Book's father), spoke in Washington, DC before the National Conference on the Spiritual Foundation of American Democracy:

> And no matter what Democracy tries to do in terms of individual liberty . . . when you come back to it, there is just one thing . . . man is worthwhile because he was born in the image of God.

Then in1961, President Eisenhower gave before Congress his famous Farewell Address in which he prophetically warned against a build-up of the military-industrial complex.

To these important references for constitutional intent and interpretation and of apparent deviances from such principles by our nation's courts, there is cause again to refer to the above statement of Thomas Jefferson made in 1802:

> I believe that banking institutions are more dangerous to our liberties than standing armies. If the American people ever allow private banks to control the issue of their currency, first by inflation, then by deflation, the banks and corporations that will grow up around the banks will deprive the people of all property – until their children wake-up homeless on the continent their fathers conquered.

To that, we can add also a famous quote of Daniel Webster made in 1852 to the New York Historical Society:

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[9] Original Intent at p. 179

> If we and our posterity . . . live always in the fear of God and shall respect His Commandments . . . we may have the highest hopes of the future fortunes of our country . . . . But if we . . . neglect religious instruction and authority: violate the rules of eternal justice, trifle with the injunctions or morality, and recklessly destroy the constitution which holds us together, no man can tell how sudden a catastrophe may overwhelm us and bury all our glory in profound obscurity.

It is with this background including discussion of the original intent of the Constitution and of the more recent process of the secularization of our courts and of government that some relevant facts are in order. Discussion above points to the 1947 decision of Everson v. Board of Education in which there emerged the concept of separation of church and state, the 1962 decision of Engel v. Vitale which banned prayer in public schools, and the 1963 decision of Abington v. Schempp which struck down the official use of Bibles in public schools. Original Intent provides five graphs which depict changes in several categories of statistics which deal with public integrity and educational performance. The graphs deal with the categories of morality (2), violent behavior, educational achievement and family stability with the statistics covering the time period of the 1950's through the 1990's. The set of these is provided attached as Exhibit 5 (at E – 21 through E - 23). ***The changing trend of deterioration of these figures at the point of 1963 is marked!***

To this information, we can add of the decade beginning at 2000 the dramatic surge of international terrorism and drastic national economic decline. Also, we can add credible public claims that in the last three decades, the prison population in the United States has increased five-fold. Additionally, there is the revealing and disturbing claim that while the U.S. has only 5% of the world's general population, it has a whopping 25% of the world's prison population.

Clearly, there is something very wrong with these pictures. Also, this background and references are relevant to the various Appellants' claims against these Defendants and of the lack of reasonable response to date by the District Court and this Court of Appeals.

The above is background to a brief, succinct, compelling and conclusive discussion of the contexts of the various claims and legal issues as they might relate to the subject of arguable bases of law and fact for this Appeal. Key focal documents for this point of discussion include the following:

Complaint dated August 2, 2010

Pls. Motion and Memorandum of Law in Support of Motion for Emergency Temporary Preliminary Injunction dated August 6, 2010 (#4)

Pls. Motion for Articulation dated August 10, 2010 (#8)

Pls. Motion for Reconsideration of Court Ruling to Deny Unopposed Motion for Emergency Temporary Injunction of August 22, 2010 (#11)

Defs. Motion to Dismiss and Memorandum of Law in Support of Sept. 1, 2010 (#13)

Pls. Opposition to Defs. Motion to Dismiss dated September 16, 2010 (#19)

Amended Complaint dated November 4, 2010 (#27)

District Court Ruling on Motion to Dismiss of February 3, 2011 (#39)

Pls. Motion for Reconsideration of Court Ruling to Grant Defs. Motion to Dismiss dated February 11, 2011 (#41)

Defs. Opposition to Motion for Reconsideration dated February 24, 2011 (#44)

Pls. Reply to Defs. Opposition to Motion to Dismiss dated March 16, 2011 (#45)

These are the primary documents of the District Court docket for reference to the present issues.

Those pleadings of this Court of Appeals record which are of primary significance for this court's review include the following:

Appellants' Motion for Rule 8 Injunction Pending Appeal (6/10/11 under docket CA#11-2307)

Appellants' Motion for Leave to Proceed *In Forma Pauperis* (7/21/11)

Appellants' Motion for Rule 8 Injunction Pending Appeal (11/07/11)

Appellants' Supplement to Rule 8 Motion for Injunction Pending Appeal (11/10/11)

Defs. Opposition to Motion for Injunction (11/17/11)

Court of Appeals' ruling of November 17, 2011 to deny IFP Motion

Court of Appeals' ruling of November 21, 2011 to deny Motion for Injunction Pending Appeal and Supplement

Appellants' Motion for Reconsideration of Court Ruling to Deny Unopposed Motion for Leave to Proceed *In Forma Pauperis* (11/30/11)

Appellants' Motion for Reconsideration of Court Ruling to Deny as Moot Rule 8 Motion for Injunction Pending Appeal and Supplement (12/04/11)

Appellants' Motion for Leave to Supplement Motions (12/07/11)

Court of Appeals' ruling of January 20, 2012 to deny Motion for Reconsideration of Court Ruling to Deny Unopposed IFP Motion

Mandate issued on January 27, 2012 (with mailed notice issued on 1/31/12)

With reference to the above-discussed Neitzke v. Williams, these Appellants categorize issues of this Appeal into two categories; (a) legal issues which pertain primarily to matters of subject-matter jurisdiction and (b) legal and factual issues which pertain to stating a claim. Generally, the legal and factual issues pertaining to stating a claim are well-addressed in the Appellants' IFP Motion of July 21, 2011 and their Motion for Reconsideration of November 30, 2011 (with further reference to the Pls. Motion for Reconsideration of Court Ruling to Grant Motion to Dismiss, #41 and Pls. Reply, #45). Also, generally the legal issues pertaining to subject-matter jurisdiction are well-discussed in the Appellants' Motion of December 4, 2011 for Reconsideration of Court Ruling to Deny Motion for Injunction Pending Appeal (with further reference to Pls. Opposition to Motion to Dismiss, #19, and to Pls. Motion for Reconsideration and Reply, #41 and #45). Brief review of specific issues of these categories is provided here.

As is discussed in the Appellants' Motion for Reconsideration of Court Ruling to Deny IFP Motion (11/30/11), the various elements of this lawsuit which involve claims for civil damages pertain only to issues of stating a claim for which dismissal at this stage is generally deemed inappropriate according to Neitzke v. Williams (Motion at pgs. 9 and 13 – 17). Thus, this portion of this discussion begins with brief review of those matters which involve legal issues pertaining to subject-matter jurisdiction.

The Appellants' Motion for Reconsideration of Court Ruling to Deny as Moot Motion for Injunction Pending Appeal (12/04/11) is the focal reference here as that discusses the primary issues of defense raised by the Defendants, those as are exemplified in their earlier Opposition to Motion for Injunction (11/17/11), a pleading which these Appellants described in their Motion for Reconsideration (12/04/11) as ***"the first formal opposition presented by***

the [Defendants] to the series of related pleadings presented both to the District Court and to this Court of Appeals", that presented by Attorney Robert D. Snook whom was never hired by the Office of the Attorney General in accord with the mandatory requirements of the State Personnel Act (at p. 7).

In response to the issue raised by the Defendants of Eleventh Amendment state sovereign immunity, the Appellants first pointed out that the concept of state sovereign immunity as applied to citizens of the same state does not appear at any place in the Eleventh Amendment (Motion at p. 8). They proceed to point out that such a presumption of what is not explicitly founded in the Constitution initially appeared in Duhne v. New Jersey, 251 U.S. 311 (1920) (Motion at p. 8).[10] In addition, the Appellants pointed out that there is an established exception to the generally applied principles of state sovereign immunity "for the existence of an institutionalized [interagency] governmental conspiracy (Motion at pgs. 8 – 9 citing Ethan Book Jr. v. Conn. Commission on Human Rights & Opportunities, Case No. 3:95-cv-0421(DJS); CA #95-7999; and Columbia v. Omni Outdoor Advertising, Inc., 111 S.Ct. 1344). Such a position is consistent with Frank v. Relin, 1 F.3d 1317, 1326 (2nd Cir. 1993) [quoting Hafer v. Melo, 112 S.Ct. 358, 361-62, 116 L.Ed.2d 301 (1991); "Because the real party in interest is an official capacity suit is the governmental entity and not the named official, 'the entity's "policy or custom" must have played a part in the violation of federal law'"[11]]. Supporting information on the subject of a massive interagency governmental conspiracy is available at the District Court Docket including at the Complaint, the Motion for Reconsideration of Court Ruling to Deny Motion for Preliminary Injunction (#11; and seven Supplements), the Opposition to Motion to Dismiss #19), the Amended Complaint (#27), the Motion for Reconsideration of Court Ruling to Grant Motion to Dismiss (#41; and Supplement), the Reply to Opposition to Motion to Dismiss (#45), the Court of Appeals

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[10] The Appellants point out that this Supreme Court decision of 1920 came shortly after the above reported federal actions of 1913 which these Appellants describe as the foundation of the process of secularization of government, the progressive rejection of the Constitution. Also, the constitutional questions about such a lifted modification strike on the origins of the concept which is the Bristish philosophy that "the King can do no wrong". Such a philosophy is diametrically opposed to the citizen protections provided for in the Declaration of Independence and elaborated in the Constitution.

dockets of Book v. Bysiewicz including of #CA #10-4688 and the present, in the District Court and Court of Appeals dockets in Book v. CRRA, and others. At ***no place has this long-asserted claim of the existence of an institutionalized interagency governmental conspiracy been challenged by these (or other) Defendants nor has it and its very clear relevance to these issues been addressed by any federal or state courts. Also, apart from any situation of governmental conspiracy, the mere and undisputed matter of Appellants' claims being part of a broad state government practice of deliberate indifference constituting a Constitutional violation (further for the application of 2 U.S. Code, Sec. 1a), then there are multiple bases for waiver of the generally applied state sovereign immunity!*** [11]

The Appellants also clarified and dispelled the issue raised by the Defendants that Eleventh Amendment state sovereign immunity also applies to lawsuits presented against state officials. With review of the Defendants' cited reference of Ford Motor Co. v. Department of Treasury of Indiana, 323 U.S. 459, 464, 65 S.Ct. 347, 89 L.Ed. 389 (1943) and with reference to the federal Full Faith & Credit Act, 28 U.S. Code, Sec. 1738A, such a principle would not bar the relief requested in this matter (Motion at pgs. 9 – 10).

In addition, the Appellants substantively refuted the Defendants' extreme argument that this lawsuit involves merely a sole issue of state elections law as interpreted by state officials. "Rather, it involves multiple issues of state elections law, of a long-term and on-going pattern of issues of state election law (including intentional violations, systematic discrimination and criminal conspiracy) of multiple excesses of statutory authority and further of violations of federal constitution (Motion at pgs. 10-12).

Related to the above, the Appellants described the established legal factor regarding an election process which "reaches the point of *patent and fundamental unfairness . . ."* and where"'willful conduct . . . undermines the organic processes by which candidates are elected".

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[11] This fundamentally is the same principle which Appellate Book raised in 1995 in Book v. Conn. Commission on Human Rights, *supra.,* yet of which this Court of Appeals dismissed the Appeal for being frivolous. It is also for such a type of waiver that 17A Moore's Federal Practice (3rd, 2001), Sec. 123.20[1] comments that for several Circuits including this Second Circuit Court of Appeals, state sovereign immunity is "[n]ot jurisdictional because it is subject to waiver" (at p. 123.25).

The Appellants additionally pointed out that "'there are no bright lines' to distinguish" such a defective process. The Appellants then asserted that **"In fact, this must be one of the most egregious cases of judicial record where the election process has reached the point of *'patent and fundamental unfairness'"*** (Motion at pgs. 12-14).

Some supporting detail and discussion is in order. In their accompanying letter to Senator Harry Reid (Exhibit 4 at E - 17), the Appellants referred to an earlier letter sent by Appellant Book to Defendant Blumenthal on January 9, 2010. That letter included the following:

> *. . . it is apparent that you and officials under your authority abuse your positions to influence officials of state agencies and state courts as collateral attack against citizens who might have legitimate federal claims against state officials or against the state*.

That statement is the essence of a portion of present claims against Defendant Blumenthal (Amended Complaint, #27 at Para. 32 on p. 19 and Count 3 on page 29). In the letter to Senator Reid, the Appellants then referred to their earlier letter to him to quote as follows:

> The significance of this publicly declared and undisputed statement is great! When one fully considers it, it becomes apparent that what was alleged against former President Richard Nixon, what was alleged against former New York Governor Elliot Spitzer and even what was recently alleged against New York Congressman Anthony Weiner is pale in comparison!

If these fact-based issues are what they are, then one would logically ask how and why such an egregious situation was allowed to brew and mature into the monster which now exists. Simply in considering the attached Listing of Responses by Second Circuit Court of Appeals to Appeals Brought by Ethan Book, it is glaringly apparent that there is something very wrong. Then one can add what is apparent from a similar pattern of predilection on the part of District Judge Peter Dorsey (also formerly a U.S. Attorney as was Defendant Blumenthal) in this matter as well as in three other lawsuits which he has administered [Ethan Book Jr. v. Anthony Lupinacci and the Police Department of the City of Stamford et al., Case No. 3:08-cv-1661(PCD); Ethan Book Jr. v. Earl B. Richards, III et al., Case No. 3:05-cv-0892(PCD); and Ethan Book Jr. v. Flemming Norcott, Jr. et al., Case No. 3:07-cv-1367(PCD); cases discussed at Pls. Motion for Reconsideration of Court Ruling to Deny Unopposed Motion for Emergency Temporary Injunction, #17 at pgs. 7 – 19]. While there may be a factor of

somewhat greater or lessor degrees of bias, those District Court matters are representative of what Appellant Book has experienced in a dozen formal federal lawsuits filed in the Connecticut District Court.

Then to that one can add a similar pattern of bias in state courts. Simply from the Summary Review of Appeals Brought to Appellate Court by or on Behalf of Ethan Book Jr., a 21-page discussion of seven sets of Appeal as is provided as Exhibit 5 to the Appellants' Motion of December 4, 2011 for Reconsideration of Court Ruling to Deny as Moot Motion for Injunction Pending Appeal, one can observe that there has been an essentially identical pattern of bias shared by state courts and federal courts. There are unaddressed, undisclosed and unregulated interagency influences and interlocking associations, alliances and conflicts which essentially have put a lock on the administration of justice. ***In essence, these federal courts and the Connecticut state courts were a major factor in spiking the recent statewide election process.*** They have protected and shielded Defendant Blumenthal. Unfortunately, in a manner which is similar to what is known in physics, every action has a reaction for which Appellate Book became the scapegoat.[12] And this bias hasn't been merely recent or within recent years. This torturous situation has existed for 17 years in federal court, for 24 years in state court, and for longer periods in state and federal agencies. In effect, at least 25 years ago, some high-level public figures *sua sponte* and *ex parte* decided that Defendant Blumenthal was some day going to be U.S. Senator, and they began steps and investments to make that objective come true.[13] Even that, by itself, may not be unlawful. However, some of those high-level public

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[12] The February 2012 edition of The Philadelphia Trumpet discusses a curious historical parallel of Hitler's Germany:

> "Not a single neighbor of the Germans," wrote Emil Ludwig in 1941, "could ever trust the Germans to remain peaceable. No matter how happy their condition, their restless passion would urge them on to ever more extreme demands." (from editorial entitled "Germany Is Betraying Britain – Again", at p. 3)

[13] That in the style of the pre-1913 Jekyll Island group (with detail provided at Appellants' Motion of December 4, 2011 for Reconsideration of Court Ruling to Deny as Moot Rule 8 Motion for Injunction Pending Appeal, at p. 15 and its Exhibit 2).

figures were also high-level public officials (including officials of the Conn. Commission on Human Rights, the Department of Environmental Protection, the Department ofTransportation, the Department of Motor Vehicles, the Department of Revenue Services, the Freedom of Information Commission, the State Claims Commissioner, of State's Attorneys' offices, of the Statewide Grievance Committee, of officials and employees of the Judicial Department, some legislators, of officials of various municipalities including of Defendant Blumenthal's home base of Stamford, CT, and others) and *they abused their positions of public trust to influence and infect normal governmental functions. That influential group included Defendant Blumenthal including as Connecticut Attorney General.* For his position, he had two decades of ready access for media sound bites (If one holds a pork chop in front of a dog, isn't it expected that the dog will jump after the meat?). It didn't take a majority of available public officials for this objective to get as far as it has. Rather, a minority who are well-groomed, trained and positioned to make the right contacts behind the scenes were what has been necessary to sway an appropriate number of decision-makers.

However, Appellant Book didn't get that message and he continued to pursue and expose truth in an effort to purge the public issues while he attempted to vindicate himself of the politically-sensitive resource recovery matters which wholly disrupted his banking career and family life. His continuing actions made the devious and greedy actors nervous for which they then went too far. They conjured up a bogus misdemeanor matter to discredit him, to dissuade him and to conquer his will. However, even after a year in jail, he wasn't yet cooked (Appellants' Motion of November 10, 2011 for Leave to Supplement Motion for Injunction Pending Appeal). This situation is background to the statement made in the accompanying letter to Senator Reid (at E – 18):

> ***When a high-level public figure knowingly abuses his position either directly or through his associates to put a man in jail and/or to keep him in jail for no other reason than that the man is a political threat, it is in the broad public interests that such conducts be fully exposed, also that such action should preclude that figure from being promoted to higher office and further that the figure be subject to other prosecution!***

Thus, regarding the factor of an election process which "reaches the point of *patent and fundamental unfairness . . ."* and where "'willful conduct . . . undermines the organic processes

by which candidates are elected", ***these Appellants have not only expressed a proper legal basis for appeal, they have also provided sufficient supporting information for summary judgment!***

These Appellants then countered the Defendants' arguments regarding federalism. Such an argument considering the above-cited set of federal actions taken in 1913 (i.e., the questioned ratification of the 16th and 17th Amendments and the Congressional passage of the Federal Reserve Banking Act) is inappropriate and actually lame! Particularly considering the effect of the 17th Amendment which was to transfer the election of U.S. Senators from state legislatures to the general public, a step which was publicly promoted as giving to the general public a greater role in the process, but also considering how the general public can be influenced by the major media which are typically owned by large corporations which have ready influence in Washington, ***"what that Amendment effectively did was to centralize the selection of U.S. Senators and therefore operated to further centralize our national government and thereby to disrupt the delicate but real and important balance between limited governmental power and states' rights"*** (Motion at p. 15). Not only does this background destroy the Defendants' argument, for the fact that the State of Connecticut has been passive in seeking exposure and correction of the glaring defects of this process which have apparent at least for several decades, the Defendants' argument is also disingenuous!

In addition to the above, in their Motion for Leave to Supplement Motions for Reconsideration (12/07/11), the Appellants explained that the Defendants' arguments would not apply to declaratory judgment relief which deals with state actions which involve "unlawful, unconstitutional discrimination" (citing 28 U.S. Code, Sec. 2201) or to a claim for a q*uo warranto* proceeding [citing Sundaner Land v. Comm. First Federal Savings & Loan, 840 F.2d 653, 665 (9th Cir. 1988) (principle discussed also in Shannon v. Jacobowitz, 394 F.3d 90 (2nd Cir. 2005) cited in Appellants' Motion of December 4, 2011 for Reconsideration, at p. 13] (Motion for Leave at pgs. 7 – 8). *"It iis observed that the application of a quo warranto proceeding is broader than that of other demands for relief which have been raised in this matter either before the District Court or in any pleading which has been before this Court of Appeals regarding this lawsuit and such a particular proceeding is not addressed explicitly or impliedly in any Appellees' objections/pleadings, in any District Court or in any Court of*

Appeals' ruling. Also, a request for such a proceeding (including of leave of the District Court for further amendment of the Complaint) is a logical, proper and timely development of this matter at this stage of this action, particularly considering these matters of great public importance and federal interests" (Motion for Leave at p. 8).

Thus, for each and every legal issue identified and briefly discussed above, the Appellants have fully described arguable legal bases for appeal for which denial of the Appellants' IFP Motion is inappropriate. In addition, the above discussion of legal concepts which have been early raised and reasserted by these Appellants, for never having been particularly challenged by the Defendants bolsters these Appellants' position as it pertains to the requests for an injunction pending Appeal including of a strong likelihood of success on the merits, of irreparable injury to the Appellants absent the requested injunctive relief, of where the public interest lies and of a lack of Defendants' claims of injury for the injunctive relief to be granted (Appellants' Motion of November 7, 2011 for Rule 8 Injunction Pending Appeal, p. 13).

With respect to issues of stating a claim such as regarding the claims for financial compensation, as is explained above with reference to Neitzke v. Williams, issues of stating a claim are normally not proper bases for court dismissal of an IFP motion. Nonetheless, brief discussion is provided.

The threshold for stating a claim at the dismissal stage is low. Ashcroft v. Iqbal, 556 U.S. _____, 129 S.Ct. 1937, 173 L.Ed.2d 868 affirms that "to survive a Rule 12(b)(6) motion, a plaintiff must present facts sufficient for more than a mere *possibility* of a viable claim yet less than facts to suggest that such a claim is *probable".* Also, "[p]leadings are sufficient if they are susceptible to the interpretation that the Plaintiff gives [Schoonfield v. Baltimore (1975, DC Md) 399 F.Supp. 1068, 11 BNA FEP Cas 880] (Motion for Reconsideration of Court Ruling to Dismiss, #41 at p. 6).

There are Appellants' claims against four named Defendants! For the claim against Defendant Susan Bysiewicz as Secretary of State, the glaring issues of failure to have the form used for Certificate of Endorsement approved by the legislative Regulation Review Committee (a jurisdictional matter according to state law), of the failure to have included in the form the word "duly" before "endorsed", of the failure of her office to have screened the

form presented by Linda McMahon, for her office to have accepted the form considering the glaring unaddressed issues of the long-term political cancer in state government which were apparent regarding these Appellants as an official candidacy, of the failure to have the form used for voter registration approved by the Regulation Review Committee (again, a jurisdictional matter according to state law(, of her failure to have reasonably screened the nominating procedure of the Working Families Party for the positions governor and lieutenant governor, for her instructions to local registrars to not review voter registrations for fraud, for her failure to have given good instructions to local registrars regarding requesting voter identification, of her failure to have reasonably audited the voting including of questionable conduct such as of the City of Bridgeport, for her failure to have held a public hearing (as is required in state law) on the Appellants' timely Petition for Declaratory Ruling, and for her failure to satisfy state statutes when attempting to certify the voting on November 23, 2010, among other matters (Amended Complaint, #27 at Paras. 46 – 49, 51), these Appellants more than stated a claim to survive dismissal at any level.

With respect to the claim against Defendant Blumenthal, without taking into account the full scope and breadth of the Complaint, in their late unauthorized Motion to Dismiss, the Defendants merely focused on the matters of the Appellants' statement that Defendant Blumenthal did not answer a letter sent by Appellant Book on November 6, 2003 and that presenting motions to dismiss Appellant Book's other lawsuits (including some presented to the District Court) is part of the responsibility of the Attorney General (Motion to Dismiss, re: #13 at p. 11). However, simply considering Defendant Blumenthal's failure to respond to Appellant Book's letter (Complaint at Para. 26 and its Exhibit 4), when one considers also the nature of the substantive content of the letter, there is an issue of plausible cause of action. In addition, the same portion of the Complaint describes the glaring observation of lack of response by other state officials to that letter, officials who had responded to all other inquiries presented by Appellant Book, with such a collective lack of response constituting a negative inference. In addition, there is other information in the Complaint (at Para. 25) including of the retaliatory actions taken of officials of the Department of Motor Vehicles for which Attorney Charles Walsh (the one who represents the state defendants in Book v. CRRA) was assigned counsel. To these factual issues, which by themselves are more than sufficient for stating a

claim, the Appellants added additional clarification and amplification in their Opposition to Motion to Dismiss (#19 at pgs. 28 – 33). Concerning the role of the Attorney General, while it may be the function of the Attorney General to defend state officials in lawsuits presented against them, it is not the proper role of the Attorney General to make meritless and frivolous arguments for the purpose of evading responsibility from legitimate citizen claims (Opposition to Motion to Dismiss (#19 at pgs. 33 – 36). To these considerations, one must also add the information which is contained in the Appellants' six-page letter (plus its 12 enclosures) sent to the Defendants' counsel on August 8, 2010 (copy provided with Motion of November 10, 2011 for Leave to Supplement Motion for Injunction Pending Appeal). There, ***the level of credible supporting information becomes sufficient not simply for having made a factual basis for appeal, and not merely for stating a claim but also for summary judgment.*** The Appellants also point out that all such information was obtained without the benefit of discovery!

Concerning claims against Defendants Slossberg and Spallone who have acted as Co-Chairmen of the Government Administration & Elections Committee, in their Motion to Dismiss, the Defendants merely micro-managed to comment that "[t]here is solitary reference to a letter involving the Connecticut Resources Recovery A[uthority] ("CRRA) in paragraph 33" (Defendants' Motion to Dismiss, re: #13 at p. 12). Actually, what is referred to in the Complaint at Paragraph 33 is not only a ***13-page letter*** sent by Appellant Book on March 30, 2008 (at its Exhibit 5) but also to supplemental communications sent on April 13, 2008, November 22, 2008, November 2, 2009, March 28, 2009, July 16, 2010 and July 20, 2010. Texts of the communications of March 30, 2008 and March 28, 2009 were provided with the Complaint. It can be properly inferred that the Appellants are able to provide copies of the other described communications. ***This is more than sufficient for stating a claim*** (Opposition to Motion to Dismiss, #19 at pgs. 36 – 37).

The issue of stating a claim against the State of Connecticut is not germane to this discussion as the Appellants named the State as a Defendant for the primary purpose of establishing liability against the State, although the subject of policy and custom is relevant also for that [See above discussion of Frank v. Relin, 1 F.3d 1317, 1326 (2nd Cir. 1993).].

Thus, for the factual allegations as are briefly discussed here, the Appellants have provided more than sufficient for satisfying the requirements as are discussed in Neitzke v.

***Williams*.** In addition, they have provided more than what is necessary to survive a motion to dismiss lawsuit. Further, what they have provided is likely more than sufficient for summary judgment.

To all the above, these Appellants add here two additional matters of information which are pertinent to the various issues of systematic biases and deliberate indifference as they have bearing on essentially all matters that are discussed above. With the above discussion, the Appellants discussed a letter sent to the Clerk of Court on January 25, 2012 regarding the Appeal of Book v. CRRA (letter attached as Exhibit 3 at E - 5). That letter described Appellant attempts to inquire about what appear to be issues of systematic biases on the part of this Court of Appeals. Without reasonable communication as is described in the letter, Appellant Book them made a statement:

> *. . . it is more than plausible, rather it is even probable, that most of the court rulings for sanctions that are issued at the Second Circuit Court of Appeals, most of the IFP motions presented and most of the court rulings to deny IFP motions are of appeals of male, self-represented litigants!*

It is curious that the letter was sent just prior to Appellant Book receiving a notice from the District Court in the related matter of Ethan Book Jr. v. Robert Mendoza and the Clint Independent School District, Case No. 3:07-cv-1468 (with respective Appeal listed at Exhibit 2, p. E - 3). The subject of the letter was another attempt at civil dialogue with an employee of the Court Clerk regarding systematic biases in the courts. Unfortunately, that attempt was also partially unsuccessful except for the manner of the employee's response which again affords a negative inference. Relevant detail about that brief limited conversation and its context is provided in the attached letter sent on January 31, 2012 by Appellant Book to the Chief Judge of the Connecticut District Court, Alvin W. Thompson (Exhibit 6 at E - 24).[14] What is

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[14] To the detail and issues which are discussed in the letter, there is a related matter of a seemingly high incidence of Appellant Book not timely receiving notices of court rulings at the District Court level. Such an issue has been observed in Book v. CRRA, in Book v. Tobin, in Book v. Mendoza and in Book v. Parks. It appears that such a high incidence may reflect problems within the Offices of the Court Clerk. The Appellants point out that it is unlikely that such a problem occurs with any significant frequency with professional attorneys.

particularly described in the letter is court bias against male, self-represented litigants. What is discussed here logically is likely merely the tip of the iceberg.

Also in the Appellants' Motion of December 4, 2011 for Reconsideration of Court Ruling to Deny as Moot the Motion for Injunction Pending Appeal, the Appellants provided and discussed a letter sent to Christopher Dodd on November 27, 2011, that pertaining to the substantive unaddressed national issue of "weed-gate" (at p. 19 and its Exhibit 4). There is good cause for these Appellants to provide hereto the same letter Enclosure 7 (at E – 34). That matter, which is also referred to briefly at the end of the Appellants' accompanying letter to Senator Harry Reid (Exhibit 4 at E - 20), deserves highlighting and up-dating. It is pointed out that *the public announcement of Defendant Blumenthal seeking the Democrat Party nomination for the U.S. Senate was given on January 7, 2010, curiously the same day that Senator Dodd announced that he would not seek re-election.* The announcement of Senator Dodd was *merely about six weeks after Appellant Book's initial letter to him on the subject of the "weed-gate", only a month after Appellant Book's follow-up to Senator Dodd including also a cited copy for Barack Obama, and merely two weeks after Appellant Book's letter to Barack Obama in which he raised also a very substantive issue of the purpose for a Presidential Administration's participation in the extending of a $100 million grant for the stated purpose of construction of a university hospital in Connecticut* (the latter being what was described in the media as a favor for Senator Dodd). Considering the timing of the $100 million grant in the context of the Obama Administration's push for national health care legislation as well as the emerging issue of "weed-gate", the timing and sequence of these events raise very serious questions of national interest (It is also noted that Barack Obama made the public announcement of the Congressional passage of the health care legislation standing in the presence of a hand-full of legislators including Senator Dodd.).

Absent other response or resolve of the "weed-gate" issue, Appellant Book has used personal contacts to do further review. Additional corroborating facts were obtained for which on November 27, 2011, the Appellants sent to Mr. Dodd the accompanying letter. It is pertinent that information which is contained in the letter has been presented and/or corroborated by at least four sources, each of which is independent of the other and not known by any of the other sources. The similarity of the accounts and the level of detail is glaring

and incriminating. The Appellants hereby clarify that regarding the matter mentioned in the letter of Nick Romano having been a partner in the illegal scheme with Mr. Dodd and of being disbarred in Connecticut for his role in the unlawful plan, they advise that upon consultation with the Statewide Grievance Committee, it is reported that Mr. Romano was never a licensed attorney in the state. It was one of the sources that advised that Mr. Romano had been disbarred. It is another source that informs that he was aware of Mr. Romano taking the state bar exam in New Haven at about the time that the "weed-gate" federal sting occurred. It now appears that Mr. Romano likely took the state bar exam but for the impending legal complications of "weed-gate", he did not proceed to become licensed. In other words, there is substantive similarity in the separate accounts.

It is also of note that, according to information received by the Appellants, the incident took place in the latter years of Mr. Dodd serving as Congressman and just before he was elected to the U.S. Senate. Thus, it would have likely occurred in 1979 or 1980. What is additionally revealing is ***that Defendant Blumenthal was serving as United States Attorney from 1977 through 1981!*** Thus, he very likely was aware of and in some ways involved in the review of that matter. Does this mean that Defendant Blumenthal, then as U.S. Attorney, did his friend Chris Dodd a favor, that in a manner that Senator Joseph Lieberman did for his friend, former Treasury Secretary Robert Rubin in the Senate investigation of the Enron failure (that in 2001 before the Senate Governmental Affairs Committee with Sen. Lieberman then chaired)? It is further significant that one of the Appellants' sources regarding "weed-gate" is a retired officer of the City of New York's Police Department narcotics section who states that while he was active in the narcotics section during about the late 1970's, he and his associates were aware of the project of the marijuana shipment and of Mr. Dodd's involvement in that even before the DC-3 aircraft landed in South Carolina. If New York police officers were aware of the matter, then U.S. Attorney Blumenthal was very likely well aware of it.[15] ***This***

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[15] For all the above, there may be better understanding of the Democrat Party's high level of attention on the top level candidates for the November 2010 election for which there was on Saturday, October 30, 2010 a "Get-Out-the-Vote" rally at Harbor Yard in Bridgeport, CT, that featuring Barack Obama, and on Sunday, October 31, 2010, another political rally at Harbor Yard featuring Bill Clinton. As has been asserted in this docket, "truth is sometimes stranger than fiction".

information has substantial significance for the initiation and foundation of Defendant Blumenthal's campaign and it relates to various Appellants' claims!

Finally, the Appellants provide a portion of the publication made in May of 2010 for the major party conventions that were held in Hartford, CT in late May 2010. Published by Hartford Publications and entitled "2010 Connecticut State Conventions" at pages two and three, there were photographs and brief biographies of the candidates for U.S. Senate. The portion containing the photos of Appellant Book and Defendant Blumenthal is attached as Exhibit 8 (at E – 41). As it is said, ***a picture is worth 10,000 words!***

Again, these considerations are in addition to the Appellants' stated disposition to further amend the complaint for seeking a *quo warranto* proceeding, a type of proceeding which supercedes any issue raised or implied by the Defendants, the District Court or this Court of Appeals. According to state law, there is no limitation period for commencing such a proceeding.

In addition, the Appellants point out that the delay in obtaining relief from these courts in this matter adds to and augments the issues of injury from legitimate unaddressed claims of other matters, all matters with substantial broad public interest and implications also for Defendant Blumenthal.

Several additional background references are provided. On March 23, 1775, Patrick Henry made a famous speech which began as follows:

> Shall we try argument? Sir, we have been trying that for the last ten years . . . Our petitions have been slighted, our remonstrances [complaints] have produced additional violence and insult, our supplications have been disregarded; and we have been spurned with contempt from the throne . . . . [16]

Sierra Bell, a Yale University graduate student in anthropology, has sought to compare the Tea Party Movement with Occupation Wall Street. She recent said that "it seems like there are similarities in that corrupt government-corporate relations are seen as the cause of the Recession and decreased liberties for individuals."

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[16] Original Intent at p. 101

In 1777, Nicholas Street preached in East Haven, Connecticut:

> The British tyrant is only acting over the same wicked and cruel part, that Pharaoh king of Egypt acted toward the children of Israel some 3,000 years ago. [17]

The national media has portrayed the majority of the members of Congress as being part of the elite one-percent. It is the Appellants' view that the majority of those one-percenters have become the replacement substitute of the mentioned British tyrant and the Pharaoh king of Egypt!

In his Inaugural Address of April 30, 1789, President George Washington stated:

> [I]t would be peculiarly improper to omit, in this first official act, my fervent supplications to that Almighty Being who rules over the universe, who presides in the councils of nations, and whose providential aid can supply every human defect . . . . No people can be bound to acknowledge and adore the Invisible Hand which conducts the affairs of men more than those of the United States. Every step by which they have advanced to the character of an independent nation seems to have been distinguished by some token of providential agency . . . . [W]e ought to be no less persuaded that the propitious [favorable] smiles of Heaven can never be expected on a nation that disregards the eternal rules of order and right which Heaven itself has ordained.[18]

There is also the established doctrine of *contra non valentem:*

> . . . the doctrine of *contra non valentem* is, in part, but an application of the long-established principle of law that one should not be able to take advantage of his own wrongful act. [Nathan v. Carter, 372 So.2d 560, 562 (La. 1979)]

Finally, the Appellants refer to the Inaugural Address given by President Barack Obama on January 20, 2009. Several pertinent portions follow:

> . . . We remain a young nation, but in the words of Scripture, the time has come to set aside childish things. The time has come to reaffirm our enduring spirit; ; to choose a better history; to carry forward that precious gift, that noble idea, passed on from

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[17] Americanism – and its Enemies" by David Gelernter (2005)

[18] Original Intent at p. 120

> generation to generation; the God-given promise that all are equal, all are free, and all deserve a chance to pursue their full measure of happiness. . .
>
> Our capacity remains undiminished. But our time of standing pat, of protecting narrow interests and putting off unpleasant decisions – that time has surely passed. Starting today, we must pick ourselves up, dust ourselves off, and begin again the work of remaking America . . . .
>
> Nor is the question before us whether the market is a force for good or ill. Its power to generate wealth and expand freedom is unmatched, but this crisis has reminded us that without a watchful eye, the market can spin out of control – and that a nation cannot prosper long when it favors only the prosperous. . . .
>
> To those who cling to power through corruption and deceit and the silencing of dissent, know that you are on the wrong side of history; but that we will extend a hand if you are willing to unclench your fist. . . .
>
> Let it be said by our children's children that when we were tested we refused to let this journey end, that we did not turn back nor did we falter; and with eyes fixed on the horizon and God's grace upon us, we carried forth that great gift of freedom and delivered it safely to future generations.

CONCLUSIONS:

THEREFORE, there is no undisputably meritless legal theory raised or inherent to this Appeal and the claims have more than adequate factual basis for stating a claim. Also, in consideration of proper causes for recalling this Court of Appeals' recent mandate which these Appellants received on February 2, 2012, those including for correcting legal error where the arguments have been before this court, where there has essentially been no time lapse in presenting this Motion for Recall, and for a full, proper and fair balancing of equities including of the substantial public interests involved in this matter and to avoid a miscarriage of justice, these Appellants hereby pray and urge that this Court of Appeals promptly and fully reverses its recent action to issue a mandate, that it fully re-opens this Appeal and that it grants the unchallenged and unaddressed Motion of December 4, 2011 for Reconsideration of Court Ruling to Deny as Moot the Motion for Injunction Pending Appeal.

As these Appellants asserted in their attached letter to Senator Harry Reid:

> ***Neither the Founding Fathers nor God intended either implicitly or explicitly that I or those whom I symbolize should be deemed and treated as second-class citizens!***

May God bless America!

These Appellants so move!

Respectfully submitted for Ethan Book
and Ethan Book for U.S. Senate

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UNITED STATES COURT OF APPEALS

FOR THE SECOND CIRCUIT

CERTIFICATE OF SERVICE

U.S.C.A. Docket No. 11-2739

Ethan Book et al.

v.

Susan Bysiewicz et al.

I hereby certify that on the 4th day of February 2012, I served by United States mail a copy of the foregoing Motion to the following:

Robert D. Snook
Office of the Attorney General
P.O. Box 120
Hartford, CT 06141-0120

_____

Ethan Book