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**IN THE UNITED STATES BANKRUPTCY COURT
 FOR THE DISTRICT OF HAWAII**

LEONARD G. HOROWITZ, an)
 individual; and SHERRI KANE, an)
 individual)

Plaintiffs,)

vs.)

PAUL J. SULLA, JR. an individual;)
 PAUL J. SULLA JR., ATTORNEY AT)
 LAW A LAW CORPORATION, a)
 corporation; THE ECLECTIC CENTER)
 OF UNIVERSAL FLOWING LIGHT-)
 PAULO ROBERTOSILVA E SOUZA, a)
 Hawaii corporation sole; JASON)
 HESTER, an individual; THE OFFICE)
 OF OVERSEER, A CORPORATE)
 SOLE AND ITS SUCCESSOR, OVER)
 AND FOR THE POPULAR)
 ASSEMBLY OF REVITALIZE, A)
 GOSPEL OF BELIEVERS; STEPHEN)
 D. WHITTAKER, an individual;)
 STEWART TITLE GUARANTY)
 COMPANY; and DOES 1 through 50,)
 Inclusive)

Defendants

CIV. NO. _____
 (Chapter 13)

**VERIFIED COMPLAINT FOR
 INJUNCTIVE RELIEF,
 DECLARATORY JUDGMENT, AND
 DAMAGES IN CORE ADVERSARY
 PROCEEDING [28 U.S.C. § 1452;
 Chapter 13 of 11 USC §§ 302 and
 362 of the Bankruptcy Code];
 AFFIDAVIT OF LEONARD G.
 HOROWITZ; APPENDIX OF
 OUTSTANDING CLAIMS; EXHIBITS
 “1” thru “21”; SUMMONS;
 CERTIFICATE OF SERVICE.**

DEMAND FOR JURY TRIAL

JUDGE: _____

HEARING DATE: _____

HEARING TIME: _____

TRIAL DATE: _____

TRIAL TIME: _____

**VERIFIED COMPLAINT FOR INJUNCTIVE RELIEF, DECLARATORY
 JUDGMENT, AND DAMAGES IN CORE ADVERSARY PROCEEDING**

NOW COMES Pro se Plaintiffs LEONARD GEORGE HOROWITZ and SHERRI KANE (hereafter, “Plaintiffs”), bringing this core Adversary Proceeding against the captioned parties, PAUL J. SULLA, JR., et. al. (hereafter, “Defendants”) by debtor-victims(s) of organized crime, seeking protection by injunction under Chapter 13 of 11 USC §§ 302 and 362 of the Bankruptcy Code. Debtor is also a *creditor*, with unsecured and secured debts within 11 U.S.C. § 109(e) eligibility, and substantial sums deprived as pled herein.¹

I. Overview of Case

1. This case derives from Plaintiff HOROWITZ having exhausted his financial resources, and all state remedies, following eleven years of being maliciously prosecuted and damaged by Defendants’ fraudulent and willfully oppressive conspiracy to deprive the Plaintiffs of their civil rights, due process, payments due and owing, and commercial property (hereafter “Property”) all under color of law.

2. Plaintiff LEONARD G. HOROWITZ (hereafter “HOROWITZ”) purchased the “Inn” and spa Property in January 2004 for \$550,000 from seller Cecil Loran Lee (hereafter “Lee,” now *deceased*); while Plaintiff HOROWITZ was the “body corporate” of his religious ministry, The Royal Bloodline of David (hereafter “RBOD”). HOROWITZ had no knowledge at that time that Lee was a predicate felon, convicted for trafficking marijuana from the Property. Since that time, parties in privity with Lee have incessantly, willfully, oppressively, and maliciously prosecuted RBOD and HOROWITZ, causing the ministry’s insolvency and dissolution in 2012, and HOROWITZ’s bankruptcy.

¹ The pro se Plaintiffs acknowledge they are not lawyers, and pray that the honorable Bankruptcy Court will liberally construe their pleadings pursuant to *Picking v. Pennsylvania Railway*, (151 F2d.240) Third Circuit Court of Appeals. (“Where a Plaintiff pleads pro se in a suit for protection of civil rights, the court should endeavor to construe the Plaintiff’s pleading without regard to technicalities.”)

3. The Defendants *maliciously prosecuted* HOROWITZ et. al., to extort money and steal the one-of-a-kind geothermal spa Property; and deprived the Plaintiffs of their rights to due process and commercialization of the Property pursuant to the following cases: (a) 2005 Judicial Foreclosure Action (“JFA”) Civ. No. 05-1-0196 (Foreclosure Denied in 2008, yet litigation continues following *six (6) “Final Judgments”*); (b) Ejectment action #1, Civ. No. 3RC-11-1-662 (filed June 21, 2011; dismissed 2-13-12); (c) SLAPP Lawsuit Civ. No. 12-1-0417 filed July 20, 2012, and dismissed August 28, 2014; (d) Ejectment action #2, Civ. No. 3RC 14-1-466 filed April 25, 2014; dismissed August 11, 2014; (d) Quiet Title action, Civ. No. 14-1-0304, filed August 11, 2014, and ongoing by *fraud upon the court* by the named officers of the court.)

5. Following a judicial foreclosure DENIED ruling in 2008, Defendants’ conspired and acted to steal the Property using a convoluted scheme involving a series of fraudulent transfers of the *void* Mortgage and Note, and a set of sham judgment-proof parties including: JASON HESTER (hereafter “HESTER”) and THE OFFICE OF OVERSEER, A CORPORATE SOLE AND ITS SUCCESSOR, OVER AND FOR THE POPULAR ASSEMBLY OF REVITALIZE, A GOSPEL OF BELIEVERS (hereafter “GOB”). The scheme and these entities were manufactured and administered by Hawaii attorney and enterprise “King Pin,” PAUL J. SULLA, JR. (hereafter “SULLA”); who leveraged the power of sale clause in the void Mortgage to commit a wrongful non-judicial foreclosure (hereafter “NJF”) in contempt of the “first filed” JFA foreclosure DENIED final judgment(s).

6. To date, the Ibarra Court in Civ. No. 05-1-0196 has DENIED foreclosure in *six (6) “final judgments;”* writing in Conclusions of Law, “equity abhors forfeiture;” and honoring the Plaintiffs timely payments made against the Mortgage and Note, plus more

than \$600,000 in Property improvements made by HOROWIZ.² (Exhibits 1 and 2)

7. To evade paying the Plaintiffs \$200,907.98 in damage awards (Exhibit 3), and also releasing the *paid-off* and *voided-by-fraud* Mortgage, as required by law (HRS §506-8), SULLA administered a series of *fraudulent conveyances* of the Mortgage and Note between May 15-29, 2009 to deprive the Plaintiffs of their money and Property.^{2,3} SULLA hastily formed the GOB trust by *forging and altering* its Article of Incorporation filed by wire fraud with the State of Hawaii Bureau of Conveyances on May 26 and 28, 2009 (Exhibit 11), manufacturing at the same time \$375,000 in “false debt” (i.e., debt previously paid by HOROWITZ, but neglected to be credited). SULLA abused the sham trust to shield him and the other Defendants from liability as he extorted the Plaintiffs to pay to GOB and HESTER the money that the jury and court had awarded HOROWITZ et al. When the Plaintiffs refused to pay the extortion demand, SULLA conducted the NJF, inciting another eight years of the aforementioned malicious prosecutions.

8. Following the NJF, SULLA fraudulently conveyed title to GOB, and later, on June 9, 2011, fraudulently transferred their colored title further to HESTER; simultaneously securing SULLA’s own concealed conflicting interest in the Property as HESTER’s “Mortgagee” as HOROWITZ’s direct competitor. (Exhibits 19 thru 21) SULLA had already incorporated a competing health spa near the subject Property—the HAWAIIAN

² Plaintiffs were awarded \$907.98 to be paid by Defendants and also granted a jury award of \$200,000 that Horowitz used as a credit against the Mortgage debt, as per the tendering exemption in the Mortgage paragraph 16(B) “Foreclosure and sale,” (Exhibit 16) securing HOROWITZ’s interest. (See: *Lona v. Citibank, N.A.*, 202 Cal. App. 4th 89, 104 (Cal. Ct. App. 2011) (citing *Bank of Am. Nat. Trust & Sav. Ass’n v. Reidy*, 15 Cal. 2d 243, 248 (Cal. 1940)).

³ Lee was repeatedly determined to have committed “fraud in the sale” of the same Property to multiple buyers, concealing liens and encumbrances on the same Property, including a federal lien for marijuana trafficking, in Civ. No. 01-01-0444, Philip B. Maise v. Cecil Loran Lee; Lee v. Maise in Civ. No. 05-1-0235; and in the Plaintiff’s case against Lee, 05-1-0196. Consequently, the Warranty Deed (Exhibit 17) and Mortgage was *void ab initio*.

SANCTUARY—approximately two miles from HOROWITZ’s spa. SULLA fraudulently conveyed the Mortgage and Note into GOB using the false address of HERBERT M. and RONN RITKE (“the RITKES”), who later denied the legal existence of GOB’s business office at their residential address;⁴ and thereafter the Defendants used two false mail boxes administered by SULLA, purportedly belonging to HESTER.

9. SULLA, working to collect the “false debt,” exclusively administered his sham HESTER and sham GOB during the NJF on April 20, 2012, violating, inter alia, HRS 667-4 and 667-5 strict requirements, including failing to notice Plaintiffs of the amount needed to cure the (false default) “debt”, and amount needed to repay the costs of the NJF. At auction (recorded on video and published online) the exclusive bidder HESTER bid \$200,000, but SULLA later swore in his Mortgagee’s Affidavit that HESTER only bid \$175,000. (Exhibit 16) The entire NJF was a *theft scheme*.

10. Subsequently, “HESTER” filed two aforementioned failed ejectment actions, both instigated for further extortion by SULLA and co-counsel; and both concealing SULLA’s personal surety interest in the Property as HESTER’s concealed financier and mortgagee.⁵

⁴ See the RITKES statements made in defensive pleadings filed in federal court, in CV13 00500HGBMK.

⁵ Sulla’s mortgage to Hester secured by the subject Property was recorded in the State of Hawaii Bureau of Conveyances (BoC) Doc. No. 2011-093773, June 14, 2011 (Exhibit 21). At the same time, Sulla quit-claimed the Property to Hester in a corresponding conveyance: as shown in BoC Doc. No. 2011-093772 of June 14, 2011 (Exhibit 20). Sulla had previously assigned the Mortgage to GOB, per BoC Doc. No. 2009-136885 (Exhibit 19) on September 8, 2009, and Sulla filed the set of forged and altered Articles of Incorporation for GOB in the State of Hawaii Dept. of Commerce and Consumer Affairs on two dates 5/26 and 5/28/2009. (Exhibit 11) The forgeries and alterations were verified by expert document and handwriting examiner, Beth Chrisman, in a sworn analysis and Declaration. (Exhibit 11) Sulla acted throughout the conspiracy illegally as *unauthorized personal representative for Lee’s estate*, including when he Quitclaim deeded Lee’s rights to GOB on May 11, 2010 by BoC Doc. No. 2010-064623, following the April 20th auction. Later, District Court Judge Harry Freitas ordered SULLA, HESTER and GOB to re-file their Complaint for Quiet Title in the proper Third Circuit Court, resulting in the fraud upon the court in Quit Title case Civ. No. 14-1-0304.

11. To administer the Property theft scheme, SULLA violated RCCH Rule 26(b) surety disclosure requirement, and defrauded multiple courts by entering GOB's forged and altered Articles of Incorporation. SULLA's false filings and fraudulent concealments defrauded three judges: Elizabeth A. Strance, Ronald Ibarra, and Melvin H. Fujino. Each of these judges subsequently violated their jurisdiction by never questioning, simply accepting, and erroneously granting SULLA's shill HESTER's standing to gain Quiet Title, while depriving HOROWITZ of his standing, and right to due process to defend his and his ministry's Property.

12. In the most recent outrageous abuse, SULLA, HESTER and STEPHEN D. WHITTAKER (hereafter "WHITTAKER") parleyed RBOD's contrived default into their summary judgment victory; all before the willfully-blind judges Strance and Ibarra who deprived Plaintiffs' their right to a trial on the merits, and right to vacate RBOD's clearly-erroneous default. The gross fraud upon the court violated multiple rules and laws, including HRS § 418-9; and right to a trial, even *after*: (a) federal Judge Richard L. Puglisi *disqualified* counsel SULLA as a "necessary witness at trial" (in Civ. No. 14-1-0304 now pending appeal);⁶ and (b) Judge Strance witnessed SULLA pleading his Fifth Amendment right to conceal his illegal drug enterprise in Civ. No. 12-1-0417. (Exhibit 12)

13. Meanwhile, Civ. No. 05-1-0196 was made to fester, incessantly continue, by the court officers to subvert justice, deprive the Plaintiffs of their right to due process, and steal Property ownership, by evading final disposition on the merits in that first filed case. This is clearly-and-convincingly evidenced by the unprecedented *six (6) final judgments* in that case.⁷ This malicious prosecution, precluding final disposition, damaging on-and-on the Plaintiffs to avert res judicata preclusion of SULLA/HESTER's victory in the second filed

⁶ Judge Seabright remanded case Civ. No. 14-00413 to resume ongoing Quiet Title case Civ. No. 14-1-0304 before the defrauded Third Circuit Court of Hawaii, extending this malicious prosecution and contributing to this bankruptcy and filing for injunctive relief.

case, effectively converting the Property illegally by collateral attack steeped in fraud, is *exceptional* and unconscionable. (See Footnote #7.)

14. SIX FINAL JUDGMENTS⁷ (none of which are appealable under *Jenkins*) is *prima facie* evidence of fraud upon the court by the court and its officers. Granting HESTER Quiet Title in 0304 in contempt of the FORECLOSURE DENIED ruling(s) in 0196 evidences the villainous scheme to subvert res judicata and collateral estoppel doctrines. Granting HESTER Quiet Title and terrorizing the Plaintiffs with threatened ejectment from their home and religious Property to prosper a concealed real-party-in-interest—Mr. SULLA—who competes for the Property unfairly and deceptively on behalf of his two religious “sole corporations” commercializing in drug trafficking and foreclosure fraud evidences a criminal “condition of mind.”

15. Defendants’ aforementioned malicious prosecution(s) has prevented the Plaintiffs from commercializing the Property for eleven years, every month costing approximately \$5,000 in maintenance and security fees disabling the Plaintiffs from paying their defense lawyer, and draining assets needed to maintain their otherwise successful health and educational businesses. For these reasons, injunctive relief by stay pending trial on the merits is urgently needed to enjoin the criminal conspiracy, save the Plaintiffs’ home, and prevent their ejectment. Declaratory judgments are also requested on several disputed matters of law.

⁷ A search of Google Scholar of more than one million American legal cases failed to find even one case documenting more than three amended final judgments. This fact provides prima facie evidence of unprecedented fraud upon the court obviously tainting Chief Justice of the Third Circuit Court, Judge Ronald Ibarra’s final determination in Civ. Nos. 05-1-0196 and 14-1-0304. These facts also provide an “impression of impropriety” to purposely delay final disposition of the first-filed 0196 case to prejudice the Plaintiffs in favor of the Defendants’ Quiet Title award in 0304—the forth (4th) filed malicious prosecution—that would otherwise be precluded by res judicata doctrine had any of the 0196 final judgments denying foreclosure been actually appealable in accord with *Jenkins v. Cades Schutte Flemming & Wright*, 76 Haw. 115, 869 P. 2d 1334 (1994); or reflect Judge Ibarra’s veteran experience on the bench.

II. Jurisdiction, Demand for Jury Trial, and Venue

1. Jurisdiction is conferred on this Court pursuant to the provisions of Section 1334 of Title 28 of the United States Code as this proceeding arises as a Chapter 13 case, under Title 11; and concerns real and personal properties of “Debtor” HOROWITZ--who is also a judgment *creditor* still owed \$200,907.54 in jury and State court awards from Civ. No. 05-1-0196 currently under appeal. As mentioned above, this judgment credit was turned into a falsely alleged \$375,000.00 “debt” by the Defendants’ fraud and crime.⁸
2. This federal Bankruptcy Court has both personal and subject matter jurisdiction to hear this adversarial proceeding also under Title 28 Section 157(b)(2)(C)(E)(H)(I)(J) and (O).
3. This matter is primarily a core proceeding and, therefore, the Bankruptcy Court has jurisdiction to enter a final order pursuant to LBR 7016-1(b)(2)(C) upon demand for jury trial made hereby. However, the Plaintiffs consent to the entry of a final order by a District Court judge following a trial by jury; should this case be joined with federal case CV 15 00186 JMS-BMK, officiated by Judge J. Michael Seabright, who reviewed factors favoring an administrative stay pending final determinations in the State court cases.
4. The Honorable Judge Seabright’s analysis applies to this prayer for injunctive relief, as

⁸ The elements of fraud in Hawaii include: “(1) false representations made by the defendant (e.g., HESTER is Lee’s “nephew” who is owed more than \$300,000 by HOROWITZ); (2) with knowledge of their falsity (or without knowledge of their truth or falsity)—SULLA knew this was “false debt,” because he created it by forgery and fraud; (3) in contemplation of plaintiff’s [and court’s] reliance upon them (secured by extortion and malicious prosecution); and (4) plaintiff’s [and court’s] detrimental reliance (i.e., engaging in mediations and litigations). See *Hawaii’s Thousand Friends v. Anderson*, 70 Haw. 276, 286, 768 P.2d 1293, 1301 (1989). Fraud on the court claim requires clear and convincing evidence of: “1) [conduct] on the part of an officer of the court [e.g., SULLA]; that 2) is directed to the judicial machinery itself; 3) is intentionally false, willfully blind to the truth, or is in reckless disregard of the truth; 4) is a positive averment or a concealment when one is under a duty to disclose [SULLA’s real party in interest as HESTER’s financier and mortgagee]; and 5) deceives the court [into granting HESTER’s standing and Quiet Title to the Plaintiffs’ Property]”. *Johnson v. Bell*, 605 F.3d 333, 339 (6th Cir. 2010).

discussed in CV 15 00186 on 9/11/15; albeit the judge’s ruling resulted in further damaged to the Plaintiffs for the reasons the Plaintiffs sought injunctive relief in federal court to begin with. State actors and processes were known by the Plaintiffs to have been corrupted by the aforementioned malfeasance, facts and acts of SULLA. This statement accords with Hawaii County Councilwoman, ethics champion, attorney Margaret Wille, who testified on behalf of the Plaintiffs to stay said corruption in the State proceedings in the two Ibarra Court cases. Ms. Wille, who witnessed the blatant illegality for which injunctive relief is urgently needed, wrote in Civ. No. 14-1-0304 in her “Memorandum in Support of Defendants’ Motion for Stay Pending Appeal [HRCP 62(d)] . . . “ as follows:

“[Plaintiffs] could go on listing matters of equity in their favor. But, really this entire scheme can be summed up by recognizing original mortgagee Lee was a swindler. Successor Mortgagee Jason Hester stands in the shoes of original mortgagee Lee and is continuing this swindle. The Circuit Court’s refusal to take a hard look at the deception in this case is shameful. For these reasons, at minimum, this Circuit Court is asked to allow for a stay – rather than being the vehicle to allow the victims of this swindle from being kicked out of their home.”

5. Judge Seabright, being unaware of the aforementioned complicity of State court actors in committing 42 U.S.C. § 1983 violations that are clearly-and-convincingly evidenced by the *six (6) defective final judgments* in Civ. No. 05-1-0196, wrote on 9/11/15: “**a § 1983 action can lie against a private party when ‘he is a willful participant in joint action with the State or its agents.’**”) (quoting *Dennis v. Sparks*, 449 U.S. 24, 27 (1980)).⁹

⁹ It should be noted that besides delaying case Civ. No. 05-1-0196 to prejudice the Plaintiffs, Judge Ronald Ibarra’s office administered a tampered Record on Appeal, evidencing the whiting-out and exclusive altering of “The Hara File” containing evidence of Cecil Loran Lee’s forgery of the quintessential closing document—the Agreement for Closing Escrow (“AFCE”)—drafted by Judge Ibarra’s subordinate Judge Glenn S. Hara—Horowitz’s first attorney in 2004, before Hara was appointed to the bench. Judge Ibarra purposely obfuscated Judge Hara’s involvement and liability in drafting the Certified True Original AFCE, called “Escrow closing instructions,” by the Court, to prejudice HOROWITZ’s defense against the Defendants’ malicious prosecutions. This, plus compounding evidence of administrative malfeasance by a State Court officer voids the final judgments in Civ. No. 05-1-0196 and 14-1-0304; and has made it impossible for the Plaintiffs to gain justice in State proceedings.

6. In *Kimes v. Stone*, 84 F. 3d 1121 – Court of Appeals, 9th Circuit 1996 (at 1128), held that attorneys complicit with judges in bad faith actions are “not entitled to the good faith immunity, also known as qualified immunity, available to other public officials.” Quoting *Dennis*, 449 U.S. at 29, 101 S.Ct. at 187 (finding "nothing indicating that, historically, judicial immunity insulated from damages liability those private persons who corruptly conspire with the judge");

7. Further, in deference to efficiency and economy, Judge Seabright wrote,

“The *Colorado River* doctrine is “carefully limited,” and “courts may refrain from deciding an action . . . only in ‘exceptional cases,’ and [where] ‘the clearest of justifications’ support dismissal.” *R.R. Street & Co. v. Transport Ins. Co.*, 656 F.3d 966, 978 (9th Cir. 2011).

6. The opposite circumstances present in this case, wherein any reasonable person would conclude *six (6) defective final judgments* by a veteran State Chief Justice is “exceptional.” Something is seriously amiss when court officers—“private persons . . . conspire with state officials to violate constitutional rights.” In *Wyatt v. Cole*, [504 U.S. 158](#), 112 S.Ct. 1827, 118 L.Ed.2d 504 (1992), the Supreme Court concluded that private actors are not entitled to the absolute immunity granted to some government officials, such as prosecutors and judges, *id.* at 164-65, 112 S.Ct. at 1831-32, and that such attorneys “are not entitled to the good faith immunity, also known as qualified immunity, available to other public officials.” Quoting *Kimes* referencing *Wyatt* at 168-69, 112 S.Ct. at 1834. In this instant case, attorneys SULLA and WHITTACKER are liable in accordance with *Kimes* and *Dennis* for conspiring with the court to subvert res judicata doctrine and violate 42 U.S.C. § 1983, as further detailed below.

7. The Plaintiffs’ meritorious claims cannot be justifiably dismissed without federal due process; especially considering *Colorado River*’s “eight facts that a district court should consider in determining whether to stay . . .” in this case of State court

improprieties necessitating a Chapter 13 bankruptcy (after praying for such protection in CV 15 00186 and being deprived). Whether or not “proceedings can adequately protect the rights of the federal litigants;” and “whether the state court proceedings will resolve all issues before the federal court,” are questions clearly answered *non placet* in this “exceptional” case of growing social interest.

8. Moreover, citing *Knaefler v. Mack*, 680 F.2d 671, 675 (9th Cir. 1982), Judge Seabright noted that ‘bills to quiet title’ are in personam actions (not in rem actions) under Hawaii law for purposes of applying this jurisdictional principle. 680 F.2d at 676. That is, the State court does not have ‘exclusive jurisdiction.’”¹⁰

9. Judge Seabright also quoted *R.R. Street*, 656 F.3d at 981, “A district court may not stay or dismiss the federal proceeding if the state proceeding cannot adequately protect the rights of the federal litigants. For example, if there is a possibility that the parties will not be able to raise their claims in the state proceeding, a stay or dismissal is inappropriate.” The facts now before this Bankruptcy Court demonstrate most convincingly that the Plaintiffs have been *prejudicially precluded* from raising their claims for relief in multiple State proceedings. Thus, federal adjudication is compulsory.

11. Judge Seabright closed his 9/11/15 ruling citing SULLA’s *Rooker-Feldman* argument for precluding the Plaintiffs’ federal action(s). SULLA’s argument fell short

¹⁰ Judge Seabright also considered “*Inconvenience of the Federal Forum*” for all parties, but neglected the fact that: (1) both Plaintiffs are California domiciled citizens compelled to protect their Hawaii Property investments as an “after acquired residence” favoring federal diversity jurisdiction; (2) both Plaintiffs work as broadcast journalists almost exclusively in Honolulu from Kane’s studio, compelled by the absence of reliable high speed Internet services at the subject Property; and (3) the prejudice damaging the Plaintiffs over the past eleven years has been outrageous, because each time the Plaintiffs need to go to court in Kona, they must either fly from Honolulu, rent a car and hotel room, or drive six hours to and from court to return to the Property for a short time before returning to work in Honolulu.

of the Rooker-Feldman fraud exception, however. In *Exxon Mobil* (544 U.S. at 291), the 'inextricably intertwined' state-federal court proceedings argument was overruled. The Court clarified that not all actions dealing with the "same or related question" resolved in state court are barred in federal court. *Id* at 292. Instead, a district court must retain a case that presents an "independent claim" even if, along the way, the claimant challenges or denies some conclusion reached by the state court. *Id* at 293 (quoting *GASH Assoc. v. Rosemont*. 995 F .2d 726, 728 (7th Cir. 1993) In Plaintiffs' instant case, the conclusions reached by the State court are all null and voided by fraud and crime. Furthermore, the excuse of "tolling" and statutes of limitations precluding adjudication on the merits is a red herring. Many, if not all of the claims, are compounding or ongoing, with damages accruing, and are not "time barred."

12. "It is certainly repugnant to justice to allow a fraudster to walk into federal court with admittedly unclean hands and then brashly pronounce the court's impotence to remedy the situation. Others may argue Rooker-Feldman is similar enough to preclusion doctrines, such as res judicata, that the incorporation of a fraud exception is a logical evolution,"¹¹ especially in this exceptional case wherein the same State court issued two conflicting sets of "final judgments;" and delays the first filed case following five amended final judgments to preclude res judicata and enable the second-filed collateral-attackers to prejudice the Plaintiffs, steal their Property, and administer their ejection.

13. In other words, compounding the Defendants' malicious prosecution aided-and-abetted by State actors willfully blind to the shocking records in 0196 and 0304,

¹¹ (See Buehler, supra note 5, at 376 in "Lower federal courts disagree on the doctrine's." Quoted from: Baker, Steven N. "The Fraud Exception to the Rooker-Feldman Doctrine- How It Almost Wasn't (and Probably Shouldn't Be.)" *The Federal Courts Law Review*. Vol. 5. No. 2, 2011.

SULLA's non-judicial foreclosure shall HESTER was granted quiet title through a contemptuous collateral attack in and against the same "judicial machinery" that denied foreclosure in the first filed case; even then depriving the Plaintiffs of their \$200,000 jury award and Constitutional rights, now extending eleven years of fraud and crime damaging the victims on the same Property, all through the same set of related transactions, involving the same parties or their privities, pioneering a criminal exception to res judicata.

14. Although there may be "adequate mechanisms for challenging victorious villains in state court," not every case, especially ones involving fraud upon the court by the court and its officers, affords such protection. This instant case is a study in such organized crime. In this instant set of cases that have caused HOROWITZ's bankruptcy, the Ibarra Court has denied dozens of opportunities to correct the "wrong perpetrated not just on the state-court loser, but on the state court itself." (quoting *Baker*, pg. 143.)

15. Relatedly, "The Fourth Circuit was entirely correct that there can be an exception to res judicata based upon fraud, deception, accident, or mistake. The United States Supreme Court has stated for at least ninety years that only 'in the absence of fraud or collusion' does a judgment from a court with jurisdiction operate as res judicata." (quoting *Baker*, pg. 146, quoting *Riehle v. Margolies*, 279 U.S. 218, 225 (1929)). Alternatively, a court complicit in fraud and collusion does exactly what Judge Ibarra did in this case--preclude res judicata justice to produce a lengthy series of void "final judgments" damaging and bankrupting whistleblowers.

16. Venue lies in this District per Section 1391(b) of Title 28 of the United States Code.

III. THE PARTIES AND PERSONA

1. Plaintiff **LEONARD G. HOROWITZ**, an individual, is a judgment creditor from the Final Judgment in Civ. No. 05-1-0196; and a debtor as filed in schedules D and E/F of Chapter 13, Title 11 USC, capable of resuming his half-century of timely bill paying and formerly good credit history, as soon as the Defendants' malicious prosecutions and theft schemes are lifted from his life. HOROWITZ purchased and paid in full for the Property, that is virtually his entire estate, as the guarantor on the Note and "body corporate" of his Washington State non-profit ecclesiastical corporation sole, **THE ROYAL BLOODLINE OF DAVID** (hereafter "RBOD")—a religious health educational ministry formed in 2001, and dissolved in 2012 due to financial damages caused by Defendants' fraud, crime, and malicious prosecutions further detailed below.

2. Plaintiff **SHERRI KANE** is the domestic partner and business partner of HOROWITZ. KANE is co-plaintiff in this adversarial action, but is not filing for bankruptcy as is HOROWITZ. KANE is one of HOROWITZ's creditors owed approximately \$221,000 from contract work for HOROWITZ's now dissolved Idaho corporations: Tetrahedron, LLC, Healthy World Distributing, LLC and Healing Celebrations, LLC. Prior to its dissolution (caused by SULLA's malicious prosecutions), RBOD transferred all rights and interests in the Property to the Plaintiffs by Quitclaim Deed dated July 11, 2012, filed with the Hawaii Bureau of Conveyances as Doc. No. A-4570676. RBOD was subsequently dissolved on September 19, 2012.¹² Half ownership in the Property is vested in KANE to repay said contract credit.

¹² Idaho CV-2011-01409 involved Ms. Kane and the subject Property that was awarded exclusively to Horowitz (and not RBOD) following a "hostile takeover" by agents complicit with Defendant SULLA in commercially-disparaging the Plaintiffs and publishing religious libel; including **ALMA C. OTT**, defaulted in the stayed federal case CV 15 00186 JMS-BMK.

3. Defendant **PAUL J. SULLA, JR., (“SULLA”)** is a Hawaii resident, lawyer, self-appointed personal representative (“without will”), estate planner, constructive trust maker, “debt collector,” Property auctioneer, exclusive fiduciary and trustee of the estate of the deceased Seller-Mortgagee of the subject Property, Cecil Loran Lee; drug manufacturing enterprise “king pin,” and current mortgagee secured by the Property by way of “false debt” (or “dischargeable debt”); *positioned to own the Property* pursuant to SULLA’s financing of the purported title holder (SULLA’s shill) JASON HESTER.

This latter fact is evidenced by, inter alia, SULLA’s registered mortgage “loan” to HESTER dated 6-9-11, shown in Exhibit 21. However, more evidence proves SULLA began abusing and financing HESTER in June, 2009, immediately before property seller Lee’s death.

More recently, SULLA was *disqualified* from representing HESTER in State Civ. No. 14-1-0304/Federal Civ. No. 14-00413 JMS-RLP on 1-5-15, as a “necessary witness at trial,” after pleading “that disqualification of Mr. Sulla would create substantial hardship for Plaintiff [HESTER] because Plaintiff would be unable to afford new counsel . . .”; yet SULLA appears to have bribed costly co-counsel **STEPHEN D. WHITTAKER** “on HESTER’s behalf” to replace SULLA only eleven days after SULLA’s disqualification (on 1-16-15). Thereafter, WHITTAKER concealed SULLA’s: (a) conflicting interests; (b) financing of HESTER; (c) financing of WHITTAKER; and (d) conspiracy to cause the State court actors, especially Chief Justice of the Third Circuit Court of Hawaii, **RONALD IBARRA**, to deprive the Plaintiffs of their right to adjudication on the merits by precluding due process to grant SULLA, through HESTER and WHITTAKER, quiet title to the Plaintiffs’ Property by summary disposition foreboding criminal conversion and ejectment.

4. **JASON HESTER**, an Arizona or California domiciled individual with a felony record for drug trafficking in Arizona, was made by SULLA the “Substitute Plaintiff” in Civ. No.

05-1-0196 to conceal SULLA's conflicting interests. HESTER is SULLA's "shill," as proven by discovery documents. SULLA installed HESTER as GOB's Overseer, falsely claiming HESTER was Lee's "nephew." (Exhibit 14) HESTER later aided-and-abetted SULLA's commission of the wrongful foreclosure on April 20, 2010. HESTER was filmed bidding \$200,000 for the Property, but later, SULLA swore that HESTER bid only \$175,000. (See Exhibit 16; "Mortgagee's Affidavit" signed exclusively by SULLA.)

5. THE OFFICE OF OVERSEER, A CORPORATE SOLE AND ITS SUCCESSOR, OVER AND FOR THE POPULAR ASSEMBLY OF REVITALIZE, A GOSPEL OF BELIEVERS (hereafter, "GOB") is SULLA's hastily-formed judgment-proof trust—a shell corporation—used to generate \$375,000 in "false debt" and certify its purported "creditor"—the shill "Overseer" for GOB—HESTER. To remain "arms length away" from his crime, SULLA filed forged and altered Articles of Incorporation with the State to manufacture this sham trust to hold the fraudulently transferred Mortgage and Note(s), evade and defraud (judgment creditor) HOROWITZ, manufacture HOROWITZ's default on the Mortgage and debt to "HESTER," and conceal and protect SULLA's conflicting interests. On June 14, 2011, Defendant SULLA caused GOB to transfer all of its illegally acquired interest in the Plaintiffs' Property to HESTER, and at the same time SULLA secured his interest in the Property as evidenced by his \$50,000 mortgage "loan" to HESTER registered with the Haw. Bureau of Conveyances as Doc. No. 2011-093773; 6-14-11. (Exhibits 20 and 21)

6. CECIL LORAN LEE (deceased as of June 27, 2009), was the Seller and original Mortgagee of the Property. He was convicted of high-volume marijuana trafficking from the Property, and died penniless while maliciously prosecuting HOROWITZ et. al., to bring foreclosure in Civ. No. 05-1-0196. Defendant SULLA appeared for the dying Lee in

that case on May 21, 2009, on “contingency;” appealing the \$200,000 jury award owed HOROWITZ. Soon after, *without a will*, nor any authorization by any Court necessary to act legally as a “personal representative” for Lee’s estate, SULLA acquired Lee’s interest in the Property by incorporating GOB by fraud, installing HESTER as “Overseer” of the sham trust, and fraudulently conveying Lee’s void Mortgage and Note into said trust (evading the debt Lee owed HOROWITZ, and converting Lee’s debt into “false debt” purportedly owed by HOROWITZ to Lee). SULLA then used that “false debt” (including the \$200,000 jury award still under appeal) to claim HOROWITZ’s default on the Mortgage. SULLA forged Lee’s signatures on altered Articles of Incorporation filings to commit a wrongful non-judicial foreclosure (“NJF”) to steal the Property in contempt of the foreclosure DENIED “Final Judgment(s)” in Civ. No. 05-1-0196.

7. THE ECLECTIC CENTER OF UNIVERSAL FLOWING LIGHT-PAULO

ROBERTO SILVA E SOUZA is non-profit sole corporation and front for SULLA’s illegal manufacturing of the Schedule 1 narcotic hallucinogen, dimethyltryptamine “DMT,” addressed at 46-4070 Kahana Drive, Honokaa, HI 96727. This is the hub of SULLA’s racketeering enterprise, also commercializing in real estate fraud.

8. **HAWAIIAN SANCTUARY INC.**, 13-3194 Pahoia-Kalapana Road, Pahoia, HI 96778 (PO Box 1222, Pahoia, HI 96778-1222), is an educational, agricultural, alternative health care spa and non-profit corporation, directly competing commercially with the Plaintiff’s similar establishment. The HAWAIIAN SANCTUARY was incorporated by SULLA on December 11, 2008, corresponding with SULLA’s first correspondence with the parties involved in Civ. No. 05-1-0196. SULLA established this competing enterprise approximately two miles from the subject Property.

9. **PHILIP MAISE** was the first Lee-defrauded buyer of the Property, and became the Intervenor in Civ. No. 05-1-0196 to recover his damages. The Nakamura Court awarded Maise approximately \$205,000.00 in two related cases after ruling that Lee had altered many court records. Plaintiff's monthly mortgage payments of \$2333.33 to Lee were garnished by Judge Nakamura, and HOROWITZ was ordered to pay Maise instead. It should be noted that all of Horowitz's payments to Lee and Maise were repeatedly neglected by SULLA and HESTER.

10 **STEWART TITLE GUARANTY COMPANY**. Plaintiff HOROWITZ's Property title insurance carrier under Policy Serial No. O-9993-2024518, in the amount of \$550,000, secured on January 23, 2004, by and through the ISLAND TITLE COMPANY escrow office in Hilo, HI, This "Policy" excludes coverage for "Defects, liens, encumbrance, adverse claims or other matters: . . . not known to the Company, not recorded in the public records at the Date of Policy, . . ." But on June 5, 2015, escrow officials declined to approve legal aide or compensation for damages despite having been informed of their liability under the contract. Discovery documents prove STEWART agents *fraudulently concealed* Maise's encumbrance on the Property and issued the Policy to make money. They neglected to inform HOROWITZ that he was buying a Property involved in litigation pursuant to a federal lien and Maise's encumbrance, when \$85,000 of HOROWITZ's escrow money went to Lee to pay off said federal lien (loan) but not Maise's encumbrance. Company officials committed a breach of contract and bad faith tort denying coverage and compensation, claiming that HOROWITZ caused the loss of Property title.

IV. FACTUAL ALLEGATIONS

1. The Plaintiffs purchased the subject Property on 1-15-04—a parcel of land (and improvements thereon) located at 13-3775 Pahoia-Kalapana Road, Pahoia, County of Hawaii, 96778—TMK (3) 1-3-001:049 and 043—for the amount of \$550,000. Plaintiff HOROWITZ was a personal investor, consumer, and co-signer on the Note. He, as “body corporate” for RBOD religious ministry, put \$200,000 down, and allowed Seller Lee to take \$85,000 out of escrow early to pay off a lien secured by the Property originating (unbeknownst to Horowitz) from Lee’s conviction for marijuana trafficking from the Property. HOROWITZ/RBOD paid 60 monthly payments of \$2,333.33 timely on the Note, not realizing the Mortgage and Notes were voided by fraud in regard to the sale; and not knowing Lee had entangled HOROWITZ into an “unconscionable bargain” that would eventually bankrupt him. (Exhibits 2, 3 and 16, 17)

2. Seller Lee conveyed the Property to RBOD and Defendant Horowitz by way of a Warranty Deed (Exhibit 17) that falsely stated the Property was “free of encumbrances and liens.” The promissory Note and Mortgage, signed 1-15-04 was for \$350,000, and was due in January of 2009. From February 2004 through February 2009, over sixty (60) months, monthly interest payments of \$2333.33 totaling \$139,999.80 believed owed to Plaintiff Lee were timely made. During most of this period the payments were instead required to be paid to Intervenor Maise by reason of a Court order in lieu of Maise having won \$205,214.21 in damage awards against Lee from a 2001 attempted fraudulent sale of this same property to Maise.¹³

¹³ Horowitz was ordered to pay Maise on the basis of two judgments, one August 4, 2005, the other September 30, 2004, totaling \$31,776.44 (Civ. No. 05-1-0235) plus \$173,437.77 (Civ. No. 01-1-0444) totaling \$205,214.21, Intervenor Maise obtained two garnishment orders from Judge Nakamura of the Circuit Court of the Third Circuit (Hilo Division) on the basis of Lee having defrauded Maise in the sale of this same Property, and same way Lee defrauded Horowitz, concealing a drug-related federal forfeiture action pending against the Property. In an

3. The record of all payments made by HOROWITZ to Lee and Maise totals \$588,111.94 (including a \$100,000 payment credit that HOROWITZ claims was owed by reason of Lee's breach of contract that prohibited HOROWITZ from administering that amount in accordance with the written Mortgage/Note stipulation; but *not including* the \$200,000 vacated jury award still under appeal. In addition, the sum neglects approximately \$275,000 in legal fees and costs accumulating over eleven years from related cases; approximately \$5,000 more per month in Property maintenance and security costs; and more than \$600,000 in improvements Plaintiffs made to the Property). Exhibit 1 summarizes these payments made to Lee and Maise on the Mortgage.

4. After HOROWITZ et. al., prevailed in the judicial foreclosure action (JFA) Judge Ibarra ordered HOROWITZ to make a balloon payment, that HOROWITZ made for the sum of \$154,204.13 in February, 2009. (Exhibits 2 and 3).^{14, 15}

unpublished opinion, the Appellate Court affirmed the lower court award(s) to Maise in the appeals taken, 2008 WL 1922976, No. 28012.

¹⁴ A copy of the Court's Finding of Fact and Conclusions of Law dated April 2, 2008, as well as the Final Judgment dated July 22, 2008, and the Amended Final Judgment dated February 23, 2009, and the Second Amended Final Judgment dated December 11, 2009, Third Amended Final Judgment dated September 12, 2013, and Fourth Amended Final Judgment dated June 19, 2015, are attached as **Exhibits 2, 3, 4, 5, 6 and 7**. A copy of Plaintiff's proposed Fifth Amended Final Judgment submitted by licensed counsel, Margaret Wille, is attached as **Exhibit 8**. A copy of the appellate court's Order Denying the 0196 appeal is attached as **Exhibit 9**. A copy of the Court Order by Judge Greg Nakamura in *Maise v. Lee*, Civ. No. 01-01-0444 is attached as **Exhibit 10**, proving Lee had a pattern of "fabricating evidence or has caused evidence to be fabricated." (See: pg. 11 of Order.)

¹⁵ The initial Plaintiff in Civ. No. 05-1-0196 was Cecil Loran Lee. In May of 2009, a month prior to Lee's death, and ten (10) months after the Final Judgment was filed disposing of Lee's claims, Plaintiff Lee, aided by Defendant attorney Sulla, created the GOB "church," which legal maneuver set up a wall of protection from Judgment creditor Horowitz and other judgment creditors. The Articles of Incorporation for the GOB, filed and certified by Sulla with the State of Hawaii in two parts, on two dates, May 26, 2009, and May 28, 2009, contained one or more forged signatures of assignor Lee, on pages 6 and 8, therein, and certain photocopied alterations. A copy of the forged document entered by Sulla into Civ. No. 05-1-0196 on July 16, 2009, in Motion for Substitution of Plaintiff, is attached as **Exhibit "14"**. This forgery was confirmed by forensic document examiner Beth Chrisman who described GOB's Articles of Incorporation "as not authentic." A copy of Forensic Document Examiner's Report is attached as **Exhibit "11"**. This

5. Seller-mortgagee Lee's pattern of fraud in this case included false representations that: (1) the Property was a legally operating "Inn" and "Bed and Breakfast;" (2) sold with no encumbrances fraudulently concealing Maise's encumbrance; (2) falsely representing the

forgery established the basis of securities fraud (violation of HRS § 485A-509) as ten (10) days prior to the filing of the (forged) Articles of Incorporation creating the GOB, Defendant Sulla transferred Lee's interest in the Property Mortgage and Notes (by false Warranties) from Lee as individual, to Lee as GOB's "Overseer." Later, on June 9, 2011, Sulla administered more fraudulent transfers of secured interests in the Property by quitclaim deed to Jason Hester as individual at the same time attorney Sulla issued Hester a \$50,000.00 "loan" secured by Plaintiff's Property, effectively slandering title and causing Plaintiff's damages, through this complex "money laundering" scheme.

At the time Sulla conveyed Lee's interests to GOB, Lee was insolvent and dying of pancreatic cancer *without leaving a will*. Sulla, seeing an opportunity to convert Lee's judgment debt into "false debt" purportedly owed by Horowitz, simply appointed himself "personal representative" of Lee's estate, and schemed the transfer of Lee's estate over to his shill Hester as the Overseer of GOB. This administration also served to avoid paying taxes on any profits that might be ill-gained in the event the foreclosure was successful and property re-sold. In 0196, the Court allowed substitution of Lee by Hester, *without a hearing* for substitution as ordinarily required by HRCP 25 (1). This can be known from the Court Record. A copy of the Articles of Incorporation containing one or more forged signatures is attached as **Exhibit 1 in Beth Chrisman's Declaration (Exhibit 11)**. It is noteworthy that although attorney Sulla submitted evidence of Lee's five siblings, only one son was listed in the probate documents submitted to Court by Sulla, (in probate case 3LP09-1-0166; **Exhibit 15**) and there is no documentation that any of Lee's siblings received notice of Sulla's administration of the probate estate. Moreover, Attorney Sulla initially referred to Hester as Lee's "nephew" until the Plaintiff controverted that falsehood. (See Sulla Declaration in **Exhibit 14**, pg. 5, first line, "[s]igned as true and correct under the penalties of law. . .") Later, Defendant misrepresented Hester as Lee's "grand-nephew," having repeated this in Sulla's sworn testimony in related case Civ. No. 12-1-0417. This allegation, Sulla testified, derives from supposedly speaking with Hester's "mother's grandmother" who was unlikely to have been alive at the time of that purported conversation. (See Partial Transcript in **Exhibit 12**, page 12, line 10) Clearly, Hester's interests were contrived, and Sulla's abuse of shill Hester to eject the Plaintiffs from their Property did not comport with HRCP Rules 19(a) and 25(a), and RCCH Rule 26(b), since: (1) Defendant Sulla was a concealed surety and real party of interest complicit with Hester in these proceedings; Hester's mortgagee and financier, and indispensable party; and (2) Lee's claims had been extinguished before the time Sulla substituted Hester for Lee. Further evidencing fraud upon the court by Defendants, **Exhibit 13** contains an Affidavit of Christopher Baker, a private investigator, who determined from an extensive review of public records that no blood kinship exists between Lee and Hester, but both were arrested in Arizona on marijuana charges. According, Hester never had any legal standing to gain anything, including court judgments against RBOD and/or the Plaintiffs.

Property as a “grandfathered” legally-operating commercial health facility; (3) falsely promising to help HOROWITZ with construction and improvements at the Property, then turning around and complaining to the County’s planning department so that it would enjoin the construction and renovations that Lee began and agreed to help, including on the pools and outbuildings; (4) falsely promising to treat HOROWITZ and guests “amiably” which Lee did not do; and (5) initially claiming an abutting County road remnant was part of the deal. (Later, Lee changed his mind and threatened to “squat” on that County land barring HOROWITZ’s access to the coveted steam vent spa, unless he was paid another pile of money, and on the basis of which Defendants finally agreed to pay an additional unsecured (dischargeable) \$25,000 Note.

6. After the Civ. No. 05-1-0196 jury verdict and Final Judgment in Plaintiffs’ favor, denying Seller Mortgagee Lee’s foreclosure, and awarding damages to HOROWITZ et. al., in the amount of \$200,907.98, Plaintiffs thought this nightmare was over; especially after Lee died on 6-27-09.¹⁶ But then, up popped Attorney SULLA with his conflicting interests and substitute sham Plaintiff HESTER.

7. Part time Hawaii District Court Judge, and the Past President and current member of the Senior Counsel Division of the Hawaii State Bar Association, Peter Stone, wrote this about SULLA in HOROWITZ’s defense filing, opposing SULLA’s wrongful NJF and first attempt at HOROWITZ et. al.’s ejection:

“Throughout this prolonged title dispute, there remains one constant. Paul J. Sulla, Jr. was the attorney for Lee when he filed the motion to vacate the \$200,000 jury award at end of the Judicial Foreclosure Action; he still is the attorney for Jason Hester as the Overseer of the [Gospel of Believer’s, “GOB”] in the pending appeal [and in Civ. No. 05-1-0196

¹⁶ In fact, Sulla substituted Hester for Lee using the altered/forged Articles of Incorporation, **Exhibit 14**; and then some six months after Plaintiff Lee’s death Sulla represented at a hearing in the probate of the Estate of Cecil Loren Lee that “Cecil Lee doesn’t own [anything] anymore; due to foreclosure; and no judgment can be enforced and Mr. Lee is certainly out of it.” [Court Minutes of 12-11-09 in Probate case 3LP09-1-000166] **Exhibit 15**.

despite being disqualified in Civ. No. 14-1-0304]; he recorded the Assignment of Mortgage from Lee to Lee as Overseer of [GOB]; he conducted the non-judicial foreclosure for Jason Hester as the Overseer of [GOB]; he drafted and recorded the two Quitclaim Deeds, first to Jason Hester as Overseer to [GOB] and finally to Jason Hester, individual, the Plaintiff herein. Although Plaintiff initially filed this action pro se, now that Royal has challenged the Court's subject matter jurisdiction based on the title dispute, Mr. Sulla has again entered his appearance as counsel for Jason Hester." (in "DEFENDANT'S MOTION TO DISMISS COMPLAINT FILED JUNE 21, 2011 FOR LACK OF SUBJECT MATTER JURISDICTION." December 16, 2012; pg. 9; Civ. No. 3RC-11-1-662; for the Dubin Law Firm.)

8. On July 15, 2009, following Lee's death, SULLA filed a Motion for Substitution of Lee by GOB, with HESTER as "Overseer" in the first filed case, Civ. 05-1-0196. (Exhibit 14) Therein, attorney SULLA misrepresented HESTER as Lee's "nephew".¹⁷ Had SULLA instead represented HESTER as a homeless drifter, who Lee may or may not have been acquainted with, but who was not a close friend nor relative (at least not a close relative) who had no relationship with the Property, and whereas no probate estate had been opened and there was no documentation that notice was accomplished to any of Lee's siblings or son in Arizona where Lee died, and that attorney SULLA had a security interest in the Property, and further that the GOB's Articles of Incorporation had been altered, and Lee's signature forged at least once, probably twice, on the Mortgagee's "General Certification" page(s), the Court might have properly questioned HESTER's standing. But this never occurred. (Exhibits 13 and 14.) In fact, the State judges Ibarra and Strance acted willfully blind to these material matters of fact, *even after given Judicial Notice by the Defendants*, and substantial opposition pleadings by licensed counsel.

¹⁷ Sulla's Declaration attached to the Application for Substitution, in relevant part stated "Prior to Mr. Lee's death, on or about May, 8, 2009 he created a corporate sole pursuant to Hawaii Revised Statutes (sic), Chapter 419, entitled "*The Office of Overseer, a Corporate Sole and its Successor Over and For the Popular Assembly of Revitalize, a Gospel of Believers*, naming himself as the incumbent Overseer and **his nephew** Jason Hester of Paho, Hawaii as successor Overseer by the Articles of Incorporation." (Emphasis in bold added.) Mr. Sulla later changed his characterization to "Grandnephew"—an allegation controverted by the Comprehensive Report and Affidavit of private investigator Christopher Baker, shown in Exhibit 14.

9. Upon investigation, Plaintiffs' provided the courts with evidence that *HESTER was not Lee's nephew*. In July of 2009, at the time SULLA filed his Application for Substitution of Plaintiff, neither SULLA nor HESTER was a court-appointed personal representative, and certainly not Lee's heir.^{14 thru 15} It was not until February of 2012, more than three years following Lee's death, and almost two years after the April 2010 NJF auction, that attorney SULLA filed with the Strance Court a probate application (3LP09-1-0166) for HESTER to be appointed the personal administrator for The Estate of Cecil Loran Lee. At that time HESTER was instead represented as Lee's "Grandnephew," allegedly based on information attorney Sulla said he obtained from "talk[ing] to his mother's grandmother."

10. Mandatory Judicial Notice was provided to the Ibarra Court containing expert determinations by Beth Chrisman that SULLA was defrauding the court using altered and forged documents.¹⁴ (Exhibit 11) The Court neglected this material fact with scienter, and acted in SULLA's favor, willfully blind to these Articles of Incorporation for GOB being voidable and void by reason of having been: (1) filed untimely (*after* the date Lee transferred his interest in the Property to this not-yet-legally-existing GOB corporation); (2) materially altered; and (3) manufactured using at least one forgery of Lee's signature. (Exhibits 11, 14 and 16)

11. Multiple *fraudulent transfers* of the subject Mortgage, Notes, and title to GOB was also evidenced in court, obviously committed to evade multiple judgment creditors from three cases;^{12, 13} plus evade Horowitz's notices for the Plaintiff to Release the Mortgage following Horowitz's final payment on the Note (made February 27, 2009). SULLA violated HRS § 651C (fraudulent transfer law) and HRS § 480-2 (deceptive consumer debt collection) by certifying with the DCCA that Lee transferred his interest in the Property (Mortgage and Promissory Note) by Assignments to GOB on May 15,

2009. (Exhibit 16) A week later, on May 21, 2009, Mr. SULLA filed his Notice of Appeal in the first-filed judicial foreclosure action (Civ. No. 05-01-0196), objecting to the Plaintiff's jury award of \$200,000.¹⁸

12. Each fraudulent conveyance committed by SULLA as GOB's trustee, exclusive fiduciary, and purported debt collector, abused the false address of HERBERT M. and RONN RITKE ("the RITKES"), who later denied the legal existence of GOB's business office at their residential address. Thereafter, SULLA used two false mail boxes, and declined several attempts by process servers to serve HESTER.

13. SULLA exclusively directed the administration of HESTER and GOB during the NJF on April 20, 2012. He violated HRS 667-4 and 667-5 strict requirements in the process, failed to notice Plaintiffs of the amount needed to cure the debt, and amount needed to repay the costs of the NJF; acted without required authorization by a probate court on behalf of deceased Lee's insolvent estate, and bribed co-counsel WHITTAKER to conceal SULLA's financing of HESTER and personal conflicting interests as surety and concealed real party in interest, since SULLA was HESTER's mortgagee, in a contract illegally secured by Plaintiffs' Property. (Exhibit 21)

¹⁸ On June 19, 2009, only days before Lee's death on June 27, 2009, Attorney Sulla filed a HRCF Rule 60(b) "Motion to Modify Order" in a series of attempts to vacate the jury award. Sulla effectively argued that when the Court granted Plaintiff Lee's HRCF Rule 50 Motion for Judgment as a Matter of Law, the \$200,000 jury award to Plaintiffs should have been vacated. This was *erroneous since that Motion was made long after the jury trial*. Nonetheless, Judge Ibarra accepted this rule-breaking opposition to the jury award, and vacated the award. Sulla also successfully claimed that the Court retained jurisdiction of the case under HRCF Rule 60(a) to correct a clerical error, despite the case having been appealed, claiming the case had not been "docketed." On July 16, 2009, Horowitz et. al. filed their Opposition to Plaintiff-Appellees Motion to Modify the Judgment to vacate the Jury Award. They argued again that there was no error made by the Court, pointing out that "The Motion to amend the Order of the Court and the findings of the Jury have already been denied. Not only have they been denied but they have been denied multiple times." Yet on July 29, 2009, Judge Ibarra granted Plaintiff Lee/Hester's Rule 60(b) motion in favor of SULLA's filing, and the Plaintiff's further outrageous railroading and damaging prejudice.

14. The evidence of multiple *perjuries* by SULLA and his co-counsel WHITTAKER in “honest services fraud” is clear-and-convincing by definitions in HRS §710-1060, 18 U.S.C. § 1343 (pursuant to co-counsel’s case hinging on forged and altered Articles of Incorporation for GOB wired to the Hawaii DCCA on two dates, May 26 and 28, 2009), and elements in HRS §710-1060, wherein officers of the court (i.e., “public servants”) conspired to conceal from the judicial branch of government material evidence,¹⁹ including: (1) SULLA’s mortgage “loan” to HESTER dated June 9, 2011; (2) Lee’s insolvency and inability to pay previous lawyers when SULLA appeared in 2009 to litigate on behalf of purportedly Lee and HESTER; (3) HESTER’s inability to pay for even one lawyer, let alone two high priced lawyers in two different cases, including WHITTAKER in 0304 and SULLA in 0196; (4) HESTER’s inability to pay taxes that HESTER never paid (aside from SULLA making one \$5,000 payment falsely credited to HESTER—a fraud that helped WHITTAKER justify to the Court its granting summary judgment in favor of HESTER); and (5) WHITTAKER showing up in court at the summary judgment hearing with a HESTER impersonator—an imposter with a sham “family” to feed, each of whom hid from HOROWITZ’s camera as the scam was recorded. (Discovery photographs will evidence this fact.)

15. In fact, compounding HESTER’s lack of standing, and consequently the courts’ lacking jurisdiction in 0196 and 0304, *HESTER has never filed an affidavit*, not even a declaration—meaning the Court granted HESTER standing and Quiet Title without any facts before it, or jurisdiction to deprive the Plaintiffs. (*Trinsey v Pagliaro*, D.C.Pa. 1964, 229 F.Supp. 647. “Statements of counsel in brief or in argument are not facts before the court and are therefore insufficient for a motion to dismiss or for summary judgment.) Furthermore, HESTER has never testified or appeared in Court according to Third Circuit

¹⁹ 18 U.S.C. § 1341 criminalizes the use of the postal services in carrying out a "scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises."

Court videotapes in 0304, despite WHITTAKER denying this allegation. In either case, overwhelming evidence says HESTER is a judgment proof shill in Attorney SULLA's convoluted scheme to defraud the court and Defendants out of their Property.²⁰

V. Conclusion

1. Injunctive relief is urgently needed in this case to enjoin the organized crimes damaging the Plaintiffs irreparably; pursuant to SULLA/HESTER's converted Property title, fraudulent concealments, and illegal debt collection scheme. Such damage to the Plaintiffs must cease now, after eleven years, by discharge of any purported debt, especially false debt, charged against the Plaintiffs.
2. The aforementioned facts and attached Exhibits 1-21 document the Defendants' pattern of illegal debt collection practices featuring misrepresentations, omissions, and fraud, including several fraudulent conveyances and defrauded courts, perjury, forgery, bribery, extortion, wire fraud, mail fraud, and criminal contempt of court to commit theft of real and personal properties in favor of an illegal drug manufacturing and trafficking enterprise wherein HESTER, in privity with Lee, SULLA, WHITTAKER, the RITKES, GOB and the other Defendants, knowingly engaged in a pattern of "conduct amounting to wanton, oppressive, malicious, or reckless behavior" with intent to deceive and prosper at the expense of the Plaintiffs rights to due process and their properties. (*Quedding v. Arisumi Bros., Inc.*, 66 Haw. 335, 340, 661 P.2d 706, 710 (1983))

²⁰ Again, this assertion is supported by Exhibit 21—SULLA's \$50,000.00 mortgage "loan" secured by the subject Property; recorded in the Hawaii Bureau of Conveyances, Doc. No. 2011-093773; paired with SULLA's conveyance of the Property by Quitclaim Deed to HESTER on that same date of June 14, 2011, as shown in Doc. No. 2011-093772. Thus, concealed surety SULLA is positioned to own the Property if HESTER prevails in the State case 0304, and injunctive relief is not afforded by bankruptcy proceedings.

3. The Plaintiffs were damaged for their good faith reliance on due process administered by malfeasant court officers. The Plaintiffs are being irreparably harmed, pray for, and deserve injunctive relief, rescission of “HESTER’s” claim to title, and compensation for their financial damages and severe long-term mental/emotional distress.²¹

VI. CLAIMS AND REMEDIES

1. Aside from a stay of State proceedings as injunctive relief, per FRBP Rule 7001,²² this Adversarial Proceeding: (1) is filed to recover money invested by the Plaintiffs in the subject Property; (2) return clear Property title to the Plaintiffs as rightful owners; (3) release the Property and Plaintiffs from injustices causing financial damages and deprivation of rights and ability to commercialize or sell the Property; and recover \$907 in judgment credits and other reasonable consideration outstanding from Civ. No. 05-1-0196.

2. This Property is also HOROWITZ’s exclusive residence, so the Plaintiffs pray for the following remedies to be administered by this honorable Bankruptcy Court:

²¹ Early in Civ. No. 14-1-0304, the Defendants removed the case to the federal court (i.e., Civil No. 14-00413 JMS-RLP), with subsequent pleadings resulting in attorney SULLA being disqualified, with federal Judge Puglisi remarking on the various roles SULLA played in the series of transactions resulting in the Plaintiff’s financial damages and now HOROWITZ bankruptcy filing.

²² **Rule 7001. Scope of Rules of Part VII, states in relevant part:**

An adversary proceeding “is a proceeding **(1)** to recover money or property, . . . **(2)** to determine the validity, priority, or extent of . . . interest in property, . . . **(3)** to obtain approval pursuant to § [363\(h\)](#) for the sale of both the interest of the estate and of a co-owner in property, . . . **(6)** to determine the dischargeability of a [debt](#), **(7)** to obtain an injunction or other equitable relief, **(8)** to subordinate any allowed [claim](#) or interest, . . . **(9)** to obtain a declaratory [judgment](#) relating to any of the foregoing, or **(10)** to determine a claim or cause of action removed pursuant to 28 U.S.C. § [1452](#). (As amended Mar. 30, 1987, eff. Aug. 1, **1987**; Apr. 30, 1991, eff. Aug. 1, **1991**; Apr. 29, 1999, eff. Dec. 1, **1999**.)

A) To determine the dischargeability of the purported debt(s) allegedly owed to HESTER by the Plaintiffs, beginning with the \$200,000.00 contested jury award;

B) To enjoin any further foreclosure actions, and/or false debt collection practices;

C) To discharge (or subordinate) any claim or interest adjudged due or owing to the Defendants by the Plaintiffs, to the claims or interests adjudged due or owing to the Plaintiffs by the Defendants, by reason of Defendants' fraud and malicious prosecutions.

D) To obtain a declaratory judgment on the questions of disputed law raised in Appendix II (hereto attached); and

E) To determine the remaining claims or causes of action removed from the State court in Civ. No. 14-1-01-0304, also *pending in administratively stayed federal case CV 15 00186 JMS-BMK*, including reconsideration of the claim for Deprivation of Rights Under Color of Law pursuant to 42 U.S.C. § 1983, and Judge Seabright's 9/11/15 ruling; in addition to a 42 U.S.C. § 1985 claim against WHITTAKER going to court under disguise as HESTER's attorney, and bringing to court an imposter represented as HESTER, when WHITTAKER, HESTER and the imposter actually represented SULLA's interests, and was paid by SULLA to administer a conspiracy to steal the Plaintiffs' Property, deprive the Plaintiffs of due process, and preclude recovery of damages by the Plaintiffs. The following thirteen (13) claims and their elements are pled with particularity in Plaintiff's stayed Complaint in *Horowitz and Kane v. Sulla, Jr. et.al.* in CV 15 00186 JMS-BMK, thus are simply summarized in Appendix I attached hereto.

THE COURT'S POWER TO GRANT RELIEF

WHEREFORE, the Plaintiffs request that this Court enter judgment against Defendants providing the following relief:

(1) Permanently enjoin the Defendants from violating the Plaintiffs' civil rights, real property rights, personal property rights, and interstate trade rights;

(2) Enter declaratory judgment that the Defendants' NJF was unlawful, and grant rescission of title in favor of the Plaintiffs;

(3) Award compensatory damages for lost economic advantage caused by forced closure of the Property to tourism and interstate trade from June 15, 2005 to the present;

(4) Reimburse Plaintiffs for the funds they paid to maintain the Property in its 2006 state, when the bulk of approximately \$600K in improvements had been completed;

(5) Reimburse Plaintiffs for the funds they paid to secure the Property against theft and vandalism (24/7/365) since January 15, 2004;

(6) Reimburse Plaintiffs for the money they paid in taxes, and to Lee and Maise to purchase the "Bed & Breakfast," that could not be used as such;

(7) Reimburse funds paid to improve the Property since January 15, 2004;

(8) Award compensatory damages for lost economic advantage caused by forced diversions from Plaintiffs careers and work product output damaging their mainland businesses (i.e., lost prospective business advantage) from time required to be taken off of work to respond the Defendants torts and crimes from June 15, 2005 to the present;

(9) Enter judgment and punitive damages in statutory or reasonable amounts, exclusive of costs and interest, that Plaintiffs are adjudged entitled;

(10) Enter judgment for statutory damages against the Defendants in favor of the Plaintiffs for each civil statutory law and/or criminal law found to have been violated;

(11) Award the Plaintiffs monetary damages for NIED and/or IIED (pain and suffering) for wanton, oppressive or malicious conduct, implying harmful or indifferent spirit, or willful misconduct raising presumption of conscious indifference, by the clear and convincing evidence. *Dairy Road Partners v. Island Ins. Co.* , 992 P. 2d 93 (Haw. 2000)

(12) Award the Plaintiffs interest, costs and reasonable attorneys fees pursuant to 42 USC 1988, and case law in matters of assumpsit, and/or by HRS § 667-33(c).

(13) Award the Plaintiffs such additional relief as the Court may deem just, proper, or necessary to redress injury to Plaintiffs; and/or place Plaintiffs in the position that they would have been in had there been no violation of their rights.

(14) Award Plaintiffs discharge or offset of any money claimed owed to Defendants by Plaintiffs, from money Defendants owe the Plaintiffs.


(15) Order credit card creditors to double, or at least stay, HOROWITZ's lines of credit to enable recovery in accordance with the Bankruptcy plan to pay timely all legitimate debts and expand ongoing, or activate recovered, businesses.

Plaintiffs hereby request a trial by jury on all issues raised in this Complaint.

We, the Plaintiffs, declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct.

DATED: March ____, 2016

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LEONARD G. HOROWITZ, pro se

SHERRI KANE, pro se

LEONARD G. HOROWITZ, Pro se
and SHERRI KANE, Pro se
13-3775 Pahoia-Kalapana Road
Pahoia, HI 96778
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808-965-2112

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF HAWAII**

LEONARD G. HOROWITZ, an)
individual; and SHERRI KANE, an)
individual)
Plaintiffs,)
vs.)

PAUL J. SULLA, JR. an individual;)
PAUL J. SULLA JR., ATTORNEY AT)
LAW A LAW CORPORATION, a)
corporation; THE ECLECTIC CENTER)
OF UNIVERSAL FLOWING LIGHT-)
PAULO ROBERTOSILVA E SOUZA, a)
Hawaii corporation sole; JASON)
HESTER, an individual; THE OFFICE)
OF OVERSEER, A CORPORATE)
SOLE AND ITS SUCCESSOR, OVER)
AND FOR THE POPULAR)
ASSEMBLY OF REVITALIZE, A)
GOSPEL OF BELIEVERS; STEPHEN)
D. WHITTAKER, an individual; and)
DOES 1 through 50, Inclusive)
Defendants

CIV. NO. _____
(Chapter 13)

**AFFIDAVIT OF
LEONARD G. HOROWITZ
PURSUANT TO BANKRUPTCY
FILING OF VERIFIED COMPLAINT
FOR INJUNCTIVE RELIEF,
DECLARATORY JUDGMENT, AND
DAMAGES IN CORE ADVERSARY
PROCEEDING**

**AFFIDAVIT OF LEONARD G. HOROWITZ PURSUANT TO BANKRUPTCY
FILING OF VERIFIED COMPLAINT FOR INJUNCTIVE RELIEF,
DECLARATORY JUDGMENT, AND DAMAGES
IN CORE ADVERSARY PROCEEDING**

STATE OF HAWAII)
COUNTY OF HAWAII) SS:
United States of America)

I LEONARD G. HOROWITZ, being first duly sworn, on oath deposes and says:

1. That I am the affiant herein. This Affidavit is true and correct to the best of my knowledge and belief.
2. I am a citizen of the United States, previously domiciled in California prior to the events described herein, and now a resident of Hawaii.
3. Individually I am a co-Plaintiff in the above referenced case.
4. I also represent the ecclesiastical entity, THE ROYAL BLOODLINE OF DAVID (“RBOD”), a Corporation Sole, as its only member, which entity was incorporated in the State of Washington on October 31, 2001 and was dissolved on September 17, 2012.
5. SHERRI KANE and I are the successors in interest to RBOD’s interest in the subject property TMK: 3/1-3-001-049/043, located at 13-3775 Pahoia-Kalapana Road in Pahoia Hawaii 96778 pursuant to the conveyance of RBOD in a quitclaim deed dated July 11, 2012, recorded in the Bureau of Conveyances on July 11, 2012.
6. All of the facts stated in the accompanying **VERIFIED COMPLAINT FOR INJUNCTIVE RELIEF, DECLARATORY JUDGMENT, AND DAMAGES IN CORE ADVERSARY PROCEEDING** are true and correct to the best of my knowledge and belief.
7. I attest under pains and penalties of perjury that the statements in this Affidavit as well as the Statements in the accompanying **VERIFIED COMPLAINT FOR INJUNCTIVE RELIEF, DECLARATORY JUDGMENT, AND DAMAGES IN CORE ADVERSARY PROCEEDING** contain true and correct statements to the best of my knowledge and belief.
8. I further attest under pains and penalties of perjury that the Exhibits 1-21 referenced in the accompanying **VERIFIED COMPLAINT FOR INJUNCTIVE RELIEF, DECLARATORY JUDGMENT, AND DAMAGES IN CORE ADVERSARY PROCEEDING** are true and correct copies of the originals, to the best of my knowledge and belief.

9. I further attest under pains and penalties of perjury that I am filing this bankruptcy in good faith, have demonstrated a forty-year good credit history, am capable of, and have a plan for, resuming and expanding successful businesses providing that the burdens of the Defendants' organized crimes are lifted from my life.

Further affiant sayeth not. Dated: March ____, 2016

Leonard G. Horowitz

On this 29th day of February, 2016, before me, the undersigned notary public, personally appeared LEONARD G. HOROWITZ, who proved to me on the basis of satisfactory evidence of identification to be the person whose name is signed on the preceding or attached document, who swore or affirmed to me that the contents of the document(s) is/are truthful and accurate to the best of his knowledge and belief.

Subscribed and sworn to before me this
____ day of March, 2016

_____ (SEAL)

Notary Public in and for Hawaii

My commission expires: _____.

Notary Signature

AFFIX SEAL HERE

Total number of pages: _____.

**APPENDIX I: SUMMARY OF OUTSTANDING CLAIMS
INCLUDING THOSE SUPPLEMENTING THE ADMINISTRATIVELY STAYED
FEDERAL CASE, CV 15 00186 JMS-BMK**

Note: several of the following are claims or causes of action originally removed from the State court in Civ. No. 14-1-01-0304, and/or also pending in administratively-stayed federal case CV 15 00186 JMS-BMK, including pleading for Injunctive Relief, and new claims for breach of contract and bad faith tort charged against Stewart Title Company by the Plaintiffs in this Private Adversarial Bankruptcy Proceeding, are summarized as follows, and alleged in greater detail in the aforementioned federal case Complaint:

CLAIM I:

Deprivation of equal rights under color of law by SULLA, HESTER, and WHITTAKER (with IBARRA added), in violation of 42 U.S.C. § 1981(a)(b)(c). Tort occurred by fraudulent concealments and fraud upon the court in Civ. No. 14-1-0304 during hearing on February 13, 2015, by March 25, 2015, ruling to strike Plaintiffs' claims (i.e., counterclaims), and preclude Plaintiffs standing in violation of HRS § 418-9 and Washington State laws 24.12.010 and 24.12.020.

CLAIM II:

False and misleading representations in debt collection, and unfair practices, by SULLA, WHITTAKER and HESTER, pursuant to VIOLATION OF 15 U.S.C. §§ 1692(e)(2)(A)(4)(6)(A)(7)(8)(9)(10)(14) and 1692f(1). Consistent with 1692(b)(1), the "court shall consider . . . the frequency and persistence of noncompliance by the debt collector, the nature of such noncompliance, and the extent to which such noncompliance was intentional" on December 30, 2015 when fraudulent concealments and the aforementioned violations by Defendants resulted in Final Judgment of Quiet Title in favor of SULLA's shill HESTER, but for bribed attorney WHITTAKER's complicity in the conspiracy to defraud the court and steal the Property.

CLAIM III:

Unfair and deceptive trade by SULLA, WHITTAKER and HESTER. Defendant SULLA committed unfair methods of competition against the Plaintiffs, especially damaging to consumer/Plaintiff HOROWITZ, satisfying the three required elements of a 480-13(b)(1) claim, pursuant to *Davis v. Wholesale Motors, Inc.*, 86 Haw. 405, 417 (Ct. App. 1997)(citing *Ai*, 61 Haw. At 617, and *Cieri v. Leticia Query Realty, Inc.*, 80 Haw. 54, 61-62 (1995)).

Defendant SULLA committed unfair and deceptive acts that were/are unlawful, in violation of § 480-2, in the conduct of competing interests in health tourism, and/or in the consumer health products trade, and related natural health and ecological agricultural services on the Big Island of Hawaii.

Defendant SULLA acted in violation of § 480-8(a), as a director, officer, partner, or trustee in three firms, partnerships, trusts, associations, or corporations (or any combination thereof) engaged in whole or in part in health commerce, health tourism, health products, and health services in East Hawaii, namely: (1) THE ECLECTIC CENTER OF UNIVERSAL FLOWING LIGHT-PAULO ROBERTOSILVA E SOUZA; (2) HAWAIIAN SANCTUARY, INC; and (3) THE OFFICE OF OVERSEER, A CORPORATE SOLE AND ITS SUCCESSOR, OVER AND FOR THE POPULAR ASSEMBLY OF REVITALIZE, A GOSPEL OF BELIEVERS; with the latter two associated entities *neighboring, and/or directly competing commercially* with Plaintiffs' health businesses, and health services initially rendered on the subject Property, and for which HOROWITZ purchased the Property.

Defendant SULLA's aforementioned actions—defrauding, maliciously prosecuting, and defaming the Plaintiffs and their businesses to gain a competitive edge, deprived the Plaintiffs of their legal rights, businesses, money, and properties, and caused direct and proximate damages to the Plaintiffs;

CLAIM IV:

Legal malpractice by SULLA and WHITTAKER, pursuant to *Kahala Royal Corporation v. Goodsill, Anderson, Quinn & Stifel, et. al.* Supreme Court of Hawaii, Appeal No. 26669 & 26670 , Jan. 11, 2007].

Plaintiffs claim attorneys SULLA and WHITTAKER (hereafter “SW”) committed multiple malpractices and repeatedly breached standards of care and rules of professional conduct while acting fraudulently and criminally as detailed above.

The four elements of legal malpractice in Hawaii apply to this case as follows:

- 1) SW had a *duty* to follow State and federal laws, and ethical rules of professional conduct;
- 2) SW *breached* his duty (as detailed above);
- 3) Plaintiffs suffered *injuries* as a result; and
- 4) SW's breach of duty was the *cause* of Plaintiffs' damages, in that:
 - (a) SW's malicious prosecutions and stated torts and crimes deprived Plaintiffs of their time, money, title to their Property, commerce, work output, prospective business advantage, and caused severe emotion distress; and
 - (b) Plaintiffs, acting reasonably, would not have engaged in continuous litigations were it not for SW's malpractices and extortionate abuse of the courts. (*Leyson v. Steuermann*. 705 P.2d 37, 1985.

SW's legal malpractice is barred from the "absolute litigation privilege" due to fraud and crime. (*Kahala Royal Corporation v. Goodsill, Anderson, Quinn & Stifel, et. al.* Supreme Court of Hawaii, Appeal No. 26669 & 26670, Jan. 11, 2007);

CLAIM V:

Claim to set aside fraudulent transfer of property title by SULLA, WHITTAKER and HESTER, pursuant to HRCP Rule 18(b); and HRS §651C Uniform Fraudulent Transfer Act.

Defendant SULLA violated HRS § 651C by fraudulently transferring HOROWITZ/Royal's Mortgage and Promissory Note(s) to a sham incorporation to generate \$375,000.00 of false debt that SULLA and HESTER demanded HOROWITZ pay; and when HOROWITZ refused, SULLA circumvented judicial processes ongoing at that time in two courts to conduct a non-judicial foreclosure (on the void Mortgage), and subsequently converted Plaintiffs' free and clear title to HESTER through another series of illegal deed transfers.

As a direct and proximate result of SULLA's fraudulent transfers, Plaintiffs have sustained injuries and damages as aforementioned;

CLAIM VI:

Conversion of real property (title) by SULLA, WHITTAKER, and HESTER, pursuant to *FREDDY NOBRIGA ENTERPRISES v. STATE, DHHL*, 295 P. 3d 993 – Haw: Intermediate Court of Appeals 2013.

Conversion encompasses the following acts: "(1) A taking from the owner without his consent; (2) an unwarranted assumption of ownership; (3) an illegal use or abuse of the chattel; and (4) a wrongful detention after demand." *Tsuru v. Bayer*, 25 Haw. 693, 696 (1920).

The facts and evidence presented herein establish a *prima facie* case that said Defendants committed all four elements by: (1) taking from owner HOROWITZ/Royal the Mortgage, Notes, and Warranty Deed without HOROWITZ's knowledge or consent, and altering and transferring the contract and Notes into a sham "church" to give HESTER (really SULLA) (2) "an unwarranted assumption of ownership" by slandered title; (3) subsequently used the convert the Property further, by the Property's use as security on a \$50,000.00 Mortgage "loan" issued by SULLA to HESTER on June 9, 2011; resulting in (4) the wrongful detaining of the Property's usage and free and clear ownership, damaging the Plaintiffs;

CLAIM VII:

Trespass to chattels by SULLA, WHITTAKER and HESTER, pursuant to Restatement (Second) of Torts § 256. Plaintiffs aforementioned acts satisfy the basic elements of a claim of trespass to chattels: 1) the lack of Plaintiff's consent to the trespass, 2) interference or intermeddling with possessory interest, and 3) the intentionality of the defendants' actions. Actual damage is not necessarily a required element of a trespass to chattels claim, but is extreme in this case. (Restatement (Second) of Torts § 256);

CLAIM VIII:

Defamation and/or commercial disparagement by SULLA, HESTER and The RITKES, pursuant to HRS § 663-1 (2015) and Lanham Act, 15 U.S.C. § 1125(a) 43(a)(1)(B). The elements of a cause of action for libel and defamation under Hawaii law are: (1) a false and defamatory statement concerning another—as when SULLA published on the Internet that the Plaintiffs are "squatters" and "trespassers" on their own Property and The RITKES defamed HOROWITZ-RBD in the community and in discovery documents; (2) The aforementioned Defendants spoke or published these unprivileged, false, and

outrageous statements in the community or on the Internet; (3) Defendants' fault in publishing these falsehoods amounted to more than negligence, since the men knew what they were saying and publishing was false, malicious, and defamatory, and that their acts would result in commercial defamation and trade disparagement, to gain them unfair commercial advantage, and illegally restrain Plaintiff's interstate trade and health products businesses, benefitting their competing businesses and complicit third parties' related enterprises in Hawaii and on the mainland, and

(4) Defendants' defamations are actionable, irrespective of the fact that their fraudulent statements in publications caused special harm to the Plaintiffs. *Gold v. Harrison*, 88 Hawaii 94, 100, 962 P.2d 353, 359 (1998);

CLAIM IX:

Intentional infliction of emotional distress by SULLA, WHITTAKER, HESTER, The RITKES (with the addition of IBARRA) pursuant to Haw. Rev. Stat. § 663-1 (2015);

CLAIM X:

Wrongful foreclosure by SULLA and HESTER, pursuant to Haw. Rev. Stat. §§ 663-1 and 657-1(4)]; Rule 10b-5, Rules and Regulations of the Exchange Act, 17 C.F.R. § 240.10b-5 (1990). *Nakamoto v. Hartley*, 758 F. Supp. 1357 (D. Haw. 1991). The elements of wrongful foreclosure²³ include: (1): "the trustee or mortgagee caused an illegal,

²³ Plaintiffs claim Wrongful Foreclosure under Haw. Rev. Stat. § 663-1 and Rule 10b-5 of the Rules and Regulations of the Exchange Act, 17 C.F.R. § 240.10b-5 (1990), that carries a six-year statute of limitation provided in H.R.S. § 657-1(4) governs actions brought pursuant to Rule 10b-5. (*Cunha v. Ward Foods, Inc.*, 501 F.Supp. 830, 837 (D.Haw.1980)); and whereas this time began to toll on September 12, 2013, with the Ibarra Court's issuance of the Third Amended Final Judgment in said judicial foreclosure case. (See also: *Nakamoto v. Hartley*, 758 F. Supp. 1357 (D. Haw. 1991))

fraudulent, or willfully oppressive sale of real property pursuant to a power of sale in a mortgage or deed of trust; (2) the party attacking the sale was prejudiced or harmed; and (3) in cases where the trustor or mortgagor challenges the sale, the trustor or mortgagor tendered the amount of the secured indebtedness or was excused from tendering.” *Lona v. Citibank, N.A.*, 202 Cal. App. 4th 89, 104 (Cal. Ct. App. 2011) (citing *Bank of Am. Nat. Trust & Sav. Ass'n v. Reidy*, 15 Cal. 2d 243, 248 (Cal. 1940)));

CLAIM XI :

Civil RICO by all Defendants, pursuant to 18 U.S.C. § 1964. (Four year statute of limitation.) Plaintiffs are prepared to prove the Defendants violated all the elements of a **RICO** claim based upon 18 U.S.C. § 1962(c) (1994), including: "(1) conduct (2) of an enterprise (3) through a pattern (4) of racketeering activity." *Sedima, S.P.R.L. v. Imrex Co.*, 473 U.S. 479, 496, 105 S.Ct. 3275, 87 L.Ed.2d 346 (1985).

The aforementioned facts and Defendants acts evidence a pattern of Defendant SULLA’s “racketeering activity,” as defined in 18 U.S.C. § 1961(1)(A) and (B), including: (1) extortion of HOROWITZ to pay “unlawful debt” and/or engage in malicious prosecution commencing with SULLA’s filing Civ. No. 14-1-0304 on 8-11-14; (2) bribery of co-counsel Whittaker that occurred approximately two weeks after the federal court’s disqualification of SULLA as a necessary witness at trial on 1-5-15; (3) dealing in the controlled substance DMT confirmed by negative averment in Civ. No. 12-1-0417 on 1-4-13; (4) mail fraud (ongoing); (5) wire fraud confirmed by expert Chrisman by 6-15-15; (6) interference with Plaintiffs’ commerce by filing 0304 on 8-11-14 ; (7)

laundering of monetary instruments (i.e., Plaintiffs' Mortgage and Notes into GOB); (8) engaging Plaintiffs and HESTER in monetary transactions in property (and property titles) derived from specified unlawful activity on 6-14-11; (9) felonious manufacture and concealment of the controlled substance DMT confirmed on 1-4-13; (10) forgery confirmed on 6-15-15; and (11) obstruction of justice by fraudulent concealment of conflicting surety interests upon filing 0304 on 8-11-14.

As a direct and proximate result of Defendants' racketeering activity, Plaintiffs have sustained injuries and damages as aforementioned;

CLAIM XII:

Fraud and/or misrepresentation by SULLA, WHITTAKER, HESTER, and The RITKES, pursuant to HRS § 485-25(a)(3). The elements of fraud in Hawaii include: "(1) false representations made by the defendant; (2) with knowledge of their falsity (or without knowledge of their truth or falsity); (3) in contemplation of plaintiff's reliance upon them; and (4) plaintiff's detrimental reliance. See *Hawaii's Thousand Friends v. Anderson*, 70 Haw. 276, 286, 768 P.2d 1293, 1301 (1989).

Pursuant to Defendants' violations of HRS § 485-25(a)(3), SULLA, WHITTAKER, HESTER and The RITKES engaged in a series of acts, practices, and course of business that operated as a fraud upon the State, the courts, and the Plaintiffs, to effect real Property theft, as the above Defendants falsely represented that: a) HOROWITZ/Royal had defaulted on the Mortgage; b) HESTER was Lee's "nephew;" c) HESTER's "church" and "business office" was at RITKE's house; d) the GOB "church"

was legitimately owed \$375,000.00 by HOROWITZ/Royal; e) SULLA's Assignments of the Notes and Mortgage (i.e., securities) were valid; f) SULLA's Notice of, and conduct of, Mortgagee's Power of Sale by auction was valid under HRS § 667-5 thru 667-10 ; g) HESTER bought the Property legally at the NJF auction; h) SULLA was legally authorized by his attorney's license to conduct the auction; i) SULLA was legally authorized by his attorney's license to collect "unlawful debt;" j) HESTER became the legal "owner" of the Property after the NJF; k) Lee was not bankrupt or insolvent when he, purportedly, contracted with SULLA to represent Lee; and l) Lee acted in good faith when he Assigned the Mortgage and Notes, purportedly for religious reasons, to evade five judgment creditors, and leave the Property and massive litigation expenses and distress to 33 year-old HESTER, purportedly, because he is a "good person" and "deserves a good start."

Some or all of the above false representations the Defendants made with knowledge of their falsity (or without knowledge of their truth or falsity); Defendants made these false representations in contemplation that the State, the courts, and Plaintiffs would rely upon them; and the Plaintiffs were forced to rely upon the aforementioned misrepresentations, compelled by Defendants' legal filing of them with the State and/or the courts to the Plaintiffs' detriment.

Accordingly, Defendants' acts have exceeded the bar to establish a § 485-25(a)(3) violation; and as a result of the aforementioned pattern of fraud and/or misrepresentation, Plaintiffs were damaged financially and pray for treble damages regularly awarded for fraud pled with particularity;

CLAIM XIII

Slander of title by SULLA and HESTER Slander of title to TMK (3) 1-3-001: 049 & 043, pursuant to *ISOBE v. SAKATANI* 808 LLC, Haw. ICA, No. 28939, May 31, 2012.) The elements of the Slander of Title claim include: (1) ownership of, or interest in, the property by the plaintiff, in this case HOROWITZ/Royal, by Warranty Deed from Lee; (2) falsity of the words published by SULLA (purportedly “HESTER”) claiming HOROWITZ defaulted on the Mortgage; and/or that GOB’s NJF was legally performed under HRS § 667-5 thru 667-10; (3) malice of these Defendants in publishing their false statements to effect extortion and/or real Property theft; (4) publication to some person other than the owner [i.e., HOROWITZ/Royal and KANE], including the State and the courts; (5) publication in disparagement of plaintiff’s Property or the title to it, as SULLA recorded with the State as it now appears in the tax records; and (6) special damages proximately resulting from such publication; as has occurred to the Plaintiffs with financial damages exceeding \$6 million and causing irreparable harm. (*ISOBE v. SAKATANI* 808 LLC, Haw. ICA, No. 28939, May 31, 2012.)

The Defendants slandering of the Plaintiffs’ free and clear Property title tort, caused Plaintiffs to suffer irreparable harm, and severe long-term emotional and mental distress, and compromised their physical health, for which injunctive relief is requested.

CLAIM XIV

Bad Faith Tort—*Best Place, Inc. v. Penn America Ins. Co.*, 920 P. 2d 334 –

Haw: Supreme Court 1996—STEWART TITLE GUARANTY CO.

“[T]he tort of **bad faith** is not a tortious breach of contract, but rather a separate and distinct wrong ‘which results from the breach of a duty imposed as a consequence of the relationship established by contract.’” *Id. Best Place, Inc. @ 345*, quoting *Anderson v. Continental Ins. Co.*, 85 Wis.2d 675, 271 N.W.2d 368, 374 (1978). HOROWITZ relied on STEWART agents and Island Title Co. investigators to research, determine, and assure free and clear title came with the Property purchase. STEWART’s agent at Island Title, Brenda Iaone and others, were warned by their previous client Philip Maise, that the Property was encumbered by litigation and free and clear title was threatened. STEWART agents neglected this intelligence publicly published in court records in *Maise v. Lee*, Civ. No. 3CC01-1-000444, Doc. Nos. 67 thru 70, and misinformed HOROWITZ stating “there are no problems with the title.” STEWART agents apparently neglected noticing HOROWITZ about this encumbrance in order to make a sale; and STEWART’S bad faith tort and negligence, caused HOROWITZ et. al a decade of damages and severe emotional distress. The full amount of policy coverage (i.e., \$550,000) is requested. The Plaintiffs also ask for punitive damages of \$250,000 for negligent infliction of emotional distress (NIED) commensurate with *Naeem v. McKesson Drug Co.*, 444 F.3d 593 (7th Cir. 2006) due to the severe long term pain and suffering STEWART agents caused.

CLAIM XV

Breach of Contract—*Best Place, Inc. v. Penn America Ins. Co.*, 920 P. 2d 334 –
Haw: Supreme Court 1996—STEWART TITLE GUARANTY CO.

“[T]he tort of **bad faith** is not a tortious breach of contract, but rather a separate and distinct wrong . . .” *Id. Best Place, Inc. @ 345*, quoting *Anderson v. Continental Ins. Co.*, 85 Wis.2d 675, 271 N.W.2d 368, 374 (1978). HOROWITZ requested

STEWART lawyers help defend the Property title under contest in Civ. No. 14-1-0304, and the Claims Counsel, Timothy P. Atchison, declined by letter dated June 5, 2015. STEWARDS' breach of contract enabled SULLA, WHITTAKER and HESTER to secure Judge IBARRA's Final Judgment granting HESTER Quiet Title, foreboding the Plaintiffs' ejection, contributing to severe emotional distress, and lost work product output.

APPENDIX II:

QUESTIONS OF LAW FOR DECLARATORY JUDGMENT

THE PLAINTIFFS PRAY for declaratory judgment pursuant to the following questions of disputed law raised in this adversarial proceeding:

1) Was HOROWITZ deprived of his right of standing to plead in courts in the State of Hawaii as the sole member and Overseer of the RBOD corporation sole that was engaged in winding-up within a two-year period following dissolution on September 17, 2012; before the Defendants' filing of the Quiet Title case Civ. No. 14-1-0304 in August 11, 2014, pursuant to HRS § 419-8, that permits such standing and court representation by the Plaintiff, as does Washington State laws 24.12.010 and 24.12.020; bearing on the (erroneous) default of the Plaintiff's RBOD ministry, and deprivation of HOROWITZ's right to due process and adjudication on the merits, and subsequent summary judgment and ejectment rulings by the State court, depriving the Plaintiffs' Property rights; especially questionable since the Plaintiffs are also the exclusive successors in interest for RBOD's properties, having legally Quitclaim Deeded RBOD's interests to HOROWITZ and KANE prior to RBOD's dissolution. (Exhibit 18)

2) Did HESTER have standing to plead for Quiet Title and the Plaintiffs' ejectment? Plaintiffs argue he did not, by reason of a colored title derived from a series of fraudulent transfers of the subject Mortgage and Notes.

3) Did the State court have jurisdiction to grant HESTER Quiet Title by summary disposition, given the unresolved standing issues and material facts in dispute?

4) Did the State court erroneously grant HESTER Quiet Title in lieu of HESTER's failure to testify, failure to file any affidavits, or even submit a declaration?

5) Was SULLA's conduct of the non-judicial foreclosure by which title was conveyed to GOB, and then later to HESTER, in compliance with HRS 667-5?

6) Was SULLA's conduct of the non-judicial foreclosure ethical, notwithstanding the final judgments that had already *denied* foreclosure in Civ. No. 05-1-0196, with exclusively the jury award being contested in that case?

7) Was any claim of deficiency or default of the Mortgage to have been brought before Judge IBARRA who was adjudicating 0196, now pending appeal and final disposition in that court and first filed case?

8) Were the Plaintiff's denied due process?

9) Is ejectment warranted by the facts and summary disposition in 0304?

10) Was 0304 legitimately ruled a "separate case" from 0196, given the same parties or their privities, the same series of transactions, and the same Property in contest, pursuant to res judicata and collateral estoppel doctrine(s);

11) Was Attorney WHITTAKER's commission by co-counsel SULLA ethical?

12) Pursuant to the elements of *bribery* under HRS §710-1040, and definition of "public servant" under HRS §710-1000(15), wherein Hawaii lawyers are inferred as "officers of the court" and not excluded from liability as an officer of the judicial branch of government (*Dennis v. Sparks.*, Op. cit.), was WHITTAKER's concealed commission by SULLA, to conceal SULLA's real party of interest, a Class B felony?

13) Was the non-judicial foreclosure conducted by SULLA that conflicted with the foreclosure DENIED order of the Ibarra Court, bearing on false filings with the court and State to bring foreclosure and force of law for Plaintiffs' ejectment, an "Obstruction of court orders" as defined in 18 USC § 1509?

14) Was the original Mortgage debt voided by the fraud relating to the sale of the Property by Lee? (Exhibit 2); and if so,

15) Was RBOD-HOROWITZ's payment in full in February, 2009, as instructed by the courts (Exhibits 2) erroneous? And if so, should this money be refunded or credited to HOROWITZ?

-- end --