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Defendant also hereby moves the court to dismiss this matter for lack of an official bond from judge.  **DELETE IF JUDGE HAS A BOND.**  Respectfully submitted,  By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Attorney in Fact  **MEMORANDUM OF POINTS AND AUTHORITIES**  **STATEMENT OF THE CASE AND FACTS**  1.  First Middle Last filed a Motion for Discovery with the Clerk of State Court  on Date Filed Discovery, compelling the Plaintiff to provide the defense with discovery, including all impeaching and/or exculpatory evidence.  2.  First Middle Last submitted a request for the official bond  of Judge Name Here to the OFFICE NAME HERE  by certified mail # xxxxxxxxxxxxxxxxxxxx  which was received on Date They Received.  3.  Plaintiff filed several documents on Date They Received, including a  notice from the Executor and several affidavits.  4.  No responsive records for an official bond were produced  as a result of the investigation of the open records.  5.  No response for discovery was provided by Plaintiff.  6.  Plaintiff ignored / dishonored all of the several affidavits  filed by the Attorney in Fact for the Defendant in Error.  **ASSERTIONS**  1.  Plaintiff is in agreement that all of the statements made  by affidavit by Defendant are affirmed as truth.  2.  Plaintiff has not stated a verified claim  upon which relief can be granted.  3.  This court lacks subject matter jurisdiction  due to the absence of a justiciable controversy.  4.  Judge Name Here is practicing law  without a properly issued official bond.  DELETE IF BOND EXISTS.  5.  Plaintiff has committed barratry upon Defendant  for dishonoring the affidavits.  6.  Judge Name Here has violated his/her oath of office.  7.  Plaintiff has violated Defendant’s right of due process of law  by not providing discovery.  8.  Plaintiff and Judge Name Here waive all immunities with regard  to any non-belligerent tort claims brought against them.  **MEMORANDUM OF LAW**   1. All public officials must take an oath of office to defend the Your State Constitution and the Constitution for the United States of America. They must honor this oath in the discharge of their duties. Refer to the following statutes: 2. 5 U.S.C. § 3331 states that all public officers must take an oath of office to support the Constitution of the United States of America. 3. O.C.G.A. § 45-3-1 states:  |  | | --- | | “Every public officer shall:   1. Take the oath of office; 2. Take any oath prescribed by the Constitution of Georgia; 3. Swear that he or she is not the holder of any unaccounted for public money due this state of any political subdivision or authority thereof; 4. Swear that he or she is not the holder of any office of trust under the government of the United States, any other state, or any foreign state which he or she is by the laws of the State of Georgia prohibited from holding; 5. Swear that he or she is otherwise qualified to hold said office according to the Constitution and laws of Georgia; 6. Swear that he or she will support the Constitution for the United States of America and for this state; and 7. If elected by any circuit or district, swear that he or she has been a resident thereof for the time required by the Constitution and laws of this state.”   **\*\*PASTE EQUIVALENT STATUTE TEXT\*\*** |  1. A public officer can be punished under O.C.G.A. § 16-10-1 for violating their oath as an abuse of governmental office and an offense against public administration. It states the following:  |  | | --- | | “Any public officer who willfully and intentionally violates the terms of his oath as prescribed by law shall, upon conviction thereof, be punished by imprisonment for not less than one nor more than five years.” |  1. In order to convict an officer of violating his oath of office, it must be proven that the defendant was actually administered an oath, that the oath was prescribed by law, and that the officer violated the terms of that oath. Further, oaths can be violated while the officer is off duty. The following cases are examples of public officers being convicted of violating their oaths in Your State:  |  | | --- | | **\*\*FIND CASES FOR YOUR STATE.\*\***   * *Reynolds v. State*, 3334 Ga. App. 496 (2015) * *Gaskins v. State*, 318 Ga. App. 8 (2012) * *Beard v. State*, 300 Ga. App. 146 (2009) * *United States of America v. Bryant Cochran*,   U.S. Court of Appeals (11th Cir.) No. 15-13230 |  1. The Georgia Open Records Act is very clear that all public records shall be made freely available within a specific time frame for copies of records to be prepared for public inspection: 2. **Georgia Open Records Act**, O.C.G.A. § 50-18-70 states: **\*\*TRANSPOSE FOR YOUR STATE\*\***   “(a) The General Assembly finds and declares that the strong public policy of this state is in favor of open government;  that open government is essential to a free, open, and democratic society;  and that public access to public records should be encouraged to foster confidence in government and so that the public can evaluate the expenditure of public funds and the efficient and proper functioning of its institutions.  The General Assembly further finds and declares that there is a strong presumption that public records should be made available for public inspection without delay.”  “(f) The individual in control of such public record or records shall have a reasonable amount of time to determine whether or not the record or records requested are subject to access under this article and to permit inspection and copying. In no event shall this time exceed three business days.”   1. The **Georgia Open Records Act** also states insection 50-18-71 that:   **\*\*TRANSPOSE FOR YOUR STATE\*\***  “(a) In all cases where an interested member of the public has a right to inspect or take extracts or make copies from any public records, instruments, or documents, any such person shall have the right of access to the records, documents, or instruments for the purpose of making photographs or reproductions of the same while in the possession, custody, and control of the lawful custodian thereof, or his authorized deputy. Such work shall be done under the supervision of the lawful custodian of the records, who shall have the right to adopt and enforce reasonable rules governing the work. The work shall be done in the room where the records, documents, or instruments are kept by law. While the work is in progress, the custodian may charge the person making the photographs or reproductions of the records, documents, or instruments at a rate of compensation to be agreed upon by the person making the photographs and the custodian for his services or the services of a deputy in supervising the work.”   1. Like all the other states of the Union, the O.C.G.A. is clear that public officers are to make an official bond and shall provide copies of bonds to anyone desiring them. Title 45, Chapter 4 of the O.C.G.A. on Official Bonds contains the following statutes in relation to the subject: 2. § 45-4-1 states:   “The bonds of all public officers required by law to give bond, unless otherwise provided, shall be made payable to the Governor and his successor in office. In all cases in which a different condition is not prescribed, such bonds shall be conditioned upon the faithful discharge of the duties of the office by the officer during the time he continues in the office or discharge of any of its duties.”   1. § 45-4-23 states:   “All bonds taken from public officers shall be kept in the places specified by law and copies thereof shall be furnished to any person desiring them.”   1. § 45-4-28 states:   “When the penalty of the bond is exhausted, the officer himself shall still be liable for the same measure of damages as upon his bond; and he shall likewise be liable for any damage he may do in undertaking to discharge the duties of an office without having given the necessary bond or having given one that is invalid in whole or in part.”   1. § 45-4-21 states:   “If any officer whose duty it is to mark a bond filed and to give the several notices required in this chapter shall fail to do so without good and sufficient excuse, he shall be fined as for a contempt of court in the discretion of the court upon information being filed and a citation being served to appear before the superior court of the county of his residence.”   1. § 45-4-18 states:   “When any officer of whom bond is required shall fail to make and file the same as prescribed in Code Section 45-4-14, the court or officer in whose office the bond is required to be filed shall at once certify such failure to the appointing power and to the power whose duty it may be to order an election.”   1. § 45-4-10 states:   “If any officer shall fail to comply with the requisition of the Governor to furnish a new bond and surety within ten days from the date such officer is served personally with a copy of the executive order containing such requisition, he shall on account of such failure be removed from office and a vacancy declared.”   1. When a defendant makes a request for discovery and inspection, the plaintiff must provide full disclosure of all evidence against a defendant. Pursuant to Rule 16 of the Federal Rules of Criminal Procedure, this includes any documents, objects, reports, witness testimony, and any other evidence that the government intends to use at trial. By not complying with such a lawful request for discovery, it shall be concluded that no incriminating evidence exists against the defendant and that there is a violation of due process of law. Also see *Brady v. Maryland*, 373 U.S. 83 (1963). 2. The judge cannot be impartial and must be disqualified as there is a conflict of interest with regard to this matter. Each party including but not limited to the judge, the prosecutor, the solicitor general, the arresting officer are all employees of the State. I explicitly do not consent and waive any/all benefits of United States Citizenship. 3. Whenever any officer of the court commits a fraud during a proceeding in the court, he/she is engaged in "fraud upon the court". In *Bulloch v. United States*, 763 F.2d 1115, 1121 (10th Cir. 1985), the court stated that "Fraud upon the court is fraud which is directed to the judicial machinery itself and is not fraud between the parties or fraudulent documents, false statements or perjury. ... It is where the court or a member is corrupted or influenced or influence is attempted or where the judge has not performed his judicial function -- thus where the impartial functions of the court have been directly corrupted". 4. “A judge is not the court.”   –*People v. Zajic,* 88 Ill. App. 3d 477, 410 N.E. 2d 626 (1980).   1. The judicial code of conduct of Your State (A.K.A. judicial canon) contains the following:   **Canon Rule 1.1** –  Preserving Judicial Independence, Integrity, and Impartiality  **Canon Rule 2.1** –  Complying with the Law and  Promoting Public Confidence in the Judiciary  **Canon Rule 2.3 –**  Avoiding Associations that Undermine  the Impartiality of Judges  **Canon Rule 3.2** –  Adjudicating Pending Proceedings Fairly  **Canon Rule 3.9 –**  Disqualification and Recusal   1. “U.S. Supreme Court held that state officials acting by ‘color of law’ may be held personally liable for the injuries or torts they cause and that official or sovereign immunity may not be asserted.”   -***Scheuer v. Rhodes***,  416 U.S. 232 (1974), 94 S. Ct. 1683, 1687 (1974)   1. “When a state officer acts under a state law in a manner violative of the Federal Constitution, he comes into conflict with the superior authority of that Constitution, and he is in that case stripped of his official or representative character and is subjected in his person to the consequences of his individual conduct. The State has no power to impart to him any immunity from responsibility to the supreme authority of the United States.”   -***Warnock v. Pecos County, Texas***, 116 F.3d 776  No. 96-50869 Summary Calendar. July 3, 1997.   1. An established maxim of law states that “an unrebutted affidavit stands as the truth in commerce”; therefore, any affidavit submitted for the Defendant must be rebutted point-for-point in the form of an affidavit and under the penalty of perjury. If there is no timely rebuttal, then the affidavit submitted must be honored as the judgment and affirmative defense per Rule 8(c) of the Federal Rules of Civil Procedure. The following case law supports this assertion: 2. “Indeed, no more than [an affidavit] is necessary to make the prima facie case.” –*United States v. Kis,* 658 F.2d 526, 536 (7th Cir. 1981), *cert. denied sub nom. Salkin* *v. United States,* 455 U.S. 1018, 102 S. Ct. 1712, 72 L. Ed. 2d 135 (1982). 3. “Silence can only be equated with fraud where there is a legal or moral duty to speak, or where an inquiry left unanswered would be intentionally misleading… We cannot condone this shocking behavior… This sort of deception will not be tolerated, and if this is routine, it should be corrected immediately.” –*United States v. Tweel*, 550 F.2d 297, 299. See also *U.S. v. Prudden*, 424 F.2d 1021, 1032; *Carmine v. Bowen*, 64 A. 932. 4. An injury in fact (*corpus delicti*) due to the alleged conduct of the undersigned Attorney in Fact for the Defendant in Error has not been introduced into the record; therefore, there is no claim upon which relief can be granted, and the court is without subject matter jurisdiction in order to properly adjudicate a justiciable controversy. 5. FEDERAL RULES OF CIVIL PROCEDURE (F.R.C.P.), Rule 2:   “There is one form of action – the civil action.”   1. “Over the years, our cases have established that the irreducible constitutional minimum standing contains three elements. First, the Plaintiff must have suffered an “injury in fact”. Second, there must be a causal connection between the injury and the conduct complained of – the injury has to be ‘fairly… trace[able] to the challenged action of the defendant, and not… the result of the independent action of some third party not before the court.’ Third, it must be likely as opposed to merely speculative that the injury will be redressed by a favorable decision.” ***-Lujan v. Defenders of Wildlife, et al.***, 504 U.S. 555 (1992) 2. **corpus delicti** (noun) – the body of a crime; the body (material substance) upon which a crime has been committed, e.g. the corpse of a murdered man, the charred remains of a house burned down. *People v. Dick*, 37 Cal. 2S1; *White v. State*, 49 Ala. 347; *Goldman v. Com.*, 100 Va, 805, 42 S. E. 923; *State v. Hand*, 1 Marv. (Del.) 545, 41 Atl. 192; *State v. Dickson*, 78 Mo. 441   (Black’s Law, 2nd ed.)   1. As contract makes the law, there is no lawful contract known or revealed to me, the Attorney in Fact for the alleged Defendant, that compels me to perform or to accept liability as trustee for this constructive commercial trust brought forth with color under 27 C.F.R. § 72.11 (see “commercial crimes”). 2. In order to be a legally binding agreement, contract law provides that there must be (1) an offer, (2) valuable consideration, (3) two or more parties capable of contracting or entering into an agreement, (4) an unambiguous acceptance of the offer, and (5) mutual consideration (“a meeting of the minds”). In some cases, a written agreement may be required with the signatures by all parties on the contract according to the statute of frauds. Full disclosure of the terms of the contract is imperative, and any fraud, coercion, or misrepresentation makes a contract void and unenforceable .   [see *Commissioner v. Sunnen*, 333 U.S. 591 (1948); *Oubre v. Entergy Operations, Inc.*, 112 F.3d 787 (1998); *Maxcess, Inc. v. Lucent Technologies*, *Inc.*, 433 F.3d 1337 (11th Cir. 2005)]  When I was a baby, I could not lawfully consent to be the trustee for the United States Citizen / Cestui Que Vie Trust / Maritime Vessel with the name of FIRST MIDDLE LAST. I have also been forced to obtain a driver’s license in the past, or I otherwise would have been taken and imprisoned against my will and/or put at severe inconvenience as a result of not having one.  Further, by not responding to any of the several affidavits submitted by the Attorney in Fact for the Defendant in Error, Plaintiff agrees that there is no lawful contract that can be introduced into the record with the wet ink signature of the Undersigned. Therefore, without a contract, there is no case [see *Erie Railroad Co. v. Tompkins*, 304 U.S. 64 (1938)].  **[continued on next page]**  **CONCLUSION**  **THEREFORE**, this demand for summary judgment shall be lawfully granted due to the facts made known herein before the court that Judge Name Here is operating without an official bond, that Discovery was not sufficiently provided per the motion submitted for the alleged Defendant, that the impartiality of the judge is in doubt, that Plaintiff is in agreement with all of the affidavits for Defendant, that Plaintiff has not properly submitted a claim upon which relief can be granted, and that there is no contract between the parties in this matter. For the above-listed reasons, the Undersigned declares that this court is without subject matter jurisdiction and that this matter shall be dismissed with prejudice and in the interest of justice as Plaintiff has been allotted the appropriate time to respond to cure their fault and dishonor.  Respectfully Submitted,    \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  First-Middle: Last, Beneficiary, Attorney in Fact  for FIRST MIDDLE LAST, Defendant  ---------------------------------------- LAST PAGE ---------------------------------------- |  |
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