

## VOID ORDERS

The orders entered by Michael Genden are null and void and of no force and effect as they are procured by fraud, without jurisdiction, result of unlawful rulings, are unconstitutional and violate due process and obstruct justice.

### **A. Fraud on the Court:**

An order is void if it was procured by fraud upon the court,” In re Village of Willowbrook, 37 Ill. App. 3D 393(1962)

A void judgment is one that has been procured by extrinsic or collateral fraud, or entered by court that did not have jurisdiction over subject matter or the parties, Rook v. Rook, 353 S.E. 2d 756 (Va. 1987).

A void judgment which includes judgment entered by a court which lacks jurisdiction over the parties or the subject matter, or lacks inherent power to enter the particular judgment, or an order procured by fraud, can be attacked at any time, in any court, either directly or collaterally, provided that the party is properly before the court. See Long v. Shorebank Development Corp., 182 F.3d 548 (C.A. 7 Ill. 1999)

### **B. Void Judgment is a nullity:**

A void judgment is one which, from its inception, was a complete nullity and without legal effect. See Lubben v. Selective Service System Local Bd. No. 27, 453 F.2d 645, 14 A.L.R. Fed. 298 (C.A. 1 Mass. 1972)

A void judgment is one which from the beginning was complete nullity and without any legal effect. See Hobbs v. U.S. Office of Personnel Management, 485 F.Supp. 456 (M.D. Fla. 1980).

Void judgment is one that, from its inception, is complete nullity and without legal effect. Holstein v. City of Chicago, 803 F.Supp. 205, reconsideration denied 149 F.R.D. 147, affirmed 29 F.3d 1145 (N.D. Ill. 1992).

A void judgment is one which, from its inception, was a complete nullity and without legal effect, Rubin v. Johns, 109 F.R.D. 174 (D. Virgin Islands 1985).

A void judgment is one which, from its inception, is and forever continues to be absolutely null, without legal efficacy, ineffectual to bind the parties or to support a right, of no legal force and effect whatever, and incapable of enforcement in any manner or to any degree. Loyd v. Director, Dept. of Public Safety, 480 So.2d 577 (Ala.Civ.App. 1985). A judgment shown by evidence to be invalid for want of jurisdiction is a void judgment or at all events has all attributes of a void judgment, City of Los Angeles v. Morgan, 234 P.2d 319 (Cal.App. 2 Dist. 1951).

Void judgment which is subject to collateral attack, is simulated judgment devoid of any potency because of jurisdictional defects, Ward. v. Terriere, 386 P.2d 352 (Colo. 1963). A void judgment is a simulated judgment devoid of any potency because of jurisdictional defects only, in the court rendering it and defect of jurisdiction may relate to a party or parties, the subject matter, the cause of action, the question to be determined, or relief to be granted, Davidson Chevrolet, Inc. v. City and County of Denver, 330 P.2d 1116, certiorari denied 79 S.Ct. 609, [359 U.S. 926](#), 3 L.Ed. 2d 629 (Colo. 1958).

Void judgment is one which, from its inception is complete nullity and without legal effect *In re Marriage of Parks*, 630 N.E.2d 509 (Ill.App. 5 Dist. 1994).

Void judgment is one entered by court that lacks the inherent power to make or enter the particular order involved, and it may be attacked at any time, either directly or collaterally; such a judgment would be a nullity. *People v. Rolland*, 581 N.E.2d 907 (Ill.App. 4 Dist. 1991).

### **C. Entered without Jurisdiction and Orders Exceeding Jurisdiction:**

The United States Supreme Court has clearly, and repeatedly, held that any judge who acts without jurisdiction is engaged in an act of treason. *U.S. v. Will*, 449 U.S. 200, 216, 101, S. Ct. 471, 66 L.Ed. 2d 392, 406 (1980): *Cohens v. Virginia*, 19 U.S. (6 Wheat) 264, 404, 5 L.Ed 257 (1821).

Title 5, US Code Sec. 556(d), Sec. 557, Sec.706: Courts lose jurisdiction if they do not follow Due Process.

An order that exceeds the jurisdiction of the court is void, and can be attacked in any proceeding in any court where the validity of the judgment comes into issue. (See *Rose v. Himely* (1808) 4 Cranch 241, 2 L ed 608; *Pennoyer v. Neff* (1877) 95 US 714, 24 L ed 565; *Thompson v. Whitman* (1873) 18 Wall 457, 21 1 ED 897; *Windsor v. McVeigh* (1876) 93 US 274, 23 L ed 914; *McDonald v. Mabee* (1917) 243 US 90, 37 Sct 343, 61 L ed 608.

"If a court grants relief, which under the circumstances it hasn't any authority to grant, its judgment is to that extent void." (1 Freeman on Judgments, 120-c.) "A void judgment is no judgment at all and is without legal effect." (*Jordon v. Gilligan*, 500 F.2d 701, 710 (6th Cir. 1974)) "a court must vacate any judgment entered in excess of its jurisdiction." (*Lubben v. Selective Service System Local Bd. No. 27*, 453 F.2d 645 (1st Cir. 1972).).

A void judgment does not create any binding obligation. Federal decisions addressing void state court judgments include *Kalb v. Feuerstein* (1940) 308 US 433, 60 S Ct 343, 84 L ed 370. Federal judges issued orders permanently barring Stich from filing any papers in federal courts. After Judges Robert Jones and Edward Jellen corruptly seized and started to liquidate Stich's assets, Judge Jones issued an unconstitutional order barring Stich from filing any objection to the seizure and liquidation.

Void judgment is one entered by court without jurisdiction of parties or subject matter or that lacks inherent power to make or enter particular order involved and such a judgment may be attacked at any time, either directly or collaterally, *People v. Wade*, 506 N.W.2d 954 (Ill. 1987).

Void judgment may be defined as one in which rendering court lacked subject matter jurisdiction, lacked personal jurisdiction, or acted in manner inconsistent with due process of law *Eckel v. MacNeal*, 628 N.E.2d 741 (Ill. App.Dist. 1993).

Void judgment is one where court lacked personal or subject matter jurisdiction or entry of order violated due process, *U.S.C.A. Const. Amend. 5-Triad Energy Corp. v. McNell*, 110 F.R.D. 382 (S.D.N.Y. 1986).

Void judgment is one entered by court without jurisdiction of parties or subject matter or that lacks inherent power to make or enter particular order involved; such judgment may be attacked at any time, either directly or collaterally *People v. Sales*, 551 N.E.2d 1359 (Ill.App. 2 Dist. 1990).

Subject matter jurisdictional failings:

- Fraud committed in the procurement of jurisdiction, *Fredman Brothers Furniture v. Dept. of Revenue*, 109 Ill.2d 202, 486 N.E.2d 893 (1985).
- Fraud upon the court, *In re Village of Willowbrook*, 37 Ill. App.3d 393 (1962)
- A judge does not follow statutory procedure, *Armstrong v. Obucino*, 300 Ill. 140, 143 (1921).
- Unlawful activity of a judge, Code of Judicial Conduct.
- If the court exceeded its statutory authority, *Rosenstiel v. Rosenstiel*, 278 F.Supp. 794 (S.D.N.Y. 1967).
- Any acts in violation of [11 U.S.C. §362](#)(a), *In re Garcia*, 109 B.R. 335 (N.D. Illinois, 1989).
- Where no justiciable issue is presented to the court through proper pleadings, *Ligon v. Williams*, 264 Ill. App.3d 701, 637 N.E.2d 633 (1st Dist. 1994).
- Where a complaint states no cognizable cause of action against that party, *Charles v. Gore*, 248 Ill.App.3d 441, 618 N.E.2d 554 (1st Dist. 1993).
- When the judge is involved in a scheme of bribery (the Alemann cases, *Bracey v. Warden*, U.S. Supreme Court No. 96-6133; June 9, 1997)

#### **D. Void judgments do not have to be declared void by a judge**

A **void** order is an order issued without jurisdiction by a judge and is **void ab initio** and does not have to be declared **void** by a judge to be **void**. Only an inspection of the record of the case showing that the judge was without jurisdiction or *violated a person's due process rights*, or *where fraud was involved in the attempted procurement of jurisdiction, is sufficient for an order to be void*. **Potenz Corp. v. Petrozzini**, 170 Ill. App. 3d 617, 525 N.E. 2d 173, 175 (1988). In instances herein, the law has stated that the orders are **void ab initio** and not voidable because they are already **void**.

**A void order is void ab initio and does not have to be declared void by a judge.** The law is established by the U.S. Supreme Court in **Valley v. Northern Fire & Marine Ins. Co.**, 254 U.S. 348, 41 S. Ct. 116 (1920) as well as other state courts, e.g. by the Illinois Supreme Court in **People v. Miller**. A party may have a court vacate a **void** order, but the **void** order is still **void ab initio**, whether vacated or not; a piece of paper does not determine whether an order is **void**, it just memorializes it, makes it legally binding and voids out all previous orders returning the case to the date prior to action leading to void ab initio.

This principle of law was stated by the U.S. Supreme Court as “Courts are constituted by authority and they cannot go beyond that power delegated to them. If they act beyond that authority, and certainly in contravention of it, their judgments and orders are regarded as nullities. They are not voidable, but simply **VOID, AND THIS IS EVEN PRIOR TO REVERSAL** .” [Emphasis added]. **Valley v. Northern Fire and Marine Ins. Co.**, 254 U.S. 348, 41 S. Ct. 116 (1920). See also **Old Wayne Mut. I. Assoc. v. McDonough**, 204 U.S. 8, 27 S.Ct. 236 (1907); **Williamson v. Berry**, 8 How. 495, 540, 12 L. Ed, 1170, 1189, (1850); **Rose v. Himely**, 4 Cranch 241, 269, 2 L.Ed. 608, 617 (1808).

Pursuant to the **Valley** court decision, a **void** order does not have to be reversed by any court to be a **void** order. **Courts have also held that, since a void order is not a final order, but is in effect no order at all, it cannot even be appealed. Courts have held that a void decision is not in essence a decision at all, and never becomes final. Consistent with this holding, in 1991, the U.S. Supreme Court stated that, “Since such jurisdictional defect deprives not only the initial court but also the appellate court of its power over the case or controversy, to permit the appellate court to ignore it. ...[Would be an] unlawful action by the appellate court itself.”** *Freytag v. Commissioner*, 501 U.S. 868 (1991); *Miller, supra*. Following the same

principle, it would be an unlawful action for a court to rely on an order issued by a judge who did not have subject-matter jurisdiction and therefore the order he issued was **Void ab initio**.

A **void** order has no legal force or effect. As one court stated, a **void** order is equivalent to a blank piece of paper.

A void judgment is not entitled to the respect accorded a valid adjudication, but may be entirely disregarded, or declared inoperative by any tribunal in which effect is sought to be given to it. It is attended by none of the consequences of a valid adjudication. It has no legal or binding force or efficacy for any purpose or at any place. ... It is not entitled to enforcement ... All proceedings founded on the void judgment are themselves regarded as invalid. 30A Am Jur Judgments " 44, 45.

#### **D. Void In Violation of Due Process**

Due Process is a requirement of the U.S. Constitution. Violation of the United States Constitution by a judge deprives that person from acting as a judge under the law. He/She is acting as a private person, and not in the capacity of being a judge (and, therefore, has no jurisdiction). The United States Supreme Court, in Twining v. New Jersey, 211 U.S. 78, 29 S.Ct. 14, 24, (1908), stated that "Due Process requires that the court which assumes to determine the rights of parties shall have jurisdiction."; citing Old Wayne Mut. Life Assoc. V. McDonough, 204 U. S. 8, 27 S. Ct. 236 (1907); Scott v McNeal, 154 U.S. 34, 14, S. Ct. 1108 (1894); Pennoyer v. Neff, 95 U.S. 714, 733 (1877).

Judgment is a void judgment if court that rendered judgment lacked jurisdiction of the subject matter, or of the parties, or acted in a manner inconsistent with due process, Fed Rules Civ. Proc., Rule 60(b)(4), 28 U.S.C.A.; U.S.C.A. Const Amend. 5. Klugh v. U.S., 620 F.Supp. 892 (D.S.C. 1985).

#### **E. Void in Violation of Right to be Heard**

It is a fundamental doctrine of law that a party to be affected by a personal judgment must have his day in court, and an opportunity to be heard. Renaud v. Abbott, 116 US 277, 29 L Ed 629, 6 S Ct 1194. Every person is entitled to an opportunity to be heard in a court of law upon every question involving his rights or interests, before he is affected by any judicial decision on the question. Earle v McVeigh, 91 US 503, 23 L Ed 398.

A judgment of a court without hearing the party or giving him an opportunity to be heard is not a judicial determination of his rights. Sabariego v Maverick, 124 US 261, 31 L Ed 430, 8 S Ct 461, and is not entitled to respect in any other tribunal.

"A void judgment does not create any binding obligation. Federal decisions addressing void state court judgments include Kalb v. Feuerstein (1940) 308 US 433, 60 S Ct 343, 84 L ed 370; Ex parte Rowland (1882) 104 U.S. 604, 26 L.Ed. 861: "A judgment which is void upon its face, and which requires only an inspection of the judgment roll to demonstrate its want of vitality is a dead limb upon the judicial tree, which should be lopped off, if the power to do so exists."

People v. Greene, 71 Cal. 100 [16 Pac. 197, 5 Am. St. Rep. 448]. "If a court grants relief, which under the circumstances it hasn't any authority to grant, its judgment is to that extent void." (1 Freeman on Judgments, 120-c.) An illegal order is forever void.

## F. IN VIOLATION OF THE CONSTITUTION

***"Officers of the court have no immunity, when violating a Constitutional right, from liability. For they are deemed to know the law." -- Owen v. Independence, 100 S.C.T. 1398, 445 US 622; Scheuer v. Rhodes, 416 U.S. 232.***

A Judge has no lawful authority to issue any order which violates the Supreme Law of the Land.

The First Amendment to the U.S. Constitution states that all entities have the mandatory right of an adequate, complete, effective, fair, full meaningful and timely access to the court.

The First and the Fourteenth Amendment to the U.S. Constitution guarantees the right of association.

The Fifth and Fourteenth Amendment guarantees Due Process and Equal Protection to all. *"No state shall deprive any person of life, liberty or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."* *United States Constitutional Amendment XIV and adopted by State of Indiana Constitution.*

***"Choices about marriage, family life, and upbringing of children are among associational rights ranked as of basic importance in our society, rights sheltered by the Fourteenth Amendment against State's unwarranted usurpation, disregard, or disrespect. U.S.C.A. Constitutional Amendment 14.***

A judgment may not be rendered in violation of constitutional protections. The validity of a judgment may be affected by a failure to give the constitutionally required due process notice and an opportunity to be heard. *Earle v. McVeigh*, 91 US 503, 23 L Ed 398. See also Restatements, Judgments ' 4(b). *Prather v Loyd*, 86 Idaho 45, 382 P2d 910. The limitations inherent in the requirements of due process and equal protection of the law extend to judicial as well as political branches of government, so that a judgment may not be rendered in violation of those constitutional limitations and guarantees. *Hanson v Denckla*, 357 US 235, 2 L Ed 2d 1283, 78 S Ct 1228.

## G. Void Orders Can Be Attacked At Any Time

An order that exceeds the jurisdiction of the court, is void, or voidable, and can be attacked in any proceeding in any court where the validity of the judgment comes into issue. (See *Rose v. Himely* (1808) 4 Cranch 241, 2 L ed 608; *Pennoyer v. Neff* (1877) 95 US 714, 24 L ed 565; *Thompson v. Whitman* (1873) 18 Wall 457, 21 L Ed 897; *Windsor v. McVeigh* (1876) 93 US 274, 23 L ed 914; *McDonald v. Mabee* (1917) 243 US 90, 37 Sct 343, 61 L ed 608. *U.S. v. Holtzman*, 762 F.2d 720 (9th Cir. 1985) ("Portion of judgment directing defendant not to import vehicles without first obtaining approval ... was not appropriately limited in duration and, thus, district court abused its discretion by not vacating it as being prospectively inequitable." Id at 722.)

## H. Abetting a Void Order is a crime Against the State

The state Supreme Courts have held that those who aid, abet, advise, act upon and execute the order of a judge who acts without jurisdiction are equally guilty. They are equally guilty of a crime against the U.S. Government.