

CRIMINAL COMPLAINT

This Criminal Complaint is filed by Barbara Stone on her behalf and on behalf of her mother (individually "Complainant" and collectively "Complainants") nunc pro tunc as of September, 2012 against Michael Genden, Roy Lustig, Jacqueline Hertz, Blaire Lapidés and Alan Stone (collectively the "Parties" and individually "Genden", "Lustig", "Hertz", "Lapidés" and "Stone") . The parties set forth in this Criminal Complaint are conspirators in a criminal enterprise and racketeering ring in Dade County, Florida.

SUMMARY OF CRIMES OF THE PARTIES

1. **The Parties have committed felony financial fraud. They have extorted over \$1,400,000 from Claimant's mother, an elderly disabled adult. They are stealing these assets in the form of fees.**
2. ***These Parties who have extorted \$1,400,000 from Claimant's mother have filed perjured statements, fabricated and lied and perpetrated fraud on the court to orchestrate false charges against Claimant.***
3. My mother has not benefitted from anything these parties have done. To the contrary, they have denied her rights and her wishes and deprived her of food, medical attention and services and her assets have been fraudulently confiscated and embezzled.
4. On November 9, 2013, Claimant's mother was admitted by emergency to the hospital with life threatening conditions including ***malnutrition, dehydration, fractures, pneumonia, hernia, infection, fractures that could be the result of a fall and a host of other life threatening conditions.*** Each one of these life threatening conditions alone constitutes elder abuse under Florida Statute 825 ***Together they constitute aggravated abuse.***
5. Two days prior to her being sent by ambulance to the hospital, on November 7, 2013, Helen Stone was seen by her spiritual leader, Rabbi Ed Farber, at Barbara Stone's bequest who found her drugged up, incoherent and starved whereupon he immediately informed the judge who failed to investigate..
6. Claimant's mother is in a feeding tube as a result of abuse and being emaciated, a life endangering tactic taken by racketeer guardians to serve their own interest so they do not have to take the time to feed their victims. Her mother has a natural right to eat and she is being deprived of that right. The feeding tube is laced with illegal psychotropic drugs that are prohibited under Florida Statute 394.
7. The Parties have deprived Claimants of unalienable endowed rights protected by the Constitution, by acting under color of law abuse, abuse of power, fraudulently, with intrinsic, extrinsic fraud and fraud on the court and fraud in the inducement to commit criminal acts and acted outside jurisdiction and in his own capacity.
8. The Parties willfully and viciously retaliated against, threatened and coerced Claimants because they objected and exposed the Parties criminal acts.
9. The Parties engaged in the crimes of human trafficking, money laundering, racketeering, extortion, misprision of felony, abuse of power, color of law abuse and other capital and infamous crimes in order to plunder the assets of elderly vulnerable disabled Citizens.
10. Claimants rights under 18 USC 241 and 242 have been deprived.
11. The Parties conspired and acted in collusion to commit Fraud "with purpose to incriminate another" in violation of the Constitution and Title 18 USC §1001, Title 18 USC §1621, 42 USC, FS 825, 836, 843 and other Federal and State Statutes in Obstruction of Justice and False Statements Using Sham Legal Process.

12. The Parties have committed and or abetted the following crimes:

- First degree felonies under Florida Statutes 825 committing financial fraud and exploitation in a sum of \$100,000 or more from an elder person
- First degree felonies of abuse and aggravated abuse under Florida Statutes 825
- Perjury
- Tampering with evidence
- Obstructing justice
- Dereliction of Duty
- Violation of Bill of Rights 1st & 6th Amendment
- United States Constitution Art 3 Sec 3
- Conspiracy under USC 371
- Theft and Fraud, fraud on the court, intrinsic and extrinsic fraud and fraud in the inducement
- Tampering with court records, transcripts and other records
- Forgery
- Securing writings by deception,
- Fabricated evidence that victim lacked capacity to give consent
- Kidnapping,
- Abduction
- Unlawful Restraint
- Elder Abuse and Aggravated Abuse
- Elder Exploitation
- Depriving crime victim of medical care
- Discrimination
- Retaliation
- Coercion
- Attempted Murder
- Premeditated Murder
- Official Misconduct
- Abuse of Power
- Color of Law Abuse
- Criminal Racketeering
- Human Trafficking
- Money Laundering
- False Arrest
- Entrapment
- Battery
- Wire fraud, mail fraud and bank fraud
- Conversion
- Breach of fiduciary duty
- Lying to the fed government and courts system 18 USC 1001
- False imprisonment
- Theft and Fraud, fraud on the court, intrinsic and extrinsic fraud and fraud in the inducement
- Kidnapping,
- Abduction
- Unlawful Restraint
- Discrimination
- Retaliation under the ADA and 42 USC 12203
- Attempted Murder (use of contraindicated drugs, isolation from family members and friends, suspicious falls leading to confinement to bed, etc.)

- 18 U.S. Code § 3 - Accessory after the fact
 - 18 USC 4 Misprison of felony
 - Official Misconduct
 - Color of Law/Due Process violations Abuse - 42 USC 1983
 - Criminal Racketeering
 - Battery for repetitive fractures, administration of chemical restraints contraindicated by the FDA,
 - Wrongful implantation of a feeding tube without consent, and deprivation of the sensation of food and chewing against her will
 - Loss of consortium between parent and child
 - Torture under the international treaties against torture
13. Florida is the number one corrupt state according to the Center for Public Integrity. People are warned not to retire in or visit Florida because of the guardianship scam. A recent MetLife study calls elder abuse the crime of the 21st century. As early as 1985, elder abuse was called a “national disgrace” by the U.S. Representatives, Subcommittee on Health and Long-Term Care of the Committee on Aging. More than a quarter-century later, it is still a national disgrace and breeding ground for subversive activity.
14. A report by the U. S. Government Accountability Office finds guardian abuse of the elderly is rampant. The attached Washington Examiner article exposes judges like Michael Genden who engage in corruption.
15. **Because Complainants have stated Michael Genden is engaged in heinous crimes using the Courthouse as a criminal racketeering operation and Complainants are exposing these crimes, Complainants are fearful of further retaliation and seek protection from law enforcement.**
16. Complainant, Barbara Stone has been falsely arrested as a result of the acts of Michael Genden and others who themselves purposely and maliciously engage in the foregoing crimes and employ the court, the very institution they have subverted to achieve their own ends.
17. Roy Lustig has been found guilty of fraud, perjury and repeatedly lying under oath. This was the finding by the 3rd DCA in LEO’S GULF LIQUORS v CHANDRESH LAKHANI ET AL, CASE NO. 3D00-130 where the Court stated:
- In Metropolitan Dade County v. Martinsen, 736 So. 2d 794, 795 (Fla. 3d DCA 1999), this Court restated the well-settled principle "that a party who has been guilty of fraud or misconduct in the prosecution or defense of a civil proceeding should not be permitted to continue to employ the very institution it has subverted to achieve her ends." Hanono v. Murphy, 723 So. 2d 892, 895 (Fla. 3d DCA 1998) (citing Carter v. Carter, 88 So. 2d 153, 157 (Fla. 1956).
18. Making false statements is a Federal offense under Title 18 USC§ 1001. These crimes were committed for Intimidation, Retaliation and Interference with civil rights pursuant to Florida Statutes and 42 USC §1983, 18 USC§ 241 & 242. Perjury is a federal felony under 18 U.S. Code § 1621
19. The unlawful fraudulent stay away orders against Affiant were issued in order to empower Hertz, Lapides, Stone and Lustig to commit crimes of abuse and exploitation in secrecy
20. **This is all about staged fraudulent litigation to take the assets of a disabled vulnerable person.**

CRIMES PERPETRATED BY ALAN STONE

**FORGERY, FRAUD, EMBEZZLEMENT
ABUSE AND AGGREGATED ABUSE OF THE ELDERLY,**

**FRAUD IN THE INDUCEMENT
FINANCIAL FRAUD AND EXPLOITATION,
CUSTODY OFFENSES, RACKETEERING, HUMAN TRAFFICKING
MONEY LAUDERING,
DISCRIMINATION AND RETALIATION**

21. Alan Stone engages in a pattern and practice of financial misconduct and abuse and aggravated abuse of Claimant's mother.
22. *Alan Stone was terminated from two financial firms, UBS and Wachovia for forgery and financial fraud.*
23. Prior to his termination, he made a business out of moving from one financial firm to the next to take advantage of "bonus" money he was paid upfront to be applied to commissions. He always left the firm before his contract was up, thereby breaching his contract and refusing to return the advance. His rotation through the different firms was his wrongful source of income.
24. Alan Stone was fired from one firm, USB, for forging client documents. He was then placed on "heightened supervision" requiring his transactions be monitored with future firms.
25. *This was his status when he joined Wachovia where he commenced the financial fraud of Affiant's mother's assets, forgery of her checks and wire transfers of her money to his accounts.*
26. Affiant has since learned she filed this guardianship that Alan Stone brought in Jacqueline Hertz and Blaire Lapides who are controlling Affiant's mother to be his puppets to cover up his misappropriation of Affiant's mother's assets
27. **Alan Stone has embezzled over \$625,000 of Affiant's mother's assets** that he transferred to himself using a series of wire transfers to attempt to hide where the assets were transferred
28. Alan Stone has physically and emotionally abused Affiant's mother.
29. Affiant's mother was repeatedly admitted to the hospital with suspicious fractures and falls between 2009 and 2012 during the time she was isolated from the outside world by Alan Stone.
 - a. Alan Stone perpetuated a fraud. He designed Affiant and her mother as "trustees" on the accounts documents in the many firms in which he contacted as an employee and broke his contract knowing that this designation was false as he has already enlisted Blaire Lapides in his scheme to defraud Affiant's mother.
 - b. The pattern and practice of fraud and self -dealing for which Roy Lustig was found guilty by the 3rd DCA was exactly the conduct in which Alan Stone engaged.
 - c. Affiant later came to realize that Alan Stone deviously and with willful intent to defraud fraudulently set up the accounts in that manner in order that he could unilaterally remove Affiant as trustee, thereby being able to benefit from his own wrongful acts.
30. The divisive actions of Alan Stone were obvious as he coerced Affiant's mother to go from one attorney to the next to change her trust documents according to the status of pending litigation depending on whether he thought his fraud would be discovered.
31. Alan Stone deceptively informed Affiant's mother that once she reached the age of 80, she was no longer permitted to drive. . This devious scheme also accomplished Alan Stone's goal to keep Affiant's

mother isolated and under his control for her very existence – for her to even to be able to have food, she was totally reliant on and subjected to the agenda of Alan Stone.

CRIMES PERPETRATED BY BLAIRE LAPIDES, JACQUELINE HERTZ AND ROY LUSTIG

FRAUD, EMBEZZLEMENT, PERJURY, SLANDER, LYING UNDER OATH ABUSE AND AGGREGATED ABUSE OF THE ELDERLY, FRAUD IN THE INDUCEMENT FINANCIAL FRAUD AND EXPLOITATION, CUSTODY OFFENSES, RACKETEERING, HUMAN TRAFFICKING MONEY LAUNDERING, FALSE IMPRISONMENT, ABDUCTION, KIDNAPPING, DISCRIMINATION AND RETALIATION

32. Michael Genden placed Claimant's mother in the hands of criminals.
33. These predators include a complete stranger, Jacqueline Hertz with a track record of fraud and murder and an estranged distant opportunistic Blaire Lapidés who had committed fraud and was not registered as a "guardian" and Roy Lustig who was found guilty of crimes by the 3rd DCA . Claimant later learn these guardians were brought in by Alan Stone to cover up his embezzlement of her assets.
34. An illegal agreement was signed at the time that unlawfully removed Claimant's mother's rights.
35. Helen Stone was not a party to the agreement nor does she have knowledge of the agreement.
36. The agreement and all subsequent orders stripped Helen Stone of all of her constitutional and civil rights in violation of the Constitution of the United States
37. An agreement that violates due process and the Constitution is void on its face. The agreement discriminated and retaliated against Helen Stone taking away all of her rights is not a proper accommodation under the ADA. It is likened to severing an arm to remedy a splinter in a finger.
38. **Removing a disabled, elderly person from their prior life, isolating and segregating them from their family and acquaintances, removing all of their assets and possessions from them and abetting the theft and dissipating of the assets is a venal retaliatory and criminal act.**
39. The guardianship is predicated upon a void, unlawful and illegal agreement which was the basis of ensuing fraudulent illegal segregation and isolation upon which fraudulent void orders were issued.
40. Jacqueline Hertz, a professed guardian has *fabricated credentials, schooling, education, qualifications and experience*. She does not have a license issued by the State. She does not have the required credentials pursuant to Florida Statutes including a letter from a judge and repeatedly failed to provide a bond or proof of her educational requirements.
41. Jacqueline Hertz has a pattern of criminal abuse and exploitation. She routinely loots the assets of her victims with fraudulent accountings and accountings that deliberately fail to disclose the finances of her victims or the amounts that are being distributed.

42. Jacqueline Hertz has a real estate license which is an inherent conflict of interest as she is prohibited by law from participating in the assets of persons under her control. She routinely sells the home of her victim from under them. The homes are sold illegally and also for less than market value to her cohorts in order to launder money. Using a real estate license to participate in commissions is an inherent conflict of interest and the commissions are a motivation for her to sell the house of her prey. This also violates the guardian statute which prohibits her from benefiting in the assets of persons under her control.
43. Jacqueline Hertz isolates the person in her control from their family by fabricating slanderous false allegations against their closest family member in order to obtain an illegal fraudulent “stay away order” that is issued by colluding judges like Michael Genden so she can operate her scam in secrecy. She then engages in her atrocities, abuse, sells the homes of the elderly from under them, ties up their family in fabricated litigation and steals their assets.
44. *She isolated Claimant from her mother on the basis of fraudulent accusations. She obtained a similar order against Marilyn Hirsch, the daughter of Rose Hirsch who she abused and deprived her life. She isolated Carol Holder, a respected educator at a University from her husband. She abused Mrs. Dorothea Landmann and upon her death attempted to take control of her daughter in a guardianship. She brazenly and flagrantly fabricates and commits fraud on the court.*
45. Blaire Lapides is an estranged opportunistic distant relative. She has not complied with the education and other requirements for a guardian and has not posted a bond. She is embezzled Helen Stone’s assets.
46. Their attorney, Roy Lustig is a disgraced attorney *who has been found guilty by the 3rd DCA of perjury, lying under oath and fraud on the court* (please reference the attached court opinion). *He has been sanctioned by the Florida Bar.*
47. Roy Lustig is engaged in a pattern of staged, fraudulent litigation to perpetuate his illegal conduct in order to extort fees from Helen Stone.
48. **It is criminally negligent for Michael Genden to place an elderly vulnerable adult under the control of these predators.**
49. Affiant’s mother has been starved, bruised, threatened, drugged, isolated and caged. She has been removed from her home against her will. Her property has been looted by Respondents Alan Stone, Jacqueline Hertz and Blaire Lapides and Roy Lustig.. Affiant’s mother has been denigrated, denied food, medical attention and care.
50. Immediately after their installation as Helen Stone’s guardians, they forcibly isolated her from association with the outside world and is kept in complete isolation from friends and family of her choosing so these guardians and their attorney could exploit and abuse her in secrecy. *They have taken an 86 year old woman taken into “custody”.*
51. On November 9, 2013, Claimant’s mother was admitted by emergency to the hospital with life threatening conditions including *malnutrition, dehydration, fractures, pneumonia, hernia, infection, fractures that could be the result of a fall and a host of other life threatening conditions.* Each one of these life threatening conditions alone constitutes elder abuse under Florida Statute 825 *Together they constitute aggravated abuse.*

52. Two days prior to her being sent by ambulance to the hospital, on November 7, 2013, Helen Stone was seen by her spiritual leader, Rabbi Ed Farber, at Barbara Stone's bequest who found her drugged up, incoherent and starved whereupon he immediately informed the judge who failed to investigate..
53. Claimant's mother is in a feeding tube as a result of abuse and being emaciated, a life endangering tactic taken by racketeer guardians to serve their own interest so they do not have to take the time to feed their victims. Her mother has a natural right to eat and she is being deprived of that right. The feeding tube is laced with illegal psychotropic drugs that are prohibited under Florida Statute 394.
54. A predator exploiter like Jacqueline Hertz isolates the elderly person by not allowing them to communicate or socialize with their friends. When family or friends call or visit, the exploiter intercedes and tells them that all is well and typically will interject themselves into any conversation such friends and family members attempt to have with the elderly person. The classic case is an exploiter who prevents the elderly person from answering any questions placed before him or her by speaking for them. The infirm person never speaks because the exploiter has seized control of the conversation. When family or friends pre-schedule a visit, the exploiter makes certain that the elderly person is out of the house or answers the door stating that the elderly person is resting and that he or she will call them (which never occurs) upon awakening. This is a slow process that takes place over an extended period of time. The isolation eventually causes the elderly person to submit to the exploiter's propaganda that they are all that the elderly person has in the form of friends. Furthermore, the exploiter continually suggests that the elderly person's family and close friends have abandoned them and without the exploiter's help the elderly person will be placed in a nursing home to wither away. Lacking any outside influences to expose the exploiters charade, the elderly person is eventually convinced of the family and friend's fabricated conspiracy.
55. *Their isolation plot is accomplished by submitting patently false, fraudulent and malicious allegations to a conspiring judge who issues unlawful "stay away" orders against a family member who is closest to the victim and the most desperate to remove their loved one from the atrocities of the guardian enterprise, all of which constitutes offenses and deprivation of rights under Federal and F.B.I. color of law abuse and Florida Statutes 825 and other laws.*
56. Their false allegations and accusations not only are the precursor to their goal of isolation of their victims by fraudulent void stay away orders issued by a court without jurisdiction, but they also accomplish another component of their goal, i.e. they are rewarded by conspiring judges with an award of guardian and legal fees for their own wrongful illegal acts.
57. **Making false allegations to obtain a stay away order is perjury pursuant to Federal and Florida Statutes a criminal offense**
58. Immediately after their installation as Helen Stone's guardians, they isolated her from Claimant based on fabricated allegations so these guardians and their attorney could exploit and abuse her in secrecy.
59. *Incredibly this matter stems from the fact that Michael Genden order her mother be isolated from Claimant's mother because Claimant objected to their use of Miralax, a laxitive pulled off the shelf by the FDA because it causes heart and kidney failure.* These vicious guardians vilified Barbara in Court by alleging Barbara sought to give her mother "unauthorized medication" It is impossible for Barbara Stone to offer her mother unauthorized medication where there was no such medication. This depraved scam could only concocted by guardians who committed fraud on the court that was abetted by Michael Genden in whose court, the only thing that occurs is fraud. Thus on the basis of perjury committed by Jacqueline Hertz and Blaire Lapidés, Michael Genden removed an elderly woman from her daughter, leading the way to the atrocities that ensued.

60. **This was the basis for all fraudulent litigation that ensued.** Jacqueline Hertz sole goal is to perpetuate litigation by slandering family members so and her attorney can embezzle the funds of the person in her control. Secrecy is an integral part of this operation.
61. The chicanery of a fraudulent isolation petition almost caused the death of Claimant's mother and Claimant's arrest.
62. Every possession and every asset of Mrs. Stone that has been fraudulently "awarded" to these criminals is the result of their fabricated petition to isolated Mrs. Stone from her daughter because her daughter objected to her mother being given Miralax.
63. **Only in a court like Michael Genden's court, could a laxative result in the award of \$1,400,000 in fraudulent bills. Michael Genden has committed treason, a fraud on the U.S.**
64. **Because of a laxative, Mrs. Stone was cruelly isolated from her daughter.** Helen Stone pleads to see her daughter and does not even know why her daughter does not visit or that she is being denied seeing her mother. This in and of itself is abuse.
65. ***Claimant is filing this notice of abuse and abuse report and complaint for which she requests law enforcement redress and insure the safety of her mother.***
- d. ***Her mother is kept in a locked down facility virtually under house arrest against her will***
 - e. ***She is chemically restrained with psychotropic drugs***
 - f. ***Her speech is slurred because she is medicated by drugs strong enough to kill her.***
 - g. ***Her obvious overmedication is for the benefit of the guardians and their aides so they can ignore her mother.***
 - h. ***The fake "aides" are to isolate Helen Stone not to benefit her. They are to prevent Helen Stone from having rehabilitation not to facilitate her rehabilitation***
 - i. ***Mrs. Stone is not permitted to stand up from her wheelchair although she is perfectly capable of walking.***
 - j. ***Helen Stone was given fake glasses after her glasses were inexplicably broken and her mother is incurring constant headaches because she is unable to see. It was over 9 months before glasses were provided that were not provided in consultation with her mother's ophthalmologist therefore, it is still uncertain if her glasses are medically accurate.***
 - k. ***Barbara Stone's mother is cruelly and abusively being denied her wishes to see Barbara Stone, in order to stage litigation to plunder her assets an act of criminal abuse under Florida Statutes 825.***
 - l. ***Barbara Stone's mother is cruelly and abusively being denied her wishes to see her spiritual leader or have any visitor whatsoever by Roy Lustig an act of criminal abuse under Florida Statutes 825 and a crime under the Medicare and other patient bill of rights.***
 - m. ***Cruelly, Helen Stone does not even know why her daughter does not visit***
 - n. ***Helen Stone, a person protected under AADA has not been in possession or control of her assets or personal property nor has she been consulted or allowed any input whatsoever concerning the use or disposition of her assets. Instead, her assets have been dissipated by people who are controlling her against her will and endangering her.***
 - o. ***Barbara Stone and Helen Stone have been spied on by cunning "aides" who charge Helen Stone but do not attend her care – they are planted by the guardians to keep her isolated.***
 - p. ***The guardians have committed insurance fraud, bank fraud, wire fraud, internet fraud, mail fraud, Medicaid and medicare fraud, social security and veteran's***

administration fraud and embezzled federal benefits of Helen Stone to financially benefit themselves.

- q. *All of the foregoing actions are acts of pre-meditated murder – a deliberate attempt to slowly and methodically deprive Mrs. Stone of her life.*

CRIMES PERPETRATED BY MICHAEL GENDEN

FORGERY, FRAUD, EMBEZZLEMENT ABUSE AND AGGREGATED ABUSE OF THE ELDERLY, FRAUD IN THE INDUCEMENT FINANCIAL FRAUD AND EXPLOITATION, CUSTODY OFFENSES, RACKETEERING, HUMAN TRAFFICKING, MONEY LAUNDERING, ENTRAPMENT, DISCRIMINATION AND RETALIATION

66. *In the face of hospital reports evidencing abuse and repeated witness statements, Michael Genden. In violation of his mandate refused to investigate criminal conduct of her mother's guardians and embezzling of her assets by their attorney. Michael Genden ignored the hospital records showing aggravated abuse and the many frantic letters, testimony, witnesses and affidavits to Barbara Stone's mother abuse.*
67. *The very same day Michael Genden denied holding a hearing on Claimant's Petition to investigate the safety of her mother, she was rushed by emergency to the hospital. While she was in the hospital, she was then forced to suffer surgery to implant a feeding tube because as she had been denied food, she was starved and became emaciated.*
68. *Instead of investigating the aggravated abuse by the guardians, Michael Genden is covering up their abuse and his participation in their abuse either for his own gain or to grant favors.*
69. *Michael Genden has and is acting without jurisdiction, in violation of criminal laws.*
70. *Michael Genden has violated the U.S. and the Florida Constitution by prohibiting advocates and supporters of Affiant from being present in his courtroom.*
71. *Michael Genden has entrapped Claimant in order to collude with Roy Lustig in the participation of her mother's assets.*
72. *Michael Genden routinely pre-signs orders. Transcripts are routinely altered.*
73. Upon Helen Stone's admission to the hospital, *the guardians should have been suspended immediately* by Michael Genden and the guardians should have been investigated. The attached confidential hospital records speak for themselves of Helen Stone's aggravated abuse.
74. The affidavits and testimony of witnesses to Barbara Stone's mother's abuse evidence red flag warnings of elder abuse (isolation, deprivation of food, medical attention and services, denial of association with her daughter, despite her pleas, her mother was "painfully thin" and in clothes that were huge, that she was unkempt and unattended and desperately missed association with her daughter, Barbara Stone.
75. On December 7, 2013, 2 days prior to Helen Stone's emergency admission to the hospital where she almost died as a result of aggravated abuse by persons wrongfully placed in charge of her care by a probate court judge, Barbara Stone submitted an emergency petition for the probate court to appoint an

attorney, an independent doctor and a court monitor for her mother. The probate judge did nothing Not only did he not grant the petition, the probate judge did not even **hear** the petition in direct violation of Federal and State laws mandating abuse of an elderly, disabled person be investigated.

76. As no action was taken by Michael Genden to protect her mother, Barbara Stone filed a petition to remove the Guardians. The petition was not heard for over 3 months all the while the guardians were committing crimes and theft and Helen Stone was being abused despite the fact that Genden is required to hear an emergency petition within 48 hours. Matters pertaining to the elderly are exigent – they require immediate attention.
77. Genden’s court abets fraud on the court, perjury, lying under oath and fabricated and false and slanderous actions by person who are brazenly committing such acts. This is particularly heinous in a court of law that is responsible for the very life and safety of an elderly, vulnerable person.
78. Jacqueline Hertz, Blaire Lapidés, Roy Lustig and Michael Genden have segregated Helen Stone from the community and are violating Federal laws regarding core values of America for the Constitutional rights and privileges granted to its citizens. In a gross understatement of the criminality of this matter:

Helen Stone is not integrated into the community, stimulated, socially enriched, being rehabilitated and is not in any way benefiting from being locked down, isolated, chemically restrained, in a feeding tube and drugged in violation of the mandate of the ADA, Federal and State laws prohibiting elder abuse and exploitation and pursuant to *Olmstead v LC* wherein the Supreme Court stated

"institutional placement of persons who can handle and benefit from community settings perpetuates unwarranted assumptions that persons so isolated are incapable of or unworthy of participating in community life." "Confinement in an institution severely diminishes the everyday life activities of individuals, including family relations, social contacts, work options, economic independence, educational advancement, and cultural enrichment."

79. Pursuant to Florida Statutes 825:

(2) **“Aggravated abuse of an elderly person or disabled adult” occurs when a person:**

- (a) **Commits aggravated battery on an elderly person or disabled adult;**
- (b) **Willfully tortures, maliciously punishes, or willfully and unlawfully cages, an elderly person or disabled adult; or**
- (c) **Knowingly or willfully abuses an elderly person or disabled adult and in so doing causes great bodily harm, permanent disability, or permanent disfigurement to the elderly person or disabled adult.**

A person who commits aggravated abuse of an elderly person or disabled adult commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

- (3)(a) “Neglect of an elderly person or disabled adult” means:

1. *A caregiver’s failure or omission to provide an elderly person or disabled adult with the care, supervision, and services necessary to maintain the elderly person’s or disabled adult’s physical and mental health, including, but not limited to, food, nutrition, clothing, shelter, supervision, medicine, and medical services that a prudent person would consider essential for the well-being of the elderly person or disabled adult; or*
2. *A caregiver’s failure to make a reasonable effort to protect an elderly person or disabled adult from abuse, neglect, or exploitation by another person.*

Neglect of an elderly person or disabled adult may be based on repeated conduct or on a single incident or omission that results in, or could reasonably be expected to result in, serious physical or psychological injury, or a substantial risk of death, to an elderly person or disabled adult.

(b) *A person who willfully or by culpable negligence neglects an elderly person or disabled adult and in so doing causes great bodily harm, permanent disability, or permanent disfigurement to the elderly person or disabled adult commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.*

(c) *A person who willfully or by culpable negligence neglects an elderly person or disabled adult without causing great bodily harm, permanent disability, or permanent disfigurement to the elderly person or disabled adult commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.*

80. Chapter 415 Florida Statutes defines “exploitation” as a person who:

Stands in a position of trust and confidence with a vulnerable adult and knowingly, by deception or intimidation, obtains or uses, or endeavors to obtain or use, a vulnerable adult’s funds, assets, or property with the intent to temporarily or permanently deprive a vulnerable adult of the use, benefit, or possession of the funds, assets, or property for the benefit of someone other than the vulnerable adult; or Knows or should know that the vulnerable adult lacks the capacity to consent, and obtains or uses, or endeavors to obtain or use, the vulnerable adult’s funds, assets, or property with the intent to temporarily or permanently deprive the vulnerable adult of the use, benefit, or possession of the funds, assets, or property for the benefit of someone other than the vulnerable adult.

“Exploitation” may include, but is not limited to: Breaches of fiduciary relationships, such as the misuse of a power of attorney or the abuse of guardianship duties, resulting in the unauthorized appropriation, sale, or transfer of property; Unauthorized taking of personal assets; Misappropriation, misuse, or transfer of moneys belonging to a vulnerable adult from a personal or joint account; or Intentional or negligent failure to effectively use a vulnerable adult’s income and assets for the necessities required for that person’s support and maintenance.

81. Further heinous repercussions are evidenced by the fact that family members like Barbara Stone who expose guardian abuse and the looting of their loved one’s assets are stuck in a perverse, intentional no win, Catch-22 situations *because the guardian fights their objection with the assets of their loved one. Helen Stone is being charged for her own abuse.*
82. Volumes of fraudulent invoices were submitted relentlessly, in fact, fanatically and ex parte by an arsenal of attorneys purportedly engaged in “representing” Claimant’s mother whose “non action” and “non representation” is vividly illustrated by their pages of charges for staged fraudulent litigation and were rewarded and illegally ordered fraudulent fees without any investigation by Michael Genden as to how their “services” could have any relationship whatsoever to Claimant’s mother’s best interest who was being starved to death.
83. *All the while, Barbara Stone’s mother, in a feeding tube implanted as a result of aggravated abuse by Jacqueline Hertz, removed from her home, emaciated, deprived of association with her daughter and completely kept in the dark as to why she can’t see her daughter, restrained in a facility, deprived of her rights, denied representation and protection from the very people who are acting in their own best interest is forced under unlawful “color of law” to pay Jacqueline Hertz to abuse and exploit her.*
84. What is undeniable is barbaric abuse and crime against humanity.

85. Michael Genden's abuse of power is heightened by the fact her mother's matter is an emergency exigent due to elder abuse warning signs, her age, and frail health and the dire need for Barbara Stone to have her mother's safety and well-being forthwith overseen and insured by an impartial judge.
86. Since being placed in guardianship:
- a) Helen Stone has not personally appeared or spoken a word in the guardianship proceeding.
 - b) Helen Stone has been forcibly kept from occupying her residence of choice and she held against her will forcibly confined to a residence against her will.
 - c) Helen Stone has been forcibly and intentionally isolated from association with the outside world and family members and friends of her choosing.
 - d) Helen Stone, a person protected under AADA has not been in possession or control of her assets or personal property nor has she been consulted or allowed any input whatsoever concerning the use or disposition of her assets. Her assets have in fact been dissipated by people who are controlling her against her will and endangering her.
87. Family members like Barbara Stone, the loved one of an elderly vulnerable relative is vilified by the guardian industry. They are made to appear as an interloper. They face retaliation, intimidation and coercion to silence them. They are jailed for contempt, court ordered into silence and sued for speaking the truth, all the while our aging parents are caged, isolated and drugged, under a sentence of death in order to transfer their assets to the guardian enterprise.
88. Michael Genden acting in conspiracy with Roy Lustig falsely accused Barbara Stone of violating his retaliatory stay away orders that was issued ex parte on the basis of what he knew and acknowledged were slanderous allegations against her. He then brought false criminal charges against Barbara Stone that he fabricated with Roy Lustig and knew to be false. He tried Barbara Stone a mock trial in his own court, a blatant denial of due process.
89. Michael Genden violates elder abuse criminal laws by perpetrating the abuse of Barbara Stone's mother.
90. Once Michael Genden was unable to silence Barbara Stone from exposing his abuse, he viciously retaliated against her, converting his court into a criminal court where he became the judge, the arbiter and the person who filed criminal charges against her to "try" her in a mock hearing for violating his illegal and ex parte stay away order wrongfully issued on the basis of fabricated, fraudulent and slanderous statements by fraudulent guardians had expired by its own terms.
91. Michael Genden and Roy Lustig obstructed justice and fraudulent orchestrated Barbara Stone's arrest. Michael Genden acknowledged in open court in a transcript that the illegal order was issued on the basis of a fraudulent allegation. Further, his unlawful ex parte temporary restraining order expired by operation of law pursuant to FL State 741.30 which states an ex parte temporary state away order expires after 15 days.
92. Some of the illegal and unlawful provisions in his orders include:
- a. Repeatedly pre-signing orders and then holding "mock" hearings although an order has already been signed.
 - b. ***Rewarding predators Roy Lustig for participating in his criminal scam of a concocted criminal trial with legal fees for participating in this scam by allowing him to embezzle over \$250,000 of Helen Stone's assets.***

- c. ***Rewarding predators Jacqueline Hertz and Blaire Lapidès approximately \$200,000 from Helen Stone's assets forcing her to pay for her own abuse.***
 - d. An unlawful order denying Barbara Stone the right to petition for his disqualification,
 - e. An illegal order denying Barbara Stone the right to file any pleadings after Barbara Stone exposed the corruption and fraud in his court.
 - f. An illegal order prohibiting Barbara Stone from contacting anyone to report the abuse of her mother thereby entrapping her to act in the role of a conspirator to abuse,
 - g. Ordering recording his expired, illegal order in "criminal records" denying Helen Stone the right to see her daughter thus retaliating against Barbara Stone by threatening her with illegal criminal charges for his own criminal retaliation and discrimination against her and her mother.
 - h. There are presently other vindictive fraudulent petitions pending including a petition to hold Barbara Stone in criminal contempt and for massive additional fraudulent fees.
93. Michael Genden has denied Barbara Stone her right of access to the very file she commenced by establishing the guardianship. Further, he did this in a manner that is deceptive and deceitful. As he knew that an order denying Barbara Stone access to her file would be unconstitutional and a violation of due process, he issued an "edict" that he illegally demanded and threatened court staff to post on the file
94. ***These fraudulent, staged acts are solely for the purpose of embezzling Helen Stone's assets.***
95. Barbara Stone's mother is a vulnerable adult who has been denied protection under the very laws that are supposed to protect her, she is gravely ill, she is abused and her wishes are being violated and she has no court of redress.
96. Not only are Michael Genden's orders void, they are illegal, unlawful and treasonous as they violate the Constitution and the judicial oath of office. He uses his court to retaliate against Claimant, certainly not for the best interest of Helen Stone.
97. The false charges against Barbara Stone are the Machiavellian orchestration of wrongdoers. This is exactly the same conduct that the 3rd DCA found Roy Lustig engaged, stating in their opinion the well-settled principle "that a party who has been guilty of fraud or misconduct in the prosecution or defense of a civil proceeding should not be permitted to continue to employ the very institution it has subverted to achieve her ends."
98. The retaliation against Barbara Stone is multiplied because for each action they take to retaliate against Barbara Stone, they punish Helen Stone in acts of vicious and cruel and heightened retaliation.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge and belief.

Dated: March 2, 2015



Barbara Stone, without prejudice

CASE CITATIONS

NO JUDICIAL IMMUNITY, VOID ORDERS, NO JURISDICTION

Judicial immunity does not exist for judges who engage in criminal activity, for judges who connive with, aid and abet the criminal activity of another judge, or to a judge for damages sustained by a person who has been harmed by the judge's connivance with, aiding and abetting, another judge's criminal activity.

An illegal agreement by a corrupt judge prior to any judicial proceedings does not resemble anything close to a normal judicial function. The court in Rankin v. Howard, 633 F.2d 844 (9th Cir. 1980), *cert. denied*, 451 1985] any personal prejudice or economic interest in a case is not acting judicially, and should be held liable for any resulting damages Brewer v. Blackwell, 692 F.2d 387, 397 (5th Cir. 1982) (judge vindicating personal objectives not acting judicially); Harper v. Merckle, 638 F.2d 848, 859 (5th Cir.) ("[W]hen a judge has acted out of personal motivation and has used his judicial office as an offensive weapon to vindicate personal objectives, then the judge's actions do not amount to 'judicial acts.'"), *cert. denied*, 454 U.S. 816 (1981); Harris v. Harvey, 605 F.2d 330, 336 (7th Cir. 1979) (judge could be held liable for nonjudicial "racially motivated" critical communications to the press), *cert. denied*, 445 U.S. 938 (1980)

Harper v. Merckle, 638 F.2d 848 (5th Cir.), *cert. denied*, 454 U.S. 816, 102 S.Ct. 93, 70 L.Ed.2d 85 (1981)(holding a contempt proceeding and ordering plaintiff incarcerated were not judicial acts where controversy that led to incarceration did not center around any matter pending before the judge, but around domestic problems of plaintiff former wife who worked at the courthouse); Harris v. Harvey, 605 F.2d 330 (7th Cir.1979), *cert. denied*, 445 U.S. 938, 100 S.Ct. 1331, 63 L.Ed.2d 772 (1980)(allegedly repeated communications to the press and city officials which were critical of police lieutenant, and the improper instigation of criminal proceedings against the lieutenant by judge as part of a racial campaign to discredit lieutenant were not judicial acts).

This court also has held that the initiation of accusatory processes, such as criminal prosecutions or civil contempt proceedings, is a non-judicial act that may subject a judge to liability. Sevier v. Turner, 742 F.2d 262, 272 (6th Cir.1984).

“The right of action created by statute *relating to deprivation under color of law* of a right secured by the constitution and the laws of the U.S.and comes claims which are based solely on statutory violations of Federal Law and applied to the claim that claimants had been deprived of their rights, in some capacity, to which they were entitled.” (Owen v. Independence 100 Vol. Supreme Court Reports. 1398: [1982]; Main v. Thiboutot 100 Vol. Supreme Court Reports. 2502, 1982)

Judges are under the illusion that they have absolute immunity, but all the cases that are cited making such a claim are without authority [people] and will fail in the federal and state courts in a court of record. Only the people are sovereign; all servants are under statutes and therefore liable to USC 18 and 42. “Where there is no jurisdiction, there can be no discretion;” they are not above the law when they commit a crime; they will go to jail and are subject to civil suits. “No man in this country is so high that he is above the law. No officer of the law may set that law at defiance with impunity. All the officers of the government, from the highest to the lowest, are creatures of the law and are bound to obey it.... It is the only supreme power in our system of government, and every man who, by accepting office participates in its functions, is only the more strongly bound to submit to that supremacy, and to observe the limitations which it imposes on the exercise of the authority which it gives.” (U.S. v. Lee, 106 U.S. 196, 220 1 S. Ct. 240, 261, 27 L. Ed 171; 1882)

“Any judge who does not comply with his oath to the Constitution of the United States wars against that Constitution and engages in acts in violation of the supreme law of the land. The judge is engaged in acts of treason.” (Cooper v. Aaron, 358 U.S. 1, 78 S. Ct. 1401; 1958)

VOID JUDGMENTS AND ORDERS

FAILURE TO DEFEND THE CONSTITUTION:

Marbury v. Madison: 5 US 137 (1803): "No provision of the Constitution is designed to be without effect," "Anything that is in conflict is null and void of law", "Clearly, for a secondary law to come in conflict with the supreme Law was illogical, for certainly, the supreme Law would prevail over all other laws and certainly our forefathers had intended that the supreme Law would be the bases of all law and for any law to come in conflict would be null and void of law, it would bear no power to enforce, in would bear no obligation to obey, it would purport to settle as if it had never existed, for unconstitutionality would date from the enactment of such a law, not from the date so branded in an open court of law, no courts are bound to uphold it, and no Citizens are bound to obey it. It operates as a near nullity or a fiction of law."

If any statement, within any law, which is passed, is unconstitutional, the whole law is unconstitutional by *Marbury v. Madison*.

Shephard's Citations: All cases which have cited *Marbury v. Madison* case, to the Supreme Court has not ever been over turned. See *Shephard's Citation of Marbury v. Madison*. Title 5, US Code Sec. 556(d), Sec. 557, Sec.706:

Title 18, US Code Sec.2381: In the presents of two or more witnesses of the same overt act, or in an open court of law, if you fail to timely move to protect and defend the Constitution of the United States and honor your oath of office, you are subject to the charge of capital felony treason. American Jurisprudence Book 16: Constitution Law Section 16Am Jur 2d: 16AmJur2d., Sec. 97: (The people are the beneficiary of the US Constitution)

Bary v. United States - 273 US 128 "Then a constitution should receive a literal interpretation in favor of the Citizen, is especially true, with respect to those provisions which were designed to safeguard the liberty and security of the Citizen in regard to person and property." "Any constitutional provision intended to confer a benefit should be liberally construed in favor in the clearly intended and expressly designated beneficiary"

Mudook v. Penn., 319 US 105:(1943) "A state may not impose a charge for the enjoyment of a right granted by the Federal Constitution and that a flat license tax here involves restraints in advance the constitutional liberties of Press and Religion and inevitably tends to suppress their existence. That the ordinance is non-discriminatory and that is applies also to peddlers of wares and merchandise is immaterial. The liberties granted by the first amendment are and in a preferred position. Since the privilege in question is guaranteed by the Federal Constitution and exist independently of the state's authority, the inquiry as to whether the state has given something for which it cannot ask a return, is irrelevant. No state may convert any secured liberty into a privilege and issue a license and a fee for it"

Shuttlesworth v. Birmingham AL, 373 US 262:(1962) "If the state does convert your right into a privilege and issue a license and a fee for it, you can ignore the license and a fee and engage the right with impunity."

United States v. Bishop, 412 US 346: Sets the standard for criminal violation of Willful Intent
It must be proven that you are the party, it must be proven that you had the method or opportunity to do the thing. it must be proven that you did this with a Willful Intent.
Willfulness - "An evil motive or intent to avoid a known duty or task under a law, with a moral certainty."

Owen v. Independence, 100 Vol. Supreme Court Reports. 1398:(1982) "Now since the prosecutor does not have a cause of action for which relief can be granted, your Honor, may it please the court, Counsel is specifically precluded performing his major task, therefore, your Honor, may it please the court, at this time, I would Motion most graciously for a dismissal of Prejudice, for failure to state a cause of action for which relief may be granted by this Honorable Court and I would like to collect my cost and fees for having to defend this frivolous complaint, Sir, may it please the court."

Main v. Thiboutot, 100 Vol. Supreme Court Reports. 2502:(1982) "The right of action created by statute relating to deprivation under color of law, of a right secured by the constitution and the laws of the United States and comes claims which are based solely on statutory violations of Federal Law and applied to the claim that claimants had been deprived of their rights, in some capacity, to which they were entitled." "Officers of the court have no immunity when violating constitutional right, from liability" (When any public servant violates your rights they do so at their own peril.)

Title 42 US Code Sec. 1983, Sec. 1985, & Sec. 1986: Clearly established the right to sue anyone who violates your constitutional rights. The Constitution guarantees: he who would unlawfully jeopardize your property loses property to you, and that's what justice is all about.

"Judge, you are deemed to know the law and are sworn to uphold it. You can hardly claim that you acted in good faith for willful deformation of a law and you certainly cannot plead ignorance of the law, for that would make the law look stupid for a knowledgeable judge to claim ignorance of a law, when a Citizen on the street cannot claim ignorance of the law. Therefore, there is no judicial immunity."

Boyd v. United States 116 USR 616: "The Court is to protect against encroachment of constitutionality or secured liberty. It is equivalent to a compulsory production of papers, to make the non - production of them a confession of the allegations which is pretended they will prove. The seizure of compensatory production of a man's private papers to be used in evidence against him is equivalent to compelling him to be a witness against himself, violation of the fifth amendment, and in a prosecution for a crime, penalty or forfeiture is equally within the prohibition of the fifth amendment."

VALLELY V. NORTHERN FIRE & MARINE INS. CO. 254 U.S. 348 (41 S.Ct. 116, 65 L.Ed. 297) 1920. Courts are constituted by authority and they cannot beyond the 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 even prior to reversal.*** Elliott v. Peirsol, 1 Pet. 328, 340, 7 L. Ed. 164; Old Wayne Life Ass'n v. McDonough, [204 U. S. 8](#), 27 Sup. Ct. 236, 51 L. Ed. 345.

Elliot v. Piersol, 1 Pet. 328, 340, 26 U.S. 328, 340 (1828) Under Federal law which is applicable to all states, the U.S. Supreme Court stated that if a court is "without authority, its judgments and orders are regarded as nullities. They are not voidable, but simply void; and form no bar to a recovery sought, ***even prior to a reversal in opposition to them. They constitute no justification; and all persons concerned in executing such judgments or sentences, are considered, in law, as trespassers.***"

Courts lose jurisdiction if they do not follow Due Process of Law.

Should a judge not disqualify himself, then the judge is in violation of the Due Process Clause of the U.S. Constitution. United States v. Sciuto, 521 F.2d 842, 845 (7th Cir. 1996) ("The right to a tribunal free from bias or prejudice is based, not on section 144, but on the Due Process Clause.")

Should a judge issue any order after he has been disqualified by law, and if the party has been denied of any of his / her property, then the judge may have been engaged in the Federal Crime of "interference

with interstate commerce". The judge has acted in the judge's personal capacity and not in the judge's judicial capacity. It has been said that this judge, acting in this manner, has no more lawful authority than someone's next-door neighbor (provided that he is not a judge).

The Supreme Court has also held that if a judge wars against the Constitution, or if he acts without jurisdiction, he has engaged in treason to the Constitution. If a judge acts after he has been automatically disqualified by law, then he is acting without jurisdiction, and that suggest that he is then engaging in criminal acts of treason, and may be engaged in extortion and the interference with interstate commerce.

Courts have repeatedly ruled that judges have no immunity for their criminal acts. Since both treason and the interference with interstate commerce are criminal acts, no judge has immunity to engage in such acts.

FRAUD ON THE COURT

It is also clear and well-settled law that any attempt to commit "fraud upon the court" vitiates the entire proceeding. The People of the State of Illinois v. Fred E. Sterling, 357 Ill. 354; 192 N.E. 229 (1934) ("The maxim that fraud vitiates every transaction into which it enters applies to judgments as well as to contracts and other transactions. "); Allen F. Moore v. Stanley F. Sievers, 336 Ill. 316; 168 N.E. 259 (1929) ("The maxim that fraud vitiates every transaction into which it enters ..."); In re Village of Willowbrook, 37 Ill.App.2d 393 (1962) ("It is axiomatic that fraud vitiates everything."); Dunham v. Dunham, 57 Ill.App. 475 (1894), affirmed 162 Ill. 589 (1896); Skelly Oil Co. v. Universal Oil Products Co., 338 Ill.App. 79, 86 N.E.2d 875, 883-4 (1949); Thomas Stasel v. The American Home Security Corporation, 362 Ill. 350; 199 N.E. 798 (1935).

Under Federal law, when any officer of the court has committed "fraud upon the court", the orders and judgment of that court are void, of no legal force or effect.

Open Government - The "Sunshine" Law

Florida began its tradition of openness back in 1909 with the passage of Chapter 119 of the Florida Statutes or the "Public Records Law." This law provides that any records made or received by any public agency in the course of its official business are available for inspection, unless specifically exempted by the Florida Legislature. Over the years, the definition of what constitutes "public records" has come to include not just traditional written documents such as papers, maps and books, but also tapes, photographs, film, sound recordings and records stored in computers.

Florida's Government-in-the-Sunshine Law was enacted in 1967. Today, the Sunshine Law regarding open government can be found in Chapter 286 of the Florida Statutes. These statutes establish a basic right of access to most meetings of boards, commissions and other governing bodies of state and local governmental agencies or authorities.

Throughout the history of Florida's open government, its courts have consistently supported the public's right of access to governmental meetings and records. As such, they also have been defining and redefining what a public record is and who is covered under the open meetings law. One area of public concern was whether or not the Legislature was covered under the open meetings requirements. **To address that concerns, a Constitutional amendment was passed overwhelmingly by the voters in 1990 providing for open meetings in the legislative branch of government.**

The Attorney General's Office has consistently sought to safeguard Florida's pioneering Government-in-the-Sunshine laws. Our attorneys have worked, both in the courtroom and out, to halt public records violations. In 1991, a decision by the Florida Supreme Court raised questions which made it clear that the best way to ensure the public's right of access to all three branches of government was to secure that right through the Florida Constitution. The Attorney General's Office then drafted a definitive constitutional amendment, which guaranteed continued openness in the state's government and reaffirmed the application of open government to the legislative branch and expanded it to the judiciary. This amendment passed in 1992.

Unlawful activity of a judge, Code of Judicial Conduct.

The Constitution for the United States of America - Article III Section 1 "The Judges, both of the supreme and inferior Courts, shall hold their Offices during good Behaviour ... "

Florida Judicial Oath Art. II. § 5(b), Fla. Const.

Under Federal law which is applicable to all states, the U.S. Supreme Court stated that if a court is "without authority, its judgments and orders are regarded as nullities. They are not voidable, but simply void; and form no bar to a recovery sought, even prior to a reversal in opposition to them. They constitute no justification; and all persons concerned in executing such judgments or sentences, are considered, in law, as trespassers." [Elliot v. Piersol, 1 Pet. 328, 340, 26 U.S. 328, 340 (1828)]

[World-Wide Volkswagen Corp. v. Woodson, 444 U.S. 286 \(1980\)](#) A judgment rendered in violation of due process is void in the rendering State and is not entitled to full faith and credit elsewhere. Pennoyer v. Neff, 95 U.S. 714, 732-733 (1878)."

Courts can only act upon matters that are properly brought before them pursuant to "the settled law, practice and usage." Randolph v. Jenks v. Merchants' Nat'l Bank, 77 Tenn. 63, 68 (Tenn. 1882). That was not the case in Hodge. "Orders issued by a court without jurisdiction are void, and we are under an affirmative duty to vacate void orders without reaching the merits of the issues on appeal." Hodge, 2007 WL 3202769, at *2 (citing Tenn. R. App. P. 13(b); [First American Trust Co. v. Franklin-Murray Dev. Co. L.P.](#), 59 S.W.3d 135, 141 (Tenn. Ct. App. 2001)). Accordingly, we vacated the 2005 Order of Reference as being void due to a lack of jurisdiction. Id. at *4

"* * * Furthermore, tampering with the administration of justice in the manner indisputably shown here involves far more than an injury to a single litigant. It is a wrong against the institutions set up to protect and safeguard the public, institutions in which fraud cannot complacently be tolerated consistently with the good order of society. Surely it cannot be that preservation of the integrity of the judicial process must always wait upon the diligence of litigants. The public welfare demands that the agencies of public justice be not so impotent that they must always be mute and helpless victims of deception and fraud."

And, it is well-established that person may not be held in contempt for failure to comply with a void order. *Davis v. City of Bowling Green*, 289 S.W.2d 506 (Ky. 1956).

Subject matter can never be presumed, never be waived, and cannot be construed even by mutual consent of the parties. Subject matter jurisdiction is two part: the statutory or common law authority for the court to hear the case and the appearance and testimony of a competent fact witness, in other words, **sufficiency of pleadings**. Subject matter jurisdictional failings:

<http://famguardian.org/TaxFreedom/CitesByTopic/VoidJudgment.htm>

Gentry v. Gentry, 924 SW 2d 678 - Tenn: Supreme Court 1996

The standard for determining whether a judgment is **void** is well settled: whether the court had general jurisdiction of the subject matter, whether the judgment was wholly outside the pleadings, and whether the court had jurisdiction of the parties.

- in [Dalton v. Deuel, 2008](#)

... , on **the face** of the record, "(1) that the Court. had no general jurisdiction of the subject matter of the litigation; or (2) that the decree itself is wholly outside of the pleadings, and no binding consent thereto is shown in the record; or (3) that the Court had no jurisdiction of the party complaining, in person or by representation of interest; in which case it is **void** only as to such ...

- in [STATE EX REL. CITY OF CHATTANOOGA v. DELINQUENT TAXPAYERS, 2008](#)

A judgment is considered **void** if the record demonstrates that the court entering it lacked jurisdiction over either the subject matter or the person, or did not have the authority to make the challenged judgment.

- in [Team Design v. Gottlieb, 2002](#)

As stated in *Brown*, *Brown v. Brown*, 198 Tenn. 600, 281 S.W.2d 492 (1955). A distinction must be made in this regard between the mere erroneous exercise of a power granted, and the usurpation of a power where none exists. *Id.* 281 S.W.2d at 499.

“Fraud upon the court” makes void the orders and judgments of that court. The U.S. Supreme Court has consistently held that a void order is void at all times, does not have to be reversed or vacated by a judge, cannot be made valid by any judge, nor does it gain validity by the passage of time. The order is void ab initio. *Valley v. Northern Fire & Marine Ins. Co.*, 254 U.S. 348, 41 S.Ct. 116 (1920). “Fraud destroys the validity of everything into which it enters,” *Nudd v. Burrows* (1875), 91 US 426, 23 Led 286,290; particularly when **“a judge himself is a party to the fraud,”** *Cone v. Harris* (Okla. 1924), 230 P. 721, 723. *Windsor v. McVeigh* (1876), 93 US 276, 23 Led 914, 918.

“Silence can only be equated with fraud where there is a legal or moral duty to speak or when an inquiry left unanswered would be intentionally misleading.” See ***U.S. V. Tweel*, 550 F.2d.297.**