



IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT - CHANCERY DIVISION

Chemical Mortgage Company
Plaintiff,

vs.

Avalon B. Collier, Amerus Bank,
Nationscredit Financial Services Corp.,
Chicago Title and Trust Company as
Trustee, and Unknown Owners
Defendants

)
) Case No. 96 CH 10566
) Judge DURKIN
)
)
)

REFUSAL FOR FRAUD PURSUANT TO F.R.C.P. 9(b)

This Refusal is filed under the American Flag of peace of the united states of America.
No jurisdiction under any American flags or wa will be accepted in this Case Incorporation.

Refusal for Fraud of Summons upon Complaint and Complaint for Foreclosure.

I, Avalon B. Collier, hereinafter Aggrieved Party, being first duly sworn according to law, having first hand knowledge of the facts herein, and being competent to testify, do affirm that the facts herein are stated by the Aggrieved Party, and are true, correct, complete, not misleading, and are stated under the penalties of perjury pursuant to the laws of the United States of America.

Consider this a timely Refusal for Fraud of all proceedings that pertain to Foreclosure from the filing of complaint to all eviction proceedings of, as set forth below, the following described mortgaged real estate:

LOT 20 IN BLOCK 3 IN FLAGG AND MCBRIDE'S SUBDIVISION OF THE EAST 1/2 OF THE WEST 60 ACRES OF THE EAST 1/2 OF THE SOUTHWEST 1/4 OF SECTION 4, TOWNSHIP 37 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.
Commonly known as 9248 S. Normal Ave., Chicago, IL 60620. Tax I.D. # 25-04-313-044

1). Definition: "Case Incorporated", the formation of a legal body, with the quality of perpetual existence and succession. (2). consisting of an association of numerous individuals. (3). matters relating to the common purpose of the association, within the scope of the powers and authorities conferred upon such bodies with the quality of perpetual existence and successions. Ref. Black's Law Dictionary 6th, Pg. 690. "Case Incorporation" will establish the legal bounds of the members of this lawful assembly to solve a specific "Case Number" and the issues in motion.

2). This Incorporated Case is defined to be Refusal for Fraud, Pursuant to F.R.C.P. 9(b), giving rise to F.R.C.P. 19 and 12(b)(7) failure to join parties, 12(b)(6), Fails to state a claim upon which relief can be granted, and 12(b)(1)(2) lacks jurisdiction as to the alleged Summons upon Complaint and Complaint in Foreclosure filed by Chemical Mortgage Company and assigned 96 CH 10566 as described above.

3). The Party Injured herein brings this Incorporated Case, Refusal for Fraud: Dispositive motions will be considered and act of conspiracy to the crimes and violations defined in this Refusal for Fraud.

Hereinafter:

F.R.C.P. = Federal Rules of Civil Procedure.

U.S.C.A. = United States Code Annotated.

U.S.C.S. = United States Code Service.

F.R.D. = Federal Rules Decisions

4). Judge Durkin, Elizabeth F. Kaplan; Renee F. Meltzer; Michael S. Fisher; Susan Rosen; Steven J. Christenholz; Laura A. Carey FISHER AND FISHER, Attorneys at Law, P.C. Attorney No. 3309, hereinafter Defendants, have taken an Oath and Affirmation to support and defend that Constitution of the United States of America Constitution of the State of Illinois ARTICLE XIII, Section 3.

5). Constitution of the State of Illinois. ARTICLE XIII Section 3: OATH OR AFFIRMATION OF OFFICE: Each prospective holder of a State office, shall take and subscribe to the following oath or affirmation: "I do solemnly swear (affirm) that I will support the Constitution of the United States, and the Constitution of the State of Illinois, and that I will faithfully discharge the duties of the office of.....
to the best of my ability."

6). Defendants, have taken an Oath upon entering the Bar Association to abide by the Rules of Professional Responsibility. 705 ILCS 205/4.

7). Rules of Professional Responsibility, 705 ILCS 205/4, "Every person admitted to practice as an attorney and counselor at law shall, before his name is entered upon the roll to be kept as hereinafter provided, take and subscribe an oath, substantially in the following form:

I do solemnly swear (or affirm, as the case may be), that I will support the constitution of the United States and the constitution of the state of Illinois, and that I will faithfully discharge the duties of the office of attorney and counselor at law to the best of my ability."

8). The Aggrieved Party herein accuses: Defendants, pursuant to Title 42 U.S.C.A. § 1986, having an high standard of the law, and a superior knowledge of the law having taken an Oath and Affirmation to support and defend the Constitution of the United States and of the State of Illinois, and a high standard of the law, having taken an oath prior to entering the bar; signed and filed a Complaint in Foreclosure IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS COUNTY DEPARTMENT - CHANCERY DIVISION that was assigned 96 CH 10566, certifying, pursuant to F.R.C.P. 11 that Defendants, conducted a reasonable inquiry, and knows (1) that the Complaint is not being presented for any improper purpose, (2) that the claims, defenses, and other legal contentions therein are warranted by existing law or by a non-frivolous argument for the extension, modification, or reversal of existing law or the establishment of a new law; and (3) that the allegations and other factorial contentions have evidentiary support, or are likely to: Defendants, neglected to disclose that: (1) the Aggrieved Parties signature does not appear on the Foreclosure Complaint, (2) there is no signature contract between the Aggrieved Party and the Chemical Mortgage Company attached to the complaint as an exhibit, (3) the address on the Foreclosure Complaint is not the Aggrieved Party's address, (4) The Aggrieved Party herein does not have a contract with Chemical Mortgage Company. The signing of said complaint is in violation of Rule 11, and is perjury to Defendants' Bar Oath to abide by the Rules of Professional Responsibility.

9). The filing of the Complaint in 96 CH 10566 IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS COUNTY DEPARTMENT - CHANCERY DIVISION constitutes fraud and intrinsic fraud on the part of Defendants F.R.C.P. 9(b), and constitutes Purjury, 5 ILCS 255/5; 720 ILCS 5/32-2 and is in violation of the Constitution of the United States of America, Bill of Rights, Articles XIV, due process and equal protection of the law, and Article V, due process of law.

10). The Aggrieved Party herein accuses: Defendants and Chemical Mortgage Company of acting in concert under color of law, 42 U.S.C.A. 1985 to deprive the Aggrieved Party of their rights and violate the Constitution 18 U.S.C.A. 242, committing Criminal Conspiracy, 18 U.S.C.A. 241, Extortion of Rights 18 U.S.C.A. 872, and Perjury of Oath as to Defendants 18 U.S.C.A. 1621, causing the Aggrieved Party damages pursuant to 42 U.S.C.A. 1983.

11). Defendants and Chemical Mortgage Company crimes by fraud as described in this complaint give rise to F.R.C.P. 19 and 12(b)(7) failure to join parties, F.R.C.P. 12(b)(6), fails to state a claim upon which relief can be granted, and F.R.C.P. 12(b)(I) and (2) lack of jurisdiction as to 96 CH 10566 IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS COUNTY DEPARTMENT - CHANCERY DIVISION.

12). The Aggrieved Party herein accuses: Judge Durkin, pursuant to Title 42 U.S.C.A. § 1986, having a high standard of the law, and a superior knowledge of the law having taken an Oath and Affirmation to support and defend the Constitution of the United States and of the State of Illinois, and a high standard of the law, having taken an oath prior to entering the bar; decorated his court room with an Executive War Flag

evidencing his intent to proceed in a jurisdiction that does not recognize the Aggrieved Parties Rights or the protections of the Constitution of the United States.

13). The Aggrieved Party herein accuses: Judge Durkin, pursuant to Title 42 U.S.C.A. § 1986, having a high standard of the law, and a superior knowledge of the law having taken an Oath and Affirmation to support and defend the Constitution of the United States and of the State of Illinois, and a high standard of the law, having taken an oath prior to entering the bar; used collusion to order the Aggrieved Party to enter the Bar (Association) where the Aggrieved Party has no rights or Constitutional protections, and placing the Aggrieved Party in danger of "Practicing Law Without a License", and in violation of the Constitution of the United States, Article I, section 10, right not to contract, constituting fraud F.R.C.P. 9(h) and violation of the Constitution of the United States of America, Bill of Rights, Articles XIV, due process and equal protection of the law, and Article V, due process of law.

14). The Aggrieved Party herein accuses: Defendants, Chemical Mortgage Company and Judge Durkin of acting in concert under color of law, 42 U.S.C.A. 1985 by filing of complaint, and holding proceedings by fraud as described in this complaint, F.R.C.P. 9(b), and witnessing the crimes and violations to the Constitution in 96 CH 10566 IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS COUNTY DEPARTMENT, CHANCERY DIVISION and neglecting to correct or prevent the wrongs and violations described in this Refusal, 42 U.S.C.A. 1986, committing Criminal Conspiracy, 18 U.S.C.A. 241, Extortion of Rights 18 U.S.C.A. 872, and Perjury of Oath as to Defendants, and Judge Durkin 18 U.S.C.A. 1621, causing the Aggrieved Party damages pursuant to 42 U.S.C.A. 1983.

15). Defendants, Chemical Mortgage Company and Judge Durkin's crimes by fraud as described in this Refusal give rise to F.R.C.P. 19 and 12(b)(7) failure to join parties, F.R.C.P. 12(b)(6), fails to state a claim upon which relief can be granted, and F.R.C.P. 12(b)(1) and (2) lack of jurisdiction as to 96 CH 10566 IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS COUNTY DEPARTMENT, CHANCERY DIVISION.

16). The Aggrieved Party herein accuses: Judge Durkin, pursuant to Title 42.U.S. CA. § 1986, having a high standard of the law, and a superior knowledge of the law having taken Oaths and Affirmations to support and defend the Constitution of the United States and of the State of Illinois, and a high standard of the law, having taken an oath prior to entering the bar; issued a judgment in 96 CH 10566 IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS COUNTY DEPARTMENT, CHANCERY DIVISION without joinder of parties pursuant to F.R.C.P. 19 and 12(b)(7), lacking jurisdiction to proceed. F.R.C.P. 12(b)(1)(2), and without sufficient evidence before the court to established a claim upon which relief can be granted, F.R.C.P. 12(b)(6). -

17). The Aggrieved Party herein accuses: Judge Durkin, Chemical Mortgage Company and Defendants, of acting in concert under color of law, 42 U.S.C.A. 1985 by filing of

complaint, holding proceedings, and issuing an order by fraud as described in this complaint, F.R.C.P. 9(b), and witnessing the crimes and violations to the Constitution in 96 CH 10566 IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS COUNTY DEPARTMENT, CHANCERY DIVISION and neglecting to correct or prevent the wrongs and violations described in this Refusal, 42 U.S.C.A. 1986, committing Criminal Conspiracy, 18 U.S.C.A. 241, Extortion of Rights 18 U.S.C.A. 872, and Perjury of Oath as to Denis B. Pierce and Judge Durkin 18 U.S.C.A. 1621, causing the Aggrieved Party damages pursuant to 42 U.S.C.A. 1983.

19). The Aggrieved Party herein accuses: Michael F. Sheahan and Laurence H. Kallen, pursuant to Title 42 U.S.C.A. § 1986, having an high standard of the law, and a superior knowledge of the law having taken an Oath and Affirmation to support and defend the Constitution of the United States and of the State of Illinois, held a sale of Plaintiff's property located at 9248 S. Normal Ave. Chicago, IL 60620 on June 22nd 1998, and filed a Confirmation of Sale and a Sheriff's Deed in JESSE WHITE, RECORDER OF DEEDS office on or about August 8, 1998.

20). The holding of Foreclosure Sale and filing of Confirmation of Sale and Deeds as described in this complaint, constitute fraud and intrinsic fraud on the part of Michael F. Sheahan and Laurence H. Kallen, F.R.C.P. 9(b), and constitutes Purjury, 5 ILCS 255/5; 720 ILCS 5/32-2 and is in violation of the Constitution of the United States of America, Bill of Rights, Articles XIV, due process and equal protection of the law, and Article V, due process of law.

21). The Aggrieved Party herein accuses: Michael F. Sheahan, Laurence H. Kallen, Defendants and Chemical Mortgage Company of acting in concert under color of law, 42 U.S.C.A. 1985 to deprive the Aggrieved Party of her rights and violate the Constitution 18 U.S.C.A. 242, committing Criminal Conspiracy, 18 U.S.C.A. 241, Extortion of Rights 18 U.S.C.A. 872, and Perjury of Oath as to Michael F. Sheahan and Laurence H. Kallen 18 U.S.C.A. 1621, causing the Aggrieved Party damages pursuant to 42 U.S.C.A. 1983.

22). Michael F. Sheahan, Laurence H. Kallen, Defendants and Chemical Mortgage Company crimes by fraud as described in this complaint give rise to F.R.C.P. 19 and 12(b)(7) failure to join parties, F.R.C.P. 12(b)(6), fails to state a claim upon which relief can be granted, and F.R.C.P. 12(b) (1) and (2) lack of jurisdiction as to 96 CH 10566 IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS COUNTY DEPARTMENT, CHANCERY DIVISION.

23). The filing of the Motion "for the entry of an Order Approving the Selling Officer's Report of Sale and for an Order of Possession that will allow the Sheriff to evict" constitutes fraud and intrinsic fraud on the part of Defendants F.R.C.P. 9(b), and constitutes Purjury, and is in violation of the Constitution of the United States of America, Bill of Rights, Articles XIV, due process and equal protection of the law, and Article V, due process of law.

FACTS AND FINDINGS OF LAW

24). Bar. A partition or railing running across a court-room, intended to separate the general public from the space occupied by the judges, counsel, jury and others concerned in the trial of a cause.

The whole body of attorneys and counselors, or the members of the legal profession, collectively, who are figuratively called the "bar," from the place which they usually occupy in court. They are thus distinguished from the "bench," which term denotes the whole body of judges.

25). United States Constitution, Article 1, Section 10, in pertinent part ... No State shall ... pass any Law impairing the Obligation of Contracts.

26). 1st **Amendment**: Freedom of speech and press, and to petition for a redress of grievances.

27). 5th **Amendment**: No citizen shall be deprived of life, liberty, or property without due process of law.

28). 6th **Amendment**: Right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, and informed of the nature and cause of the accusation.

29). 7th **Amendment**: In suits of common law, where the value in controversy shall exceed twenty dollars, the right to trial by jury shall be preserved, and no fact tried except by jury.

30). 10th **Amendment**: Powers not delegated to the US by the Constitution, are reserved to the states respectively.

31). 14th **Amendment**: No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the U.S., nor shall any state deprive any citizen of life, liberty, or property without due process of the law; nor to any citizen the equal protection of the law.

32). **F.R.C.P.** Rule 4. Process, (a) Summons, (b) Form, (c) Service, (d) Summons and Complaint, (g) Return proof, (h) Amendments, (i) Time.

33). **F.R.C.P.** Rule 5 Service, (a) Required (d) Filing certificate.

34). **F.R.C.P.** Rule 6 Time, (a) Computation (d) Motions and Affidavits.

35). **F.R.C.P.** Rule 7 Pleadings, (a) Pleadings (b) Motions.

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36). **F.R.C.P.** Rule 8 Rules of Pleading, (a) Claim for relief (b) Defense form of denials (c) Affirmative Defense (d) Failure to deny (e) Pleading concise.

37). **F.R.C.P.** Rule 9 Pleading special (b) Fraud (e) Judgments (f) Time and place (g) Special damage.

38). **F.R.C.P.** Rule 10 Form of Pleadings (a) Captions (b) Paragraphs.

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39). **F.P.C.P.** Rule 11 Signing of Pleadings, Sanctions.

40). **F.R.C.P.** Rule 12 (a) Time of presented (b) How presented (c) Motion, Judgment on Pleadings (f) Motion to Strike (h) Waiver (Subject Matter).

41). **F.R.C.P.** Rule 15 Amended and Supplemental Pleadings a.b.c.d.

F.R.C.P. Rule 16, (i) Sanctions (No contract, no fees).

F.R.C.P. Rule 18, and 19 Joinder.

F.R.C.P. Rule 24, Title 28 U.S.C. 2403 - Challenging Constitutionality.

F.R.C.P. Rule 38, Trial by Jury.

F.R.C.P. Rule 41, Dismissal of Action Voluntarily.

F.R.C.P. Rule 49, Issues sent to Jury by Demand.

F.R.C.P. Rule 50, New Trial.

F.R.C.P. Rule 54, Demand for Judgment.

F.R.C.P. Rule 55, Default.

F.R.C.P. Rule 56, Summary Judgment.

42). Notice: Title 18 U.S.C. 241. If two or more citizens conspire to injure, oppress, threaten, or intimidate any citizen in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or If two or more citizens go in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured - They shall be fined not more than \$10,000 or imprisoned not more than ten years, or both.

43). Notice: Title 18 U.S.C. 242. "Any Citizens who, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any inhabitant of any State, Territory, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, or to different punishments, pains or penalties, on account of such inhabitant being an alien, or by reason of his color, or race, than are prescribed for the punishment of citizens, shall be fined not more than \$1,000 or imprisoned not more than one year, or both."

44). Notice: Title 28 U.S.C. Note 242 provides in pertinent part; "Any Citizen who, under color of law, statute, ordinance, regulation, or custom, willfully subjects any inhabitant of any state, territory, or district to the deprivation of any rights, privileges, or immunities

secured or protected by the Constitution or laws of the United States ... shall be fined not more than \$ 1000 or imprisoned not more that one year, or both."

45). "Joining", was never completed between the Aggrieved Party herein, Chemical Mortgage Company, Defendants and Judge Durkin, Court has no subject matter jurisdiction. F.R.C.P. 19, 12(b)(7)(1) and (2).

46). Notice: The law states: Title 18 U.S.C.A. 1621, note 554 2d a,: State pays all fees when judge and attorneys in concert violate oath of office and "perjury of oath"; Citizens can not be made to pay fees to have their Constitutional rights violated. F.R.C.P. Rule 9.

47). With reasonable expectations the Injured Party herein believes that the finding and facts presented and filed herein, of the United States Constitutional laws and civil rights issues, including violations of the United States Constitution 14th Amendment, show Defendants and Judge Durkin, did "perjure their oaths".

48). Notice to Judge: With research, no cases, and no rules were discovered, or previously prosecuted or written for the phrase, "Perjury of Oath of Office". Reference to 5 ILCS 255/5; 720 ILCS 5/32-2 "Perjury", 65 ILCS 5/10-1-39, "False oath or affirmation" and 735 ILCS 5/1-109, "Verification by certification." The "Oath of Office", is given first and before entering office. The Oath is incorporated after the "Oath and affirmation" is taken and signed. Illinois Constitution Article XIII section 3. The Oath is incorporated after the "Oath and Affirmation" is taken and signed. The term of an attorney's "oath", to support the Constitution never expires until they "Terminate Practice". All judges are attorneys under "oath", judges add affirmation to that oath but both positions swear to support the united States Constitution at all times and when rights are violated then "Perjury of Oath" and 5 ILCS 255/5 "Perjury" are relevant and become violations by the facts of definition. F.R.C.P. Rule 9(b), 12(d), the 14th Amendment. Title 42 U.S.C. 1983 note 337; Rucker v. Martin, Note 349.

49). The Injured Party herein accuses Defendants and Judge Durkin of "Perjury of Oath of Office", Perjury; Inforjudgemental law, the willful assertion as to a matter of fact, opinion, belief, or knowledge, made by a witness in a judicial proceeding as part of his or her evidence, either upon oath or in any form allowed by law to be substituted for an oath, whether such evidence is given in open court, or in an affidavit, or otherwise, such assertion being material to the issue or point of inquiry and known to such witness to be false. Perjury is a crime committed when a lawful oath is administered, in some judicial proceeding, to a citizen who swears willfully, absolutely, and falsely, in matters material to the issue or point in question. Reference. Gatewood v. State, 15 MD. App. 314, 290 A.2d 551, 553; F.R.C.P. Rule 9(b), 12(d)1,2,7; Title 42 U.S.C. 1986, 1985, 1983 note 349, 14th Amendment U.S. Constitution.

50). The Party Injured herein is accusing Defendants and Judge Durkin with perjury to proceed by fraud without subject matter jurisdiction is perjury of due process, 14th and 5th Amendment. Further reference Title 18 U.S.C.A. 1621; a citizen is guilty of perjury

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if in any official proceeding he or she makes a false statement or swears or affirms the truth of a statement previously made, when the statement is material and he or she does not believe it to be true. Reference. Model Penal Code section 24 1. 1, F.R.C.P. 9(b) and Rule 12(d).

51). The Aggrieved Party herein accuses Defendants and Judge Durkin of "Perjury of Oath of Office", "Malice" in law is not necessarily personal hate or ill will, but is the state of mind which is reckless of law and of the legal rights of the citizens. Reference. *Chrisman v. Terminal R Association of St Louis*, 237 Mo.App. 181, 157 S.W. 2d 230, 235. F.R.C.P. Rule 9(b) and Rule 12(d).

52). The Injured Party herein accuses Defendants and Judge Durkin of "Perjury of Oath", "Constitutional Tort", Title 42 U.S.C.A. 1983: Every citizen who under color of any statute, ordinance, regulation, custom or usage, of any state or territory, subjects, or causes to be subjected, any citizen of the United States or any other citizen within the jurisdiction thereof to the deprivation of any rights, privileges or immunities secured by the United States Constitution and laws shall be liable to the party injured in an action at law, suit in equity or other proper proceeding for redress. F.R.C.P. 9(b), Rule 12(d), Title 42 U.S.C.A. 1986 of the wrongs committed, Title 42 U.S.C.A. 1985 the conspiracy with high standards, to "fraud" the Party injured herein, and 42 U.S.C.A. 1983 for the injury of Constitutional Rights 4th, 7th, 14th Amendment Equal protection of the law, and 5th due process of law.

53). Notice: Title 42 U.S.C.A. 1986 "Action for neglect to prevent", Every citizen who having knowledge that any of the wrongs conspired to be done, and mentioned in section Title 42 U.S.C. 1985 of this title, are about to be committed, and having power to prevent or aid in preventing the commission of the same, neglects or refuses to do so, if such wrongful act be committed, shall be liable to the party injured, or citizens legal representatives, for all damages caused by such wrongful act, which such citizen by reasonable diligence could have prevented; and such damages may be recovered in an action on the case; and any number of citizens guilty of such wrongful neglect or refusal may be joined as a party in action.

54). The Injured Party herein accuses Defendants and Judge Durkin of Perjury of Oath of Office. Tort. A privilege or civil wrong or injury for which the court will provide a remedy imposed by general law or otherwise upon all citizens occupying the relation to each other which is involved in a given transaction. Reference. *Coleman v. California Yearly meeting of Friends Church*, 27 Cal. App. 2d. 579, 81 P. 2d 469, 470, Title 42 U.S.C.A. 1983 note 319, 333, 337, 349, 350, 351, and 352.

55). The Injured Party herein accuses Defendants and Judge Durkin of "Perjury of Oath" and Falsification, by fraud and deception, fails to correct a false impression which the deceiver previously created or reinforced, or which the deceiver knows to be influencing another to whom the citizen stands in a "fiduciary" or confidential relationship. Reference. F.R.C.P. 9(b) and 12(d), Title 42 U.S.C.A. 1986, 1985. The Party Injured

herein is witness with first hand knowledge accusing Defendants and Judge Durkin as witnesses of fraud and for his or her neglect to stop or the wrongs, for equal protection of the law and due process. However, the fraud continues as no citizen has been prosecuted to date. The legal system is protecting its own, operating under "Policy and Custom", Title 42 U.S.C.A: 1983 Note 319, 337, to violate rights denying 14th and 5th Amendments due process.

56). "Fiduciary" - A citizen having duty, created by undertaking, to act primarily for another's benefit in matters connected with such undertaking. Ref Black's Law Dictionary. 563 (High standards of Government)

57) The Injured Party herein accuses Defendants and Judge Durkin of, "extortion", perjury of oath, (commerce), Title 42 U.S.C.A. 1985 (2) Ref Obstructing justice: intimidating party; witness, (2) if two or more citizens in any state or territory conspire to deter, by force, intimidation, or threat, any party or witness in any court of the United States from "attending such court or from testifying to any matter pending" therein, freely, fully, and truthfully, or to injure such party or witness in his body or property on account of his having so attended or testified, or to influence the verdict, presentment, or indictment of any grand or petit jury or property on account of any verdict, presentment, or indictment lawfully assented to by him, or of his being or having been such juror; or if two or more citizens conspire for the purpose of impeding, hindering, obstructing, or defeating, in any matter, the due course of justice in any state or territory, with intent to deny to any citizen the equal protection of the law, or to injure him or his property for lawfully enforcing, or attempting to enforce, the right of any citizen, or class of citizens, to the equal protection of the law.

58) Extortion: The obtaining of property from another induced by wrongful use of actual or threatened force, or fear, or under color of official right. Ref Title 18 U.S.C.A. Sec. 871 et seq., 195 1.

59) Notice: Title 42 U.S.C.A. 1985 (3) Depriving citizen of rights or privileges: if two or more citizens in any state or territory conspire or go in disguise, for the purpose of depriving, either directly or indirectly, any citizen or class of citizens of the equal protection of the laws, or of equal privileges and immunities under the laws; or for the purpose of preventing or hindering the constituted authorities of any state or territory from giving or securing to all citizens within such state or territory the equal protection of the laws; or if two or more citizens conspire to prevent by force, intimidation, or threat, any citizen who is lawfully entitled to vote, from giving his support or advocacy; in any case of conspiracy set forth in this section, if one or more citizens engaged therein do, or cause to be done, any act in furtherance of the object of such conspiracy, whereby another is injured in his body or property, or deprived of having and exercising any right or privilege of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages occasioned by such injury or deprivation, against any one or more of the conspirators. FRCP R-9(b) Fraud, Rule 12(b).

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60) The Party Injured herein is accusing Defendants and Judge Durkin of Perjury of oath of office. "Perjury", 5 ILCS 255/5; 720 ILCS 5/32-2. Any citizen who does either of the following is guilty of a misdemeanor in the 1 st degree:

No citizen shall knowingly make a false statement, or knowingly swear or affirm the truth of a false statement previously made, when any of the following applies:

1. The statement is made in any official proceeding.
3. The statement is made with the purpose to mislead a public official in performing a judicial function.
7. The statement is in writing on, or in connection with a report or return which is required or authorized by law.

61) Notice: Title 42 U.S.C.A. 1985 Pg. 36-37, Note 69: Damages in claim for violation of U.S. constitutionally guaranteed rights damages are recovered, normal damages may be presumed, and nominal damages may in appropriate circumstances support award of exemplary damages, Tracy V Robbins. D.C.S.C. 1966, 40 Fed. 108 Appeal Dismissed 373 F. 3D 13.

62) Notice: Title 42 U.S.C.A. 1983 P77 No. 39: In order to establish personal liability on part of government official in federal civil rights law action, under Title 42 U.S.C. 1983, it is enough to show that official acting under color of law caused deprivation of Constitutional Right in contrast. Government entity is liable in official capacity suit under Title 42 U.S.C. 1983 only when entity is the moving force behind deprivation. Thus requiring entity policy or custom to have played a part in violation of Federal law. Ref Kentucky V Graham 1985 475, US 159 85 L.Ed. 2d 114, 105 S. Ct. 3099.

WHEREFORE:

- 63). All parties herein are required to produce and present:
- a. A certified copy of Judge Durkin's Oath of Office to join the bar, and to take his office as a Judge of THE CIRCUIT COURT OF COOK COUNTY.
 - b. A certified copy of Oaths to join the bar for the following:
Elizabeth F. Kaplan: Renee F. Meltzer: Michael S. Fisher:
Susan Rosen: Steven J. Christenholz: Laura A. Cary.
 - c. A certified copy of Michael F. Sheahan's Oath of Office.

d. A certified copy of bar license for the following:
Elizabeth F. Kaplan: Renee F. Meltzer: Michael S. Fisher:
Susan Rosen: Steven J. Chrtstenholz: Laura A Cary.

e. A certified copy of Laurence H. Kallen's Oath to join the bar.

f. A certified copy of Laurence H. Kallen's bar license:

g. A signature contract between the Aggrieved Party and Chemical Mortgage Company upon which the Foreclosure Complaint was made.

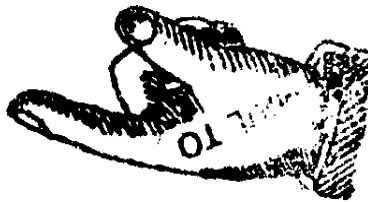
h. A Foreclosure Complaint naming the Aggrieved Party herein.

64). Unless and until the above stated instruments are produced and presented, The Party Injured herein Refuses for Fraud the Summons upon Complaint and Complaints filed by Defendants and proceedings thereon in THE CIRCUIT COURT OF COOK COUNTY; ILLINOIS COUNTY DEPARTMENT - CHANCERY DIVISION, in 96 CH 10566 said Summons upon Complaint and Complaints, and proceedings giving rise to F. R C. P. 19, and 12(b) (7) joinder, F. R C. P. 12(e) (5) fails to state a claim and F. R C P. 12(b) (1) and (2) lacks jurisdiction.

65). All parties herein have (10) days to respond on a point by point basis to the merits of this Refusal and with the required instruments. Failure to do so will be prima facie evidence that all parties stipulate to the facts herein as being true, correct and complete.

Avalon B. Collier

Avalon B. Collier
c/o 9248 S. Normal Ave.
Chicago, Illinois state
NonDomestic 60620



Before me, a Notary Public, appeared Ayalon B. Collier who did affirm and subscribe hereto on this 3RD day of April 1999.

Notary, *Michael Kranicke*

My commission expires, 8/29/99

