

IN THE UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF TEXAS
WICHITA FALLS DIVISION

LARRY HENRY TOMPKINS,
Plaintiff

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VS.

CIVIL ACTION NO.
7-04CV-057-R

MILTON EUGENE DOUGLASS
Defendants.

**APPENDIX TO DEFENDANT DOUGLASS' MOTION TO DISMISS
AMENDED COMPLAINT WITH SUPPORTING BRIEF**

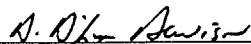
Exhibit	Document	Page
1	Amended Complaint	App. 1 - 12
2	Order Assigning Case for Trial	App. 13
3	Motion to Recuse Judge Bob Brotherton	App. 14 - 25
4	Motion to Recuse Judge Jeff Walker/Motion to Recuse Judge Roy Sparkman	App. 26 - 33
5	Order Denying Motion to Recuse [Brotherton]	App. 34
6	Order Denying Motion to Recuse [Sparkman]	App. 35
7	Order [on summary judgment]	App. 36 - 37

CERTIFICATE OF SERVICE

This is to certify that on September 23, 2004, a true and correct copy of the foregoing was served upon the following counsel of record via U. S. Mail, Certified Mail, Return Receipt Requested.

Larry Henry Tompkins, Pro Se
1810 Ardath Avenue
Wichita Falls, Texas 76301
Certified Mail No. 7003 3110 0000 4003 8004
Return Receipt Requested

John M. Orton, Esq.
Assistant Attorney General
Law Enforcement Defense Division
P. O. Box 12548, Capitol Station
Austin, Texas 78711



D. D'Lyn Davison

ORIGINAL

IN THE UNITED STATES DISTRICT COURT
FOR DISTRICT OF TEXAS
NORTHERN DISTRICT OF TEXAS
WICHITA FALLS DIVISION

U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FILED
AUG 13 2000
CLERK, U.S. DISTRICT COURT
By _____ Deputy

Larry Henry Tompkins,)
Plaintiff,) Civil Action No.
v.)
Milton Eugene Douglass, Attorney) 7-04CV-057-R
The Hon. Robert Brotherton, and)
The Hon. Roy T. Sparkman,)
Defendants.)

FIRST AMENDED VERIFIED COMPLAINT AS OF RIGHT

**A.
Prefatory Statement**

1. This timely First Amended Verified Complaint is filed as of right because only a Motion to Dismiss, but no Answer to the Original (now superseded) Original Complaint, has been filed herein. Because this Amended Complaint renders the Original Complaint void and a nullity, and because Defendant's Counsel failed to abide by the local procedures set by the assigned Federal Judge for pre-submission conference with Plaintiff and joint submission of all papers relevant to such a motion, the Court is urged to Strike the pending Motion to Dismiss.

2. The claims herein against the Defendant Judges are limited to Declaratory relief, from which they are not immune; however their joinder

provides a solid basis for several types of Federal Civil Rights relief against their non-immune, but jurisdictionally vulnerable co-conspirator, Defendant Attorney Milton Eugene Douglass.

3. None of the Defendants named herein were litigant parties themselves in the Texas State Action in which the Federal torts herein are alleged to have occurred.

4. This Federal matter is not an attempt to Appeal the State defamation case, but rather to Declare the status of Defendants herein, none of which were parties to the State case, and to obtain compensation for conspiracy to deny due process on the part of non-immune co-conspirator, Attorney Milton Eugene Douglass.

B. PARTIES

5. Plaintiff, Larry Henry Tompkins, is a Citizen of the State of Texas.

6. Defendant Milton Eugene Douglass is a Texas Licensed Attorney who is a Citizen of the State of Texas, and may be served with process at 1811 10th. St., Wichita Falls, TX 76301.

7. Defendants The Hon. Robert Brotherton, and The Hon. Roy T. Sparkman are sitting judges of the State Court of Texas at Wichita Falls and Citizens of the State of Texas, who are joined here solely for those Federal matters, such as Declaratory Relief, from which they are not immune, and to

help render the Conspiracy allegation herein justiciable with regard to the non-immune Attorney Defendant. The Defendant Judges may be served with process at the Wichita Falls State Courthouse at which they sit, at times when they are not conducting actual court proceedings.

**C.
JURISDICTION**

8. Jurisdiction arises in this Court under one or more of the Federal Civil Rights Statutes, 42 U.S.C. Chapter 21, Sections 1981-1988, The Federal Declaratory Judgment Statute, 28 U.S.C. 2201, 2202, (under which Federal Jurisdiction over the Defendant Judges is valid) and such other Federal Jurisdictional grounds as the Court shall determine. This Court further may assert Pendent Jurisdiction over Texas State Laws, so long as at least one cognizable Federal Statutory basis exists.

**D.
CONDITIONS PRECEDENT**

9. All conditions precedent have been performed or have occurred.
(Fed R. Civ. P. 9(c))

**E.
FACTS**

10. On April 30th 2001 Larry Tompkins, the Plaintiff in this Federal suit, filed a well justified State libel lawsuit against the Wichita Falls Television Station KAUZ, Channel 6 TV, a former manager and three

Television reporters in Texas State District Court. There were two other Plaintiffs, Clampitt Retirement Community and Barbara Cagle. This State claim was not for just one instance of libel but for at least five instances of libel in 2000 and at least five instances of libel in 1998.

11. Plaintiffs in the Texas State libel case were represented by Wichita Falls' very competent, 25 year practiced, local attorney Barry H. Richardson. One or more of the Defendants in the State case was represented by Defendant herein, Attorney Milton Eugene Douglass.

12. The State case Plaintiffs paid Attorney Barry H. Richardson \$15,000 up front, to represent them in what should have been a slam dunk lawsuit. There was tape recorded evidence of multiple, negligent or intentional, malicious, libelous broadcasts. There was tape recorded evidence of multiple recorded phone calls with reporters who were therein cautioned and warned that the television station had previously libeled the Clampitt Retirement Community, manager and owner, and had caused at least \$120,000 in damage to Clampitt, the business. In spite of those warnings, said State Defendants did a second series of negligent, malicious broadcasts. The State lawsuit was neither frivolous nor a minor suit for its plaintiffs!!!

13. On the same day of the State case filing, the originally drawn judge, Juanita Pavlick (Douglass), told Plaintiffs' attorney, Barry Richardson, she was going to recuse herself from that case. Several of the parties were involved in a case she had previously heard.

14. Shortly after filing the Texas libel case for its Plaintiffs, Barry Richardson developed a severe case of Gout with severe fatigue syndrome. On top of that, Barry Richardson also caught a persistent and very hard to treat case of double pneumonia.

15. The State case sat justifiably dormant because of plaintiffs' attorney's severe health conditions.

16. State Plaintiffs' attorney, Barry Richardson, was of the opinion that the Clampitt Retirement Community case would be reassigned by the Texas Fort Worth administrative judge to an out of town judge.

17. On March 20, 2002, or shortly before, Defendant herein, Attorney Gene Douglass, submitted to the local Wichita Falls State Court Judge, Robert Brotherton, an ex-parte motion to transfer the Clampitt v. Benedick Broadcasting case, without filing said document with the Clerk.

18. On March 20, 2002, local Wichita Falls Judge Robert Brotherton, signed an Order to transfer the Clampitt v. Benedick Broadcasting case to local Wichita Falls Judge Roy T. Sparkman.

19. Not until March 21, 2002, did Attorney Gene Douglass file said motion to transfer the Clampitt v. Benedick Broadcasting case. It is amazing and questionable that the order to transfer the case was signed *a day before* the ex parte motion was filed of record. It is further highly constitutionally suspect, as to whether there was any justifiable need for ex-parte handling of the motion.

20. Attorney Gene Douglass eventually and belatedly sent to plaintiffs' state-case attorney, a copy of the motion to transfer the case along with the *fait accompli*, pre-motion-filing, signed order to transfer the case to local judge Roy T. Sparkman.

21. Judge Sparkman in rulings for two summary judgments made biased, outrageous and cowardly rulings that dismissed the claims made by all the small State Plaintiffs against all of the large media defendants. He did so without any findings of fact or conclusions of law nor any memorandum opinion. He did so in spite of overwhelming evidence of record in the form of transcripts of multiple libelous broadcasts and transcripts of multiple telephone conversations with television reporters, putting them on notice of current libel of Clampitt and others, and previous libel damages to Clampitt of \$120,000.

22. Had Plaintiff herein been given notice and an opportunity to appear, he could and would have argued that only a non-local Texas judge would be able to adjudicate the State matter free of the pervasive public-opinion influence of the local Broadcast defendants.

F.
CLAIM I – DECLARATORY RELIEF

23. Plaintiff hereby realleges each of the foregoing paragraphs numbered 1 through 22, and incorporates them by reference in the following claim.

24. Plaintiff herein, Larry Tompkins, was during the foregoing described events, denied through a conspiracy of two or all three of the Defendants named hereinabove, his right to Due Process, to timely Notice and an Opportunity to Appear, regarding the selection or appointment of a new judge in the State case.

25. None of the three Defendants is immune from the declaratory relief herein sought.

26. A finding by this Court that a conspiracy existed by two or more of the three named Defendants herein, would aid in restoration of Plaintiff's public reputation and image, damaged by said conspiracy.

G.
CLAIM II – Liability under 42 USC 1983

27. Plaintiff hereby realleges each of the foregoing paragraphs numbered 1 through 26, and incorporates them by reference in the following claim.

28. The action of Defendant Attorney Milton Eugene Douglass involving procurement of a selection of new judge prior to the filing or giving notice to opposing counsel of a motion regarding such procurement, is an act outside the scope of acts authorized under the Texas Rules of Civil Procedure, and created an individual liability for Attorney Milton Eugene Douglass under 42 U.S.C. 1983.

29. Plaintiff has been damaged by said 42 U.S.C. 1983 cognizable act, in an amount set forth in the prayer for relief herebelow, and further, in view of bad faith thereto by Attorney Milton Eugene Douglass, Plaintiff should be entitled to punitive damages payable by Douglass in an amount set forth in the prayer for relief herebelow.

H.
CLAIM III – Liability under 42 USC 1985

30. Plaintiff hereby realleges each of the foregoing paragraphs numbered 1 through 29, and incorporates them by reference in the following claim.

31. The action of Defendant Attorney Milton Eugene Douglass involving conspiracy with one or more of the other judicial defendants, to procure a selection of new judge prior to the filing or giving notice to opposing counsel of a motion regarding such procurement, is an act outside the scope of acts authorized under the Texas Rules of Civil Procedure, and created an individual liability for Attorney Milton Eugene Douglass as a conspirator under 42 U.S.C. 1985, regardless of any judicial immunity asserted by the other conspirators/defendants.

32. Plaintiff has been damaged by said 42 U.S.C. 1985 cognizable act, in an amount set forth in the prayer for relief herebelow, and further, in view of bad faith thereto by Attorney Milton Eugene Douglass should be entitled to punitive damages payable by Douglass in an amount set forth in the prayer for relief herebelow.

I.
CLAIM IV – Liability under 42 USC 1988

33. Plaintiff hereby realleges each of the foregoing paragraphs numbered 1 through 32, and incorporates them by reference in the following claim.

34. The actions of Defendant Attorney Milton Eugene Douglass, alone and involving conspiracy with one or more of the other judicial defendants, to procure a selection of new judge prior to the filing or giving notice to opposing counsel of a motion regarding such procurement, is an act outside the scope of acts authorized under the Texas Rules of Civil Procedure, and created an individual liability for Attorney Milton Eugene Douglass to compensate Plaintiff for the expenses of this lawsuit, including attorney fees, litigation costs, cost of service and related expenses, under 42 U.S.C. 1988, regardless of any judicial immunity asserted by the other conspirators/defendants, and regardless of the size of any compensatory or punitive award herein..

**J.
DAMAGES**

35. Plaintiff hereby realleges each of the foregoing paragraphs numbered 1 through 34, and incorporates them by reference in the following claim of damages:

36. As a direct and proximate result of Defendants' conducts, Plaintiff in this Federal lawsuit suffered the following injuries and damages:

36a. Loss of Income from Lost Settlement or Award for actual and punitive damages in Texas case Clampitt v. Benedeck. et.al.

36b. Physical pain from exacerbated arthritis and mental anguish.

**K.
ATTORNEY FEES AND COSTS OF LITIGATION**

37. Plaintiff is entitled to an award of any attorney fees and costs of litigation, under 42 U.S.C. 1988 and any other lawful basis determined by the Court.

**L.
PRAYER FOR RELIEF**

38. For the foregoing reasons, all incorporated herein by reference, Plaintiff Larry Tompkins asks for Judgment against all Defendants sounding in Declaratory relief, and against Defendant Douglass, the following:

38a. Actual damages of \$170,000

38b. Prejudgment and postjudgment interest

- 38c. Costs of Suit, including any attorney fees
- 38d. Punitive damages of \$100,000
- 38e. All other relief that to the Court seems appropriate.

Respectfully Submitted,

By Larry Henry Tompkins
 Larry Henry Tompkins, Pro Se
 1810 Ardath Ave.
 Wichita Falls, Texas 76301
 Tel. 940 322 3279

VERIFICATION

State of Texas)
) ss.
 County of WICHITA)

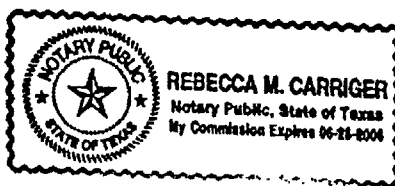
Larry Henry Tompkins, being first sworn, under oath, declares that He has read the foregoing Complaint, and that the allegations therein are true and correct on personal knowledge, or if stated on information and belief, are believed to be true.

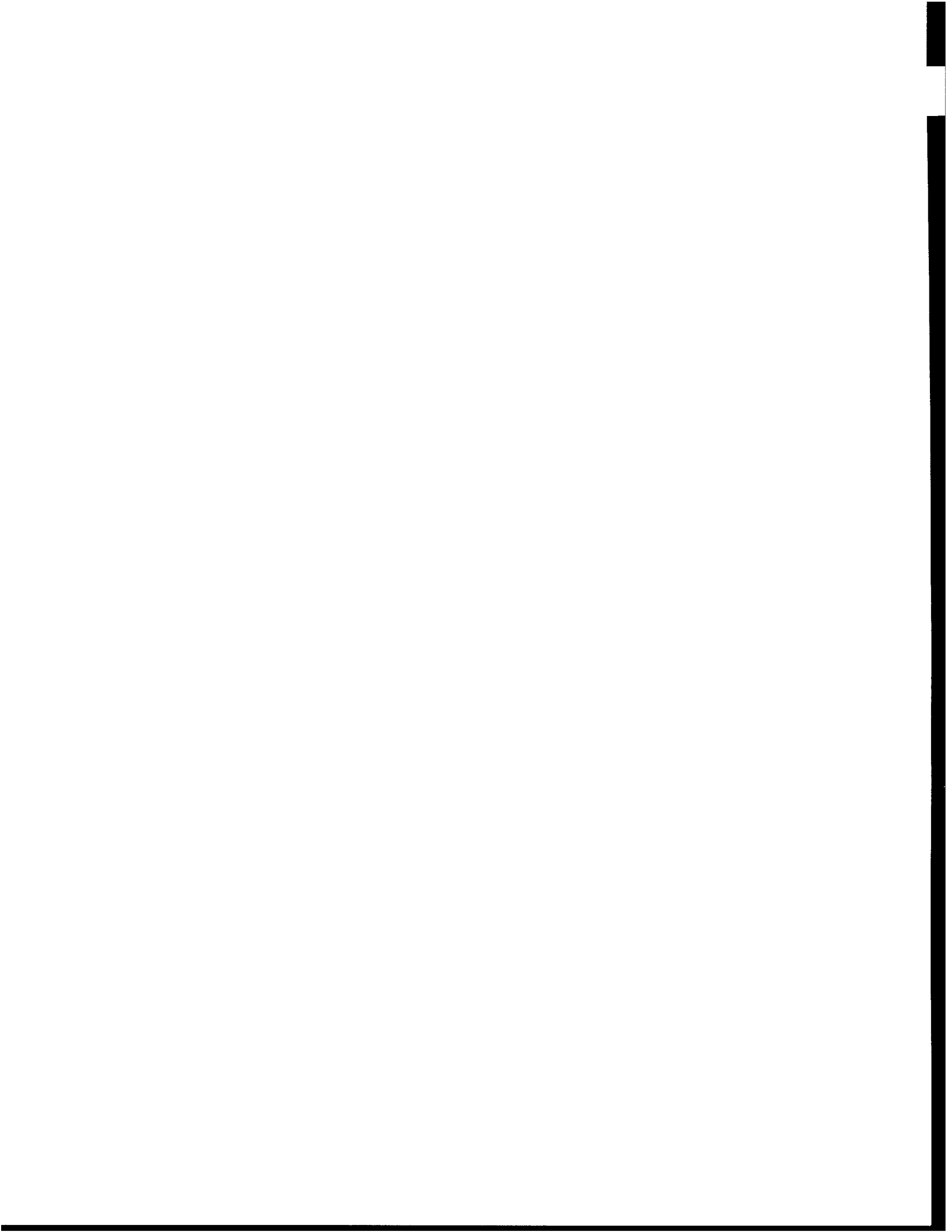
Larry Henry Tompkins
 Larry Henry Tompkins

On Aug 13-2004 appeared before me, a notary or judicial officer, Larry Henry Tompkins, known or identified to me, who upon his oath executed the foregoing Verification.

Rebecca Carriger
 Notary/Judicial Officer

My Commission Expires:





FILED FOR RECORD
AT _____ o'clock _____ M

CAUSE NO. 154,895-C

MAR 21 2002

CLAMPITT RETIREMENT
COMMUNITY, ET AL

VS.

KAUZ-TV CHANNEL 6, ET AL

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DORSEY R. TRAPP, CLERK DIST.
IN THE DISTRICT COURT OF
Wichita County, Texas
By _____ Deputy

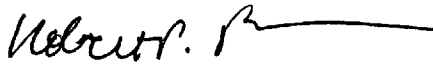
WICHITA COUNTY, TEXAS

89TH JUDICIAL DISTRICT

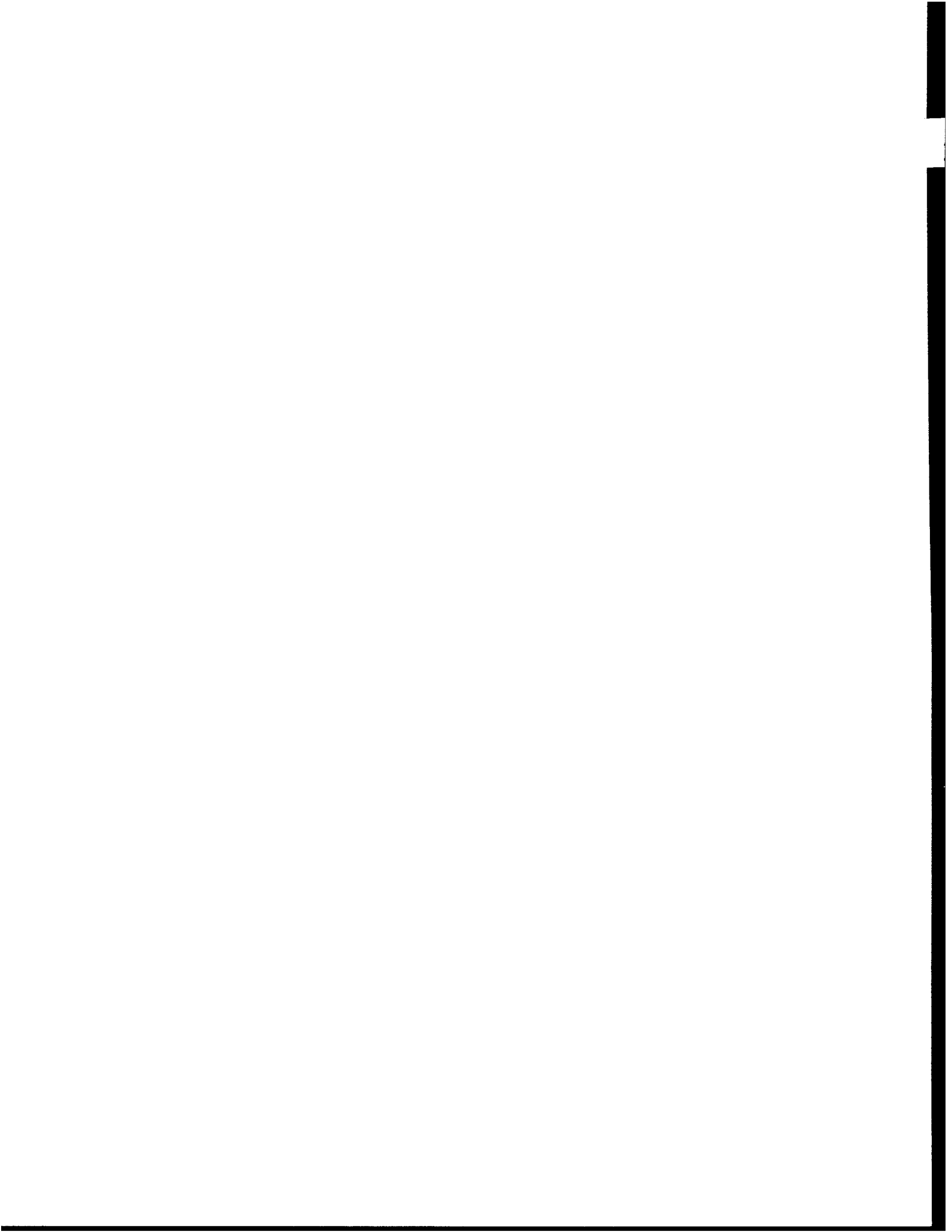
ORDER ASSIGNING CASE FOR TRIAL

The above-styled and numbered cause is hereby assigned to the 78th District
Court of Wichita County, Texas for trial due to the fact that Gene Douglass, attorney of record for
the Defendants herein, is the spouse of Hon. Juanita Pavlick, Judge of the 89th District Court.

SIGNED this 20 day of March, 2002.



JUDGE PRESIDING



FILED FOR RECORD
AT 10:20 o'clock A M

MAY 16 2002

DORSEY R. TRAPP, Clerk Dist.
Courts & County Courts at Law
Wichita County, Texas

By _____ Deputy

CAUSE NO. 154,895-C

CLAMPITT RETIREMENT
COMMUNITY, ET AL

VS.

KAUZ-TV CHANNEL 6, ET AL

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§
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IN THE 89 TH DISTRICT COURT

OF

WICHITA COUNTY, TEXAS



MOTIONS TO RECUSE JUDGE BOB BROTHERTON
MOTION FOR EXTENSIONS OF TIME RE: DISCOVERY
AND
MOTION FOR CONTINUANCE

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COME Retirement Hotels, Inc., doing business as "Clampitt Retirement Community", Larry Tompkins, and Barbara Cagle, hereinafter referred to collectively as "Plaintiffs", making and filing this Motion to Recuse Judge Bob Brotherton, For Cause, and in support would show the following:

Statement of Facts

1. On April 30, 2001, by and through their Attorney of Record herein Barry H. Richardson, Plaintiffs filed their Original Petition in the Office of the District Clerk of Wichita County, Texas. Such Original Petition had "Blank Spaces" at the top of the First Page, in the "Style", for regular and proper "Assignment" of such cause to one of the three district courts in Wichita County.
2. Plaintiffs' Original Petition is incorporated herein by this reference.
3. A "Deputy District Clerk" at the front desk of the Office of the District Clerk of Wichita County, presumably acting pursuant to "Proper Order of the Presiding District Court Judge of Wichita County, in accordance with "Chapter 74" of the Texas Government Code, filled in the "Next Consecutive Cause Number for Newly Filed District Court Cases" and the "Randomly Selected District Court Number", which was, in this case, the 89th District Court, and appropriate costs and fees were paid.

4. Immediately, or very shortly after, filing of said Original Petition and “Assignment” thereof to the 89th District Court, Plaintiffs’ attorney went to the 89th District Court to inform the Honorable Judge Juanita Pavick, the Presiding Judge of the 89th District Court, of the “Assignment” of this case to her court, the identities of the parties, and the nature of the case, being very careful to remind the judge to “Not Engage in *Ex Parte* Communications” regarding any of the facts of this case, and to specifically make her aware of her probable “Conflicts of Interests” that would “Disqualify” her conducting any hearings or trial in the case, as well as to respectfully request proper respect for Plaintiffs’ basic and fundamental rights for “Due Process”, particularly “Notice” and “Opportunity for Hearing”, before any factual communications with whomever might appear as attorney in the case for any of the Defendants, in order that Plaintiffs have the right to prepare and file proper “Motion to Recuse”, if necessary.

5. In the presence of her Secretary/Bailiff and others, the Honorable Judge Juanita Pavlick respectfully and freely responded that:

a. Regardless of any possible conflict of interest that might possibly be related to her marital relationship with Wichita Falls Attorney Gene Douglass, who was not yet involved in this case, she was “Prejudiced Against Larry Tompkins”, including for reasons related to allegations Larry Tompkins had made regarding her possible judicial impropriety in the conduct of the jury trial of the case of “Marcella Kirk v. Clampitt” in the Mid-1990's and his subsequent filing and prosecution of litigation against Marcella Kirk and her attorney Holly Crampton in the 78th District Court of Wichita County, and which litigation was then still pending;

b. She “Would Not Hear or Try This, or Any Other, Case In Which Larry Tompkins Was Involved”; and,

c. She “Would Sign An Order For Her Recusal And Notify the Administrative Judge In Fort Worth for the Proper Assignment of a Disinterested Judge as soon as she was aware of any necessity for any hearing in this case”, as she had previously done in at least one other case in which

Barry H. Richardson was involved as an attorney.

6. Barry H. Richardson thanked Judge Pavlick for her time and courtesy, stated his respect for the honor and integrity of her conduct as a good judge in such regards, as well as generally, and stated his hope, on behalf of his clients in this case, that possible early settlement of the case might eliminate any needs for hearings or trials.

7. Barry H. Richardson was "Lead Trial Counsel" for "Retirement Hotels, Inc.", doing business as "Clampitt Retirement Community" in the jury trial of the Marcella Kirk case, but specifically not attorney for Larry Tompkins.

8. Barry H. Richardson was not involved in Larry Tompkins' subsequent litigation against Marcella Kirk and Holly Crampton in the 78th District Court in any way, save and except only as a witness, specifically regarding the allegations of "Holly Crampton's alleged possible civil malicious prosecution" and regarding the allegations of the "Impropriety of the approximately \$400,000.00 jury verdict and judgment in the case".

9. On or about May 21, 2001, Gene Douglass first appeared in this case as Attorney of Record for Defendants.

10. During the First Week of June, 2001, Barry H. Richardson served as Lead Trial Counsel for Respondent Rodney Weldon Ritchie in the Eight and One-Half (8 1/2) Year Old Ritchie Divorce and Intentional Tort Jury Trial in the 30th District Court of Wichita County, the result of which was that a jury of Twelve Good and Well Qualified Citizens of Wichita County, Texas found, as a matter of fact, that Rodney Weldon Ritchie did not brutally and mercilessly assault his wife Dianna Gayle Ritchie on the evening of October 12, 1993, by knocking her down and getting on top of her and beating her several times about the head and face with a pistol, as she had stated in her sworn, written affidavit that was attached to her Application for *ExParte* Protective Order that was prepared and filed on her behalf by Wichita Falls Attorney Dean Sanders on October 14, 1993, and which *Ex Parte* Protective Order was signed by Judge Bob Brotherton.

11. It was, and is, obvious that the jury in the Ritchie Case found, as a matter of fact, and it was patently obvious to Judge Bob Brotherton and to everyone else present during the course of the trial, except Dianna Gayle Ritchie and her attorney Maggie McBride, who had

been substituted as her Attorney of Record in July of 1999 in place of Dean Sanders, that Dianna Gayle Ritchie was not testifying truthfully, and was committing aggravated perjury, when she swore to the affidavit attached to such Application for Protective Order that was filed on October 14, 1993, when she testified at the Temporary Protective Order Hearing on October 19, 1993, and when she testified in the presence of the jury in June of 2001, and that Rodney Weldon Ritchie testified truthfully, as did the Wichita Falls Police Officer who investigated and recorded Dianna Gayle Ritchie's statements on the evening of October 12, 1993 and testified at trial, and as did Wichita Falls Surgeon Eid Mustafa who also recorded Dianna Gayle Ritchie's statements on the evening of October 12, 1993 and testified at trial by deposition, that her injury had been the result of an "Accident", primarily caused by her own action in attempting to pull her husband's pistol away from him as he was attempting to peacefully and non-violently, finally and irrevocably separate, and, as a result of which action by her, she lost her grip and fell backwards and turned and hit her head, probably in the axle bolt of a stationary exercise bicycle near the front door of their house, causing the single, terrible injury to her forehead.

12. Dr. Mustafa's surgical notes record two (2) roughly parallel lacerations, approximately 2 mm apart to 6mm apart, from the inside of her eyebrow, upward across her forehead, into her hairline.

13. The threads of a standard bolt are only very slightly less than 2 mm apart, and the distance from the peak of the first thread of a standard bolt to the corner of the nut that has been turned three (3) times is almost exactly 6 mm.

14. In the Ritchie Case, there is also very strong evidence tending to prove that, after Dean Sanders' private process server served Rodney Weldon Ritchie on October 18, 1993, with the *Ex Parte* Protective Order that Judge Bob Brotherton had signed on October 14, 1993, and before the Ritchie's daughter Staci and Dianna Gayle Ritchie's father first re-entered the Ritchie home about a week or so later, someone had created the false appearance of a very large, approximately three (3) to four (4) foot, partially cleaned, bloody spot, and "Someone other than Staci or her grandfather" had taken photographs of the scene, only two (2) of which photos were produced or presented as evidence at the jury trial.

15. Barry H. Richardson has good reason to believe, and does believe, that Attorney Dean Sanders, and/or one (1) or more persons acting on his behalf, and on behalf of Dianna Gayle Ritchie, as a private investigator or legal assistant, “tampered the scene of the falsely alleged brutal assault” and “fabricated the false appearance of such large bloody spot”, for purposes of “bolstering” and “enhancing” Dianna Gayle Ritchie’s false and perjurious affidavit attached to her Application for *Ex Parte Protective Order* and her false and perjurious testimony at the Temporary Order Hearing.

16. Barry H. Richardson has further reason to believe, and does believe, that “Aggravated Perjury” and “Evidence Tampering and/or Fabrication” are forms of “Obstruction of Justice Under State Law”, as such terms are defined in the federal Racketeer Influenced Corrupt Organization (“RICO”) laws, and that such RICO laws are applicable to “Governmental Entities and Sub-Divisions”, including “County and Municipal Sub-Divisions of State Government”. In other words, Judge Bob Brotherton may be responsible for knowing and intentional, corrupt criminal conduct, including in concert and conspiracy with Dean Sanders and others, from the inception of the Ritchie Case on October 14, 1993, to and through the jury trial thereof in June of 2001.

17. It is common knowledge among the Wichita County legal community that Judge Bob Brotherton and his wife Mitzi Brotherton, the Wichita County Court Administrator, and Dean Sanders and his wife Susan Sanders, also a Wichita Falls Attorney, have long been very close personal friends.

18. In Mid-June of 2001, about one (1) week after the jury verdict in the Ritchie Case, Barry H. Richardson had occasion to visit with the Honorable Retired, Long-Time and Very Highly Respected Wichita County District Court Judge Calvin Ashley, while he was sitting as a Visiting Judge in the 89th District Court. At that time, Barry H. Richardson asked, purely “Hypothetically”, what, if anything, should a judge do if, during the course of final jury trial, it became apparent that a party had committed aggravated perjury, repeatedly, that such party’s attorney had suborned such aggravated perjury, repeatedly, and that persons yet unknown had tampered and fabricated evidence. Judge Ashley stated, directly and clearly, without hesitation, that any judge, under such circumstances and conditions, should

immediately report such grossly improper conduct to all appropriate law enforcement officials.

19. On June 22, 2001, Larry Tompkins gave his oral deposition in the law offices of Gene Douglass, who directly questioned and cross examined Larry Tompkins regarding details stated in Plaintiffs' Original Petition in this case.

20. On July 19, 2001, Barbara Cagle gave his oral deposition in the law offices of Gene Douglass, who directly questioned and cross examined Larry Tompkins regarding details stated in Plaintiffs' Original Petition in this case.

21. Through Barry H. Richardson, Larry Tompkins has provided to Gene Douglass, on behalf of Defendants in this case, the following:

a. A video cassette recording ("VCR") tape containing copies of all or parts of approximately seven (7) television news broadcasts by Defendants in this case, approximately four (4) of which relate to a "Series" of broadcasts in Late-April of 2000, and approximately three (3) of which relate to a prior, related "Series" of news broadcasts in Late-July of 1998, all related to Clampitt Retirement Community and that he was personally able to record at the times of such broadcasts; and,

b. A "CD", containing computer electronic data recordings of eleven (11) telephone between Larry Tompkins and other persons that are related to the Late-April, 2000 "Series" of news broadcasts, also all related to Clampitt Retirement Community and that he personally recorded at the times such telephone conversations occurred.

22. At all times after the first appearance of Gene Douglass in this case, Barry H. Richardson has repeatedly advised Gene Douglass of circumstances and conditions related to himself, Larry Tompkins, and Barbara Cagle that cause less than rapid prosecution, that require extra time, going a little slower than might be expected, etc. in matters of discovery, responses to discovery, etc., including the nature of Barry H. Richardson's law practice and physical condition (Severe Gout diagnosed in August of 2001), Larry Tompkins' humble financial circumstance (Multiple Affidavits of Inability to Pay Court Costs in several cases

filed in Wichita County during the Early-to-Mid-1990's), physical condition (Long-Time Severe Fibromyalgia), and personal circumstance (Long-Time, 24/7 Primary Care Giver To, and Care Taker Of, his aged, invalid maternal grandmother, whose physical condition has seriously worsened during recent months), and Barbara Cagle's personal circumstance (Primary Care Giver To, and Care Taker Of, her two adopted grandchildren).

23. At all times after the first appearance of Gene Douglass in this case, Barry H. Richardson has repeatedly advised Gene Douglass of Plaintiffs' Informal Request for Discovery of, and Defendants' Production of, All of the television news broadcasts of Items related to the "July-1998 Series" and the "April-2000 Series" related to Plaintiffs, as well as All Video and/or Audio "Master Recordings", from which such Items were edited. Thus far, Gene Douglass and Defendants have failed and refused to produce such "Informally Requested Relevant Evidence", and it appears that "Formal Requests and Demands" will be required in such regards. Proper Responses and Answers by Plaintiffs requires careful and extensive research of documents and records of Clampitt, which are stored in the custody of persons who purchased the real estate after the closure of Clampitt, and, though accessible to Larry Tompkins by prior appointment with the new owners, his necessary care of his ailing and worsening grandmother have prevented him from accomplishing such intended purposes.

24. No other actions have been taken in this case since July of 2001, certainly not any "Court Hearings", save and except only, and not until March 20, 2002, when, according to documents filed in the Office of the District Clerk of Wichita County, Gene Douglass approached Judge Bob Brotherton, the Presiding Judge of the 30th District Court of Wichita County, almost certainly engaged in *Ex Parte* Communications with Judge Bob Brotherton regarding facts of this case, and obtained Judge Bob Brotherton's signature on an Order purporting to have authority in, and jurisdiction over, the 89th District Court of Wichita County, Texas, purportedly "Assigning Case for Trial", without any Motion having yet even been filed, Without any Notice to Plaintiffs or their Attorney of Record Barry H. Richardson, and Without any Opportunity for Hearing related thereto, specifically Without any Opportunity for Plaintiffs to Object to Any Involvement, Whatsoever, in this case, by Judge

Bob Brotherton, all of which is a flagrant and outrageous denial of basic and fundamental rights.

25. On March 21, 2002, it appears from documents filed in the Office of the District Clerk of Wichita County, Gene Douglass filed such "Order Assigning Case for Trial", together with Defendants' "Motion to Re-Assign Case", the "Certificate of Service" on which documents that Gene Douglass did not even mail a copy of such Motion to Re-Assign Case for Trial until the day after the Order Assigning Case for Trial had been signed by Judge Bob Brotherton.

26. In the Ritchie Case, by letter dated February 27, 2002, immediately, or very shortly, after conclusion of court hearing regarding Maggie McBride's Motion for Judgment *Non Obstante Verdicto*, Judge Bob Brotherton "found" "that the Jury's answers . . . are against the overwhelming weight of the evidence and that (1) Mr. Ritchie is guilty of cruel treatment; (2) Mr. Ritchie assaulted Ms. Ritchie, and . . ."

27. Barry H. Richardson has good reason to believe, and does believe, that Judge Bob Brotherton very well truly and actually knows, of his own personal knowledge, that the Jury's answers in the Ritchie Case in such regards are absolutely not against the overwhelming weight of the evidence, but instead that the Jury's answers are supported by the overwhelming weight of credible evidence presented during the course of trial in June of 2001, and that Judge Bob Brotherton is knowingly and intentionally covering up and concealing, and attempting to cover up and conceal, and prevent truthful disclosure of, his close friend Dean Sanders' and Dianna Gayle Ritchie's aggravated perjury and subornation thereof, and Dean Sanders' possible, if not probable, tampering and fabrication of evidence, as well as malicious prosecution of such false claims and causes of action, and conspiracy to have done so, and to continue to do so, and further as well including his, Judge Bob Brotherton's, knowing and intentional, wrongful and abusive knowledge of, and involvement in, such terribly wrongful conduct, from the date of inception of such Ritchie Case on October 14, 1993, up to the present time, and still on-going and continuing.

28. Barry H. Richardson further has reason to believe, and does believe, that Judge Bob Brotherton has been, and is, biased and prejudiced against, and bears serious animus against,

Barry H. Richardson, both personally and in his capacity as an attorney in all proceedings that are pending, or that will ever be pending, before Judge Bob Brotherton, including against Barry H. Richardson's clients.

29. Larry Tompkins has long and strongly asserted his belief that Judge Bob Brotherton is biased and prejudiced against, and bears serious animus against, him, including upon the basis of Judge Bob Brotherton's alleged wrongful dismissal of three (3) cases that he filed, acting as his own attorney, *Pro Se*, and attempted to prosecute, against the City of Wichita Falls, the Wichita Falls Police Department, and certain Wichita Falls Police Officers, and one (1) case that he filed against the City of Iowa Park, the Iowa Park Police Department, and certain Iowa Park Police Officers, all for harassments, wrongful arrests, false imprisonments, and malicious prosecutions of groundless criminal misdemeanor cases against him, which four (4) cases were dismissed in the mid-1990's by "Consolidated Order" of Judge Bob Brotherton, which four (4) dismissals Larry Tompkins emphatically continues to assert wrongfully occurred as a result of a single "Consolidated Hearing" that was "Noticed" for purposes only of determining the possible falsity of Larry Tompkins' sworn written affidavits in each such cases regarding his "Inability to Pay Costs", and were not "Noticed" for purposes, so far as he was aware, for purposes of dismissals for any reasons of his alleged failures to more timely comply with the various Defendants' discovery requests in such four (4) cases, and which Defendants' discovery requests were unrelated to his assertions of inability to pay costs.

Motion to Recuse Judge Bob Brotherton

30. Plaintiffs and their Attorney of Record Barry H. Richardson respectfully move and pray that, after proper notice and hearing by a fair and impartial disinterested judge, Judge Bob Brotherton be recused from any involvement as a judge in this case, in any way, as well as from any involvement in any other cases in which any of them may ever hereafter be involved in any way for reasons of his bias and prejudice against, and serious animus against, Larry Tompkins and/or Barry H. Richardson, as specified above, as well as for other such reasons as may be shown during such hearing, and in the alternative, and in the event such "Objections for Cause" may be overruled, then in accordance with the provisions of Texas

Government Code, Section 74.053, which states in relevant part, that “If a party to a civil case files a timely objection to the assignment (Of a judge assigned under this chapter), the judge shall not hear the case”, and the clear result of which is that any orders signed by such judge before first hearing or trial, such as the purported “Order of Assignment of Case for Trial” that Judge Bob Brotherton signed on March 21, 2002, are Void.

Motion for Extensions of Time Re: Discovery

31. Plaintiffs are presently in need of “Extension of Time Within Which Plaintiffs May Comply With, and Respond To, Defendants’ Requests for Production of Documents and Defendants’ Interrogatories”, dating from July of 2001, for which “Extension of Time to Respond To, and Comply With, Discovery” Plaintiffs herenow move and pray court order.

32. Plaintiffs are presently in need of “Extension of Time Within Which Plaintiffs May Respond To Defendants’ Motions for Summary Judgment”, which Motions for Summary Judgment, according to Texas legal procedure are “Forms of Discovery”, and that were filed in this case on or about March 26, 2002, pursuant to the “Purported Order” of Judge Bob Brotherton, for which “Extension of Time to Respond To, and Comply With, Discovery” Plaintiffs herenow move and pray court order.

Motion for Continuance

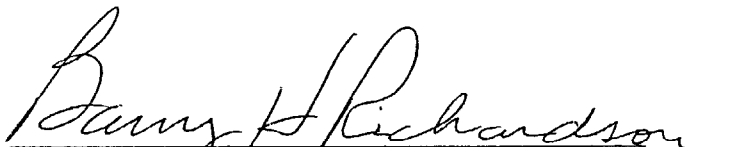
33. Plaintiffs further move and pray for Continuance of any Court Hearing in this case to a date and time within which Plaintiffs will have had sufficient time within which to obtain rulings regarding the hereinabove specified Motions to Recuse Judge Bob Brotherton and for Extensions of time Re: Discovery, as well as to prepare, file, and compel answers to appropriate interrogatories and requests for discovery and/or production of documents relevant to this case from Defendants, which, under the circumstances and conditions prevailing herein may be four (4) to six (6) months, or more, depending on circumstances that may hereafter come to exist, but that are presently unknown.

34. This Motion for Continuance is not sought solely for delay, but only that justice might be done.

WHEREFORE, PREMISES CONSIDERED, Plaintiffs respectfully move and pray that, after notice and whatever hearing may be required, proper Court Orders be entered

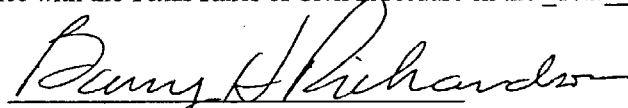
herein granting Plaintiffs' Motion to Recuse Judge Bob Brotherton and void all orders he has heretofore purportedly signed or made herein, Plaintiffs' Motions for Extensions of Time Re: Discovery, and Plaintiffs' Motion for Continuance, as hereinabove stated, and for such other and further relief to which they, or any one or more of them and/or their Attorney of Record, may show themselves justly entitled, whether special or general, at law or in equity.

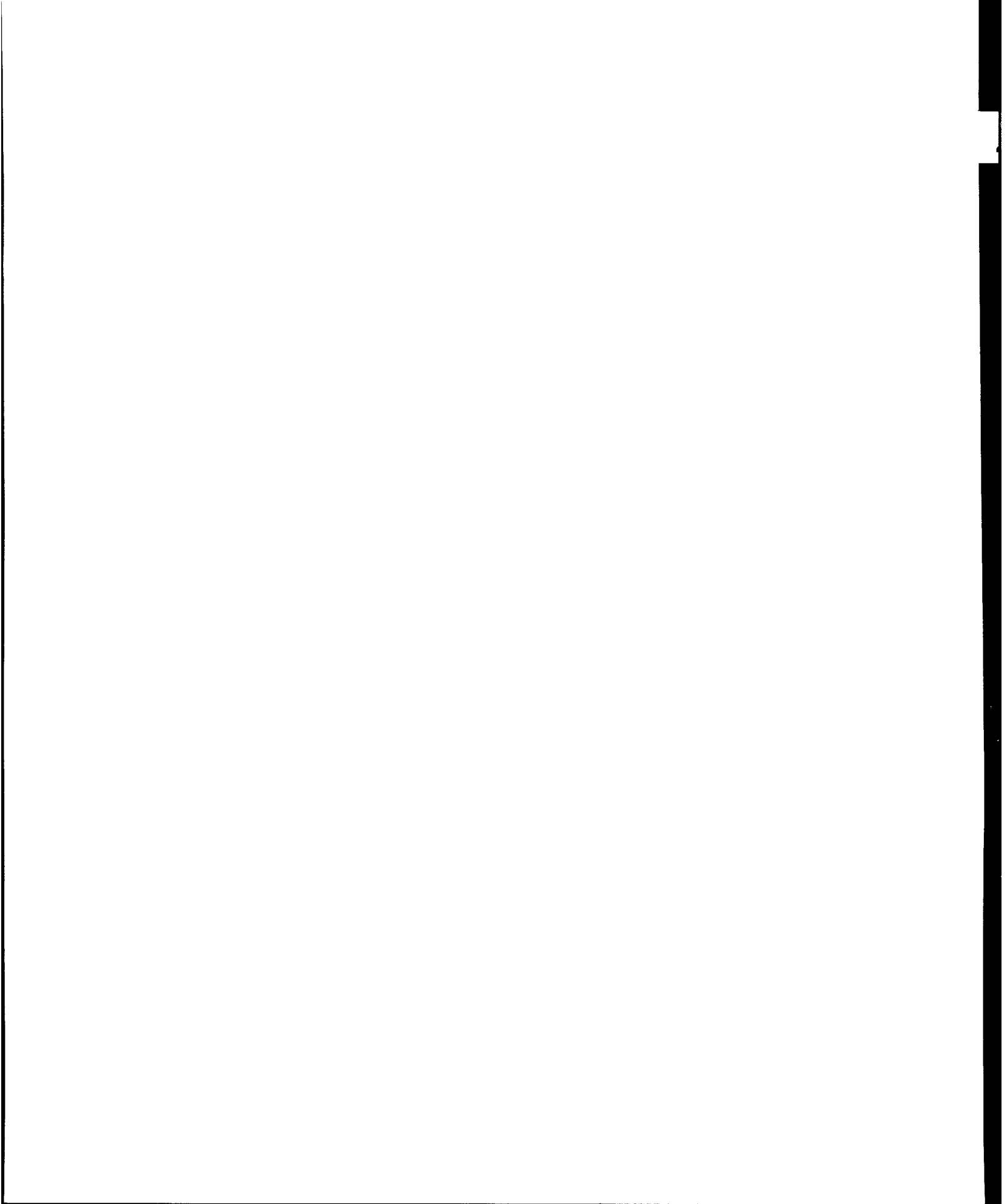
Respectfully Submitted,


BARRY H. RICHARDSON, SBN 16859700
115 S. Crescent Drive, Electra, Texas 76360
Tel: (940) 495-3172 Fax: (940) 495-3170
ATTORNEY FOR PLAINTIFFS

Certificate of Service

I, Barry H. Richardson, do hereby certify that a true and correct copy of the above was served on each of the parties or their attorneys involved herein in accordance with the Texas Rules of Civil Procedure on the 16th day of May, 2002.


Barry H. Richardson, SBN 16859700



FILED FOR RECORD
AT 1:50 o'clock

CAUSE NO. 154,895-C

JUN 20 2002

CLAMPITT RETIREMENT
COMMUNITY, ET AL

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IN THE DISTRICT COURT
OF WICHITA COUNTY, TEXAS

By _____ Deputy

VS.

OF

KAUZ-TV CHANNEL 6, ET AL

WICHITA COUNTY, TEXAS

MOTIONS TO RECUSE JUDGE JEFF WALKER
FOR CAUSE OF *EX PARTE COMMUNICATIONS*
AND
FOR PREJUDICE ANNOUNCED IN OPEN COURT, IN SESSION

MOTION TO RECUSE JUDGE ROY SPARKMAN
FOR CAUSE OF *EX PARTE COMMUNICATIONS*

AND

MOTION FOR CONTINUANCE

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COME Retirement Hotels, Inc., doing business as "Clampitt Retirement Community", Larry Tompkins, and Barbara Cagle, hereinafter referred to collectively as "Plaintiffs", making and filing this Motions to Recuse Judge Jeff Walker for Cause of *Ex Parte Communications* and for Cause of Prejudice Announced in Open Court, In Session, Motion to Recuse Judge Roy Sparkman, For Cause of *Ex Parte Communications* Announced in Open Court, In Session, and Motion for Continuance, and in support would show the following:

Statement of Facts

1. On May 16, 2002, at approximately 11:30 a.m., the undersigned attorney of record herein for Plaintiffs filed Plaintiffs' Motions to Recuse Judge Bob Brotherton, Motions for Extensions of Time Re: Discovery, and Motion for Continuance, with Motions, the entireties

of which motions are incorporated herein by this reference for all purposes, as though fully set out, together with the entireties of documents therein referred to and incorporated therein.

2. Such Motions were verified by said attorney, thus necessarily making the contents thereof “Factual Allegations Related to this Case”.

3. Immediately after such filing of such Motions, at approximately 11:35 a.m., the undersigned attorney for Plaintiffs, Barry H. Richardson, personally delivered a “File Stamped”, true and correct copy of such Motions to the Secretary of the 78th District Court, as a “Courtesy to Judge Sparkman” to allow his reading and consideration of such Motions before commencement of hearings thereon and regarding Defendants’ Motions for Summary Judgment that were scheduled for 3:00 p.m. that afternoon, while Deputy District Clerks “Processed the Original”.

4. Judge Roy Sparkman was present in his adjacent chambers and came out to receive such “Judge’s Courtesy Copy” of such Motions.

5. Judge Roy Sparkman asked the Barry H. Richardson “If a copy had been delivered to Mr. Gene Douglass”, the Attorney of Record herein for Defendants, as attested by the “Certificate of Service” thereon, which Barry H. Richardson confirmed had been done.

6. Judge Roy Sparkman asked Barry H. Richardson “What such Motions were about?”

7. Barry H. Richardson respectfully suggested to Judge Roy Sparkman, and respectfully reminded him that it would be “Inappropriate for him, as a lawyer, to cause the Judge to engage in *Ex Parte* Communications”, and respectfully suggested that Judge Sparkman should simply read and consider such Motions, as written and filed.

8. At 3:p.m. on May 16, 2002, Judge Roy Sparkman called this case for commencement of hearings and stated in open court, in session, that he, Judge Roy Sparkman, “had already called the Presiding Judge for the Eighth Administrative Judicial Region, Judge Jeff Walker, in Fort Worth, and had discussed Plaintiffs’ Motions with Judge Jeff Walker,” specifically including Plaintiffs’ objections regarding the involvement of Judge Bob Brotherton in this case.

9. Judge Roy Sparkman further stated in open court, in session, that Judge Jeff Walker had told his to overlook, disregard, or overrule Plaintiffs’ Motions to Recuse Judge Bob

Brotherton, including Plaintiffs' Motion based on Section 74.053 (a) and (b) of the Texas Government Code, which states that:

(a) When a judge is assigned under this chapter, the presiding judge shall, . . . give notice of the assignment to each attorney representing a party to the case that is to be heard in whole or in part by the assigned judge"; and,

(b) If a party to a civil case files a timely objection to the assignment (i.e. "In Writing, Before Any Hearing), the judge shall not hear the case (Or Any Part Thereof).

10. It is very well known among the legal profession that a "Timely Filed, Written Objection" pursuant to the provisions of Section 74.053 of the Texas Government Code is "Automatic", and that "Any Order by Any Judge Subject to such Objection is Void, *Ab Initio*".

11. While Defendants' Motion to Reassign Case For Trial, and Judge Bob Brotherton's Order Assigning Case For Trial, both herein filed on March 21, 2002, may be a "Small Part of This Case", Plaintiffs' position herein is that, in this case, involving allegations and claims of "Mass Media Libel, Business Disparagement, and Other Defamation by Local Television Station's News Department, and including for reasons unavoidable and inevitable pressures possibly arising from the threats of subsequent biased news reporting by such local television station, specifically including with regard to any judge who may actually preside over the conduct of pre-trial and trial proceedings herein, no local Wichita County Area Judge should be assigned for trial of this case.

12. Judge Bob Brotherton "Is Assigned Under This Chapter", as "Local Administrative District Judge of Wichita County", pursuant to provisions of Section 74.091 of the Texas Government Code.

13. Plaintiffs' were denied basic and fundamental "Due Process Rights of Notice and Opportunity for Hearing" related to Defendants' Motion to Reassign Case For Trial, specifically including their basic and fundamental rights to object to any involvement of Judge Bob Brotherton, in any part or way, whatsoever, regardless of how small, including

for cause, and, if necessary, including by use of their one, absolutely automatic objection based upon Section 74.053 of the Texas Government Code.

14. Such Defendants' Motion to Reassign Case For Trial and Judge Bob Brotherton's Order Assigning Case For Trial, both, documentably evidence, and probably conclusively prove, that Judge Brotherton actually signed such Order on March 20, 2002, the day before filing of such Motion and Order on March 21, 2002. The Certificate of Service attached to such Motion further evidences and probably further conclusively proves the same fact, by virtue of the handwritten date in such Certificate of Service, where the "Zero" in "March 20" has clearly been "written over" and "marked through", with the number "One".

15. Such Defendants' Motion to Reassign Case For Trial and Judge Bob Brotherton's Order Assigning Case For Trial further evidence and tend to prove that Attorney Gene Douglass and Judge Bob Brotherton met, and probably engaged in *Ex Parte* communications on March 20, 2002, which is further cause for recusal of Judge Bob Brotherton from any involvement in any part of this case.

16. Among the "Duties of Presiding Judge" of an Administrative Judicial Region specified in Section 74.046 of the Texas Government Code are:

A presiding judge shall:

- (2) advise local judges on case flow management and auxiliary court services;

which is "General", and "Not Specific Regarding Court Orders in Specific Cases".

17. Also among the "Duties of Presiding Judge" of an Administrative Judicial Region specified in Section 74.046 of the Texas Government Code are:

A presiding judge shall:

- (5) act for a local administrative judge when the local administrative does not perform the duties required by Subchapter D (Of this Chapter);

which is to say, among other things, to "Execute the Rules For Assignment, Reassignment, Transfer of Cases", in which regards a Presiding Judge of an Administrative Judicial Region absolutely must not involve himself in any *Ex Parte* Communications with any person, most

especially not any local judge in the region regarding any factual allegations involved in any specific case, and even more especially not advise or instruct any local judge regarding any pending motion in any specific case before any local judge as to how he, the Presiding Judge of an Administrative Judicial Region, would rule if such motion were pending before him, or how he will rule if such motion later comes before him, or as to how such local judge should rule regarding any such pending motion in any specific case.

18. That is exactly what Judge Roy Sparkman stated in open court, in session, shortly after 3:00 p.m. on May 16, 2002, that he had “Already Talked to Judge Jeff Walker in Fort Worth”, and that Judge Walker told him to ignore, overlook, overrule, etc. Plaintiffs’ Timely Filed, Written Motions to Recuse Judge Bob Brotherton and proceed with hearing of other motions then pending, in order of priority, Plaintiffs’ Motion for Continuance being next in order of priority.

19. Judge Jeff Walker has already stated and declared, according to Judge Roy Sparkman, how he, Judge Jeff Walker, will rule regarding Plaintiffs’ Motions to Recuse Judge Bob Brotherton. That is “Prejudice” in its most basic form. It is “Improper Judicial Conduct”. So is “*Ex Parte* Communications” by a judge regarding any “Factual Allegations Involved in Any Case Pending Before, or that May Come Before, a Judge”.

20. By his own actions and conduct herein above specified, Judge Jeff Walker has “Disqualified” pursuant to the provisions of Section 74.049 of the Texas Government Code, the result of which is that the Honorable Chief Justice of the Supreme Court of Texas, the Honorable Tom Phillips, to whom copies of this Motion and All Documents herein referred to and incorporated by reference should be forwarded by Judge Jeff Walker.

21. Likewise, by virtue of having openly stated and admitted that he engaged Judge Jeff Walker in *Ex Parte* Communications regarding factual allegations contained in Plaintiffs’ Motions to Recuse Judge Bob Brotherton, which are verified, Judge Roy Sparkman has “Disqualified” himself from further involvement in this case, in addition to his having acted pursuant to a “Void” Order Assigning Case For Trial”, signed by Judge Bob Brotherton on March 20, 2002, and filed on March 21, 2002, all of which is, of course, subject to review by proper higher authority.

Motion to Recuse Judge Jeff Walker

Motion to Recuse Judge Roy Sparkman

22. Plaintiffs' respectfully move and pray order recusing and removing Judge Jeff Walker and Judge Roy Sparkman from any further involvement in any part of this case, regardless of how small, for the reasons stated herein above.

Motion for Continuance

23. Plaintiffs respectfully move and pray that the Hearing of Plaintiffs' Motion to Recuse Judge Bob Brotherton that is scheduled before Judge Jeff Walker at 2:00 p.m. on June 21, 2002 in the Fourth Floor Annex Courtroom of the Wichita County Courthouse be continued to a date and time certain that is reasonably after proper notice and hearing of the above stated Motions to Recuse Judge Jeff Walker and Judge Roy Sparkman.

24. This Motion for Continuance is not sought solely for delay, but only that justice might be done.

Motion for Notice to Chief Justice of the Supreme Court of Texas

25. Plaintiffs respectfully move and pray that Judge Jeff Walker, Presiding Judge of the Eighth Administrative Judicial Region, forthwith and reasonably immediately notify the Honorable Chief Justice of the Supreme Court of Texas, the Honorable Tom Phillips, regarding the herein above stated reasons for, and causes of, his "Disqualification" herein, or possibilities thereof that may be properly determined after proper Due Process Notice and Opportunity for Hearing of all parties and persons with interests or rights involved herein.

26. Plaintiffs further respectfully move and pray that hearing of the herein above stated Motions to Recuse Judge Jeff Walker and Judge Roy Sparkman be set for a time and date that is reasonably after the estimated time necessary for completion of a transcription of the Hearings that were conducted by Judge Roy Sparkman in the 78th District Court on the 16th day of May, 2002, by Mr. Mike Terry, the Official Court Reporter of the 78th District Court, and who recorded such proceedings.

27. A true and correct copy a letter delivered this date to Mr. Mike Terry, requesting preparation of such transcript, is attached hereto.

WHEREFORE, PREMISES CONSIDERED, Plaintiffs respectfully move and pray

that, after notice and whatever hearing may be required, proper Court Orders be entered herein granting Plaintiffs' Motion to Recuse Judge Bob Brotherton and void all orders he has heretofore purportedly signed or made herein, Plaintiffs' Motions for Extensions of Time Re: Discovery, and Plaintiffs' Motion for Continuance, and Plaintiffs' Motion to Recuse Judge Jeff Walker For Cause of *Ex Parte* Communications and For Prejudice Announced in Open Court, In Session and Plaintiffs' Motion to Recuse Judge Roy Sparkman For Cause of *Ex Parte* Communications, as hereinabove stated, and for such other and further relief to which they, or ane one or more of them and/or their Attorney of Record, may show themselves justly entitled, whether special or general, at law or in equity.

Respectfully Submitted,



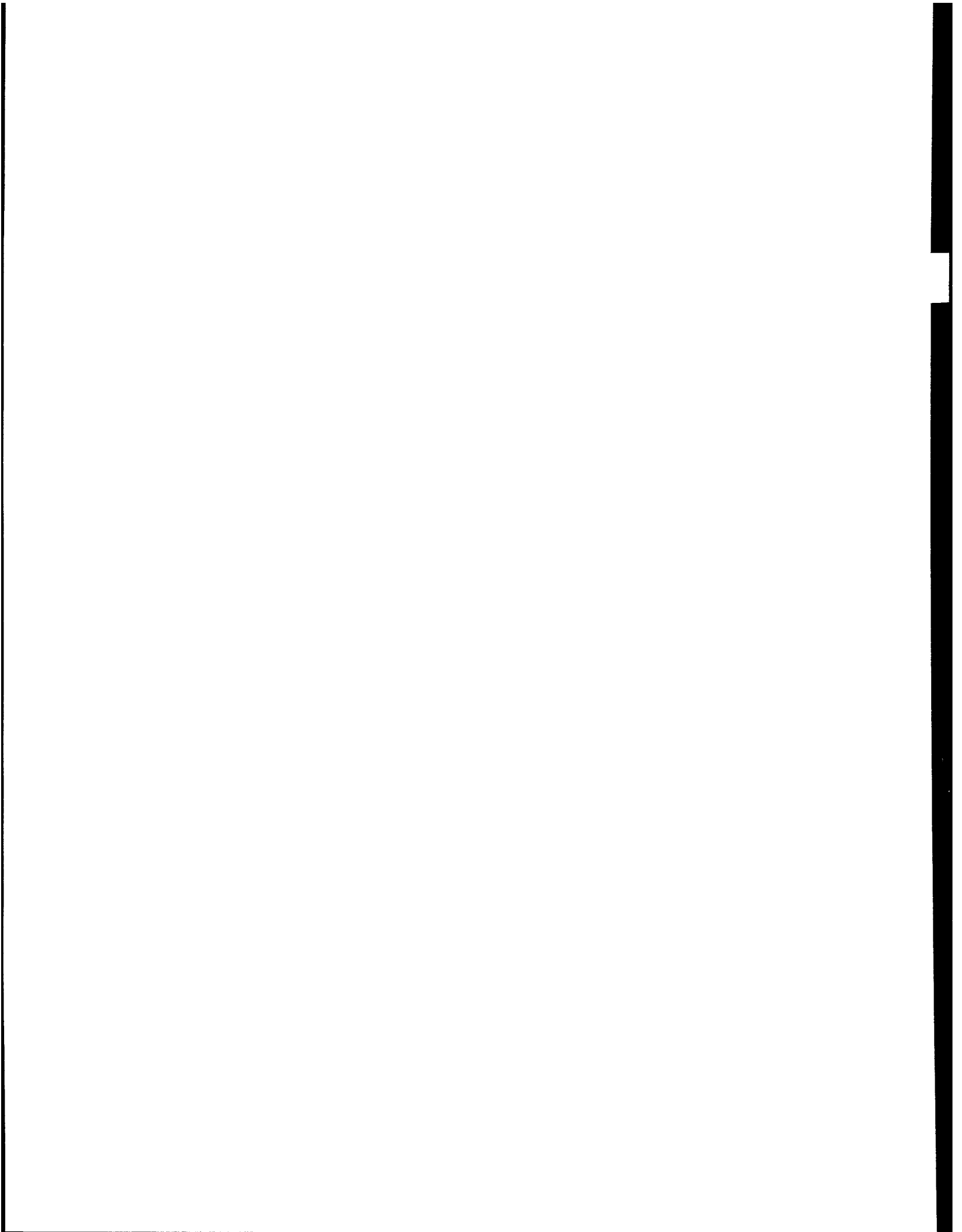
BARRY H. RICHARDSON, SBN 16859700
115 S. Crescent Drive, Electra, Texas 76360
Tel: (940) 495-3172 Fax: (940) 495-3170
ATTORNEY FOR PLAINTIFFS

Certificate of Service

I, Barry H. Richardson, do hereby certify that a true and correct copy of the above was served on each of the parties or their attorneys involved herein in accordance with the Texas Rules of Civil Procedure on the 20th day of June, 2002.



Barry H. Richardson, SBN 16859700



FILED FOR RECORD
AT: _____ O'Clock _____ M

No. 154,895-C

JUN 21 2002

CLAMPITT RETIREMENT COMMUNITY,
ET AL

IN THE 30TH DISTRICT COURT

DORSEY R. TRAPP, Clerk Dist.
County Courts at Law
Wichita County, Texas

By _____ Deputy

VS

OF

KAUZ-TV CHANNEL 6, ET AL

WICHITA COUNTY, TEXAS


ORDER DENYING MOTION TO RECUSE

On the 21st day of June, 2002, came on to be heard Plaintiff's Motion to Recuse the Honorable Robert P. Brotherton. The Plaintiff/Movant appeared in person and with attorney.

The Defendant appeared by and through it's attorney.

After the presentation of evidence and argument of counsel it was found that the Motion should be and it is hereby DENIED.

SIGNED this 21st day of June, 2002.


JUDGE JEFF WALKER, PRESIDING
JUDGE, 8TH ADMINISTRATIVE JUDICIAL
REGION



FILED FOR RECORD

AT: _____ O'Clock _____ M

No. 154,895-C

JUL 12 2002

CLAMPITT RETIREMENT COMMUNITY,
ET AL

IN THE 30TH DISTRICT COURT

DORSEY R. TRAPP, Clerk Dist.
Courts & County Courts at Law
Wichita County, Texas

By: _____ Deputy

VS

OF

KAUZ-TV CHANNEL 6, ET AL

WICHITA COUNTY, TEXAS

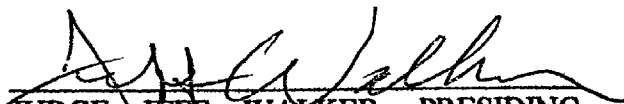
ORDER DENYING MOTION TO RECUSE

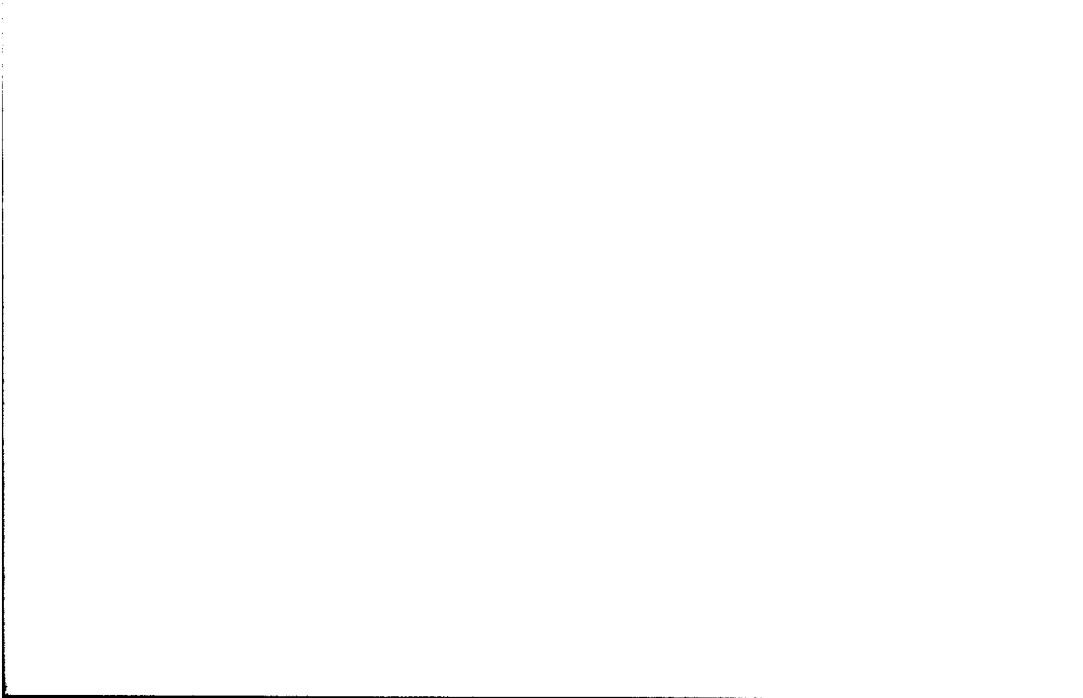
On the 12th day of July, 2002, came on to be heard Plaintiff's Motion to Recuse the Honorable Roy T. Sparkman. The Plaintiff/Movant appeared in person and with attorney.

The Defendant appeared by and through it's attorney.

After the presentation of evidence and argument of counsel it was found that the Motion should be and it is hereby DENIED.

SIGNED this 12th day of July, 2002.


JUDGE JEFF WALKER, PRESIDING
JUDGE, 8TH ADMINISTRATIVE JUDICIAL
REGION



FILED FOR RECORD
AT _____ o'clock _____ M

CAUSE NO. 154,895-C(B)

DEC 09 2003

CLAMPITT RETIREMENT
COMMUNITY, ET AL

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DORSEY R. TRAPP, Clerk Dist.
Courts & County Clerk
Wichita County, Texas
IN THE DISTRICT COURT OF
By _____ Deputy

VS.

WICHITA COUNTY, TEXAS

KAUZ-TV CHANNEL 6, ET AL

78TH JUDICIAL DISTRICT

ORDER

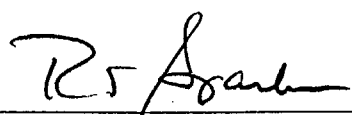
BE IT REMEMBERED that on November 10, 2003, the Defendant's Motion for Summary Judgment and No Evidence Motion for Summary Judgment came on for hearing before this Court. Additionally, the Defendant presented its Motion to Strike the Affidavit of Charlie Steely. All matters were submitted to the Court for its consideration and the Court is of the opinion that the following Orders should be and they are hereby entered.

The Affidavit of Charlie Steely presented by the Plaintiff is stricken and considered of no effect.

The Defendant's various Motions for Summary Judgment are granted and the remaining claims of Larry Tompkins, Plaintiff, are dismissed with prejudice to the refiling of same.

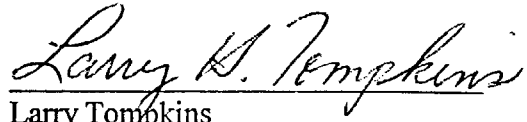
All costs of Court incurred in this cause are taxed against the party incurring such costs, for which let execution issue if not timely paid.

SIGNED on December 9, 2003.



JUDGE PRESIDING

APPROVED AS TO FORM ONLY:



Larry Tompkins
Plaintiff, Pro Se



Gene Douglass
Attorney for Benedek Corporation,
d/b/a KAUZ-TV Channel 6